

CHAPTER 9: INMATE GRIEVANCE PROCEDURE IN LOUISIANA*

A. INTRODUCTION

If you have a problem with your treatment in correctional facilities in the State of Louisiana, you must take a look at the formal prisoner grievance procedures (or formal actions) in your correctional facility. Federal law¹ and Louisiana state law² require you to exhaust (or use up) all of the grievance procedures available to you before you take a complaint to court. You should also carefully read Chapter 14 of the main *JLM*, “The Prison Litigation Reform Act,” before filing any type of lawsuit. The federal government requires that you go through all of the administrative remedies in your prison before you can bring a federal suit in court.³ States and counties may create grievance procedures for prisoners to use before filing suit, but these procedures must meet the minimum standards of federal requirements before they are licensed by the U.S. government.⁴

In Louisiana, the Corrections Administrative Remedy Procedure law (“CARP”) requires the Louisiana Department of Public Safety and Corrections (“DPSC”) to create the Administrative Remedy Procedures (“ARP”) to address the grievances in each correctional facility in the state.⁵ This section of the CARP law also states that, “[s]uch administrative procedures, when promulgated, *shall provide the exclusive remedy available* to the offender for complaints or grievances governed [by it, so far] as federal law allows.”⁶ This means that these procedures are the only way (initially) to address any complaint you might have about your treatment in a correctional facility. The ARP is a two-step system for reviewing inmate complaints.⁷ It seeks to provide “procedures for receiving, hearing, and disposing of any and all complaints and grievances by [offenders] . . . which arise while an offender is within the custody or under the supervision of the department, a contractor operating a private prison facility, or a sheriff.”⁸ The laws creating the ARP are in the Louisiana Revised Statutes.⁹ And the actual ARP guidelines are found in Title 22 of the Administrative Code of Louisiana.¹⁰

This Chapter seeks to help you make an informed decision about addressing your grievance through the Louisiana ARP. Part B of this chapter discusses the PLRA requirement that you must go through the whole administrative complaint process in your prison before taking your claim to state or federal court, as explained in Chapter 15 of the main *JLM*. Part C describes the different ways that state courts can review your final ARP decision if you choose to challenge that decision in court. Part D defines the term “grievance,” lists the grievances that cannot be addressed through the ARP, describes important prison ARP requirements, and explains how to write a grievance in a Louisiana prison. Part E outlines the basic structure of the Louisiana ARP. Part F goes into more detail about the Administrative Code, explaining

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¹ 42 U.S.C. § 1997e(a) (2012) (“No action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted.”). This section applies to any federal civil actions brought by inmates in court for any violation of their rights or unjust treatment while in prison.

² LA. REV. STAT. ANN. § 15:1184(A)(2) (2017) (“No prisoner suit shall assert a claim under state law until such administrative remedies as are available are exhausted. If a prisoner suit is filed in contravention of this Paragraph, the court shall dismiss the suit without prejudice.”). This section applies to claims brought by prisoners in Louisiana state courts (unlike federal civil actions in footnote 1 above).

³ 42 U.S.C. § 1997e(a) (2012).

⁴ 28 C.F.R. §§ 40.1–40.10 (2018). These sections of the Code of Federal Regulations outline the different requirements and standards that all grievance procedures have to meet before being federally certified by the Department of Justice of the United States.

⁵ LA. REV. STAT. ANN. § 15:1171(A) (2017) (“The Department of Public Safety and Corrections and each sheriff may adopt an administrative remedy procedure at each of their adult and juvenile institutions, including private prison facilities.”).

⁶ LA. REV. STAT. ANN. § 15:1171(B) (2017).

⁷ One step is meant to investigate the complaint and the second is for appealing the decision from the first step. LA. ADMIN. CODE tit. 22 §§ 325(J)(1)(a)–(b) (2017).

⁸ LA. STAT. ANN. § 15:1171(B) (2017).

⁹ LA. STAT. ANN. §§ 15:1171–15:1179 (2017).

¹⁰ See LA. ADMIN. CODE tit. 22 § 325 (2017).

specific steps to follow when filing a grievance through the ARP. Part G briefly outlines the separate administrative procedure for any lost property claims that you may have. Finally, Part H describes judicial review of ARP grievances.

B. EXHAUSTING YOUR ADMINISTRATIVE REMEDIES

As explained in Part A, the PLRA requires you to go through your facility's entire grievance process before you can bring a federal claim under 42 U.S.C. § 1983 (a federal law that deals with civil rights complaints).¹¹ The PLRA is a federal law that says when prisoners can bring federal claims in court. Although the PLRA deals with a federal complaint, it is important to note that a federal complaint can be brought in both federal and state courts.¹² Hence, the federal requirement that you "exhaust" your administrative remedies applies to claims brought in both state and federal district courts.

As stated in Chapter 15 of the main *JLM*, even if you believe that the grievance system in your prison is unfair or pointless, it is important that you still go through all of the steps of the process to try to resolve your grievance *before* you file a lawsuit in state or federal court.¹³ In Louisiana, the ARP is not considered exhausted until you have received a final decision of your Step-2 appeal from the office of the Secretary of the Department of Public Safety and Corrections.¹⁴ If you bring a federal complaint in court under 42 U.S.C. § 1983 before first exhausting your administrative remedies, your case will be dismissed, and you may be prevented from bringing that case in the future. A dismissal for non-exhaustion is supposed to be "without prejudice," which means that you will be able to come back to court after following the grievance procedures.¹⁵ However, if the statute of limitations has run out on your claim before you return to court, your claim will be permanently barred (not allowed).¹⁶ You should read Chapter 15 of the main *JLM* for more on the federal requirement regarding exhaustion of administrative remedies.

In addition to filing your claim under federal law, Louisiana also allows you to challenge decisions from the ARP in state courts under *state law*.¹⁷ However, like in the federal system, state law also requires that you exhaust your administrative remedies before you can file a claim in court.¹⁸ Therefore, if you intend

¹¹ 42 U.S.C. § 1997e(a) (2012). Note that the PLRA exhaustion requirement applies only to cases filed on or after April 26, 1996, the effective date of the PLRA, and only for prisoners who sue while they are incarcerated. *See* Porter v. Nussle, 534 U.S. 516, 520, 122 S. Ct. 983, 986 (2002) (affirming that the PLRA exhaustion requirement "applies to all prisoners seeking redress for prison circumstances or occurrences"); White v. McGinnis, 131 F.3d 593, 595 (6th Cir. 1997) (finding prisoner's claims were properly dismissed when he had failed to exhaust his administrative remedies and stating that "exhaustion requirement applies only to cases filed on or after the April 26, 1996 effective date of the PLRA"). *See* Chapter 16 of the main *JLM* for more information on 42 U.S.C. § 1983 actions.

¹² Although federal courts can be used to try federal matters, our system of government has always allowed state courts to try state and federal cases as well. This is why you can file a federal claim in both state and federal court, even though you are doing so under a federal law.

¹³ If you receive a satisfactory remedy from the ARP, then there will be no need to go to court. If you are unsatisfied with the result of the ARP, you may then file a lawsuit in federal court.

