



**DEPARTMENT OF CORRECTIONS
PROGRAMS AND FACILITIES BUREAU
MASC OPERATIONAL PROCEDURE**

Procedure:	PFB 6.2.505 OFFENDER GRIEVANCE PROCESS	
Effective Date:	01/10/2021	Page 1 of 8
Revision Date(s):		
Reference(s):	PFB 6.2.507; DOC 1.1.17; DOC 1.3.12; DOC 3.3.3; DOC 3.3.20	
Signature / Title:	/s/ Megan Coy, Programs and Facilities Bureau Chief	

I. PURPOSE:

The Missoula Assessment and Sanction Center will provide a grievance 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:

Clinical Services Division – The division that oversees all medical, mental health, dental and vision services for all offenders in the custody of the Department in secure and contracted facilities.

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.

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.

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.

Offender Staff Request – An official form, commonly referred to as a “kite,” designed for offenders to use to communicate with staff and by which staff may respond to offenders.

MASC-Missoula Assessment and Sanction Center – A correctional assessment and sanction facility for male offenders that is a unit of the Programs and Facilities Bureau and operates within the Missoula County Detention Facility.

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

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. PROCEDURES:

A. GENERAL PROVISIONS:

1. The MASC Administrator will designate staff to act as the grievance coordinator (GC).
2. MASC and the Missoula County Detention Facility (MCDF) will establish facility-specific protocols for MASC offenders to report grievances. This operational procedure will be followed for reporting MASC grievable issues as outlined below.
3. Except in cases involving emergency grievances, an offender must first present an issue of concern as an informal grievance to either the MCDF or MASC.
4. A grievance regarding issues of the offender's care and custody should begin with MCDF pursuant to its grievance procedures.
 - a. MCDF grievable issues include:
 - 1) MCDF policies, rules, and procedures;
 - 2) any lack of a policy, regulation, rule;
 - 3) jail conditions; and
 - 4) program services.
 - 5) Medical and medication reasons see Section E. below, MEDICAL/MEDICATIONS – OFFENDER GRIEVANCE AND APPEAL FILINGS.
 - b. After exhausting the MCDF grievance process, a MASC offender may appeal MCDF's response within 20 business days by submitting a formal grievance appeal to the attention of the MASC Administrator or designee using *PFB 6.2.505(E) Step Three-Offender Final Grievance Appeal*.
 - 1) A written response on the form will be provided to the offender within 20 business days of receipt, specifying the reasons for any decision.
 - 2) This exhausts all administrative remedies available to the offender for this grievance.
5. The process for MASC grievable issues begins by using *PFB 6.2.505(B) Offender Informal Grievance*, an Offender Staff Request, or an MCDF grievance form.
 - a. MASC grievable issues may include:
 - 1) MASC staff and contracted staff alleged misconduct: Must fit the specific criteria noted in any Department policy regarding Department staff conduct including discrimination, harassment, and retaliation;
 - 2) Department policy and/or MASC operational procedure: 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; and
 - 3) medical and medication issues – see Section E. below, MEDICAL/MEDICATIONS – OFFENDER GRIEVANCE AND APPEAL FILINGS.

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b. MASC non-grievable issues include:

- 1) all disciplinary decisions,
- 2) MCDF housing classification decisions, and
- 3) actions by outside entities not under the jurisdiction of the Department, including courts, the Sentence Review Board, and the Board of Pardons and Parole.

B. EMERGENCY GRIEVANCE:

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 sexual harassment as defined in *PFB 6.2.507 PREA Requirements and Reporting*, the grievance shall be identified as an emergency grievance and will be reported as directed in *PFB 6.2.507*; 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 a formal emergency grievance.
2. Offenders at MASC are not required to go through the grievance process to report an emergency grievance but may report the emergency verbally or in writing to any MCDF staff or MASC staff or contracted personnel, use a locked box for grievances if available, or report the emergency through a third party.
3. Within 48 hours of becoming aware of an emergency grievance filed by a MASC offender and determined to be a legitimate emergency, the GC will:
 - a. Report as follows:
 - 1) *Sexual Abuse and Sexual Harassment*: To the MCDF PREA Coordinator as a PREA incident and in conjunction with *PFB 6.2.507 PREA Requirements and Reporting*; or
 - 2) *Personal Injury, Physical Harm, or Other Serious Harm*: As a Priority I incident in conjunction with *PFB 6.2.506 Priority Incident Reporting*.
 - b. Notify the offender that the emergency has been referred for review and/or investigation.
 - c. In any emergency grievance to which MASC staff would respond, a response is provided to the offender within 5 (five) calendar days.
4. Once the GC becomes aware the issue was determined not to be a legitimate emergency, the GC will provide the offender with a written response within 48 hours specifying why the issue is inappropriate as an emergency.
 - a. the offender then has five (5) business days to pursue an informal grievance with MCDF or MASC, based on the issue; and
 - b. the decision that the grievance should be pursued as an informal grievance issue cannot be appealed by the offender.
5. The facility or program may discipline an offender for filing a grievance related to alleged sexual abuse only where the facility or program demonstrates that the offender filed the grievance in bad faith.

