



UNITED STATES MARINE CORPS

HEADQUARTERS MARINE CORPS AIR STATION MIRAMAR  
PO BOX 462000  
SAN DIEGO CA 92145-2000

IN REPLY REFER TO:

StaO 12771.1

5BF

24 JUL 1998

STATION ORDER 12771.1

From: Commanding Officer

To: Distribution List

Subj: ADMINISTRATIVE GRIEVANCE PROCEDURES

Ref: (a) 5 CFR Part 771 (NOTAL)

(b) DoD Directive 1400.25-M (NOTAL)

Encl: (1) Administrative Grievance Procedures

1. Purpose. To publish policies and procedures contained in the reference for establishing the administrative grievance system. This is the system under which covered employees may seek redress of matters of personal concern and dissatisfaction and grieve letters of reprimand and suspensions of 14 days or less.

2. Information

a. Employee Coverage. This Order applies to all civilian employees except for:

(1) A non citizen appointed under Civil Service Rule VIII, Title 5, Code of Federal Regulations.

(2) An alien appointed under Section 1471(5) of Title 22, United States Code.

(3) An individual paid from funds as defined in Section 2105(c) of Title 5 (non appropriated fund employees).

(4) A physician, dentist, nurse or other employee appointed under Chapter 73 of Title 38, United States Code.

(5) A bargaining unit employee covered by a negotiated contract.

(6) An applicant for employment who does not meet the definition of employee as set forth in paragraph 3b(2).

b. Definitions

(1) Grievance. A written request by an employee or a group of employees for personal relief in a matter of concern or dissatisfaction relating to the employment of the employee(s) which is subject to the control of the head of the activity.

(2) Employee. A present non bargaining unit employee, an employee in the bargaining unit which does not have a negotiated contract in effect, or any former employee of the Department of the Navy for whom a remedy can be provided.

(3) Bargaining Unit Employee. An employee included in an appropriate bargaining unit for which a labor organization has been granted exclusive recognition.

(4) Personal Relief. A specific remedy directly benefiting the grievant(s) which may not include a request for disciplinary or other action affecting another employee.

(5) Agency. The Department of the Navy.

(6) Activity. A field installation, headquarters command or office.

(7) Deciding Official. The head of an activity or subordinate official designated by the activity head to make final decisions on grievances. The deciding official must be at a higher organizational level than any employee involved in any phase of the grievance, except when the Secretary of the Navy (SECNAV) has been involved.

(8) Fact Finder. An individual appointed by a deciding official to conduct an investigation into an issue(s) raised in a grievance. The fact finder must be a person who has not been involved in the matter being grieved and who does not occupy a position subordinate to any official who recommended, advised, made a decision on, or who otherwise is or was involved in the matter being grieved. The fact finder may be an employee of the activity, an employee of another activity or the Office of Personnel Management (OCPM) or an individual contracted for this purpose.

(9) Hearing Examiner. An individual authorized by a deciding official to conduct a hearing on an issue(s) raised in a grievance. The hearing examiner shall be an employee of OCPM, trained in the conduct of hearings and must be a person who has not been involved in the matter being grieved and who does not occupy a position subordinate to an official who recommended, advised, made a decision on, or who is otherwise involved in the matter being grieved.

(10) Day. Calendar day

c. Grievance Coverage. This procedure applies to all matters defined in paragraph 3b(1) (supra), except for:

(1) The content of published agency regulations and policy.

(2) A decision which is appealable to the Merit Systems Protection Board or subject to final administrative review by the Office of Personnel Management, the Federal Labor Relations Authority or the Equal Employment Opportunity Commission under law or regulations of the Office, Authority or the Commission.

(3) Non selection for promotion from a group of properly ranked and certified candidates.

(4) A preliminary warning notice of an action, which, if effected, would be covered under the grievance system or excluded from coverage by paragraph 3c(2).

(5) An action which terminates a temporary promotion within a maximum period of 2 years and returns the employee to the position from which the employee was temporarily promoted or reassigned or demotes the employee to a different position that is not at a lower grade or pay than the position from which the employee was temporarily promoted.

