

ICE/DRO RESIDENTIAL STANDARD

GRIEVANCE SYSTEM

I. PURPOSE AND SCOPE. Residents are provided a procedure by which they may file formal grievances and receive timely responses.

II. EXPECTED OUTCOMES. The expected outcomes of this Standard are as follows:

1. Residents will be informed about the facility's informal and formal grievance system.
2. Staff and residents will mutually resolve most complaints and grievances orally and informally in their daily interaction.
3. Residents will be able to file formal grievances, and receive written responses, in a timely manner.
4. Residents will be able to file emergency grievances that involve an immediate threat to their safety or welfare.
5. Residents will be able to appeal decisions on grievances to a higher level (Resident Grievance Committee or designated single Grievance Staff) and, if still not satisfied, to the facility administrator.
6. Accurate records will be maintained on grievances filed and their resolution.
7. No resident will be harassed, disciplined, punished, or otherwise retaliated against for filing a complaint or grievance.
8. Where required, residents have regular access to translation services and/or are provided information in a language that they understand.
9. The standard complies with federal laws and with DHS regulations regarding residents with special needs.

III. DIRECTIVES AFFECTED. None

IV. REFERENCES

The First Edition National Residential Standards were written using a variety of methodologies including previous and current practices, review and comment from various subject matter experts, review and comment from various government and non-government organizations, and a review of current state codes in Pennsylvania and Texas. Each standard is written in a manner that affords each resident admission and continuous housing to a family residential facility in a dignified and respectful manner.

There are no specific codes, certifications, or accreditations that deal specifically with unique management requirements of families awaiting the outcome of their immigration proceeding in a non-secure custodial environment.

American Correctional Association Standards for Adult Local Residential Facilities, 4th Edition: 4-ALDF-2A-27, 6A-07, 6B-01.

V. EXPECTED PRACTICES

1. Written Procedures Required

Each facility shall have written policy and procedures for a resident grievance system that:

- Establishes a procedure available to all residents to file a formal grievance
- Establishes reasonable time limits for:
 - Processing, investigating, and responding to grievances
 - Convening a grievance committee to review formal complaints
 - Providing written responses to residents who filed formal grievances, including the basis for the decision
- Establishes a special procedure for time-sensitive emergency grievances; and defines an “emergency grievance”
- Ensures each grievance receives supervisory review
- Provides at least one level of appeal
- Includes guarantees against reprisal.
- Ensures information, advice, and directions are provided to detainees in a language they can understand, or that interpretation/translation services are utilized.

2. Informing Residents About Grievance Procedures

The facility shall provide each resident, upon admittance, a copy of the resident handbook or equivalent form of communication, which provides notice of the following in English, Spanish, and other languages most widely spoken among the residents. Interpretation or translation services will be provided to residents who are not proficient in English. This shall contain a grievance section that provides notice of:

- The expectation that many complaints and grievances can and should be handled orally and informally by staff in their daily interaction with residents.
- The opportunity to file a grievance, both informal and formal.
- The procedures for filing a grievance and an appeal, including the availability of assistance in preparing a grievance.
- The procedures for resolving a grievance or appeal, including the right to have the grievance referred to higher levels if the resident is not satisfied that the grievance has been adequately resolved.
- The procedures for contacting the ICE/DRO to appeal a grievance decision of the facility administrator.
- The policy prohibiting staff from harassing, disciplining, punishing, or otherwise retaliating against any resident for filing a grievance
- The opportunity to file a complaint about staff misconduct directly to the Department

of Homeland Security, Office of the Inspector General by calling (800) 323-8603, or by writing to:

Department of Homeland Security
245 Murray Drive, S.E., Building 410
Washington, DC 20538
Attn: Office of Inspector General

Email to: DHSOIGHOTLINE@DHS.GOV

3. Grievance Procedure

a. Informal/Oral Grievance

Staff at every facility shall make every effort to resolve a resident's complaint or grievance at the lowest level possible, in an orderly and timely manner.

