

NH DEPARTMENT OF CORRECTIONS POLICY AND PROCEDURE DIRECTIVE	CHAPTER <u>General Administration</u> STATEMENT NUMBER <u>1.16</u>
SUBJECT: GRIEVANCES AND COMPLAINTS BY PERSONS UNDER DOC SUPERVISION PROPONENT: <u>Colon Forbes, Director</u> <i>Name/Title</i> <u>Commissioner Office 271-5603</u> <i>Office</i> <i>Phone #</i>	EFFECTIVE DATE <u>7/30/2015</u> REVIEW DATE <u>4/1/2017</u> SUPERSEDES PPD# <u>1.16</u> DATED <u>05/01/2012</u>
ISSUING OFFICER: <hr/> <i>William Wrenn, Commissioner</i>	DIRECTOR'S INITIALS: _____ DATE: _____ <hr/> APPENDIX ATTACHED: YES _____ NO _____
REFERENCE NO: See reference section on last page of PPD.	

I. **PURPOSE:**

To provide an administrative process through which inmates/residents seek formal review of an issue related to any aspect of their confinement if less formal procedures have not resolved the matter and through which probationers or parolees can address aspects of their supervision.

This administrative process will not be used to seek a formal review of issues pertaining to allegations of sexual abuse. NHDOC Policy 5.19 *Prison Rape Elimination Act Procedures* mandates that 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.

II. **APPLICABILITY:**

To all inmates/residents, former inmates/residents for issues that arose during their confinement, and staff

III. **POLICY:**

It is the policy of the Department of Corrections that:

- A. All references to "Prison" mean the New Hampshire State Prison for Men, the New Hampshire State Prison for Women, the Northern New Hampshire Correctional Facility and Community Corrections Transitional Housing Units and Transitional Work Center. This policy also applies to persons under supervision by Field Services, at the Secure Psychiatric Unit/Residential Treatment Unit (SPU/RTU), as well as DOC inmates who have been transferred to county, federal or out-of-state facilities. See section IV (G) to obtain information regarding grievances and complaints filed by inmates who have been transferred to county, federal or out-of-state facilities.

- B. All references to “grieving” an issue refer to both the request slip and grievance form requirements unless otherwise specified.
- C. Since all persons under supervision retain many of their legal rights, it is the Department's policy to respect those rights and to treat inmates/residents in accordance with the Department's mission and value statements.
- D. Access to the Courts, the request slip, and grievance system provide methods for persons to complain about matters which seem to impinge on their rights or to redress wrongs both through administrative and judicial channels. Inmates/residents will not be treated adversely because they use these methods. However, if it is established that a request contains information that could not reasonably have been believed to be true, disciplinary action for violation of PPD 5.25 may be imposed. In addition, if the inmate's/resident's cumulative use of the request slip and grievance system is abusive, disciplinary action may be imposed. In order to be abusive an inmate/resident must have submitted at least three requests that have been determined to be baseless within a six-month period.
- E. Issues concerning any condition of confinement can be grieved by any person under departmental supervision including but not limited to the following:
 - 1. Discipline imposed under the disciplinary system (see PPD 5.25);
 - 2. Allegations of mistreatment or abuse;
 - 3. Violations of any statute, PPD, rule, regulation, or posted policy; and
 - 4. Requests for assistance or services or to request consideration or reconsideration of any matter in which the writer believes he/she was improperly or unfairly treated.
- F. This policy provides a three tiered system for filing a grievance that includes an appeal process.
- G. All persons under supervision are informed of the grievance procedures through the Inmate Manual and publication of this PPD.
- H. A request or grievance shall be transmitted without alteration, interference or delay to the addressee.
- I. An inmate/resident shall not use this process to submit a request or appeal on behalf of another inmate/resident.

IV. PROCEDURE:

A. LEVEL 1 - REQUEST SLIPS

The first level of administrative dispute resolution for any inmate in departmental facilities is by use of the Inmate Request Slip (attachment 1) process to the appropriate staff as to all issues. For residents in SPU/RTU, the form is the Resident Request Slip (attachment 2). For complaints from parolees/probationers, the first level shall be by grievance to the Director of Field Services.

