

Many challenges surface during a journey through federal prison. In this era of the First Step Act, it's crucial to understand the Administrative Remedy Process, and self-advocacy techniques. If you can't find a competent person to help you in prison, then use the following guide we prepared for members of our community.

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Introduction:

I'm Michael Santos, founder of Prison Professors. I served 9,500 days in federal prison. Since coming home, in August of 2013, I've built a career striving to improve outcomes of this system. Sometimes, people need to advocate for themselves. This process will help.

According to Program Statement governing Administrative Remedy, a person may seek assistance from other people in prison, or from outside sources. But a person must adhere to the process, and the BOP will expect the person to adhere to all deadlines, regardless of the person's ability to get help. Please use this guide as a resource, but also take time to read the most recent version of BOP policy number 1330.

Starting the Administrative Process

The administrative remedy process can be long and cumbersome. While going through 9,500 days in prisons of every security level, I had to use it many times. The more a person understands the process, the more successful a person will be the process. In this era of the First Step Act, people should invest time to learn how the process unfolds. Before a person can seek relief from federal court, a judge will most likely require the person to exhaust administrative remedy procedures. Those procedures follow:

- » Start by making an informal complaint with the appropriate staff member.
- » Take the first step of filing a formal Administrative Remedy request with the warden, known as a BP-9 (see link above for access to the BP-9 form)
- » If you don't get the answer you want, take the next step by filing an appeal to the Regional Director, with a BP-10 (see link above for access to the BP-10 form)
- » If you don't get relief from the Regional Director, file an appeal to the General Counsel in the BOP Central Office, with a BP-11 (see link above for access to the BP-11 form)

Administrators may or may not respond to the request for administrative remedy. Despite expecting people to adhere to all the policies, a person in prison should expect to face obstacles from staff, and they should expect that staff members may not adhere to their own policies. A person must learn to become an expert self-advocate, always understanding the importance of pushing forward, documenting the journey, and working to build a record that will persuade others to grant relief. Such tactics are for more meaningful now, during this era of the First Step Act.

To preserve legal rights, a person must become an expert with the administrative remedy process. If a person doesn't complete all the steps of the administrative remedy process, a person could lose opportunities in federal court.

A person must develop discipline and the mental strength to navigate a bureaucracy that feels designed to obliterate hope. By being persistent, I found ways to overcome obstacles. Anyone who makes a commitment to success can do the same. Self-advocacy doesn't always mean we get what we want. But if we go through the process successfully, we can restore confidence and populate a record that may advance our advocacy efforts in other ways.

Step 1: The Informal Complaint

Each local institution has its own rules, and a person must adhere to the rules of the institution. If a person anticipates that administrators will erect obstacles, or sow seeds to block an administrative remedy request, the person can take more care to confirm that he or she follows all the rules.

To start the complaint, ask the counselor about the informal complaint process. When the counselor responds, make a note of the date and time of the conversation. Once the counselor explains the process, follow the process precisely.

When writing the informal complaint, usually on a "cop-out" form, write the date that the incident happened, not the date that you're making the complaint, unless it's the same date. To adhere to the process, write the informal complaint within 20 days of the day of the incident, the sooner the better. Make sure you pay close attention to the deadlines. If you fall outside of the deadlines, the staff may reject the complaint because the time to complain has expired.

- » Write down the day the incident happened.
- » Write down the day that you made the informal complaint (within 20 days)

Although a person in prison must adhere to the deadline of 20 days, the staff members do not have a deadline to respond. They may not respond. Nevertheless, you must populate the record showing that you attempted to resolve the matter with an informal complaint.

Once you have a record that you've lodged an informal complaint, you may launch the formal complaint. Based on my experience, I would recommend filing the informal complaint one day. Hand the informal complaint to the counselor. If the counselor does not reply within one day, I would ask the counselor for the BP-9 form to launch the formal complaint, as explained below. Remember, the deadline for the formal complaint is the same as the deadline for the informal complaint. That means the rules only provide 20 days from the time of the incident to the time that you start the administrative remedy procedure with a BP-9. You're only launching the "informal complaint" to populate the record, and to show that you've given staff members an opportunity to resolve the complaint informally. The record becomes crucial to the administrative remedy process, so keep copies of all that you've done.

