 <b>CD-150500</b>	<b>NEW MEXICO CORRECTIONS DEPARTMENT</b>	<b>ISSUE DATE: 09/01/90</b> <b>EFFECTIVE DATE: 09/01/90</b> <b>REVIEW/REVISED: 06/22/05</b>
	<b>TITLE: Inmate Grievances</b>	

**AUTHORITY:**

- A. NMSA 1978, Section 33-1-6 as amended.
- B. Policy *CD-010100*.
- C. Civil Rights of Institutionalized Persons Act of 1980, Public L. 96-247, 94 Stat. 349 (42 U.S.C. 1997).

**REFERENCES:**

- A. ACA Standard 2-CO-3C-01, *Manual of Standards for the Administration of Correctional Agencies*, 1993.
- B. ACA Standards 4-4284, 4-4446 and 4-4344; *Manual of Standards for Adult Correctional Institutions*, 4<sup>th</sup> Edition.

**PURPOSE:**

To establish an administrative means for the expression and/or the efficient and fair resolution of legitimate inmate complaints; to provide a regularly available channel for hearing and resolving concerns of inmates; to provide a mechanism to help keep managers informed and better able to carry out the Department's mission; and to meet national standards.

**APPLICABILITY:**

All inmates incarcerated in the New Mexico Corrections Department, employees, volunteers, consultants and contract persons or entities employed on behalf of the Department in connection with the incarceration of or provision of services to New Mexico state inmates.

**FORMS:**

- A. **Inmate Grievance Form** (*CD-150501.1*) (2 pages)
- B. **Inmate 2-Day Notice of Receipt of Formal Grievance Form** (*CD-150501.2*)
- C. **Inmate Informal Complaint Form** (*CD-150501.3*)

**ATTACHMENTS:**

- A. **Emergency Grievance Status Log Attachment** (*CD-150501.A*)
- B. **Miscellaneous Grievance Status Log Attachment** (*CD-150501.B*)
- C. **Grievance Monthly Statistic Log Attachment** (*CD-150501.C*)

**DEFINITIONS:**

- A. Department: The New Mexico Corrections Department and contract employees.
- B. Emergency Grievance: The Warden or a designee may implement emergency grievance procedures when there are indications of potential and substantial risk to the life or safety of the individual or when irreparable harm to the individual's health is imminent.
- C. Exhaustion of Administrative Remedies: The completion of the grievance process through the Department level appeal.
- D. Frivolous or Multiple Grievances: The filing of repetitive grievances addressing the same issue where sufficient time for a response has not elapsed or where a valid response has been provided, unless there are continuing grievous violations of the same type or unless any relief granted on a prior grievance has not been provided within a reasonable period of time.
- E. Grievance: A written complaint by an inmate on the inmate's own behalf regarding a policy applicable within an institution, a condition in an institution, or an incident occurring within an institution.
- F. Grievance Coordinator: An Administrator who is responsible for processing appeals made to the Secretary. The Grievance Coordinator shall not be an employee of, nor subject to control by, an institution or prison; and should normally be an employee from Central Office.
- G. Grievance Officer: The person or persons at each institution designated to receive formal grievances from inmates and to investigate, resolve and/or recommend disposition to the Warden.
- H. Informal Resolution: A resolution reached by the grieving inmate and staff without going through formal grievance procedures.
- I. Inmate: A person who has been placed in the care of the New Mexico Corrections Department for custody and/or supervision.
- J. Remedy: A meaningful response, action, restitution or redress for the successful inmate grievant.
- K. Reprisal: Any action or threat of action against anyone for the good faith participation in the grievance procedure.

L. Secretary: The Cabinet Secretary of the Corrections Department.

**POLICY:**

**A. Communication of Procedures:**

1. A written copy and oral summary of this policy and procedure will be provided to each inmate during orientation at the Reception and Diagnostic Centers (RDC and NMWCF) and thereafter upon reasonable request at the expense of the inmate. Staff will be provided a copy of this policy and procedure during their orientation process, as well as an oral summary of its contents. Copies of all policies and procedures regarding inmate grievances will be maintained at each institution and will be made available for review upon request by inmates or employees.
2. Upon arriving at the Reception and Diagnostic Center, inmates will be presented with written notification of the inmate grievance procedure. Notification will be provided in both English and Spanish; special provisions shall be made for sight-impaired or mentally disabled inmates. Written notification will include the following information:
  - a. A list of matters that are grievable and non-grievable;
  - b. Description of grievance forms and location where the forms can be obtained;
  - c. Description of grievance process, including time limits at each level;
  - d. Description of steps taken to assure confidentiality;
  - e. Description of what constitutes abuse/misuse of the grievance procedure; and
  - f. Location of policies and procedures concerning inmate grievances.
3. In addition to written notification, inmates will receive a detailed oral explanation of the inmate grievance procedure if the inmate requests it. A copy of this policy shall be given to each inmate during orientation at RDC. Provisions will be made for those not speaking English, as well as for the impaired or handicapped.
4. Institutional personnel, including those under private contract with the New Mexico Corrections Department, will receive a copy of all instructional materials on the inmate grievance procedure during the employee orientation.

