 <p>Good Life. Great Mission.</p> <p>DEPT OF CORRECTIONAL SERVICES</p>	<b>POLICY</b> <b>INCARCERATED INDIVIDUAL GRIEVANCE PROCESS</b>		
	<b>REVISED DATE</b> <b>July 31, 2024</b>	<b>NUMBER</b> <b>217.02</b>	<b>PAGE</b> <b>1 of 11</b>
	<b>STATEMENT OF AVAILABILITY</b> <b>Law Library Access</b>		

EFFECTIVE: December 10, 1985  
 REVISED: June 30, 2015  
 REVIEWED: June 30, 2016  
 REVISED: June 30, 2017  
 REVIEWED: December 21, 2018  
 REVISED: January 31, 2019  
 REVISED: June 30, 2019  
 REVISED: December 31, 2020  
 REVISED: December 31, 2021  
 REVISED: November 30, 2022  
 REVISED: December 31, 2023  
 REVISED: July 31, 2024


#### SUMMARY OF REVISION/REVIEW

PROCESS – I.D.2. – Language updated. I.H.2. – Language updated. Attachment names updated throughout. Minor grammar changes throughout.

APPROVED:

*Rob Jeffreys*  
 Rob Jeffreys (Jun 24, 2024 14:42 CDT)

Rob Jeffreys, Director  
 Nebraska Department of Correctional Services

 <p><b>NEBRASKA</b> Good Life. Great Mission. DEPT OF CORRECTIONAL SERVICES</p>	POLICY		
	<b>INCARCERATED INDIVIDUAL GRIEVANCE PROCESS</b>		
	REVISED DATE July 31, 2024	NUMBER 217.02	PAGE 2 of 11
STATEMENT OF AVAILABILITY			
<b>Law Library Access</b>			

## PURPOSE

To establish procedures for the implementation of Chapter 2 of the Nebraska Department of Correctional Services (NDCS) Rules and Regulations, Nebraska Administrative Code, Title 68 (referred to as Chapter 2 throughout this policy), for the effective and equitable resolution of incarcerated individual grievances, and for the monitoring of the incarcerated individual grievance system to ensure compliance with Chapter 2 and this policy. (ACI-6A-01)

Neb. Rev. Stat. §83-4,111, §83-4,112, §83-4,135, §83-4,136, §83-4,137, §83-4,138 to §83-4,139, and Title 68, Nebraska Administrative Code, Chapter 2 establish policy and procedures for the resolution of incarcerated individual grievances. This policy expands upon those statutes and Chapter 2. (ACI-6A-01)

The agency grievance administrator shall be responsible for administering and directing the implementation of the grievance policy consistent with all applicable statutes and Chapter 2. This responsibility includes, but is not limited to, grievance training for team members, development of an incarcerated individual orientation specific to grievance policies, researching and/or developing responses to Step II Grievances for the director/designee and evaluation of the agency grievance program to aid in determining effectiveness. (ACI-6A-01)


## PROCESS

### I. INCARCERATED INDIVIDUAL ORIENTATION

Facilities that receive newly admitted incarcerated individuals shall ensure that each incarcerated individual receives a copy of the Nebraska Administrative Code, Title 68, including Chapter 2 regarding incarcerated individual grievances. Incarcerated individuals shall sign a receipt for the book, and the receipt shall be maintained in the incarcerated individual's file as evidence of the delivery of the rulebook. In addition to the delivery of the Title 68 rulebook, incarcerated individuals will receive an explanation of the grievance procedure during their orientation process. The explanation shall, at a minimum, include the following information: See *Nebraska Administrative Code, Title 68, (Chapter 2, Grievance Procedure)* (Attachment A) (ACI-6A-01)

#### A. General Information

1. A reference to Chapter 2, and a brief, verbal overview of the rule.
2. How to obtain an *Informal Grievance Resolution Form-Unit Staff* (Attachment B), *Grievance Form Step One-Chief Executive Officer* (Attachment C), and *Grievance Form Step Two-Central Office Appeal* (Attachment D) grievance form and a brief explanation of the three grievance levels.
3. An incarcerated individual may request team member assistance in completing and processing the form.
4. The decision of the director/designee is final and constitutes exhaustion of all administrative remedies available to the incarcerated individual through the grievance process.
5. Each grievance will be reviewed and, if necessary, investigated. (NAC, Title 68, Chapter 2.003.07). Step One grievances will follow the format in *Step One Grievance Investigation* (Attachment F).

