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# DOC Grievance Policies

October 2021

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## About the Office of the Ombuds for Corrections

Minnesota statutes grant the Office of the Ombuds for Corrections (OBFC) authority to take complaints about and investigate the actions and policies of Minnesota's corrections agencies. The OBFC can investigate individual complaints and systemic issues that the Ombuds determines need review, work to resolve them, conduct investigations, make recommendations to agency leadership and the Governor and legislature, and publish reports.

Details on the authority and responsibilities of the OBFC can be found in [Minnesota Statutes, Chapter 241](#), sections 90-95; and more information at [mn.gov/obfc/](http://mn.gov/obfc/).

## Table of contents

<b>Introduction .....</b>	<b>3</b>
<b>Conclusions .....</b>	<b>3</b>
<b>Recommendations .....</b>	<b>5</b>
Policy Review and Revision .....	5
Process Streamlining and Integrity .....	5
Staff Misconduct .....	7
Emergency .....	8
Transparency .....	8
Information on Remedies .....	9
Staff Training.....	10
<b>Department of Corrections Response .....</b>	<b>10</b>
<b>Appendix A - DOC Grievance Policies</b>	
<b>Appendix B – Minnesota Comparison to Recommendations of Michigan Law Prison Information Project</b>	

# Introduction

Few things are more important for the effective and just administration of corrections than incarcerated people having access to a clear, fair, and efficient means of communicating their needs and concerns. Every detail of their lives is subject to strict and often complicated policies enforced at the discretion and interpretation of staff, with lack of compliance resulting in additional punishment. At times, those staff may misunderstand a policy or abuse their discretion.

Clear and consistent policies and procedures are important for order, and the safety and security of both incarcerated people and corrections staff. At the same time, a good process for communicating needs and concerns and accommodating them to the extent possible also contributes to safety and security, as well as being central to humane treatment and a culture of individual growth.

These are some of the reasons, along with an effort to reduce prisoner litigation, that Minnesota and all other states, over the course of the last half century, have developed comprehensive internal grievance policies.<sup>1</sup> The Prison Litigation Reform Act of 1996 now requires incarcerated persons to “exhaust administrative remedies” prior to filing federal civil rights claims, adding another aspect to the importance of grievance policies for incarcerated people.

Procedures for incarcerated people to communicate their needs and requests and receive a response are provided in DOC policies 303.101 - Kite/Communications, and 303.100 - Grievance Procedure. These policies are intertwined because an incarcerated person must first attempt resolution of issues using the kite<sup>2</sup> communication process prior to being allowed to progress to filing a grievance. For this reason and for ease of reading, throughout the rest of this report these policies will be referred to collectively as the DOC grievance policies or process.

# Conclusions

The DOC grievance process is unnecessarily difficult to navigate, lacks many important components, and can be significantly improved through a thorough and inclusive review and revision process.

Since beginning full operations in September of 2020, the Office of the Ombuds for Corrections (OBFC) has received over 400 complaints regarding a wide range of issues, including many complaints specifically about the DOC grievance process. Additionally, in a large number of complaints on other subjects, problems with the grievance process have been discovered.

Complaints for things that have a DOC grievance process are generally not accepted or investigated by the OBFC unless there is some overwhelming reason that someone cannot complete the DOC process or they believe the process is not being properly followed. This is due to the importance of the DOC maintaining an effective

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<sup>1</sup>For a history of the development of prison grievance processes, see: Swearingen, V. (2008). Imprisoning Rights: The Failure of Negotiated Governance in the Prison Inmate Grievance Process. California Law Review, 96, 1353 <https://lawcat.berkeley.edu/record/1121732>

<sup>2</sup> A kite is form used by incarcerated people to make requests or communicate with facility staff.

process for resolving grievances, not to be replaced or interfered with by the OBFC. However, because of problems with the process, many exceptions have been made to this OBFC guideline.

Data on DOC processing of grievances also raise concerns about the policy and its implementation. A review of DOC (COMS<sup>3</sup>) data for all grievances accepted for filing between 01/01/2020 and 12/31/2020 indicates that for all facilities 200 grievances and 83 central office appeals were accepted for filing.

**The results for the 200 grievances were as follows:**

5 Affirmed (5%)  
7 Affirmed with modifications (3.5%)  
173 Dismissed (86.5%)  
11 Dismissed with modifications (5.5%)  
4 not yet responded to (2%)

Additionally, not all grievances are accepted for filing if they are about issues for which there is a separate review or appeal process that is identified as the “final decision”, not meeting filing deadlines, or containing other technical errors. These cases are not tracked in the COMS grievance module, however, the facility grievance coordinators maintain data on grievances or appeals not accepted for filing. Data provided by them indicates that 953 grievances and 109 appeals were not accepted for filing in CY 2020. Most of the grievances were returned to the grievant for not following the chain of command prior to submitting a grievance or not attaching kites to document attempts to resolve using the chain of command prior to grieving. Most of the appeals were returned for not following the grievance process at the facility level or by-passing the grievance process altogether and sending an appeal to central office.

Without a thorough analysis of all of these individual grievances and appeals, it is difficult to make conclusions about these numbers. However, the high number of grievances denied and not accepted certainly adds support to what the OBFC has seen in individual cases with issues pertaining to the clarity, accessibility, and efficiency of the process.

