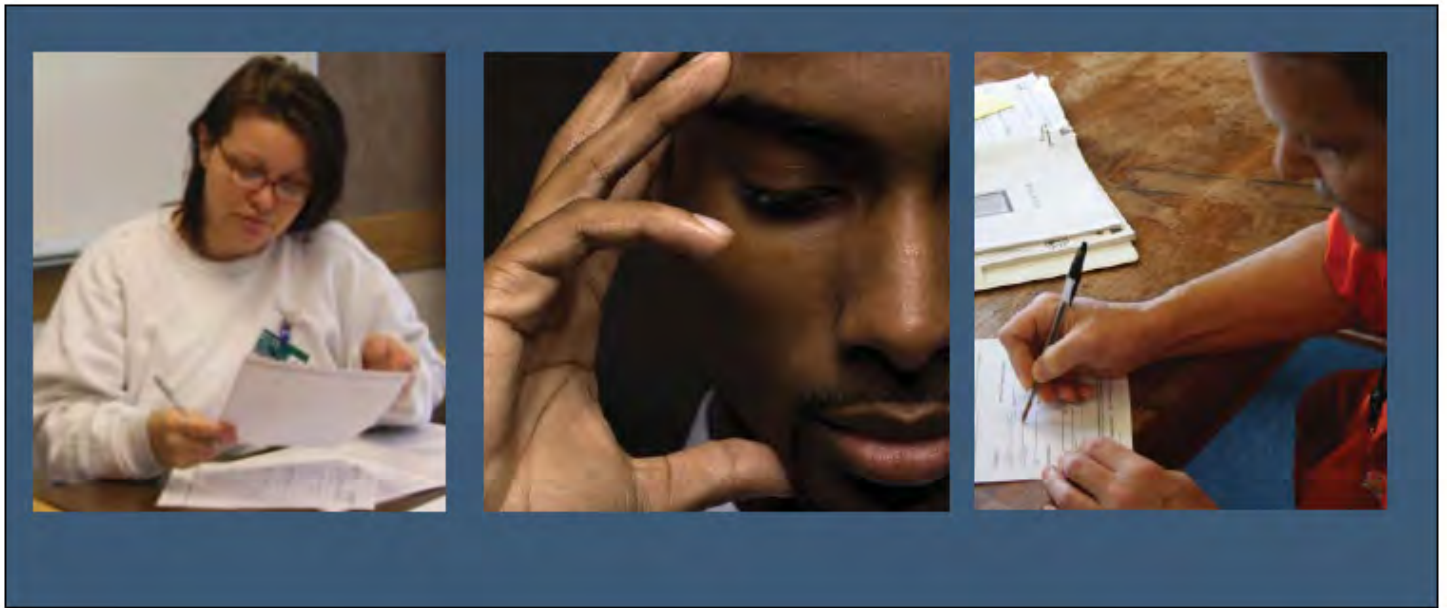


# Department of Corrections



# OFFENDER GRIEVANCE PROGRAM

# ***Department of Corrections Grievance Program Manual***

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## WHAT IS THE OFFENDER GRIEVANCE PROGRAM?

### Purpose

The Offender Grievance Program is an internal grievance and appeal system that promotes proper and effective communication between staff and offenders in an effort to resolve issues at the lowest possible level. Staff and offenders are encouraged to resolve problems together as part of their routine interaction.

### Philosophy

The Offender Grievance Program offers open access to a process which allows for the meaningful negotiation of problems to a just and fair conclusion. It recognizes the human dignity of offenders and staff as well as the privileges and limitations of the State. It offers a fair and satisfactory solution to a wide variety of conflict situations.

Since its inception in 1980, the Department of Corrections Offender Grievance Program has been, with certain exception, an open forum through which offenders can seek administrative remedies to their problems.

### This Manual

This revision is necessary to provide explanation of the Offender Grievance Program and easy to follow steps for the grievance process. The Manual:

- explains how and when an offender can access the grievance program; and
- provides management and staff with information/direction to support the offender grievance program locally;
- will NOT replace existing administrative channels of problem resolution.

## The Offender Grievance Program provides:

### For the Offender:

- consistent grievance policies, procedures, and forms for an offender from date of arrival at a reception center through institutional confinement, work release and community supervision;
- a way for every offender to have his/her grievance heard and dealt with in a formal manner;
- administrative review and resolution when informal resolution is not possible;
- fair and prompt decisions and actions in response to offender grievances; and
- regularly available channels for hearing and resolving offender grievances.

### For the Department:

- a management tool for administrators to be informed of developing trends and specific problems so that they may be addressed in a timely manner;
- a means to reduce conflict between offenders and the Department of Corrections and;
- administrative remedies to complaints that otherwise may cause unnecessary burden on courts.

### Changes to Policy, Procedure and Practice

The Grievance Coordinator is often the first point of contact in changing important issues. He/she should consult with appropriate staff and submit recommendations to the proper authority when change to policies, procedures, and practices appears warranted. Likewise, the Grievance Coordinator should not hesitate to tell offenders when no change appears warranted and state the reason(s) for the decision in their response.

### Management Information System

An integral part of the Offender Grievance Program is its computerized Management Information System (MIS) which is maintained in OMNI. This system permits:

- remote data entry by local Grievance Coordinators;
- monitoring and auditing capability locally and at the Grievance Program Office;
- indexing of complaints and grievances by the name/DOC number of individual offenders;
- on-time synopsis of individual grievances/complaints and their status within the grievance system and;
- on-site generation of statistical reports.

## HISTORY OF OFFENDER GRIEVANCE PROGRAM

The first grievance program began as a pilot project at the Washington State Penitentiary in 1980. The staff involved in that project persevered to pioneer a program that reshaped the manner in which staff interact with offenders and, possibly stemmed the tide of violence and destruction of property that had become routine in our prison system.

