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Article 24

Grievance Procedure

Section 1. Purpose

The purpose of this article is to provide a mutually acceptable method for the prompt and equitable settlement of grievances filed by bargaining unit employee(s), the Union or the Administration.

Section 2. Coverage and Scope

A grievance means any complaint:

- A. by any employee(s) concerning any matter relating to the employment of the employee;
- B. by the Union concerning any matter relating to the employment of any employee; or
- C. by any employee(s), the Union or the Administration concerning:

- 24 1. the effect or interpretation, or a claim of breach, of a collective
25 bargaining agreement; or
26
- 27 2. any claimed violation, misinterpretation or misapplication of any law,
28 rule or regulation affecting conditions of employment.
29
- 30 D. Grievances on the following matters are excluded from the scope of this
31 procedure:
32
- 33 1. any claimed violation of 5 U.S.C. 73 relating to prohibited political
34 activities;
35
- 36 2. retirement, life insurance or health insurance;
37
- 38 3. a suspension or removal under 5 U.S.C. 7532 relating to national
39 security;
40
- 41 4. any examination, certification, or appointment;
42
- 43 5. the classification of any position which does not result in the reduction
44 in grade or pay of an employee;
45
- 46 6. non-selection for non bargaining unit positions; or

47

48 7. non-selection for bargaining unit employees from amongst properly
49 rated and ranked candidates with the exception that employees may
50 file grievances alleging unlawful discrimination as defined by Title VII.
51 However, employees may file a grievance for non-selection from the
52 exercise of a priority consideration. Employees may also file either a
53 grievance or unfair labor practice, but not both, alleging anti-union
54 animus.

55

56 **8. termination of probationary employees.**

57

58 **9. non-adoption of an employee suggestion.**

59

60 Section 3. Exclusivity

61

62 Grievances may be initiated by **any** employee(~~s~~) covered by this Agreement
63 and/or their Union representative **designated official time user** or by the
64 Administration. Representation of bargaining unit employees shall be the sole
65 and exclusive province of the Union.

66

67 This is the exclusive procedure available to bargaining unit employees, the Union
68 or the Administration for the resolution of grievances.

69

70

71 Section 4. Representation

72

73 A. Upon filing of a grievance, an employee may elect to be self-represented or
74 represented by a Union ~~representative~~ **designated official time user** or
75 designee approved in writing by the Union.

76

77 B. The Union has the right to be present during any proceeding under the
78 negotiated grievance procedure. If the Union is not the designated
79 representative, a copy of the grievance will be provided to the Union within
80 five (5) days of the filing date. The Agency will provide the Union reasonable
81 advance notice of any grievance meeting/discussion when the Union is not
82 the designated representative. A copy of each grievance decision will be
83 timely provided to the Union.

84

85 C. Where the grievant elects Union representation, meetings and
86 communications with regard to the grievant's attempts at resolution shall be
87 made through the designated Union **official time user** ~~representative~~.

88

89 D. For employees on flextime, the parties agree to schedule all steps in the
90 grievance process during the core hours of the grievant and representative
91 unless the parties mutually agree otherwise.

92

93 For employees on a fixed shift, the parties agree to schedule all steps in the
94 grievance process during the fixed shift of the grievant and representative
95 unless the parties mutually agree otherwise.

96
97 In situations where the grievant(s) and representative are on different work
98 schedules and/or locations, the parties agree to make every reasonable effort
99 to schedule all steps in the grievance process to the common work times of
100 the grievant(s) and representative unless the parties mutually agree otherwise.

101

102

103 Section 5. Resolution of Grievances and Employee Standing

104

105 The Union and the Administration agree that grievances should be settled in an
106 orderly, and prompt and equitable manner so that the efficiency of the
107 Administration may be maintained and morale of employees shall not be
108 impaired. Every effort shall be made by the Administration and the Union to
109 settle grievances at the first level of supervision. Employees and their
110 representatives will be unimpeded and free from restraint, interference, coercion,
111 discrimination or reprisal, consistent with 5 U.S.C. 71 and this agreement, in
112 seeking adjustment of grievances.

