
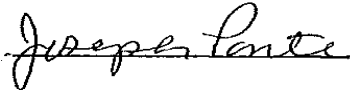


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POLICY NUMBER: 29.02		
CHAPTER 29: CLIENT GRIEVANCE RIGHTS		
	STATE of MAINE DEPARTMENT OF CORRECTIONS	PROFESSIONAL STANDARDS:
	Approved by Commissioner: 	See Section VII
EFFECTIVE DATE: January 13, 2003	LATEST REVISION: August 15, 2012	CHECK ONLY IF APA [X]

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 prisoners concerning medical and mental health care. It is anticipated that prior to filing a lawsuit, a prisoner of the Department of Corrections will attempt to resolve his or her complaint by using the grievance process.

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Procedure A: Prisoner Health Care Grievance Process, General
 Procedure B: Informal Resolution
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V. ATTACHMENTS:

Attachment A: Prisoner Grievance Form
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- Attachment C: Response to Grievance – Level I
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VI. PROCEDURES:

Procedure A: Prisoner Health Care Grievance Process, General

1. The Grievance Review Officer designated to review grievances under Policy 29.1, Grievance Process, General, shall also serve as the Grievance Review Officer for health care issues. The staff person designated to be acting Grievance Officer under Policy 29.1 shall have that same function under this policy.
2. Prior to using the grievance process, a request for medical or mental health care must first be made by the prisoner using the established facility health care procedures (e.g., by submitting a sick call slip, submitting a request for mental health services, or presenting a problem during a chronic care clinic).
3. The facility’s Health Services Administrator (HSA) shall be responsible to attempt, or designate staff to attempt, informal resolutions with prisoners for medical and mental health care complaints.
4. During the orientation process for each prisoner admitted or transferred to an adult correctional facility, a copy of this policy and procedures shall be provided and the health care grievance process and how to obtain assistance with the process shall be explained.
5. It is the responsibility of the Correctional Caseworker or Correctional Care and Treatment Worker assigned to a prisoner who needs 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 prisoner with a physical or mental disability, assistance to an illiterate prisoner, and assistance to a prisoner whose access to paper and/or writing materials has been restricted for safety or security reasons. A prisoner may also be assisted in the grievance process by another staff member on a voluntary basis or by any other person with whom the prisoner is permitted to have contact, provided that in all cases the grievance form and any grievance appeal forms are filed by the prisoner.
6. A prisoner may file a grievance with the Grievance Review Officer to request administrative review of any policy, procedure, practice, action, decision, or event that directly affects the medical or mental health care received by the prisoner, that he/she believes is not responsive to his/her medical or mental

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health needs, is in violation of his/her rights or is in violation of Departmental policies and procedures, and for which he/she believes a Departmental health care employee or contractor is responsible.

7. The Chief Administrative Officer, or designee, of each adult correctional facility shall ensure that prisoner grievance forms (Attachment A) are readily available to all prisoners. A prisoner may use only this form to submit a grievance. Any attempt by a prisoner to submit a grievance by a letter or in any other way shall not be accepted.
8. A prisoner shall be allowed to submit a grievance form or a grievance appeal form in an envelope sealed by the prisoner and addressed to the Grievance Review Officer. Any attempt by a prisoner to submit a grievance or a grievance appeal to anyone other than the appropriate Grievance Review Officer shall not be accepted. The Chief Administrative Officer, or designee, shall provide a grievance mailbox or other means for prisoners to submit grievance forms and grievance appeal forms to the facility Grievance Review Officer. A prisoner who has a grievance about a medical or mental health care matter that occurred at a Departmental facility that he or she was previously housed in shall be allowed to submit a grievance form or grievance appeal form to that facility's Grievance Review Officer by mailing it through the U.S. Mail. If the prisoner wishes to have it treated as privileged mail, he or she may do so by marking it as such on the outside of the envelope.
9. A prisoner housed at one Departmental facility who has a grievance about a medical or mental health care matter that occurred at another Departmental facility shall direct the grievance form to the Grievance Review Officer at the facility where the matter occurred.
10. A prisoner housed in a jail or in another jurisdiction's facility who has a grievance about a medical or mental health care matter that occurred while housed at a Departmental facility shall request a grievance form from the Grievance Review Officer at the Departmental facility where the prisoner was previously housed and shall submit the grievance form to that Grievance Review Officer. A prisoner housed in a jail or another jurisdiction's facility who has a grievance about a medical or mental health care matter that occurred at that facility shall use that facility's grievance process.
11. If a prisoner's grievance concerns a policy, procedure, or practice concerning medical or mental health care, the grievance form must be filed within fifteen (15) days of when the policy, procedure, or practice first affected the prisoner. If the grievance concerns an action, decision, or event concerning medical or mental health care that is ongoing, the grievance form must be filed within fifteen (15) days of when the action or event first occurred or the decision was first made. If the grievance concerns any other action, decision, or event concerning

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medical or mental health care, 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.

