



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
WASHINGTON, DC 20380-0001

MCO 12771.2
ARC
16 Oct 90

MARINE CORPS ORDER 12771.2

From: Commandant of the Marine Corps
To: Distribution List

Subj: GRIEVANCE PROCEDURE

Ref: (a) CPI 771

1. Purpose. To establish the administrative grievance procedure for civilian employees at Headquarters Marine Corps (HQMC) and serviced activities.

2. Cancellation. HQO 12771.1.

3. General

a. In any organization there will be occasional instances of employee dissatisfaction. These may arise from the work situation, management decisions, or personnel actions. The purpose of the grievance procedure is to establish an avenue through which employees may voice their concerns and seek relief. This Order establishes the procedures by which grievances will be handled.

b. Because grievances may arise in any office, supervisors must take care not to discriminate or take reprisal action against an employee who files a grievance. Such discriminatory or reprisal action by a supervisor is considered a disciplinary offense. Filing a grievance is not an indication of a lack of loyalty or dedication to the Marine Corps. The presentation of a grievance is also not considered an adverse reflection on the employee's supervisor or on his/her managerial performance.

4. Policy

a. Grievances will be given objective consideration and will be decided promptly.

b. All employees will be treated fairly, and will not be subjected to restraint, interference, coercion, discrimination, or reprisal in properly filing grievances.

5. Definitions

a. Serviced Activities. Headquarters Battalion, Henderson Hall; Marine Barracks, 8th & I Streets, Washington, DC (MarBks 8th&I); and Marine Corps Research, Development, and Acquisition Command (MCRDAC).

b. Grievance. A written request by an employee, or a group of employees, for personal relief in a matter of concern or dissatisfaction, that is subject to the control of management and relates to the employment of the employee(s).

c. Employee. A present employee, or any former employee, of a serviced activity for whom a remedy can be provided.

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

e. Deciding Official. The official designated to make a final decision on a grievance. The deciding official must be at a higher organizational level than any employee directly involved in the matter being grieved.

f. Fact Finder. An individual (military or civilian) appointed by a deciding official to conduct an inquiry into issues raised in a grievance. The fact finder must be a person who has not been involved in the matter and does not occupy a position subordinate to any official who recommended, advised, made a decision on, or otherwise is or was involved in the matter. The fact finder may work at the Headquarters or other serviced activity, be an employee of another activity, or be any individual contracted for this purpose.

g. Hearing Examiner. An individual authorized by a deciding official to conduct a hearing on issues raised in a grievance. The hearing examiner will be an employee of the Office of Civilian Personnel Management (OCPM), Department of the Navy (DON), who is trained to conduct hearings, has not been involved in the grievance, and does not occupy a position subordinate to an official who recommended, advised, made a decision on, or is otherwise involved in the matter.

h. Days. Days mean calendar days.

6. Employee Coverage. This Order applies to all HQMC and serviced activity employees except for:

a. A noncitizen appointed under Civil Service Rule VIII, 8.3 of Title 5, Code of Federal Regulations (CFR).

b. An alien appointed under Section 1471(5), 22 U.S.C.

c. An individual paid from funds as defined in Section 2105(c), 5 U.S.C. (nonappropriated fund employees) or Section 4202(5), 38 U.S.C. (Veterans Canteen Service employees).

d. A physician, dentist, nurse, or other employee appointed under Chapter 73, 38, U.S.C.

e. An applicant for employment who does not meet the definition of an employee in paragraph 5c above.

7. Grievance Coverage. This Order applies to matters defined above in paragraph 5b, except for:

a. The content of published DON and Marine Corps regulations and policy.

b. A decision which is appealable to the Merit Systems Protection Board or subject to final administrative review by the Office of Personnel Management (OPM), the Federal Labor Relations Authority, or the Equal Employment Opportunity Commission under their regulations.

c. Nonselection for promotion from a group of properly ranked and certified candidates or failure to receive a noncompetitive promotion.

d. A preliminary warning notice of action which, if effected, would be covered under the grievance system or excluded from coverage by this paragraph.

e. A return of an officer or employee from the Senior Executive Service (SES) to the General Schedule during the 1-year period of probation or for less than fully successful executive performance.

f. Termination of a temporary promotion within 2 years and return of the employee to the position from which the employee was temporarily promoted; or reassignment or demotion of 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.

g. An action which terminates a term promotion upon completion of a project or specialized period, or at the end of a rotational assignment in excess of 2 years but no more than 5 years, and returns the employee to the position from which promoted or to a different position of equivalent grade and pay.

h. A supervisor's determination of the objectives, critical elements, and performance standards for an employee's position.

i. The granting, recommending, or failure to grant or recommend an employee for a performance award. The adoption of, or failure to adopt, an employee's suggestion or invention. The granting, recommending, or failure to grant or recommend an award of the rank of meritorious or distinguished executive.

j. The receipt of, or failure to receive, a performance award or quality step increase.

k. A merit increase or lack of a merit increase under the Performance Management and Recognition System (PMRS). The granting of or failure to grant PMRS performance awards.

l. The termination of a probationary employee under subpart H of Part 315 of Title 5, CFR.

m. A performance evaluation under Subchapter II of Chapter 43, Title 5, CFR.

n. 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.

o. A separation action not otherwise excluded above.

p. A letter of admonishment or caution, or an oral admonishment.

8. Delegation of Authority. The following officials are delegated the authority to act as deciding officials:

a. Supervisors and management officials have delegated authority to act as deciding officials in administrative grievances. The designated deciding official will normally be the individual at the lowest level in the grievant's supervisory chain who was not directly involved in the matter being grieved.

b. The Head, Marine Corps Consolidated Civilian Personnel Office, Washington, DC (MCCCPO-DC), will be the deciding official in grievances pertaining to ratings of personal qualifications and ranking of applicants for employment or promotion.

