

KNOW YOUR RIGHTS:

## FILING A GRIEVANCE WHILE INCARCERATED TO PROTECT YOUR RIGHTS

People incarcerated in Maine jails and prisons have the right to file a grievance if they believe their civil rights were violated.

If you are currently incarcerated and believe that your civil rights have been violated, you may consider filing a lawsuit against the prison, jail, or officials. However, before filing a lawsuit, you must file a grievance. This requirement comes from the Prison Litigation Reform Act (PLRA), a 1996 law that was designed to make it more difficult for incarcerated people to hold jails, prisons, and corrections employees accountable for wrongdoing.

### WHAT IS THE PRISON LITIGATION REFORM ACT (PLRA)?

The Prison Litigation Reform Act (PLRA) was passed by Congress in 1996. It was designed to limit incarcerated people's ability to hold jails, prisons, and officials accountable for wrongdoing.

The PLRA requires incarcerated people to "exhaust" all administrative remedies before they can file a lawsuit in federal court alleging civil rights violations while incarcerated. This means you must try to resolve every complaint you have through the jail's or prison's grievance procedure and pursue every available appeal in the grievance procedure. If you file a lawsuit in federal court without first taking your complaint through every step in the grievance process, your lawsuit will almost certainly be dismissed.

### WHY IS IT IMPORTANT TO FILE GRIEVANCES?

Grievances are how incarcerated people can protect themselves when they believe their rights were violated.

Grievances allow incarcerated people to enforce their rights and hold institutions and officials accountable for violations of their rights.

**Filing a grievance is required before you can file a lawsuit in federal court.** It doesn't matter if you believe the grievance process is unfair or inadequate, or if you believe that nothing will change as a result of the grievance. You are still required to file a grievance. If you do not, your case will likely be dismissed in court.

## WHEN SHOULD YOU FILE A GRIEVANCE?

You should file a grievance as soon as possible if you believe your civil rights have been violated in a Maine jail or prison.

### File grievances immediately:

If you are considering filing a lawsuit, you must file a timely grievance for every claim you want to bring related to jail or prison conditions. You should act quickly because many grievance procedures have very tight deadlines. For example, you may be required to file a grievance within 10 days or less of the incident you are reporting.

### When to file a grievance:

There are many scenarios in which it may be appropriate to file a grievance while incarcerated:

- Physical assault
- Sexual assault
- Discrimination or abuse based on gender identity, race, national origin, sexual orientation, age, religion, HIV/AIDS status, disability, or other protected identity
- Denial of medical care, including medication-assisted treatment for substance use disorder (MAT), prenatal care, and postpartum care
- Exclusion from facilities, programs, or services that are accessible to other prisoners, due to your disability
- Restricted access to mail or receiving mail
- Inhumane living conditions
- Cruel and unusual punishment
- Denied access to court or counsel
- Sentencing miscalculations

### Follow specific grievance procedures:

Be sure to consult the jail's or prison's grievance procedures for more details on what you can and cannot grieve within that particular jail or prison. Please note that there are different procedures for certain grievances at prisons, and Maine jails have their own procedures.

Visit [ACLUMaine.org/Grievances](https://www.aclu.org/grievances) to see policies for filing a grievance in an adult prison in Maine related to general grievances, sexual assault, and health care.

The policies at that link do not apply to Maine jails. If you are incarcerated in a Maine jail, you need to obtain the policy for that specific jail.

# HOW TO FILE GRIEVANCES AND WHAT TO INCLUDE:

You must follow all rules, deadlines, and procedures for filing a grievance.

## In general, you should:

- Follow the prison's or jail's grievance procedure – do not deviate in any way.
- Grieve every claim you have.
- Meet every deadline. Take note of when and how you submitted a grievance. If extraordinary circumstances cause you to miss a deadline, also take note of those.
- If your grievance is denied, appeal if the procedure allows. Follow the appeal procedure exactly.
- Keep copies of your grievances and all related documents.

## Process:

According to the Maine Department of Corrections, each admitted or transferred resident will receive a copy of the grievance process policy and an explanation of how to obtain assistance during orientation.

There are multiple stages of the grievance review process. You are required to appeal your complaint through every step of the process and comply with all rules, deadlines, and procedures at every stage:

1. Initial Review of Grievance and Informal Resolution Process
2. First Level Review of Grievance
3. Second Level Review of Grievance
4. Third Level Review of Grievance

The specifics of these review levels may vary slightly depending on the facility, so it is important to read the facility's policy carefully and follow it exactly.

## Seeking Assistance:

Residents should request help from their case manager or other appropriate staff as outlined in Department of Corrections policy. You can read the policy in the general grievance procedure at [ACLUMaine.org/Grievances](https://www.aclumaine.org/grievances). Please note this applies only to Maine prisons and does not apply to jails. If you are incarcerated in a Maine jail, you will need to obtain the policy for that specific jail.

## What to Include in a Grievance:

- State the issue. Clearly describe what happened, when it happened, who did it, and the steps you took to try to fix the issue.
- State what you want prison officials to do to fix the issue.
- Attach any supporting documents.
- Use the facility's official grievance form. Fill out all portions of the grievance form.
- Sign and date the grievance form.
- Submit your grievance to the appropriate facility official by the deadline.

Remember to file a grievance for every complaint you want to bring and adhere to all deadlines.