

WEBER COUNTY CORRECTIONAL FACILITY

Volume

INMATE MANAGEMENT

Chapter

JD 05 - INMATE GRIEVANCES

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JD 05/01.00 **GENERAL**

JD 05/01.01 **Purpose**

The purpose of this chapter is to provide the policy, rationale, and procedures concerning the inmate grievance system.

JD 05/01.02 **Cross Reference**

JD 02 - Classification
JD 06 - Inmate Discipline
UJS D.05

JD 05/01.03 **Definitions**

emergency grievance	grievances involving emergency circumstances which may justify priority handling to avoid delays which may subject the inmate to substantial risk of personal injury or cause other serious or irreparable harm
frivolous grievance	any grievance that the inmate knows or reasonably should know is without merit, irresponsible, or has no rational basis in fact or law; written in bad faith
grievance	a written inmate complaint within the jurisdiction of the WCCF alleging personal injury, loss, or harm-caused by the application or omission of a policy or practice, a staff member or inmate action, or incident
IPP	Inmate Placement Program
malicious grievance	any grievance in which the inmate willfully falsifies information with the intent to vex, annoy, slander, or injure a staff member or any other person
retaliation	any unauthorized or improper action or threat of action against an inmate based upon the inmate's participation in the grievance process
vexatious	irritating
WCCF	Weber County Correctional Facility
WCSIB	Weber County Sheriff's Investigation Bureau
WCSO	Weber County Sheriff's Office

JD 05/02.00 **GRIEVANCES**

JD 05/02.01 **Policy**

It is the policy of the WCCF to provide inmates with a grievance system by which inmates may address complaints regarding conditions of confinement or any issues that affect the inmate personally.

JD 05/02.02 **Rationale**

- A. Prisoners have no constitutional entitlement to a grievance system. However, by providing a structured process for inmates to address concerns, the operation of the jail can benefit because the grievance process allows inmates a means of:
 - 1. expressing complaints and challenge the conditions of their confinement in a constructive manner;
 - 2. documenting the process of expressing their complaints; and
 - 3. a perception of fairness in resolving complaints.
- B. A grievance system can also provide the facility administration with information regarding the daily operation of the facility. Proper documentation provides the facility with:
 - 1. a record of the good faith efforts of jail officials in attempting to address the legitimate concerns of inmates; and
 - 2. information which can be used to defend the jail in the event of litigation.
- C. Grievances should be resolved at the lowest possible level and should encourage positive interaction between staff and inmates in attempting to resolve inmate complaints.
- D. Retaliation against inmates who use the grievance system is prohibited. Retaliation may cause inmates to lose confidence in the grievance system and may create a cause of action for violation of the inmates' civil rights even if what is done in retaliation would not, by itself, be an unconstitutional act.

JD 05/02.03 **Procedure: General Grievance Process Requirements**

A. **Staff Training/Input**

1. Staff shall be trained concerning the purpose, function, requirements, and policy and procedures of the inmate grievance system.
2. New staff should receive training. Thereafter, all WCCF staff members should receive periodic training concerning the inmate grievance system.
3. Both staff and inmates are encouraged to provide written input concerning the grievance process. At the initial stage of implementation of the grievance process, written inmate and staff member input is encouraged.
4. Any changes to the grievance procedures shall be posted in appropriate locations throughout the WCCF to elicit staff and inmate written input.
5. Changes shall remain posted for 15 calendar days. Input shall be forwarded to the Jail Commander/representative via the jail mail system.
6. Any phase of the grievance process can, itself, become the subject matter of a grievance.

B. **Inmate Orientation and Notice**

1. New inmates shall receive information concerning the grievance system upon arriving their housing unit.
2. Copies of this policy shall be made available to inmates for review during their incarceration at the WCCF.
3. Inmates should also receive assistance from a Housing Unit Officer, Housing Sergeant or Housing Lieutenant to:
 - a. review current procedure;
 - b. obtain necessary forms; or
 - c. receive instructions concerning how to access and utilize the grievance system.

