UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF ILLINOIS

Kenneth A. Wells
CLERK OF COURT

OFFICE OF THE CLERK

TEL: 217.492.4020
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INSTRUCTIONS FOR PRISONER COMPLAINT FORM FOR CIVIL ACTION UNDER 42 U.S.C. §1983 or "*BIVENS*"

1. The form complaint provided with these instructions is designed primarily for *pro se* prisoners challenging the constitutionality of their conditions of confinement, claims which are often brought under 42 U.S.C. §1983 (state, county, or municipal defendants) or in a "*Bivens*" action (federal defendants). The form is for your convenience and to assist the Court in understanding and handling your claims. **You need not use this form to file a complaint, and you do not need to answer all of the questions on the form in order to file a complaint.**

2. Please be aware that 42 U.S.C. §1983 and *Bivens* do not cover all prisoners' claims. Many prisoners' claims arise from other laws. **Your claim may be based on different or additional sources of federal law. You may adapt the form to your particular claim or draft your own complaint. However, you may find it helpful to review these instructions and the form even if you draft your own complaint, as they highlight important issues you should consider before filing. If you do not know the legal basis for your complaint and you are using the form complaint, check the box for "unknown."**

3. Please note that an action under 42 U.S.C. §1983 or *Bivens* cannot be used to challenge the length of your sentence (including the revocation of good time credits), the validity of your conviction, or, in general, the factual basis for results in a disciplinary proceeding that results in the loss of good time.

4. It is important to research whether you have a federal claim before filing in federal court because of the **"three strikes"** rule. The three strikes rule bars a prisoner from bringing a civil action or appeal in forma pauperis in federal court if that prisoner has "on three (3) or more occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury." 28 U.S.C. §1915(g). If your case is dismissed for failure to state a claim, or because it is frivolous or malicious, a strike will be counted against you.

Peoria Division
100 N.E. Monroe St.
Room 309
Peoria, IL 61602
309.671.7117

Urbana Division
201 S. Vine St.
Room 218
Urbana, IL 61802
217.373.5830

Springfield Division
600 E. Monroe St.
Room 151
Springfield, IL 62701
217.492.4020

Rock Island Division
211 19th St.
Room 40
Rock Island, IL 61201
309.793.5778

5. Federal law requires prisoners to **exhaust available administrative remedies** before filing an action with respect to prison conditions. 42 U.S.C. §1997e(a). You are not required to allege or prove exhaustion in your complaint. However, the Court must dismiss your case if the defendants prove you failed to exhaust, or if failure to exhaust is clear from the complaint and its attachments. You may attach copies of any documents relating to exhaustion, such as prison grievances, appeals, and official responses. While you are not required to attach these documents, they often assist the Court in understanding your claim.

6. Plaintiffs requiring extra space to state the facts of their case may attach additional pages. However, it is best to include only the basic, relevant facts. Describe the events that you believe amounted to a violation of your federal rights, including dates, places and names. Legal arguments and references to statutes and case law are unnecessary at the pleading stage. Such arguments are appropriate late, for example, in response to a motion to dismiss or for summary judgment.

7. You must sign all pleadings, including the complaint. If there is more than one plaintiff, then each plaintiff must sign all pleadings submitted to the court. Pleadings need not be notarized. However, any false statement of material fact in documents filed with the court may result in dismissal of your case and a possible fine or other civil or criminal penalties. If there is more than one plaintiff, each incarcerated plaintiff is responsible for a separate, complete filing fee.

8. The filing fee is $350. **If you pay the filing fee in full when you file your complaint, you will be responsible for serving the defendants.**

9. **If you cannot pay the filing fee when you file your complaint, you may petition the Court for leave to proceed in forma pauperis.** Complete and sign, under penalty and fine, the petition and financial affidavit. Your petition does not need to be notarized. The prison should fill in the amount in your trust fund account and provide you with a copy of a six-month ledger of all withdrawals and deposits to your trust fund account. If you have been in more than one institution in the last six months, ledgers are required from each place of confinement.

10. If you are granted leave to proceed in forma pauperis and it is later determined that your allegation of poverty is untrue, your case will be dismissed and you may be subject to sanctions.

11. **You will be responsible for paying the full filing fee in installments, even if you are granted leave to proceed in forma pauperis and even if your case is dismissed.** If you are granted leave to proceed in forma pauperis, the complete filing fee will be collected in monthly installments frm your prison account as directed by 28 U.S.C. §1915(b). The fee will be collected regardless of what happens to your case. For example, the fee is still owed even if your case is dismissed before service for any reason, including dismissal for failure to state a claim or for failure to exhaust administrative remedies.

12. To open a case, mail to the appropriate Clerk's Office the following[1]: 1) a signed, original complaint; and 2) the $350. filing fee, or your petition to proceed in forma pauperis. The original complaint may be handwritten. Don't forget to keep a copy of the complaint for yourself.

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[1]The assignment of cases among the Peoria, Urbana, Springfield, and Rock Island Divisions is set forth in the court's local rules.

13. If you are granted leave to proceed in forma pauperis and your case is allowed to proceed, the court will direct service on the defendants. **You must provide the full name and a current working address for each defendant.** Otherwise, service may be unsuccessful and may result in dismissal of a defendant. It is your responsibility to discover the correct names and addresses of the defendants, either through your own investigation or by serving discovery requests on **the defendants who appear in the case. If you are unable to discover this information despite diligent efforts, you may file a motion with the court explaining your efforts and the response you have received.**

14. If you ask the Clerk to send you copies of documents, you must provide the court with a stamped, self-addressed envelope. If you wish the Clerk to return a file-stamped copy of any document, you must provide an extra copy of the document. The Clerk cannot photocopy documents for you unless the copy fee is submitted in advance. The copy fee is $0.10 per page for documents that were e-filed, or $0.50 per page for documents that were not e-filed.

15. Each plaintiff must notify the court in writing of any change of address. Failure to notify the court of a change in your address could result in dismissal of your case.

16. If you have any questions, please consult the court's local rules concerning pretrial procedures in prisoner cases, which should be available in your place of incarceration. If you need further assistance, you may write to the Clerk. The Clerk cannot give legal advice or perform legal research for litigants, but may be able to help you with filing procedures.