

JUSTICE AND PUBLIC SAFETY CABINET
Department of Juvenile Justice
(New Administrative Regulation)

505 KAR 1:270. Grievances.

RELATES TO: KRS 15A.065, 15A.0652, 15A.067, 200.080-200.120, Chapters 600-645
STATUTORY AUTHORITY: KRS 15A.065(1), 15A.0652, 15A.160, 605.150, 635.095, 640.120

NECESSITY, FUNCTION, AND CONFORMITY: KRS 15A.065(1), 15A.0652, 15A.160, 15A.210, 605.150, 635.095, and 640.120 authorize the Justice and Public Safety Cabinet and the Department of Juvenile Justice to promulgate administrative regulations for the proper administration of the cabinet and its programs. This administrative regulation establishes the grievance process for juveniles in the custody of the department or attending a department day treatment program.

Section 1. General Information.

- (1) Staff shall explain the grievance process to a juvenile upon intake and post the process in the program and living areas. The handbook shall include instructions for the grievance process.
- (2) A juvenile shall have the right to file a grievance without fear of retaliation.
- (3) A juvenile may file a grievance regarding the following:
 - (a) Violation of federal or state law;
 - (b) Violation of department policies and procedures;
 - (c) Violation of department standard operating procedures;
 - (d) Claimed unsafe or unsanitary living conditions within the facility or program; or
 - (e) The level of care provided within the facility or program.
- (4) A juvenile shall not file a grievance on issues already grieved and decided.
- (5) Non-grievable issues shall include:
 - (a) Court decisions;
 - (b) Disciplinary review decisions; and
 - (c) Legislative actions.
- (6) An untimely filed grievance or one that concerns a non-grievable issue shall be returned to the juvenile with an explanation.
- (7) A grievance that is missing information shall be returned to the juvenile explaining the information needed and the juvenile shall have five business days to return the grievance with the missing information. The time for a grievance response shall not begin until the grievance is returned with the missing information.
- (8) Grievance forms shall be located in an area that is easily accessible to the juveniles and each facility shall provide one or more clearly marked lockboxes for the submission of a grievance. The lockbox shall be in an open area accessible to all juveniles.
- (9) Each facility shall have a designated grievance officer. The grievance officer shall manage the lockboxes and oversee the grievance process.
- (10) **Deadline.** A grievance shall be submitted by the juvenile within fourteen (14) days of the grieving incident occurrence. If the juvenile files a grievance after the deadline, the juvenile shall explain the reason for the delay on the grievance form when the grievance is filed for a delay determination by the Superintendent. The exception to this shall be if the incident falls under the classification of a Prison Rape Elimination Act occurrence. A PREA incident shall not have a time limit applied.
- (11) **Informal Resolution.** Prior to filing a grievance, an effort shall be made to resolve the issue informally. The juvenile shall discuss the matter either with the staff person involved or the grievance officer. In determining whether to deny a grievance for failure

to attempt informal resolution, the grievance officer shall consider the juvenile's and staff person's ability or barriers to informally resolve the grievance issue.

(12) Special Incident and PREA. A special incident shall not be handled informally or through the grievance process and shall be reported immediately to the facility Superintendent and Internal Investigation Branch. A PREA incident shall be reported through the hotline.

Section 2. Grievance Process.

(1) The grievance form shall be submitted in writing and signed and dated by the juvenile. The grievance shall include:

- (a) Name of the juvenile filing the grievance;
- (b) Name of facility;
- (c) Details concerning the issue being grieved;
- (d) Date of occurrence being grieved;
- (e) Information concerning the effort to informally resolve the issue; and
- (f) The desired resolution.

(2) If a juvenile is unable to adequately express the grievance in writing, the juvenile shall be allowed to present the grievance to the designated grievance officer verbally. The designated grievance officer shall make a written summary of the verbal grievance on a grievance form and have the juvenile sign and date it.

(3) A grievance or notification of intent to present a verbal grievance shall be deposited, by the juvenile, into a grievance lockbox.

(4) Grievances shall be retrieved from the lockbox within twenty-four (24) hours for juvenile detention centers and within two (2) business days for group homes, YDCs, and day treatment centers.

(5) The juvenile shall receive a written response with findings within three (3) business days. If a grievance is a medical issue, a facility nurse shall be involved in the resolution process at the facility level.

(6) A juvenile may withdraw a current or previously filed grievance at any time.

(7) The juvenile shall acknowledge all grievance findings, including withdrawals, with their signature. The grievance officer shall document any refusals to acknowledge the grievance findings on the grievance form.

(8) A copy of the grievance shall be placed in the juvenile's individual client record and a copy shall be given to the juvenile.

Section 3. Grievance Appeal Process.

(1) If dissatisfied with the resolution, within forty-eight (48) hours, the juvenile may appeal the resolution of the grievance to the superintendent by indicating on the grievance form that the juvenile is appealing and depositing it into the lockbox. The juvenile shall provide all previous information submitted.

(2) Within three (3) business days of receiving the appealed grievance resolution, the superintendent shall meet with the designated grievance officer and the juvenile and may meet with the staff involved and other witnesses.

(3) The superintendent shall have up to five (5) business days to present a written final response to the juvenile.

Section 4. Grievance Process Deadlines.

(1) If the grievance process deadlines are not met by the juvenile, the juvenile shall explain the reason for the delay in filing the grievance on the grievance form when the grievance is filed.

(2) The grievance officer shall forward the grievance delay explanation to the superintendent to determine if the grievance may proceed through the process. The superintendent shall decide this within twenty-four (24) hours of receipt and return the

grievance to the grievance officer for further steps. The grievance officer shall deny the grievance with an explanation if the delay is not approved by the Superintendent or an explanation for the delay is not made by the juvenile.

(3) If the time frames are not met by the grievance officer, the grievance shall automatically be referred to the superintendent by the grievance officer. The superintendent shall follow the grievance appeal process deadlines in this section.

(4) If an essential party is unavailable, the time frames may be extended by the superintendent. The reason for the extension shall be noted on the grievance documentation.

(5) If more than ten (10) grievances are received by the grievance officer in any one (1) work week, the grievance officer may call a moratorium on the time limits for those grievances.

Section 5. Grievance Limits. If the superintendent determines that a juvenile has abused the grievance process by filing numerous frivolous or harassing grievances, the superintendent may limit the number of grievances which may be filed by the juvenile. A juvenile whose grievances have been limited shall be allowed to file no more than one (1) grievance every ten (10) business days. This limitation shall be placed into effect for no more than six (6) months at which time the juvenile may apply to the superintendent for removal of restricted status. Restrictions shall be removed or extended for periods not to exceed six (6) months at each application for release.

VICKI REED, Commissioner

APPROVED BY AGENCY: May 15, 2023

FILED WITH LRC: May 15, 2023 at 3:59 p.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held on August 22, 2023, at 9:00 a.m. at the Justice and Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through August 31, 2023. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Amy Barker, Assistant General Counsel, Justice & Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686, email Justice.RegContact@ky.gov.