


NH DEPARTMENT OF CORRECTIONS POLICY AND PROCEDURE DIRECTIVE	CHAPTER <u>General Administration</u> STATEMENT NUMBER <u>1.16</u>
SUBJECT: GRIEVANCES AND COMPLAINTS BY PERSONS UNDER DOC SUPERVISION	EFFECTIVE DATE <u>10/01/02</u> REVIEW DATE <u>10/01/03</u> SUPERCEDES PPD# <u>1.16</u> DATED <u>09/01/01</u>
ISSUING OFFICER:  <u>Phil Stanley, Commissioner</u>	DIRECTOR'S INITIALS _____ APPENDIX ATTACHED: YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>
REFERENCE NO: See reference section on last page of PPD.	

I. PURPOSE:

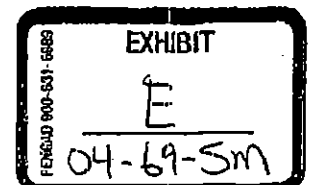
To provide an administrative process through which inmates seek formal review of an issue related to any aspect of their confinement if less formal procedures have not resolved the matter and which probationers or parolees can address aspects of their supervision.

II. APPLICABILITY:

To all inmates, former inmates for issues which arose during their confinement, and to employees of the Department of Corrections for guidance in resolving inmate requests.

III. POLICY:

- A. All references to "Prison" mean the New Hampshire State Prison for Men, the New Hampshire State Prison for Women, the Lakes Region Facility, the Northern New Hampshire Correctional Facility and Community Corrections Centers. This policy also applies to persons under supervision by Field Services and at the Secure Psychiatric Unit (SPU).
- B. All references to "grieving" an issue refers to both the request slip and grievance form requirements unless otherwise specified.
- C. Since all persons under supervision retain many of their legal rights, it is the Department's policy to respect those rights and to treat inmates in accordance with the Department's mission and value statements.
- D. Access to the Courts and the request slip and grievance system provide methods for persons to complain about matters which seem to impinge on their rights or to redress wrongs both through administrative and judicial channels. Inmates will not be treated adversely because they use these methods. However, if it is established that a request contains information that could not reasonably have been believed to be true, disciplinary action for violation of PPD 5.25 may be imposed. In addition, if the inmate's cumulative use of the request slip and grievance system is abusive discipline may be imposed. In order to be abusive an inmate must have submitted at least three requests that have been determined to be baseless within a six-month period.
- E. Issues concerning any condition of confinement can be grieved by any person under departmental supervision including but not limited to the following:
1. Discipline imposed under the disciplinary system. (see PPD 5.25).
 2. Allegations of mistreatment or abuse.



3. Violations of any statute, PPD, rule, regulation, or posted policy.
 4. Requests for assistance or services or to request consideration or reconsideration of any matter in which the writer believes he/she was improperly or unfairly treated.
- F. This policy provides a three tiered system for filing a grievance, which includes an appeal process.
- G. All persons under supervision are informed of the grievance procedures through the Inmate Manual and publication of this PPD. Prior to the effective date of this revision notice shall be given by providing a copy of the revised Inmate Manual to all persons currently under Departmental control or by providing a copy of the policy to each inmate and by posting a copy of this policy in each unit. As to any claims that exist on the date this policy initially takes effect, these procedures must be used within the time frames established herein as if the date of the event giving rise to the grievance is the effective date of this policy.
- H. A request or grievance shall be transmitted without alteration, interference or delay to the addressee.
- I. An inmate may not use this process to submit a request or appeal on behalf of another inmate.

IV. PROCEDURE:

A. LEVEL 1 - REQUEST SLIPS

The first level of administrative dispute resolution for any inmate in Departmental facilities is by use of the request slip process to the appropriate staff as to all issues except appeals from disciplinary rulings. A copy of the inmate request slip to be used is attached hereto as Attachment A. For residents in SPU, the form is the resident request slip attached as Attachment B. For appeals from disciplinary rulings the first level shall be by grievance to the Warden, Director of SPU or Director of Field Services. For complaints from parolees/probationers, the first level shall be by grievance to the Director of Field Services.

