Readopt with amendment Cor 313.03, effective 5/25/2019 (Document #12792), to read as follows:

Cor 313.03 Grievance Procedures.

(a) A resident shall attempt informal resolution before filing a grievance under this section.

(b) A grievance shall be written by a resident on their own behalf and contain complaints such as, but not limited to:

(1) Discipline imposed under the disciplinary system;

(2) Allegations of mistreatment or abuse;

(3) His or her classification assignment; and

(4) Violations of any statute or rule.

(c) The grievance procedure shall afford a successful grievant a meaningful remedy.

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

(e) Every resident shall be entitled to utilize the grievance procedure regardless of any disciplinary, classification, or administrative decision to which the resident may be subject.

(f) Residents who submit 3 or more complaints or grievances that are found to be baseless, or not made in good faith, shall be subject to administrative disciplinary measures.

(g) All residents shall be informed of the grievance procedure during the orientation period, and shall receive instruction on locating these procedures within the resident handbooks.

(h) Residents shall not submit a request or grievance on behalf of another resident without requesting approval to do so from the director or warden, by completing and submitting a “Request Slip” form pursuant to Cor 312, and obtaining such approval. Approval shall be granted if the director, warden, or designee determines there exist circumstances which would warrant such assistance, including, but not limited to, a resident who has a medical or mental health condition, disability, or language barrier that would inhibit the ability to submit the request independently.

(i) Residents shall utilize the electronic versions of the “Request Slip” form and “Grievance Form” unless staff can articulate and document that giving access to the required device might result in injury to the resident or may result in damage to the device.

(j) Individuals originally sentenced to the NHDOC that are housed in a county or federal facility or pursuant to an interstate compact shall utilize the grievance system of the jurisdiction where housed.

(k) Records of a resident utilizing the grievance procedure shall be considered confidential and shall not be disclosed to other residents.

(l) The grievance process shall be a 3-tiered system consisting of:

(1) A formal complaint;

(2) A level I grievance; and

(3) A level II grievance.
(m) Residents may send confidential in-house formal complaints and grievances in sealed envelopes to the:

(1) Commissioner;

(2) Warden;

(3) Director;

(4) Medical staff;

(5) Behavioral health staff; and

(6) Investigations bureau
Cor 313.01 Purpose. The purpose of this rule is to establish an administrative procedure, through which a resident shall have a method to request a formal review of any issue related to any aspect of his or her confinement.

Source. #12792, eff 5-25-19

Cor 313.02 Definitions.

(a) “Electronic request” means an electronic communications method used by residents to communicate with employees of the department of corrections.

(b) “Formal complaint” means a documented complaint utilizing the electronic request or request slip form of communication.

(c) “Grievance” means a written complaint by a resident on the resident’s own behalf regarding a policy applicable to the resident, a condition of the resident’s confinement, an action involving a resident of the institution, or an incident occurring within the institution. The term “grievance” does not include a complaint relating to a parole decision.

(d) “Institution” means the prison or other correctional facility operated by the “New Hampshire department of corrections (NHDOC).

(e) “Level I grievance” means the first level of a 2-level grievance procedure.

(f) “Level II grievance” means the second level of a 2-level grievance procedure.

(g) “Request Slip” means a form used by residents to communicate in written form with employees of the department of corrections pursuant to Cor 312.

(h) “Resident” means a person who has been committed to the custody of the commissioner pursuant to a court order, or is transferred to the custody of the commissioner from a facility outside the state prison system where the person was confined pursuant to a court order. For purposes of this section the term includes; inmates, patients, probationers, and parolees.

Source. #12792, eff 5-25-19

Cor 313.03 Practice.

(a) A resident shall attempt informal resolution before filing a grievance under this procedure.

(b) A grievance shall be written by a resident on their own behalf and contain complaints such as, but not limited to:

1. Discipline imposed under the disciplinary system;
2. Allegations of mistreatment or abuse;
3. His or her classification assignment; and
4. Violations of any statute or rule.

(c) The grievance procedure shall afford a successful grievant a meaningful remedy.
(d) Residents shall not be treated adversely for complaining, filing a grievance, or filing a lawsuit.

