



PROBATION AND PAROLE BUREAU STANDARD OPERATING PROCEDURES

Procedure No.: P&P 60-10	Subject: OFFENDER GRIEVANCE SYSTEM
Reference: DOC 3.3.3	Page 1 of 13
Effective Date: 01/22/09	Revision Dates: 02/04/09; 08/06/09; 01/31/11
Signature / Title: /s/ Ron Alsbury	

I. BUREAU DIRECTIVE:

The Probation & Parole Bureau will provide an internal grievance mechanism to resolve offender complaints, reduce the need for litigation, and afford staff the opportunity to improve operations.

II. DEFINITIONS:

Adult Community Corrections Division (ACCD) Administrator – The Administrator responsible for the overall administrative functions of the ACCD programs/facilities. The Administrator reports directly to the Director of the Department of Corrections.

Emergency Grievance – A grievance concerning matters that subject (or have subjected) an offender to a substantial risk of immediate personal injury or serious harm.

Five (5) Working Days – Five consecutive days, not including Saturday and Sunday.

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

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.

Management – ACCD employees with management or supervisory responsibilities and duties including, but not limited to, the ACCD Administrator, Probation & Parole (P&P) Bureau Chief, P&P Regional Administrators, and P&P Officer IIs.

Policy/Operational Procedure Grievance – A grievance concerning written policies and procedures.

Probation & Parole Bureau Chief (Bureau Chief) – The manager responsible for the overall administrative functions of the P&P Bureau. The Bureau includes adult probation and parole services, Intensive Supervision Programs and institutional probation and parole services.

Staff Conduct Grievance – A grievance concerning prohibited conduct defined in [DOC 1.3.12 Staff Association and Conduct with Offenders](#).

Standard Grievance – A grievance concerning all other matters not specifically categorized below.

Twenty (20) Working Days – Twenty consecutive days, not including Saturdays and Sundays.

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III. PROCEDURES:

Offenders must begin the grievance process by following the protocols set forth in this procedure and beginning with Section E below.

A. Non-Grievable Issues

1. Actions by outside entities not under the jurisdiction of the Department of Corrections (Department), including the Sentence Review Board and Board of Pardons and Parole, are not grievable under the offender grievance system.
2. Classification, disciplinary decisions, and Adult Community Corrections Division (ACCD) program/facility screening decisions are subject to a separate appeal procedure and are therefore not grievable under this *Offender Grievance System*.

B. Grievable Issues

1. Issues including, but not limited to, staff conduct, policy and/or operational procedures, and other standard grievance matters, such as issues related to the implementation of the standard and special conditions of the offender's probation, parole, or conditional release supervision, program access, or religious issues, are grievable.
2. Grievances regarding Department policies and/or operational procedures 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.
3. If, at any time, the issue involves sexual misconduct as defined in [DOC 1.3.14 Prison Rape Elimination Act \(PREA\)](#), the grievance must be forwarded immediately to the PREA Coordinator and the Grievance Coordinator (GC) in accordance with [DOC 1.3.14](#). The GC will notify offender that the grievance has been referred to the PREA Coordinator for review and/or investigation. Offenders are not required to go through the informal resolution step to report allegations of sexual misconduct.

C. Access, Distribution, and Submission of Forms

1. All offenders currently on supervision must be provided a copy of this operational procedure and given the opportunity to review the procedure, regardless of their supervision level, status, disciplinary, or administrative status. All new offenders will receive a copy of this operational procedure at the time of sign-up and have an opportunity to ask questions and receive answers about the procedure.
2. All applicable forms of the *Offender Grievance System* will be made available to offenders under P&P supervision by all P&P or ACCD staff at any time, at the time of sign-up for new offenders, on the Department's website, or by contacting:

ACCD Grievance Coordinator
PO Box 201301
Helena, Montana 59620
ACORGrievances@mt.gov

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.

