



**DEPARTMENT OF CORRECTIONS
MONTANA STATE PRISON
OPERATIONAL PROCEDURE**

Procedure:	3.3.3 INMATE GRIEVANCE PROGRAM
Effective Date:	November 11, 1996 Page 1 of 12 and 7 Attachments
Revision Date(s):	April 1, 1997; September 30, 2003; April 1, 2005; July 1, 2007; May 13, 2009; February 27, 2013; March 10, 2014; April 29, 2016; December 8, 2016, November 1, 2019
Reference(s):	DOC 3.3.3
Signature:	/s/ Lynn Guyer / Warden
Signature:	/s/ Gayle Butler / MCE Administrator

I. PURPOSE

To provide an internal grievance mechanism to resolve inmate complaints, reduce the need for litigation, and afford staff the opportunity to improve facility operations.

II. DEFINITIONS

Authorized Staff Member- Administrators, Grievance staff, Unit Managers, Case Manager or Unit Sergeants and their designees.

Clinical Services Grievance – A grievance concerning matters of health services care and judgment. Includes matters of medical, vision, dental, mental health, chemical dependency and sex offender treatment care.

Disability – A physical or mental impairment that substantially limits one or more of a person’s major life activities, a person who has a history of such an impairment, or a person who is perceived by others as having such an impairment. See *Americans with Disabilities Act of 1990 42 USC 12010*, as amended.

Emergency Grievance – A grievance concerning matters that subject (or has subjected) an inmate to a substantial risk of immediate personal injury or serious harm; this includes serious mental health issues. This is to include PREA related matters.

Facility Health Administrator (FHA) - The staff member assigned to administer the facility’s health services.

Grievance – An individual complaint filed by an inmate concerning subject matter as outlined in this operational procedure.

Grievance Coordinator (GC) – The staff member assigned to administer, investigate, and respond to inmate grievances. The responsibilities of this position may also apply to that person’s designee.

Informal Resolution- An individual complaint filed by an inmate as the first step outlined in this operational procedure.

Not Processed Grievance – A grievance that is returned to the inmate with explanation of the violation of procedure.

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

Staff Conduct Grievance – A grievance concerning prohibited conduct as defined in *DOC 1.3.12*.

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

III. PROCEDURES

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 inmate grievance program.
2. Classification, disciplinary, and any other decision which is subject to a separate appeal procedure or administrative review process, are not grievable under the inmate grievance program.

B. Grievable Issues

1. All other issues including, but not limited to, health care, staff conduct, written policy or procedures, and other standard grievance matters such as property, food service, conditions of confinement, program access (such as access to vocational education, treatment or employment), religious issues, or provision or denial of an accommodation to a prisoner with a disability are grievable. All grievances should show in some manner how the inmate has been personally adversely affected.
2. Grievances regarding the Department and the particular facility's written policies and operational procedures must specifically demonstrate with factual basis that the inmate filing the grievance has been, in some manner, unfairly or personally adversely affected by the application or operation of a written policy or operational procedure.

C. Distribution, Submission, and Collection of Forms

1. All formal grievances and appeals will be processed through the Grievance Coordinator (GC), or designee. The GC will distribute Inmate Informal Resolution forms, Inmate Grievance forms and Grievance Continuation forms to each housing unit, where they will be freely available to inmates from housing unit staff.
2. After filing an informal resolution (see section E), the inmate may submit a written statement of his issue by filling out an *Inmate/Offender Grievance Form* (attachment C) and placing it in the locked collection box located in the housing unit lobby. The GC, or designee, will collect grievance forms weekly from locked collection boxes and directly from locked housing unit inmates no less than once per 40-hour week.

D. Time Limits, Extension, and Exhaustion

1. The maximum length of time for completion of the grievance process is 180 calendar days, from initiation to final disposition. The *Inmate Grievance Flowchart* (attachment G) summarizes the process and clearly identifies the applicable time frames.

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2. With respect to all time limits established in this operational procedure for inmates, 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 in this operational procedure for good cause and with written notice to the inmate on a *Grievance Response Extension Form* (attachment A).
4. If an inmate fails to receive a timely response from a staff member as set forth in this operational procedure, the inmate may file the appropriate forms to advance to the next level of the grievance program.
5. If an inmate fails to advance to the next level of the grievance program within the stated time limit, he will be considered to have forfeited the opportunity to exhaust his administrative remedies under the inmate grievance program.
6. If an inmate's action requested is granted, he will not be allowed to appeal the decision, and it is understood he has exhausted all administrative remedies.
7. An inmate who had exhausted the administrative remedies available under this procedure with respect to a specific issue or event, may not grieve the same specific issue or event again.

