

Oficina Legal Del Pueblo Unido
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How to File a Grievance Updated October 2022

Note: We prepared the following information as a general guide. We tried to use the most up to date information available, but we cannot guarantee that everything here is current or accurate for your situation. This guide is general information only and does not constitute legal advice. It does not create a lawyer-client relationship between you and Texas Civil Rights Project. We encourage you to contact a lawyer if you wish to file a lawsuit. We can send a lawyer referral and resource list if you write to us and request one.

Filing a grievance is the formal process to address a problem or complaint in prison or jail. The Texas Department of Criminal Justice (TDCJ) requires you to take specific steps within certain deadlines before it will address your issue. Each county has a similar process for its jails.

Under a federal law known as the Prison Litigation Reform Act (PLRA), you usually cannot file a lawsuit until you complete the grievance process (known as “exhausting administrative remedies”). You must be careful to follow all the required steps. If you do not, your grievance may not be answered or you may not be able to file a lawsuit.

The TDCJ Grievance Process – Informal Resolution, Step 1, and Step 2 Grievances

Informal Resolution

- Start by talking to prison staff about your problem. You can usually talk to the staff in your unit. This is called “informal resolution.” It is required before you file a grievance.
- You must describe your attempted informal resolution on the grievance form you will file. Write this in the “informal resolution” section. Write who you talked to and what they did (if anything).

Step 1

- You can get a grievance form (called an I-27) from the law library, in your housing area, from a shift supervisor, or from your unit grievance office.
- Fill out the form completely and do not leave any parts blank. Use dark ink or a typewriter. If you need help, you can contact your unit grievance investigator.
- You should only put one issue on a grievance form. If you have more than one problem, you can file one for each issue. You cannot file more than one grievance each week.
- You must write on the form how you want the issue resolved. For example, if you are sick and need to see a doctor, you can write “I want to see a doctor.”
- You should only write in the space provided on the form. The only attachments TDCJ will accept are official TDCJ documents.
- Do not use indecent, vulgar, or threatening language, or threaten an escape. TDCJ can refuse to process a grievance with bad language. TDCJ can also take disciplinary action against you.
- Place the form in the grievance box in your unit or give it to the grievance investigator.
- You must turn in the form no more than 15 days after the incident that your complaint is about.



- TDCJ has 40 days after receiving the grievance to respond to you (and 45 days if it is a medical issue). TDCJ might take more time to complete an investigation. They must notify of an extension in writing.
- If 40 days have passed and you have not received a response or a notice of extension, you can still file a Step 2.
- If your Step 1 does not meet all the requirements, TDCJ does not have to process it. You will usually have the chance to correct it and resubmit it. You have 15 days after the “Date Returned to the Offender” written in the “OFFICE USE ONLY” box on the back of the grievance form that you get back.

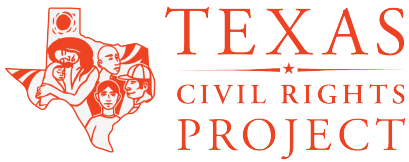
Step 2

- If you are not satisfied with TDCJ’s response, you can appeal. To appeal, you must file a Step 2 (called an I-128).
- You have 15 days to file a Step 2. You should count the days from the “Date returned to the Offender” written in the “OFFICE USE ONLY” box on the front of the Step 1 form.
- Fill out the form completely and do not leave any parts blank. Use dark ink or a typewriter. If you need help, you can contact your unit grievance investigator. Only put one issue on a grievance form.
- Place the form in the grievance box in your unit or give it to the grievance investigator.
- TDCJ has 40 days to respond to your Step 2 in writing (and 45 days if it is a medical issue). TDCJ might take more time to complete an investigation. They must notify of an extension in writing.
- If your Step 2 does not meet all the requirements, TDCJ does not have to process it. You will usually have the chance to correct it and resubmit it. You have 15 days after the “Date Returned to the Offender” written in the “OFFICE USE ONLY” box on the back of the grievance form that you get back.

If you are not satisfied with the answer to your Step 2, you can consider filing a lawsuit. In most cases, you must file a lawsuit within two years of the incident. You can write to us and let us know if you have gotten a response to a Sep 2 and are not satisfied, but it is very unlikely we will be able to represent you. Please do not send us any original documents.

Tips

- You should always keep a copy of any grievance form you file. If you cannot make a copy, you can write one by hand.
- You can only file a grievance about an issue that applies to you personally. The only exception is for sexual abuse. You can file a grievance about any sexual abuse even if it does not involve you personally.
- You can file grievances related to: TDCJ rules and policies, actions of staff or other prisoners, retaliation for filing a grievance, loss or damage of your property, and care and conditions controlled by TDCJ.