113

114 Before the Agency or Union is required to render a decision at the ~~last~~ **first** step
115 of the grievance process, the written grievance must clearly and specifically

116 describe the matter(s) being grieved, including the date/place of the occurrence
117 and the individuals involved. The written grievance must also identify the
118 article(s), section(s) and provisions(s) of the agreement that are involved, explain
119 the alleged violation and state the requested relief. **Failure to provide the**
120 **required information will result in dismissal of the grievance, with prejudice.**
121 ~~This provision will apply to all grievances filed after the 1 year anniversary date of~~
122 ~~this contract.~~ **Only issues identified in the written grievance will be**
123 **considered by the grievance deciding official. Neither party may consider**
124 **issues that were not raised at the first step of the grievance process. An**
125 **arbitrator may only consider issues that were raised at the first step of the**
126 **grievance process.**

127

128

129 Section 6. Grievability/Arbitrability Questions

130

131 ~~In the event either party should declare a grievance nongrievable or~~
132 ~~nonarbitrable, the original grievance shall be considered amended to include this~~
133 ~~issue. The parties agree to raise any questions of grievability or arbitrability of a~~
134 ~~grievance prior to the limit for the written answer in the final step of this~~
135 ~~procedure. All disputes of grievability/arbitrability shall be referred as threshold~~
136 ~~issues in the related grievance, except where the parties agree to hear the~~
137 ~~threshold issue and merits of the grievance separately.~~ **Either party may raise**
138 **the issues of grievability/arbitrability at any time in the process. If either**

139 **party raises the issue of grievability/arbitrability and the grievance is**
140 **moved to arbitration, a separate hearing will be held solely addressing that**
141 **issue.**

142

143 **If the initial arbitrator determines that the matter is grievable/arbitrable, a**
144 **separate hearing concerning the merits will be held. The selection of the**
145 **new arbitrator will be handled in accordance with Article 25.**

146

147 **Section 7. Time Limits and Proof of Service**

148

149 ~~A. A grievance concerning a continuing practice or condition may be presented~~
150 ~~at any time. Except as covered in Section 8(B) a grievance concerning a~~
151 ~~particular act or occurrence must be presented to the Step 1 management~~
152 ~~official within fifteen (15) working days of the action or date the employee~~
153 ~~became aware of it.~~

154 ~~B. A.~~ Proof of service shall be a return post office receipt executed by the
155 ~~person served;~~ or a written acknowledgement from the person served when
156 hand delivered.

157

158 ~~C. B.~~ All the time limits in this article may be extended by mutual consent.

159

160 Section 8. Options

161

162 A. In accordance with 5 U.S.C. 7121, an employee at his/her option may raise
163 matters covered under Section 4303 (Unacceptable Performance) and 7512
164 (Adverse Actions) under the appropriate statutory procedures or the
165 negotiated grievance procedure, but not both. An employee shall be deemed
166 to have exercised his/her option at such time as the employee timely files a
167 notice of appeal under the applicable appellate procedures or timely files a
168 grievance in writing, whichever event occurs first.

169

170 Similarly, an employee affected by a prohibited personnel practice under
171 Section 2302(b)(1) of the Civil Service Reform Act may raise the matter under
172 a statutory procedure or the negotiated procedure but not both. An employee
173 shall be deemed to have exercised his/her option at such time as he/she
174 timely files a grievance in writing or files a written complaint under the
175 statutory EEO procedure, whichever event occurs first.

176

177 B. Before filing a grievance which alleges discrimination, the employee may first
178 discuss the allegation with an EEO counselor. This discussion must be within
179 45 calendar days after the event causing the allegation or after the date the
180 employee became aware of the event. The counselor shall have 30 calendar
181 days to resolve the matter informally. If the counselor is unsuccessful, he/she
182 will give the employee a written notice stating his/her right to file either a

183 formal complaint under the statutory EEO procedure or a grievance under this
184 procedure. If the employee elects to file under the negotiated procedure,
185 he/she shall proceed under Section 9 of this article within 15 working days
186 and if the counseling process was used, attach a copy of the counselor's
187 notification to the grievance. The EEO counselor will advise the employee
188 with whom the grievance may be initially filed. For the purpose of this section,
189 the Step 1 official is the official who took the action which gave rise to the
190 allegation of discrimination or his/her designee. If this official is also the
191 Step 1, 2 or 3 official identified in Section 9, the grievance will be entered at
192 that step of the grievance procedure. If the official is the Step 3 official or
193 higher, that official will have 15 working days to attempt to resolve the matter
194 and issue a decision. If the matter is not resolved, the grievant will have 5
195 workdays to elect to have the matter reviewed by a higher appropriate
196 authority identified by the Administration. That official will have 25 workdays
197 to either resolve the matter or render a final decision. If the employee does
198 not elect to use EEO Counseling, any grievance must be initiated within 45
199 calendar days of the event which gave rise to the allegation, or after the date
200 the employee became aware of the event, in accordance with the above
201 procedure.