E. Accommodations for Inmates with Disabilities During the Grievance Process

1. If an inmate is unable to complete any form mentioned herein, as a result of a physical or mental disability, staff shall assist the inmate in completing the form. The inmate will be required to report the grievance or, if appropriate, intent to appeal the grievance to unit staff and request assistance. Once unit staff have communicated with the individual, staff shall assist the inmate in completing the requisite form. If the staff member contacted is unable to sufficiently communicate with the individual, staff shall request the assistance of appropriate staff or other persons with requisite training, such as the offender ADA Coordinator. All information shared between the individual inmate and staff shall be confidential from other inmates and unnecessary staff and shall not be disclosed other than to enable the inmate to file or otherwise pursue the grievance or ensure that an appropriate accommodation is provided in the grievance process. If assistance is provided, an appropriate notation shall be made in OMIS.
2. If the inmate, as a result of physical or mental disability, would be unable to sufficiently understand a written response provided to a grievance or an appeal of a grievance, the offender ADA coordinator and/or designee shall meet with the inmate to discuss: the decision; if applicable, the process for appealing the decision; and the timeframe within which the appeal must be filed. This accommodation shall be documented in the inmate's institutional record and in OMIS. All information shared between the individual inmate and staff shall be confidential from other inmates and unnecessary staff and shall not be disclosed other than to enable the inmate to file or otherwise pursue the grievance or to ensure that an appropriate accommodation is provided in the grievance process.
3. If assistance is provided or any other requirement is waived, an appropriate notation shall be made in OMIS.

F. Informal Resolution

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1. Except as provided below regarding emergency grievances, an inmate must first present an issue of concern on an *Inmate/Offender Informal Resolution Form* (attachment B) to his assigned Unit Manager (UM) or designee within five working days of the action or omission that caused the complaint, in an attempt to resolve the issue before filing a formal grievance. This includes the following:
 - a. if the inmate submits an issue of concern on a form other than those provided by the grievance office, they risk having it returned without processing;
 - b. the inmate will complete an Inmate/offender Informal Resolution Form (attachment B) with all requested identifying information, and legibly and clearly state the issue in the space provided on the form. If more space is needed, the inmate may use up to one Inmate/Offender Grievance Continuation Form (attachment D);
 - c. the inmate will describe a single issue or a reasonable number of closely related issues on the form. If the inmate includes multiple unrelated issues on a single form, the Unit manager or designee will reject and return document as not processed and advise the inmate to use a separate form for each unrelated issue. The inmate will have 48 hours from receipt to make the necessary changes. If the resubmission is late the UM will reject and return the informal resolution as not processed;
 - d. if two or more inmates file issues on the same informal resolution form, the Unit Manager will return it to the inmate(s) unprocessed; and
 - e. if the inmate has previously grieved the issue to the UM, the UM will return the informal resolution as not processed with a written explanation.
2. The UM, or designee, will investigate and attempt to resolve the issue informally, and provide a written or typed response which will contain specific, explanatory reasons for any decision to assist the inmate's understanding of the decision; the response will be provided to the inmate on the *Inmate/Offender Informal Resolution Form* within 20 working days of receipt of the form. The written or typed response will be hand delivered to the inmate by an authorized staff member for signature.
3. The UM or designee, must attach all documentation that was used to support disposition of the informal resolution for the grievance file
4. Except for the Department Director, any person implicated in an informal resolution will not participate in the decision-making process concerning the grievance
5. If the UM, or designee, refers the issue to a more appropriate department for response, the action and date of referral must be documented. The receiving staff member will thoroughly address the issue and notify the inmate and UM if an answer cannot be provided before the established 20-day deadline. The response to the informal resolution will be routed back to the UM to be delivered to the inmate by an authorized staff member for signature.
6. An inmate wishing to file a formal grievance must do so within five working days from the date he received the informal resolution response. If the inmate doesn't receive a response to his informal resolution within 25 working days, he may proceed by filing a formal grievance without informal response. He must file the formal grievance within the next five working days.

