



Arkansas Community Correction

Two Union Nation Plaza Building
105 West Capitol, 3rd Floor
Little Rock, AR 72201-5731
(501) 682-9510 (501) 682-9513 (fax)

ADMINISTRATIVE DIRECTIVE: 15-08 RESIDENT GRIEVANCE AND APPEAL PROCESS

TO: ARKANSAS COMMUNITY CORRECTION EMPLOYEES

FROM: SHEILA SHARP, DIRECTOR

SUPERSEDES: AD 08-09

APPROVED: Signature on file EFFECTIVE: May 8, 2015

- I. APPLICABILITY.** This policy applies to Arkansas Community Correction residential center employees and residents.
- II. POLICY.** Residents must have the opportunity to initiate grievance procedures on any condition or action within the residential facility operation without being subject to any adverse action. The existence of the grievance procedure does not in any way absolve employees from carrying out their full responsibilities. (PREA 115.252)
- III. PROCEDURES.**
 - A. Remedies.** A grievance with merit will be afforded a reasonable range of meaningful remedies.
 1. Center staff must attempt to correct or modify objectionable conditions, policies, or practices when possible, and in accordance with applicable law.
 2. When a solution is not within the center's control, but it appears a change is appropriate, center staff must forward the grievance to the appropriate authority. The grievant will receive written notice of this action.
 3. The return of property or provision of restitution.
 4. Records may be corrected and action by the staff or classification committee may be modified.

B. Grievance Procedure in General

1. The resident grievance procedure is an administrative means for the resolution of complaints that pertain to the administration and operation of the facility or alleged acts by ACC employees. Complaints pertaining to treatment sanctions or “learning experiences” cannot be grieved. The grievance procedure is designed to supplement, but not replace, the informal communication process.
2. The grievance procedure must be posted on the employee and resident bulletin boards, and in the facility law library. Residents and employees must be given written notification of the grievance procedure upon arrival at the center.
3. Residents who have difficulty understanding the grievance procedure must be informed to contact a designated staff member for further explanation and/or assistance.
4. All residents are entitled to use the grievance procedure regardless of their security or job classification, disciplinary status, or administrative or legislative decisions affecting the resident. This procedure must also be accessible to impaired, handicapped, and non-English speaking residents.
5. Residents follow local procedures for submitting the informal “Complaint Form for Residents.” Residents may file grievances by dropping a completed grievance form in the locked grievance boxes, which are located in accessible places throughout the centers.
6. In the case of an emergency grievance or a grievance alleging sexual abuse, a resident may give the grievance to any officer or employee of the center, who must follow the procedures set forth in this policy. Residents are NOT required to use the informal “Complaint Form for Residents” or have a preliminary discussion with staff when filing an emergency grievance or a grievance alleging sexual abuse.
7. Time limits for responding may be extended only in 5 business day increments to complete investigative work. Residents must receive written notice of such extension prior to the expiration of the 30 calendar day time period in which the Center Supervisor or Deputy Director of Residential Services must respond (see Form 5). Expiration of the time limit at any stage of the process may be considered by the grievant to be a denial and this entitles the grievant to move to the next level of the process, unless the grievant has received written notice of an extension. Once a resident initiates the grievance process, processing of the grievance must occur without interference or influence by administrators or any employee of the center.

C. Routine Grievance Process

Routine grievances must be processed as follows:

