



Department of Defense INSTRUCTION

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USD(P&R)

SUBJECT: DoD Civilian Personnel Management System: Defense Civilian Intelligence Personnel System (DCIPS) Employee Grievance Procedures

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 (DoDD) 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 Department of Defense.

b. Volume.

(1) 2000 Volume Series. The 2000 Volume series of this Instruction, in accordance with the authority in Reference (a) and DoDDs 5143.01, 1400.25, and 1400.35 (References (b), (c), and (d)), establishes policy, assigns responsibilities, and provides guidance for DCIPS. Hereinafter the 2000 Volume series of this Instruction shall be referred to as “the DCIPS Volumes.”

(2) This Volume. This Volume of this Instruction establishes core principles and policies applicable to the administration of DCIPS employee grievance programs.

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 Department of Defense that employ individuals under DCIPS, hereinafter referred to collectively as the “DoD Components with DCIPS positions.”

b. Does NOT apply to employees covered by the Federal Wage System or equivalent, non-appropriated fund employees, or foreign national employees employed under other than DCIPS authority. It does not apply to members of the Defense Intelligence Senior Executive System (DISES) or the Defense Intelligence Senior Level (DISL), or other experts (e.g., highly qualified experts) who work at the DISES or DISL equivalent, unless specifically addressed in other volumes of this Instruction.

3. DEFINITIONS. See Glossary.

4. POLICY. It is DoD policy that the DoD Components with DCIPS positions shall consider matters and disputes presented to them by employees equitably and impartially, and resolve them quickly. All persons involved in the dispute resolution process shall be free from restraint, interference, coercion, discrimination, or reprisal.

5. RESPONSIBILITIES

a. Under Secretary of Defense for Personnel and Readiness (USD(P&R)). The USD(P&R), in conjunction with the Under Secretary of Defense for Intelligence (USD(I)), shall develop DCIPS employee grievance policies and monitor their effects on DoD-wide personnel readiness.

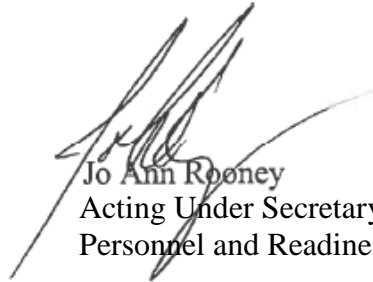
b. USD(I). The USD(I), in conjunction with the USD(P&R), shall prescribe policies governing the design and administration of DCIPS employee grievance resolution programs and shall monitor compliance with these policies within the DoD Components with DCIPS positions.

c. Heads of DoD Components with DCIPS Positions. The Heads of DoD Components with DCIPS positions shall develop DoD Component regulations and guidance implementing DCIPS policy, monitor compliance with this Volume and internal implementing guidance, and respond to reporting requirements established by the USD(I).

6. PROCEDURES. Enclosure 2 provides DCIPS employee grievance procedures.

7. RELEASABILITY. UNLIMITED. This Volume is approved for public release and is available on the Internet from the DoD Issuances Website at <http://www.dtic.mil/whs/directives>.

8. EFFECTIVE DATE. This Volume is effective March 20, 2012, pursuant to section 1613 of title 10, United States Code (U.S.C.) (Reference (e)).



Jo Ann Rooney
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Enclosures

1. References
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Glossary

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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 Directive 5143.01, “Under Secretary of Defense for Intelligence (USD(I)),” November 23, 2005
- (c) DoD Directive 1400.25-M, “DoD Civilian Personnel Management System,” November 25, 1996
- (d) DoD Directive 1400.35, “Defense Civilian Intelligence Personnel System (DCIPS),” September 24, 2007
- (e) Section 1613 of title 10, United States Code
- (f) DoD Directive 5145.5, “Alternative Dispute Resolution (ADR),” April 22, 1996
- (g) Section 2105 of title 5, United States Code

