

## \*\*FDr02 INMATE GRIEVANCES

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\*\*Inmate Reference Manual

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### FDr02/01.00 GENERAL PROVISIONS

FDr02/01.01 Purpose of Chapter

The purpose of this chapter is to provide the policy, procedure, and requirements for the inmate grievance system.

FDr02/01.02 Cross Reference

FDr13 Inmate Rules and Regulations

FDr02/01.03 Definitions

|   |  |
|---|--|
| CIB   | Corrections Investigation Bureau   |
| CUCF  | Central Utah Correctional Facility   |
| emergency grievance                                 | grievances involving emergency circumstances which may justify priority handling to avoid delays which may subject the inmate to substantial risk of personal injury or cause other serious or irreparable harm  |
| EMRS  | see ethnic minority resource specialist  |
| ethnic minority personal resource specialist (EMRS) | a staff person assigned to assist inmates in the resolution of problems  |
| frivolous grievance written in bad faith            | any grievance that the inmate knows or reasonably should know is without merit, irresponsible, or has no rational basis in fact or law;  |
| grievance   | a written inmate complaint within the jurisdiction of the Department alleging personal injury, loss, or harm caused by the application or omission of a policy or practice, a member or inmate action, or an incident; does not include any complaint regarding parole procedures or decisions, disciplinary decisions or classification decisions |
| Hearing Office                                      | the office at the Executive Director level responsible for assigning Hearing Officers to administrative appeals  |
| malicious with grievance                            | any grievance in which the inmate willfully falsifies information the intent to annoy, slander, or injure a member or any other person   |
| retaliation   | any unauthorized or improper action or threat of action against an inmate based upon the inmate's appropriate use of or participation in the grievance process   |
| UDC   | Utah Department of Corrections   |
| USP   | Utah State Prison  |

without merit grievance            a grievance written by the offender in good faith, but having no basis in law or fact to grant the inmate's requested remedy

working days                    Monday through Friday, excluding holidays

## FDr02/02.00 REQUIREMENTS OF THE INMATE GRIEVANCE PROCEDURE

### FDr02/02.01 Policy

It is the policy of the Department that:

- A. any new inmate grievance policy or amendment to this policy should, when possible, be provided to members for input prior to implementation;
- B. upon their arrival at the prison, inmates shall receive orientation and packets regarding the operation of the grievance process;
- C. members shall be given pre-service and in- service training on inmate grievance procedures;
- D. ethnic minority resource specialists, case workers, housing unit lieutenants or captains, shall assist the inmates in obtaining access to and an understanding of the grievance process;
- E. all inmate complaints are grievable except complaints against decisions and procedures of the Board of Pardons and Parole, disciplinary actions, and classification decisions;
- F. before using the formal grievance process, all inmates should document efforts for resolution of grievance issues on an informal basis;
- G. inmates shall not be subject to retaliation for appropriate use of the grievance process, and allegation of an act of retaliation is grounds for an additional grievance;
- H. malicious or frivolous grievances may subject the inmate to criminal, civil, or disciplinary action, including assessment of restitution for incurred investigative costs; and
- I. the inmate grievance system is not required as a matter of constitutional law, but is provided as an aid to inmates and USP management to resolve conflict and problems.

### FDr02/02.02 Rationale

A. Inmates have limited power to control their activities or surroundings while incarcerated. This environment results in otherwise small problems assuming significant importance to an inmate.

B. The grievance procedure provides inmates with the means to communicate their concerns and to resolve inequities and problems.

FDr02/02.03 Procedure: Staff Training

A. Staff members shall be trained concerning the purpose, function, requirements, and policy and procedures of the inmate grievance system.

B. New staff members shall receive pre-service training and, thereafter, all USP staff members should receive periodic in-service training concerning the inmate grievance system.

FDr02/02.04 Procedure: Inmate Orientation/Notice

A. New inmates shall receive orientation concerning the grievance system upon arriving at the R and O unit.

B. Copies of this chapter shall be made available to inmates for review during their incarceration at the USP/CUCF.

C. Inmates should also receive assistance from a unit case worker/social worker, housing unit lieutenant/captain or EMRS to:

1. review current procedure;
2. obtain necessary forms; or
3. receive instructions concerning how to access and utilize the grievance system.

