



STATE OF MICHIGAN
DEPARTMENT OF CORRECTIONS
LANSING

RICK SNYDER
GOVERNOR

HEIDI E. WASHINGTON
DIRECTOR

DIRECTOR'S OFFICE MEMORANDUM 2016 – 29

EFFECTIVE: Immediately

DATE: April 27, 2016

TO: Executive Policy Team
Administrative Management Team
Wardens

FROM: Heidi E. Washington, Director

SUBJECT: PRISON RAPE ELIMINATION ACT (PREA) GRIEVANCE PROCESS

The PREA grievance process is a two-step process addressing grievances regarding sexual abuse. Prisoners may file a PREA grievance at Step I at the facility, and are permitted to appeal the Step I decision to Step II to the PREA Administrator in Central Office. The Step II decision constitutes the agency's final determination. Complaints filed by prisoners regarding sexual abuse as defined in PD 03.03.140 "Prohibited Sexual Conduct Involving Prisoners" serve to exhaust a prisoner's administrative remedies only when filed through both steps of the PREA grievance process.

A prisoner shall use the Prison Rape Elimination Act (PREA) Prisoner Grievance Form (STEP I) (CAJ-1038A) to file a PREA grievance. The forms may be completed by hand or be typewritten. However, the handwriting must be legible. The issue(s) should be stated briefly but concisely and limited to PREA issues. Information provided is to be limited to the facts involving the PREA issue being grieved (i.e., who, what, when, where, why, how). Dates, times, places, and names of all those involved in the issue being grieved are to be included. Information should be confined to the form and not written on the back, sides, or margins of the form, or in the response area. Additional pages may be attached to the grievance form if necessary to provide required information. However, prisoners are encouraged to limit the information to the grievance form itself. If additional pages are necessary, the prisoner must submit four copies of each additional page at Step I and if appealed, to Step II.

A prisoner may file a PREA grievance at any time by submitting a completed PREA Prisoner Grievance Form (STEP I) (CAJ-1038A) with the facility PREA coordinator or inspector of the institution at which the prisoner is housed. Prisoners are not required to use any informal grievance process, or to otherwise attempt to resolve an alleged incident of sexual abuse before filing a PREA grievance.

The PREA coordinator or inspector shall log and assign a unique identifying number (facility code – two digit year – two digit month – AIPAS number – PREA-Grievance Type) to each Step I PREA grievance received. The unique identifier shall use one of the following codes: "P" for a PREA Grievance, "E"

for an Emergency PREA Grievance or “T” for a Third-Party PREA Grievance and shall consist of the AIPAS number assigned to the subsequent investigation. If the facility grievance coordinator receives a PREA grievance, the PREA grievance shall be immediately forwarded to the appropriate facility PREA coordinator or inspector. Additionally, all PREA grievances shall be referred to the Internal Affairs Division as set forth in PD 01.01.140 “Internal Affairs” and this policy for an investigation.

Any grievance containing issues other than sexual abuse shall be returned to the prisoner with instructions to process the prisoner’s non-PREA issues in accordance with PD 03.02.130 “Prisoner/Parolee Grievances.” Any PREA grievance containing multiple issues which includes issues not related to sexual abuse, shall be processed in accordance with this DOM and will only address the allegations of sexual abuse. The prisoner shall be notified that s/he must submit a new grievance in accordance with PD 03.02.130 to address any other non-PREA concerns or allegations which fall under the jurisdiction of PD 03.02.130.

Prisoners shall not be required to submit a PREA grievance to a staff member who is the subject of the complaint. Additionally, a PREA grievance shall not be referred to a staff member who is the subject of the complaint.

The PREA coordinator or inspector shall ensure a written response is provided to the prisoner within 60 calendar days of receipt of the Step I PREA grievance unless an extension has been approved by the Internal Affairs Division in order to conduct an appropriate investigation. An extension of up to 70 calendar days may be approved by Internal Affairs if 60 calendar days is insufficient to make an appropriate decision. The prisoner shall be informed in writing of any extension and provided a date by which a decision will be made.

Prisoners may only file a Step II administrative appeal to the PREA Administrator if s/he is dissatisfied with the response received at Step I or if s/he did not receive a timely response at Step I. To file an appeal, the prisoner must request a PREA Prisoner Grievance Appeal Form (STEP II) (CAJ-1038B) from the facility PREA coordinator or inspector and send the completed form to the PREA Administrator within 10 calendar days after receiving the initial response. If no response was received, the prisoner shall submit the appeal within 10 calendar days after the date the response was due, including any extension. A final agency determination on the merits of a PREA grievance shall be provided by the PREA Administrator within 90 calendar days from the original filing of the grievance. Computation of the 90 days does not include the 10 days allowed for the prisoner to file an administrative appeal.

Third parties, including fellow prisoners, staff members, family members, attorneys, and outside advocates, may file a PREA grievance on behalf of a prisoner. A third party may also assist a prisoner in filing the prisoner’s PREA grievance in accordance with policy. If a third party files a PREA grievance on behalf of a prisoner, the prisoner must sign the PREA grievance in the area provided indicating the prisoner authorizes the grievance to be filed on his/her behalf for the grievance to be processed. If the prisoner refuses to sign, the PREA grievance shall be immediately dismissed. All Department responses to a PREA grievance filed by a third party will be provided only to the prisoner on whose behalf the grievance was filed.

A prisoner or a third party may file an emergency PREA grievance if s/he believes that the prisoner is subject to substantial risk of imminent sexual abuse. The Prison Rape Elimination Act (PREA) Prisoner Grievance Form (STEP I) (CAJ-1038A) must clearly indicate that the grievance is an emergency PREA grievance and the nature of the risk. Upon receipt of an emergency PREA grievance, the receiving staff member shall immediately forward the emergency PREA grievance, or any portion of the emergency PREA grievance that alleges the substantial risk of imminent sexual abuse, to the warden. The warden shall take immediate action to remove the prisoner from any identified real or potential harm and ensure an initial response is provided to the prisoner within 48 hours. A final agency decision from the PREA Administrator regarding whether the prisoner is in substantial risk of imminent sexual abuse shall be provided to the prisoner within five calendar days. The initial response and final agency decision shall document the agency's determination of whether the prisoner was in substantial risk of imminent sexual abuse and the action taken in response to the emergency PREA grievance.

Any allegation of past sexual abuse received in an emergency PREA grievance shall be separately investigated according to the process outlined in this DOM.

Staff shall not retaliate against a prisoner for using the PREA grievance process. If a prisoner intentionally files a PREA grievance which is investigated and determined to be unfounded and which, if proven true, may have caused an employee or a prisoner to be disciplined or an employee to receive corrective action, the prisoner may be issued a misconduct report if approved by the warden. The misconduct report shall be processed as set forth in PD 03.03.105 "Prisoner Discipline."

Wardens shall ensure prisoners are provided assistance in completing a PREA grievance, if needed. In such cases, assistance shall be provided by a staff member who is not the subject of the grievance.