DEPARTMENT OF THE NAVY
NAVAL SERVICE TRAINING COMMAND
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NSTCINST 12771.1
N1
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NSTC INSTRUCTION 12771.1

From: Commander, Naval Service Training Command

Subj: ADMINISTRATIVE GRIEVANCE PROCEDURE

Ref: (a) DoD 1400.25M, Subchapter 771
(b) SECNAVINST 12771.1
(c) NETCSTAFFINST 12771.2

1. Purpose. To implement the provisions of references (a) through (c) and establish a system through which a covered Naval Service Training Command (NSTC) employee or group of employees may file a grievance and receive a prompt decision.

2. Policy. The prevailing policy incorporated in this instruction is that employee grievances will be considered expeditiously, fairly, impartially, and will be resolved as quickly as possible. The procedures set forth in this instruction are designed to achieve these objectives.

3. Applicability

a. This instruction covers current appropriated fund non-bargaining unit employees at NSTC and all subordinate activities.

b. This instruction covers bargaining unit employees when a matter cannot be grieved under a negotiated grievance procedure, either because a negotiated grievance procedure is not in effect at the relevant time or because it does not cover the matter being grieved.

4. Employee Rights. Grievants and their representatives must be assured that:

a. They will remain free from restraint, interference, coercion, discrimination, or reprisal in presenting a grievance.

b. They will receive reasonable amount of official duty time, if otherwise in a duty status at the employing activity, to prepare a grievance, to present grievances, and to

communicate with management and personnel officials. The grievant will request this time from his/her immediate supervisor.

c. 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 designation of a representative must be made in writing. The deciding official may disallow the choice of an individual as a representative if at the informal or formal state of the grievance the representation would result in a conflict of interest or position, it conflicts with the priority needs of NSTC, or it would give rise to unreasonable cost to the Government.

d. Grievant(s) and their representative(s) shall have full access to relevant information and shall be given copies of such information unless to do so would be unduly burdensome or contrary to law or regulation.

e. Employees have the right to communicate with the servicing Human Resources Specialist or an Equal Employment Opportunity Counselor during the grievance process. Employees must coordinate the use of official duty time for such purposes with their immediate supervisor.

4. Delegation of Authority

a. Authority within NSTC Headquarters is delegated as follows:

(1) Department Heads and Special Assistants (DD/SA) are delegated the authority to act as deciding officials on all administrative grievances within their departments/offices.

(2) If a grievance involves a DD or SA, the employee may present the grievance to the Executive Director.

b. Authority within subordinate activities is delegated as follows:

(1) The Executive Officer (XO) is delegated the authority to act as the deciding official on all administrative grievances within their command.

(2) If a grievance involves the XO, the employee may present the grievance to the Commanding Officer (CO).

(3) If a grievance involves the CO, the employee may present the grievance to the NSTC Executive Director.

c. If the Executive Director position is vacant, the Chief of Staff will serve as the Deciding Official where the Executive Director is listed above.

5. Responsibilities

a. Grievant. The grievant is responsible for:

(1) Filing the grievance in a timely manner (orally or in writing at the informal stage and in writing at the formal stage);

(2) Providing a clear statement of the issue(s). Vague or general allegations cannot be properly spoken to or investigated and will not be accepted for processing;

(3) Indicating the specific personal relief sought; and

(4) Identifying his/her complaint as a grievance.

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

(1) Making the final decision on whether to suspend or cancel all or part of a grievance;

(2) Determining which issue, if any, will be investigated if the grievance is accepted;

(3) Determining whether to allow a grievant's choice of representation;

(4) Determining how much official time shall be given to the employee and their representative; and

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

(a) Reliance on the facts presented in the written grievance; or

(b) Appointment of a fact-finder 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. Fact-finding guidelines are available from the servicing Human Resources Specialist.

(6) Issuing a final decision on the grievance within the time frames stipulated in the procedure paragraph below.

(7) Establishing a grievance file and forwarding a copy of the file (containing all informal and formal grievance material) to the servicing Human Resources Specialist at the conclusion of the grievance process. The grievance file should contain, at a minimum:

(a) The employee's written grievance;

(b) The written designation of representative, if any;

(c) In the case of fact-finding or an investigation, the written designation of the management representative;

(d) The report of any findings and recommendations of the fact-finder, if any;

(e) The grievant and/or the representative's written comments on the contents of the grievance file, if any; and

(f) The decision issued by the deciding official with supporting rationale for the decision.

(8) Ensuring the information relative to a grievance is revealed to only those who a have a need to know.

(9) Determining whether to combine similar or identical grievances.

c. Human Resources Office (HRO). The HRO shall:

(1) Provide advice, guidance, and necessary assistance for processing grievances; and

(2) Maintain grievance files established by the deciding official for four (4) years.

d. Immediate Supervisor or Official at the Lowest Level Empowered to Adjudicate the Grievance. The immediate supervisor or official at the lowest level empowered to deal with the grievance is responsible at the informal stage for:

(1) Giving full consideration to the grievance;

(2) Scheduling a meeting with the grievant within 10 calendar days of receipt of the grievance; and

(3) Providing a written decision within 30 calendar days from the date the grievance was filed.

