



UNITED STATES MARINE CORPS
MARINE CORPS BASE
CAMP LEJEUNE, NORTH CAROLINA 28542-5001

BO 12771.1A
BCPD
22 OCT 1990

BASE ORDER 12771.1A

From: Commanding General
To: Distribution List

Subj: DEPARTMENT OF THE NAVY GRIEVANCE PROCEDURE

Ref: (a) FPM 771 (NOTAL)
(b) CPI 771 (NOTAL)
(c) SECNAVINST 5370.2H

Encl: (1) Grievance Procedures
(2) Non-Grievable Matters

1. Purpose. To provide instructions concerning the DON administrative grievance procedure. This is the system under which covered employees may seek redress of matters of personal concern and dissatisfaction and grieve letters of reprimand and suspensions of 14 calendar days or less. It is the policy of DON that such matters be given objective consideration and disposed of promptly. The procedures set forth in enclosure (1) are designed to achieve these objectives in accordance with references (a) through (c).

2. Cancellation. BO 12771.1.

3. Definitions

a. Grievance. A written request by an employee, or a group of employees acting as individuals, for personal relief in a matter of concern or dissatisfaction relating to the employment of the employee(s) which is subject to the control of the head of the activity.

b. Employee. A present nonbargaining unit employee, or any former employee of DON for whom a remedy can be provided.

c. Bargaining Unit Employee. An employee included in an appropriate bargaining unit for which a labor organization has been granted exclusive recognition.

d. Personal Relief. A specific remedy directly benefiting the grievant(s) which may not include a request for disciplinary or other action affecting another employee.

e. Deciding Official. The head of an activity or subordinate official designated by the activity head to make final decisions on grievances. The deciding official must be at a higher organizational level than any employee involved in any phase of the grievance, except when the Secretary of the Navy has been involved.

f. Fact Finder. An individual appointed by a deciding official to conduct an investigation into an issue(s) raised in a grievance. The fact finder must be a person who has not been involved in the matter being grieved and who does not occupy a position subordinate to any official who recommended, advised, made a decision on, or who otherwise is or was involved in the matter being grieved. The fact finder may be an employee of the activity, an employee of another activity or the Office of Civilian Personnel Management (OCPM), or an individual contracted for this purpose.

22 OCT 1990

g. Hearing Examiner. An individual authorized by a deciding official to conduct a hearing on an issue(s) raised in a grievance. The hearing examiner will be an employee of OCPM, trained in the conduct of hearings and must be a person who has not been involved in the matter being grieved and who does not occupy a position subordinate to an official who recommended, advised, made a decision on, or who is otherwise involved in the matter being grieved.

h. Senior Command Official. The Commanding General, Marine Corps Base; the Commanding Officer of the Marine Corps Air Station, New River; and the Director, East Coast Commissary Complex.

i. Day. Calendar day.

4. Employee Coverage. This Order applies to all DON civil service employees, including intermittent, temporary, part-time, and excepted service appointments (which includes teachers and other professional employees of the Dependents' Schools System) of Marine Corps Base; Marine Corps Air Station, New River; and East Coast Commissary Complex, except those employees covered by the negotiated agreements with American Federation of Government Employees (AFGE), Local 2065.

5. Grievance Coverage. This Order applies to matters defined in paragraph 3a, but excludes those matters identified in enclosure (2).

6. Designation of Deciding Official. An official may not act in the capacity of a deciding official on any matter in which the official was previously involved. In such case, the next higher level of management in the chain of command will be the deciding official. The senior command officials, respectively, hereby delegate authority to receive and decide formal grievances as follows:

a. Marine Corps Base. For other than Merit Staffing, rating and ranking matters, the Assistant Chiefs of Staff and Marine Corps Base Organizational Commanders for grievances occurring in their respective departments/commands. In other cases, the deciding official will be the Assistant Chief of Staff, Manpower.

b. Marine Corps Air Station, New River. For other than Merit Staffing rating and ranking matters, S-1 Officer.

c. Naval Hospital. For other than Merit Staffing rating and ranking matters, Director of Administrative Services.

d. Naval Dental Center. For other than Merit Staffing rating and ranking matters, Director of Administrative Services.

e. East Coast Commissary Complex. For other than Merit Staffing rating and ranking matters, the Director or his appropriately designated representative.

f. All Activities. For Merit Staffing rating and ranking matters, the Civilian Personnel Director.

7. Responsibilities

a. Grievant. The grievant is responsible for:

(1) Filing the grievance orally or in writing, in a timely manner as described in enclosure (1).

(2) Providing a clear statement of the issues.

(3) Indicating the specific personal relief sought.

b. Management. Management is responsible for:

(1) Giving prompt and objective consideration to the grievance.

