



**DEPARTMENT OF CORRECTIONS
PROBATION AND PAROLE DIVISION
OPERATIONAL PROCEDURE**

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| Procedure No.: PPD 3.3.300 | Subject: OFFENDER GRIEVANCE PROGRAM |
| Reference: DOC 1.1.17; DOC 1.3.12; DOC 3.3.3 | Page 1 of 7 plus attachment |
| Effective Date: 12/07/15 | Revision Dates: 09/12/2016; 02/23/18 |
| Signature / Title: /s/ Kevin Olson, Probation and Parole Division Administrator | |

This procedure is referenced as ACCD 3.3.300 Grievances in Section 3.K.2. Offender Management; Offender Rights; Grievances, in the following contracts: Alternatives, Inc., Butte Prerelease, Gallatin County Reentry Program, Helena Prerelease, Passages, Connections Corrections Program (CCP), Elkhorn, Nexus, START, and WATCH Contract.

I. PURPOSE:

The Probation and Parole Division programs and facilities will provide a grievance and appeal process to offenders under the jurisdiction of the Department of Corrections to resolve complaints and report alleged violations in a timely and confidential manner.

II. DEFINITIONS:

Administrator – The official, regardless of local title (division or facility administrator, bureau chief, warden, superintendent), ultimately responsible for the division, facility, or program operation and management.

Facility/Program – Refers to any prison, secure care correctional facility, correctional or training program, or community-based program under Department jurisdiction or contract. This term includes the facility building or residence, including property and land owned or leased and operated by the Department.

GC-Grievance Coordinator – The staff member assigned to administer, investigate, and respond to offender grievances. The responsibilities of this position may also apply to that person's designee.

Grievance – A single complaint filed by an offender concerning subject matter as outlined in this operational procedure.

PPD-Probation and Parole Division – The Division oversees the Probation & Parole regional offices, interstate transfers, and the facilities providing assessments and sanctions, prerelease, and treatment services.

III. PROCEDURES:

A. GENERAL REQUIREMENTS

1. Non-Grievable Issues:

- a. Actions by outside entities not under the jurisdiction of the Department, including the Sentence Review Board and the Board of Pardons and Parole; and
- b. Classification, disciplinary decisions, and PPD program/facility screening decisions (these are subject to a separate appeal process).

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2. Grievable Issues (including, but not limited to):

- a. Staff conduct:
 - i. Must fit the specific criteria noted in *DOC Policy 1.3.12, Staff Association and Conduct with Offenders*.
 - ii. If deemed necessary, a formal investigation will be conducted in conjunction with the grievance process. A written response must be provided to the offender within 20 working days of receipt of the grievance.
- b. Policy and/or operational procedures:
 - i. Grievances must specifically demonstrate with factual basis that the offender filing the grievance has been, in some manner, unfairly or personally adversely affected by the application or operation of a policy and/or operational procedure.
 - ii. The established procedure review committee may be utilized as deemed necessary in conjunction with the grievance process; however, a written response to the offender is required within 20 working days of receipt of the grievance.
- c. Other standard grievance matters such as issues related to the implementation of the standard and special conditions of the offender's supervision, program access, or religious issues. A written response to the offender is required within 20 working days of receipt of the grievance.

3. Emergency Grievance:

- a. Offenders are not required to go through the offender grievance program to report an emergency grievance, but may report the grievance verbally or in writing to any staff member or use a locked box for grievances. Any offender alleging an emergency grievance may obtain assistance from any staff member to ensure the grievance is delivered.
- b. An emergency grievance issue includes:
 - i. *Sexual Misconduct*: If at any time an offender grievance contains issues involving sexual misconduct as defined in *DOC Policy 1.1.17, Prison Rape Elimination Act (PREA)*, the grievance shall be identified as an emergency grievance and will be immediately forwarded to the Office of Investigations, the PREA Coordinator and the GC in accordance with *DOC Policy 1.1.17, PREA*. The GC will notify the offender that the grievance has been referred for review and/or investigation.
 - ii. *Personal Injury, Physical Harm, or Other Serious Harm*: Offenders alleging actual, or risk of, immediate personal injury or physical harm, or when adhering to established timeframes may cause other serious or irreparable harm, may file a formal emergency grievance.
- c. The emergency grievance will receive immediate attention, be reviewed for legitimacy without undue delay, and forwarded to the GC and appropriate administrator for action.
- d. If the issue is determined not to be a legitimate emergency, the GC will return the grievance to the offender within 72 hours with a written response specifying why the issue is inappropriate as an emergency. The offender then has five (5) working days to pursue the issue as a standard grievance, beginning with submission of *PPD 3.3.300(B) Offender Informal Grievance Resolution Form*.
- e. The decision that the grievance should be pursued as a standard grievance issue cannot be appealed by the offender.
- f. If the facility/program can demonstrate that a grievance report related to alleged sexual abuse was made in bad faith by an offender, which includes deliberately malicious reports, the offender may be disciplined.

