



NEW MEXICO CORRECTIONS DEPARTMENT

Secretary
Alisha Tafoya Lucero

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| CD-050300 PPD Citizen Complaint and Offender Grievances | Issued: 7/27/05 Effective: 7/27/05 | Reviewed: 3/30/20 Revised: 12/8/16 |
| Alisha Tafoya Lucero, Cabinet Secretary | | <i>Original Signed and Kept on File</i> |

AUTHORITY:

Section 31-21-7 (H), NMSA 1978, Comp., as amended.

REFERENCE:

ACA Standard 4-APPFS-1C-02, 4-APPFS-2G-01, and 4-APPFS-2G-02, *Manual for Adult Probation and Parole Field Services*, 4TH Edition.

PURPOSE: [4-APPFS-2G-01]

To develop procedures through which citizen complaints are responded to by the Probation and Parole Division (PPD); establish an administrative means for the expression and/or the efficient and fair resolution of legitimate offender complaints; and, to prohibit unlawful harassment and discrimination of offenders.

APPLICABILITY:

All PPD employees, offenders, and citizens.

FORMS:

- A. **Offender Grievance Form** (*CD-050302.1*)
- B. **District Supervisor Response Form** (*CD-050302.2*)

ATTACHMENTS:

Grievance Report Log Attachment (*CD-050302.A*)

DEFINITIONS:

- A. **Complaint**: An expressed dissatisfaction by any citizen concerning the application and/or interpretation of a departmental or Probation and Parole Division policy or regulation and/or expressed dissatisfaction of a Probation and Parole Division employee's conduct or personal behavior.
- B. **Grievance**: A single, written complaint filed by an offender concerning subject matter as outlined in this policy and in accordance with the procedures stated herein.
- C. **Investigation**: A non-criminal, New Mexico Corrections Department (NMCD) investigation conducted in response to a complaint filed by a citizen or a grievance filed by an offender. Some of the possible outcomes of such investigation may include but

aren't limited to the result that an employee is exonerated of the allegation contained in the complaint or grievance or that an employee is counseled, reprimanded, suspended, demoted or dismissed.

- D. Misuse/Abuse: The filing of repetitive grievances or complaints addressing the same issue when the time allotted for a response has not elapsed or when a valid response has already been provided to the complaining party, unless the alleged grievance is continuing in nature, or if a resolution granted as a result of a prior grievance or complaint has not been fulfilled within a reasonable period of time.
- E. Offender: A person placed under, or made subject to, supervision as the result of the commission of a criminal offense and released to the community pursuant to judicial or statutory authority.

POLICY:

- A. All citizen-written complaints regarding offenders shall be reviewed by the Division Director or designee who in turn may order an investigation. **[4-APPFS-1C-02]**
- B. All offenders shall be informed of the grievance program available to them at the time of the initial interview. The grievance program includes at least one level of appeal and is evaluated at least annually to determine its efficiency and effectiveness. The quantity and nature of offender grievances are aggregated and analyzed annually. **[4-APPFS-2G- 02]**
- C. All offenders shall have the opportunity to communicate their concerns regarding any administrative actions that they feel violate, or have the potential to to violate, their rights. Their concerns must be expressed in the format outlined for the handling of grievances.
- D. NMCD strictly prohibits the unlawful harassment and discrimination of offenders based on race, religion, national origin, gender, sexual orientation, disability, veteran status or political views. **[4-APPFS-2G-01]**



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| CD-050301 PPD Citizen Complaint | Issued: 7/27/05 Effective: 7/27/05 | Reviewed: 3/30/20 Revised: 12/8/16 |
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AUTHORITY:

Policy CD-050300

PROCEDURES: [4-APPFS-1C-02]

