



**STATE OF MONTANA
MONTANA STATE PRISON
POLICIES AND PROCEDURES**

Policy No.: MSP 3.3.3	Subject: INMATE GRIEVANCE SYSTEM
Chapter 3: INSTITUTIONAL OPERATIONS	Page 1 of 7 plus 7 attachments
Section 3: Inmate Privileges	Revision Date: April 1, 2005
Signature: /s/ Mike Mahoney	Effective Date: April 1, 1997

I. POLICY:

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

II. IMPLEMENTATION:

This policy will become operational on May 1, 2005.

III. AUTHORITY:

<i>DOC 3.3.3</i>	<i>Offender Grievance Procedures</i>
<i>DOC 4.1.2</i>	<i>Offender Orientation</i>
<i>DOC 1.3.52</i>	<i>Offender Abuse/Mistreatment</i>
<i>ACA</i>	<i>Standards for Adult Correctional Institutions, 4th Edition</i>

IV. DEFINITIONS:

Grievance – An individual complaint filed by an inmate concerning subject matter as outline in this policy.

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

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

Medical Grievance – A grievance concerning matters of medical care and judgment.

Policy Grievance – A grievance concerning written policies and procedures.

Staff Conduct Grievance – A grievance concerning matters defined in DOC 1.3.52, Offender Abuse/Mistreatment.

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.

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

V. PROCEDURAL GUIDELINES:

A. Non-Grievable Issues

1. Actions by outside entities not under the jurisdiction of the Department, including the Sentence Review Board and Board of Pardons and Parole, are not grievable under the inmate grievance system.
2. Classification and disciplinary decisions are subject to a separate appeal procedure and are therefore not grievable under the inmate grievance system.

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B. Grievable Issues

1. All other issues including, but not limited to, medical care, staff conduct, written policy, and other standard grievance matters such as property, visitation, mail, food service, conditions of confinement, program access, or religious issues are grievable.
2. Grievances regarding the Department and facility's written policies and 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 procedure.

C. Distribution, Submission, and Collection of Forms

1. All formal grievances and appeals will be processed through the 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 available to inmates from housing unit staff.
2. After attempting informal resolution (see section E), the inmate may submit a written statement of his complaint by filling out an Inmate Grievance form 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 twice 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.
2. With respect to all time limits established in this policy 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 policy 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 policy, the inmate may file the appropriate forms to advance to the next level of the grievance system.
5. If an inmate fails to advance to the next level of the grievance system within the stated time limit, he will be considered to have forfeited the opportunity to exhaust his administrative remedies under the inmate grievance system.

E. Informal Resolution

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, and attempt to resolve the issue before filing a formal grievance.
2. Informal resolution is not required if submission of the grievance is made in compliance with a court order directing the inmate to exhaust administrative remedies.

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3. The informal resolution procedure may not operate to limit access to formal filing of a complaint.
4. The UM, or designee, will investigate and attempt to resolve the complaint informally and provide a response to the inmate on the Inmate Informal Resolution Response form within 20 working days of receipt of the complaint.
5. If the UM, or designee, refers the complaint to a more appropriate department for response, the action and date of referral must be documented. The receiving staff member will thoroughly address the complaint 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 given to the inmate.
6. The inmate has three days after receiving the response to his informal resolution to submit a formal grievance.

F. Formal Grievance - Filing

1. An inmate wishing to file a formal grievance may do so within three working days from the date he received the informal resolution response. The inmate will complete an *Inmate/Offender Grievance Form* (attachment C) with all requested identifying information, and legibly and clearly state the complaint 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).
2. The inmate will place a single complaint or a reasonable number of closely related issues on the form. If the inmate includes multiple unrelated issues on a single form, the submission will be rejected and returned without response. The inmate will then be advised to use a separate form for each unrelated issue.
3. 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. The inmate is encouraged to retain a copy of all exhibits for his personal records.
4. Grievances filed by two or more inmates on the same form will be returned to the inmate(s) unprocessed. An inmate may not submit a grievance on behalf of another inmate. Inmates may obtain assistance from staff or other inmates to write a grievance.
5. The GC will assure that the grievance is complete. All incomplete grievances will be returned to the inmate with a written statement as to why it is not being processed. The inmate may resubmit the grievance with the appropriate corrections, but must do so within 48 hours or the grievance may be rejected.

