DEPARTMENT OF CORRECTIONS

Policy Number: 303.100
Title: Grievance Procedure
Effective Date: 6/4/24

PURPOSE: To provide an administrative process through which incarcerated people can seek formal review by management level staff of issues related to their own confinement and to ensure department policies are correctly interpreted and applied to them in an effort to resolve problems and issues at the facility level.

APPLICABILITY: All staff in Minnesota Department of Corrections (DOC) adult facilities; all adult incarcerated people in facilities operated by the Minnesota DOC.

DEFINITIONS:
Behavioral health services grievance authority – associate directors of behavioral health.

Case management grievance authority – associate director(s) of case management and programming for the health, recovery, and programming unit.

Department grievance appeal authority – the assistant commissioner of facilities for the particular facility; the assistant commissioner of health, recovery, and programming; or the deputy assistant commissioner of teaching and learning depending on the issue being grieved.

Education grievance authority – the director of secondary education if the grievance is related to secondary education opportunities or the director of post-secondary education if the grievance is related to higher education opportunities. The education grievance appeal authority is the deputy assistant commissioner for teaching and learning. For ADA/accommodation education issues, see Policy 204.035, "Secondary Education."

Emergency grievance – grievances involving situations that present a substantial risk of physical injury or other serious irreparable harm to the incarcerated person or others.

Executive level staff – for purposes of this policy, a warden, an associate warden, or a captain.

Facility chain of command – a list of facility staff to whom incarcerated people must address their concerns prior to filing a facility grievance. The chain of command for any particular issue must not exceed three levels.

Facility grievance authority – the warden or associate warden assigned responsibility for investigation of, and response to, grievances filed by incarcerated people.

Facility grievance coordinator – a staff person assigned responsibility for processing and retaining documentation relating to grievances filed by incarcerated people.

Grievance – a written complaint by an incarcerated person seeking formal administrative review concerning issues related to their own confinement, the application of policy, and/or their own health, safety, and wellbeing.

Health service grievance authority – the director and associate directors of nursing.

Kite – a form used by incarcerated people to make requests or communicate with facility staff. (See Policy 303.101, "Kites/Communication")

Staff code of conduct issue – a violation of Policy 103.220, "Personal Code of Conduct of Employees."

PROCEDURES:

A. General Requirements

For all steps in the facility grievance procedure, an incarcerated person:

1. Must write legibly and use respectful, appropriate language (for example, no profanity, obscenity, derogatory language, etc.).

2. Must access forms in housing units or through unit staff, caseworker, or the facility library.

3. Must use only the front page of the grievance and grievance appeal forms provided by the department and complete according to form instructions:
   a) Section one: describe a single issue or complaint of a single issue that happened, all parties involved, and the supporting facts.

   b) Section two: propose specific resolutions or remedies (no more than two suggested remedies per issue). Examples of remedies may include:
      (1) Administrative actions (for example, a change or revision to a procedure or practice);
      (2) Correction of department records; or
      (3) Other resolutions/remedies, as appropriate (for example, assurances of corrective action, assurances the incident being grieved will not recur, etc.)

      Resolutions/remedies must not include:
      (1) Requests for monetary compensation; or
      (2) Policy changes (refer to Policy 100.100, "Policies, Operating Procedures, and Post Orders").

   c) Section three: list the chain of command followed, the date each kite was sent, and the date a response was received, and mark yes or no that the kite is attached.

   d) Include all kites following the chain of command and responses and any other relevant documents with the initial grievance submission.

4. May submit facility grievances in a sealed envelope addressed to the facility grievance coordinator and marked "Special Mail." Envelopes are purchased at the cost of the incarcerated person.

B. A grievance or grievance appeal will be returned if it meets any of the following criteria:

1. It contains a threat of bodily harm to another person, profanity, obscenity, or derogatory language;

2. It raises an issue that has previously been raised by the same incarcerated person in a pending or resolved grievance;

3. It contains more than one issue, or the issue is not clear;

4. It is vague, frivolous, or intended to harass;

5. It raises one or more non-grievable issues;

6. The incarcerated person is filing a grievance for an issue which has its own appeal/review process (for examples, see section I.2., below);

7. The grievance does not include a requested resolution, or the resolution is not clear;

8. It is past the 30-day filing period for a grievance (see section F.2.a), below) or past the 21-day period for filing a grievance appeal (see I.2.a), below);

9. The grievance appeal issue does not match the grievance issue;

10. The grievant did not follow the instructions on the form; or

11. It attempts to grieve the way a prior grievance or grievance appeal was handled/processed.

C. An incarcerated person may obtain assistance from another incarcerated person or facility staff in preparing a grievance. However, no person may submit a facility grievance or grievance appeal on behalf of another incarcerated person.