FDr02/02.05 Procedure: Accessibility

A. Inmates may file grievances regardless of status or classification.

B. Access to available administrative resources, particularly for offenders requiring help in language interpretation or for impaired or disabled inmates, is available through the unit caseworker/social worker, EMRS, the unit housing lieutenant or captain.

FDr02/02.06 Procedure: Applicability

A. The grievance system shall permit complaints by inmates regarding policies and conditions within the jurisdiction of the UDC which affect them personally, as well as

actions by members or other inmates and incidents occurring within the institution that affect them personally.

B. In general, all inmate complaints are grievable except complaints against decisions and procedures of the Board of Pardons and Parole, disciplinary decisions, and classification decisions.

1. Inmates with complaints regarding Board of Pardons and Parole decisions shall be referred to the Board of Pardons and Parole.

2. Inmates with complaints regarding disciplinary decisions shall be referred to the designated appeals process.

3. Inmates with complaints regarding classification decisions shall be referred to the designated challenge process.

FDr02/02.07 Procedure: Available Remedies

The grievance procedures do not set any limit on existing administrative discretion or powers. The scope of available administrative remedies is broad and should be applied on a case-by-case basis.

FDr02/02.08 Procedure: Operation and Decision

A. Initiation

1. All grievances must be filed on an individual basis by the respective inmate identifying the specific nature of the grievance.

2. Inmates are required to make and to document reasonable attempts to resolve complaints informally.

3. Assistance, including access to current procedures, copies of necessary forms, and information on the operation of the grievance process, is available from the unit case-worker/social worker, ethnic minority resource specialist, unit housing lieutenant or captain.

4. The inmate as the moving party, has the burden to articulate all relevant facts and information in the grievance, even if inadequately or unartfully drafted. However, the grievance should not be sent back to the inmate, unless it is not possible to process the grievance without additional information.

B. Malicious or Frivolous Grievances

1. Malicious or frivolous grievances constitute an abuse of the grievance system and may subject the inmate to criminal, civil, disciplinary, and/or administrative

action depending on the nature of the abuse. Any staff member receiving a grievance that they believe is malicious or frivolous may refer it to the Hearing Office.

2. If an inmate's grievance appears to violate the criminal law, it shall be referred to the Corrections Investigations Bureau (CIB). The CIB shall review the grievance for violations of the criminal law.

a. If the review establishes a violation of law, the matter may be screened for prosecution.

b. The results of the review shall be referred to the Warden/designee for disciplinary action and to the Board of Pardons and Parole.

3. If the inmate's grievance appears to support a civil suit against the inmate, it shall be referred to the Warden/designee for possible disciplinary action and to the Hearing Office for possible administrative action. The referral of a grievance supporting a civil suit for disciplinary or administrative action is independent of the decision by the injured party of whether to file an action.

4. If the abuse supports neither criminal nor civil action, the inmate should be given a chance to withdraw the grievance.

a. If the inmate chooses to withdraw the grievance, the matter will be closed.

b. If the inmate chooses not to withdraw the grievance, or persists with other similar grievances, the grievance shall be referred to the Warden/designee for possible disciplinary action, and to the Hearing Office for possible administrative action.

5. Disciplinary action shall be consistent with FDr01, "Inmate Disciplinary Procedures." Disciplinary action is separate from other processes. Action in one process shall not bar action in the other.

6. The Hearing Office shall initiate a review of grievances referred for abuse of the grievance system.

a. If the Hearing Office finds a lack of substantial evidence that the grievance constitutes an abuse of the grievance system, it shall be returned to the appropriate level of the grievance process for a response on the merits.

b. If the Hearing Office finds substantial evidence the grievance constitutes an abuse of the grievance system, a hearing shall be scheduled where the inmate shall be given the opportunity to show cause why the grievance should not be found frivolous or malicious.

(1) The inmate shall be given a minimum of twenty-four hours notice, along with a copy of the grievance in question, prior to hearing.

(2) Consistent with safety and security, the Hearing Officer may hear testimony, receive other evidence, and allow the inmate to show cause why the grievance should not be found to be frivolous or malicious.

c. If the Hearing Officer finds evidence that the inmate has abused the grievance system by filing a frivolous or malicious grievance, he/she may, depending on the severity of the abuse;

(1) inform the inmate that further violations may result in a modification or suspension of access to the grievance system;

(2) modify the inmate's access to the system; or

(3) suspend access to the grievance system for a fixed period of time, not to exceed six months.

d. The decision of the Hearing Officer is not subject to further administrative review.

e. Grievances submitted during the period of suspension shall be returned to the inmate without a response.

f. When the period of suspension expires, the inmate shall be permitted to file grievances. Filing of subsequent grievances found to be frivolous or malicious shall result in additional periods of suspension from access to the grievance process for up to six months.

