

I. **AUTHORITY:** The Commissioner of Corrections adopts this policy pursuant to 34-A M.R.S.A. Section 1402(5) and 34-A M.R.S.A. Section 1203(3) (B)

II. **APPLICABILITY:** All Correctional Facilities and Community Corrections

III. **POLICY:**

The purpose of this policy is to establish a process for reviewing and resolving grievances of clients, other than grievances concerning medical and mental health care, for which there is a separate grievance process. It is anticipated that prior to filing a lawsuit, a client of the Department of Corrections will attempt to resolve his/her complaint by using the grievance process.

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- A. Client Grievance Form – Form I
- B. Acknowledgement of Receipt of Client Grievance – Form II
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VI. PROCEDURES:

Procedure A. Client Grievance Process, General

1. A client (any person in the custody or under the supervision of the Department of Corrections) may file a grievance with the Grievance Review Officer to request administrative review of any policy, procedure, practice, condition of confinement, action, decision, or event that directly affects the client, that he/she believes is in violation of his/her rights or is in violation of departmental policies and procedures, and for which he/she believes a departmental employee or contractor is responsible. A grievance may not be filed regarding the following matters, since appeal procedures for handling these matters already exist:
 - a. Classification procedures and decisions including, but not limited to, a decision to place a client in high risk management, administrative segregation, or protective custody or a decision about custody level, a work assignment, participation in an institutional or community-based program, or transfer;
 - b. Disciplinary procedures and decisions;
 - c. Furlough/leave procedures and decisions; and
 - d. Decisions made by a Community Corrections Officer which are reviewable in criminal or juvenile criminal court, e.g., detention decisions, motions for probation revocation, etc.

A grievance may not be filed about the Grievance Review Officer's decision on a prior grievance. Instead, the client must appeal to the next level.

A grievance may not be filed under this policy and procedures regarding medical and mental health care, since a separate grievance process for handling these matters exists, See Policy 29.2, Grievance Process, Medical and Mental Health Care.

2. Standard forms shall be provided for use in the client grievance process and shall be readily available at correctional facilities, contract agencies, and Community Corrections offices. These forms must be used for the grievance process. A client residing in a departmental facility shall be allowed to submit a grievance in a sealed envelope addressed to the Grievance Review Officer. A facility may provide a grievance mailbox or other means for a client to submit a grievance to the Grievance Review Officer. A client who is not residing in a departmental facility may submit

a grievance to the appropriate Grievance Review Officer by delivering it in person or by mailing it through the U.S. Mail.

3. During the orientation process for each client, a copy of this policy and procedures shall be provided and the grievance process and how to obtain assistance with the process shall be explained. It shall be the responsibility of the Caseworker or Care and Treatment Worker assigned to a prisoner or resident who needs assistance with the grievance process to provide assistance, including, but not limited to, arranging for a sign language interpreter, foreign language interpreter, assistance to an illiterate prisoner or resident, and reasonable accommodation for a prisoner or resident with a physical or mental disability. It shall be the responsibility of the Grievance Review Officer to arrange for assistance for a community corrections client who needs assistance with the grievance process.
4. The Chief Administrative Officer of each correctional facility shall appoint a Grievance Review Officer and another staff person to be acting Grievance Review Officer in his/her absence.
5. Each regional office of Community Corrections shall have a Grievance Review Officer appointed by the Regional Correctional Administrator and another staff person to be acting Grievance Review Officer in his/her absence.
6. A client housed at a contract agency shall direct any grievance to the Grievance Review Officer at the facility from which they were transferred.
7. A client housed at one departmental facility who has a grievance about a matter that occurred at another departmental facility shall direct the grievance to the Grievance Review Officer at the facility where the client is currently housed. The Grievance Review Officer at that facility shall receive, date, and log the grievance and forward the grievance, without delay, to the Grievance Review Officer at the other facility for appropriate action. A client housed in another jurisdiction's facility who has a grievance about a matter that occurred while housed at a departmental facility shall mail the grievance to the Grievance Review Officer at the departmental facility. A client housed in another jurisdiction's facility who has a grievance about a matter that occurred while housed in the other jurisdiction's facility shall use that facility's grievance process.
8. If the grievance concerns a specific action, decision, or event, the grievance must be filed within fifteen (15) days of when the action, decision or event occurred. If the grievance concerns a policy, procedure, practice, or condition of confinement, the grievance must be filed while the policy, procedure, or practice is in effect or the condition of