(e) Every resident shall be entitled to utilize the grievance procedure regardless of any disciplinary, classification, or administrative decision to which the resident may be subject.

(f) Residents who submit 3 or more complaints or grievances that are found to be baseless, or not made in good faith, shall be subject to administrative disciplinary measures.

(g) All residents shall be informed of this procedure during the orientation period, and shall receive instruction on locating these procedures within the resident handbooks.

(h) Residents shall not submit a request or grievance on behalf of another resident without requesting approval to do so from the director or warden, by completing and submitting a “Request Slip” form pursuant to Cor 312, and obtaining such approval. Approval shall be granted if the director, warden, or designee determines there exist circumstances which would warrant such assistance.

(i) Residents shall utilize the electronic versions of the “Request Slip” form and “Grievance Form” unless staff can articulate and document that giving access to the required device might result in injury to the resident or may result in damage to the device.

(j) Individuals originally sentenced to the NHDOC that are housed in a county or federal facility or pursuant to an interstate compact shall utilize the grievance system of the jurisdiction where housed.

(k) Records of a resident utilizing the grievance procedure shall be considered confidential and shall not be disclosed to other residents.

(l) The grievance process shall be a 3-tiered system consisting of:

1. A formal complaint;
2. A level I grievance; and
3. A level II grievance.

Source. #12792, eff 5-25-19

Cor 313.04 Formal Complaint.

(a) Residents initiating formal complaints shall utilize the electronic request process or a “Request Slip” form pursuant to Cor 312.

(b) Formal complaints shall be limited to one subject per complaint.

(c) All formal complaints shall be transmitted without alteration, interference, or delay.

(d) Residents shall attempt resolution at the lowest level possible using first an informal process and should that fail, the formal complaint process prior to filing a grievance; these attempts shall be addressed to the highest-level authority within a housing unit, or work area first.

(e) The highest housing, or work area authority shall include but not be limited to:

1. The housing unit supervisor;
2. The dental supervisor;
3. The canteen supervisor;
(4) The medical supervisor; or

(5) The chief probation and parole officer.

(f) Formal complaints shall be received within 30 calendar days of the date on which the event being reported occurred.

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

1. The resident’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 which is sought.

(h) 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.

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

(j) The formal complaint process shall be skipped when the resident demonstrates that using the formal complaint process is likely to subject the resident to a substantial risk of personal injury, or cause other serious and irreparable harm to the resident. An unsupported allegation of fear of retaliation shall not be sufficient to alter the formal grievance process.

(k) Inquiry into formal complaints shall be factual.

(l) Formal complaints shall be responded to within 15 working days of receipt by:

1. Granting the relief requested if the complaint is validated during the investigation process;
2. Denying the relief requested if the complaint is deemed to be unfounded during the investigation process; or
3. Referring the resident to the appropriate staff or area to address the formal complaint, when, and if, it has been determined to be outside of the authority of the investigating staff member to reach a resolution.

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

(n) Residents shall be notified of the findings and what the resolution is in writing following the completion of the investigation. After the resident has received the outcome, he or she may choose to
elevate the complaint to a Level I grievance, and all actions executed within Cor 313.04 shall satisfy the requirement to demonstrate the formal complaint process has been fully exhausted.

Source. #12792, eff 5-25-19

Cor 313.05 Level I Grievance.

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

(b) Except as noted in Cor 313.04 (j), a Level I grievance shall not be accepted unless it demonstrates that the formal complaint process has been utilized and exhausted.

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

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

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

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

   (3) Resident account issues, to the director of administration;

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

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

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

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

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

   (9) Probation and parole issues, to the director of field services.

(e) Level I grievances shall be limited to one subject per grievance.

(f) Residents who demonstrate a valid reason for a delay shall have an extension in the filing time granted. Requests for extension shall be made using the “Request Slip” form pursuant to Cor 312. Those on probation or parole shall be required to submit a request in writing to the appropriate authority.

(g) Valid reasons for a delay shall include, but not be limited to:

   (1) Probationer, parolee, or facility resident illness or hospitalization;

   (2) Death in the family; or

   (3) No access to writing materials.

