



**DEPARTMENT OF CORRECTIONS  
PROGRAMS AND FACILITIES BUREAU  
FACILITY OPERATIONAL REQUIREMENT**

Requirement:	<b>PFB 6.2.430 GRIEVANCE PROGRAM REQUIREMENTS</b>
Effective Date:	10/01/2020 <span style="float: right;">Page 1 of 4</span>
Revision Date(s):	08/11/2021
Reference(s):	PFB 6.2.403; PFB 6.2.404; DOC 3.3.20; 45-5-501, MCA; 45-5-502, MCA; 45-5-503, MCA; 20-13-108 A.R.M.; 24.9.603, A.R.M.; 28 CFR Part 115
Signature / Title:	/s/ Megan Coy, Programs and Facilities Bureau Chief

**This requirement 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, Elkhorn, Nexus, and START.**

**This requirement is referenced as PPD 3.3.300 Offender Grievance Program in Section 2.2.10 Services; Offender Management; Offender Rights in the Connections Corrections Program (CCP) and WATCH contracts.**

**I. PURPOSE:**

The Programs and Facilities Bureau’s contract 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:**

**Discrimination** – Unfair treatment including statements, decisions or acts based upon the offender’s race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disability, or national origin.

**Facility** – Refers to the facilities under contract with the PFB. This term includes the facility building or residence, including property and land owned or leased and operated by the facility.

**Harassment** – Harassment, including sexual harassment, is offensive and unwelcome conduct including, but not limited to, offensive jokes, slurs, epithets or name calling, physical assaults or threats, intimidation, ridicule or mockery, insults or put-downs, and offensive objects or pictures, based upon the offender’s race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disability, or national origin, or in retaliation against an offender because the offender has opposed any discriminatory practices or because the offender has filed a complaint, testified, assisted, or participated in any manner in a discrimination investigation or proceeding.

**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.

**PFB-Programs and Facilities Bureau** – The Bureau oversees the facilities providing assessments and sanctions, prerelease, and treatment services.

**Programs and Facilities Contract Manager** – The Department’s employee(s) who acts as the liaison for services and monitors the contractual agreements between the Department and PFB contract facilities.

**Retaliation** – A significant adverse act taken against an offender because the offender has opposed any forbidden discriminatory practices or because the offender has filed a complaint, testified, assisted, or participated in any manner in a discrimination investigation or proceeding. As set forth in *ARM 24.9.603*, significant adverse acts are those that would dissuade a reasonable person from engaging in protected activity.

### III. REQUIREMENTS:

#### A. EMERGENCY GRIEVANCES:

1. An emergency grievance issue includes:
  - a. *Sexual Abuse and Sexual Harassment*: If at any time an offender grievance contains issues involving sexual abuse or harassment as defined in *PFB 6.2.404 PREA Compliance and Reporting*, the grievance shall be identified as an emergency grievance and will be reported as directed in *PFB 6.2.404*; and
  - b. *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 an emergency grievance.
2. Offenders will not be required to go through a grievance program to report an emergency grievance but may report the grievance verbally or in writing to any staff or use a locked box for grievances if available. Any offender alleging an emergency grievance may obtain assistance from any staff to ensure the grievance is delivered.
3. The emergency grievance will receive immediate attention. Once reviewed, it will be forwarded without undue delay to the facility's GC.
  - a. If GC determines it is a legitimate emergency, within 48 hours:
    - 1) it is reported as follows:
      - a) *Sexual Abuse and Sexual Harassment*: As a PREA incident in conjunction with *PFB 6.2.404 PREA Compliance and Reporting*; or
      - b) *Personal Injury, Physical Harm, or Other Serious Harm*: As a Priority I incident in conjunction with *PFB 6.2.403 Incident Reporting Requirements*.
    - 2) The offender will be notified that the grievance has been referred for review and/or investigation.
    - 3) A final decision will be made within 5 (five) calendar days. Offender will be notified of the final decision as soon as possible and the action taken in response.
  - b. If the issue is determined not to be a legitimate emergency, the GC will provide the offender with a response within 48 hours specifying why the issue is inappropriate as an emergency.
    - 1) The offender may then pursue the issue as a standard grievance; and
    - 2) The decision that the grievance should be pursued as a standard grievance issue cannot be appealed by the offender.
4. If it is demonstrated that an emergency grievance related to alleged sexual abuse/harassment was made in bad faith by an offender, which includes deliberately malicious reports, the offender may be subject to disciplinary action.

