



**POLICY AND ADMINISTRATIVE
PROCEDURE**
Manual of Policies and Procedure

Title

YOUTH GRIEVANCE PROCESS

Legal References (includes but is not limited to)	Related Policies/Procedures (includes but is not limited to)	Other References (includes but is not limited to)
IC 11-11-1-1 <i>et.seq.</i>	00-01-102 02-04-101 01-04-101 03-02-104 02-01-101 02-03-102	ACA: CO: 2-CO-3C-01 JTS: 1E-02, 3D-09, 5B-02-1, 5H-04

I. PURPOSE:

The purpose of this policy and administrative procedure is to provide an administrative process for youths to resolve concerns relating to their conditions of confinement in the Department of Correction.

II. POLICY STATEMENT:

The Department shall develop a youth grievance process that allows youths to raise issues regarding the conditions of their confinement. The intent of the Youth Grievance Process is:

- To provide a mechanism for youths to express concerns;
- For the efficient and fair resolution of legitimate youth concerns; and,
- For the effective management of facilities and the Department.

Department staff members shall be responsive to the concerns of the youths. Youth grievances shall be resolved as soon as possible.

Youths shall be instructed in the youth grievance program and shall be provided access to this policy and administrative procedures.

The Department shall ensure that this administrative process provides:

- A. An available channel for hearing and resolving concerns of youths;
- B. Assistance in resolving all issues or concerns;
- C. Specific time limits at each review to ensure timely responses;
- D. A fair and prompt decision and action in response to concerns;
- E. A management tool for administrators; and,
- F. Assurance that participation will not result in retaliation.

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III. DEFINITIONS:

For the purpose of this policy and administrative procedure, the following definitions are presented:

- A. **APPEAL:** The submission through the Grievance Specialist of a grievance following the receipt of a response to a higher level of review.
- B. **EMERGENCY GRIEVANCE:** A grievance filed by a youth based upon a situation or condition which presents a potential and substantial risk to the life or safety of the youth or when irreparable harm to the youth's health is imminent.
- C. **EMPLOYEE/STAFF MEMBER:** Any and all persons employed by the Department, including contractors and volunteers.
- D. **GRIEVANCE SPECIALIST:** The staff person at a facility who is designated by and reports directly to the Superintendent to oversee the operation of the Youth Grievance Process at the facility.
- E. **GRIEVANCE:** A written report made by a youth asking for the resolution of a problem, incident or concern that has happened while he/she has been confined in the Department.
- F. **MAINLINE:** The formal movement of youths at mealtime, including the time when a youth is in line waiting on a meal in the Food Services area.
- G. **REMEDY:** A meaningful response, action or resolution to a grievance.
- H. **REPRISAL:** Any act or threat of action against anyone for the legitimate and honest use of or participation in the Youth Grievance Process.
- I. **WORKING DAY:** Monday through Friday, excluding any holidays recognized and observed by the State of Indiana.

IV. USE OF THE YOUTH GRIEVANCE PROCESS:

Youths may initiate the grievance process when they have a problem, incident, or concern that affects them personally.

Youths who choose to use the Youth Grievance Process legitimately and honestly, at any step, shall not be subject to reprisal by staff or other youths. Youths shall

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not be the subject of disciplinary action for the legitimate and honest use of the Youth Grievance Process.

Youths may submit a YOUTH GRIEVANCE (ATTACHMENT

A) with or without attempting a verbal resolution with facility staff first.

Issues which youths may submit a grievance on include, but are not limited to:

- A. Policies, procedures, and rules of the Department or facility;
- B. Words and actions of individual staff, contractors, or volunteers;
- C. Acts of reprisal for the legitimate and honest use of, or participation in, the Youth Grievance Process; and,
- D. Other concerns relating to conditions of care within the Department or its contractors, except as noted in this policy and administrative procedure.

