

 <p style="text-align: center;"><b>DIVISION OF ADULT INSTITUTIONS</b></p> <p style="text-align: center;"><b>POLICY AND PROCEDURES</b></p>	<b>DAI Policy #:</b> 310.00.01	<b>Page</b> 1 of 5
	<b>Original Effective Date:</b> 12/20/90	<b>New Effective Date:</b> 11/20/22
	<b>Supersedes:</b> 310.00.01	<b>Dated:</b> 04/01/18
	<b>Administrator's Approval:</b> Sarah Cooper, Administrator – 11/7/22	
	<b>Required Posting or Restricted:</b> <input checked="" type="checkbox"/> Inmate <input checked="" type="checkbox"/> All Staff <input type="checkbox"/> Restricted	
<b>Chapter:</b> 310 Complaint Procedures		
<b>Subject:</b> Inmate Complaints Regarding Staff Misconduct		

**POLICY**

The Division of Adult Institutions shall ensure inmate complaints involving allegations of staff misconduct are expediently referred to the Warden/designee.

**REFERENCES**

WI Administrative Code 303 – Discipline

WI Administrative Code 310 – Complaint Procedures

Executive Directive 72 – Sexual Abuse and Sexual Harassment in Confinement (PREA)

**DEFINITIONS, ACRONYMS AND FORMS**

CCE – Corrections Complaint Examiner

DAI – Division of Adult Institutions

DOC – Department of Corrections

DOC- 0411 – Inmate Statement for Staff Misconduct Complaint

DOC-2666D – PREA Reporting Form

ICE – Institution Complaint Examiner

ICRS – Inmate Complaint Review System

PCM – PREA Compliance Manager

PREA – Prison Rape Elimination Act

SINC – Sensitive Investigation Network Communication

Staff Misconduct – Any behavior or act which could reasonably be interpreted as constituting a violation of work rules and which could result in formal employee disciplinary action being taken or which would normally result in a fact-finding or pre-disciplinary hearing being initiated.

Staff Sexual Misconduct – Any behavior that appears to violate provisions of Executive Directive 72.

<b>DAI Policy #:</b> 310.00.01	<b>New Effective Date:</b> 11/20/22	<b>Page</b> 2 of 5
<b>Chapter:</b> 310 Inmate Complaints		
<b>Subject:</b> Inmate Complaints Regarding Staff Misconduct		

## PROCEDURE

### I. Receiving and Processing Complaints Alleging Staff Sexual Misconduct

Complaints regarding staff sexual misconduct shall be handled according to provisions of Executive Directive 72.

#### A. ICE Action

Upon review of an inmate complaint that has an allegation of any action which may appear to be sexual harassment or sexual abuse, the ICE shall forward the inmate complaint to the PCM/PCM backup to determine if the allegations meet the definition of sexual abuse or sexual harassment under PREA, and to determine if the allegation has been previously reported.

#### B. PCM/PCM backup action

Upon receiving an inmate complaint from an ICE, the PCM/PCM backup shall review to determine if the allegation meets the definition of sexual abuse or sexual harassment under PREA and whether the allegation has been previously reported. The PCM/PCM backup shall inform the ICE if the allegation meets the definition and if it has been reported.

#### C. ICE/Warden action after PCM/PCM backup review

1. If the allegation meets the definition of sexual abuse or sexual harassment and has previously been reported but not investigated, the ICE shall dismiss the complaint per ED 72 and refer for investigation.
2. If the allegation meets the definition of sexual abuse or sexual harassment and has been previously reported and investigated, the ICE shall recommend dismissing the complaint per ED 72 and forward to PCM/PCM backup for any follow-up.
3. If the allegation meets the definition of sexual abuse or sexual harassment and has not previously been reported:
  - a. The ICE shall recommend dismissing the complaint to be processed per ED 72 and refer for investigation. The Warden/designee enters a decision to dismiss the complaint from the ICRS and thus waiving the inmate's confidentiality rights in accordance with Wisconsin Administrative Code s. DOC 310.16(4).
  - b. The ICE shall complete DOC-2666D so that the allegation can be recorded in SINC.
  - c. The ICE shall complete an incident report detailing the allegation (*if directed by facility*).
4. If the allegation does not meet the definition of sexual abuse or sexual harassment, The ICE shall investigate and/or handle per the procedure, and process the inmate complaint through the ICRS.

