



DEPARTMENT OF THE NAVY
COMMANDER NAVY RESERVE FORCE
1915 FORRESTAL DRIVE
NORFOLK VIRGINIA 23551-4615

COMNAVRESFORINST 12771.1A
N00CP
28 Oct 16

COMNAVRESFOR INSTRUCTION 12771.1A

From: Commander, Navy Reserve Force

Subj: ADMINISTRATIVE GRIEVANCE SYSTEM

Ref: (a) SECNAVINST 12771.2

Encl: (1) Exclusions from the Administrative Grievance System
(2) Definitions
(3) Acronyms

1. Purpose. To establish policy, delegate authority, assign responsibility and provide procedures for presenting and processing administrative grievances filed under the Commander, Navy Reserve Force (COMNAVRESFOR) Administrative Grievance System (AGS), in accordance with reference (a).

2. Cancellation. COMNAVRESFORINST 12771.1.

3. Scope and applicability. This instruction applies to all civilian employees assigned to COMNAVRESFOR, except as noted in paragraph 5.

4. Policy

a. Administrative grievances will be considered per reference (a) and in compliance with the established timeframes for filing and grievance determination. Administrative grievances will be considered fairly, impartially and expeditiously. All individuals involved in a formal or informal dispute process shall be free from restraint, interference, coercion, discrimination or reprisal.

b. Consistent with the requirements of this instruction, use of the informal grievance process and Alternate Dispute Resolution (ADR) to resolve disputes is strongly encouraged.

5. Employee Coverage

a. Civilian employees of COMNAVRESFOR, including employees covered by the Defense Civilian Intelligence Personnel System (DCIPS) and former COMNAVRESFOR employees for whom COMNAVRESFOR can provide a remedy. Bargaining Unit Employees (BUE) may not use the AGS unless the matter is excluded from their Collective Bargaining Agreement (CBA).

b. Non-veteran preference eligible employees covered by DCIPS may also submit a grievance upon their removal, suspension, reduction-in-grade or pay or furlough for 30 calendar

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days or less if they have completed one year of current continuous service in the same or similar position in the Department of Defense (DOD) under other than a temporary appointment of two years or less, except for terminations for national security reasons under Section 1590(e) of Title 10, United States Code.

c. An appeal of a rating or ranking under the Merit Promotion Program process or other selection process must be filed per the procedures established by the organization conducting the rating or ranking or under a CBA, as applicable.

6. Issues Excluded from the AGS. Enclosure (1) lists the issues excluded from the AGS either by law, policy or regulation.

7. Time Limits

a. An employee may file a formal, written administrative grievance with his/her Commanding Officer (CO) or Officer-in-Charge (OIC) when a problem is not resolved during the problem-solving process (see paragraph 13) or when the employee chooses to bypass that process and initiates the administrative grievance procedure. If the employee used the problem-solving process and the issue was not resolved, the employee must file an administrative grievance within 15 calendar days from the conclusion of that process. The conclusion of the problem solving process is defined as 31 calendar days from the date the employee brought the matter to the supervisor's attention but received no response, or the date the supervisor rendered a verbal or written response.

b. Except as specified in paragraph 7c, where the employee raises the matter initially as a formal administrative grievance, the matter must be presented within 15 calendar 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.

c. Grievances regarding Letters of Reprimand and/or suspensions of 14 calendar days or less must be filed within 15 calendar days from the date the employee received the Letter of Reprimand or within 15 calendar days of the last day of the suspension.

8. Responsibilities

a. Commanders and CO's of COMNAVRESFOR Commands

(1) Execute COMNAVRESFOR policy in implementing and executing the AGS and processing informal grievances and ADRs.

(2) Act as deciding authority for administrative grievances filed by employees and former employees within their command.

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(3) Delegate authority to decide grievances to subordinate managers, supervisors or organizational codes as deemed appropriate.

b. Deciding Officials

(1) Execute COMNAVRESFOR policy in deciding administrative grievances and processing informal grievances and ADRs.

(2) Contact a COMNAVRESFOR Civilian Human Resources (CHR) representative immediately upon receipt of an administrative grievance or a request for an ADR.

(3) Determine whether to accept, reject or suspend all or part of the grievance and which issues, if any, will be investigated. A grievance may be denied if the issue presented by the employee is excluded from the administrative grievance process per reference (a).

(4) Determine a reasonable amount of time for the grievant and representative, if they are DON employees in a duty status to prepare the grievance, meet with management and CHR officials and present the grievance.

(5) Determine the method to resolve the grievance, which may include one or more of the following:

(a) Using the facts presented in a written grievance, if the grievant does not request a meeting.

(b) Personally conducting a fact-finding inquiry.

