



## Offender Grievance Procedure Notification

All offenders incarcerated in Department of Correction's institutions are entitled to a grievance process in order to resolve their issues and/or complaints related to their conditions of incarceration. A complete explanation of the grievance process is available in Operating Procedure 866.1 *Offender Grievance Procedure*, which outlines the statewide provisions for all DOC institutions. Each institution also maintains an Implementation Memorandum that outlines specific information on how the grievance process operates at that facility.

This notification provides a brief summary of the grievance process and does not provide a complete review of the *Offender Grievance Procedure*. Offenders are encouraged to read Operating Procedure 866.1, *Offender Grievance Procedure*, and the institution's Implementation Memorandum, which must be available for your review in designated locations.

The Institutional Ombudsman is responsible for the day-to-day operation and overall monitoring of the grievance process at the institution and can answer any question on the grievance procedure and/ or assist offenders in accessing the operating procedure and Implementation Memorandum.

- ❖ Federal and state laws require offenders to exhaust available administrative processes prior to filing a lawsuit on their conditions of incarceration. However, not all issues are grievable. Grievable and Non-Grievable issues are as follows
  - Grievable issues include:
    - Substance or administration of operating procedures
    - Actions of staff, contractual staff, volunteers, interns, and offenders
    - Retaliation against the offender for using the *Offender Grievance Procedure*
    - DOC's administration of the Interstate Compact Agreement
    - Conditions of care under the authority of the DOC
  - Non-Grievable issues include:
    - Disciplinary hearing decisions, penalties and/or procedural errors, which may be appealed in accordance with Operating Procedure 861.1, *Offender Discipline, Institutions*
    - Regular Grievance Intake Decisions; must be appealed through established process
    - Limitation Decisions; must be appealed to the Regional Administrator through established process
    - State and Federal laws, regulations, and court decisions
    - Policies, procedures, and decisions of other agencies including the Parole Board, the Board of Corrections, and the Virginia Department of Transportation (VDOT)
    - Issues yet to occur
    - Other issues beyond the control of the DOC
- ❖ Offenders must first try to resolve their issue through the informal complaint process by discussing their issue with staff for a quick resolution. If the issue is not resolved, a *Written Complaint* 866\_F3 may be submitted within 15 days of the original incident or discovery of the incident. A *Written Complaint* is not required when an offender alleges sexual abuse or sexual harassment and when other documentation satisfies the informal complaint process, such as for classification hearings, disapproved correspondence/ publications, and confiscated property.
- ❖ If the issue on the *Written Complaint* is not resolved or staff fail to provide a response within 15 days, offenders may submit a *Regular Grievance* 866\_F1. The *Regular Grievance* must be received by designated staff within 30 days from the date of the original incident or discovery of the incident. *Regular Grievances* are only available during waking hours.
- ❖ If an offender does not agree with the response, disposition, or remedy to their *Regular Grievance*, the offender has 5 days to submit an appeal.
- ❖ Offenders are accountable for how they use the grievance process. An offender's use of the grievance procedure to resolve their issues is not normally cause for disciplinary action, unless, the written grievance document or related offender action are subject to disciplinary action in accordance with Operating Procedure 861.1, *Offender Discipline, Institutions*. The Facility Unit Head can limit any offender who uses the grievance process other than in good faith.

An offender must complete the *Regular Grievance* process to include submission of an *Appeal* prior to initiating litigation; the filing of an *Emergency Grievance* does not satisfy the exhaustion requirement.
- ❖ A grievance regarding an allegation of sexual abuse or sexual harassment is exempt from the informal complaint process, exempt from 30 day filing deadline, and may be initiated by a third party on the victim's behalf.

There is an emergency grievance process for situations, which may subject the offender to immediate risk of serious personal injury or irreparable harm. *Emergency Grievances* 866\_F4 are available on a 24-hour basis. There is an eight-hour time limit for staff response or sooner when necessary to protect the offender from serious personal injury or irreparable harm.

