



STATE OF WASHINGTON DEPARTMENT OF CORRECTIONS   <b>POLICY DIRECTIVE</b>  <input checked="" type="checkbox"/> Offender Manual <input checked="" type="checkbox"/> Spanish	<b>PRISON/PRE-RELEASE/          WORK RELEASE/FIELD</b>	NUMBER <b>DOC 550.100</b>
	SIGNATURE  DATE	EFFECTIVE DATE 3/1/05
	JOSEPH D. LEHMAN, SECRETARY	PAGE NUMBER 1 of 6
TITLE <b>OFFENDER GRIEVANCE PROGRAM</b>		

**SUPERSESSION:**

DOC 550.100 effective 10/28/99

**REFERENCES:**

DOC 100.100 is hereby incorporated into this Policy Directive; WAC 137-08; ACA 4-4284; ACA 4-4394; ACA 4C-01; ACA 6B-03; 28 CFR, Part 40.10(b); Offender Grievance Program Manual

**POLICY:**

- I. The Prisoner Litigation Reform Act of 1996 requires that offenders exhaust their administrative remedies prior to filing a lawsuit. The Offender Grievance Program is one primary avenue for exhausting administrative remedies. Failure to exhaust administrative remedies may result in dismissal of an offender's lawsuit by the courts.
- II. The Department has a structured process to respond to offender grievances that assists administrators in identifying specific problems and trends within the Department, thus reducing litigation.
- III. The Department has an offender grievance system that provides efficient and timely resolution to complaints. The Department seeks to reduce tension and provide a stable correctional environment by providing a formal mechanism to address conflict through the administrative resolution of complaints.
- IV. The grievance mechanism will not be used as a disciplinary procedure.
- V. The Offender Grievance Program Manual provides detailed instructions for use of the process and is the reference for all procedural decisions.

**DIRECTIVE:**

- I. Grievance Coordinator
  - A. Each facility will have a staff designated as the Grievance Coordinator who, while in the performance of his/her grievance duties, will be directly responsible to the facility Superintendent/Community Corrections Supervisor (CCS).
  - B. The facility Superintendent/CCS may delegate direct day-to-day supervision of a Grievance Coordinator to his/her immediate subordinate. The designee,

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however, will not hinder the Grievance Coordinator's access to the facility Superintendent/CCS regarding grievance matters.

C. The Grievance Coordinator will be responsible for:

1. Distributing complaint forms,
2. Promoting informal resolution to complaints,
3. Completion of appropriate grievance forms,
4. Ensuring responses are completed within established time frames,
5. Ensuring confidentiality of grievance records,
6. Providing orientation to staff when CORE Academy is not available, and
7. Providing orientation to offenders,
  - a. The Offender Grievance Handout – Community Corrections Offices (attached) will be provided during initial intake to all offenders under Community supervision.

## II. Grievable and Non-Grievable Items

A. Individuals confined in a Department facility, or who are on active community supervision status, may grieve their place of confinement or conditions of supervision when it relates to:

1. Policies.
2. Application of, or lack of application of, policies.
3. Lack of policies, rules, or procedures that directly affect the living conditions of the offender.
4. Actions of employees, contract staff, or volunteers over whom the facility or supervising office has jurisdiction.
5. Actions of other offenders.
6. Retaliation against the grievant for his/her good faith participation in the grievance program.

B. Only incidents, policies, or practices that affect a grievant personally and over which the Department has jurisdiction, to include health-related issues, are grievable. [4-4394] [4C-01] This includes actions by employees, contract staff, volunteers, and other offenders. Actions of persons not under the jurisdiction of the facility or local Community Corrections office to which the offender is confined/assigned are not grievable.

C. The following items are not grievable:

1. State and federal law.
2. Washington Administrative Code (WAC).
3. Court decisions.
4. Court-ordered pre-sentencing reports.

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5. Community Corrections Officer (CCO) recommendations to a DOC Hearing Officer, court, and/or the Indeterminate Sentence Review Board (ISRB).
  6. Special conditions imposed by a CCO in accordance with Department policy.
  7. Indeterminate Sentence Review Board (ISRB) decisions.
  8. Classification, disciplinary, community release referral decisions, End of Sentence Review Committee and risk management decisions, community custody violation hearings, and Work Release termination committee actions and decisions.
  9. Department-approved procedure that has a formal, appeal process. An Offender Grievance Program Manual will be kept in an area accessible to offenders.
- D. The Offender Grievance Program Manual will contain more in-depth definitions of what is or is not grievable. In Department facilities an Offender Grievance Program Manual will be kept in an area accessible to offenders. In Field Offices the Offender Grievance Program Manual will be available for review in the lobby upon request.

