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CCO 12771.2K
HRO
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COMBAT CENTER ORDER 12771.2K

From: Commanding General
To: Distribution List

Subj: ADMINISTRATIVE GRIEVANCE PROCEDURE FOR CIVIL SERVICE EMPLOYEES

Ref: (a) 5 CFR Part 771
(b) DoD Instruction 1400.25, Volume 771
(c) SECNAVINST 12771.2

Encl: (1) Administrative Grievance Procedures

1. Situation. To publish instructions and procedures in accordance with the references for resolving grievances from managers, supervisors, and other employees when a matter cannot be grieved under a negotiated grievance procedure.

2. Cancellation. CCO 12771.2J.

3. Mission. This Order establishes the exclusive procedures under which appropriated fund employees not covered by a negotiated grievance procedure may grieve certain employment matters. Alternative dispute resolution (ADR) techniques should be used to resolve disputes consistent with the requirements of this instruction. ADR techniques include a broad range of approaches for dealing with conflict and seeking solutions satisfactory to all parties. These techniques include, but are not limited to, problem solving, mediation, facilitation, conciliation, early- neutral evaluation, fact-finding, settlement conferences, ombudsmen, and peer review.

4. Execution

a. Commander's Intent and Concept of Operations

(1) Commander's Intent. All employees initiating, appearing as witnesses, or acting as representatives in such actions are to be free from restraint, coercion, interference, discrimination, or reprisal when submitting a grievance.

(2) Concept of Operations. The processing of grievances is a priority matter, which must be given objective consideration and disposed of promptly, in accordance with this Order.

b. Subordinate Element Missions

(1) The following individuals have delegated authority to act as deciding officials for grievances, which may arise with any covered individual or group under their cognizance, except when they have been

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involved personally in the events giving rise to the grievance.

- (a) Chief of Staff (C/S)
- (b) Assistant Chief of Staff (AC/S) G-1, Manpower
- (c) AC/S, Deputy AC/S, G-3, Marine Air Ground Task Force Training
- (d) AC/S, Deputy AC/S, G-4, Installation Support
- (e) AC/S, Deputy AC/S, G-6, Communications
- (f) AC/S, Deputy AC/S, G-7, Government External Affairs
- (g) AC/S, Marine Corps Community Services
- (f) Director, Human Resources Office (HRO)
- (g) Commanding Officer (CO), Executive Officer (XO), Headquarters Battalion (HqBn)
- (h) CO, XO, Marine Aviation Weapons and Tactics Squadron One
- (i) CO, XO, Marine Corps Tactics and Operations Group
- (j) CO, XO, Marine Corps Logistics Operations Group
- (k) CO, XO, Marine Corps Mountain Warfare Training Center
- (l) CO, XO, Expeditionary Warfare Training Group, Atlantic
- (m) CO, XO, Expeditionary Warfare Training Group, Pacific

(2) These individuals shall assume full personal responsibility for the proper performance of the tasks set forth in the enclosure.

c. Coordinating Instructions

(1) Commanding General (CG), Marine Air Ground Task Force Training Command (MAGTFTC), Marine Corps Air Ground Combat Center (MCAGCC). Any grievance arising from an employment matter in which the CG, MAGTFTC, MCAGCC has been personally involved in, will be elevated to the CG, Training and Education Command or his/her designee.

(2) C/S

(a) In cases in which the delegated deciding official has been personally involved in the matter giving rise to the grievance, the C/S shall appoint an alternate deciding official from the delegated list, who has no such involvement. The C/S shall likewise resolve any procedural conflicts internal to this Order, which may arise in a single case.

(b) The C/S is the only officer who is delegated authority to render decisions reserved to the CG in the enclosure.

(3) Director, HRO

(a) The Director, HRO will act as deciding official in grievances concerning employment or other personnel actions under the cognizance of the local HRO.

(b) Provide advice, guidance, and necessary assistance on the processing of grievances.

(c) Maintain all official case files and documents in accordance with regulations, providing copies to employees and their representatives, as required.

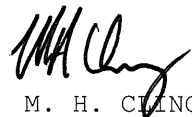
(4) CO, HqBn. Has delegated authority to act as the deciding official for grievances which may arise in organizational units not under the cognizance of the officers named in paragraph 4b(1) of this Order. This authority may not be further delegated. The only exception to this rule is that an officer designated as "acting" in the absence of the incumbent, for a period in excess of 30 days, may make a substantive determination in administrative grievances.

