



DEPARTMENT OF THE NAVY
NAVAL EDUCATION AND TRAINING PROFESSIONAL
DEVELOPMENT AND TECHNOLOGY CENTER
6490 SAUFLEY FIELD ROAD
PENSACOLA, FLORIDA 32509-5237

IN REPLY REFER TO:

NETPDTCCINST 12771.1A
N83

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NETPDTCC INSTRUCTION 12771.1A

Subj: **ADMINISTRATIVE GRIEVANCE PROCEDURE**

Ref: (a) DOD Civilian Personnel Manual 1400.25-M

1. **Purpose.** To establish the administrative grievance procedure per reference (a) under which this activity can internally review employee disputes involving working conditions.
2. **Cancellation.** NETPDTCCINST 12771.1
3. **Revision.** Since this is a major revision, marginal notations are not annotated. This instruction should be read in its entirety.
4. **Policy**
 - a. The policy of this activity is that matters grieved will be given objective consideration and will be dealt with promptly.
 - b. Alternative Dispute Resolution (ADR) techniques should be used to resolve grievances 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, peer review, and arbitration.
5. **Delegation of Authority.** Authority is delegated to all Department Heads to act as the deciding official for grievances within their departments. If a Department Head is personally involved in any phase of a grievance, the next level of management will serve as the deciding official. A deciding official must be assigned to an organizational level higher than any employee involved in the grievance or having a direct interest in the matter being grieved unless the deciding

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official is the Commanding Officer. The deciding official will make all decisions concerning grievances consistent with the requirements of this instruction.

6. **Administrative Grievance Procedure Requirements**

a. General. Covered employees are entitled under the Administrative Grievance Procedure to present grievances and to communicate with supervisors or managers and officials in their servicing Human Resources Office. Employees may represent themselves, or be represented by someone of their choice. The choice of representative may be denied if it would result in a conflict of interest, conflicts with mission priorities, or results in unreasonable costs. Employees and their representatives will have full access to relevant information and will be given copies of such information unless to do so would be unduly burdensome or contrary to law or regulation. Employees will be permitted a reasonable amount of official duty time, if otherwise in a duty status at this activity, to present grievances 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

(1) This instruction applies to all present or former Department of the Navy (DON) employees for whom a remedy can be provided, except:

(a) An applicant for employment who does not meet the definition of employee in paragraph 6b(1) of this instruction.

(b) Civilian Mariner employees of the Military Sealift Command.

(c) Reinstatement and transfer eligibles who have applied for a position under a merit promotion program, non-citizens recruited overseas and appointed to overseas positions, or nonappropriated fund (NAF) employees.

(2) Subject Matter Coverage. A grievance is a matter, which is presented in writing and covers a dissatisfaction relating to the employment of an employee, or a group of employees acting as individuals, in which personal relief is requested, and which is subject to the control of the head of the activity. Letters of reprimand or requirement and

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suspensions of 14 days or less may be grieved. A grievance does not include the following:

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

(b) A decision which is appealable to the Merit Systems Protection Board, or subject to final administrative review by the Office of Personnel Management or the Equal Employment Opportunity Commission.

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

(d) A preliminary warning notice of an action, which, if effected, would be covered under the Administrative Grievance Procedure, or excluded from coverage under paragraph 6b of this instruction.

(e) 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 two years but not more than five years, and returns the employee to the position from which promoted to a different position of equivalent grade and pay.

(f) An action which terminates a temporary promotion within a maximum period of two years and returns the employee to the position from which the employee was temporarily promoted, or reassigns 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.

(g) The substance of the critical elements and performance standards of an employee's position, which have been established under the requirements of Subchapter I of Chapter 43 of Title 5 U.S.C.

(h) A decision on the granting of or failure to grant an employee performance award or the amount of the award; and a decision on the adoption of or failure to adopt an employee suggestion or invention.

(i) A decision on the approval of or failure to approve a quality salary increase.

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(j) A decision on the granting of or failure to grant cash awards or honorary recognition.

(k) The termination of the initial appointment of a probationer to a competitive position for unacceptable performance.

(l) The return of an employee from an initial appointment as a supervisor or manager to a nonsupervisory or nonmanagerial position for failure to satisfactorily complete the supervisory probationary period.

(m) An action taken under 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.

(n) A separation action not otherwise excluded above.

(o) Oral admonishments and letters of caution.

(p) A decision to include an employee's position in the pool of activity positions subject to random drug testing.