A review of other states’ policies reveals different ways of handling grievances that could improve the DOC process. A survey and report by the Michigan Law Prison Information Project<sup>4</sup> outlines research on all 50 states’ policies related to inmate grievance policies and provides 20 specific recommendations based on the study. These recommendations are well worth considering, particularly because they are all based on policies already in existence in some states. The results of an OBFC review of DOC policy compared to these recommendations is provided in Appendix B. Many of the same recommendations are supported by independent OBFC conclusions and are included in this report.

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<sup>3</sup> Correctional Operations Management System

<sup>4</sup> Kaul, P., Donley, G., Cavaturo, B.L., Benavides, A., Kincaid, J., & Chatham, J. (2015). Prison and Jail Grievance Policies: Lessons from a Fifty-State Survey can be found at:  
<https://www.law.umich.edu/special/policyclearinghouse/site%20documents/foiareport10.18.15.2.pdf>

Conclusions about specific parts of the DOC grievance policies are included as part of the recommendations and considerations below. Based on the above information, the overall conclusion is that the DOC's grievance policies require comprehensive review, and could be improved through a number of revisions, some of which are recommended or suggested for consideration here, and others that may be discovered through the DOC's own review.

# Recommendations

## Policy Review and Revision

### **Recommendation 1: Prioritize inclusive grievance policy review and revision.**

As noted above, a fair and effective grievance process is a critical part of a safe and humane corrections setting. It is also hard to envision a "person centered" system, which is a key goal of DOC leadership, without such a process. For this reason, it is recommended that the DOC prioritize reviewing and revising grievance policies within the comprehensive policy review already being undertaken as part of moving toward a more person-centered approach.

This process should include the input and participation of those who are most impacted by the process – people who are or have recently been incarcerated in Minnesota's prisons. A truly comprehensive review that includes all important perspectives and considerations cannot be done without them. It should also include a review of the additional processes outside of the general grievance policies for issues for which there is a separate review or appeal process. These processes are not included in this report and recommendations.

This and the following recommendations are made with recognition that the DOC is transitioning to a new communications vendor that will provide all incarcerated persons with personal tablets, and grievance process communications will be moved to this electronic system. While this transition may make it easier to adopt some of the recommendations, it should not delay the important review and revision of the grievance policies, which may impact how the process is moved onto the new communications system.

## Process Streamlining and Integrity

### **Recommendation 2: Create automatic and faster chain of command response.**

Before filing a grievance, incarcerated persons must follow a communication process that is unnecessarily complicated, burdensome, and slow. Prior to filing a "grievance", The Kite/Communication policy requires that the person initiate resolution of an issue by submitting a kite to the lowest level in the chain of command and await a response. If they are not provided with a response or dissatisfied with the response within 5 days, they must submit another kite to the next person in the chain of command and await another response, up to three times total. They also must copy and include each response with the next communication. This back and forth is unnecessary, onerous, and results in delaying resolution.

Incarcerated persons should be allowed to submit one kite that (if denied at the lowest level) is routed up, by staff, through the chain of command for review and final response by the designated person for that chain. The time frame for response could be shortened significantly and it would allow for the supervisor at the top of the chain of command to monitor how staff in their chain are responding to issues raised through this process. In this revised process, the incarcerated person should only need to wait 7 days for a response before filing a grievance, this would cut the wait time down from up to 15 days or more under the current policy.

**Relevant Current Policy:**

303.101 A. Offenders must follow the chain of command and contact only one staff member at a time. Staff may return multiple kites to different staff regarding the same issue. Offenders should allow five working days, not including weekends or holidays, prior to writing the next staff in the chain of command. As kites work through the chain of command, copies of previous kite responses must be attached to show previous attempts to resolve a question or problem. Offenders must follow the directions stated on the Offender Kite form (attached). Whenever possible, staff should respond to kites within five working days from receipt of the kite.

**Suggested Policy:**

Incarcerated persons are encouraged to informally communicate with staff, orally or in writing, in an effort to promptly resolve concerns/issues. *(This direction already exists in the policy statement at the beginning, but added here for clarity and emphasis.)*

If unable to resolve a concern or issue informally, a kite can be sent to the appropriate chain of command for the issue. Staff in the chain of command will respond to the kite within 4 calendar days if the concern is addressed or a request granted. If the concern is not being addressed nor request granted, the designated person in charge of incarcerated person communications for the chain of command will review the kite and respond to the sender no later than 7 days from the date it was received by the chain of command.

**Recommendation 3: Track and coordinate kite routing.**

The OBFC regularly hears that kites are never responded to, but there is currently no system for tracking whether or not a kite was received or responded to. Additionally, incarcerated people often have a difficult time figuring out which chain of command or appeal process they should use, there are up to 40 different chains of command at each facility and 15 things for which there is a different review or appeal process than the standard grievance process.

These issues should be able to be resolved when the grievance process is moved to personal electronic tablets for all incarcerated people, however, it should be addressed as soon as possible. One way to remedy this would be for each living unit to have a staff designated as kite coordinator for each shift who collects and records all kites received, routes them to the proper chain of command, and notifies the incarcerated person of their receipt and routing within 72 hours.