1. **Timing:** A request slip regarding any issue must be received within 30 calendar days of the date on which the event complained of occurred. Request slips will be dated as received during first shift and initialed by the receiving officer. The date the request is received will be the controlling factor in determining timeliness. Requests for assistance or services, except in cases of verifiable emergency, must be submitted at least seven days before the assistance or service is requested, although scheduling may depend on availability and resources.
2. **Content:** A request slip must contain sufficient detail to allow for investigation, including but not limited to: the inmate's/resident's name, the date of the occurrence, the name(s) of departmental staff involved, the names of witnesses, the nature of the complaint or request and what relief or action is requested. The request slip must refer to a single event, incident or subject matter.
3. **Handling:** Complaints should be addressed to the lowest level staff person with the authority to address the issue raised. This may be a Correctional Officer or other unit staff up to the Unit Manager/Captain, or departmental staff below the Warden's Office, outside the unit such as the Dietician or medical staff. The officer receiving request slips

will forward the request to the person to whom it is addressed. Request slips addressed to the Warden or Commissioner, or that does not specify an addressee, will be given to the Unit Manager/Captain. When a staff member receives a request slip from an identified inmate/resident about any of the circumstances surrounding his/her confinement, the staff member will immediately ascertain the nature of the complaint and determine if it is within the staff member's authority to rectify the situation or to respond to the complainant. If the complaint exceeds the recipient's authority, it will be forwarded through the chain of command to the Unit Manager/Captain. Any staff member between the recipient and the Unit Manager/Captain who is authorized to deal with the issue raised can and should do so. A valid response includes but is not limited to:

- a. Granting the request;
 - b. Denying the request; or
 - c. Referring the inmate/resident to the person or Department outside the unit that can grant or deny the relief requested.
 - d. If the Unit Manager/Captain or other department level staff are not authorized to deal with the issue, they shall immediately respond to the inmate/resident, advising them that the request cannot be dealt with at the unit level and that they can appeal through the grievance process to the Warden or Division Director. Complaints should be submitted to the lowest organizational level with the authority to resolve the issue.
4. Waiver: The request slip process may be waived when the inmate/resident can demonstrate that using the process is likely to result in identifiable risk of harm to their physical safety or psychological well-being. An unsupported allegation of fear of retaliation without more information is not sufficient. If a waiver is sought it must be made within the 30 day time period for making the initial request and addressed to the Warden; or if the inmate/resident is in SPU/RTU to the Director or if a probationer/parolee to the Director of Field Services or Transitional Housing Unit inmates to the Director of Community Corrections. If the waiver is denied, the inmate/resident will have five days from the date of the denial to comply with the requirements for submitting a request slip.
 5. Response: The request slip will be answered within 15 working days. Inquiry into a complaint will be straightforward and factual and the complainant will be notified of the facts/resolution in writing. If investigation into the subject matter of the request requires additional time for investigation, an extension for an additional 15 days is available. The inmate/resident shall be notified prior to the end of the initial 15 day period that an extension is being taken. It is important that complaints are responded to expeditiously, accurately and thoughtfully.

B. LEVEL 2 – GRIEVANCE TO WARDEN/DIRECTOR

The second level of administrative dispute resolution for any inmate/resident in departmental facilities or any parolee/probationer is the Grievance Form (attachment 3). The Grievance Form shall be directed to the Warden of the facility in which the inmate is currently housed; if the inmate/resident is in SPU/RTU the Director in charge of SPU/RTU; or for inmates in the Transitional Housing Units/Transitional Work Center to the Director of Community Corrections; or for parolees/probationers to the Director of Field Services.

1. Timing: A grievance regarding any issue must be received within 30 calendar days from the date of the response to the request slip. Grievance Forms will be date stamped on the date received by the Warden/Director. The date the grievance is received will be the controlling factor in determining timeliness.
2. Content: A grievance must contain sufficient detail to allow for investigation, including but not limited to: the inmate's/resident's name, the date of the occurrence, the departmental staff involved, the names of witnesses, the nature of the complaint or request, and what relief or action is requested. A grievance will not be accepted unless it demonstrates that the request slip process has been utilized or unless a waiver has been

obtained under Section IV, A, 4. A copy of the level one response should be attached. Attempts to by-pass the request slip system will simply be returned without action and will not be counted in determining whether the time requirement for submitting a request slip has been met. A separate grievance must be filed regarding each request slip response that the inmate/resident wishes to appeal.

