

Adopt Cor 313, cited and to read as follows:

CHAPTER Cor 300 OPERATION AND MANAGEMENT OF CORRECTIONS DEPARTMENT  
ACTIVITIES

PART Cor 313 FORMAL COMPLAINTS AND GRIEVANCES BY PERSONS UNDER  
DEPARTMENTAL CONTROL

Cor 313.01 Purpose.

(a) The purpose of this rule is to establish an administrative procedure through which persons under departmental control (PUDC) seek formal review of an issue related to any aspect of their confinement when less formal procedures have not resolved the matter and through which probationers and parolees can address aspects of their supervision.

(b) This administrative process shall not be used to seek a formal review of issues pertaining to allegations of sexual abuse. The Department shall immediately respond to, investigate, and support the prosecution of reports of sexual assault, victimization and misconduct through both internal and external processes in partnership with state police, local law enforcement, county prosecutors and the NH Office of the Attorney General.

(c) Issues concerning any condition of confinement can be grieved by any PUDC or supervision including, but no limited to the following:

- (1) Discipline imposed under the disciplinary system;
- (2) Allegations of mistreatment or abuse;
- (3) Their assigned classification; and
- (4) Violations of any statute or rule.

(d) PUDC shall have access to the courts, requests and grievances to complain about matters which seem to impinge on their rights or to redress wrongs.

(e) PUDC shall not be treated adversely for complaining, filing a grievance or filing a lawsuit.

(f) PUDC who submit three or more complaints or grievances that were found to be baseless shall be subject to disciplinary measures.

(g) All PUDC shall be informed of this procedure during their orientation period.

(h) PUDC shall not submit a request or grievance on behalf of another PUDC or patient of the secure psychiatric unit without approval from the housing unit supervisor.

(i) PUDC shall utilize the electronic version of request and grievance unless staff can articulate and document that giving access to the required device might result in injury to the PUDC or may result in damage to the device.

(j) PUDC that are housed in county, state or federal facilities shall file any complaints or grievances where the problem can be corrected. Problems within a facility shall be addressed to the facility or system where located.

(1) Complaints about events that occurred while housed at a NH department of corrections facility shall be addressed in accordance with the timeframe and procedures set forth in this rule.

Cor 313.02 Definitions.

(a) Electronic Request – A communications method used by persons under departmental control and patients of the secure psychiatric unit to communicate with employees of the department of corrections.

(b) Formal complaint – A documented complaint utilizing the electronic request or request slip form of communication.

(c) Level I Grievance – the first level of a two level grievance procedure.

(d) Level II Grievance – The second level of a two level grievance procedure.

(e) “PUDC” means a person or persons under departmental control to include patients of the secure psychiatric unit.

(f) “Prison” means the NH state prison for men, NH correctional facility for women, northern NH correctional facility, residential treatment unit, transitional work center, transitional housing units, and persons under departmental control supervised in the community and those who are residing in county, federal or out-of-state facilities.

(g) “Request Slip” form – a form used by patients of the secure psychiatric unit PUDC to communicate in written form with employees of the department of corrections.

(h) "Secure psychiatric unit" means a secure forensic facility of the department that is organizationally and operationally separate and clinically and programmatically autonomous from the state prison for men, and which is designed, organized, and staffed to provide safe, secure psychiatric treatment to individuals who are committed to that facility by the courts or transferred to that facility under the provisions of RSA 622:40-48.

Cor 313.03 Procedure.

(a) This rule shall provide a three-tiered system for complaints and grievances:

(1) Formal Complaint;

(2) Level I Grievance; and

(3) Level II Grievance.

Cor 313.04 Formal Complaint

- (a) Formal complaints will utilize the “Electronic Request” or “Request Slip” process.
- (b) Formal complaints shall be limited to one subject per complaint.
- (c) All formal complaints shall be transmitted without alteration, interference or delay.

(d) PUDC shall attempt resolution at the lowest level possible using the formal complaint process before filing a grievance. This means attempting resolution up to the highest level housing or area supervisor first such as:

- (1) Housing unit supervisor;
- (2) Dental supervisor;
- (3) Canteen supervisor;
- (4) Medical supervisor; or
- (5) Chief probation and parole officer; etc.

(e) Formal complaints must be received within 30 calendar days of the date on which the event complained of occurred.

(f) A formal complaint must contain sufficient detail to allow for investigation, including, but not limited to:

- (1) The PUDC’s name;
- (2) The date of the occurrence;
- (3) The name(s) of departmental staff involved;
- (4) The name of witnesses;
- (5) The nature of the complaint;
- (6) The violation of policy, rule or law; and
- (7) The relief or action that is sought.

(g) When a staff member receives a formal complaint, the staff member shall ascertain the nature of the complaint, and determine if it is within the staff member’s authority to answer the formal complaint or rectify the situation.

(h) If the formal complaint exceeds the recipient’s authority, the formal complaint shall be forwarded to a person with the authority to respond appropriately.

(i) The formal complaint process can be skipped when the PUDC can demonstrate that using the formal complaint process is likely to result in identifiable risk or harm to their physical safety or psychological well-being. An un-supported allegation of fear of retaliation shall not be sufficient.

(j) Inquiry into formal complaints shall be straight forward and factual.

