

ATTACHMENT #2

Administrative Regulation 217.02

Inmate Grievance Procedures

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		INMATE GRIEVANCE PROCEDURES	

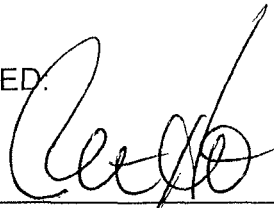
This Administrative Regulation is to be made available in law libraries or other inmate resource centers.

EFFECTIVE: December 10, 1985
 REVISED: June 30, 2004
 REVISED: June 29, 2005
 REVISED: July 7, 2006
 REVISED: July 6, 2007
 REVISED: June 16, 2008
 REVISED: June 24, 2009
 REVISED: June 29, 2010
 REVIEWED: June 29, 2011
 REVIEWED: August 10, 2012
 REVISED: July 19, 2013

SUMMARY of REVISION/REVIEW

Revisions include the addition of Nebraska or NDCS throughout body of the A.R. Paragraph I. revised to delete reference to verbal explanation as such is implied. Paragraph I.D. revised for clarity resulting in no change to policy intent. Paragraph I.K. revised for clarity regarding process to impose grievance limitations.

APPROVED:



ROBERT P. HOUSTON, Director
Nebraska Department of Correctional Services

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PURPOSE

To establish procedures for the implementation of Chapter 2 of the NDCS Rules and Regulations Handbook, for the effective and equitable resolution of inmate grievances, and for the monitoring of the inmate grievance system to ensure compliance with Chapter 2 and this regulation.

GENERAL

Nebraska Statutes, Section 83-4, 115 to 83-4, 119 and this Department's Chapter 2 established policy and procedures for the resolution of inmate grievances. This regulation expands upon those statutes and Chapter 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 Chapter 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 an verbal explanation of the grievance procedure during their orientation process (Attachment A). The verbal explanation shall, at a minimum, include the following information:

A. General Information

1. A reference to Chapter 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 Chapter 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

The inmate must be informed that the time limits (per Chapter 2) regarding the response from the Warden/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 authority of the Director of the Nebraska Department of Correctional Services or Warden/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 that 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 Warden/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 Chapter 2, 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 Warden/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 Warden/Program Administrator or Director when responding to the grievance that the petition concerns. A copy of the petition will be kept by the Warden/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 Chapter 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 Chapter 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 Warden/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 reviewed by the Institutional Classification Committee and approved by the Director's Review Committee.

II. **STAFF ORIENTATION**

All staff members having contact with inmates shall have ready access to NDCS Chapter 2 and to this regulation. Each Warden/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 Chapter 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 Chapter 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 Warden/Program Administrator of each institution/program where the grievance was initiated, to facilitate record keeping.
3. Each institution and Central Office shall maintain a log of grievances. This log will contain, at a minimum, the following information:
 - a. Date grievance was receipted by staff member;
 - b. Name and number of grievant;
 - c. Brief statement of nature or type of grievance
 - d. Date of response by Warden/Program Administrator or Director (completed date).

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 (Attachment B).

REFERENCE

I. ATTACHMENTS

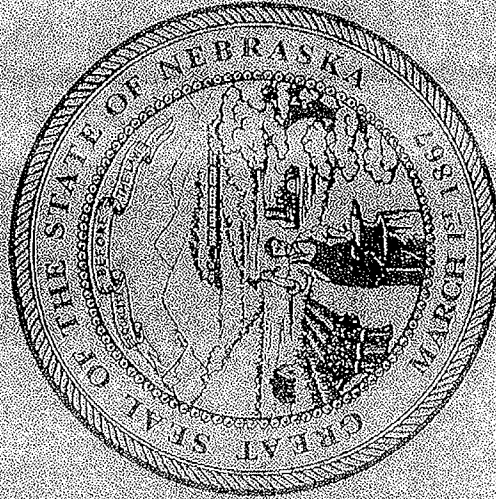
- A. NDCS Rule Book, (December 28, 2008) Chapter 2, - Grievance Procedure
- B. Grievance Log