confinement is current. A grievance is considered filed on the day it is collected and date stamped. The Grievance Review Officer shall grant an exception in a case where it was not possible for the client to file a grievance within the fifteen (15) day period.

9. No client filing a grievance 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 use of the grievance process suspended or may be subjected to disciplinary action for abuse of the grievance process.
10. 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.
11. A client may be assisted in the grievance process by a Department of Corrections advocate or other staff member or by any other person with whom the client is permitted to have contact, provided the grievance and any grievance appeal is signed and filed by the client. Seeking assistance shall not be grounds for an exception to the time limit for filing a grievance or grievance appeal, unless the exception is requested by the advocate based on the unavailability of the advocate to assist the client within the required timeframe.

Procedure B. Filing Grievances

1. Before filing any grievance, the client shall make an attempt to resolve the complaint in an informal manner by contacting any supervisor with jurisdiction over the matter.
2. Upon being contacted, the supervisor shall attempt, as soon as possible, to informally resolve the complaint, if possible. If necessary to gain an understanding of the complaint, the supervisor shall meet with the client. If the supervisor is unable to resolve the complaint, the supervisor shall sign the grievance form indicating that the supervisor has been contacted about the complaint and could not resolve it.
3. If the client has attempted to informally resolve the complaint, but the complaint is not resolved within the fifteen (15) day time limit, the client must still file a formal grievance within the fifteen (15) day time limit in order to utilize the grievance process.
4. The client must state on the grievance form, as briefly and concisely as possible, the specific nature of his/her complaint, including all the persons

and dates involved. The client must indicate on the grievance form which supervisor was contacted in an attempt to informally resolve the complaint and the result of that contact. The client may also choose to request a specific remedy.

5. Any client may withdraw his/her grievance at any time by written notice to the Grievance Review Officer.

Procedure C. First Level Review of a Client Grievance

1. Grievances shall be collected and date stamped at least once every business day. Upon receipt of a grievance, 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, which shall also be noted on a receipt returned to the client. 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 2001 would be logged as 01-MSP-13). That log number shall be used to identify the specific complaint through the entire grievance process.
2. The Grievance Review Officer shall immediately review the grievance to determine whether the matter is grievable, whether the grievance has been filed within the fifteen (15) day time limit (or an exception should be granted), whether there has been an attempt at an informal resolution, and whether there is an obvious abuse of the grievance process.
3. If the Grievance Review Officer determines the matter is not grievable, the grievance is untimely, or there has been an obvious abuse of the grievance process by the client, the Grievance Review Officer shall make a copy of the grievance for the files, and immediately return the original grievance to the client, noting the reason for its denial.
4. The Grievance Review Officer shall also determine whether an attempt at informal resolution has actually been made by the client. If he/she believes that an attempt has not actually been made, the Grievance Review Officer shall make a copy of the form for the files, immediately return the original form to the client, and note the reason for the return. Any subsequent attempt to informally resolve the grievance must be made without delay so as to allow the grievance to be filed within the original fifteen (15) day timeframe.
5. If the grievance concerns a specific action, decision or event and the client does not indicate the date when the action, decision, or event being grieved

occurred, the Grievance Review Officer shall make a copy of the grievance for the files, and immediately return the original grievance to the client. Any resubmission of the grievance with the missing information must be done within the original fifteen (15) day time limit for filing a grievance.