G. Formal Grievance – Filing

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1. The inmate will only use the forms provided by the grievance office to file a grievance. If an inmate submits a grievance on a form other than those provided by the grievance office, the GC will reject it.
2. The inmate will complete an *Inmate/Offender Grievance Form* (attachment C) with all requested identifying information, and legibly and clearly state the issue in the space provided on the form. If more space is needed, the inmate may use up to one *Inmate/Offender Grievance Continuation Form* (attachment D).
3. The inmate will state the name of every individual against whom the inmate is making the claim.
4. The inmate will describe a single issue or a reasonable number of closely related issues on the form. If the inmate includes multiple unrelated issues on a single form, the GC will reject and return the document as not processed and advise the inmate to use a separate form for each unrelated issue. The inmate will have 48 hours from receipt to make the necessary changes. If the resubmission is late the GC will reject grievance and return as not processed.
5. The inmate will provide copies of all documentation essential to the resolution of a grievance, including the Inmate/Offender Informal Resolution Form with staff response. If the inmate does not provide a copy of the Inmate/Offender Informal Resolution form, they risk having the grievance returned by the GC without processing. Therefore, inmates are encouraged to retain a copy of all exhibits for their personal records. Upon response of the grievance the original copies will be returned to the Inmate, the GC will maintain all copies of the supporting documents.
6. If two or more inmates file a grievance on the same form, the GC will return it to the inmate(s) unprocessed.
7. Inmates may obtain assistance from staff or other inmates to file a grievance form, but an inmate may not submit a grievance form on behalf of another inmate. If an inmate submits a grievance on behalf of another inmate, the GC will return it to the inmate unprocessed.
8. If the grievance or requested remedy is unclear, the GC or other staff shall meet with the offender for clarification. Staff may also consult with the offender ADA Coordinator and if they do so, that consultation shall be documented in OMIS.
9. The GC will assure that the grievance form is complete, and will return an incomplete grievance form to the inmate with a written statement as to why it is not being processed. The inmate may resubmit the grievance form with the appropriate corrections, but must do so within 48 hours. If the resubmitted grievance is submitted late the GC will reject it.
10. If an inmate raises any issue that was not raised in the previous level of filing during the steps of grieving an issue, or changes the action requested, the GC will return the form to the inmate with a written statement as to why it is not being processed any further.
11. If an inmate combines grievances of separate previous level responses into a single grievance, the GC will return the form to the inmate with a written statement as to why it is not being processed any further.

H. Responding to the Formal Grievance

1. The GC, or designee, will respond to all properly filed grievance forms within 20 working days. All responses will be either written or typed, and will contain specific, explanatory reasons for

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any decision to assist the inmate's understanding of the decision. Additionally, staff must clearly mark whether the action is granted, denied or granted in part on the form.

2. The staff member providing the written or typed response will legibly sign and date it. The written or typed response will be hand delivered to the inmate by an authorized staff member for signature.
3. Except for the Department Director, any person implicated in a formal inmate grievance will not participate in the decision-making process concerning the grievance.
4. Staff members will include instructions either verbally or in writing to the inmate on how to advance his grievance issue to the next level, or for proper completion of the appeal form
5. An inmate wishing to file an appeal must do so within five working days from the date he received the formal level response. If the inmate doesn't receive a response to his formal grievance within 25 working days, he may proceed by filing a Warden Appeal without formal response. Appeals are not located in the housing units therefore the Inmate must submit an OSR to the GC to obtain the appeal. He must file the appeal within the next 5 days of receipt of the form.

I. Processing by Grievance Coordinator (GC)

1. The GC will act as follows:
 - a. determine into which category the issue falls and log the grievance upon receipt; (**Note:** Emergency issues will be screened for actual emergent nature). The GC or Shift Commander will immediately forward actual emergent nature, operational procedure, and staff conduct grievances to the Warden / Facility Administrator, or designee. The GC or shift Commander will confer with the facility health administrator (FHA), or designee, to determine whether a grievance filed as a health services issue should be deemed standard or health services related. The FHA, or designee, will process those deemed health services issues.)
 - b. immediately return any incomplete or improperly filed grievance form to the inmate;
 - c. respond to a standard grievance within 20 working days of receipt;
 - d. document the basis of any decision in the response to the inmate;
 - e. retain all documentation regarding the grievance in the grievance files, including all efforts to resolve the grievance;
 - f. record all steps of the grievance and any appeals in a grievance log;
 - g. deliver all responses to the inmates;
 - h. forward all appeals to the appropriate person; and
 - i. any ADA related grievance will be forwarded to the ADA coordinator. The ADA coordinator will coordinate with appropriate staff including medical to resolve the grievance and provide a response. If the GC receives an ADA related grievance that is unclear or does not otherwise conform to procedure, the GC or ADA coordinator will meet with the inmate, as stated in this procedure (III, G, 8). This will ensure an ADA grievance will not be returned unprocessed.

