



DEPARTMENT OF THE NAVY
COMMANDER NAVY REGION SOUTHWEST
937 NO. HARBOR DR.
SAN DIEGO, CA 92132-0058

IN REPLY REFER TO:

COMNAVREGSWINST 12771.1
N04R
MAY 01 2002

COMNAVREGSW INSTRUCTION 12771.1

Subj: ADMINISTRATIVE GRIEVANCE SYSTEM (AGS)

Ref: (a) DoD Civilian Personnel Manual, DoD 1400.25-M,
Subchapter 771
(b) SECNAVINST 12771.1, Department of the Navy,
Administrative Grievance System
(c) DoN Human Resources Implementation Guidance No. 771-01

Encl: (1) Problem Solving/Informal Grievance Letter
(2) Formal Grievance Letter

1. Purpose. To establish an Administrative Grievance System (AGS) for civilian employees of the Commander, Navy Region Southwest (CNRSW), San Diego, and activities serviced by the CNRSW Human Resources Office (HRO) which have adopted this instruction; to provide guidance for processing grievances in conformance with references (a), (b), and (c); and to assign responsibilities and prescribe requirements for the CNRSW AGS under which activities can internally review employee disputes involving working conditions within the control of management.

2. Cancellation. Any applicable activity instructions of Naval Base Coronado, Naval Base San Diego, Naval Base Point Loma, Naval Base Ventura County, Naval Air Facility El Centro, Naval Weapons Station Seal Beach, Naval Air Station Lemoore and Naval Air Station Fallon or predecessor activities. Also any non-Commander, Navy Region Southwest activity that adopts this instruction shall cancel any prior applicable instructions and issue a notice of adoption.

3. Policy

a. Covered employees shall be entitled to present disputes under the AGS and have them considered expeditiously, fairly, and impartially, and resolved as quickly as possible. All persons involved in the dispute resolution process shall be free from restraint, interference, coercion, discrimination, or reprisal.

b. Alternative Dispute Resolution (ADR) techniques should be used to resolve disputes consistent with the requirements of AGS. 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.

4. Applicability

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

b. 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.

c. The AGS does not cover:

(1) An applicant for employment who is not a present or former DON employee for whom a remedy can be provided.

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

5. Grievance Coverage. Any employment matter may be grieved under the AGS except for the following:

a. The content of published DON regulations and policy.

b. Any matter covered by a NGP or subject to formal review and adjudication by the Merit Systems Protection Board (MSPB) (e.g. appeals of adverse actions), the Office of Personnel Management (OPM) (e.g. classification appeals), the Federal Labor Relations Authority (FLRA) (e.g. Unfair Labor Practice charges), or the Equal Employment Opportunity Commission (EEOC) (e.g. complaints of employment discrimination) or any matter that the employee files under another review or reconsideration procedure, or dispute resolution process within the DoD. (Note that the examples in this paragraph do not include all matters that may be processed through these organizations or procedures.)

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 5.b. above. An example would be a notice of proposed disciplinary suspension.

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 allowance, physician's comparability or 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, or separation or termination of an employee during a trial period.

i. Termination or expiration of a time-limited excepted appointment, a term or temporary appointment or promotion, on the date specified as a condition of employment at the time the appointment or promotion was made.

j. The termination of a temporary or term promotion at a time other than in 5.i. 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 which temporarily promoted or to a different position of equivalent grade and pay.

k. A separation or termination action except as provided for Civilian Intelligence Personnel Management System (CIPMS) employees.

l. Oral admonishments and letters of caution.

6. Responsibilities

a. Deciding Officials

MAY 01 2002

(1) Determine whether to accept, suspend, or cancel all or part of the grievance.

(2) Issue a final decision within the prescribed time limits.