6. If a grievance is deficient due only to a procedural error that is minor and technical in nature only, e.g., failure to use the proper form, failure to place a check mark in an appropriate spot on the form, or failure to sign the grievance, the Grievance Review Officer shall make a copy of the form for the files, immediately return the original form to the client and note the reason for the return. If the corrected grievance is received by the Grievance Review Officer within five (5) days of the date it was sent to the client or within the original fifteen (15) day time limit for filing a grievance, whichever is later, the grievance shall be processed.
7. If a grievance is denied for failure to comply with the grievance procedures, but the Grievance Review Officer determines that the complaint requires follow up, the Grievance Review Officer shall forward the complaint to the Chief Administrative Officer (or designee) or the Regional Correctional Administrator (or designee) for determination, outside the grievance process, as to any other action required.
8. If the client has complied with the grievance procedures, the Grievance Review Officer shall investigate the grievance. This may include, but is not limited to, conducting interviews with the client, staff, and others, requiring written reports from staff, reviewing policies and procedures, etc.
9. The Grievance Review Officer must respond to the complaint, in writing, not later than twenty (20) days following receipt of the grievance, indicating any action taken to resolve the client's grievance. The Grievance Review Officer shall include a grievance appeal form with the response.
10. If the Grievance Review Officer is unable to determine whether the grievance has merit or determines, following investigation, that the grievance has merit, but the Grievance Review Officer is not authorized to provide the requested remedy he/she shall forward the grievance, together with all investigative reports and other documentation, to the Chief Administrative Officer or the Regional Correctional Administrator for review and shall so advise the client. If the grievance concerns a decision of the person appointed 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 Chief Administrative Officer or the Regional Correctional Administrator for review and shall so advise the client. Any attempt to grieve a decision of the Grievance Review

Officer acting as the Grievance Review Officer shall be treated as not grievable and processed as outlined in number 3 above.

11. If a response cannot be made within the twenty (20) 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.
12. 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 matter 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 D. Second Level Review of a Client's Grievance

1. If, after receipt of the response from the Grievance Review Officer, the client believes that the response does not adequately address the problem, he/she may indicate on the grievance appeal form his/her reasons why the response is inadequate and may then file an appeal. The appeal must be filed with the Grievance Review Officer within ten (10) days of the date of the response (the date the Grievance Review Officer signs the response and sends it to the client). An appeal is considered filed on the day it is collected and date stamped. The Grievance Review Officer shall date and log the receipt of the appeal and forward the appeal, together with all prior correspondence and documentation, to the Chief Administrative Officer or to the Regional Correctional Administrator. The client shall not raise an issue on appeal that was not brought forward in the original grievance or the response to the original grievance. The Chief Administrative Officer or Regional Correctional Administrator shall grant an exception to the time limit for filing an appeal where it was not possible for the client to file a grievance appeal within the ten (10) day period.
2. The Chief Administrative Officer or the Regional Correctional Administrator 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-five (25) days of filing of the appeal. A copy of the response shall be forwarded to the Grievance Review Officer. The Chief Administrative Officer or Regional Correctional Administrator shall include a grievance appeal form with the response.
3. If the Chief Administrative Officer or Regional Correctional Administrator determines that granting the appeal would require a change in departmental

policy or procedures or department wide practices, he/she shall forward the appeal, together with all prior correspondence and documentation, to the Commissioner of Corrections and shall so advise the client.