¹⁴ LA. ADMIN. CODE tit. 22 § 325(F), (J) (2017). The Louisiana Administrative Remedy Procedure (ARP) is broken up into two steps. You will receive a signed decision from ARP personnel after you file your initial grievance, and you will have to appeal that decision if you feel it does not address your complaint. The ARP will not be considered exhausted until you receive an answer from this second step (the appeal of your initial grievance decision) and only then will you be able to file a suit in federal and state court.

¹⁵ *See* Dillon v. Rogers, 596 F.3d 260, 272 (5th Cir. 2010) ("[E]xhaustion is a threshold issue that courts must address to determine whether litigation is being conducted in the right forum at the right time . . ."). On the other hand, a dismissal "with prejudice" means that you cannot bring that issue back to the court because it has been legally decided against you.

¹⁶ *See* Jones v. Bock, 549 U.S. 199, 215, 127 S. Ct. 910, 920–921 (2007) (holding that courts can dismiss for failure to state a claim when the existence of an affirmative defense, like a *statute of limitations bar*, is apparent from the face of the complaint).

¹⁷ LA. CONST. art. V, § 16(A) ("[A] district court shall have original jurisdiction of all civil and criminal matters."); LA. STAT. ANN. § 15:1177(A) (2017) ("Any offender who is aggrieved by an adverse decision . . . pursuant to any administrative remedy procedures under this Part, may . . . seek judicial review . . .").

¹⁸ LA. STAT. ANN. § 15:1184(A)(b)(2) (2017) ("No prisoner suit shall assert a claim under state law until such administrative remedies as are available are exhausted. If a prisoner suit is filed in [violation] of this Paragraph, the court shall dismiss the suit without prejudice.").

to bring a claim in court challenging the decision of the ARP (whether it is a federal or a state claim), you are still required to go through the entire ARP process before a court can hear your claim. If you disagree with the final decision of the ARP and wish to file suit in court, the court's treatment of your case depends on the type of issue you are bringing. Part C below goes further into what courts are allowed to do if you succeed in challenging an ARP decision in state court.

C. GRIEVANCES IN THE STATE OF LOUISIANA

Before outlining the steps and rules of the Louisiana Administrative Remedy Procedures, it is important to know what types of issues can and cannot be filed through the grievance system. Hence, this Part will deal with (1) issues that can be brought through the ARP, (2) issues that cannot be brought through the ARP, (3) the "screening out" process that all grievances must go through, (4) grievances that get special treatment under the ARP, and (5) the remedies you may receive. This will give you a good idea of the types of incidents for which you can file a grievance. It will also cover the requirements for filing a grievance under the ARP.

1. What Grievances Can Be Raised?

The Administrative Remedy Procedure defines a "grievance" as a "written complaint by a [prisoner] on the [prisoner]'s own behalf regarding a policy applicable within an institution, a condition within an institution, an action involving a [prisoner] of an institution or an incident occurring within an institution."¹⁹ Simply put, a grievance is a prisoner's written complaint about the conditions, rules, regulations, or policies that either harmed him or placed him in danger while in the custody of his correctional facility. This means that you can't file a grievance for something unless you were personally affected, and you must file your own grievance.²⁰ The state legislature, state case law, and the policies of the Department of Public Safety and Corrections decide what "issues" are "grievable" for the purposes of addressing them through the ARP.²¹

Broadly, the ARP defines grievable issues as complaints and grievances that include, but are not limited to, any claim seeking monetary, injunctive, declaratory, or any other form of relief authorized by law.²² Given that broad definition, the CARP law lists some examples of grievable issues. The ARP guidelines say that, "by way of illustration," grievable issues may include the following actions having to do with:²³

- 1) Conditions of Confinement;²⁴
- 2) Personal Injuries;²⁵
- 3) Medical Malpractice;²⁶

¹⁹ See LA. ADMIN. CODE tit. 22 § 325(E) (2017).

²⁰ See LA. ADMIN. CODE tit. 22 §§ 325(D), (E) (2017).

²¹ LA. STAT. ANN. § 15:1171(B) (2017) ("Such complaints and grievances include but are not limited to any and all claims seeking monetary, injunctive, declaratory, or any other form of relief authorized by law . . .").

²² See LA. ADMIN. CODE tit. 22 § 325(D) (2017).

²³ See LA. ADMIN. CODE tit. 22 § 325(D) (2017).

²⁴ See *Lay v. Rachel-Major*, 99-0476, pp. 5–6 (La. App. 1 Cir. 5/12/00); 761 So. 2d 723, 726–727 (asserting that a prisoner had a fair opportunity to challenge his punishment of extended lockdown through the ARP); see also *Ngo v. Estes*, 04-186, p. 4–5 (La. App. 3 Cir. 9/29/04); 882 So. 2d 1262, 1265 (stating that, "A claim seeking a remedy with respect to a prisoner's conditions of confinement is subject 'not only to administrative review, but also to the provisions concerning judicial review of administrative acts.'").

²⁵ See *Edmond v. Dep't. of Public Safety*, 31,821, pp. 5–6 (La. App. 2 Cir. 3/31/99); 732 So. 2d 645, 648–649 (affirming the use of the ARP system as the exclusive administrative relief for a prisoner's claim of personal injury against his correctional facility and stating the administrative remedies must be exhausted before filing suit).

²⁶ See *Walker v. Appurao*, 2009-0821, p. 4 (La. App. 1 Cir. 10/23/09); 29 So. 3d 575, 577 (holding that prisoner was required to exhaust his administrative remedies prior to filing medical malpractice lawsuit in the state district court); see also *Jeanlouis v. Stalder*, 2009-1653, p. 6 (La. App. 1 Cir. 3/26/10); 36 So. 3d 938, 942 (deciding on the properly ARP-challenged issue regarding the prisoner's medical treatment claim).

- 4) Time Computations;²⁷
- 5) Claims under a Writ of Habeas Corpus;²⁸ and
- 6) Challenges to Rules, Regulations, Policies, or Statutes.²⁹

It is important to remember, however, that these are not all of the possible grievable issues. This list of potential grievances includes only some of the many other potential grievances that you can file. But since these grievances are explicitly mentioned in the ARP guidelines as potentially grievable, it may be a good idea to phrase your claim like one of these if your claim fits into one of these categories. But remember that this is not a complete list of *all* grievable issues. You should not stop yourself from filing a grievance if it does not fall into one of those categories. If you feel that you have been treated unjustly, injured, or put in danger, you should file a grievance through the ARP. Filing a complete and accurate grievance is the best way to find out if your complaint is a grievance or not.

2. Non-Grievable Issues³⁰

Non-grievable issues are those issues for which the grievance system has no remedy and cannot be appealed through the ARP.³¹ Both federal law and state law require you to exhaust your administrative remedies through the ARP if any remedy is “available” to you.³² This means that you have to go through the ARP even if it cannot give you the exact solution or relief that you want. For example, if you have a complaint about the way a prison policy was applied to you, it is likely that this complaint can be addressed through an ARP grievance. But if you are prevented from using the ARP, then you are not required to exhaust your administrative remedies.³³ However, this exception is rare and it is probably a good idea to file a grievance for any harm that you may later want to challenge in court. In addition, the Louisiana ARP requires you to attempt to resolve your grievance issue informally. If you fail to demonstrate an attempt to solve the issue informally, you may be taken out of the process, and your claim will likely be dismissed.³⁴ Hence, you should make some attempt at resolving the issue informally before filing an ARP grievance.

