



## North Carolina Department of Public Safety

### Inmate Grievance Resolution Board

Roy Cooper, Governor  
Erik A. Hooks, Secretary

Reuben Young, Interim Chief Deputy Secretary  
Kimberly D. Grande, Executive Director

September 28, 2018

#### MEMORANDUM

**To:** Chair, House Appropriations Subcommittee on Justice and Public Safety  
Chair, Senate Appropriations Subcommittee on Justice and Public Safety  
Chair, Joint Legislative Oversight Committee on Justice and Public Safety

**From:** Erik A. Hooks, Secretary, North Carolina Department of Public Safety *EAH*  
Reuben F. Young, Interim Chief Deputy Secretary *Ry*  
Kimberly D. Grande, Executive Director, North Carolina Inmate Grievance Resolution Board *KDG*

**Re:** Inmate Grievance Resolution Board Annual Report

This memorandum is presented as the Annual Report of the North Carolina Inmate Grievance Resolution Board, as directed by Section 16C.13B (b) of Session Law 2015-241. The Session Law provides:

The Department of Public Safety and the Inmate Grievance Resolution Board shall report by October 1 of each year to the chairs of the House of Representatives and Senate Appropriations Committees on Justice and Public Safety and the Joint Legislative Oversight Committee on Justice and Public Safety on the Inmate Grievance Resolution Board. The annual report shall include the following with respect to the prior fiscal year:

- (1) Brief summary of the inmate grievance process.
- (2) Number of grievances submitted to the Board.
- (3) Number of grievances resolved by the Board.
- (4) Type of grievance by category.
- (5) Number of orders filed by examiners.

#### 1. Brief Summary of the Inmate Grievance Process.

##### Introduction:

Pursuant to North Carolina General Statute § 148-118.1, the North Carolina Department of Public Safety has established an Administrative Remedy Procedure by which inmate (or, offender) grievances may be registered and addressed. See NCDPS-Prisons Policy & Procedures G.0300 (copy attached).

**Communication of the Procedure:**

Every inmate is given written notification of the grievance process upon intake into the prison system, along with a verbal explanation and the opportunity to ask questions. The procedure is also posted at every prison facility. If the inmate is not capable of understanding the procedure or completing the grievance form, he or she may request assistance from fellow offenders (where permissible based on their classification and/or housing assignment) or from staff.

**Submission of Complaints:**

The procedure encourages offenders to initially attempt to resolve their grievances with prison staff informally. If an offender cannot resolve his or her grievance informally, they may file a written grievance regarding their complaints. The grievance is required to be submitted by the offender individually, although, in certain situations, offenders may assist each other in preparing their grievance forms. In situations regarding sexual abuse or assault, the complaints may also be submitted by third parties. Each grievance should be concerning a specific action, incident, policy, or condition within the facility or within Prisons as a whole. Offenders are limited to addressing a single issue per grievance.

Offenders may also submit emergency and confidential grievances. Emergency grievances are defined as matters which present a substantial risk of physical injury or other serious and irreparable harm to the grievant if regular time limits are followed. These grievances bypass the ordinary review process, as set forth below, and are forwarded immediately to the facility head or to the level at which corrective action can be taken for review. Confidential grievances may be submitted directly to the Director of Prisons and may be mailed as legal mail. Reprisals or retaliation for an offender's use of the grievance process is explicitly prohibited.

**Rejection of Grievances:**

Grievances are reviewed by screening officers (which are appointed by facility heads or their designees) for acceptance or rejection. Reasons for rejection are limited and set forth in Section .0306 of the Administrative Remedy Procedure. Grievances that allege sexual abuse or sexual harassment may not be rejected by the Department. In the event such a grievance is received, the Department's PREA (Prison Rape Elimination Act) Office must be immediately notified. Such grievances are immediately escalated to Step 2 and must be investigated by a specially-trained PREA investigator.

**Time Limitations:**

Time limitations are imposed on both the submission of grievances and their review. All offender grievances must be submitted within ninety days of the alleged incident. And, all grievances should complete the review process within ninety days of the date of acceptance of the grievance. If at any point in the process a response is not made within the prescribed time limit, the grievance is automatically forwarded to the next step of review. Prisons may grant an extension of time to respond for up to 70 days, if the normal time period for response is insufficient to make an appropriate decision. The offenders are to be notified of any extensions.

## **Grievance Review Process:**

The grievance process is comprised of three steps, as follows:

### **Step 1:**

An offender may submit a grievance to any staff member, the facility head, or other designated screening officer by using Form DC-410, which are readily available to the inmate population. The facility grievance screening officer reviews the grievance and, under criteria set forth in policy, decides whether to accept the grievance or to reject it. If the grievance is rejected by the screening officer, the offender is informed of the rejection reason in writing and he or she has the opportunity to appeal the rejection to the facility head. Acceptance or rejection should be accomplished within three days.