(k) If investigation into the subject matter of the formal complaint requires additional time for investigation, an additional 15 days shall be available. The requestor shall be notified of any extension before the initial 15 days expires.

(l) PUDC will be notified of the facts and resolution in writing.

(m) Formal complaints shall be responded to within 15 working days of receipt. Appropriate responses are:

(1) Granting the relief requested;

(2) Denying the relief requested; or

(3) Referring the PUDC to the appropriate staff or area to address the formal complaint.

Cor 313.05 Level I Grievance

(a) All grievances shall be transmitted without alteration, interference or delay.

(b) Except as noted in 311.04 (h), a Level I Grievance shall not be accepted unless it demonstrates that the formal complaint process has been utilized.

(c) Level I Grievances shall be directed to the appropriate warden, director, or administrator as follows:

(1) Items controlled by uniform staff to the warden or director;

(2) Maintenance, laundry and food issues to the director of administration;

(3) Resident accounts to the director of administration;

(4) Medical, dental, and pharmacy to the director of medical and forensics;

(5) Behavioral health issues to the director of medical and forensics;

(6) Disciplinary hearings, claims or investigations to the professional standards director;

(7) Classification and client records to the administrator of classification and client records;

(8) Community corrections and programs to the director of community corrections and programs; and

(9) Probation and Parole to the director of field services.

(d) Level I Grievances shall be limited to one subject per grievance.

(e) Grievances must be filed within 15 days of the date of the response to the formal complaint.

(1) If a PUDC can demonstrate a valid reason for a delay, an extension in the filing time shall be granted. The reason for any extension shall be stated in the grievance.

(f) Grievances shall be date stamped on the date of receipt whether electronically or manually. The date stamp shall be the controlling factor when determining timelines.

(1) A tracking and recording system shall be established by the warden, director or administrator to record the grievant's name, the date of receipt, the date of the reply or action, the reply or action taken, and other data determined to be useful.

(g) A grievance must contain sufficient detail to allow for investigation, including, but not limited to:

- (1) The PUDC's name;
- (2) The date of the occurrence;
- (3) The name(s) of departmental staff involved;
- (4) The name of witnesses;
- (5) The nature of the complaint or request;
- (6) The violation of policy, rule or law; and
- (7) The relief or action that is sought.

(h) The warden, director or administrator shall review the grievance, direct an investigation be conducted if necessary, and respond to the grievance.

(i) If the grievance exceeds the warden, director or administrator's authority the grievance shall be forwarded to the person with the authority to respond appropriately.

(j) The Level I Grievance process can be skipped when the PUDC can demonstrate that using the Level I Grievance process is likely to result in identifiable risk or harm to their physical safety or psychological well-being. An un-supported allegation of fear of retaliation shall not be sufficient.

(k) Inquiry into requests shall be straight forward and factual.

(l) PUDC will be notified of the facts and resolution in writing.

(m) Grievances shall be responded to within 30 calendar days of receipt. Appropriate responses are:

- (1) Granting the grievance;
- (2) Denying the grievance; or

(3) Referring the PUDC to the appropriate staff or area to address the grievance.

(n) If investigation into the subject matter of the Level I Grievance requires additional time for investigation, an additional 30 days shall be available. The PUDC shall be notified of any extension before the initial 30 calendar days expires.

Cor 313.06 Level II Grievance

(a) All grievances shall be transmitted without alteration, interference or delay.

(b) Except as noted in 311.05 (i), a Level II Grievance shall not be accepted unless it demonstrates that the Level I Grievance process has been utilized.

(c) Level II Grievances shall be directed to the commissioner.

(d) Level II Grievances shall be limited to one subject per grievance.

(e) Level II Grievances must be filed within 15 days of the date of the response to the Level I Grievance.

(1) If a PUDC can demonstrate a valid reason for a delay, an extension in the filing time shall be granted. The reason for any extension shall be stated in the grievance.

(f) Level II Grievances shall be date stamped on the date of receipt whether electronically or manually. The date stamp shall be the controlling factor when determining timelines.

(1) A tracking and recording system shall be established by the commissioner's office to record the grievant's name, the date of receipt, the date of the reply or action, the reply or action taken, and other data determined to be useful.

(g) A Level II Grievance must contain sufficient detail to allow for investigation, including, but not limited to:

- (1) The PUDC's name;
- (2) The date of the occurrence;
- (3) The name(s) of departmental staff involved;
- (4) The name of witnesses;
- (5) The nature of the complaint or request;
- (6) The violation of policy, rule or law; and
- (7) The relief or action that is sought.

(h) The commissioner shall review the grievance, direct an investigation be conducted if necessary, and respond to the grievance.

- (i) Inquiry into requests shall be straight forward and factual.
- (j) PUDC will be notified of the facts and resolution in writing.
- (k) Level II Grievances shall be responded to within 30 calendar days of receipt. Appropriate responses are:
  - (1) Granting the request;
  - (2) Denying the request; or
  - (3) Referring the PUDC to the appropriate area to address the grievance.

(l) If investigation into the subject matter of the Level II Grievance requires additional time for investigation, an additional 30 calendar days shall be available. The PUDC shall be notified of any extension before the initial 30 calendar days expires.

Appendix

<b>RULE NUMBER</b>	<b>STATUTE IMPLEMENTED</b>
Cor 313	RSA 21-H:13, I, II and II-a