D. Informal Resolution

1. The first step incarcerated people must take to resolve issues related to their confinement is to send kites to the staff person(s) responsible for whatever program, service, or condition is involved, as indicated on the Facility Chain of Command.

2. Staff must respond to kites in accordance with Policy 303.101, "Kites/ Communication." If a response is not received by the end of the seventh day, the incarcerated person may send a kite to the next person on the chain of command, noting that a response was not received by the end of the seventh day. If the issue is an emergency, emergency procedures may be followed (see section J., below).

3. If an incarcerated person has concerns about a staff person and can show valid reasons why they cannot send a kite to the staff person directly, the incarcerated person may send a kite directly to the next person in the chain of command.

4. If an incarcerated person has concerns about a staff code of conduct issue, they should follow Section E., (below).

E. Staff Code of Conduct Issues

1. Though not required, incarcerated people are encouraged to try to resolve issues and even low-level conflict directly with the staff involved as a reasonable and advantageous method of resolution. When informal resolution is not possible, and staff conduct is at issue, a staff conduct issue grievance may be submitted.

2. Staff conduct issue grievances must include:

   a) Violations of Policy 103.220, "Personal Code of Conduct of Employees;"

   b) What sections of the policy were violated; and

   c) Specific information about the violation (for example, who, what, where, when, how).

3. Staff conduct issue grievances may be submitted in a sealed envelope addressed to the facility grievance coordinator and marked "Special Mail." Envelopes are purchased at the cost of the incarcerated person.

F. Facility Grievances

The next step incarcerated people may take to resolve issues related to their confinement is to submit a facility grievance.

1. Responsibilities

a) The warden at each facility is responsible for implementation of the grievance procedure and for processing and tracking all facility grievances.

b) The warden, or an associate warden designated by the warden, is the facility grievance authority for all facility grievances that do not involve health, recovery, education, and programming unit issues. A staff person identified as a grievance authority by this policy may not be assigned to investigate a grievance if they have responded to the issue through the informal resolution process.

c) The director and associate directors of nursing are the facility grievance authorities for grievances that involve medical, dental, or nursing care issues and the associate directors of behavioral health services are the grievance authorities for any behavioral health care issues. The associate director(s) of case management and programming is the grievance authority for matters concerning case management and other programming overseen by the health, recovery, and programming unit. The director and associate directors of nursing or associate directors of behavioral health must consult with licensed practitioners regarding matters that include medication prescribing, clinical matters, or treatment decisions. The director of secondary education or director of post-secondary education is the grievance authority for matters concerning education, except for secondary-education-related appeals of modification requests (see Section I, Limitations, below).

d) The warden may also designate a facility grievance coordinator to assist with processing and tracking all facility grievances.

e) To ensure incarcerated people are aware of, and can comply with, this policy, information about this policy is included in the DOC Offender Handbook, and in reception orientations at MCF-St. Cloud and MCF-Shakopee. Facility grievance authorities must ensure the following is provided to incarcerated people:

(1) Information about this policy in the facility-specific Offender Handbook and at facility orientation;

(2) Forms with instructions for this grievance procedure and a current Facility Chain of Command in every living unit; and

(3) Information communicated orally and in writing and conveyed in a language easily understood by an incarcerated person.

2. Filing Facility Grievances

Incarcerated people who, in good faith, are unable to informally resolve an issue or complaint for which there is no review or appeal procedure provided in another department policy, may submit a grievance.

a) Incarcerated people must submit a grievance to the facility grievance coordinator within 30 calendar days of when the issue most recently occurred and no sooner than seven calendar days of when they sent a kite trying to resolve the issue. If the

response has been received from the last staff person identified on the facility chain of command, the incarcerated person may proceed with filing the grievance.

b) The grievance authority may waive any procedural requirement of this policy if the grievant, in good faith, was mistaken about or unable to comply with the filing requirements of this policy. The grievance authority must waive such a procedural requirement if the interest of resolving an issue that negatively impacts the fair and effective administration of corrections outweighs the interest of precise compliance with following the grievance procedure.

c) Incarcerated people who have received threats to their physical safety or well-being, and who can establish that they would be in danger if their complaint were to be known at the facility, may submit their facility grievance on the Facility Grievance form directly to the department grievance appeal authority at central office in a sealed envelope marked "Special Mail."

