



CIVILIAN PERSONNEL BULLETIN

20-2001

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DEPARTMENT OF DEFENSE ADMINISTRATIVE GRIEVANCE SYSTEM

1. The Department of the Army (DA) Grievance System (AR 690-700, Chapter 771) has been replaced by the Department of Defense (DOD) Administrative Grievance System (AGS), which will be published in the DOD Civilian Personnel Manual. To satisfy the requirement for development of a local AGS for civilian employees serviced by this directorate, the following procedures constitute the system of redress available for immediate use by all covered employees.

2. **POLICY.** Employees covered by the AGS are entitled to present grievances and to communicate with supervisors or managers and officials in the servicing Civilian Personnel Advisory Center (CPAC) without restraint, interference, coercion, discrimination, or reprisal. Their grievances shall receive a fair, expeditious, and impartial review.

3. **EMPLOYEE COVERAGE.** The AGS covers current employees serviced by the Civilian Personnel Advisory Center who are not in established bargaining units except Nonappropriated Fund employees. This AGS does not affect the scope or coverage of negotiated grievance procedures (NGP) set forth in controlling collective bargaining agreements. The negotiated grievance procedures set forth in controlling collective bargaining agreements are still applicable to bargaining unit employees.

4. USE OF OFFICIAL TIME AND RESOURCES.

a. Employees, if otherwise in an active duty status, may use reasonable amounts of official time subject to supervisory approval, to do the following:

- (1) Get advice on rights and privileges from official sources;
- (2) Get information from official sources;
- (3) Present grievances.

b. The deciding official determines how much official time shall be granted. A grievant is not entitled to use government resources, such as typing assistance, word processing centers, supplies, and other materials in preparing the grievance. Official time will not be granted for preparing a grievance (organizing materials, writing and typing the grievance).

5. REPRESENTATION.

a. A grievant may represent himself or herself or be represented by a personal representative of his or her own choosing in filing a grievance. The deciding official may disallow the choice of a representative if it would result in a conflict of interest or position, conflict with mission priorities, or result in unreasonable costs. Additionally, the deciding official may determine how much official time shall be granted to an employee representative.

b. A personal representative must be designated in writing.

6. SUBJECT MATTER COVERED.

a. **Grievable Matters.** Except as discussed in paragraph b below, employees may file a grievance over a matter of concern or dissatisfaction, related to their employment, if the matter is subject to control of the DOD.

b. **Nongrievable Matter.** Employees may not file a grievance on the following matters:

(1) The content of establishing agency regulation and policy;

(2) Any matter covered by a negotiated grievance procedure or subject to formal review and adjudication by the Merit System Protection Board (MSPB), the Office of Personnel Management (OPM), the Federal Labor Relations Authority (FLRA), or the Equal Employment Opportunity Commission (EEOC);

(3) Any matter which the employee files under another review procedure, a reconsideration procedure, or a dispute resolution process with DOD;

(4) Non-selection for promotion from a group of properly ranked and certified candidates or failure to receive a noncompetitive promotion;

(5) Notices of actions that would otherwise be grievable or appealable if effected;

(6) The substance of an employee's performance elements, standards, and/or work objectives;

(7) Determinations concerning performance or incentive awards (including suggestions or inventions), additional step increases, recruiting or relocation bonuses, retention allowances, supervisory differentials, critical position pay, or dual compensation waivers;

(8) Any action taken under a voluntary, formal agreement involving geographic relocation or return from an overseas assignment;

(9) Termination of a probationary employee, return of an employee serving supervisory or managerial probation to a nonsupervisory or nonmanagerial position, or separation or termination of an employee during a trial period;

(10) Termination or expiration of a term or temporary appointment or promotion, whether in the competitive or excepted service, in accordance with the conditions of the appointment or promotion, provided the employee was informed in advance of the temporary nature of the appointment or promotion and is returned to his or her former or equivalent position;