**Recommendation 4: Allow for good-faith procedural errors.**

As noted above, 953 grievances were not accepted for filing in 2020, most for not following the chain of command prior to submitting a grievance or not attaching kites to document attempts to resolve using the chain of command prior to grieving. Having policies requiring organized and timely submission of grievances is important. However, with the complexity of the grievance process and the challenges incarcerated people often encounter when following it, there should be allowance for good-faith mistakes in the process. Currently no such allowance is clearly provided for in the policy, although there are instances when staff make exceptions.<sup>5</sup>

A suggested statement for the revised policy: The grievance authority may waive any procedural requirement of this policy if the grievant, in good faith, was mistaken about or unable to comply with the policy; and should do so if the interest of resolving an issue that negatively impacts the fair and effective administration of corrections outweighs the interest of precise compliance with following the grievance procedure.

## Staff Misconduct

### **Recommendation 5: Create clear and confidential process for reporting staff misconduct.**

Incarcerated persons should not be required to begin the grievance process with a staff member who they believe is engaging in misconduct. According to the DOC grievance policies, the only avenue incarcerated persons have to resolve issues is to go to the person responsible. The only exception to this is if they “have received threats to their physical safety or well-being, or who can establish that they would be in danger if their complaint were to be known at the facility”, they may send a confidential grievance to the department grievance authority. There is also a separate process for sexual abuse and harassment. However, these exceptions do not provide for the confidential reporting of misconduct not meeting these criteria.

It is reasonable and advantageous for incarcerated persons to be encouraged to try and resolve issues and even low-level conflict directly with the staff involved, but it should not be required, especially when the staff person involved could be engaging in serious misconduct. Another concern is that general grievances and kites are handled through the facility mail process that is not secure and does not provide for a confidential way of submitting grievances and kites related to staff misconduct issues.

A separate process for reporting staff misconduct at the facility level should be added to the grievance policies and a ‘Staff Conduct’ chain of command might be added to each facility chain of command. The policy revision should also include a method of confidential reporting such as being sent via special mail or other secure option.

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<sup>5</sup> Some of these exceptions may be due to the fact that the policy provides that, “If the grievance does not appear to meet the filing requirements of this policy, prior to rejecting the grievance, consult with the facility grievance authority to determine if the grievance should be accepted or returned to the offender with an explanation of the correct process for addressing the issue or instructions that the offender has already received a final decision on the issue.” However, this does not make it clear that exceptions can and in some cases should be made.

## Emergency

### **Recommendation 6: Include instructions and definitions for communications in an emergency.**

The DOC grievance policies do not contain clear instructions nor definition of emergency situations. They only provide for grieving directly to central office when they have received threats to their physical safety or well-being, or who can establish that they would be in danger if their complaint were to be known at the facility.

While an incarcerated person can report anything to any staff at any time, the grievance policies are the only avenue for formal requests and therefore should include instructions in possible emergency situations, for the safety and security of both staff and incarcerated people. Some examples from other states may help in creating appropriate policy language:

South Dakota Department of Corrections 1.3.E.2 Administrative Remedy for Inmates

#### 2. Emergency Grievances and Issues

A. An inmate who believes their grievance or issue is and emergency must contact a staff member directly, either through written correspondence (kite or Request for Informal Resolution form marked “Emergency” or “Urgent”) or verbally. The request may be submitted to unit staff, Officer in Charge (OIC) or staff of equal or higher rank. Staff receiving the request will determine if compelling circumstances exist, based on the information provided and known at the time, which support and immediate response/action.

New Mexico Corrections Department Inmate Grievances CD150-500

#### I. Emergency Procedures

1. An emergency grievance shall be given priority. It is the responsibility of the inmate to designate the grievance as an emergency on the Inmate Grievance form (CD-150501.1) and to demonstrate the factors creating a risk that serious harm may result if the emergency grievance is processed according to standard time limits.

## Transparency

### **Recommendation 7: Track and publish all grievance summary data.**

Summary report data on facility grievances and appeals is contained in COMS, however, it is not available or reported on publicly. Currently this system only includes grievances and appeals that are accepted for filing by the facility and central office grievance and appeals authorities. Data on grievances and appeals not accepted for



filing should be included as a part of this information. Information on grievances, appeals and decisions should be reported on annually and available publicly to provide ongoing process accountability and transparency.

**Examples of state reports on grievances include:**

Ohio

<https://www.drc.ohio.gov/Portals/0/DRC%20Inmate%20Grievance%20Procedure%20Annual%20Report%20for%202019.pdf>

Washington State Department of Corrections

<https://www.doc.wa.gov/docs/publications/fact-sheets/500-FS004.pdf>

New York State Corrections and Community Supervision

<https://doccs.ny.gov/system/files/documents/2020/02/inmate-grievance-program-annual-report-2018.pdf>

## Information on Remedies

**Recommendation 8: Include information about remedies.**

The DOC policy does not include information on possible remedies available for grievances and appeals. Inclusion of possible remedies provides clarity for incarcerated people and staff as to possible outcomes for grievances and appeals.

Several states include remedies such as change or modification of department or facility policy, procedure or practice and restoration or reimbursement of confiscated property.

**Examples include:**

Iowa Department of Corrections policy IO-OR-06:

8. Remedies Available: Remedies available through the grievance system include but are not limited to:
- a) Change or modification to departmental and/or facility policy, procedure, or practice.
  - b) Restoration or reimbursement of confiscated property.
  - c) Referral to Tort Claim procedure for possible award of monetary damages.
  - d) Investigation of alleged employee, contractor, or volunteer misconduct.
  - e) Change in current medical care, change of medication or diet.
  - f) Any other relief within the power of the Grievance Officer, Warden or Assistant Deputy Director of Institutional Operations.