Just as the ARP clearly states several examples of issues that can be filed as grievances, there are also non-grievable issues that the ARP plainly says it will not address. The ARP explicitly states that the following matters *cannot* be processed through the administrative remedy procedure:³⁵

- 1) Court decisions and pending criminal matters over which the department has no control or jurisdiction;

²⁷ See *Walker v. Louisiana Department of Corrections*, 2010-0057, pp. 5–6 (La. App. 1 Cir. 6/11/10); 40 So. 3d 1238, 1241–1242 (holding that the prisoner had to exhaust the Administrative Remedy Procedure (ARP) in challenging forfeiture of good time credits).

²⁸ See *McCoy v. Stalder*, 99-1747, pp. 10–11 (La. App. 1 Cir. 9/22/00); 770 So. 2d 447, 453 (asserting that the CARP applies to § 1983 actions by prisoners); see also *Vessel v. LeBlanc*, 2009-1869, pp. 3–4 (La. App. 1 Cir. 6/11/10); No. 2009-CA-1869, 2010 LEXIS 360, at *2–3 (vacating a decision from a private prison made regarding a prisoner’s administrative remedy request for habeas corpus claim).

²⁹ See *Vincent v. Stalder*, 2004-1750, pp. 5–6 (La. App. 1 Cir. 9/23/05); 923 So. 2d 108, 110–111 (asserting that a prisoner’s claim challenging DOC practices concerning the ARP was properly decided by the petitioner’s ARP grievance regarding the same claim).

³⁰ See LA. ADMIN. CODE tit. 22 § 325(F)(3)(a)(iv) (2017).

³¹ See LA. ADMIN. CODE tit. 22 § 325(F)(3)(a)(iv) (2017).

³² See *Booth v. Churner*, 532 U.S. 731, 733–734, 121 S. Ct. 1819, 1821 (2001) (recognizing that the PLRA requires prisoners to exhaust administrative remedies that are *available* before suing over prison conditions) (emphasis added); LA. REV. STAT. § 15:1184(A)(2) (2015) (“No prisoner suit shall assert a claim under state law until . . . administrative remedies as are available are exhausted.”); See also *Cheron v. LCS Corr. Serv.*, 2002-1049, p. 6 (La. App. 1 Cir. 2/23/04); 872 So. 2d 1094, 1098 (affirming that state law prohibits prisoners from filing court claims until they exhaust the administrative remedies *available* to them).

³³ See *Edwards v. Bunch*, 2007-1421, pp. 8–9 (La. App. 1 Cir. 03/26/08); 985 So. 2d 149, 154–155, *adhered to on reh’g*, 985 So. 2d 149 (La. App. 1 Cir. 06/18/08) (holding that the prisoner’s particular claim could be heard in court without going through the grievance because he was prevented from using the grievance system).

³⁴ See LA. ADMIN. CODE tit. 22 § 325(G)(1) (2017); see also *Coleman v. Thompson*, 05-0857, pp. 9–10 (La. App. 3 Cir. 03/01/06); 923 So. 2d 889, 895 (affirming the ARP’s requirement of an attempt at informal resolution before filing a formal grievance).

³⁵ See LA. ADMIN. CODE tit. 22 § 325(F)(3)(a)(iv) (2017).

- 2) Pardon board and parole board decisions;³⁶
- 3) Louisiana Risk Review Panel recommendations; and
- 4) Lockdown Review Board decisions.³⁷

The Louisiana Department of Public Safety and Corrections has outlined these issues as those that cannot be decided through the ARP. The ARP is prohibited from deciding on those issues either because other administrative bodies are supposed to handle those issues, or because they are prevented from deciding these issues by law. Even if your grievance is written correctly, if it states a complaint that falls into one of the categories listed above, it will be dismissed. But as the next section shows, it is important to remember that your grievance can also be dismissed if it is filed incorrectly.

3. The Screening Out Process³⁸

Before your grievance is investigated by a complaint reviewer, the ARP requires a Screening Officer to “screen” your complaint to make sure that it was filed correctly, in a timely and complete manner. All grievances must go through this mandatory screening process in which the Screening Officer goes through a checklist to make sure that your complaint was submitted correctly.³⁹ Your grievance can only proceed to the investigation step if the Screening Officer decides that you filed it correctly. If the filing is incorrect, it will be “screened out” of the Inmate Grievance System.⁴⁰ Complaints can be screened out for the following reasons:

- 1) The matter is not appealable through the ARP, such as:
 - a. Court decisions;
 - b. Parole Board/Pardon Board decisions;⁴¹
 - c. Louisiana Risk Review Panel recommendations; or
 - d. Lockdown Review Board decisions⁴² (except as described in Section 2 above).
- 2) There is a specialized administrative remedy procedure in place for that specific type of complaint, such as:
 - a. Disciplinary matters; or
 - b. Lost property claims.
- 3) It is a duplicate request;⁴³
- 4) In cases where a number of prisoners have filed similar or identical requests seeking administrative remedies, it is appropriate to respond only to the prisoner who filed the initial request;⁴⁴
- 5) The complaint concerns an action not yet taken or a decision that has not yet been made;⁴⁵

³⁶ See *Black v. La. Parole Bd. Mbrs*, 2009-2163, p. 3 (La. App. 1 Cir. 05/07/10); 2010 LEXIS 244, at *2 (affirming the dismissal by the ARP of a claim seeking to contest a Parole Board decision). Under Louisiana law, decisions of these boards are discretionary, and may not be challenged.

³⁷ However, you can submit a grievance related to a Lockdown Review Board decision if it fails to follow its procedure, if (a) no reasons are given for the decision of the board, or (b) a hearing is not held within the 90 days from the offender’s original placement in lockdown or from the last hearing.

³⁸ See LA. ADMIN. CODE tit. 22 § 325(I) (2017).

³⁹ See LA. ADMIN. CODE tit. 22 § 325(I) (2017).

⁴⁰ See *Walker v. Appurao*, 2009-0821, p. 3 (La. App. 1 Cir. 10/23/09), 29 So. 3d 575, 577 n.2 (reiterating the 90-day period to file for an administrative remedy after a delictual claim).

⁴¹ See *Black v. La. Parole Bd. Members*, 2009-2163 (La. App. 1 Cir. 5/7/10); 2010 La. App. LEXIS 244, at *2 (unpublished) (affirming the dismissal by the ARP of a claim seeking to contest a Parole Board decision).

⁴² See *Ferguson v. Cain*, 2009-2017 (La. App. 1 Cir. 5/7/10); 2010 La. App. LEXIS 246, at *3 (unpublished) (affirming the Commissioner’s dismissal of a prisoner’s claim because the “DPSC should have rejected the initial complaint for raising an issue that could not be appealed through the [ARP]”).

⁴³ See *Thomas v. Hebert*, 2010-1317 (La. App. 1 Cir. 2/11/11); 2011 La. App. LEXIS 88, at *5 (unpublished) (affirming as the explicit right of a Screening Officer to reject a duplicate grievance from the ARP).

⁴⁴ In these cases, copies of the “decision sent to other offenders who filed requests simultaneously regarding the same issue will constitute a completed action.” All of those requests will be logged. See LA. ADMIN. CODE tit. 22 § 325(F)(3)(a)(x) (2017).