6. Coverage and Exclusions. This instruction applies to any matter of concern and/or dissatisfaction relating to the employment of any employee(s) which is/are subject to the control of NSTC management. Excluded from coverage are the following:

a. The content of published agency regulations and policy;

b. 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), the Equal Employment Opportunity Commission (EEOC), or any matter that the employee files under another review or reconsideration procedure or dispute resolution process within the Department of Defense;

c. Non-selection for promotion from a group of properly ranked and certified candidates or failure to receive a non-competitive promotion;

d. A proposed action that has not been effected;

e. The substance of an employee's performance elements, standards, or work objectives;

f. Termination of an employee during a probationary or trial period;

g. Return of a probationary supervisor to a non-supervisory position for failure to satisfactorily complete the probation period;

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

i. The termination of a temporary or term promotion at a time other than that in subsection 6h 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;

j. Oral admonishments, letters of caution, or letters of requirement;

k. Determinations concerning awards, additional step increases, recruitment or relocation bonuses, retention allowances, supervisory differentials, critical position pay, or dual compensation waivers;

l. The adoption or failure to adopt an employee suggestion or invention;

m. An action taken in accordance with the terms of a formal agreement voluntarily entered into by an employee which assigns the employee from one geographical location to another or returns the employee from an overseas assignment;

n. An allegation or complaint of discrimination as a result of an employee's race, color, religion, sex, age, marital status, national origin, or physical or mental handicap;

o. Position classification decisions and any resulting actions covered by the Position Classification Appeals process;

p. A matter where no form of personal relief to the employee is appropriate (these involve matters not personal to the employee or the employee's well-being or career, such as a complaint or allegation against third parties); and

q. A matter not subject to the direct control of NSTC.

7. Timing. An employee may present a grievance concerning a continuing practice or condition at any time. A grievance concerning a particular act or occurrence must be presented within 15 days of the date of that act or occurrence or the date the employee first became aware of it.

8. Procedures. Alternative Dispute Resolution (ADR) is a process that allows parties to informally resolve cases at an early stage. This process can improve communication and relationships in the workplace. Based upon this, both employees and managers are encouraged to utilize the ADR process to resolve their dispute. NSTC N1 will provide assistance in obtaining a neutral (e.g. conciliator, facilitator, or mediator) to assist both parties.

a. Informal/Problem Solving Grievance Procedure

(1) An employee may informally present orally or in writing a work-related grievance to his or her immediate supervisor before filing a formal grievance. If the problem involves a matter of 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 next level supervisor. If the next level supervisor is the deciding official, then the employee will begin the grievance at the formal stage of the process.

(2) At this time, the employee and/or management official who has the authority to resolve the conflict may request an attempt for resolution through the ADR process. Upon request, the use of a neutral (e.g. conciliator, facilitator, or mediator) will be scheduled by the NSTC N1 office after verification that both parties have agreed to utilize this process.

(3) The supervisor considers the problem and all pertinent facts. The supervisor attempts to resolve it within 15 calendar days but in no case later than 30 calendar days unless an extension is mutually agreed to. When the employee presents the problem orally, the supervisor's determination may be oral or written. When the problem is presented in writing, the determination must be in writing.

(4) The informal/problem solving stage concludes when the problem is resolved, the employee receives the supervisor's decision, or 30 calendar days have expired from the date the grievance was filed and there is no agreement to extend the 30-calendar-day time limit.

(5) If the problem is not resolved, the supervisor informs the employee of the time limit for filing a formal grievance. If the supervisor believes the grievance process

does not cover the matter, the supervisor will advise the employee of the appropriate process, if any, for resolving the problem.

b. Formal Grievance Procedure

(1) If the grievance is not resolved to the satisfaction of the grievant at the informal stage, the grievant may submit the grievance in writing to the deciding official who has the authority to resolve the grievance within 15 days after receipt of the informal decision. A copy of the informal reply should be submitted with the grievance. When submitted, the grievance must:

(a) Be in writing to the deciding official with a copy to the servicing Human Resources Specialist. The employee or the designated representative must sign the grievance;

(b) Contain sufficient detail to identify and clarify the basis for the grievance; and

(c) Specify the personal relief requested by the grievant. Personal relief is a specific remedy directly benefiting the grievant(s) which may not include a request for disciplinary or other action affecting another employee or apologies.

(2) The deciding official decides whether to accept or reject all or part of the grievance, whether to combine similar or identical grievances, whether to require an investigation and how it shall be conducted, whether to allow the representative, and how much official duty time shall be given to the employee and the representative. The deciding official may also designate an individual to investigate a grievance, and, when authorized, to make recommendations concerning its disposition.

(3) The deciding official issues a written decision no later than 60 calendar days from the date the grievance was filed, whether at the informal/problem-solving or formal stage. The deciding official may extend time frames by 30 calendar days when warranted to ensure proper consideration is given to resolution of the grievance. The employee and the deciding official must mutually agree to any further extensions beyond 90 calendar days.

(4) The deciding official's decision on the merits of a grievance is final and not subject to review. However, if the

deciding official fails to issue a decision within 90 calendar days or denies the grievance for reasons of untimeliness or exclusion from coverage, the employee may request a review of the grievance. An individual at the next higher level of authority above that of the deciding official conducts the review.

c. General Information

(1) Grievances can be canceled at any time at the employee's request, when the employee terminates employment and relief can no longer be granted, in the event of the death of the employee when pay is not an issue, and when the employee fails to furnish required information or fails to proceed with the grievance.

(2) An employee may file a discrimination complaint or a grievance but not both. If an employee raises an allegation of discrimination during the processing of a grievance, management notifies the employee in writing that introduction of the allegation will serve to terminate the processing of the matter under the grievance process. The grievant will be given an opportunity to withdraw the allegation of discrimination and continue under the administrative grievance process or proceed under the discrimination complaint procedure beginning with the counseling stage. If the employee decides to use the discrimination complaint procedure, the grievance will be canceled and the employee will be notified in writing.

(3) Identical grievances may be combined for processing.

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Distribution: List 4