

YOUTH SERVICES POLICY

Title: Administrative Remedy Procedure Next Annual Review Date: 06/22/2017	Type: B. Classification, Sentencing and Service Functions Sub Type: 5. Administrative Remedy Procedure/Disciplinary Process Number: B.5.3
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References: Rules published in the Louisiana Register and cited as LAC 22:1.325, 326 and 369; La. R.S. 15:1177 et. seq; La. R.S. 15:574.12; Ch.C.Art. 412 and 912; U.S. DOJ PREA Standards 115.351 (a) and 115-352; ACA Standards 2-CO-3C-01, 2-CO-4B-03 (Administration of Correctional Agencies), 4-JCF-3A-03, 4-JCF-3A-06 and 4-JCF-4C-40 (Performance-Based Standards for Juvenile Correctional Facilities); YS Policy Nos. A.1.4 "Investigative Services", A.1.9 "Public Records Management", B.2.3 "Secure Care Direct Intake", C.1.4 "Attorney Visits", C.2.11 "Prison Rape Elimination Act (PREA), and C.5.1 "Performance Data and Information"; and the Administrative Remedy Procedure Booklet for Youth.	
STATUS: Approved	
Approved By: <i>Mary L. Livers, Deputy Secretary</i>	Date of Approval: 06/22/2015

I. AUTHORITY:

Deputy Secretary of Youth Services (YS) as contained in La. R.S. 36:405. Deviation from this policy must be approved by the Deputy Secretary.

II. PURPOSE:

To establish a formal review process known as the "Administrative Remedy Procedure" (ARP) through which a youth may seek resolution of complaints relating to his stay in a YS secure care facility.

III. APPLICABILITY:

Deputy Secretary, Assistant Secretary, Undersecretary, Chief of Operations, Deputy Assistant Secretary, Regional Directors, Facility Directors, Continuous Quality Improvement Services (CQIS) staff, Investigative Services, Case Managers, ARP Coordinators, other appropriate staff members who assist with the ARP process, youth committed to a YS secure care facility, parents/guardians, youth attorney's/advocates.

IV. DEFINITIONS:

ARP Coordinator - A secure care staff member designated by the Facility Director to coordinate and facilitate the ARP process. With the approval of the Facility Director, the ARP Coordinator may designate other staff members to complete selected components of the ARP process.

Business Days - Monday through Friday.

Calendar Days - Consecutive days, including weekends and holidays.

Case Manager - A generic term used within a secure care facility to identify members of the counseling profession, e.g., social services counselor, clinical social worker, program manager or a treatment team member assigned to manage a youth's case.

Continuous Quality Improvement Services (CQIS) - The Youth Services Central Office division responsible for monitoring the ARP process.

Emergency Grievance - A matter which needs to be reviewed immediately because delay would subject the youth or others to substantial risk of personal injury or cause other serious or irreparable harm.

Extension – Granted by the Deputy Secretary, it allows the Facility Director additional time to respond at Step One, as well allowing additional time for response from the Deputy Secretary at Step Two.

Grievance - A written complaint regarding a policy, condition, action, or incident occurring within a secure care facility that affects the youth personally.

Initiation of the ARP Process - The ARP process shall commence the day the ARP is accepted by the ARP Coordinator.

Sensitive Issue ARPs - ARPs which may be filed initially with the Deputy Secretary if the youth believes the content of the ARP would adversely affect him if it became known at the secure care facility where the youth is currently housed.

Sexual Assault - Includes all acts of a sexual nature that constitute Nonconsensual Sexual Acts and Abusive Sexual Contacts (refer to YS Policy No. C.2.11 for definitions). Sexual assault also includes sexual coercion and sexual solicitation as defined in this policy.

Waiver – Granted by the Facility Director, it allows a youth additional time to file his ARP or complete Step Two where special circumstances justify a late filing.

V. POLICY:

It is the Deputy Secretary's policy that the ARP process shall be accessible to all youth, and shall be utilized when youth seek formal review and resolution of complaints relating to their stay in secure care while in the custody of YS.