1. **Timing:** A request slip regarding any issue must be received within thirty (30) calendar days of the date on which the event complained of occurred. Request slips will be dated as received during first shift and initialed by the receiving officer. The date the request is received will be controlling for purposes of determining timeliness. Requests for assistance or services, except in cases of verifiable emergency, must be submitted at least seven days before the assistance or service is requested, although scheduling may depend on availability and resources.
2. **Content:** A request slip must contain sufficient detail to allow for investigation, including but not limited to; the inmate's name, the date of the occurrence, the name(s) of departmental staff involved, the names of witnesses, the nature of the complaint or request and what relief or action is requested. The request slip must refer to a single event, incident or subject matter.
3. **Handling:** Complaints should be addressed to the lowest level staff person with the authority to address the issue raised. This may be a correctional officer or other unit staff up to the unit manager, or departmental staff below the warden's office outside the unit such as the dietician or medical staff. The officer receiving request slips will forward the request to the person to whom it is addressed except that request slips addressed to the warden or commissioner, or that do not specify an addressee, will be given to the unit manager. When a staff member receives a request slip from an identified inmate about any of the circumstances surrounding his/her confinement, the staff member will immediately ascertain the nature of the complaint and determine if it is within the staff member's authority to rectify the situation or to respond to the complainant. If the complaint exceeds the recipient's authority, it will be forwarded through the chain of command to the Unit Manager. Any staff member between the recipient and the Unit Manager who is authorized to deal with the issue raised can and should do so. A valid response includes but is not limited to a.) granting the request; b.) denying the request; or c.) referring the inmate to the person or department outside the unit that can grant or deny the relief requested. If the Unit Manager or other department level staff are not authorized to deal with the issue, they shall immediately respond to the inmate, advising them that the request cannot be dealt with at the unit level and that they can appeal through the grievance process to Warden or Division Director. Complaints should be submitted to the lowest organizational level with the authority to resolve the issue.
4. **Waiver:** The request slip process may be waived when the inmate can demonstrate that using the process is likely to result in identifiable risk of harm to their physical safety or psychological well-

being. An unsupported allegation of fear of retaliation without more is not sufficient. If a waiver is sought it must be made within the thirty (30) day time period for making the initial request and addressed to the Warden or if the inmate is in the Secure Psychiatric Unit, to the Director of SPU, or if a probationer/parolee or halfway house resident to the Director of Field Services. If the waiver is denied, the inmate will have five (5) days from the date of the denial to comply with the requirements for submitting a request slip.

5. Response: The request slip will be answered within fifteen (15) working days. Inquiry into a complaint will be straightforward and factual and the complainant will be notified of the facts/resolution in writing. If investigation into the subject matter of the request requires additional time for investigation, an extension for an additional fifteen (15) days is available if the inmate is notified prior to the end of the initial fifteen day period that an extension is being taken. It is important that complaints are responded to expeditiously, accurately and thoughtfully.

B. LEVEL 2 – GRIEVANCE TO WARDEN/DIRECTOR

The second level of administrative dispute resolution for any inmate in Departmental facilities or any parolee/probationer is by use of the grievance form directed to the Warden of the facility in which the inmate is currently housed, if the inmate is in the Secure Psychiatric Unit to the Director in charge of SPU, or for inmates in halfway houses or on Parole/probation to the Director of Field Services. A copy of the grievance form is attached hereto as Attachment C.

1. Timing: A grievance regarding any issue must be received within thirty (30) calendar days from the date of the response to the request slip. Grievance forms will be dated on the date received by the Warden/Director. The date the grievance is received will be controlling for purposes of determining timeliness.
2. Content: A grievance must contain sufficient detail to allow for investigation, including but not limited to; the inmate's name, the date of the occurrence, the departmental staff involved, the names of witnesses, the nature of the complaint or request and what relief or action is requested. A grievance will not be accepted unless it demonstrates that the request slip process has been utilized unless a waiver has been obtained under Section IV, A, 4. A copy of the level one response should be attached. Attempts to by-pass the request slip system will simply be returned without action and will not be counted in determining whether the time requirement for submitting a request slip has been met. A separate grievance must be filed regarding each request slip response that the inmate wishes to appeal.
3. Handling: The Warden/Director or his/her designee will review the grievance, direct an investigation, as he/she feels necessary be conducted, and respond to the grievance.
4. Waiver: If the inmate can demonstrate a valid reason for a delay, an extension in the filing time may be granted. The reason for any extension of time must be stated in the grievance. In general, a valid reason for delay means a situation not caused by the inmate that prevented the inmate from submitting the request within the established timeframe. Valid reasons may include the following:
 - a. An extended period of time in-transit during which the inmate was separated from documents needed for preparation of an appeal or grievance.
 - b. An extended period of time during which the inmate was physically unable to write a grievance or appeal.
5. Response: The Warden/Director has 30 calendar days to respond to the inmate. The timeframe begins the day the grievance is received by the Warden/Director and may be extended by 15 calendar days. The inmate will be notified if the time period is being extended.