(3) 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 official is the head of the activity or command. Normally, the deciding official will be the grievant's second-level supervisor.

b. Grievant. A grievant must present a formal grievance to the deciding official in writing, and within the prescribed time limits. Each grievance must provide a clear statement of the issues, and indicate the specific personal relief sought.

c. Supervisors. A supervisor to whom a problem solving/informal grievance is presented must timely consider, address, and respond to concerns that a grievant raises.

d. Human Resources Office (HRO). The servicing HRO will:

(1) Provide advice, guidance, and necessary assistance on ADR and the processing of grievances to supervisors/managers and employees.

(2) Maintain a separate grievance file for each written grievance filed under the DON AGS for a period of 4 years after the case is closed. The file shall contain all documents or copies of documents related to the grievance.

(3) Track ADR Techniques used, the total number of ADR processes attempted, the success rate, and any barriers to the use of ADR, as required by SECNAVINST 5800.13, paragraph 5.a (5).

7. Rights of Grievants and Representatives

a. Grievants have the right to be accompanied, represented and advised by a representative of their own choice in processing a grievance under this guide, except as noted in paragraph 10.

b. Grievants and their representatives are entitled to freedom from restraint, interference, coercion, discrimination, or reprisal in presenting a grievance.

c. Grievants and their representatives are entitled to a reasonable amount of official duty time, as determined by the deciding official, to present a grievance, and to communicate with management and personnel officials, if they are DON employees and are in a duty status. Employees may also be given a reasonable amount of official time to prepare a grievance.

d. Grievants 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.

8. Time limits. When calculating time limits under the AGS, 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 shall be moved to the next regularly scheduled workday. All time limits are counted in calendar days.

9. Processing Grievances. The following sets forth standard AGS processing procedures. As noted in paragraph 3.b. above, ADR techniques should be used where practicable in the resolution of disputes. The employee and/or his/her supervisor should contact the servicing HRO Site Office to determine availability and advisability of ADR.

a. Problem solving/Informal process

(1) An employee may informally present, orally or in writing, 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 installation, or activity. The problem must be presented within 15 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.

(2) The 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 third-party

MAY 01 2002

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 is not resolved, the supervisor shall inform the employee of the time limits for filing a formal 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 supervisor should contact the servicing HRO Site Office for further processing advice/guidance.

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

(4) The matter(s) raised during the informal process must be identified as being processed under the problem solving/informal process of the AGS. Any concerns/problems presented during this informal process must be specifically identified and a proposed resolution, personal to the employee, suggested. If the employee elects to initiate the process in writing, the format of enclosure (1) may be used.

(5) Normally the informal process will be initiated with the first or second level supervisor, as indicated above. If the employee is uncertain as to the appropriate official to whom to present the matter, he/she may either inquire of his/her first level supervisor or contact the appropriate HRO Site Office for further guidance.

(6) If the employee and/or the cognizant supervisor desire the use of ADR, the HRO Site Office will provide further information.

b. Formal Grievance Process

(1) Time Limits. An employee may file a formal, written grievance, using the format of enclosure (2), with the deciding official when a problem is not resolved during the problem solving/informal process, or where the employee chooses to bypass that process and invoke the grievance process. If the employee used the problem solving/informal process and/or ADR processes, the employee must file a grievance no later than 15 days after the process concluded or a decision was rendered on the informal grievance. Where the employee does not use the problem solving/informal 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.

(2) Deciding Official. The deciding official will normally be the grievant's second-level supervisor. In the event that the second-level supervisor has been involved in the problem solving/informal process, or was otherwise directly involved in the grievance itself, or has a direct interest in the matter being grieved, the formal grievance should be filed with the next level of supervision, up to the activity head. In no event will the deciding official be designated beyond the activity head, (e.g. Commanding Officer of the activity). If the employee has questions regarding the appropriate deciding official, he/she should contact the cognizant HRO Site Office for assistance.

(3) Grievance Content. The grievance should be submitted to the second-level supervisor, or it may be submitted to the HRO Site Office for delivery to the appropriate deciding official. 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; a statement that the employee has not filed an appeal or complaint (such as an IG or EEO complaint) on the same issue; 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.