All youth are entitled to use the ARP process. It shall be the responsibility of the secure care Facility Director to provide appropriate assistance/accommodations for youth with literacy deficiencies or language barriers. Reprisals of any nature are prohibited. Youth are entitled to pursue, through the ARP process, a complaint that a reprisal occurred.

A youth may request information and obtain assistance in using the ARP process from his Case Manager, Counselor or other staff members. Nothing in the ARP process is intended to prevent or discourage a youth from communicating with the Facility Director or any other employees of YS.

VI. GENERAL:

The ARP process has been established for youth to seek formal review of a complaint relating to many aspects of their stay in a secure care facility. Such complaints and grievances include, but are not limited to, actions pertaining to living conditions, access to the courts, personal injuries, physical or sexual abuse, medical malpractice, loss of personal property, denial of publications, time computation or challenges to rules or policies. Youth shall receive reasoned responses and where appropriate, meaningful remedies.

Code of Conduct Violations must be handled through the disciplinary appeal system in the youth's assigned secure care facility. Court decisions and pending criminal and juvenile court matters, over which YS has no control or jurisdiction cannot be reviewed through the ARP process.

Reprisals against youth for use of the ARP system are not permitted. Youth who file ARPs which are frivolous or deliberately malicious shall have their actions addressed in the LAMOD group process.

VII. SECURE CARE PROCEDURES:

A. Orientation and Distribution

1. Employees shall be made aware of the ARP through orientation and annual in-service training.
2. Youth shall be made aware of the ARP process during direct admission, which shall include a question and answer session. A simplified version/booklet of the ARP process shall be provided to the youth during orientation and further reviewed through the LAMOD group process. The youth booklet shall be posted in areas readily accessible to all employees and youth.
3. The ARP shall be designated as the main topic of a group session at least once a quarter.

B. Facility Directors shall designate appropriate management or administrative staff to collect "ARP Forms" [see Attachment B.5.3 (a)] from the ARP boxes on a daily basis from the designated locations.

C. ARP Alleging Sexual Assault

1. Initiation and Submission of ARP:

The youth shall initiate the ARP in accordance with Paragraph E below by completing the “ARP Form” and placing it in an ARP box in a designated location.

2. Time limits:

An ARP regarding sexual assault is not subject to the 90 day filing requirement outlined in Paragraph E.4. below, and may be filed at any time. If the ARP contains multiple complaints, the 90 day time limit shall apply to any nonsexual assault complaints accepted by the ARP Coordinator.

3. Grievances with Sensitive Issues:

If a youth believes that the staff member who is the subject of his complaint may have access to his ARP if it is placed in the ARP box for handling, or may be referred to the staff member who is the subject of the complaint, he may file the complaint directly with the Deputy Secretary by following the procedures provided in Paragraph K below.

4. Filing Assistance:

Third parties, including facility youth, staff members, family members, attorneys and outside advocates may assist a youth in preparing an ARP and/or file an ARP on behalf of a youth. If the third party filing the ARP on behalf of the youth is not the parent/legal guardian the youth must complete the “Third Party Acknowledgment/Approval Form” [see Attachment (d)]. If the youth declines the assistance of a 3rd person who is not the parent/guardian, it shall be documented on the “ARP Form” or the complaint filed by the 3rd party.

5. Screening and Investigation:

ARPs shall be screened by the ARP Coordinator and shall be copied to the Director of Investigative Services (IS) and the IS office located on the facility grounds.

IS shall provide the results of the ARP investigation to the Facility Director who shall prepare the Step One response.

6. Responses:

Time limits for responses at Step One and Two shall be in accordance with Section VII. (G-I) below. If a timely decision is not rendered at either stage, it shall be deemed to be a denial of the request for a remedy at that particular Step.

7. Extensions:

The agency is allowed an extension of no more than 21 days, inclusive of any extensions at Step One and/or Step Two. The ARP Coordinator at Step One, and the Deputy Secretary at Step Two, shall notify the youth in writing of any extension, including the date by which the decision shall be rendered.

8. Emergency Grievances:

If a youth's ARP contains statements which indicate he believes himself to be at substantial risk of imminent (impending, about to happen) sexual abuse, the ARP shall be processed in accordance with Paragraph J below. The initial response and final decision shall document the agency's findings as to whether the youth is at substantial risk of imminent sexual abuse, and action taken in response to the grievance.