12. 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. The Grievance Review Officer shall grant an exception to the time limit for filing if and only if it the prisoner makes a clear showing that it was not possible for the prisoner to file the form within the fifteen (15) day period. The fact that a prisoner 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 prisoner's Correctional Caseworker or Correctional Care and Treatment Worker confirms that it was not possible for the prisoner to file the form without assistance and that the Correctional Caseworker or Correctional Care and Treatment Worker was unable to provide the assistance in a timely manner. The fact that a prisoner is not housed at a Departmental facility shall not be grounds for an exception to the time limit for filing a grievance form or grievance appeal form.
13. The prisoner shall state, using one grievance form only, as briefly and concisely as possible, the specific nature of the medical or mental health care complaint, including all the persons and dates involved. The prisoner shall provide sufficient information to show when the fifteen (15) day time limit began. The prisoner shall also state the specific remedy requested.
14. A prisoner may not bring up more than one medical or mental health care subject in any one grievance. Except for photocopies of relevant documents (e.g., health care report, etc.), the prisoner shall not submit any attachments with the grievance form.
15. No prisoner 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 prisoner may have his/her access to the grievance process suspended under Procedure F. and/or may be subjected to disciplinary action for abuse of the grievance process.
16. A prisoner shall be entitled to pursue, through the grievance process, any complaint that the prisoner has been subjected to retaliation for using the grievance process in good faith.
17. A prisoner may withdraw his/her grievance at any time by written notice to the Grievance Review Officer.

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Procedure B: Informal Resolution

1. Unless the prisoner is housed in a jail or another jurisdiction's facility, before filing any grievance form, a prisoner shall make an attempt to resolve the complaint in an informal manner by contacting, as soon as possible and no later than within the first five (5) days of the fifteen (15) day time period, the facility's Health Services Administrator. The prisoner shall provide to the Health Services Administrator, at the time of the contact, the grievance form that the prisoner is proposing to file. The form must meet the requirements of Procedure A, 13 and 14.
2. The Health Services Administrator shall sign the form and note on it when the prisoner contacted the HSA about the complaint. The Health Services Administrator shall then attempt or shall designate another staff person to attempt, as soon as possible, to informally resolve the complaint, if possible. The Health Services Administrator, or designee, shall determine, in his or her discretion, whether it is appropriate to meet with the prisoner as part of this attempt. Any informal resolution requires the agreement of the Health Services Administrator, or designee, and the prisoner and must be consistent with Departmental policies, procedures, and practices.
3. If the complaint is resolved, the Health Services Administrator, or designee, shall note on the form what the resolution is, including the implementation date, have the prisoner sign the form acknowledging the resolution of the complaint, and return the original to the prisoner, keeping a copy for the Health Services Administrator's files. If the informal resolution is not implemented by the specified date, the prisoner may file a grievance within fifteen (15) 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.
4. If the complaint is not resolved, the Health Services Administrator, or designee, shall list on the form the actions taken in the attempt to resolve the complaint. The Health Services Administrator, or designee, shall return to the prisoner the original form, with the date of return noted, no later than within five (5) days of the contact, keeping a copy for the Health Services Administrator's files. Neither the Health Services Administrator, nor the Health Services Administrator's designee, may refuse to comply with any requirement of this procedure, for any reason.
5. If the prisoner has complied with all of the requirements of this procedure, but the complaint is not resolved for any reason, the prisoner must file a grievance form within the original fifteen (15) day time limit in order to utilize the grievance process.

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6. A prisoner housed in a jail or another jurisdiction's facility is not required to comply with the requirements of this procedure.

Procedure C: First Level Review of a Prisoner Grievance

1. The Grievance Review Officer shall first review a grievance form to determine whether the grievance form has been filed within the fifteen (15) day time limit (or an exception should be granted), whether the prisoner has complied with the requirements of Procedure B (unless the prisoner is housed in a jail or another jurisdiction's facility), whether the complaint is a duplicate of an earlier grievance, or whether there has been an obvious abuse of the grievance process by the prisoner.
2. If the Grievance Review Officer determines the subject is not grievable, the grievance form has been submitted untimely, the prisoner has not complied with the requirements of Procedure B, 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 prisoner, the Grievance Review Officer shall dismiss the complaint and return the original grievance form to the prisoner, along with a form noting the reason for the dismissal of the complaint (Attachment B). (A prisoner who files a grievance form properly completed by the Health Services Administrator within the fifteen (15) day time limit and whose only failure was contacting the Health Services Administrator beyond the first five (5) days of the time limit shall not have the grievance dismissed.) 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.
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 prisoner 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 prisoner, 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 prisoner 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