(6) An action, which terminates a term promotion at the completion of the project or specified period, or at the end of a rotational assignment in excess of 2 years but not more than 5 years and returns the employee to the position from which promoted or to a different position of equivalent grade and pay.

(7) A supervisor's determination of the objectives and critical elements of and performance standards for an employee's position.

(8) The granting of or failure to grant an employee performance award or the amount of the award; the adoption of or failure to adopt an employee's suggestion or invention; and the granting of or failure to grant an award of the rank of meritorious or distinguished executive.

(9) The receipt of or failure to receive a quality step increase.

(10) The termination of a probationer under subpart H of Part 315 of Title 5, C.F.R. or subpart D of Part 359 of Title 5, C.F.R.

(11) Return of an employee from an initial appointment as a supervisor or manager to a non supervisory or non managerial position for failure to satisfactorily complete the probationary period.

(12) A separation action not otherwise excluded above.

(13) A letter of caution or oral admonishment.

(14) An action taken as per the terms of a formal agreement voluntarily entered into by an employee which either (1) assigns the employee from one geographical location to another, or (2) returns an employee from an overseas assignment.

d. Delegation of Authority. Department heads are delegated authority to act as deciding officials on all grievances filed by employees under their command except when personally involved in the events giving rise to the grievance or when a grievance involves rating(s) and ranking(s) under the Merit Staffing Program. The Human Resources Manager will be the deciding official on grievances involving the rating(s) and ranking(s) for the Merit Staffing Program. If the department head has been involved in the grievance, the next higher level of management in the chain of command will be designated deciding official.

### 3. Action

a. All echelons of management will ensure that grievances are processed in an expeditious and equitable manner, giving full and fair consideration to information presented. Every effort shall be made to settle complaints and grievances at the lowest level possible.

b. The Human Resources Office (HRO) will administer the administrative grievance procedure as outlined in the enclosure. The Employee Relations Division will provide advice to members of management, individual employees, union representatives and other interested parties as to the application and details of the administrative grievance procedure. The HRO will serve as the central control point for all formal grievances filed. The Employee Relations Officer will maintain necessary records, follow-up at all stages to ensure timely processing and prepare such reports as necessary.

  
P. A. CONIGLAN

Distribution: A

ADMINISTRATIVE GRIEVANCE PROCEDURES

Processing of Grievances. The following sets forth the guidelines for the establishment of the administrative grievance procedure.

1. Time Limitation for the Initiation of Grievance

a. A grievance must be initiated within 15 calendar days of the date of the act or occurrence giving rise to the grievance or from the date the employee became aware of the act or occurrence. However, a grievance concerning a continuing condition or practice may be submitted at any time.

b. A grievance concerning a personnel action may be initiated anytime after receipt of the notice of the action, but not later than 15 calendar days after the effective date.

c. The letter of reprimand must be grieved within 15 calendar days of the employee's receipt of the letter.

d. In the case of a suspension of 14 calendar days or less, the grievance must be initiated within 15 calendar days of receipt of the notice of decision to suspend.

2. Referral to Deciding Official. Grievances pertaining to all matters except Merit Promotion shall be addressed to the appropriate department head with a copy to the HRO. Grievances pertaining to the rating(s) and ranking(s) under the Merit Staffing Program shall be addressed to the HRO.

a. The grievance must: be in writing, clearly stating the nature of the complaint, provide all relevant information thereto, specify the desired corrective action and be signed by the employee or a designated representative.

b. The corrective action specified must personally relate to the grievance. A request to discipline another employee or supervisor does not meet this requirement.

c. If the issue(s) of the grievant and the corrective action sought are not clearly described, the grievance shall be given the opportunity to provide additional information or clarification. Vague or general allegations shall not be accepted for processing.

3. Rejection of a Grievance For Untimely Filing

a. The deciding official or designated representative will determine whether the grievance has been timely filed, considering whether timely filing was within the grievant's (representative's) control.

b. If the grievance has not been timely filed it shall be rejected.

