

respondent. Some commenters objected to allowing a respondent to obtain an administrative appeal because it could delay remedying discrimination. On the other hand, an impartial adjudicatory mechanism would require that opportunity is provided for both sides to appeal. For this reason, the Department finds it necessary and appropriate for both complainant and respondent to have the right to an administrative appeal.

## PART 40—STANDARDS FOR INMATE GRIEVANCE PROCEDURES

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SOURCE: Order No. 957-81, 46 FR 48186, Oct. 1, 1981, unless otherwise noted.

### Subpart A—Minimum Standards for Inmate Grievance Procedures

#### § 40.1 Definitions.

For the purposes of this part—

(a) *Act* means the Civil Rights of Institutionalized Persons Act, Public Law 96-247, 94 Stat. 349 (42 U.S.C. 1997).

(b) *Applicant* means a state or political subdivision of a state that submits to the Attorney General a request for certification of a grievance procedure.

(c) *Attorney General* means the Attorney General of the United States or the Attorney General's designees.

(d) *Grievance* means a written complaint by an inmate on the inmate's own behalf regarding a policy applicable within an institution, a condition in an institution, an action involving an inmate of an institution, or an incident occurring within an institution. The term "grievance" does not include a complaint relating to a parole decision.

(e) *Inmate* means an individual confined in an institution for adults, who has been convicted of a crime.

(f) *Institution* means a jail, prison, or other correctional facility, or pretrial detention facility that houses adult inmates and is owned, operated, or managed by or provides services on behalf of a State or political subdivision of a State.

(g) *State* means a State of the United States, the District of Columbia, the commonwealth of Puerto Rico, or any of the territories and possessions of the United States.

(h) *Substantial compliance* means that there is no omission of any essential part from compliance, that any omission consists only of an unimportant defect or omission, and that there has been a firm effort to comply fully with the standards.

#### § 40.2 Adoption of procedures.

Each applicant seeking certification of its grievance procedure for purposes of the Act shall adopt a written grievance procedure. Inmates and employees shall be afforded an advisory role in the formulation and implementation of a grievance procedure adopted after the effective date of these regulations, and shall be afforded an advisory role in reviewing the compliance with the standards set forth herein of a grievance procedure adopted prior to the effective date of these regulations.

#### § 40.3 Communication of procedures.

The written grievance procedure shall be readily available to all employees and inmates of the institution. Additionally, each inmate and employee shall, upon arrival at the institution, receive written notification and an oral explanation of the procedure,