Procedure E. Third Level Review of a Client's Grievance

1. If, upon receipt of the written response from the Chief Administrative Officer of the facility or the Regional Correctional Administrator, the client still believes that the matter has not been resolved, he/she may indicate on the grievance appeal form his/her reasons why the response is inadequate. The appeal must be filed with the Grievance Review Officer within ten (10) days of the date of the response (the date the Chief Administrative Officer or Regional Correctional Administrator signs the response and sends it to the client). An appeal is considered filed on the day it is collected and date stamped. The Grievance Review Officer shall date and log the receipt of the appeal and forward the appeal, together with all prior correspondence and documentation, to the Commissioner of Corrections. The client shall not raise an issue on appeal that was not brought forward in the original grievance, the response to the original grievance, or the response to the second level appeal. The Commissioner shall grant an exception to the time limit for filing an appeal where it was not possible for the client to file a grievance appeal within the ten (10) day period.
2. The Commissioner shall respond in writing to the client within thirty (30) days of receipt of the appeal. A copy of the response shall be forwarded to the Grievance Review Officer.
3. This level shall be the final administrative level of appeal.

Procedure F. Expedited Grievances

1. In those instances in which a client believes that he/she has an expedited grievance (one for which response within the regular time limits would subject the client to substantial risk of harm to physical or mental health or safety), he/she may so note on the grievance form and, if so, shall state his/her reasons for requesting expedited processing of the grievance.
2. The Grievance Review Officer shall review the reasons stated for expedited review and shall make a determination as to the expedited nature of the grievance. If the Grievance Review Officer believes that the matter qualifies as an expedited grievance, he/she shall cause an immediate investigation to be made and shall take any other action necessary to resolve the grievance (including forwarding the grievance to

the Chief Administrative Officer or Regional Correctional Administrator). The Grievance Review Officer shall respond back to the client in writing within three (3) business days of receiving the grievance. If the Grievance Review Officer believes that the matter does not qualify as an expedited grievance, he/she shall process it as a regular grievance and notify the client that it is being processed as a regular grievance.

Procedure G. Abuse of the Grievance Process

If the Commissioner of Corrections, or designee, 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 or condition of confinement), by filing multiple grievances on the same matter, by filing a grievance as an expedited grievance when it clearly does not qualify, or by otherwise creating an administrative burden, or by knowingly making a false statement in a grievance, the Commissioner, or designee, may suspend the client's use of the grievance process for up to a ninety (90) day period. When the Commissioner, or designee, suspends a client's use of the grievance process, the Commissioner, or designee, shall notify the client in writing. A client who has been suspended from use of the grievance process may not file a grievance during the period of suspension unless it concerns a violation of a constitutional right.

Procedure H. Grievance Records

1. Records regarding the filing and disposition of individual grievances shall be collected and maintained systematically within each correctional facility and regional office of Community Corrections and shall be handled in the same manner as other client records.
2. Each correctional facility and regional office of Community Corrections shall send quarterly reports to the Commissioner of Corrections and the Office of Advocacy concerning the operation of the grievance process. These reports shall include the numbers and types of grievances filed, the response time, the highest level response, and the nature of the resolution in each case.

VII. PROFESSIONAL STANDARDS:

ACA: 3-4271
3-JTS-3D-09

EFFECTIVE DATE (Chapter 10):
February 18, 1984

AMENDED:

March 10, 1986 - as Subsection 14.5, "Client Grievance Policy," filing 86-62
November 13, 1989 - as Subsection 14.5, "Client Grievance Policy and Procedures,"
filing 89-475

EFFECTIVE DATE (ELECTRONIC CONVERSION):
October 30, 1996

NON-SUBSTANTIVE CORRECTION:

November 15, 1998 - this Subsection split off into a separate file.

REPEALED AND REPLACED:

January 13, 2003 - filings 2003-7 and 2003-8 - replaced by Subsections 29.1, "Client
Grievance Rights - Grievance Process, General," and 29.2, "Client
Grievance Rights - Grievance Process, Medical and Mental Health."
Note: no attachments or forms were included in these two filings.

03-201 **DEPARTMENT OF CORRECTIONS**

Chapter 10: POLICY AND PROCEDURES MANUAL

Subsection 29.2: CLIENT GRIEVANCE RIGHTS - GRIEVANCE PROCESS, MEDICAL AND MENTAL HEALTH

I. AUTHORITY: The Commissioner of Corrections adopts this policy pursuant to 34-A M.R.S.A. Section 1402(5) and 34-A M.R.S.A. Section 1203(3)(B).