### III. Investigation

- A. All offenders are expected to attempt informal resolution prior to filing a complaint and to participate in the resolution of their individual grievances. Offenders who fail to attempt informal resolution prior to filing their complaint, or fail to participate in the resolution of their individual grievances, may have their complaint or grievance administratively withdrawn.
- B. All Department staff are expected to assist with the informal resolution of complaints and issues brought to them by offenders if the issue is within the scope of their responsibilities, or to direct the offender to the best possible source for assistance.
- C. All Department staff are expected to assist in the investigation and resolution of grievances as requested by the Grievance Program Manager, Regional Administrators, Superintendents, or Grievance Coordinators/Specialists.
- D. Complaints of offenders on active community supervision should be forwarded directly to the Grievance Program Specialist at the Headquarters Grievance Office.
- E. Staff conduct grievances will be investigated by the facility Superintendent/CCS, Field Administrator, or Regional Administrator, or their designee, as appropriate.
- F. The final level of review for grievances is the Office of Correctional Operations (OCO) Deputy Secretary/designee.

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IV. [4-4284] Process

A. To file a grievance:

1. Offenders in Prison, Pre-Release, and Work Release will complete DOC 05-165 Offender Complaint and forward all copies of the form and documentation demonstrating an attempt to informally resolve the issue to the Grievance Coordinator.
  - a. This form is available in the living units, other designated locations, or from staff.
2. Offenders on community supervision will complete the form(s) at the local Community Corrections office, and forward the form and documentation demonstrating an attempt to informally resolve the issue to the Grievance Program Manager at the Headquarters Grievance Office.

B. The Grievance Coordinator/Specialist will prepare the appropriate formal grievance form for complaints that are not informally resolved, but otherwise grievable.

1. Routine grievances regarding policy, lack of policy, procedure, or against another offender, and emergency grievances, will be typed on DOC 05-166 Level I – Initial Grievance, investigated, and a Level I response provided by the Grievance Coordinator/Specialist.
  - a. If the grievant is not satisfied with the Level I response, s/he may submit an appeal to the Grievance Coordinator/Specialist for reinvestigation and response. The Grievance Coordinator/Specialist will complete DOC 05-168 Appeal to Level II for response and signature by the Superintendent.
  - b. For routine grievances, the offender may appeal the Level II response. The Grievance Coordinator/Specialist will complete DOC 05-169 Appeal to Level III and forward it to the Grievance Program Manager. Emergency grievances are not appealable to Level III.
2. Staff conduct and reprisal grievances are initiated at Level II by the offender on DOC 05-165 Offender Complaint. The offender will forward the form to the Grievance Coordinator/Specialist who will attempt informal resolution and determine if the issue is grievable. If the issue is grievable and informal resolution did not occur, the Grievance Coordinator/Specialist will complete DOC 05-170 Staff Conduct Grievance and forward the grievance to the appropriate administrator for investigation and response.
  - a. The offender may appeal the Level II response. The Grievance Coordinator/Specialist will complete DOC 05-169 Appeal to Level III and forward it to the Grievance Program Manager.

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3. Level III is the final level in the grievance process.

C. DOC 20-303 Notification of Staff Conduct/Reprisal Grievance will be used to notify staff when a formal staff conduct or reprisal grievance is filed against them, the Level II findings of the grievance, and if appealed, the Level III findings.

1. The investigator will have the staff member(s) grieved complete DOC 20-303 Notification of Staff Conduct/Reprisal Grievance during their interview and the investigator will return the form to the Grievance Coordinator.

2. The Grievance Coordinator will complete DOC 20-303 Notification of Staff Conduct/Reprisal Grievance upon receipt of the Level II response and forward a copy to the staff member(s) grieved.

3. The Grievance Coordinator will complete DOC 20-303 Notification of Staff Conduct/Reprisal Grievance upon receipt of the Level III response and forward to the staff member(s) grieved.

D. When more time is needed at any level for completing an investigation and/or preparing the response at Level II or Level III, the offender will receive DOC 05-171 Notification of Time Extension informing him/her of the number of days being added to the original due date, the new due date, and the reason for the extension.

E. The Grievance Program Manager will review and approve local grievance processes on at least an annual basis. [6B-03]

#### V. Confidentiality

A. The Federal standards for grievance procedures state, "Records regarding the participation of an individual in the grievance proceedings will be considered confidential and will be handled under the same procedures used to protect other confidential case records."

1. Disclosure of grievance documents, records, reports, and other information will be subject to the provisions of WAC 137-08; however, offender grievances and related documents will only be disclosed without notification of the affected offender(s) when the anonymity and confidentiality of the individual offender can be maintained.

#### DEFINITIONS:

Words/terms appearing in this Policy Directive may be defined in the Glossary section of the Policy Directive Manual.

#### ATTACHMENTS:

Offender Grievance Handout – Community Corrections Offices

DOC FORMS (See Appendix):

## **OFFENDER GRIEVANCE HANDOUT COMMUNITY CORRECTIONS OFFICES**

### **WHAT IS A GRIEVANCE?**

A grievance is a formalized, written complaint by an offender on his/her own behalf. Definitions of types of grievances and other items are available for your inspection at the local office.

