

The PLRA And Your Right To Sue

The federal Prisoner Litigation Reform Act (PLRA) changed the procedures dealing with prisoner lawsuits. The PLRA became law in 1996 and made it much harder for a prisoner to file a lawsuit in federal court. **Before filing a lawsuit based on federal law, you should read the law 28 U.S.C. section 1915.** You may want to bring your lawsuit in a state or DC instead of in federal court.

There are four key parts of the PLRA that you need to know about to sue.

1. You must exhaust your administrative remedies.
 - a. You must use your facility's internal formal grievance procedure and you must appeal each IGP until you reach the top level.
 - b. You have NOT exhausted your administrative remedies if the response does not solve your problem or does not answer your question. You should move to the next level and file an appeal.
 - c. You have NOT exhausted your administrative remedies if the response is late. A certain number of days are allowed for a response. If you do not receive a response, you should move to the next level and file an appeal.
 - d. If you are late filing an appeal, state why you were late in filing. If you were unable to get the correct form in time to file the appeal, use a blank sheet of paper, put the form number at the top of the page, and state that you were late in filing your appeal because you could not get the correct form.
 - e. You may sue when you have reached the highest level and your request for administrative remedy has still been denied.
 - f. If you do not exhaust your administrative remedies, the court could dismiss your lawsuit. This can have other negative effects (see below).
2. The federal court will no longer waive filing fees.
 - a. The current filing fee is \$150.00.
 - b. The term *in forma pauperis* means as a poor person. In the past you could show that you did not have any money and then you could file a lawsuit without paying the filing fee. Since the PLRA became law, *in forma pauperis* requires you to show that you do not have any money and then to pay the filing fee in several payments.

c. A prisoner who files a case in the United States District Court *in forma pauperis* will have the money subtracted from her or his account every month and paid to the Court until the full filing fee is paid.

d. Your facility deals with subtracting the money from your account to pay the filing costs.

3. The PLRA has a three strikes provision that may prevent you from filing *in forma pauperis*.

a. The court will look at all prisoner cases and can dismiss them if they are frivolous (not serious), malicious (mean), or fail to state a claim upon which relief can be granted (do not give the court any law that it can use to judge the lawsuit).

b. After three cases have been dismissed, a prisoner will have to pay the entire filing fee **up front** before filing another lawsuit.

c. It is up to the defendant to make a motion to dismiss a case because the prisoner did not exhaust his administrative remedies. This is why it is so important to exhaust your administrative remedies.

d. If you are “under imminent danger of serious physical injury,” and have already filed three lawsuits that were dismissed, you may file another lawsuit *in forma pauperis*. The court will evaluate the danger you are facing **at the time you attempt to file the lawsuit**, not at the time of the alleged incident.

4. Physical injuries must be shown before you can recover money for mental or emotional injuries.

a. Any monetary damages you may win will be used to pay unpaid restitution orders before being paid to the prisoner. This may include back taxes and child support.

b. Before payment of any monetary award a prisoner, the victim of the crime for which the prisoner was convicted will be contacted so that she or he can sue the prisoner for money.

Disclaimer: This document is not intended to replace the advice of an attorney. This document does not represent legal advice by the DCPLSP, and should not be relied upon as a prisoner’s sole resource in dealing with these issues.