

 <p><b>CD-150500</b></p>	<p><b>NEW MEXICO CORRECTIONS DEPARTMENT</b></p> <p><i>"We commit to the safety and well-being of the people of New Mexico by doing the right thing, always."</i>  <b>C</b>ourage <b>R</b>esponsibility <b>E</b>thics <b>D</b>edication - <b>CRED</b>ibly serving the public safety of New Mexico</p>	
	<p><b>ISSUE DATE: 09/01/90</b></p> <p><b>EFFECTIVE DATE: 09/01/90</b></p>	<p><b>REVIEW/REVISED: 06/09/16</b></p>
	<p><b>TITLE: Inmate Grievances</b></p>	

**AUTHORITY:**

- A. NMSA 1978, Section 33-1-6 as amended.
- B. Policy *CD-010100*.
- C. Civil Rights of Institutionalized Persons Act of 1980, Public L. 96-247, 94 Stat. 349 (42 U.S.C. 1997).
- D. Prison Rape Elimination Act Standards 115.52
- E. NMSA 1978 §32-2-11.
- F. 42 U.S.C. Section 1997e.

**REFERENCES:**

- A. ACA Standard 2-CO-3C-01, *Standards for the Administration of Correctional Agencies*, 2<sup>nd</sup> Edition.
- B. ACA Standards 4-4284, 4-4344, 4-4394, 4-4410, 4-4429, and 4-4446; *Standards for Adult Correctional Institutions*, 4<sup>th</sup> Edition.
- C. ACA Standard 2-CI-5A-7, *Standards for Correctional Industries*, 2<sup>nd</sup> Edition.
- D. Prison Rape Elimination Act Standards 115.52

**PURPOSE:**

To establish an administrative means for the expression and/or the efficient and fair resolution of legitimate inmate grievances and provide for an appeal process; to provide a regularly available channel for hearing and resolving concerns of inmates; to provide a mechanism to help keep managers informed and better able to carry out the Department's mission; and to meet national standards. [2-CO-3C-01] [2-CI-5A-7]

**APPLICABILITY:**

All inmates incarcerated in the New Mexico Corrections Department, employees, volunteers, consultants and contract persons or entities employed on behalf of the Department in connection with the incarceration of or provision of services to New Mexico state inmates.

**FORMS:**

- A. **Inmate Grievance** form (*CD-150501.1*) (2 pages)
- B. **Inmate 5-Day Notice of Receipt of Formal Grievance** form (*CD-150501.2*)
- C. **Inmate Informal Complaint** form (*CD-150501.3*)

**ATTACHMENTS:**

- A. **Emergency Grievance Status Log** Attachment (*CD-150501.A*)
- B. **Miscellaneous Grievance Status Log** Attachment (*CD-150501.B*)
- C. **Grievance Monthly Statistic Log** Attachment (*CD-150501.C*)

D. **Informal Resolution Tracking Log** Attachment (CD-150501.D)**DEFINITIONS:**

- A. Department: The New Mexico Corrections Department and contract employees.
- B. Emergency Grievance: The Warden or a designee may implement emergency grievance procedures when there are indications of potential and substantial risk to the life or safety of the individual or when irreparable harm to the individual's health is imminent.
- C. Exhaustion of Administrative Remedies: The completion of the grievance process through the Department-level appeal.
- D. Frivolous or Multiple Grievances: The filing of repetitive grievances addressing the same issue where sufficient time for a response has not elapsed or where a valid response has been provided, unless there are continuing grievous violations of the same type or unless any relief granted on a prior grievance has not been provided within a reasonable period of time.
- E. Grievance: A written complaint by an inmate on the inmate's own behalf or by a constituent on an inmate's behalf regarding a policy applicable within an institution, a condition in an institution, or an incident occurring within an institution. The written correspondence complaint does not have to state "grievance" in order to initiate an investigation.
- F. Grievance Manager Administrator: A Manager Administrator who is responsible for processing Grievance/Disciplinary appeals made to the Secretary and Director of Adult Prisons. The Grievance Manager Administrator shall not be an employee of, nor subject to, control of, an institution or prison; and should normally be an employee from Central Office.
- G. Grievance Officer: The person or persons at each institution designated to receive formal grievances from inmates and to investigate, resolve and/or recommend disposition to the Warden. The grievance officers assigned to the specific facilities (4) will be supervised by the facility warden or his designee and they are employees of the respective public facilities (4). Primary duties will assist the Warden or his designee in the grievance process and recommendations made. The statewide grievance/disciplinary appeals manager will provide training, guidance and oversight for grievance officers.
- H. Informal Resolution: A resolution reached by the grieving inmate and staff without going through formal grievance procedures.
- I. Inmate: A person incarcerated within the New Mexico Corrections Department penal system regardless of whether the person was convicted in New Mexico or is in New Mexico pursuant to an interstate compact agreement.
- J. Negligence: Any action which demonstrates unintentional or intentional negligence or misconduct by an employee and their actions which adversely affects New Mexico Correction Department policies or procedures or adversely affect the employee's ability to perform his or her duties include, but are not limited to: failing to comply with CD policies or facility post order procedures to properly conduct and document property inventory transfers, or perform all assigned duties as required.
- K. Remedy: A meaningful response, action, restitution or redress for the successful inmate grievant.