 <p><b>NEBRASKA</b> Good Life. Great Mission. DEPT OF CORRECTIONAL SERVICES</p>	POLICY <b>INCARCERATED INDIVIDUAL GRIEVANCE PROCESS</b>		
	REVISED DATE <b>July 31, 2024</b>	NUMBER <b>217.02</b>	PAGE <b>3 of 11</b>
	STATEMENT OF AVAILABILITY <b>Law Library Access</b>		

**B. Grievable Issues**

1. The type of matters which are grievable include:
  - a. Policies and conditions of the department or facility affecting the grievant.
  - b. Actions by team members or other incarcerated individuals.
  - c. Incidents in the facility affecting the grievant personally.
2. Examples should be given of the types of grievances the incarcerated individual may file. Appropriate examples include:
  - a. Facility policies on visitation, mail, or telephones
  - b. Verbal, physical, or sexual abuse or harassment by another incarcerated individual or team members member
  - c. Restrictions on incarcerated individual property
  - d. Complaints about food service or medical care
  - e. ADA and/or accessibility issues (See Policy 004.01 *ADA – Incarcerated Individuals and the Public*)


**C. Non-Grievable Issues**

The matters/issues considered non-grievable are:

1. Incarcerated individual disciplinary actions. Such actions may be appealed through the process prescribed in Nebraska Administrative Code, Title 68, and Chapter 6.
2. Matters over which NDCS has no control. Examples of such matters are the terms of court orders, commitment orders, state statutes, and Parole/Parole Board decisions.
3. Classification decisions, to include placement on grievance restriction. Such actions may be appealed to the next higher level of authority using the Classification Appeals Form.

**D. Grievance Submissions**

1. The incarcerated individual will state, as briefly and concisely as possible, the specific nature of the complaint, including all the persons, and dates involved. A grievance may not be addressed to a specific person or a person outside of the NDCS.
2. The incarcerated individual will address only one issue on a formal grievance form. If the grievance includes multiple issues, the form will be returned to the incarcerated individual without review and/or consideration.


 <p><b>NEBRASKA</b> Good Life. Great Mission. DEPT OF CORRECTIONAL SERVICES</p>	POLICY		
	<b>INCARCERATED INDIVIDUAL GRIEVANCE PROCESS</b>		
	REVISED DATE July 31, 2024	NUMBER 217.02	PAGE 4 of 11
STATEMENT OF AVAILABILITY			
<b>Law Library Access</b>			

3. The incarcerated individual may not submit duplicate copies of the same grievance/incident.
4. Grievances must be submitted on a grievance form and no pages of the form are to be removed when submitting the grievance. If more room to express concerns is needed, use an additional grievance form of the appropriate level. Letters attached to the grievance form will not be reviewed and/or considered through the grievance process and documentation submitted by the incarcerated individual with the grievance form will be returned to the incarcerated individual with the grievance response.
5. A grievance will be written legibly and without profane, abusive, or threatening language. Language used in grievances is subject to the Inmate Code of Offenses and Inmate Disciplinary Procedures.
6. The grievance form will preferably be submitted to the incarcerated individual's assigned unit team members. If that unit team member is the subject of the grievance, the incarcerated individual may submit the grievance to another Unit team member. If the facility has grievance boxes available, it is acceptable to submit grievances via the grievance box.
7. If the incarcerated individual is filing a grievance appeal and includes additional or unrelated issues, the appropriate level answering authority will return the form without review and/or consideration. (ACI-3D-19)
8. If the incarcerated individual combines grievances of separate, previous responses into a single grievance / appeal, the appropriate level answering authority may return the form without review and/or consideration. (ACI-3D-19)
9. Incarcerated individuals are not permitted to file more than two Step-One grievances per week (Monday through Sunday), except for valid emergency grievances.
10. Each grievance will be reviewed and, if necessary, investigated. The incarcerated individual shall receive a prompt written response. Circumstances such as illness, injury, or unavailability of a witness may lengthen the response time.