Step 2: File a BP-9 Administrative Remedy Request for the Warden

After you've worked through the guidance in Step 1, by memorializing your effort to launch an informal complaint, ask the counselor to provide you with a FORM BP-9. The rules require that a person receive this form from the counselor. The counselor must log your name and the date that you requested the Form BP-9 in a log book. The counselor's entry into the log book will become a part of the record. For a sample BP-9, please see the link at the top of this page.

Instructions to complete a BP-9:

- » Describe the problem that you want to resolve: Note on the form above that the BP-9 form offers a small amount of space. If you need additional space, you may write “See attached.” You may attach one page to the form. Do not include more than one page. On the page where you write your description, provide a complete explanation, using as many details as possible to strengthen your position.
- » Only list one complaint with each form. If you have different complaints, use different forms.
- » Make sure that you indicate the “procedure” you followed, beginning with the date and time that you started the informal complaint. If you did not receive a response to your informal complaint, write that the staff member did not respond to your informal complaint, and to comply with deadlines, you filed the formal administrative remedy request. If you received an unfavorable response, write that you disagree with the decision on the informal complaint. For that reason, you’re filing a formal administrative remedy request.
- » If for any reason, you’ve missed the deadline to file the formal complaint within 20 days, you must explain the reason why. For example, the staff members locked you in the SHU and your counselor did not provide you with a BP-9 form. Do your best to comply with the deadlines, anticipating that the BOP will do its best to deny relief.
- » At the end of the form, indicate how you are submitting the form. If you’re submitting it to the counselor, write the date and time. If you’re putting it into the unit mailbox, write the date and time you’re putting it into the mailbox. If you’re in the hole and you want to submit to a staff member that works in the SHU, write the date and time you’re passing the form to the staff member.
- » Make at least three copies of the form and the supporting documentation. If you do not have access to a copy machine, then make sure you handwrite the copies. You will need these copies for the next phases of the process, when you appeal to the region, to the Central Office, and possibly, to the district court.
- » Your personal record should indicate the date that you filed the BP-9, the way that you made copies of the BP-9, and the date that you anticipate receiving a response from staff members. To anticipate the approximate date that you expect a response, add three weeks, or 21 days to the day that you filed the BP-9. Theoretically, the warden is supposed to respond to the BP-0 within 20 days after the date that the warden received the form. If staff members notified you that they requested a “continuance, or an extension of time” to respond to your BP-9, write the new date that you received from the warden.
- » If you did not receive a response within 21 days, or the day of the continuance, then you should advance to the next step in the administrative remedy process--an appeal to the region.

Sensitive BP-10:

- » In some cases, a person can skip the BP-9 process and file a “Sensitive BP-10” directly with the regional director. This means you skip the warden and go over the warden’s head. I caution people to use this response sparingly. If the regional director determines that the issue isn’t sensitive, a person weakens the administrative remedy process. The BOP is a bureaucracy, and administra-

tors expect people to follow the policy, not to subvert it. That means they want people to file with the warden and give the warden an opportunity to resolve the matter.

- » An example of a case where a Sensitive BP-10 is appropriate would be if the person is complaining about corruption, racial disparity, or some other constitutional violation in the prison where the person alleges the Warden is involved and safety is at risk.

Step 3: File a BP-10, an appeal to the regional director

Instructions to complete a BP-10

- » Complete this form if:
 - The warden sent a response to your BP-9 that does not resolve the matter in your favor, and you believe the warden made an error.
 - You did not receive a response from the warden within the allowed time, as identified in the section above (within three weeks of the time you submitted, or on the date of the extension).
- » File the appeal with the regional director for the region where your prison is located. At the bottom of this page, Prison Professors offered you the address to all the regional offices.
- » If the warden responded to your BP-9, then begin your response by writing:
 - I disagree with the decision that the warden gave regarding my initial administrative remedy request. I filed that initial administrative remedy request on (insert the date). I am filing this appeal within the allotted time frame.
- » If the warden did not respond to your BP-9, begin writing your BP-10 with the following statement:
 - I attach a copy of the administrative remedy request form that I filed on (insert date). I did not receive a response within 20 days, as the rule for administrative stipulates in Program Statement 1330.18, Section 542.18. I am now exercising my right to appeal, in accordance with the BOP policy.
- » Use the same description for your problem as you used in the BP-9. You can write out the copy by hand, and you must make at least two copies. Make sure that you do not introduce anything new into the BP-10 that you did not introduce in BP-9. The BOP will only consider what you submitted to the warden.
- » **DEADLINES:** As described in the section above on BP-9, make sure that you're conscious of deadlines. The rules require a person to file the BP-10 within three weeks of the time the person receives a response to the BP-9 or the time of the extension. Be super cautious about maintaining these deadlines, or keep an accurate record of why you cannot.
- » **COPIES:** Make sure to attach a copy of the Form BP-9 that you sent earlier. And also make at least two copies of the form BP-10, for the same reasons I wrote about in the previous section.
- » **RESPONSE:** The policy provides that the regional director has 30 days to respond to the BP-10. I would recommend that you keep a calendar to memorialize four weeks, but expect five weeks

