

## 23 YOUTH COMPLAINT PROCEDURES

### OVERVIEW OF CHAPTER CONTENTS

#### PRIMARY TOPICS COVERED IN THIS CHAPTER (READ ACROSS)

- Right of Youth to File Complaints
- Procedures for Youth on Aftercare
- Procedures for Youth in a JCI
- Procedures for Type 2 Youth

#### FORMS DISCUSSED IN THIS CHAPTER

- Youth Complaint-JCI (DOC-2051)
- Superintendent's Decision (DOC-2053)
- Complaint by Youth on Community Supervision (DOC-2179)
- Youth Appeal to Regional Chief and Decision (DOC-2181)
- Complaint Mediator's Report (DOC-2052)
- Appeal to Administrator & Decision (DOC-2054)
- Agent Statement and Supervisor Decision on Youth Complaint (DOC-2180)

All complaint forms are on MyDOC . When completing a form, go to MyDOC to obtain the most current version. All forms are available in Spanish versions, indicated by an "S" after the number.

### RIGHT OF DJC YOUTH TO FILE COMPLAINTS

#### OVERVIEW

DJC youth in a JCI and under community supervision have the right to file complaints about certain types of incidents and decisions that personally affect them. Chapter DOC 380, WI Adm. Code, governs JCI procedures. Chapter DOC 393 pertains to procedures for youth on aftercare. Type 2 youth complaint procedures are in ch. DOC 396. The procedures in the 3 chapters differ from one another in some respects necessitating separate parts within this chapter to describe the steps involved and the pertinent DOC forms.

#### ALTERNATIVE PROCEDURES NOT ACCEPTABLE

The legislature promulgates administrative rules. [see Chapter 1] When rules govern a particular process by describing specific procedures, alternate ways of dealing with the process are not legally permitted. For example, DJC cannot develop its own JCI disciplinary procedures outside of ch. DOC 373 nor can community corrections staff create revocation procedures that differ from those contained in ch. DOC 393.

DJC must follow the complaint procedures of chapters DOC 380, 393 and 396. When a youth expresses a complaint that falls into the "subject matter appropriate for filing a complaint" category as described below, the **rules procedures shall be followed**.

#### JCI PROCEDURES

Youth first learn about the JCI complaint process upon admission to a JCI. Administrative rules at s. DOC 371.05, require that JCI staff explain the complaint process during orientation [see chapter 4].

Also, youth receive the Youth Institution Handbook about Administrative Rules that describes the complaint process in a simple manner.

Administrative rules mandate that the Youth Complaint form and appeal forms be readily accessible at all times.

### **COMMUNITY SUPERVISION PROCEDURES**

The complaint procedures for youth on aftercare and Type 2 supervision are contained in ch. DOC 393 and ch. DOC 396, WI Adm. Code, respectively. Although the rules do not specifically mandate that DJC inform youth about the complaint procedures as does ch. DOC 380 for youth in a JCI, community corrections staff should explain the basic complaint procedures and tell youth how to obtain the forms. The agent should provide that information when the youth signs the Community Supervision Rules and Conditions (DOC-1741).

## **COMPLAINT PROCESS FOR YOUTH IN A JCI**

### **OBJECTIVES OF COMPLAINT PROCESS**

- To afford youth the opportunity to raise questions about correctional policies that directly affect them.
- To encourage communication between youth and staff.
- To develop a sense of involvement in the correctional process by youth and staff.
- To correct errors in correctional policy through the exchange of ideas.
- To allow youth who believe they have been treated unfairly to challenge staff decisions, process or policy.
- To reduce frustration among youth about conditions at the institution in which they reside.

### **RESPONSIBILITIES OF JCI STAFF**

#### **Inform Youth of the Process**

JCI's shall explain the complaint process to all youth during orientation and give the youth a written explanation of the process. [see Chapter 4] Youth complaint: Institution (DOC-2051 and DOC-2051S) and Appeal and Decision (DOC-1622) must be readily available.

