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		INMATE GRIEVANCE PROCEDURES	

Signature on file

Nebraska Department of Correctional Services
 PO Box 94661
 Lincoln, NE. 68509-4661

APPROVED:

ROBERT P. HOUSTON, Director
 Department of Correctional Services

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PURPOSE

To establish procedures for the implementation of DCS Rule 2, for the effective and equitable resolution of inmate grievances, and for the monitoring of the inmate grievance system to ensure compliance with Rule 2 and this regulation.

GENERAL

Nebraska Statutes, Section 83-4, 115 to 83-4, 119 and this Department's Rule 2 established policy and procedures for the resolution of inmate grievances. This regulation expands upon those statutes and Rule 2.

PROCEDURES

I. INMATE ORIENTATION

Institutions that receive newly admitted inmates shall ensure that each inmate receives a copy of the Department's rules (Inmate Handbook), including Rule 2 regarding inmate grievances. Inmates shall sign a receipt for the book, and the receipt shall be maintained in the inmate's file as evidence of the delivery of the rulebook. In addition to the delivery of the rulebook, inmates will receive a verbal explanation of the grievance procedure during their orientation process. The verbal explanation shall, at a minimum, include the following information:

A. General Information

1. A reference to Rule 2, and a brief, verbal overview of the rule.
2. How to obtain an informal, Step I and Step II grievance form and a brief explanation of the three grievance levels.
3. The fact that an inmate may request staff assistance in completing and processing the form.

B. Grievable Issues

1. The type of matters which are grievable include:
 - a. Policies and conditions of the Department or facility affecting the grievant.
 - b. Actions by employees or other inmates, and
 - c. Incidents in the facility affecting the grievant personally.
2. Examples should be given of the types of grievances that the inmate may file. Appropriate examples include:
 - a. Institution policies on visitation, mail, or telephones,
 - b. Verbal or physical abuse by another inmate or staff member,
 - c. Restrictions on inmate property, and
 - d. Complaints about food service or medical care.

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C. Non-Grievable Issues

The types of matters/issues considered non-grievable are:

1. Inmate disciplinary actions. Such actions may be appealed through the process prescribed in Rule 6.
2. Matters over which the Department has no control. Examples of such matters are the terms of court commitment orders and state statutes.
3. Classification decisions. Such actions may be appealed to the next higher level of authority using the Classification Appeals Form.

D. Time Limits

An explanation of the time limits set out in Rule 2. The inmate must also be informed that the time limits regarding the response from the Facility/Program Administrator/Director may be extended only with the inmate's written permission. If such written permission is not obtained and a deadline is missed, the inmate may appeal to the next level of the process without waiting further for a response.

E. Remedies Available

An explanation of remedies available through the grievance system. Appropriate examples include:

1. Change in Departmental policy or procedure.
2. Restoration of confiscated property.
3. Verbal or written apologies by staff members.
4. Referral to the State Claims Board for possible award of monetary damages.
5. Investigation of alleged employee misconduct and possible employee disciplinary action.
6. Change of case manager, counselor or housing assignment.
7. Referral for specialized medical care, change of medication or diet.
8. Any other relief within the power of the Director of the Department of Correctional Services or Facility/Program Administrator.

F. Confidential Grievances

1. An explanation of the inmate's right to send confidential grievances to the Director without completing the institutional steps of the grievance process. It should be noted that this right enables the inmate to submit a Step II grievance to the Director when he/she is complaining about the conduct of an individual who otherwise might become involved in the grievance investigation.

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The inmate should be assured that no person who is the subject of a grievance will be in a decision-making position with respect to its resolution.

2. Confidential grievances, as described in the paragraph above, may be submitted by the inmate to the Director via interoffice mail. Inmates shall be informed that grievances sent to the Director may be in sealed envelopes with a complete return address and clearly labeled as a grievance.

G. Emergency Grievances/Grievance Appeals

1. An explanation of procedure for handling emergency grievances or grievance appeals. Emergency grievances or grievance appeals are those matters which must be resolved quickly because if the standard grievance time limits were used, the inmate would be subjected to a substantial risk of personal injury or other serious and irreparable harm. Inmates should be encouraged to bring such matters to the direct attention of designated staff who may be able to provide immediate relief without the use of the written grievance or grievance appeal procedure.
2. If the inmate chooses to use the written procedure, the inmate should mark the grievance or grievance appeal "EMERGENCY." It will then be forwarded immediately to the level of review at which corrective action may be taken. The Facility/Program Administrator or his/her designee (or the Director or his/her designee if the grievance or grievance appeal is forwarded immediately to the Director) will review the grievance or grievance appeal on the date of its receipt (weekends and holidays excluded) and determine whether or not it is indeed an "emergency" grievance or grievance appeal. If it is determined to be an emergency grievance or grievance appeal, investigation will proceed immediately and a determination of appropriate relief (if any) will be made within twenty-four hours after the grievance or grievance appeal was determined to be an emergency grievance or grievance appeal.

