

GENERAL DISTRIBUTION

**WEST VIRGINIA
DIVISION OF CORRECTIONS
& REHABILITATION**

NUMBER: 335.02

**EFFECTIVE DATE: 08 August 2022
(AMENDED)**

**SUBJECT: JUVENILE RESIDENT RIGHTS
& GRIEVANCE PROCEDURES**

POLICY DIRECTIVE

PURPOSE:

To ensure juvenile residents are provided a copy of their statutory rights and to provide a grievance procedure for residents to grieve the actions of staff and conditions and circumstances in the facility.

REFERENCE:

WV Code §49-4-721; Performance-based Standard (PbS) Outcome Measure Justice 01 and 04; and Prison Rape Elimination Act (PREA) §§115.351, 115.352, and 115.361.

RESPONSIBILITY:

No additional written instructions on this subject are required.

CANCELLATION:

Any previous written instruction on the subject including DJS Policy 334.00, dated 01 January 2018.

APPLICABILITY:

All Bureau of Juvenile Services (BJS) facilities within the Division of Corrections and Rehabilitation (DCR). This Policy is available for general distribution and shall be made available for juvenile resident review upon the effective date.

DEFINITIONS:

None.

POLICY:

- I. As required by WV Code §49-4-721, the Bureau of Juvenile Services (BJS) will ensure that each resident under its jurisdiction is furnished with a copy of the rights provided by state code and listed on the Bureau of Juvenile Services Resident Rights/Handbook Acknowledgement (**Attachment #1**). Each resident will sign the acknowledgement and signed forms will be uploaded into the Offender Information System (OIS).
- II. BJS has also assured the following rights are provided to residents under its jurisdiction:
 - A. Basic hygiene items at no cost;
 - B. To be free from discrimination based on race, religion, national origin, gender, or physical handicap;
 - C. To be adequately protected from personal abuse, personal injury, disease, property damage, and harassment;
 - D. Immediate access to emergency dental care;
 - E. Access to religious material and service; and
 - F. To be provided due process safeguards as outlined in DCR Policy Directive 325.07.
- III. Each Superintendent is authorized to provide other privileges to all residents in his/her custody based on the purpose, mission and/or program of the facility to ensure that each resident is afforded quality care services.
- IV. **Resident Grievance Procedure** – There is a three (3) step grievance procedure available to all residents in the custody of the Bureau of Juvenile Services. These steps include a relevant staff member, facility Superintendent and the Assistant Commissioner of the Bureau of Juvenile Services/designee.
 - A. Residents are informed of the grievance procedure upon intake at the facility. There is no time limit for the filing of a resident grievance. Grievance Forms (**Attachment #2**) are available to all residents without the resident having to request a form.
 - B. Any issue that is unresolved by staff to a resident's satisfaction can result in a formalized grievance procedure. Residents shall not be required to discuss any grievance with any staff involved or unit staff prior to filing a grievance.
 - C. A resident may submit a written and signed grievance form to be placed in a locked Grievance Box located in an easily accessible area. This box can only be opened by the Superintendent or the Grievance Coordinator.
 - D. Any resident who has difficulty writing shall receive assistance in preparing his/her grievance.

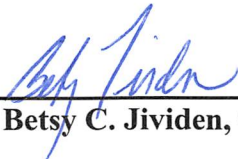
- E. The Superintendent shall assign a staff member, in writing, to be the Grievance Coordinator. In this capacity, the Grievance Coordinator will only report to the Superintendent. This person will not have direct contact with or supervision of residents and/or any interest in the outcome of the grievance. His/her duties include:
1. Collect the grievances or grievance appeals a minimum of three (3) times a week.
 2. Immediately notifying the Superintendent or designee of all grievances against staff member(s) regarding staff misconduct or when there is an allegation that a resident is in imminent danger.
 - a. In the event of a grievance alleging that a resident is in imminent danger, the complaint will be acted on immediately and, if the Superintendent determines the necessity, will place the resident in protective custody, per DCR Policy Directive 326.04.
 - b. An initial response will be forwarded to the resident within forty-eight (48) hours and shall issue a final decision within five (5) calendar days.
 3. In the event that the grievance alleges sexual abuse or sexual harassment, it will be immediately forwarded to the facility's Prison Rape Elimination Act (PREA) Compliance Manager. This will not be entered into the Grievance database.
 4. Uploading the grievance form and entering the resident's grievance verbatim into OIS. Complaints or appeals related to sexual abuse or sexual harassment will be handled by the facility's PREA Compliance Manager, including inputting information into OIS.
 5. Notifying the appropriate staff member to respond. (In cases where a staff member is the subject of a grievance, that staff member shall not answer the grievance.) For good cause, this deadline may be extended by the Grievance Coordinator, who will notify the resident, in writing, of the new deadline date and the reason for such extension. That extension information is also entered into OIS.
- F. Any staff member answering a grievance has a responsibility to:
1. Research the issue.
 2. Meet with resident to hear the issue, if necessary.
 3. Give his/her response to the Grievance Coordinator to be entered into OIS within seven (7) calendar days. A copy of the response will be given to the resident, regardless of resident's location within the Division. For good cause, the Grievance Coordinator may extend this deadline (once only) for another seven (7) calendar days. The resident will be notified in writing, of the new deadline date and the reason for such extension. That extension information is also entered into OIS.