Here is a brief chronology of program milestones:

DATE	MILESTONE
1979	The Division of Institutions (later to become Department of Corrections) begins planning for an offender grievance system within its facilities after a riot at the Washington State Penitentiary.
August 25, 1980	A one-year pilot project begins at the Penitentiary.
August 1981	Modified grievance system is instituted at the Department's other institutions.
November 1981	A standardized grievance manual is published.
May 25, 1984	The grievance procedure at WSP is certified by the United States (Eastern) District Court. Certification of all institution grievance programs soon follows.
October 1984	Grievance procedure is expanded to include offenders under community supervision.
September 9, 1985	A revised Offender Grievance Program is implemented.
August 2009	A major revision of the Offender Grievance Program Manual is implemented.
July 1, 2013	A revised Offender Grievance Program Manual is published.

## WHAT IS INFORMAL RESOLUTION?

### Introduction

Resolution begins with communication. Many times you can find resolution to your issue quickly by opening lines of communication with staff or persons involved.

Informal resolution of conflict is preferable to pursuing a formal grievance. This means that offenders are expected to participate in problem solving by seeking the earliest possible resolution of problems. This does not mean that the filing complaints or pursuing formal grievances is discouraged.

### What should offenders do?

Offenders are expected to try to informally resolve their issues before filing complaints. They have 20 working days after an incident to file a complaint. They should talk to staff members or others involved, submit kites, letters, kiosk messages, etc. Offenders should let Grievance Coordinators know what steps they took and what responses they received.

The Grievance Coordinator will often look at the issue and try to answer questions or suggest other processes available in an attempt to informally resolve the issue. If the offender does not feel his/her issue is resolved, he/she may mark the appeal box and submit the complaint to the Grievance Coordinator using a new complaint form.

Offenders under the supervision of the Department of Corrections are afforded the right to file complaints, pursue grievances and appeal responses. Grievance topics may include:

- Employee Conduct
- Health Services
- Accounts
- Sentence Structure and Records
- Policy
- Prison Operations
- Food Services
- Religious Programs
- Facilities

There are three basic types of grievances: Routine, Emergency, and Employee Conduct. See glossary for full definitions.

## WHAT IS THE EMERGENCY COMPLAINT/GRIEVANCE PROCEDURE?

Emergency complaints are those that involve a potentially serious threat to the life or health of an offender or staff member, relate to severe pain being suffered by the offender, or that involve a potential threat to the orderly operation of a facility, and its resolution would be too late if handled through routine administrative or grievance channels.

If an offender believes he/she has a complaint that is an emergency, he/she must check the "EMERGENCY" box at the top of the complaint form, write his/her complaint, and submit it to a staff person immediately after the incident so it may be resolved in a timely manner.

Emergency complaints are handled by the Grievance Coordinator or designee (most often, but not always, the Shift Lieutenant). For all emergency complaints involving a medical issue, a licensed medical staff will make a determination of the need for medical attention. The individual responding to the emergency complaint must clearly state the medical staff decision on the form, note the date and time, legibly sign the form and ensure a copy is provided to the offender. When a complaint is determined to be non-emergent, it will be routed through routine channels.

The offender may appeal a non-emergent response to a **medical** emergency through the Superintendent/designee (usually the Duty Officer after hours). Appeals must be filed within one (1) hour of receipt of the decision that your complaint does not meet the criteria of an emergency.

Non-medical complaints found to be non-emergent will be processed as routine complaints and the response of non-emergent cannot be appealed.

Any complaint accepted as a formal EMERGENCY GRIEVANCE will be forwarded to the Grievance Program Manager for review. The Grievance Program Manager will determine if additional review is required by the medical director or other executive staff.

Emergency grievances cannot be appealed to Level III.

**IMPORTANT:** Offenders who declare false emergencies to staff may receive disciplinary action as authorized by the superintendent.

## Emergency Complaint/Grievance Timeframes

Action	Timeframe
Offender completes DOC 05-165 Offender Complaint, and notifies staff. Staff attempts to informally resolve.	Immediate
If not informally resolved, staff phones grievance coordinator/designee and reads complaint.	Within 30 minutes of being informed of the emergency
<b>If deemed an emergency</b> , staff forwards complaint to the grievance coordinator/designee.	Within 30 minutes of being deemed an emergency
Coordinator attempts to resolve informally or formally at Level I and responds in writing with a copy to the offender.	Within 8 hours (1-work shift)
Offender can appeal the response to the emergency to Level II.	Within 24 hours of receiving written response
Coordinator prepares Level II appeal and submits to superintendent/ facility supervisor.	Within 2 hours of receipt of handwritten appeal
Superintendent/facility supervisor investigates and responds in writing to the Level II appeal. Cannot be appealed to Level III.	Within 24 hours of receipt of Level II appeal
<b>If deemed non-emergent</b> , staff forwards complaint to coordinator.	Processed as routine complaint with routine complaint timeframes
Offender can appeal a non-emergent medical response to superintendent/designee (duty officer after hours).	Within 1 hour of receipt of response
Superintendent/designee makes final decision of the emergency status of the complaint.	Within 8 hours (1-work shift)
Non-emergent responses to non-medical complaints	Cannot be appealed



## WHAT IS GRIEVABLE?

Only incidents, policies or practices which personally affect the offender and over which the Department of Corrections has jurisdiction can be grieved. This includes actions by employees, contract staff, volunteers, and other offenders.

An offender may grieve:

- his/her place of confinement or conditions of supervision when it relates to policy, lack of policy, and/or not following policy;
- Department of Corrections policies, rules, and procedures;
- application or lack of application of policies, rules, and procedures;
- lack of policies, rules, or procedures that directly affect the living conditions of the offender;
- actions of employees, contract staff, or volunteers over whom the facility or supervising office has jurisdiction;
- actions of other offenders;
- any form of sexual assault, sexual abuse and/or employee sexual misconduct;
- retaliation against an offender for good faith participation in the grievance program;
- personal safety (housing, etc.);
- physical plant conditions;
- law firms and/or attorneys contracting with the Department of Corrections to provide legal assistance to offenders under the jurisdiction of the Department. This stipulation may be noted in writing in the contract between the department and the contractor.

An offender may file a grievance on behalf of a visitor who is disabled and unable to pursue the issue the Superintendent/designee by telephone or mail. The visitor must be on the offender's visit list and the grievance must focus solely on some aspect of that disability; and

Contractors may establish an internal process to review and attempt to resolve complaints from offenders regarding the services of the contractor. When such a process exists, the Grievance Coordinator will recommend to offenders that they use that forum prior to pursuing grievances. Offenders may pursue grievances if:

- the contractor's review process did not resolve the issue; or
- the grievant elects NOT to use the contractor's review process.