#### C. Inmate and Member Input

1. Both members and inmates are encouraged to provide written input concerning the grievance process.

2. Any changes to the grievance procedures should be posted in appropriate locations throughout the institution to elicit member and inmate written input.

3. Any phase of the grievance process can, itself, become the subject matter of a grievance.

#### D. Investigation and Consideration

No inmate or member having personal involvement in any incident underlying a grievance is allowed to participate in the grievance decision, except that prior

involvement in the drafting or interpretation of the grievance procedures shall not be considered sufficient personal involvement to prohibit such participation.

E. Written Response

1. Each decision maker is required to provide the inmate with one copy of a written response which states the reasons for the decision reached and the procedure to be followed by the inmate to obtain a review of the decision.

2. Inmates shall be responsible to draft and maintain copies of each grievance and/or appeal.

F. Fixed Time Limitations

1. The grievance process is designed to be completed within 80 working days of the initial filing of a grievance form to final disposition if all levels of appeal and time limitations are used.

2. Fixed time limitations are applicable to each level of the grievance.

a. However, in some circumstances it may be necessary to request a time extension.

b. A staff member shall notify the inmate in writing of any time extension.

c. The inmate may wait for the response or may submit the grievance to the next level of appeal.

G. Executive Review

1. There is one level of review at the Executive Level.

2. The final determination rests with the Hearing Office.

3. Requests for review are not subject to denial by any decision maker who has already rendered an opinion.

H. Emergency Procedure

1. Grievances determined by the decision maker to be of an emergency nature shall be processed in an expedited, priority manner. Each decision maker may determine which cases should be expedited.

2. No stage shall be totally deleted because each decision maker constitutes a level at which administrative action can be taken.

3. Decisions to expedite handling and the type of response required are decided on a case-by-case basis.

I. Retaliation

1. Retaliation is prohibited under the grievance procedures, and complaints of either formal or informal reprisals are separate grievable issues.

2. Abuse of the grievance system, however, may subject the inmate to appropriate action by the UDC.

J. Records

1. The Warden/designee and the Hearing Office shall maintain grievance records. All records shall be maintained and preserved for at least three years.

2. Individual records are confidential documents, and shall not be filed in the inmate's jacket.

3. Records of grievances should not be generally available to members who are not involved in the grievance process or in the resolution of the grievance.

K. Forms

Any member may provide grievance forms to inmates.

FDr02/03.00 PROCEDURAL STEPS

FDr02/03.01 Policy

It is the policy of the Department that:

A. inmate grievances originating at and/or pertaining to Utah State Prison/Central Utah Correctional Facility shall be resolved at the lowest possible administrative level;

B. inmates have the burden of providing all known facts and information regarding a complaint;

C. at the initial stage of the grievance process inmates may request and submit voluntary written comments concerning grievances from other inmates and/or staff;

D. unless the inmate has been notified in writing or there are justifiable circumstances for an extension of time for staff response, the expiration of the time limit shall allow the inmate to submit the grievance to the next level of appeal; and

E. all grievances shall be filed on an individual basis by the respective inmate identifying the specific nature of the grievance.

#### FDr02/03.02 Rationale

A. The involvement of line staff in grievance resolution obliges staff to be problem solvers. It also allows staff to establish communication with inmates and to better manage problems.

B. A review by the Warden/designee and the Grievance Coordinator guarantees inmates will be treated fairly and within the parameters of policy and procedure.

C. A review by the Hearing Office provides to inmates and staff the assurance that grievance decisions comply with Department policy and procedure, federal and state law, and are fair and equitable.

#### FDr02/03.03 Procedure: Level One, Informal

A. Within seven working days of an incident or seven working days from the time the inmate knew or should have known about a grievable incident, he shall obtain and complete Section I of the Grievance form No. 1 (GF-1) and submit it and corroborating documents or statements to the appropriate Level I Grievance Data Terminal Operator (DTO) by:

1. placing it in an envelope addressed to the appropriate Level I DTO (e.g., housing unit, medical unit, support services); and
2. depositing the envelope in a Housing Facility Mail Drop.