9. Responsibilities

a. Grievant. The grievant is responsible for:

(1) Filing the grievance in writing, in a timely manner, as defined in paragraph 12a.

(2) Providing a clear statement of the issues.

(3) Indicating the specific personal relief sought.

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

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

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

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

(4) Giving fair and objective consideration to the grievance.

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

(a) Using only the facts presented in the written grievance.

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

(c) A third party fact finding inquiry with a report of the findings to the deciding official. The deciding official may ask the fact finder to make recommendations.

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

(6) Issuing a final decision within the set time limits, as defined in paragraph 12b(5).

10. Right to Seek Advice. Employees have the right to talk with an Employee Relations Specialist in the MCCCPO-DC, if they so desire.

11. 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. The deciding official may disallow the grievant's choice of representative if it would result in a conflict of interest or position, a conflict with the priority needs of the Marine Corps, or would give rise to unreasonable cost to the Government.

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

c. Grievants and their representatives must be assured of:

(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. This is true only if the grievant is currently employed by HQMC or a serviced activity and is otherwise in a duty status.

12. Processing of Grievances

a. Time Limits. Employees have 15 days from the date of the act or occurrence giving rise to the grievance, or from the date the employee became aware of the act or occurrence, to file a written grievance with the Director of Administration and Resource Management (DirAR (ARCB)). The DirAR (ARCB) will refer the grievance to the appropriate deciding official.

b. Procedures

(1) Presentation. To be accepted for processing, a grievance must:

(a) Be submitted in writing within 15 days of the act or occurrence that gave rise to the grievance, or of the date the employee first became aware of the act or occurrence.

(b) Contain sufficient factual detail to clearly identify the issue(s) of the grievance.

(c) Specify the personal relief requested.

(2) Informal Resolution. The resolution of grievances at the lowest level of management is desired and encouraged. Employees may attempt informal resolution at their election. Any such attempts must be accomplished within the 15-day filing time specified in paragraph 12a.

(3) Acceptance, Rejection, and Remand. The deciding official will determine whether to accept, reject, or remand, in whole or in part, any grievance presented. Specifically:

(a) In reaching a decision to accept or reject a grievance, the deciding official will determine if the grievance meets the requirements specified in paragraphs 6, 7, and 9 of this Order. Such determination will include consideration of whether the grievant or the representative (if any) was able to file on time or not. The decision to reject all or part of a grievance will be provided to the grievant in writing within 20 days and will include the basis for the decision.

(b) If the grievance, as presented, does not clearly define the issue(s) involved or the personal relief sought, the deciding official may remand the grievance to the grievant and may specify a reasonable period of time (normally no more than 5 days) for the grievant to provide the required clarification and/or additional information. The processing of the grievance will be suspended pending receipt of the response by the grievant. If the employee fails to provide the required clarification or additional information within the time allotted the deciding official may reject the grievance.

(4) Clarification of Issue; Development of Facts. The deciding official determines which of the following methods will be used:

(a) Use of facts presented in the grievance.

(b) An inquiry conducted by the deciding official.

(c) Third party fact finding with a report to the deciding official. Printed fact finding guidelines are available from the DirAR (ARCB).

(5) Issuance of Final Decision. Prior to issuing a final decision the deciding official must make the grievance file available to the grievant and the representative for review and written comment. Any comments submitted will be included in the file and will be considered by the deciding official in reaching

a decision. This step is not necessary if the decision is based on the facts presented in the grievance and no fact finding has been conducted. A written decision, containing pertinent findings and the reason(s) for the decision, will be issued by the deciding official within 90 days if a hearing is not held, or within 120 days if a hearing is held. The decision is the final action on the grievance and is not subject to further administrative review.

(6) Combining Grievances. When two or more employees have identical grievances (i.e., the dissatisfaction expressed and the relief requested are the same), deciding officials may join and process them as one group grievance. The employees will be so notified and may designate a representative for the group.

c. Grievances Against Another Activity. An employee of one activity, or the employee's representative, may present a grievance to the head of another activity which took the action that gave rise to the grievance. Travel expenses and per diem are not authorized in the pursuit of a grievance against another activity. The grievance will be processed under the procedures of the activity against which it is filed.

13. Role of the MCCCPO-DC (DirAR (ARCB))

a. The MCCCPO-DC is the central contact point for advice and guidance on the processing of grievances. The deciding official must request the assistance of an examiner from OCPM or fact finder from outside HQMC and serviced activities via the MCCCPO-DC.

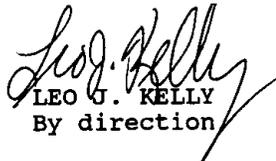
b. The MCCCPO-DC will maintain grievance files and make any required reports.

14. Grievance File. The deciding official will create a grievance file in all cases. The file will include any reports of the fact finder or hearing examiner. The file must be made available to grievants and their representatives for review and comment prior to a decision being made, unless a decision can be made based on the facts presented in the grievance.

15. 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 must inform the grievant in writing that the introduction of that allegation will serve to discontinue processing the grievance under this procedure. The grievant must be given the opportunity to withdraw the allegation and continue under the administrative

grievance procedure or proceed with Equal Employment Opportunity (EEO) counseling. The grievant's decision must be documented and made a part of the case file. If the grievant opts for EEO counseling, the grievance will be canceled, the grievant notified, and grievance file forwarded to the DirAR (ARCB).

16. Action. Heads of staff agencies and serviced activities are requested to ensure all civilian personnel and their supervisors are aware of and comply with this Order.


LEO J. KELLY
By direction

DISTRIBUTION: PCN 10212500100

Copy to: 7000110 (55)
7000086 (25)
8145004,005 (2)
7000144/8145001 (1)