Staff who receive a resident's oral complaint or grievance shall:

- 1) Attempt to resolve the issue informally if the issue is within his or her scope of responsibility, or
- 2) Notify the appropriate supervisor of the grievance as soon as practical.

The supervisor may try to resolve the matter or advise the resident to initiate a written grievance.

Informal oral resolution offers the resident the opportunity to resolve his or her cause for complaint before resorting to the more time-consuming written formal procedure.

The facility administrator, or designee, shall establish procedures for residents to orally present the issue of concern informally (as addressed in the Staff-Resident Communication Residential Standard.) Translating assistance shall be provided upon request.

If an oral grievance is resolved, the staff member need not provide the resident written confirmation of the outcome, but shall document the result for the record in the resident's residential file and in any logs or data systems the facility has to track such actions.

A resident is free to bypass or terminate the informal grievance process, and proceed to the formal grievance stage.

b. Formal/Written Grievance

The facility administrator, or designee, shall allow a resident to submit a formal, written grievance to the facility's grievance committee, or a single designated grievance staff. A supply of grievance forms shall be available in each dayroom/common area, along with a locked box where residents may deposit grievances. The facility's designated grievance officer shall collect the grievances on a daily basis. Residents shall be given the opportunity to obtain preparation assistance from another resident or from facility staff.

Illiterate, disabled, or non-English speaking residents shall be provided additional assistance, upon request.

The resident may file a formal grievance after the event or unsuccessful conclusion of an informal grievance:

- 1) The facility administrator or designee shall ensure that procedures accommodate the need for special assistance to residents who are disabled, illiterate, or limited in English in preparing and pursuing a grievance.
- 2) Staff shall advise the resident that the grievance form may cover a single complaint, or a cluster of **closely related** issues that fall under a single subject. Each form should clearly state the resident's issues of concern, otherwise the form shall be returned to the resident for clarification. Staff shall provide the number of forms and envelopes the resident requests.
- 3) To prepare a grievance, a resident may obtain assistance from another resident in the same housing unit, the housing staff, other facility staff, family members, or legal representatives.

A resident may not submit a grievance on another resident's behalf, except a parent on behalf of his or her child.

- 4) If the resident claims that the issue is sensitive, or if the resident's safety or well-being would be jeopardized if others in the facility learn of the grievance, the resident has the right to seal the grievance in an envelope, clearly marked "Sensitive," and submit it directly to the facility administrator, or designee. The resident must include the reason for circumventing the usual grievance process.
- 5) Each grievance form shall be delivered without delay by authorized personnel (not residents), and will not be read or reviewed until received by the person designated to receive grievances.
- 6) The shift supervisor or other staff member designated to receive grievances shall accept the grievance form, signed and dated by the resident, and shall officially meet with the resident to attempt to resolve the issue.
- 7) If the grievance cannot be resolved to the satisfaction of the resident, the supervisor shall annotate the resident grievance form, and refer the written grievance to the next level of supervision in his or her chain of command, or to the appropriate department head.
- 8) The next level of supervisor in the chain of command shall act on the grievance within five working days through informal or formal resolution. The responsible department head shall provide the resident a written decision that includes the basis for the decision. If the resident is illiterate or disabled the decision shall be read to him or her in a language that he or she understands, or translation/interpretation shall be provided as needed. If the resident is not English-speaking, the written response should be interpreted in the native language. If the grievance is resolved at the informal level, the staff who resolved the issue shall document the circumstances and resolution in the resident's residential File.

- 9) If the resident does not accept the resolution, he or she may appeal to a Resident Grievance Committee (RGC), or a single designated Grievance Officer (GO) who shall respond within five days.

No one named in the complaint, or involved with earlier resolution attempts or with helping prepare the written grievance, may participate in the appeal process.

The DGC or GO may call witnesses, inspect evidence or otherwise gather facts essential to an impartial decision. The resident shall be provided with an opportunity to appear before the committee or officer to present his or her case, answer questions, and respond to conflicting evidence or testimony.