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3. All new employees will receive a copy of this operational procedure and have an opportunity to ask questions and receive answers about the procedures. The employee will complete *P&P 60-10(H) Staff Acknowledgement Form*, which is sent to the Professional Development Bureau.
4. 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.
5. 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 impaired. The GC will explain how to complete forms, file, appeal, and resolve grievances.
6. Depending upon the grievance step, the offender will submit the appropriate forms to the following:

POII or Regional Administrator
 Billings P&P Office
 2615 4th Ave., S
 Billings, MT 59107

POII or Regional Administrator
 Glendive P&P Office
 606 N. Merrill Ave.
 Glendive, MT 59330

POII or Regional Administrator
 Great Falls P&P Office
 219 5th St. S, Suite A
 Great Falls, MT 59405

POII or Regional Administrator
 Helena P&P Office
 PO Box 201313
 Helena, MT 59620-1313

POII or Regional Administrator
 Kalispell P&P Office
 Triangle Bld.,
 575 Sunset Blvd., #208
 Kalispell, MT 59901

POII or Regional Administrator
 Missoula P&P Office
 2415 Mullan Rd.
 Missoula, MT 59808

P&P Bureau Chief
 PO Box 201301
 Helena, MT 59620

ACCD Administrator
 PO Box 201301
 Helena, MT 59620

Director, Department of Corrections
 PO Box 201301
 Helena, MT 59620

7. **All submissions must be delivered or postmarked within the specified time frames given in this procedure.**

D. Time Limits, Extension, and Exhaustion

1. The maximum length of time allowed from initiation to final disposition of the grievance process is 180 calendar days.
2. 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.
3. Staff may only exceed the time limits set for good cause and with written notice to the offender on *P&P 60-10(A) Grievance Response Extension Form*.

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4. All submissions and responses must be delivered or postmarked within the time frames specified in this procedure.
 - a. Staff's twenty (20) working days begin when they receive the informal, formal or appeal documents.
 - b. Offender's five (5) working days begin when they are delivered the response.
5. If an offender fails to receive a timely response from a staff member as set forth in this procedure, the grievance is deemed denied and the offender may file the appropriate forms to advance to the next level of the grievance system.
6. If an offender fails to advance to the next level of the grievance system within the stated time limit, the opportunity to exhaust any administrative remedies under the *Offender Grievance System* will be considered to have been forfeited.

E. Step One-Informal Resolution – Filing and Response by Probation & Parole Officer II (POII)

1. Except as provided below regarding emergency grievances, an offender must first present an issue of concern in writing on *P&P 60-10(B) Step One-Offender Informal Resolution Form* to the supervising POII 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. If more space is needed, the offender may use one (1) *P&P 60-10(D) Offender Grievance Continuation Form*.
 - a. 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.
 - b. 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 it without a response and advise the offender to use a separate form for each unrelated issue.
 - c. If two or more offenders file issues on the same form, it will be returned to them unprocessed.
 - d. The name of every individual against whom the offender is making a complaint will be listed.
2. The POII or staff member receiving the complaint will fill in the date and time received and signature. The POII will investigate the complaint or refer the complaint to a more appropriate department or to another POII or Regional Administrator (RA) due to any conflict of interest. The POII or designee will attempt to resolve the issue informally. A signed response will be provided to the offender on the *Step One-Offender Informal Resolution Form* within twenty (20) working days of initial receipt of the form from the offender. The form includes instructions on how to proceed with a formal grievance.
3. The POII 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.
4. The offender may file a formal grievance within five (5) working days from the date he/she receives the informal resolution response.
5. If a response is not received within twenty (20) working days from the submission of *Step One-Offender Informal Resolution*, 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.

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6. 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.