ENCLOSURE 2

DCIPS EMPLOYEE GRIEVANCE PROCEDURES

1. REQUIREMENTS. All DoD Components with DCIPS positions shall establish an employee grievance procedure that, at a minimum, includes the following elements:

a. The provision that all employees have the right to present grievances to the appropriate authority for prompt and equitable consideration without fear of restraint, interference, coercion, discrimination, or reprisal.

b. A list of subjects that may not be grieved (see section 2 of this enclosure).

c. A program for alternative dispute resolution (ADR), using practices and techniques (such as mediation, facilitation, or ombudsman investigation) as alternatives to formal administrative proceedings or litigation to resolve disputes consistent with the requirements of this Volume and DoDD 5145.5 (Reference (f)). ADR techniques should be used to resolve disputes consistent with the requirements of this Volume. To the extent permitted by national security concerns, DoD Components with DCIPS positions should use existing Government ADR resources to avoid unnecessary expenditure of time and money.

d. DCIPS employees are entitled under the DCIPS employee grievance procedures to present grievances. 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, a conflict with mission priorities, a conflict with national security, or unreasonable costs. Employees 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, e.g., manhours or cost, or contrary to law or regulation. Employees shall be permitted a reasonable amount of official duty time, if otherwise in a duty status, 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.

e. Informal dispute resolution procedures and formal grievance procedures.

(1) Informal Disputes. The procedures of DoD Components with DCIPS positions' for addressing informal disputes shall include:

(a) Initial Informal Problem Solving. The DoD Components shall provide for initial informal problem solving during which an employee may informally present a work-related matter to his or her immediate supervisor, or other informal procedure established by the component, before filing a formal grievance.

(b) Timely Presentation of the Matter. DoD Components shall specify in problem-solving processes the timeliness with which matters are to be raised with management considering applicable mission, geographic, and communications imperatives.

(c) Timely Response to the Matter. A supervisor, or other designated official, in a component's informal procedure must consider the matter raised by the employee and attempt to resolve it within 30 calendar days from the date the matter is first presented. This time may be extended by mutual consent of the parties or in exigent circumstances.

(d) Third Parties. Where appropriate and feasible from a security, mission, geographic, or communications point of view, the DoD Components may use a neutral party (such as a conciliator, facilitator, or mediator). A body of neutrals is available through the DoD ADR Coordinator in accordance with Reference (f).

(e) Documentation. Matters presented by employees and the resolution of these matters shall be documented according to DoD Component procedures.

(2) Formal Grievances. The DoD Components shall establish and maintain formal grievance procedures consistent with the provisions of Subchapter 771 of this Instruction for processing employee grievances unless otherwise provided for in this Volume. All DoD Components shall follow these principles in managing formal grievance programs:

(a) Timely Filing. An employee may file a formal, written grievance on matters not excluded under section 2 of this enclosure with the designated deciding official when a matter is not resolved during the informal problem-solving process, or when the employee chooses to bypass that process and invoke the formal grievance process. If the employee used the informal grievance procedure, the employee must file a grievance no later than 15 calendar days from the conclusion of that procedure. Where the employee does not use the informal grievance procedure but raises the matter initially as a formal grievance, the employee must present the formal grievance within 15 calendar days following the date of the act or event that the employee believes created the problem, or within 15 calendar 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 formal grievance regarding a continuing practice or condition at any time as long as the practice or condition is continuing at the time of the filing of the grievance.

(b) Documentation. An employee's formal grievance must be signed and dated and must contain a detailed statement of the 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.

(c) Focus. The remedy sought by the grievant in a formal grievance 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 that he or she has raised in any other formal grievance, appeal, complaint, or other dispute resolution process.

(d) Deciding Official Responsibilities. Formal grievance processes shall state the responsibilities of the deciding official. Among these are the responsibilities to 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 formal grievance and, when authorized, to make recommendations concerning its disposition.

