

POLICY TITLE: ADULT RESIDENT GRIEVANCE PROCESS, GENERAL		PAGE <u>1</u> OF <u>17</u>
POLICY NUMBER: 29.1		
CHAPTER 29: GRIEVANCE RIGHTS		
	STATE of MAINE DEPARTMENT of CORRECTIONS Approved by Commissioner:  	
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I. AUTHORITY

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

II. APPLICABILITY

All Adult Correctional Facilities

III. POLICY

The purpose of this policy is to establish a grievance process for reviewing and resolving complaints of adult facility residents, other than complaints concerning matters for which there is a separate grievance process or a separate appeal process. It is anticipated that prior to filing a lawsuit, a resident will attempt to resolve such a complaint by using the grievance process. The grievance process is evaluated at least annually to determine its efficiency and effectiveness.

IV. DEFINITIONS

1. Duplicate grievance - a grievance is a duplicate if it makes the same complaint about a policy, procedure, practice, condition of confinement, sentence calculation, financial transaction, action, decision, event or incident, or other matter as an earlier grievance. A grievance is not a duplicate if it concerns the same general issue but different occurrences of the issue (e.g., a complaint about food missing from a meal on a specific day is not a duplicate grievance of a complaint about food missing from a meal on a different day), unless the different occurrences stem from one decision or action (e.g., a second or subsequent complaint about a recurring deduction being made from a resident's account for restitution is a duplicate grievance of the first complaint).

2. Frivolous grievance – a grievance is frivolous if it is a complaint about a matter of little or no importance or if it has no sound basis in fact or argument, whether as written, based on a history of similar meritless complaints, or after a preliminary investigation. A grievance is not frivolous if there is a reasonable possibility it is a meritorious complaint about a violation of law, a violation of policy, a risk to health or safety, or an ongoing or frequent deviation from a normal practice or condition of confinement.
3. Staff - for purposes of this policy, Department employee or a person in an adult facility providing services to an adult resident by agreement with or under contract with the Department (e.g., staff from DHHS), but not including a volunteer, student intern, delivery person, etc.

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VII. PROCEDURES

Procedure A: Grievance Process, General

1. The Chief Administrative Officer of each adult correctional facility shall designate a facility employee to be the facility Grievance Review Officer and another facility employee to be the acting facility Grievance Review Officer in their absence. No person shall act as a Grievance Review Officer unless trained in this policy. The training shall be documented in the employee's training file.
2. During the orientation process for each resident admitted or transferred to an adult correctional facility, a copy of this policy shall be provided and the grievance process and how to obtain assistance with the process shall be explained.
3. It is the responsibility of the case manager assigned to an adult resident who requests assistance with the grievance process to provide assistance in a timely manner, including, but not limited to, as appropriate, a sign language interpreter, foreign language interpreter, reasonable accommodation for a resident with a physical or mental disability, assistance to a resident who is illiterate, and assistance to a resident

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whose access to paper and/or writing instruments has been restricted for safety or security reasons.

4. A resident may be assisted in the grievance process by another staff person on a voluntary basis or by any other person with whom the resident is permitted to have contact.
5. A resident may also be assisted in the grievance process by a resident grievance assistant. A grievance assistant is a resident who is approved by the Chief Administrative Officer to voluntarily assist other residents in preparing grievance paperwork. The Chief Administrative Officer, or designee, shall ensure that residents in each housing unit are notified as to who has been approved as a grievance assistant for residents in that unit. Grievance assistants may be paid if facility resources allow.
6. With the exception of a resident who is being assisted by their case manager because their access to paper and/or writing instruments has been restricted for safety or security reasons, the grievance form and any grievance appeal forms are required to be signed and filed by the resident.
7. The Chief Administrative Officer, or designee, shall ensure that resident grievance forms (Attachment A) are readily available to all residents by having them available in every housing unit, as well as from the facility library. A resident shall use only this form to submit a grievance. Any attempt by a resident to submit a grievance by a letter or in any other way shall not be accepted.
8. The Chief Administrative Officer, or designee, shall also ensure that resident grievance appeal forms (Attachment B) are readily available to all residents by having them available in every housing unit, as well as from the facility library. A resident shall use only this form to submit a grievance appeal. Any attempt by a resident to submit a grievance appeal by a letter or in any other way shall not be accepted.
9. The Chief Administrative Officer, or designee, shall provide adequate means for residents to submit grievance forms and grievance appeal forms to the facility Grievance Review Officer, including by allowing a form to be submitted in an envelope sealed by the resident and addressed to the Grievance Review Officer.
10. A resident housed at a Department facility who has a grievance about a matter that occurred at another Department facility shall direct the grievance form to the Grievance Review Officer at the facility where they are currently housed.
11. A resident housed at a jail or another jurisdiction's facility on transfer who has a grievance about a matter that occurred while housed at a Department facility (or about their access to Maine legal materials, a financial transaction in one of their Department accounts, or the calculation of a Department sentence) shall request a grievance form from the Grievance Review Officer at the Department facility from which the resident was transferred and shall submit the grievance form to that Grievance Review Officer. A resident housed at a jail or another jurisdiction's facility who has a grievance about any other matter shall use that facility's grievance process.