⁴⁵ See *Galbraith v. LeBlanc*, 2009-1841 (La. App. 1 Cir. 5/7/10); 2010 La. App. LEXIS 277, at *6 (unpublished) (affirming the dismissal of a prisoner’s claim because it was premature).

- 6) You requested a remedy for another prisoner;⁴⁶
- 7) You requested a remedy for more than one incident (a multiple complaint);⁴⁷
- 8) You did not follow the established rules of the ARP;
- 9) If you refuse to cooperate with the inquiry into the allegation, the request may be denied due to lack of cooperation;⁴⁸
- 10) More than 30 days have passed between the event and the initial request, *unless waived by the Warden*.⁴⁹

Whether your grievance is “screened out” or moved on to the investigation step, you should receive notice of the initial acceptance or rejection of your complaint after it has been reviewed by a Screening Officer.⁵⁰

As you can see from this list, there are several reasons that a Screening Officer can give to dismiss your claim before it is even investigated. So, it is important that you write your grievance clearly, to submit it in a timely manner, and to make sure that your grievance does not fall into any of the categories listed above. Taking special care to write your grievance well and filing it correctly can ensure that your grievance will not be dismissed and returned to you before being investigated.

4. Emergency and Sensitive Grievances

The two-step grievance process in the ARP was meant to address and decide most grievance complaints. Still, the DPSC recognizes that there are incidents and problems that would continue to cause more problems for prisoners if they waited for the two-step ARP process to resolve them. There are also grievances that are particularly sensitive and require additional safeguards. For these reasons, the ARP provides two exceptions to the two-step process: “Emergency” and “Sensitive” grievances.⁵¹

a. Emergency Grievances

The ARP defines “emergency grievances” as matters for which resolution “within the regular time limits would subject the [prisoner] to a substantial risk of personal injury or cause other serious and irreparable harm to the [prisoner].”⁵² As compared to a regular grievance addressing a harm that was done to you and is now over, emergency grievances tend to be problems that are not yet “over.” They tend to be current threats or injuries that have the potential of becoming worse if they are not addressed more quickly than regular grievances. For example, if you are receiving serious threats from another prisoner, an emergency grievance can address the threat more quickly and therefore reduce your likelihood of injury because the threatening prisoner will have less time to follow through on his threats.

If you feel that your grievance is an emergency, you should send a request directly to your shift supervisor. Your shift supervisor should then “immediately review” the grievance and forward it to the level at which the “corrective action [can] be taken.”⁵³ You should not hesitate to use this emergency procedure if you genuinely feel that your problem is an emergency that will cause other serious and irreparable harm. But note that you can be disciplined (your complaint will be dismissed as “frivolous or malicious”) if you abuse the emergency procedure by using it for a complaint that is not really an emergency.⁵⁴

⁴⁶ See *Jacobson v. State*, 2010-0986 (La. App. 1 Cir 12/22/10); 2010 La. App. LEXIS 773, at *10 (unpublished) (noting that a prisoner may not seek remedies for other prisoners).

⁴⁷ See *Robinson v. Cain*, 2005-2299, pp. 1–2 (La. App. 1 Cir. 11/3/06), 941 So. 2d 196 (affirming the department’s dismissal of the prisoner’s ARP claim because it brought multiple complaints).

⁴⁸ See LA. ADMIN. CODE tit. 22, § 325(J)(1)(a)(i) (2017).

⁴⁹ See LA. ADMIN. CODE tit. 22, § 325(I)(1)(a)(ii)(i) (2017).

⁵⁰ See LA. ADMIN. CODE tit. 22, § 325(I)(1)(a) (2017).

⁵¹ See LA. ADMIN. CODE tit. 22, § 325(H) (2017).

⁵² See LA. ADMIN. CODE tit. 22, § 325(E) (2017).

⁵³ Furthermore, all of the emergency grievance requests are logged-in on an “unusual occurrence” report. LA. ADMIN. CODE tit. 22, § 325(H)(1)(a) (2017).

⁵⁴ LA. ADMIN. CODE tit. 22, § 325(H)(1)(a)(i) (2017).

b. Sensitive Grievances

The other special procedure, relating to “Sensitive Issues,” allows you to file a grievance more privately. If you believe that your complaint is sensitive and that you would be negatively affected if others in your facility knew about it, you can file a “sensitive complaint” directly with the Secretary of Adult Services at the DPSC (essentially skipping to the second step of the ARP).⁵⁵ To file a “sensitive complaint,” you must explain (in writing) your reason for filing privately, instead of filing in your institution.⁵⁶ If the Secretary of Adult Services agrees that your complaint is sensitive, he will accept and respond to the complaint.⁵⁷ If the Secretary does not agree that your complaint is “sensitive,” he will notify you in writing and return the complaint to your Warden’s office.⁵⁸ If this happens, you will have five days from the date the Warden’s office received the rejection to re-submit the complaint through the regular procedure.⁵⁹

Note that, unlike an Emergency complaint, the ARP does not call for you to be disciplined if the reviewer disagrees with you about the sensitive status of your request. And, although you should in no way abuse this procedure by submitting a request that you do not truly believe is a sensitive issue, you should not hesitate to use this procedure if you feel that you will be harmed or injured for submitting a legitimate complaint.

5. Remedies and Prohibitions

The whole point of filing a grievance is to get a good result. Grievable issues are issues you write a complaint about. You can seek money, seek for certain actions to stop, or seek to resolve your legal issues. You can also seek any result allowed by law for unjust policies, actions, or practices affecting you while in prison.⁶⁰ CARP can fix grievances in several ways. First, you must have a valid, or justified, complaint. CARP allows the DPSC or your facility to change their policies and practices. DPSC may decide that you deserve money for your complaint.⁶¹ If it determines you should receive money, the Office of Risk Management of the Division of Administration will review your case. This office decides how much you should receive.⁶²

No prison can punish you for your good-faith use of the ARP system.⁶³ However, you may be disciplined if you do not use the system in good faith. You can be punished if you file a complaint that you know is wrong, that you want to be harmful, or that you know isn’t a real issue.⁶⁴ This is the same warning in other parts of the ARP. You should not be punished for using the ARP if you don’t abuse the system. If you are punished for using the ARP in good faith, you can file a complaint about that punishment.⁶⁵

D. HOW TO WRITE AN EFFECTIVE COMPLAINT

You can use several strategies to help you write and file a grievance. You have a better chance getting what you want if you use these strategies. Read this whole chapter to know when and how your

⁵⁵ Essentially, this means that your grievance skips Step-1 and goes directly to the Step-2 so that there is less danger that word of your complaint will spread around the facility. LA. ADMIN. CODE tit. 22, § 325(H)(1)(b) (2017).

⁵⁶ See LA. ADMIN. CODE tit. 22, § 325(H)(1)(b) (2017).

⁵⁷ See LA. ADMIN. CODE tit. 22, § 325(H)(1)(b)(i) (2017).

⁵⁸ See LA. ADMIN. CODE tit. 22, § 325(H)(1)(b)(i) (2017).