If the screener accepts the grievance for consideration, it is forwarded for review by the staff member whom the screening officer believes can best provide information related to the grievance. The assigned staff member should prepare a written response and provide supporting documentation, which is returned to the screening officer. The screening officer shall meet with the offender to explain the response and, if feasible, to attempt to resolve the grievance. The facility head or designee then prepares a formal written Step 1 response within fifteen days based upon the information gathered by the screening officer. The response is presented to the offender and they sign to designate whether they agree or disagree with the response, including whether they wish to appeal the grievance to Step 2 of review, within twenty-four hours per the policy.

### **Step 2:**

At Step 2, the facility head, or designee, may investigate the grievance and reviews the Step 1 findings and response to the offender. After the investigation, the facility head, or designee, completes a written response that indicates the Step 2 decision and the reasons for the decision, and has this response delivered to the offender. This is to be accomplished within twenty days of receipt of the offender's appeal. If the subject of the offender's grievance is the alleged action or inaction of the facility head, then the grievance will be forwarded to the Prisons Region Director for completion of Step 2 review. Again, the response is presented to the offender and they sign to designate whether they agree or disagree with the response, including whether they wish to appeal the grievance to Step 3 of review, within twenty-four hours per the policy.

### **Step 3:**

If the offender is not satisfied with the Step 2 decision, he or she may appeal to the Secretary of Public Safety, who has delegated this task to the Inmate Grievance Resolution Board. If the offender appeals, the facility screening officer immediately forwards the completed grievance form to the Executive Director of the Inmate Grievance Resolution Board. The Executive Director assigns every grievance to an Inmate Grievance Examiner.

The Inmate Grievance Examiners investigate offender grievances pursuant to the procedures established by the Administrative Remedy Procedure. They may conduct an independent investigation limited to the specific issues brought forward in the grievance or they may rely on the investigations already

completed. They may attempt to resolve grievances through mediation with all parties, may order such relief as is appropriate, or may deny the grievance. The decision of the grievance examiner is binding unless the Secretary of Public Safety: (i) finds that such relief is not appropriate; (ii) gives a written explanation for this finding; and (iii) makes an alternative order of relief or denies the grievance. North Carolina General Statute § 148-118.8(b).

The decision of the grievance examiner, or the modification by the Secretary, constitutes the final step of the Administrative Remedy Procedure. Both state and federal law require an offender to exhaust his or her administrative remedies prior to filing a lawsuit against the Department. See North Carolina General Statute § 148-118.2 and, for federal guidelines, 42 U.S.C. § 1997e(a).

## **2. The Number of Grievances Received By the Board.**

In fiscal year 2017-2018, the Inmate Grievance Resolution Board received 13,351 offender grievances. This represents a 2.5% decrease in the number of grievances received compared to FY 2016-2017.

## **3. The Number of Grievances Resolved By the Board.**

For purposes of this answer, a grievance is considered “resolved” if it has completed Board review and a final response has been mailed to the offender. In fiscal year 2017-2018, the Inmate Grievance Resolution Board resolved 12,642 offender grievances. This number varies from the number received because grievances are received on a daily basis and a grievance received in one fiscal year may not be resolved until the next fiscal year.

## **4. The Type of Grievances by Category.**

During fiscal year 2017-2018, the Board received grievances in the following categories and in the following numbers:

Categories	Count
ADA	44
CANTEEN/MONEY	651
CLASSIFICATION/CONTROL	361
CLOTHING	215
COURTS	30
CUSTODY STAFF CONDUCT	3,056
DENTAL	181
DISCIPLINARY	194
EDUCATION	35
FOOD/DIET	457
MAIL	568
MAINTENANCE	884
MEDICAL STAFF CONDUCT	4,242
MENTAL HEALTH	125

OTHER	1,840
PERSONAL PROPERTY	866
PHARMACY/MEDICATION	79
PREA/UNDUE FAMILIARITY	218
PROGRAMS	1,211
RELEASE/PAROLE	136
RELIGION	341
SECURITY/THREATS	186
TELEPHONE/TV	77
TRANSFER	537
VISITATION	74
<b>Total</b>	<b>16,608*</b>

\*Total from total received provided above (13,351) and the total reflected have a discrepancy due to more than one category selection by the screening officer. This option has been resolved for FY 2018-2019 by a software revision. Screening officers now select only one category, which best fits the grievance subject. Further, the chart reflected above differs from that provided in FY2016-2017 due to the addition categories to allow for more detailed tracking information and will continue to be refined in FY2018-2019 as needed to track offender grievances.

#### **5. The Number of Orders Filed By the Board.**

To date, the Board has considered every written response to be an order written. By that measure, the Board wrote 12,642 orders in fiscal year 2017-2018. The disposition or merit codes of grievances are listed below:

<b>Merit Code</b>	<b>Count</b>
Dis.-Lacks merit	842
Dis.-Lacks supporting	3,420
Dis.-Out of scope	176
Dis.-Unable to substantiate	1,284
Inmate no longer pursuing	11
Inmate paroled/released	123
Resolved-DOC Staff	5,838
Resolved-IGRB Staff	948
<b>Total</b>	<b>12,642</b>