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Vermont State Auditor's Office

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December 11, 2023

Performance Audit  
Recommendations and  
Corrective Actions for Audit:  
22-06

DEPARTMENT OF  
CORRECTIONS:

Significant Deficiencies  
Demonstrate Need for Overhaul of  
the Prisoner Grievance Process

Dated: December 16, 2022

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# Overview

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The State Auditor's Office (SAO) makes recommendations designed to improve the operations of state government. For our work to produce benefits, auditees or the General Assembly must implement these recommendations, although we cannot require them to do so. Nevertheless, a measure of the quality and persuasiveness of our performance audits is the extent to which these recommendations are accepted and acted upon. The greater the number of recommendations that are implemented, the more benefit will be derived from our audit work.

In 2010, the SAO began to follow-up on the recommendations issued in our performance audits. Experience has shown that it takes time for some recommendations to be implemented. For this reason, we perform our follow-up activities one and three years after the calendar year in which the audit report is issued. Our annual performance reports summarize whether we are meeting our recommendation implementation targets.

<http://auditor.vermont.gov/about-us/strategic-plans-and-performance-reports>

This report addresses the requirements of Act 155 (2012) to post the results of our recommendation follow-up work on our website. The report does not include follow-up on recommendations issued as part of the state's financial statement audit and the federally mandated Single Audit, which are performed by a contractor. However, our current contract for this work requires the contractor to provide the results of its recommendation follow-up.

Rec #	Recommendation	Follow-Up Year	Status	SAO Review Comments
1	Establish standardized written requirements, guidance, and procedures for deleting grievance records in the Offender Management System (OMS).	2023	Fully Implemented	DOC established an OMS technical guide that includes requirements, guidance, and procedures for deleting grievances. Grievance policy 320.01, available on its website, was also updated to address deletions.
		No further follow-up is required because the recommendation was implemented.		
2	Establish data entry controls to ensure that grievance records are accurate, complete, and include sufficient information for DOC to reliably track and compile reports on grievances, including the number, type, facility, status, and outcomes.	2023	Not Implemented	DOC provided no evidence that OMS data entry controls over grievance records have been established. DOC stated that it plans to develop OMS reports that will address this recommendation.
		2025		The three-year recommendation follow-up for this audit will be conducted in 2025.
3	Establish guidance and definitions for the proper use of OMS fields, including use of the category, status, event, and outcome fields.	2023	Not Implemented	While DOC issued an OMS technical guide, it does not contain definitions or guidance on the proper use of OMS fields, including use of the category, status, event, or outcome fields.
		2025		The three-year recommendation follow-up for this audit will be conducted in 2025.
4	Establish, within OMS or elsewhere, the ability to track departmentwide: (1) the dates informal complaints, formal grievances, and appeals are received and the dates individuals are provided responses, (2) records of emergency grievances, (3) any action DOC has agreed to take and whether it has done so, and (4) the open and closed status of each informal complaint, formal grievance and appeal.	2023	Partially Implemented	DOC reported it is rolling out an electronic grievance process using the Viapath system that is separate from OMS. This E-grievance process is currently active in 3 facilities, providing individuals the ability to submit grievances via tablet. The electronic grievances submitted at a facility allow for departmentwide tracking and reporting on grievance type, open and close dates, and status. Individual electronic grievances include additional information, such as when the incarcerated individual viewed DOC's response. DOC stated it is working with Viapath to improve known reporting shortcomings, as well as investigating importing OMS data to the Viapath system for reporting.
		2025		The three-year recommendation follow-up for this audit will be conducted in 2025.

Rec #	Recommendation	Follow-Up Year	Status	SAO Review Comments
5	Provide comprehensive, standardized training in the grievance process and recording data in OMS to all staff responsible for providing written responses and maintaining grievance records.	2023	Partially Implemented	In October 2023, DOC provided training to its grievance coordinators that covered the grievance process in general. However, this training did not cover recording data in OMS nor how to properly respond to a grievance. In addition, the grievance coordinators were supposed to train their staff but DOC provided no evidence that this was done.
		2025		The three-year recommendation follow-up for this audit will be conducted in 2025.
6	Ensure staff follow established requirements, including conducting departmentwide oversight and monitoring to identify and correct issues.	2023	Not Implemented	DOC has not begun departmentwide oversight and monitoring but indicated that after the E-grievance process is fully implemented, and requirements have been established, DOC will then run monitoring reports monthly via Viapath for overseeing all facilities. In addition, in August 2023, DOC established a Central Office Grievance Coordinator position to monitor and oversee the grievance system across all facilities and field offices. Part of this staff member's duties will be to audit the grievance process at each facility at least once a year.
		2025		The three-year recommendation follow-up for this audit will be conducted in 2025.
7	Ensure that incarcerated individuals receive a written response to each formal grievance and appeal submitted. In instances where DOC is required to take action, ensure tracking and confirmation demonstrating that it has happened.	2023	Partially Implemented	In instances when grievances are submitted electronically via tablet, there is evidence in Viapath's system of the grievance progressing through the process and a record of the response the incarcerated individual receives. DOC has no mechanism to ensure the tracking of when it will take action, what that action would be or confirmation that it happened.
		2025		The three-year recommendation follow-up for this audit will be conducted in 2025.

Rec #	Recommendation	Follow-Up Year	Status	SAO Review Comments
8	Track that all grievances alleging staff misconduct are investigated, either through OMS or another mechanism, to include when allegations are reported to DHR and investigated.	2023	Not Implemented	DOC has not implemented tracking via OMS or another mechanism to ensure all grievances alleging staff misconduct are investigated and by whom, and DOC provided no indication that it plans to do so going forward. DOC and DHR signed an MOU stating that DOC has the discretion not to refer staff misconduct allegations for investigation, and that the State Personnel Policy 17.0 mandate to report allegations of staff misconduct will not be applied to incarcerated individuals who use DOC's grievance process to allege misconduct.
		2025		The three-year recommendation follow-up for this audit will be conducted in 2025.
9	Establish written guidance and procedures for staff responsible for answering grievances, that provides thresholds and examples of DOC's expectations for the content of responses including ensuring that the response addresses the issue grieved.	2023	Not Implemented	DOC provided no evidence that written guidance or procedures regarding staff responses to grievances have been established.
		2025		The three-year recommendation follow-up for this audit will be conducted in 2025.
10	Assign responsibility for the grievance process to a DOC executive, including monitoring the extent to which the grievance process is performed in accordance with rules and policies, and to review the process as a whole in order to recommend improvements to the process and OMS.	2023	Partially Implemented	In a letter to us, DOC reported that it tasked the DOC Facilities Division Director with executive oversight of the grievance process. However, this organizational change was not reflected in DOC's updated grievance policy. DOC also established the position for, and hired in October 2023, a Central Office Grievance Coordinator that resides in the facilities division. The job specification for the Central Office Grievance Coordinator is to monitor and oversee the grievance system across the Department. This Grievance Coordinator is also responsible for developing and implementing auditing standards, conducting audits, and following best practices.
		2025		The three-year recommendation follow-up for this audit will be conducted in 2025.