- A. All verbal complaints shall be handled informally by the staff member(s) to whom they are directed.
 1. If the citizen cannot resolve the verbal complaint with the staff member, the citizen may subsequently direct the complaint to the staff member(s)' immediate supervisor in an attempt to resolve the complaint expeditiously.
- B. A copy of all written citizen complaints received at any level of the Division shall be forwarded through the Division's chain of command to the Director or designee.
 1. The Director or designee shall, upon receipt of a written complaint, immediately request a written response from the staff member(s) involved. The response will be prepared and forwarded through the Division chain of command to the Director or designee within five (5) working days of receipt of the request.
 2. If the response from the staff member(s) fails to provide sufficient information to allow the Director or designee to reply to the complaint, the Director or designee shall direct the District Supervisor and/or Region Manager to investigate the complaint.
 3. The investigating supervisor or manager will issue a written report concerning the findings and recommendations for action to the Director or designee within 30 calendar days after notification of the need for the investigation.
 4. The Director, or designee, will prepare written correspondence to the complainant upon receipt of either the response from staff member(s) or the report of the investigator.
 5. The Director, or designee, shall maintain a file containing a copy of the complaint, the findings of the investigation, and any action to be taken.
- C. Citizens who use these procedures and witnesses who testify on their behalf are assured that there will be no threats, intimidation, or reprisals against them for so doing. If any

alleged actions by PPD staff are proven, the actions may be subject for further complaint and/or cause for disciplinary action.



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| CD-050302 PPD Citizen Offender Grievances | Issued: 7/27/05 Effective: 7/27/05 | Reviewed: 3/30/20 Revised: 12/8/16 |
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AUTHORITY:

Policy CD-050300

PROCEDURES: [4-APPFS-2G-02] [4-APPFS-2G-02]

A. Notice of Process:

All offenders will be informed of the offender grievance process by the supervising officer or designated intake officer during the offender's first face-to-face meeting after the start of the term of supervision. The offender will sign a receipt acknowledging that the offender grievance process was explained to him or her.

B. Informal Resolution:

1. Any offender who has a grievance will first seek informal resolution and exhaust all other available administrative remedies prior to using the grievance process. The supervising officer will advise their immediate supervisor of the receipt and/or knowledge of any grievance and document all informal contacts regarding the aggrieved incident in the Offender Management System (OMS). After all informal remedies are exhausted without resolution, the offender will then complete the **Offender Grievance Form (CD-050302.1)**.
2. The offender's grievance shall be filed within fifteen (15) calendar days of the incident in which the aggrieved action occurred. The District Supervisor may choose, upon request and in extenuating circumstances, to extend the filing period up to thirty (30) calendar days after the incident. Under no circumstances will the grievance be accepted after thirty (30) days.
3. If the District Supervisor is the supervising officer or is otherwise named as a subject of the grievance, the grievance will be filed directly with the Region Manager or designee.

C. Non-Grievance Actions:

The offender grievance process may not be used to appeal the disposition of violation reports, any actions out of the control of PPD staff, such as actions of the courts or parole board, the scoring of Risk/Needs Assessments, or the terms of any intensive

supervision contracts or community corrections contracts.

D. Processing of Complaints:

1. The offender will state the grievance on the **Offender Grievance Report Form** (*CD-050302.1*), using the backside of the form, if necessary. One 8.5 x 11 page may be added, if necessary. Grievances exceeding this length will be returned to the offender without response by the district supervisor, or other reviewing authority.
2. The offender will indicate the following information on the **Offender Grievance Report Form**:
 - a. The nature of the complaint - This statement will be specific as to the complaint, dates, places, personnel involved, and how the complaining offender has been affected. Only one (1) issue will be raised for each grievance, unless a number of complaints are directly related.
 - b. When and with whom (name of the employee) the offender has attempted informal resolution, with any informal action taken documented on the grievance form.
 - c. The action the offender believes the District Supervisor should take, or the relief requested.
 - d. The date the completed grievance was sent to the District Supervisor.

E. District Supervisor Response:

1. Upon receipt of an Offender Grievance Report form, the District Supervisor will assign a grievance number, grievance category and code, indicate the date of receipt on the **Grievance Report Log Attachment** (*CD-050302.A*). The District Supervisor shall return the Offender Grievance Report form to the offender with a completed **District Supervisor Response Form** (*CD-050302.2*) within ten (10) working days of receipt.
2. The response will contain findings of fact, conclusions made, action taken by the District Supervisor, and reason(s) for action taken. The response will be entered on page 2 of the Offender Grievance Report form.
3. In the event a grievance cannot be adequately answered within the ten (10) working day period, the District Supervisor will so inform the offender, in writing, within that designated time frame. The district supervisor must state the reasons why the response must be delayed and will establish the date when a response will be given. This date must not exceed thirty (30) calendar days from receipt of the Grievance Report Form, with the exception of matters referred to the Office of Professional Standards for investigation.

