

## CHAPTER 11

### DIA EMPLOYEE GRIEVANCE SYSTEM

Contents	
	Page
Policy .....	11-2
Definitions .....	11-2
Responsibilities .....	11-3
Coverage .....	11-4
Problem Solving Process .....	11-5
Time Limits .....	11-6
Employee Representation .....	11-6
Grievance Procedures .....	11-7
Fact-Finding Procedures .....	11-8
Cancellation of a Grievance .....	11-9
Rejection of a Grievance .....	11-9

## Chapter 11

### DIA EMPLOYEE GRIEVANCE SYSTEM

1. **Purpose.** To establish policy, assign responsibilities, and provide guidance and procedures for the administration of the DIA civilian personnel Employee Grievance System.
2. **Policy.** It is DIA policy to promote good employee/management relations by the equitable treatment of all Agency employees. Employees who feel that they have not been treated fairly have the right to present their grievances to management officials for prompt consideration and resolution. Employees and their representatives, witnesses, and other personnel involved will be free from restraint, interference, coercion, discrimination, or reprisal in exercising this right.
3. **Definitions.**
  - a. *Alternative Dispute Resolution (ADR) Techniques:* A broad range of approaches for dealing with conflict and seeking solutions satisfactory to all parties. These techniques include, but are not limited to, problem solving, mediation/arbitration, facilitation, and fact-finding.
  - b. *Eligible Employee:* An individual appointed in the excepted service engaged in the performance of an appropriated fund function in the Defense Intelligence Agency. Foreign national employees, consultants, experts, and non-appropriated fund employees are excluded from the definition of employee for the purpose of this chapter.
  - c. *Fact Finder:* An impartial examiner designated by DIA to determine the realities of a situation or relationship and appraise the facts underlying a particular matter such as a grievance.
  - d. *Mediator:* Person who employs a broad range of approaches for dealing with conflict and seeking solutions satisfactory to all parties.
  - e. *Grievance:* A request by an employee or by a group of employees for personal relief in a matter of concern or dissatisfaction, excluding allegations of discrimination, relating to employment. The matter must be subject to the control of the Agency (hereafter referred to as DIA management).
  - f. *Key Component (KC):* The Chief or Head of a Directorate or Special Office.
  - g. *Personal Relief:* A specific remedy directly benefiting the employee.
  - h. *Preference Eligible:* For the purpose of this chapter, a preference eligible is an employee with certain rights and privileges that result from specific types of military service who has completed 1 year of current continuous service in the same or similar positions in an Executive agency. Preference eligibles who are subject to an adverse action have the right to file an appeal to the Merit Systems Protection Board (MSPB).
  - i. *Prohibited Personnel Practices* (for the purpose of this chapter):
    - (1) Failure to comply with veterans preference requirements
    - (2) A decision giving an individual special consideration on receiving education or training that could give him/her an extra benefit in an appointment, promotion, performance evaluation, or other action



(3) A request for or receipt of recommendations or statements on employees under consideration for any personnel action unless the information received is based on the personnel knowledge or records of the person furnishing it.

(4) Coercion of political activity of any person (including the providing of any political contribution or service), or any action against any employee as a reprisal for the refusal of any person to engage in such political activity.

(5) Influence of any person to withdraw from competition for any position for the purpose of improving the chances of another person.

(6) Provision of a preference or advantage not authorized by law, rule, or regulation, to any person to improve his/her chances over another person for employment.

(7) Supervisory/managerial civilian employees may not appoint, employ, promote, advance, or seek an appointment, employment, promotion, or advancement for a relative of theirs in the organization in which they are a supervisor or manager.

(8) The taking of or failure to take (or the threat thereof), a personnel action with respect to any employee because of any disclosure of information by the employee which the employee reasonably believes is a violation of a law, rule, or regulation; gross mismanagement; abuse of authority; or a danger to public health or safety.

