



Grievance and Appeal Process Policy Number 148

Policy:

This policy was developed as a guideline designed to allow participants to register grievances against a staff member in a fair and reasonable manner. These procedures provide guidelines for handling grievances and appeals by participants and staff in such a manner as to create a fair and balanced decision for the participant and staff member alike.

The following general principles shall apply to each disciplinary action taken:

1. A conduct/incident report of the violation committed by a participant must be submitted by the staff member within twenty-four (24) hours of the incident occurring.
2. Disciplinary action shall be taken at such times and in such measures and degree as is necessary to manage a participant's behavior within acceptable limits.
3. Participant behavior shall be managed in an unbiased manner.
4. Disciplinary action shall not be retaliatory or for the purpose of revenge.
5. Corporal punishment of any kind is strictly prohibited.
6. A participant shall be allowed an appeal hearing prior to a determination of guilt or innocence or prior to the imposition of any disciplinary action if they do not admit to the allegations in the disciplinary report.
7. The participant will be given an opportunity to respond to conduct by a staff member in the form of a grievance report.

Timeline for Filing a Grievance

1. A grievance report about the conduct of an employee by a participant must be submitted to the Assistant Director within twenty-four hours of the incident. No grievance complaints by a participant will be accepted after the twenty-four-hour (24) deadline.
2. If there are mitigating circumstances that in the view of the Assistant Director warrant extending the twenty-four-hour (24) time limit the Assistant Director may do so.
3. If an extension is granted, both the participant and the staff member are to be notified in writing at the time the extension is granted.
4. Complaints pertaining to enhanced case plan requirements or "learning experiences" cannot be grieved.

Interviews and Investigation

1. The staff member and the complaining participant will be interviewed separately by the Assistant Director within seventy-two (72) hours.
2. If the grievance is severe in nature, the Director and Assistant Director will review the grievance prior to interviewing the parties involved.
3. The Assistant Director should carefully examine the grievance to make a determination if the grievance has been filed as retaliation against the staff member.
4. If the grievance appears to be frivolous or reciprocal, the Assistant Director shall meet with the participant and explain this finding. Both the participant and staff member should receive a written notice of this finding.
5. If the grievance does not warrant a hearing due to the participant's obvious or admitted violation of the program policies or procedures, the Assistant Director will advise the participant in writing as to why there will not be a hearing. The matter will not proceed any further.

Evidence and Documentation

1. All documents concerning the grievance will be kept in the participant's permanent file.
2. Any video evidence will be stored in a file on the Assistant Director's computer.
3. Any physical evidence will be kept in a locked storage space.

4. Physical evidence must be marked with the participant's name and the date of the incident, then sealed, signed, and dated by the person storing the evidence.
5. The person sealing the evidence bag should sign and date the bag by the opening, then place enough clear packing tape over the signature, date, and opening so that the opening is completely sealed.
6. Any evidence of a crime that could result in criminal charges must be turned over to the investigating law enforcement agency.

Report of Findings

1. The findings of the review will be reported to the participant and the staff member within twenty-four (24) hours in writing.

Disciplinary Action

1. If the participant's action warrants disciplinary action or any disciplinary action should be upheld the Assistant Director will inform the case manager and the participant in writing as soon as the action has been determined.
2. If the Assistant Director believes that it may be necessary to take disciplinary action against the staff member, the Director must be involved.

Appeal:

1. A request for an appeal of the staff member's conduct and incident report against a participant must be submitted by the participant in writing within twenty-four (24) hours to the Director, Assistant Director, or case manager.
2. The Director, Assistant Director, and a third-party staff member not directly involved in the disciplinary action will review the report.
3. A review of the conduct/incident report must take place within five days of the report.
4. The case manager will report the findings of the review to the participant within twenty-four hours.
5. Minor violation appeal requests must be submitted to the Director, Assistant Director, or the case manager, within twenty-four hours.
 - a. Appeals which do not admit guilt within the body of the appeal will go to an Appeal Board review process.
 - b. Appeals which admit guilt within the body of the form will result in a written response from the Assistant Director regarding the outcome of the appeal.
 - c. A copy of the response will be stored in the participant's file.
6. Major violations cannot be appealed because all major violations will be referred to the Prosecutor and the sentencing court by the case manager.

Appeal Hearing Notification:

1. For appeals which the Assistant Director finds merit, the Assistant Director will notify the participant and involved staff members that the appeal will be going to a Disciplinary Appeal Hearing. The notice will include the following:
 - a. The date, time, and location of the hearing
 - b. The involved parties' right to request witness statements for individuals witnessing the alleged violation.
 - c. The participant's right to request a lay advocate and the process by which they can request an advocate.

Appeal Hearing Process

1. The hearing will take place in a location that provides video and audio recording.
2. The Director, Assistant Director, and case manager will serve as the appeal board.
 - a. If one of the aforementioned staff members was involved in the incident, an unbiased third-party staff will also be present.
3. Staff account given with any pertinent evidence
4. Participant account given along with explanation for appeal and any pertinent evidence.
 - a. The participant has a right to be present at the appeal board hearing during all presentations of evidence.
 - b. The participant has a right to present witness statements as evidence.
 - i. If they would prefer for their witness to give an in-person statement, they may request the witness to be present during the time of the hearing.
 - ii. Individuals who were not present should not be considered as witnesses.

5. Appeal Board has opportunity to ask questions of both staff and participant
6. Staff and participant excused for Appeal Board meeting and conclusion
7. Appeal Board completes the Appeal Board form and signs
8. Staff and participant meet with Appeal Board for outcome and also to sign the form
9. Copies of Appeal Board form to case manager and participant; original attached to incident report given to Director.

Confidential Informants

1. For the safety and security of the individuals in the facility, the 7th Circuit Court has ruled that the individual facing the allegations does not have the right to face their accuser under these circumstances.
2. The facility must prove the confidential informant is a reliable source.
 - a. For these purposes, the officer's oath will suffice that the confidential informant is reliable.
3. If information is obtained from a confidential informant, the officer who took the statement must explicitly state in the incident report the following statement:
 - a. I swear and affirm under the penalty of perjury that the confidential informant's testimony is fair and true.
4. The officer who took the statement must ALSO appear at the hearing and swear under penalty of perjury that the confidential informant's testimony is fair and true.

Request for Video Evidence

1. A written request for video evidence may be sent to the Director within twenty-four (24) hours of the incident. Video evidence includes cameras located inside and outside of Community Corrections and Security Center, and body cameras used during field contacts and searches. The Director or designee must first determine if such evidence exists. If the video evidence does not exist, the Director or designee will provide a written response to the participant within seventy-two (72) hours of receiving the request. If video evidence does exist, the Director or designee will review the video evidence and provide a written response within seventy-two (72) hours of receiving the request. The response shall include the following:
 - a. Date and Time of incident
 - b. Camera used during review
 - c. Description of incident
2. The Community Corrections Advisory Board is responsible for overseeing the manner in which the business of the facility is handled. The Community Corrections Advisory Board President oversees the Advisory Board. If an individual under Community Corrections supervision is not satisfied with the Director's response, he or she may send a written request to the Advisory Board President. A special committee comprised of Advisory Board members would review the video evidence and send a written response to the individual within seventy-two (72) hours of receiving the request.
3. In the event that the individual is still not satisfied after receiving the Advisory Board's response, the individual still has the right to obtain legal counsel.