3. Responding to Facility Grievances

a) Acceptance and tracking

The facility grievance coordinator must date stamp each facility grievance on the date it was received and:

(1) If it is not complete as submitted, must return it and any attachments to the grievant with instructions about how to properly complete the form or what additional documentation is required.

(2) If the grievance does not appear to meet the filing requirements of this policy, prior to rejecting the grievance, must consult with the facility grievance authority to determine if the grievance should be accepted or returned to the grievant with an explanation of the correct process for addressing the issue or instructions that the grievant has already received a final decision on the issue.

(3) If the grievance is returned to the grievant, must retain a copy of the documents submitted by the grievant and any other relevant information.

(4) If the grievance is complete and accepted for filing, must:

(a) Refer it to the appropriate grievance authority and notify the grievant that the facility grievance has been accepted and the response will be sent within 21 calendar days, or that an extension is required and the response will be ready within 42 calendar days;

(b) Enter it in the COMS grievance database, including the exact words of the grievant including the relief requested;

(c) Enter it into the summary log;

(d) Return the facility grievance and all documents that were submitted with the facility grievance; and

(e) Retain a copy of the documents submitted by the grievant and any other relevant information.

b) Investigating

(1) The facility grievance authority may either:

(a) Investigate the facility grievance; or

(b) Assign an executive level staff person to investigate, as long as a facility grievance is not investigated by the staff person alleged to be involved. Nor can a staff person be assigned to investigate their own supervisor. If the grievance is regarding a warden, the assistant commissioner of facilities for the particular facility is designated as the grievance authority and is assigned to investigate the grievance. The deputy commissioner of client services and supports serves as the grievance appeal authority for grievance appeals regarding a warden.

(2) Facility grievances must be investigated thoroughly and supported by documents or notes that are sufficiently detailed, including the name and title of anyone interviewed and the date on which the information was provided.

c) Preparing responses

(1) The staff person who investigates a facility grievance must submit a draft response to the appropriate facility grievance authority in a timely manner.

(2) Responses must:

(a) State the decision and the reasons for the decision;

(b) Respond completely to the concerns raised in the facility grievance;

(c) Be accurate and factual, and contain no extraneous information; and

(d) Be written to demonstrate the facility grievance was given due consideration.

(3) Within 21 calendar days (or within 42 calendar days if the grievant was given notice of an extension) of the date the facility grievance was logged into the facility grievance database, the facility grievance coordinator must:

(a) Log the decision into the COMS grievance database and retain all related documents manually or electronically in accordance with the retention schedule; and

(b) Send the grievant a copy of the decision.

4. If the grievant is not notified of the decision within 21 calendar days of the date the facility grievance was logged into the database as accepted, or within 42 calendar days if the grievant received notice of an extension, the grievant may consider the facility grievance dismissed and the grievant may then submit a grievance appeal immediately.

5. If the grievant has been released during this process, the facility grievance coordinator must send the response to the person's address, if known.

G. Emergency Procedures

An emergency grievance must be given priority. It is the responsibility of the incarcerated person filing the grievance to designate the grievance as an emergency on the grievance form (Facility Grievance 303.100B, attached) and to demonstrate the factors creating a substantial risk of physical injury or other serious irreparable harm to them if the emergency grievance is processed according to standard time limits outlined in this policy. When filing an emergency grievance, the normal chain of command requirements are waived.

1. An incarcerated person who believes their issue is an emergency must initially contact any staff member verbally/directly, indicating they have an emergency. Staff receiving the request must determine if compelling circumstances exist, based on the information provided and known at the time, which supports an immediate response/action. If an emergency is established, staff must notify the watch commander and steps will be taken to resolve the emergency.

2. If the staff member(s) determines compelling circumstances do not exist, the incarcerated person may file an emergency grievance. Emergency grievances may be submitted in a sealed envelope addressed to the facility grievance coordinator and marked "Special Mail."