## WHAT IS NOT GRIEVABLE?

Offenders may not grieve any issue that has a Department approved formal review and/or appeal process. Offenders are directed to follow the correct review/appeal process to resolve those concerns.

The following issues are not grievable:

- State and Federal law [Includes Washington Administrative Code (WAC) and Revised Code of Washington (RCW)];
- court-ordered pre-sentencing reports;
- Community Corrections Officer (CCO) recommendations to a DOC Hearings Officer and/or the Indeterminate Sentence Review Board;
- special conditions imposed by a CCO in accordance with Department Policy;
- the Grievance Coordinator's infracting an offender for submitting a threatening or malicious complaint;
- an alleged inadequate grievance investigation. (Offenders may express such concerns in an appeal to the next level of review);
- an alleged inappropriate grievance response. (Offenders may express such concerns in an appeal to the next level of review);
- issues at a facility to which the offender has never been confined or assigned;

### Decisions

- court decisions;
- Indeterminate Sentence Review Board decisions;
- Classification, Facility Risk Management Team (FRMT), disciplinary, community release referral decisions;
- End of Sentence Review Committee and risk management decisions, community custody violation hearings, court testimony; or work release termination committee actions and decisions;
- decision made to place an offender on grievance abuse status or authorize an infraction;
- decisions made by Department of Enterprise Services/Risk Management regarding the disposition of Tort claims;
- the Grievance Coordinator's decision that a complaint is not grievable. Decisions may be appealed to the Grievance Program Manager;
- the Grievance Coordinator's decision regarding which type of formal grievance he or she will initiate. (Offenders may express such concerns in an appeal to the next level of review).

## WHAT IS NOT GRIEVABLE? (Continued)

Established appeal processes (includes but is not limited to):

- mail rejection;
- visit denial;
- property rejection;
- offender release plan denials;
- public disclosure requests/denials for information;
- infractions/disciplinary actions;
- indeterminate sentence review board (ISRB) decisions;
- classification decisions (transfers, custody level);
- facility risk management team (FRMT) decisions;
- Community Corrections imposed conditions;
- IMS assignment;
- segregation placement; and,
- prison compact.

### Outside jurisdiction

- Issues with actions of persons outside the jurisdiction of the facility/office;
- Offenders under city or county jurisdiction, but housed in a state facility, cannot grieve issues that pertain to city/county policies, procedures and other matters not under the jurisdiction of the Department of Corrections;
- Offenders serving DOC sanction time in a county jail facility must follow the grievance process of the county jail; and
- Department of Natural Resources (DNR) policies and procedures.

**NOTE:** Grievance Coordinators should refer DNR complaints to the local DNR administrator. Formal conduct grievances may be pursued against DNR staff only in the most flagrant cases such as alleged physical or sexual abuse or sexual harassment. Formal conduct grievances shall be investigated jointly by the DOC Superintendent and the DNR local administrator. Corrective actions against DNR staff are the responsibility of DNR administrators. Grievance Coordinators will discuss such issues with the Grievance Program Manager prior to initiating any formal conduct grievance against DNR staff.

## ARE GRIEVANCE DOCUMENTS CONFIDENTIAL?

### Introduction

Complaints and grievances will not be discussed or shared with staff or offenders not actively involved in the resolution of the grievance *unless there are safety/security concerns*.

Grievance documents, records, reports and other information are subject to the provisions of Chapter 137-08 WAC, Public Records - Disclosure.

IMPORTANT: Grievance Coordinators must keep grievance documents in a locked area.
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### Disclosure

Offenders will not routinely be given investigative reports and written testimony from staff or other offenders as such documents often contain sensitive information regarding the security of the facility, disciplinary actions taken with staff, or statements by other offenders which, if known, could lead to retaliation.

Grievance documents will not be placed in central files EXCEPT when they are part of an infraction packet.

Staff members grieved for alleged misconduct or retaliation may read the initial grievance during the interview with the assigned investigator. They will not be provided copies of the grievance or the investigative report for their personal retention but may be informed of the outcome of the grievance.

Staff participating in the disposition of a grievance shall have access to records essential to the resolution of the grievance." DOC Policy 640.020, Offender Health Record Management, authorizes grievance investigators to access an offender's health care records as necessary to resolve that offender's health care grievance(s). Such access does not require the offender's prior written approval. To the extent possible, however, grievances about health care related issues should be investigated by health care staff that already have access to those records.

## ACCESSING THE GRIEVANCE POLICY, PROCEDURE AND FORMS

Grievance Coordinators will ensure complaint forms are available to all offenders under the supervision of the Department of Corrections regardless of status and ensure assistance is provided to offenders who are not capable of filling out forms for themselves.

Copies of the manual will be maintained in the law library of each facility, at each regional office and each field office.

Each offender and new staff member will receive an orientation to the grievance procedure upon his/her arrival at the facility/local office, including the opportunity to have questions answered orally. Please check the offender handbook at your facility as to where the grievance boxes are located.

## HOW DO OFFENDERS WRITE COMPLAINTS?

In the written complaint, offenders must provide all information related to the issue. If necessary, the Grievance Coordinator may assist offenders in preparing accurate and inclusive complaints

### What form do offenders use?

- Use DOC 5-165, Offender Complaint, when submitting a complaint or an appeal.
- When complaint forms are not available, offenders may use 8 ½" x 11" paper.
  - Grievance staff will return complaints (unprocessed) if they are written on paper that is any other size.
  - Grievance staff will not accept complaints written on DOC 21-473, Offender's Kite or kiosk message.

## How do Offenders complete the form?

The entire complaint must fit in the allowed section of ONE form DOC 05-165. When proceeding to a formal grievance or appeal, the entire grievance should fit in the top section of ONE form 05-166, 05-168, 05-169 or 05-170.