II. ACA STANDARDS

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- A. Standards for Adult Correctional Institutions (ACI) (4th edition): 4-4284 and 4-4344.
- B. Performance Based Standards for Adult Community Residential Services (ACRS) (4th edition): 4-ACRS-4C-01, 4-ACRS-6B-03

NEBRASKA
DEPARTMENT OF CORRECTIONAL
SERVICES



Attachment A
A.R. 217.02

RULES AND REGULATIONS

Title 68 Nebraska Administrative Code

DCS-A-siv-002

REVISED ON THE FOLLOWING DATES:

January 9, 1978
October 27, 1978
September, 1995
May 18, 1987
February 13, 1989
September 2, 1989
August 12, 1990
December 20, 1994
July 7, 1998
May 27, 2000
December 28, 2008

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Chapter 2 - GRIEVANCE PROCEDURES

001 - **Applicability.** This rule applies to all institutions operated by the Department of Correctional Services.

002 - **Departmental Policy.** The Department provides an inmate with a procedure for the administrative settlement of a legitimate grievance.

002.01 A grievance is not a formal grievance until the inmate submits a Step-One Grievance Form to the Warden or designee of the facility to which the inmate is assigned.

002.02 Any topic may be the subject of a grievance, except matters over which the Department has no control, classification actions, and inmate disciplinary actions.

003 - **Grievance Principles.** These guidelines apply to the grievance procedure.

003.01 Any inmate in the custody of the department may file a grievance.

003.02 An inmate shall submit an Informal Grievance Resolution Form to designated unit staff.

003.03 If an inmate is dissatisfied with the response to the Informal Grievance, the inmate may file a Step-One Grievance with the Warden. The Step-One Grievance Form must be used.

003.04 No one shall alter, interfere with, or delay the transmittal of an inmate grievance.

003.05 No inmate who uses the grievance procedure shall be subject to any type of disciplinary sanction or other adverse action for filing grievances.

003.06 Language used in grievances is subject to *DCS Rules 5 and 6*

003.07 Each grievance will be reviewed and, if necessary, investigated. The inmate shall receive a prompt written response. Circumstances such as illness, injury, or unavailability of a witness may lengthen the response time.

003.08 Inmate grievances shall be confidential. Only those individuals whose involvement is needed to complete the investigation of the grievance shall be made aware of the grievance. Individuals contacted during the investigation shall only be made aware of the information needed to allow them to contribute to the investigation. Consistent

with ensuring confidentiality, staff that participates in the disposition of a grievance shall have access to records needed to respond to the grievance.

004 - Grievance of a Sensitive Nature. If the inmate believes that a grievance is of a sensitive nature, the grievance may be filed directly with the Director or designee.

004.01 A grievance of a sensitive nature may be mailed as privileged mail or sent to the Director or designee by interoffice mail.

004.02 The inmate must clearly explain the nature of the grievance and the reasons for not following the regular grievance procedure.

004.03 If the Director or designee determines that the grievance is not of a sensitive nature, the grievance shall be returned to the inmate.

004.04 If the Director or designee determines that the grievance is of a sensitive nature, the Director or designee shall conduct any necessary investigation. If the investigation indicates that action should be taken, the Director or designee shall cause the appropriate steps to be taken to resolve the grievance. The Director or designee has twenty working days to respond to a grievance submitted as a grievance of a sensitive nature.

005 - Informal Grievance Procedures. The following procedures apply to inmate informal grievances:

005.01 When an inmate submits an Informal Grievance Resolution Form, unit staff will log and investigate the grievance.

005.02 The Informal Grievance Resolution Form may be obtained from unit staff.

005.03 The Informal Grievance Resolution Form must be filed within three calendar days of the incident.

005.04 Unit staff shall prepare a written response within ten working days.

006 - Step-One Grievance Procedures. The following procedures apply to Step-One Grievances:

006.01 The Step-One Grievance Form may be obtained from the inmate's case manager or designee.

006.02 The Step-One Grievance Form must be filed within 15 calendar days of the receipt of the informal grievance response, or if no response was received, within 20 calendar days of the incident giving rise to the grievance.