(q) A matter excluded from coverage under a negotiated grievance procedure.

c. Time Limits. When calculating time limits, the day of an action or receipt of a document is not counted. The last day of the time limit is counted unless it is a Saturday, a Sunday, a legal holiday, or a day on which the employee is not regularly scheduled to work. In those cases, the last day of the time limit will be moved to the next regularly scheduled workday. All time limits are counted in calendar days.

d. Grievance File. The Human Resources Office will establish and maintain a separate file for each written grievance filed under this instruction and retain it for 4 years in accordance with applicable laws, regulations, and records retention schedules. The file will contain all documents or copies of documents related to the grievance.

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e. Process(1) Problem Solving Process

(a) 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 activity. The problem must be presented within 15 calendar days following the date of the act or event 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.

(b) 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. When appropriate, the use of a neutral; e.g., conciliator, facilitator, or mediator, is encouraged. If the employee presents the problem orally, the supervisor's determination may be oral or written. If the problem is presented in writing, the determination must be in writing. If the problem was not resolved, the supervisor will 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 will so inform the employee and advise the employee of the appropriate process, if any, for resolving the problem.

(c) The above time limit for resolving the problem may be extended by mutual agreement to accommodate resolution of the dispute.

(2) Formal Grievance Process

(a) An employee may file a formal, written grievance with the designated deciding official, or the servicing Employee Relations Specialist with the Human Resources Office, when a problem is not resolved during the problem solving process, or when the employee chooses to bypass the process and invoke the formal grievance process. If the employee used the problem-solving process, the employee must file a grievance no later than 15 days from the conclusion of

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that process. When the employee does not use the problem-solving process but raises the matter initially as a formal grievance, the employee must present the 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 date the employee became aware of (or reasonably should have become aware of) the act or event. The employee may present a grievance regarding a continuing practice or condition at any time.

(b) 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 formal dispute resolution process.

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

(d) The deciding official will fully and fairly consider the grievance and issue a written decision with supporting rationale for the decision. The deciding official will issue the decision as soon as possible but no more than 60 days from the filing of the grievance if a hearing is not held, or 90 days if a hearing is held.

(e) Whenever possible, the deciding official should rule on the merits of a grievance. However, the deciding official may discuss or temporarily suspend a grievance, or an appropriate portion of a grievance, if procedural requirements are not met; e.g., 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; the grievant requests actions be taken against another employee; the grievant raises the same matters

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under another formal dispute resolution process; or the grievant requests to cancel the grievance.

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

(3) Allegations of Discrimination. If an allegation of discrimination because of race, age, sex, color, national origin, religion or handicap (physical or mental) 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 instruction. The grievant must be given the opportunity to withdraw the allegation and continue under the administrative grievance procedure or proceed under the discrimination complaint procedure commencing with the counseling stage. The grievant's decision must be documented and made part of the grievance file. If the grievant decides to pursue the matter under the discrimination complaint procedure, the grievance will be cancelled, the grievant notified, and the grievance file forwarded to the Human Resources Office.

7. Merit Staffing Qualifications, Rating, and Ranking Appeals Procedure. The following grievance procedure must be used by an employee wishing to appeal qualification determinations, ratings, and/or rankings under Merit Staffing Program Announcements from the Human Resources Service Center - Southeast (HRSC-SE). (Note: Employees serviced by other HRSCs shall contact the cognizant HRSC Staffing Specialist for information regarding the grievance process.)

a. Within 15 calendar days after receipt of an ineligibility letter, the employee may request a review of his/her ineligibility rating by calling during business hours or sending written notification to the HRSC-SE Personnel Staffing Specialist. If written, the letter must contain sufficient information to determine what the employee is contesting and should specify the corrective action desired. The HRSC-SE Personnel Staffing Specialist will issue a written decision to the employee concerning his/her ineligibility rating within 15 calendar days after receipt of the request for review by the employee.

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b. If the employee is not satisfied after review and decision by the HRSC-SE Personnel Staffing Specialist, the employee may submit the matter as a formal grievance to the Director, Customer Focus Division, HRSC-SE, within 15 calendar days after receipt of the decision by the HRSC-SE Personnel Staffing Specialist. The formal grievance must be submitted in writing. The Customer Focus Division Director will issue a final decision on the formal grievance within 15 calendar days from the receipt of the formal grievance.

c. It is understood that failure to be selected for promotion when proper promotion procedures have been used; that is, non-selected from among a group of properly rated and certified candidates, is not a basis for a complaint or a grievance.



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