STEP	ACTION
1.	<p><b>The complaint should be a simple, straight-forward statement of concern:</b> Offenders may not use legal language. While the Washington Administrative Code (WAC) may be referenced, citations of the Revised Code of Washington (RCW) provisions or case law are inappropriate. Complaints will be returned to be re-written for using legal language. The complaint should:</p> <ul style="list-style-type: none"> <li>• Identify the specific written policy or procedure;</li> <li>• Identify the lack of a specific written policy or procedure;</li> <li>• Identify a local practice or application of a policy or procedure which the offender believes is not in compliance with policy.</li> </ul>
2.	<p><b>Identify how the issue or incident affects the offender:</b> The offender must submit the complaint on his or her own behalf. The offender may not submit a complaint on behalf of another offender. "Class action" complaints and grievances are not acceptable.</p>
3.	<p><b>Identify:</b></p> <ul style="list-style-type: none"> <li>• name of all individuals involved;</li> <li>• date and approximate time of incident;</li> <li>• location of incident;</li> </ul>
4.	<p><b>State what happened or what was said:</b> If there is physical evidence to support an offender's complaint, the offender is required to provide it. The offender may retain the evidence, but the Grievance Coordinator or investigator must be allowed to photocopy it, take photographs of it, etc., so that the evidence may be evaluated at each grievance level. Refusal to produce physical evidence, or refusal to let the Grievance Coordinator/investigator reproduce it in some fashion, may be grounds for administrative dismissal of the complaint or grievance. The Grievance Investigator must document such refusals and forward the documentation to the local Grievance Coordinator. Grievances based on hearsay (third party information or what someone said they heard) are not acceptable.</p>
5.	<p><b>Identify the name(s) of witness(es):</b> If the offender has potential witnesses, he or she must list them in the complaint. If the identity of witnesses becomes known after the offender submits the complaint, he or she must forward a written listing of the names to the local Grievance Coordinator. If an offender alleges to have witnesses to an incident but refuse to identify those witnesses, grievance staff will administratively withdraw your complaint or grievance.</p>
6.	<p><b>The offender may include a suggested remedy, but it is not required.</b></p>
7.	<p><b>The offender must sign and date the form.</b> A signature is only required on the initial complaint or appeal unless the offender does not know how to write, or is physically unable to write.</p>

## HOW DO OFFENDERS SUBMIT COMPLAINTS?

Offenders are expected to prioritize their grievances and to attempt to informally resolve concerns through regular administrative channels prior to utilizing the grievance procedure.

### Prison, Pre-Release or Work Release

Prison, pre-release, and work release facilities will provide conveniently located grievance boxes for offenders to submit complaints. Grievance staff members maintain the only keys to grievance boxes. High security or high risk areas of a facility, i.e., segregation, intensive management, do not need to provide grievance boxes. When grievance boxes are not available, offender may request envelopes for their complaints. Grievance staff will return a copy showing the status of the complaint and the assigned grievance log ID number.

If an offender has been transferred and wishes to file a complaint or appeal with the grievance department at a previous facility, they should submit a complaint to the Grievance Coordinator at the current facility and request they forward it to the previous facility. These should only be for appeals, property or offender accounting issues.

### Community Supervision

Offenders on community supervision will complete forms DOC 05-165 Offender Complaint (available at the local community corrections office) and mail the forms to:

Grievance Program Manager  
Grievance Program Office  
Department of Corrections  
PO Box 41129  
Tumwater, WA 98501-1129

## WHY WOULD GRIEVANCE STAFF RETURN COMPLAINTS?

### Rewrite:

Grievance staff will return complaints/grievances with directions to rewrite when:

- complaint forms are available and the offender submitted the complaint on something other than the form;
- it is not a simple, straight-forward statement of concern;
- it contains excessive citations of law or legal terminology. If citations are used, they will not be considered in response to the complaint/grievance;
- it contains profane language or inappropriate language, except when used as a direct quote;
- it contains derogatory and abusive language towards staff;
- the appeal is different than the original issue in the complaint;
- if additional individuals are named in an appeal than are named in the initial complaint;
- there have been similar complaints regarding the same issue. Complaints regarding the same issue or incident will be assigned one Log ID number and grievance staff will return copies of each form with instructions to rewrite into one simple, clear, and concise complaint. Only one complaint about the same issue or incident may be filed;
- More information is necessary (Offender must send the requested information by the due date or grievance staff will administratively withdraw the complaint/grievance).

The request for rewriting is between the Grievance Coordinator and the offender. It cannot be appealed to the Grievance Program Manager.

### Non-grievable:

Grievance Coordinator will return complaints they determine are not grievable, with an explanation for the determination. You may appeal that decision to the Grievance Program Manager

### Grievance Limits

Grievance Coordinator will return complaints when the offender exceeds the limits explained in the "Abuse of Quantity" section on page 25 of this manual.



## WHAT HAPPENS AFTER AN OFFENDER SUBMITS A COMPLAINT?

### Determination and finalization

The Grievance Coordinator/Program Manager will determine whether the complaint is grievable. The Grievance Coordinator will decide if the grievance is routine, emergency, or employee conduct.

Grievance staff will type the complaint on DOC 05-166 Level I-Initial Grievance (or DOC 05-170 Employee Conduct Grievance form).

Formal, typed grievances and appeals will be accurate reproductions of the approved, handwritten complaint/appeals submitted, although spelling and grammatical errors may be corrected if the corrections do not change the meaning or intent of statements made. Offenders should direct concerns about typing errors in formal grievances/appeals to the local Grievance Coordinator by sending a kite or kiosk message including the grievance log ID number and identifying the discrepancies.

**Employee Conduct** - Grievance staff will type grievances which are accepted as Employee Conduct on DOC 05-170 Staff Conduct Grievance and send them directly to the Superintendent/designee for review and investigation as Level II grievances. Responses may be appealed to Level III, the Department's final response.

### Appeal of Determination of Not Grievable

An incarcerated offender can appeal a coordinator's decision that an issue is not grievable by submitting an appeal to the coordinator who will forward it to the Grievance Program Manager (GPM). The appeal should contain the offender's committed name, DOC number, and the Log ID number of the complaint. Offenders on community supervision should mail their appeals to the GPM or submit it to the CCO who will forward it to the GPM. The Grievance Program Manager will either uphold the Grievance Coordinator's decision or reverse it and refer the complaint back to the coordinator for further processing. The review will only determine if the issue is grievable, not the merits of the issue. NOTE: Items mailed to the Grievance Program Manager are *not* considered legal mail.

