



DEPARTMENT OF THE NAVY
UNITED STATES NAVAL ACADEMY
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USNAINST 12771.1B
24/HRD
25 JUN 1998

USNA INSTRUCTION 12771.1B

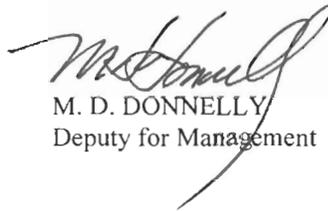
From: Superintendent

Subj: ADMINISTRATIVE GRIEVANCE SYSTEM

Ref: (a) Title 5, Code of Federal Regulations, Part 771 (NOTAL)
(b) DOD 1400.25M, Subchapter 771, "Administrative Grievance System" (NOTAL)

Encl: (1) USNA Administrative Grievance System

1. Purpose. To provide information on the Administrative Grievance System per references (a) and (b) and the procedures to be followed at the U.S. Naval Academy (USNA).
2. Cancellation. USNAINST 12771.1A is hereby canceled. This directive is a complete revision and should be read in its entirety. Therefore, no special markings appear.
3. Policy. It is USNA policy that civilian employees shall be entitled to present grievances under the Administrative Grievance System 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. If the employee initially elects to use the Problem Solving Process in lieu of the Formal Grievance Process, Alternative Dispute Resolution (ADR) techniques may be used to resolve grievances consistent with the requirements of enclosure (1). ADR techniques include a broad range of approaches for dealing with conflict and seeking solutions satisfactory to all parties. For the USNA, the selected ADR technique is mediation.
4. Action. Enclosure (1) describes the USNA Administrative Grievance System. Advice, assistance, and maintenance of grievance files will be provided by the personnel specialists in the Human Resources Department.


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USNA ADMINISTRATIVE GRIEVANCE SYSTEM

1. Administrative Grievance System (AGS) Requirements. USNA employees are entitled under the AGS to present grievances and to communicate with supervisors or managers and officials in the Human Resources Department (HRD). Employees may represent themselves or be represented by someone of their choice. The Deciding Official may deny the employee's choice of representative if it would result in a conflict of interest, conflicts with mission priorities, or result in 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 or contrary to law or regulation. Employees shall be permitted a reasonable amount of official duty time, if otherwise in a duty status at the USNA, 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.

2. Employee Coverage.

a. The AGS covers current appropriated fund nonbargaining unit civilian employees at the USNA and at tenant activities serviced by the USNA HRD. It also covers former USNA employees with respect to matters arising during their previous employment at the USNA, 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 time a grievance is initiated, or because it does not cover the matter being grieved.

c. The AGS does not cover reinstatement and transfer eligibles who have applied for a position under a merit promotion program, or nonappropriated fund employees.

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

a. The content of established agency regulations and policy;

b. Any matter covered by a negotiated grievance procedure 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; or any matter that the employee files under another review or reconsideration procedure or dispute resolution process within the Department of Defense (DOD);

Enclosure (1)

c. Nonselection 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 paragraph 3b;

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 allowances, physicians' 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 nonsupervisory or nonmanagerial position, or separation or termination of an employee during a trial period;

i. Termination or expiration of a time-limited, excepted appointment, or 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 the date specified at the time the appointment or promotion was made, 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;

1. Any additional exclusions as requested by a DOD Component and approved by the DOD.

4. 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 employee's next regularly scheduled workday. All time limits are counted in calendar days.

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5. Grievance File. The HRD shall establish and maintain a separate file for each written grievance filed under the AGS and retain it for 4 years. The file shall contain all documents or copies of documents related to the grievance.

6. Deciding Officials. Unless directly involved in the matter being grieved, the Deciding Official on USNA formal administrative grievances, with the exception of grievances of merit promotion matters, will be the supervisor or management official who is at 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 Superintendent or the head of a tenant activity. Grievances regarding merit promotion matters will be routed to the Human Resources Director. As stated in paragraph 3, nonselection for promotion from a group of properly ranked and certified candidates, or failure to receive a noncompetitive promotion, are excluded from the AGS and may not be grieved. Deciding Officials shall make decisions concerning grievances consistent with the requirements in this instruction.

