



DEPARTMENT OF THE ARMY

*FLW CPR 690-16

HEADQUARTERS

UNITED STATES ARMY ENGINEER CENTER AND FORT LEONARD WOOD

Fort Leonard Wood, Missouri 65473-5000

FLW Civilian Personnel Regulation
No 690-16

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GRIEVANCES

Summary. This Administrative Grievance System establishes an internal system for resolving grievances involving working conditions, working relationships, or employment status of covered employees. The procedures involve a two-step process by which these employee dissatisfactions may be presented to appropriate management officials for prompt consideration and decision. These procedures may be used by all appropriated fund employees of Fort Leonard Wood or an activity serviced by the Fort Leonard Wood Civilian Personnel Advisory Center (CPAC) who are excluded from coverage of a negotiated grievance procedure.

Applicability. This regulation applies to all appropriated fund employees of Fort Leonard Wood or an activity serviced by the Fort Leonard Wood Civilian Personnel Advisory Center not in a collective bargaining unit.

Supplementation. Supplementation of this regulation is prohibited unless approved by Headquarters, United States Army Engineer Center and Fort Leonard Wood.

Suggested improvements. The proponent agency of this regulation is the Civilian Personnel Advisory Center. Users are invited to send comments and suggested improvements on DA Form 2028 (Recommended Changes to Publications and Blank Forms), to Cdr, USAECFLW, ATTN: ATZT-CP, Fort Leonard Wood, MO 65473.

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Glossary

1. Purpose. To outline procedures for employees to follow for resolving dissatisfactions involving most aspects of their working conditions, working relationships, or employment status.

2. References,

- a. 10 U.S. Code Section 1590.
- b. 5 Code of Federal Regulations Part 771.
- c. DoD 1400.25-M, Administrative Grievance System, SubChapter 771.
- d. Memorandum, Office of the Deputy Chief of Staff for Personnel, subject: DoD Administrative Grievance System, (31 May 1994).

3. Explanation of Acronyms. Acronyms used in this regulation are explained in the glossary.

4. Policy. Employees will be treated fairly and equitably. Those employees who feel they have not been so treated have a right to present their grievances to appropriate management officials for prompt consideration and equitable decisions. In exercising this right, the employee and his or her representative, if any, will be unimpeded and free from restraint, coercion, discrimination or reprisal. Dissatisfactions and disagreements arise occasionally in any work situation. The filing of a grievance by an employee will not reflect unfavorably on his or her good standing, performance, or loyalty and desirability to the organization. Similarly, the occurrence of occasional grievances will not reflect unfavorably on the quality of supervision or on the general management of an organization. Day-to-day discussion between employees and supervisors about working conditions and other employment matters are the best means of conducting effective work relationships.

5. Exclusions. Matters not grievable include the following:

- a. The content of established agency regulations and policy; any matter covered by a negotiated grievance procedure or subject to formal review and adjudication by the Merit Systems Protection Board (MSPB), the Office of Personnel Management (OPM), the Federal Labor Relations Authority (FLRA), and the Equal Employment Opportunity Commission (EEOC); any matter which the employee files under another review procedure, a reconsideration procedure, or a dispute resolution process within Department of Defense (DoD); and nonselection for promotion from a group of properly ranked and certified candidates or failure to receive a non-competitive promotion.

- b. Preliminary notices of actions or other preliminary steps to a personnel action which would otherwise be grievable or appealable if the personnel action is taken or excluded from coverage by another provision of this paragraph; the substance of an employee's performance plan, elements, standards or work objectives; incentive awards (including suggestions or inventions); additional step increases; recruiting or relocation bonuses; retention allowances; physician's comparability or additional pay allowances; supervisory differentials; critical position pay; or dual compensation waivers; and any action taken under a voluntary, formal agreement involving geographic relocation or return from an overseas assignment.

- c. Termination of a probationary employee; 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.

- d. Termination or expiration of a term or temporary appointment or promotion, whether in the competitive or excepted service, in accordance with the condition of the appointment or promotion, provided the employee was informed in advance of the temporary nature of the appointment or promotion and is returned to his or her former or equivalent position.