II. APPLICABILITY: All Adult and Juvenile Correctional Facilities

III. POLICY:

The purpose of this policy is to establish a process for reviewing and resolving grievances of adult prisoners and juvenile residents concerning medical and mental health care. It is anticipated that prior to filing a lawsuit, a prisoner or resident will attempt to resolve his/her complaint by using the grievance process.

IV. CONTENTS:

- Procedure A: Health Care Grievance Process, General
- Procedure B: Filing Grievances
- Procedure C: First Level Review of a Prisoner's or Resident's Grievance
- Procedure D: Second Level Review of a Prisoner's or Resident's Grievance
- Procedure E: Third Level Review of a Prisoner's or Resident's Grievance
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V. ATTACHMENTS:

- A. Client Grievance Form – Form I
- B. Acknowledgement of Receipt of Client Grievance – Form II
- C. Response to Grievance – Level I - Form III
- D. Response to Grievance – Level II – Form IV
- E. Client's Appeal of Grievance Response – Levels I and II – Form V

VI. PROCEDURES:

Procedure A. Health Care Grievance Process, General

1. A request for medical or mental health care must first be made by the prisoner or resident 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).
2. A prisoner or resident (any person in the custody of the Department of Corrections) 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 or resident, that he/she believes is not responsive to his/her medical or mental 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 employee or contractor is responsible. A grievance may not be filed regarding the following matters, since appeal procedures for handling these matters already exist:
 - a. Classification procedures and decisions including, but not limited to, a decision to place a client in high risk management, administrative segregation, or protective custody or a decision about custody level, a work assignment, participation in an institutional or community-based program, or transfer;
 - b. Disciplinary procedures and decisions;
3. Standard forms shall be provided for use in the prisoner and resident grievance process and shall be readily available at correctional facilities. These forms must be used for the grievance process. A prisoner or resident shall be allowed to submit a grievance in a sealed envelope addressed to the Grievance Review Officer. A facility may provide a grievance mailbox or other means for a prisoner or resident to submit a grievance to the Grievance Review Officer.
4. During the orientation process for each prisoner or resident, a copy of this policy and procedures shall be provided and the grievance process and how to obtain assistance with the process shall be explained. It shall be the responsibility of the Caseworker or Care and Treatment Worker assigned to a prisoner or resident who needs assistance with the grievance process to provide assistance, including, but not limited to, arranging for a sign language interpreter, foreign language interpreter, assistance to an illiterate

- prisoner or resident, and reasonable accommodation for a prisoner or resident with a physical or mental disability.
5. The Grievance Review Officer appointed to review grievances under Policy 29.1, Grievance Process, General, shall also serve as the Grievance Review Officer for health care issues.
 6. A prisoner or resident housed at one departmental facility who has a grievance about a matter that occurred at another departmental facility shall direct the grievance to the Grievance Review Officer at the facility where the prisoner or resident is currently housed. The Grievance Review Officer at that facility shall receive, date, and log the grievance and forward the grievance, without delay, to the Grievance Review Officer at the other facility for appropriate action. A prisoner or resident housed in another jurisdiction's facility who has a grievance about a matter that occurred while housed at a departmental facility shall mail the grievance to the Grievance Review Officer at the departmental facility. A prisoner or resident housed in another jurisdiction's facility who has a grievance about a matter that occurred while housed in the other jurisdiction's facility shall use that facility's grievance process.
 7. If the grievance concerns a specific action, decision, or event, the grievance must be filed within fifteen (15) days of when the action, decision or event occurred. If the grievance concerns a policy, procedure or practice, the grievance must be filed while the policy, procedure, or practice is in effect. A grievance is considered filed on the day it is collected and date stamped. The Grievance Review Officer shall grant an exception in a case where it was not possible for the prisoner or resident to file a grievance within the fifteen (15) day period.
 8. No prisoner or resident filing a grievance 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 or resident may have his/her use of the grievance process suspended or may be subjected to disciplinary action for abuse of the grievance process.
 9. A prisoner or resident shall be entitled to pursue, through the appropriate grievance process, any complaint that the prisoner or resident has been subjected to retaliation for using a grievance process in good faith.
 10. A prisoner or resident may be assisted in the grievance process by a Department of Corrections advocate or other staff member or by any other person with whom the prisoner or resident is allowed to have contact, provided the grievance and any grievance appeal is signed and filed by the prisoner or resident. Seeking assistance shall not be grounds for an