G. Responding to the Grievance

1. The GC, or designee, will respond to all properly filed grievances. All responses will be written and contain specific, explanatory reasons for any decision to assist the inmate's understanding of the decision.
2. All written responses to a grievance will be legibly signed and dated by the staff member providing the response.
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. The Warden may assign a designee to address inmate grievance appeals.
5. With the exception of the Director's response, all responses from staff members will include instructions to the inmate on how to advance the grievance to the next level, or

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for proper completion of the immediate form. The Director's response is final and exhausts available administrative remedies through the inmate grievance system.

H. Processing by Grievance Coordinator

1. The grievance coordinator will:
 - a. Determine into which category the complaint falls and log the grievance upon receipt.
[Note: Emergency grievances will be screened for actual emergent nature and forwarded to the Warden, or designee, immediately. Policy and staff conduct grievances will also be forwarded to the Warden, or designee, immediately. The GC will confer with the facility health administrator (FHA), or designee, to determine whether a complaint should be deemed standard or medical. Medical grievances will be forwarded to the FHA, or designee, immediately.]
 - b. Immediately return to the inmate any incomplete or improperly filed grievance form.
 - c. Respond to all standard grievances within 20 working days.
 - 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 inmate and forward all appeals.
2. The inmate will have three working days to submit an appeal.

I. Processing by the Warden

1. Appeals:
 - 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 documentation to the GC within three working days of receipt of the response to the grievance. The GC will attach all documentation and promptly forward the appeal to the Warden or designee.
 - b. Within 20 working days of receipt of the appeal form, the Warden, 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.
 - c. In addition to the response, the Warden, or designee, will include instructions to the inmate that he may appeal the decision to the Department Director.
2. Emergency Grievances:
 - a. The Warden, or designee, will respond to an emergency grievance within 48 hours of receipt of the grievance.
 - b. In addition to the response, the Warden, or designee, will include instructions to the inmate that he may appeal the decision to the Department Director.
 - c. The inmate will have three working days to submit an appeal.
3. Staff Misconduct Grievances:
 - a. Any grievance that fits the specific criteria noted in *DOC Policy 1.3.52, Offender Abuse/Mistreatment*, will be forwarded to the Warden.

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- b. Within 20 working days of receipt of the grievance, the Warden, or designee, will provide a written response to the inmate. The response will be returned to the inmate through the GC. In addition to the response, the Warden will include instructions to the inmate that he may appeal the decision to the Department Director.
 - c. The inmate will have three working days to submit an appeal.
4. Policy Grievances:
- a. Any grievance challenging formal policy will be forwarded to the Warden.
 - b. The Warden will convene a policy committee as deemed necessary.
 - c. Within 20 working days of receipt of the grievance, the Warden, or designee, will provide a written response to the inmate. The response will be returned to the inmate through the GC. In addition to the response, the Warden, or designee, will include instructions to the inmate that he may appeal the decision to the Department Director.
 - d. The inmate will have three working days to submit an appeal.

J. Processing by the Facility Health Administrator

- 1. The GC and FHA, or designee, will determine whether grievances alleging problems related to the medical department can be handled as standard grievances. The FHA, or designee, will take the grievances involving medical judgment and process them.
- 2. The FHA, or designee, will confer, as necessary, with the health care provider or the medical director prior to responding to the grievance.
- 3. The FHA, or designee, will provide a written response within 30 calendar days of receipt of the grievance. In addition to the response, the FHA, or designee, will include instructions to the inmate that he may appeal the decision to the Department Director. The response will be returned to the inmate through the GC.
- 4. The inmate will have three working days to submit an appeal.

K. Processing by the Department Director

- 1. An inmate wishing to appeal the Warden or designee, or the FHA or designee's response, must submit an *Inmate/Offender Grievance Appeal To Corrections Director* form (attachment F) and any additional documentation to the GC within three working days of receipt of the response. The Warden, or designee, must be provided a copy of any appealed medical grievance. The GC will attach all documentation and promptly forward the appeal for the Director's review.
- 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 Director, or designee, will respond to an emergency grievance within 10 working days of receipt of the grievance and appeal. The Director, or designee, will respond to all other appeals within 30 calendar days of receipt of the grievance and appeal. The Director 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 Director's response is final, and exhausts all administrative remedies available to the inmate through the Department's inmate grievance system.