- L. Reprisal: Any action or threat of action against anyone for the good faith participation in the grievance procedure.
- M. Secretary: The Cabinet Secretary of the Corrections Department.
- N. Sexual Misconduct: Any behavior and/or act of a sexual nature directed towards an offender by another offender, a Department employee, contractor, volunteer, visitor or Department representative. This includes acts or attempts to commit acts including, but not limited to, sexual assault, sexual abuse, sexual harassment, sexual contact, conduct of a sexual nature or implication, kissing, hugging, sexual gratification of any party, obscenity or unreasonable invasion of privacy by the act of observing, attempting to observe, or interfering in an offender's personal, intimate routines unrelated to the necessary performance of required job duties. Sexual misconduct also includes, but is not limited to, conversations or correspondence of a romantic or sexual nature between an offender and any Department employee, contractor, volunteer, visitor, or Department representative.
- O. Specific Facilities: Identified public facilities (Western New Mexico Correction Facility /Penitentiary of New Mexico/Central New Mexico Correctional Facility/Southern New Mexico Correctional Facility).
- P. Prison Rape Elimination Act (PREA): A federal act which sets guidelines and standards for states to implement in order to prevent incidents of sexual violence in prison. These standards insure corrections agencies and corrections facilities will have policies in place to deal with incidents pertaining to sexual violence and prison rape.

## **POLICY:**

All management shall stress the importance of treating all inmate grievances as serious.

### **A. Communication of Procedures:**

1. Under no circumstances will an inmate be denied the right to file an Informal complaint/ grievance.
2. A written copy and oral summary of this policy and procedure will be provided to each inmate during orientation at the Reception and Diagnostic Centers (RDC and NMWCF) and thereafter upon reasonable request at the expense of the inmate. Staff will be provided a copy of this policy and procedure during their orientation process, as well as an oral summary of its contents. Copies of all policies and procedures regarding inmate grievances will be maintained at each institution and will be made available for review upon request by inmates or employees.
3. Upon arriving at the Reception and Diagnostic Center, inmates will be presented with written notification of the inmate grievance procedure. Notification will be provided in both English and Spanish; special provisions shall be made for sight-impaired or mentally disabled inmates. Written notification will include the following information:
  - a. A list of matters that are grievable and non-grievable;
  - b. Description of grievance forms and location where the forms can be obtained;
  - c. Description of grievance process, including time limits at each level;
  - d. Description of steps taken to assure confidentiality;

- e. Description of what constitutes abuse/misuse of the grievance procedure; and
  - f. Location of policies and procedures concerning inmate grievances.
4. In addition to written notification, inmates will receive a detailed oral explanation of the inmate grievance procedure if the inmate requests it. A copy of this policy shall be given to each inmate during orientation at Reception and Diagnostic Center (RDC). Provisions will be made for those not speaking English, as well as for the impaired or handicapped.
  5. Institutional personnel, including those under private contract with the New Mexico Corrections Department, will receive a copy of all instructional materials on the inmate grievance procedure during the employee orientation.

**B. Accessibility:**

Each inmate will be entitled to invoke the grievance procedure regardless of classification level. This procedure will be made accessible to all impaired or handicapped inmates. [4-4429]

**C. Administrative Provisions:**

1. Designated public facility institutions (4) will have an institutional Grievance Officer Administrative Law Judge (Basic). They will assist the respective warden or his designee of their assigned facility. RCC and SCC facilities grievance officers will remain to be assigned by their respective wardens or his designee due to the population and size of their facility to oversee the grievance process. The private facilities grievance officers will be selected by their respective facility Wardens. The statewide grievance / disciplinary appeals manager will provide training, guidance and oversight for grievance officers. These individuals shall be responsible for carrying out the duties outlined herein.
2. The Statewide Grievance/Disciplinary Appeals Manager (Administrative Law Judge-Advanced) who reports to the Adult Prisons Director will be the designated Program Manager/Administrator. Any such person shall be responsible for the duties outlined herein.
3. No inmate or employee who is named in the grievance shall participate in any capacity in the investigation or resolution of the grievance, except as may be required and only to the extent required as the grievant, the subject of a grievance or a witness. Neither the institutional Grievance Officer nor Administrator shall act in such a capacity when they are the subject of a grievance or a witness to an incident resulting in a grievance.
4. The Warden at Level I, Level II, and Level III and Level IV institutions shall place a "Grievance" mailbox in a designated area in general population. The "Grievance" mailbox shall be accessible to all inmates in general population.
5. Wardens shall also place a "Grievance" mailbox in each segregated housing unit pod.
6. The *Grievance* mailboxes shall be secured at all times. The Grievance Officer shall be the only staff member with a key, and shall be the only staff member authorized to retrieve the grievances.

7. The Grievance Officer shall be required to check each “*Grievance*” mailbox on a weekly basis, excluding weekends and holidays.
8. Grievances are legal/privileged correspondence and shall be handled in accordance with CD-151201.
9. Inmates may continue to use general mailboxes to forward their grievances. The grievances shall be sealed and marked “legal mail”, and must be sent directly to the Institutional Grievance Officers for processing.
10. Staff members will not accept inmate grievances and it is the responsibility of the inmate to seal and mark the envelope as “legal mail”, and mail it to the Institutional Grievance officer.
11. Inmates who choose to use the general mailboxes to submit grievances shall not be charged postage.

