

**GENERAL DISTRIBUTION**

**WEST VIRGINIA  
DIVISION OF CORRECTIONS  
& REHABILITATION**

**NUMBER: 129.07**

**DATE: 29 November 2021**

**SUBJECT: EMPLOYEE GRIEVANCE  
PROCEDURE**

# **POLICY DIRECTIVE**

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**PURPOSE:**

To maintain a mechanism that ensures employees of the Division of Corrections and Rehabilitation have an equitable and consistent procedure for the resolution of grievances.

**REFERENCE:**

WV Code §6C-2-1, *et seq.*; and the West Virginia Public Employees Grievance Board Procedural Rule 156CSR1 *et seq.*

**RESPONSIBILITY:**

No additional written instructions on this subject are required.

**CANCELLATION:**

Any previous written instructions on this subject including DCR Policy Directive 129.07, dated 15 July 2021.

**APPLICABILITY:**

All facilities and work units within the Division of Corrections and Rehabilitation (DCR). This Policy is available for general distribution.

**DEFINITIONS:**

**Days:** Working days are days exclusive of Saturday, Sunday, or official state holidays. For the purposes of this Policy Directive, working days shall refer to normal administrative hours of operation for the business office of each facility and Central Office, being from 8:00 a.m. until 4:00 p.m. Unless otherwise specified, working days shall not refer to a specific employee's hours of work.

**Employee:** Any permanent status employee (including probationary employees) of the State of West Virginia working at Central Office, a correctional facility or other work unit within the West Virginia Division of Corrections and Rehabilitation. For the purposes of this policy, this does not include temporary employees, contractors and their employees or volunteers.

**POLICY:**

- I. Employees of the West Virginia Division of Corrections and Rehabilitation are covered by the West Virginia Employees Grievance Procedure (WV Code §6C-2-1, *et seq.*). The intent of the Grievance Procedure is to foster an environment in which grievances can be resolved at the lowest possible administrative level. The Legislation also intended that management and employees use this procedure in an atmosphere of cooperation which will balance the rights and interests of the employees, management and the citizens of the state.
- II. The basic steps of the Grievance Procedure are outlined below. More detailed information, including copies of all required forms, can be obtained at the West Virginia Public Employees Grievance Board website <https://pegb.wv.gov/Pages/default.aspx>. An employee may designate a representative who may be present at any step of the procedure, as well as at any meeting that is held with the employee for the purpose of discussing or considering disciplinary action. In the event of any conflict between this policy and the applicable provisions of the West Virginia Code, the West Virginia Code shall control.
  - A. Level One – WV Code §6C-2-4 (a)
    1. The grievant must file the grievance form by United States Postal Service mail, facsimile or hand-delivery to the Commissioner of the Division of Corrections and Rehabilitation within fifteen (15) days of the grievable event and must indicate whether a conference or hearing is desired. The grievant must also submit a copy of the grievance form to the West Virginia Public Employee's Grievance Board at 1701 5th Avenue, Suite 2, Charleston, WV 25387 and the Division of Personnel at 1900 Kanawha Boulevard East, Building 3, Suite 500, Charleston, WV 25305.
    2. The Commissioner or his/her designee must hold the conference within ten (10) days of receipt of written grievance or a hearing within fifteen (15) days of receipt and issue a written decision within fifteen (15) of the chosen proceeding.
  - B. Level Two – WV Code §6C-2-4 (b)
    1. Grievant may appeal the level one decision within ten (10) days of receiving the level one decision and must indicate which method of alternative dispute resolution is desired. Generally, the Division of Corrections and Rehabilitation will not consent to private mediation or private arbitration. The Commissioner retains authority to determine the method of dispute resolution at level two.

2. The alternative dispute resolution proceeding is to be scheduled within twenty (20) days and the outcome of this proceeding is to be documented, in writing, within fifteen (15) days.

C. Level Three – WV Code §6C-2-4 (c)

1. Grievant may appeal to the Grievance Board within ten (10) days of receiving the level two decision to request a level three hearing. A copy of this appeal must be sent to the Commissioner and the Director of the Division of Personnel.
2. The Administrative Law Judge shall schedule the level three hearing within a reasonable time in consultation with all parties.
3. The Administrative Law Judge must issue a written decision within thirty (30) days of the hearing.
4. Pursuant to WV Code §6C-2-4 (a)(4), a grievant may proceed to level three for the two reasons set forth below. If a grievance proceeds directly to level three, the level one and level two proceedings are waived.
  - a. With a written agreement between the grievant and the Commissioner; or
  - b. When the grievant has been discharged, suspended without pay, or demoted or reclassified resulting in a loss of compensation or benefits.

D. The following are not legitimate grievance matters.

1. When authority to act is not vested with the employer;
2. Relating to public employee retirement;
3. Relating to public employee insurance.

III. It shall be the duty of the respective Superintendent/Director or his/her designee to prepare for and present any necessary information, evidence, and witness testimony at any level one conference or hearing. In more complex cases, the Superintendent/Director may request assistance of the legal section. All Superintendents/Directors shall personally appear at any mediation or shall designate a staff member with full settlement authority relating to the matter.

**ATTACHMENT(S):** None.

**APPROVED SIGNATURE:**

  
Betsy C. Jividen, Commissioner

11-29-21  
Date