## Staff Training

### **Recommendation 9: Staff training specifically for grievance process.**

Due to the importance of the grievance process, staff should be thoroughly trained in its importance and how to manage it. Currently the DOC does not provide training for CO's and other staff specific to responding to grievances or kites other than what might be learned on the job. Training in the DOC academy should provide instruction for staff on the importance of an effective grievance policy and their role in responding to kites fairly and completely. Including it in academy training would also help in maintaining consistent standards and practices throughout the department.

Here is a model for a grievance training policy:

Indiana Department of Corrections Offender Grievance Process Policy 00-02-031

#### XV. STAFF TRAINING

Each facility shall ensure that the offender grievance process is included in the orientation training given to new staff. Each new employee shall receive training on the Offender Grievance Process during the New Employee Training Process, and subsequent In-Service Training.

All staff shall be provided annual refresher training on the offender grievance process via on-line e Learning Model Training, which may include updates on the Department's offender information system, how to address specific issues, proper methods of communication, and dispute resolution.

All Grievance Specialists and staff assigned to oversee the Offender Grievance Process shall complete On-the-Job Training in the process, which will include training on the offender information system and grievance data base.

## Department of Corrections Response

Below is the DOC response to this report and its recommendations, provided in accordance with Minnesota Statutes 2020 section 241.93 subdivision 6.<sup>6</sup>

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<sup>6</sup> "If the ombudsperson so requests, the agency shall, within the time the ombudsperson specifies, inform the ombudsperson about the action taken on the ombudsperson's recommendations or the reasons for not complying with it."

October 22, 2021

Mr. Mark Haase, Ombudsman  
Office of Ombudsman for Corrections  
540 Fairview Avenue North, Ste. 202  
St. Paul, MN 55104

Re: Grievance process recommendations

Dear Mr. Haase:

I write in response to your October 2021 report and recommendations of the Department of Corrections grievance process. I provided the report prepared by your office to appropriate DOC staff for review and consideration. As I mentioned to you when you first shared the report with me, I am concerned about some widescale changes to the procedure given our explicit plan to automate the kite and grievance process with the implementation of agency provided tablet technology. Though I share the concerns you raise about the kite and grievance process, I fear that attempting to implement progressive changes to these policies will only serve to further frustrate processes and those attempting to navigate them.

The new GTL tablets are currently in the testing process. We have every indication that tablet launch should occur at or near the beginning of January 2022. As you will see, we've accepted many of the recommendations provided by your office. Unless otherwise noted, recommendations will be implemented by or before March 1, 2022. Deputy Commissioner Michelle Smith will oversee and ensure implementation of the new policies and procedures. Status updates will be provided by Deputy Commissioner Smith on a periodic basis.

**Prioritize inclusive grievance policy review and revision**

The DOC accepts the recommendation of the OFC in full. To demonstrate this prioritization, the Deputy Commissioner will meet with facility grievance coordinators annually to review policy for any changes and additions. The purpose of these meetings will be to ensure consistency across grievance coordinators. The agency will solicit feedback both on experience with the grievance process and specific strategies to improve it.

**Create automatic and faster chain of command response**

The DOC will add following language to policy: C. 2. Filing Facility Grievances, b) The grievance authority may waive any procedural requirement of this policy if the grievant, in good faith, was mistaken about or unable to comply with the filing requirements of this policy. The grievance

authority must weigh the interest of resolving the issue against the interest of precise compliance with the policy requirements.

#### **Track and coordinate kite routing**

Tracking of kites will change with the tablet implementation. We will update the chain of command as well as post on current Jpay. Adding clarity to the chain of command will help direct kites for more immediate responding while waiting for electronic version to go on-line.

#### **Allow for good-faith procedural errors**

The recommendation of the Ombuds office will be accepted in full. The proposed policy language is as follows: The grievance authority may waive any procedural requirement of this policy if the grievant, in good faith, was mistaken about or unable to comply with the policy; and should do so if the interest of resolving an issue that negatively impacts the fair and effective administration of corrections outweighs the interest of precise compliance with following the grievance procedure.

#### **Create clear and confidential process for reporting staff misconduct**

The recommendation of the Ombuds office will be accepted in full. A separate process for reporting staff misconduct at the facility level should be added to the grievance policies and a "Staff Conduct" chain of command might be added to each facility chain of command. The policy revision should also include a method of confidential reporting such as being sent via special mail or other secure option.

#### **Include instruction and definitions for communications in an emergency**

The agency will develop and define what constitutes an emergency situation for which grievances can be submitted for immediate consideration, along with a list of corresponding remedies. The DOC will use the South Dakota and New Mexico policy language as a point of reference to create this change as recommended in the Ombuds report.

#### **Track and publish all grievance summary data**

The DOC will develop a uniform grievance logging system for all facilities to accurately report grievances. The DOC will develop an internet accessible "dashboard." The grievance dashboard will include grievances and appeals that are accepted for filing by the facility and central office grievance and appeals authorities, along with data on grievances and appeals not accepted for filing.

#### **Include information about remedies**

The DOC will accept the Ombuds recommendation identifying remedies available for grievances and appeals. The DOC will review and where possible include remedies such as change or modification of department or facility policy, procedure or practice and restoration or reimbursement of confiscated property, etc.

#### **Train staff in grievance procedure process**

The agency will adopt the Ombuds recommendation in whole, including developing an academy training module and on-going in-service training to ensure that staff are thoroughly trained on the importance of kites and grievances and how to manage them. The training should include specific training for providing effective responses to kites and developing staff competency around the agency's grievance processes.