Within five working days of reaching a decision, the DGC or GO shall provide the resident, in writing, the decision and basis of that decision.

4. Emergency Grievances

Each facility shall implement procedures for identifying and processing an emergency grievance that involves an immediate threat to a resident's safety or welfare. Once the receiving staff member who is approached by a resident determines that he or she is, in fact, raising an issue requiring urgent attention, emergency grievance procedures shall apply.

The emergency grievance procedure shall bring the matter to the immediate attention of the facility administrator and ICE/DRO, even if it is later determined that it is not a true emergency (and the grievance is subsequently routed through normal, non-emergency channels). The resident may elect to present his or her emergency grievance to any supervisor or manager of the facility or ICE/DRO. All emergency grievances shall receive immediate attention, and at a minimum shall be reviewed by a facility administrator or assistant facility administrator. Responsibility for these reviews shall not be delegated.

If the matter is resolved by staff at the shift level, the supervisor involved shall prepare a report for the facility administrator or assistant facility administrator describing the problem and resolution. Emergency grievances not resolved at the shift level shall be sent up the chain of command until the matter is resolved.

If the shift supervisor or contract equivalent determines the matter is not an emergency, standard grievance procedures shall apply.

5. Appeal

If the resident does not accept the DGC or GO's decision, he or she may appeal it to the facility administrator or ICE/DRO. All facilities shall implement procedures for addressing resident appeals.

After reviewing the finding of the DGC or GO, the facility administrator or ICE/DRO may uphold, modify, or reverse it.

- a. The facility administrator, or designee, shall provide the resident a written decision within five days of receiving the appeal.

- b. The decision shall be in writing, and shall contain a discussion of the decision and the facts upon which it is based.
- c. If the resident is illiterate or disabled, the decision shall be read to him or her. If the resident is not English-speaking, the written response should be interpreted to the native language
- d. The facility administrator, or designee, shall use the normal routing system of the facility to send the written decision to the resident.

This decision is final and cannot be further appealed within the grievance system.

A copy of each grievance final decision shall be forwarded to JFRMU.

6. Resident Retaliation Prohibited

Staff shall not harass, discipline, punish, or otherwise retaliate against a resident who files a complaint or grievance.

7. Established Pattern of Abuse of the Grievance System

If an individual establishes a pattern of filing nuisance complaints or otherwise abusing the grievance system, the facility administrator may identify that person, in writing, as one for whom not all subsequent complaints have to be fully processed. Records must be maintained, however, of grievances thus "rejected." This authority may not be delegated, even to an acting facility administrator. JFRMU must receive a copy of every nuisance complaint.

8. Record-Keeping and File Maintenance

Each facility shall devise a method for documenting resident grievances, at a minimum, with a Resident Grievance Log.

Staff shall assign each grievance a log number, enter it in the space provided on the Resident Grievance Form, and record it in the Resident Grievance Log in chronological order.

- a. The log entry number and the resident grievance number must match.
- b. The log shall include the receipt date, and the date and outcome of the resolution.
- c. Nuisance or petty grievances, and grievances rejected or denied must on procedural grounds (for example, filed after the deadline), must also be logged with the appropriate notation and justification (for example, "Petty").

A copy of the grievance disposition shall remain in the resident's residential file and provided to the resident.

9. Allegations of Staff Misconduct

Staff must forward a copy of all resident grievances containing allegations of staff misconduct to a supervisor or higher-level official in the chain of command, and a copy to ICE/JFRMU.

Resident facility staff must comply with all DHS and ICE requirements to report allegations of staff misconduct to a supervisor or higher-level official in his or her chain of command, and/or to ICE/DRO Office of Professional Responsibility, and/or to the DHS Inspector General. This reporting requirement applies without exception to all resident allegations of staff misconduct, whether formally or informally submitted.

Standard Approved:

John P. Torres
Director
Office of Detention and Removal

Date