### II. Receiving and Processing Complaints Alleging Staff Misconduct

When an ICE receives a complaint alleging staff misconduct of a non-sexual nature, the ICE may interview the inmate and/or review the complaint with the Warden/designee.

<b>DAI Policy #:</b> 310.00.01	<b>New Effective Date:</b> 11/20/22	<b>Page</b> 3 of 5
<b>Chapter:</b> 310 Inmate Complaints		
<b>Subject:</b> Inmate Complaints Regarding Staff Misconduct		

- A. If interviewed or a statement is requested, the inmate shall be advised of the provisions in this policy and of Wisconsin Administrative Code s. DOC 303.32. A written statement signed by the inmate shall be obtained by the ICE using the DOC-0411.
- B. Refusal of the interview, refusal to provide a statement or refusal to complete the DOC-0411 shall result in dismissal of the complaint for failure to cooperate.
- C. After interviewing the inmate and/or receiving the DOC-0411 if the ICE has reason to believe staff misconduct may have occurred, the ICE shall immediately suspend the complaint investigation and review with the Warden/designee.
- D. Following the review of the complaint and/or the DOC-0411 and meeting with the ICE, the Warden/designee shall determine whether or not there is adequate evidence of a work rule violation to initiate the investigatory process.
- E. If the Warden/designee determines an investigation of alleged staff misconduct is warranted, the following shall occur:
  - 1. The ICE shall enter a recommendation to the Warden/designee for the complaint to be dismissed and further processed pursuant to the applicable personnel rules, citing DAI Policy 310.00.01.
  - 2. The Warden/designee enters a decision to dismiss the complaint from the ICRS and thus waiving the inmate's confidentiality rights in accordance with Wisconsin Administrative Code s. DOC 310.16(4).
  - 3. The inmate shall be notified of the Warden/designee's decision in accordance with Wisconsin Administrative Code s. DOC 310.11(1).
  - 4. The investigation process is regulated by state law which protects the privacy and due process rights of staff and no further information shall be given to the complainant.
  - 5. Complaints dismissed from the complaint system under this section shall be assigned a tracking number by the Warden/designee and a file shall be created that contains at minimum, the actions taken and final disposition.

### **III. Complaint Investigation When Staff Misconduct is Not Initially Apparent**

- A. If during the course of an interview staff inadvertently acknowledge violation of a work rule, the ICE shall immediately terminate the interview.
- B. The ICE shall not interview staff who may be subject to disciplinary action if there is reason to believe such an interview may compromise a subsequent disciplinary investigation.

<b>DAI Policy #:</b> 310.00.01	<b>New Effective Date:</b> 11/20/22	<b>Page</b> 4 of 5
<b>Chapter:</b> 310 Inmate Complaints		
<b>Subject:</b> Inmate Complaints Regarding Staff Misconduct		

- III. Staff Misconduct Complaints Involving Non-Facility Staff (i.e., Bureau of Correctional Enterprises, Classification, volunteers, and contract employees) shall be reviewed with the Warden/designee.**

<b>Facility: Name</b>		
<b>Original Effective Date:</b>	<b>DAI Policy Number: 310.00.01</b>	<b>Page 5 of 5</b>
<b>New Effective Date: 00/00/00</b>	<b>Supersedes Number:</b>	<b>Dated:</b>
<b>Chapter: 310 Complaint Procedures</b>		
<b>Subject: Inmate Complaints Regarding Staff Misconduct</b>		
<b>Will Implement</b> <input type="checkbox"/> <b>As written</b> <input type="checkbox"/> <b>With below procedures for facility implementation</b>		
<b>Warden's/Center Superintendent's Approval:</b>		

**FACILITY PROCEDURE**

I.

- A.
- B.
  - 1.
  - 2.
    - a.
    - b.
    - c.
  - 3.
- C.

II.

III.

**RESPONSIBILITY**

I. Staff

II. Inmate

III. Other