exception to the time limit for filing a grievance or grievance appeal, unless the exception is requested by the advocate based on the unavailability of the advocate to assist the prisoner or resident within the required timeframe.

Procedure B. Filing Grievances

1. Before filing any grievance, the prisoner or resident shall make an attempt to resolve the complaint in an informal manner by contacting the facility medical or mental health staff person most directly involved or that person's supervisor.
2. Upon being contacted, the staff shall attempt, as soon as possible, to informally resolve the complaint, if possible. If necessary to gain an understanding of the complaint, the staff shall meet with the prisoner or resident. If the staff is unable to resolve the complaint, the staff shall sign the grievance form indicating that the staff has been contacted about the complaint and could not resolve it.
3. If the prisoner or resident has attempted to informally resolve the complaint, but the complaint is not resolved within the fifteen (15) day time limit, the prisoner or resident must still file a formal grievance within the fifteen (15) day time limit in order to utilize the grievance process.
4. The prisoner or resident must state on the grievance form, as briefly and concisely as possible, the specific nature of his/her complaint, including all the persons and dates involved. The prisoner or resident must indicate on the grievance form which staff was contacted and the result of that contact. The prisoner or resident may also choose to request a specific remedy.
5. Any prisoner or resident may withdraw his/her grievance at any time by written notice to the Grievance Review Officer.

Procedure C. First Level Review of a Prisoner or Resident Grievance

1. Grievances shall be collected and date stamped at least once every business day. Upon receipt of a grievance, 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, which shall also be noted on a receipt returned to the prisoner or resident. The log number shall consist of the last two (2) 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 2001

would be logged as 01-MSP-13). That log number shall be used to identify the specific complaint through the entire grievance process.

2. The Grievance Review Officer shall immediately review the grievance to determine whether the matter is grievable, whether the grievance has been filed within the fifteen (15) day time limit (or an exception should be granted), whether there has been an attempt at an informal resolution, and whether there is an obvious abuse of the grievance process.
3. If the Grievance Review Officer determines the matter is not grievable, the grievance is untimely, or there has been an obvious abuse of the grievance process by the prisoner or resident, the Grievance Review Officer shall make a copy of the grievance for the files, and immediately return the original grievance to the prisoner or resident, noting the reason for its denial.
4. The Grievance Review Officer shall also determine whether an attempt at informal resolution has actually been made by the prisoner or resident. If he/she believes that an attempt has not actually been made, the Grievance Review Officer shall make a copy of the form for the files, immediately return the original form to the prisoner or resident, and note the reason for the return. Any subsequent attempt to informally resolve the grievance must be made without delay so as to allow the grievance to be filed within the original fifteen (15) day timeframe.
5. If the grievance concerns a specific action, decision or event and the prisoner or resident does not indicate the date when the action, decision, or event being grieved occurred, the Grievance Review Officer shall make a copy of the grievance for the files and immediately return the original grievance to the prisoner or resident. Any resubmission of the grievance with the missing information must be done within the original fifteen (15) day time limit for filing a grievance.
6. If a grievance is deficient due only to a procedural error that is minor and technical in nature only, e.g., failure to use the proper form, failure to place a check mark in an appropriate spot on the form, or failure to sign the grievance, the Grievance Review Officer shall make a copy of the form for the files, immediately return the original form to the prisoner or resident and note the reason for the return. If the corrected grievance is received by the Grievance Review Officer within five (5) days of the date it was sent to the prisoner or resident or within the original fifteen (15) day time limit for filing a grievance, whichever is later, the grievance shall be processed.
7. If a grievance is denied for failure to comply with the grievance procedures, but the Grievance Review Officer determines that the complaint requires follow up, the Grievance Review Officer shall forward the complaint to the