**D. Facility Grievance officer Responsibilities:**

1. It is the main responsibility of the Facility Grievance officer to resolve the Formal Grievance if an informal complaint cannot be resolved at the local facility level. Pursuant to *CD-150501 (Section A, for further details on responsibilities)*.

**E. Grievability:**

1. Except as provided below in D.2, the following matters are grievable by inmates:
  - a. The substance, interpretation and application of policies, rules and procedures of the institution or Department including, but not limited to, decisions regarding mail, visitation, staff treatment, negligence as to lost property or medical/mental health care excluding security issues. **[4-4344] [4-4394] [4-4410]**
  - b. Individual employee actions.
  - c. Perceived reprisal for use of, or participation in, the grievance process.
  - d. Any other matter relating to conditions of care or supervision within the authority of the New Mexico Corrections Department or its contractors, except as noted herein.
  - e. Department personnel sexual misconduct. This also includes any Prison Rape and Elimination Act, (PREA). Third parties, including fellow inmates, staff members, family members, attorneys and outside advocates, shall be permitted to assist inmates in filing requests for administrative remedies relating to allegations of sexual abuse, and shall also be permitted to file such requests on behalf of the inmates. **(115.52)** Grievances submitted by the inmate or another individual who has knowledge of the incident.
  - f. If a third party files such a request on behalf of an inmate, the facility may require as a condition of processing the request that the alleged victim agree to have the request filed on his or her behalf, and may also require the alleged victim to personally pursue any subsequent steps in the administrative remedy process. **(115.52)** PREA Grievances may be

filed on behalf of a third party in regards to an alleged victim. The alleged victim does not agree, there must be written documentation noting that concern.

2. The following matters are not grievable by inmates:
  - a. Any matter over which the Corrections Department has no control, for example: parole decisions, sentences, and claims regarding inmate compensation which is regulated by statute.
  - b. Matters involving the loss or delay of mail by the U.S. Postal Service or other carriers, e.g. UPS, Federal Express, etc.
  - c. Any matter involving disciplinary procedure and findings. A separate appeal process is provided by Department policy for disciplinary actions.
  - d. Any matter involving a classification decision. A separate appeal process is provided by Department policy for classification actions or placement in Special Management.
  - e. Complaints on behalf of other inmates.
  - f. The subject of any prior grievance on which a final determination has been made or which is currently under review.
  - g. Other matters beyond the control of the Department.
3. If a grievance is ruled non-grievable at any level, that decision may not be appealed through the remaining levels of the grievance procedure.

#### **F. Informal Resolution:**

It is the policy of the Department to resolve grievances at the lowest possible level. Informal resolution is used and required in the grievance process. The exception is any PREA grievances. These will not be subject to this standard and must be treated as emergency formal grievances. The Facility Grievance officer or the State wide Grievance/Disciplinary Appeals Manager has the authority to return the formal grievances to the respective Unit Manager, Chief of Security, or designated facility staff. This staff will deal with the issues at the local level (Informal complaint), if not completed in the initial request before proceeding to the formal grievance process. The exception to this is any PREA grievances will not be subject to this standard and must be treated as an Emergency Formal Grievance.

#### **G. Remedies:**

If a grievance is decided in favor of an inmate, appropriate relief shall be provided to the inmate and the Department may, at its discretion, authorize one or more of the following remedies:

1. If the grievance involves loss of or damage to personal property, the remedy may be restoration of the property involved or payment of fair market value not to exceed \$50.00 for any one item at the discretion of NMCD, if the loss is determined to be the fault of the institution. The exception to this will be electronic devices which will be replaced with a comparable replacement or value of

the electronic devices. In no event will replacement or monetary compensation be awarded without a showing of negligence or willful misconduct on the part of institutional employees.

2. Change of policies, procedures or practices.
3. Correction of departmental records.
4. Other remedies as appropriate.

#### **H. Time Constraints:**

1. Grievances shall be processed in a timely manner. No more than **90** working days will pass from the filing of a grievance by an inmate to the appeal decision. The exception to this is a PREA grievance. A PREA grievance must be completed within ninety (90) days of submission. An extension of time may be requested to respond, of up to seventy (70) days, with documentation showing the need if the normal period for response is insufficient to make an appropriate decision.
2. The time period will begin when the grievance has been properly filed with the Grievance Officer.
3. Responses will be made within fixed time limits at every level of review, as specified in *CD-150501*.
4. In the event the grievance is not disposed of within the specified time limits, the inmate shall be deemed to have exhausted administrative remedies for that specific complaint. The grievance is not automatically granted.