D. Informal Resolution

Youth are encouraged but not required to resolve their problems informally through the LAMOD process before initiating the formal ARP process. Informal resolution may be sought by talking to a Case Manager, Counselor or other staff member. An attempt at informal resolution does not delay the time frame for filing an ARP. The youth and staff member assisting with informal resolution must be alert to the 90 calendar day filing time frame so that the opportunity to file an ARP is not missed if the matter is not informally resolved.

E. Initiation of ARP

1. ARP forms shall be available at all designated locations at each secure care facility, as well as from Case Managers. An ARP is initiated by completing the first part of the "ARP Form". Requests for ARP shall not be rejected because they are not on the "ARP Form", however; all requests must contain a statement or phrase to this effect: *"This is a request for administrative remedy"*, *"This is a request for ARP"*, or *"ARP"*. Upon receipt by the ARP Coordinator, such request shall be attached to an "ARP Form".
2. The youth shall complete the first part of the form outlining the problem and remedy requested. The youth's Case Manager, Counselor, or other staff member shall be available for assistance in completing the form.

3. If additional space is needed, another piece of paper may be used and attached to the “ARP Form”. The youth must place the completed form in an ARP box located in one of the designated locations.
4. Time Limit/ Waivers
 - a. Time Limit - the youth has 90 calendar days after the incident/occurrence in which to file an ARP, except as to any portion of an ARP which alleges sexual assault.
 - b. The ARP is considered “filed” upon receipt by the ARP Coordinator. ARPs placed in an ARP box on a Saturday, Sunday or other legal holiday shall be deemed to have been received on the first regular business day following the weekend or legal holiday.
 - c. Waivers- The youth may make a written request for a five (5) calendar day extension from the ARP Coordinator, if additional time is needed to prepare the ARP.

If five (5) days is not sufficient time for the youth to file his ARP, the 90-day requirement may be waived by the Facility Director when circumstances warrant, i.e., if the youth is ill for an extended period of time or if a significant, unusual event affects the youth's ability to file the ARP. The Facility Director must provide written reasons for the waiver to the ARP Coordinator to be retained in the youth's ARP file.

5. Youth released from a secure care facility prior to filing their ARP should send the ARP directly to the ARP Coordinator at the facility he was released from. Except for an ARP complaint alleging sexual assault, the ARP must be postmarked or received at the facility within the 90 calendar day time frame.

F. Screening - ARP Coordinator's Review

1. The ARP Coordinator shall screen all ARPs prior to the Step One review/response to determine if it can be accepted into the process or if it is to be rejected or corrected, and enter all screening determinations into the Lotus Notes ARP database.

If the same complaint is received from different youth, each must be reviewed as a separate ARP.

2. If the ARP is rejected, the reason(s) for rejection shall be noted on the “ARP Form”. The ARP Coordinator shall send notice to the youth via a copy of the “ARP Form” regarding the status (acceptance/rejection) of the request.
3. The Facility Director shall be kept apprised of the status of the ARP throughout the process.

4. An ARP may be rejected for one or more of the following reasons, which must be recorded on the “ARP Form”:
 - a. The ARP pertains to a disciplinary matter or court order in the youth’s case.
 - b. The ARP concerns an action not yet taken or decision which has not yet been made. However, a youth who believes he is at substantial risk of imminent sexual assault may file an emergency ARP as outlined in Paragraph C. (8) above.
 - c. Except for ARPs alleging sexual abuse, there has been a time lapse of more than 90 calendar days between the incident/occurrence and receipt of the initial request.
 - d. The date of the incident/occurrence is not on the “ARP Form”. The “ARP Form” shall be returned to the youth to have the date inserted, however, the original date of submission is used to calculate whether the ARP was filed within the 90 day time limit.
 - e. The youth has filed an ARP for another youth assault.
 - f. A request is unclear. In this case, the request may be rejected and returned to the youth with a request for clarification. The youth must return the ARP to the ARP Coordinator within five (5) calendar days after receiving the request for clarification. If the clarification is not timely received, the ARP shall be rejected. A released youth has 10 calendar days to return the clarification.
 - g. A youth refuses to cooperate with the inquiry about his claim raised in the ARP.
 - h. The request is a duplicate of a previous request submitted by the same youth.
 - i. The request contains several unrelated complaints. A youth should not include more than one complaint in a single ARP. The ARP Coordinator has the discretion to accept or reject the ARP if it contains several unrelated complaints. A sexual assault complaint shall not be rejected because it is in found in an ARP with unrelated complaints.