Chief Administrative Officer (or designee) for determination, outside the grievance process, as to any other action required.

8. If the prisoner or resident has complied with the grievance procedures, the Grievance Review Officer shall immediately forward the grievance to the Health Services Administrator (for medical care issues) or mental health treatment staff (for mental health care issues) for investigation. Investigation may include, but is not limited to, conducting interviews with the prisoner or resident, staff, and others, requiring written reports from staff, reviewing policies and procedures, etc.
9. The staff to whom the grievance was forwarded for investigation must forward the results of the investigation, in writing, to the Grievance Review Officer, not later than twenty (20) days following receipt of the grievance by the Grievance Review Officer, indicating any action taken to resolve the prisoner's or resident's grievance. The Grievance Review Officer may, if necessary, request clarification or additional information.
10. The Grievance Review Officer must respond to the complaint, in writing, no later than twenty-five (25) days following receipt of the grievance, indicating any action taken to resolve the prisoner's grievance. The Grievance Review Officer shall include a grievance appeal form with the response.
11. If the Grievance Review Officer is unable to determine whether the grievance has merit or determines, following the investigation, that the grievance has merit but the Grievance Review Officer is not authorized to provide the requested remedy, he/she shall forward the grievance, together with all investigative reports and other documentation, to the Chief Administrative Officer for review and shall so advise the prisoner or resident.
12. If a response cannot be made within the twenty-five (25) days, the Grievance Review Officer shall so advise the prisoner or resident and shall indicate when the response will be made, which must not be later than an additional ten (10) days.
13. If the matter 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 prisoner or resident that the matter has been referred to the Attorney General's Office and shall not provide any other information to the prisoner or resident prior to receiving this instruction.

Procedure D. Second Level Review of a Prisoner's or Resident's Grievance

1. If, after receipt of the response, the prisoner or resident believes that the response does not adequately address the problem, he/she may indicate on the grievance appeal form his/her reasons why the response is inadequate and may then file an appeal. The appeal must be filed with the Grievance Review Officer within ten days of the date of the response (the date the Grievance Review Officer signs the response and sends it to the prisoner or resident). An appeal is considered filed on the day it is collected and date stamped. The Grievance Review Officer shall date and log the receipt of the appeal and forward the appeal, together with all prior correspondence and documentation, to the Chief Administrative Officer. The prisoner or resident shall not raise an issue on appeal that was not brought forward in the original grievance or the response to the original grievance. The Chief Administrative Officer shall grant an exception to the time limit for filing an appeal where it was not possible for the prisoner or resident to file a grievance appeal within the ten (10) day period.
2. The Chief Administrative Officer shall review all prior correspondence and documentation and may require additional investigation before making a written response to the prisoner or resident, which must be done within twenty-five (25) days of filing of the appeal. A copy of the response shall be forwarded to the Grievance Review Officer. The Chief Administrative Officer shall include a grievance appeal form with the response.
3. If the Chief Administrative Officer determines that granting the appeal would require a change in departmental policy or procedures or department wide practices, he/she shall forward the appeal, together with all prior correspondence and documentation, to the Commissioner of Corrections and shall so advise the prisoner or resident.