4. Protection against Reprisal: An offender will not be harassed, punished, or disciplined for utilizing the offender grievance program. Persons violating this directive will be subject to disciplinary action.

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5. Offender Abuse of the Grievance Program: Abuse of the grievance program by an offender includes the use of profanity, threats, abusive or demeaning language; submitting an excessive number of grievance forms; and submitting multiple grievances in reference to the same issue(s). If an offender demonstrates a pattern of abuse of the grievance program, the GC will notify the offender in writing that such actions will not be tolerated and future grievances that continue the pattern of abuse may be returned.

6. Remedies:

- a. This procedure will afford the grievant a meaningful remedy to valid grievances. The scope of available administrative remedies is broad and should be applied on a case-by-case basis.
- b. Possible remedies include, but are not limited to:
 - i. Modification of PPD operational procedure or practice;
 - ii. Assurance that deprivation of necessary care or other abuse should not recur; or
 - iii. Other remedies that will meaningfully solve the problem presented.

7. Monthly Reporting: Each Probation & Parole region and PPD facility must provide the Department with statistical information on the number and type of grievances received on a monthly basis using *PPD 3.3.300(I) Monthly Grievance Report*. The *Report* is submitted to the GC at coraccreports@mt.gov. Offender grievances should be summarized on the *Report* or a summary may be attached to the *Report*.

8. Retention of Records:

- a. All staff involved in the grievance process will copy and provide all documentation produced and received for the GC.
- b. All grievance documents will be placed in a file maintained by the GC and responding staff. These documents will not be copied to other files.
- c. The GC will log, assign a case number, and return any future grievances demonstrating a continued pattern of abuse to the offender with the issue unanswered.

B. YOUTH AND ADULT OFFENDERS UNDER PROBATION & PAROLE SUPERVISION OR AT MISSOULA ASSESSMENT AND SACTION CENTER (MASC)

1. Access, Distribution, and Submission of Forms

- a. Regardless of their supervision level, status, disciplinary, or administrative status, all adult offenders must be provided a copy of this operational procedure, *DOC Policy 1.1.17, Prison Rape Elimination Act of 2003 (PREA)*, *DOC Policy 1.3.12, Staff Association and Conduct with Offenders*, *PPD 1.1.1700 Prison Rape Elimination Act of 2003 (PREA)*, and *DOC Policy 3.3.3, Offender Grievance Program* at sign-up for community supervision or during facility admission and be given the opportunity to review them, ask questions, and receive answers. Offender will complete *PPD 1.1.1700(C) Offender PREA Acknowledgement* and form is placed in offender's field file.
- b. For youth offenders, this grievance procedure will be reviewed at the parole orientation with the youth, the youth's parent/guardian/custodian/representative, and the youth care facility representative. A copy of this procedure and applicable grievance forms will be given to the youth and his/her parent/guardian/custodian/representative at that time.
- c. Staff members will be available to provide instructions on the proper completion of the forms and how to advance the grievance to the next level of review or appeal. All applicable forms of the grievance program will be made available to offenders by all PPD staff at any time, at the time of sign-up for new offenders, on the Department's website, or by contacting:

