

 POLICIES AND PROCEDURES MANUAL DEPARTMENT OF CORRECTIONS AND REHABILITATION PRISONS DIVISION	Reference No.	Pages
	ACA Related Standards 4-4284	
Chapter Title INMATE RIGHTS	Subject INMATE GRIEVANCE PROCEDURE	
Date Issued November 19, 1990	Date Revised May 5, 2005	

- I. AUTHORITY: North Dakota Century Code 12-47-12.
- II. PURPOSE: To authorize procedures by which inmates may seek the review of a complaint.
- III. APPLICABILITY: To all inmates and all employees.
- IV. DEFINITIONS: As used in this document, the following definitions shall apply:
 - A. Grievance: A written, individual complaint filed by an inmate concerning subject matters as outlined in this policy.
 - B. Emergency Grievance: Matters which would subject (or have subjected) an inmate to a substantial risk of immediate personal injury or serious harm.
 - C. Grievance Officer: The individual appointed by the Warden who oversees the functioning of the inmate grievance procedure.
 - D. Remedy: A meaningful response, action, or redress for the successful inmate grievant.
 - E. Retaliation: Any action or threat of action against anyone for the good faith participation in the grievance procedure.
- V. POLICY: A process is available to all inmates that provides a review of complaints as specified in this policy. Internal problem solving is encouraged at the level of most direct inmate contact. Additionally, the process offers the institution a means of continuous review of administrative policy and decision, as well as written documentation of incidents that may be the subject of future litigation. The grievance procedure will not function as the proper appeal method for dispositions passed by the institution disciplinary committee or for minor disciplinary action.
- VI. PROCEDURES:

There is a written inmate grievance procedure that is made available to every Prisons Division inmate that includes one levels of appeal. (4-4284)

 - A. General Principles
 1. An inmate can only pursue a grievance about a problem that affects the inmate personally.
 2. Inmate problems and complaints should be resolved by staff and the inmate through discussion, whenever possible.



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3. Those problems not resolved by area staff should be provided an additional means of internal resolution that can improve lines of communication.
4. Retaliation against an inmate for good faith use of the grievance procedure will not be allowed.

B. Program Responsibility and Processing

The Administrative Services Manager, Administrative Services Assistant or designee shall be responsible for the grievance program coordination.

C. Notification

All inmates shall be advised of this grievance procedure through the inmate handbook and the orientation program.

D. Filing Process

An inmate may file a lawsuit directly with the appropriate court. Inmates should be so advised, however, that courts frequently require evidence that the grievance procedures have been exhausted before ruling on a complaint.

E. Grievable and Non-Grievable Issues

1. The grievance procedure is applicable to a broad range of complaints including, but not limited to:
 - a. Policies, rules, and procedures enforced within the institution;
 - b. Retaliatory actions against the inmate for filing a grievance or participating in an inmate grievance procedure;
 - c. Any lack of a policy, regulation, rule or procedure that affects the living conditions of an inmate within the institution;
 - d. Actions of either inmates or staff that directly affect the inmate and are not covered by part 2c below.
 - e. Concerns dealing with personal needs and services (i.e., religious, recreational, medical, treatment, etc.).
2. Issues which are not grievable include, but are not limited to:
 - a. Any process with an established formalized appeal or review process such as:
 - Disciplinary proceedings
 - Classification proceedings
 - Administrative Segregation placement



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b. Actions of persons outside the jurisdiction of the institution, such as:

- State or Federal laws
- Court decisions
- Parole Board decisions
- Pardon Board decisions

c. The professional actions of an employee who is performing the duties assigned to them by the institution, Examples:

- A staff member conducting a search;
- Medical decisions of Infirmary staff;
- Disciplinary decision of the disciplinary officer(s) or unit staff;
- The classification decisions of unit staff;

This does not prevent an inmate from grieving abuses of authority, the policy/rule/procedure which gives staff the authority to do what they do, or unprofessional behavior of staff in the performance of their assigned duties.

F. Abuses of the Grievance Procedure:

1. Grievances containing profanity, threats or abusive and demeaning language are an abuse of the procedure. Such grievances will be rejected and not processed. An inmate may resubmit any rejected grievance with the noted errors corrected.
2. When an inmate submits a multiple grievance referencing a particular issue, and the issue has been previously addressed through the grievance process, he/she is abusing the procedure. The grievance will be rejected and returned to the inmate, noting the abuse and that it will not be processed any further.
3. An inmate who submits multiple frivolous grievances that are determined by the Grievance Officer to be abusive, harassing, or deliberately false (demonstrating bad faith use of the system), the Warden or designee may limit the inmate's filing of grievances. Similar abuse of the emergency grievance procedure may also result in limitations on the inmate's use of the emergency grievance procedure. Notice of a limitation shall be made to the inmate in writing.

