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POLICY NUMBER: 29.01		
CHAPTER: 29. RESIDENT GRIEVANCE RIGHTS		
	STATE of MAINE DEPARTMENT OF CORRECTIONS Approved by Commissioner: 	PROFESSIONAL STANDARDS See Section VII
	EFFECTIVE DATE: January 13, 2003	LATEST REVISION: August 15, 2012

I. AUTHORITY

The Commissioner of Corrections adopts this policy pursuant to 34-A M.R.S.A. Section 1402(5).

II. APPLICABILITY

All Juvenile Facilities

III. POLICY

The purpose of this policy is to establish a grievance process for reviewing and resolving complaints of residents of juvenile facilities, other than complaints concerning matters for which there is a separate grievance process or separate appeal procedures. It is anticipated that prior to filing a lawsuit, a resident will attempt to resolve his or her complaint by using the grievance process. This process shall be evaluated at least annually to determine its efficiency and effectiveness.

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VI. PROCEDURES

Procedure A: Resident Grievance Process, General

1. The Superintendent of each juvenile facility shall designate a Grievance Review Officer and another staff person to be acting Grievance Review Officer in his/her absence. The Superintendent shall designate supervisors responsible to attempt informal resolutions with residents for subjects within their jurisdiction and shall ensure that the list of those designated is forwarded to the Grievance Review Officer and acting Grievance Review Officer.
2. During the orientation process for each resident admitted or transferred to a juvenile facility, the resident shall be informed that a copy of this grievance policy and procedures, resident grievance forms, and envelopes are readily available in each housing unit, the special management unit, the infirmary, and the library. The grievance process and how to obtain assistance with the process shall also be explained.
3. It is the responsibility of the Juvenile Program Manager, or designee, of the housing unit assigned to a resident who needs or requests assistance with the grievance process to provide assistance in a timely manner, including, but not limited to, as appropriate, a sign language interpreter, foreign language interpreter, reasonable accommodation for a resident with a physical or mental disability, assistance to a resident who is illiterate, and assistance to a resident whose access to paper and/or writing materials has been restricted for safety or security reasons. A resident may also be assisted in the grievance process by another staff member on a voluntary basis or by any other person with whom the resident is permitted to have contact, provided that in all cases the grievance and grievance appeal forms are filed by the resident.
4. A resident of a juvenile facility may file a grievance with the appropriate facility Grievance Review Officer to request administrative review of any policy, procedure, practice, condition of confinement, calculation of a 30 day or less period of confinement (including, but not limited to, an issue with credit for detention time), action, decision, or event that directly affects the resident, that the resident believes is in violation of his/her rights or is in violation of Departmental policies and procedures, and for which the resident believes a Departmental employee or contractor is responsible. A resident may not file a grievance regarding the following subjects, since there exist separate appeal procedures for these matters:

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- a. Classification procedures and decisions, including, but not limited to, a decision to place a resident on individual behavior management status or a decision about risk level, participation in an institutional or community-based program, or transfer;
 - b. Disciplinary procedures and decisions; and
 - c. Furlough pass/furlough leave procedures and decisions.
5. A resident may not file a grievance under this policy and procedures regarding medical care or mental health care, since there exists a separate grievance process for these subjects (Policy 29.2, Juvenile Grievance Process, Medical and Mental Health Care). A resident may not file a grievance under this policy regarding community corrections matters, since there exists a separate grievance process for those (available by request from the facility library). A resident may not file a grievance under this policy alleging sexual misconduct, since there exists a separate grievance process for this subject. (Policy 6.11, Sexual Misconduct, PREA and Maine Statutes).
 6. The Chief Administrative Officer, or designee, of each juvenile facility shall ensure that this grievance policy and procedures, as well as resident grievance forms (Attachment A) and envelopes are readily available in each of the facility's housing units, the special management unit, the infirmary, and the library. A resident may use only this form to submit a grievance. Any attempt by a resident to submit a grievance by a letter or in any other way shall not be accepted.
 7. A resident shall be allowed to submit a grievance form or a grievance appeal form in an envelope sealed by the resident and addressed to the appropriate Grievance Review Officer. Any attempt by a resident to submit a grievance or a grievance appeal to anyone other than the appropriate Grievance Review Officer shall not be accepted. The Chief Administrative Officer, or designee, shall provide a grievance mailbox or other means for residents to submit grievance forms and grievance appeal forms to the facility Grievance Review Officer. A resident who has a grievance about a matter that occurred at a Departmental juvenile facility that he or she was previously housed in shall be allowed to submit a grievance form or grievance appeal form to that facility's Grievance Review Officer by mailing it through the U.S. Mail. If the resident wishes to have it treated as privileged mail, he or she may do so by marking it as such on the outside of the envelope.
 8. A resident housed at one Departmental juvenile facility who has a grievance about a matter that occurred at another Departmental juvenile facility shall direct the grievance form to the Grievance Review Officer at the facility where the matter occurred.
 9. A resident housed in a jail, in another jurisdiction's facility, or a Departmental adult facility who has a grievance about a matter that occurred while housed at a Departmental juvenile facility shall request a grievance form from the Grievance