5. Administration and Logistics. Directives issued by this Headquarters are published and distributed electronically. Electronic versions of Combat Center Orders can be found at <https://www.29palms.marines.mil/Staff-Offices/G-1-Manpower-Directorate/Adjutant/#combat-center-orders>.

6. Command and Signal

a. Command. This Order is applicable to all active duty, reserve, and civilian personnel under the cognizance of MAGTFTC, MCAGCC.

b. Signal. This Order is effective the date signed.



M. H. CLINGAN

DISTRIBUTION: A

Administrative Grievance Procedures

1. Administrative Grievance System Procedures (AGS)

a. General. Department of Defense (DoD) employees are entitled under AGS to present grievances and to communicate with supervisors, managers, and officials in their servicing civilian personnel office. Employees may represent themselves, or be represented by someone of their choice. Any representative may be denied if it would result in a conflict of interest, conflicts with mission priorities, or result in unreasonable costs. Employees and their representatives shall have full access to relevant information and shall be given copies of such information unless to do so would be unduly burdensome or contrary to law or regulation. Employees shall be permitted a reasonable amount of official duty time, if otherwise in a duty status at the employing activity, to present grievance and to communicate with management and personnel officials. Employees may also be given a reasonable amount of official time to prepare a grievance.

b. Coverage. Employee coverage.

(1) The AGS covers current appropriated fund non-bargaining unit DoD employees. It also covers former DoD employees with respect to matters arising during their previous employment at the activity, provided that a remedy is available consistent with applicable law and regulation.

(2) The AGS covers bargaining unit employees when a matter covered by the AGS cannot be grieved under a negotiated grievance procedure (NGP), either because an NGP is not in effect at the relevant time, or because it does not cover the matter being grieved.

(3) The AGS does not cover reinstatement and transfer eligible personnel who have applied for a position under a merit promotion program, non-citizens recruited overseas and appointed to overseas positions, or Non-Appropriated Fund employees.

(4) Subject matter coverage. Any employment matter may be grieved under the AGS except for the following:

(a) The content of established agency regulations and policy.

(b) Any matter covered by a negotiated grievance procedure or subject to formal review and adjudication by the Merit System Protection Board, the Office of Personnel Management, the Federal Labor Regulation Authority, or the Equal Employment Opportunity Commission, or any matter that has a resolution process within the DoD.

(c) Non selection for promotion from a group of properly ranked and certified candidates, or failure to receive a noncompetitive promotion.

(d) Preliminary notice of an action that, if effected, would be covered under the grievance system or excluded from coverage under subparagraph b(4)(b), above.

(e) The substance of an employee's performance elements, standards, or work objectives.

(f) Determinations concerning awards, additional step increases, recruitment or relocation bonuses, retention allowances, any additional pay allowances, supervisory differentials, critical position pay, or dual compensation waivers.

(g) Any action taken under a voluntary, formal agreement entered into by an employee involving geographic relocation or return from an overseas assignment.

(h) Termination of a probationer, return of an employee serving supervisory or managerial probation to a non-supervisory or non-managerial position, separation, or termination of an employee during a trial period.

(i) A verbal or written counseling.

(j) For Senior Executive Service (SES) employees, performance evaluation and awards (including meritorious or distinguished executive rank award), reassignment following receipt of an unsatisfactory rating, return to another pay system during the one year period of probation or for less than fully successful executive performance or for failure to be rectified, conditional rectification, or termination during probation for unacceptable performance.

(k) Termination or expiration of a time limited excepted appointment, a term or temporary appointment or promotion, or a SES limited emergency or limited term appointment, on the date specified as a condition of employment at the time the appointment or promotion was made.

(l) The termination of a temporary term promotion at a time other than in subsection 4(b)(k) above, provided the employee was informed in advance of the temporary nature of the appointment or promotion and the employee was returned to his or her former position from temporary promoted or to a different position of equivalent grade and pay.

(m) SES or Senior Level pay rate changes.

(n) A separation or termination.