3. When the facility grievance coordinator receives an emergency grievance, they must forward it to the warden/designee to determine if the grievance is, in fact, an emergency grievance.
   a) If the grievance is deemed an emergency, it must be reviewed in detail by the warden/designee capable of correcting the situation.

   b) If the grievance is deemed non-emergency, the facility grievance coordinator must inform the grievant that the grievance is deemed non-emergency, and the grievance is being returned. The grievant may then attempt to resolve the issue through the normal chain of command and the usual grievance process.

4. All emergency healthcare issues, including medical, dental, or mental health care, are addressed though Policy 500.012, 'Offender Emergency Healthcare," and should not be addressed through the grievance process.

5. Emergency grievances must receive an expedited response at every level as appropriate to the needs of the emergency situation, but in no event will the time for response exceed five calendar days from the time the grievance is received by the facility grievance coordinator and/or department grievance appeal authority.

6. Due to the emergency nature, resolutions to emergency grievances are final and may not be appealed.

H. Grievance Appeals

The final step in the grievance process is to submit a grievance appeal.

1. Responsibilities and General Requirements
   a) The assistant commissioner of facilities for the relevant facility is the grievance appeal authority responsible for final decisions on grievance appeals that do not involve the health, recovery, and programming unit or the particular warden of that facility. The assistant commissioner or designee also designates a central office staff person to assist with handling and tracking all grievance appeals.

   b) The department's assistant commissioner of health, recovery, and programming is the grievance appeal authority responsible for final decisions on grievance appeals that involve medical, dental, nursing, case management, behavioral health issues, but they must consult with licensed practitioners regarding matters that include medication prescribing, clinical matters, or treatment decisions.

   c) The deputy commissioner of client services and supports is the grievance appeal authority for grievance appeals regarding a warden.

d) The deputy assistant commissioner of teaching and learning is the grievance appeal authority who is responsible for final decisions on grievance appeals that involve education except for secondary-education-related requests for modifications (see Section I, Limitations below).

2. Filing Grievance Appeals

Incarcerated people who are not satisfied or disagree with the response from the initial grievance authority may submit a grievance appeal to the grievance appeal authority at central office using a grievance appeal form (attached), in compliance with instructions, and within the time periods allowed.

a) Incarcerated people must submit grievance appeals by U.S. mail to the grievance appeal authority to be received within 21 calendar days of the date the initial grievance authority signed the response. Grievance appeals may be submitted in a sealed envelope marked "Special Mail."

b) A grievance appeal must include:
   (1) A completed grievance appeal form;
   (2) The signed facility grievance determination; and
   (3) A list of all the documents that were submitted with the initial grievance. The actual documents submitted with the facility grievance are not required.

c) The grievance appeal authority may waive any procedural requirement of this policy if the grievant, in good faith, was mistaken about or unable to comply with the filing requirements of this policy. The grievance authority must waive such a procedural requirement if the interest of resolving an issue that negatively impacts the fair and effective administration of corrections outweighs the interest of precise compliance with following the grievance procedure.

3. Responding to grievance appeals

a) Acceptance and tracking

The grievance appeal authority's designated staff person must date stamp each grievance appeal with the date received and:

   (1) If it is not complete as submitted, must return it and any attachments to the grievant with instructions about how to properly complete the form and/or what is needed to meet filing requirements.

   (2) If the grievance appeal is returned to the grievant, must record it with the date received, grievant name and OID, grievance number, deficiency, and date returned to the grievant, and must retain a copy of the documents submitted by the grievant and any other relevant information.

   (3) If the grievance appeal is complete and accepted for filing, must:
      (a) Log the grievance appeal into the COMS grievance appeal database and summary log;
      (b) Send the grievant written notice of the date the grievance appeal was logged; and
      (c) Forward the grievance appeal to the appropriate grievance appeal authority to review and make a determination for the grievance appeal.

b) Reviewing facility grievance investigation and decision.

