

<b>POLICY TITLE: COMMUNITY CORRECTIONS CLIENT GRIEVANCE PROCESS, GENERAL</b>		<b>PAGE 1 OF 9</b>
<b>POLICY NUMBER: 29.01</b>		
<b>CHAPTER 29: CLIENT GRIEVANCE RIGHTS</b>		
	<b>STATE of MAINE</b> <b>DEPARTMENT OF CORRECTIONS</b>  <b>Approved by Commissioner:</b>  	<b>PROFESSIONAL STANDARDS:</b>  <b>See Section VII</b>
	<b>EFFECTIVE DATE:</b> <b>January 13, 2003</b>	<b>LATEST REVISION:</b> <b>August 15, 2012</b>

**I. AUTHORITY:**

The Commissioner of Corrections adopts this policy pursuant to 34-A M.R.S.A. Section 1402(5).

**II. APPLICABILITY:**

Adult and Juvenile Community Corrections

**III. POLICY:**

The purpose of this policy is to establish a grievance process for reviewing and resolving complaints of community corrections clients, other than complaints concerning matters for which there is a criminal or juvenile criminal court review process. It is anticipated that prior to filing a lawsuit, a community corrections client of the Department of Corrections will attempt to resolve his or her complaint by using the grievance process. The grievance procedure is evaluated at least annually to determine its efficiency and effectiveness.

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- Procedure A: Grievance Process, General
- Procedure B: First Level Review of a Client Grievance
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- Procedure F: Grievance Records

**V. ATTACHMENTS:**

- Attachment A: Community Corrections Client Grievance Form
- Attachment B: Notification of Dismissal and/or Return
- Attachment C: Response to Grievance – Level I
- Attachment D: Response to Grievance – Level II
- Attachment E: Community Corrections Client’s Appeal of Grievance Response – Levels I and II
- Attachment F: Notification of Suspension of Access to the Grievance Process

**VI. PROCEDURES:**

**Procedure A: Grievance Process, General**

1. The Regional Correctional Administrator of each adult or juvenile community corrections region shall designate a Grievance Review Officer and another staff person to be acting Grievance Review Officer in his/her absence.
2. During the orientation process for each community corrections client, the client shall be informed that a copy of this policy and procedures and client grievance forms are readily available in each community corrections office. The grievance process and how to obtain assistance with the process shall also be explained.
3. It is the responsibility of the Grievance Review Officer to provide assistance to a client who needs assistance with the grievance process in a timely manner, including, but not limited to, as appropriate, a sign language interpreter, foreign language interpreter, reasonable accommodation for a client with a physical or mental disability, and assistance to an illiterate client. A client may also be assisted in the grievance process by another staff member on a voluntary basis or by any other person with whom the client is permitted to have contact, provided that in all cases the grievance form and any grievance appeal forms are filed by the client.
4. A client may file a grievance with the appropriate Grievance Review Officer to request administrative review of any policy, procedure, practice, action, decision, or event that directly affects the client, that the client believes is in violation of his/her rights or is in violation of Departmental policies and procedures, and for which the client believes a Departmental employee or contractor is responsible. A client may not file a grievance regarding a decision or action by an adult or juvenile community corrections officer that is reviewable in criminal or juvenile court (e.g., detention decision, motion for probation revocation, etc.) unless the matter was withdrawn or dismissed prior to an opportunity for court review.
5. The Regional Correctional Administrator, or designee, of each adult or juvenile community corrections region shall ensure that client grievance forms

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(Attachment A) are readily available to all clients. A client may use only this form to submit a grievance. Any attempt by a client to submit a grievance by a letter or in any other way shall not be accepted.