(11) A separation or termination action except any action taken under 32 United States Code (U.S.C.) 709(e) involving National Guard Technicians and non-preference eligible employees covered by the Civilian Intelligence Personnel Management System (CIPMS) (title 10, U.S.C., section 1590) may grieve their removal, suspension, reduction in grade or pay, or furlough for 30 days or less, if they have completed one year of current continuous service in the same or similar position in DOD under other than a temporary appointment of two years or less. The termination of a CIPMS employee under section 1590(e) (1) of title 10, U.S.C., is not covered. In the case of a grievance over a removal of a CIPMS employee covered by this procedure, an impartial hearing is normally conducted (such hearings may be provided on a reimbursable basis by the Defense Civilian Personnel Service's Office of Complaint Investigations at the request of an activity);

(12) A matter raised by a bargaining unit employee that is covered by the negotiated grievance procedure.

7. CANCELLATION OF GRIEVANCES. A grievance, or portion of a grievance, may be cancelled or temporarily suspended at the grievant's request; if the grievant or grievance is excluded from coverage; if the grievant fails to comply with applicable time limits or procedural requirements or requests actions be taken against another employee; or the employee raises the matter under another formal dispute resolution process. However, an employee may request an individual at the next higher management level to review a decision to cancel a grievance. That decision will be binding.

8. INFORMAL PROCEDURE, OR "PROBLEM SOLVING."

a. An employee may informally present any work-related problem to his or her immediate supervisor before filing a formal grievance, and such action is encouraged. If the problem involves a matter or action directly involving that supervisor, the employee may present it to the next level supervisor. The problem must be presented within 15 days following the date of the act or event creating 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.

b. A supervisor must consider the employee's problem and attempt to resolve it within ten days, even though it may not be covered by the administrative grievance procedure. However, if the supervisor believes the matter is not covered, the employee should be so informed. If the problem is presented to the supervisor in writing, the determination shall be in writing. If the employee presents the problem orally, the supervisor's determination may be oral or written and should normally be given to the employee at the end of the ten-day period. Where a determination is oral, the supervisor should prepare a memorandum documenting the matter and give the employee a copy. If the dissatisfaction is not resolved through the efforts of the supervisor or a determination is not furnished to the employee at the end of the ten days, the employee may proceed to the next step.

c. Within five days after expiration of the first informal step, the employee may present the dissatisfaction, in writing, to the directorate head or other appropriate official in the chain of command (above the supervisor who reviewed it initially) who is on the immediate staff of the commander or civilian equivalent. This second step of the informal problem-solving process normally shall be concluded within 15 days. The second step-deciding official shall normally furnish the grievant a written determination at the end of the 15-day period. If the dissatisfaction is not resolved at this step or a determination is not furnished to the grievant at the end of the 15 days, the employee may submit the grievance formally to the commander or civilian equivalent. In any event, a final determination of the grievance shall be issued no later than 60 days from the date it is first raised. Advice and assistance in processing the grievance through this stage may be obtained from your servicing Civilian Personnel Advisory Center.

9. FORMAL PROCEDURE, OR "ADMINISTRATIVE GRIEVANCE PROCEDURE."

a. An employee may file a formal, written grievance through the Civilian Personnel Advisory Center, directly with the Commanders of each serviced organization (deciding official) when a problem is not resolved during the problem-solving process, or when the employee chooses to bypass that process and invoke the administrative grievance procedure. If the employee used the problem-solving process, the employee must file a formal grievance no later than ten days from the conclusion of that process. Where the employee raises the matter initially as a formal grievance, the 15-day time limit described in the problem-solving process applies.

(1) An employee's grievance must be signed, dated, and contain a sufficiently detailed statement of the specific issue(s) and the personal relief sought; copies of any documents in the grievant's possession any. Issues raised by the grievant in any other grievance, appeal, or complaint are not grievable under this procedure.