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12. A former resident (i.e., an individual who has been released from the Department's custody or who has been transferred to supervised community confinement) who has a grievance about a matter that occurred while housed at a Department facility shall request a grievance form from the Grievance Review Officer at the Department facility from which the individual was released or transferred and shall submit the grievance form to that Grievance Review Officer. A former resident shall only submit a grievance about a matter that has a practical remedy (e.g., a claim of not being provided the entire balance in their general (trust) account upon release), but not about a matter that has no practical remedy (e.g., a claim of not being allowed contact visits while at the facility).
13. Any attempt to submit a grievance or a grievance appeal to anyone other than the appropriate facility Grievance Review Officer shall not be accepted.
14. If a resident is transferred to another Department facility, and there is a dismissal of a grievance or a grievance appeal after the transfer, as soon as reasonably practicable, the Grievance Review Officer at the sending facility shall forward the appropriate forms to the Grievance Review Officer at the receiving facility, who shall ensure they are provided to the resident and shall then return the signed dismissal form to the Grievance Review Officer at the sending facility.
15. If a resident is transferred to another Department facility, and a grievance or grievance appeal is responded to after the transfer (or there is a request for additional information), as soon as reasonably practicable, the Grievance Review Officer at the sending facility shall forward the appropriate forms to the Grievance Review Officer at the receiving facility, who shall ensure they are provided to the resident and shall then return the signed response form (or request for additional information form) to the Grievance Review Officer at the sending facility.
16. If a resident is transferred to a jail or another jurisdiction's facility or is released from the Department's custody or transferred to supervised community confinement, and there is a dismissal, response, or request for additional information thereafter, as soon as reasonably practicable, the Grievance Review Officer shall send the appropriate forms directly to the resident by certified mail.
17. By using the grievance process, the resident understands that to the extent applicable they may not raise confidentiality or other privacy concerns relating to the matter being grieved due to the disclosure of information in connection with the investigation of or response to the grievance or a subsequent grievance appeal.
18. A resident may withdraw their grievance or a grievance appeal at any time by written notice to the Grievance Review Officer.
19. No resident 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, including, but not limited to, loss of privileges, for using the grievance process. However, a resident may have their access to the grievance process suspended as set out below and/or may be subjected to disciplinary action for abuse of the grievance process.

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Procedure B: Grievable Matters, Time Limits, and Other Requirements

1. An adult resident may file a grievance under this policy with the facility Grievance Review Officer to request administrative review of any policy, procedure, practice, condition of confinement, sentence calculation, including, but not limited to, an issue with credit for detention time, awarding of deductions (good time), and restoration of withdrawn deductions (good time), financial transaction, staff conduct, other action, decision, event or incident, or other matter that directly affects the resident; that the resident believes is in violation of their rights or is in violation of a Department policy; for which the resident believes Department staff is responsible; and for which there is no separate grievance or appeal process under another Department policy.
2. A resident shall not file a grievance under this policy regarding health care, since there exists a separate grievance process for those matters, i.e., Department Policy (AF) 29.2, Adult Resident Grievance Process, Health Care.
3. A resident shall not file a grievance under this policy regarding community corrections matters, since there exists a separate grievance process for those matters, i.e., Department Policy (ACC) 29.1, Community Corrections Client, Grievance Process General (available by request from the facility library).
4. A resident shall not file a grievance under this policy alleging sexual misconduct constituting a PREA violation or a violation of Maine criminal law, since there exists a separate grievance process for that matter, i.e., Department Policy 6.11.4, Sexual Misconduct (PREA and Maine Statutes), Administrative Sanctions and Grievances. However, other "PREA grievances" (including, but not limited to, a violation of policy but not law, sexual harassment, failure to report or otherwise take appropriate steps in response to sexual misconduct or sexual harassment, deterring reporting, and retaliation for reporting) shall be brought under this policy, Policy 29.1 (AF), Adult Resident Grievance Process, General.
5. A resident shall not file a grievance under this or any other Department policy regarding any matter for which there exists a separate appeal process, including, but not limited to:
 - a. classification decisions, including, but not limited to, a decision regarding a special housing status for which there is an appeal process, a decision to issue a Resident Performance Report, or a decision about custody level, a work assignment, participation in an institutional or community-based program, or transfer;
 - b. disciplinary decisions, including, but not limited to, a finding of guilt or a disposition, such as a decision to withdraw deductions (good time);
 - c. privilege level decisions;
 - d. a decision regarding validation as a gang member;
 - e. furlough pass/furlough leave decisions;
 - f. supervised community confinement program decisions;
 - g. a decision regarding contact with a victim; or