(9) The taking of or failure to take any other personnel action when such action violates any law, rule, or regulation implementing, or directly concerning, the merit system principles contained in section 2301 of title 5, United States Code.

#### **4. Responsibilities**

(b)(3):10 USC  
424 a.  will:

(1) Develop and administer the DIA Grievance System, which includes Alternative Dispute Resolution, and ensure compliance with the provisions of this manual.

(2) Provide assistance to employees, managers, and mediators in the techniques of problem solving and the processing of grievances.

(3) When required, arrange for the assignment of a mediator or fact finder.

(4) In those cases where the Director (or designee) is the final deciding official, administratively review the grievance file for procedural compliance and completeness before submission to the Director.

(5) Ensure that the employee's choice of representative does not present a conflict of interest for the Agency.

(6) Review and coordinate an employee's grievance prior to any rejection by a DIA manager.

(7) Maintain records of grievance cases for 3 years after the grievance is closed.



b. *Supervisor/Manager Responsibilities.* Supervisors/managers will make decisions as a deciding official concerning grievances consistent with the requirements of this chapter. A deciding official must be assigned to an organizational level higher than any employee involved in the grievance or having a direct interest in the matter being grieved unless the deciding official is the Director.

## **5. Coverage.**

### *a. Employee coverage.*

(1) The DIA grievance system applies to all DIA civilian employees except foreign national employees, consultants, experts, and non-appropriated fund employees. Former employees are covered for matters only where relief may be granted after termination of employment.

(2) The DIA grievance system does not apply to applicants for employment.

### *b. Matters Covered:*

(1) Any matter of concern, or dissatisfaction relating to the employment of an employee, or group of employees acting as individuals, which is subject to the authority of DIA management and which is not expressly excluded by this chapter.

(2) Any matter in which an employee alleges that coercion, reprisal, or retaliation has been taken against the employee.

(3) Official letter of reprimand, suspension of 14 days or less.

(4) Removal, suspension for more than 14 days, reduction in grade or pay, furlough of 30 days or less unless such action is appealable outside of DIA (see paragraph 4.c.(21) below).

(5) Failure of a supervisor to establish position elements and performance standards for an employee, or to appraise an employee's performance, as required by DIA regulations.

(6) Prohibited Personnel Practices (refer to paragraph 2.i. for the definition of prohibited personnel practices).

### *c. Matters not covered:*

(1) The contents of published DoD and DIA regulations and policy except as applied to individual employees.

(2) Assignment and reassignment based on the management needs and mission requirements of DIA.

(3) Non-selection for promotion unless DIA promotion procedures were not followed. This includes a decision not to promote non-competitively such as an employee in a career ladder type position.

(4) An action which terminated a temporary promotion and returns the employee to the position at his/her original grade level.

(5) A letter of instruction, warning, oral or written admonishment, proposed notice of remedial, disciplinary or adverse action.

- (6) Grievances filed after a resignation has been submitted except where DIA may provide relief.
- (7) Termination of an employee serving a trial period.
- (8) Return of an employee serving a supervisory or managerial probation to a non-supervisory or non-managerial position.
- (9) Termination of a time-limited appointment, to include termination prior to the original NTE date.
- (10) Action taken in accordance with the terms of a formal agreement voluntarily entered into by the employee, which assigns the employee from one geographical area to another, or returns the employee from an overseas, rotational, or full-time study assignment.
- (11) Action taken in accordance with the terms of a formal agreement voluntarily entered into by the employee, which separates or terminates the employee from DIA.
- (12) Determinations concerning awards, suggestions, additional pay allowances or differentials.
- (13) The substance of an employee's performance elements, standards, competencies, or work objectives.
- (14) The final performance appraisal and rating of a DISES/DISL member made by the Director.
- (15) Award or failure to award a bonus, or an award of the rank of meritorious or distinguished executive, to a DISES member. Award or failure to award a bonus to a DISL member.
- (16) DISES/DISL pay rate changes.
- (17) Return of a DISES/DISL member to the GG pay system, another pay system, or reassignment within DISES/DISL for less than fully successful performance.
- (18) Actions taken under DIA security regulations (DIAR 50-8).
- (19) A matter of complaint to the Inspector General's Office. An employee may not file both an Inspector General (IG) complaint and a grievance on the same matter. An IG decision is final and not subject to review under the DIA grievance system or any provision of this manual.
- (20) Complaints of discrimination.
- (21) Matters subject to final administrative review outside the agency. This includes matters appealable to the Merit System Protection Board (MSPB) or subject to administrative review by the Office of Personnel Management (OPM), the Equal Employment Opportunity Commission (EEOC), the General Accounting Office (GAO), and the Office of Workers' Compensation Programs (OWCP).