⁵⁹ Hence, if your “sensitive-complaint” request is rejected, but if the ARP can decide your grievance, then you will have 5 days to re-submit the complaint through the first step of the ARP. LA. ADMIN. CODE tit. 22, § 325(H)(1)(b)(i) (2017).

⁶⁰ See LA. ADMIN. CODE tit. 22, § 325(D) (2017).

⁶¹ See LA. ADMIN. CODE tit. 22, § 325(K)(1) (2017).

⁶² LA. ADMIN. CODE tit. 22, § 325(K)(1)(b) (2017). The determination of the Office of Risk Management must still be returned to the DPSC for a final decision. See LA. ADMIN. CODE tit. 22, § 325(K)(1)(b) (2017). If a settlement is reached between the DPSC and the prisoner, a copy of the signed release of liability for the problem shall be given to the Warden on the same date. LA. ADMIN. CODE tit. 22, § 325(K)(1)(c) (2017).

⁶³ See LA. ADMIN. CODE tit. 22, § 325(F)(3)(a)(xiii) (2017). Punishments against prisoners for good-faith use of the ARP are called “reprisals,” and they are prohibited. See LA. ADMIN. CODE tit. 22, § 325(F)(3)(a)(xiii)(a) (2017).

⁶⁴ See LA. ADMIN. CODE tit. 22, § 325(F)(3)(a)(xiii)(b) (2017).

⁶⁵ See LA. ADMIN. CODE tit. 22, § 325(F)(3)(a)(xiii)(a) (2017).

grievance must be filed. Also, your prison or jail must orally explain the ARP system to you at orientation.⁶⁶ Your prison must give you the chance to ask questions and receive oral answers about the ARP. The ARP says that “all offenders may request information . . . or assistance in using the [ARP] from their classification officer or from a counsel substitute who services their living area.”⁶⁷ In addition, these rules must be posted in writing in areas readily accessible to all prisoners.⁶⁸

All prisoners are entitled to use this procedure. It's the Warden's job to provide you any help with reading, writing, or language barriers.⁶⁹ You cannot get another prisoner to file a grievance for you. But you can get help and information from prison/jail officials about the system. You should really do this if you have any disability, or if English is not your first language. Use this help and the following strategies to write an effective grievance.

1. Writing the Complaint

First, you must write out your grievance in full and truthful detail. Do not make your complaint too long. Be brief or short in your explanation of what happened. List what result you want from the grievance. Describe the “who, what, when, where, and how” information about what happened.⁷⁰ List how you tried to solve the problem before you filed the grievance. If you do not first try to solve the problem on your own, your grievance may be denied by the Screening Officer.⁷¹

Second, you must show how you were personally affected by the incident you describe in your grievance. You can also show how you will be affected unless you get the result you want. You should clearly state the result you want.

Third, you must include the sentence, “This is a request for administrative remedy” or “ARP.”⁷² The ARP cannot deny your request only because you didn't include this sentence. But a letter will only be accepted into ARP if it contains that sentence. Do not worry if you don't have an ARP-1 form. You can write your grievance in your own letter. You must say that sentence or phrase in your letter. You must also place the letter inside the manila envelope given to you by ARP administrators.⁷³

Fourth, make sure that your complaint doesn't have insulting or threatening language. Using bad language hurts your chances of getting your desired result. However, you should try to be specific and accurate about the incident that caused your complaint. The more information the ARP reviewer has about your grievance, the more likely that it will be addressed completely.

Fifth, you should list in detail the result you want because the grievance investigator may think to consider some solutions only if you list them.

Finally, you must keep copies of all papers you get or submit. You may need to submit those papers if you file a claim in court. You must keep a copy of the initial complaint that you submit to the Warden. This complaint becomes part of the ARP process once it is submitted. This complaint will not be returned to you.⁷⁴ Courts may require a copy of these forms. Courts may also require copies of the written decisions that the Department of Corrections gave you after it made its final determination.⁷⁵

E. THE BASIC STRUCTURE OF THE LOUISIANA ARP

⁶⁶ See LA. ADMIN. CODE tit. 22, § 325(F)(3)(a)(i) (2017).

⁶⁷ See LA. ADMIN. CODE tit. 22, § 325(F)(3)(a)(i)(c) (2017).

⁶⁸ See LA. ADMIN. CODE tit. 22, § 325(F)(3)(a)(i)(b) (2017).

⁶⁹ See LA. ADMIN. CODE tit. 22, § 325(F)(2) (2017).

⁷⁰ See LA. ADMIN. CODE tit. 22, § 325(G)(1)(a)(iii) (2017).

⁷¹ See LA. ADMIN. CODE tit. 22, § 325(I) (2017).

⁷² See LA. ADMIN. CODE tit. 22, § 325(G)(1)(a)(i)(a) (2017).

⁷³ See LA. ADMIN. CODE tit. 22, § 325(I)(1)(b) (2017).

⁷⁴ See LA. ADMIN. CODE tit. 22, § 325(G)(1)(a)(ii) (2017).

⁷⁵ See *Gray v. State*, 2005-617, p. 8 (La. App. 3 Cir. 2/15/06); 923 So. 2d 812, 818 n.1 (reiterating the ARP's command that prisoner's make and retain copied of their ARP documents to file court claims).

The Department of Public Services and Corrections may adopt an administrative remedy procedures at each adult institution. This includes private prisons.⁷⁶ DPSC's ARP system has a "2-Step" structure. Step 1 has complaints. Step 2 has appeals.⁷⁷

1. Step 1 Complaints—The Facility Level

A prisoner must submit a written letter to the Warden to start Step 1. In this letter, you must state the basis for your grievance and what solution you want.⁷⁸ A Screening Officer checks the complaint. The complaint is then sent to the Warden's office for review.⁷⁹

2. Step 2—The Appeal Level

If you do not like the result of your Step-1 decision, you may appeal at Step 2. You appeal to the Secretary of the DPSC. In Step 2, you must file an appeal in writing. You must state in writing that you are not satisfied with the Step-1 decision. Write this on your Step-1 form or letter.⁸⁰ Send the appeal request to the ARP screening officer. This officer mails it in to the DPSC. The Secretary makes a final decision.⁸¹

F. THE RULES AND PROCEDURES OF THE LOUISIANA ARP

Follow the rules of the Administrative Remedy Procedure to get the most out of the grievance system. This Part outlines the ARP rules and procedures. This Part also outlines ARP's special provisions. These provisions can affect how and when decisions are made. Figure 1 at the end of this Part outlines the timeline for a complete ARP grievance.

1. General Procedures

The ARP procedures follow the two-step levels of authority. Step 1 is for complaints. Step 2 is for appeals. Before you write to the Warden in Step 1, you should try to resolve the problem without using ARP. If you want assistance, you should seek help from the Warden or other officials in your facility.⁸² If you can't resolve your issue outside of ARP, then you can move to file a formal complaint.

2. The Step 1 Grievance

a. Filing the Complaint

In Step 1, file an ARP-1 Form if these are available. If not, you can write a letter that contains the sentence, "This is a request for administrative remedy" or "ARP."⁸³ This step is important. ARP does not require your first complaint to be written on an ARP-1 form. But ARP will not accept the form or letter unless it says "This is a request for administrative remedy" or "ARP."⁸⁴ You must write a clear and brief statement explaining your issue. You must also request a remedy, or solution. You must put the complaint in the manila envelope provided by grievance officers.⁸⁵ When you send that envelope to your Warden, your

⁷⁶ LA. STAT. ANN. § 15:1171(A) (2017).