C. ACCESS, DISTRIBUTION, AND SUBMISSION OF FORMS:

1. At MASC orientation, all offenders must be provided a copy of the following policies and procedures. At MASC intake, each offender is given the opportunity to ask questions and receive answers regarding the provided information and complete *PFB 6.2.507(A) MASC Offender PREA Acknowledgement*. The *Acknowledgement* is uploaded into offender's OMIS record.
 - a. *DOC Policy 1.1.17, Prison Rape Elimination Act of 2003 (PREA)*,
 - b. *DOC Policy 1.3.12, Staff Association and Conduct with Offenders*,
 - c. *DOC Policy 3.3.3, Offender Grievance Program*,
 - d. *DOC Policy 3.3.20, Offender Nondiscrimination*,
 - e. *PFB 6.2.507 PREA Requirements and Reporting*, and
 - f. *PFB 6.2.505 Offender Grievance Process*.
2. The GC will explain how to complete forms, file, appeal, and resolve grievances.
 - a. MASC staff will be able to provide the applicable forms, instructions on the proper completion of the forms, and how to advance the grievance to the next level of review or appeal.
 - b. The GC will assist offenders who do not speak English and/or who are visually or otherwise disabled.
3. The offender's grievance serves as a waiver of confidentiality in this regard; therefore, staff will have access to essential records for grievance resolution.

D. TIME LIMITS, EXTENSION, AND EXHAUSTION:

1. The maximum length of time allowed from initiation to final disposition of the MASC grievance process is 180 calendar days, with the exception of grievances alleging sexual abuse/harassment which should be immediately processed as an emergency grievance.
2. With respect to all time limits established for offenders, extensions may be granted by the respondent for good cause shown in exceptional circumstances, such as physical incapacity or being in transit while separated from relevant documents.
 - a. Respondent will provide written notice to the offender on *PFB 6.2.505(A) Grievance Response Extension*.
 - b. A completed copy of the *Extension* form will be forwarded to corao@mt.gov
3. An offender will be deemed to have exhausted his administrative remedies under the grievance process for the particular issue being grieved if he fails to advance to the next level of the grievance process within the stated time limit.
4. All submissions must be delivered or postmarked within the specified time frames given in this procedure. Additionally, the following apply to all submissions:
 - a. 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, MASC staff will reject and return form without a response and advise the offender to use a separate form for each unrelated issue.

- b. If two or more offenders file issues on the same form, it will be returned to them unprocessed.
- c. The name of every individual against whom the offender is making a complaint will be listed.

E. MEDICAL/MEDICATIONS - OFFENDER GRIEVANCE AND APPEAL FILINGS:

1. A MASC offender will file an MCDF informal grievance for any issue or concern related to his medical care or medication.
2. If the offender is not satisfied after exhausting the MCDF grievance process, he may begin a grievance appeal process through MASC:
 - a. The offender should include all responses received from the MCDF grievance process.
 - b. The appeal process is made up of two steps:
 - 1) First: Formal grievance appeal to the attention of a DOC Clinical Services Division nurse using *PFB 6.2.505(D) Step Two-MASC Offender Grievance Appeal*; and
 - 2) Second: Formal appeal to the attention of the Clinical Services Division administrator or designee using *PFB 6.2.505 (E) Step Three-MASC Offender Final Grievance Appeal*. It is understood that all administrative remedies have been exhausted upon completion of step two.
 - c. All responses from the Clinical Services Division will be pursuant to applicable to DOC policies/procedures.
3. If the offender's requested action is granted at any time, the grievance appeal process ends.