to allow for mail slowdowns. But keep an accurate record in the same way that we describe above:

- Date you filed the BP-9
 - Date you received or expected a response to BP-9
 - Date you filed the BP-10
 - Date you received or expected a response to BP-10
- » When the time is right, proceed to the final state of the administrative remedy process, with an appeal to the general counsel in the Central Office, on a form BP-11.

Step 4: File a BP-11, an appeal with BOP general counsel in DC

- » If the regional director responded to the BP-10, but you do not think the regional director made the correct decision, then take the next step of filing a BP-11. When the staff member provides the response to the BP-10, request a form BP-11 to appeal.
- » File your BP-11 at the following address:
- Bureau of Prisons
 - National Inmate Appeals Administrator, Office of General Counsel
 - 320 First Street, NW
 - Washington, DC 20534
- » Use the same instructions that I provided in the previous section. But begin by writing:
- I disagree with the regional director’s decision regarding my administrative remedy appeal request that I filed on (insert date). Consistent with BOP policy, I am filing this appeal.”
- » You should write your description in the same way that you wrote in the BP-9 and the BP-10. Make sure that you create three copies of the page, even if you have to write by hand.
- » Write the manner you’re using to submit the appeal, indicating whether you put it in a mailbox, including the date and time, or giving it to a staff member, including the date and time.
- » **DEADLINE:** The rules require people to file the appeal to headquarters within 30 days of the date that the regional director responded. If there is a valid reason for being late, be clear in explaining the reason for missing the deadline. It had better be a reason that is beyond a person’s ability to control, and not because of disorganization.
- » Attachments: attach a copy of the BP-9 and a copy of the BP-10. Make at least two copies of the BP-11, even if you must write by hand. At the conclusion of this process, you want to have in your possession:
- Two copies of the informal complaint

- Two copies of the BP-9
- Two copies of the BP-10
- Two copies of the BP-11
 - You may need those copies to continue the process with a motion to the US District Court.
- » RECORDS: Make sure that you memorialize all dates with accurate records. Keep a record as follows
 - I am filing my BP-11 on (insert date), which is within 30 days of the time I received the regional director's response.
 - I made two copies of my BP-11 and have two copies of the previous submissions.
 - I expect to get a response to my BP-11 within 40 days, but I will wait for 45 days to account for mail delays.
- » If the regional director did not respond to the BP-10 within the appropriate time, then follow the same instructions as above, but change the first line to read:
 - I have complied with all deadlines in my administrative remedy request, but I did not receive a response from the regional director within 35 days. For that reason, I am filing this appeal.”

Next Steps

By adhering to the steps above, you will have appropriately gone through the administrative remedy process. If you did not receive the response you wanted, you can accurately state that you have exhausted your pursuit of relief through administrative remedy. You may now bring your case to the US District Court through the appropriate filing. That filing may be a section 2255, or a 2241, or another motion. If you file pro-se, without an attorney, you may ask the court to construe your motion liberally, in accordance with the appropriate Supreme Court rulings, which we will describe in a different page on Prison Professors.

Type or use ball-point pen. If attachments are needed, submit four copies. Additional instructions on reverse.

From:	_____	_____	_____	_____
	LAST NAME, FIRST, MIDDLE INITIAL	REG. NO.	UNIT	INSTITUTION

Part A- INMATE REQUEST

Sample Admin Remedy BP-9

_____	_____
DATE	SIGNATURE OF REQUESTER

Part B- RESPONSE

_____	_____
DATE	WARDEN OR REGIONAL DIRECTOR

If dissatisfied with this response, you may appeal to the Regional Director. Your appeal must be received in the Regional Office within 20 calendar days of the date of this response.

ORIGINAL: RETURN TO INMATE

CASE NUMBER: _____