J. Processing by the Warden / Facility Administrator

1. The appeals process is as follows:
 - a. an inmate wishing to appeal the GC's response may do so by submitting an *Inmate/Offender Grievance Appeal to Warden/Administrator form* (attachment E) and any additional

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- documentation to the GC within five working days of receipt of the response to the grievance. If more space is needed, the inmate may use up to one *Inmate/Offender Grievance Continuation Form* (attachment D). The GC will ensure the appeal form has been properly filed, attach all documentation, and promptly forward the appeal to the Warden / Facility Administrator or designee. The GC will return any improperly filed appeal to the inmate with a written statement as to why it is not being processed any further;
- b. within 20 working days of receipt of the appeal form, the Warden / Facility Administrator or designee will review the grievance and provide a written response to the inmate, specifying the reasons for any decision. The Warden / Facility Administrator or designee will include instructions to the inmate that he may appeal the decision to the Department Director; and
 - c. the response will be returned to the inmate through the GC, who will notify the inmate that he has five working days from receipt to submit an appeal to the decision to the GC who will forward it to the Department Director.
2. Emergency Grievances consist of the following:
 - a. the Warden / Facility Administrator or designee will respond to an emergency grievance within 48 hours of receipt of the grievance. The response will include instructions to the inmate that he may appeal the decision to the Department Director; and
 - b. the response will be returned to the inmate through the GC, who will notify the inmate that he has three working days from receipt to submit an appeal to the decision to the GC who will forward the appeal to the Department Director.
 3. The Staff Conduct Grievances process consists of the following:
 - a. The GC will immediately forward any grievance that fits the specific criteria noted in *DOC Policy 1.3.12, Staff Association and Conduct with Offenders* to the Warden / Facility Administrator or designee;
 - b. The Warden / Facility Administrator or designee will provide a written response to the inmate within 20 working days of receipt of the grievance. The response will include instructions to the inmate that he may appeal the decision to the Department Director if the action requested is denied or granted in part; and
 - c. The response will be returned to the inmate through the GC, who will inform the inmate that he has five working days to submit an appeal to the decision to the GC who will forward the appeal to the Department Director.
 4. Policy and Operational Procedure Grievances are as follows:
 - a. the GC will forward any grievance concerning changes to formal policy or operational procedures to the Warden / Facility Administrator or designee;
 - b. the Warden / Facility Administrator or designee will convene an operational procedure / policy committee as deemed necessary, and will provide a written response to the inmate within 20 working days of receipt of the grievance. The response will include instructions to the inmate that he may appeal the decision to the Department Director; and
 - c. the response will be returned to the inmate through the GC, who will inform the inmate that he has five working days to submit an appeal to the decision to the GC who will forward the appeal to the Department Director.

K. Health Services Grievances

1. The GC and FHA, or designee, will determine whether a grievance alleging problems related to health services will be handled as a standard or a health services grievance. This includes the following:

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- a. if it involves health services judgment, the FHA or designee will take the grievance and process it; and
 - b. if the grievance doesn't involve health services judgment, the GC will take the grievance and process it as a standard grievance.
2. The FHA or designee will confer as necessary with the health care provider, and must notify the Department Medical Director or designee (or the Department Dental Director if it involves dental judgment), prior to responding to the grievance.
 3. The FHA or designee will provide a written response within 20 working days of receipt of the grievance, including instructions to the inmate that he may appeal the decision to the Department Medical Director or designee (or the Department Dental Director if it involves dental judgment). The FHA or designee will return the response to the GC.
 4. The GC will deliver the FHA's response to the inmate and inform him that he has five working days to submit an *Inmate/Offender Grievance Appeal to Warden/Administrator* form (attachment E) to the GC.
 5. Upon receipt of the appeal the GC will copy the Warden / Facility Administrator and forward the appeal form to the Department Medical Director or designee (or the Department Dental Director if it involves dental judgment).
 6. The Department Medical Director or designee (or the Department Dental Director if it involves dental judgment) will provide a written response within 20 working days of receipt of the appeal, including instructions to the inmate that he may appeal the decision to the Department Director or designee. The Department Medical Director or designee (or the Department Dental Director if it involves dental judgment) will return the response to the GC.
 7. The GC will deliver the Department Medical Director's (or the Department Dental Director if it involves dental judgment) response to the inmate and inform him that he has five working days to submit an *Inmate/Offender Grievance Appeal to Corrections Director* form (attachment F) to the GC.
 8. Upon receipt of the appeal, the GC will forward the appeal to the Department Director or designee

L. Processing by the Department Director

1. An inmate wishing to appeal a Warden / Facility Administrator or Department Medical Director or designee (or the Department Dental Director if it involves dental judgment) response must submit an *Inmate/Offender Grievance Appeal to Corrections Director* form (attachment F) and any additional documentation to the GC within five working days of receipt of the response. If more space is needed, the inmate may use up to one *Inmate/Offender Grievance Continuation Form* (attachment D).
 - a. The GC will ensure the appeal form has been properly filed. The GC will return any improperly filed appeal to the inmate with a written statement as to why it is not being processed any further.
 - b. If the appeal has been properly filed, the GC will attach all documentation, and promptly forward the appeal to:
 - 1) the Department Director for review, and

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- 2) the relevant Warden, Facility Administrator, Department Medical Director, or Department Dental Director, or designee, so they will be aware of the pending appeal to the Director.
2. An inmate may not raise in an appeal any issue that was not raised in the lower level filings. An inmate may not combine appeals of separate lower level responses into a single appeal.
3. The Department Director or designee will respond to an emergency grievance within 10 working days of receipt of the grievance and appeal. The Department Director or designee will respond to all other appeals within 20 working days of receipt of the grievance and appeal. The Department Director or designee will review the grievance and provide a written response to the inmate, specifying the reasons for any decision. The response will be returned to the inmate through the GC.
4. The Department Director's response is final, and exhausts all administrative remedies available to the inmate through the inmate grievance program.