6. A client shall be allowed to submit a grievance form or a grievance appeal form in an envelope sealed by the client and addressed to the appropriate Grievance Review Officer. Any attempt by a client to submit a grievance or a grievance appeal to anyone other than the appropriate Grievance Review Officer shall not be accepted.
7. A client who is housed at a Departmental facility who has a grievance about a community corrections matter shall obtain a grievance form from the facility and direct the grievance form to the Grievance Review Officer for the region where the matter occurred.
8. A client housed in a jail who has a grievance about a community corrections matter shall request a grievance form from the Grievance Review Officer for the region where the matter occurred and shall submit the grievance form to that Grievance Review Officer.
9. If a client's grievance concerns a policy, procedure, or practice, the grievance form must be filed within fifteen (15) days of when the policy, procedure, or practice first affected the client. If the grievance concerns an action or decision that is ongoing, the grievance form must be filed within fifteen (15) days of when the action first occurred or the decision was first made. If the grievance concerns any other action, decision, or event, the grievance form must be filed within fifteen (15) days of when the action, decision, or event occurred. In any case in which a grievance implicates more than one of the above, the grievance form must be filed within the shortest of the above time limits. If the grievance is regarding a decision or action by an adult or juvenile community corrections officer that is reviewable in criminal or juvenile court (e.g., detention decision, motion for probation revocation, etc.) and the matter was withdrawn or dismissed prior to an opportunity for court review, the grievance form must be filed within fifteen (15) days of when the matter was withdrawn or dismissed.
10. The Regional Correctional Administrator, or designee, shall ensure that grievance forms and grievance appeal forms are collected and date stamped at least once every business day. A grievance form or grievance appeal form is considered filed on the day it is collected and date stamped. The Grievance Review Officer shall grant an exception to the time limit for filing if and only if it the client makes a clear showing that it was not possible for the client to file the form within the fifteen (15) day period. The fact that a client was seeking assistance, gathering information, or conducting research shall not be grounds for an exception to the time limit for filing a grievance form or grievance appeal form, unless the Grievance Review Officer confirms that it was not possible for

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the client to file the form without assistance and that the Grievance Review Officer was unable to provide the assistance in a timely manner. The fact that a client is housed in a jail shall not be grounds for an exception to the time limit for filing a grievance form or grievance appeal form.

11. The client shall state, using one grievance form only, as briefly and concisely as possible, the specific nature of the complaint, including all the persons and dates involved. The client shall provide sufficient information to show when the fifteen (15) day time limit began. The client shall also state the specific remedy requested.
12. A client may not bring up more than one subject in any one grievance. Except for photocopies of relevant documents (e.g., health care report, etc.), the client shall not submit any attachments with the grievance form.
13. No client using the grievance process in good faith shall be subjected to retaliation in the form of an adverse action or a threat of an adverse action for using the grievance process. However, a client may have his/her access to the grievance process suspended under Procedure E. for abuse of the grievance process.
14. A client shall be entitled to pursue, through the grievance process, any complaint that the client has been subjected to retaliation for using the grievance process in good faith.
15. A client may withdraw his/her grievance at any time by written notice to the Grievance Review Officer.

**Procedure B: First Level Review of a Client Grievance**

1. The Grievance Review Officer shall first review a grievance form to determine whether the subject is grievable, whether the grievance form has been filed within the fifteen (15) day time limit (or an exception should be granted), whether the complaint is a duplicate of an earlier grievance, or whether there has been an obvious abuse of the grievance process by the client.
2. If the Grievance Review Officer determines the subject is not grievable, the grievance form has been submitted untimely, the complaint is a duplicate of an earlier grievance, the grievance is obviously frivolous in nature or there has otherwise been an obvious abuse of the grievance process by the client, the Grievance Review Officer shall dismiss the complaint and return the original grievance form to the client, along with a form noting the reason for the dismissal of the complaint (Attachment B). When a grievance is dismissed, the Grievance Review Officer shall make a copy of the grievance form and the form noting the reason for dismissal for the file. No appeal of a dismissal is allowed.

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3. Any attempt to file a grievance about a decision of the Grievance Review Officer acting as the Grievance Review Officer shall be treated as not grievable and dismissed. No appeal of a dismissal is allowed.
4. If the information provided by the client on the grievance form is not sufficient for the Grievance Review Officer to determine whether it was filed within the required fifteen (15) day time limit, the Grievance Review Officer shall immediately return the original grievance form to the client, along with a form noting the reason for the return of the complaint (Attachment B). The Grievance Review Officer shall make a copy of the grievance form and the form noting the reason for return for the file. The client must resubmit the grievance form with the missing information within the original fifteen (15) day time limit for filing a grievance in order to utilize the grievance process.
5. If a complaint is dismissed, but the Grievance Review Officer determines that the complaint requires follow up, the Grievance Review Officer shall forward the complaint to the Regional Correctional Administrator, or designee, for determination, outside the grievance process, as to any other action required.
6. Unless the complaint is dismissed or returned for additional information, the Grievance Review Officer shall date the form with the date the grievance was date stamped, log the receipt of the grievance, and assign to the grievance a log number. The log number shall consist of the last two digits of the year, the initials for the region, and the order of receipt of the grievance (e.g., the thirteenth grievance received by the Adult Community Corrections Region 1 Grievance Review Officer in the year 2011 would be logged as 11-ACC 1-13). That log number shall be used to identify the grievance throughout the entire grievance process.
7. If the grievance concerns a decision of the person designated as Grievance Review Officer (made by that person in a capacity other than Grievance Review Officer), the Grievance Review Officer shall immediately forward the grievance to the other staff designated as acting Grievance Review Officer for review and shall so advise the client.
8. Once logged, the Grievance Review Officer shall investigate the grievance. This may include, but is not limited to, conducting interviews with the client, staff, or others, requesting copies of documents, requesting oral or written reports from staff, reviewing policies and procedures, etc. All staff shall cooperate fully with the requests of the Grievance Review Officer.
9. The Grievance Review Officer shall respond to the grievance, in writing, no later than thirty (30) days following receipt of the grievance form, indicating any action taken to resolve the client's grievance or the reasons for the denial of the