F. Step Two-Formal Grievance – Filing and Response by RA

1. The offender will complete *P&P 60-10(C) Step Two-Offender Formal Grievance Form* and submit it to the attention of the RA. The *Form* should provide all requested identifying information, including address, home telephone number, cell phone number, and work telephone number, if appropriate, to ensure contact with the RA throughout the process. The offender will legibly and clearly state the issue in the space provided. If more space is needed, one (1) *P&P 60-10(D) Offender Grievance Continuation Form* may be used.
 - a. 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.
 - b. 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 RA or designee will reject and return it without a response and advise the offender to use a separate form for each unrelated issue.
 - c. If two or more offenders file issues on the same form, it will be returned to them unprocessed.
 - d. The name of every individual against whom the offender is making a complaint will be listed.
 - e. If an offender raises issues in Step Two that were not raised in the previous level of filing, the RA or designee will return the form to the offender with a written statement as to why it is not being processed any further.
2. Copies of all documentation essential to the resolution of a grievance will be provided, including the *P&P 60-10(B) Step One-Offender Informal Resolution Form* with response. The offender is encouraged to retain a copy of all exhibits for their personal records.
3. 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. Assistance may be provided by other offenders in filing a grievance form.
4. The RA and GC will assure that the grievance form is complete. 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.
5. The RA or staff member receiving the complaint will fill in the date and time received and signature. The RA will investigate the complaint or refer the complaint to a more appropriate department or to another RA due to any conflict of interest. A legibly signed and dated response will be provided to the offender on the *Step Two-Offender Formal Grievance Form* within twenty (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.
6. The RA 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.
7. The offender may file an appeal to the Bureau Chief within five (5) working days from receipt of the RA's response.

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8. If a response is not received within twenty (20) working days from the submission of *Step Two-Offender Formal Grievance Form*, the offender may proceed by filing a formal grievance appeal to the Bureau Chief within the next five (5) working days.
9. 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.
10. Except for the Department Director, any person implicated in a formal offender grievance will not participate in the decision-making process concerning the grievance.

G. Step Three-Formal Grievance Appeal Filing and Response by Bureau Chief

1. An offender wishing to appeal the RA's response may do so by submitting a completed *P&P 60-10(E) Step Three-Offender Grievance Appeal to Bureau Chief* to the Bureau Chief within five (5) working days of receipt of the response.
 - a. 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.
 - b. 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 Bureau Chief or designee will reject and return it without a response and advise the offender to use a separate form for each unrelated issue.
 - c. If two or more offenders file issues on the same form, it will be returned to them unprocessed.
 - d. The name of every individual against whom the offender is making a complaint will be listed.
 - e. If an offender raises issues in Step Three that were not raised in the previous level of filing, the Bureau Chief or designee will return the form to the offender with a written statement as to why it is not being processed any further.
2. The Bureau Chief or staff member receiving the appeal will fill in the date and time received and signature. The Bureau Chief will review the appeal form within twenty (20) working days of receipt and provide a written response to the offender specifying the reasons for any decision. The response will include that an appeal to the ACCD Administrator is available and instructions on how to proceed.
3. The offender will have five (5) working days from receipt of the response to submit an appeal to the ACCD Administrator.

H. Step Four-Formal Grievance 2nd Appeal Filing and Response by ACCD Administrator

1. An offender wishing to appeal the Bureau Chief's response may do so by submitting a completed *P&P 60-10(F) Step Four-Offender Grievance Appeal to ACCD Administrator* to the ACCD Administrator within five (5) working days of receipt of the response.
 - a. 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.
 - b. 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 ACCD Administrator or designee will reject and return it without a response and advise the offender to use a separate form for each unrelated issue.
 - c. If two or more offenders file issues on the same form, it will be returned to them unprocessed.
 - d. The name of every individual against whom the offender is making a complaint will be listed.

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- e. If an offender raises issues in Step Four that were not raised in the previous level of filing, the ACCD Administrator or designee will return the form to the offender with a written statement as to why it is not being processed any further.
2. The ACCD Administrator or staff member receiving the appeal will fill in the date and time received and signature. The ACCD Administrator will review the appeal form within twenty (20) working days of receipt and provide a written response to the offender specifying the reasons for any decision. The response will include instructions that a final appeal to the Director is available and how to proceed.
3. The offender will have five (5) working days from receipt of the response to submit an appeal to the Director.