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Review Officer at the Departmental juvenile facility where the resident was previously housed and shall submit the grievance form to that facility's Grievance Review Officer. A resident housed in a jail, in another jurisdiction's facility, or a Departmental adult facility who has a grievance about any other matter shall use that facility's grievance process.

10. If a resident's grievance concerns a policy, procedure, practice, or condition of confinement, the grievance form must be filed within fifteen (15) days of when the policy, procedure, practice, or condition of confinement first affected the resident. If the grievance concerns a period of confinement calculation, the grievance form must be filed within fifteen (15) days of when the resident first became aware of the allegedly erroneous calculation. If the grievance concerns an action or decision that is ongoing, the grievance form must be filed within fifteen (15) days of when the action first occurred or the decision was first made. If the grievance concerns any other action, decision, or event, the grievance form must be filed within fifteen (15) days of when the action, decision, or event occurred. In any case in which a grievance implicates more than one of the above, the grievance form must be filed within the shortest of the above time limits.
11. The Chief Administrative Officer, or designee, shall ensure that grievance forms and grievance appeal forms are collected and date stamped at least once every business day. A grievance form or grievance appeal form is considered filed on the day it is collected and date stamped. The Grievance Review Officer shall grant an exception to the time limit for filing if and only if it the resident makes a clear showing that it was not possible for the resident to file the form within the fifteen (15) day period. The fact that a resident was seeking assistance, gathering information, or conducting research shall not be grounds for an exception to the time limit for filing a grievance form or grievance appeal form, unless the resident's Juvenile Program Manager confirms that it was not possible for the resident to file the form without assistance and that the Juvenile Program Manager, or designee, was unable to provide the assistance in a timely manner. The fact that a resident is not housed at a Departmental facility shall not be grounds for an exception to the time limit for filing a grievance or grievance appeal form.
12. The resident shall state, using one grievance form only, as briefly and concisely as possible, the specific nature of the complaint, including all the persons and dates involved. The resident shall provide sufficient information to show when the fifteen (15) day time limit began. The resident shall also state the specific remedy requested.
13. A resident may not bring up more than one subject in any one grievance. Except for photocopies of relevant documents (e.g., property inventory sheet, proof of purchase, health care report, etc.), the resident shall not submit any attachments with the grievance form.
14. No resident using the grievance process in good faith shall be subjected to retaliation in the form of an adverse action or a threat of an adverse action for using the grievance process. However, a resident may have his/her access to the

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grievance process suspended under Procedure G. and/or may be subjected to disciplinary action for abuse of the grievance process.

15. A resident shall be entitled to pursue, through the grievance process, any complaint that the resident has been subjected to retaliation for using the grievance process in good faith.
16. A resident may withdraw his/her grievance at any time by written notice to the Grievance Review Officer.