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- h. out of state transfer decisions, including, but not limited to, a decision to transfer a resident out of state or a decision not to return a resident from out of state.

However, a resident may file a grievance about a matter that is not covered by a separate appeal process (e.g., a decision to revoke a disciplinary disposition that has been suspended).

6. A resident shall not file a grievance about the conduct of any staff as it relates to their handling of a grievance or a grievance appeal (e.g., a complaint that a supervisor did not attempt an informal resolution with the resident or the Grievance Review Officer did not respond to a grievance in a timely manner). Instead, the resident may raise such when filing the original grievance or an appeal of the original grievance, as applicable, provided the resident meets all other requirements of this policy.
7. A resident shall not file a grievance about the response of the Grievance Review Officer to a grievance or about the response to a grievance appeal. Instead, the resident may appeal the response, as applicable, provided the resident meets all other requirements of this policy.
8. However, a resident may file a grievance about the conduct, action, or decision of the Grievance Review Officer or of any staff who makes decisions on grievance appeals if that conduct, decision, or action concerns a matter not related to the grievance process. In such a case, the staff handling the grievance or the grievance appeal, as applicable, shall be someone other than the staff being grieved.
9. If the grievance concerns a sentence calculation, the grievance form must be filed within ten (10) days of the end of the month when the resident was sent the quarterly progress report that first showed the allegedly erroneous sentence calculation or within ten (10) days of when the resident otherwise first became aware of the alleged error, whichever is earlier.
10. If the grievance concerns a transaction in the resident's general (trust) account, including savings account, or the resident's phone account, the grievance form must be filed within ten (10) days of the end of the month when the resident was sent the monthly statement that first showed the alleged error or within ten (10) days of when the resident otherwise first became aware of the alleged error, whichever is earlier.
11. If a resident's grievance concerns a policy, procedure, practice, or condition of confinement, the grievance form must be filed within ten (10) days of when the policy, procedure, practice, or condition of confinement first affected the resident.
12. If the grievance concerns staff conduct or any other action, decision, event or incident, the grievance form must be filed within ten (10) days of when the conduct or other action, decision, event or incident first affected the resident or when the resident otherwise first became aware of the conduct, or other action, decision, event or incident, whichever is earlier.
13. If the grievance concerns a matter that is ongoing, the grievance form must be filed within ten (10) days of when the matter first affected the resident or when the resident otherwise first became aware of the matter, whichever is earlier.

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14. If the grievance concerns another matter, the grievance form must be filed within ten (10) days of when the matter first affected the resident or when the resident otherwise first became aware of the matter, whichever is earlier.
15. In any case in which a grievance implicates more than one of the above time limits, the grievance form must be filed within the earliest of the above time limits.
16. If a grievance or an appeal on a grievance has merit, it shall be affirmed, and whoever affirms the grievance or the grievance appeal shall set forth in the response an appropriate remedy, which must be consistent with the law, Departmental policies, and facility practices (unless the Chief Administrative Officer determines a change in a facility practice is an appropriate remedy or the Commissioner determines a change in a Departmental policy is an appropriate remedy). If there is no practical remedy that is appropriate, the remedy may consist of an apology.
17. If a grievance or an appeal on a grievance is affirmed and a remedy resulting from the affirmation is not implemented within thirty (30) days, the resident may refile the grievance within the ten (10) days after the thirty (30) day time period. This grievance shall be handled through the formal grievance process, with no requirement of any further attempt at an informal resolution.
18. If whoever affirms the grievance or the grievance appeal determines that a remedy needs to be implemented sooner than thirty (30) days (e.g., because of exigent circumstances or because the resident will likely be released from custody within thirty (30) days), they shall state that in their response, and if the remedy is not implemented within the stated time frame, the resident may refile the grievance within the ten (10) days after that time period, to be handled through the formal grievance process, with no requirement of any further attempt at an informal resolution.
19. The Chief Administrative Officer, 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.
20. The Grievance Review Officer shall grant an exception to a time limit for filing a grievance or grievance appeal if and only if the resident makes a clear showing that it was not possible for the resident to file the form within the applicable time period (e.g., the resident was in the hospital, was housed out of state, etc.).
21. Residents and staff are encouraged to resolve matters before the resident utilizes the grievance process, if possible (e.g., by direct communication, either in person or in writing).
22. However, the fact that a resident was attempting to resolve a matter before utilizing the grievance process, gathering information, conducting research, or seeking assistance with filing a grievance or grievance appeal shall not be grounds for an exception to the time limit for filing a grievance form or grievance appeal form, unless the resident's case manager confirms that it was not possible for the resident to file

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the form without assistance and that the case manager was unable to provide the assistance in a timely manner.