#### **Maintain Confidentiality**

Staff shall keep the **identity of the youth** filing the complaint and the **subject matter confidential** except for when discussion with others is necessary to investigate the complaint. Youth who file a group complaint waive the expectation of confidentiality with respect to other youth involved in the complaint.

#### **No Retaliation/ Discipline of a Youth**

Staff and other youth are prohibited from retaliating against a youth who files a complaint. A youth may file a complaint directly with the superintendent if anyone retaliates against a youth. However, if a youth knowingly files a false complaint, staff may take disciplinary action under the procedures of ch. DOC 373, WI Adm. Code, citing the conduct rule, s. DOC 373.32, Lying.

**No Limit on Number of Complaints**

A JCI may not impose a limit on the number of complaints that a youth may file.

**Record**

Each JCI shall **maintain a record of complaints** including name of youth, complaint number, subject of the complaint and disposition. The record must be kept in a file **separate from the youth's social services file** for at least 3 years after the final decision is made.

**Complaint Mediators**

Superintendents shall designate staff members as complaint mediators who shall receive training in complaint procedures and mediation skills.

**SUBJECT MATTER OF COMPLAINTS****Proper Subjects for Complaints**

Youth **MAY** file complaints regarding residential programs, application of rules, division policies, conditions, procedures or other matters or incidents.

**Inappropriate Subjects for Complaints**

Youth **MAY NOT** use the complaint process for the following issues:

- Factual disputes or decisions in the disciplinary process under ch.DOC 373, except that the complaint procedures may be used to challenge certain procedural errors by a hearing officer in a disciplinary hearing (see explanation below).
- Matters over which DOC has no authority
- Court-ordered conditions
- OJOR decisions
- Decision to place a youth at a specific JCI
- A decision not to deliver mail, except when superintendent suspends youth's mail privileges as part of a disciplinary proceeding {s. DOC 379.04 (9)}
- Suspension of visiting privileges
- Matters related to the revocation process (when youth has returned to the JCI)
- Matters that do not directly affect the complainant
- A DOC Administrative Rule
- An issue about which a youth may appeal under a department rule other than ch. DOC 380; e.g., appeal of a rule of community supervision in ch. DOC 393, WI Adm. Code

**COMPLAINT FILED DIRECTLY WITH SUPERINTENDENT****Subject Matter**

Youth may submit complaints about the following matters directly to the superintendent without discussing the complaint with a staff member or involving a mediator:

- Retaliation
- Abuse by staff
- Breach of confidentiality
- Procedures used by a hearing officer during a disciplinary hearing

### **Filing a Complaint**

A youth completes the Youth Complaint form (DOC-2051 or DOC-2051S) within 5 days of the incident and submits it to the superintendent. Youth may have 2 more days to provide additional information if the superintendent believes that the DOC-2051 has not been completed adequately.

### **Responsibility of Superintendent**

Except as noted below, within 7 days of receipt of a direct complaint, the superintendent shall issue a written decision using Superintendent's Decision on Youth Complaint (DOC-2053 or DOC-2053S) form that includes the following information.

- Issue
- Facts upon which decision is based
- Decision
- Reasons for Decision
- Notice is included on the DOC-2053 informing the youth that he or she may submit to the DJC Administrator the Appeal to the Administrator and Decision (DOC-2054 or DOC-2054S) if the youth disagrees with the superintendent's written decision.
- Notice is included on the DOC-2053 informing the youth that he or she may submit to the DJC Administrator the Appeal to the Administrator and Decision (DOC-2054) if relief granted under the DOC-2053 has not been implemented with 14 days of youth's receipt of the DOC-2053.

If the youth alleges a violation of the right to privacy of his or her protected health information, the superintendent shall consult with the DOC Privacy Officer prior to issuing the written decision, in accordance with Health Services Policy and Procedure 500:17, Complaints Alleging Violation of Confidentiality and Sanctions.