### Investigation

If at any time during the grievance process the offender refuses to be interviewed by a grievance investigator or to actively participate in such an interview, which includes showing up for the grievance call-out, the grievance or appeal may be administratively withdrawn. The grievance investigator will document such refusal and forward the documentation to the local Grievance Coordinator.

If a Federal Court inquires as to whether an offender has exhausted administration remedies through the grievance procedure, and the offender has refused to be interviewed, refused to provide physical evidence and/or refused to divulge the names of potential witnesses, a negative response to the court will be issued.

## Grievance Levels

- Level 0: The facility Grievance Coordinator:
- determines if the complaint is grievable;
  - may send the complaint back for more information; or
  - may attempt to informally resolve (Offender may appeal the informal resolution if not satisfied).
- Level I: Level I is the Grievance Coordinator's formal response (A coordinator may respond at level 0 and level I).
- Level II: Level II is the Superintendent's formal response. It will generally be assigned for investigation outside of the grievance office. A Grievance Coordinator who responded at level 0 and or level I cannot investigate a level II grievance.
- Level III: Level III is the Deputy Secretary/designee's formal response. It will be assigned for investigation by DOC HQ staff. This is the Department's final level of review for offender grievances and cannot be appealed.

## Levels of Review

The grievant will be informed in writing of the action at each level. If the offender does not agree with a response they need to resubmit as an appeal. A Level III response is the Department's final response and cannot be appealed.

The Grievance Coordinator/assigned investigator will:

- review assigned investigators instructions 05-311;
- review local policies and procedures as necessary;
- review DOC policies, WAC, RCW as necessary;
- review inventories, daily logs, medical records, etc. as necessary;
- interview resource staff (doctors, supervisors, chaplain, etc.) for additional perspective, as necessary;
- interview grievant and/or witnesses as appropriate.
  - Offenders will have an in-person interview at least one time during the grievance process. Interview is required prior to level III.
  - Exception: An in-person interview is not guaranteed when the offender has transferred or released. Staff may arrange an interview by telephone, kiosk, or other means with current facility staff.
  - Written statements may be accepted.

### Report elements

The Grievance Coordinator will ensure the investigator prepares a written report containing the following elements:

- name of investigator;
- name(s) of person(s) interviewed and date(s) time(s), and location(s) of interviews;
- synopsis of interview(s);
- citation of documents consulted (policy number, WAC, RCW, etc.);
- evidence found to substantiate or refute the grievant' s allegations;
- conclusions of the investigation; and
- suggested response.

### Response elements

The grievance will be answered in writing on the appropriate form at each level of review. The response will:

- address the issue grieved;
- may give name of the assigned investigator (if other than the Grievance Coordinator);
- may specify names of witnesses interviewed and/or resource staff consulted (sources of confidential information will not be disclosed);
- cite policy, WAC, RCW as necessary;
- state evidence found or note inability to find evidence;
- include a clear statement of findings; and
- give the reason(s) for the decision reached.

When a staff conduct grievance is found to have merit, the report and response should note that corrective action has been/will be taken and provide a date for that action when known.
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Completed complaints and grievances will be sent to the Grievance Program Office.

## WHAT ARE THE ROUTINE GRIEVANCE PROCESS TIMEFRAMES?

### Introduction

Specific timeframes are set at each level to ensure prompt response to complaints/grievances. The entire grievance process, from initiating the level I to completion of the level III should be completed within 90 working days. However, the process may take longer than 90 days in cases that involve rewrites and/or mail. It is the responsibility of both staff members and offenders to ensure complaint, appeals, and responses occur within established timeframes.

### Routine Grievance Timeframes

Action	Timeframe
Offender complaint submitted	Within 20 working days of the date of the incident. This timeframe does not apply to complaints against a specific written policy or operational memorandum.
Initial complaint response from coordinator	Within 5 working days of the date of receipt.
Offender returns rewrite or provides additional information if required	Within 5 working days of receipt of Grievance Coordinator's response.
Initial grievance response	Within 10 working days of the Grievance Coordinator formally initiating a level I grievance.
Offender's appeal to Level II	Within 5 working days of receipt of Level I response.
Superintendent/facility supervisor Level II response	Within 20 working days of the Grievance Coordinator formally initiating a level II grievance (including Staff Conduct).
Offender's appeal to Level III	Within 5 working days of receipt of Level II response.
Level III response	Within 20 working days of the date the formal appeal is assigned to an investigator by the Grievance Program Office.

### Contractor Review

Grievance Coordinators are authorized to waive the normal twenty (20) day filing timeframe in which to submit a complaint if the offender presents documentation of his/her attempts to resolve a conflict through a contractor's review process and allows the coordinator to photocopy the documentation for the grievance record.

### Correspondence

There is no timeframe established within which the Grievance Program Manager/designee must respond to offender correspondence mailed to the Grievance Program Office. Grievance staff will attempt to respond within thirty (30) working days from date of receipt. If grievance staff cannot respond within that timeframe, they may notify the offender that the correspondence has been received and they will respond later.

## **WHAT IF MORE TIME IS NEEDED?**

### **Timeframe not met**

When staff cannot meet a timeframe, grievance staff will:

1. send the offender a Notification of Time Extension DOC 05-171, stating the number of days added, the new due date, and the reason for the extension; OR
2. appeal the grievance automatically to the next level of review. However, no grievance will be automatically appealed to Level III unless at least one local investigation has been completed, the offender has been interviewed, and at least one response addressing the issue(s) has been provided at the local level.

### **Time extensions**

Extensions are generally limited to ten (10) working days; however, Grievance Coordinators may authorize extensions up to thirty (30) working days when there are extenuating circumstances. If a Grievance Coordinator determines that more than thirty (30) working days are necessary, or more than one extension is necessary at any level, he/she must request approval from the Grievance Program Manager/designee prior to issuing an additional Notification of Time Extension, DOC 05-171.

Excessive use of time extension notifications by a local facility may be cause for audits by the grievance program office, regional administrators, superintendents/facility supervisors or other entities as necessary to determine the underlying cause. The authority to issue time extension notifications shall not be abused at any grievance level.