E. Time Limits (ACI-3D-19)

See *Nebraska Administrative Code, Title 68, (Chapter 2, Grievance Procedure)* (Attachment A)

1. The incarcerated individual is provided notification of an extension prior to the deadline for the response. The incarcerated individual may receive a copy of the continuance whether or not they accept it, see *Continuance Form* (Attachment E).
2. The Informal Grievance Resolution Form must be filed within three calendar days of the incident being grieved. Unit team members shall prepare a written response within ten working days. A grievance will be considered filed when it is receipted.

 <p><b>NEBRASKA</b> Good Life. Great Mission. DEPT OF CORRECTIONAL SERVICES</p>	POLICY		
	<b>INCARCERATED INDIVIDUAL GRIEVANCE PROCESS</b>		
	REVISED DATE July 31, 2024	NUMBER 217.02	PAGE 5 of 11
STATEMENT OF AVAILABILITY			
<b>Law Library Access</b>			

3. The Step-One Grievance Form must be filed within 15 calendar days of the receipt of the informal grievance response, or if no response was received, within 20 calendar days of the incident giving rise to the grievance. The warden/designee will send a written response to the incarcerated individual within ten working days after receipt of the grievance.
4. The incarcerated individual shall submit the Step-Two Grievance Form to the director by interoffice mail within 10 calendar days after receipt of the warden's response. If the grievance is in an envelope, it shall be clearly marked to indicate that it contains a Step-Two Grievance Form. The Step-Two Grievance Form may be mailed in compliance with the department's rules governing privileged mail. The director/designee shall respond to the Step-Two Grievance Form within twenty working days after receipt of the grievance.

F. Remedies Available

Examples of remedies available through the grievance system include:

1. Change in NDCS policy or procedure.
2. Restoration of confiscated property.
3. Referral to the State Claims Board for possible award of monetary damages. A grievance does not have to be filed by the incarcerated individual in order to file a Tort claim with the State Claims Board.
4. Investigation of alleged team member misconduct to include sexual misconduct.
5. Referral for specialized medical care, change of medication or diet.
6. Any other relief within the authority of a warden or the director.

G. Grievances of a Sensitive Nature

1. It is in the incarcerated individual's right to send grievances of a sensitive nature to the director without completing the facility steps of the grievance process. The incarcerated individual must clearly explain the nature of the grievance and the reason for not following the regular grievance process.
2. Grievances of a sensitive nature, as described in the paragraph above, may be submitted by the incarcerated individual to the director via interoffice mail on a Step One or a Step Two Grievance Form and must be marked on the top of the form "Sensitive Nature".
3. If the director/designee determines that the grievance is not of a sensitive nature, the grievance shall be returned to the incarcerated individual. with direction to resubmit the concern on a new *Informal Grievance Resolution Form-Unit Staff* (Attachment B) using the regular grievance process or appeal an existing grievance if within established time frames for appeal.

 <p><b>NEBRASKA</b> Good Life. Great Mission. DEPT OF CORRECTIONAL SERVICES</p>	POLICY		
	<b>INCARCERATED INDIVIDUAL GRIEVANCE PROCESS</b>		
	REVISED DATE July 31, 2024	NUMBER 217.02	PAGE 6 of 11
STATEMENT OF AVAILABILITY			
<b>Law Library Access</b>			

#### H. Emergency Grievances/Grievance Appeals


The following is an explanation of procedure for handling emergency grievances or grievance appeals.