### **Complaint Regarding Hearing Process**

- Youth may **not** appeal the decision to impose a specific sanction/discipline using the complaint process, but may use the complaint procedures to complain about a procedure used by the hearing officer during a disciplinary hearing under ss. DOC 373.72, 373.73 and 373.76 through 373.78, WI Adm. Code.
- When the superintendent receives a direct complaint regarding the hearing process, he or she completes the DOC-2053 as described above and takes one of the following actions:
- Affirm the hearing officer's decision if the procedural error did not deny the youth a fair hearing
  - ✓ Affirm the hearing officer's decision, but reduce the discipline
  - ✓ Reverse the hearing officer's decision & remove records from the youth's file

- ✓ Remand the case to the hearing officer

### **COMPLAINTS SUBMITTED TO COMPLAINT MEDIATOR**

In most cases, a youth must complete the Youth Complaint form (DOC-2051 or DOC-2051S) and submit it to a complaint mediator. The only exception is for complaints the youth can submit directly to the superintendent.

### **Steps for Filing a Complaint**

The youth must follow the steps described below:

- Discuss the complaint with a social worker or youth counselor to attempt to resolve the problem.
- Complete the Youth Complaint-JCI form (DOC-2051) within 5 days of the incident/decision leading to the complaint if the problem is not resolved by discussing the problem with the social worker or youth counselor.
  - ✓ Five day limit can be waived by the complaint mediator if the delay does not adversely affect the investigation. Youth may have an additional 2 days to provide additional information if the mediator believes that the DOC-2051 has not been completed properly.
  - ✓ Instructions are included on the DOC-2051
  - ✓ A complaint mediator or other staff member shall assist youth who experience problems completing the DOC-2051.

### **Group Complaint**

Group complaints may be on one form. Each youth must sign the form or an attached sheet of paper. Only youth personally affected by an incident/decision may be part of a group complaint. The complaint mediator shall liberally construe complaints filed as a group complaint.

### **Responsibilities of Mediator**

- A staff person directly involved in the incident/decision described in the complaint cannot be the mediator. The superintendent appoints an alternate mediator.
- Youth may file a separate complaint if he or she believes the mediator assigned to the complaint has a conflict of interest.
- Within 24 hours of receiving a complaint, excluding weekends and holidays, the mediator or other designated staff must:
  - ✓ Record the time and date the complaint was received
  - ✓ Screen the complaint
  - ✓ Assign a file number
  - ✓ Give priority to complaints about health and safety
- Within 5 days of receiving the complaint the mediator shall do the following:
  - ✓ Investigate the complaint keeping a written record of information obtained.
  - ✓ Try to mediate the complaint with the youth and others involved.

- Throughout the complaint process, the **mediator shall do the following**:
  - ✓ Forward all relevant documents to the complainant during all steps of the complaint process.
  - ✓ Keep the youth informed of decisions made throughout the complaint process..

### **Informal resolution**

- Informal resolution must take place within 5 days from the submission of the complaint unless the youth waives the time limit.
- If the mediator and youth reach an agreement, the mediator completes the “informal resolution” section of the Mediator’s Report form (DOC-2052 or DOC-2052S).
- Youth must sign the DOC-2052 which indicates that he or she agrees with the resolution.
- Mediator submits the DOC-2052 to the superintendent/designee.
- Superintendent/designee reviews the DOC-2052 and either approves the resolution or orders a formal resolution.
- If the superintendent/designee approves the informal resolution, he or she may or may not complete a DOC-2053. Not issuing the DOC-2053 affirms the informal resolution.