(o) Any additional exclusion as requested by a DoD component and approved by the DoD.

c. Time Limits. When calculating the number of days to file a grievance under the AGS, the day the action is given to the employee or receipt of a document is not counted. The last day to file will not be counted if it falls on a holiday or a normal non work day of the employee. In those cases the next work day will be the last day to file a grievance. All time limits are counted in calendar days.

d. Grievance File. The activity shall establish and maintain a separate file for each written grievance filed under the AGS and retain it for a

minimum of four years in accordance with applicable laws, regulations, and records retention scheduled. The file will contain all documents or copies of documents related to the grievance.

e. Process. This section details the basic mandatory processes of the DoD AGS.

f. Problem Solving Process. An employee may informally present a work-related problem to his or her immediate supervisor before filing a formal grievance. If the problem involves a matter or action directly involving that supervisor, and the employee has been unable to resolve the matter with that supervisor, the employee may present the matter to the next level supervisor, if any, within the DoD component, installation, or activity. The problem must be presented within 15 days following the date of the act or even that the employee believes created the problem, or the date the employee became aware of (or reasonably should have become aware of) the act or event. The employee may present a matter of concern regarding a continuing practice or condition at any time. A supervisor must consider the employee's problem and attempt to resolve it within 15 days, and no later than 30 days, from the date the problem is first brought to the supervisor's attention, even though it may not be covered by the grievance process. Where appropriate, the use of a neutral (e.g., conciliator, facilitator, or mediator) is encouraged. The employee may present the problem orally, in writing or both. The supervisor's determination must be provided in writing. If the problem was not resolved, the supervisor shall inform the employee of the time limits for filing a grievance. If the supervisor believes the matter is not covered by the grievance process, the supervisor shall so inform the employee and advise the employee of the appropriate process, if any, for resolving the problem. The above time for resolving the problem may be extended by mutual agreement to accommodate resolution of the dispute.

g. Grievance Process

(1) An employee may file a formal, written grievance with the designated deciding official (or any official designated to accept grievances on behalf of the deciding official) when a problem is not resolved during the problem-solving process and invoke the grievance process. If the employee used the problem-solving process, the employee must file a written grievance no later than 15 days at the conclusion of the process. Where the employee does not use the problem-solving process but raises the matter initially as a grievance, the employee must present the written grievance within 15 days following the date of the act or event that the employee believes created the problem, or within 15 days following the day the employee became aware of (reasonably should have become aware of) the act or event. The employee may present a written grievance regarding a continuing practice or condition at any time.

(2) An employee's grievance must be signed, dated, and contain a sufficiently detailed statement of the specific issue(s) and the specific, personal remedy sought; copies of any documents in the employee's possession related to the grievance; and, the name, address, and telephone number of the employee's representative, if any. The remedy must be personal to the employee and may not include a request for disciplinary or other action

affecting another employee. An employee may not grieve the same matter raised in any other grievance, appeal, complaint, or other dispute resolution process.

(3) The deciding official shall determine whether to join similar or identical grievances; whether to require, and how to conduct an investigation, whether to allow the grievant requested representative; and how much official time shall be granted to the employee and the employee's representative. The deciding official may also designate an individual to examine a grievance and, when authorized, to make recommendations concerning its disposition.

(4) The deciding official shall fully and fairly consider the grievance and issue a written decision with supporting rationale for the decision. The deciding official shall issue the decision as soon as possible but normally no later than 60 days from the filing of the grievance. The deciding official may extend time frames when warranted by special circumstances (e.g., when those involved are geographically dispersed or where a fact finder is used in the process). However, a grievance decision should be rendered no more than 90 days from the filing of the grievance absent mutual agreement to extend this time limit to accommodate resolution of the dispute. If the deciding official fails to render a decision within 90 days absent such mutual agreement, the grievant may request review by the next higher management level, if any, within the DoD component.

(5) Whenever possible, the deciding official should rule on the merits of a grievance. However, the deciding official may cancel or temporarily suspend a grievance, or the appropriate portion of a grievance; if the grievance requests such action; the grievant or grievance is excluded from coverage; the grievant fails to provide sufficient detail to identify clearly the matter being grieved or specify the personal relief requested; the grievant fails to comply with applicable time limits or procedural requirements or request actions be taken against another employee, or the grievant raises the same matter under another formal dispute resolution process.

(6) A deciding official's decision on the merits of the grievance is final and not subject to further review. However, an employee may request that an individual at the next higher management level within the DoD component, if any, review a decision to cancel a grievance.

(7) Combining Grievances. When two or more employees within the same activity have identical grievances (the dissatisfaction expressed and the relief requested are the same), the activity may process them as one grievance. The employees will be so notified and required to designate a common representative.