

CHAPTER 27

GRIEVANCES AND APPEALS

Refer to the collective bargaining agreement with AFGE Local 1770 for additional provisions pertaining to bargaining unit employees.

27-1. GENERAL.

a. Grievance and appeal procedures provide the mechanisms for resolving employee dissatisfactions. Many managerial decisions are subject to review through these procedures and supervisors must be prepared to defend their decisions in the appropriate forum.

b. Day to day discussions between employees and supervisors about working conditions and other employment matters are the best means of conducting effective work relationships. Supervisors and managers will try to resolve employee dissatisfactions in normal, day to day dealings with employees; however, when a matter cannot be resolved to the satisfaction of the employee, he/she may seek a resolution by filing a grievance or appeal.

c. There are two grievance procedures available to employees - the Negotiated Grievance Procedure (NGP) contained in the Labor Management Agreement (Bargaining Unit Employees) and the Department of Defense (DOD) Administrative Grievance System (AGS) (Non-Bargaining Unit Employees).

d. There are numerous appeal processes available to Federal employees. Appeals are handled by third parties outside DOD/DA. Appeal processes address matters such as removals, suspensions of more than 14 calendar days, changes to lower grade, suitability determinations, position classification and security clearance determinations. In most cases, probationary and temporary employees are excluded from having appeal rights or have substantially limited appeal rights.

27-2. SPECIFIC GRIEVANCE AND APPEAL PROCEDURES.

a. Negotiated Grievance Procedure.

(1) The NGP is a five tiered process. The informal step is required except for actions which are beyond the scope of the first line supervisor to resolve. Step one begins the formal grievance procedure and is held with the next individual in the supervisory chain. Step Two is held with the individual

who is at least one level below the Step Three hearing official. This is typically the Director of the Business Center or Organization or his designee. Step Three is with the Garrison Commander, or Chief of Staff in the tenant commands.

(2) Employees have 30 calendar days from the date the event happened or became aware of the event that happened in order to file a grievance. Grievances filed after that time will not be considered unless the employee and/or the Union can show that they were not aware of the grievable issue. Other time limits, which are specifically spelled out in the Labor Management Agreement, must be adhered to.

(3) Employees utilizing the grievance procedure are allowed a "reasonable" amount of time for preparing and presenting their grievance, if they are in a duty status. As pointed out before, judgements must be made on a case by case basis. Should a supervisor have questions concerning reasonableness, he/she should call the servicing MER Specialist.

(4) The American Federation of Government Employees is the exclusive representative for bargaining unit employees. It is prohibited for the hearing official to meet with anyone other than the exclusive representative on any grievance filed under the Labor Management Agreement.

b. DOD Administrative Grievance System.

(1) The DOD AGS is a two tiered system. It consists of an informal or problem solving stage and a formal stage. It applies to non-bargaining unit employees. If an employee wishes to take advantage of the informal procedure, he/she may do so, but must file the grievance within 15 calendar days of the event-giving rise to the grievance. This step is filed with the first line supervisor and is not mandatory. The problem solving stage is normally concluded within 30 calendar days.

(2) The employee may choose to bypass the problem solving stage and file the grievance at the formal stage. In this case, the formal grievance must be filed within 15 days of the event's occurrence. The formal grievance is filed with the designated deciding official, normally the employee's second level supervisor. The employee can be represented by anyone of their choosing (subject to the agency's approval) in the grievance.

(3) Under the AGS, employees are only granted official time for presenting their grievance and are prohibited from using government resources for preparing the grievance.

(4) The deciding official's decision is final and not subject to further review. However, the deciding official's decision to cancel a grievance can be requested to be reviewed at a higher level.

c. Merit Systems Protection Board

Employees, who are removed, changed to lower grade or suspended for 15 calendar days or more can appeal the action to the Merit Systems Protection Board (MSPB). The MSPB is an independent agency made up of Administrative Law Judges who hear appeals on adverse actions. Although the Labor Counselor defends the cases, deciding officials are required to testify to support their decisions and must be able to articulate their rationale in any decision which adversely affects an employee.