



DEPARTMENT OF THE NAVY
BUREAU OF NAVAL PERSONNEL
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MILLINGTON, TN 38055-0000

BUPERSINST 12700.1
BUPERS-05
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BUPERS INSTRUCTION 12700.1

From: Chief of Naval Personnel

Subj: ADMINISTRATIVE GRIEVANCE PROCEDURES FOR BUREAU OF NAVAL PERSONNEL

Ref: (a) 5 CFR 771
(b) DoD Instruction 1400.25 (subchapter 771) of 21 July 2017
(c) SECNAVINST 12771.2

1. Purpose. To establish policy and describe procedures for presenting and processing administrative grievances filed by employees of the Bureau of Naval Personnel (BUPERS) in compliance with references (a) through (c).

2. Policy

a. Employees covered by the Administrative Grievance System (AGS) are entitled to present grievances and to communicate with supervisors or managers without restraint, interference, coercion, discrimination, or reprisal. Their grievances must be considered expeditiously, fairly, impartially, and decided as quickly as possible. Every reasonable effort will be made to settle grievances at the lowest level. The filing of a grievance will not reflect unfavorably on an employee.

b. Alternative dispute resolution (ADR) techniques should be used as an alternative to formal administrative procedures to the maximum extent practicable. ADR techniques include a broad range of approaches for dealing with conflict and seeking solutions that are satisfactory to all parties. These techniques include, but are not limited to, problem solving, mediation, facilitation, conciliation, early-neutral evaluation, fact-finding, settlement conferences, ombudsmen, peer review, and arbitration.

c. The grievance process is divided into a problem-solving/informal process and a formal grievance process (reference (c)).

3. Scope and Applicability

a. The AGS covers current appropriated fund non-bargaining unit BUPERS employees. It also covers former BUPERS employees with respect to matters arising during their previous employment at the activity or command, provided a remedy is available consistent with applicable law and regulation.

b. The AGS covers bargaining unit employees when a matter covered by the AGS cannot be grieved under a negotiated grievance procedure (NGP), either because an NGP is not in effect at the relevant time, or because it does not cover the matter being grieved.

c. For further guidance contact BUPERS, Director, Total Force Human Resources and Manpower (BUPERS-05) or refer to reference (c).

d. Any employment matter may be grieved under the AGS **except** for the following:

(1) Any matter covered by an NGS or subject to formal review and adjudication by the Merit Systems Protection Board, the Office of Personnel Management, the Federal Labor Relations Authority, or the Equal Employment Opportunity Commission, or any matter that the employee files under another review or reconsideration procedure, or dispute resolution process within Department of Defense (DoD).

(2) Non-selection for promotion from a group of properly ranked and certified candidates, or failure to receive a non-competitive promotion.

(3) Preliminary notices of an action that, if effected, would be covered under the grievance system or excluded from coverage under reference (c).

(4) The substance of an employee's performance elements, standards, or work objectives.

(5) Determinations concerning awards, additional step increases, recruitment or relocation bonuses, retention allowance, physician's comparability or additional pay allowances, supervisory differentials, critical position pay, or dual compensation waivers.

(6) Any action taken under a voluntary, formal agreement entered into by an employee involving geographic relocation or return from an overseas assignment.

(7) Termination of a probationer, return of an employee serving supervisory or managerial probation to a non-supervisory or non-managerial position, or separation or termination of an employee during a trial period.

(8) For senior executive service (SES) employees, performance evaluations and awards (including meritorious, or distinguished executive rank awards), reassignment following receipt of an unsatisfactory rating, return to another pay system during the 1-year period of probation or for less than fully successful executive performance, or for failure to be re-certified, conditional re-certification, or termination during probation for unacceptable performance.

(9) Termination or expiration of a time-limited excepted appointment, a term or temporary appointment or promotion, or a SES, on the date specified as a condition of employment at the time the appointment or promotion was made.

(10) Termination of a temporary or term promotion at a time other than in 3d(8) above, provided the employee was informed in advance of the temporary nature of the appointment or promotion and the employee was returned to his or her former position from which temporarily promoted or to a different position of equivalent grade and pay.

(11) Any claimed violation relating to prohibited political activities.

(12) Retirement, life insurance, or health insurance.

(13) A suspension or removal taken for national security reasons.

(14) Any examination, certification appointment.

(15) The classification of any position, which does not result in the reduction in the grade or pay of an employee.