I. Step Five-Formal Grievance Appeal Filing and Response by Department Director

1. An offender wishing to appeal the ACCD Administrator's response must submit a completed *P&P 60-10(G) Step Five-Offender Grievance Appeal to Director* to the Department Director within five (5) working days of receipt of the response.
 - a. 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.
 - b. 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 Director or designee will reject and return it without a response and advise the offender to use a separate form for each unrelated issue.
 - c. If two or more offenders file issues on the same form, it will be returned to them unprocessed.
 - d. The name of every individual against whom the offender is making a complaint will be listed.
 - e. An offender may not raise in this appeal any issue that was not raised in the lower level filings and may not combine appeals of separate lower level responses into a single appeal.
2. The Director or staff member receiving the appeal will fill in the date and time received and signature.
3. The Director will respond to an appeal of an emergency grievance within ten (10) working days of receipt.
4. The Director will respond in writing to all other appeals within twenty (20) working days of receipt, specifying the reasons for any decision.
5. The Director's response is final, and exhausts all administrative remedies available to the offender through the *Offender Grievance System*.

J. Emergency Grievances

1. If, at any time, an offender grievance contains issues involving sexual misconduct as defined in [DOC 1.3.14](#) *Prison Rape Elimination Act (PREA)*, the grievance shall be identified as an emergency grievance and will be immediately forwarded to the PREA Coordinator and the Grievance Coordinator (GC) in accordance with *DOC 1.3.14*. The GC will notify offender that the grievance has been referred to the PREA Coordinator for review and/or investigation. Offenders are not required to go through the informal resolution step to report allegations of sexual misconduct.

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2. Offenders alleging actual, or risk of, immediate physical harm may file a formal emergency grievance.
3. The offender will specify on *P&P 60-10(C) Step Two-Offender Formal Grievance Form* the exact nature of the issue and why it is considered an emergency. The offender has 72 hours from the incident to file a formal emergency grievance.
4. The offender will submit the completed *Offender Formal Grievance Form* to the POII. Any offender alleging an emergency grievance issue may obtain assistance from any staff member to ensure the grievance is delivered. The POII and GC will determine whether the issue is a legitimate emergency, and the GC will determine who responds to the grievance.
5. A response will be provided to the offender in writing within 72 hours of receipt of the emergency grievance. The GC may extend this time frame, but only for an additional 72 hours and will inform the offender in writing of any time frame extension.
6. The offender may appeal the response to the emergency grievance to the Director by submitting a completed *P&P 60-10(G) Step Five-Offender Grievance Appeal to Director form* to the GC within three (3) working days of receipt of the response. The GC will promptly forward the appeal to the Director. The Director will respond to all legitimate emergency grievances in writing within 10 working days of receipt.
7. If the issue is determined not to be a legitimate emergency by the GC, 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 *P&P 60-10(B) Step One-Offender Informal Resolution Form* to the POII.
8. The decision that the grievance should be pursued as a standard grievance issue cannot be appealed by the offender.

K. Staff Conduct Grievances

1. Responding staff and/or the GC will immediately forward any grievance that fits the specific criteria noted in [DOC 1.3.12](#), *Staff Association and Conduct with Offenders* to the Bureau Chief and/or ACCD Administrator.
2. 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.

L. Policy and Operational Procedure Grievances

1. Responding staff and/or the GC will forward any grievance challenging formal policy or operational procedures to the Bureau Chief and/or ACCD Administrator.
2. 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.

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M. Offender Use of the Grievance System – Protection Against Reprisal

1. Staff will not harass, punish, or discipline an offender for utilizing the offender grievance process. Employees will be subject to disciplinary action if this directive is violated.

N. Offender Abuse of the Grievance System

1. Abuse of the grievance procedure 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).
2. If an offender demonstrates a pattern of abuse of the *Offender Grievance System*, the GC will notify the offender in writing that such actions are creating an administrative burden at the expense of legitimate complaints. The notice will contain specific reasons for the decision and state that the GC will return future grievances that demonstrate a continued pattern of abuse. The notice will not be subject to appeal.

O. Retention of Records

1. All staff involved in the grievance process will copy and provide all documentation produced and received for the GC.
2. 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.
3. 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.

P. Remedies

1. 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. Possible remedies include, but are not limited to:
 - a. Modification of Bureau and/or ACCD operational procedure or practice;
 - b. Assurance that deprivation of necessary care or other abuse should not recur; or
 - c. Other remedies that will meaningfully solve the problem presented.