## **WHAT IF THE OFFENDER TRANSFERS OR IS RELEASED FROM SUPERVISION?**

If the grievance was started prior to transfer or date of release, the grievance process remains at the facility/local office.

If the grievance is regarding property or funds which did not get transferred, it may be submitted (within 90 days from the date of transfer) against the facility from which the offender transferred.

## HOW ARE GRIEVANCES RESOLVED?

### Remedies available

Administrative remedies available through the Grievance Program include:

- *possible* restitution of property or funds;
- correction of records;
- administrative actions;
- agreement by department officials to remedy an objectionable condition within a reasonable time; and/or
- change in a local or department policy or practice.

## HOW DOES AN OFFENDER APPEAL THE OUTCOME OF A COMPLAINT OR GRIEVANCE?

Offenders may appeal level 0, level I, and level II responses by completing a new DOC 05-165, checking the appeal box and including the log ID number.

Offenders should state why the previous response was unacceptable, thereby establishing a rationale for the appeal and the basis for a reinvestigation. Appeals must address the same issue as the initial grievance. New or additional information regarding the original issue may be given, but new issues may not be added. If new issues are included, grievances will be returned to be rewritten.

While a rationale for the appeal is preferred, general statements such as "I appeal" or "Appeal to next level" or an exact restatement of the original grievance will be accepted.

Offenders must sign and date the appeal.

If an offender receives a not-grievable response because he/she was infracted for the incident, they may appeal that response if the infraction is overturned or dismissed.

## CAN AN OFFENDER FILE A TORT CLAIM WHILE A GRIEVANCE IS IN PROCESS?

### Introduction

Offenders may file a tort claim and a grievance regarding an issue at the same time. However, offenders are encouraged to seek remedy through the grievance system levels in an effort to resolve complaints (especially those regarding personal property) prior to initiating a tort claim.

### Investigation

The Grievance Coordinator and local DOC Tort Claim Manager should coordinate related investigations to avoid duplication of effort. All complaints that allege the state's responsibility for the loss, damage or destruction of personal property will be thoroughly investigated and documented.

When a complaint alleges the state's responsibility for the loss, damage or destruction of personal property a thorough investigation is conducted and documented.

Tort claims are filed with the State Risk Management Office. Investigations are provided to the State Risk Management Office for final action. When an investigation fails to substantiate allegations regarding personal property, the response should cite the evidence or lack of evidence used to formulate the decision and recommend that the offender appeal to the next level if there is intent to file a tort claim.

### Document requests

The offender, the Department of Corrections, the Department of Enterprise Services/Risk Management, and the Office of the Attorney General may use grievance documents in the investigation and resolution of tort claims.

Requests for grievance documents to be used in the processing of tort claims by department staff, the Department of Enterprise Services/Risk Management, or by the Office of the Attorney General should be made in writing or e-mailed to the Grievance Program Manager, not to the local Grievance Coordinator. However, if the Attorney General's office contacts the facility Legal Liaison office, grievance staff should provide requested information.

## WHAT IF A GRIEVANCE INVOLVES SEXUAL ASSAULT, SEXUAL ABUSE, RAPE AND/OR STAFF SEXUAL MISCONDUCT?

The Department maintains a zero tolerance policy with regard to sexual assault, sexual abuse, and/or rape of offenders and staff sexual misconduct.

Complaints and grievances alleging any form of sexual assault, sexual abuse, and/or employee sexual misconduct will be immediately processed per Prison Rape Elimination Act (PREA) Policy. Complaints and grievances investigated as PREA will not be investigated through the Offender Grievance Program. From the standpoint of the Offender Grievance Program, once a PREA complaint is reported as PREA, the complaint/grievance is considered informally resolved. If the PREA unit determines an issue is not PREA, the offender may pursue it through the Offender Grievance Program.

## HOW ARE ALLEGATIONS OF EMPLOYEE MISCONDUCT INVESTIGATED?

The appropriate institution superintendent, work release facility supervisor, or field administrator will ensure allegations of employee misconduct are thoroughly investigated-

### Assigned investigator

The investigator will be assigned by the superintendent, work release supervisor, field administrator, or regional administrator or a designee. Grievance Coordinators will not investigate Employee Conduct grievances.

To the extent possible, grievance investigations should be assigned to the person with supervisory authority over the person(s) being grieved or the area of the facility being grieved. This ensures that the supervisor is aware of the grievance and can recommend corrective action(s) to the appropriate entity as necessary.

### Confidential

Specific information regarding the action taken or to be taken against an employee should not be divulged in the grievance response as it is confidential and should remain between the appropriate administrators and the staff involved.

If misconduct is substantiated it should be noted in the administrator's response to the grievant, as well as the fact that corrective action has been/will be taken. The form or extent of that action is privileged and will not be revealed to the grievant.

### Retaliation

Retaliation for participation in the grievance program or for cooperating with the investigation is a separate issue, subject to administrative sanction and possible referral for criminal prosecution.



## CAN OFFENDERS BE DISCIPLINED FOR FILING GRIEVANCES?

### Introduction

The vast majority of offenders who have used the program have done so in a responsible and mature manner. A comparatively small number of offenders, however, have elected to abuse the Offender Grievance Program by submitting numerous grievances or by submitting grievances of a malicious or threatening nature. The submission of many grievances by a few makes it difficult to conduct quality investigations and provide meaningful responses for all.

### Abuse by Content

#### Malicious Complaint/Grievance

The institution superintendent, work release facility supervisor, or field administrator may initiate corrective action against a grievant if an investigation deems a complaint or grievance is malicious.

- **General Infraction**

The first time an offender submits a malicious complaint, the Superintendent/Work Release Supervisor may authorize grievance staff to write a general infraction. If the offender is found guilty and the finding is upheld, part of the sanction may be a written warning that subsequent malicious complaints will result in serious infraction(s).

- **Serious Infraction**

If the offender continues to submit malicious complaints, the Superintendent/Work Release Supervisor may authorize grievance staff to write a serious infraction. Infractions for malicious complaints should only be issued for flagrant violations. The Superintendent/Work Release Supervisor must pre-approve any infraction for a malicious complaint.