23. The fact that a resident is awaiting the outcome of a personnel, administrative, criminal, or other investigation shall not be grounds for an exception to the time limit for filing a grievance form or grievance appeal form. Instead, the resident shall comply with the time limits for filing a grievance or grievance appeals relating to the matter giving rise to the investigation.
24. The time limit for filing a grievance is not extended or restarted by the resident speaking to staff, sending a letter to staff, or otherwise raising with staff a matter that could have been grieved earlier.
25. The fact that a resident's access to the grievance process was under suspension when the matter being grieved arose or was under suspension during the time period for filing the grievance shall not be grounds for an exception to the time limit for filing a grievance form. In other words, a grievance may be filed about such a matter only if, after the suspension is over, there is still time to do so within the applicable ten (10) day time period. This does not affect a resident's ability to file a timely grievance about a violation of constitutional rights even though their access to the grievance process is suspended, as provided in Procedure G.
26. A resident 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 and other specific facts underlying the complaint. The resident shall provide sufficient information to show when the ten (10) day time period began. The resident may also state the specific remedy requested (the reversal of a decision, monetary compensation, an apology, etc.).
27. A resident shall not submit a grievance or grievance appeal that is overly difficult to read (e.g., the writing is illegible, too light, or too small, the resident uses made up abbreviations, etc.) The resident shall not submit a grievance or grievance appeal containing more than one sentence per pre-printed line or with writing outside the allotted space. The resident shall submit the original of the grievance form or grievance appeal form to the Grievance Review Officer.
28. A resident shall not bring up more than one issue in any one grievance, unless multiple issues occur during a single incident or event.
29. Except for photocopies of relevant documents (e.g., property inventory sheet, proof of purchase, quarterly progress report, etc.), the resident shall not submit any attachments with the grievance form.
30. A resident shall not submit a duplicate grievance, a frivolous grievance, or otherwise abuse the grievance process.
31. A resident shall be entitled to pursue, through the grievance process, any complaint that the resident has been subjected to retaliation for using the grievance process in good faith, unless there is a separate appeal process (e.g., a complaint that a resident

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was subjected to disciplinary action as retaliation for filing a grievance must be pursued as part of the disciplinary process).

32. The dismissal of a grievance or a grievance appeal is not grievable and there is no administrative appeal of a dismissal allowed.

Procedure C: Initial Review of Grievance and Informal Resolution Process

1. Upon receipt of a grievance form, the Grievance Review Officer, or designee, shall date the form with the receipt date, 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 facility, and the order of receipt of the grievance (e.g., the thirteenth grievance received by the Maine State Prison Grievance Review Officer in the year 2021 would be logged as 21-MSP-13). That log number shall be used to identify the grievance throughout the entire grievance process.
2. The Grievance Review Officer shall review the grievance and take the steps described below as soon as practicable.
3. The Grievance Review Officer shall initially review a grievance form to determine whether the matter is grievable, whether the grievance form has been filed within the ten (10) day time period (or whether an exception should be granted), whether the resident has failed to comply with any other requirement of this policy, whether the complaint is a duplicate grievance, whether the complaint is frivolous, or whether there has otherwise been an obvious abuse of the grievance process by the resident.
4. If the Grievance Review Officer determines the matter is not grievable, the grievance form has been submitted untimely, the resident has failed to comply with any other requirement of this policy, the complaint is a duplicate grievance, the grievance is frivolous, or there has otherwise been an obvious abuse of the grievance process by the resident, the Grievance Review Officer shall dismiss the grievance.
5. If a grievance is dismissed, the Grievance Review Officer shall forward the grievance form, along with a form noting the reason for the dismissal (Attachment C), to designated staff, keeping copies of both forms for the Grievance Review Officer's records. The staff shall meet with the resident without unnecessary delay and provide them with the grievance, and the resident and the staff shall sign and date the dismissal form. If the resident refuses to sign, the staff shall note that on the dismissal form. The staff shall return the original of the signed dismissal form to the Grievance Review Officer and provide a copy to the resident.
6. If the information provided by the resident on the grievance form is not sufficient for the Grievance Review Officer to determine whether it was filed within the required ten (10) day time period or the Grievance Review Officer otherwise determines additional information is needed, the Grievance Review Officer shall immediately forward the grievance to designated staff, along with a form noting the reason for the return (Attachment C), keeping copies of both forms for the Grievance Review Officer's records. The staff shall meet with the resident without unnecessary delay and provide them with the grievance, and the resident and the staff shall sign and date the form