7. Problem Solving Process. The problem solving process or informal procedure as described in this paragraph is not a requirement for an employee to follow prior to filing a written grievance. However, employees are encouraged to use this process in order to resolve complaints more expeditiously and at the lowest possible level.

a. An employee may informally present a work-related problem to his or her immediate supervisor before filing a formal grievance. If the matter involves a matter or action directly involving the employee's 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. **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. The employee does not have to present the problem in writing in the informal procedure; but if he/she chooses to do so, it must be clearly identified as an **informal grievance**.

b. **The supervisor must consider the employee's problem and attempt to resolve it within 15 calendar days, and no later than 30 calendar days, from the date the problem is first brought to the supervisor's attention even though the situation may be excluded from formal grievance coverage.** 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 pursuing the issue. Supervisors are encouraged to seek the advice of their servicing personnel specialist in the HRD in making this determination.

c. The above time limit for resolving the problem may be extended by mutual agreement if mediation is used and/or to accommodate resolution of the dispute.

d. Mediation

(1) During the problem-solving process, the parties to the grievance (normally the employee and supervisor) may want to use the services of an impartial mediator to attempt to resolve the issue. The advantages to this approach are that it:

(a) Creates a voluntary nonadversarial process whereby involved parties can resolve administrative grievances themselves;

(b) Promotes a work environment of open communication where employees can present issues in a nonthreatening forum;

(c) Avoids protracted conflict and improves work relationships; and

(d) Allows for the intervention of an impartial third party to assist in identifying the underlying causes of the work-related concerns/issues and offers remedies for resolution.

(2) Use of the mediation process is strictly voluntary, and both parties must agree to it. The mediator is a neutral third party who is trained to help parties find a way to reach a voluntary settlement. Mediators cannot make decisions or impose a settlement on the parties. If the complaint is not resolved, the employee is still free to pursue grievable matters through the formal grievance process.

(3) **The mediator must keep all information confidential.** Nothing a person shares with the mediator in private meetings will be revealed unless that person specifically permits disclosure.

(4) The HRD will offer voluntary participation in mediation to aggrieved employees and management, provide advice, and arrange for the services of a mediator at the party's request. Employees or managers desiring to use the services of a mediator in conjunction with this process should contact their servicing personnel specialist in the HRD.

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8. Formal Grievance Process

a. An employee may file a formal, written grievance with the designated Deciding Official (or an 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 not to use the problem-solving process.

If the employee used the problem-solving process, the employee must file a grievance no later than 15 calendar days from the conclusion of that process. 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 calendar days following the date of the act or event that the employee is grieving, 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 grievance regarding a continuing practice or condition at any time.

b. **An employee's formal grievance must be signed, dated, specifically identified as a formal grievance, and contain:**

- (1) a sufficiently detailed statement of the specific issue(s) being grieved;**
- (2) the specific, personal remedy sought;**
- (3) copies of any documents in the employee's possession related to the grievance; and**
- (4) 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.

c. Upon receipt of a grievance the Deciding Official or designee shall contact his or her servicing personnel specialist in the HRD for advice and assistance. 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, to make recommendations concerning its disposition.

d. The Deciding Official shall fully and fairly consider the grievance and issue a written

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decision with supporting rationale for the decision. **The Deciding Official shall issue the decision as soon as possible but normally no later than 60 calendar days from the filing of the grievance.** The Deciding Official may extend time frames when warranted by special circumstances; such as, a fact-finder being used in the process. However, a grievance decision should be rendered no more than 90 calendar days from the filing of the grievance absent mutual agreement to extend this time limit to accommodate resolution of the dispute. If the Deciding Official fails to render a decision within 90 calendar days absent such mutual agreement, the grievant may request review by the next higher management level within the USNA.

e. 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 the appropriate portion of a grievance, if:

(1) the grievant requests such action;

(2) the grievant or grievance is excluded from coverage;

(3) the grievant fails to provide sufficient detail to identify clearly the matter being grieved or specify the personal relief request;

(4) the grievant fails to comply with applicable time limits or procedural requirements, or requests actions be taken against another employee; or

(5) the grievant raises the same matters under another formal dispute resolution process.

f. **A Deciding Official's decision on the merits of a grievance is final and not subject to further review. However, an employee may request that an individual at the next higher management level within the USNA review a decision to cancel a grievance.**