1. Emergency grievances are those matters which must be resolved quickly because if the standard grievance time limits were used, the incarcerated individual would be subjected to a substantial risk of personal injury or other serious and irreparable harm. Incarcerated individuals should be encouraged to bring such matters to the direct attention of designated team members who may be able to provide immediate relief without the use of the written grievance procedure. (ACI-3D-19)
2. If the incarcerated individual chooses to use the written procedure, the incarcerated individual should mark the informal grievance form "EMERGENCY." It will then be forwarded immediately to Unit team members or the Shift Supervisor after business hours. If it is determined to be an emergency grievance, investigation will proceed immediately and a determination of appropriate relief (if any) will be made within 24 hours after the grievance was determined to be an emergency grievance. If it is not determined to be an emergency grievance, a response is provided to the incarcerated individual with direction to re-submit through the regular grievance process. The incarcerated individual may resubmit the grievance on an Informal Grievance form within three calendar days of the non-emergency response being received.
3. If it is determined that the grievance was not an emergency, the incarcerated individual may not appeal the decision to return the grievance to him/her, but may pursue as a standard grievance issue.
4. An incarcerated individual may also file an emergency grievance if he or she feels there is a substantial risk of imminent sexual abuse. The emergency grievance will immediately be forwarded to the shift supervisor, who will take immediate corrective action. An initial response shall be provided within 24 hours and a final decision will be issued within five calendar days. The initial response and final decision will serve as documentation determining whether the incarcerated individual is at substantial risk of imminent sexual abuse and the action taken in response to the emergency grievance.

#### I. Further Grievance Review Options

An explanation of how to obtain further review of grievances after the appeal to the director has been exhausted is located in *Nebraska Administrative Code, Title 68, (Chapter 2, Grievance Procedure)* (Attachment A). Specific reference should be made to Chapter 2, which sets out additional methods of obtaining review of grievances.

An incarcerated individual may communicate a grievance to the office of public counsel/ombudsman, legislators, attorneys, courts or others. If an incarcerated individual chooses to send an unprocessed grievance to an entity outside the department, the grievance will not be considered to be filed with the department and will not be entitled to a response by the department.

 <p><b>NEBRASKA</b> Good Life. Great Mission. DEPT OF CORRECTIONAL SERVICES</p>	POLICY		
	<b>INCARCERATED INDIVIDUAL GRIEVANCE PROCESS</b>		
	REVISED DATE <b>July 31, 2024</b>	NUMBER <b>217.02</b>	PAGE <b>7 of 11</b>
STATEMENT OF AVAILABILITY			
<b>Law Library Access</b>			

J. Petitions

Petitions are not filed through the grievance process. See Nebraska Administrative Code (NAC), Title 68, Chapter 10 for more information regarding a petition for declaratory order.

K. Availability of Grievance Policy

All incarcerated individuals in each facility will have access to a written copy of this policy, which will also be made available within the respective incarcerated individual law libraries. This information is also available via GTL/ViaPath tablet titled Incarcerated individual grievance orientation PowerPoint. Any incarcerated individuals with a limited comprehension of the English language will receive a copy of Chapter 2 and information included within this policy in his or her native language. If a written translation is not readily available, the incarcerated individual will be provided with sufficient assistance to ensure that he or she comprehends the information in this regulation and in Chapter 2. (ACI-3D-19, ACI-6A-01)

L. Abuse of Grievance Process


If an incarcerated individual files a large number of frivolous, nuisance, or duplicative grievances at any level, unit team members may submit a recommendation to the warden detailing the justification for grievance restriction. A classification hearing will be conducted to determine whether the incarcerated individual is abusing the grievance process. If a determination is made that the incarcerated individual is abusing the grievance process, a reasonable limitation may be placed on the number of grievances that may be filed by the incarcerated individual. This determination will be the result of a reclassification action that will be reviewed by the Institutional Classification Committee and approved by the Director's Review Committee.