F. MASC NON-MEDICAL GRIEVANCE PROCESS:

1. Except as provided for emergency grievances, an offender must first present a MASC grievable issue in writing on *PFB 6.2.505(B) Offender Informal Grievance*, an *Offender Staff Request*, or Missoula County Detention Facility grievance form to the MASC Unit Manager or designee **within five (5) business days** of the action or omission that caused the complaint and attempt to resolve the issue before filing a formal grievance.
2. 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.
3. 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 under control of MASC staff;
 - c. assurance that deprivation of necessary care or other abuse should not recur; or
 - d. other remedies that will meaningfully solve the problem presented.
4. An offender will not be subject to retaliation for utilizing the grievance process. Persons violating this directive must be subject to disciplinary action.
5. Abuse of the grievance process 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 it is determined an offender is demonstrating a pattern of abuse, the GC will 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. Abuse notices are not subject to appeal.
 - c. A grievance filed in violation of the abuse notice will be logged in as such but returned unanswered.
 - d. A copy of the abuse notice will be sent to PFB at coraccdreports@mt.gov and a chronological entry in offender's OMIS record is made by MASC staff regarding the abuse notice.
6. Staff involved in the grievance process will copy all documentation produced and received in the process and provide to the GC.
 - a. All grievance documents will be scanned to an electronic folder and placed in a file maintained by the GC. These documents will not be copied to other files.
 - b. The GC will log the grievance and assign a case number.
 7. GC must provide statistical information on the number and type of grievances received on a monthly basis using *PFB 6.2.505 (F) 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.
 - c. *Reports* must be retained for at least three (3) years following the final grievance disposition.

G. OFFENDER INFORMAL GRIEVANCE RESOLUTION FILING:

1. A signed response will be provided to the offender on *PFB 6.2.505(B) Offender Informal Grievance Resolution Form* within 20 business days of initial receipt of the form from the offender. The form includes instructions on how to proceed with a formal grievance.
2. The MASC Unit Manager or designee will have the offender sign and date the response.
3. The offender may file a formal grievance within five (5) business days from the date he receives the informal resolution response.
4. If a response to the informal grievance was not received within 20 business days of its submission, the offender may proceed by filing a formal grievance without an informal response. The formal grievance must be filed within the next five (5) business days.
5. If an offender's requested action is granted, the grievance process ends and it is understood all administrative remedies have been exhausted.

H. OFFENDER FORMAL GRIEVANCE RESOLUTION FILING:

1. The formal grievance process is made up of the following steps:
 - a. Step One: Formal grievance to the attention of the MASC Administrator or designee using *PFB 6.2.505(C) Step One-Offender Formal Grievance*;
 - b. Step Two: Formal grievance appeal to the attention of the PFB Bureau Chief or designee using *PFB 6.2.505(D) Step Two-Offender Grievance Appeal*.
 - c. Step Three: Formal grievance appeal to the attention of the Department Deputy Director or designee using *PFB 6.2.505(E) Step Three-Offender Final Grievance Appeal*.

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2. Each form should provide all requested identifying information to ensure contact can be maintained throughout the process. The offender will legibly and clearly state the issue in the space provided.
3. 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.
4. Copies of all documentation essential to the resolution of a grievance will be attached, including the *PFB 6.2.505(B) Offender Informal Grievance* with response. The offender is encouraged to retain a copy of all documentation for their personal records.
5. 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.
6. 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.
7. If a response to the formal grievance was not received within 20 business days from the submission of *Step One-Offender Formal Grievance*, and the submission was not a violation of a prior notice of abuse, the offender may proceed by filing a formal grievance appeal within the next five (5) business days.
8. If an offender's requested action is granted, he will not be allowed to appeal the decision and it is understood all administrative remedies have been exhausted.

I. STAFF RESPONSE TO FORMAL GRIEVANCE AND APPEAL FILINGS:

1. Step One-Offender Formal Grievance Resolution:
 - a. A legibly signed and dated response will be provided to the offender on *PFB 6.2.505(C) Step One-Offender Formal Grievance* within 20 business days of receipt of the form. The response will contain specific, explanatory reasons for any decision to assist the offender's understanding of the decision. The response will also provide direction on how to proceed with an appeal unless the formal grievance has been found to be an abuse violation.
 - b. The MASC Administrator or designee will have the offender sign and date the response. The offender will have five (5) business days from receipt of the response to submit an appeal to the PFB Bureau Chief.
2. Steps Two and Three, Grievance Appeals:
 - a. The PFB Bureau Chief or designee will review *(D) Step Two-Offender Grievance Appeal* and provide a written response on the form to the offender within 20 business days of receipt specifying the reasons for any decision. The response will provide direction on how to proceed with a Step Three final appeal unless the formal grievance has been found to be an abuse violation. The offender will have five (5) business days from receipt of the response to submit an appeal to the Deputy Director or designee.