3. Handling: The Warden/Division Director will review the grievance, direct an investigation be conducted as necessary, and respond to the grievance.
4. Waiver: If the inmate/resident can demonstrate a valid reason for a delay, an extension in the filing time may be granted. The reason for any extension of time must be stated in the grievance. In general, a valid reason for delay means a situation not caused by the inmate/resident that prevented the inmate/resident from submitting the request within the established timeframe. Valid reasons may include the following:
 - a. An extended period of time in-transit during which the inmate/resident was separated from documents needed for preparation of an appeal or grievance.
 - b. An extended period of time during which the inmate/resident was physically unable to write a grievance or appeal.
5. Response: The Warden/Director has 30 calendar days to respond to the inmate. The timeframe begins the day the grievance is received by the Warden/Director and may be extended by 15 calendar days. The inmate/resident will be notified if the time period is being extended.

C. LEVEL 3 – GRIEVANCE TO COMMISSIONER

If an inmate/resident is not satisfied with the Warden/Director's response, he/she may file an appeal, using the Grievance Form, to the Commissioner's Office.

1. Timing: A grievance regarding any appeal from a determination of the Warden/Director must be received within 30 calendar days of the date of the response by the Warden/Director. Grievance Forms will be date stamped on the date received by the Commissioner's Office. The date the grievance is received will be the controlling factor in determining timeliness.
2. Content: An appeal grievance must contain sufficient detail to allow for investigation, including but not limited to: the inmate's/resident's name, the date of the occurrence, the departmental staff involved, the names of witnesses, the nature of the complaint or request and what relief or action is requested. A grievance will not be accepted unless it demonstrates that the inmate/resident has previously utilized the request slip process at the unit level and filed a grievance with the Warden/Director. Attempts to by-pass the institutional grievance system will simply be returned without action and will not be counted in determining whether the time requirement for submitting request slips and a grievance to the Commissioner has been met. A separate appeal grievance must be filed regarding each response to a grievance that the inmate/resident wishes to appeal.
3. Handling: The Commissioner's designee will review the grievance, direct that such investigation be conducted as necessary, and respond to the grievance.
4. Waiver: If the inmate/resident can demonstrate a valid reason for a delay, an extension in the filing time may be granted. The reason for any extension of time must be stated in the grievance. In general, a valid reason for delay means a situation not caused by the inmate/resident that prevented the inmate/resident from submitting the request within the established timeframe. Valid reasons may include the following:
 - a. An extended period of time in-transit during which the inmate/resident was separated from documents needed for preparation of an appeal or grievance.
 - b. An extended period of time during which the inmate/resident was physically unable to write a grievance or appeal.
5. Response: The Commissioner's Office has 30 calendar days to respond to the inmate/resident in writing. The timeframe begins the day the grievance is received by the Commissioner and may be extended by 30 calendar days. The inmate/resident will be notified if the time period is being extended.

- D. A tracking and recording system for the grievance procedure will be established by the Warden/Division Director and the Commissioner's Office to record the grievant's name, the date of receipt, the reply or action taken, the date of the reply or action, and other data determined to be useful. A designated individual will be responsible for documenting grievances. The grievance should be stamped on the day received.
- E. The timeframes set out in this policy are mandatory. Prompt notice of complaints or issues is necessary in order to allow the Department to address issues in a meaningful way and to prevent problems from occurring. Failure to comply with the timeframes set out in this policy will result in a request or grievance being dismissed as untimely. Inmates/resident should be aware that failure to comply with these timeframes might impact their right to pursue any other legal remedy.
- F. Use of Forms: The use of the appropriate form is mandatory. These forms are carbonless triplicate forms containing a white copy for offender records (or in the SPU/RTU medical record), a yellow copy to be retained by the staff responding to the grievance, and a pink copy to be returned to the inmate/resident. Any grievance that is received that is not on a form with all three copies present will be returned unanswered to the inmate/resident with a blank copy of the form.
- G. **NH INMATES HOUSED AT FACILITIES OTHER THAN A NHDOC FACILITY**
1. Inmates who are housed in county, federal or out-of-state facilities should file any complaints or grievances where the problem can be corrected. Problems within a facility should be addressed at the facility or system where located.
 2. Complaints about events that occurred and/or other issues that arose while you were still housed at a New Hampshire facility must be addressed in accordance with the time frame and three tiered system for filing a grievance set forth in this policy.
 3. Complaints about the New Hampshire system or issues which cannot be addressed at the facility where housed should be addressed by first filing a Level 1 request slip to the lowest level staff person with the authority at the Department of Corrections to address the issue raised. The request slip should be submitted in accordance with the timeframe and procedures set forth in Section IV (A). If an inmate is not satisfied with the response he/she may file a grievance directed to the Commissioner's Office in accordance with the procedures set forth in Section IV(C). The grievance to the Commissioner's Office must be sent within 30 days from the date of the response to the request slip. In the event that the complaint relates to rules or procedures that cannot be addressed at the local level as set forth in Section IV (A), the complaint may be sent directly to the Office of the Commissioner. In such instances, the grievance to the Commissioner's Office must be sent within 30 days from the date that the issue arose.
- H. In the event that an inmate can demonstrate a valid reason for delay, an extension may be requested pursuant to the waiver provisions set forth in this policy.
- I. Inmates can request copies of Inmate Request Slips and Grievances Forms from Offender Records.