M. Emergency Grievances

1. Inmates alleging actual, or risk of, immediate physical harm may file a formal emergency grievance.
2. The inmate will specify on an *Inmate/Offender Grievance Form* the exact nature of the issue and why the issue is considered an emergency. The inmate has 48 hours from the incident to file a formal emergency grievance except issues that are not time barred from filing, such as a PREA or ADA claim.
3. The inmate will submit the completed *Inmate/Offender Grievance Form* to the GC; or to the Shift Commander in the GC's absence. Any inmate alleging an emergency grievance issue may obtain assistance from any staff member to ensure the grievance is delivered to the GC or Shift Commander. The GC or Shift Commander will determine whether the issue is a legitimate emergency, and will forward legitimate emergency grievances to the Warden / Facility Administrator or designee for processing.
4. The Warden / Facility Administrator or designee will respond to the inmate in writing within 48 hours of receipt of the emergency grievance. The GC may extend this time frame, but only for an additional 48 hours. The GC will inform the inmate in writing of any time frame extension.
5. The inmate may appeal the Warden / Facility Administrator's response to the emergency grievance to the Department Director by submitting a completed appeal form to the GC within five working days of receipt of the response. The GC will promptly forward the appeal to the Department Director. The Department Director will respond to all legitimate emergency grievances in writing within 10 working days of receipt.
6. If the issue is determined not to be a legitimate emergency by the GC, Shift Commander, Warden / Facility Administrator, or designee, the GC will return the grievance to the inmate within 48 hours, with a written response specifying why the issue is inappropriate as an emergency. The inmate then has five working days to pursue the issue as a standard grievance, beginning with submission of an informal resolution form.
7. The inmate may not appeal the decision to return the grievance to him to pursue as a standard grievance issue.

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N. Inmate Use of the Grievance Program – Protection Against Reprisal and Confidentiality

1. Staff will not harass, punish, or discipline an inmate for utilizing the inmate grievance process. Employees will be subject to disciplinary action if they violate this directive.
2. Complaints and all level of grievances will not be discussed or shared with staff or offenders not actively involved in the resolution of the grievance unless there are safety/security concerns.
3. Prior to disclosure of any grievance to the public, the inmate will be notified of the disclosure and given an opportunity to consent or object to the disclosure. If the inmate objects to disclosure, the Department will balance the inmate's right to privacy against the public's right to know in determining whether the grievance should be disclosed.
4. Inmates will not be given investigative reports/note sheet and written testimony from staff or other inmates. Such documents often contain sensitive information and therefore will be considered confidential.
5. Unless required by law or policy, Department findings in any employment investigation or action related to a grievance will not be released to the inmate as they are confidential
6. All grievance documents will be placed only in the grievance files maintained by the GC. They will not be copied to other files.

O. Inmate Abuse of the Grievance Program

1. Abuse of the grievance procedure by an inmate may include, but is not limited to, submitting an excessive number of grievance forms; or, submitting multiple grievances in reference to the same issue(s).
2. If an inmate demonstrates a pattern of abuse of the inmate grievance program, the Warden/Facility Administrator or designee will notify the inmate, in writing, that such actions are creating an administrative burden at the expense of legitimate complaints. The abuse notice will contain specific reasons for the decision and notify the inmate that the GC will return future grievances that demonstrate a continued pattern of abuse. Abuse notices are not be subject to appeal.
3. The GC will log, assign a case number, and return any future grievances demonstrating a continued pattern of abuse to the inmate with the issue unanswered. The GC will explain the action in the log, on the grievance, and to the Unit Manager or designee.
4. If an inmate submits a grievance that is in violation of his abuse notice, the GC will not process it and notify the inmate his right to resubmit is forfeited.
5. If an inmate is transferred to a contract facility, that facility's Warden/Facility Administrator or designee has the authority to continue or discontinue the abuse notice. The Warden/Facility Administrator or designee will provide the decision in writing to the inmate.