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requesting additional information. If the resident refuses to sign, the staff shall note that on the form requesting additional information. The staff shall return the original of the signed form requesting additional information to the Grievance Review Officer and provide a copy to the resident.

7. If the resident wishes to pursue the grievance, they must resubmit the grievance form with the missing information within five (5) days of the date they received the form requesting additional information or within the original time limit for filing the grievance, whichever is later. Failure to do so shall result in the dismissal of the grievance.
8. If the grievance is not dismissed and the form is not returned for additional information (or if returned for additional information, the missing information is timely provided), the Grievance Review Officer shall forward the grievance form to an available facility supervisor who has jurisdiction over the matter for an attempt at an informal resolution of the grievance.
9. In the case of a grievance about a matter that occurred at another Department facility, the Grievance Review Officer may work with the Grievance Review Officer at the prior facility to determine who is the appropriate supervisor to forward the form to.
10. In the case of a sentence calculation or decision made by Central Office staff, the Grievance Review Officer shall forward the grievance form to an available Central Office supervisor who has jurisdiction over the matter for an attempt at an informal resolution of the grievance.
11. If a grievance concerns the conduct, action, or decision of staff and the staff's immediate supervisor is a Chief Administrative Officer or a Deputy Chief Administrative Officer, the Grievance Review Officer shall forward the grievance form to the staff person whose conduct, action, or decision is being grieved for an attempt at an informal resolution of the grievance.
12. If a grievance concerns the conduct, action, or decision of staff and the staff's immediate supervisor is the Commissioner, the Deputy Commissioner, or an Associate Commissioner, the Grievance Review Officer shall forward the grievance form to the staff person whose conduct, action, or decision is being grieved for an attempt at an informal resolution of the grievance.
13. If the grievance concerns a complaint of retaliation by staff for filing an earlier grievance, the Grievance Review Officer shall forward the grievance form to the staff's immediate supervisor for an attempt at an informal resolution of the grievance.
14. The Grievance Review Officer may determine not to forward a grievance for an attempt at an informal resolution and handle it solely through the formal grievance process when an attempt at an informal resolution would be detrimental (e.g., the matter being grieved might also be the subject of or otherwise involve a criminal investigation).
15. The staff to whom the grievance form was forwarded shall then attempt or shall designate another staff person to attempt, as soon as possible, to informally resolve the grievance, if possible.

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16. Both the resident and the staff shall make a good faith attempt to come to a reasonable informal resolution, if possible. The staff shall determine, in their discretion, whether it is appropriate to meet with the resident as part of this attempt. Any informal resolution requires the agreement of both the staff and the resident and must be consistent with the law, Departmental policies, and facility practices.
17. If the grievance is resolved, the staff shall note on the form what the resolution is, including the implementation date. The resident shall sign the form acknowledging the resolution of the grievance. The staff shall date and sign the form and provide a copy of the form to the resident, making a copy for the staff's files and forwarding the original to the Grievance Review Officer.
18. If the informal resolution is not implemented by the specified date, the resident may refile the grievance within ten (10) days of the date specified. This grievance shall be handled through the formal grievance process, with no requirement of any further attempt at an informal resolution.
19. If the grievance is not resolved, the staff shall list on the form the actions taken in the attempt to resolve the grievance. The staff shall date and sign the form and provide a copy of the form to the resident, making a copy for the staff's files and forwarding the original to the Grievance Review Officer.
20. Regardless of whether the grievance is or is not informally resolved, the staff shall forward the completed form to the Grievance Review Officer no later than within ten (10) days of when staff received the grievance form from the Grievance Review Officer.
21. Staff shall not refuse to comply with any requirement of this procedure for any reason. Any failure of staff to comply is not grievable. Instead, the resident may raise such when filing the original grievance or an appeal of the original grievance, whichever is applicable, provided the resident meets all other requirements of this policy.