All staff are expected to be sensitive to offender problems. The primary reason for the grievance procedure is to deal with complaints after resolution has been attempted through routine administrative channels. However, the grievance mechanism is available to all offenders for the expression and resolution of a problem if s/he wishes to submit a written complaint to the Grievance Program Specialist prior to attempting informal resolution.

### **WHAT ITEMS ARE GRIEVABLE?**

Individuals confined in a facility or community residential facility, or who are under community supervision, may grieve the following, when applicable to their place of confinement or conditions of supervision: policy, lack of policy, and application of policy. Only incidences which affect them personally and over which the Department has jurisdiction, including actions by employees, contract staff, volunteers, and other offenders, are grievable.

### **WHAT ITEMS ARE NOT GRIEVABLE?**

The following items are not grievable: state and federal law; court decisions; Indeterminate Sentencing Review Board decisions; Pre-Sentence Investigation (PSI) Report; Community Corrections Officers' (CCO) recommendations to the court and/or the Indeterminate Sentencing Review Board; application of special conditions imposed by a CCO per Department policy; actions of persons not under the jurisdiction of the office to which the offender is confined/ assigned; classification and disciplinary decisions; End of Sentence Review Committee and Risk Management decisions; Community Custody Violation Hearings; or any procedure that has a formal appeal process built into it, except that Department written policies and written procedures governing these issues may be grieved.

### **HOW DO YOU FILE A GRIEVANCE?**

The procedure is characterized by a series of actions that lead to a grievance resolution. Grievances must be processed from initiation of the formal grievance to final disposition within 90 calendar days, unless Department staff inform the grievant that the time frame at any given level has been extended. To initiate the process, obtain DOC 05-165 Offender Complaint from the local office. Complete the form as instructed and mail it to:

GRIEVANCE PROGRAM SPECIALIST  
OFFENDER GRIEVANCE PROGRAM  
DEPARTMENT OF CORRECTIONS  
P.O. BOX 41129  
OLYMPIA, WA 98504-1129

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The grievant **MUST** sign and date the complaint form. If it is not signed and dated, the Grievance Program Specialist does not have the authority to pursue the issue on the grievant's behalf.

Once the Grievance Program Specialist receives the complaint, s/he will determine if the issue is grievable. If not, the grievant will be notified of the reasons why. If it is grievable, the Grievance Program Specialist will determine which TYPE of grievance it is (Routine, Emergency, Staff Conduct, or Reprisal), prepare the appropriate forms, and sign and date them. One copy will be mailed to the grievant and the remaining copies sent to a designated staff member in the field for investigation and response.

ROUTINE GRIEVANCES are those against policies, procedures, practices, or other offenders, any of which must affect the grievant personally. They are investigated and responded to by the Area Grievance Coordinator at Level 1. That response may be appealed through the Grievance Program Specialist to the Regional Administrator at Level II. That response may also be appealed through the Grievance Program Specialist to the Office of Correctional Operations (OCO) Deputy Secretary at Level III. His/her response is NOT appealable through the grievance procedure. Responses at all the above levels will be within 20 working days from the date the Grievance Program Specialist signs the formal grievance/appeal to the date of response. Grievants should write their appeals on DOC 05-165 Offender Complaint, include the grievance Log ID number, and send the appeals to the Grievance Program Specialist.

A grievance alleging STAFF MISCONDUCT or REPRISAL is typed on special forms by the Grievance Program Specialist and sent directly to the Regional Administrator at Level II for the initial investigation and response. That response may be appealed through the Grievance Program Specialist to the OCO Deputy Secretary at Level III. The OCO Deputy Secretary's response is final and may NOT be appealed through the grievance process. Response at the 2 levels above will be within 20 working days from the date the Grievance Program Specialist signs the formal grievance/appeal to the date of response. Again, grievants should use DOC 05-165 Offender Complaint to submit their appeal.

EMERGENCY GRIEVANCES are limited to those issues that present a threat of death or injury to offenders or staff, or disruption of a state facility or office. Report emergencies to local field staff and attempt to resolve the issue through them. If resolution does not occur, fill out DOC 05-165 Offender Complaint and ask local staff to inform the Grievance Program Specialist.

**REPRISAL:** Goodfaith use of or goodfaith participation in the grievance system will not result in formal or informal reprisals.

The Offender Grievance Program Manual is available at your local Field Office for review if you have additional questions.

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DOC 05-165 Offender Complaint

DOC 05-166 Level I -- Initial Grievance

DOC 05-168 Appeal to Level II

DOC 05-169 Appeal to Level III

DOC 05-170 Staff Conduct Grievance

DOC 05-171 Notification of Time Extension

DOC 20-303 Notification of Staff Conduct/Reprisal Grievance