P. Access to Information

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1. All inmates will have access to a copy of this operational procedure, regardless of their classification, disciplinary, or administrative status. Copies will be maintained in the inmate libraries.
2. The GC or designee will ensure newly received inmates and newly hired staff are given an opportunity to review this operational procedure and ask questions and receive answers about its procedures.
3. In the course of resolving a formal inmate grievance complaint, the GC, or designee, will have access to essential records for grievance resolution. The inmate's grievance serves as a waiver of confidentiality in this regard.
4. This operational procedure will be available in English and any other language spoken by 10% of the inmate population. The assigned UM or designee will assist inmates who do not speak a language spoken by a significant portion of the inmate population, as well as those inmates who are visually or otherwise impaired. The UM or designee will explain how to complete forms, file, appeal, and resolve grievances.

Q. Remedies and Actions Requested

1. The grievance procedure will afford a 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 institutional operational procedure or practice;
 - b. replacement, restoration of, or restitution for personal property; and
 - c. other remedies that will meaningfully solve the problem presented.
2. If the action requested violates any of the following criteria the GC will return the grievance without processing. This includes:
 - a. monies requested:
 - 1) must not be of punitive nature; and
 - 2) cannot exceed the actual financial damages incurred. (substantiated inmate claims of property loss or damage by staff may be reimbursed by the GC or staff with authority to spend from the assigned budget).
 - b. An investigation request is the only acceptable action in regard to all staff conduct issues. Requests for termination, reprimand, and apology letters will not be accepted.
3. If the action requested on a formal grievance or appeal is not the same as that requested on the previously filed informal resolution form, the GC will return the grievance or appeal to the inmate without processing.

R. Grievances Alleging Sexual Abuse

1. Offenders alleging sexual abuse must not be required to use an informal grievance system nor must they be required to resolve such a grievance with staff or submit the grievance to the staff member who is the subject of the complaint and the grievance will not be referred to the staff member who is the subject of the complaint.
2. There will be no time limit placed on the filing of a grievance alleging sexual abuse. Applicable time limits may be applied to any portion of a grievance that does not allege an incident of sexual abuse.

3. A final decision on the merits of any portion of a grievance alleging sexual abuse must be issued within 90 days of the initial filing of the grievance. This does not include time consumed by the offender in preparing any appeals.
4. If the 90-day time period for response is insufficient to make an appropriate decision an extension of up to 70 days may be allowed to respond. The offender must be notified in writing of any such extension and provided a date by which a decision will be made.
5. At any level of the process, including the final level, if the offender does not receive a response within the time allotted for reply, including any properly noticed extension, the offender may consider the absence of a response to be a denial at that level.
6. Procedures for the filing of an emergency grievance alleging that an offender is subject to a substantial risk of imminent sexual abuse must include:
 - a. the grievance, or any portion thereof that alleges the substantial risk of imminent sexual abuse, will immediately be forwarded to a level of review at which immediate corrective action may be taken;
 - b. an initial response will be provided within 48 hours;
 - c. a final decision will be made within five calendar days; and
 - d. the initial response and final decision will document the determination whether the offender is in substantial risk of imminent sexual abuse and the action taken in response to the emergency grievance.
7. Third parties are permitted to assist offenders in filing requests for administrative remedies relating to allegations of sexual abuse, and are permitted to file such requests on behalf of an offender, with the following exceptions:
 - a. adult offenders must give permission for the third party to file requests and must personally pursue any subsequent steps in the grievance process;
 - b. if the alleged victim is a juvenile a parent or legal guardian is allowed to file a grievance, including appeals, on behalf of the juvenile without the agreement of the juvenile;
 - c. if the alleged victim is a juvenile and the third party is not a parent or legal guardian, the facility may require the juvenile to agree to have the request filed on his or her behalf and may require the juvenile to personally pursue any subsequent steps in the grievance process;
 - d. if the offender declines to have the request processed on his or her behalf the facility will document the offender's decision.

IV. CLOSING

Questions concerning this operational procedure should be directed to the Technical Correctional Services Program Manager.

V. ATTACHMENTS

Grievance Response Extension Form	Attachment A
Inmate/Offender Informal Resolution Form	Attachment B
Inmate/Offender Grievance Form	Attachment C
Inmate/Offender Grievance Continuation Form	Attachment D
Inmate/Offender Grievance Appeal To Warden/Administrator	Attachment E
Inmate/Offender Grievance Appeal To Corrections Director	Attachment F
Inmate Grievance Flowchart	Attachment G

STATE OF MONTANA DEPARTMENT OF CORRECTIONS

MSP MWP CONTRACT FACILITY: _____

GRIEVANCE RESPONSE EXTENSION FORM

No: _____

TO:

FROM: Grievance Coordinator

RE: Extension of Grievance Response

DATE:

This is to inform you that the Grievance Coordinator / Warden / Director has received your grievance.

Additional time is needed to further investigate your grievance / appeal. This extension is necessary for the following reasons: _____

An estimated date of response to your complaint is _____.