Some issues cannot be resolved by the Department or facility. Issues not covered by the Youth Grievance Process include, but are not limited to:

- A. Federal, State, and local law;
- B. Court actions and decisions, including pre-sentence investigation reports;
- C. Classification actions or decisions;
- D. Disciplinary actions or decisions;
- E. Contents of grievance or appeal responses;
- F. Any matter over which the Department has no control; and,
- G. Loss, damage, or destruction of a youth's personal property where the youth is seeking reimbursement or a monetary award for such loss.

X. SEXUAL ABUSE GRIEVANCES:

- A. Emergency Grievances:

The Offender Grievance Specialist shall immediately bring emergency grievances to the attention of the Executive Assistant for the Superintendent's review and response within two (2) business days of the offender filing the grievance. The action on any emergency grievance may be appealed by the offender within one (1) business day of receiving the response. The Department Offender Grievance Manager shall issue a final Department decision within five (5) business days of the offender filing the grievance. The initial response and final Department decision shall document the Department's determination whether the offender is in substantial risk of imminent danger and the action taken in response to the emergency grievance. The facility may discipline an offender for filing an emergency grievance in bad faith. The determination that a grievance is

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not an emergency may be appealed through the normal grievance procedures as directed in this policy and administrative procedures.

B. PREA Grievances

This section presents guidelines for the filing of grievances alleging that a youth is subject to a substantial risk of imminent sexual abuse, and removing the standard time limits on submission for a grievance regarding an allegation of sexual abuse. Standard time limits may apply to any portion of a grievance that does not allege an incident of sexual abuse. The Department shall not require a youth to use any informal grievance process, or to otherwise attempt to resolve with staff, an alleged incident of sexual abuse. Nothing in this subsection shall restrict the Department’s ability to defend against a youth lawsuit on the ground that the applicable statute of limitations has expired.

A youth who alleges sexual abuse may submit a grievance without submitting it to a staff member who is the subject of the complaint at any time after the alleged incident. Sexual abuse as defined in Policy 02-01-115, “Sexual Assault Prevention, Investigation, Victim Support, and Reporting,” consists of non-consensual sex acts, abusive sexual contact, and staff sexual misconduct. Such a grievance shall not be referred to a staff member who is the subject of the complaint. The Department shall issue a final decision on the merits of any portion of a grievance alleging sexual abuse within ninety (90) days of the initial filing of the grievance. Determination of the ninety (90) day time period shall not include time consumed by the youth in preparing any administrative appeal. The Department may claim an extension of time to respond, of up to seventy (70) days, if the normal time period for response is insufficient to make an appropriate decision. The Department shall notify the youth in writing of any such extension and provide a date by which a decision shall be made.

At any level of the administrative process, including the final level, if the youth does not receive a response within the time allotted for response, including any proper extension, the offender may consider the absence of a response to be a denial at that level. Third parties, including other youths, staff members, family members, attorneys, and outside advocates, shall be permitted to assist youths in filing requests for administrative remedies relating to allegations of sexual abuse, and shall also be permitted to file such requests on behalf of youths. If a third party files such a request on behalf of a youth, the facility may require, as a condition of processing the request, that the alleged victim agree to have the request filed on his/her behalf, and may also require the alleged victim to

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personally pursue any subsequent steps in the administrative remedy process. If the youth declines to have the request processed on his/her behalf, the Department shall document the youth's decision. A parent or legal guardian of a juvenile shall be allowed to file a grievance regarding allegations of sexual abuse, including appeals, on behalf of such juvenile. Such a grievance shall not be conditioned upon the juvenile agreeing to have the request filed on his or her behalf.

X. GRIEVANCE SPECIALIST:

Each Superintendent shall appoint a staff person to serve as Grievance Specialist. This staff person shall have the ability to review youth grievances, conduct necessary investigations, and render a decision on behalf of the facility. In grievance matters, the Grievance Specialist shall report to the Superintendent.

