

## **Filing a Grievance in a Texas Prison or Jail**

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In most cases, prisoners must file a grievance about a problem in prison before they can file a lawsuit. The Prison Litigation Reform Act (PLRA) requires prisoners to “exhaust administrative remedies” before they can take a problem to federal court. Though grievance may not work, an inmate must at least try to fix a problem through the grievance process.

In most prisons and jails, “exhausting administrative remedies” requires filing a grievance *and* an appeal. If an appeal is not also filed, a prisoner has not “exhausted” their remedies and cannot go to federal court.

### **Texas Department of Criminal Justice**

- For inmates in the Texas Department of Criminal Justice, complete a Step 1 *and* Step 2 grievance. Be careful to follow TDCJ's grievance rules.

#### *Before you file:*

- Talk with prison staff about the problem. This is considered “informal resolution.”

#### *How to file:*

1. Get a grievance form from TDCJ. Forms should be available in the law library and your housing unit.
2. Follow these guidelines when you write your grievance:
  - Only write about the issue you want help with. Each grievance can only discuss one problem. If you have more than one problem, write a different grievance for each problem. Remember you are limited to writing one grievance per week.
  - When you write the grievance, explain who you talked to and what they did (if anything) about your problem in the “informal resolution” part
  - Be sure to file your grievance within 15 days of learning about the problem, or as soon as possible.
  - Make sure you include how you would like to have the problem solved. For example, if you are sick and need to see a doctor, write “I want to see a doctor.”
  - Do not use indecent, vulgar, or threatening language. TDCJ has the right to refuse to process a grievance with bad language.
3. TDCJ has 40 days to respond to your Step 1 grievance. You can file a Step 2 grievance as soon as you receive a response to your Step 1 grievance. If 40 days have passed and you have still not received a response and you have not been notified that there will be a delay, you can proceed to file the Step 2 grievance.
  - You must file a Step 2 grievance within 15 days of receiving the response to your Step 1 grievance. TDCJ has 35 more days to process a Step 2 grievance.

4. Always keep copies of your returned grievances. You may need them later on and it can be difficult to obtain copies.
  - Family of TDCJ inmates can also contact TDCJ's Ombudsman at [http://www.tdcj.state.tx.us/divisions/arm/arm\\_res\\_ombudsman.html](http://www.tdcj.state.tx.us/divisions/arm/arm_res_ombudsman.html). Speaking with the Ombudsman *does not* exhaust administrative remedies under the PRLA. If you wish to take legal action, you must also make sure Step 1 and Step 2 grievances have properly been filed in most cases. Contacting the Ombudsman is a way to solve problems without having to resort to the courts.

## County Jails

- Policies are different in every county jail. Please check your inmate handbook for information about how to file a grievance. If you were not given an inmate handbook, ask jail staff how to file a grievance.

If jail staff will not explain how to file a grievance to you, you may not be required to file a grievance before taking your case to court. Make notes about who you asked for help filing a grievance and what they told you.

- All county jails are inspected every year by the Texas Commission on Jail Standards. To report a problem to the Commission, you can complete an online form here: <http://www.tcjs.state.tx.us/complaint.php>. Contacting the Commission *does not* exhaust administrative remedies under the PLRA. If you wish to take legal action, you must also make sure to follow the jail's grievance policies in most cases.

## Texas Juvenile Justice Department

For inmates in the Texas Juvenile Justice Department there are several options to file a grievance, which are different for children and parents:

- For children in TJJD custody, grievance forms are available from the grievance clerk on each dorm. Request a form, complete it, and place it in the drop box on the dorm. TJJD has 15 days to respond to the grievance.
- For parents, guardians, and other youth advocates, grievances can be submitted to TJJD by calling 1-877-786-7263, toll-free or by email at [abuseneglect@tjpc.state.tx.us](mailto:abuseneglect@tjpc.state.tx.us).
- If TJJD does not satisfactorily respond to the grievance within 15 business days, you must appeal. Ask the facility who appeals should be given to. Children, parents, and advocates may file appeals in the same way. If the appeal does not resolve the problem within 15 business days, another appeal must be filed 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.

For more information about TJJD's grievance process, contact the TJJD Title IX Coordinator at 512-424-6153 or the Section 504 Coordinator at 512-424-6097.

Children, family, and youth advocates can also contact the Office of the Independent Ombudsman:

<http://www.tjjd.texas.gov/ombudsman/index.aspx>, an independent watchdog agency supervising TJJD.

Speaking with the Ombudsman *does not* exhaust administrative remedies under the PRLA. If you wish to take legal action, you must also make sure to follow the grievance procedures in most cases.

There are also many exceptions to the PLRA. If you qualify for one of these exceptions, you may not need to file grievances before going to court:

- If you file your lawsuit in state court, the PLRA does not apply to TJJD and county jail prisoners.
- The PRLA only applies to people in prison, so it may be possible to wait until you are released to file your case. (Remember, though, in most cases you must file within 2 years of when the problem occurred – do not wait to get out if it will take more than 2 years.)
- If you want to file a lawsuit because someone you are related to died in prison, you do not need to file grievances.

If there is any doubt about whether you qualify for an exception, you should file grievances. Try to talk to a lawyer before relying on an exception.

*Disclaimer: This information is for general information purposes only, and is not a substitute for the advice of an attorney. It is not legal advice. Legal advice involves the application of legal knowledge and skill by a licensed attorney to your specific circumstances. If at all possible, always talk to a lawyer before filing a lawsuit. To find a lawyer near you, call 1-800-252-9690.*