(2) Making every effort to settle the grievance at the informal stage.

22 OCT 1990

c. Deciding Official. The deciding official is responsible for:

(1) Determining whether to accept, reject, or remand all or part of a grievance.

(2) Determining which issues, if any, will be investigated if the grievance is accepted.

(3) Determining whether to allow grievant's choice of representative.

(4) Giving objective consideration to the grievance.

(5) Determining which of the following methods will be used to resolve the grievance. These include:

(a) Utilizing the facts presented in the written grievance.

(b) A fact finding inquiry conducted by the deciding official.

(c) Third party fact finding with a report of the findings of fact to the deciding official. The deciding official may request the fact finder to make recommendations.

(d) Hearing conducted by a hearing examiner. The examiner will provide the deciding official with a report findings and recommendations.

(6) Issuing a final decision within the time limits set forth.

d. Civilian Personnel Division. The Civilian Personnel Division is responsible for:

(1) Administering the DON Grievance Procedure.

(2) Providing advice to supervisors, managers, individual employees, and other interested parties as to the application and details of the DON Grievance Procedure.

(3) Serving as the central control point for all formal grievances filed.

(4) Maintaining necessary records and following up at all stages to ensure timely processing.

(5) Preparing such reports as necessary.

8. Right to Seek Advice. Although employees are encouraged to first discuss their problems with supervisors, employees have a right to communicate with and seek advice from:

a. The Civilian Personnel Division.

b. An Equal Employment Opportunity Counselor.

c. A counselor designated to be utilized in conflict of interest situations under the provisions of reference (c). For such counseling, contact the Staff Judge Advocate.

d. A Civilian Employee Assistance Program Counselor.

9. 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 procedure. The deciding official may disallow the choice of an individual as a representative which would result in a conflict of interest or position, a conflict with the priority needs of the activity or would give rise to unreasonable cost to the government.

22 OCT 1990

b. If a grievant's representative is disallowed, the issue of representation may be grieved to the next higher level of management. Processing of the original grievance will be held in abeyance pending the resolution of the question of representation.

c. Grievants and their representatives are assured:

(1) Freedom from restraint, interference, coercion, discrimination, or reprisal in presenting a grievance.

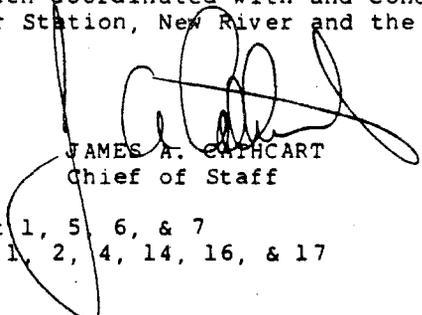
(2) A reasonable amount of official time, as determined by the deciding official, to present the grievance, if covered by this Order and otherwise in a duty status. There is no provision for preparation of a grievance on official time and none will be granted.

d. It is not intended that official time will be granted any one employee for repeated service as a representative when such repeated service would interfere with the performance of regular duties. Should this condition arise, the employee concerned will be advised to curtail such representational duties.

10. Action. Organizational commanders, heads of command staff sections, and department heads will ensure all subordinate managers, and supervisors (military and civilian) are thoroughly familiar with the contents of this Order and that this Order is made available to employees upon request.

11. Summary of Revision. This Order has been republished in its entirety, and owing to the high level of interest in its subject, should be reviewed in its totality.

12. Concurrence. This Order has been coordinated with and concurred in by the Commanding Officer, Marine Corps Air Station, New River and the Director, East Coast Commissary Complex.


JAMES A. CATHCART
Chief of Staff

DISTRIBUTION: C less Cat III except 1, 5, 6, & 7
Cat IV except 1, 2, 4, 14, 16, & 17

22 OCT 1990

GRIEVANCE PROCEDURES

1. Grievance Procedure (Other than Rating and Ranking). Any grievance must be initiated within 15 days of the act or occurrence about which the employee is aggrieved. A grievance, however, concerning a continuing condition or practice may be submitted at any time. The employee is required to attempt resolution of a grievance informally before submitting a formal grievance except in cases of grievances concerning reprimands or suspensions of 14 days or less, which will be initiated at the formal stage.

a. Informal Procedure

(1) An employee initially presents a grievance orally or in writing to the immediate supervisor. The supervisor will give full consideration to the issue(s) and the corrective action requested and conduct such inquiry into the matter as is warranted by the circumstances. The supervisor will discuss the findings with the employee and attempt to resolve the grievance. The supervisor will provide the employee a decision on the matter within seven days after notification of the grievance.