- e. Non-preference eligible employees covered by the Civilian Intelligence Personnel Management System (CIPMS) (Title 10, U.S. Code section 1590) may grieve their removal, suspension, reduction in grade or pay, or furlough for 30 days or less, if they have completed one year of current continuous service in the same or similar position in DoD under other than a temporary appointment of two years or less. The termination of a CIPMS employee under section 1590(e)(1) of Title 10, U.S. Code is not covered. In the case of a grievance over a removal of a CIPMS employee covered by this procedure, an impartial hearing is normally conducted (such hearings may be provided on a reimbursable basis by the DoD Civilian Personnel Management Service's Office of Complaint Investigations (OCI) at the request of an activity).

6. Representation.

- a. Employees shall be given the right to represent themselves or to be represented by an individual of their own choice in filing a grievance.
- b. The deciding official may disallow the choice of representative if it would result in a conflict of interest or position, conflict with mission priorities, or result in unreasonable costs.

7. Official Time and Resources.

- a. Employees, if otherwise in an active duty status, may use reasonable amounts of official time, subject to supervisory approval, to:

- (1) Get advice on rights and privileges from official sources.
- (2) Get information or assistance with grievances from official sources.
- (3) Present a grievance.
- (4) Act as a representative on a grievance.

- b. A reasonable amount of official time and resources, subject to supervisory approval may also be granted for preparing a grievance.

- c. The representative must obey the same rules of conduct and procedures as the employee. If classified information is involved, the representative must have the proper security clearance. If the representative does not, the employee will be given one of the following choices:

- (1) Pick a representative who has the proper clearance.
- (2) Forego representation.
- (3) Let the case proceed without the representative being allowed to challenge or otherwise comment on the classified information.

8. Use of Other Appeal or Complaint Procedures.

- a. Complaints to Equal Employment Opportunity Office. At any time an employee alleges discrimination because of race, color, religion, sex, national origin, age, or mental or physical handicap the matter will be referred to the Equal Employment Opportunity Office for consideration under AR 690-600.

- b. Complaints, allegations, and reports of official misconduct, mismanagement, waste, fraud, and inefficiency that do not involve personal relief should be submitted under the Department of the Army Inspector General (IG) complaint system, or through the Department of Defense IG Hot Line System.

c. Complaints regarding classification of a position will be handled under appropriate position classification appeal or complaint procedures.

9. Procedures for Filing a Grievance.

a. Informal Procedures.

(1) Problem Solving.

(a) An employee may informally present any work-related problem to his or her immediate supervisor. If the problem involves a matter or action directly involving that supervisor, the employee may present it to the next level supervisor. The problem must be presented within 15 days following the date of the act or event creating 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.

(b) A supervisor must consider the employee's problem and may attempt to resolve the grievance within 15 days of receipt, even though it may not be covered by the administrative grievance procedure. However, if the supervisor believes the matter is not covered, the supervisor should so inform the employee as a threshold issue in the formal grievance response.

(c) The problem solving stage normally shall be concluded within 30 days from the date it is first raised. 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 is in writing. Where a determination is oral, the supervisor should prepare a memorandum documenting the discussion and give the employee a copy.

(2) Exceptions.

(a) Some grievances may be filed formally without going through informal procedures. Grievances involving the following issues may be filed under the formal procedure within 15 days of the decision or occurrence being grieved:

1 Written reprimands.

2 Grievances stemming from suspensions for 14 days or less.

3 Grievances stemming from removals and suspensions of employees in the excepted service who do not have veterans preference and who have more than 1 year of continuous federal service.

4 Grievances over management directed reassignments.

5 Grievances involving dissatisfaction with employee performance ratings. The grievant has the burden of proof that his or her performance warrants a higher rating than the one officially assigned.

(b) When management officials and the employee agree that the informal procedure would serve no useful purpose, it may be waived. For example, the informal procedure may be waived if the employee and the supervisor have recently discussed the matter fully, but failed to reach a solution. When the supervisor and the employee agree to waive the informal procedure, the supervisor will document the reason for the waiver in the grievance file. The employee and the supervisor will sign the waiver.

b. Formal Procedures/Administrative Grievance Procedure.