Procedure D: First Level Review of Grievance

1. If the Grievance Review Officer receives the form back from staff showing that the grievance was not resolved, the Grievance Review Officer shall investigate the grievance, unless the Grievance Review Officer determines that the resident did not make a good faith attempt at an informal resolution (e.g., refused to attend a meeting with the staff), in which case the grievance shall be dismissed.
2. If the Grievance Review Officer does not receive the form from the staff in a timely manner, the Grievance Review Officer shall investigate the grievance. The Grievance Review Officer shall also determine the reason the form was not received or was received untimely and take any other action they deem appropriate.
3. The investigation may include, but is not limited to, conducting interviews with or writing to the resident, 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.

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4. The Grievance Review Officer shall respond to the grievance, in writing, no later than fifteen (15) days following receipt of the grievance form back from the staff or, if the form has not been received or is received untimely, no later than fifteen (15) days from when it should have been received.
5. The response shall note whether the grievance is affirmed or denied or whether it cannot be decided at that time, either because there is further action to be taken by someone other than the Grievance Review Officer (e.g., there will be a personnel investigation) or because the Grievance Review Officer has been unable to complete their investigation into the complaint. The Grievance Review Officer shall also state the reasons for their action on the grievance response form (Attachment D).
6. The Grievance Review Officer shall forward the grievance to designated staff, along with the grievance response and a grievance appeal form (Attachment B), keeping copies of all three forms for the Grievance Review Officer's records. The staff shall meet with the resident without unnecessary delay and provide them with the grievance and the appeal form, and the resident and the staff shall sign and date the grievance response. If the resident refuses to sign, the staff shall note that on the grievance response form. The staff shall return the original of the signed grievance response form to the Grievance Review Officer and provide a copy to the resident.
7. If the grievance is possibly meritorious but the only practical remedy for the grievance requires action by the Chief Administrative Officer (e.g., changing a facility practice), the Grievance Review Officer shall forward the grievance, together with any related facility documentation, to the Chief Administrative Officer for review and shall so advise the resident.
8. If the grievance is possibly meritorious but the only practical remedy for the grievance requires action by the Commissioner (e.g., changing a Department policy), the Grievance Review Officer shall forward the grievance, together with any related facility documentation, to the Commissioner for review and shall so advise the resident.
9. If the matter being grieved might also be the subject of or otherwise involve a criminal investigation, the Grievance Review Officer may 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 resident that the matter has been referred to the Attorney General's Office and shall not provide any other information to the resident prior to receiving this instruction.
10. If the Grievance Review Officer does not inform the resident of the disposition of the grievance (dismissal, return for additional information, response, or forwarding to a higher level) in a timely manner, the resident may file, with the Grievance Review Officer and using a grievance appeal form, a grievance appeal to the second level, provided the reason for filing it is noted on the appeal form and it is filed within fifteen (15) days of when the response should have been made. A failure of the Grievance Review Officer to timely respond is not grievable. Instead, the resident may raise such when filing the second level appeal of the original grievance, provided the resident meets all other requirements of this policy.

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Procedure E: Second Level Review of Grievance

1. If, after receipt of the response from the Grievance Review Officer, the resident 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 they received the grievance response form, unless an exception is granted. If the resident does not timely appeal, the Grievance Review Officer shall close the grievance.
2. The resident shall include on the appeal form the log number assigned to the grievance by the Grievance Review Officer.
3. The resident shall state, using one grievance appeal form only, the reasons for the appeal. The resident shall not raise an issue or argument on appeal that was not raised in the original grievance or by the response to the original grievance.
4. Except for photocopies of relevant documents (e.g., property inventory sheet, proof of purchase, quarterly progress report, etc.), the resident shall not submit any attachments with the grievance appeal form.
5. The Grievance Review Officer shall log the receipt of the appeal and review the grievance appeal form to determine whether the grievance appeal form has been filed within the fifteen (15) day time period (or whether an exception should be granted) and whether it meets the other requirements of this policy. If the Grievance Review Officer determines the grievance appeal form has been submitted untimely or does not meet any other requirement of this policy, the Grievance Review Officer shall dismiss the appeal and ensure the dismissed appeal is processed in the same way as a dismissed grievance.
6. Unless the appeal is dismissed, the Grievance Review Officer shall forward the grievance, the grievance response, and the grievance appeal form, together with all related documentation, to the Chief Administrative Officer, or designee, keeping a copy of all three forms and any related documentation for the Grievance Review Officer's records.
7. The Chief Administrative Officer, or designee, shall review the documents forwarded and may require additional investigation before making a response to the resident.
8. The Chief Administrative Officer, or designee, shall respond to the grievance, in writing, within fifteen (15) days of the filing of the appeal.
9. The response shall note whether the grievance appeal is affirmed or denied or whether it cannot be decided at that time either because there is further action to be taken by someone other than the Chief Administrative Officer, or designee (e.g., there is an ongoing personnel investigation) or because the Chief Administrative Officer, or designee, has been unable to complete their investigation into the complaint. The Chief Administrative Officer, or designee, shall also state the reasons for their action on the grievance appeal response form (Attachment E).
10. The Chief Administrative Officer, or designee, shall return the grievance appeal, along with the grievance appeal response, to the Grievance Review Officer. The Grievance