1. Step One

- a. A resident must first attempt to informally resolve complaints, grievances, problems, or incidents by submitting a “Complaint Form for Residents” or discussing the matter with an appropriate person such as a counselor, the Residential Supervisor assigned to his/her housing area, or the Shift Supervisor on duty. Note: This step is NOT required for emergency grievances and allegations of sexual abuse; refer to information below for these situations.
- b. If the problem has not been resolved informally or no response has been received to the informal complaint, the resident may submit a formal written grievance within 5 days of the occurrence to the Grievance Officer or the Center Supervisor’s Designee (Designee) on a “Grievance Form for Residents” (see Form 2) Note: here is NO time limit for filing a grievance about sexual abuse. At this point, the grievance becomes formal and all aspects of the process must be followed.
- c. The law library must have these forms for resident use: “Complaint Form for Residents” and “Grievance Form for Residents.”
- d. The resident may receive any assistance necessary in completing the “Grievance Form for Residents” without unreasonable delay, by contacting the Grievance Officer or Designee.
- e. Residents cannot file a grievance on behalf of another resident (see the exception for allegations of sexual abuse).
- f. The Grievance Officer or Designee must transmit a Grievance Acknowledgement Form (obtained from e-OMIS) to the grievant within five working days after receipt.
- g. Emergency situations:
 - (1) A grievant may declare an emergency situation if he/she believes that by observing the regular time limits for processing he/she would be subject to a substantial risk of personal injury or other serious and irreparable harm to include a substantial risk of imminent sexual abuse.
 - (2) A grievant may indicate the existence of an emergency by marking the box provided on the Grievance Form, and by filing the Grievance Form in the usual manner or by personally delivering it to any officer or employee of the center, who must sign the attached Emergency Receipt, give the receipt to the resident, and deliver the Grievance Form without undue delay to the Grievance Officer or Designee, or in his/her absence, to the highest center authority present.

- h. The Grievance Officer or Designee must within 30 calendar days respond in writing to the grievant, unless the time period to respond has been extended.
- i. All written responses must include a well-reasoned response and an explanation that the grievant is entitled to appeal and instructions on how to appeal.

2. Step Two

- a. Any grievance decision can be appealed to the Center Supervisor through the normal chain of command. The grievant is entitled to appeal the Center Supervisor's decision within 5 days after receipt of the Center Supervisor's decision by using the Resident Appeal Form (see the back of Form 3).
- b. Within 30 calendar days, the Deputy Director of Residential Services must review the initial grievance, the Center Supervisor's investigation and response, and the resident's appeal, and if necessary, conduct a separate investigation of the matter and respond to the grievant in writing. The Deputy Director of Residential Services must provide a copy of his/her decision to the appropriate Center Supervisor for filing and notification purposes.
- c. The decision of the Deputy Director of Residential Services is final.

D. Emergency Grievance Alleging Substantial Risk of Imminent Sexual Abuse

When any portion of an emergency grievance alleges a resident is subject to a substantial risk of imminent sexual abuse, the grievance must be immediately forwarded by the person receiving it or the Grievance Officer to the Center Supervisor, Deputy Director of Residential Services, and Internal Affairs Administrator. The Center Supervisor must take immediate action to protect the resident.

The Center Supervisor must ensure an initial response to the grievance is provided within 48 hours, and must ensure a final decision is issued within 5 calendar days. The initial response and final decision must document the determination whether the resident is in substantial risk of imminent sexual abuse and the action taken in response to the emergency grievance. (PREA 115.262 [P])

A response to a grievance of this nature may be appealed in the same manner as other grievances.

E. Non-Emergency Grievances Pertaining to Alleged Sexual Abuse

When processing a grievance alleging sexual abuse, ensure compliance with other applicable guidance to include the “Reporting and Investigating Incidents, Hazards and Maltreatment,” and “Prison Rape Elimination Act (PREA)” policies.

A resident may file a grievance alleging sexual abuse at any time regardless of how long ago or the facility in which the incident allegedly occurred.

Third parties, including fellow residents, staff members, family members, attorneys, and outside advocates, must be permitted to assist residents in filing requests for administrative remedies relating to allegations of sexual abuse, and are also permitted to file such requests on behalf of residents.

If a third party files a grievance alleging sexual abuse on behalf of a resident, the Center Supervisor, Deputy Director, or Director 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. If the resident declines to have the request processed on his or her behalf, the resident’s decision must be documented.

There is no requirement for residents to use an informal grievance process, or to otherwise attempt to resolve with staff, an alleged incident of sexual abuse.

A grievance about sexual abuse must NOT be given to a staff member who is the subject of the complaint.

A response to a grievance alleging sexual abuse must be issued within 90 days of the initial filing; however, this time period must not include any time consumed by residents in preparing any administrative appeal. An extension of time to respond, of up to 70 days, may be approved by the Deputy Director of Residential Services if the normal time period for response is insufficient to make an appropriate decision. If an extension is approved, the resident must be promptly notified in writing and include a date by which a decision will be made. At any level of the administrative process, including the final level, if the resident does not receive a response within the time allotted for reply, including any properly noted extension, the resident may consider the absence of a response to be a denial at that level.