006.03 The inmate may address only one issue on a formal grievance or it will be returned to the inmate.

006.04 The Informal Grievance Resolution Form and response, if received, must be attached to the Step-One Grievance Form.

006.05 The formal grievance process begins when the inmate completes the inmate portion of the Step-One Grievance Form and submits it to the Warden or designee.

006.06 Upon receipt of the Step-One Grievance Form from the inmate, the Warden's designee shall sign and date the Step-One Grievance Form. The receipt for the Step-One Grievance Form shall be sent to the inmate.

006.07 The Warden's designee shall review and, if necessary, investigate the grievance. The results of the investigation shall be communicated to the Warden and include a proposed response to the grievance. The Warden or designee will review the suggested response, and will send 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.

007 Step-Two Grievance Procedures. The following procedures apply to Step-Two Grievances:

007.01 If the inmate wants to appeal the response to the Step-One Grievance, then the inmate must obtain a Step-Two Grievance Form from the inmate's case manager or designee.

007.02 The inmate shall submit the Step-Two Grievance Form to the Director by interoffice mail within 10 calendar days after receipt of the Warden's response. If the grievance is in an envelope it shall be clearly marked to indicate that it contains a Step-Two Grievance Form. The Step-Two Grievance Form may be mailed in compliance with the Department's rules governing privileged mail.

007.03 A copy of the Informal Grievance Resolution Form and the Step-One Grievance Form and responses must be attached.

007.04 The inmate may include additional information on the Step-Two Grievance Form. The inmate must also submit the additional information to the Warden.

007.05 The Director or designee shall respond to the Step-Two Grievance Form within twenty working days. The Director or designee may rely upon the information compiled by the Warden's investigation or conduct an additional investigation. The Director may modify, affirm or reverse the response of the Warden.

008 - Limitations on Grievances. An inmate may file no more than two Step-One Grievances per week (Monday Through Sunday), except for valid emergency grievances.

009 - Emergency Grievances. Emergency Grievances are those matters that must be resolved quickly because if the standard grievance time limits were used the inmate would be subjected to substantial risk of personal injury or other serious or irreparable harm.

009.01 Emergency Grievances shall be filed on Informal Grievance Resolution Forms.

009.02 Emergency Grievances shall be filed with unit staff.

009.03 Unit Staff Shall respond to Emergency Grievances.

010 - Abuse of the Grievance Process. If an inmate files frivolous, nuisance or duplicative grievances at any level, a designee of the warden will conduct a hearing to determine whether the inmate is abusing the grievance process. If it is determined that the inmate is abusing the grievance process, a reasonable limitation may be placed on the number of grievances the inmate is allowed to file.

011 - Other Remedies. Inmates may communicate grievances to persons outside the Department.

011.01 An inmate may communicate a grievance to the Office of Public Counsel/Ombudsman, legislators, attorneys, courts or others.

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

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

012 - Petitions. Inmates may circulate petitions for signatures.

012.01 The petitions cannot 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.

012.02 Inmates may petition the Warden or the Director requesting specific relief concerning a grievance involving a Department policy or practice. The petition must state the proposed change in Department policy or practice, the reason for the proposed change; and the circulator's full name and inmate number.

012.03 Inmates supporting the petition may sign the petition. An inmate signing the petition shall give his/her inmate number and the date of the signature. The signatures must be legible.

012.04 The petition shall be attached to a Step-One Grievance Form and submitted to the Warden within the time limits for filing Step-One Grievances.

012.05 The Warden shall consider the petition when responding to the grievance that the petition concerns.

012.06 If the inmates want to appeal from the decision of the Warden, the inmates shall attach the petition, the Step-One Grievance Form and the Warden's response to a Step-Two Grievance Form and submit it to the director within the time limits established for grievance appeals.

012.07 The Warden and Director will keep a copy of the petition with the record of the grievance that the petition concerns.

