



AMERICAN CIVIL LIBERTIES UNION OF UTAH FOUNDATION, INC
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THE ACLU OF UTAH AND COMPLAINTS REGARDING CONDITIONS AT UTAH'S PRISONS

Introduction

Thank you for contacting the American Civil Liberties Union (ACLU) of Utah. We are committed to combating unconstitutional prison conditions and practices, and your complaint is important because it helps us identify problems in Utah's prisons.

Prison conditions

Exposing prisoners to dangerous conditions or toxic substances may violate the Eighth Amendment to the United States Constitution, which prohibits cruel and unusual punishment. Prison officials violate the Eighth Amendment if, with deliberate indifference, they expose a prisoner to a condition that poses an unreasonable risk of serious damage to that prisoner's future health (*Helling v. McKinney*, 1993). Deliberate indifference means that prison officials knew of and disregarded a substantial risk of serious harm to the prisoner's health (*Farmer v. Brennan*, 1994).

Conditions that can violate the Eighth Amendment include:

- Excessive heat or cold
- Polluted water
- Toxic or noxious fumes
- Exposure to sewage
- Exposure to second-hand tobacco smoke
- Excessive noise
- Sleep deprivation
- Sleeping on the floor
- Lack of fire safety
- Risk of injury or death in the event of an earthquake
- Inadequate food or unsanitary food service
- Inadequate lighting or constant lighting
- Defective plumbing
- Exposure to insects, rodents, and other vermin
- Deprivation of basic sanitation
- Denial of adequate toilet facilities
- Exposure to asbestos

If you have a complaint regarding dangerous prison conditions or exposure to toxic substances, file a formal grievance with the prison.

Why it is important to file a formal grievance with the prison

It is important that you go through the prison's formal grievance procedure for two reasons. First, the process gives prison officials the opportunity to address your complaint. Second, under the 1996 Prison Litigation Reform Act (PLRA), inmates must try to resolve their complaints through the prison's grievance procedure before filing a lawsuit in federal court. Additionally, under the PLRA, inmates must exhaust the grievance process. In Utah, that means that if the prison has either denied or not responded to your initial complaint, you must appeal by filing first a Level Two and

then a Level Three complaint. Pages 3 and 4 outline the grievance process at both the Utah State Prison and the Central Utah Correctional Facility.

Please note that under Utah Department of Corrections policy, inmates who file malicious or frivolous grievances may be subjected to criminal, civil, disciplinary, and/or administrative actions. A malicious grievance is one in which an inmate “willfully falsifies information with the intent to annoy, slander, or injure” someone; a frivolous grievance is any grievance that an inmate “knows or reasonably should know is without merit, is irresponsible, or has no rational basis in fact or law.”

How to get help from the ACLU of Utah

The ACLU of Utah will review your complaint only after you have completed all three levels of the prison grievance procedure. If your Level Three grievance was denied or if you are not satisfied with the prison’s response to your grievance, please fill out the attached form on page 5 and send it to the ACLU of Utah. Please know that while we review all complaints we receive, we may not be able to respond to your complaint. Also, we cannot assist with criminal cases.

Other resources

Written complaints about unhealthy prison conditions can also be sent to:

Salt Lake Valley Health Department
2001 S State Street
Salt Lake City, UT 84190

The above information was compiled from the following sources:

1. “Know Your Rights: Excessive Heat/Cold in Prison” by the ACLU National Prison Project, November 2003
2. “Know Your Rights: Exposure to Environmental Hazards in Prison” by the ACLU National Prison Project, November 2003
3. “Know Your Rights: Smoking in Prison” by the ACLU National Prison Project, November 2003
4. “Know Your Rights: The Prison Litigation Reform Act” by the ACLU National Prison Project, November 2003
5. “Litigating Prison and Jail Conditions” by David C. Fathi, ACLU National Prison Project, March 2005

HOW TO FILE A GRIEVANCE WITH THE UTAH STATE PRISON OR THE CENTRAL UTAH CORRECTIONAL FACILITY

There are three levels in the grievance process at the Utah State Prison and the Central Utah Correctional Facility. It is important that you look at all the deadlines for filing grievances. If you miss a deadline, you might have to start over or you may lose the opportunity to grieve your issue.

