

Writing an effective grievance

This booklet explains the process for making a complaint with the Correctional Service of Canada.

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|  Correctional Service Canada / Service correctionnel Canada | | PROTECTED / PROTÉGÉ B ONCE COMPLETED / UNE FOIS REMPLI | |
| | | NOTE – NOTA : Reference document / Document de référence DC... | |
| OFFENDER GRIEVANCE PRESENTATION (Second Level) | | PRÉSENTATION D'UN GRIEF PAR UN DÉLINQUANT (Deuxième palier) | |
| Current Institution – Établissement présent | | Region – Région | |
| Filed Against – Enregistré contre | | Grievance Coordinator / Coordinateur des griefs | |
| Reference No. / N° de référence | | Priority – Priorité | |
| Grievance Code / Code de grief | | Date received / Date de réception (YYYY-MM-DD) | |
| Details of grievance / Détails du grief | | Date due / Date d'échéance (YYYY-MM-DD) | |
| Routine / Non-prioritaire | | High Priority / Prioritaire | |
| Urgent / Nature urgente | | Sensitive / Nature délicate | |
| TO BE COMPLETED BY OFFENDER – À REMPLIR PAR LE DÉLINQUANT | | | |
| Details of grievance / Détails du grief – (Annexer une autre page, si nécessaire) | | | |

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Rights and realities

Under law, federal prisoners have the right to:

- a “procedure for fairly and expeditiously resolving offenders’ grievances” (*Corrections and Conditional Release Act* (CCRA), s. 90);
- “complete access to the offender grievance procedure without negative consequences” (CCRA, s. 91);
- decisions made “in a forthright and fair manner” (CCRA, s. 4(g)); and
- an “effective” grievance process (CCRA, s. 4(g)).

Correctional Service of Canada (CSC) policy includes the following principles:

- “respecting the rights of all individuals” contributes to public safety;
- “everyone has the right to be treated with respect and dignity”; and
- the grievance process “ensures that decisions affecting offenders comply with the rule of law, respect for human rights, and are ethically sound”.

(Commissioners’ Directive 081, *Offender Complaints and Grievances*.)

In reality, most prisoners find the grievance system frustrating and ineffective.

The grievance process has been criticized for years by the Correctional Investigator as being an unfair and slow process. The Correctional Investigator has found that CSC's "failure to admit error and take action is inconsistent with the Service's commitment to openness, integrity and accountability."

Although there are a lot of problems with the CSC grievance process, it may be your only option for getting a remedy to your complaint. In most cases, the Federal Court and administrative tribunals will not accept your application or complaint until you have gone through the CSC grievance process.

The grievance procedure

The first step to resolving a problem is to talk to staff. If it cannot be resolved informally at the lowest level, you can write a complaint.

The grievance procedure has three levels:

- a complaint at staff level;
- a first level grievance to the Warden of the institution (initial grievance); and
- a second level grievance to CSC national (final grievance).

If you are not satisfied with CSC National's response, you can file an application for judicial review of the decision in Federal Court. You must file your application within **30 days** of receiving the third level decision.

If your grievance concerns a decision of the Warden, or a CSC Regional or National policy, you can submit a grievance directly to CSC National.

Time lines

CSC policy says that you should submit your complaint within **30 days** of when you become aware of the problem. But CSC can give you more time.

CSC policy says that you should normally submit your grievance to the next level within **20 days**. You can still submit a grievance if it has been more than 20 days since you received a decision at a lower level.

If your grievance seriously impacts on your rights and freedoms, it should be given high priority.

CSC policy states that your **complaint and initial grievance** should be responded to within:

- **15 working days** from when it was received if it is a **high priority grievance**; and
- **25 working days** from when it was received if it is a **routine priority grievance**.

At **the final grievance level**, CSC policy says that your grievance should be responded to within:

- **60 working days** from when it was received if it is a **high priority grievance**; and
- **80 working days** for **routine priority grievances**.

CSC often fails to comply with its time limits and will give itself more time to respond. In this case, you should receive written notice of when you can expect a response.

It can take many months for your grievance to be resolved if you must go through all three levels of the grievance process.

Frivolous complaints

CSC can stop you from submitting complaints if it thinks that your complaints are “frivolous, vexatious or not made in good faith”. This usually means that CSC thinks you have put in too many complaints.

You must be given written reasons for the decision. The decision can only be reviewed by CSC national.

What issues you can grieve

You can complain about an incident or decision that affects you. You can also complain if you have been denied something or if CSC has not made a decision that should have been made.

You cannot complain on behalf of another person, unless the matter concerns a group of prisoners and you are part of the group.