(16) The separation of an employee during the employee's probationary period or while the employee is serving in the first year of a worker-trainee program, a veterans' readjustment program or other excepted appointment, or while the employee is serving under a time-limited appointment.

(17) A claim or complaint of discrimination because of race, religion, color, sex, national origin, age, or handicapping condition.

(18) SES or senior level pay rate changes.

(19) Oral admonishments.

(20) Letters of caution.

(21) Non-adoption of a suggestion submitted by employees utilizing any forum for such purposes.

4. Responsibilities

a. Heads of Navy activities are authorized to decide all grievances filed by employees under their command and may delegate the authority to decide grievances to subordinate managers and supervisors in their respective organizations.

(1) BUPERS/Navy Personnel Command (NAVPERSCOM): Deputy Chief of Naval Personnel

(2) Navy Recruiting Command: Commander, Navy Recruiting Command

- (3) Navy Manpower Analysis Center (NAVMAC): Commanding Officer, NAVMAC
- (4) Navy Consolidated Brigs (NAVCONBRIG): Commanding Officer, NAVCONBRIG
- (5) Navy Pay and Personnel Service Center (NPPSC): Commanding Officer, NPPSC

b. The Assistant Deputy Chief of Naval Personnel is hereby delegated authority as the deciding official in the AGS process for BUPERS and NAVPERSCOM organizations.

c. A deciding official is an official at an administrative level higher than the employee involved in the grievance or that has a direct interest in the matter being grieved, unless the deciding official is the head of the activity or command. In a formal grievance, the deciding official's responsibility is to:

- (1) Determine the amount and grant official time for presenting a grievance as appropriate.
- (2) Consider and attempt to resolve grievances in a timely manner.
- (3) Provide appropriate responses to employee concerns and grievances including the determination as to whether or not the matter is covered by this instruction, notice of the action taken, and information concerning employees' rights and responsibilities.
- (4) Determine whether to accept, suspend, or cancel all or part of the grievance.
- (5) Issue a final decision within the prescribed time limits.

d. Grievant responsibilities:

- (1) Determine whether to initiate the work-related issue through the problem-solving informal process or the formal grievance process.
- (2) Submit a signed and dated grievance which contains a sufficiently detailed statement of the specific issues(s) and the personal remedy sought.
- (3) Determine the use of ADR techniques prior to filing the grievance formally.
- (4) Provide all relevant documentation in support of the grievance at the time of submission.

5. Rights of the Grievant and Representatives

a. A grievant has the right to be accompanied, represented, and advised by a representative of his or her own choice in processing a grievance under this instruction, except as noted in formal grievance procedures.

b. Grievant and representative have the right to:

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

(2) A reasonable amount of official duty time, as determined by the deciding official, to present a grievance and to communicate with management and personnel officials, if they are Department of the Navy employees and are in a duty status. Employees may also be given a reasonable amount of official time to prepare a grievance.

(3) Full access to relevant information and must be given copies of such information, unless to do so would be unduly burdensome or contrary to law or regulation.

6. Processing Grievances. ADR techniques should be used where practicable in the resolution of disputes and are strongly recommended. ADR techniques include a broad range of approaches for dealing with conflict and seeking solutions that are satisfactory to all parties. These techniques include, but are not limited to, problem solving, mediation, facilitation, conciliation, early-neutral evaluation, fact-finding, settlement conferences, ombudsmen, peer review, and arbitration.

7. Time Limits. When calculating time limits under the AGS, the day of an action or receipt of a document is not counted. The last day of the time limit is counted, unless it is a Saturday or 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 will be moved to the next regularly scheduled workday. All time limits are counted in calendar days.

8. Informal Grievances Procedures

a. Presenting the Grievance. The employee or representative will discuss the grievance in private, orally, and informally with the employee's first-level supervisor. The supervisor, after determining the factual situation, will meet with the employee and other individuals as deemed necessary.

b. Problem Solving/Informal Process. An employee may informally present a work-related problem to his or her first-level supervisor before filing a formal grievance. If the problem involves a matter or action directly involving that supervisor and the employee has been unable to resolve the matter with that supervisor, the employee may present the matter to the second-

level supervisor, if any, within the activity or command. The problem must be presented within 15 calendar days following the date of the act or event that the employee believes created 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.

c. A supervisor must consider the employee's problem and attempt to resolve it within 15 days, and no later than 30 days, from the date the problem is first brought to the supervisor's attention, even though it may not be covered by the grievance process. Where appropriate, the use of a neutral party (e.g., conciliator, facilitator, or mediator) is encouraged. 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 must be in writing. If the problem is not resolved, the supervisor must inform the employee of the time limits for filing a formal grievance. If the supervisor believes the matter is not covered by the grievance process, the supervisor must so inform the employee and advise the employee of the options available, if any, for resolving the problem.

d. The above time limit for resolving the problem may be extended by mutual agreement to accommodate resolution of the dispute.