We appreciate the information provided in your report. As the Minnesota Department of Corrections moves to develop a fully person-centered approach to service delivery, we agree that the manner in which we respond to concerns through the kite system and address grievances is a reflection of person-centeredness.

Please do not hesitate to contact me or Deputy Commissioner Smith if you have any questions or concerns.

Sincerely,

A handwritten signature in black ink, appearing to read 'Paul P. Schnell', with a long, sweeping horizontal line extending to the right.

Paul P. Schnell, Commissioner  
Minnesota Department of Corrections

C: Michelle Smith, Deputy Commissioner

## **Appendix A**

### **DOC Grievance Policies**

**Policy Number:** 303.100  
**Title:** Grievance Procedure  
**Effective Date:** 9/3/19

**PURPOSE:** To provide an administrative process through which offenders can seek formal review by management level staff of issues related to their own confinement and to ensure department policies are correctly interpreted and applied to them in an effort to resolve problems and issues at the facility level.

**APPLICABILITY:** All staff in DOC adult facilities; all adult offenders in facilities operated by, or under contract for, the Minnesota Department of Corrections (DOC)

#### **DEFINITIONS:**

Behavioral Health Services Grievance Authority – associate directors of behavioral health

Department Grievance Appeal Authority – the deputy commissioner of the facilities services division or designee, or the health services director

Executive level staff – for the purposes of this policy, warden, associate warden, or captain

Facility Chain of Command – a list of facility staff to whom offenders must address their concerns prior to filing a facility grievance. The chain of command for any particular issue must not exceed three levels.

Facility Grievance Authority – the warden or associate warden assigned responsibility for investigation of, and response to, offender grievances

Facility Grievance Coordinator – a staff person assigned responsibility for processing and retaining documentation relating to offender grievances

Health Service Grievance Authority – director and associate directors of nursing

Kite – form used by offenders to make requests or communicate with facility staff. (See Policy 303.101, “Kites/Communication”)

#### **PROCEDURES:**

##### **A. General Requirements**

For all steps in this facility grievance procedure, an offender:

1. Must use forms provided by the department and, if necessary, one side of one additional 8½ x 11 inch page, to describe a single issue or complaint and propose a specific resolution, and must attach all kites following the chain of command and responses and any other relevant documents;
2. May not file facility grievances about issues for which there is a separate review or appeal process that is identified as the “final decision,” including such examples as:

- a) Policy 303.090, “Offender Property and Assigned-Duty Injury Claims;”
- b) Policy 202.100, “Classification System;”
- c) Division Directive 204.010, “Offender Assignment and Compensation Plan;”
- d) Policy 303.010, “Offender Discipline” (except the procedure outlined in Offender Discipline Regulation #510, “Mandated Treatment Failure/Refusal”);
- e) Policy 106.114, “Hearings for Adult Offenders;”
- f) Policy 303.015, “Informal Sanctions;”
- g) Policy 302.020, “Mail” (Procedure K “appeal of unallowable offender mail and O-mail” and Procedure N “centralized review of subscribed magazines and periodicals”);
- h) Division Directive 302.022, “Offender/Resident Kiosk Services;”
- i) Policy 302.100, “Visiting;”
- j) Division Directive 500.308, “Chemical Dependency Assessment and Programming;”
- k) Policy 203.013, “Sex Offender and Chemical Dependency Treatment Directives – Adult Facilities;”
- l) Policy 204.060, “Challenge Incarceration Program – Phase I;”
- m) Policy 301.088, “Restrictive Housing Step-Down Management Program;”
- n) Policy 301.085, “Administrative Segregation;” and
- o) Policy 202.057, “Sexual Abuse/Harassment Prevention, Reporting, and Response.”

3. May obtain assistance from another offender or facility staff in preparing a grievance. However, no person other than the offender may submit a facility grievance or grievance appeal on an offender’s behalf.

#### B. Informal Resolution

The first steps offenders must take to resolve issues related to their confinement is to send kites to the staff person(s) responsible for whatever program, service, or condition is involved, as indicated on the Facility Chain of Command. Staff must respond to offender kites in accordance with Policy 303.101, “Kites/ Communication.”

#### C. Facility Grievances

The next step offenders must take to resolve issues related to their confinement is to submit a facility grievance.

##### 1. Responsibilities

- a) The warden at each facility is responsible for implementation of the grievance procedure and for processing and tracking all facility grievances.
- b) The warden, or an associate warden designated by the warden, is the facility grievance authority for all facility grievances that do not involve health services issues.
- c) The director and associate directors of nursing are the facility grievance authorities for grievances that involve medical, dental or nursing care issues and the associate directors of behavioral health services are the grievance authorities for any behavioral health care issues. The director and associate directors of nursing or associate directors of behavioral health must consult with appropriate practitioners on matters that are outside the scope of their licenses.

- d) The warden may also designate a facility grievance coordinator to assist with processing and tracking all facility grievances.
- e) To ensure offenders are aware of, and can comply with, this policy, information about this policy is included in the DOC Offender Handbook, and in reception orientations at MCF-St. Cloud and MCF-Shakopee. Facility grievance authorities must ensure the following is provided to offenders:
  - (1) Information about this policy in the facility-specific Offender Handbook and at facility orientation;
  - (2) Forms with instructions for all steps in this grievance procedure and a current Facility Chain of Command in every living unit; and
  - (3) Information communicated orally and in writing and conveyed in a language easily understood by an offender.