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L. Emergency Grievances

1. Inmates alleging actual, or risk of, immediate physical harm may submit an emergency grievance.
2. The inmate will specify on the form the exact nature of the complaint and why the complaint is considered an emergency. The inmate has 48 hours from the incident to file a formal emergency grievance.
3. The inmate will submit the Inmate 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 complaint is emergent and forward legitimate emergency grievances to the Warden, or designee, for processing.
4. Upon receipt of the emergency grievance, the Warden, or designee, will respond to the inmate in writing within 48 hours. The GC may extend this time only for an additional 48 hours. The GC will inform the inmate in writing of any time extension.
5. The inmate may appeal the Warden's denial of an emergency grievance to the Department Director within three working days of receipt of the response by submitting an appeal form to the GC who will promptly forward the appeal to the Director. The Director will respond to all legitimate emergency grievances in writing with 10 working days of receipt.
6. A grievance determined not to be a legitimate emergency by the GC, Shift Commander, Warden, or designee, will be returned to the inmate within 48 hours with a written response specifying why the complaint is inappropriate as an emergency grievance. The inmate may then pursue the complaint as a standard grievance.
7. The decision to return the grievance for standard processing may not be appealed.

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

1. Inmates will not be harassed, punished, or disciplined for utilizing the inmate grievance process. Employees may be subject to disciplinary action if they violate this directive.
2. All grievance documents will be placed only in the grievance file maintained by the GC. They will not be copied to other inmate files.

N. Inmate Abuse of the Grievance System

1. Abuse of the grievance procedure may include use of profanity, threats, abusive or demeaning language; submitting an excessive number of grievances; or, submitting multiple grievances in reference to the same issues.
2. If an inmate demonstrates a pattern of abuse of the inmate grievance system, the Warden, or designee, will notify the inmate, 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 notify the inmate that the GC will return future grievances that demonstrate a continued pattern of abuse. The notice will not be subject to appeal.
3. Future grievances demonstrating a continued pattern of abuse will be logged, assigned a case number, and returned to the inmate with the issue unanswered. The GC will explain the action in the log, on the grievance, and to the UM.

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O. Access to Information

1. All inmates will have access to a copy of this policy, regardless of their classification, disciplinary, or administrative status. Copies will be maintained in the inmate library.
2. Newly received inmates and newly hired staff will receive a copy of this policy and have an opportunity to 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 policy 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.

P. Remedies

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 policy or practice.
 - b. Replacement, restoration of, or restitution for personal property.
 - c. Assurance that deprivation of necessary care or other abuse should not recur.
 - d. Other remedies that will meaningfully solve the problem presented.
2. Substantiated inmate claims of property loss or damage by staff may be reimbursed by the GC or staff with authority to spend from an assigned budget.

VI. CLOSING:

Questions concerning this policy should be directed to the Warden.

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. I agree / disagree with this request.

Inmate Signature

Date

Grievance Coordinator (White) Inmate (Canary)

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:

WARDEN'S RESPONSE:

Appeal has been granted _____ denied _____ Date: _____

Comments:

You have the right to appeal this response to the Director. _____
Warden'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 DIVISION ADMINISTRATOR MUST BE SUBMITTED WITHIN THREE (3) WORKING DAYS OF RECEIPT OF THIS RESPONSE. ATTACH COPIES OF ALL PERTINENT INFORMATION AND PLACE IN THE GRIEVANCE COLLECTION LOCK BOX. (APPEAL FORMS AVAILABLE FROM HOUSING STAFF)

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:

DIRECTOR'S RESPONSE:

Appeal has been granted _____ denied _____ DATE _____

Comments:

Director's Signature

I acknowledge that I have received this response. I understand that there are no more administrative remedies available to me. If dissatisfied with this response, my next step is to contact the appropriate court. (Information about contacting the courts is available in the library.)