4. In all cases, the District Supervisor will return the original and one photocopy of the grievance report to the offender along with a copy of the **District Supervisor Response Form** (CD-050302.2). The offender will retain the offender's copy and the original may be used for appeal to the region manager if the offender desires. The District Supervisor will retain a copy of the Offender Grievance Report and District Supervisor Response in a grievance file.

F. Appeal to the Region Manager:

1. If the offender feels the District Supervisor's response was not satisfactory, an appeal to the Region Manager may be made, but must be done within ten (10) calendar days of the offender's receipt of the district supervisor's response.
2. A grievance form sent directly to the Region Manager without first filing with the District Supervisor will be returned to the offender to follow proper procedure. If the offender believes that the complaint is of a sensitive or an emergency nature or that there may be adverse effects by the submission of the complaint at the district level, the offender may address the complaint directly to the Region Manager.
3. If the offender chooses to submit the grievance directly to the Region Manager, he/she must indicate a valid reason for not bringing the complaint to the attention of the district supervisor. If the offender does not provide a reason, or the reason supplied is not adequate, the grievance shall be denied and returned to the offender with a written explanation.
4. For purposes of the administrative grievance procedure, the decision of the Region Manager shall be final.

G. Abuse of Process:

1. If there is proof of a willful and/or intentional abuse or misuse of the process (ex., maliciously harassing a person or the filing of frivolous or repetitious grievances), at any stage of the grievance procedure, an offender shall be required to show good cause prior to the acceptance of further grievances. The District Supervisor shall determine abuse of process and will notify the offender that they must show good cause before further grievances may be considered.
2. To show cause, a duly verified affidavit will be attached (made under penalty of perjury) to the offender's grievance, stating all the contents of the grievance are true and correct to the best of the offender's knowledge and belief, and containing a list by number, date, description and disposition (at each level) of all grievances filed by the offender within the last twelve (12) months.
3. In such cases, before considering the merits of the grievance, the District Supervisor will review the affidavit and list of previous grievances and determine whether the offender is abusing the process. If an abuse of process is found, the grievance will be denied and the District Supervisor shall notify the offender in writing stating the reasons for said denial.

4. The District Supervisor may lift the restrictions on filing a grievance when the offender otherwise meets all guidelines outlined in the policy.

H. Time Limits for Resolution of Grievance:

1. All offender grievances shall reach final disposition no later than seventy-five (75) calendar days after the original date of filing, unless the Region Manager documents a need for an extension of time, and provides written notification of the need for extension of time to the offender.
2. If the response time has expired at the district level, and neither a response nor notification of the need for an extension of time was provided to the offender, the offender may proceed with the grievance to the Region Manager.

I. Confidentiality:

All offender grievance records will be treated as confidential and will be maintained in a separate district file. Access is limited to corrections employees who have need for such information to carry out the performance of their duties.

J. Monitoring of Offender Grievances:

The Region Manager will record all submitted grievances and the actions taken at the region level utilizing the **Grievance Report Log** Attachment (*CD-050302.A*). This record keeping will be kept by calendar year.

NEW MEXICO CORRECTIONS DEPARTMENT
Offender Grievance Form

Offender Name

Case Number

DOB

PPO NAME

1. Nature of Grievance (Include date incident occurred, time, location, names, of any staff involved, witnesses, what constituted the grievance action, how it affected you, what attempts have been made to informally resolve the grievance and what staff were involved in those attempts at informal resolution).

2. Relief Requested:

Offender Signature

Date Submitted

NEW MEXICO CORRECTIONS DEPARTMENT
District Supervisor Response

Grievance #

Category

Offender Name

Date of Receipt

Case Number

Findings of Fact:

Conclusion Made:

Action(s) Taken:

Reason(s) for Action:

District Supervisor's Signature

Date Returned to Offender