H. Further Grievance Review Options

An explanation of how to obtain further review of grievances after the appeal to the Director has been exhausted is located in Attachment A. Specific reference should be made to Rule 2 (005), which sets out additional methods of obtaining review of grievances.

I. Petition Circulation

1. An explanation of the procedures, which an inmate may use to circulate petitions in order to solicit inmate input into the disposition of grievances challenging general Department policies and practices. Specifically, inmates may petition the Facility/Program Administrator or the Director of the Department requesting specific relief concerning a grievance which challenges a Department policy or practice. Inmate circulation of a petition shall occur in such a manner that does not interfere with the operation of facility functions or activities.

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2. Any such petition must state:
 - a. The nature of the proposed change in the Department policy or procedure.
 - b. The reason for the proposed change,
 - c. The circulator's full name and mailing address,
 - d. And must contain the legible signatures, inmate I.D. number, mailing addresses, and dates of signatures of all others purporting to support the petition.
3. The petition shall be considered by the Facility/Program Administrator or Director when responding to the grievance that the petition concerns. A copy of the petition will be kept by the Facility/Program Administrator or Director along with the record of the grievance that the petition concerns.

J. Availability of Grievance Administrative Regulation

All inmates in each institution will have ready access to written copies of this Administrative Regulation, which will also be made available within the respective inmate law libraries. Any inmates with a limited comprehension of the English language will receive a copy of Rule 2 and information included within this regulation in his or her native language. If a written translation is not readily available, the inmate will be provided with sufficient assistance to ensure that he or she comprehends the information in this regulation and in Rule 2.

K. Abuse of Grievance Process

If an inmate files a large number of frivolous, nuisance or duplicative grievances at any level, a designee of the Facility/Program Administrator will conduct a hearing to determine whether the inmate is abusing the grievance process. If a determination is made that the inmate is abusing the grievance process, a reasonable limitation may be placed on the number of grievances that may be filed by the inmate. This determination will be the result of a reclassification action that will be submitted for review and approval to the Director's Review Committee.

II. **STAFF ORIENTATION**

All staff members having contact with inmates shall have ready access to DCS Rule 2 and to this regulation. Each Facility/Program Administrator shall designate a place where copies of the rule and this regulation may be reviewed by staff members and will permit staff to obtain their own copies of Rule 2 and of this regulation as requested. New staff members will receive a verbal explanation of the grievance process during staff orientation. At a minimum, the verbal explanation will include the information set out in Procedure I A of this regulation. Staff members will also be informed of the fact that, although inmate grievances are considered to be confidential, those staff members who are participating in the investigation or disposition of a grievance shall have access to those records which are essential to the investigation and resolution of the grievance.

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III. INSTITUTIONAL PROCEDURES

Grievance procedures used by the Department's institutions shall be consistent with the information provided to inmates and staff as set out in Procedure I. parts A and B of this regulation. In addition, to ensure effective and equitable resolution of inmate grievances, the following procedures will be implemented:

A. Maintenance of Records

1. To monitor the Department's compliance with Rule 2 and this regulation, each institution will maintain complete and accurate copies of all inmate grievances filed in that institution. Copies of such grievances shall be retained for at least 3 years after the final response was issued to the grievant. Copies of the grievances filed at the institutional level will be kept in the inmate's master record along with copies of any appeals filed with the Central Office.
2. Copies of grievances filed at the central office level (whether appeals, confidential grievances, or emergency grievances) will be kept in a Central Office file. Copies of grievances filed at the Central Office level, along with the Director's response, will be sent to the Facility/Program Administrator of each institution/program where the grievance was initiated, to facilitate record keeping.
3. Each institution shall maintain a log of grievances filed. This log will contain, at a minimum, the following information:
 - a. Date grievance logged by staff member
 - b. Name and number of grievant
 - c. Brief statement of nature or type of grievance
 - d. Date of response by Facility/Program Administrator
 - e. Date Facility/Program Administrator's response is forwarded to grievant.
4. The Central Office shall maintain a log of grievances filed. This log will contain, at a minimum, the following information:
 - a. Date grievance logged by staff member
 - b. Name, number and institutional assignment of grievant
 - c. Brief statement of nature or type of grievance
 - d. Date grievance was forwarded to the Director
 - e. Date Director's response is forwarded to grievant

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B. Grievance Logs

The grievance logs containing the above information will be maintained so as to reflect information for the most current three-year period. The attached form may be used for this monitoring process.

