



Department of Defense

INSTRUCTION

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Incorporating Change 1, Effective June 13, 2018

USD(P&R)

SUBJECT: DoD Civilian Personnel Management System: Administrative Grievance System

References: See Enclosure 1

1. PURPOSE

a. Instruction. This instruction is composed of several volumes, each containing its own purpose. The purpose of the overall instruction, in accordance with the authority in DoD Directive 5124.02 (Reference (a)), is to establish and implement policy, establish procedures, provide guidelines and model programs, delegate authority, and assign responsibilities regarding civilian personnel management within the DoD.

b. Volume. This volume:

(1) Reissues subchapter 771 of DoD 1400.25-M (Reference (b)) as a volume of this instruction and establishes the DoD Administrative Grievance System (AGS) in accordance with part 771 of Title 5, Code of Federal Regulations (Reference (c)).

(2) Establishes policy, assigns responsibilities, and prescribes requirements for the DoD AGS under which DoD activities can internally review employee disputes involving working conditions within the control of DoD management.

2. APPLICABILITY. This volume:

a. Applies to OSD, the Military Departments, the Office of the Chairman of the Joint Chiefs of Staff and the Joint Staff, the Combatant Commands, the Office of the Inspector General of the Department of Defense, the Defense Agencies, the DoD Field Activities, and all other organizational entities within the DoD (referred to collectively in this volume as the "DoD Components").

b. Does not apply to DoD employees covered by the Defense Civilian Intelligence Personnel System, whose employee grievance procedures are covered by 1400.25, Volume 2014 (Reference (d)) of this instruction.

3. POLICY. It is DoD policy that:

a. In accordance with DoD Directive 1400.25 (Reference (e)), DoD employees will be entitled to present disputes under the DoD AGS; have them considered expeditiously, fairly, and impartially; and be resolved as quickly as possible. All persons involved in the dispute resolution process must be free from restraint, interference, coercion, discrimination, or reprisal.

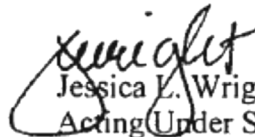
b. Parties are encouraged to use alternative dispute resolution (ADR) techniques to resolve disputes consistent with the requirements of this volume. ADR techniques include a broad range of approaches for dealing with conflict and seeking solutions satisfactory to all parties. These techniques include, but are not limited to, problem solving, mediation, facilitation, conciliation, early-neutral evaluation, fact-finding, settlement conferences, ombudsmen, peer review, and arbitration.

4. RESPONSIBILITIES. See Enclosure 2.

5. PROCEDURES. See Enclosure 3.

6. RELEASABILITY. This volume is available on the Directives Division Website at <http://www.esd.whs.mil/DD/>.

7. EFFECTIVE DATE. This volume is effective December 26, 2013.


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ENCLOSURE 1

REFERENCES

- (a) DoD Directive 5124.02, "Under Secretary of Defense for Personnel and Readiness (USD(P&R))," June 23, 2008
- (b) DoD 1400.25-M, Subchapter 771, "Administrative Grievance System," December 1996 (hereby cancelled)
- (c) Part 771 of Title 5, Code of Federal Regulations
- (d) DoD Instruction 1400.25, Volume 2014, "DoD Civilian Personnel Management System: Defense Civilian Intelligence Personnel System (DCIPS) Employee Grievance Procedures," March 20, 2012
- (e) DoD Directive 1400.25, "DoD Civilian Personnel Management System," November 25, 1996
- (f) Section 2105 of Title 5, United States Code
- (g) Section 709(4) of Title 32, United States Code

ENCLOSURE 2

RESPONSIBILITIES

1. ASSISTANT SECRETARY OF DEFENSE FOR MANPOWER AND RESERVE AFFAIRS (ASD(M&RA)). Under the authority, direction, and control of the Under Secretary of Defense for Personnel and Readiness, the ASD(M&RA) has overall responsibility for the development of DoD civilian personnel policy covered by this volume.

2. DEPUTY ASSISTANT SECRETARY OF DEFENSE FOR CIVILIAN PERSONNEL POLICY (DASD(CPP)). Under the authority, direction, and control of the ASD(M&RA), the DASD(CPP) supports the development of civilian personnel policy covered by this volume and monitors its execution by DoD Components, ensuring consistent implementation and application throughout DoD.

a. Develops DoD AGS policies and requirements governing DoD civilian personnel.

b. Monitors the implementation and effectiveness of such policies, develops dispute resolution models, and provides guidance on dispute resolution.

3. DIRECTOR, DEPARTMENT OF DEFENSE HUMAN RESOURCES ACTIVITY (DODHRA). Under the authority, direction, and control of the Under Secretary of Defense for Personnel and Readiness, the Director, DoDHRA, supports the DASD(CPP), as appropriate, in execution of the responsibilities assigned in this volume.

4. DoD COMPONENT HEADS. The DoD Component heads:

a. Ensure the DoD AGS is implemented in their Component.

b. Develop and implement ADR techniques as appropriate in accordance with this volume.

ENCLOSURE 3

PROCEDURES

1. DoD AGS REQUIREMENTS

a. DoD employees are entitled to present grievances using the DoD AGS and to communicate with supervisors or managers and officials in their servicing Civilian Personnel Office or Human Resource Office.

b. DoD 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, conflict with mission priorities, or result in unreasonable costs.

c. DoD employees and their representatives must have full access to relevant information and be given copies of such information upon request, unless to do so would be unduly burdensome or contrary to law or regulation.

d. DoD employees must be permitted a reasonable amount of duty time, if otherwise in a duty status at the employing activity, to present grievances and to communicate with management and personnel officials. Employees may also be given a reasonable amount of duty time to prepare a grievance.