(2) The deciding official determines whether to join similar or identical grievances; whether to require an investigation and how it shall be conducted; whether to allow the grievant's requested representative; and how much official time shall be granted to the grievant and the grievant's representative. The deciding official may also designate an individual to investigate a grievance and, when authorized, to make recommendations concerning its disposition. The individual must not have been involved in the grievance or the matter being grieved or occupy a position subordinate to any official involved in the matter, unless the official involved is the head of the DOD Component.

b. The deciding official shall fully and fairly consider the grievance and issue a written decision, to include a basis for his or her decision. The decision shall be issued as soon as possible, but 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 an outside fact-finder is used in the process). A deciding official's decision on the merits of the grievance is final and not subject to review.

10. SPECIAL PROCEDURES.

a. Procedures for grievances involving rating, ranking, and referral under the DA career programs.

(1) The employee will submit the written grievance to the Civilian Personnel Advisory Center. The CPAC will send it to the career referral activity at the major command or HQDA level, depending upon where the alleged error occurred. The career referral activity, in coordination with the Career Program Manager or Functional Chief (or respective representative), will try to resolve the grievance.

(2) Within 15 days after receipt of the grievance, the referral activity will send its response through the activity commander to the grievant. The referral activity's decision is final.

b. Procedures for grievances involving Alcohol and Drug Abuse Prevention and Control Program (ADAPCP) certification.

(1) When the only issue in a grievance is the denial, suspension, or revocation of a certification issued by the ADAPCP Clinical Certification Board (Board), the activity will omit the problem-solving process. The formal grievance will be submitted by the grievant, in writing, to Commander, Army Medical Department Center and School, Behavioral Science Division, ATTN: HSHA-MB (Certification Program), 2250 Stanley Road, Fort Sam Houston, Texas 78234-6133. The Board will review the decision to deny, suspend, or revoke the certification. Within 45 days after receipt of the grievance, the Board will send its response to the grievant with a copy to the Clinical Director.

(2) If the grievant is not satisfied with the response, he or she may, within seven days of receiving the Board's response, inform the Board in writing that he or she requests that the grievance be investigated by the Office of Complaint Investigations (OCI). Notification will be timely, if mailed to the Board, and postmarked not later than seven days after receipt of the Board's response. The Board will forward the grievance to the proper OCI Regional Office for fact-finding and recommendations. The OCI report will be forwarded to the Director, U.S. Army Drug and Alcohol Operations Agency (USADAOA), 4501 Ford Avenue, Suite 320, Alexandria, Virginia 22302-1460. The Director, USADAOA, will issue a written final decision to the grievant, with a copy to the grievant's Clinical Director and to the Board, within 15 days of receipt of the OCI report. The USADAOA Director's decision is final.

(3) USADAOA will fund OCI investigations involving ADAPCP certification under this paragraph.

c. Procedures for grievances that challenge decisions made on matters controlled by DA activities other than the grievant's local Command.

(1) The employee will submit the written grievance to the CPAC. The employee must file the grievance within the time frames contained in paragraph 9 above. Within seven days the CPAC will forward the grievance to the DA activity that made the decision or has control over the matter being grieved.

(2) Within 30 days of receiving the grievance, the DA activity will issue a final decision through the CPAC to the employee.

. Procedures for grievances that challenge performance appraisal ratings.

(1) An employee must submit the grievance in writing thru the senior rater to the appropriate reconsidering official not more than ten days following receipt of the DA Form 7222 or DA Form 7223. Legible copies of all pertinent DA Forms 7222 and 7222-1, or 7223 and 7223-1, must be attached to the grievance. Other official documents relevant to the employee's performance during the rating period may also be attached to the employee's request (e.g., letter of commendation). The grievance must fully state the reasons for the grievance and the relief being sought.