(2) If the grievant is not satisfied with this decision and desires further consideration of the matter, the grievance must be reduced to writing and submitted within seven days of the supervisor's decision to the head of the Division/Section or other organizational component immediately below the official designated as deciding official. The written grievance must contain a clear statement of the issue(s); indicate the specific personal relief sought; and identify the grievant's chosen representative, if representation is desired. If the employee chooses a representative and the representative is acceptable to the official, the official or the official's designated representative will meet within seven days of receipt of the written grievance with the grievant and grievant's representative to discuss the matter; make whatever inquiries are deemed necessary and provide the grievant a written decision within ten days of the meeting. If a grievant's representative is disallowed, that issue may be grieved to the deciding official. Processing of the original grievance will be held in abeyance pending the resolution of the question of representation. The decision letter must advise the grievant of the right to file, in writing, a formal grievance with the appropriate deciding official (see paragraph 6 of the basic Order) (Copy to: Civilian Personnel Director) and of the seven day time limit for doing so; that the grievance must contain sufficient detail to identify and clarify the basis for the grievance; specify the personal relief sought; identify the representative, if any; and be signed by the grievant or the grievant's representative.

b. Formal Procedure. Within ten days of receipt of a formal grievance, the deciding official will:

(1) Determine whether to accept or reject all or part of the grievance, and/or disallow the chosen representative. In reaching such a decision, the deciding official will determine if the grievance has been timely filed, provides a clear statement of the issues (new issues may not be accepted), indicates the specific personal relief sought, and designates an acceptable representative. If the issues of the grievance or the relief sought are not clearly described, the deciding official may remand the grievance to the grievant for clarification or additional information. If the deciding official rejects all or part of a grievance, the decision to reject may be grieved within five days of receipt of the rejection notice to the next higher level of management. If the representative is disallowed, the representational issue may be grieved within five days of the disallowance notice to the next higher level of management. Processing of the initial grievance will be held in abeyance pending resolution of rejection and/or representational issues. The decision on these matters is final and not subject to further review.

ENCLOSURE (1)



OFFICIAL FILE COPY
UNITED STATES MARINE CORPS

MARINE CORPS BASE
PSC BOX 20004
CAMP LEJEUNE, NORTH CAROLINA 28542-0004

BO 12771.1A Ch 1
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JUN 21 1995

BASE ORDER 12771.1A Ch 1 DISTRIBUTION MADE _____ BY CBynes

From: Commanding General 1540 7 July 95 (TIME & DATE)
To: Distribution List

Subj: DEPARTMENT OF THE NAVY GRIEVANCE PROCEDURE

1. Purpose. To direct pen change to basic Order.
2. Action. On enclosure (1), page 1, subparagraph 1b, change the words "Within ten days of" to read "Upon."
3. Filing Instructions. File this Change transmittal immediately behind signature page of the basic Order.


J. F. MURRAY
Chief of Staff

DISTRIBUTION: C

RETURN TO CENTRAL FILES.
MCB WITHIN 48 HOURS

22 OCT 1990

(2) Determine which issues, if any, will be investigated if the grievance is accepted. If third party fact finding or a hearing is determined to be necessary, the deciding official will determine which issues are to be addressed. The fact finder will address those issues accepted for processing and provide a written report to the deciding official. If a hearing is determined necessary, the Civilian Personnel Division will request a hearing examiner. The hearing examiner will conduct a hearing and submit a report and recommendations to the deciding official.

(3) Give objective consideration to the grievance.

(4) Establish a grievance file in all cases. When fact finding or a hearing is involved, the report of the fact finder or hearing examiner shall be included. The grievance files must be made available to grievants and their representatives for review and comment prior to a decision being made.

(5) Combine grievances, if applicable, when two or more employees within the same activity have identical grievances (the dissatisfaction expressed and relief requested are the same), the deciding official may require, unless disciplinary actions are involved, that they be joined and processed as one grievance with the decision applicable to all. When such a determination has been made, the employees will be notified and required to select a representative for the group.

(6) Issue a final decision in writing which contains pertinent findings and the reason(s) for the decision normally not later than 90 days of the initial receipt of the grievance at the informal stage, if no hearing was involved, or 120 days if a hearing was conducted.