## 2. Filing Facility Grievances

Offenders who, in good faith, are unable to informally resolve an issue or complaint, for which there is no review or appeal procedure provided in another department policy, may submit a facility grievance.

- a) Offenders must submit a facility grievance to the facility grievance coordinator within 30 calendar days of when the issue most recently occurred and no sooner than seven calendar days of when they sent a kite trying to resolve the issue. If the response has been received from the last staff person identified on the Facility Chain of Command, the offender can proceed with filing the grievance.
- b) Offenders who have received threats to their physical safety or well-being, or who can establish that they would be in danger if their complaint were to be known at the facility, may submit their facility grievance on the Facility Grievance form directly to the department grievance appeal authority at central office in a sealed envelope marked "Special Mail."

## 3. Responding to Facility Grievances

### a) Acceptance and Tracking

The facility grievance coordinator must date stamp each facility grievance and:

- (1) If it is not complete as submitted, must return it and any attachments to the offender with instructions about how to properly complete the form or what additional documentation is required.
- (2) If the grievance does not appear to meet the filing requirements of this policy, prior to rejecting the grievance, consult with the facility grievance authority to determine if the grievance should be accepted or returned to the offender with an explanation of the correct process for addressing the issue or instructions that the offender has already received a final decision on the issue.
- (3) If the grievance is returned to the offender, must retain a copy of the documents submitted by the offender and any other relevant information.
- (4) If the grievance is complete and accepted for filing, must:



- (a) Refer it to the appropriate grievance authority and notify the offender that the facility grievance has been accepted and the response will be sent within 21 calendar days, or that an extension is required and the response will be ready within 42 calendar days;
  - (b) Enter it in the COMS grievance database, including a summary of the grievance and relief requested; and
  - (c) Retain a copy of the documents submitted by the offender and any other relevant information.
- b) Investigating
  - (1) The facility grievance authority may either:
    - (a) Investigate the facility grievance; or
    - (b) Assign an executive level staff person to investigate, as long as a facility grievance is not investigated by the staff person alleged to be involved. Nor can a staff person be assigned to investigate their own supervisor.
  - (2) Facility grievances must be investigated thoroughly and supported by documents or notes that are sufficiently detailed, including the name and title of anyone interviewed and the date on which the information was provided.
- c) Preparing responses
  - (1) The staff person who investigates a facility grievance must submit a draft response to the appropriate facility grievance authority in a timely manner.
  - (2) Responses must:
    - (a) State the decision and the reasons for the decision;
    - (b) Respond completely to the concerns raised in the facility grievance;
    - (c) Be accurate and factual, and contain no extraneous information; and
    - (d) Be written to demonstrate the facility grievance was given due consideration.
  - (3) Within 21 calendar days (or within 42 calendar days if the offender was given notice of an extension) of the date the facility grievance was logged into the facility grievance database, the facility grievance coordinator must:
    - (a) Send the offender a copy of the decision and the offender's original supporting documents;
    - (b) Return the facility grievance and all documents that were submitted with the facility grievance; and
    - (c) Log the decision into the COMS grievance database and retain all related documents manually or electronically in accordance with the retention schedule.

4. If the offender is not notified of the decision within 21 calendar days of the date the facility grievance was logged into the database as accepted, or within 42 calendar days, if the offender received notice of an extension, the offender may consider the facility grievance denied and the offender may submit a grievance appeal immediately.
5. If the offender has been released during this process, the facility grievance coordinator must send the response to the offender's address, if known.

#### D. Grievance Appeals

The final step in the offender grievance process is to submit a grievance appeal.

##### 1. Responsibilities and General Requirements

- a) The deputy commissioner of the facilities services division or designee is the department's grievance appeal authority and is responsible for final decisions on grievance appeals that do not involve health or behavioral health services issues. The deputy commissioner or designee also designates a central office staff person to assist with handling and tracking all grievance appeals.
- b) The department's health services director is the grievance appeal authority and is responsible for final decisions on grievance appeals that involve medical, dental, nursing, or behavioral health issues, but must consult with licensed practitioner(s) regarding matters that include medication prescribing, clinical matters, or treatment decisions.

##### 2. Filing Grievance Appeals

Offenders who are not satisfied or disagree with the response from the facility grievance authority may submit a grievance appeal to the grievance appeal authority at central office using grievance appeal forms (attached), in compliance with instructions, and within the time periods allowed.

- a) Offenders must submit grievance appeals by U.S. mail to the grievance appeal authority within 21 calendar days of the date the facility grievance authority signed the response.
- b) A grievance appeal must include:
  - (1) A grievance appeal form and, if necessary, one side of one additional 8½ x 11 inch page to explain the reason for the appeal; and
  - (2) A list of all the documents that were submitted with the facility grievance.

##### 3. Responding to grievance appeals

###### a) Acceptance and tracking grievance appeal

The grievance appeal authority's designated staff person must date stamp each facility grievance appeal and:

- (1) If it is not complete as submitted, must return it and any attachments to the offender with instructions about how to properly complete the form and instructions.
- (2) If the grievance appeal is returned to the offender, must record it with the date received, offender name and OID, grievance number, deficiency, and date returned to the offender, and must retain a copy of the documents submitted by the offender and any other relevant information.