(1) An employee may file a formal, written grievance with the designated deciding official (normally the employee's second level

supervisor) when a problem is not resolved during the informal problem-solving process, or when the employee chooses to bypass that process and invoke the administrative grievance procedure. 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 raises the matter initially as a grievance, the 15 calendar day time limit described in the problem-solving process above applies.

(2) An employee's grievance must be signed, dated and contain a sufficiently detailed statement of the specific issue(s) and the personal relief 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.

(3) The deciding official determines whether to join similar or identical grievances; whether to require an investigation and how it shall be conducted; 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 individual to investigate a grievance and, when authorized, to make recommendations concerning its disposition. The individual must not have been involved in the grievance or the matter being grieved.

(4) The deciding official shall fully and fairly consider the grievance and issue a written decision, which includes the basis for his or her decision. The decision shall be issued as soon as possible but normally within 60 calendar days from the grievance filing date. The deciding official may extend time frames when warranted by special circumstances (e.g., when those involved are geographically dispersed or where an outside fact-finder is used in the process). If the deciding official fails to render a decision within 90 calendar days, absent mutual agreement to extend the time limits, the grievant may request review by the next higher management level, if any, within the Department of the Army.

(5) A grievance, or portion of a grievance, may be canceled or temporarily suspended for the following reasons at the grievant's request:

(a) if the grievant or grievance is excluded from coverage;

(b) if the grievant fails to comply with applicable time limits or procedural requirements;

(c) the employee has raised the same matter under another formal dispute resolution process first, or

(d) the matter has already been decided in another grievance.

(6) The decision on the merits of the grievance is final and not subject to review. However, an employee may request an individual at the next higher management level review a decision to cancel a grievance.

(7) The deciding official may request the services of the DoD, OCI, on a cost reimbursement basis, to investigate in his or her behalf and make a recommendation. OCI will provide grievance investigations, factfinding, and mediation on a reimbursable fee-for-service basis. OCI grievance investigative services can be requested from the OCI office responsible for art activity's discrimination complaints.

(8) Among other options available to the deciding official are: designate an investigating officer under the provisions of AR 15-6; conduct an inquiry; contract out the fact-finding tasks or use Alternate Dispute Resolution (ADR) techniques. Employees and managers are encouraged to use ADR techniques to resolve grievances.

(9) Activity shall establish and maintain a separate file for each written grievance filed under this Administrative Grievance System

(AGS) and retain that file IAW applicable laws, regulations, and records retention schedules. The file contains all documents or copies of documents related to the grievance.

10. Procedures for Grievances Involving Rating, Ranking, and Referral Under DA Career Programs.

a. The employee will submit the written grievance to the individual designated to receive grievances at the activity level. That individual will send it to the career referral activity at the major command or HODA level, depending upon where the alleged error occurred. The career referral activity, in coordination with the Career Program Manager or Functional Chief (or respective representative), will try to resolve the grievance.

b. Within 15 days after receipt of the grievance, the referral activity will send its response through the activity commander, ATTN: CPAC, to the grievant. Referral activity's decision is final.

11. Procedures for Grievances Involving Alcohol and Drug Abuse Prevention and Control Program (ADAPCP).

a. When the only issue in a grievance is the denial, suspension, or revocation of a certification issued by the ADAPCP Clinical Certification Board, the activity will omit the problem-solving process. The formal grievance will be submitted by the grievant, in writing, to Commander, Army Medical Department Center and School, Behavioral Science Division, ATTN: HSHA-MB (Certification Program), 2250 Stanley Road, Fort Sam Houston, Texas 78234-6133. The Board will review the decision to deny, suspend, or revoke the certification. Within 45 days after receipt of the grievance, the Board will send its response to the grievant with a copy to the Clinical Director.

