



**STATE OF MONTANA
DEPARTMENT OF CORRECTIONS
POLICY DIRECTIVE**

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| Policy No. DOC 3.3.3 | Subject: OFFENDER GRIEVANCE PROGRAM |
| Chapter 3: FACILITY/PROGRAM OPERATIONS | Page 1 of 5 |
| Section 3: Rights and Privileges | Effective Date: April 1, 1997 |
| Signature: /s/ Mike Ferriter, Director | Revised: 09/06/07 |

I. POLICY

The Department of Corrections provides all offenders under its jurisdiction with a grievance and appeal process to resolve complaints and report alleged violations in a timely and confidential manner in accordance with the provisions of this policy.

II. APPLICABILITY

All Department divisions, contracted facilities and programs.

III. DEFINITIONS

Administrator – The official, regardless of local title (division or facility administrator, bureau chief, warden, superintendent), ultimately responsible for the division, facility, or program operation and management.

Facility or Program – Any prison, correctional facility, or community-based program under Department jurisdiction or contract.

Grievance Coordinator – The staff member assigned to administer, investigate, and respond to offender grievances. The responsibilities of this position may also apply to that person's designee.

IV. DEPARTMENT DIRECTIVES

A. General Requirements

1. Each facility and program administrator will provide a written offender grievance procedure that complies with federally-mandated requirements, Department policy directives, and national correctional standards prescribed by this policy.
2. Administrators will ensure that staff and offenders are included in the formation, revision, and implementation of facility and program grievance procedures.
3. At each level of the offender grievance process, the established time frames will be uniform within each Department division, i.e., adult secure facilities, youth services, and community corrections.
4. Secure facilities will provide locked grievance boxes in areas accessible to offenders and retrieved only by a grievance coordinator, or designee, on a routine and frequent basis.
5. Facility and program administrators will ensure that:
 - a. the written grievance procedure is reviewed by offenders and staff upon intake or hire with opportunity provided for questions and answers;

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- b. the grievance procedure is accessible to all youth and adult offenders in all facilities and programs, regardless of classification, status, or disability;
- c. the grievance procedure is available in the language spoken by a significant portion of the offender population and appropriate provisions exist to assist impaired or disabled offenders to understand and complete the necessary forms;
- d. the necessary forms are readily available, provide clear and concise instructions, and are standardized for each Department division;
- e. the procedure applies to a broad scope of complaints that include, but are not limited to, policy and procedures, services and conditions, incidents, staff misconduct, and offender rights;
- f. offenders who use the grievance process are guaranteed protection from reprisals by staff members;
- g. the procedure includes the specific complaints that may be grieved and not grieved, e.g., parole decisions, and classification and disciplinary decisions that are subject to a separate appeal process;
- h. the procedure affords meaningful, reasonable remedies, including the opportunity to resolve issues informally, i.e., prior to filing a formal grievance;
- i. responses to grievances are provided according to fixed time limits for each level of the process;
- j. designated staff respond in writing to each grievant at each level of the review by clearly and fully stating the reasons for the decisions reached;
- k. staff process grievance complaints expeditiously to prevent the grievance from becoming moot;
- l. unless the grievant is notified of a time extension for a response, the expiration of the time limit without a response entitles the grievant to move to the next stage of the grievance process;
- m. offenders may file emergency grievances when adhering to established time frames would subject him or her to a substantial risk of personal injury or cause other serious and irreparable harm;
- n. emergency grievances are immediately forwarded without substantive review to the level at which corrective action can be taken;
- o. the grievance process affords all offenders at least one level of review or appeal;
- p. when further review is available to the grievant, the response will inform the grievant of that fact and include instructions on how to obtain such review;
- q. the grievance process provides for an independent review of grievance dispositions, including alleged reprisals, by a person not under the facility or program's supervision or control;
- r. grievances are processed from initiation to final disposition within 180 days;
- s. a grievance coordinator is assigned to administer the program and is readily available to offenders and staff;
- t. the grievance coordinator maintains accurate, complete, and separate records of each formal grievance, and provides reports and statistics as required by policy and operational procedures;
- u. staff who participate in the disposition of a grievance will be allowed access to records essential to its resolution;

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- v. grievance programs have the option to permit in-person hearings and committees that include staff or offenders, or both, so long as no offender participates in the resolution of any other offender's grievance over the objection of the grievant; and
- w. no offender or staff member who appears to be involved in a grievance complaint will participate in the grievance resolution process.