**B. Accessibility:**

Each inmate will be entitled to invoke the grievance procedure regardless of classification level. This procedure will be made accessible to all impaired or handicapped inmates.

**C. Administrative Provisions:**

1. Each institutional Warden will designate a person or persons as an institutional Grievance Officer. This individual shall be responsible for carrying out the duties outlined herein.
2. The Secretary will designate a person or persons as Administrator. Any such person(s) shall be responsible for the duties outlined herein.
3. No inmate or employee who is named in the grievance shall participate in any capacity in the investigation or resolution of the grievance, except as may be required and only to the extent required as the grievant, the subject of a grievance or a witness. Neither the institutional Grievance Officer nor Administrator shall act in such a capacity when they are the subject of a grievance or a witness to an incident resulting in a grievance.

**D. Grievability:**

1. Except as provided below in D.2, the following matters are grievable by inmates:
  - a. The substance, interpretation and application of policies, rules and procedures of the institution or Department including, but not limited to, decisions regarding mail, visitation, staff treatment, lost property or medical/mental health care excluding security issues.
  - b. Individual employee actions.
  - c. Perceived reprisal for use of, or participation in, the grievance process.
  - d. Any other matter relating to conditions of care or supervision within the authority of the New Mexico Corrections Department or its contractors, except as noted herein.
2. The following matters are not grievable by inmates:
  - a. Any matter over which the Corrections Department has no control, for example: parole decisions, sentences, tort claims and claims regarding inmate compensation which is regulated by statute.
  - b. Matters involving the loss or delay of mail by the U.S. Postal Service or other carriers, e.g. UPS, Federal Express, etc.
  - c. Any matter involving disciplinary procedure and findings. A separate appeal process is provided by Department policy for disciplinary actions.

- d. Any matter involving a classification decision. A separate appeal process is provided by Department policy for classification actions or placement in Level 6.
  - e. Complaints on behalf of other inmates.
  - f. The subject of any prior grievance on which a final determination has been made or which is currently under review.
  - g. Other matters beyond the control of the Department.
3. If a grievance is ruled non-grievable at any level, that decision may not be appealed through the remaining levels of the grievance procedure.

**E. Informal Resolution:**

It is the policy of the Department to resolve grievances at the lowest possible level. Informal resolution is encouraged.

**F. Remedies:**

If a grievance is decided in favor of an inmate, appropriate relief shall be provided to the inmate and the Department may, at its discretion, authorize one or more of the following remedies:

1. If the grievance involves loss of or damage to personal property, the remedy may be restoration of the property involved or payment of fair market value not to exceed \$50.00 for any one item at the discretion of the Department. In no event will replacement or monetary compensation be awarded without a showing of negligence or willful misconduct on the part of Department employees.
2. Change of policies, procedures or practices.
3. Correction of departmental records.
4. Other remedies as appropriate.

**G. Time Constraints:**

1. Grievances shall be processed in a timely manner. No more than 90 working days will pass from the filing of a grievance by an inmate to the final decision.

2. The time period will begin when the grievance has been properly filed with the Grievance Officer.
3. Responses will be made within fixed time limits at every level of review, as specified in *CD-150501*.
4. Expiration of a time limit at any stage without a decision will not be deemed a denial of the grievance and will entitle the grievant to move on to the next level for review.
5. In the event the grievance is not disposed of within the time limit, the inmate shall be deemed to have exhausted administrative remedies for that specific complaint. The grievance is not automatically granted.

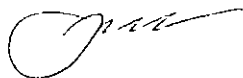
#### **H. Emergency Procedures:**

1. An emergency grievance shall be given priority. It is the responsibility of the inmate to designate the grievance as an emergency on the **Inmate Grievance** Form (*CD-150501.1*) and to demonstrate the factors creating a risk that serious harm may result if the emergency grievance is processed according to standard time limits.
2. It is the responsibility of the Grievance Officer to determine, through investigation, if the inmate's grievance is, in fact, an emergency grievance.
3. Once it is determined that such factors exist, the grievance will be deemed an emergency grievance and it shall be forwarded without substantive review immediately to the Warden or to an official at a level capable of correcting the situation. Emergency grievances may be immediately appealed to the Administrator.
4. Emergency grievances shall receive an expedited response at every level as appropriate to the needs of the emergency situation, but in no event will the time for response exceed 72 hours from the time the grievance is received by the Grievance Officer.