The duties of the Grievance Specialist shall include, but is not limited to:

- A. Receive youth grievances and review these grievances in an impartial manner to determine those that may need priority handling due to their nature and to ensure that any grievances received comply with this policy and administrative procedure;
- B. Meet with youths within 24 hours of a request to: answer questions about the youth grievance process; allow them access to resolving issues before filing a grievance; and, to allow them private access when they are concerned about confidentiality in submitting a written form.
- C. Assist the Superintendent in the appointment of staff at the Unit Team level to serve as first line responders to youth grievances and ensure that an adequate number of staff persons on all shifts are trained in the Youth Grievance Process so that there will be staff available at all times to receive and respond to youth grievances;
- D. Assist staff as needed to resolve youth grievances;
- E. Monitor the number and the nature of the grievances being received and the types of remedies being provided to the youths to determine whether any potential trends are appearing;
- F. Log grievances upon receipt and ensure that a Grievance Log is maintained indicating: the date the grievance was received; the content of the grievance; actions taken regarding the investigation of the grievance;

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the disposition of the grievance not resolved at the informal level; and, the grievance number assigned by the Youth Grievance System;

- G. Investigate youth grievances and render an impartial decision;
- H. Notify the youth of the decision and any remedies that are approved;
- I. Receive grievance appeals and log in the Youth Grievance System;
- J. Track grievances to ensure responses are timely and to ensure quality of response language and content;
- K. Prepare monthly reports that summarize the grievances/appeals filed, the living units from which the grievances were filed, and the nature and final outcome of the grievances/appeals;
- L. Submit other reports as requested by the Superintendent and ensure the Superintendent is informed of any significant activity regarding the Youth Grievance Process;
- M. Assist in the training of staff and youths in the Youth Grievance Process and ensure compliance with this policy and administrative procedure;
- N. Remain current on Youth Grievance Process training and assist staff to keep up-to-date on Youth Grievance Process training; and,
- O. Communicate to the Superintendent as needed on serious or systemic issues arising through the Youth Grievance Process.

XIII. THE GRIEVANCE PROCESS:

- A. Youths may initiate a written grievance when an incident/issue affects them personally and impacts their confinement with or without attempting a verbal resolution with facility staff. Youths may choose to request to meet with the Grievance Specialist before filing a grievance if they have questions and need clarification on the grievance process; they desire to resolve their issue verbally before filing a grievance; or, they are concerned about confidentiality in submitting a written grievance.
- B. The Grievance Specialist shall ensure youths have easy access to the YOUTH GRIEVANCE (ATTACHMENT A) by maintaining a supply in all housing units and in other locations, such as education and treatment departments. This form shall be accessible to the youth in the housing unit

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without requiring the youth to request it from a staff person. If the youth cannot obtain this form in the youth's housing unit, the youth shall contact his/her counselor or the Grievance Specialist. The youth shall be provided the form upon request.

In restrictive status housing or other units where a youth does not have direct access to this form, the youth may request that a staff person in that unit assist him/her in obtaining a form. The youth shall be provided with the YOUTH GRIEVANCE within 24 hours of the request.

Staff members shall provide youths a grievance form as soon as possible. In cases where staff cannot provide the form immediately, staff shall provide the youth with a YOUTH GRIEVANCE as soon as his/her duties allow and the reason for the delay has concluded.

If youths are unable to get a form, or staff members refuse to give them the form, youths are directed to contact the Grievance Specialist.

- C. Youths are encouraged to file a grievance immediately following the incident in order to improve the chances of an appropriate resolution. However, a youth has ten (10) working days after an incident to file a grievance. The Superintendent may waive this time frame.

Youths shall provide the following information in the YOUTH GRIEVANCE to assist in the investigation, including:

1. Youth's name, DOC number, and bed location;
2. What happened or what was said;
3. Name(s) of staff involved, if staff is involved;
4. Date and time of the incident;
5. Location where incident occurred;
6. Names of witnesses; and,
7. Possible resolution to the issue, problem, incident, concern.