2. Special Procedure for Grievances of Ratings/Rankings Under the Merit Staffing Program. A grievance concerning a rating and/or ranking under the Merit Staffing Program will be processed in accordance with this procedure. Vague or non-specific allegations of merit staffing violations which seek selection for promotion as corrective action will not be accepted.

a. Informal Procedure. Within 15 days after receipt of the notice of rating/ranking, the matter will first be discussed by the aggrieved employee with the appropriate staffing specialist in the Civilian Personnel Division. The employee may be accompanied by a representative at this time and the remainder of this procedure subject to the provisions of paragraph 9 of the basic Order. Additional information, if any, must also be submitted within this 15 day period. The rating/ranking and additional information, if any, will be reviewed by the appropriate staffing specialist and the senior staffing specialist. No later than ten days following the date of discussion and/or submission of additional information, the employee will be issued a written decision by the senior staffing specialist.

b. Formal Procedure. If the grievance is not settled in the informal procedure and the employee desires further consideration of the matter, the grievance will be reduced to writing and submitted to the deciding official (Civilian Personnel Director), within seven days following receipt of the decision at the informal stage. The grievant will clearly state the basis for the grievance, and the corrective action(s) desired. The grievant will also state whether or not a discussion on the matter is desired and identify any chosen representative. Within ten days, the deciding official or the deciding official's designated representative will meet with the grievant and representative, if any, to discuss the grievance if a discussion was requested. The representative, if not disallowed, will be permitted to examine all of the grievant's records necessary to process the grievance. The deciding official or designated representative will take whatever action is deemed necessary to determine the facts in the matter. Fact finding on grievances involving rating or ranking for promotion will include a review by a subject matter expert in merit staffing rating and ranking procedures, who was not involved in the original rating and ranking. The deciding official will render a decision in

ENCLOSURE (1)

22 OCT 1990

writing within 15 days of the discussion, or if no discussion was requested, within 15 days of receipt of the formal grievance. The decision of the deciding official will be final.

3. Grievances Against Another DON Activity. An employee of one activity and/or the employee's representative may present a grievance to the head of another activity which took the action being grieved. Travel expenses and per diem are not authorized in the pursuit of a grievance against another activity. The grievance will be processed in accordance with procedures of the activity against which the grievance is filed.

4. Allegations of Discrimination. If an allegation of discrimination because of race, color, national origin, sex, age, religion, or handicap (physical or mental) is raised at any stage of the grievance procedure, the deciding official will inform the grievant in writing that introduction of the allegation will serve to terminate processing of the matter under this procedure. The grievant must be given the opportunity to withdraw the allegation and continue under the administrative grievance procedure or proceed under the discrimination complaint procedure commencing with the counseling stage. The grievant's decision must be documented and made a part of the case file. If the grievant opts for the complaint procedure, the grievance shall be cancelled, the grievant notified, and the grievance file forwarded to the Civilian Personnel Division.

ENCLOSURE (1)

22 OCT 1990

NON-GRIEVABLE MATTERS

1. The content of published agency regulations and policy.
2. A decision which is appealable to the Merit Systems Protection Board or subject to final administrative review by the Office of Personnel Management, the Federal Labor Relations Authority, or the Equal Employment Opportunity Commission under law or regulations of the Office, Authority, or the Commission or matters administered by the General Accounting Office or the Office of Workers' Compensation Programs.
3. Nonselection for promotion from a group of properly ranked and certified candidates or failure to receive a noncompetitive promotion.
4. A preliminary warning notice of an action which, if effected, would be covered under the grievance system or excluded from coverage by item 2, above.
5. An action which terminates a temporary promotion within a maximum period of two years and returns the employee to the position from which the employee was temporarily promoted or reassigns or demotes the employee to a different position that is not at a lower grade or pay than the position from which the employee was temporarily promoted.
6. An action which terminates a term promotion at the completion of the project or specified period, or at the end of a rotational assignment in excess of two years but not more than five years, and returns the employee to the position from which promoted or to a different position of equivalent grade and pay.
7. A supervisor's determination of the objectives and critical elements of and performance standards for an employee's position.
8. The granting or recommendation of or failure to grant or recommend an employee performance award or the amount of the award; or the adoption of or failure to adopt an employee suggestion or invention; or the granting or recommending of or failure to grant or recommend an award of the rank of meritorious or distinguished executive.
9. The receipt of or failure to receive a quality salary increase.
10. A decision to grant or not to grant a general increase, merit increase, or performance award under the Merit Pay System, or a decision on the granting of or failure to grant cash awards or honorary recognition.
11. The termination of the initial appointment of a probationer to a competitive position for unsatisfactory performance.
12. Return of an employee from an initial appointment as a supervisor or manager to a nonsupervisory or nonmanagerial position for failure to satisfactorily complete the probationary period.
13. An action taken under the terms of a formal agreement voluntarily entered into by an employee which either assigns the employee from one geographical location to another or returns an employee from an overseas assignment.
14. A separation action not otherwise excluded above.
15. Oral admonishments and letters of caution.
16. A decision to include an employee's position in the pool of activity positions subject to random drug testing.
17. A matter excluded from coverage under a negotiated grievance procedure.

ENCLOSURE (2)