Q. Processing by Grievance Coordinator

The GC will:

1. Log the grievance steps throughout the process upon receipt at each level. Logs will be retained for a period of three (3) years from the initial dated data entry.

[**Note:** Emergency issues will be screened for actual emergent nature by the staff person that receives the emergency grievance and will be immediately forwarded actual emergent nature, operational procedure, and staff conduct grievances to the GC.]
2. Ensure all timelines are met.
3. Ensure proper documentation is present for the basis of any decision in the response to the offender.

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4. Retain all documentation regarding the grievance in the grievance files, including all efforts to resolve the grievance.
5. Record all steps of the grievance and any appeals in a grievance log.
6. Ensure delivery of all responses to the offenders.
7. Ensure all appeals are forwarded to the appropriate person.

IV. CLOSING:

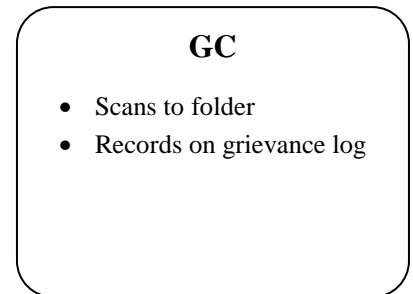
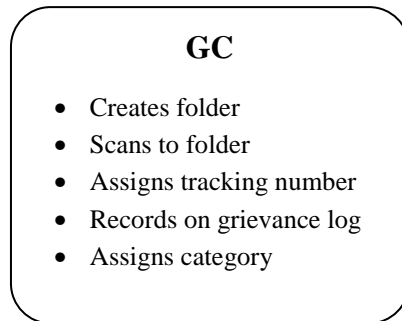
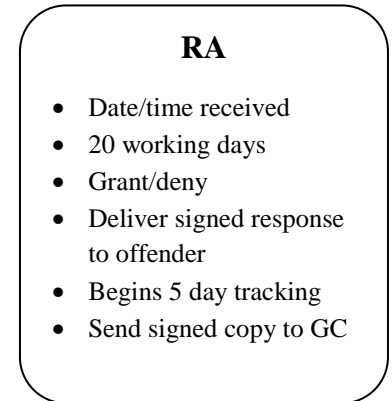
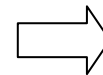
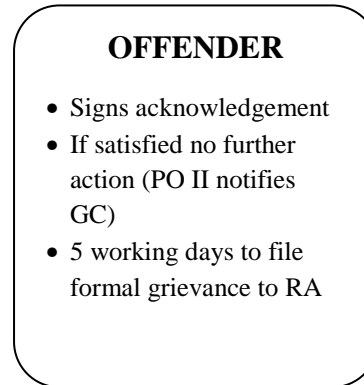
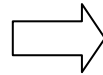
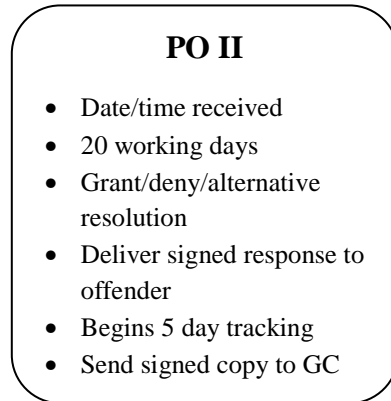
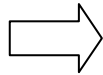
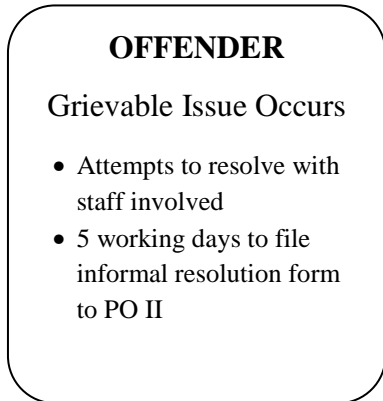
Questions concerning this operational procedure should be directed to the Grievance Coordinator, Bureau Chief, or ACCD Administrator.