#### **I. Reprisals:**

- A. Inmates shall not be subject to retaliation, reprisal or discipline for the legitimate use of the grievance procedure.
- B. Retaliation for use of this policy may be the subject of a grievance under this policy. Employees engaging in reprisals against inmates for good faith use of, or participation in, the grievance procedure shall be subject to disciplinary action.


- C. Inmates using the grievance procedures to perpetrate the commission of a purposeful serious misconduct will be subject to disciplinary action consistent with current disciplinary policy provisions.



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Joe R. Williams, Secretary of Corrections  
New Mexico Corrections Department

06/22/05  
Date

 <b>CD-150501</b>	<b>NEW MEXICO CORRECTIONS DEPARTMENT</b>	<b>ISSUE DATE: 09/01/90</b> <b>EFFECTIVE DATE: 09/01/90</b> <b>REVIEW/REVISED: 06/22/05</b>
	<b>TITLE: Inmate Grievances</b>	

**AUTHORITY:**

Policy *CD-150500*

**PROCEDURES:**

**A. Inmate's Responsibility:**

1. Before using the formal grievance procedure, an inmate is expected to attempt to resolve the grievance or particular area of concern informally through discussion with the person or persons responsible for the incident, giving rise to the complaint. The inmate should first file an informal complaint using the **Inmate Informal Complaint Form (CD-150501.3)** within five calendar days from the date of the complaint. The inmate shall explain in detail his/her complaint and address their complaint to the Unit Manager or designee in units with a Unit Manager and to the Chief of Security or designee in units without a Unit Manager. If this informal effort fails to resolve the complaint within five days of receipt of the complaint, the inmate may file an **Inmate Grievance Form (CD-150501.1)**. The inmate must file the formal grievance within 20 calendar days of the date of the complaint.
2. The Unit Manager, Chief of Security, or designees' shall review the inmate complaint and make every effort to resolve the complaint at an informal level within five calendar days from receipt of the complaint. A copy of all resolved complaints shall be maintained and a copy given to the inmate. All non-resolved complaints shall be returned to the inmate to be attached to the formal grievance.
3. A written formal grievance shall be filed using the **Inmate Grievance Form (CD-150501.1)**. The non-resolved Inmate Informal Complaint shall be attached to the formal grievance and be submitted to the Grievance Officer by depositing the form(s) in an institutional mailbox, a designated Grievance Box or by delivering it in person to the Grievance Officer. **Inmate Grievance Forms** will be readily available to inmates in accessible locations within the institution. All grievances must be signed by the grievant. Copies of grievances sent to persons other than the Institutional Grievance Officer will be considered informational copies only, not requiring a response. The Grievance Officer shall notify the grievant of receipt of a grievance on an **Inmate 2-Day Notice of Receipt of Formal Grievance Form (CD-1505001.2)**.



If the Grievance Officer does not acknowledge the receipt of the grievance in writing within five working days after receipt of the grievance, the Grievance Officer will notify the grievant in writing as to the date the grievance was received and the status of the grievance.

4. Inmates requiring aid in completing the grievance form may be assisted by another inmate. The form will be used to briefly summarize the complaint; additional information should be attached and mailed to the Grievance Officer. Appropriate language will be used; obscenities will not be allowed unless determined relevant to the grievance.
5. The inmate must complete a separate grievance form for each issue grieved. The inmate must file an individual grievance even though the problem may be shared with other inmates. A group grievance will be returned to the first name on the list for compliance with this requirement.
6. The inmate must state what reasonable relief is being requested as a solution to any grievance. Failure to do so will result in the grievance being returned to the inmate for completion.
7. If the grievance relates directly to actions of the Grievance Officer, the inmate will send the completed **Inmate Grievance** Form directly to the Warden. The Warden will appoint a person who is not involved with the matter of the grievance to serve as Grievance Officer for that particular grievance.
8. Grievances are considered confidential communications. Sealed letters will not be opened for inspection by mailroom personnel if the letter is labeled "Grievance" and addressed to the Grievance Officer, Deputy Warden or Warden.
9. In a case where a grievance has not been resolved at the time the grievant is released from custody, efforts to resolve the grievance will terminate. The only exception is if the grievance was filed as a result of court action requiring exhaustion of administrative remedies. If the grievant wishes to pursue resolution, it is the grievant responsibility to notify the Grievance Officer of that intention and to provide an address and telephone number at which he/she may be contacted and any other pertinent information requested by the Grievance Officer.
10. In the event of a transfer, an inmate shall attempt to file any grievance directly with the Grievance Officer at the appropriate facility. However, if a Grievance Officer receives a grievance that should be resolved at a different facility, the Grievance Officer shall forward the grievance to the appropriate facility Grievance Officer and notify the inmate.