The facility shall ensure that a mechanism is in place in each housing unit to ensure that youth who are illiterate, who do not speak or write English fluently or who have medical or psychological disabilities have assistance in preparing and submitting a grievance. This assistance may be from other youths assigned to assist in the preparation of grievances or staff.

The youth submitting the grievance must personally sign and date the form. The youth's signature may be waived when the youth has transferred, does not know how to write, or is physically unable to write

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either by restraint or infirmity (disability). In such cases, a staff member is to indicate why the youth did not sign the form.

- D. All grievances are to be forwarded to the Grievance Specialist. Upon receipt of the grievance, the Grievance Specialist or designee shall log the grievance and assign a case number within two (2) working days of receipt. The Grievance Specialist shall generate a receipt for the grievance and forward the receipt to the youth within one (1) working day from the date the grievance is logged.

Following the logging and assigning of a case number, the Grievance Specialist shall review the grievance to ensure that it contains all of the required information.

A grievance filed in accordance with this policy and administrative procedure shall not be rejected. Problems that may need to be addressed in the grievance include, but are not limited to:

1. The youth has made errors, is missing information, or is not clear about the issue at hand: The Grievance Specialist or designee shall meet with the youth to correct errors, obtain needed information, or clarify the youth's needs and wants concerning the grievance;
2. A grievance is not submitted on the YOUTH GRIEVANCE form or is not legible: The Grievance Specialist or designee may interview the youth and assist in rewriting the grievance or putting it on the correct form;
3. A youth has used vulgar language in the grievance: The Grievance Specialist or designee shall meet with the youth and advise the use of vulgarity or profanity is not appropriate, unless it is a direct quote, and assist in re-writing the grievance;
4. A youth submits a grievance with multiple issues: The Grievance Specialist or designee shall meet with the youth and explain that a grievance is to cover only one (1) issue and offer to assist the youth in breaking down the grievance into multiple grievances, each covering one (1) issue. If the youth re-writes the grievance and submits multiple grievances, each grievance shall be processed individually in accordance with this policy and administrative procedure.

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5. The grievance is not signed: The Grievance Specialist or designee staff shall meet with the youth to ensure the youth submitted the grievance and, if so, obtain the youth's signature.
 6. The grievance is submitted on behalf of other youth(s): The Grievance Specialist or designee shall meet with the other youth(s) and instruct the youth(s) to submit a grievance, using the first complaint as a witness statement;
 7. The grievance is submitted on behalf of a youth's visitor: The Grievance Specialist or designated staff shall forward the visitor's complaint directly to the Superintendent; or,
 8. Grievances on behalf of a group of youths, such as a "class action" grievance: The Grievance Specialist or designee shall contact each youth named in the grievance and assist the youth in preparing a grievance. In cases where multiple youths have filed grievances on the same incident or situation, the Superintendent or designee may post a copy of the response that will not identify the youths but will provide the appropriate distribution of information to all youths;
- E. Grievances shall not be summarily rejected; instead, the Grievance Specialist shall assist the youth in attempting obtain a resolution of the grievance through the proper channels. If the Grievance Specialist determines that the youth's issue cannot be resolved by the Department or the facility, the Grievance Specialist or designee shall provide specific instruction and assist the youth in attempting to resolve the grievance through the proper channels.
- F. When the grievance is complete and ready for investigation, the Grievance Specialist shall determine whether the grievance deals with routine facility operations or falls into the following categories:
- Medical
 - Imposition of Non-Contact visits
 - Denial of visits with minors
 - Denial of request to correspond with another confined person

If the grievance concerns a medical issue, the Grievance Specialist shall forward it to the facility Health Care Administrator for investigation. If the grievance concerns the denial of visitation with minors due to a sex

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crime involving a minor, the Grievance Specialist shall contact the local Sex Offender Monitoring and Management (SOMM) coordinator to determine whether a SOMM Facility Review needs to be conducted. If the grievance concerns the imposition of non-contact visits or a request to correspond with another confined person, the grievance shall be discussed with the Superintendent or designee.