(2) When the reconsidering official receives the grievance, he or she will immediately notify the CPAC, and provide a copy of the grievance for regulatory review prior to attempting to resolve the grievance. If, upon review, it is determined that the grievance addresses non-performance issues, the employee will be notified in writing that the grievance is not covered under these procedures and advised to pursue the grievance under the informal procedures specified in paragraph 8 above. If the grievance addresses only performance issues, the reconsidering official will set up a meeting within ten days of receipt of the grievance, between the official, the employee and his or her representative, if designated, and the Personnel Management Specialist. The reconsidering official will prepare a memorandum for record (MFR) of the meeting, which will briefly summarize the problem, the relief being sought, and any discussion concerning the grievance during this meeting.

(3) The reconsidering official will review the case. At a minimum, the official will:

(a) Review the written record of the employee's performance (all DA Forms 7222-1 and 7222, or 7223-1 and 7223) and other available materials pertinent to the rating period in question.

(b) Evaluate the achievements of the employee compared to the established performance standards for the entire rating period.

(c) Consider additional evidence of the employee's performance included in the written grievance.

(d) Determine the most appropriate element rating for each critical and noncritical element in question.

(e) Following the procedures in DA Pamphlet 690-400, determine the summary rating that most accurately reflects the employee's overall performance during the rating period.

(f) Prepare written results of the review of the case, including reasons supporting any determination to change element ratings and/or the overall performance rating level.

(4) The reconsidering official will render a written decision not more than 30 days after receipt of the reconsideration grievance, except in unusual situations, i.e., official temporary duty (TDY) or personal emergency, in which case a decision will be made not more than 60 days from date of receipt. This decision will be presented to the employee and will include a copy of the written results of the review.

When the reconsidering official's decision differs from the review results, the decision will include reasons for the difference. The reconsidering official will forward a copy of the decision to the CPAC. The corrected DA 7222 or DA 7223 will be forwarded to the Civilian Personnel Operations Center for filing in the Official Personnel Folder. The CPAC/CPOC will assure that when a responsibility or objective ratings(s) or the overall performance rating is changed, the official records are corrected, using the procedures set forth in AR 690-400, Chapter 4302.

(5) In the event the reconsidering official does not render a decision within the initial 30 days, and no documentation reflects that the reconsidering official was on official TDY or that a personal emergency precluded rendering a decision, then the next level of supervision will be notified by the CPAC, of this failure to render a timely decision. Appropriate corrective action will be taken to assure that the reconsidering official within the 60-calendar day time frame renders a decision. If the reconsidering official is on official TDY or attending to a personal emergency, a decision will be rendered within the 60 calendar day time frame or no later than 10 days after the reconsidering official's return to duty if the 60 calendar day period has elapsed.

11. EXPLANATION OF TERMS.

a. **Bargaining unit employee.** An employee included in an appropriate exclusive bargaining unit as determined by the Federal Labor Relations Authority for which a labor organization has been granted exclusive recognition.

b. **Days.** Calendar days.

c. **Deciding official.** The official who has the authority to hear the grievance and grant the relief sought.

d. **Employee.** All U.S. citizens, appropriated fund DA employees, and former employees for whom personal relief may be provided with respect to a grievance.

e. **Grievance.** A request by an employee or by a group of employees for personal relief in a matter of concern of dissatisfaction relating to employment which is subject to the control of the Department of Defense.

f. **Personal relief.** A specific remedy that directly benefits the grievant. It may not include a request for an action (such as disciplinary action) that affects another employee.

g. **Reconsidering official.** The official in the chain of command above the management official who approved the performance rating. In the case of the Garrison Commander being the approving official, the Commanding General will be the reconsidering official. In the event that the Commanding General is the approving official, the grievance will be forwarded to Headquarters, Forces Command. For serviced activities, the grievance will be forwarded to the appropriate headquarters, if the serviced activity commander/director was the approving official.

12. Should you need assistance, further clarification, or guidance on the AGS, you may contact the Civilian Personnel Advisory Center at 798-7164.

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