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PPD Grievance Coordinator

PO Box 201301, Helena, MT 59620

- d. All new employees will receive a copy of this operational procedure, *DOC Policy 1.1.17, Prison Rape Elimination Act of 2003 (PREA), DOC Policy 1.3.12, Staff Association and Conduct with Offenders, DOC Policy 3.3.3 Offender Grievance Program, PPD 1.1.1700 Prison Rape Elimination Act of 2003 (PREA), and PPD 3.3.300 Offender Grievance Program*, have an opportunity to ask questions and receive answers about the procedures, and complete *PPD 1.1.1700(B) Staff PREA Acknowledgement*.
- e. In the course of resolving a formal offender grievance complaint, staff will have access to essential records for grievance resolution. The offender's grievance serves as a waiver of confidentiality in this regard.
- f. This operational procedure will be available in English and any other language spoken by 10% of the offender population. The GC will designate staff to assist offenders who do not speak a language spoken by a significant portion of the offender population, as well as those offenders who are visually or otherwise disabled. The GC will explain how to complete forms, file, appeal, and resolve grievances.
- g. Depending upon the grievance step, the offender will submit the appropriate forms to the following persons:
 - i. P&P Offender:
 - 1) *PPD 3.3.300(B) Offender Informal Grievance Resolution Form* submitted to POII at the Probation & Parole office where offender reports.
 - 2) *PPD 3.3.300(C) Step One-Offender Formal Grievance Resolution Form* and *PPD 3.3.300(D) Step Two-Offender Grievance Appeal to Bureau Chief* submitted to POII or Deputy Chief at the Probation & Parole office where offender reports.
 - 3) *PPD 3.3.300(E) Step Three-Offender Grievance Appeal to PPD Administrator* and *PPD 3.3.300(F) Step Four-Offender Grievance Appeal to Director* submitted to DOC Central Office at PO Box 201301, Helena, MT 59620.
 - ii. MASC Offender:
 - 1) *PPD 3.3.300(B) Offender Informal Grievance Resolution Form* submitted to the MASC Unit Manager.
 - 2) *PPD 3.3.300(C) Step One-Offender Formal Grievance Resolution Form* submitted to the MASC Administrator.
 - 3) *PPD 3.3.300(D) Step Two-Offender Grievance Appeal to Bureau Chief, PPD 3.3.300(E) Step Three-Offender Grievance Appeal to PPD Administrator, and PPD 3.3.300(F) Step Four-Offender Grievance Appeal to Director* submitted to DOC Central Office at PO Box 201301, Helena, MT 59620.
- h. All submissions must be delivered or postmarked within the specified time frames given in this procedure. Additionally, the following apply to all submissions:
 - i. If an offender submits an issue of concern on a form other than those provided by this procedure, he/she risks having it returned without processing.
 - ii. A single issue, or a reasonable number of closely related issues, will be described on the form. If multiple unrelated issues are included on a single form, the POII or designee will reject and return form without a response and advise the offender to use a separate form for each unrelated issue.
 - iii. If two or more offenders file issues on the same form, it will be returned to them unprocessed.
 - iv. The name of every individual against whom the offender is making a complaint will be listed.

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2. Time Limits, Extension, and Exhaustion

- a. The maximum length of time allowed from initiation to final disposition of the grievance program is 180 calendar days, with the exception of grievances alleging sexual abuse which should be immediately processed as an emergency grievance.
- b. With respect to all time limits established for offenders, extensions may be granted by the GC for good cause shown in exceptional circumstances, such as physical incapacity or being in transit while separated from relevant documents.
- c. Staff may only exceed the time limits set for good cause and with written notice to the offender on *PPD 3.3.300(A) Grievance Response Extension Form*.
- d. An offender will be deemed to have waived any further administrative remedies under the grievance program for the particular issue being grieved if he/she fails to advance to the next level of the grievance program within the stated time limit.

3. Offender Informal Grievance Resolution Filing

- a. Except as provided for emergency grievances, an offender must first present an issue of concern in writing on *PPD 3.3.300(B) Offender Informal Grievance Resolution Form* to the supervising POII/MASC Unit Manager **within five (5) working days** of the action or omission that caused the complaint and attempt to resolve the issue before filing a formal grievance.
- b. The staff member receiving the complaint will fill in the date and time received and sign form. The POII/MASC Unit Manager will investigate the complaint or refer the complaint to a more appropriate department or to other staff due to any conflict of interest. The POII/MASC Unit Manager or designee will attempt to resolve the issue informally. A signed response will be provided to the offender on the *Offender Informal Grievance Resolution Form* within 20 working days of initial receipt of the form from the offender. The form includes instructions on how to proceed with a formal grievance.
- c. The POII/MASC Unit Manager or designee will have the offender sign and date the response, begin the five (5) day tracking and send copies of the signed and dated forms to the GC.
- d. The offender may file a formal grievance within five (5) working days from the date he/she receives the informal resolution response.
- e. If a response is not received within 20 working days from the submission of *Offender Informal Grievance Resolution Form*, the offender may proceed by filing a formal grievance without an informal response. The formal grievance must be filed within the next five (5) working days.
- f. If an offender's requested action is granted, he/she will not be allowed to appeal the decision or file a formal grievance and it is understood all administrative remedies have been exhausted.