C. Accessibility/Applicability

1. Inmates may file grievances regardless of status or classification. Abuse of the grievance system may, however, result in disciplinary action.
2. Access to available administrative resources, particularly for offenders requiring help in language interpretation or for impaired or handicapped inmates, is available through the Housing Unit Officer, Housing Sergeant, or Lieutenant.
3. The grievance system shall permit complaints by inmates regarding practices, policies, and conditions within the jurisdiction of the WCCF which affect them personally, as well as actions by staff or other inmates and incidents occurring within the jail that affect them personally.
4. In general, all inmates' complaints are subject to the grievance system except complaints against disciplinary and classification decisions and decisions and procedures of the Board of Pardons for State inmates.
 - a. Inmates with complaints regarding disciplinary decisions shall be referred to the Housing Lieutenant for information to appeal the process, according to WCCF policy JD 06, Inmate Discipline.
 - b. Inmates with complaints regarding classification decisions shall be referred to the Housing Lieutenant for information to challenge the process, according to WCCF policy JD 02, Classification.
 - c. State inmates with complaints regarding Board of Pardons decisions shall be referred to the Board of Pardons.

D. Available Remedies

The grievance procedures do not set any limit on existing administrative discretion or powers. The scope of available administrative remedies is broad and should be applied on a case-by-case basis.

JD 05/02.04 **Procedure: Operation of Grievance Procedures**

A. Inmate Responsibility

1. All grievances must be filed on an individual basis by the respective inmate identifying the specific nature of the grievance.

2. Inmates are required to make and to document reasonable attempts to resolve complaints informally and at the lowest possible level.
3. Assistance, including access to current procedures, copies of necessary forms, and information on the operation of the grievance process, is available from the Housing Officer, Sergeant, or Lieutenant.
4. The inmate has the burden of including all relevant facts and information as the moving party in the grievance, even if inadequately or unartfully drafted. However, the grievance should not be sent back to the inmate, unless it is not possible to process the grievance without additional information.

B. Malicious and Frivolous or Vexatious Grievances

1. Malicious, frivolous, or vexatious grievances may subject the inmate to criminal, civil and/or administrative action depending on the nature of the actions leading to such abuse.
2. Before an inmate can be found to be guilty of abuse of the grievance system, he is entitled to appropriate due process.
3. If an offender's grievance appears to be frivolous, vexatious, or malicious, he should, at the informal level, be given an opportunity to withdraw the grievance.
 - a. If the abuse amounts to a violation of criminal law, such warning shall not be required.
 - b. If the abuse results in a cause of action against the inmate in a civil action, the party who was harmed shall determine whether to initiate civil action or allow withdrawal of the grievance.
 - c. If the abuse justifies neither criminal nor civil action, the inmate should be given a chance to withdraw the allegations.
4. If the offender chooses not to withdraw the abusive grievance or persists with other such grievances, action shall be initiated by the WCCF.
 - a. Initiation of Action

Action may be initiated by the Sheriff/Representative or any Chief, Captain, or Lieutenant-level administrator or representative.

b. Investigation

- 1) Claims of abuse of the grievance system should be investigated by the WCSIB.
- 2) If the investigation results in evidence justifying formal administrative action, the case may be referred to the Weber County Attorney's Office.

c. Screening/Prosecution

- 1) The investigative findings/reports of the WCSIB shall be submitted for review and follow up to the Weber County Sheriff.
- 2) Following review, the Weber County Sheriff may:
 - a) determine there is inadequate justification to continue the action against the inmate, and so notify all involved parties;
 - b) determine there is adequate evidence of abuse, but choose to warn the inmate in writing rather than proceeding to hearing and possible sanctions; or
 - c) determine there is adequate evidence and justification to move to formal adjudication of the matter.

d. Hearing

- 1) The hearing of allegations of abuse of the grievance system shall be heard by the Disciplinary Hearing Officer.
- 2) The Disciplinary Hearing Officer shall hear testimony, receive other evidence, and allow the inmate to present a defense to allegations. The rules which generally apply to disciplinary hearings shall be those followed at this hearing, except that the standard of proof shall be "substantial evidence" rather than the "some evidence" permitted in disciplinary hearings.

- 3) If the Disciplinary Hearing Officer finds substantial evidence that the inmate has abused the grievance system by filing a malicious, vexatious, or frivolous grievance:
 - a) on the first offense, he shall be cautioned that further violations may result in a suspension or modification of grievance access;
 - b) on the second offense, he may modify the inmates access to the system; and
 - c) if the conduct is repeated, he may suspend access to the grievance system for a fixed period of time.