⁷⁷ See LA. ADMIN. CODE tit. 22, §§ 325(J)(1)(a)–(b) (2017).

⁷⁸ See LA. ADMIN. CODE tit. 22, § 325(G)(1)(a)(i) (2017).

⁷⁹ See LA. ADMIN. CODE tit. 22, § 325(I)(a) (2017).

⁸⁰ See LA. ADMIN. CODE tit. 22, § 325(J)(1)(b) (2017).

⁸¹ See LA. ADMIN. CODE tit. 22, § 325(J)(1)(b) (2017).

⁸² See LA. ADMIN. CODE tit. 22, § 325(F)(3)(a)(ii) (2017) ("Nothing in this procedure should serve to prevent or discourage an inmate from communicating with the Warden or anyone else in the Department of Public Safety and Corrections.")

⁸³ See LA. ADMIN. CODE tit. 22, § 325(G)(1)(a)(i)(a) (2017).

⁸⁴ See LA. ADMIN. CODE tit. 22, § 325(G)(1)(a)(iv) (2017).

⁸⁵ See LA. ADMIN. CODE tit. 22, § 325(I)(1)(b) (2017).

complaint will be filed in the ARP. You have 90 days to file for an administrative remedy after an incident takes place.⁸⁶

i. *Step-1 Screening*

The first part of Step 1 is the Screening Process. A Screening Officer will first review your complaint.⁸⁷ Screening Officers are appointed by the Warden. If your request is filed incorrectly for any reason already mentioned, the Screening Officer will return your complaint. You must fix or correct your complaint. Then you must refile your complaint. If the Screening Officer finds that your complaint was filed correctly, he will send the complaint to the office of the Warden for a review. You will receive a written notice telling you whether your complaint was screened out or processed for review.⁸⁸

ii. *Step-1 Investigation and Decision*

The Screening Officer decides whether your complaint should be reviewed by the Warden. If the Officer decides your complaint should be reviewed, the complaint is sent to the Warden's Office. The Warden's staff will investigate, if necessary. Staff will then review your complaint. Once reviewed, the Warden must send you a written response of his decision within 40 days from the date you filed it, or 5 days if it is a PREA claim.⁸⁹

a. *The Step-2 Appeal*

Step 1 is complete when the Warden sends you a written response to your complaint. If you are dissatisfied or unhappy with the Warden's determination, you can choose to move on to Step 2. Step 2 of the ARP reviews the Step-1 decision.⁹⁰ To start Step 2, you don't need to rewrite the original letter. The Warden's Step-1 response will have space for a brief statement requesting an appeal. You must write that you request a Step-2 appeal. You also must state the reason for your dissatisfaction with the Warden's Step-1 decision.⁹¹

Step 2 begins after you write your request and reason for appeal. First, you will send your request to the ARP screening officer within the 5 days after you receive your Step-1 response.⁹² After he receives your request, the Secretary must send you a written response within 45 days. He must state his final decision for your complaint. You will get a copy of the decision. Your Warden will also get a copy.⁹³ When you receive this decision, your administrative remedies are exhausted. You may then file suit in court.⁹⁴

b. *Responses and Withdrawals*

At each stage of decision and review, you will be provided written answers. These answers should explain the information gathered or the reason for the decision. These answers may also have simple directions for obtaining or receiving further review.⁹⁵ Any response that you get from the ARP staff, whether a decision or a dismissal, must clearly state the result of the investigation. It also must state the reasons for the decision.

⁸⁶ See LA. ADMIN. CODE tit. 22, § 325(G)(1) (2017).

⁸⁷ See LA. ADMIN. CODE tit. 22, § 325(I)(1) (2017).

⁸⁸ See LA. ADMIN. CODE tit. 22, § 325(I)(1)(a) (2017).

⁸⁹ See LA. ADMIN. CODE tit. 22, § 325(J)(1)(a)(ii) (2017).

⁹⁰ See LA. ADMIN. CODE tit. 22, § 325(J)(1)(b)(i) (2017).

⁹¹ See LA. ADMIN. CODE tit. 22, § 325(J)(1)(a)(iv) (2017).

⁹² See LA. ADMIN. CODE tit. 22, § 325(J)(1)(b)(i) (2017).

⁹³ See LA. ADMIN. CODE tit. 22, §§ 325(J)(1)(b)(ii)–(iii) (2017).

⁹⁴ See LA. ADMIN. CODE tit. 22, § 325(J)(1)(b)(iv) (2017).

⁹⁵ See LA. ADMIN. CODE tit. 22, § 325(J) (2017).

You always have the option of ending the process. You may end the process if you feel you don't need the ARP to solve your problem. If you resolve your problem without the ARP, you may request (in writing) that the Warden cancel your formal request for an administrative remedy.⁹⁶

c. Time Limits/Extensions

You will have a final determination within 90 days from the day you gave a staff member your Step-1 complaint.⁹⁷ But you can file a written request for a 5-day extension for any stage of the ARP. You should make these requests to the ARP Screening Officer if you want an extension to file a complaint. You should make the request to the Warden if you want an extension for the first step. You should make the request to the assistant Secretary of Adult Services for the second step.⁹⁸ You must demonstrate valid reasons for the delay and include them in your extension request in order for your extension request to be granted.⁹⁹

d. Transferred and Released Inmates

If you filed a complaint in one facility and are transferred to another facility before the facility reviews your complaint (or if you file a complaint about your first facility after being transferred), your first facility will complete the process through Step 1. But the Warden in your second facility will help by communicating with you about that complaint.¹⁰⁰

If you are released before the facility reviews your issue, and if that issue still affects you after you are released (or if you file such a request after being released), the facility that released you will process the request and notify you at your last known address. All other requests will be considered no longer applicable when you are discharged, and the process will then not be completed.¹⁰¹

e. ARP Records Policy

All ARP records are confidential. Only employees who help to administer the complaint will have access to these confidential records. Otherwise, the release of those records is covered by the Louisiana Revised Statutes § 15:574.12.¹⁰²

The Department of Corrections has set up a system for keeping these records. A log will be kept in a computer documenting the nature of all requests, their relevant dates, and their dispositions at each step.¹⁰³ The individual requests and dispositions will also be kept in hardcopies filed at your institution or its headquarters.¹⁰⁴ And these records will be kept for at least four years after the institution settles your request.¹⁰⁵

⁹⁶ See LA. ADMIN. CODE tit. 22, § 325(G)(1)(b) (2017).

⁹⁷ See LA. ADMIN. CODE tit. 22, § 325(J)(1)(c) (2017).

⁹⁸ See LA. ADMIN. CODE tit. 22, § 325(J)(1)(c)(i)(a) (2017).

⁹⁹ See LA. ADMIN. CODE tit. 22, § 325(J)(1)(c)(i)(b) (2017).

¹⁰⁰ See LA. ADMIN. CODE tit. 22, § 325(F)(3)(a)(xi) (2017).

¹⁰¹ See LA. ADMIN. CODE tit. 22, § 325(F)(3)(a)(xii) (2017).