B. The facility or bureau responsible for addressing the inmate's Level One grievance shall have 21 working days from the date the Grievance form was received by the Level I DTO to:

1. gather grievance-related statements and documents;
2. review grievance-related policy and procedure, general orders and special orders;
3. as necessary, interview the inmates;
4. attempt to resolve the grievance;
5. initiate grievance-related remedial actions and/or proposals; and
6. respond to the inmate in writing.

C. If the Level One (Informal) attempt to resolve the grievance fails, the inmate shall have five working days to complete Page 2 of the Grievance form I (GF-1) and submit it through the prison mail system to his Level I DTO who shall forward it with all Level One Grievance information to the Inmate Grievance DTO for the Warden/designee.

FDr02/03.04 Procedure: Level Two, Warden

A. The Warden/designee shall have 21 working days (from the date of receipt) to review, research and forward a written response to the inmate.

B. Inmates not satisfied with the Warden's decision have five working days to appeal the decision to the Department's Hearing Office by:

1. obtaining and completing a Grievance Appeal form (No. GF-5);
2. placing a copy of the grievance form having Page 1 and 2 completed and the completed Grievance Appeal form into an envelope addressed to the Inmate Grievance DTO who shall attach grievance-related information gathered by Division personnel and forward to the Department's Hearing Office; and
3. depositing the addressed envelope containing the specified Grievance Appeal information into the Facility Mail Drop.

FDr02/03.05 Procedure: Level Three, Hearing Office Review

A. The Hearing Office shall have 21 working days (from the date of receipt) to assign a hearing officer, review the grievance, and provide a written response to the inmate Level Three Appeal or schedule a hearing.

1. The hearing shall be held at the earliest time available to the parties and the Hearing Office.

2. The Hearing Office shall have 21 working days from the date of the hearing to provide a written response.

3. However, if reasonable circumstances exist, the Hearing Office may extend this response time with the stipulation that the inmate be notified of the time extension within the original 21 working day time frame.

B. There is no further administrative appeal from the Hearing Office level. The Level Three decision is final.

FDr02/04.00 GRIEVANCE FORMS

FDr02/04.01 Policy



What is the specific remedy you seek?:

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INMATE'S SIGNATURE/DATE

GF-1

INMATE GRIEVANCE FORM  
(Page 2)

IF YOU HAVE NOT RESOLVED THE GRIEVANCE AT THE INFORMAL LEVEL AND WISH TO APPEAL TO LEVEL TWO (FORMAL), THE INMATE MUST COMPLETE PAGE 2 AND FORWARD IT THROUGH THE PRISON MAIL SYSTEM TO THE LEVEL ONE DTO WHO SHALL FORWARD IT WITH ALL LEVEL ONE INFORMATION TO THE LEVEL TWO DTO.

SECTION 2 -- FORMAL GRIEVANCE ACTION

To be completed by the inmate:

Why is the Informal Response unacceptable? (Be specific)

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Inmate's Signature/Date

GF-2

STAFF RESPONSE FORM

STAFF RESPONSE/RECOMMENDATIONS:

Reference No:  
Subject Code:  
Location Code:  
Day/Month/Year:  
Level: TWO

Turn sheet over for more space. If additional pages are necessary, please attach to this sheet.

STAFF MEMBER'S SIGNATURE

---

DATE

GF-3

Reference No:

Subject Code:

Location Code:

Day/Month/Year:

Level:

SUPPLEMENTAL GRIEVANCE PAGE

\_\_\_\_\_  
INMATE'S SIGNATURE

\_\_\_\_\_  
DATE

GF-5

Reference No:

Subject Code:

Location Code:

Day/Month/Year:

Level: Three

GRIEVANCE APPEAL FORM

Name

USP Number

\_\_\_\_\_  
Housing Unit

REASONS FOR APPEAL

List the reasons why the prior administrative grievance decision is unacceptable.

If additional pages are necessary, please attach to this sheet.

SIGNATURE

\_\_\_\_\_  
DATE SUBMITTED

THIS DOCUMENT MUST BE SENT THROUGH UTAH STATE PRISON MAIL - NO  
POSTAGE NEEDED.