202

203

204 Section 9. Procedures for Employee Grievances

205

206 Step 1

207 A grievance must be submitted in writing, preferably, on the standard grievance
208 form provided by the Administration, and presented to the Step 1 management
209 official (designated in the Grievance Steps Chart below) **within 15 working days**
210 **of the act or occurrence giving rise to the grievance, or within 15 days of**
211 **the date the grievant became aware of or should have become aware of the**
212 **act or occurrence.** ~~The written grievance should normally describe the matter(s)~~
213 ~~being grieved, include the article(s), of the agreement that is involved, explain~~
214 ~~how the article(s) is allegedly violated and state the requested relief.~~

215

216 Within ten (10) working days after receipt of the grievance, the Step 1 official
217 must hold a meeting or, if one is not requested, issue a decision in writing. If the
218 meeting is held after the fifth workday, the Step 1 official must issue a decision
219 within five (5) working days after the meeting. The decision will either grant,
220 partially grant, or deny the relief sought. The grievance may be appealed to the
221 Step 2 official within five (5) working days after receipt of the Step 1 decision.

222 The Step 1 official will forward the grievance material to the Step 2 official as
223 indicated by the grievant's election to proceed to the next step.

224

225

226 Step 2

227

- 228 A. If the Step 2 official is located in the same installation as the grievant, the
229 grievant shall have five (5) workdays to make an oral and/or written
230 presentation.
231
- 232 B. If the Step 2 official is not in the same installation as the grievant, the grievant
233 shall have ten (10) workdays to make an oral and/or written presentation.
234
- 235 C. The Step 2 official or designee will, as speedily as possible, attempt to
236 resolve the grievance and will, within ten (10) workdays after the presentation
237 date give a written decision containing the reasons for the decision.
238
- 239 D. The grievance may be appealed to the Step 3 official within five (5) workdays
240 after receipt of the Step 2 decision.
241
- 242 E. The Step 2 official will forward the appropriate grievance material to the Step
243 3 official as indicated by the grievant's election to proceed to the next step.
244

244

245

246 Step 3

247

- 248 A. If the Step 3 official is located in the same installation as the grievant, the
249 grievant shall have five (5) working days to make an oral and/or written
250 presentation.

251

252 B. If the Step 3 official is not located in the same installation as the grievant, the
253 grievant shall have ten (10) workdays to make an oral and/or written
254 presentation.

255

256 C. The Step 3 official or designee will as speedily as possible, attempt to resolve
257 the grievance and will within ten (10) workdays after the Step 3 presentation
258 date give a written decision containing the reason for the decision.

259

260 D. If the decision is not acceptable, the Union may refer it to arbitration in
261 accordance with Article 25 (Arbitration).

262

263 E. **For Step 2 and 3 meetings with Field Offices (OQAP, ODAR OHA, FO) and**
264 **OGC Regional Office where oral presentations in Step 2 or Step 3 of the**
265 **grievance procedure are to be made to management officials outside of the**
266 **installation, face to face meetings are preferred whenever feasible. If such**
267 **meetings cannot be arranged within the timeframes for oral presentations,**
268 **management will determine the appropriate method by which the**
269 **meeting will be conducted.** ~~the parties may meet at a later date as~~
270 ~~scheduling will permit or may conduct the oral presentation by telephone, but~~
271 ~~will not delay the grievance process longer than 30 calendar days.~~

272

GRIEVANCE STEPS CHART			
COMPONENT	Step One Official	Step Two Official	Step Three Official
OHA ODAR (HQ)	Immediate Supvr.	Next Level Supvr.	Next Level Supvr.
OHA ODAR (Field)	Immediate Supvr.	Next Level Supvr.	Regional Chief Admin Law Judge
Headquarters (Local 1923)	Immediate Supvr.	Br/Div Director/Center Director	Office/Staff Director or equivalent
FO (DO/BO)	Immediate Supvr.	District Manager Next Level Supvr	Area Director Next Level Supvr.
FO (Non-Mega TSC)	Immediate Supvr.	TSC Manager	Regional TSC Mgr. or Next Level Supvr. if no Regional TSC