Signed: _____

I acknowledge receipt of this extension.

Inmate Signature

Date

Grievance Coordinator (White)

Inmate (Canary)

Do not write in this space

Received by: _____ Date: _____ Gr. No.: _____

INMATE/OFFENDER INFORMAL RESOLUTION FORM

Name: _____ Number: _____ Housing: _____ Date: _____

Describe the problem. Include date and time the incident occurred, 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? & WHAT have you done so far to get the problem repaired?

ACTION REQUESTED: _____

INMATE 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.

RESPONSE: _____

Requested action is granted ___ / granted in part ___ / denied ___ / not processed _____.
You have the right to grieve if this response if your action requested was not granted.

RESPONDANT SIGNATURE: _____ TITLE: _____ DATE: _____

I acknowledge that I have received this response. _____

INMATE SIGNATURE _____ DATE _____

GRIEVANCES MUST BE SUBMITTED WITHIN FIVE WORKING DAYS OF RECEIPT OF THIS RESPONSE. ATTACH COPIES OF ALL PERTINENT INFORMATION AND PLACE IN THE GRIEVANCE COLLECTION LOCK BOX. (GRIEVANCE FORMS ARE AVAILABLE FROM HOUSING STAFF)
WHITE - GRIEVANCE COORDINATOR CANARY - INMATE COPY OF RESPONSE PINK - INMATE RECEIPT

Do not write in this space

Received by: _____ Date: _____ Gr. No.: _____

STATE OF MONTANA DEPARTMENT OF CORRECTIONS

MSP MWP CONTRACT FACILITY: _____

INMATE/OFFENDER GRIEVANCE APPEAL TO WARDEN/ADMINISTRATOR

Inmate Name: _____ Number: _____ Housing: _____ Date: _____

State the reason you are appealing:

Inmate's Signature

WARDEN / ADMINISTRATOR'S RESPONSE:

Appeal has been:

granted _____ / granted in part _____ / denied _____ / not processed _____ Date: _____

Comments:

You have the right to appeal this response to the Corrections Director.

Warden / Administrator's Signature

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

INMATE SIGNATURE

DATE

APPEALS TO THE CORRECTIONS DIRECTOR MUST BE SUBMITTED WITHIN FIVE WORKING DAYS OF RECEIPT OF THIS RESPONSE. ATTACH COPIES OF ALL PERTINENT INFORMATION AND PLACE IN THE GRIEVANCE COLLECTION LOCK BOX.

GRIEVANCE RECORDS – WHITE

INMATE RESPONSE – CANARY

INMATE RECIEPT – PINK

Do not write in this space

Received by: _____ Date: _____ Gr. No.: _____

STATE OF MONTANA DEPARTMENT OF CORRECTIONS

MSP MWP CONTRACT FACILITY: _____

INMATE/OFFENDER GRIEVANCE APPEAL TO CORRECTIONS DIRECTOR

Inmate Name: _____ Number: _____ Housing: _____ Date: _____

State the reason you are appealing:

Inmate's Signature

CORRECTIONS DIRECTOR'S RESPONSE:

Appeal has been:

granted _____ / granted in part _____ / denied _____ / not processed _____ Date: _____

Comments:

Director's Signature

You are advised that this concludes administrative remedies available through the Department of Corrections.

I acknowledge that I have received this response: _____ / _____ / _____
INMATE SIGNATURE DATE