(h) 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.

(i) A grievance tracking form shall be utilized by the warden, director, or administrator to record the receipt of and responses to resident grievances.
(j) The keeper of the grievance tracking form shall include on the form:

1. Probationer, parolee, or facility residents name;
2. Identification number;
3. Date of receipt of the grievance;
4. Nature of the grievance;
5. A summary of the reply to the grievance;
6. Date the grievance was responded to, and
7. Additional comments, which may be pertinent to the grievance.

(k) Residents filing a grievance either electronically or on a paper form shall ensure the “Grievance Form” contains sufficient detail to allow for investigation, which shall include at a minimum, but not be limited to:

1. The resident or grievant name;
2. The resident or grievant identification number;
3. The resident or grievant address or housing assignment;
4. The date in which the form is being completed;
5. The description of the grievance to include the violation of policy, rule, or law as well as the date and location of the occurrence;
6. The name(s) of departmental staff involved;
7. The name of witnesses (if applicable); and
8. The relief or action that is sought.

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

(m) 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.

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

(o) Inquiry into requests shall be factual.

(p) Residents shall be notified of the facts and resolution in writing.

(q) Grievances shall be responded to within 30 calendar days of receipt by:

1. Granting the relief requested if the complaint is validated during the investigation process;
2. Denying the relief requested if the complaint is deemed to be unfounded during the investigation process; or
(3) Referring the resident to the appropriate staff or area to address the formal complaint, when, and if, it has been determined to be beyond the authority of the NHDOC.

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

(s) Residents shall be notified of the findings and what the resolution is in writing following the completion of the investigation. After the resident has received the outcome, he or she may choose to elevate the complaint to a Level II grievance, and all actions executed within Cor 313.05 shall satisfy the requirement to demonstrate the Level I grievance process has been fully exhausted.

Source. #12792, eff 5-25-19

Cor 313.06 Level II Grievance.

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

(b) Except as noted in Cor 313.05 (n), a Level II grievance shall not be accepted unless it demonstrates that the Level I Grievance process has been utilized and exhausted.

(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.

(f) Residents who demonstrate a valid reason for a delay shall have an extension in the filing time granted. Requests for extension shall be made using the “Request Slip” form pursuant to Cor 312. Those on probation or parole shall be required to submit a request in writing to the appropriate authority.

(g) Valid reasons for a delay shall include, but not be limited to:

(1) Probationer, parolee, or facility resident illness or hospitalization;

(2) Death in the family; or

(3) No access to writing materials.

(h) 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.

(i) A grievance tracking form shall be utilized by the warden, director, or administrator to record the receipt of and response to grievances.

(j) The keeper of the grievance tracking form shall include on the form:

(1) Probationer, parolee, or facility resident’s name;

(2) Identification number;

(3) Date of receipt of the grievance;

(4) Nature of the grievance;
(5) A summary of the reply to the grievance;

(6) Date the grievance was responded to; and

(7) Additional comments which may be pertinent to the grievance

(k) All Level II grievances shall be completed and submitted in accordance with Cor 313.05 (k)(1)(7) above.

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

(m) Inquiry into requests shall be factual.

(n) Residents shall be notified of the findings and what the resolution is in writing following the completion of the investigation.

(o) Level II grievances shall be responded to within 30 calendar days of receipt by:

(1) Granting the request if the complaint is validated during the investigation process;

(2) Denying the request; or if the complaint is deemed to be unfounded during the investigation process; or

(3) Referring the resident to the appropriate staff or area to address the formal complaint, when, and if, it has been determined to be beyond the authority of the NHDOC.

(p) 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 resident shall be notified of any extension before the initial 30 calendar days expires.

Source. #12792, eff 5-25-19
GRIEVANCE FORM
(See Reverse for Instructions)

STATE OF NEW HAMPSHIRE
DEPARTMENT OF CORRECTIONS

PO BOX 14
CONCORD, NH 03302-0014

William Wrenn
Commissioner

2. GRIEVANT:

4. Address:

5. Brief Description of Grievance:

1. Date:

3. Number:

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)

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