Procedure B: First Level Review of a Resident Grievance

1. The Grievance Review Officer shall first review a grievance form to determine whether the subject is grievable, whether the grievance form has been filed within the fifteen (15) day time limit (or an exception should be granted), whether the complaint is a duplicate of an earlier grievance, or whether there has been an obvious abuse of the grievance process by the resident.
2. If the Grievance Review Officer determines the subject is not grievable, the grievance form has been submitted untimely, the complaint is a duplicate of an earlier grievance, the grievance is obviously frivolous in nature or there has otherwise been an obvious abuse of the grievance process by the resident, the Grievance Review Officer shall dismiss the complaint and return the original grievance form to the resident, along with a form noting the reason for the dismissal of the complaint (Attachment B). The Grievance Review Officer shall make a copy of the grievance form and the form noting the reason for dismissal for the file. No appeal of a dismissal is allowed.
3. Any attempt to file a grievance about a decision of the Grievance Review Officer acting as the Grievance Review Officer shall be treated as not grievable and dismissed. No appeal of a dismissal is allowed.
4. If the information provided by the resident on the grievance form is not sufficient for the Grievance Review Officer to determine whether it was filed within the required fifteen (15) day time limit, the Grievance Review Officer shall immediately return the original grievance form to the resident, along with a form noting the reason for the return of the complaint (Attachment B). The Grievance Review Officer shall make a copy of the grievance form and the form noting the reason for return for the file. The resident must resubmit the grievance form with the missing information within seven (7) days of the date it was returned to the resident, or within the original fifteen (15) day time limit for filing a grievance, whichever is later, in order to utilize the grievance process.
5. If a complaint is dismissed, but the Grievance Review Officer determines that the complaint requires follow up, the Grievance Review Officer shall forward the complaint to the Chief Administrative Officer, or designee, for determination, outside the grievance process, as to any other action required.

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6. Unless the complaint is dismissed or returned for additional information, the Grievance Review Officer shall date the form with the date the grievance was date stamped, log the receipt of the grievance, and assign to the grievance a log number. The log number shall consist of the last two digits of the year, the initials for the facility, and the order of receipt of the grievance (e.g., the thirteenth grievance received by the Long Creek Youth Development Center Grievance Review Officer in the year 2011 would be logged as 11-LC-13). That log number shall be used to identify the grievance throughout the entire grievance process.
7. If the grievance concerns a decision of the person designated as Grievance Review Officer (made by that person in a capacity other than Grievance Review Officer), the Grievance Review Officer shall immediately forward the grievance to the other staff designated as acting Grievance Review Officer for review and shall so advise the resident.

Procedure C: Informal Resolution Process

1. If the matter being grieved might also be the subject of or otherwise involve a criminal investigation or investigation of an allegation of abuse or neglect, the Grievance Review Officer shall immediately contact the Department’s Assistant Attorney General for instruction as to how to respond to the grievance. The Grievance Review Officer shall not inform the resident that the subject has been referred to the Attorney General’s Office and shall not provide any other information to the resident prior to receiving this instruction.
2. Unless the resident is housed in a jail, another jurisdiction’s facility, or a Departmental adult facility, once logged, the Grievance Review Officer shall immediately send a copy of the grievance and the Informal Resolution Form (Attachment C) to an available supervisor who is designated on the Chief Administrative Officer’s list as having jurisdiction over the subject and shall so advise the resident. That supervisor or another supervisor designated on the Chief Administrative Officer’s list as having jurisdiction over the subject shall meet with the resident to attempt to resolve the grievance informally, if possible. Any informal resolution requires the agreement of the supervisor and resident and must be consistent with Departmental policies, procedures, and practices.
3. If the grievance is resolved, the supervisor who met with the resident shall date and sign the form, note on the form what the resolution is, including the implementation date, have the resident sign the form acknowledging the resolution of the grievance, and return the grievance form and the informal resolution form to the Grievance Review Officer within seven (7) days of being sent the grievance, with copies to the resident.
4. If the grievance is not resolved, the supervisor who met with the resident shall date and sign the form, list on the form the actions taken in the attempt to resolve the complaint, have the resident sign the form acknowledging the lack of resolution of the grievance, and return the grievance form and the informal resolution form to the

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Grievance Review Officer within seven (7) days of being sent the grievance, with copies to the resident.