- b. The Deputy Director or designee will review *PFB 6.2.505(E) Step Three-Offender Final Grievance Appeal* and provide a written response on the form to the offender within 20 business days of receipt, specifying the reasons for any decision.
3. The Deputy Director's response is final and exhausts all administrative remedies available to the offender through the offender grievance process.

IV. CLOSING:

Questions regarding this procedure/requirement shall be directed to the MASC Unit Manager or MASC Administrator.

V. FORMS:

- PFB 6.2.505 (A) Grievance Response Extension
- PFB 6.2.505 (B) Offender Informal Grievance
- PFB 6.2.505 (C) Step One-Offender Formal Grievance
- PFB 6.2.505 (D) Step Two-Offender Grievance Appeal
- PFB 6.2.505 (E) Step Three-Offender Final Grievance Appeal
- PFB 6.2.505 (F) Monthly Grievance Report

**MONTANA DEPARTMENT OF CORRECTIONS
PROGRAMS AND FACILITIES BUREAU
MASC OFFENDER INFORMAL GRIEVANCE**

Date: _____

Printed Name: _____ DOC ID #: _____

1. Describe the problem. Include date and time the incident occurred, names of staff involved, description of any evidence, and names of any witnesses. **Name the person(s) you are grieving.** WHAT did they do? WHEN did they do it? WHERE did this happen? and WHAT have you done so far to get the problem resolved? (Continue on back if necessary.)

2. ACTION REQUESTED: _____

3. OFFENDER SIGNATURE: _____

By my signature above, I waive confidentiality to any records necessary to investigate and resolve my complaint and certify the truth of all my statements herein.

Office Staff: Received by: _____ Date: _____ Time: _____

RESPONSE: Granted Granted in Part Denied Not processed

Reason for this decision/Action taken: _____

A FORMAL GRIEVANCE USING FORM *PFB 6.2.505 (C) STEP ONE-MASC FORMAL GRIEVANCE* MAY BE SUBMITTED WITHIN FIVE (5) WORKING DAYS OF RECEIPT OF THIS RESPONSE IF YOUR REQUEST WAS DENIED. Attach copies of all pertinent information.

RESPONDENT'S SIGNATURE

TITLE

DATE

I acknowledge that I have received this response. I do / I do not intend to file a formal grievance.

OFFENDER'S SIGNATURE

DATE

For GC only: EMERGENCY Staff Conduct Operational procedure Medical
Received by: _____ Date: _____ Case #: _____

MONTANA DEPARTMENT OF CORRECTIONS
PROGRAMS AND FACILITIES BUREAU

STEP ONE - MASC OFFENDER FORMAL GRIEVANCE

Date: _____

Printed Name: _____ DOC ID #: _____

1. Description of problem must include date and time incident occurred, attempts made to resolve, names of staff involved, description of any evidence, names of any witnesses. **Name the person(s) you are grieving.** WHAT did they do? WHEN did they do it? WHERE did this happen? and WHAT have you done so far to get the problem resolved? (Continue on back if necessary.)

2. ACTION REQUESTED: _____

3. OFFENDER SIGNATURE: _____

By my signature above, I waive confidentiality to any records necessary to investigate and resolve my complaint and certify the truth of all my statements herein.

Office Staff: Received by: _____ Date: _____ Time: _____
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RESPONSE: Granted Granted in part Denied Not processed

Reason for this decision/Action taken: _____

AN APPEAL USING FORM PFB 6.1.206 (D) STEP TWO-MASC OFFENDER GRIEVANCE APPEAL MAY BE SUBMITTED WITHIN 5 CALENDAR DAYS OF RECEIPT OF THIS RESPONSE IF YOUR REQUEST WAS DENIED. Attach copies of all pertinent information.

RESPONDENT'S SIGNATURE TITLE DATE

I acknowledge that I have received this response. I do / do not intend to appeal to the next level.

OFFENDER'S SIGNATURE DATE

For GC only: EMERGENCY Staff Conduct Operational Procedure Medical
Received by: _____ Date: _____ Gr. Case #: _____