Forms

P&P 60-10 (A)	Grievance Response Extension Form
P&P 60-10 (B)	Step One-Offender Informal Resolution Form
P&P 60-10 (C)	Step Two-Offender Formal Grievance Form
P&P 60-10 (D)	Offender Informal/Formal Grievance Continuation Form
P&P 60-10 (E)	Step Three-Offender Grievance Appeal to Bureau Chief
P&P 60-10 (F)	Step Four-Offender Grievance Appeal to ACCD Administrator
P&P 60-10 (G)	Step Five-Offender Grievance Appeal to Director
P&P 60-10 (H)	Staff Acknowledgement Form

GRIEVANCE FLOWCHART

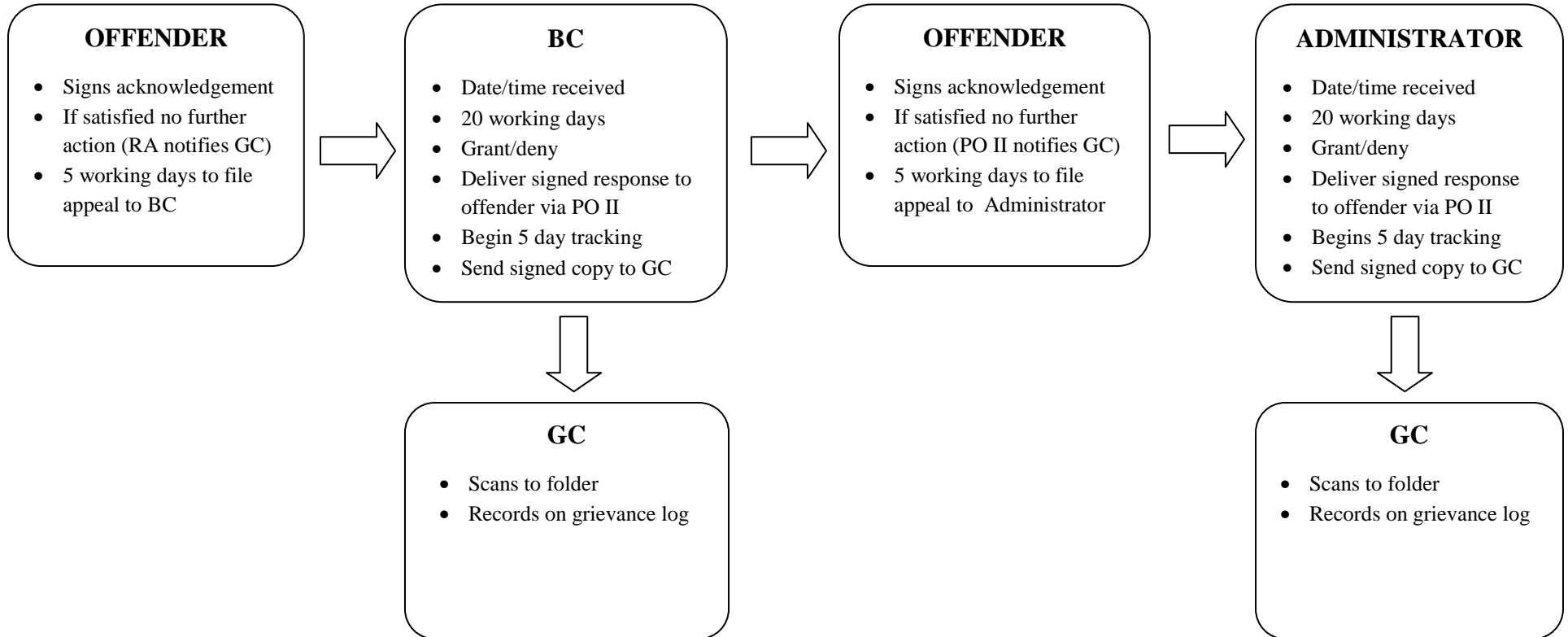
STEP ONE (Informal Grievance)



GRIEVANCE FLOWCHART

STEP THREE (Appeal to Bureau Chief)

STEP FOUR (Appeal to ACCD Administrator)



GRIEVANCE FLOWCHART

STEP FIVE (Appeal to Director)