G. Step One - ARP Coordinator’s Recommendation and Facility Director’s Response (Maximum Time Limit - 30 Calendar Days)

The ARP Coordinator shall enter every step of the ARP into the Lotus Notes ARP database.

1. The youth shall begin the process by completing the first part of a youth “ARP Form”, which briefly sets out the basis for the claim and the remedy requested.
2. The original “ARP Form” submitted by the youth shall become part of the process and will not be returned to the youth until the Facility Director’s response (Step One) has been finalized.
3. The ARP Coordinator shall screen the ARP. If accepted, the ARP Coordinator shall investigate the claim by engaging in fact-finding, including interviewing the youth and pertinent staff. If the ARP contains allegations of abuse, the ARP Coordinator shall submit the ARP to the IS office located on the grounds of the facility to conduct the investigation.
4. Except for an ARP filed by a parent/guardian, an ARP filed by an attorney or other 3rd party must include a completed “Third Party Acknowledgement Form” [Attachment B.5.3 (d)] containing the youth’s statement agreeing to the individual/organization filing the ARP on his behalf.

The ARP Coordinator shall contact the attorney before the youth is interviewed. The attorney may waive his presence at the interview. The interview shall not be delayed more than two (2) days for an attorney's presence without approval from the Facility Director. When ARPs are referred to IS, it shall be the responsibility of the IS Investigator to contact the attorney.

5. If the youth advises the ARP Coordinator or IS Investigator during the investigation that he has spoken with an attorney about the ARP, the interview must cease. The youth shall be instructed to contact and advise the attorney to call the ARP Coordinator/IS Investigator within two (2) business days. The youth shall be allowed to initiate a phone call to contact the attorney. If the attorney has not contacted or attempted to contact the ARP Coordinator/IS Investigator within two (2) business days, the interview may resume.
6. Investigative Services shall finalize the interview/investigation for all abuse related ARPs and submit documentation to the ARP Coordinator. The IS investigation shall be completed within the 30 day maximum time limit designated for the Step One Process. (Refer to 10. Below if additional time is needed.)
7. The ARP Coordinator shall submit the ARP and supporting documentation, including the IS report, to the Facility Director for the Step One response.
8. The Facility Director may return the “ARP Form” to the ARP Coordinator for additional information or further review prior to rendering his Step One response.

9. The Facility Director shall enter his response on the original youth “ARP Form” and return the form and supporting documents to the ARP Coordinator. The ARP Coordinator shall log in receipt of the decision and forward the original “ARP Form” to the youth, and any other facility office affected by the decision. If a parent/guardian/3rd person filed the ARP on the youth’s behalf a copy the “ARP Form” shall be sent to that person also. A copy of the “ARP Form” and supporting documents shall be retained in the ARP file.
10. The Facility Director may make a written request to the Deputy Secretary for an extension of up to 14 calendar days for the Step One review/response to be completed.

The Deputy Secretary may grant a request for extension if IS needs additional time to complete an investigation and/or the Facility Director needs more time to respond. The cumulative total of extensions at Step One shall not exceed 14 days. The youth must be notified in writing of such an extension.

**H. Step Two - Deputy Secretary’s Response
(Maximum Time Limit - 21 Calendar Days)**

1. A youth who is dissatisfied with the Step One response has 15 days from receipt of the Step One decision to complete Step Two of the original “ARP Form”. The youth’s Case Manager or another staff member shall be available to assist as needed with filing the Step Two request.

The youth must place the completed form in an ARP box in one of the designated locations. The youth may make a written request for a waiver from the Facility Director for up to five (5) calendar days in which to file for a Step Two review. The Facility Director may grant the waiver where circumstances justify the additional time to file.