b. If the grievant is not satisfied with the response, he or she may, within seven days of receiving the Board's response, inform the Board in writing that he or she requests that the grievance be investigated by the OCI. Notification will be timely, if mailed to the Board and postmarked not later than seven days after receipt of the Board's response. The Board will forward the grievance to the proper OCI Regional Office for fact-finding and recommendations. The OCI report will be forwarded to the Director, U.S. Army Drug and Alcohol Operations Agency (USADAOA), 4501 Ford Avenue, Alexandria, Virginia 22302-1460. The Director, USADAOA will issue a written final decision to the grievant, with a copy to the grievant's Clinical Director and to the Board, within 15 days of receipt of the OCI report. The Director, USADAOA's decision is final.

c. USADAOA will fund OCI investigations involving ADAPCP certification under this paragraph.

12. Procedures for Grievances that Challenge Decisions Made or Matters Controlled by DA Activities Other Than the Grievant's Local Command.

a. The employee will submit the written grievance to the CPAC. The employee must file the grievance within the timeframes contained in this regulation paragraph 8. The CPAC within seven days will forward the grievance to the DA activity that made the decision or has control over the matter being grieved.

b. Within 30 calendar days of receiving the grievance, the DA activity should normally issue a final decision through the CPAC to the employee.

13. Administrative Support. Management officials, employees and employee representatives will cooperate fully with the OCI investigators to facilitate the impartial and timely consideration of grievances. The grievant's organization will furnish funding citation for travel and per diem, arrange for appropriate physical facilities, and meet other requirements of the examiner as expeditiously as possible to permit compliance with time limits. A hearing or inquiry may be rescheduled only for good cause.

14. Followup. Following the decision, supervisors must insure that the employee's status as a productive member of the workforce is maintained and that no reprisals occur for having filed a grievance. The employee must not let performance suffer due to dissatisfaction with the grievance processing and/or final decision.

GLOSSARY.

Section 1. Acronyms.

ADAPCP alcohol and drug abuse prevention and control program

ADR alternate dispute resolution

AGS administrative grievance system

ATTN
Attention

CDR
commander

CIPMS
civilian intelligence personnel management system

CPAC
Civilian Personnel Advisory Center

DA
Department of the Army

DOD
Department of Defense

EEOC equal employment opportunity commission

FLRA
Federal Labor Relations Authority

HQ
headquarters

IAW
In accordance with

IG
inspector general

MSPB
merit systems protection board

OCI
Office of Complaint Investigations

OPM
Office of Personnel Management

U.S.
United States

USADAOA
U.S. Army Drug and Alcohol Operations Agency

USAECFLW
United States Army Engineer Center Fort Leonard Wood

Section H. Terms,

Alternate Dispute Resolution (ADR). ADR techniques encompass a broad range of informal, non-adversarial techniques for settling employee-management disagreements. These techniques emphasize

problem-solving as a means of dealing with conflict and seeking solutions satisfactory to all parties. ADR techniques include mediation, facilitation, conciliation, factfinding and arbitration.

Bargaining unit employee. An employee included in an appropriate exclusive bargaining unit as determined by the Federal Labor Relations Authority for which a labor organization has been granted exclusive recognition.

Days. Calendar days. The day of an action or receipt of a document is not counted when calculating the time limits. 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.

Employee. All U.S. citizen appropriated fund DA employees and former employees for whom personal relief may be provided with respect to a grievance.

Grievance. A request by an employee or by a group of employees for personal relief in a matter or concern of dissatisfaction relating to employment which is subject to the control of DA.

Grievance file. An official file that contains all documents related to a grievance. A grievance file includes statements of witnesses, records (or copies of these records), the report of any hearing, statements made by the parties to the grievance and the decision.

Harmful error. An error made by the activity in the application of DA (including local and command levels), OPM, or other governing regulatory procedures that is likely to have caused the activity to reach a conclusion different from the one that was reached in the absence of cure of the error. The burden is on the grievant to show, that the error is harmful, i.e., that it caused substantial harm or prejudice to the grievant's rights.

Personal relief. A specific remedy that directly benefits the grievant. It may not include a request for an action (such as disciplinary action) that affects another employee.