Your complaint must be about something that CSC is responsible for. CSC is **not** responsible for:

- decisions of the Independent Chairperson in serious disciplinary court;
- decisions made by doctors about your health care;
- decisions of the National Parole Board; or
- conviction or sentencing decisions made in Court.

If you are not sure if CSC is responsible for what happened, call Prisoners' Legal Services.

Writing your grievance

It is best to use simple language in your complaint or grievance. Identify the issue that is most important to you and limit your complaint to that one issue. CSC might ignore the issue you are most concerned about if you include more than one issue in your complaint.

It is important that your complaint be clear and specific. You want your complaint to be understood. Information that is not directly related to your complaint can weaken the main point.

You will have more credibility if you stick to the facts, include evidence to support your complaint, and do not include your opinions. If you make inappropriate personal attacks against other people, or use disrespectful language, your complaint may not be seen as reasonable. In the worst case, CSC could reject your complaint if it considers it to be frivolous, vexatious, offensive or not made in good faith. A decision maker will be more likely to have an open mind if you are respectful and objective in the way you present your complaint.

It is a good idea to write a draft of your complaint or grievance before you write it on the form. You should review your grievance submission after you have slept on it and before you submit it, especially if you are angry about the issue.

Tips for writing your complaint

DO:

- Keep it simple.
- Stick to the facts.
- Write what you can prove.
- Write about what you know is true.
- Write objectively and respectfully.

DON'T:

- Add any details that are not absolutely essential.
- Add your opinions.
- Assume anything that you can't prove.
- Guess — especially about reasons for what happened.
- Be personal or use disrespectful language.

Points to include in your grievance

Who is involved?

Yourself – You cannot write a grievance about someone else. Your grievance has to be about something that affects you personally.

A group – If the issue affects a number of prisoners, you can submit a group complaint or grievance. Everyone in the group must sign the complaint or grievance and you should say who will receive the answer for the group.

CSC – Name the CSC person who you are complaining about. If you do not know the person's name, describe him or her and include the time and date of the event. You cannot complain about someone who is not a CSC employee.

Witnesses – Include the names of anyone who saw what happened or who has information about the issue you are complaining about. If your witnesses are other prisoners, make sure that they agree that you can name them.

When and where did it happen?

If you are complaining about a decision, include the date when the decision was made or the date you should have received a decision if a decision was not made within the time limits.

If you are complaining about an event, include the date, time and place of the event.

What happened?

Explain what CSC did (or did not do). If there was a series of events, write them out in the order they happened.

Do you have any evidence to support your case?

Witnesses might be able to support your case or prove what you say is true. If you name a witness in your complaint or grievance, you should expect CSC to confirm what you say is true. So be sure to ask permission before you include the names of any other prisoners.

Documents might also be relevant to your complaint. You can refer to documents and quote short parts of documents that support your case. You can attach copies of documents to your grievance. Be sure to keep your original documents.

What did you do to solve the problem?

You are expected to try to resolve problems at the lowest level (usually with staff). Include what you did to solve the problem before making a formal complaint.

What law or policy applies?

What is the law or the policy that CSC did not follow? Refer to the section of the *Corrections and Conditional*

Release Act, Regulations, other law or Commissioner's Directive that applies.

If you are not sure what law or policy applies, you can call Prisoners' Legal Services for advice.

How does the law or policy apply to your case?

Explain how the law or policy applies to the facts of your case.

How were you affected?

You should include the way you were affected by the event or decision, or failure to make a decision. For example, if your grievance involves the conditions in segregation, you can say how the conditions affect your physical or mental well being.

What do you want?

You should include the action you want CSC to take to resolve your complaint. Include the remedy you seek at each level of the grievance process.

You might decide to pursue your case through court or through another body such as the Canadian Human Rights Commission and Tribunal at the end of the grievance process. For this reason, you should ask for whatever remedy you would be asking for in these forums, even if it is unlikely that CSC would give you that remedy.

For example, if you were discriminated against because of your religion, you can ask for an apology, that the discrimination stop, that you be provided something you were denied, that staff be required to attend training about accommodating religious rights and that you be compensated for any pain and suffering you experienced because of the discrimination. You could also ask for a change in policy if you have been unfairly affected by the policy.

CSC policy says that financial compensation will be given only for:

- loss or damage to property under Commissioner's Directive 234 – Claims for Staff Personal Effects and Inmate Personal Effects and the Offender Accident Compensation Program; or
- payment or reimbursement that CSC is required to give under legislation or CSC policy.

You can ask that CSC compensate you in other circumstances, but do not expect to receive anything.

If you are grieving a transfer decision of a Warden, CSC Regional and National have the authority to decide that you should be at the lower security institution that was the subject of the transfer decision.

