

Vermont Department of Corrections
Final Adopted Administrative Rule #06006, Effective March 15, 2006
Offender Grievance System

The Department of Corrections is committed to the use of alternative dispute resolution practices that promote problem resolution at the earliest possible level and that draw upon restorative practices for dispute resolution. Ideally, most grievances can be resolved at the lowest and earliest possible level, as a result of good communication between the offender and local departmental employees. However, because informal solutions to grievances are not always possible, the Department of Corrections has a responsibility to maintain formal procedures designed to resolve offender complaints in a timely and consistent manner.

Definitions

Department - The Department of Corrections, its Commissioner or designee

Chain of Command - Line of reporting authority

Grievance - A grievance is a formal written complaint filed by an offender concerning a departmental action, incident, policy or condition which affects that offender.

Emergency Grievance – A grievance processed by expedited methods to resolve an issue which presents: (1) a threat of death or injury; (2) a threat of disruption of facility operations; or (3) a need for prompt disposition because the time is lapsing when meaningful action or decision is possible.

Informal Complaint - An informal complaint is one that is made orally or in writing to a Department of Corrections staff person whereby an attempt at problem resolution is made prior to the initiation of formal grievance.

Alternative Dispute Resolution - Techniques other than formal appeals or judicial processes that include advanced verbal communication techniques, negotiation, mediation or other practices to resolve a dispute.

Business days - Monday through Friday, excluding weekends and recognized State holidays

Components of the Department of Corrections' Offender Grievance System

1. Education/Orientation: The Department will ensure that employees and offenders are educated and oriented to the practices and expectations regarding informal complaint resolution and the grievance process.

a. Employees

- Training on departmental offender grievance policy, procedures and associated administrative directives will be part of the departmental training curriculum.

- Individual work site managers will ensure that all staff knows how the policy, procedures and administrative directives are implemented at their assigned work site.
- Employees will be notified that they will be disciplined if they retaliate against offenders for using the grievance system.
- Employees will be trained in problem resolution techniques.

b. Offenders

- All offenders will receive notice of the offender grievance system as part of their orientation or at intake, whether facility or field, sentenced or detained. Notice will include a statement that they cannot be retaliated against for filing a grievance and information on what to do if they experience retaliation.
- Offenders will document the receipt of the notice, and the acknowledgment by the offender that they have received notice will be maintained by all work sites.
- Offenders will receive written instruction as well as oral presentation where necessary.
 - Any offender who requests help in filing a grievance will receive assistance as needed.
- Individual Facility Superintendents and Field Managers will ensure that offenders are informed about the grievance system.

2. *Types of Grievances*

- a. Emergency Grievance: A grievance that, if processed through standard grievance procedures and timelines, would result in serious physical or psychological harm to the offender or constitute a threat to the safe, secure operation of an institution, unit or field office.

The Superintendent or Field Manager will regularly review the content of emergency grievances with the relevant Field and Facilities Executives to identify trends in type, staff, location and offender utilization.

- b. Standard Grievances: All grievances that are not emergency grievances.
- c. All grievances are considered part of the inmate's central file.

3. *Grievances that Allege Serious Employee Misconduct*

A grievance alleging serious employee misconduct, where if proven the behavior would likely result in disciplinary action being taken against the employee, will be forwarded to the Superintendent or Field Manager and the Department of Corrections Hearing Administrator, who will forward it to the Agency of Human Services Personnel Administrator for investigation and response.

4. Informal Resolution of Complaints

With the exception of grievances that are emergency in nature (see section 2a above) or that allege serious employee misconduct (see section 3 above), the staff and offender must make an attempt at informal problem resolution prior to the filing of formal grievance. An identifiable solution or plan to resolve the complaint shall be agreed on by the staff and offender within 48 hours of the complaint being identified. If no plan can be agreed on, the complaint will move to a formal grievance if desired by the offender. In these situations the Department will ensure that informal resolutions are agreed on in writing by the offender.

5. Departmental Timeframes

With the exception of grievances that allege staff misconduct or criminal activity (see section 3 above) all grievances investigated by the Department of Corrections will adhere to the following timelines.

a. Informal Complaints: Offenders must file an informal complaint immediately and not to exceed 10 business days after the event or discovery of the cause of the complaint.

b. Formal Grievance: If the offender chooses, a grievance may be filed within 14 business days of the outcome of the informal resolution process being communicated to the offender unless it is clearly demonstrated by the offender that it was not feasible to file within such a period.

c. Emergency Grievances: Emergency grievances will be reviewed by the chain of command immediately and responded to within 8 hours of receipt. The entire timeline for an emergency grievance will not exceed 10 calendar days. (Day 1 of 10 is the day upon which the emergency grievance was received.)

d. Standard Grievances: The response for a standard grievance will not exceed 20 business days. (Day 1 of 20 is the first full business day after the standard grievance was received by local facility or field office staff.)

e. Appeals by the Offender: If the offender chooses to appeal a local grievance response, the offender must file an appeal within 10 business days of the receipt of a decision by the local chain of command. Responses to appeals will not exceed the following timeframes:

- Appeal to the Commissioner will be responded to within 20 business days.
 - Appeals to the Commissioner involving Emergency Grievances will be screened for expedited response as needed.

f. Continuances

- With the exception of an Emergency grievance, extensions by the Department of Corrections may be made once at any given step.
- The grievant must be notified in writing of the continuance, the length of the continuance and the reason for the continuance.
- The length of the continuance will not exceed 20 business days.

g. Offenders must exhaust administrative remedies provided by the Department of Corrections' grievance system before commencing litigation.

6. Administrative Dismissal of Grievances that are Inappropriate

When a grievance is returned to the offender, they will be notified in writing of the reason why the grievance was not accepted and given the opportunity to rewrite and resubmit the grievance if they choose.

a. The Department may reject and return to the offender a grievance that:

- uses profanity; derogatory or obscene statements; or those that were meant simply to harass without mention of any grievable action or event;
- is repetitive or identical to a grievance already in process;
- involves actions and events that have another existing appeals process or are already under formal investigation or appeal;
- involves decisions made by the court that the department has no jurisdiction to overturn;
- involves decisions made by the Parole Board that the department has no jurisdiction to overturn;
- is incomplete in that it does not mention any grievable event or provide information that can be investigated.

b. No grievance that alleges criminal activity or sexual, physical or psychological abuse or assault will be returned to a grievant or otherwise administratively dismissed for any of the reasons listed above in 6. a.

c. All grievances that are administratively dismissed will be reviewed by the Department of Corrections Hearing Administrator or his/her designee.

7. Assignment of Grievance Duties

a. The Department will ensure that a person not directly responsible for the condition or actions giving rise to the grievance is appointed to handle the grievance.

b. Each facility and field office, including the Out of State Unit, will have a designated staff person to perform the following duties:

- investigation and assignment of grievances for investigation as needed
- ensuring that all timelines are met
- ensuring data system and related record maintenance
- ensuring coordination between facility and field offices as needed for grievances that involve circumstances or issues from both field and facility
- ensuring coordination between facilities as needed when an inmate is moved from one facility to another prior to the resolution of a grievance.

8. Tracking, Reporting and Trends Analysis

A Department-wide Grievance Data System will be maintained. The system will be capable of accurate recording and tracking of all written grievances and their status.

The Department of Corrections will generate, at a minimum, annual reports for review with the Executive Management Team and the Commissioner or his/her designee. Reports will include a review of the trends and frequency of grievances filed.

A review of departmental directives associated with this rule will be completed with any necessary updates of relevant documents and procedures within one year of this rule taking effect.