C. Investigation and Consideration

No inmate or staff member having personal involvement in any incident underlying a grievance is allowed to participate in the grievance decision, except that prior involvement in the drafting or interpretation of the grievance procedures shall not be considered sufficient personal involvement to prohibit such participation.

D. Written Response

1. Each decision maker is required to provide the inmate with one copy of a written response which states the reasons for the decision reached and the procedure to be followed by the inmate to obtain a review of the decision.
2. Inmates shall be responsible to draft and maintain copies of each grievance and/or appeal.

E. Fixed Time Limitations

1. The grievance process is designed to be completed with 45 calendar days of the initial filing of a grievance form to final disposition if all levels of appeal and time limitations are used.
2. Fixed time limitations are applicable to each level of the grievance. Unless the inmate has been notified in writing or there are justifiable circumstances to an extension of time for a staff response, the expiration of a time limit shall allow the inmate to submit the grievance to the next level of appeal.

F. Sheriff Review

1. The Sheriff/designee is the one level of review by persons not under the Jail Commanders supervision or control.
2. The final determination rests with the Sheriff.
3. Requests for review are not subject to denial by any decision maker who has already rendered an opinion.

G. Retaliation

1. Retaliation is prohibited under the grievance procedures, and complaints of either formal or informal reprisals are separate issues subject to grievance.
2. Abuse of the grievance system, however, may subject the inmate to appropriate action by WCCF.

H. Records

1. The WCCF shall maintain grievance records and preserve grievance records for one year.
2. Individual records are confidential documents and shall not be filed in the inmate's jail file.
3. Records of grievances should not generally be available to staff who are not involved in the grievance process or in the resolution of the grievance.

JD 05/02.05 **Procedure: Grievance Levels**

A. General

1. The WCCF grievance process is designed to be a three level process:
 - a. Level One (informal),
 - b. Level Two, Jail Commander/designee; and
 - c. Level Three, Sheriff/designee.

B. Emergency Grievances

1. Grievances determined by the decision maker to be of an emergency nature shall be processed in an expedited, priority manner. Each decision maker may determine which cases should be expedited.
2. No stage shall be totally deleted because each decision maker constitutes a level at which administrative action can be taken.
3. Decisions to expedite handling and the type of response required are decided on a case-by-case basis.

JD 05/02.06 **Procedure: Staff Response**

A. Level One, Informal

1. Within five (5) calendar days of an incident, or five (5) calendar days from the time the inmate knew or should have known about an grievable incident, he shall obtain and complete Section I of Grievance Form-1 (GF-1) and submit it to the appropriate staff member by:
 - a. placing it in an envelope addressed to the appropriate staff member; and
 - b. depositing the envelope in the jail mail system drop.
2. The staff member responsible for addressing the inmate's Level One grievance shall have ten (10) calendar days from the date the Grievance form was received by the staff member to:
 - a. note the inmate's I.D number and/or his State inmate USP# and the grievance number;
 - b. gather grievance-related statements and documents;
 - c. review grievance-related policy and procedure, general orders and special orders;
 - d. as necessary, interview the inmates;
 - e. attempt to resolve the grievance;
 - f. initiate grievance-related remedial actions and/or proposals; and
 - g. respond to the inmate in writing.

3. If the Level One (Informal) attempt to resolve the grievance fails, the inmate shall have three (3) calendar days to complete Section II of Grievance Form 1 (GF-1) and submit it through the jail mail system to the Grievance officer who shall:
 - a. log the grievance; and
 - b. forward it with all Level One Grievance information to the Jail Commanders office.

B. Level Two - Jail Commander

1. The Jail Commander/Representative shall have ten (10) calendar days (from the date of receipt) to review, research and forward a written response to the inmate.
2. Inmates not satisfied with the Jail Commanders decision have three (3) calendar days to appeal the decision to the Weber County Sheriffs Office by:
 - a. obtaining and completing a grievance appeal form (GF-4);
 - b. placing a copy of the grievance form having Sections I and II completed and the completed Grievance Appeal form into an envelope addressed to the Sheriff; and
 - c. depositing the addressed envelope containing the inmate's specified Grievance Appeal information into the jail system mail drop.
3. Upon receipt of the grievance, the Sheriff's representative should request and attach grievance-related information gathered by the Jail staff and forward it to the Sheriff.