#### **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.
2. It is the responsibility of the Grievance Officer to determine, through investigation, if the inmate's grievance is, in fact, an emergency grievance.
3. Once it is determined that such factor exists, the grievance will be deemed an emergency grievance and it shall be forwarded without substantive review immediately to the Warden to correcting the situation. Emergency grievances may be immediately appealed to the State wide Grievance/Disciplinary Appeals Manager if the emergency grievance after investigation and Warden's review cannot resolve the issues presented at their facility level. Documentation must be attached to verify the inability for resolution.
4. Emergency grievances shall receive an expedited response at every level as appropriate to the needs of the emergency situation, but in no event will the time for response exceed three (3) working days from the time the grievance is received by the Grievance Officer. The exceptions are

PREA grievances responses which will be completed within forty-eight (48) hours of receipt of the grievance.

5. Inmates filing grievances for Department personnel sexual misconduct must mark the grievance form as "Emergency". All grievances for Department personnel sexual misconduct will be completed in an expedited manner with fairness and consistency. The Grievance officer will notify the Warden or his or her designee within one (1) working day of the verifiable emergency grievance

**J. Reprisals:**

- A. Inmates shall not be subject to retaliation, reprisal or discipline for the legitimate use of the grievance procedure.
- B. Retaliation for use of this policy may be the subject of a grievance under this policy. Employees engaging in reprisals against inmates for good faith use of, or participation in, the grievance procedure shall be subject to disciplinary action.
- C. Inmates using the grievance procedures to perpetrate the commission of a purposeful serious misconduct will be subject to disciplinary action consistent with current disciplinary policy provisions.



---

Gregg Marcantel, Secretary of Corrections  
New Mexico Corrections Department

06/09/16

Date

 <p><b>CD-150501</b></p>	<p><b>NEW MEXICO CORRECTIONS DEPARTMENT</b></p> <p><i>"We commit to the safety and well-being of the people of New Mexico by doing the right thing, always."</i>  <b>Courage Responsibility Ethics Dedication - CREDibly serving the public safety of New Mexico</b></p>	
	<p><b>ISSUE DATE: 09/01/90</b></p> <p><b>EFFECTIVE DATE: 09/01/90</b></p>	<p><b>REVIEW/REVISED: 06/09/16</b></p>
	<p><b>TITLE: Inmate Grievances</b></p>	

**AUTHORITY:**

Policy *CD-150500*

**PROCEDURES: [2-CI-5A-7] [4-4344] [4-4394] [2-CO-3C-01]**

**A. Inmate's Responsibility:**

1. Before using the formal grievance procedure, an inmate is expected to attempt to resolve the grievance or particular area of concern informally through discussion with the person or persons responsible for the incident, giving rise to the complaint.
  - a. The inmate shall first file an informal complaint using the **Inmate Informal Complaint** form (*CD-150501.3*) within five (5) working days from the date of the incident giving rise to the complaint. The inmate shall explain in detail his or her complaint and address their complaint to the Unit Manager or designee in units with a Unit Manager and to the Chief of Security or designee in units without a Unit Manager.
  - b. The Unit Manager, Chief of Security, or Institutions designee's in charge of the informal resolution must address the issue and return the Informal Resolution from to the inmate and a copy to the grievance officer within five (5) working days of receipt of the complaint. The inmate may file an **Inmate Grievance** form (*CD-150501.1*) within five (5) working days of the receipt of Informal Complainant to the Institution Grievance Officer. PREA complaints are exempted from the above noted time limits.
2. The Unit Manager, Chief of Security, or facilities designee's will log and track all informal complaints at the date of receipt and make every effort to resolve the complaint at an informal level within five (5) working days from receipt of the complaint. A copy of all resolved complaints shall be maintained and a copy given to the inmate. All non-resolved complaints shall be returned to the inmate to be attached to the formal grievance if submitted for appeal. The grievance officer will review the formal grievance and if the issue has not been resolved or can be resolved, the Institution grievance officer has the authority to return the grievance to the Unit Manager, Chief of Security or designated institution designee to resolve as per policy, and it will not be their responsibility to resolve the issue in the complaint. The Grievance Officer will log all returned grievances/informal complaints and the returned grievances/informal complaints must be resolved in five (5) working days from date of return.

The main responsibilities of the Institution Grievance Officer is to resolve Formal Grievances at the local facility level, once Unit Manager, Chief of Security, or facility designee's documented efforts for resolution is not achieved. They are the following:

