





## San Francisco Juvenile Probation Department

### Juvenile Hall Policy and Procedures Manual

#### Chapter 5 - Youth Rights

Policy Number:	5.05
Policy Name:	Youth Grievances
Authority:	Title 15, 1361, 1391, 1357 WIC: 224.71 & 224~74 PREA: 115.35, 115.352
Replaces:	12.04 Youth Grievances (03/17/2009)
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Related Policies and Procedures:	5.03 - Youth Rights and Responsibilities
Related Forms:	Youth Handbook Detainee Grievance Form Grievance Appeal Action Request Form
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## I. POLICY

The Juvenile Hall Administrator shall develop and implement written policies and procedures whereby any youth may appeal and have resolved grievances relating to any condition of confinement including, but not limited to, health care services, classification decisions, program participation, telephone, mail or visiting procedures, food, clothing, bedding, mistreatment, harassment or violations of the nondiscrimination policy. There shall be no time limit on filing grievances. [Title 15, 1361].

Juvenile Hall Administration and Staff shall ensure that all youth are permitted and enabled to file grievances relating to any of the above matters and/or any concerns relating to the youth's experience at Juvenile Hall [Title 15, 1361].

As a part of a fair and effective grievance process, all Juvenile Hall staff shall facilitate and ensure the following:

- A. The availability of a grievance form and clear instructions for registering a grievance which includes provisions for the youth to have free access to the form. [Title 15, 1361(a)]
- B. Youth shall have the option to confidentially file the grievance or to deliver the form to any youth supervision staff working in the facility. [Title 15, 1361(b)]
- C. Resolution of the grievance at the lowest appropriate staff level. [Title 15, 1361(c)] (see section C below, "Informal Grievance Process")
- D. Provision for a prompt review and initial response to grievances within three (3) business days, grievances that relate to health and safety issues shall be addressed immediately. [Title 15, 1361(d)]
  - i. The youth may elect to be present to explain his/her version of the grievance to a person not directly involved in the circumstances which led to the grievance.

- ii. Juvenile Hall staff are approved by the Director of Juvenile Hall to assist the youth.
- E. Provision for a written response to the grievance which includes the reasons for the decisions. [Title 15, 1361(e)]
  - F. A system which provides that any appeal of a grievance shall be heard by a person not directly involved in the circumstances which led to the grievance.
  - G. Resolution of the grievance shall occur within ten (10) business days unless circumstances dictate a longer time frame. The youth shall be notified of any delay, and
  - H. The policy shall provide multiple internal and external methods to report sexual abuse and sexual harassment.

Partnering with an impartial Ombudsman is an essential part of enabling an effective, fair, and accessible grievance process for youth. All Juvenile Hall staff shall understand and support the characteristics and role of the Ombudsman in this process.

Whether or not associated with a grievance, concerns of parents, legal guardians, staff, or other parties shall be addressed and documented in accordance with written policies and procedures within a specified timeframe [Title 15, 1361].

There are no time limits for grievances that include sexual abuse. [PREA 115.352].

## II. PURPOSE

A fully accessible and staff supported grievance process is a critical safeguard for the rights, fair treatment, and well-being of youth in custody. The ability to effectively engage with the grievance process allows youth to feel they are heard, protected, and able to voice their concerns while detained. Effective adherence to policies and procedures related to grievances also enables staff within the facility to identify problems and understand the challenges and

concerns of youth through their own voice. This process is essential to formally and substantively responding to the concerns of youth while meeting their rehabilitative needs.

In addition to upholding the rights of youth to be effective, the grievance process shall be designed to support these key principles:

A. Confidentiality

Youth confidentiality in submitting grievances is paramount to ensuring the comfort of the youth in making his or her voice being heard as well as encouraging the youth to access this process if necessary. In some instances, responding to the issue(s) described in the grievance may require the Ombudsman to speak with staff members. These conversations shall respect the youth's right to confidentiality to the extent possible while balancing safety and other concerns.

Only the Ombudsman, the youth, and relevant staff members should be informed about the details of a grievance. Those who are informed about a grievance shall protect the confidentiality of youth, staff, and others involved.

