



## A PRISONER'S GUIDE TO THE GRIEVANCE PROCESS FOR SEXUAL ABUSE

*This guide has been created by the D.C. Prisoners' Project of the Washington Lawyers' Committee for Civil Rights and Urban Affairs. It was last updated in July 2021.*

*It is not intended to replace the advice of an attorney. It is not legal advice and does not create an attorney client relationship.*

*You are responsible for meeting all necessary deadlines and requirements*

This guide will help you complete the grievance process if you are a victim of sexual abuse in a federal prison. The Prison Rape Elimination Act (PREA) of 2003 requires that the BOP have a specific process for sexual abuse. You can read more about the grievance process relating to issues of sexual abuse at BOP Program Statement 1330.018 §111.52(b) through 111.52(g). You can read the full regulation about the BOP's obligation for the detection, prevention, reduction, and punishment of prison rape at Title 28 C.F.R Part 115.

### **Sexual abuse—**

*Sexual abuse of a prisoner by a prisoner* happens when the victim does not agree to any of the following, or they are forced to perform these acts through threats of violence:

- (1) Any contact between the penis and the vaginal area, or penis and anus
- (2) Contact between the mouth and the penis, vaginal area, or anus
- (3) Inserting a finger or object into the anal or vaginal opening
- (4) Any other intentional touching of a person's private area, directly or through clothing

*Sexual abuse of a prisoner by a staff member, contractor, or volunteer* includes any of the above acts, as well as:

- (1) Any attempt, threat, or request by a staff member, contractor, or volunteer to engage in sexual activity
- (2) A staff member, contractor, or volunteer showing his or her naked private parts to a prisoner
- (3) Voyeurism by a staff member, contractor, or volunteer. (*Voyeurism* happens when staff invades a prisoner's privacy for reasons unrelated to official duties, such as watching a prisoner go to the bathroom, asking a prisoner to undress, or taking pictures of a naked prisoner)

*Sexual harassment* includes repeated and unwelcome sexual advances, requests for sexual favors, or inappropriate comments, gestures, or actions

The grievance process for sexual abuse is different from the grievance process for other issues in many important ways:

### **1. NO INFORMAL COMPLAINT**

Start with filing a BP-9 (formal Administrative Remedy Request). You DO NOT have to file an informal complaint (BP-8) or try to get help from prison staff first. The BOP has to make sure that your BP-9 isn't given to a prison staff member if they are the person who abused you.

### **2. NO TIME LIMIT TO START THE GRIEVANCE PROCESS**

If you are sexually abused, you can file a grievance at any time, there is no deadline. You DO NOT have to rush and file right after something happens. This rule relates only to the grievance process (and not the statute of limitations, which varies by state). Once you start grieving, there are time limits in place for when you file your BP-9, BP-10, and BP-11.

### **3. GETTING HELP FILING A GRIEVANCE**

Other prisoners, staff members, family, attorneys, and outside advocates can help you file the first level grievance (BP-9), or they can file a grievance for you. However, you must file the remainder of the grievances (BP-10 and BP-11) yourself.

### **4. EMERGENCY SITUATIONS & SENSITIVE ISSUES**

If you are at a serious risk of immediate sexual abuse, you must clearly write "Emergency" on your BP-9 and explain the reason for the emergency. The local Administrative Remedy Coordinator will then decide whether your situation is an emergency. If it is, the BOP will respond within 48 hours and make a final decision within five days. If they decide that it is not an emergency, they will respond to your grievance using the regular time frames. If the BOP doesn't respond at all, it means they have denied your grievance.

You can also file "sensitive" grievances if you are sexually abused. This is only for very sensitive issues where you believe that you will be in danger if anyone at the prison knew about your situation. If this happens, you can skip Level 1 and send your grievance straight to the Regional Director.

NOTE: If the BOP can prove that you filed your grievance in bad faith (you were dishonest), you can be disciplined.

## OVERVIEW OF THE GRIEVANCE PROCESS FOR SEXUAL ABUSE

<b>LEVEL 1</b>	<b>LEVEL 2</b>	<b>LEVEL 3</b>
<b>Administrative Remedy Request (BP-9)</b>	<b>Appeal (BP-10)</b>	<b>Final Appeal (BP-11)</b>
-File Form BP-9 with the warden (write whether it is an “emergency”)	-If the warden responded, you have <b>ONLY 20 days</b> from the date on his response to file your appeal	-if the Regional Director responded, you have <b>ONLY 30 days</b> from the date on his letter to submit your final appeal
-Skip Level 1 <b>ONLY</b> for “sensitive” issues and go right to Level 2	-File Form BP-10 with the Regional Director	-if you never got a letter from the Regional Director, you have <b>ONLY 35 days</b> from the date you filed your BP-9 to submit your final appeal
<b>-What next?</b> -If you are not happy with the warden’s response or they do not respond within 20 days after getting your BP-9, move on to Level 2	-Give the Regional Director 30 days to respond after they receive it (five a few days for the mail)	-File Form BP-11 with the General Counsel
	<b>-What next?</b> -If you are not happy with the Regional Director’s response or they do not respond within 30 days after getting your BP-10, move on to level 3	<b>-You have now finished the administrative grievance process and can file in court</b>