- a. Conduct formal investigations of grievance issues to include all parties involved in grievance at the local level or when requested at other Institutions. This may include assisting in requested audits from Central office.
  - b. Document and resolve the recommended resolution with the agreement of the inmate at the local level.
  - c. Conduct follow-up reviews on resolutions/findings to ensure the verification of good time reinstatement, reimbursement of property loss and other issues.
  - d. Review Medical Informal complaints to ensure resolution can be made at the institution level.
  - e. Review formal grievances and must contact/consult Health Services Bureau (Central Office) for recommendations and resolution.
  - f. Provide informational assistance to the inmate as to the proper grievance process.
3. A written formal grievance shall be filed using the **Inmate Grievance** form (*CD-150501.1*). The non-resolved Inmate Informal Complaint shall be attached to the formal grievance and will be submitted to the Grievance Officer by depositing the form(s) in an institutional mailbox where grievances will be collected on a weekly basis, a designated Grievance Box or by delivering it in person to the Grievance Officer.
    - a. **Inmate Grievance** Forms will be readily available to inmates in accessible locations within the institution.
    - b. All grievances must be signed by the grievant. Copies of grievances sent to persons other than the Institutional Grievance Officer will be considered informational copies only, not requiring a response.
  4. The Grievance Officer shall notify the grievant of receipt of a grievance on an **Inmate 5-Day Notice of Receipt of Formal Grievance** form (*CD-1505001.2*).
  5. Inmates filing an emergency grievance shall be answered within three (3) working days from the date of receipt if the grievance is a verifiable emergency. PREA grievance responses will be completed within forty-eight (48) hours. (*CD-150500*) to comply with the PREA standards.
  6. Inmates requiring aid in completing the grievance form may be assisted by another inmate. The form will be used to briefly summarize the complaint; additional information should be attached and mailed to the Grievance Officer. Appropriate language will be used; obscenities will not be allowed unless determined relevant to the grievance.
  7. The inmate must complete a separate grievance form for each issue grieved. The inmate must file an individual grievance even though the problem may be shared with other inmates. A group grievance will be returned to the first name on the list for compliance with this requirement.
  8. The inmate must state what reasonable relief is being requested as a solution to any grievance. Failure to do so will result in the grievance being returned to the inmate for completion.

9. If the grievance relates directly to actions of the Grievance Officer, the inmate will send the completed Inmate Grievance Form directly to the Warden. The Warden will appoint a person who is not involved with the matter of the grievance to serve as Grievance Officer for that particular grievance.
10. Grievances are considered confidential communications. Sealed letters will not be opened for inspection by mailroom personnel if the letter is labeled "Grievance" and addressed to the Grievance Officer, Deputy Warden or Warden.
11. In a case where a grievance has not been resolved at the time the grievant is released from custody, efforts to resolve the grievance will be completed and maintained in the archives. If the grievance was filed as a result of court action requiring exhaustion of administrative remedies and the grievant wishes to pursue resolution, it is the grievant's responsibility to notify the Grievance Officer of that intention and to provide an address and telephone number at which he or she may be contacted and any other pertinent information requested by the Grievance Officer. **[4-4446]**
12. Inmates filing grievances alleging staff sexual misconduct will have the ability to complain confidentially by filing an **Inmate Grievance** form (*CD-150501.1*). Inmates may use a general mailbox, grievance mailboxes, or submit to staff members. Such grievances will be considered an "Emergency"; therefore, inmates shall expect to be contacted expeditiously.
13. Inmates filing grievances for alleged staff sexual misconduct shall not be subject to retaliation, reprisal or discipline for the legitimate use of filing.
14. Inmates shall be protected during the course of the grievance investigation and may be placed in protective custody or transferred to any other facility per the inmate's request or as deemed appropriate by the Administration.
15. Inmates filing a false complaint will be subject to disciplinary action consistent with current disciplinary policy provisions.
16. In the event of a transfer, an inmate will be able to file any grievance directly with the Grievance Officer at the appropriate facility. However, if a Grievance Officer receives a grievance that should be resolved at a different facility, the Grievance Officer shall track and forward the grievance to the appropriate facility electronically (email). The Grievance Officer will notify the inmate of the transfer of the grievance to the designated facility within five (5) working days of receipt of grievance. It is the responsibility of the respective Institutional Grievance officer where the incident occurred to investigate and complete the grievance process.

#### **B. Grievance Officer's Review:**

1. The Grievance Officer will note the date the grievance was received and enter into CMIS, assign a CMIS number to the grievance to include the institution, year and number of the grievance. The Grievance Officer will ensure all grievance information is entered and tracked by using **CD-150501.A** and **CD-150501.B**. On a monthly basis, these reports will be completed and the completed copies will be placed in the respective **J or Z Drive** locations depending on your institution status as a state operated institution (**J: Drive**) or private operated institution (**Z: Drive**) by the 10<sup>th</sup> day of the next month.

2. The Grievance Officer will review all grievances for proper time limits and necessary information. A grievance that is untimely, incomplete or otherwise improperly submitted will be returned to the inmate with an explanation of why it is being returned. In case of returning the grievance for valid concerns to the inmate for corrections, the grievance will still be reviewed per the grievance process.
3. The Grievance Officer will conduct an investigation along with an interview with the inmate and complete the Grievance Officer's report portion of the **Inmate Grievance** form. All NMCD staff is required to cooperate fully with the Grievance officer's investigation to include providing any statements as to the issues surrounding the grievance.
4. The investigation by the Grievance Officer and his or her report and recommendation will be completed and delivered to the Warden for review within fifteen (15) working days from receipt of the inmate's grievance. The Grievance officer is expected to work with the warden or his or her designee in a non-adversarial and as the subject matter expert in regards to the NMCD policies and procedures.