B. Responsiveness to Individualized Needs

Accommodating specific needs of a youth, from gender responsiveness to reading and writing assistance where necessary, allows for increased youth comfort and is necessary for a universally accessible and effective process. The Ombudsman and staff shall make every effort to be responsive to the needs of the youth including considering and honoring requests for gender and/or culturally responsive services.

C. Collaboration

The grievance procedure process provides opportunities for addressing issues internally. Administration and staff working together allows for more effective response to the issues raised.

#### D. Independence of the Ombudsman

The Ombudsman shall be allowed to make decisions and carry out aspects of the process independently from the Juvenile Hall administration.

#### E. Prompt Response

Research indicates the lack of a prompt response or no response at all is a common obstacle which affects the youth's voice to be heard through the grievance process. A clear description of the timeline and response requirements shall not only be specified in policy and procedures but also clarified to youth at orientation and whenever attempting to access this process.

### III. PROCEDURE

#### A. Youth Grievance Rights

- i. Juvenile Hall administration shall ensure all Juvenile Hall staff support each youth confined in any facility or program operated by SFJPD with the following rights under the youth grievance system:
  - a. The right to file a grievance regarding any departmental policy or procedure or area of youth concern. [Title 15, 1361]
  - b. An explanation of the grievance process and the Grievance Form will be a part of the youth's orientation and any time thereafter if an issue should arise. [Title 15, 1361(a)]
  - c. Free and unrestricted access to the Grievance Form [Title 15, 1361(a)] or as soon as possible upon request.

1. The form shall be available in English, Spanish, Chinese, and Filipino.
  2. Youth who do not speak any of the above-mentioned languages or otherwise are identified as LEP shall be given meaningful access to the grievance process. (Policy 8.11 – Bilingual & Multi Cultural Service)
- d. The option to file a grievance confidentially and/or to deliver the form to any staff person within the facility with whom the youth feels comfortable. [Title 15, 1361(b)]
1. This includes the right to meet privately with the Ombudsman for the purpose of informing him or her about conditions and problems relating to confinement or other concerns, and if necessary, to obtain help from the Ombudsman in initiating written grievances, and
  2. To have the grievance logged and directed by the Ombudsman.
- e. Resolution of the grievance at the lowest appropriate staff level. [Title 15, 1361(c)]
- f. Notification that the grievance has been received within three (3) days and a prompt review and written response within ten (10) days unless serious and documented reasons provide cause for a delay. [Title 15, 1361(d)]

- g. The youth may elect to be present to explain his or her version of the grievance to a person not directly involved in the circumstances which led to the grievance [Title 15, 1361(d)(1)]
  - h. Upon youth request, the youth shall receive assistance from a person staff with the grievance as approved by the Director of Juvenile Hall or designee. [Title 15, 1361(d)(2)]
  - i. A written response which includes the reasons for the decision. [ Title 15, 1361(e)]
  - j. Access to an appeal process which includes the opportunity to be heard by a person not directly involved in the circumstances which led to the grievance. [Title 15, 1361(f)]
  - k. Notification when the youth has exhausted their administrative remedies, and
    - l. To seek formal redress without fear of reprisal.
- ii. In accordance with these rights, youth have the responsibility for knowing and abiding by the rules, procedures, and schedules clearly explained by Juvenile Hall staff upon orientation and throughout detention. Youth also have the responsibility to be truthful, respectful, and specific in presenting a grievance. (See Policy 6.01 – Youth Rights and Responsibilities).

#### B. Ombudsman

- i. Partnering with an impartial Ombudsman is an essential part of enabling an effective, fair, and accessible

- grievance process for youth. All Juvenile Hall staff shall understand and support the characteristics and role of the Ombudsman in this process.
- ii. The five characteristics of the Ombudsman position are neutrality, independence, confidentiality, the ability to liaison between youth and Juvenile Hall staff, and the ability to recommend policy and procedure changes which might be more effective for responding to the needs and concerns of youth.
    - a. The Ombudsman is not an administrator rather he or she acts as a neutral third party with the authority to investigate any act, omission, decision, practice, or any affected policies and/or procedures within the Department.
    - b. The Ombudsman shall make himself or herself available to youth on a regular basis for the purpose of learning about conditions and/or problems relating to confinement and addressing the youth's concerns including assisting the youth initiating written grievances if necessary.
  - iii. Confidentiality and youth trust in the Ombudsman are critical to the success of the Ombudsman. Information given to the Office of the Ombudsman in confidence shall remain within his or her confidence and no staff person is to pressure the Ombudsman for information nor act in any way that could violate that trust.
  - iv. The Ombudsman cannot make policy or procedural changes but may recommend changes to the appropriate administrators. It is the responsibility of Juvenile Hall administrators to determine whether to implement the recommendations and to ensure all



Juvenile Hall staff view the Office of the Ombudsman as a tool for management and staff.