If an incarcerated individual is found to have abused the grievance process, a notice will be provided to him/her indicating such. The notice will include the specific reasons for the decision and that future grievances demonstrating a pattern of abuse will be returned without review and/or consideration. Grievance restriction notices are not subject to appeal through the grievance process, but may be appealed through the established classification appeal process.

Designated team members will log and return any future grievances demonstrating a continued pattern of abuse to the incarcerated individual without review and/or consideration with an explanation in the log, on the grievance and to the incarcerated individual's unit manager/designee.

M. Grievance Restriction

1. If it is determined abuse of the grievance process has occurred, an incarcerated individual:
  - a. May be limited to not more than a designated number of active grievances that are pending decision at any level at any one time, not including emergency grievances.

 <p><b>NEBRASKA</b> Good Life. Great Mission. DEPT OF CORRECTIONAL SERVICES</p>	POLICY		
	<b>INCARCERATED INDIVIDUAL GRIEVANCE PROCESS</b>		
	REVISED DATE July 31, 2024	NUMBER 217.02	PAGE 8 of 11
STATEMENT OF AVAILABILITY			
<b>Law Library Access</b>			

- b. May be limited on their ability to file grievances for a specified amount of time.

## II. TEAM MEMBER ORIENTATION

All team members having contact with incarcerated individuals shall have ready access to Nebraska Administrative Code, Title 68, Chapter 2, and to this policy. Each warden shall designate a place where copies of the rules and this policy may be reviewed by team members and will permit team members to obtain their own copies of Chapter 2 and of this policy as requested. New team members will receive a verbal explanation of the grievance process during team member training. At a minimum, the verbal explanation will include the information set out in PROCESS I.A. of this policy. Team members will also be informed that, although incarcerated individual grievances are considered to be confidential, those team members participating in the investigation or disposition of a grievance shall have access to those records which are essential to the investigation and resolution of the grievance.

## III. FACILITY PROCEDURES


Grievance procedures used by NDCS facilities shall be consistent with the information provided to incarcerated individuals and team members as set out in PROCESS I.A. and I.B. of this policy. To ensure effective and equitable resolution of incarcerated individual grievances, the following procedures will be implemented:

### A. Maintenance of Incarcerated Individual Records

1. Incarcerated individual grievances are confidential. Only those individuals whose involvement is needed to complete the investigation of the grievance shall be made aware of the grievance. Individuals contacted during the investigation shall only be made aware of the information needed to allow them to contribute to the investigation. Consistent with ensuring confidentiality, team members who participate in the disposition of a grievance shall have access to records needed to respond to the grievance. Grievances shall not be available to team members not involved in the grievance process without good cause.
2. Filing and Retention
  - a. Incarcerated Individual's Master Record
 

Copies of Informal, Step I and Step II grievances shall be maintained in the Incarcerated individual's Master Record. Grievances are not purged from the incarcerated individual's master record.
  - b. Facility Files
 

Copies of Step 1 and Step II grievances shall be maintained in the Incarcerated individual's facility file. Grievances in the facility files can be purged after five years.

 <p><b>NEBRASKA</b> Good Life. Great Mission. DEPT OF CORRECTIONAL SERVICES</p>	<b>POLICY</b> <b>INCARCERATED INDIVIDUAL GRIEVANCE PROCESS</b>		
	<b>REVISED DATE</b> <b>July 31, 2024</b>	<b>NUMBER</b> <b>217.02</b>	<b>PAGE</b> <b>9 of 11</b>
	<b>STATEMENT OF AVAILABILITY</b> <b>Law Library Access</b>		

c. Central Office Incarcerated Individual Files

Copies of Step II grievances, to include the director's response, shall be maintained in the incarcerated individual's central office file. Grievances in the incarcerated individual's central office file can be purged after five years.