4. Acceptance, Rejection and Remand of a Grievance

a. The deciding official will determine whether to accept or reject in whole or in part any grievance which does not meet the requirements in paragraph 2a above.

b. When a grievance or a particular issue(s) of a grievance is rejected, the employee shall be informed by letter the reasons for the rejection.

c. If a deciding official rejects all or part of a grievance, that decision may be grieved to the next higher level of management. The decision rendered at the next higher level, on that grievance, is final and not subject to further review.

d. The deciding official will respond to the grievance in writing stating the reasons for the decision and will do so in a timely manner.

5. Consideration of the Grievance by the Deciding Official or Designated Representative

a. The deciding official or designated representative will determine which issues, if any, shall be investigated and will also determine which issue or issues do not need to be investigated.

b. If the grievance is accepted, the deciding official or designated representative will attempt to resolve the grievance by one of the following methods:

- (1) Using the facts presented in the written grievance;
- (2) Conducting a fact-finding inquiry;

(3) Appointing a third party fact-finder who will conduct an inquiry and submit a timely report of the findings and make recommendations to the deciding official; or

(4) Conducting a hearing. The deciding official will appoint a hearing examiner who will provide the deciding official with a timely report of findings and recommendations.

c. The deciding official will give full and careful consideration to the grievance before rendering a final decision.

6. Grievance Decision

a. The deciding official will issue a final written decision within 90 calendar days of acceptance of a grievance for processing when a fact-finder or hearing is not used in the decision making process of the grievance.

b. If a fact-finder or hearing is used, then a written decision should be rendered within 120 calendar days of acceptance of the grievance for processing.

7. Right of Grievant to Seek Advice. The grievant has the right to consult the HRO, Employee Relations Division, for advice and guidance regarding the processing of the grievance.

8. Right of Grievant to Appoint a Representative

a. Grievants have the right to be accompanied, represented and advised by a representative of their own choice in processing a grievance pursuant to this procedure.

b. The deciding official or designated representative will determine whether to accept the grievant's choice of representative or to disallow the choice of representative.

(1) The grievants choice of representative shall be disallowed if the individual chosen has a conflict of interest or position, a conflict with the priority needs of the activity or would give rise to an unreasonable cost to the Government.

(2) If the grievant's choice of representative is disallowed by the deciding official, then this issue may be grieved to the next higher level of management. If the deciding official is the Commanding General or a designated representative, then a grievance regarding this issue shall be decided by the Commandant of the Marine Corps.

(3) Processing of the original grievance shall be held in abeyance pending the resolution of the question of representation.

c. Grievant and their representatives are assured of freedom from restraint, interference, coercion, discrimination or reprisal in presenting a grievance.

d. A reasonable amount of official time, as determined by the deciding official, shall be granted to the grievant to present the grievance if an employee is in a duty status.

9. Combining Grievances. When two or more employees have identical grievances (i.e., the dissatisfaction expressed and the relief requested are the same), the deciding official or designated representative will combine the grievances and process them as a one-group grievance. The employee shall be notified and requested to designate a representative for the group.

10. Grievances Against Another Activity. An employee of one activity and/or the employee's representative may present a grievance to the head of another activity which took the action being grieved. The grievance will be processed as per procedures of the activity in which the grievance is filed.

11. Allegations of Discrimination

a. If an allegation of discrimination because of race, color, national origin, sex, age, religion, handicap (physical or mental) or sexual harassment is raised at any stage of the grievance procedure, the deciding official will inform the grievant in writing that introduction of the allegation will serve to terminate processing of the matter under this procedure.

b. The grievant has the opportunity to withdraw the allegation and continue processing the grievance pursuant to the administrative grievance procedure or proceed pursuant to the discrimination complaint procedure commencing at the counseling stage, but not both.

c. The grievant may contact the Deputy Equal Employment Opportunity Officer for counseling.

d. If the grievant chooses to proceed pursuant to the discrimination complaint procedure, the administrative grievance shall be canceled.