2. The ARP Coordinator shall log in the request for Step Two review, retain a copy for the ARP file, and mail the original “ARP Form” along with copies of any supporting documentation to the Deputy Secretary.
3. The Deputy Secretary shall render a final decision. A copy of the decision shall be mailed to the youth, postmarked within 21 calendar days of the Deputy Secretary’s receipt of the request for Step Two Review unless the Deputy Secretary requires additional time to render a decision.

An extension of up to seven (7) calendar days may be utilized by the Deputy Secretary where additional time is needed to prepare the Step Two review/response, provided the youth is notified in writing of such an extension.

The Deputy Secretary shall retain a copy of the “ARP Form” and return the original to the ARP Coordinator. The ARP Coordinator shall copy the decision to the Facility Director and to the youth’s ARP file. The ARP Coordinator shall return the original ARP with the Deputy Secretary’s response to the youth and obtain the youth’s signed acknowledgment of receipt. If an attorney or 3rd person filed the ARP on behalf of the youth, the original “ARP Form” is sent to the attorney and a copy of the ARP response is given to the youth.

4. Unless extensions have been granted, no more than 51 calendar days shall elapse from the ARP Coordinator’s receipt of original initiation of the “ARP Form” to completion of the Step Two response. Absent an extension with notification to the youth, expiration of time limits without a response shall be considered by the youth to be a denial at that level and entitles the youth to move on to the next step in the process.

I. Judicial Review

1. If a youth’s ARP is rejected or if he is not satisfied with the Step Two response, he may seek judicial review of the decision pursuant to La. R.S. 15:1177 *et seq.* within 30 calendar days following receipt of the decision.
2. If the youth communicates to the ARP Coordinator that he is not satisfied with the Step Two response, the ARP Coordinator, utilizing the attached “ARP Parental Notice Form” [see Attachment B.5.3 (c)], shall notify the youth’s parents/guardian, and attorney where applicable, that the YS’ ARP procedure has been exhausted, and of the youth’s right to seek judicial review within 30 calendar days after receipt of the decision.

J. Emergency Grievance

If a youth’s ARP contains statements which indicate he believes he is at immediate risk of harm and any delay in responding to the grievance would subject the youth to substantial risk of immediate personal injury or cause other serious or irreparable harm, the ARP Coordinator shall immediately forward the ARP, or that portion of the ARP which alleges substantial risk of imminent personal injury or cause serious or irreparable harm, to the Facility Director, Regional Director, and IS. The Regional Director shall provide an initial response within 48 hours and issue a final decision within five (5) calendar days.

K. Sensitive Issues

1. If the youth believes his complaint is sensitive and he would be adversely affected if his complaint became known at the facility, he may file the complaint directly with the Deputy Secretary. The youth must explain in writing the reason for not filing the complaint at the facility. If the Deputy Secretary agrees that the complaint is sensitive, the ARP shall be accepted and a response prepared in accordance with Step One procedures.

The Deputy Secretary shall enter a response on the original "ARP Form" which shall be mailed along with supporting documents to the ARP Coordinator, postmarked within 30 calendar days of the Deputy Secretary's receipt of the request.

The ARP Coordinator shall log in receipt of the decision, and forward the original "ARP Form" to the youth, send a copy to any facility office affected by the decision, update the ARP Lotus Notes database, and keep a copy of the ARP form and supporting documents in the ARP file.

2. If the Deputy Secretary finds that the complaint is not sensitive, he shall so advise the youth in writing. The Deputy Secretary's original letter to the youth and original "ARP Form" shall be sent to the ARP Coordinator. The ARP Coordinator shall ensure that the Deputy Secretary's letter and the original "ARP Form" are delivered to the youth, and obtain the youth's signature acknowledging receipt. The ARP Coordinator shall advise the youth that he may submit the ARP as a regular "Non-Sensitive" ARP.
3. Except for Sensitive ARPs alleging sexual assault the youth shall then have the normal 90 calendar day deadline from the date the incident occurred or seven (7) calendar days from the date he receives the rejection (whichever is longer), to submit his request in accordance with Paragraph E. above.