### **Formal resolution**

When informal resolution cannot be reached or the superintendent requires a formal resolution, the **mediator shall do the following**:

- Investigate the complaint providing the youth with the opportunity to present his or her position and other relevant information.
- Complete the “formal resolution” section of the DOC-2052
  - ✓ State the youth’s complaint
  - ✓ State facts upon which the proposed formal resolution is based
  - ✓ Describe the proposed resolution
  - ✓ Explain reasons for the proposed resolution
  - ✓ May recommend the complaint be dismissed for being frivolous, not meeting subject matter criteria described above or, after investigation, being without any merit.
- Submit to the superintendent within 14 days of receipt of DOC-2051, unless the youth waives the time limit.

### **Superintendent’s Decision**

- Within 7 days of receipt of Mediator’s Report (DOC-2052), superintendent **issues a written decision** by completing the Superintendent Decision on Youth Complaint (DOC-2053 or DOC-2053S) providing each complainant a copy **OR does not issue a written decision which affirms the mediator’s recommendation.**

- DOC-2053 includes the following components:
  - ✓ Youth's complaint
  - ✓ Facts upon which the decision is based
  - ✓ Decision
  - ✓ Reasons for the decision
  - ✓ Youth has the right to file a complaint directly with the DJC administrator if an informal or formal resolution is not implemented within 14 days of the decision/agreement.
  - ✓ Notice of youth's right to appeal Superintendent's decision.

### **Appeal to Administrator and Administrator's Decision**

- Within 5 days of receipt of the superintendent's decision or 5 days from the end of the 7 day decision period in cases wherein the superintendent does not issue a decision, a youth may complete part one of the Appeal to Administrator form (DOC-2054) and forward it to the DJC Administrator.
- Administrator either **issues a written decision** within 7 days of receipt of part one of the DOC-2054 by completing part 2 of the form **OR does not issue a decision which affirms the superintendent's decision.**

## **COMPLAINT PROCESS FOR AFTERCARE YOUTH**

### **OBJECTIVES UNDER S. DOC 393.20, WI ADM. CODE**

- To allow youth to raise questions regarding a decision affecting their supervision.
- To encourage communication and cooperation between youth and staff.
- To resolve problems in an orderly and consistent manner.

### **DISCIPLINE OF A YOUTH**

Staff shall not penalize a youth for filing a complaint. However, if a youth knowingly files a false complaint, staff may take disciplinary action including counseling, summary disposition and revocation. [see Chapter 17]

### **DURING COMPLAINT INVESTIGATION AND APPEAL**

All parties affected by the agent's decision under dispute shall comply with that decision during the complaint process.

### **EXPEDITED APPEAL**

If the time limits of ch. DOC 393 would make moot the complaint, the supervisor/regional chief shall make all reasonable efforts to expedite the process.

### **SUBJECT MATTER OF COMPLAINTS**

#### **Appropriate Subject Matter**

Youth **MAY** file a complaint regarding decisions that affect the youth personally.

**Subject Matter Not Appropriate**

Youth **MAY NOT** file a complaint regarding the following matters.

- Revocation decision [see Chapter 17]
- Custody and detention
- Violation of criminal law or ordinance
- Denial of use/possession of a firearm
- Conduct rules or court-ordered conditions
- Discharge of youth prior to date of expiration of court order [see Chapter 18]
- OJOR decisions [see Chapter 5]
- DOC Administrative Rules
- Matters over which DOC has no authority
- Issues about which a youth may appeal under a different procedure than the ch. DOC 380 process; e.g., revocation, conditions of community supervision.

**YOUTH RESPONSIBILITIES FOR FILING A COMPLAINT**

Youth completes and submits to his or her agent the Complaint by Youth on Community Supervision form (DOC-2179 or DOC-2179S) according to the instructions contained in the form within 5 days of the incident/decision with which the youth disagrees.

If a youth feels uncomfortable submitting the complaint directly to the agent, the youth may submit the DOC-2179 to the agent's supervisor.

A youth shall file a complaint regarding a breach of confidentiality of his or her protected health information directly with the agent's supervisor, or with the Regional Chief, if the youth alleges that the agent's supervisor breached the confidentiality of his or her health information.

