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		INMATE GRIEVANCE PROCEDURES	

This Administrative Regulation is to be made available in law libraries or other inmate resource centers.

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SUMMARY of REVISION/REVIEW

Section I.F. Confidential Grievances changed to Grievances of a Sensitive Nature and revised. Minor wording changes throughout.

APPROVED:



Scott R. Frakes, Director
Nebraska Department of Correctional Services

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PURPOSE

To establish procedures for the implementation of Chapter 2 of the Nebraska Department of Correctional Services Rules and Regulations, Title 68 Nebraska Administrative Code (referred to as Chapter 2 throughout this policy), for the effective and equitable resolution of inmate grievances, and for the monitoring of the inmate grievance system to ensure compliance with Chapter 2 and this Administrative Regulation (AR).

GENERAL

Nebraska Statutes, Section 83-4,115 to 83-4,119 and Chapter 2 established policy and procedures for the resolution of inmate grievances. This AR expands upon those statutes and Chapter 2.

PROCEDURES

I. INMATE ORIENTATION

Institutions that receive newly admitted inmates shall ensure that each inmate receives a copy of the Department's rules (Nebraska Department of Correctional Services Rules and Regulations, Title 68 Nebraska Administrative Code), including Chapter 2 regarding inmate grievances. Inmates shall sign a receipt for the book, and the receipt shall be maintained in the inmate's file as evidence of the delivery of the rulebook. In addition to the delivery of the rulebook, inmates will receive an explanation of the grievance procedure during their orientation process (Attachment A). The explanation shall, at a minimum, include the following information:

A. General Information

1. A reference to Chapter 2, and a brief, verbal overview of the rule.
2. How to obtain an informal, Step I and Step II grievance form and a brief explanation of the three grievance levels.
3. An inmate may request staff assistance in completing and processing the form.

B. Grievable Issues

1. The type of matters which are grievable include:
 - a. Policies and conditions of the Department or facility affecting the grievant.
 - b. Actions by employees or other inmates, and
 - c. Incidents in the facility affecting the grievant personally.
2. Examples should be given of the types of grievances the inmate may file. Appropriate examples include:
 - a. Institution policies on visitation, mail, or telephones,

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- b. Verbal or physical abuse by another inmate or staff member,
- c. Restrictions on inmate property, and
- d. Complaints about food service or medical care.

C. Non-Grievable Issues

The types of matters/issues considered non-grievable are:

- 1. Inmate disciplinary actions. Such actions may be appealed through the process prescribed in Chapter 6.
- 2. Matters over which NDCS has no control. Examples of such matters are the terms of court commitment orders and state statutes.
- 3. Classification decisions. Such actions may be appealed to the next higher level of authority using the Classification Appeals Form.

D. Time Limits

The inmate must be informed that the time limits (per Chapter 2) regarding the response from the Warden/Program Administrator/Director may be extended only with the inmate's written permission. If such written permission is not obtained and a deadline is missed, the inmate may appeal to the next level of the process without waiting further for a response.

E. Remedies Available

An explanation of remedies available through the grievance system. Appropriate examples include:

- 1. Change in NDCS policy or procedure.
- 2. Restoration of confiscated property.
- 3. Verbal or written apologies by staff members.
- 4. Referral to the State Claims Board for possible award of monetary damages.
- 5. Investigation of alleged employee misconduct and possible employee disciplinary action.
- 6. Change of case manager, counselor or housing assignment.
- 7. Referral for specialized medical care, change of medication or diet.
- 8. Any other relief within the authority of the Director of NDCS or Warden/Program Administrator.

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F. Grievances of a Sensitive Nature

1. An explanation of the inmate's right to send grievances of a sensitive nature to the Director without completing the institutional steps of the grievance process. The inmate must clearly explain the nature of the grievance and the reason for not following the regular grievance process.

The inmate should be assured that no person who is the subject of a grievance will be in a decision-making position with respect to its resolution.

2. Grievances of a sensitive nature, as described in the paragraph above, may be submitted by the inmate to the Director via interoffice mail. Inmates shall be informed that grievances sent to the Director may be in sealed envelopes with a complete return address and clearly labeled as a grievance.

G. Emergency Grievances/Grievance Appeals

1. An explanation of procedure for handling emergency grievances or grievance appeals. Emergency grievances or grievance appeals are those matters which must be resolved quickly because if the standard grievance time limits were used, the inmate would be subjected to a substantial risk of personal injury or other serious and irreparable harm. Inmates should be encouraged to bring such matters to the direct attention of designated staff who may be able to provide immediate relief without the use of the written grievance or grievance appeal procedure.
2. If the inmate chooses to use the written procedure, the inmate should mark the grievance or grievance appeal "EMERGENCY." It will then be forwarded immediately to the level of review at which corrective action may be taken. The Warden/Program Administrator or his/her designee (or the Director or his/her designee if the grievance or grievance appeal is forwarded immediately to the Director) will review the grievance or grievance appeal on the date of its receipt (weekends and holidays excluded) and determine whether or not it is indeed an "emergency" grievance or grievance appeal. If it is determined to be an emergency grievance or grievance appeal, investigation will proceed immediately and a determination of appropriate relief (if any) will be made within 24 hours after the grievance or grievance appeal was determined to be an emergency grievance or grievance appeal.