The grievance appeal authority must:

(1) Review the grievance appeal and other documents submitted to determine whether a 21-calendar-days extension is necessary and, if so, notify the grievant of the extension within the first 21 calendar days;

(2) Review or assign another staff person to review the appeal and the entire record of the facility grievance, including the investigation, any relevant documents, and the decision;

(3) Conduct any additional investigation that is necessary;

(4) Make the final decision to:
(a) Dismiss the appeal;
(b) Dismiss the appeal with modification;
(c) Affirm the original resolution request; or
(d) Affirm the original resolution request with modification; and

(5) Write, or assign another staff person to write, the grievance appeal response that explains the final decision.

c) Notifying the grievant of the decision
The grievance appeal authority's designated staff person must:
(1) Enter the appeal decision into the grievance database;

(2) Scan all documentation of grievance appeals into an electronic database to be maintained according to appropriate retention schedules; and

(3) Send the grievant a copy of the decision and return all documents submitted by the grievant with the grievance appeal within 21 calendar days from the date the appeal was logged into the grievance appeal database, or within 42 calendar days, if the grievant was notified of an extension.

d) Effect of decision
If the grievant does not receive a decision within 21 calendar days of the date the grievance appeal was logged into the database, or within 42 calendar days if the grievant received notice of an extension, the grievant may consider the original grievance decision final, and administrative remedies exhausted.

4. Grievance appeal determinations are final.

5. If the grievant has been released during this process, the grievance appeal authority's designated staff person must send the response to the person's address, if known.

I. Limitations

1. Incarcerated people may not file facility grievances about issues outside the scope of the Minnesota Department of Corrections' authority (for example, issues governed by statute or state or federal regulation such as those issued by the federal Centers for Disease Control or the Minnesota Department of Health).

2. Incarcerated people may not file facility grievances about issues for which there is a separate review or appeal process that is identified as the "final decision," including such examples as:
a) Policy 303.090, "Offender Property and Assigned-Duty Injury Claims;"

b) Policy 202.100, “Classification System;”
c) Division Directive 204.010, “Offender Assignment and Compensation Plan;”
d) Policy 303.010, “Offender Discipline;”
e) Policy 106.114, “Hearings for Adult Offenders;”
f) Policy 303.015, “Informal Sanctions;”
g) Policy 302.020, “Mail” (Procedure K “appeal of unallowable offender mail and O-mail” and Procedure N “centralized review of subscribed magazines and periodicals”);
h) Division Directive 302.022, “Offender/Resident Kiosk Services;”
i) Policy 302.100, “Visiting;”
j) Policy 500.308, “Substance Use Disorder Assessment, Treatment Directive, and Programming;”
k) Division Directive 203.013, “Sex Offender and Chemical Dependency Treatment Directives – Adult Facilities;”
l) Policy 204.060, “Challenge Incarceration Program – Phase I;”
m) Policy 301.088, “Restrictive Housing Step-Down Management Program;”
n) Policy 301.085, “Administrative Segregation;”
o) Policy 202.057, “Sexual Abuse/Harassment Prevention, Reporting, and Response;”
p) Policy 203.200, “Conditional Medical Release;”
q) Policy 204.035, “Secondary Education,” relating to appeals of secondary education requests for modifications; and
r) Policy 203.250, “Modifications for Incarcerated Persons/Residents with Disabilities.”

3. Proposed resolutions/remedies may not include monetary compensation or policy changes (see section A.3.b), above).

4. Outcomes of personnel matters will not be shared per data practices regulations.

5. The Minnesota Screening Tool Assessing Recidivism Risk (MnSTARR) and MnSTARR 2.0 may not be grieved.

6. Incarcerated people may submit a maximum of four grievances within a 30-day period. Anything beyond that is deemed excessive and can result in an incarcerated person’s placement in grievance management. (See section J.1.a), below.)

7. Submission of excessive grievances could indicate a need for additional case management or behavioral health supportive intervention and/or consultation.

J. Grievance Management

1. Incarcerated people may be placed on grievance management for an initial period of not more than 90 calendar days if they abuse or misuse the grievance process by:
   a) Filing an excessive number of grievances (more than four) in a 30-day period;

   b) Filing multiple grievances or grievance appeals about the same issue or about multiple individuals regarding the same issue;

   c) Filing multiple grievances and/or grievance appeals raising non-grievable issues;

   d) Filing grievances or grievance appeals that are vague, frivolous, or intended to harass; or

e) Filing repeated grievances or grievance appeals that continually meet the return criteria in section B., above.