**C. Warden's Decision:**

1. The Warden or his or her designee will note the date of receipt of all grievances on the grievance form.
2. Any disposition recommended by the Grievance Officer may be approved, disapproved or modified by the Warden or his or her designee.
3. Upon receipt of the grievance, the Warden or his or her designee shall determine if the grievance is one that challenges a general policy or procedure of the institution or the Department as a whole or the effectiveness or credibility of the grievance procedure.
4. The Warden or his or her designee will review the grievance, along with any comments from inmates and staff, and make a decision within fifteen (15) working days of receipt of the grievance by the Warden.
5. The Warden or his or her designee may, but is not required to, meet with the grievant prior to making a decision.
6. The inmate shall be informed in writing of the Warden's or his or her designee decision on the grievance, within five (5) working days of approval. Inmates will also be informed of their right to appeal this decision and the method by which they may appeal the decision.
7. The date the decision is submitted to the inmate will be noted on the grievance form.
8. If the grievant is awarded any relief, the Warden or his or her designee will instruct the Institutional Grievance officer to process and verify the relief granted or forward the grievance to the appropriate facility staff that can provide the relief within fifteen (15) working days from date the grievance appeal is signed.

**D. Appeal Process:**

1. If an inmate is not satisfied with the decision of the Warden or his or her designee, the inmate may appeal that decision to the Office of the Secretary of Corrections within five (5) working days of receiving the decision from the Warden or his or her designee.
  - a. The inmate may appeal if they choose, will submit the appeal by completing the appeal portion of the **Inmate Grievance** form and mailing the form in an institutional mailbox, a designated Grievance Box or by delivering it in person to the Institutional Grievance Officer for processing to Central Office. The grievance will not be mailed to Central Office without being processed by the Institutional Grievance officer. The grievance appeal packet will be electronically transmitted to the Statewide Grievance/Disciplinary Appeals Manager.
2. The Grievance Officer will note the date of receipt of the appeal portion of the Inmate Grievance form.
3. The Grievance Officer will attach all relevant materials to the appeal and deliver the appeal electronically (email) to the State wide Grievance/Disciplinary Appeals Manager within five (5) working days of the date of receipt of the appeal portion of the **Inmate Grievance** form.
4. The Statewide Grievance/Disciplinary Appeals Manager will note the date of receipt of the appeal portion of the **Inmate Grievance** form.
5. The State wide Grievance/Disciplinary Appeals Manager will conduct any further investigation necessary and present a recommendation to the Secretary or designee, within twenty (20) working days of receiving the appeal portion of the grievance. Institutional/prison administrators and employees are prohibited from interfering with or otherwise attempting to influence the review by the Grievance/Disciplinary Appeals Manager. The Appeals Manager will have the authority to re-open the grievance investigation at the institution level with the grievance officer to re-investigate and obtain further needed information if necessary to either corroborate or refute the grievance officer's findings if appealed.
6. The Secretary, Director of Adult Prisons, or designee will render a final decision on the grievance on receipt of the appeals portion of the Inmate Grievance form.
7. The inmate will be informed in writing of the final decision on the grievance. A brief and clear description of the reasons for the final decision should accompany the inmate notification. Copies of this notification will be forwarded to the Grievance officer at the institution to process and deliver to the inmate within three (3) working days of receipt of notification.
8. If the grievant is awarded any relief, the Secretary, or designee will instruct the State wide Grievance/Disciplinary Appeals Manager to contact the respective Institutional Grievance officer to process and verify the relief granted, and provide documentation to verify the relief was rendered within forty-five (45) working days from the date the grievance appeal is signed.

**E. Misuse/Abuse of the Grievance Procedure:**

Inmates are prohibited from the misuse/abuse of the grievance system such as frivolous or multiple grievances. Inmates are not to use this procedure as a form of harassment against staff. Such grievances will be denied.

Inmates using the grievance procedures to perpetrate the commission of a purposeful misconduct will be subject to disciplinary action consistent with current disciplinary policy provisions.

**F. Record Keeping and Periodic Evaluation:**

Records regarding the filing and disposition of all grievances will be collected and maintained systematically by the Grievance Officer at each institution as follows:

1. A status log showing the name and number of the grievant, grievance number, date of initial submission, description of the grievance, disposition of the grievance, etc. will be maintained for tracking each level of all grievances.
2. All institutions will use the **Emergency Grievance Status Log** Attachment (*CD-150501.A*) and the **Miscellaneous Grievance Status Log** Attachment (*CD-150501.B*) accordingly. No revisions by the institution are permitted.
3. Institution Grievance Officers, Unit Managers, Chief of Security, and/or designee will enter completed CD forms 150501.A, B, C, & D for the respective six-month time frame in the J: Drive in the respective folders for data collection purpose by tenth (10<sup>th</sup>) working day of July and December of each year. The only deviation to this is privately operated institution Grievance Officers, Unit Managers, Chief of Security, and/or designee will enter completed CD forms 150501.A, B, C, & D for the respective six-month time frame in the Z: Drive. The Grievance/Disciplinary Appeals Manager will compile summaries of the information contained in the institutional grievance logs. Summaries will include information on the number and types of grievances, disposition of grievances, remedies granted and compliance with time limits at each level.
4. In January of each year, the Statewide Grievance/Disciplinary Appeals Manager shall evaluate the grievance procedure by reviewing the two (2) summaries. A representative sample of grievances and their disposition at each level and any other appropriate material to determine the extent of compliance with this policy. The Grievance/Disciplinary Appeals Manager shall prepare an annual report and submit it to the Director of Adult Prisons Division by January 31 of each year.
5. Copies of each completed grievance will be maintained for a minimum of three years following final disposition of the grievance.
6. No copies of grievances or adverse reference to any grievance will be placed in an inmate's institutional file unless a part of a finding of a disciplinary packet.
7. To adequately ensure tracking of grievances through the process, once the inmate's grievance is submitted to the grievance officer for appeal, it will be transmitted by email once completed with their additional information to the Statewide Grievance/Disciplinary Appeals Manager.