- (3) If the grievance appeal is complete and accepted for filing, must:
  - (a) Log the grievance appeal into the COMS grievance appeal database;
  - (b) Contact the facility grievance coordinator to request the record of the facility grievance, which includes any documents submitted by the offender and any other documents considered in making the facility grievance decision;
  - (c) Send the offender written notice of the date the grievance appeal was logged; and
  - (d) Forward the grievance appeal to the appropriate grievance appeal authority to review and decide the grievance appeal.
- b) Reviewing facility grievance investigation and decision.

The grievance appeal authority must:

  - (1) Review the grievance appeal and other documents submitted to determine whether a 21-calendar-days extension is necessary and, if so, notify the offender of the extension within the first 21 calendar days;
  - (2) Review or assign another staff person to review the appeal and the entire record of the facility grievance, including the investigation, any relevant documents, and the decision;
  - (3) Conduct any additional investigation that is necessary;
  - (4) Make the final decision to:
    - (a) Affirm the facility grievance decision;
    - (b) Affirm the facility grievance decision with modifications; or
    - (c) Reverse the facility grievance decision; and
  - (5) Write, or assign another staff person to write, the grievance appeal response that explains the final decision.
- c) Notifying the offender of the decision

The grievance appeal authority's designated staff person must:

  - (1) Enter the appeal decision into the grievance database;
  - (2) Send the offender a copy of the decision and return all documents submitted by the offender with the grievance appeal within 21 calendar days from the date the appeal was logged into the grievance appeal database, or within 42 calendar days, if the offender was notified of an extension ; and
  - (3) Scan all documentation of grievance appeals into an electronic database to be maintained according to appropriate retention schedules.
- d. Effect of decision

If the offender does not receive a decision within 21 calendar days of the date the grievance appeal was logged into the database, or within 42 calendar days if the offender

received notice of an extension, the offender may consider the original grievance decision affirmed and final, and administrative remedies exhausted.

4. If the offender has been released during this process, the grievance appeal authority's designated staff person must send the response to the offender's address, if known.

#### **INTERNAL CONTROLS:**

- A. Facility grievances and grievance appeals are logged into COMS and retained in their respective grievance databases.
- B. Copies of the facility grievances and all supporting materials are retained by the facility grievance coordinator, in paper form or electronically, according to the facility grievance retention schedule.
- C. Grievance appeals are retained by the central office grievance appeal authority, in paper form or electronically, in accordance with the appropriate retention schedule.

**ACA STANDARDS:** 4-4284, 4-4344, 4-4394, 4-4446, 1-ABC-1E-02, 1-ABC-3D-08, 1-ABC-5D-06, 2-CO-3C-01

**REFERENCES:** Minn. Stat. §§ [241.01](#) & [243.56](#)  
[42 U.S.C. § 1997e](#) (Prison Litigation Reform Act)  
[Policy 106.114, "Hearings for Adult Offenders"](#)  
[Policy 202.057, "Sexual Abuse/Harassment Prevention, Reporting, and Response"](#)  
[Policy 202.100, "Classification System"](#)  
[Policy 203.013, "Sex Offender and Chemical Dependency Treatment Directives – Adult Facilities"](#)  
[Division Directive 204.010, "Offender Assignment and Compensation Plan"](#)  
[Policy 204.060, "Challenge Incarceration Program – Phase I"](#)  
[Policy 301.085, "Administrative Segregation"](#)  
[Policy 301.088, "Restrictive Housing Step-Down Management Program"](#)  
[Policy 302.020, "Mail"](#)  
[Division Directive 302.022, "Offender/Resident Kiosk Services"](#)  
[Policy 302.100, "Visiting"](#)  
[Policy 303.010, "Offender Discipline"](#)  
[Policy 303.015, "Informal Sanctions"](#)  
[Policy 303.090, "Offender Property and Assigned-Duty Injury Claims"](#)  
[Policy 303.101, "Kites/ Communication"](#)  
[Division Directive 500.308, "Chemical Dependency Assessment and Programming"](#)

**REPLACES:** Policy 303.100, "Grievance Procedure," 3/5/19

All facility policies, messages, or other communications whether verbal, written, or transmitted by electronic means regarding this topic.

**ATTACHMENTS:** [Facility Grievance](#) (303.100B)  
[Grievance Appeal](#) (303.100C)  
[Chain of Command template](#) (303.100D)  
[Grievance Cover Letter template](#) (303.100E)

**APPROVED BY:**

Deputy Commissioner, Community Services

Deputy Commissioner, Facility Services

Assistant Commissioner, Operations Support

Assistant Commissioner, Facility Services

**Policy Number:** 303.101  
**Title:** Kites/Communication  
**Effective Date:** 6/16/20

**PURPOSE:** To provide a process for communication between staff and offenders/residents. All staff and offenders/residents are encouraged to communicate, verbally or in writing, in an effort to promptly resolve concerns/issues.

**APPLICABILITY:** All department facilities

**DEFINITIONS:**

Kite forms or kites – a printed form issued by the department that offenders use to communicate with staff (not for use to communicate with other offenders). Kite form A is used for general inquiries. Kite form B is used for health services, behavioral health, and treatment inquiries.

**PROCEDURES:**

- A. Offenders must follow the chain of command and contact only one staff member at a time. Staff may return multiple kites to different staff regarding the same issue. Offenders should allow five working days, not including weekends or holidays, prior to writing the next staff in the chain of command. As kites work through the chain of command, copies of previous kite responses must be attached to show previous attempts to resolve a question or problem. Offenders must follow the directions stated on the Offender Kite form (attached). Whenever possible, staff should respond to kites within five working days from receipt of the kite.