2. A recommendation to place an incarcerated person on grievance management may be submitted only by the facility grievance authority and must include a list of the grievances forming the basis and reason for the recommendation. The assistant commissioner of facilities or designee, or the deputy commissioner of client services and supports, determines when grievance management is appropriate.

3. Once placed on grievance management, an incarcerated person is immediately notified in writing of the determination, including a list of grievances upon which the determination was based. Failure to comply with this directive may result in progressive discipline.

4. While on grievance management, an incarcerated person may submit emergency grievances only to the facility grievance coordinator for review and approval by the warden or designee, the assistant commissioner of facilities, or the deputy commissioner of client services and supports before they may be filed, accepted, and processed.
   a) The incarcerated person filing the grievance must designate the grievance as an emergency on the Facility Grievance form.

   b) The incarcerated person must demonstrate the factors creating a substantial risk of physical injury or other serious, irreparable harm to the incarcerated person if the emergency grievance is processed according to standard time limits.

   c) When an incarcerated person is filing an emergency grievance, the normal chain of command requirements are waived. For further details, see section G, above.

   d) If an incarcerated person on grievance management submits emergency grievances that are non-emergency, as determined by the warden or designee, the assistant commissioner of facilities, or the deputy commissioner of client services and supports, grievance management may be extended by 30 days for each submitted non-emergency grievance.

   e) The warden or designee, the assistant commissioner of facilities, or the deputy commissioner of client services and supports determines if the proposed emergency grievance meets the threshold for an emergency grievance. The facility grievance coordinator must notify the incarcerated person if the proposed emergency grievance has been accepted and, if not, the reasons for denial.

K. Grievance Training Required

1. Each facility and central office must ensure that this policy is included in the academy and orientation training provided to all new staff.
   a) Training must include updates on department policy, how to respond to and address specific issues, proper methods of communication, and dispute resolution.

   b) The training must include specific training for providing effective responses to kites and developing staff competency around the agency's grievance processes.

2. All grievance coordinators, and backup staff who regularly respond to grievances must complete:
   a) On-the-job training for this policy, including training in the COMS grievance module and grievance logging process; and

b) Annual training on the grievance process, including any updates to the processes and procedures.

INTERNAL CONTROLS:

A. Facility grievances and grievance appeals are logged into COMS and the summary log and retained in their respective grievance databases.

B. Copies of the facility grievances and all supporting materials are retained by the facility grievance coordinator, in paper form or electronically, according to the facility grievance retention schedule.

C. Grievance appeals are retained by the central office grievance appeal authority, in paper form or electronically, in accordance with the appropriate retention schedule.

REFERENCES: Minn. Stat. §§ 241.01& 243.56
42 U.S.C. § 1997e (Prison Litigation Reform Act)
Policy 100.100, "Policies, Operating Procedures, and Post Orders"
Policy 106.114, "Hearings for Adult Offenders"
Policy 202.057, "Sexual Abuse/Harassment Prevention, Reporting, and Response"
Policy 202.100, "Classification System"
Policy 203.013, "Sex Offender and Chemical Dependency Treatment Directives – Adult Facilities"
Division Directive 204.010, "Offender Assignment and Compensation Plan"
Policy 204.060, "Challenge Incarceration Program – Phase I"
Policy 301.085, "Administrative Segregation"
Policy 301.088, "Restrictive Housing Step-Down Management Program"
Policy 302.020, "Mail"
Division Directive 302.022, "Offender/Resident Kiosk Services"
Policy 302.100, "Visiting"
Policy 303.010, "Offender Discipline"
Policy 303.015, "Informal Sanctions"
Policy 303.090, "Offender Property and Assigned-Duty Injury Claims"
Policy 303.101, "Kites/ Communication"
Policy 500.308, "Substance Use Disorder Assessment, Treatment, and Programming"

REPLACES: Policy 303.100, "Grievance Procedure," 9/3/19
All facility policies, messages, or other communications whether verbal, written, or transmitted by electronic means regarding this topic.

ATTACHMENTS: Facility Grievance (303.100B) (public pdf)
Grievance Appeal (303.100C) (public pdf)
Chain of Command template (303.100D) (public pdf)
Grievance Return Cover Letter template (303.100E) (public pdf)
Grievance Management Placement Form (303.100F) (public pdf)
Grievance Management Notification (303.100G) (public pdf)

APPROVED BY:
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