How to file a Level One grievance:

- Begin the grievance process within 7 working days of the incident.
- Ask your unit housing lieutenant, case worker, or ethnic minority resource specialist for a grievance form. (If you want to keep a copy of the grievance for yourself, you should ask for two forms so that you can make two handwritten copies.)
- Fill the grievance form out carefully. Fill in all spaces. Clearly explain why you think you should have what has been denied. List every service you requested that was denied. If you need help filling out this form, ask your housing officer to call your case manager to come help you.
- Sign your name on the grievance form.
- Put your grievance in an envelope and address it to:
ATTN: Grievance Data Terminal Operator
- Put the envelope in the Facility Mail Drop for your housing unit, medical unit, or support services unit. Also:
 - 1) Ask another inmate to witness that you placed your grievance in an envelope and placed it in prison mail.
 - 2) Ask this inmate to write down the time and date you did this and to sign this paper.
 - 3) Keep this inmate's written statement for your records.

Prison officials must respond to your grievance in writing within 21 working days of receiving it. If the prison does not respond within 21 working days, or if it still denies what you are asking for, you may file a Level Two grievance.

How to file a Level Two grievance:

If the prison denies or ignores any part of your Level One grievance and you disagree with the decision, you may file an appeal of your Level One grievance. This appeal is called a Level Two grievance.

- You must file a Level Two grievance within 5 working days of the date your Level One grievance was denied.
- If you did not get a response to your Level One grievance in 21 working days, you need to file your Level Two grievance within 5 working days of the 21 day deadline for the Level One grievance.
- Ask your unit housing lieutenant, case worker, or ethnic minority resource specialist for a Level Two grievance form. (If you want to keep a copy of the grievance for yourself, you should ask for two forms so that you can make two handwritten copies.)
- Explain why you believe the first grievance was not handled correctly. Clearly state why you think you should have the service you want and why you think it should not be denied.
- Sign your name on the grievance form.

- Place your Level Two grievance in an envelope addressed to:
ATTN: Grievance Data Terminal Officer
- Deposit the envelope in a Facility Mail Drop for the housing unit, medical unit, or support services unit. Also:
 - 1) Ask another inmate to witness that you placed your grievance in an envelope and placed it in prison mail.
 - 2) Ask this inmate to write down the time and date you did this and to sign this paper.
 - 3) Keep this inmate's written statement for your records.

The prison must respond to your Level Two grievance in writing within 21 working days of receiving it. If the prison does not respond within 21 working days, or if it still denies what you are asking for, you may file a Level Three grievance.

How to file a Level Three grievance

If the prison denies or ignores any part of your Level Two grievance and you disagree with the decision, you may file an appeal of your Level Two grievance. This appeal is called a Level Three grievance.

- You must file a Level Three grievance within 5 working days of the date your Level Two grievance was denied.
- If you did not get a response to your Level Two grievance in 21 working days, you need to file your Level Three grievance within 5 working days of the 21 day deadline for the Level Two grievance.
- Ask your unit housing lieutenant, case worker, or ethnic minority resource specialist for a Level Three grievance form. (If you want to keep a copy of the grievance for yourself, you should ask for two forms so that you can make two handwritten copies.)
- Fill out the form completely. List every service that you requested that has been denied or ignored.
- Explain why you believe your grievance was not handled properly.
- If you want a hearing before a hearing officer, ask for one on your Level Three form.
- Sign your name on the grievance form.
- Place your appeal in an envelope addressed to:
ATTN: Division Director's Inmate Grievance Data Terminal Officer
- Put the envelope in the Facility Mail Drop for your housing unit, medical unit, or support services unit. Also:
 - 1) Ask another inmate to witness that you placed your grievance in an envelope and placed it in prison mail.
 - 2) Ask this inmate to write down the time and date you did this and to sign this paper.
 - 3) Keep this inmate's written statement for your records.

The hearing officer must give you a written response or schedule a hearing for your Level Three grievance within 21 working days of receiving it. If a hearing is held, the hearing officer has 21 working days after the hearing to write a decision.

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**AMERICAN CIVIL LIBERTIES UNION OF UTAH
REQUEST FOR REVIEW OF LEVEL THREE GRIEVANCE DENIAL**

If you would like the ACLU of Utah to review your grievance denial, please fill out the following form and return to the ACLU of Utah:

Name_____

Inmate number_____

Facility_____

What was the grievance about?_____

Date you filed a Level One grievance_____

Date you filed a Level Two grievance_____

Date you filed a Level Three grievance_____

Did you receive a response to any of your grievances?_____

If so, please enclose a copy of all responses from the Utah State Prison

What do you want the ACLU of Utah to do?

Please sign below if you authorize the ACLU of Utah to contact the prison on your behalf:

Signature:_____

Date_____

We are unable to return materials so do not send your originals. At a minimum, please send us a copy of your Level Three grievance and the response you received. Send the form and copies of your grievances and responses to:

ACLU of Utah
355 North 300 West
Salt Lake City, UT 84103

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