- a. All grievances and completed correspondence issues to include the final disposition with the signatures will be scanned and entered into the J: Drive or A: Drive folder by the respective Institution Grievance Officer as to allow the Grievance officer /Statewide Grievance/Disciplinary Appeals Manager, Secretary of Corrections, Deputy Secretary of Corrections, Adult Prisons Director, Deputy Directors of Adult Prisons and the Office of General Counsel access to the entire responses.
- b. Grievance Officers will type all responses; this includes the initial response to the inmate, Central Office packet and not handwritten when submitting the report packet to the Central Office. The Grievance Officers will also deliver the inmate his or her resolved grievance decision packet (hand deliver, in-house mail as to their preference) to ensure receipt of the grievance upon arrival for their facility record keeping and the inmate's copy.

#### **G. Confidentiality:**

All correspondence marked "Grievance" and addressed to the Grievance Officer, Deputy Warden, Warden, or designee will be treated as strictly confidential. Records regarding the participation of an individual in legitimate grievance proceedings will be kept in a locked office or file cabinet and shall not be available to employees or other inmates, except to the extent necessary for clerical processing or legal defense. Only employees who are participating in the disposition of a legitimate grievance will have access to records essential to the resolution of the grievance.

#### **H. Grievance Officer – Investigation and Report Administrative Responsibilities:**

- 1) Grievance officers will provide informational assistance to the inmate as to the proper grievance processes.
- 2) All completed grievance investigation reports, appeals, tracking logs to include statistics logs and completed correspondence investigations to include the final disposition with the signatures will be scanned and entered into the designated J or Z: Drive folder by the Institution Grievance Officer. All grievances will be entered into CMIS as historical data. The original copy which is being scanned will be archived also as to have a backup copy available if needed.
- 3) Private contracted Institutions Grievance Officers will maintain a separate file folder with the tracking reports, all completed grievances and appeals to include the final disposition with the signatures which will be scanned and entered into the designated Z: Drive folder. The original copy which is being scanned will be archived as a backup copy. These file folders must be in monthly (10th day of each month) to the J or Z drive for retention. These files will have the standard tracking forms to be used only as to insure continuity with all the State and Private Institutions.
- 4) All grievance appeals that require Central Office review will be electronically transmitted (email), to the Statewide Grievance / Disciplinary Appeals Manager for review and decision by the assigned Institution grievance officer. It is the responsibility of the Institution Grievance Officer to insure the inmate's appeal must include all required documentation and any additional information needed for review and decision at the Central Office. If the appeal packet is not complete, it will be returned to the Institution Grievance Officer to complete.

- 5) This will allow the Grievance Officer a tracking system to insure receipt and forwarding of the grievances to the Statewide Grievance / Disciplinary Appeals Manager. Grievance Officers will also deliver the inmate's appeal decision. The appeal will be hand delivered or mailed to the inmate within five (5) working days of receipt to ensure time limits are met and receipt of decision upon arrival for their Institution records keeping and the inmate's receipt of copy.



---

Gregg Marcantel, Secretary of Corrections  
New Mexico Corrections Department

06/09/16

Date

**NEW MEXICO CORRECTIONS DEPARTMENT  
INMATE GRIEVANCE**

Inmate's Name: \_\_\_\_\_ NMCD#: \_\_\_\_\_ Grievance File #: \_\_\_\_\_

Institution: \_\_\_\_\_ Housing Unit: \_\_\_\_\_ Date of Incident: \_\_\_\_\_

Date Received by Grievance Officer: \_\_\_\_\_

Grievance Officer's Signature: \_\_\_\_\_

**INSTRUCTIONS:** It is expected that problems be resolved in an informal manner. Please read policy/procedure *CD-150500* before filing a grievance. Your grievance must be typed or clearly written so as to be readable after photocopying. The grievance must be filed with the Institutional Grievance Officer to be valid. Copies sent elsewhere will be considered informational copies only, not requiring a response.

**STEP 1 - Grievance:** Include documentation and names of any witnesses to support your claim. For your grievance to be accepted, you must state the relief requested. Use additional pages, if necessary.