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grievance (Attachment C). The Grievance Review Officer shall include a grievance appeal form (Attachment E) with the response.

10. If the only remedy for the grievance requires action by the Regional Correctional Administrator, the Grievance Review Officer shall forward the grievance, together with any investigative reports and other documentation, to the Regional Correctional Administrator for review and shall so advise the client.
11. If the only remedy for the grievance requires action by the Commissioner (e.g., changing a Departmental policy or procedure), the Grievance Review Officer shall forward the grievance to the Commissioner for review and shall so advise the client.
12. If a response cannot be made within the thirty (30) days, the Grievance Review Officer shall so advise the client and shall indicate when the response will be made, which must not be later than an additional ten (10) days.
13. If the matter being grieved might also be the subject of or otherwise involve a criminal investigation, the Grievance Review Officer shall immediately contact the Department's Assistant Attorney General for instruction as to how to respond to the grievance. The Grievance Review Officer shall not inform the client that the subject has been referred to the Attorney General's Office and shall not provide any other information to the client prior to receiving this instruction.

**Procedure C: Second Level Review of a Client's Grievance**

1. If, after receipt of the response from the Grievance Review Officer, the client wishes to appeal, the appeal must be filed with the Grievance Review Officer, using the grievance appeal form, within fifteen (15) days of the date of the response (the date the Grievance Review Officer signs the response and sends it to the client). The client shall include on the appeal form the log number assigned to the grievance by the Grievance Review Officer. If the client does not appeal within the fifteen (15) day time period, the Grievance Review Officer shall close the case. A client may use only this form to submit an appeal. Any attempt by a client to submit an appeal via letter or in any other way shall not be accepted.
2. The client shall state, using one grievance appeal form only, the reasons for the appeal. The client shall not raise an argument on appeal that was not raised in the original grievance or the response to the original grievance. Except for photocopies of relevant documents, (e.g., counselor report, etc.), the client shall not submit any attachments with the grievance form.
3. The Grievance Review Officer shall first review a grievance appeal form to determine whether the grievance appeal form has been filed within the fifteen

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(15) day time limit (or an exception should be granted). If the Grievance Review Officer determines the grievance appeal form has been submitted untimely, the Grievance Review Officer shall dismiss the appeal and return the grievance appeal form to the client, along with a form noting the reason for the dismissal of the appeal (Attachment B). The Grievance Review Officer shall make a copy of the grievance appeal form and the form noting the reason for dismissal for the file. No appeal of a dismissal is allowed.

4. Unless the appeal is dismissed, the Grievance Review Officer shall log the receipt of the appeal and forward the grievance appeal form, together with all prior correspondence and documentation, to the Regional Correctional Administrator.
5. The Regional Correctional Administrator, or designee, shall review all prior correspondence and documentation and may require additional investigation before making a written response to the client.
6. The Regional Correctional Administrator, or designee, shall respond to the grievance, in writing, no later than twenty-five (25) days of filing of the appeal, indicating any action taken to resolve the client's grievance or the reasons for the denial of the appeal (Attachment D). The Regional Correctional Administrator, or designee, shall include a grievance appeal form with the response.
7. If the only remedy for the grievance requires action by the Commissioner (e.g., changing a Departmental policy or procedure), the Regional Correctional Administrator, or designee, shall require the Grievance Review Officer to forward the appeal, together with all prior correspondence and documentation, to the Commissioner for review and shall so advise the client.