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Review Officer shall forward the grievance appeal to designated staff, along with the grievance appeal response and a new grievance appeal form (Attachment B), keeping copies of all three forms for the Grievance Review Officer's records. The staff shall meet with the resident without unnecessary delay and provide them with the grievance appeal and the new appeal form, and the resident and the staff shall sign and date the grievance appeal response. If the resident refuses to sign, the staff shall note that on the grievance appeal response form. The staff shall return the original of the signed grievance appeal response form to the Grievance Review Officer and provide a copy to the resident.

11. The Chief Administrative Officer, or designee, shall also forward to the Grievance Review Officer any additional related documentation.
12. The Chief Administrative Officer, or designee, instead of responding to the appeal, may dismiss the grievance or the appeal if one of the reasons for dismissal exists, but the Grievance Review Officer failed to dismiss it. The dismissal shall be forwarded to the Grievance Review Officer, who shall ensure the dismissed appeal is processed in the same way as a dismissed grievance.
13. If the grievance appeal is possibly meritorious but the only practical remedy for the grievance requires action by the Commissioner (e.g., changing a Department policy), the Chief Administrative Officer, or designee, shall require the Grievance Review Officer to forward the appeal, together with all related documentation, to the Commissioner for review and shall so advise the resident.
14. If the Chief Administrative Officer, or designee, does not inform the resident of the disposition of the grievance appeal (dismissal, response, or forwarding to a higher level) in a timely manner, the resident may file, with the Grievance Review Officer and using a grievance appeal form, a grievance appeal to the third level, provided the reason for filing it is noted on the appeal and it is filed within fifteen (15) days of when the response should have been made. A failure of the Chief Administrative Officer to timely respond is not grievable. Instead, the resident may raise such when filing the third level appeal of the original grievance, provided the resident meets all other requirements of this policy.

Procedure F: Third Level Review of Grievance

1. If, after receipt of the response from the Chief Administrative Officer, or designee, the resident 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 they received the response form, unless an exception is granted. If the resident does not timely appeal, the Grievance Review Officer shall close the grievance.
2. The resident shall include on the appeal form the log number assigned by the Grievance Review Officer to the grievance.
3. The resident shall state, using one grievance appeal form only, the reasons for the appeal. The resident shall not raise an issue or argument on the appeal that was not

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raised in the original grievance, by the response to the original grievance, or by the response to the grievance appeal to the second level.

4. Except for photocopies of relevant documents (e.g., property inventory sheet, proof of purchase, quarterly progress report, etc.), the resident shall not submit any attachments with the grievance appeal form.
5. The Grievance Review Officer shall log the receipt of the appeal and review the grievance appeal form to determine whether the grievance appeal form has been filed within the fifteen (15) day time period (or whether an exception should be granted) and whether it meets the other requirements of this policy. If the Grievance Review Officer determines the grievance appeal form has been submitted untimely or does not meet any other requirement of this policy, the Grievance Review Officer shall dismiss the appeal and ensure the dismissed appeal is processed in the same way as a dismissed grievance.
6. Unless the appeal is dismissed, the Grievance Review Officer shall forward a copy of the grievance, the grievance response, the grievance appeal to the second level, the grievance appeal response from the second level, and the grievance appeal (to the third level) form, together with all related documentation, to the Commissioner, or designee, keeping a copy of all five forms and any related documentation for the Grievance Review Officer's records.
7. The Commissioner, or designee, shall review the documents forwarded and may require additional investigation before making a response to the resident.
8. The Commissioner, or designee, shall respond to the grievance, in writing, within fifteen (15) days of the filing of the appeal.
9. The response shall note whether the grievance appeal is affirmed or denied or whether it cannot be decided at that time either because there is further action to be taken by someone other than the Commissioner, or designee (e.g., there is an ongoing personnel investigation) or because the Commissioner, or designee, has been unable to complete their investigation into the complaint. If the grievance cannot be decided at that time, the Commissioner, or designee, may extend the time for response. The Commissioner, or designee, shall also state the reasons for their action.
10. The Commissioner, or designee, shall return the grievance appeal form to the resident, along with the response, keeping copies of both forms for their records. A copy of the response and of any additional related documentation shall be forwarded to the Grievance Review Officer and the Chief Administrative Officer.
11. The Commissioner, or designee, instead of responding to the appeal, may dismiss the grievance or the appeal if one of the reasons for dismissal exists, but both the Grievance Review Officer and the Chief Administrative Officer failed to dismiss it. A copy of the dismissal shall be forwarded to the Chief Administrative Officer and the Grievance Review Officer.