- B. Offenders communicate with health services via the Health Services Offender Kite form (attached). All health services kites must be put into the locked boxes designated for health services kites. They must not be sent through the facility mail system.
- C. Charges incurred for copies of kites are retained in the finance unit.
- D. Reasonable accommodations are made for offenders who have a disability that interferes with communication, or who are unable to speak or read the English language.
- E. An offender who abuses the kite system by sending excessive kites or by sending inappropriate, threatening, or harassing kites may be placed on kite management until the behavior stops. The facility executive team decides when kite management is appropriate for an offender. The facility designee reviews all of the offender's kites for appropriate content. Once the facility designee has reviewed and determined a kite is appropriate in nature, the kite is forwarded to the intended destination.
- F. Staff must fully and legibly date all kites.
- G. Kite forms are available to offenders in their assigned living units.

**INTERNAL CONTROLS:**

- A. Kite forms are available to offenders in their assigned living units.
- B. Charges incurred for copied kites are retained in the finance unit.

**ACA STANDARDS:** 4-4016, 1-ABC-1A-15, 2-CO-1A-18

**REFERENCES:** [Minn. Stat. § 243.56](#)  
[Policy 300.100, "Offender/Resident Accounts"](#)

**REPLACES:** Policy 303.101, "Kites/Communication," 6/5/18.  
All facility policies, memos, or other communications whether verbal, written, or transmitted by electronic means, regarding this topic.

**ATTACHMENTS:** [Offender Kite form](#) (303.101A)  
[Health Services Offender Kite form](#) (303.101B)

**APPROVALS:**

Deputy Commissioner, Facility Services

Deputy Commissioner, Community Services

Assistant Commissioner, Operations Support

Assistant Commissioner, Criminal Justice Policy, Research, and Performance

## Appendix B

### Recommendations of Michigan Law Prison Information Project based on State Best Practices<sup>8</sup>

Recommended Policy	Does Minnesota currently have this policy?	Notes
<b>General</b>		
Grievance policy should clearly define what is and is not grievable.	Yes	
Given sensitivity and urgency of complaints related to health care, sexual abuse and emergencies, these are specifically addressed in the policy.	Partly	Emergencies generally not addressed in grievance policies. Health care and sexual abuse are and have separate processes. Grievants who have received threats to their physical safety or well-being, or who can establish that they would be in danger if their complaint were to be known at the facility, may send a grievance directly to central office.
Policy should expressly address remedies and should allow at a minimum institutional change, restitution and or restoration	No	
<b>Access</b>		
Jurisdictions that require informal resolution should not require face to face interactions between grievant and staff	No	According to the DOC grievance policies, the only avenue incarcerated persons have to resolve issues is to go to the person responsible. The only exception to this is if they “have received threats to their physical safety or well-being, or who can establish that they would be in danger if their complaint were to be known at the facility”, they may send a confidential grievance to the department grievance authority.
For formal grievances, jurisdictions should avoid the burdens of face-to-face submission by using secure submission boxes or submission via mail.	No	Only in certain cases may grievances be sealed in an envelope "special mail" and for Health Services.

<sup>8</sup> Kaul, P., Donley, G., Cavataro, B.L., Benavides, A., Kincaid, J., & Chatham, J. (2015). Prison and Jail Grievance Policies: Lessons from a Fifty-State Survey can be found at:

<https://www.law.umich.edu/special/policyclearinghouse/site%20documents/foiareport10.18.15.2.pdf>

Jurisdictions should streamline their paperwork processes, allowing use of grievance forms; jurisdictions should avoid having too many different forms whose use is mandatory.	Partly	DOC has one form, but chain of command process should be streamlined.
Prisoners should be able to readily access forms in common areas of the prison, as well as through case workers or counselors.	Yes	
Policies should protect access to the grievance system for prisoners who make good-faith procedural errors.	No	Not specifically addressed.
Jurisdictions should provide ways segregated prisoners can access the grievance process.	Yes	
Jurisdictions that impose single-subject rules should provide reasonable safeguards, such as permitting prisoners to refile grievances rejected as covering too many topics, providing time extensions in order for prisoners to refile, and not counting the denied grievance towards a maximum number of grievances per prisoner.	No	Not specifically addressed.
Jurisdictions should permit third-party assistance in all cases.	Yes	
<b>Appeals and notice</b>		
Appeals should be decided by a committee and/or an individual not associated with the Department of Corrections.	No	Office of the Ombuds for Corrections provides some independent oversight.
Policies should require officials to provide notification to prisoners at each stage of the grievance process.	Yes	
Policies should require officials to provide written reasons for denials or rejections of grievances at each stage of the grievance process.	Yes	
<b>Time Limits</b>		
Prisoners should be afforded at least 10 days to initiate the grievance process.	Yes	Note treatment discharge appeals must submitted within 24 hours (500.308).



Prisoners should receive exceptions to time-bars for good cause.	No	
Policies should explicitly provide that in the case of an ongoing grievance, the clock begins to run at the time of the most recent incident.	Yes	
Policies should start the clock for subsequent steps when the prisoner receives notification of the decision on the prior step.	Yes	
Policies should require officials to provide initial responses within 30 or fewer days.	Yes	21 days or may extend to 42 days. Different timelines for behavioral health.
Policies should require officials to provide initial responses within 72 hours for emergency grievances.	No	There is no category of "emergency grievance"