**B. CONTRACT FACILITY GRIEVANCE PROGRAM:**

1. The Facility Administrator will designate staff to act as the facility's GC.
2. PFB contract facilities shall maintain a process through which offenders may present grievances concerning the operation of the program.
  - a. This process will afford the grievant a meaningful remedy for valid grievances.
  - b. This process should include multiple levels that include timelines for response and allow for appeals. Grievances alleging sexual abuse or sexual harassment should be processed immediately as an emergency grievance (see Section A above).
  - c. Contract facilities will submit their grievance policies/procedures to the PFB as outlined in *PFB 6.2.409(B) Submission Schedule for Contractor Reports*.
3. Regardless of their status, all offenders must be provided the appropriate facility policies and/or procedures for grievances and the Prison Rape Elimination Act of 2003 (PREA), and *PFB 6.1.206 PFB Offender Grievance Appeals* during facility admission and be given the opportunity to review them, ask questions, and receive answers.
  - a. Offender will complete an acknowledgment form and form is placed in offender's file.
  - b. The facility GC will provide accommodations for 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.
4. Staff members will be available to provide instructions on the proper completion of the grievance forms and be knowledgeable on how to advance the grievance to the next level of review or appeal. All applicable forms will be made available at all times so that offenders do not have to ask for the forms.
5. Disciplinary decisions, a determination of ineligibility for rent vouchers based on Administrative Rule of Montana and Montana Code Annotated, and actions by outside entities not associated with the facility (e.g., the Sentence Review Board and the Board of Pardons and Parole) are not grievable issues.
6. Grievable issues may include:
  - a. Staff misconduct;
  - b. Discrimination, harassment, retaliation;
  - c. Policy and/or operational procedures: 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.
7. The offender must include a remedy to the issue in the grievance; however, requests for staff termination, reprimand, and/or an apology letter, or for money for punitive reasons, will not be accepted.
8. 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 an operational procedure or practice;
  - b. replacement, restoration of, or restitution for personal property; or
  - c. other remedies that will meaningfully solve the problem presented.

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9. An offender will not be subjected to retaliation for utilizing the grievance program. Persons violating this directive must be subject to disciplinary action.
10. Abuse of the grievance program by an offender includes the use of threats; submitting an excessive number of grievance forms; and submitting multiple grievances in reference to the same issue(s).
  - a. If an offender demonstrates a pattern of abuse, the facility GC may notify the offender in writing the reasons that such actions will not be tolerated and future grievances continuing the pattern of abuse may be returned unanswered.
  - b. A copy of the abuse notice will be sent to PFB at [coraccdreports@mt.gov](mailto:coraccdreports@mt.gov).
11. All grievance documents will be placed in a file maintained by the facility GC and responding staff. These documents will not be copied to other files.
12. In the course of resolving a formal offender grievance complaint, GC will have access to essential records for grievance resolution. The offender's grievance serves as a waiver of confidentiality in this regard.
13. Each facility must provide PFB with statistical information on the number and type of grievances received on a monthly basis using *PFB 6.2.430(A) Facility Monthly Grievance Report*:
  - a. offender grievances should be summarized on the *Report* or a summary may be attached to the *Report*.
  - b. *Report* is submitted to [coraccdreports@mt.gov](mailto:coraccdreports@mt.gov).
  - c. Reports must be retained in accordance with contract records retention requirements.

**C. EXHAUSTION OF CONTRACT FACILITY GRIEVANCE PROGRAM:**

1. After exhausting all levels of the facility's grievance program, pursuant to *PFB 6.1.206 PFB Offender Grievance Appeals*, an offender may appeal the final decision of the facility by submitting a formal grievance appeal to the Programs and Facilities Contract Manager within 14 calendar days of the facility's final decision.
2. All forms to be used by the offender are included in materials received during facility admission, are available on the Department's website at [www.cor.mt.gov](http://www.cor.mt.gov), or by contacting PFB staff. Each step of the grievance appeal process should be sent to:

Programs and Facilities Bureau  
P.O. Box 201301, Helena, MT 59620
3. The facility GC will provide information and documentation of the offender's facility grievance process when requested by the PFB.

**IV. CLOSING:**

Questions regarding this requirement should be directed to the Programs and Facilities Bureau.

**V. FORMS:**

PFB 6.2.430 (A) Monthly Grievance Report