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12. When it is sent to the resident, the response to the grievance, or the dismissal of the grievance, whichever is applicable, by the Commissioner, or designee, shall be marked as "legal mail" and processed as such at the facility where the resident is housed. If a resident is transferred to a jail or another jurisdiction's facility or is released from the Department's custody or transferred to supervised community confinement, the response or dismissal shall be sent to the resident by certified mail.
13. A failure of the Commissioner, or designee, to timely respond is not grievable.
14. This level is the final administrative level of appeal.

Procedure G: Abuse of the Grievance Process

1. If the Commissioner, or designee, determines that a resident has abused the grievance process by filing frivolous grievances, duplicate grievances, or multiple grievances found to be without merit, or by otherwise creating an administrative burden, or by knowingly making a false statement in a grievance, the Commissioner, or designee, may suspend the resident's access to the grievance process.
2. If the Commissioner, or designee, suspends a resident's access to the grievance process, the Commissioner, or designee, shall notify the resident in writing. The Commissioner, or designee, shall provide a copy of the notification to the facility Chief Administrative Officer and the facility Grievance Review Officer.
3. If a resident is transferred to another Department facility while their access to the grievance process is suspended, the Chief Administrative Officer, or designee, of the sending facility shall ensure the Chief Administrative Officer, or designee, and the Grievance Review Officer of the receiving facility are notified of the suspension.
4. A suspension may last:
 - a. for a first suspension, up to three (3) months;
 - b. for a second suspension, up to six (6) months;
 - c. for a third suspension, up to one (1) year; and
 - d. for a subsequent suspension, an indefinite period of time.
5. A resident who has been suspended from access to the grievance process shall not file a grievance during the period of suspension, unless it involves a violation of a constitutional right.
6. The Grievance Review Officer may determine whether a constitutional rights violation is involved based on a review of the grievance as written, the resident's history of filing similar grievances that did not involve a violation of a constitutional right, and/or a preliminary investigation of the grievance. The Grievance Review Officer may also consult with the Department's legal representative in the Attorney General's Office in determining whether a constitutional rights violation is involved.
7. If it is determined for any reason that there is no reasonable possibility of a constitutional rights violation, the Grievance Review Officer shall dismiss the

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grievance, following the procedure set out above for dismissing grievances. If the grievance is not dismissed, it shall be handled like any other grievance.

8. Filing grievances that do not involve a violation of a constitutional right while the resident's access to the grievance process is suspended may result in a resident receiving a subsequent suspension.
9. A resident who has received a suspension for an indefinite period of time may request in writing to the Commissioner, or designee, 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, or designee, who shall notify the resident in writing of the decision. The Commissioner, or designee, shall provide a copy of the request and the decision to the Chief Administrative Officer and the Grievance Review Officer of the facility where the resident is housed.

Procedure H: Grievance Records and Audits

1. The Grievance Review Officer shall keep originals or copies, as applicable, of all forms related to each grievance and grievance appeal filed, regardless of whether the grievance is informally resolved, dismissed, or responded to.
2. In addition, the Grievance Review Officer shall keep the original or a copy, as applicable, of any related documentation obtained as a result of the investigation of a grievance or grievance appeal.
3. These records shall be maintained by the Grievance Review Officer in a way that would enable them to be easily retrieved by other authorized staff.
4. The Grievance Review Officer shall also track all grievances and grievance appeals filed using an approved tracking system that includes:
 - a. the numbers and types of grievances;
 - b. whether each grievance was informally resolved, dismissed, forwarded to a higher level, or responded to;
 - c. whether there was a grievance appeal to the second level and, if so, whether the appeal was dismissed, forwarded to a higher level, or responded to;
 - d. whether there was a grievance appeal to the third level and, if so, whether the appeal was dismissed or responded to; and
 - e. whether, if responded to, the grievance or grievance appeal was affirmed, denied, or could not be decided.
5. Each Grievance Review Officer shall send quarterly reports to the Commissioner including all of the information maintained in the tracking system for that quarter.
6. The Department's Manager of Correctional Operations, or designee, shall ensure that at least annually an audit is conducted of the grievance process at each adult facility in accordance with the provisions of Department Policy 1.5.1, Correctional Operations Assessment.

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