CSC Regional and National will often only consider whether the Warden's decision was reasonable and in accordance with law. Instead of deciding what institution you should be at, CSC might just tell the Warden to

reconsider his or her decision. You should ask for a decision that you be placed at the lower security institution and say that they have the authority to grant this remedy.

CSC does not often give remedies that adequately address complaints. Even if your grievance is upheld, CSC might not carry out the corrective action.

Frequently asked questions and concerns

Here are some common complaints and questions that we get from prisoners. If you have questions we haven't answered, please call us.

I lost my grievance because CSC says they won't change my IPO's opinion.

There is a difference between a fact and an opinion. You cannot grieve your Institutional Parole Officer's (IPO) opinion, unless it is not based on fact.

A **fact** is a piece of information that can be proven to be true. For example, if CSC wrote that you were convicted of X, but you weren't, then their "fact" is not true. Therefore, any opinions based on a conviction for X should be changed.

An **opinion** is a belief, an attitude or a judgment. It is not a fact. But an opinion should be supported by facts.

Being a “risk” is not a fact, but an opinion. An opinion that you are a risk should be supported by facts. If you don’t agree with someone’s opinion that you are a risk, then you must say what facts support your case or what facts do not support their case.

Expert opinion from a psychologist or psychiatrist is difficult to challenge, unless you can challenge the facts that the opinion is based on.

If your grievance is about your IPO’s biased opinion about you, you need to grieve the things he or she does that show bias, not his or her opinion about you.

I handed in my grievance weeks ago and I haven’t heard anything at all. I think they filed it in the garbage!

Always keep a copy of any grievance or complaint you submit. If you can’t get a photocopy, then make a handwritten copy that shows what day you handed it in and who you gave it to you.

If your institution employs an inmate grievance clerk, you can ask him or her to record that your grievance was submitted on a specific date. If your complaint is private, you can ask the inmate grievance clerk to witness and record that you put it in the mail on a specific date.

When the Grievance Coordinator gets a grievance, they log it into OMS (CSC’s computer system). Your grievance is given a code that classifies your grievance, and marks it high or routine priority. OMS tells the date the answer is due.

After logging your grievance into OMS, the Grievance Coordinator is supposed to write you a **letter of acknowledgement** that tells you the date you can expect your answer.

If you did not get the letter of acknowledgement after about a week, your grievance might have been lost. Speak with the grievance coordinator at the level where you sent your grievance. If you are not able to reach them, call **Inmate Affairs, National Headquarters at 1-800-263-1019** and ask if your grievance has been logged on OMS. If it wasn't, ask them to call the Institution to find out what happened. They will find it or ask you to re-submit it.

If I don't get my answer by the time they are supposed to give it, do I have to grieve that too?

Grieving the grievance system can just start blocking up your case and delay answers even longer.

If you have a lot of routine grievances, then CSC might declare you to be a "multiple griever" which means they will extend the ordinary time frames for answering you. (They can't do this for priority grievances.)

If you do not get your answer in time, try to speak with the Grievance Coordinator at the level where you sent your grievance (Institutional, Regional, or National). If you can't reach them, call Inmate Affairs at 1-800-263-1019. Ask them to find out what the hold-up is. Unfortunately, CSC policy allows them to give themselves extensions, so there may be nothing that can be done.

My IPO said I couldn't go to my father's funeral! His reasons are totally bogus. I want to grieve him, but 3 weeks is way too long to wait for an answer – his funeral will be over!

This kind of complaint or grievance should be considered “urgent.” Send your complaint or grievance straight to the Warden and say it is an urgent request that needs to be resolved by a certain date (less than 15 working days).

I think my grievance should be a “priority” but they made it “routine”.

If you think your case should be considered a priority, talk to the Grievance Coordinator to explain why.

High Priority Complaints and Grievances are those which have a significant impact on your rights and freedoms. The following are issues that are normally considered to be high priority:

- segregation placement and conditions;
- urgent access to health care;
- visits;
- involuntary transfer decisions;
- SHU placement and release decisions;
- temporary absences;

-
- staff conduct (harassment, use of force or discrimination); and
 - individual strip searches.

If your case is normally “high priority” but CSC said it was “routine,” they should give you reasons. If you disagree with those reasons, you need to explain how your case has a “significant impact on your rights and freedoms.”

My grievance was given back to me for no reason.

If your grievance was entered into OMS, you should get reasons if it is returned to you. At the bottom of the forms, there is a box where the decision-maker can indicate that the grievance was “rejected.”

These are the reasons why CSC can reject a grievance:

- The issue is not grievable – you should be told what else you can do about your complaint.
- The issue is beyond the authority of the level you wrote to – you should be told who to write to instead.
- You put in your grievance too late – if you had a good reason, you can rewrite it with your reasons for being late.
- The supervisor decided that the complaint was frivolous (not serious enough), vexatious (written mainly to annoy), or not made in good faith – you should be told in writing what parts of it were

considered offensive. You can rewrite it using more acceptable language.

