

CHAPTER 2

GRIEVANCE PROCEDURES

2-001 Applicability: The provisions of this rule shall apply to the Youth Rehabilitation and Treatment Centers and all other juvenile correctional institutions operated by the Department of Health and Human Services.

2-002 Departmental Policy: It is the policy of the Department to provide a youth with a procedure for the administrative settlement of a legitimate grievance. Most valid grievances can be resolved quickly through informal direct contact with the staff of the institution who have responsibility for the particular area in which the problem arose. Youth must use such a method prior to initiating a formal grievance. A grievance shall not be considered a formal grievance until the youth has initiated the grievance procedure by submitting a Step-One Grievance Form to his/her Chief Executive Officer's designee. Any topic may be the subject of a grievance, except matters over which the Department has no control and youth disciplinary actions. Disciplinary actions are appealable under the procedure described in Chapter 7.

2-003 Grievance Principles: The following guidelines shall be applied to the grievance procedure.

2-003.01 Persons Filing: Each youth in the custody of the Department shall be permitted to report a grievance.

2-003.02 Informal Resolution: Youths shall communicate their concern to the unit staff member who can most adequately respond. If dissatisfied with the informal response the youth may file a grievance for formal resolution.

2-003.03 Method of Processing Step-One Formal Grievance: If the response on the youth concern is unacceptable, the youth may file a complaint with the Chief Executive Officer on a Step-One Grievance Form. Such grievances shall be transmitted without alteration, interference or delay to the appropriate staff members who are authorized to receive and investigate grievances.

2-003.04 Adverse Action: No youth who utilizes the informal or formal grievance procedure shall be subject to any type of disciplinary sanction or other adverse action for exercising the right to report grievances. However, language used in grievances is subject to Chapters 6 and 7 of these Rules.

2-003.05 Prompt Written Response: Each grievance shall be reviewed and, if necessary, investigated further. The grievant shall receive a prompt written response insofar as possible. Extenuating circumstances such as illness, injury, or unavailability of a witness may lengthen the response time. The response shall indicate the suggested disposition of the grievance.

2-003.06 Confidentiality: Youth grievances shall be treated in a confidential manner. Only those individuals whose involvement is needed to complete the investigation of the grievance shall be made aware of its existence. Individuals contacted during an investigation shall only be made aware of the information needed to allow them to contribute meaningfully to the investigation. Consistent with ensuring confidentiality, staff who participate in the disposition of a grievance shall have access to records essential to the resolution of the grievance. If the youth is of the opinion that a grievance is of a sensitive nature, a grievance may be filed directly with the Protection and Safety Division Administration and mailed as privileged mail. The youth must clearly explain the nature of the complaint and the reasons for not following the regular grievance procedure. If the Protection and Safety Division Administration determines that the grievance is not of a confidential nature, the grievance shall be returned to the youth. After consideration of the grievance and determination that it is of a confidential nature, the Protection and Safety Division Administration shall conduct any necessary investigation. If the investigation indicates that action should be taken, the Protection and Safety Division Administration shall cause the appropriate steps to be taken to resolve the grievance.

2-004 Grievance Procedure: The following procedure shall apply to youth grievances.

2-004.01 When an youth communicates a concern for informal resolution, unit staff will log the informal grievance and investigate the complaint. Unit staff will investigate the complaint and communicate a response to the youth.

2-004.02 If a youth wishes to pursue a formal grievance it is the youth's responsibility to secure the required Step-One Grievance Form. The Grievance Form may be obtained from the youth's unit staff. If more room is required, the youth may attach additional information. Such grievances must be filed within 15 calendar days of the receipt of the informal response, or if no response was received, within 20 calendar days of the incident giving rise to the complaint. The youth may address only one issue on a formal grievance or it will be returned to him/her. If the youth did not receive a response to his/her concern, he/she must attach a copy of the original submission so indicating. The formal grievance process shall begin when the youth has completed the youth portion of the Step-One Grievance Form and submitted it to the Chief Executive Officer's designee. Upon receipt of the Grievance Form from the youth, the Chief Executive Officer's designee shall sign and date the Grievance Form, which invokes the time limit provided in subsection 004.03, below.

2-004.03 The Chief Executive Officer's designee shall review and, if necessary, further investigate the grievance. The results shall be communicated to the Chief Executive Officer and include a proposed resolution of the grievance. The Chief Executive Officer will review the suggested relief, and will forward a written response to the youth within ten working days after receipt of the grievance. The response shall include a brief statement of the reason or reasons for the decision reached.

2-004.04 If the youth wishes to appeal the relief suggested, he/she shall then obtain a Step-Two Grievance Form from unit staff for appeal to the Protection and Safety Administration.

2-004.05 If the youth decides to appeal to the Protection and Safety Administration, the youth shall submit the Step-Two Grievance Form to the Director or designee by inter-office mail within 10 calendar days after receipt of the Chief Executive Officer's response. If the grievance is in an envelope it shall be clearly marked to indicate that it contains a Grievance Form. It may be mailed in compliance with the Department's rules governing privileged mail. The youth may include additional information on the Grievance Form, which information shall also be submitted to the Chief Executive Officer.

2-004.06 The Protection and Safety Division Administration shall acknowledge receipt of the Step-Two Grievance Form immediately, complete the appropriate portion of the form, and then return the form to the youth with a copy to the Chief Executive Officer within fifteen working days of its receipt. The Protection and Safety Division Administration may rely upon the information compiled by the Chief Executive Officer's investigation or conduct additional investigation. The Protection and Safety Division Administration is not bound by a previous decision to deny the relief suggested by the Chief Executive Officer.

2-004.07 A youth shall be limited to two formal Step-One grievances per week, except for valid emergency grievances. Emergency grievances are those matters which must be resolved quickly because if the standard grievance time limits were used the youth would be subjected to a substantial risk of personal injury or other serious and irreparable harm.

2-005 Other Remedies Not Precluded: Youths shall be allowed to communicate grievances to persons outside the Department and nothing herein shall preclude an youth from communicating a grievance to the Office of the State Ombudsman, legislators, attorneys, courts, or other appropriate individuals or groups at any time.

2-005.01 Claims against the Department involving miscellaneous or tort claims for money damages may be filed pursuant to the State Tort Claims Act. Each institution will provide youth with information about this process upon request.

2-005.02 Each facility shall ensure that youths confined there have reasonable access to courts.

2-005.03 Youths will be permitted to circulate petitions for signatures as long as the petitions do not violate or propose a violation of the Department's rules or state or federal law, or interfere with the security or good order of the facility.

The petition shall be considered by the Chief Executive Officer or the Protection and Safety Division Administration when responding to the grievance which the petition concerns as long as the petition is attached to the grievance or grievance appeal or is submitted to the Chief Executive Officer or Protection and Safety Administration before the grievance or grievance appeal has been answered. A copy of the petition will be kept by the Chief Executive Officer, Protection and Safety Administration, along with the record of the grievance which the petition concerns. The petition shall also be included in the youths' permanent file.