H. Further Grievance Review Options

An explanation of how to obtain further review of grievances after the appeal to the Director has been exhausted is located in Attachment A. Specific reference should be made to Chapter 2, which sets out additional methods of obtaining review of grievances.

I. Petition Circulation

1. An explanation of the procedures, which an inmate may use to circulate petitions in order to solicit inmate input into the disposition of grievances challenging general NDCS policies and practices. Specifically, inmates may petition the Warden/Program Administrator or the Director of NDCS

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requesting specific relief concerning a grievance which challenges a policy or practice. Inmate circulation of a petition shall occur in such a manner that does not interfere with the operation of facility functions or activities.

2. Any such petition must state:
 - a. The nature of the proposed change to NDCS policy or procedure.
 - b. The reason for the proposed change,
 - c. The circulator's full name and mailing address,
 - d. And must contain the legible signatures, inmate I.D. number, mailing addresses, and dates of signatures of all others purporting to support the petition.
3. The petition shall be considered by the Warden/Program Administrator or Director when responding to the grievance that the petition concerns. A copy of the petition will be kept by the Warden/Program Administrator or Director along with the record of the grievance that the petition concerns.

J. Availability of Grievance Administrative Regulation

All inmates in each institution will have ready access to written copies of this AR, which will also be made available within the respective inmate law libraries. Any inmates with a limited comprehension of the English language will receive a copy of Chapter 2 and information included within this AR in his or her native language. If a written translation is not readily available, the inmate will be provided with sufficient assistance to ensure that he or she comprehends the information in this regulation and in Chapter 2.

K. Abuse of Grievance Process

If an inmate files a large number of frivolous, nuisance or duplicative grievances at any level, a designee of the Warden/Program Administrator will conduct a hearing to determine whether the inmate is abusing the grievance process. If a determination is made that the inmate is abusing the grievance process, a reasonable limitation may be placed on the number of grievances that may be filed by the inmate. This determination will be the result of a reclassification action that will be reviewed by the Institutional Classification Committee and approved by the Director's Review Committee.

II. **STAFF ORIENTATION**

All staff members having contact with inmates shall have ready access to NDCS Chapter 2 and to this AR. Each Warden/Program Administrator shall designate a place where copies of the rule and this AR may be reviewed by staff members and will permit staff to obtain their own copies of Chapter 2 and of this AR as requested. New staff members will receive a verbal explanation of the grievance process during staff orientation. At a minimum, the verbal explanation will include the information set out in Procedure I. A. of this AR. Staff members will also be informed that, although inmate grievances are considered to be confidential, those staff members participating in the investigation or disposition of a grievance shall have

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access to those records which are essential to the investigation and resolution of the grievance.

III. INSTITUTIONAL PROCEDURES

Grievance procedures used by NDCS institutions shall be consistent with the information provided to inmates and staff as set out in Procedure I. parts A. and B. of this AR. In addition, to ensure effective and equitable resolution of inmate grievances, the following procedures will be implemented:

A. Maintenance of Records

1. To monitor NDCS compliance with Chapter 2 and this AR, each institution will maintain complete and accurate copies of all inmate grievances filed in that institution. Copies of such grievances shall be retained for at least three years after the final response was issued to the grievant. Copies of the grievances filed at the institutional level will be kept in the inmate's master record along with copies of any appeals filed with the Central Office.
2. Copies of grievances filed at the Central Office level (whether appeals, confidential grievances, or emergency grievances) will be kept in a Central Office file. Copies of grievances filed at the Central Office level, along with the Director's response, will be sent to the Warden/Program Administrator of each institution/program where the grievance was initiated, to facilitate record keeping.
3. Each institution and Central Office shall log all grievances utilizing the electronic Grievance Log located in NICaMS. This log will contain, at a minimum, the following information:
 - a. Date grievance was receipted by staff member;
 - b. Name and number of grievant;
 - c. Brief statement of nature or type of grievance
 - d. Date of response by Warden/Program Administrator or Director (completed date).

B. Grievance Logs

Grievance logs will be maintained so as to reflect information for the most current three-year period.

REFERENCE

I. ATTACHMENTS

- A. Nebraska Department of Correctional Services Rules and Regulations, Title 68 Nebraska Administrative Code, (December 21, 2013) Chapter 2, - Grievance Procedure

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II. ACA STANDARDS

- A. Standards for Adult Correctional Institutions (ACI) (4th edition): 4-4284 and 4-4344.
- B. Performance Based Standards for Adult Community Residential Services (ACRS) (4th edition): 4-ACRS-4C-01, 4-ACRS-6B-03