G. Remedies

The grievance procedure **allows** an inmate a meaningful remedy to valid grievances. The scope of available administrative remedies is broad and should be applied on a case-by-case basis. Possible remedies include but are not limited to:

1. Modification of institutional policy or practice;
2. Assurance that deprivation of necessary care or other abuse should not recur;



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3. Personnel action taken in accordance with DOCR personnel policies (action will not be disclosed to the inmate);
4. Other remedies that will meaningfully solve the problem presented.

H. Informal Resolution

1. An inmate with a complaint or problem shall first attempt to resolve the matter informally, before filing a formal grievance. The inmate shall attempt to discuss the matter with the staff member responsible in the particular area of the problem, and one or more of the following people within 5 calendar days of the alleged incident/occurrence:
 - a. The Case Manager
 - b. The appropriate supervisory staff.
 - c. Other institutional staff.

Because legitimate grievances can be resolved informally much quicker in most instances than through the written, formal grievance procedure, attempts at informal resolution by the inmate are mandatory.

2. Failure or refusal to comply with the above meetings shall result in the inmate being denied a Step 1 grievance.

I. Formal Grievance Procedures

1. Step 1 - An inmate may file a Step 1 grievance with his Case Manager within 15 days of the alleged incident. The informal complaint procedure must be completely exhausted to the Case Manager's satisfaction before filing a Step 1. The supervisor of the individual or area being grieved shall investigate Step 1 grievances.
 - a. When an offender has reason to submit a formal grievance, a copy of the grievance form may be obtained from the inmate's housing unit staff. The inmate shall fill out the identifying data at the top of the request form legibly and clearly state the basis for the grievance. Only one issue may be addressed per grievance form. Grievances with more than one issue per form will be returned to the inmate with no response.
 - b. The inmate must include a statement describing his attempt at the informal process.
 - c. An inmate who cannot read or write, or who cannot write legibly, is authorized to obtain assistance from other inmates, if the assistance requested does not interfere with the security of the facility. The inmate with the grievance must sign the grievance form.



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- d. The Case Manager or the supervisor of the individual or area being grieved shall investigate the grievance and respond to the inmate.
 - e. Upon completion of the written response to Step 1, the grievance form will be referred to the Grievance Officer for review. The Grievance Officer will distribute copies as required (inmate, central file, appropriate staff.)
 - f. The inmate shall receive a response generally within 10 working days of receipt by the appropriate personnel.
 - g. The inmate may elect to file a Step 2 grievance upon receipt of the Step 1 response. The Step 2 grievance must be filed within 5 working days of the date on the Step 1 response. The Step 2 grievance will be filed with the Case Manager.
2. Step 2 - Warden's Review
 - a. Inmates may, within 5 days of the receipt of the Step 1 response, elect to file a Step 2 grievance with their Case Manager. The Case Manager will forward the completed Step 2 form to the Warden's Office.
 - b. The Warden will determine whether additional investigation is required. The Warden may conduct the investigation or appoint a staff member to conduct it and report findings. Inmates will receive a copy of the Warden's response generally within 10 working days of receipt by the Warden's Office.
3. Appeal
 - a. If an inmate is dissatisfied with the Step 2 results, he may file an appeal to the Director of Corrections and Rehabilitation within 5 days of receipt of the response. The Director shall reply within 30 days from receipt, excluding weekends and holidays.
 - b. If an inmate's complaint is of a sensitive nature and he fears possible adverse affects if it is known at the institution, he may file directly to the Director of Corrections and Rehabilitation through the mail. The inmate shall explain clearly the reason for not submitting the grievance to the institution. The Director will normally reply to the grievance within 30 days, excluding weekends and holidays.

NOTE: If the Director determines the grievance is not of a sensitive nature, the grievance may be returned to the inmate to go through the proper channels.



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J. Record Keeping

The Grievance Officer shall maintain a monthly list of complaints filed under this procedure. The list of complaints shall be saved for three years and open for Director of Corrections and Rehabilitation review.

K. Extensions of Time Periods

The periods of time referred to for action by the reviewing officials may be extended for a like period if findings indicate that the initial period is insufficient to make an informed decision.

 Tim Schuetzle, Warden, NDSP
 Director, Prisons Division

 Elaine Little, Director of
 Corrections and Rehabilitation

 Date

 Date

6-02 (Reviewed)
 6-03 (Revised)
 4-04 (Revised)
 5-04 (Revised)