GRIEVANCE RECORDS – WHITE

INMATE RESPONSE – CANARY

INMATE RECIEPT – PINK

INMATE GRIEVANCE FLOWCHART

INFORMAL RESOLUTION	STANDARD	EMERGENCY
* <i>GRIEVABLE INCIDENT OCCURS</i> *	<p>GC Log, investigate & respond:</p> <ul style="list-style-type: none"> • 20 working days • Grant/deny <p><i>GC gives response to inmate.</i></p>	<p>* Bypasses Informal Resolution due to its nature.</p>
<p>Inmate Attempts to resolve.</p> <ul style="list-style-type: none"> • 5 working days • Attempt to resolve with staff involved. • May take issue to UM/CM for assistance & to file Informal Resolution form. 	<p>If inmate appeals</p> <ul style="list-style-type: none"> • 5 working days • File <i>Appeal-to-Warden / Administrator</i> with GC. <p><i>GC attaches all documentation & forwards to Warden / Facility Administrator.</i></p>	<p>Inmate (48 hrs.) gives grievance to either:</p> <ul style="list-style-type: none"> • Grievance Coordinator • Unit Supervisor, or; • Shift Commander <p><i>Unit Supervisor forwards to either:</i></p> <ul style="list-style-type: none"> ➤ Grievance Coordinator or ➤ Shift Commander <p><i>Shift Commander or Grievance Coordinator determines if grievance meets emergency criteria (ASAP) and forwards to Warden / Facility Administrator.</i></p>
<p>UM / CM / Involved Staff Respond to informal resolution request.</p> <ul style="list-style-type: none"> • 20 working days • Grant/deny/grant in part/find alternative resolution. • Deliver response to inmate. 	<p>Warden / Facility Administrator</p> <ul style="list-style-type: none"> • 20 working days • Grant/deny/grant in part/return to GC for further review. <p><i>GC gives response to inmate.</i></p>	<p>Warden / Facility Administrator</p> <ul style="list-style-type: none"> • 48 hours • + 48 hours (with written notice) <ul style="list-style-type: none"> 1. Grant 2. Deny 3. Return as not emergent <p><i>GC gives response to inmate.</i></p>
<p>If inmate is satisfied, issue is considered resolved & no further action is taken.</p> <p><i>Informal resolution paperwork forwarded to GC for recording.</i></p>	<p>If inmate appeals</p> <ul style="list-style-type: none"> • 5 working days • Inmate files appeal to Department Director with GC. <p><i>GC attaches all documentation and forwards to Department Director.</i></p>	<p>If inmate appeals</p> <ul style="list-style-type: none"> • 3 working days • Inmate files appeal to Department Director with GC. <p><i>GC attaches all documentation and forwards to Department Director.</i></p>
<p>If inmate is <i>not</i> satisfied</p> <ul style="list-style-type: none"> • 5 working days • Submit formal grievance to GC. 	<p>Department Director</p> <ul style="list-style-type: none"> • 20 working days • Grant/deny/grant in part/return to GC or Warden / Facility Administrator for further review. <p><i>GC gives response to inmate.</i></p>	<p>Department Director</p> <ul style="list-style-type: none"> • 10 working days • Grant/deny/grant in part/return to GC or Warden / Facility Administrator for further review. <p><i>GC gives response to inmate.</i></p>
	<p>This exhausts the available DOC administrative remedies</p>	<p>This exhausts the available DOC administrative remedies</p>

INMATE GRIEVANCE FLOWCHART

CLINICAL SERVICES	POLICY / PROCEDURE	STAFF CONDUCT
<p>GC Log & forward to Facility Health Administrator (FHA) or designee. ASAP</p>	<p>GC Log & forward to Warden / Facility Administrator. ASAP</p>	<p>GC Log & forward to Warden / Facility Administrator. ASAP</p>
<p>FHA Confers with provider, notifies DOC Medical/Dental Director, & responds: <ul style="list-style-type: none"> • 20 working days • Grant/deny/grant in part <i>GC gives response to inmate.</i></p>	<p>Warden / Facility Administrator <ul style="list-style-type: none"> • 20 working days • Grant/deny/grant in part/return to GC for further review. <i>GC gives response to inmate.</i></p>	<p>Warden / Facility Administrator <ul style="list-style-type: none"> • 20 working days • Grant/deny/grant in part. <i>GC gives response to inmate.</i></p>
<p>If inmate appeals <ul style="list-style-type: none"> • 5 working days • Inmate files appeal to DOC Medical/Dental Director with GC. <i>GC attaches all documentation, copies Warden / Facility Administrator, and forwards to DOC Medical/Dental Director.</i></p>	<p>If inmate appeals <ul style="list-style-type: none"> • 5 working days • Inmate files appeal to Department Director with GC. <i>GC attaches all documentation and forwards to Department Director.</i></p>	<p>If inmate appeals <ul style="list-style-type: none"> • 5 working days • Inmate files appeal to Department Director with GC. <i>GC attaches all documentation and forwards to Department Director.</i></p>
<p>DOC Medical/Dental Director <ul style="list-style-type: none"> • 20 working days • Grant/deny/grant in part <i>GC gives response to inmate.</i></p>	<p>Department Director <ul style="list-style-type: none"> • Legal review before final decision • 20 working days • Grant/deny/return to Warden / Facility Administrator for further review. <i>GC gives response to inmate.</i></p>	<p>Department Director <ul style="list-style-type: none"> • HR review before final decision. • 20 working days • Grant/deny/ return to Warden / Facility Administrator for further review. <i>GC gives response to inmate.</i></p>
<p>If inmate appeals <ul style="list-style-type: none"> • 5 working days • Inmate files appeal to Department Director with GC. <i>GC attaches all documentation and forwards to Department Director.</i></p>	<p>This exhausts the available DOC administrative remedies</p>	<p>This exhausts the available DOC administrative remedies</p>
<p>Department Director <ul style="list-style-type: none"> • 20 working days • Obtains Legal review • Grant/deny/return to GC <i>GC gives response to inmate.</i></p>		
<p>This exhausts the available DOC administrative remedies</p>		