			Manager
FO (Mega TSC)	Immediate Supvr.	Next Level Supvr.	TSC Director
ROQAP	Immediate Supvr.	Next Level Supvr.	Regional Director, ROQA
DOC	Immediate Supvr.	Branch Chief	Appropriate Director
RO	Immediate Supvr.	Next Level Supvr.	ARC/MOS
OGC (Region)	Immediate Supvr.	Chief Counsel	A Deputy General Counsel
OGC (Headquarters)	Immediate Supvr.	Associate General Counsel	A Deputy General Counsel
PSC	Immediate Supvr.	Next Level Supvr	ARC/PCO Next Level Supvr

If an employee's immediate supervisor is the Step 2 official, the grievance will be considered entered at that step of the grievance procedure. Likewise, if an employee's immediate supervisor is the Step 3 official or higher, the grievance will also be considered entered at Step 2 of the grievance procedure. If the matter is not resolved, the Agency will designate a higher authority official to review the grievance and decision and either resolve the matter or render a final Agency Step 3 decision.

273

274 The employee may feel he or she cannot initially discuss the alleged grievance
275 with the immediate supervisor. If so, the employee may grieve the matter initially
276 with the Step 2 Official. If this is done, it is understood that this is the second
277 step in the grievance procedure.

278

279 The Step 2 and Step 3 officials listed above may use designees to complete their
280 responsibilities.

281

282 ~~The Administration shall not delegate down in the line function in using~~
283 ~~designees in the grievance procedure.~~

284

285 Section 10. Union Management Grievance

286

287 Either party may opt to submit grievances through their respective
288 representatives at the national, component, or local levels. Grievances at the
289 national level will be submitted to the Commissioner or designee or the General
290 Committee spokesperson or designee as appropriate. Grievances at the
291 component level will be submitted to the component head or designee or the
292 AFGE component president or designee, as appropriate. Grievances at the local
293 level will be submitted to the Regional Chief ALJ, Regional Commissioner,
294 Regional Director, Regional Chief Counsel, Associate Commissioner or
295 equivalent and the designated Union official, as appropriate. Management
296 officials listed above may use designees to complete their responsibilities.

297

298 ~~A grievance concerning a continuing practice or condition may be presented at~~
299 ~~any time.~~ A grievance concerning a particular act or occurrence must be
300 presented to the other party within twenty-five (25) working days of the action or
301 date the moving party became aware, **or should have become aware**, of it.

302

303 When a grievance is filed, the parties will meet and/or discuss the matter within
304 ten (10) working days after receipt unless the grieving party waives the
305 meeting/discussion. **Management will determine the appropriate method by**
306 **which a meeting will be conducted.** A written decision will be issued within ~~ten~~
307 ~~(40)~~ **thirty (30) working calendar** days of the meeting or of the date of waiver. If
308 the grievance is not settled by this method, the grieving party may invoke
309 arbitration within thirty (30) working days after receipt of the final decision.

310 However, prior to invoking arbitration, each party will consult with appropriate
311 levels within its respective organization. ~~Either party may move its grievance to~~
312 ~~arbitration 45 calendar days after the grievance was filed.~~

313

314 Arbitration awards or grievance settlements shall not be applicable or
315 precedential beyond the jurisdiction of the parties to the grievance, unless the
316 parties at a higher level agree otherwise.

317

318 Section 11. Grievance Decision

319

320 All grievance decisions will be in writing and state the issue being grieved, a
321 summary of the findings and the rationale for the decision. Copies of relevant
322 documents cited in the decision will be provided if they are not otherwise readily
323 available to the employee.

324

325

326 Section 12. Failure to Meet Requirements

327

328 A. ~~In employee grievances, F~~failure on the part of the Administration to meet
329 any of the time requirements of ~~this~~ **the grievance** procedure will permit
330 the grievance to advance to the next step.

331

332 B. If the ~~grievant~~ **moving party, after receiving a decision** fails to timely
333 pursue the grievance **after receiving a decision at any step of the**
334 **grievance procedure**, the grievance ~~shall be~~ **will** terminated.

335

336 C. If a decision is not **timely** issued **at the last step of the grievance**
337 **procedure, the moving party must invoke arbitration within 60 days**
338 **of the filing date or** the grievance will ~~not~~ terminate.

339

340 Section 13. Withdrawal

341

342 The Union, acting as the responsible representative of all employees in the
343 bargaining unit, may, at any step of this procedure, withdraw on a
344 nondiscriminatory basis from the grievance.