C. Level Three - Weber County Sheriff

1. The Sheriff/Representative shall have ten (10) calendar days from the date of receipt to review the grievance, and provide a written response to the inmate Level Three Appeal or schedule a hearing.
 - a. The hearing shall be held at the earliest time available to the parties and the Sheriff.
 - b. The Sheriff shall have ten (10) calendar days from the date of the hearing to provide a written response to the inmate.

- c. However, if reasonable circumstances exist, the Sheriff may extend this response time with the stipulation that the inmate be notified of the time extension within the original ten (10) calendar day time frame.
- 2. There is no further administrative appeal from the Sheriff Level. The Level Three decision is final.

JD 05/03.00 **GRIEVANCE FORMS**

A. Inmate Grievance Form (GF-1)

This form is designed to initiate the inmate grievance and move to level two, to obtain initial information regarding the grievance, and to require the inmate to document reasonable efforts to resolve the grievance informally at level one.

B. Staff Response Form (GF-2)

This form is used by the WCCF/WCSO staff to write a response to a grievance.

C. Supplementary Pages (GF-3)

1. These pages may be used in conjunction with any of the preceding forms whenever the information exceeds the space allotted on the form.
2. Each decision maker is required to provide the inmate with one copy of a written response which states the decision and the reasons for the decision.

D. Grievance Appeal Form (GF-4)

This form is designed to allow an inmate to appeal the decision of the Jail Commander to the Sheriff.

JD 05/ 04.00 **LEARNING OBJECTIVES**

JD 05/04.01 **Grievance Process Requirements**

Staff shall demonstrate an understanding of the following:

- A. Who should be given training/notice regarding the grievance system.
- B. What is grievable.

JD 05/04.02 **Operation of Grievance Procedures**

Staff shall demonstrate an understanding of the following:

- A. What is an inmates responsibility at the initial stages of the grievance process.
- B. What is a “malicious” or vexatious” grievance.
- C. What steps shall be taken if an inmate abuses the grievance system.

JD 05/04.03 **Grievance Levels**

Staff shall demonstrate an understanding of the levels of the grievance system.

JD 05/04.04 **Staff Response**

Staff shall demonstrate an understanding of the following:

- A. Who shall respond to informal (Level One) grievances and how much time is available to respond.
- B. Who shall respond to a formal (Level Two) grievance and how much time is available to respond.
- C. Who shall respond to a grievance appeal (Level Three) and how much time is available to respond.

INMATE GRIEVANCE FORM

GF-1

INMATE'S NAME: _____ ID NUMBER _____ HOUSING _____

SECTION 1 - INFORMAL ACTION To be completed by inmate:

Specific nature of grievance (who, what, when, where and how):

Identify those contacted regarding your grievance and state what you HAVE DONE to resolve the issue:

What is the specific remedy you seek?:

INMATE'S SIGNATURE

DATE

GF-1

SECTION 2 - FORMAL GRIEVANCE ACTION

To be completed by the inmate:

Why is the Informal Response unacceptable? (Be specific)

INMATE'S SIGNATURE

DATE _____

STAFF RESPONSE FORM

GF-2

STAFF RESPONSE/RECOMMENDATIONS:

LEVEL TWO

DATE: _____

-

Turn sheet over for more space. If additional pages are necessary, please attach to this sheet.

STAFF MEMBER'S SIGNATURE

DATE

SUPPLEMENTAL GRIEVANCE FORM

GF-3

LEVEL: _____

DATE: _____

This image shows a single sheet of white paper with horizontal blue or grey ruling lines. The lines are evenly spaced and run across the width of the page. There are approximately 20 lines visible. The paper has a slight shadow on the right side, suggesting it's resting on a surface.

INMATE'S SIGNATURE

DATE _____

GRIEVANCE APPEAL FORM

GF-4

LEVEL THREE

DATE: _____

INMATE NAME

ID NUMBER

HOUSING UNIT

REASONS FOR APPEAL

List the reasons why the prior administrative grievance decision is unacceptable.

_____ If additional pages are necessary, please attach to this sheet.

SIGNATURE

DATE SUBMITTED

THIS DOCUMENT MUST BE SENT THROUGH WEBER COUNTY JAIL MAIL SYSTEM - NO POSTAGE REQUIRED.