5. No supervisor may refuse to comply with any requirement of this procedure, for any reason.
6. If an informal resolution is reached, the Grievance Review Officer shall document the resolution in the grievance log and close out the grievance.
7. If the informal resolution is not implemented by the specified date, the resident may file another grievance within fifteen (15) days of the date specified in the informal resolution. This grievance shall be handled through the formal grievance process, with no further attempt at an informal resolution.
8. If an informal resolution is not reached, the Grievance Review Officer shall proceed with the formal grievance process.
9. If the resident is housed in a jail, another jurisdiction's facility, or a Departmental adult facility, the Grievance Review Officer shall not initiate the informal resolution process but immediately proceed with the formal grievance process.

Procedure D: Formal Grievance Process

1. The formal grievance process shall begin with an investigation by the Grievance Review Officer. This may include, but is not limited to, conducting interviews with the resident, staff, or others, requesting copies of documents, requesting oral or written reports from staff, reviewing policies and procedures, etc. All staff shall cooperate fully with the requests of the Grievance Review Officer.
2. The Grievance Review Officer shall respond to the grievance, in writing, no later than thirty (30) days following receipt of the grievance form from the resident, indicating any action taken to resolve the resident's grievance or the reasons for the denial of the grievance (Attachment D). The Grievance Review Officer shall include a grievance appeal form (Attachment F) with the response.
3. If the only remedy for the grievance requires action by the Chief Administrative Officer, the Grievance Review Officer shall forward the grievance, together with any investigative reports and other documentation, to the Chief Administrative Officer for review and shall so advise the resident.
4. If the only remedy for the grievance requires action by the Commissioner (e.g., changing a Departmental policy or procedure), the Grievance Review Officer shall forward the grievance to the Commissioner for review and shall so advise the resident.
5. If a response cannot be made within the thirty (30) days, the Grievance Review Officer shall so advise the resident and shall indicate when the response will be made, which must not be later than an additional ten (10) days.

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Procedure E: Second Level Review of a Resident's Grievance

1. If, after receipt of the response from the Grievance Review Officer, the resident wishes to appeal, the appeal must be filed with the Grievance Review Officer, using the grievance appeal form, within fifteen (15) days of the date of the response (the date the Grievance Review Officer signs the response and sends it to the resident). The resident shall include on the appeal form the log number assigned to the grievance by the Grievance Review Officer. If the resident does not appeal within the fifteen (15) day time period, the Grievance Review Officer shall close the case. A resident may use only this form to submit an appeal. Any attempt by a resident to submit an appeal via letter or in any other way shall not be accepted.
2. The resident shall state, using one grievance appeal form only, the reasons for the appeal. The resident shall not raise an argument on appeal that was not raised in the original grievance or the response to the original grievance. Except for photocopies of relevant documents (e.g., property inventory sheet, proof of purchase, health care report, etc.), the resident shall not submit any attachments with the grievance form.
3. The Grievance Review Officer shall first review a grievance appeal form to determine whether the grievance appeal form has been filed within the fifteen (15) day time limit (or an exception should be granted). If the Grievance Review Officer determines the grievance appeal form has been submitted untimely, the Grievance Review Officer shall dismiss the appeal and return the grievance appeal form to the resident, along with a form noting the reason for the dismissal of the appeal (Attachment B). The Grievance Review Officer shall make a copy of the grievance appeal form and the form noting the reason for dismissal for the file. No appeal of a dismissal is allowed.
4. Unless the appeal is dismissed, the Grievance Review Officer shall log the receipt of the appeal and forward the grievance appeal form, together with all prior correspondence and documentation, to the Chief Administrative Officer.
5. The Chief Administrative Officer, or designee, shall review all prior correspondence and documentation and may require additional investigation before making a written response to the resident.
6. The Chief Administrative Officer, or designee, shall respond to the grievance, in writing, within twenty-five (25) days of filing of the appeal, indicating any action taken to resolve the resident's grievance or the reasons for the denial of the appeal (Attachment E). The Chief Administrative Officer, or designee, shall include a grievance appeal form with the response.
7. If the only remedy for the grievance requires action by the Commissioner (e.g., changing a Departmental policy or procedure), the Chief Administrative Officer, or designee, shall require the Grievance Review Officer to forward the appeal,

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together with all prior correspondence and documentation, to the Commissioner for review and shall so advise the resident.