(c) Initiating third party fact-finding, resulting in written findings of facts submitted to the deciding official.

(6) Give fair and objective consideration to the matter and issue a final decision normally within 60 calendar days. If the deciding official cancels the administrative grievance, or any portion of the administrative grievance, or fails to render a decision within 90 calendar days, the grievant may request review by the next higher management level. The deciding official's decision on the merits of an administrative grievance is final and not subject to further review.

c. Grievant. COMNAVRESFOR employees filing administrative grievances or appeals must:

(1) File the administrative grievance or appeal with the deciding official, in writing, within the prescribed time limits.

(2) Provide a clear statement of issues.

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- (3) Indicate the specific personal relief sought.
- (4) Include 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.
- (5) Include copies of any documents in the employee's possession related to the grievance.
- (6) Include the name, address and telephone number of the employee's representative, if any.

d. Director, Civilian Human Resources (DCHR) will:

- (1) Provide advice, guidance and necessary assistance on the processing of grievances and appeals to Commanders, COs, management officials and deciding officials.
- (2) Provide information on the grievance process to employees.
- (3) Assist deciding officials in obtaining a fact-finder, when appropriate.
- (4) Maintain the official grievance file for at least 4 years after the case is closed.

9. Rights of Grievant and Representative(s)

- a. Be accompanied, represented and advised by any person of their own choice in processing a grievance under this instruction, except as noted in paragraph 10.
- b. Communicate with and obtain information from the DCHR, an Equal Employment Opportunity (EEO) Counselor or Civilian Employee Assistance Program (CEAP) Coordinator.
- c. Freedom from restraint, interference, coercion, discrimination or reprisal in presenting a grievance as outlined herein.
- d. A reasonable amount of official time, as determined by the Deciding Official (DO), to prepare the grievance, meet with management and personnel officials (if they are DON employees in a duty status) and present the grievance in a meeting, if the grievant requests a meeting.

10. Disallowance of Grievant's Representative. The DO 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 would give rise to an unreasonable cost to the government. If the DO disallows the grievant's choice of representative, that decision may be grieved to the next higher level of management for a final, non reviewable decision, unless the DO is the commander or CO. The decision on that grievance is final and is not subject to further review.

11. Combining Grievances. When two or more employees have identical administrative grievances, (i.e., the dissatisfaction expressed and the relief requested are the same), the DO will process them as one grievance.

12. Allegations of Discrimination. If an allegation of discrimination because of race, age, sex, color, national origin, religion, or handicap (physical or mental) is raised at any stage of the administrative grievance procedure, the DO will inform the grievant, in writing, that introduction of the allegation will serve to terminate processing of the matter under this instruction. The grievant must be given the opportunity to withdraw the allegation of discrimination and continue with the other issues under this procedure or proceed under the discrimination complaint procedure commencing with the counseling stage. The grievant's decision must be documented and made part of the administrative grievance file. If the grievant decides to pursue the matter under the discrimination complaint procedure, the DO shall cancel the administrative grievance on that basis, notify the grievant in writing and forward the administrative grievance file to COMNAVRESFOR CHR.

13. Administrative Grievance Process/Procedures

a. The use of informal grievance procedures and/or ADR techniques is strongly encouraged in resolving workplace disputes.

b. Informal Grievance Process/Problem-Solving Method

(1) An employee may informally present a work-related problem to their immediate 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 next level supervisor, if any, within the 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.

(2) A supervisor must consider the employee's problem and attempt to resolve it within 15 calendar days and no later than 30 calendar days, from the date the problem is first brought to the supervisor's attention, even though it may not be covered by the administrative grievance process. Where appropriate, the use of a neutral third 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 shall inform the employee of the time limits for filing a formal administrative grievance. If the supervisor believes the matter is not covered by the administrative grievance process, the supervisor shall inform the employee and advise the employee of the appropriate process, if any, for resolving the problem.

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c. The employee may formally request ADR to resolve the problem. When an ADR technique is used, but a satisfactory resolution is not reached, the grievant will have 15 calendar days from the completion of the ADR process to file a formal administrative grievance.

d. Formal Administrative Grievance Process

(1) An employee may file a formal administrative grievance using the formal grievance process when a problem is not resolved through the informal process or ADR or when the employee chooses to skip the informal process.

(2) Per reference (a), the administrative grievance must contain the specific required information specified in paragraph 8c.

(3) The Deciding Official should render a decision within 60 calendar days but not more than 90 calendar days. The Deciding Official may request an extension as prescribed in reference (a). Failure to provide a decision within 90 calendar days (absent a mutual agreement for an extension) entitles the grievant to request review by the next higher management authority.

e. Decision on Formal Administrative Grievances. A decision on the merits of the administrative grievance is final and not subject to further review; however, a decision to completely or partially cancel a grievance can be reviewed by the next higher management level.