All other grievances shall be investigated by the Grievance Specialist or staff designated by the Superintendent.

The Grievance Specialist or designee shall have 10 working days from the date the grievance is received to complete the investigation and respond to the youth, unless an extension of time is authorized by the Superintendent. The Grievance Specialist or designated staff shall, as needed:

1. Interview staff or youths or request written statements from relevant staff or youths;
2. Review local procedures;
3. Review relevant Department policies/procedures or other guidelines;
4. Review as necessary inventories, daily logs, medical records, etc;
5. Interview witnesses as appropriate;
6. Interview resource staff (doctors, supervisors, chaplain, etc.) for additional information as necessary; and
7. Take any other responsible action as directed by the Superintendent.

G. Upon completion of the investigation, the Grievance Specialist shall prepare a response using the appropriate response form. The Grievance Specialist shall ensure that the response is logged in the electronic system and that the grievance response is appropriate and approved by the Superintendent's designee. The response shall include the following information, if applicable:

- Name of the staff person who investigated the grievance;
- Names of witnesses interviewed and/or resource staff consulted (sources of confidential information shall not be disclosed);
- Policy or other guidelines as necessary;
- Evidence found or note inability to find evidence;
- Decision reached and the reason(s) for this decision;
- Corrective action that has been/shall be taken to resolve the issue and a completion date for that action, when known, and actions

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taken to ensure staff are notified when corrective action is to be taken; and,

- Response that addresses the issue grieved.

The Grievance Specialist shall sign and date the response and ensure that relevant documents are attached to the facility file copy of the grievance.

- H. When the response is ready for distribution, the Grievance Specialist shall sign the response and then the Grievance Specialist or designee shall meet with the youth within 10 days of receipt of the grievance, unless an extension has been granted, to discuss the results of the investigation.

The Grievance Specialist or designee shall give the youth a copy of the grievance and the response. The Grievance Specialist or designee shall read these items to the youth, if necessary, discuss them as necessary, and explain any remedies, or explain why the grievance was not resolved in the youth's favor. The Grievance Specialist or designee shall answer any questions as needed.

The Grievance Specialist/designee shall ask if the youth accepts or rejects the facility's response. If the youth accepts the response, he/she will check off "accept" and sign where indicated. The case shall be considered closed. The Grievance Specialist or designee shall make a copy for the youth's packet and for the facility file. When this is complete, the youth shall be given the originals for his/her record.

If the youth rejects the response, the Grievance Specialist/designee shall ask the youth whether he/she wishes to appeal the response to the next level. If the youth indicates that he/she does not wish to appeal the response, the youth shall check off "reject and I do not wish to appeal" and sign where indicated. If the youth indicates that he/she wishes to appeal the response, the youth shall check off "reject and I do wish to appeal" and sign where indicated.

If the youth does not wish to appeal the rejected response, the case is considered closed and the Grievance Specialist/designee shall make a copy of the response for the youth's packet and for the facility file copy. When these copies have been made, the youth shall be given the original response for his/her records. The Grievance Specialist shall indicate in the Youth Grievance software that the response was rejected and that no appeal was requested.

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If the youth rejects the response and does wish to appeal it, the Grievance Specialist/designee shall explain to the youth the appeal process. The appeal shall automatically be forwarded along with the typed grievance, the grievance file, and the investigation of the grievance to the Superintendent for review and a decision. The Grievance Specialist shall enter into the Offender Grievance software that the response was rejected and that the youth wanted to appeal the response and the date that the appeal was forwarded to the Superintendent.