**AGENT RESPONSIBILITIES**

- Complete Section 1 of the Agent's Statement and Supervisor's Decision (DOC-2180 or DOC-2180S).
- Promptly forward to agent's supervisor the DOC-2179 and the DOC-2180.
- Attempt to resolve the complaint with the youth.
  - ✓ Document in the youth's file any resolution agreed to by the youth and agent and inform supervisor of the resolution.

**SUPERVISOR'S RESPONSIBILITIES**

- When the youth submits the DOC-2179 directly to the supervisor, the supervisor discusses the complaint with the agent and completes Part 1 of the DOC-2180.
- Consult with the DOC Privacy Officer if the complaint alleges a breach of confidentiality of health information, in accordance with Health Services Policy and Procedure 500:17, Complaints Alleging Violation of Confidentiality and Sanctions.
- Review the DOC-2179 and DOC-2180.

- May interview youth or others to investigate the complaint.
- Take one of the two following actions:
  - ✓ Issue a written decision within 7 days of receipt of the DOC-2179 and DOC-2180.
    - State reasons for his or her decision by completing Section 2 of the DOC-2180.
    - Send copies to youth and the agent.
  - ✓ Do not issue a written decision within 7 days, which affirms the agent's decision.

#### **YOUTH APPEAL OF SUPERVISOR'S DECISION TO REGIONAL CHIEF**

Youth completes Section 1 of the Appeal to the Regional Chief and Decision form (DOC-2181 or DOC-2181S) according to the instructions on the form within 5 days of receipt of the supervisor's decision or the end of the 7 day appeal period mentioned above if the supervisor decides not to issue a written decision. Youth should attach copies of the DOC-2179 and DOC-2180.

#### **RESPONSIBILITIES OF REGIONAL CHIEF**

- Review the DOC-2179, DOC-2180 and DOC-2181.
- May interview youth or others to investigate the complaint.
- Issue a written decision within 7 days of receipt of Appeal to Regional Chief and Decision (DOC-2181) by completing Section 2 of the form.
  - ✓ State reasons for the decision.
  - ✓ Send copies to youth, agent and agent's supervisor.

### **COMPLAINT PROCESS FOR TYPE 2 YOUTH**

#### **OBJECTIVES UNDER S. DOC 396.21, WI ADM. CODE**

- To allow youth to raise questions in an orderly manner regarding a decision affecting their supervision.
- To encourage communication and cooperation between youth and staff.
- To resolve problems that occur during supervision in an orderly and consistent manner.

#### **DISCIPLINE OF A YOUTH**

Staff shall not penalize a youth for filing a complaint. However, if a youth knowingly files a false complaint, staff may take disciplinary action including sanction, administrative detention and termination of Type 2 status. [see Chapter 15]

#### **DURING COMPLAINT INVESTIGATION AND APPEAL**

All parties affected by the agent's decision under dispute shall comply with the decision during the complaint process.

**EXPEDITED APPEAL**

If the time limits of ch. DOC 396 would make moot the complaint, the supervisor/regional chief shall make all reasonable efforts to expedite the process.

**SUBJECT MATTER OF COMPLAINTS FOR TYPE 2 YOUTH**

- Youth **MAY** only use the complaint process to question a decision that affects the youth personally.
- Youth **MAY NOT** use the complaint process regarding the following matters.
  - ✓ Termination of Type 2 status [see Chapter 15]
  - ✓ Custody and detention
  - ✓ Violation of criminal law or ordinance
  - ✓ Denial of use/possession of a firearm
  - ✓ OJOR [see Chapter 5] or court-ordered conditions
  - ✓ Discharge of youth prior to date of expiration of court order [see Chapter 18]
  - ✓ Major disciplinary sanction under s. DOC 396.10 [see Chapter 15]

**YOUTH RESPONSIBILITIES FOR FILING A COMPLAINT**

Youth completes and submits to the agent the Complaint by Youth on Community Supervision (DOC-2179) according to the instructions contained in the form within 5 days of the decision with which the youth disagrees.