Procedure E. Third Level Review of a Prisoner's or Resident's Grievance

1. If, upon receipt of the written response from the Chief Administrative Officer of the facility, the prisoner or resident still believes that the matter has not been resolved, he/she may indicate on the grievance appeal form his/her reasons why the response is inadequate. The appeal must be filed with the Grievance Review Officer within ten (10) days of the date of the response (the date the Chief Administrative Officer signs the response and sends it to the prisoner or resident). An appeal is considered filed on the day it is collected and date stamped. The Grievance Review Officer shall date and log the receipt of the appeal and forward the appeal, together with all prior correspondence and documentation, to the Commissioner of Corrections. The prisoner or resident shall not raise an issue on appeal that

was not brought forward in the original grievance, the response to the original grievance, or the response to the second level appeal. The Commissioner shall grant an exception to the time limit for filing an appeal where it was not possible for the prisoner or resident to file a grievance appeal within the ten (10) day period.

2. The Commissioner shall respond in writing to the prisoner or resident within thirty (30) days of receipt of the appeal. A copy of the response shall be forwarded to the Grievance Review Officer
3. This level shall be the final administrative level of appeal.

Procedure F. Expedited Grievances

1. In those instances in which a prisoner or resident believes that he/she has an expedited grievance (one for which response within the regular time limits would subject the prisoner or resident to substantial risk of harm to physical or mental health), he/she may so note on the grievance form and, if so, shall state his/her reasons for requesting expedited processing of the grievance.
2. The staff to whom the grievance is forwarded by the Grievance Review Officer shall review the reasons stated for expedited review and shall make a determination as to the expedited nature of the grievance. If the staff determines that the matter qualifies as an expedited grievance, he/she shall cause an immediate investigation to be made and shall take any other action necessary to resolve the grievance. The staff shall respond back to the prisoner or resident in writing within three (3) business days of receiving the grievance. A copy of the response shall be forwarded to the Grievance Review Officer and a copy of the grievance and response shall be placed in the prisoner's or resident's health care record. If the staff determines that the matter does not qualify as an expedited grievance, he/she shall process it as a regular grievance and notify the prisoner or resident and the Grievance Review Officer that it is being processed as a regular grievance.

Procedure G. Abuse of the Grievance Process

If the Commissioner of Corrections, or designee, determines that a prisoner or resident 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 matter, by filing a grievance as an expedited grievance when it clearly does not qualify, or by otherwise creating an administrative burden, or by knowingly making a false statement in a grievance, the Commissioner, or designee, may suspend the prisoner's or resident's use of the grievance process for up to a ninety (90) day period. When the Commissioner, or designee, suspends a prisoner's or resident's use of the grievance process, the Commissioner, or designee, shall notify the prisoner or resident in writing. A prisoner or resident who has been suspended from use of the grievance process may not file a grievance during the period of suspension unless it concerns a violation of a constitutional right.

Procedure H. 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 or resident records.
2. Each correctional facility shall send quarterly reports to the Commissioner of Corrections and the Office of Advocacy concerning the operation of the grievance process. These reports shall include the numbers and types of grievances filed, the response time, the highest level response, and the nature of the resolution in each case.

VII. PROFESSIONAL STANDARDS

ACA: 3-4271
3-JTS-3D-09

EFFECTIVE DATE (Chapter 10):
February 18, 1984

AMENDED:

March 10, 1986 - as Subsection 14.5, "Client Grievance Policy," filing 86-62
November 13, 1989 - as Subsection 14.5, "Client Grievance Policy and Procedures,"
filing 89-475

EFFECTIVE DATE (ELECTRONIC CONVERSION):
October 30, 1996

NON-SUBSTANTIVE CORRECTION:

November 15, 1998 - this Subsection split off into a separate file.

REPEALED AND REPLACED:

January 13, 2003 - filings 2003-7 and 2003-8 - replaced by Subsections 29.1, "Client
Grievance Rights - Grievance Process, General," and 29.2, "Client
Grievance Rights - Grievance Process, Medical and Mental Health."
Note: no attachments or forms were included in these two filings.