REFERENCE

I. ATTACHMENTS

- A. D. C. S. Rule Book, (May 27, 2000) Chapter 2, - Grievance Procedure
- B. Grievance Log

II. ACA STANDARDS

- A. Adult Correctional Institutions (fourth edition): 4-4284 and 4-4344.
- B. Adult Community Residential Services (fourth edition):
4-ACRS-4C-01, 4-ACRS-6B-03

**NEBRASKA
DEPARTMENT OF CORRECTIONAL
SERVICES**



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RULES AND REGULATIONS

Title 68 Nebraska Administrative Code

DCS-A-sty-002

Chapter 2 - GRIEVANCE PROCEDURES

001 Applicability. The provisions of this rule shall apply to all institutions operated by the Department of Correctional Services.

002 Departmental Policy. It is the policy of the Department to provide an inmate with a procedure for the administrative settlement of a legitimate grievance. Most valid grievances can be resolved quickly through informal direct contact with the staff of the institution who have responsibility for the particular area in which the problem arose. Inmates must use such a method prior to initiating a formal grievance. A grievance shall not be considered a formal grievance until the inmate has initiated the grievance procedure by submitting a Step-One Grievance Form to his/her Chief Executive Officer's designee. Any topic may be the subject of a grievance, except matters over which the Department has no control, classification actions, and inmate disciplinary actions. Disciplinary actions are appealable under the procedure described in Chapter 6, and classification actions are appealable to the next higher classification authority.

003 Grievance Principles. The following guidelines shall be applied to the grievance procedure.

003.01 Persons filing. Each inmate in the custody of the Department shall be permitted to report a grievance.

003.02 Informal Resolution. Inmates shall submit the inmate concern to the unit staff member who can most adequately respond on an informal Grievance Resolution Form. If dissatisfied with the informal response the inmate may file a grievance for formal resolution.

003.03 Method of Processing Step-One Formal Grievance. If the response on the inmate concern is unacceptable, the inmate may file a complaint with the Chief Executive Officer on a Step-One Grievance Form. Such grievances shall be transmitted without alteration, interference or delay to the appropriate staff members who are authorized to receive and investigate grievances.

003.04 Adverse Action. No inmate who utilizes the formal grievance procedure shall be subject to any type of disciplinary sanction or other adverse action for exercising the right to report grievances. However, language used in grievances is subject to DCS Rules 5 & 6.

003.05 Prompt Written Response. Each grievance shall be reviewed and, if necessary, investigated further. The grievant shall receive a prompt written response insofar as possible. Extenuating circumstances such as illness, injury, or unavailability of a witness may lengthen the response time. The response shall indicate the suggested disposition of the grievance.

003.06 Confidentiality. Inmate grievances shall be treated in a confidential manner. Only those individuals whose involvement is needed to complete the investigation of the grievance shall be made aware of its existence. Individuals contacted during an investigation shall only be made aware of the information needed to allow them to contribute meaningfully to the investigation. Consistent with ensuring confidentiality, staff who participate in the disposition of a grievance shall have access to records essential to the resolution of the grievance. If the inmate is of the opinion that a grievance is of a sensitive nature, a grievance may be filed directly with the Director and mailed as privileged mail. The inmate must clearly explain the nature of the complaint and the reasons for not following the regular grievance procedure. If the Director determines that the grievance is not of a confidential nature, the grievance shall be returned to the inmate. After consideration of the grievance and determination that it is of a confidential nature, the Director shall conduct any necessary investigation. If the investigation indicates that action should be taken, the Director shall cause the appropriate steps to be taken to resolve the grievance.

004 Grievance Procedure. The following procedure shall apply to inmate grievances.

004.01 When an inmate submits a concern for informal resolution, unit staff will log the informal grievance and

investigate the complaint. The Informal Grievance Resolution Form may be obtained from unit staff and must be filed within three calendar days of the incident of concern. Unit staff will investigate the complaint and prepare a written response within ten working days.