14. Records Management. Records created as a result of this instruction, regardless of media or format, must be managed per SECNAV Manual 5210.1 of January 2012.

15. Review and Effective Date. Per OPNAVINST 5215.17A, COMNAVRESFOR will review this instruction annually on the anniversary of its issuance 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 effective date unless reissued or canceled prior to the 5-year anniversary date, or an extension has been granted.



R. K. HUDGENS
By direction

Releasability and distribution:

This instruction is cleared for public release and is available electronically only via COMNAVRESFOR Web site, <http://www.navyreserve.navy.mil>

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EXCLUSIONS FROM THE ADMINISTRATIVE GRIEVANCE SYSTEM

The administrative grievance system and procedures do not apply to the issues listed below.

1. The content of published DON regulations and policy;
2. Any matter covered by an NGP 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), or 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 DoD;
3. Non-selection for promotion from a group of properly ranked and certified candidates, or failure to receive a noncompetitive promotion;
4. Preliminary notice of an action that, if effected, would be covered under the grievance system or excluded from coverage under section 5c and paragraph 2 above;
5. The substance of an employee's performance elements, standards, or job objectives;
6. Determinations concerning awards, additional step increases, recruitment or relocation bonuses, retention allowance, physicians' comparability or additional pay allowances;
7. Supervisory differentials, critical position pay, or dual compensation waivers;
8. Any action taken under a voluntary, formal agreement entered into by an employee involving geographic relocation or return from an overseas assignment;
9. Termination of a probationer, 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;
10. For Senior Executive Service (SES) or Senior Intelligence Executive Service (SIES) 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 recertified, conditional recertification, or termination during probation for unacceptable performance;
11. Termination or expiration of a time-limited excepted appointment, a term or temporary appointment or promotion, or an SES or SIES limited emergency or limited term appointment;
12. Termination of a temporary or term promotion at a time other than in subparagraph 3f(11) above, provided the employee was informed in advance of the temporary nature of the

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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;

13. SES or senior level pay rate changes;

14. A separation or termination action except as provided for DCIPS employees (see subparagraph 3e above); and

15. Oral admonishments and letters of caution.

DEFINITIONS

a. ADR. An alternate process for resolving workplace disputes involving one or more techniques from a broad range of informal, non-adversarial techniques for settling employee-management disagreements. ADR techniques include mediation, facilitation, conciliation, fact-finding and emphasize solutions satisfactory to all parties. Mediation utilizing a certified Department of Navy (DON) mediator is the preferred ADR technique within DON. Mediation can be requested by contacting the COMNAVRESFOR CHR ADR Program Coordinator.

b. Deciding Official. The management official designated to make final decisions on administrative grievances. With the exception of commanders or CO of COMNAVRESFOR commands, the Deciding Official must be assigned to an organizational level higher than any employee or management official involved in the administrative grievance or having a direct interest in the matter being grieved.

c. Fact-Finder. An individual appointed by a Deciding Official to conduct an investigation of an administrative 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. The fact-finder may be an employee of COMNAVRESFOR, or an employee of another activity. The Deciding Official will instruct the fact-finder on how to conduct the investigation.

d. Formal Administrative Grievance. A written request by the employee(s) for personal relief in an employment matter of concern or dissatisfaction relating to the employment of the employee(s), which is subject to the control of the applicable commander or CO and is filed per this instruction.

e. Grievance System. A written request filed within established time limits seeking personal relief from a specific management action, (e.g., Letter of Reprimand, Suspension of 14 calendar days or less).

f. Informal Grievance Process/Problem-Solving Method. An employee may informally present a work-related problem to their immediate supervisor orally or in writing before filing a formal grievance. At this stage, an informal problem-solving step may also be offered as an ADR technique. Contact COMNAVRESFOR CHR for additional information.

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ACRONYMS

ADR	Alternate Dispute Resolution
AGS	Administrative Grievance System
BUE	Bargaining Unit Employees
CBA	Collective Bargaining Agreement
CEAP	Civilian Employee Assistance Program
CHR	Civilian Human Resources
CO	Commanding Officer
COMNAVRESFOR	Commander, Navy Reserve Force
DCHR	Director, Civilian Human Resources
DCIPS	Defense Civilian Intelligence Personnel System
DOD	Department of Defense
DON	Department of Navy
EEO	Equal Employment Opportunity
EEOC	Equal Employment Opportunity Commission
FLRA	Federal Labor Relations Authority
MSPB	Merit Systems Protection Board
OIC	Officer-in-Charge
OPM	Office of Personnel Management