XIV. THE APPEAL PROCESS:

The Superintendent or designee, in cases where the Superintendent is involved in the grievance, shall be the final reviewing authority for all youth grievances in the facility. Once the Superintendent or designee has responded to the appeal, there are no other appeals available within the Department and shall end the youth's administrative remedies for the issues in this grievance

Once the youth has rejected the grievance response and indicated that he/she wishes to appeal the response, the Grievance Specialist shall ensure that the grievance and all materials relating to the grievance and its investigation are collected and forwarded to the Superintendent for review.

The Superintendent/designee shall review all of the information received with the appeal. The actions that may be taken by the Superintendent include:

- Concurring with the initial grievance response and denying the appeal;
- Granting the appeal, in whole or in part;
- Contacting staff for additional information as determined necessary; or,
- Returning the grievance to the Grievance Specialist if it appears the initial investigation did not address the issues raised in the grievance.

If the Superintendent/designee believes that additional information is needed in order to respond to the appeal, the Superintendent/designee shall contact the Grievance Specialist and request additional information. If it appears that the initial investigation by staff at the facility did not address the issues raised in the initial grievance, the Superintendent shall instruct the Grievance Specialist to re-investigate the grievance.

When completing the response to a youth's appeal, the Superintendent/designee shall include the following:

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1. The names of additional witnesses interviewed and/or resource staff consulted, unless they are confidential;
2. Policies, administrative or operational procedures, operation directives, statutes, and other guidelines relied upon to respond, as necessary;
3. Evidence found or the inability to find evidence to support the grievance or grievance response;
4. The decision and the reason(s) for the decision;
5. Corrective action that has been or will be taken to resolve the issue, including a projected completion date for the action, if available;
6. The response must address the original issue grieved;
7. Signature and date the Superintendent/designee approved the response; and,
8. Copies of relevant and newly discovered documents shall be sent to the Grievance Specialist to be maintained with the grievance files

The Superintendent/designee shall complete the investigation and respond to the appeal within 20 working days from the date of receipt, unless the Superintendent/designee notifies, in writing, the youth and the Grievance Specialist of a delay. The appeal response shall be prepared using the approved response form.

When the response is completed, it shall be returned to the Grievance Specialist. The Grievance Specialist shall review the response, log the response, print a copy and ensure that he/she or a designee meets with the youth to discuss the response within two (2) working days from the date of receipt of the appeal response.

The Grievance Specialist/designee shall explain the appeal response to the youth, including reasons for the decision. The Grievance Specialist/designee shall answer any questions. Once the youth indicates that he/she understands the response and has no further questions, the Grievance Specialist/designee shall advise that the youth has exhausted the administrative remedies for this grievance. The youth shall be asked to sign the response indicating that he/she has received the response and understands the decision. At this point, the grievance is considered closed. The Grievance Specialist shall make a copy for the youth's packet and for the facility file copy. The youth shall be given the originals for his/her record.

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XIX. FOLLOW-UP OF GRIEVANCE:

Following the final resolution of the grievance, either at the initial step or the appeal, the Grievance Specialist shall follow-up with the youth to ensure that any approved resolution of the grievance has been completed or provided. The Grievance Specialist shall complete this follow-up meeting with the youth within one (1) week following the youth being given the final resolution of the grievance.

The Grievance Specialist shall ask the youth if the resolution of the grievance has been completed. The Grievance Specialist shall have the youth sign a receipt indicating that the grievance has been resolved and that no further action is necessary.

If the Grievance Specialist discovers that the approved resolution has not been provided, the Grievance Specialist shall contact the staff person responsible for providing the resolution and determine why it has not been provided. The Grievance Specialist shall notify the Superintendent of the situation and ensure that the appropriate actions are taken to resolve the grievance as approved.

XX. APPLICABILITY:

This policy and administrative procedure is applicable to all Department facilities housing youths and all youths committed to the Department.

signature on file
Bruce Lemmon, Commissioner

Date