A response to a grievance involving sexual abuse may be appealed in the same manner as other grievances.

The Internal Affairs Administrator is responsible for ensuring investigations of sexual abuse.

F. Staff Training

The ACC Central Training Section must implement a training program in reference to grievances. This training will outline various methods and techniques that assist the appropriate staff in writing independent and objective responses to resident complaints. The training is mandatory for Administrative Review Officers, Grievance Officers, Assistant Center Supervisors, and Center Supervisors.

G. Reprisals and Discipline for Filing Grievance in Bad Faith

A grievant must not suffer any action or threat of action against him/her based upon the use of or participation in the grievance procedure. In addition to the initial and periodic training of department personnel in the grievance process, all personnel must receive written and verbal notice that formal and/or informal reprisals will not be tolerated. To prevent reprisals, department personnel who engage in reprisals must be disciplined. At a minimum, those admitting guilt or found to be guilty of reprisals must have a written reprimand placed in their personnel files, and may be subject to further disciplinary action up to and including employment termination. When a grievance about sexual abuse is filed, disciplinary action against the resident alleging abuse may only be taken when ACC can demonstrate that the resident filed the grievance in bad faith.

H. Records

- 1. Nature.** The Grievance Officer must maintain a log containing pertinent information regarding the filing, acknowledgement, and disposition of grievances. The Grievance Officer or Designee must maintain the official individual file for each grievance, which is to contain all pertinent information regarding the grievance, and which must systematically maintain aggregate information regarding the numbers, types, and dispositions. Such records must be preserved for at least 3 years following final disposition of the grievance.
- 2. Confidentiality.** Records regarding the participation of an individual in the grievance proceedings must not be available to residents and department personnel, other than those directly involved in the grievance process, unless the person's job requires access to such records. Grievance records must be marked confidential and will not be available to non-departmental personnel other than those allowed by policy. Entries concerning the above must not be recorded in the resident's jacket. Records of testimony or evidence regarding a resident's participation in a grievance proceeding must also be held confidential.

I. Evaluation

Each Center Supervisor must submit an annual report to the Director and to the Deputy Director of Residential Services on the use by residents of the grievance procedure and whether or not such use has resulted in meaningful consideration of complaints and, where appropriate, adequate remedies of grievances.

IV. FORMS

- AD 15-08 Form 1 Complaint Form for Residents
- AD 15-08 Form 2 Grievance Form for Residents
- AD 15-08 Form 3 Center Supervisor's Decision, Resident's Appeal
- AD 15-08 Form 4 Deputy Director's Decision
- AD 15-08 Form 5 Resident Grievance Extension

Arkansas Community Correction
COMPLAINT FORM FOR RESIDENTS

Resident Name	ACC #	Date
Unit Assignment	Job Assignment	

A resident must first attempt to informally resolve complaints, grievances, problems, or incidents by submitting a "Complaint Form for Residents" or discussing the matter with an appropriate person such as a counselor, the Residential Supervisor assigned to his/her housing area, or the Shift Supervisor on duty. Note, this step is NOT required for emergency grievances and allegations of sexual abuse; the Resident Grievance and Appeal Process policy addresses these situations.

Describe the Problem. If appropriate include a recommended solution:

Signature of Resident	Date
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RESPONSE BY STAFF OR MEDICAL

Date Received	Date Resident was Seen	Printed Name of Staff / Medical
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Response / Action Taken:

RESIDENT'S ASSESSMENT OF RESPONSE

- My complaint has been resolved and/or, I no longer want to pursue this matter.

- My complaint has NOT been resolved and I want to pursue this matter (options include submitting a grievance)

Resident's Signature
Date Signed

Staff/Medical: Send response to the ARO within 5 business days
Copy: Resident

Arkansas Community Correction
RESIDENT GRIEVANCE EXTENSION

DATE: _____ GRIEVANCE # _____

TO: RESIDENT _____ ACC# _____

FROM: _____ TITLE _____

RE: NOTIFICATION OF TIME EXTENSION

Additional time is necessary for your Grievance to be fully investigated, due to:

You will receive communication from this office by: _____

Center Supervisor or Designee Signature Date

or

Deputy Director of Residential Services or his/her Representative Signature Date

Resident's Signature (acknowledging receipt) Date