(4) Role of the Deciding Official. In addition to deciding the grievance, 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's 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 impartial individual to examine a grievance and, when authorized, make recommendations concerning its disposition. There is no requirement for a meeting between the deciding official and the grievant to present or discuss the grievance, though one can be held at the discretion of the deciding official if he/she

MAY 01 2002

determines that it could be beneficial in clarifying issues and/or achieving resolution.

(5) Decision Time Limits. 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 the 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 DON.

(6) Decision. 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:

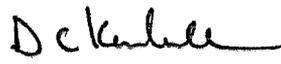
- (a) The grievant requests such action;
- (b) The grievant or grievance is excluded from coverage;
- (c) The grievant fails to provide sufficient detail to identify clearly the matter being grieved or specify the personal relief requested;
- (d) The grievant fails to comply with applicable time limits or procedural requirements or requests actions be taken against another employee, or
- (e) The grievant raises the same matters under another formal dispute resolution process.

(7) Finality. A deciding official's decisions on the merits of the grievance are final and not subject to further review. However, an employee may request that an individual at the next higher management level within the DON, if any, review a decision to cancel a grievance or a portion of a grievance. The employee's request for review of a decision to cancel a grievance or a portion of a grievance, must be submitted within 15 days from the date of receipt of the decision to cancel the grievance.

(8) Alternative Dispute Resolution (ADR). ADR is available at the formal stage as well as at the problem solving/informal process stage. If the informal process was skipped or ADR was not elected at the informal stage, the parties are encouraged to utilize ADR as a supplement to, or replacement for, the formal grievance process. If ADR does not resolve the matter, a final decision will be issued.

10. Disallowance of Grievant's Representative. The deciding official may disallow the choice of an individual as a representative which would result in a conflict or apparent conflict of interest or position, a conflict with the priority needs of the activity or command, or would give rise to an unreasonable cost to the Federal Government. If a deciding official disallows the grievant's choice of representative, that decision may be grieved within 10 days to the next higher level of management, unless the deciding official is the head of the activity or command. The decision on that grievance is final and is not subject to further review.

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


D. C. KENDALL
Deputy and
Chief of Staff

Distribution:
www.cnrsw.navy.mil/admin/menu.htm

MAY 01 2002

PROBLEM SOLVING/INFORMAL GRIEVANCE LETTER
(OPTIONAL FORMAT - PROBLEM/CONCERN AND REQUESTED RELIEF MAY BE
PRESENTED ORALLY)

Date: _____

From:

To:

Subj: SUBMISSION FOR PROBLEM SOLVING/INFORMAL PROCESS

Ref: (a) CNRSWINST 12771.1 (series)

1. I am interested in resolving the following matter of concern (describe the events giving rise to the act or condition of concern and the date of the occurrence):

2. I am requesting the following personal relief (describe what corrective action would resolve the concern):

3. I am/am not interested in utilizing Alternative Dispute Resolution to resolve this matter.

4. I have not raised this matter in any other grievance, appeal, complaint or dispute resolution process.

5. My representative in this matter is: (include representative's name, address, and telephone number)

Signature

Enclosure (1)

COMNAVREGSWINST 12771.1
MAY 01 2002

FORMAL GRIEVANCE LETTER (REQUIRED FORMAT)

Date: _____

From:

To:

Subj: SUBMISSION OF FORMAL GRIEVANCE

Ref: (a) CNRSWINST 12771.1 (series)

Encl: (1) (Any available documents or statements that support grievance)

1. I am grieving the following matter(s) of concern (describe the events giving rise to the act or condition of concern and the date of the occurrence):

2. I am requesting the following personal relief (describe what corrective action would resolve the concern):

3. I have not raised this matter in any other grievance, appeal, complaint or dispute resolution process.

4. I did/did not utilize the problem solving/informal process in this matter. I did/did not engage in Alternative Dispute Resolution at the problem solving/informal process. I am/am not interested in utilizing Alternative Dispute Resolution to resolve this matter.

5. My representative in this matter is: (include representative's name, address, and telephone number)

Signature

Enclosure (2)