#### Threatening Grievance

If an offender submits a complaint which contains a direct threat to the life or safety of any person, he/she will receive an infraction.

Any grievance staff finding a direct threat to the life or safety of any person in a complaint, grievance, or appeal will initiate the disciplinary process per WAC 137-28. Because of the possible urgency of the matter, the Superintendent/Work Release Supervisor is not required to pre-approve the infraction.

Complaints containing direct threats from offenders on community supervision must be referred to the supervising community corrections officer.

## **Abuse by Quantity**

### **Limits**

Offenders may not submit more than five (5) new complaints per calendar week or have more than five (5) ACTIVE grievances and/or appeals. If an offender exceeds these limits, the Grievance Coordinator will return all materials, explain that the offender is over the limit and list all active log ID numbers. Offenders may not withdraw more than five (5) formal grievances/appeals per year in order to initiate new grievances. If an offender exceeds any of these limits, he or she may receive corrective action.

### **First violation**

The Grievance Coordinator will issue a written warning documenting the abuse and stating that subsequent violations may result in the offender being issued an infraction for interfering with the duties of staff.

### **Second and subsequent violations**

The Grievance Coordinator may submit objective documentation to the Superintendent/Work Release Supervisor and request to infract the offender for interfering with the duties of staff.

### **Infraction**

If the Superintendent/Work Release Supervisor chooses to authorize an infraction for interfering with the duties of staff, the decision will be made utilizing objective documentation supplied by the Grievance Coordinator and cannot be grieved or appealed to the Grievance Program Manager. If found guilty and that decision is upheld on appeal, the Grievance Coordinator shall make the appropriate notation in the infraction field on the appropriate management information system screen. This would be done by the Disciplinary Hearings Office for a serious infraction or Unit staff for a minor infraction. It should not be done by the GC.

Complaints accepted and processed by grievance staff as emergency grievances will not be considered when making the decision to infract an offender.

## **HOW CAN STAFF AND OFFENDERS SUGGEST CHANGES TO THE OFFENDER GRIEVANCE PROGRAM?**

Offenders and staff may submit suggestions to the Grievance Coordinator or Grievance Program Manager at any time.

Grievance Program Manager  
Grievance Program Office  
Department of Corrections  
PO Box 41129  
Tumwater, WA 98501-1129

## **HOW ARE GRIEVANCE DOCUMENTS MAINTAINED, ARCHIVED/STORED AND DISPOSED?**

### **Maintenance**

Grievance Coordinators will maintain grievance documents locally for six (6) months. The master grievance file will be contained in the Department of Corrections' Liberty™ database.

### **Archived**

Grievance staff will archive grievance documents in accordance with the approved agency retention schedule.

The Grievance Program Office will archive or store master grievance files concerning select issues, such as exposure to asbestos, for the period of time established by law or Washington Administrative Code.

### **Disposal**

Staff will review each local file/document over 6 months old to ensure it has been entered into Liberty™ database, and notify the grievance program manager of files for disposal. The grievance program manager will provide written authorization for the disposal of files.

Staff will destroy duplicate records according to State and Federal law.

## WHAT ABOUT LITIGATION?

The intent of the Offender Grievance Program is to assist offenders in resolving issues at the lowest level of the process to reduce the burden of offender litigation on the courts.

### **Requests for Client Advice**

The Grievance Program Manager can initiate a request for client advice when a grievance pertains to a potentially sensitive legal issue.

The Grievance Program Manager makes such requests in writing and outlines the issues involved, questions to be answered, and establishes a response due date. They will also provide pertinent grievance documents with the request.

The Superintendent, Work Release Supervisor or their designee can initiate local requests for client advice that involve grievances. They should provide a copy of the request to the Grievance Program Manager in order to avoid duplicate requests. They should also forward a copy of the response from the Assistant Attorney General to the Grievance Program Manager when complete.

### **Assistant Attorney General Requests for Grievance Information**

When the Department of Corrections receives notice of offender litigation filed against the agency, staff must assist Assistant Attorney General Divisions in preparing the department's legal defense.

Assistant Attorney General (AAG) Divisions can request that the Grievance Program Office provide copies of grievance documents or other information essential to a case. AAG staff can make initial requests by telephone, followed by a written request and accompanied by a copy of the litigation if necessary. The request should specify the documents needed and establish a due date.

AAG staff must send all requests to the Grievance Program Manager (not the local Grievance Coordinator), who will review the request and coordinate the gathering of grievance information. If the request is unduly burdensome on grievance program office staff time, the Grievance Program Manager will discuss the matter and possible relief with the Assistant Attorney General assigned to the case.

## WHAT ARE THE GRIEVANCE PROGRAM STAFF ROLES AND RESPONSIBILITIES?

### Grievance Program Manager

- establish dates for development and implementation of each local grievance system;
- determine specific responsibility of the facility superintendent/supervisor in the implementation and operation of the grievance system;
- provide specific direction for the facility superintendent/supervisor in the development of local written grievance procedures;
- ensure that the facility superintendent/supervisor designates a staff person as Grievance Coordinator for the facility;
- develop and distribute a standard grievance form for each level of review;
- establish and monitor a management information system for each facility;
- provide training for Grievance Coordinators in grievance policy, procedure, and data entry into management information system;
- ensure statistical reports are available to administrators that show for a given timeframe the number of grievances filed, types of grievances submitted, level of disposition, type of disposition and issues grieved;
- review local grievance procedures for compliance with department standards;
- transmit documents, decisions, recommendations, and other grievance-related material to all facilities;
- ensure that each local grievance procedure is evaluated as needed;
- establish a system by which operations within the Grievance Program Office may be audited at least biennially;
- request client advice from the Assistant Attorney General Division on legally sensitive issues;
- ensure distribution of the DOC Grievance Manual to appropriate department administrators;
- monitor availability of the DOC Grievance Manual at each site in designated locations for reference by offenders and staff.