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complaint to the Chief Administrative Officer, 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 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 2011 would be logged as 11-MSP-13). That log number shall be used to identify the grievance throughout the entire grievance process.
7. Once logged, the Grievance Review Officer shall investigate the grievance. This may include, but is not limited to, conducting interviews with the prisoner, 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.
8. 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 prisoner's grievance or the reasons for the denial of the grievance (Attachment C). The Grievance Review Officer shall include a grievance appeal form (Attachment E) with the response.
9. If the only remedy for the grievance requires action by the Chief Administrative Officer, the Grievance Review Officer shall forward the grievance, together with any investigative reports and other documentation, to the Chief Administrative Officer for review and shall so advise the prisoner.
10. 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 prisoner.
11. If a response cannot be made within the thirty (30) days, the Grievance Review Officer shall so advise the prisoner and shall indicate when the response will be made, which must not be later than an additional ten (10) days.

Procedure D: Second Level Review of a Prisoner's Grievance

1. If, after receipt of the response from the Grievance Review Officer, the prisoner 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 prisoner). The prisoner shall include on the appeal form the log number

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assigned to the grievance by the Grievance Review Officer. If the prisoner does not appeal within the fifteen (15) day time period, the Grievance Review Officer shall close the case. A prisoner may use only this form to submit an appeal. Any attempt by a prisoner to submit an appeal via letter or in any other way shall not be accepted.

2. The prisoner shall state, using one grievance appeal form only, the reasons for the appeal. The prisoner 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., health care report, etc.), the prisoner 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 prisoner, 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 Chief Administrative Officer.
5. The Chief Administrative Officer, or designee, shall review all prior correspondence and documentation and may require additional investigation before making a written response to the prisoner.
6. The Chief Administrative Officer, or designee, shall respond to the grievance, in writing, within twenty-five (25) days of filing of the appeal, indicating any action taken to resolve the prisoner's grievance or the reasons for the denial of the appeal (Attachment D). The Chief Administrative Officer, 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 Chief Administrative Officer, 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 prisoner.

Procedure E: Third Level Review of a Prisoner's Grievance

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1. If, after receipt of the response from the Chief Administrative Officer, the prisoner 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 Chief Administrative Officer signs the response and sends it to the prisoner). The prisoner shall include on the appeal form the log number assigned by the Grievance Review Officer to the grievance. If the prisoner does not appeal within the fifteen (15) day time period, the Grievance Review Officer shall close the case. A prisoner may use only this form to submit an appeal. Any attempt by a prisoner to submit an appeal via letter or in any other way shall not be accepted.
2. The prisoner shall state, using one grievance appeal form only, the reasons for the appeal. The prisoner 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., health care report, etc.), the prisoner 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 prisoner, 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 prisoner 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 Chief Administrative Officer.
5. The Commissioner, or designee, shall review all prior correspondence and documentation and may require additional investigation before making a written response to the prisoner, 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 Chief Administrative Officer.
6. This level is the final administrative level of appeal.

Procedure F: Abuse of the Grievance Process

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1. If the Commissioner, or designee, or the Chief Administrative Officer determines that a prisoner 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 or condition of confinement), 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 Chief Administrative Officer, may suspend the prisoner's access to the grievance process for up to a ninety (90) day period. If the Commissioner, or designee, or the Chief Administrative Officer suspends a prisoner's access to the grievance process, the Commissioner, or designee, or the Chief Administrative Officer shall notify the prisoner in writing (Attachment F). If the Chief Administrative Officer suspends a prisoner's access to the grievance process, the Chief Administrative Officer shall ensure that the Commissioner, or designee, is notified of this decision at least one (1) week prior to notifying the prisoner. If the Commissioner, or designee, does not agree with the Chief Administrative Officer's decision, he or she shall notify the Chief Administrative Officer prior to the expiration of the one (1) week time period.
2. If a prisoner 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 prisoner 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 prisoner 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 G: Grievance Records

1. Records regarding the filing and disposition of individual grievances shall be collected and maintained systematically within each correctional facility and shall be handled in the same manner as other prisoner records.
2. Each correctional facility 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.

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VII. PROFESSIONAL STANDARDS:

ACA:

ACI - 4-4394 There is a system for resolving offender grievances relating to health care concerns.

4-ACRS-4C-01 (MANDATORY) Offenders have unimpeded access to health care and to a system for processing complaints regarding health care.

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