**Procedure D: Third Level Review of a Client's Grievance**

1. If, after receipt of the response from the Regional Correctional Administrator, the client wishes to appeal, the appeal must be filed with the Grievance Review Officer, using the grievance appeal form, within fifteen (15) days of the date of the response (the date the Regional Correctional Administrator signs the response and sends it to the client). The client shall include on the appeal form the log number assigned by the Grievance Review Officer to the grievance. If the client does not appeal within the fifteen (15) day time period, the Grievance Review Officer shall close the case. A client may use only this form to submit an appeal. Any attempt by a client to submit an appeal via letter or in any other way shall not be accepted.

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2. The client shall state, using one grievance appeal form only, the reasons for the appeal. The client shall not raise an argument on appeal that was not raised in the original grievance or the response to the original grievance. Except for photocopies of relevant documents, (e.g., counselor report, etc.), the client shall not submit any attachments with the grievance form.
3. The Grievance Review Officer shall first review a grievance appeal form to determine whether the grievance appeal form has been filed within the fifteen (15) day time limit (or an exception should be granted). If the Grievance Review Officer determines the grievance appeal form has been submitted untimely, the Grievance Review Officer shall dismiss the appeal and return the grievance appeal form to the client, along with a form noting the reason for the dismissal of the appeal (Attachment B). The Grievance Review Officer shall make a copy of the grievance appeal form and the form noting the reason for dismissal for the file. No appeal of a dismissal is allowed.
4. Unless the appeal is dismissed, the Grievance Review Officer shall log the receipt of the appeal and forward the grievance appeal form, together with all prior correspondence and documentation, to the Commissioner. The client shall not raise an argument on appeal that was not raised in the original grievance, the response to the original grievance, or the response to the appeal to the Regional Correctional Administrator.
5. The Commissioner, or designee, shall review all prior correspondence and documentation and may require additional investigation before making a written response to the client, which must be done within twenty (20) days of filing the appeal. A copy of the response shall be forwarded to the Grievance Review Officer and the Regional Correctional Administrator.
6. This level is the final administrative level of appeal.

**Procedure E: Abuse of the Grievance Process**

1. If the Commissioner, or designee, or the Regional Correctional Administrator determines that a client has abused the grievance process by filing a frivolous grievance (a grievance is not frivolous if it is a complaint about a violation of law, a violation of policy or procedures, a risk to health or safety, or an ongoing or frequent deviation from a normal practice), by filing multiple grievances on the same subject, or by otherwise creating an administrative burden, or by knowingly making a false statement in a grievance, the Commissioner, or designee, or the Regional Correctional Administrator, may suspend the client's access to the grievance process for up to a ninety (90) day period. If the Commissioner, or designee, or the Regional Correctional Administrator suspends a client's access to the grievance process, the Commissioner, or

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designee, or the Regional Correctional Administrator shall notify the client in writing (Attachment F). If the Regional Correctional Administrator suspends a client's access to the grievance process, the Regional Correctional Administrator shall ensure that the Commissioner, or designee, is notified of this decision at least one (1) week prior to notifying the client. If the Commissioner, or designee, does not agree with the Regional Correctional Administrator's decision, he or she shall notify the Regional Correctional Administrator prior to the expiration of the one (1) week time period.

2. If a client who has had his or her access to the grievance process suspended three (3) or more times continues to abuse the grievance process, the Commissioner may impose an indefinite suspension.
3. A client who has been suspended from access to the grievance process may not file a grievance during the period of suspension, unless it concerns a violation of a constitutional right.
4. A client who has received an indefinite suspension may apply to the Commissioner for reinstatement of access to the grievance process no earlier than one (1) year after the suspension was imposed and no more frequently than annually thereafter. The decision whether to reinstate access to the grievance process is at the sole discretion of the Commissioner.

**Procedure F: Grievance Records**

1. Records regarding the filing and disposition of individual grievances shall be collected and maintained systematically within each adult or juvenile community corrections region and shall be handled in the same manner as other client records.
2. Each adult or juvenile community corrections region shall send quarterly reports to the Commissioner concerning the operation of the grievance process. These reports shall include the numbers and types of grievances logged, the numbers of grievance appeals logged, the response times to each, and the highest level response and the nature of the resolution in each case.

**VII. PROFESSIONAL STANDARDS:**

**ACA**

**4-A-APPFS-2G-02** A grievance procedure that includes at least one level of appeal is available to all offenders. The grievance procedure is evaluated at least annually to determine its efficiency and effectiveness. The quantity and nature of offender grievances are aggregated and analyzed annually. All offenders are informed of the grievance program available to them at the time of the initial interview.

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