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CNICINST 12771.1
N1
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CNIC INSTRUCTION 12771.1

From: Commander, Navy Installations Command

Subj: ADMINISTRATIVE GRIEVANCE SYSTEM

Ref: (a) DoD 1400.25-M, Administrative Grievance System,
of 25 April 1996
(b) SECNAVINST 12771.2
(c) SECNAV M-5210.1

Encl: (1) Administrative Grievance Procedure Process Chart

1. Purpose. To issue policy, assign responsibilities, and describe procedures for presenting and processing administrative grievances filed under the Commander, Navy Installations Command (CNIC) Administrative Grievance System (AGS). The AGS is consistent with Subchapter 771 of reference (a) and with reference (b) in providing a system under which CNIC enterprise activities can internally review employee disputes involving working conditions within the control of CNIC management.

2. Background

a. CNIC employees are encouraged to internally present and resolve disputes involving working conditions. Department of Navy (DON) (reference (b)) and CNIC have provided an AGS as a venue where employees can present the matter they wish to grieve and management can have an opportunity to review the issue presented in order to reach an informed decision regarding the grievance.

b. CNIC employees are also encouraged to use the Alternative Dispute Resolution (ADR) process as an alternate method to resolve disputes before formally presenting a grievance. If an employee is not completely satisfied with the outcome of the ADR and no agreement is reached, the employee can still formally present the grievance through the AGS.

3. Policy

a. Grievances. Grievances will be considered in accordance with reference (b) and in compliance with the established timeframe for the filing and deciding of a grievance. All individuals involved in the grievance and ADR process shall be free from restraint, interference, coercion, discrimination, or reprisal.

b. Grievances Coverage. The CNIC AGS covers any employment matter of current non-bargaining unit civilian employees from appropriated fund (APF) enterprise-wide, unless the employment matter raising the grievance has been specifically excluded in reference (b). It also covers former CNIC enterprise-wide non-bargaining unit APF employees over matters arising during their previous employment at the activity or command, provided a remedy is available consistent with applicable law and regulation. The AGS covers bargaining unit employees when the matters discussed in this instruction are not covered in the collective bargaining agreement (CBA) as addressed in reference (b). Additional employee inclusions to the AGS coverage are listed under paragraph 3c of reference (b). This instruction is not meant to circumvent language in an existing CBA. If there is any conflict between this instruction and an existing CBA, the CBA will govern until such time as the process for negotiation of a new CBA is completed.

c. Alternative Dispute Resolution. An employee may request to use ADR techniques as an attempt to resolve disputes prior to formally presenting a grievance to the head of the activity. The primary ADR technique used in CNIC is mediation; however, other techniques may be used consistent with reference (b). If no resolution is reached, the employee may file a formal grievance within the established timeframe after the ADR process is concluded.

d. Grievance Exclusions. There are limitations to matters that can be grieved. Exclusions to the AGS are addressed in paragraph 3f of reference (b) or are covered under a negotiated grievance procedure (NGP) in the case of bargaining unit employees.

e. Grievance Process. The grievance process is divided into a problem-solving/informal process and a formal grievance process (reference (b) and enclosure (1)).

(1) Problem-Solving/Informal Grievance Process Procedure

(a) A work-related grievance is presented by the employee orally or in writing to the problem-solving/informal process deciding official within 15 calendar days from the date of the incident or from the date the grievant became aware of the issue, and in accordance with reference (b).

(b) The deciding official at the informal process level must consider the issue addressed in the grievance and attempt to resolve the issue or provide a decision within 15 calendar days, but not later than 30 calendar days, and in accordance with reference (b).

(c) The timeframe for resolving the problem or rendering a decision will be extended if the employee requests the use of ADR techniques.

(d) If ADR is used and a settlement is reached, the settlement will become the resolution of the grievance. If a settlement is not reached, the employee can pursue the filing of a formal grievance after the conclusion of the ADR process, within 15 calendar days of the date of the conclusion.

(2) Formal Grievance Process Procedure

(a) An employee may file a formal grievance using the formal grievance process when a problem is not resolved through the informal process or ADR, or when the employee chooses to skip the informal process. Formal grievances filed in the former instance must be filed in writing within 15 calendar days of the conclusion of the informal or ADR process.

(b) The grievance must contain specific required information in accordance with reference (b). The employee may provide copies of any documentation related to the matter being grieved in support of the grievance.

(c) A decision must be provided by the deciding official within 60 calendar days but not more than 90 calendar days, or an extension may be requested or granted under the circumstances prescribed in reference (b). Failure to provide a decision within 90 calendar days (absent a mutual agreement for an extension) entitles the grievant to request review by the next higher management authority (if any) within CNIC.

f. Decision on Formal Grievances. A decision on the merits of the grievance is final and not subject to further review. However, a decision to completely or partially cancel a grievance or disallow the choice of representative can be reviewed by the next higher management level (if any) within CNIC, and the decision on the matter under review must be provided by the deciding official within 60 calendar days but not more than 90 calendar days, unless an extension is requested or granted.

g. Further Review of a Decision. Employees may request further review to the next higher level supervisor (unless the deciding official is the head of the activity) under either of these conditions:

(1) A decision is rendered to cancel a portion or the entire grievance (within 15 calendar days of the decision).