004.02 If an inmate wishes to pursue a formal grievance it is the inmate's responsibility to secure the required Step-One Grievance Form. The Grievance Form may be obtained from the inmate's case manager. Such grievances must be filed within 15 calendar days of the receipt of the informal response, or if no response was received, within 20 calendar days of the incident giving rise to the complaint. The inmate may address only one issue on a formal grievance or it will be returned to him/her. The original inmate Informal Grievance Resolution Form and response must be attached. If the inmate did not receive a response to his/her concern, he/she must attach a copy of the original submission so indicating. The formal grievance process shall begin when the inmate has completed the inmate portion of the Step-One Grievance Form and submitted it to the Chief Executive Officer's designee. Upon receipt of the Grievance Form from the inmate, the Chief Executive Officer's designee shall sign and date the Grievance Form, which invokes the time limit provided in subsection 004.03, below.

004.03 The Chief Executive Officer's designee shall review and, if necessary, further investigate the grievance. The results shall be communicated to the Chief Executive Officer and include a proposed resolution of the grievance. The Chief Executive Officer will review the suggested relief, and will forward a written response to the inmate within ten working days after receipt of the grievance. The response shall include a brief statement of the reason or reasons for the decision reached.

004.04 If the inmate wishes to appeal the relief suggested, he/she shall then obtain a Step-Two Grievance Form from his/her case manager for appeal to the Director.

004.05 If the inmate decides to appeal to the Director, the inmate shall submit the Step-Two Grievance Form to the

Director by interoffice mail within 10 calendar days after receipt of the Chief Executive Officer's response. A copy of the informal grievance and response and Step I Grievance and response must be attached. If the grievance is in an envelope it shall be clearly marked to indicate that it contains a Grievance Form. It may be mailed in compliance with the Department's rules governing privileged mail. The inmate may include additional information on the Grievance Form, which information shall also be submitted to the Chief Executive Officer.

004.06 The Director shall complete the appropriate portion of the Step-Two Grievance Form and return the form to the inmate within twenty working days. The Director may rely upon the information compiled by the Chief Executive Officer's investigation or conduct additional investigation. The Director is not bound by a previous decision to deny the relief suggested by the Chief Executive Officer.

004.07 An inmate shall be limited to two formal Step-One grievances per week (Monday through Sunday), except for valid emergency grievances. Emergency grievances are those matters which must be resolved quickly because if the standard grievance time limits were used the inmate would be subjected to a substantial risk of personal injury or other serious and irreparable harm. Emergency Grievances may be filed on informal grievance forms, and will be responded to by Unit Staff. If an inmate files large numbers of frivolous, nuisance or duplicative grievances at any level, a designee of the Chief Executive Officer of the facility will conduct a hearing to determine whether the inmate is abusing the grievance process. If a determination is made that the inmate is abusing the grievance process, a reasonable limitation may be placed on the number of grievances which may be filed by the inmate.

005 Other Remedies Not Precluded. Inmates shall be allowed to communicate grievances to persons outside the Department and nothing herein shall preclude an inmate from communicating a grievance to the Office of the State Ombudsman, legislators, attorneys, courts, or other appropriate individuals or groups at any time.

005.01 Claims against the Department involving miscellaneous or tort claims for money damages may be filed pursuant to the State Tort Claims Act.

005.02 Each facility shall ensure that inmates confined there have reasonable access to courts and to legal services and materials.

005.03 Inmates will be permitted to circulate petitions for signatures as long as the petitions do not violate or propose a violation of the Department's rules or state or federal law, or interfere with the security or good order of the facility. The petition procedure shall be the method through which inmates may play an advisory role in the disposition of grievances challenging general Department policies and practices. Specifically, inmates may petition the Chief Executive Officer of a facility or the Director of the Department requesting specific relief concerning a grievance which challenges a Department policy or practice. Any such petition must state the nature of the proposed change in Department policy or practice and the reason for the proposed change; must state the circulator's full name and mailing address; and contain the legible signatures, inmate numbers, mailing addresses, and dates of signatures of all others purporting to support the petition.

The petition shall be considered by the Chief Executive Officer or Director when responding to the grievance which the petition concerns as long as the petition is attached to the grievance or grievance appeal or is submitted to the Chief Executive Officer or Director before the grievance or grievance appeal has been answered. A copy of the petition will be kept by the Chief Executive Officer or Director along with the record of the grievance which the petition concerns.

General Statutory Authority: Neb. Rev. Stat. §§83-4,111 and 83-4,135 through 83-4,139; and 42 U.S.C. § 1997 e.

DATE	NAME	NUMBER	ACKNOW	NATURE OF GRIEVANCE	DIRECTOR -1	DIRECTOR-2	COMPLETED
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