3. Each facility and central office shall log all grievances utilizing the electronic Grievance Log located in NICaMS. Grievances are considered filed when they are received. This log will contain, at a minimum, the following information:

- a. Date grievance was receipted by team members.
- b. Name and number of grievant.
- c. Brief statement of nature or type of grievance.
- d. Date of response by warden or director (completed date).

B. Monitoring

Designated facility team members will monitor adherence to policy timelines and quality of answers from facility level. The department grievance administrator monitors adherence to policy, timelines, and quality of answers at the department level.

IV. RESPONSIBILITIES


A. Designated Grievance Team Members

Designated team members, who are authorized to process grievances, receive grievances from incarcerated individuals as well as any additional evidence submitted by the incarcerated individual. The grievance will be receipted and electronically logged. Team members then follow up with each grievance by researching/ investigating the complaint as necessary and provide a written response to all submitted Informal grievances within established time frames. Grievances are considered filed when they are receipted. If processing a Step One grievance, team members will provide a suggested response for the warden/designee within established time frames.

B. Facility Grievance Coordinator

The grievance coordinator will:

1. Review the daily reports to ensure grievances are answered within established time frames.
2. Make sure all team members promoting into a position to process grievances will obtain the necessary training when offered by the grievance administrator.
3. Communicate revisions and policy updates to applicable team members.

 <p><b>NEBRASKA</b> Good Life. Great Mission. DEPT OF CORRECTIONAL SERVICES</p>	POLICY <b>INCARCERATED INDIVIDUAL GRIEVANCE PROCESS</b>		
	REVISED DATE <b>July 31, 2024</b>	NUMBER <b>217.02</b>	PAGE <b>10 of 11</b>
	STATEMENT OF AVAILABILITY <b>Law Library Access</b>		

4. Review the current processes and procedures in place and evaluate whether improvements can be made.

C. Grievance Administrator

The grievance administrator will:

1. Receipt/electronically log all Step Two grievances/ director's level grievances
2. Investigate/research complaint as necessary and create a suggested response for director's designee
3. Process completed grievances and file/forward as appropriate
4. Create and provide training for the grievance process
5. Randomly conduct quality checks on Informal and Step One grievance responses
6. Review/edit weekly disposition error report
7. Gather data and submit monthly reports to facility wardens/unit administrators and deputy directors
8. Review and recommend revisions to this policy annually

REFERENCE

I. STATUTORY REFERENCE AND OTHER AUTHORITY


- A. Neb. Rev. Stat. §83-4,111, §83-4,112, §83-4,135, §83-4,136, §83-4,137, §83-4,138 to §83-4,139
- B. Title 68, Neb. Admin. Code, Ch. 2

II. NDCS POLICIES

- A. Policy 004.01 *ADA – Incarcerated Individuals and the Public*

III. ATTACHMENTS

- A. Nebraska Administrative Code, Title 68, (Chapter 2, Grievance Procedure)
- B. Informal Grievance Resolution Form-Unit Staff (DCS-A-adm-016)
- C. Grievance Form Step One-Chief Executive Officer (DCS-A-adm-049)
- D. Grievance Form Step Two-Central Office Appeal (DCS-A-adm-037)
- E. Continuance Form
- F. Step One Grievance Investigation

 <p>Good Life. Great Mission.</p> <p>DEPT OF CORRECTIONAL SERVICES</p>	POLICY		
	INCARCERATED INDIVIDUAL GRIEVANCE PROCESS		
	REVISED DATE July 31, 2024	NUMBER 217.02	PAGE 11 of 11
STATEMENT OF AVAILABILITY			
Law Library Access			

- IV. AMERICAN CORRECTIONAL ASSOCIATION (ACA)
- A. Expected Practices for Adult Correctional Institutions (ACI) (5<sup>th</sup> edition): 5-ACI-3D-19, 5-ACI-6A-01