Inmate's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**Relief Requested:**

**STEP 2 – To Be Completed by the Grievance Officer:**

A.  your grievance is **accepted** for consideration.

B.  your grievance is **being returned** to you because of the following reason:

- 1. The grievance is not readable.
- 2. The matter has been answered in previous grievance #: \_\_\_\_\_
- 3. The grievance concerns material not grievous under present policy.
- 4. The grievance is a group grievance or petition. (Submit individually.)
- 5. The grievance is not timely.
- 6. Other Specify: \_\_\_\_\_

Grievance Officer's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**NEW MEXICO CORRECTIONS DEPARTMENT  
INMATE GRIEVANCE**

Grievance File #: \_\_\_\_\_

---

---

**STEP 3 – Grievance Investigation and Recommendation:**

1. Witness Statement: (            )
2. Witness Statement: (            )
3. Grievance Officer Investigation Results and Recommendation

\_\_\_\_\_  
Grievance Officer's Signature

\_\_\_\_\_  
Date

---

---

**STEP 4 – Decision of Warden/Designee:** Date received by Grievance Officer: \_\_\_\_\_

Denied (    )    Granted (    )    Dismissed (    )    Resolved (    )    Referred (    )

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Date Returned to Inmate: \_\_\_\_\_

---

---

**STEP 5 – Departmental Appeal:** (Return grievance to Grievance Officer for processing.)

**A. Reason for appeal:**

Inmate's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Date Received By Grievance Officer: \_\_\_\_\_

Date Sent to Grievance Coordinator: \_\_\_\_\_

---

---

**B. Department Decision:**

\_\_\_\_\_  
Cabinet Secretary/Designee

\_\_\_\_\_  
Date: \_\_\_\_\_

**NEW MEXICO CORRECTIONS DEPARTMENT**  
**Inmate 5-Day Notice of Receipt of Grievance**

Inmate's Name: \_\_\_\_\_ NMCD#: \_\_\_\_\_

Grievance File #: \_\_\_\_\_ Facility: \_\_\_\_\_ HU: \_\_\_\_\_ Cell: \_\_\_\_\_

RE: \_\_\_\_\_ Issue is under Review: Yes ( ) No ( )

Date Formal Grievance Received: \_\_\_\_\_ Date Notice of Receipt Sent: \_\_\_\_\_

.....

**NEW MEXICO CORRECTIONS DEPARTMENT**  
**Inmate 5-Day Notice of Receipt of Grievance**

Inmate's Name: \_\_\_\_\_ NMCD#: \_\_\_\_\_

Grievance File #: \_\_\_\_\_ Facility: \_\_\_\_\_ HU: \_\_\_\_\_ Cell: \_\_\_\_\_

RE: \_\_\_\_\_ Issue is under Review: Yes ( ) No ( )

Date Formal Grievance Received: \_\_\_\_\_ Date Notice of Receipt Sent: \_\_\_\_\_

.....

**NEW MEXICO CORRECTIONS DEPARTMENT**  
**Inmate 5-Day Notice of Receipt of Grievance**

Inmate's Name: \_\_\_\_\_ NMCD#: \_\_\_\_\_

Grievance File #: \_\_\_\_\_ Facility: \_\_\_\_\_ HU: \_\_\_\_\_ Cell: \_\_\_\_\_

RE: \_\_\_\_\_ Issue is under Review: Yes ( ) No ( )

Date Formal Grievance Received: \_\_\_\_\_ Date Notice of Receipt Sent: \_\_\_\_\_

.....

**NEW MEXICO CORRECTIONS DEPARTMENT**  
**Inmate 5-Day Notice of Receipt of Grievance**

Inmate's Name: \_\_\_\_\_ NMCD#: \_\_\_\_\_

Grievance File #: \_\_\_\_\_ Facility: \_\_\_\_\_ HU: \_\_\_\_\_ Cell: \_\_\_\_\_

RE: \_\_\_\_\_ Issue is under Review: Yes ( ) No ( )

Date Formal Grievance Received: \_\_\_\_\_ Date Notice of Receipt Sent: \_\_\_\_\_

.....

**NEW MEXICO CORRECTIONS DEPARTMENT**

**INMATE INFORMAL COMPLAINT**

Inmate Name: \_\_\_\_\_ NMCD#: \_\_\_\_\_

Facility: \_\_\_\_\_ HU/Cell #: \_\_\_\_\_ Date of Incident: \_\_\_\_\_

Name of subject or person to whom the complaint was filed against: \_\_\_\_\_  
\_\_\_\_\_

Explain your complaint in detail: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Inmate Signature: \_\_\_\_\_ Date: \_\_\_\_\_

.....  
**Unit Manager/Chief of Security/Designee**

Date Received: \_\_\_\_\_

I, \_\_\_\_\_ have reviewed the above informal complaint and  
Unit Manager/Chief of Security/Designee

Recommend: ( ) Resolution ( ) Recommend formal grievance

Explain: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Staff Member: \_\_\_\_\_ / \_\_\_\_\_ Date: \_\_\_\_\_  
Print / Sign

.....  
Acknowledged by the signatures below, this informal complaint is:  Resolved  Unresolved

Unit Mgr/Chief of Security/Designee: \_\_\_\_\_ Date: \_\_\_\_\_  
Print / Sign

Staff Witness: \_\_\_\_\_ / \_\_\_\_\_ Date: \_\_\_\_\_  
Print / Sign

Inmate: \_\_\_\_\_ / \_\_\_\_\_ Date: \_\_\_\_\_  
Print / Sign

**If this informal complaint could not be resolved, the inmate may pursue a formal grievance within 5 working days of the date of resolution.**

**At time of resolution-the inmate must be given a copy of the completed copy of the Informal Complaint**

**Inmate must attach this document if the formal grievance is to be submitted.**