9. Formal Grievances Procedures

a. The deciding official or designee will determine whether to join similar or identical (two or more employees in the same activity) grievances (i.e., the dissatisfaction expressed and the relief requested are the same); whether to require an investigation and how it will be conducted; whether to allow the grievant's requested representative; and how much official time will be granted to the employee and the employee's representative. The employees will be so notified and required to designate a common representative.

b. The deciding official or designee may also designate an individual to investigate a grievance and, when authorized, to make recommendations concerning its disposition. The designee must not have been involved in the grievance or the matter being grieved or occupy a position subordinate to any official involved in the matter unless the official involved is the activity head.

c. If the grievance is not resolved at the informal step and the employee desires to further pursue the matter through the grievance procedure, the employee and or the appropriate representative must reduce the grievance to writing. The grievance must be submitted to the deciding official within 15 calendar days following the informal resolution decision by the first level supervisor or within 15 calendar days following the date of the act or event that the employee believes created the problem, or the date the employee became aware of (or reasonably should have become aware of) the act or event. The written grievance must be signed, dated, and contain a sufficiently detailed statement of the specific issues(s) and the

personal remedy sought; a statement that the employee has not filed an appeal or complaint (such as an inspector general or equal employment opportunity complaint) on the same issue; 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. The remedy must be personal to the employee and may not include a request for disciplinary or other action affecting another employee. An employee may not grieve the same matter raised in any other grievance, appeal, complaint, or other dispute resolution process. Only the issues presented at the informal process will be considered. The deciding official or designee will meet with the employee and or appropriate representative and such other individuals deemed necessary and render a decision not later than 60 calendar days following receipt of the grievance.

d. The above time frames may be extended by mutual agreement.

e. The deciding official or designee must fully and fairly consider the grievance and issue a written decision, to include the reason for his or her decision. The deciding official or designee 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).

f. Whenever possible, the deciding official or designee should rule on the merits of a grievance. A deciding official or designee's 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 dismiss a grievance. The employee's request for review of a decision to dismiss a grievance or a portion of a grievance must be submitted within 15 calendar days from the date of receipt of the decision to dismiss the grievance.

g. A grievance, or portion of a grievance, may be dismissed, if:

(1) The grievant requests such an action;

(2) The grievant or grievance is excluded from coverage;

(3) The grievant fails to provide sufficient detail to identify clearly the matter being grieved or specify the personal relief requested;

(4) The grievant fails to comply with applicable time limits or procedural requirements or requests action be taken against another employee.

h. A grievance may be temporarily suspended if the grievant utilizes the formal dispute resolution process.

i. Failure of the employee to meet the time limits prescribed above will constitute withdrawal and termination of the grievance; however, the time limits may be extended by mutual consent at any step of the grievance procedure. Failure of the deciding official to render

a timely decision is cause for the employee to request review of the grievance at the next higher management level, if any, within the command.

j. The deciding official may disallow the choice of an individual as a representative which would result in a conflict or apparent conflict of interest or position, a conflict with the priority needs of the activity or command, or would give rise to an unreasonable cost to the Federal Government. If a deciding official disallows the grievant's choice of representative, that decision may be grieved within 10 days to the next higher level of management, unless the deciding official is the Deputy Chief of Naval Personnel; Commander, Navy Recruiting Command, or applicable commanding officer. The decision on that grievance is final and is not subject to further review.

10. Records Management. Records created as a result of this instruction, regardless of media and format, must be managed per Secretary of the Navy (SECNAV) Manual 5210.1 of January 2012.

11. Review and Effective Date. Per OPNAVINST 5215.17A, BUPERS-05 will review this instruction annually on the anniversary of the effective date to ensure applicability, currency, and consistency with Federal, DoD, Secretary of the Navy, and Navy policy and statutory authority using OPNAV 5215/40 Review of Instruction. This instruction will automatically expire 5 years after its issuance date unless reissued or cancelled prior to the 5-year anniversary date or an extension has been granted


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Releasability and distribution:

This instruction is cleared for public release and is available electronically only via BUPERS/NAVPERSCOM Web site, <http://www.public.navy.mil/bupers-npc/Pages/default.aspx>