C. LEVEL 3 – GRIEVANCE TO COMMISSIONER

If an inmate is not satisfied with the Warden/Director's response, he/she may file an appeal using the grievance form, Exhibit C, to the Commissioner.

1. Timing: A grievance regarding any appeal from a determination of the Warden/Director must be received within thirty (30) calendar days of the date of the response by the Warden/Director. Grievance forms will be dated on the date received by the Commissioner's office. The date the grievance is received will be controlling for purposes of determining timeliness.
2. Content: An appeal grievance must contain sufficient detail to allow for investigation, including but not limited to; the inmate's name, the date of the occurrence, the departmental staff involved,

- the names of witnesses, the nature of the complaint or request and what relief or action is requested. A grievance will not be accepted unless it demonstrates that the inmate has previously filed utilized the request slip process at the unit level and filed a grievance with the Warden/Director. Attempts to by-pass the institutional grievance system will simply be returned without action and will not be counted in determining whether the time requirement for submitting request slips and a grievance to the Commissioner has been met. A separate appeal grievance must be filed regarding each response to a grievance that the inmate wishes to appeal.
3. Handling: The Commissioner or his/her designee will review the grievance, direct that such investigation, as he/she feels necessary, be conducted and respond to the grievance.
 4. Waiver: If the inmate can demonstrate a valid reason for a delay, an extension in the filing time may be granted. The reason for any extension of time must be stated in the grievance. In general, a valid reason for delay means a situation not caused by the inmate that prevented the inmate from submitting the request within the established timeframe. Valid reasons may include the following:
 - a. An extended period of time in-transit during which the inmate was separated from documents needed for preparation of an appeal or grievance.
 - b. An extended period of time during which the inmate was physically unable to write a grievance or appeal.
 5. Response: The Commissioner has thirty (30) calendar days to respond to the inmate in writing. The timeframe begins the day the grievance is received by the Commissioner and may be extended by thirty (30) calendar days. The inmate will be notified if the time period is being extended.
- D. A tracking and recording system for the grievance procedure will be established by the Warden/Division Director and the Commissioner's Office to record the grievant's name, the date of receipt, the reply or action taken, the date of the reply or action, and other data determined to be useful. A designated individual will be responsible for documenting grievances. The grievance should be stamped on the day received.
- E. The timeframes set out in this policy are mandatory. Prompt notice of complaints or issues is necessary in order to allow the Department to address issues in a meaningful way and to prevent problems from occurring. Failure to comply with the timeframes set out in this policy will result in a request or grievance being dismissed as untimely. Inmates should be aware that failure to comply with these timeframes might impact their right to pursue any other legal remedy.
- F. Use of Forms: The use of the appropriate form, Attachment A, B or C is mandatory. These forms are carbonless triplicate forms containing a white copy for offender records (or in SPU medical records), a yellow copy to be retained by the staff responding to the grievance, and a pink copy to be returned to the inmate/resident. Any grievance that is received that is not on a form with all three copies present will be returned unanswered to the inmate with a blank copy of the form. The unit, Warden's office, Director or Commissioner's office will retain the yellow copy and forward the white copy to offender records. The pink copy will be returned to the inmate.

REFERENCES:

Standards for the Administration of Correctional Agencies
 Second Edition. Standards
 2-CO-3C-01

Standards for Adult Correctional Institutions
 Third Edition. Standards
 3-4271

Standards for Adult Community Residential Services
 Fourth Edition. Standards
 4-ACRS-5B-03