



THE CITY OF NEW YORK
DEPARTMENT OF CORRECTION



DIRECTIVE

<input checked="" type="checkbox"/> NEW <input type="checkbox"/> INTERIM <input type="checkbox"/> REVISED		SUBJECT	
EFFECTIVE DATE 1 / 23 / 89		*TERMINATION DATE / /	
DUE PROCESS FOR IGRC INMATE REPRESENTATIVES			
CLASSIFICATION # 3377	SUPERSEDES	DATED	DISTRIBUTION A
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RECOMMENDED FOR APPROVAL BY REVIEW BOARD MEMBER		AUTHORIZED BY THE COMMISSIONER	
SIGNATURE		SIGNATURE	

I. PURPOSE

The purpose of this order is to set forth due process procedures for inmates elected to the position of Inmate Representative on the Inmate Grievance Resolution Committee (IGRC).



II. RESPONSIBILITY

The elected Inmate Representative on the IGRC is responsible for assisting in the clerical processing of grievances, aiding Grievance Officers in fact-finding investigations, resolving grievances at the informal and formal levels of review, and formulating and issuing grievance recommendations to the Commanding Officer for action and response. The functions of an Inmate Representative do not include access to inmate-restricted areas or documents.

III. IDENTIFICATION OF INMATE REPRESENTATIVE

The Grievance Coordinator is responsible for notifying in writing the following personnel of an inmate's status as an elected Inmate Representative within one working day after the conclusion of the election:

- a. Commanding Officer
- b. Deputy Warden for Programs
- c. Deputy Warden for Security
- d. Deputy Warden for Administration
- e. IGRP Director
- f. General Office Chief Clerk

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III. IDENTIFICATION OF INMATE REPRESENTATIVE (cont'd)

Upon notification of an inmate's status as an elected Inmate Representative, the Chief Clerk shall place a non-permanent marker on the inmate's Accompanying Card and Institutional Folder, identifying the inmate as an Inmate Representative. The marker shall conspicuously alert the reader that this inmate may not be transferred, absent an emergency or change of classification.

IV. DUE PROCESS PROCEDURES

- A. An elected Inmate Representative or an elected alternate who has permanently replaced an Inmate Representative shall not be transferred from the facility in which tenure is being served, absent a change in classification or an emergency as declared by the Commanding Officer. The Commanding Officer shall record the emergency reason(s) why the Inmate Representative's presence or conduct in the present facility threatened the safety and security of said facility and, therefore, necessitated his/her transfer to another facility. The Commanding Officer shall forward a copy of this record within one working day to the Chief of Operations, Deputy Commissioner for Programs, jurisdictional Supervising Warden, Commanding Officer of the receiving facility and the IGRP Director for review.



- B. Before an elected Inmate Representative or an elected alternate who has permanently replaced an Inmate Representative may be transferred to another facility, a due process hearing must be held. The Deputy Warden for Programs shall prepare a report and all necessary documentation relative to the transfer of an Inmate Representative, and forward the package to the Adjudication Unit Captain for the due process hearing. The results of all hearings of this nature shall be forwarded to the Deputy Commissioner for Program Services.

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IV. DUE PROCESS PROCEDURES (cont'd)

In the event that it is necessary to transfer an Inmate Representative from the facility prior to holding a due process hearing, the Commanding Officer is responsible for notifying the Commanding Officer of the receiving facility of the need for a due process hearing, providing the Commanding Officer of the receiving facility with all documentation necessary for holding such a hearing and for notifying the IGRP Director of the transfer. These actions shall be completed within one working day of the transfer of the Inmate Representative. Moreover, transfers effected due to an emergency shall be documented as indicated in Section IV.A.

- C. A due process hearing for a transferred Inmate Representative shall be held as soon as practical at the receiving facility but not longer than three working days after transfer.
- D. Due process hearing for an Inmate Representative shall be conducted by the Adjudication Unit Captain assigned to the facility which houses the Inmate. The Commanding Officer of the facility housing the Inmate Representative is responsible to ensure that the Adjudication Unit Captain is provided with all materials necessary for the due process hearing. The written disposition of the hearing shall be forwarded within one working day of the hearing's conclusion to the facility Grievance Coordinator, IGRP Director, Commanding Officer, General Counsel and Chief of Operations. Compliance with the disposition of the Adjudication Unit Captain shall be ensured by the Operations Division, unless this disposition is overturned by the CORC or Commissioner on appeal.

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IV. DUE PROCESS PROCEDURES (cont'd)

- E. A copy of the hearing disposition shall be delivered by the Grievance Coordinator to the affected inmate on the date of receipt from the Adjudication Unit Captain. The affected inmate may appeal the disposition of the Adjudication Unit Captain to the Central Office Review Committee (CORC) and subsequently to the Board of Correction/Commissioner. The affected inmate may appeal the disposition of the Adjudication Unit Captain and CORC, regardless of whether the inmate's tenure as an Inmate Representative has expired. Review of appeals by the CORC and Board of Correction/Commissioner shall be conducted in accordance with the provisions stipulated in Directive #3375R (Inmate Grievance Resolution Program).

V. REFERENCES

- A. Johnson v. Ward, 1978, NYS State Supreme Court, Appellate Division, Third Department Decision.
- B. Directive #3375R, INMATE GRIEVANCE RESOLUTION PROGRAM, New York City Department of Correction, effective march 4, 1985.