INMATE SIGNATURE

DATE

GRIEVANCE RECORDS – WHITE

INMATE RESPONSE – CANARY

INMATE RECIEPT – PINK

INMATE GRIEVANCE FLOWCHART

INFORMAL RESOLUTION	STANDARD	EMERGENCY
<p style="text-align: center;"><i>*GRIEVABLE INCIDENT OCCURS*</i></p> <hr/> <p>Inmate Attempts to resolve.</p> <ul style="list-style-type: none"> • 5 days • Attempt to resolve with staff involved • May take issue to UM/CM for assistance & to file Informal Resolution form <hr/> <p>UM/CM/Involved Staff Respond to informal resolution request.</p> <ul style="list-style-type: none"> • 20 days • Grant/deny/find alternative resolution. • Deliver response to inmate. <hr/> <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> <hr/> <p>If inmate is not satisfied</p> <ul style="list-style-type: none"> • 3 days • Submit formal grievance to GC. 	<p>GC Log, investigate & respond:</p> <ul style="list-style-type: none"> • 20 days • Grant/deny <p><i>GC gives response to inmate.</i></p> <hr/> <p>If inmate appeals</p> <ul style="list-style-type: none"> • 3 days • File Appeal-to-Warden with GC. <p><i>GC attaches all documentation & forwards to Warden.</i></p> <hr/> <p>Warden</p> <ul style="list-style-type: none"> • 20 days • Grant/deny & return to GC for further review. <p><i>GC gives response to inmate.</i></p> <hr/> <p>If inmate appeals</p> <ul style="list-style-type: none"> • 3 days • Inmate files appeal to DOC with GC. <p><i>GC attaches all documentation and forwards to DOC.</i></p> <hr/> <p>Director</p> <ul style="list-style-type: none"> • 30 calendar days • Grant/deny. • Return to GC/Warden for further review. <p><i>GC gives response to inmate.</i></p> <hr/> <p><u>End of process.</u> <i>(Inmate can go to court if dissatisfied)</i></p>	<p>* Bypasses Informal Resolution due to its nature.</p> <hr/> <p>Inmate (ASAP) gives grievance to either:</p> <ul style="list-style-type: none"> • Grievance Coordinator • Unit Supervisor, or; • Command Post <p><i>Unit Supervisor forwards to either:</i></p> <ul style="list-style-type: none"> ➢ Grievance Coordinator or ➢ Command Post <p><i>Command Post forwards to Grievance Coordinator.</i></p> <p>Grievance Coordinator determines if grievance meets emergency criteria.</p> <ul style="list-style-type: none"> • ASAP and forward • To Warden <hr/> <p>Warden</p> <ul style="list-style-type: none"> • 48 hours • + 48 hours (with written notice) <ol style="list-style-type: none"> 1. Grant 2. Deny 3. Return as not emergent <p><i>GC gives response to inmate.</i></p> <hr/> <p>If inmate appeals</p> <ul style="list-style-type: none"> • 3 days • Inmate files appeal to DOC with GC. <p><i>GC attaches all documentation and forwards to DOC.</i></p> <hr/> <p>Director</p> <ul style="list-style-type: none"> • 10 days • Grant/deny. • Return to GC/ Warden for further review. <p><i>GC gives response to inmate.</i></p> <hr/> <p><u>End of process.</u> <i>(Inmate can go to court if dissatisfied)</i></p>

INMATE GRIEVANCE FLOWCHART

MEDICAL	POLICY	STAFF CONDUCT
<p>GC Log & forward to Facility Health Administrator (FHA) or designee. ASAP</p> <hr/> <p>FHA Confers with Provider &/or Medical Director & responds: <ul style="list-style-type: none"> • 30 calendar days • Grant/deny </p> <hr/> <p><i>GC gives response to inmate.</i></p> <p>If inmate appeals <ul style="list-style-type: none"> • 3 days • Inmate files appeal to DOC with GC. </p> <hr/> <p><i>GC attaches all documentation, copies Warden, and forwards to DOC.</i></p> <hr/> <p>Director <ul style="list-style-type: none"> • 30 calendar days • Obtains Medical Director review • Obtains Legal review • Grant/deny </p> <hr/> <p><i>GC gives response to inmate.</i></p> <hr/> <p>End of process <i>(Inmate can go to Court if dissatisfied)</i></p>	<p>GC Log & forward to Warden/Facility Administrator. ASAP</p> <hr/> <p>Warden [Convenes Committee as necessary] <ul style="list-style-type: none"> • 20 days • Grant/deny/return to GC for further review. </p> <hr/> <p><i>GC gives response to inmate.</i></p> <hr/> <p>If inmate appeals <ul style="list-style-type: none"> • 3 days • Inmate files appeal to DOC with GC. </p> <hr/> <p><i>GC attaches all documentation and forwards to DOC.</i></p> <hr/> <p>Director <ul style="list-style-type: none"> • Legal review before final decision • 30 calendar days • Grant/deny/ • Return to Warden for further review </p> <hr/> <p><i>GC gives response to inmate</i></p> <hr/> <p>End of Process <i>(Inmate can go to court if dissatisfied)</i></p>	<p>GC Log & forward to Warden/Facility Administrator. ASAP</p> <hr/> <p>Warden <ul style="list-style-type: none"> • 20 days • Grant/deny. </p> <hr/> <p><i>GC gives response to inmate.</i></p> <hr/> <p>If inmate appeals <ul style="list-style-type: none"> • 3 days • Inmate files appeal to DOC with GC. </p> <hr/> <p><i>GC attaches all documentation & forwards to DOC.</i></p> <hr/> <p>Director <ul style="list-style-type: none"> • HR review before final decision • 30 calendar days • Grant/deny/ return to Warden for further review </p> <hr/> <p><i>GC gives response to inmate.</i></p> <hr/> <p>End of Process <i>(Inmate can go to court if dissatisfied)</i></p>