B. Grievance Program

1. In addition to complying with the general requirements of this policy, facility and program administrators will ensure that:
 - a. the grievance program supplements but does not replace the informal communication system or the offender disciplinary process;
 - b. newly admitted offenders are informed of the grievance program in accordance with *DOC Policy 4.1.2, Offender Orientation*;
 - c. procedures include clear, easily understandable instructions on how an offender may properly initiate grievance action at the following levels:
 - 1) informal resolution of grievances;
 - 2) formal standard grievances;
 - 3) formal emergency grievances;
 - 4) grievance appeals to administrator;
 - 5) grievance appeals to Department director; and
 - d. staff are trained to understand the offender grievance process and, if required, participate in the resolution of legitimate complaints.

C. Emergency Grievances

1. Facility and program procedures must provide clear information and direction to offenders and staff on the use of emergency grievances to include the following:
 - a. the basis of what constitutes emergency grievances;
 - b. the options offenders have for reporting emergency situations, e.g., verbally to any staff member, verbally or in writing to the shift or program supervisor;
 - c. how offenders may report staff on offender and offender on offender sexual misconduct using the emergency grievance process in accordance with *DOC Policy 1.3.12, Staff Association and Conduct with Offenders*, and *DOC Policy 1.3.14, Prison Rape Elimination Act (PREA)*;
 - d. the stipulation that emergency grievances will receive immediate attention and be verified for their legitimacy without undue delay; and
 - e. that such grievances will be expeditiously channeled to the appropriate administrator or resources where action can be taken.

D. Grievance Coordinator

1. Each facility and program administrator will assign a staff member as grievance coordinator and ensure that he or she is trained to fulfill the program responsibilities.
2. The grievance coordinator, or designee, will:
 - a. ensure the required grievance forms are available to all offenders;

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- b. provide a schedule to all offenders for collecting grievances from locked boxes;
 - c. screen grievances for emergencies, referrals and consultation with other staff, e.g., health care providers on medical issues, and human resource officers on issues of offender accommodations and rights;
 - d. maintain a log of all grievances and appeals at all levels of the process;
 - e. track and adhere to all established time frames;
 - f. return incomplete or inappropriately filed grievances to offenders with explanations within the prescribed time frames;
 - g. assign a case number to each grievance for consistency throughout process;
 - h. coordinate investigations and explain decisions in responses; and
 - i. maintain files that include all forms and documents pertaining to each grievance case.
3. Administrators will ensure that grievance coordinator logs are retained for a period of three years from the initial dated data entry.

E. Monthly Grievance Reports

1. Grievance coordinators will document grievance activity and submit reports to their respective administrators each month that include the following data:
 - a. number of informal resolutions filed;
 - b. total number of formal grievances filed;
 - c. number filed by category, e.g., standard or emergency;
 - d. number pending final dispositions;
 - e. number filed by type of complaint, e.g., meals, medical, living conditions;
 - f. number filed against staff member;
 - g. number filed by offender location, i.e., living unit;
 - h. number filed by department/unit grieved;
 - i. number and reason grievance not processed, e.g., abusive language, exceeds limit;
 - j. number granted for investigation; and
 - k. number and reason grievance denied.
2. Grievance coordinators will also document and include appeal activity in the monthly reports to administrators that include:
 - a. number of first level appeals granted, denied, or pending; and
 - b. number appeals for independent review granted, denied, or pending.
3. Administrators will ensure that the monthly grievance reports are retained by the facility or program for at least three years following the final grievance disposition.

F. Supervisory Review of the Grievance Program

1. Facility and program administrators will review the monthly grievance reports, analyze the collected data, and address corrective action that may be required to improve facility operations and/or offender services.

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2. Each facility and program administrator will complete an annual grievance program report that summarizes the conclusions and recommendations from monthly reviews and submit it to the Department director.
3. Monthly and annual reports provide an internal administrative means at the facility/program and Department director level not only to evaluate offender complaints but also to identify and resolve potentially problematic management areas that, when addressed, will further the Department's mission and goals.

V. CLOSING

Questions concerning this policy should be directed to facility and program administrators.

VI. REFERENCES

- A. 42 U.S.C. § 1997(e); *United States Code*
- B. 28 C.F.R. 40.1 et seq.; *Code of Federal Regulations*
- C. 4-4284, 4-4394; *ACA Standards for Adult Correctional Institutions, 4th Edition*
- D. 3-JTS-3D-09, *ACA Standards for Juvenile Correctional Facilities, 2003*
- E. *DOC Policies; 1.3.12, Staff Association and Conduct with Offenders; 1.3.14, Prison Rape Elimination Act; 3.3.5, Offender/Staff Communication Methods; 3.4.1, Offender Disciplinary System; 4.1.2, Offender Reception and Orientation*

VII. ATTACHMENTS

None.