- G. At any time, a resident may appeal a decision of the staff member to the Superintendent via the grievance box. All appeals to the Superintendent will be reviewed and a decision determined within seven (7) calendar days of receipt of the grievance appeal in OIS. That decision will be printed out and given to the resident. For good cause, this deadline may be extended by the Superintendent, who will notify the resident, in writing, of the new deadline date and the reason for such extension. That extension information is also entered into OIS.
- H. A resident may appeal at any time a decision of the Superintendent to the Assistant Commissioner/designee by placing the appeal in the grievance box. The Grievance Coordinator will upload the appeal into OIS and complete the process for an appeal by the Assistant Commissioner/designee.
- I. All appeals to the Assistant Commissioner/designee will be reviewed and a decision determined within seven (7) calendar days of receipt of the grievance appeal in OIS. The Grievance Coordinator will print out the Grievance report with the Assistant Commissioner's response in OIS and give to the resident for his/her signature and give the resident a copy. The Grievance Coordinator will upload the signed Grievance Report into OIS and shred the original grievance appeal and the original signed copy of the Grievance Report. For good cause, this deadline may be extended by the Assistant Commissioner/designee, who will notify the resident, in writing, of the new deadline date and the reason for such extension. That extension information is also entered into OIS.
- V. Third-Party Grievance Complaints – All complaints filed by a third-party on behalf of residents or former residents will be entered into OIS and forwarded to the appropriate Superintendent. All timelines will be based on the above-referenced timeframes for grievance procedures.

ATTACHMENT(S):

- #1 Bureau of Juvenile Services Resident Rights/Handbook Acknowledgement
- #2 Bureau of Juvenile Services Grievance Form

APPROVED SIGNATURE: _____


Betsy C. Jividen, Commissioner

7-27-22
Date

Bureau of Juvenile Services Resident Rights

BY YOUR ADMISSION INTO A JUVENILE DETENTION OR CORRECTIONAL FACILITY, AS PURSUANT TO WV STATE CODE §49-4-721, THE FOLLOWING ARE YOUR RIGHTS:

1. A juvenile may not be punished by physical force, deprivation of nutritious meals, deprivation of family visits or imposition of solitary confinement;
2. A juvenile shall be afforded an opportunity to participate in physical exercise each day;
3. Except for sleeping hours, a juvenile in a state facility may not be locked alone in a room unless that juvenile is not amenable to reasonable direction and control;
4. A juvenile shall be provided with his or her own clothing or individualized clothing, which is clean and supplied by the facility, and shall also be afforded daily access to showers;
5. A juvenile shall be afforded constant access to writing materials and may send mail without limitation, censorship or prior reading, and may receive mail without prior reading, except that mail may be opened in the juvenile's presence, without being read, to inspect for contraband;
6. A juvenile may make and receive regular local phone calls without charge and long-distance calls to his or her family without charge at least once a week and receive visitors on daily and on a regular basis.
7. A juvenile shall be afforded immediate access to medical care as needed;
8. A juvenile in a juvenile detention facility or juvenile corrections facility shall be provided access to education, including teaching, educational materials and books;
9. A juvenile shall be afforded reasonable access to an attorney upon request; and
10. A juvenile shall be afforded a grievance procedure, including an appeal mechanism.

By signing below acknowledges you have read/had read to you the above rights. You understand to follow all facility rules to the best of your abilities during your stay with the Bureau of Juvenile Services.

Resident signature: _____ Date: _____

Staff signature: _____ Date: _____

Resident Handbook

I, _____, do hereby affirm that I received a resident handbook.

Resident signature: _____ Date: _____

**BJS Grievance
Form**

(Facility Name)

TO: _____

DATE: _____

FROM: _____
(Last Name, First Name, Middle Initial)

(OID Number)

(Unit)

Grievance Received By: _____
(Grievance Coordinator)

(Grievance Number)

PART A – RESIDENT’S GRIEVANCE

SIGNATURE OF RESIDENT

DATE

PART B – RESPONSE

STAFF SIGNATURE & TITLE

DATE

IF YOU WISH TO APPEAL THE DECISION TO THE SUPERINTENDENT, PLEASE COMPLETE THE BACK SIDE OF THIS PAGE.

TO: SUPERINTENDENT _____

PART C – ADDITIONAL INFORMATION TO PART A

SIGNATURE OF RESIDENT

DATE

PART D – SUPERINTENDENT’S RESPONSE

SIGNATURE OF SUPERINTENDENT

DATE

IF YOU WISH TO APPEAL THE SUPERINTENDENT’S DECISION TO THE ASSISTANT COMMISSIONER OF THE BUREAU OF JUVENILE SERVICES, PLEASE COMPLETE PART E. Category 1 only

PART E – ADDITIONAL INFORMATION TO PARTS A & C

SIGNATURE OF RESIDENT

DATE