L. ARPs Related to Lost Property Claims

1. If a loss of personal property is unsubstantiated or results from the youth's own acts or from bartering, trading, selling to or gambling with other youth, the youth shall not be compensated.
2. If the loss of personal property occurs through the negligence of the facility and/or its employees, the youth's claim shall be processed as described below.
 - a. If a state-issue item is available, the youth's lost/damaged property shall be replaced. If a state-issue replacement is not available, the Facility Director/designee shall purchase a similar item to replace the lost/damaged personal property up to a limit of \$50.00.
 - b. Replacements shall be documented on the "Lost Property Replacement Receipt" form [see Attachment B.5.3 (b)], which shall be completed by the ARP Coordinator and submitted to the youth for signature when the property is replaced.

VIII. MISCELLANEAOUS

A. ARP Records

Administrative Remedy Procedure records are confidential and may only be released in accordance with La. R.S. 15:574.12 and Ch. C. Art. 412.

1. The ARP database in Lotus Notes shall be maintained by the ARP Coordinator to document the nature of requests, relevant dates, recommendations, and Step One and Two responses/dispositions.
2. Each secure care facility shall review ARP activity in accordance with YS Policy No. C.5.1.
3. A copy of each ARP filed, the responses, dispositions and pertinent documents shall be kept on file in the ARP Coordinator's office and maintained for 4 years after final disposition of the ARP. A copy shall also be kept in the youth's hard copy Master Record under Clip VI.

B. Transferred Youth

When a youth has filed an ARP and is transferred prior to the completion of the Step One review, or if he files an ARP after transfer based on an incident occurring at the sending facility, the sending facility shall complete the processing through Step One. The Facility Director of the receiving facility shall be responsible for keeping the youth informed of the progress of his ARP.

C. Discharged Youth

If a youth is discharged prior to final disposition of his ARP, or if he files an ARP/grievance after discharge, the facility shall process the ARP, notifying the youth at his last known address using the procedures described in Section VII. (A-J), as each step is completed. [The 90 calendar day time frame (VII.E.4.a.) in which to file an ARP applies.]

D. Monetary Damages

If there is sufficient information at Step One for the Facility Director to conclude that monetary damages may be an appropriate remedy for an ARP, the matter shall be referred to the Deputy Secretary/designee. If the Deputy Secretary/designee finds that monetary damages are a fair and just remedy, - the matter shall then be reviewed by the YS Legal Section to confirm that monetary damages are appropriate.

This matter shall then be referred to the Office of Risk Management (ORM) of the Division of Administration to determine the amount of damages. Copies of any settlement agreements shall be sent to the appropriate Facility Director. The Facility Director shall ensure copies are provided to the ARP Coordinator for the ARP file and the youth's hard copy Master Record.

IX. QUALITY ASSURANCE

- A. On a quarterly basis, the Site Coordinator at each secure care facility shall solicit comments and suggestions utilizing Youth and Employee Surveys regarding ARP integrity, processing and efficiency. The results of these surveys shall be reported to the Deputy Secretary, Executive Staff and the Facility Director through the Chief of Operations.
- B. The ARP procedures and documentation shall be part of the annual audit of YS. Performance Indicators relating to data located in the ARP Lotus Notes database shall be included in the “YS Performance Measures Semi-Annual Report” issued in February and August of each year.

X. STAFF DEVELOPMENT

- A. YS Employees shall be provided initial ARP training during orientation and annually thereafter through In-Service.
- B. ARP Coordinators shall undergo specific training related to their duties prior to performing these functions.
- C. All training shall be documented in TREC at the unit level.

XI. IMPLEMENTATION DATE:

The revised procedures associated with this policy shall become effective July 1, 2015.

Previous Regulation/Policy Number: B.5.3

Previous Effective Date: 05/26/2009

Attachments/References:



B.5.3 (a) Youth ARP Form July 2015.doc



B.5.3 (b) Lost Property Agreement Form July 2015.doc B



B.5.3 (c) ARP Parental Notice Form July 2015.doc



B.5.3 (d) Third Party Acknowledgment-Approval Form

July 2015.doc



B.5.3 ARP Booklet July 2015.doc