4. Offender Formal Grievance Filing:

- a. The formal grievance program is made up of the following steps:
 - i. Step One: Formal grievance to the attention of the Deputy Chief/MASC Administrator using *PPD 3.3.300(C) Step One-Offender Formal Grievance Resolution Form*;
 - ii. Step Two: Formal grievance appeal to the attention of the appropriate Bureau Chief using *PPD 3.3.300(D) Step Two-Offender Grievance Appeal to Bureau Chief*.
 - iii. Step Three: Formal grievance appeal to the attention of the PPD Administrator using *PPD 3.3.300(E) Step Three-Offender Grievance Appeal to PPD Administrator*;
 - iv. Step Four: Formal grievance appeal to the attention of the Department Director using *PPD 3.3.300(F) Step Four-Offender Grievance Appeal to Director*.
- b. The appropriate form must be filed within five (5) days of receiving a response from the previous step.
- c. Each form should provide all requested identifying information including address, home telephone number, cell phone number, and work telephone number, if appropriate, to ensure

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contact can be maintained throughout the process. The offender will legibly and clearly state the issue in the space provided.

- d. If an offender raises an issue(s) in a step that was not raised in the previous step, the form will be returned to the offender with a written statement as to why it is not being processed further. Also, an offender may not combine appeals of separate lower level responses into a single appeal.
- e. Copies of all documentation essential to the resolution of a grievance will be attached, including the *PPD 3.3.300(B) Offender Informal Grievance Resolution Form* with response. The offender is encouraged to retain a copy of all documentation for their personal records.
- f. Assistance may be provided by other offenders in filing a grievance form; however, an offender may not submit a grievance form on behalf of another offender. Staff may provide assistance with procedural process, obtaining forms, and providing contact information.
- g. Incomplete forms will be returned to the offender with a written statement as to why it is not being processed. The offender may resubmit the grievance form with the appropriate corrections, but must do so within 72 hours, or it will be rejected.
- h. If a response is not received within 20 working days from the submission of *Step One-Offender Formal Grievance Resolution Form*, the offender may proceed by filing a formal grievance appeal to the Bureau Chief within the next five (5) working days.
- i. If an offender's requested action is granted, he/she will not be allowed to appeal the decision and it is understood all administrative remedies have been exhausted.

5. Response to Formal Grievance and Appeal Filings

- a. Except for the Department Director, any person implicated in a formal offender grievance will not participate in the decision-making process concerning the grievance.
- b. The staff member receiving the grievance or appeal will fill in the date and time received and sign form.
- c. An offender may not raise any issue in an appeal that was not raised in the lower level filings and may not combine appeals of separate lower level responses into a single appeal.
- d. Step One-Offender Formal Grievance Resolution:
 - i. The Deputy Chief (DC)/MASC or designee will investigate the complaint or refer the complaint to a more appropriate person due to any conflict of interest.
 - ii. A legibly signed and dated response will be provided to the offender on *PPD 3.3.300(C) Step One-Offender Formal Grievance Resolution Form* within 20 working days of initial receipt of the form. All responses will contain specific, explanatory reasons for any decision to assist the offender's understanding of the decision. The response will also include that an appeal to the Bureau Chief is available and how to proceed.
 - iii. The DC/MASC or designee will have the offender sign and date the response, begin the five (5) day tracking and send copies of the signed and dated forms to the GC.
- e. Steps Two, Three and Four-Offender Grievance Appeals to Bureau Chief, PPD Administrator and Director:
 - i. The Bureau Chief or designee will review *PPD 3.3.300(D) Step Two-Offender Grievance Appeal to Bureau Chief* within 20 working days of receipt and provide a written response on the form to the offender specifying the reasons for any decision. The response will include instructions that a final appeal to the PPD Administrator is available and how to proceed. The offender will have five (5) working days from receipt of the response to submit an appeal to the PPD Administrator.
 - ii. The PPD Administrator or designee will review *PPD 3.3.300(E) Step Three-Offender Grievance Appeal to PPD Administrator* within 20 working days of receipt and provide a written response on the form to the offender specifying the reasons for any decision. The

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response will include instructions that a final appeal to the Director is available and how to proceed. The offender will have five (5) working days from receipt of the response to submit an appeal to the Director.

- iii. The Director or designee will review *PPD 3.3.300(F) Step Four-Offender Grievance Appeal to Director* and respond in writing on the form within 20 working days of receipt specifying the reasons for any decision.
- iv. The Director's response is final and exhausts all administrative remedies available to the offender through the offender grievance program.