- v. Other powers of the Ombudsman include:
  - a. Complete access to all Juvenile Probation Department Records excluding personnel files.
  - b. Complete freedom to inspect all Department facilities or areas of operation at any time including all county youth facilities, school programs, and any other program in which youth reside or frequent.
  - c. The ability to initiate grievances.
  - d. Complete freedom to meet privately with any youth and/or any youth's legal representative(s) at any time.
  - e. Responsibility to make referrals within the Department and to agencies with which the Ombudsman has official contact.
  - f. The ability to present all matters of concern including the resolution of grievances to either the Juvenile Probation Commission or the Juvenile Justice Commission.

C. Informal Grievance Procedures ("Pre-grievance Problem Solving")

- i. Staff shall respond to all youths attempting to voice their concerns as directly and promptly as possible.
  - a. Informal resolution between staff and youth is strongly encouraged to provide an immediate response to youth.

- b. In addition to being more efficient for promptly meeting a youth's need in certain instances, it is also a way to avoid overburdening the grievance system.
- ii. Staff may encourage, but never require, a youth to utilize verbal interactions and the Action Request Form to solve problems at the lowest possible level of supervision. [Title 15, 1361(c)]
- iii. The Ombudsman shall be available and active in pursuing conversations with staff and youth to informally discuss concerns as an alternate means to addressing issues.

#### D. Formal Grievance Procedure

- i. Staff shall ensure youth awareness and access to the formal grievance procedure for any reasons related to conditions of confinement. [Title 15, 1361]
  - a. Whenever physical force is applied or restraints are used, staff shall advise the youth of his or her right to file a grievance (See Policy 10.08 – Use of Restraint Devices for Movement and Transportation within the Facility and Policy 10.16 – Use of Force) when it is safe for youth and staff to do so. [Title 15, 1357(b)]
- ii. Staff and the Ombudsman shall ensure that the grievance lockboxes are stocked with blank grievance forms and that all youth have access to a writing instrument when requested.
- iii. The Ombudsman, Senior Counselor, or Counselor shall aid any youth who desires assistance in completing and

filing the grievance form and other aspects of engagement with the grievance process. [Title 15, 1361(d)(2)]

- iv. Youth may submit his or her grievances to staff or by using the designated Grievance Lockboxes checked at a minimum of twice per week.
  - a. The Ombudsman shall check the Grievance Lockboxes or otherwise collect the forms every day he or she is present at the facility.
  - b. On days the Ombudsman is not onsite, the Director of Juvenile Hall or designee will check the designated lockboxes and route the grievance directly to the Ombudsman.
- v. The staff member receiving the grievance form shall distribute the three duplicates as follows:
  - a. White (original) given to the Ombudsman and retained for three (3) years after the grievance process is complete.
  - b. Yellow (second copy) given to the Director of Juvenile Hall for pre-logging.
  - c. Pink (third copy) retained by the youth as a record of his or her grievance at the time of initiation.
- vi. The Ombudsman shall date, assign a log number, and refer all grievances to the Director of Juvenile Hall or designee for a response.
- vii. The Ombudsman or Juvenile Hall staff shall notify the youth in-person that the grievance was received within three working days of the grievance being filed except

for Emergency Grievances (those which are time sensitive and shall be reviewed as soon as possible). Any indication of immediate or ongoing harm or abuse shall be treated as an emergency grievance.