(e) Timely Decisions. Formal grievance processes shall stipulate the time frame from the filing of the formal grievance by which the deciding official shall issue the decisions. A decision should be rendered no more than 90 calendar days from the filing of the formal grievance, absent mutual agreement to extend this time limit to accommodate resolution of the dispute or exigent circumstances. Processes should allow for extensions as needed and when warranted by exigent circumstances, for example, by special mission considerations or geographically dispersed participants.

(f) Cancellation Provisions. Formal grievance processes shall specify the conditions under which the deciding official may cancel or temporarily suspend a formal grievance or the appropriate portion of a formal grievance, and shall allow for employee cancellation.

(g) Grievance File. A separate file shall be established and maintained for each written formal grievance and retained for 4 years or as provided for in accordance with applicable laws, regulations, and records retention schedules. The file shall contain all documents or copies of documents related to the formal grievance.

2. GRIEVABLE MATTERS. Employees may present grievances relative to any employment matter except for:

- a. The content of regulations and policy of DoD Components with DCIPS positions.
- b. The content of position alignment (classification) and qualification standards.
- c. The substance of an employee's performance elements, standards, or work objectives.
- d. A rater or reviewing official's determination of ratings against performance objectives and elements.
- e. Adverse performance- or conduct-based actions (such as reductions in work level, pay band or pay, suspensions of more than 14 calendar days, furloughs of 30 calendar days or less, or removal). Such actions are not grievable but may be appealed under DoD Component appeals processes, if applicable, in accordance with Volume 2009 of this Instruction.
- f. Nonselection for a position or promotion as the result of an approved candidate evaluation process, or failure to receive a noncompetitive assignment or promotion
- g. Determinations concerning additional compensation including the denial or non-receipt of monetary and non-monetary awards, performance-based payouts, recruitment or relocation bonuses, retention incentives or allowances, additional pay allowances or differentials, critical position pay, or dual compensation waivers.

- h. Any matter already the subject of a formal review and adjudication by an internal or external authority, or any matter that the employee has filed under another review or reconsideration procedure or dispute resolution process within the DoD.
- i. Preliminary notice of an action that, if executed, would be covered under the grievance system or be the subject of formal review and adjudication by an internal or external authority.
- j. Any action taken under a voluntary, formal agreement entered into by an employee involving geographic relocation or return from an overseas assignment.
- k. Termination of an employee during a trial period.
- l. Termination or expiration of a term or temporary appointment on the date specified as a condition of employment at the time the appointment was made.
- m. Any action taken under adjustment in force (AIF) proceedings. Employees may file appeals of AIF actions according to the procedures in Volume 2004 of this Instruction.
- n. Any action taken pursuant to national security requirements including determinations regarding eligibility for access to classified, compartmented, or other controlled access information.
- o. Any additional exclusions requested by a DoD Component and approved by the USD(I).
- p. The terms of any mediated agreement that an employee is a party to resulting from participation in the ADR Program.

GLOSSARY

PART I. ACRONYMS AND ABBREVIATIONS

ADR	alternative dispute resolution
AIF	adjustment in force
DCIPS	Defense Civilian Intelligence Personnel System
DISES	Defense Intelligence Senior Executive Service
DISL	Defense Intelligence Senior Level
DoDD	Department of Defense Directive
U.S.C.	United States Code
USD(I)	Under Secretary of Defense for Intelligence
USD(P&R)	Under Secretary of Defense for Personnel and Readiness

PART II. DEFINITIONS

Unless otherwise stated, the following terms and their definitions apply to this Volume of this Instruction and serve as the basic grievance taxonomy for DoD Components with DCIPS positions.

ADR. Defined in Reference (f).

Defense Intelligence Components. Defined in Reference (d).

DoD Components with DCIPS positions. Defined in Volume 2001 of this Instruction.

employee. Any Federal civilian employee, as defined in section 2105 of title 5, U.S.C. (Reference (g)), who is covered by DCIPS, except for DISES and DISL employees.