(2) The choice of representative is disallowed (within 10 calendar days of the decision).

h. Time Limits. When calculating time limits under the AGS, the day the grievance is received (informally or formally) 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 work day. Complying with the time limits when filing a grievance is extremely important because an untimely filed grievance can be dismissed, and an untimely formal decision can prevent an employee from requesting a grievance to be reviewed by the next higher management level within CNIC. All time limits are counted in calendar days.

i. Cancellation, Dismissal, or Temporary Suspension of a Grievance. A cancellation, dismissal, or temporary suspension of a grievance may occur for the reasons provided in reference (b), or if the grievance is covered by a NGP, is excluded from coverage, or raises the same matters settled under another formal dispute resolution process. A deciding official may also dismiss a grievance that is filed untimely. However, the deciding official may consider special circumstances (e.g., hospitalization, death in the family) in order to accept an untimely grievance for review. Documentation may be requested to support the special circumstance.

4. Responsibilities

a. Problem-Solving/Informal Process Deciding Officials. Immediate supervisors, or next-level supervisor (if any) in the event the first-line supervisor is involved in the matter to be grieved, serves as the deciding official of a grievance submitted at the problem-solving/informal process level. Informal grievance deciding officials are responsible for:

(1) Considering the grievance and ruling on the merits.

(2) Rendering the decision within the established timeframe.

b. Formal Grievance Process Deciding Officials. Heads of CNIC activities serve as the deciding official in a formal grievance. Reference (b) should be consulted in order to determine the head of the activity for employees included under paragraph 3c of the above-mentioned reference. Formal grievance deciding officials are responsible for:

(1) Deciding all grievances filed by employees under their command solely on the merits of the grievance and within the established timeframe.

(2) Delegating grievance decision authority, if need be, to subordinate managers and supervisors not involved in the matter that is grieved. For the purposes of CNIC headquarters, department heads (N-Codes/Special Assistants) are delegated as deciding officials for grievances filed by employees of their departments. If the grievant is a direct report to the department head, the grievance will be filed with the Chief of Staff, unless the Chief of Staff is involved in the matter being grieved. In those cases, the grievance deciding official will be the Executive Director. The Commander and Executive Director have the discretion to delegate the responsibility of the grievance deciding official to any official in headquarters to ensure that a grievance is heard and decided consistent with reference (b).

(3) Determining whether to join similar or identical grievances when more than one grievance is filed on the same issue and the relief requested is the same in accordance with reference (b).

(4) Deciding whether to require or conduct a fact-finding investigation into the issues presented in the grievance. The deciding official may designate an individual to impartially investigate the merits of a grievance and, when authorized, to make recommendations concerning its disposition.

(5) Allowing or disallowing the grievant's requested representative in accordance with reference (b).

(6) Determining how much official time shall be granted to the employee and the employee's representative for the preparation, presentation, and processing of the grievance.

(7) Considering the development of an implementing instruction following references (a) and (b) and this instruction.

c. Grievant is responsible for:

(1) Determining to present the work-related problem or matter using the problem-solving/informal process or the formal grievance process in accordance with reference (b).

(2) Presenting a signed, dated grievance containing all required information within the timeframe established.

(3) Determining use of ADR techniques prior to filing the grievance formally.

(4) Providing all relevant documentation in support of the grievance at the time of the filing.

d. Servicing Human Resources Office (HRO) is responsible for:

(1) Advising, guiding, and assisting as necessary on the processing of grievances, time limits, and use of ADR for managers and employees, and providing the contact information on the HRO ADR coordinator.

(2) Maintaining a separate grievance file for each written grievance submitted under the AGS for a period of 4 years after the case is closed. The file shall contain all relevant documents or copies of documents presented by the employee in support of his or her grievance. The file must also

include the decision on the grievance, and should be maintained with complete documentation for a period of 4 years.

(3) Assigning an ADR coordinator to address the barriers encountered in the use of ADR, to account for the number of ADR processes held, and to report the outcome of ADR usage for tracking the success rate.

5. Action

a. Problem Solving/Informal Process Deciding Official. Immediate or next-level supervisor (if applicable) shall:

- (1) Decide on the informal grievance.
- (2) Render a decision within the timeframe established.

b. Formal Grievance Process Deciding Officials. Heads of CNIC activities shall:

- (1) Determine whether to accept, suspend, dismiss, or cancel all or part of the grievance.
- (2) Issue a final decision within the prescribed time limits.
- (3) Combine similar or identical grievances seeking the same relief in accordance with reference (b).
- (4) Disallow the grievant's choice of representative based on the reasons established in reference (b).

c. Grievant shall:

- (1) Present the grievance within the established timeframe.
- (2) Provide in the grievance all required relevant information in accordance with reference (b).

d. HRO shall:


- (1) Provide advice and guidance to employees and supervisors on the AGS process and timelines.

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(2) Promote the use of ADR and record the outcome on success rate.

(3) Maintain a file of grievances.

6. Records Management. Records created as a result of this instruction, regardless of media and format, shall be managed in accordance with reference (c).


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ADMINISTRATIVE GRIEVANCE PROCEDURE PROCESS CHART