- viii. Staff shall afford the youth an opportunity to elect to be present at a meaningful point during the process to explain his or her version of the grievance to a person not directly involved in the circumstances which led to the grievance. [Title 15, 1361(d)(1)] This includes allowing the youth to call witnesses and question facts presented.
- ix. Staff shall afford the youth an opportunity, upon youth request, to receive staff assistance from a person the youth feels comfortable with as approved by the Director of Juvenile Hall or designee. [Title 15, 1361(d)(2)]. This includes facilitating access to a support person requested by the youth or selected based on the needs responsiveness principals outlined in the purpose section of this policy.
- x. The Ombudsman may recommend disciplinary action against staff members or youth responsible for behavior related to the grievance or process, further investigation, changes in policies and procedures, or all the above.

#### E. Grievance Review

- i. The Ombudsman or Juvenile Hall Counselor shall submit written findings within ten days of the initial logging to both the youth and the Director of Juvenile Hall. These findings shall be delivered to the youth in written and verbal form as well as communicated in a clear and respectful manner.

- ii. Once the designee has responded to the grievance, the grievance will be returned to the Ombudsman to follow up with the youth.
- iii. Staff shall include reasons for the decision(s) in all written responses to grievances. [Title 15, 1361(e)] If the grievance is forwarded to the Director of Juvenile Hall or designee for a response, staff shall forward all investigative and interview findings obtained in the youth's original grievance.
- iv. Once the youth has received the written response, he or she may check one or more of the boxes provided indicating he or she is satisfied with the outcome of the process or would like to appeal. Juvenile Hall staff shall then return the grievance form to the Ombudsman.
- v. If the youth returns the grievance form satisfied and none of the other boxes are checked, the Ombudsman shall close and file the grievance.
- vi. If the youth elects to appeal, the Ombudsman shall forward the grievance to the Director of Juvenile Hall, Chief Probation Officer, or designee as determined by the Ombudsman. If applicable, the designee shall be someone not directly involved in the underlying matters or incidents discussed in the youth's grievance. [Title 15, 1361(f)]
- vii. If the youth has checked any other box, the Ombudsman shall meet with the youth for further discussions and assist the youth in filing a new grievance if necessary.
- viii. Once the appeal is complete, staff shall notify the youth that his or her administrative remedies have been exhausted.

- a. The appeal response shall then be forwarded to the youth and the Director of Juvenile Hall.
  - b. Appeal decisions complete the grievance process and are final.
  - c. Staff shall not prevent or restrain youth from filing a lawsuit to address grievances if a youth believes that his or her civil rights have been violated or are still in jeopardy.
- ix. Juvenile Hall staff shall inform youth that the grievance procedure is not the only means for addressing issues and concerns within the facility.
- a. Staff shall ensure all youth are informed of their rights to ongoing access to an attorney or legal representative during the grievance process (Policy 65.01– Youth Legal Access) and that issues may also be addressed in the form of a legal action or remedy.
  - b. Staff and the Ombudsman shall assist the youth in contacting his or her attorney if requested.
- x. Juvenile Hall administration shall assess for patterns and trends bi-annually and take appropriate recourse if any discriminatory patterns are found.

#### F. Special Classifications

- i. Juvenile Hall administration may deem a grievance unlawful when:
  - a. Upon speaking with the youth, the problem described, or the resolution requested, remains so vague that neither the

Ombudsman nor designee can determine the nature of the problem and/or the nature of the requested relief.

- b. SFJPD has no control over the problem identified and this has been clearly explained and discussed with the youth.
  - c. The relief requested is not an action that SFJPD can reasonably be expected to take and there is no other possible action that will respond to the grievance.
- ii. The Ombudsman may deem a youth vexatious if the youth has filed an unreasonable number of grievances or there is documented evidence that the youth is abusing the system. Juvenile Hall staff shall not make this designation. The Ombudsman has the sole power to designate a youth as a vexatious grievant and shall do so in writing.
  - iii. A youth deemed vexatious shall be notified of the designation and may be limited to filing one grievance per week.

#### G. Citizen Complaints

- i. Whether or not associated with a grievance, concerns of parents, legal guardians, staff, or other parties shall be addressed and documented within the manner and timeframe specified in Policy 2.12 – Citizen Complaints. [Title 15, 1361]
- ii. Staff shall allow parents and third parties to voice their own concerns as well as to assist a youth in voicing his or her concerns including assisting a youth to file a formal grievance in accordance with the above-mentioned process.

- iii. The Ombudsman shall be present at the facility as much as possible to assist in formal and informal resolution of issues with parents and other visitors.