¹⁰² See LA. ADMIN. CODE tit. 22, § 325(F)(3)(b)(i) (2017).

¹⁰³ See LA. ADMIN. CODE tit. 22, § 325(F)(3)(b)(iii) (2017).

¹⁰⁴ See LA. ADMIN. CODE tit. 22, § 325(F)(3)(b)(iii)(b) (2017).

¹⁰⁵ See LA. ADMIN. CODE tit. 22, § 325(F)(3)(b)(iii)(c) (2017).

Figure 1

The Administrative Remedy Procedure Process and Timeline

- 1. Incident Causing Injury or Danger—Day 1**
 - After an incident occurs, read the ARP and this Chapter to find out if and how you should file a grievance complaint.
 - You must attempt to resolve the matter informally before filing for Step 1.
 - You have 30 days from the date of the incident to file your complaint with the Warden.
- 2. Final Day to File a Step 1 Complaint—Day 30 (Day 1 in ARP)**
 - Once filed, your complaint will go through the screening process.
 - Once the Screening Officer passes your complaint, it will be investigated and decided by the Warden's Office.
 - The Warden has 40 days from the date of your filing to send you a written decision.
- 3. Final Day for the Warden to Return a Written Response to Your Step 1 Grievance—Day 70 (40 days in ARP)**
 - Once returned to you, you will have 5 days to request a Step 2 appeal from the Warden's Step 1 decision with the ARP Screening Officer. The Screening Officer will send the appeal to the Secretary of the Department of Public Safety and Corrections.
- 4. Final Day to File a Step 2 Appeal to the Step 1 Decision—Day 75 (45 days in ARP)**
 - Once received, the Secretary of Public Safety and Corrections has 45 days to further investigate and send you a written response to your appeal with a final determination of your complaint.
- 5. Final Day for the Office of the DPSC Secretary to Return a Written Response to Your Step 2 Appeal—Day 120 (90 days in ARP)**
 - The Secretary of the Department of Public Safety and Corrections will send you a final written decision to your complaint will be sent to you by the Secretary of the Department of Public Safety and Corrections, and your administrative remedies will be exhausted.

G. LOST PROPERTY CLAIMS

Lost property claims are common complaints by prisoners. But, as shown above in Part D, the ARP creates a separate administrative remedy procedure for the loss of property.¹⁰⁶ As a result, lost property complaints in Louisiana have their own administrative remedy requirements, even though lost property complaints in Louisiana state prisons (or jails) are technically part of the ARP.¹⁰⁷ The Administrative Remedy Procedure for Lost Property Claims (“LPC”) is in Section 369 (Part I) of Title 22 of the Louisiana Administrative Code. This Part will deal with (1) the filing requirements, (2) the LPC’s compensation procedure, and (3) claim denials.

1. Filing a Lost Property Claim

The LPC states that if you lose property, you may submit a lost property claim to the Warden on a “Form A” provided by your corrections institution.¹⁰⁸ That claim must include the date that you lost the property and a full statement of the circumstances that caused you to lose the property.¹⁰⁹ The claim must include a list of the missing items and the value of each lost item. In addition, the claim must include any proof of ownership or value of the property available to you.¹¹⁰ You must submit all lost property claims to the Warden by the tenth day after you discovered the property was lost.¹¹¹ It is important to note, however, that you will not be compensated for any loss that you cannot account for. You will also not be compensated for a loss that occurred because of your own actions or for any loss that happened because of bartering, trading, selling, or betting with other prisoners.¹¹²

2. Compensation Procedure

Either the Warden or one of his designated officials will assign staff members to investigate your lost property claim. And that investigator will be in charge of submitting a report and his recommendations to the Warden regarding your LPC claim.¹¹³ If the investigator finds that your property was lost because the facility was “negligent” (careless), your claim may be processed according to the below procedure provided by the LPC.¹¹⁴

a. Monetary Loss of Property

If your loss of property amounts to a loss of cash, the Warden’s office will recommend a “reasonable value” for the lost property (not including clothing) as described in Form A¹¹⁵ (provided by your facility).¹¹⁶ Once they determine the value, Forms B¹¹⁷ and C¹¹⁸ (provided by your institution) will be presented to you

¹⁰⁶ See LA. ADMIN. CODE tit. 22, § 325(L) (2017).

¹⁰⁷ See LA. ADMIN. CODE tit. 22, § 325(L) (2017).

¹⁰⁸ See LA. ADMIN. CODE tit. 22, § 369(B) (2017).

¹⁰⁹ See LA. ADMIN. CODE tit. 22, § 369(B) (2017).

¹¹⁰ See LA. ADMIN. CODE tit. 22, § 369(B) (2017).

¹¹¹ See LA. ADMIN. CODE tit. 22, § 369(B) (2017).

¹¹² See LA. ADMIN. CODE tit. 22, § 369(C) (2017).

¹¹³ See LA. ADMIN. CODE tit. 22, § 369(D) (2017).

¹¹⁴ See LA. ADMIN. CODE tit. 22, § 369(E) (2017).

¹¹⁵ Forms A are lost property forms supplied by your corrections institution. These forms ask for your name and your Department of Corrections information. They also ask for a brief description of the items lost and the circumstances of their loss. These forms also contain reminders of the requirements for filing LPC claims. See LA. ADMIN. CODE tit. 22, § 369(G) (2017).

¹¹⁶ See LA. ADMIN. CODE tit. 22, § 369(E)(1)(a) (2017).

¹¹⁷ Forms B are the “Lost Property Claim Responses” in which the Warden states his response to a prisoner’s lost property claim. It provides information of the claim, the prisoner who made the claim, and the official who signed the response. Additionally, these forms contain the investigator’s determination and the recommendation. If the investigator denies your claim, the Form should state the reason why he denied your claim. The same is true if your claim is approved. See LA. ADMIN. CODE tit. 22, § 369(H) (2017).

¹¹⁸ Forms C are agreements in which the prisoner accepts the resolution of his lost property claim after he receives the item or payment to cover for his loss. See LA. ADMIN. CODE tit. 22, § 369(I) (2017).

for you to sign. The staff member will then submit the claim to the assistant secretary of Adult Services at the DPSC for final approval.¹¹⁹

b. Non-Monetary Loss of Property

If your loss involves non-monetary losses (objects or personal items), the LPC treats your claim differently. If your lost item was a “state issued” item provided by your corrections institution, you only have the right to have your facility replace the stolen item when replacements are available.¹²⁰ If, on the other hand, your lost property is a clothing item, your facility may replace that lost item with a state issued replacement, but only if you entered the Department of Corrections system before March 31, 2000. If you entered the system after March 31, 2000, the state does not have to provide replacements.¹²¹ Once the staff member investigates a claim and recommends a solution, the Warden’s office will review the claim and determine whether or not the institution is responsible.¹²² Once the Warden’s office makes its determination, it will complete a Form B and submit it to you for you to sign.¹²³ Then, Form C will be completed and submitted to you for you to sign once the office offers you a state issue replacement.¹²⁴

3. Claim Denials

If the Warden’s office determines that the institution is not responsible for your lost property, they will deny your claim and will return Form B to you explaining why they denied your claim.¹²⁵ If you are not satisfied with the Warden’s determination and wish to file an administrative appeal with the assistant secretary of Adult Services, you should state this on your Form B response. You should then submit your Form B response to your facility’s Screening Officer within 5 days after receiving the Warden office’s response.¹²⁶ The Screening Officer should send your appeal to the assistant secretary of Adult Services with a copy of your original Lost Property Form (Form A) and the Response Form (Form B). This appeal is the final step of the Lost Property Claim procedure.