- The issue has already been dealt with in another complaint or grievance.

The other possibility for why your grievance was returned without reasons is that a staff member “intercepted” it. If that happens, and if talking to that staff member doesn’t work, ask the Inmate Grievance Clerk or someone on the Inmate Committee to help you get it delivered to the Institutional Grievance Coordinator.

Don’t grievances have to be confidential? My COII is on my case because I complained about him, and I didn’t want him to know.

Yes, to a point. Your use of the complaint and grievance process must not be noted in your paperwork outside the complaint and grievance process unless authorized by the warden.

But information in your grievance can be shared on a “need to know” basis.

If you are complaining that a staff member has been harassing you, sexually harassing you or is discriminating against you, your complaint will be considered “sensitive” and designated “high priority.” It will immediately be given to the warden in a sealed envelope.

If you accuse someone of something, they have a right to respond. The staff member you complain about is going to be told about the complaint and they will be given a chance to respond.

They wouldn't take my grievance because I was "too late".

The time frames for writing complaints is CSC policy – not the law. CSC can accept your complaint or grievance outside the time limits if you have a good reason. Add a sentence about why you did not or could not write your grievance on time and hand it back in.

My IPO is pressuring me to withdraw my grievance. He says he'll agree to what I want – only if I withdraw it.

This might solve your problem “at the lowest level.” But it doesn't always. You might not want to withdraw it until you see results.

The resolution to your grievance must be recorded and you must sign to show your agreement to the resolution.

What if he doesn't do what he said he would do?

Unfortunately, you have to write another complaint. Include when you wrote the first complaint, when you withdrew it and why. Say you tried to resolve it with your IPO but your IPO did not do what he said he would. Also, because of the lost time, ask for it to be “high priority” if it would normally be “routine.”

What if I get released before I get an answer?

Your answer will be sent to your new address.

You may write a grievance after you are released, until your Warrant Expiry Date.

I'm not the only one with this problem.

A group of prisoners can sign a group grievance, but one person has to hand it in and receive the answer for the group. Everyone in the group must sign it.

Sometimes many prisoners will write grievances about the same thing. If this happens, the Warden can decide to answer just one of them. The warden will ask for someone to agree to receive the answer on behalf of the others.

Sometimes the Inmate Committee will write a grievance for a group of prisoners. Talk to your Committee to see if they will do this.

Prisoners' Legal Services

If you are a prisoner in British Columbia, you can contact Prisoners' Legal Services for advice or assistance with issues that affect your liberty, human rights or health care.

For assistance from Prisoners' Legal Services, you must have a referral from the Legal Services Society. Contact their call centre at 1-888-839-8889. Once you have a referral, you can call Prisoners' Legal Services directly at 1-866-577-5245.

Prisoners' Legal Services' phones are open Monday to Friday from 9:00 a.m. to 11:00 a.m. and from 1:00 p.m. to 3:00 p.m.

Example complaint

Section 91 of the CCRA says I can make a complaint without negative consequences.

On September 6, 2010, when I was leaving the cafeteria after I ate my lunch, my COII, Mr. X, told me I couldn't go to work in the afternoon because I filed a complaint against my boss. He did not give me anything in writing. He told me if I did not go directly to my unit he would charge me.

My friend, Mr. Y, heard him say this.

The next morning I went to work. My boss fired me. He said it was because I did not show up to work the day before. He told me it was not because I filed a complaint. I went to the Review Board the next week and explained what happened. I got my job back. But they said I would not get paid for the time I didn't work.

I followed my COII's order to not go to work. He made that order because I put in a complaint. I should not suffer the negative consequence of losing money because I made a complaint. I want my pay for the half-day I missed because Mr. X told me not to go to work, and for the week I missed until I got my job back at the Review Board.

Notes on the example complaint

- *You don't have to write out all the words for s. 91. CSC should know it or they can look it up. Just say in your own words what rights you have or what CSC must do.*
- *You do not have to give your opinion about why Mr. X told you not to go to work, even if you are convinced that he's been riding your case for weeks because you beat his charge in disciplinary court. You do not have to add other things he said about you that are not related to the issue about the job.*
- *Having a witness is good if what you are talking about might be denied by the staff member. Always ask another prisoner if you can use their name first.*
- *Describe what happened in the order it happened in.*
- *Connect what you want with what CSC did wrong. Use the language of the law or policy you are relying on.*
- *The remedy you request should be reasonable and something that CSC has responsibility for.*

This publication contains general information only.
Each situation is unique. Law and policy can also
change. If you have a legal problem, contact
Prisoners' Legal Services or a lawyer.



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