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- You cannot file a grievance related to: state or federal law, parole decisions, time credits (you should send those issues to Classification and Records, Time Section), or issues that TDCJ cannot correct. You cannot ask for money or disciplinary action against staff.
- You can use a grievance to appeal a disciplinary decision. You must wait until after the disciplinary hearing to do so.
- You should not use a grievance form to report an issue with the grievance process. You can write a letter or submit an I-60 form to the administrator of the Offender Grievance Program.
- Your family can also contact TDCJ's Ombudsman from outside of prison at https://www.tdcj.texas.gov/tbcj/oio/ombudsman_contact.php. The Ombudsman is an independent office in TDCJ that can try to resolve issues for you. Speaking with the Ombudsman does not count as filing a grievance and *does not* exhaust administrative remedies under the PRLA. If you think you might want to take legal action, you should also make sure to file Step 1 and Step 2 grievances.

County Jail Grievance Processes – Steps vary depending on the county

Every county jail has its own grievance process. The process is probably similar to the TDCJ process but there may be important differences. You should check the handbook you receive for information. If you did not get a handbook, you can ask jail staff how to file a grievance.

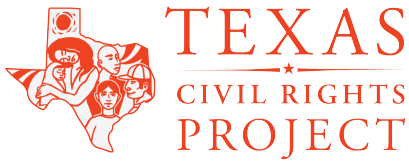
If staff will not tell you how to file a grievance, you might be able to file a lawsuit without filing a grievance. You should keep notes of who you asked for help, when you asked them, and what they told you.

All county jails are inspected every year by the Texas Commission on Jail Standards. You can send issues to the Commission. To report a problem to the Commission, someone with internet access can complete an online form here: <https://www.tcjs.state.tx.us/jail-complaints-inquiries/>. Contacting the Commission does not count as filing a grievance and *does not* exhaust administrative remedies under the PRLA. If you think you might want to take legal action, you should also make sure to follow the jail's grievance process.

You can write to us and let us know if you have gotten a final response to a grievance and are not satisfied, or if no one will give you information about filing a grievance and you did not receive a handbook. Because of our resource limitations, it is very unlikely we will be able to represent you. Please do not send us any original documents.

Texas Juvenile Justice Department Grievance

For children in the Texas Juvenile Justice Department (TJJD) there are several options for filing complaints. There are different options for parents and children:



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- For children in TJJD custody, grievance forms are available from the grievance clerk on each dorm. You can request a form, complete it, and put it in the drop box on the dorm. TJJD has 15 days to respond to the grievance.
- Parents, guardians, and other youth advocates can submit grievances to TJJD by calling 1-877-786-7263, toll-free or by email at abuseneglect@tjjd.texas.gov. You can also download an incident report form here: <https://www.tjjd.texas.gov/index.php/doc-library/send/148-administrative-investigations/374-tjjd-incident-report-form-pdf>.

If TJJD does not satisfactorily respond to the grievance within 15 business days, you must appeal. Ask the facility where you should send the appeal. Children, parents, and advocates may file appeals in the same way. If the appeal does not resolve the problem within 15 business days, you can file another appeal with TJJD's executive director at TJJD's central office.

For children on parole, the process is the same. Children on parole can get a grievance form from the district parole office where they report.

Children, family, and youth advocates can also contact the Office of the Independent Ombudsman at independent.ombudsman@tjjd.texas.gov. The Ombudsman is an independent watchdog agency supervising TJJD. Speaking with the Ombudsman *does not* exhaust administrative remedies under the PRLA. If you think you might want to take legal action, you should also make sure to follow the jail's grievance process.

Exceptions to the PLRA

The PLRA does not apply to all situations. In some cases, you can file a lawsuit without exhausting administrative remedies. Even if you do not have to exhaust administrative remedies, you might still want to file a grievance. It can be much faster to file a grievance than to file a lawsuit. We recommend filing a grievance in most situations.

If you qualify for one of these exceptions, you may not need to file a grievance before going to court:

- If you file a lawsuit in state court (rather than federal court), the PLRA does not apply to people in county jail or TJJD custody.
- The PRLA only applies to people in prison. It may be possible to wait until you are released to file a lawsuit. In most cases, you must file a lawsuit within two years of the problem, whether or not you are still in prison.
- You do not need to file a grievance to file a lawsuit because someone you are related to died in prison or jail.

When in doubt, you should file a grievance. We also recommend speaking to a lawyer to decide if the exceptions apply to you.