H. JUDICIAL REVIEW FOR STATE COURTS

As previously stated, Louisiana state law allows you to file a claim in state court against an ARP decision after you have worked through the entire grievance process. But whether the court can re-decide your grievance issue on its own, or whether the court has to be more limited in its review, depends on the type of grievance that you have filed.

The law allows state courts to review all injury or damages claims.¹²⁷ The law allows state courts to determine the entire claim if the issue involves civil law “delictual” claims (meaning claims like assault, battery, or other claims for “injury or damages”).¹²⁸

However, many ARP grievances do not deal with these “delictual” issues. Rather, they deal with “non-delictual” issues, such as challenges to prison policies or departmental actions. For those types of claims, the law limits how much the court can review the claim.

These “non-delictual” claims can only be brought in the Nineteenth Judicial District Court.¹²⁹ That court will then review the ARP record. Once this occurs, the court can find that the ARP decision was correct

¹¹⁹ See LA. ADMIN. CODE tit. 22, § 369(F) (2017).

¹²⁰ See LA. ADMIN. CODE tit. 22, § 369(E)(2)(a) (2017).

¹²¹ See LA. ADMIN. CODE tit. 22, § 369(E)(2)(b) (2017).

¹²² See LA. ADMIN. CODE tit. 22, § 369(E)(2)(c) (2017).

¹²³ See LA. ADMIN. CODE tit. 22, § 369(E)(2)(d) (2017).

¹²⁴ See LA. ADMIN. CODE tit. 22, § 369(E)(2)(e) (2017).

¹²⁵ See LA. ADMIN. CODE tit. 22, § 369(F) (2017).

¹²⁶ See LA. ADMIN. CODE tit. 22, § 369(F) (2017).

¹²⁷ LA. STAT. ANN. § 15:1177 (2017).

¹²⁸ LA. STAT. ANN. § 15:1177(A) (2017) (stating that judicial review limitations do not apply to “delictual actions for injury or damages”).

¹²⁹ LA. STAT. ANN. § 15:1177(A) (2017).

by affirming or agreeing with the ARP decision.¹³⁰ It can also send the issue back to the ARP for more investigation by “remanding” (returning) the claim.¹³¹ But, if the court disagrees with the ARP decision, the court can “reverse or modify the decision” only if your “substantial rights” have been violated. Your “substantial rights” are violated when the administrative decisions are:

- 1) In violation of constitutional or legal provisions;
- 2) In excess of the statutory authority of the agency;
- 3) Made upon unlawful procedure;
- 4) Affected by other error of law;
- 5) Arbitrary or random or characterized by abuse of discretion; or
- 6) Manifestly erroneous in view of the whole record.¹³²

You are allowed to make an oral argument on your claim in court (or speak to the judge about why he should approve your claim).¹³³ If you decide you want to make an oral argument, you must request it along with your court-petition for review, with a brief statement as to why the court should allow you to argue your claim orally.¹³⁴

Although there are several things that courts can examine when they are reviewing ARP decisions, these standards of review are still more restricted than those involving injury or damages claims. In addition, you are limited geographically. If you are filing a “non-delictual claim” in state court, you can only bring these non-civil law claims in the Nineteenth Judicial District Court in Baton Rouge, Louisiana.¹³⁵ If you are in a parish jail (“under the physical custody of the sheriff”) then you must bring that claim in the district court that has jurisdiction over that parish.¹³⁶ However, if your grievance involves a delictual issue for injury or damages, you must bring that claim in the district court that covers the parish where the injury occurred.¹³⁷ Once the court has decided your claim, you can appeal that court’s decision, like most court cases, by filing an appeal with the next court of appeals.¹³⁸

The court has broader powers of review if your claim is a delictual claim for injury or damages than if it is a non-delictual claim challenging a corrections department policy. As a result, if you file a delictual claim in state court, the court can review your entire claim. The court can also change any part of the ARP’s decision. The court is no longer limited to only reviewing the ARP record for the legal errors listed above. If you file a claim challenging a prison policy, the court can only review the ARP’s decision according to the standards listed above.

As stated in Chapter 15 of the main *JLM*, when you file a grievance through the ARP, it is important that you include all of the information that relates to the grievance, in case you have to argue the claim in a lawsuit later on. If you do not state an issue important to your grievance claim, a court may consider your claim “unexhausted.”¹³⁹ However, this does not mean that you can file several grievances at the same time. If you file more than one claim in the same grievance (or before another of your grievances is decided), the second claim will not be reviewed until the first claim or grievance is decided.¹⁴⁰ Be clear and descriptive when you file a claim, but do not file multiple claims at once. When you have used up all of your administrative remedies and are ready to file a complaint in federal court, make sure that your complaint states that you have already worked through all other remedies.

¹³⁰ LA. STAT. ANN. § 15:1177(A)(8) (2017).

¹³¹ LA. STAT. ANN. § 15:1177(A)(8) (2017).

¹³² LA. STAT. ANN. § 15:1177(A)(9) (2017).

¹³³ LA. STAT. ANN. § 15:1177(A)(6)(a) (2017).

¹³⁴ LA. STAT. ANN. § 15:1177(A)(6)(a) (2017).

¹³⁵ LA. STAT. ANN. § 15:1177(A) (2017).

¹³⁶ LA. STAT. ANN. § 15:1177(A) (2017).

¹³⁷ LA. STAT. ANN. § 15:1184(F) (2017).

¹³⁸ LA. STAT. ANN. § 15:1177(A)(10) (2017).

¹³⁹ See *Lewis v. Stalder*, 2010-0143, p. 3 (La. App. 1 Cir. 6/11/10); 39 So. 2d 855 (holding that a state court’s legal review of an ARP decision “shall be limited to the issues presented in the petition for review and the administrative request filed at the agency level”).

¹⁴⁰ See LA. ADMIN. CODE tit. 22, § 325(F)(3)(ix) (2017) (“If an offender submits multiple requests during the review of a previous request, they will be logged and set aside . . .”).

I. CONCLUSION

Your correctional facility's administrative remedy system gives you the opportunity to resolve your complaint most quickly and efficiently. And if you have a grievance, you *must* go through your facility's administrative system before going to either state or federal court. Once you receive a final decision from the administrative system, you may then file a claim in court. Remember that, if you do not go through your administrative remedies, your case will not be reviewed in court. This will happen even if you feel that the system in your facility is unfair or unhelpful. You must still use the entire procedure. These requirements may seem confusing or intimidating, but it is important that you do your best to go through the system and to meet as many of the requirements as you can. If you make an honest, good-faith effort to comply with the requirements, courts are more likely to excuse any mistakes. For example, if you miss a deadline, you should not give up. Continue to follow the grievance program and ask to be excused from the rule you did not follow, or ask to re-file your grievance and start over. The best approach is to go through the entire grievance system as well as you can. This will give you the best chance of resolving your issue, whether by grievance resolution, or by seeking legal action.