REFERENCES:

Standards for the Administration of Correctional Agencies
Second Edition Standards
2-CO-3C-01

Standards for Adult Correctional Institutions
Fourth Edition Standards
4-4284

Standards for Adult Probation and Parole Field Services
Third Edition Standards

Standards for Adult Community Residential Services
Fourth Edition Standards
4-ACRS-6B-03

Other
Draft #2 3 May 2002
Njs edition, July 17, 2002; 186562

FORBES/jc

Aug 5 ed Njs Sept. 19, 2002; 195358

Attachments

INMATE REQUEST SLIP

Submit your request to the Unit Supervisor, Security Lieutenant or CC/CM. Your Unit Supervisor, Security Lieutenant or CC/CM will help you resolve the problem or it will be forwarded to the appropriate person. Unit Supervisors, Security Lieutenants or CC/CMs will forward the request NOT the inmate. Request slips not reviewed by the Unit Supervisor, Security Lieutenant or CC/CM will be returned to you.

TO: Unit Supervisor, Security Lieutenant or CC/CM DATE: _____

FROM: _____ ID#: _____

Last Name First Name Middle Initial

Housing Unit Pod/Tier/Div. Cell Work/Shift

INMATE

REQUEST: _____

(If you need more space, use plain paper)

Inmate Signature

TO: _____ DATE: _____

FROM: Unit Supervisor, Security Lieutenant, or CC/CM

REMARKS: _____

Staff Signature

TO: _____ DATE: _____

Inmate Housing Unit Cell #

FROM: _____

REMARKS: _____

Staff Signature

RECEIVED BY _____

Inmate Signature

RESIDENT REQUEST SLIP

DATE: _____

1. TO: _____

FROM: _____

LAST NAME	FIRST NAME	MIDDLE INITIAL

WARD _____ RM # _____

REMARKS: _____

RESIDENT'S SIGNATURE

2 THRU CUSTODY - Yellow copy for delivery to Resident - White copy to medical records for file DATE _____

TO: **RESIDENT** _____ **WARD** _____ **RM #** _____

FROM: _____

REMARKS: _____

STAFF SIGNATURE

3 ACKNOWLEDGEMENT - Resident retains Yellow copy with reply. DATE _____

RESIDENT'S SIGNATURE

TO MEDICAL RECORDS FOR FILE - White Copy
 RESIDENT RETAIN - Yellow Copy
 RETAINED BY RESPONDING STAFF MEMBER - Pink Copy

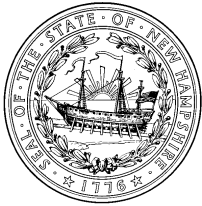
**SPU6
REV. 9/91**

GRIEVANCE FORM
(See Reverse for Instructions)

STATE OF NEW HAMPSHIRE
DEPARTMENT OF CORRECTIONS

William Wrenn
Commissioner

PO BOX 14
CONCORD, NH 03302-0014



- 1. Date: _____
- 2. GRIEVANT: _____ 3. Number: _____
- 4. Address: _____
- 5. Brief Description of Grievance: _____

Signature: _____

(You will be penalized if statements are untrue)

(Use Attachments if necessary)

TO: DIRECTOR (Warden) Date of Director's Action: _____

Director's Action: _____

Authentication: _____

TO: COMMISSIONER Date of Commissioner's Action: _____

Commissioner's Action: _____

Authentication: _____

(FORWARD ALL THREE COPIES. WHITE WILL BE FILED IN OFFENDER RECORD, CANARY TO RESPONDER AND PINK TO GRIEVANT)