### Superintendent/Work Release Supervisor

- appoint a Grievance Coordinator who, while in the performance of their grievance duties, reports directly to the Superintendent/immediate subordinate or Work Release Supervisor;
- designate staff members to serve as alternate Grievance Coordinator during prolonged absences (annual leave, sick leave, etc.) of the regularly assigned Grievance Coordinator;
- designate certain staff members to process emergency grievances during the normal off-duty hours (at night, weekends, etc.) of the Grievance Coordinator;
- ensure that the Grievance Coordinator, alternate Grievance Coordinator(s), staff designated to process emergency grievances and assigned investigators receive adequate training;
- ensure that necessary clerical support is available to the Grievance Coordinator;
- ensure that the Grievance Coordinator, alternate Grievance Coordinator(s) and, where appropriate, grievance clerical support staff have the proper identification codes to access management information system (OMNI) grievance screens and reports.

### Grievance Coordinator

- coordinate operation of the local grievance procedure and it's compliance with DOC Policy 550.100 and this manual;
- ensure that competent staff investigate and document each complaint to the extent necessary to understand the problem fully and to prepare an accurate and fair response;
- consult with appropriate staff when change appears warranted in policies, procedures, and practices and submit recommendations to the proper authority;
- distribute complaint forms;
- type grievances on proper forms;
- coordinate investigations;
- adhere to established timeframes;
- ensure all required documents are sent to Grievance Program Office;
- ensure confidentiality of grievance records;
- provide written and oral grievance orientation to offenders and staff;
- generate and distribute required reports.

## ***DEFINITIONS***

***ABUSE BY QUANTITY:*** Grievant's deliberate flooding of the grievance system with many and repeat complaints. A determination of abuse will be based solely on the quantity of complaints submitted. Grievance staff may infract offenders for abuse of the grievance mechanism.

***APPEAL:*** Submission of a complaint for processing to a higher level of review when the grievant is dissatisfied with a response at a lower level.

***APPEAL OF NONGRIEVABLE ISSUES:*** A Grievance Coordinator's decision that a complaint is not grievable may be appealed to the Grievance Program Manager for review. The review will determine grievability only, not the merits of the issue. The Grievance Program Manager may uphold the Grievance Coordinator's decision or reverse it, causing a formal grievance to be initiated.

***COMMUNITY CORRECTIONS OFFICE:*** A local corrections office from which offenders in the area on community supervision status are supervised.

***COMPLAINT:*** Written notification on the authorized form from an offender to the Grievance Coordinator that details a specific issue or action affecting the offender personally.

***EMERGENCY COMPLAINT/GRIEVANCE:*** Emergency complaints/grievances are those that involve a potentially serious threat to the life or health of an offender or staff member, relate to severe pain being suffered by the offender, or that involve a potential threat to the orderly operation of a facility, and its resolution would be too late if handled through routine administrative or grievance channels.

***FACILITY:*** A prison, pre-release facility, or work release where convicted felons are housed by the Department of Corrections.

***FIELD ADMINISTRATOR:*** A person directly responsible to oversee the operations of several community corrections offices.

***REGIONAL ADMINISTRATOR:*** A person directly responsible to oversee the operations of a geographical area of Community Corrections.

***GRIEVANCE:*** A formal, typed, version of a complaint that has been accepted by the Grievance Coordinator. Official grievance timeframes commence on the date the formal grievance is initiated by the Grievance Coordinator.

- Level I - the first level of a formal grievance.
- Level II - the first appeal level if the offender is not satisfied with the Level I response. Also the first level of a staff conduct grievance.
- Level III - the second and final appeal level if the offender is not satisfied with the Level II response.

## ***DEFINITIONS (Continued)***

***GRIEVANCE COORDINATOR:*** Staff member who is appointed by and responsible to the appropriate Superintendent or Work Release Supervisor for the operation of the local grievance procedure and for its compliance with DOC Policy 550.100 and the departmental Offender Grievance Program Manual.

***GRIEVANCE PROGRAM MANAGER:*** Staff member under the supervision of the Deputy Director of Prisons who has statewide responsibility for the Offender Grievance Program.

***GRIEVANT:*** The offender who pursues a formal grievance.

***LOG ID NUMBER:*** Also called a grievance number. A unique eight (8)-digit number assigned to a specific complaint and subsequent paperwork associated with that complaint.

***MALICIOUS COMPLAINT / GRIEVANCE:*** A complaint or grievance in which the offender causes or attempts to cause an innocent person to be penalized or proceeded against by lying to a staff member.

***MANAGEMENT INFORMATION SYSTEM (MIS):*** The department's OMNI computerized system written specifically by department staff for the electronic storage and retrieval of offender information.

***OFFENDER:*** An individual confined in a prison, pre-release, or work release facility, or who is on community supervision.

***OFFENDER GRIEVANCE PROGRAM:*** An internal grievance and appeal system that promotes proper and effective communication between staff and offenders in an effort to resolve issues at the lowest possible level.

***RCW:*** Revised Code of Washington.

***ROUTINE GRIEVANCE:*** A grievance against a policy or procedure, application of policy or procedure, lack of a policy or procedure, or the actions of another offender.

***STAFF:*** Employees of the Department of Corrections, volunteers, and providers of contracted services over which the department has jurisdiction.

***EMPLOYEE CONDUCT GRIEVANCE:*** A grievance against a specific, identified employee, contract staff, or volunteer under jurisdiction of the local facility or community corrections office, for alleged inappropriate demeanor, language or actions. Grievances alleging retaliation for participation in the Offender Grievance Program are also considered Employee Conduct grievances.

***SUPERINTENDENT:*** A person directly responsible to oversee the operations of a prison.

***THREATENING COMPLAINT / GRIEVANCE:*** A complaint, grievance or appeal which the offender directly threatens the life or safety of any person or to the orderly operation of a facility.

***WAC:*** Washington Administrative Code.

***WORK RELEASE SUPERVISOR:*** A person directly responsible to over-see the operations of a work release facility.



## GRIEVANCE FORMS

Offender Complaint Form	DOC 05-165
Offender Complaint Form (Spanish)	DOC 05-165S
Level I - Initial Grievance Form	DOC 05-166
Appeal to Level II Form	DOC 05-168
Appeal to Level III Form	DOC 05-169
Employee Conduct Grievance Form	DOC 05-170
Notification of Time Extension Form	DOC 05-171
Assigned Investigator's Instructions Form	DOC 05-311
Notification of Staff Conduct/Reprisal Grievance	DOC 20-303