C. PPD FACILITIES

1. PPD contract facilities shall maintain a process through which offenders may present grievances concerning the operation of the program pursuant to *DOC Policy 3.3.3, Offender Grievance Program*.
2. Regardless of their supervision level, status, disciplinary, or administrative status, all offenders must be provided the appropriate policies and/or procedures for grievances and the Prison Rape Elimination Act of 2003 (PREA) during facility admission and be given the opportunity to review them, ask questions, and receive answers. Offender will complete *PPD 1.1.1700(C) Offender PREA Acknowledgement* and form is placed in offender's field file.
3. When an offender has exhausted all levels of the facility's grievance program, he/she may advance the grievance to the GC. The procedures of Section A.3. above will be followed if a grievance is submitted as an emergency grievance.

IV. CLOSING:

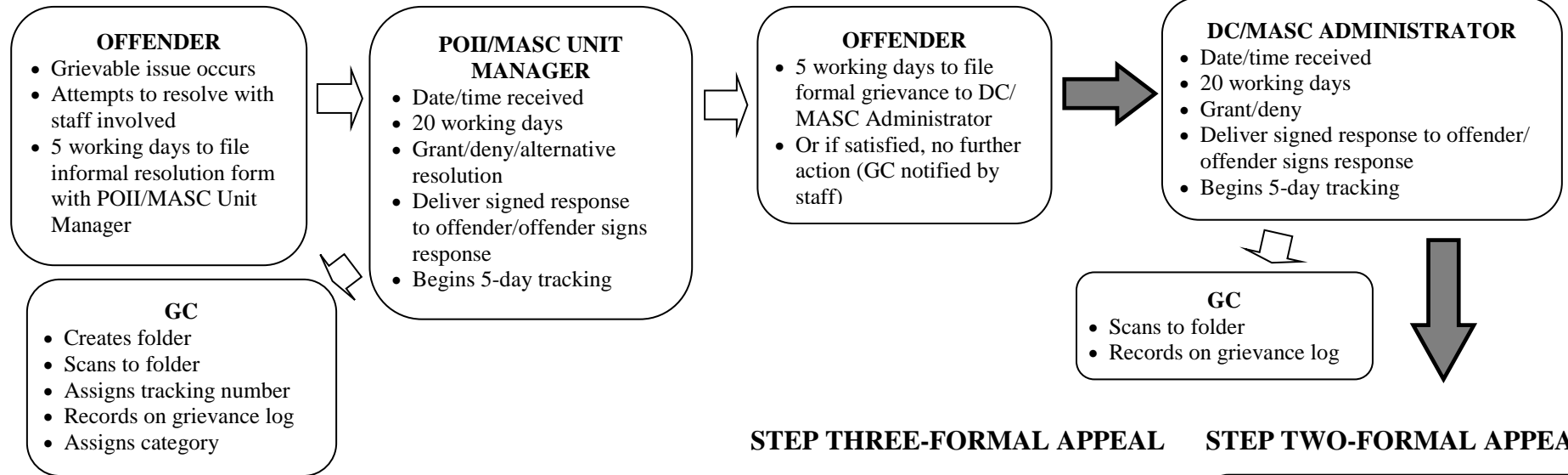
Questions regarding this procedure should be directed to the Deputy Chief, P&P Officer II, Facility Administrator, or Grievance Coordinator.

V. FORMS:

- PPD 3.3.300 (A) Grievance Response Extension Form
- PPD 3.3.300 (B) Offender Informal Grievance Resolution Form
- PPD 3.3.300 (C) Step One-Offender Formal Grievance Resolution Form
- PPD 3.3.300 (D) Step Two-Offender Grievance Appeal to Bureau Chief
- PPD 3.3.300 (E) Step Three-Offender Grievance Appeal to PPD Administrator
- PPD 3.3.300 (F) Step Four-Offender Grievance Appeal to Director
- PPD 3.3.300 (I) Monthly Grievance Report
- PPD 1.1.1700 (B) Staff PREA Acknowledgement
- PPD 1.1.1700 (C) Offender PREA Acknowledgement

INFORMAL GRIEVANCE

STEP ONE-FORMAL GRIEVANCE



STEP THREE-FORMAL APPEAL

STEP TWO-FORMAL APPEAL

STEP FOUR-FORMAL APPEAL