2. COVERAGE

a. Employee Coverage. The DoD AGS:

(1) Covers current appropriated fund nonbargaining unit DoD employees as defined in section 2105 of Title 5, United States Code (Reference (f)). It also covers former appropriated fund nonbargaining unit 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) Covers bargaining unit employees when a matter covered by the DoD 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) Does not cover reinstatement and transfer-eligible candidates who have applied for a position under a merit promotion program, non-citizens recruited overseas and appointed to overseas positions, or nonappropriated fund employees.

b. Subject Matter Coverage. Any employment matter may be grieved under the DoD AGS except:

- (1) The content of established DoD and DoD Component regulations and policies.
- (2) Any matter:
 - (a) Covered by an NGP or subject to formal review and adjudication by the Merit Systems Protection Board, the Office of Personnel Management, the Federal Labor Relations Authority, or the Equal Employment Opportunity Commission.
 - (b) Filed by the DoD employee under another review or reconsideration procedure or dispute resolution process within the DoD.
- (3) Nonselection for promotion from a group of properly ranked and certified candidates or failure to receive a noncompetitive promotion.
- (4) Preliminary notice of an action that, if effected, would be covered under the grievance system or excluded from coverage by paragraph 2b(2) of this enclosure.
- (5) The substance of an employee's performance elements, standards, or work objectives.
- (6) Determinations concerning awards, additional step increases, recruitment, relocation, or retention incentives; physicians' comparability or additional pay allowances; supervisory differentials; critical position pay; or dual compensation waivers.
- (7) Any action taken under a voluntary formal agreement entered into by an employee involving geographic relocation or return from an overseas assignment.
- (8) Termination of a probationer, 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.
- (9) Senior Executive Service (SES) employees' performance evaluations and awards (including meritorious or distinguished executive rank awards), reassignment following receipt of an unsatisfactory rating, return to another pay system during the 1-year period of probation or for less than fully successful executive performance or for failure to be recertified, conditional recertification, or termination during probation for unacceptable performance.
- (10) Termination or expiration of a time-limited excepted appointment, a term or temporary appointment or promotion, or an 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.
- (11) The termination of a temporary or term promotion at a time other than in paragraph 2b(10) of this enclosure, 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.

(12) SES, Senior Level, or Scientific and Professional pay rate changes.

(13) A separation or termination action.

(14) Any action taken pursuant to section 709(f)(4) of Title 32, United States Code (Reference (g)) involving National Guard technicians.

(15) Any additional exclusions as requested by a DoD Component and approved by the DoD.

c. Time Limits. When calculating time limits under the DoD AGS:

(1) The day of an action or receipt of a document is not counted. The next day begins the calculation of the time limit.

(2) The last day of the time limit is counted unless it is a Saturday, a Sunday, a government 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 work day.

(3) All time limits are counted in calendar days.

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

3. PROCESS. This section details the basic mandatory processes of the DoD AGS. Installation commanders and management officials with delegated appointing authority may tailor the DoD AGS to meet local needs, but they must comply with the policies and requirements in this volume and retain the rights, responsibilities, and time frames in the DoD AGS. Continued use of ADR techniques throughout the DoD AGS is encouraged.

a. Problem-Solving Process

(1) An employee may informally present a work-related problem to his or her immediate supervisor before filing a formal grievance.

(2) 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.

(3) 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.

(4) 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 party (e.g., conciliator, facilitator, or mediator) is encouraged.

(5) 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 must inform the employee of the time limits for filing a grievance. If the supervisor determines the matter is not covered by the grievance process, the supervisor must so inform the employee and advise the employee of the appropriate process, if any, for resolving the problem.

(6) The time limit for resolving the problem as described in paragraph 3a(4) of this section may be extended by mutual agreement to accommodate resolution of the dispute.

b. 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 or where the employee chooses to bypass that process and invoke the grievance process.

(2) If the employee used the problem-solving process, the employee must file a grievance no later than 15 days from the conclusion of that process.

(a) Where the employee does not use the problem-solving process but raises the matter initially as a 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.

(b) The employee may present a grievance regarding a continuing practice or condition at any time.

(3) 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) 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, must be included.

(b) The remedy must be personal to the employee and may not include a request for disciplinary or other action affecting another employee.

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

(4) The deciding officials will make decisions concerning grievances consistent with the requirements in this volume. 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 official is a DoD Component head or head of an installation or activity.

(5) 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 duty 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.

(6) The deciding official must fully and fairly consider the grievance and issue a written decision with supporting rationale for the decision.

(a) The deciding official will issue the decision as soon as possible but normally no later than 60 days from the filing of the grievance.

(b) The deciding official may extend time frames up to 30 additional days 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.

(c) 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.

(7) Wherever possible, the deciding official should rule on the merits of a grievance. However, the deciding official may cancel or temporarily suspend a grievance, or a specific 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.

(8) A deciding official's decision on the merits of the grievance is final and not subject to further review.

(9) An employee may request that an individual at the next higher management level, if any, within the DoD Component, installation, or activity review a decision to cancel a grievance.

GLOSSARY

PART I. ABBREVIATIONS AND ACRONYMS

ADR	alternative dispute resolution
AGS	Administrative Grievance System
ASD(M&RA)	Assistant Secretary of Defense for Manpower and Reserve Affairs
DASD(CPP)	Deputy Assistant Secretary of Defense for Civilian Personnel Policy
DoDHRA	Department of Defense Human Resources Activity
NGP	negotiated grievance procedure
SES	Senior Executive Service

PART II. DEFINITION

This term and its definition are for the purposes of this volume.

administrative grievance. A request by an employee or group of employees acting as individuals for personal relief in a matter of concern or dissatisfaction regarding their employment subject to the control of DoD management.