Procedure F: Third Level Review of a Resident's Grievance

1. If, after receipt of the response from the Chief Administrative Officer, the resident wishes to appeal, the appeal must be filed with the Grievance Review Officer, using the grievance appeal form, within fifteen (15) days of the date of the response (the date the Chief Administrative Officer signs the response and sends it to the resident). The resident shall include on the appeal form the log number assigned by the Grievance Review Officer to the grievance. If the resident does not appeal within the fifteen (15) day time period, the Grievance Review Officer shall close the case. A resident may use only this form to submit an appeal. Any attempt by a resident to submit an appeal via letter or in any other way shall not be accepted.
2. The resident shall state, using one grievance appeal form only, the reasons for the appeal. The resident shall not raise an argument on appeal that was not raised in the original grievance or the response to the original grievance. Except for photocopies of relevant documents (e.g., property inventory sheet, proof of purchase, health care report, etc.), the resident shall not submit any attachments with the grievance form.
3. The Grievance Review Officer shall first review a grievance appeal form to determine whether the grievance appeal form has been filed within the fifteen (15) day time limit (or an exception should be granted). If the Grievance Review Officer determines the grievance appeal form has been submitted untimely, the Grievance Review Officer shall dismiss the appeal and return the grievance appeal form to the resident, along with a form noting the reason for the dismissal of the appeal (Attachment B). The Grievance Review Officer shall make a copy of the grievance appeal form and the form noting the reason for dismissal for the file. No appeal of a dismissal is allowed.
4. Unless the appeal is dismissed, the Grievance Review Officer shall log the receipt of the appeal and forward the grievance appeal form, together with all prior correspondence and documentation, to the Commissioner. The resident shall not raise an argument on appeal that was not raised in the original grievance, the response to the original grievance, or the response to the appeal to the Chief Administrative Officer.
5. The Commissioner, or designee, shall review all prior correspondence and documentation and may require additional investigation before making a written response to the resident, which must be done within twenty (20) days of filing the appeal. A copy of the response shall be forwarded to the Grievance Review Officer and the Chief Administrative Officer.
6. This level is the final administrative level of appeal.

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Procedure G: Abuse of the Grievance Process

1. If the Commissioner, or designee, or the Chief Administrative Officer determines that a resident has abused the grievance process by filing a frivolous grievance (a grievance is not frivolous if it is a complaint about a violation of law, a violation of policy or procedures, a risk to health or safety, or an ongoing or frequent deviation from a normal practice or condition of confinement), by filing multiple grievances on the same subject, or by otherwise creating an administrative burden, or by knowingly making a false statement in a grievance, the Commissioner, or designee, or the Chief Administrative Officer, may suspend the resident's access to the grievance process for up to a ninety (90) day period. If the Commissioner, or designee, or the Chief Administrative Officer suspends a resident's access to the grievance process, the Commissioner, or designee, or the Chief Administrative Officer shall notify the resident in writing (Attachment G). If the Chief Administrative Officer suspends a resident's access to the grievance process, the Chief Administrative Officer shall ensure that the Commissioner or designee is notified of this decision at least one (1) week prior to notifying the resident. If the Commissioner, or designee, does not agree with the Chief Administrative Officer's decision, he or she shall notify the Chief Administrative Officer prior to the expiration of the one (1) week time period.
2. A resident who has been suspended from access to the grievance process may not file a grievance during the period of suspension unless it concerns a violation of a constitutional right.

Procedure H: Grievance Records

1. Records regarding the filing and disposition of individual grievances shall be collected and maintained systematically within each juvenile facility and shall be handled in the same manner as other resident records.
2. Each juvenile facility shall send quarterly reports to the Commissioner concerning the operation of the grievance process. These reports shall include the numbers and types of grievances logged, the numbers of grievance appeals logged, the response times to each, and the highest level response and the nature of the resolution in each case.

VII. PROFESSIONAL STANDARDS:

ACA:

- 4-JCF-3A-06 A grievance process that includes at least one level of appeal is made available to all juveniles and is posted in all living unit and program areas. The process is evaluated at least annually to determine its efficiency and effectiveness.

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