If a youth feels uncomfortable submitting the complaint directly to the agent, the youth may submit the DOC-2179 to the agent's supervisor.

A youth shall file a complaint regarding a breach of confidentiality of his or her protected health information directly with the agent's supervisor, or with the Regional Chief, if the youth alleges that the agent's supervisor breached the confidentiality of his or her health information.

**AGENT RESPONSIBILITIES**

- Review the completed DOC-2179 submitted by the youth.
- Attempt to resolve the complaint with the youth within 5 days of the decision to which the youth objects.
- Enter date of discussion with the youth and result in Section 1 of the Agent's Statement and Supervisor's Decision (DOC-2180).
  - ✓ Document in the youth's file any resolution agreed to by the youth and agent.
  - ✓ If no agreement reached within the 5 day period, forward DOC-2179 and DOC-2180, with Section 1 completed, to agent's supervisor. Supervisor may extend the 5 day period for good cause.

**SUPERVISOR'S RESPONSIBILITIES**

- When the youth submits the DOC-2179 directly to the supervisor, the supervisor discusses the complaint with the agent and completes Part 1 of the DOC-2180.

- Consult with the DOC Privacy Officer if the complaint alleges a breach of confidentiality of health information, in accordance with Health Services Policy and Procedure 500:17, Complaints Alleging Violation of Confidentiality and Sanctions.
- Review the Complaint by Youth on Community Supervision (DOC-2179), Section 1 of the Agent's Statement and Supervisor's Decision (DOC-2180), and other relevant information.
- May interview youth and others to investigate the complaint
- Take one of the two following actions:
  - ✓ Issue a written decision by completing Section 2 of the DOC-2180 within 14 working days of receipt of the DOC-2179 and Section 1 of the DOC-2180.
    - State reasons for decision.
    - Send copies to youth and the agent.
    - Do not issue a written decision within 14 working days which affirms the agent's decision.

### **APPEAL OF SUPERVISOR'S DECISION TO REGIONAL CHIEF**

#### **Responsibilities of Youth**

If the youth disagrees with the supervisor's written decision, Section 2 of DOC-2180, or the affirmation of the agent's decision by the supervisor by not issuing a written decision, a youth may complete and forward to the Regional Chief, Section 1 of the Appeal to Regional Chief and Decision (DOC-2181 or DOC-2181S) within 5 working days of receipt of the supervisor's written decision or the end of the 14 day appeal period if the supervisor does not issue a written decision.

#### **Responsibilities of Regional Chief**

- Review the Complaint by Youth on Community Supervision (DOC-2179) and Agent's Statement and Supervisor's Decision (DOC-2180), if issued.
- May interview youth or others to investigate the complaint.
- Issue a written decision by completing Part 2 of the Youth Appeal to Regional Chief and Decision (DOC-2181) within 14 working days of receipt of the complaint documents.
- Provide copies to the youth, youth's agent and agent's supervisor.

### **APPEAL TO THE ADMINISTRATOR**

#### **Youth Responsibilities**

Youth completes and forwards to the Administrator the Youth Appeal to Administrator (DOC-2054) within 5 working days after receiving the Regional Chief's decision (DOC-2181).

#### **Responsibilities of Administrator**

- Review the complaint documents: DOC-2179, DOC-2180, if issued, and DOC-2181
- Take one of the two following actions:
  - ✓ Issue a written decision within 14 working days of receipt of DOC-2054.

- State reasons for the decision
  - Send copies to youth, agent, agent's supervisor and regional chief
  - Administrator may extend time period to an additional 14 working days upon notifying all parties involved.
- ✓ Do not issue written decision which affirms the decision of the regional chief.