## **6. Problem-Solving Process.**

- a. An employee may informally present a work-related problem to his/her immediate supervisor before filing a formal grievance. If the problem involves a matter or action directly involving the 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/manager, if any. The problem must be presented within 15 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 been aware of) the act or event. The employee may present a matter of concern regarding a continuing practice or condition at any time. The employee is entitled up to 4 hours of official time to prepare and present a problem if the employee is in a duty status.

b. A supervisor must consider the employee's problem. The supervisor should make a reasonable effort to resolve the problem within 10 days. In any case, the supervisor must respond to the employee not later than 21 days from the date the problem is first brought to the supervisor's attention, even though it may not be covered by the grievance system. Where appropriate, the use of alternative dispute resolution such as a neutral (e.g., mediator) is encouraged. If the employee presents the problem orally, the supervisor's decision may be given to the employee either orally or in writing. If the supervisor responds orally, a memorandum for record will be initiated annotating the substance of his/her oral response. If the problem was not resolved or the employee is not satisfied, the supervisor will inform the employee that he/she may file a grievance no later than 15 days from the date the supervisor notifies the employee that the problem-solving process has concluded. If the supervisor believes the matter is not covered by the grievance system, the supervisor will inform the employee and advise the employee of the appropriate process for resolving the problem.

**7. Time Limits.** All time limits are counted in calendar days. The day of an action or receipt of a document is not counted toward the time limits. The last day of the time limit is counted unless it is a Saturday, a Sunday, a legal holiday, or a non-workday for the employee. In those cases, the last day of the time limit will be moved to the next regularly scheduled workday. Time limits for resolving issues may be extended by mutual agreement to accommodate resolution of the problem.

## **8. Employee Representation.**

a. An employee has the right to choose a representative to represent him/her at any stage of the grievance proceedings. The employee or representative may communicate with, or seek advice from, any appropriate source including:

(1) a higher level management or supervisory official other than the immediate supervisor; or

(2) a representative from

b. If an employee chooses another DIA employee as a representative, and the employee is willing to serve, permission must be granted by the representative's supervisor.

c. The Agency may disallow an employee's choice of a representative which:

(1) would result in a conflict of interest;

(2) would interfere with the priority needs of DIA; or

(3) would result in unreasonable cost to the government. For example, DIA will not bear the cost of processing security clearances for an employee's representative.

d. The decision to disallow an employee's choice of representative will be coordinated with  The decision will be:

(1) made within 5 days of the request;



(2) made in writing by the management official receiving the grievance; and

(3) coordinated with the supervisor of the proposed representative if the proposed representative is a DIA employee.

e. An employee may request review of the decision to disallow a choice of representative. The request must be made in writing to the KC within 5 days of receipt.

f. The KC receiving the request, after coordination with  , must respond within 5 days with a written decision, which is final.

(b)(3):10  
USC 424

g. The issue of representation must be resolved before proceeding with the grievance.

## 9. Grievance Procedures.

a. An employee may file a **formal** written grievance with the next level supervisor or management official (or any official designated to accept grievances on behalf of the management official) when an issue is not resolved during the problem-solving process, or where the employee chooses to bypass the problem-solving process.

(1) If the employee dissatisfaction is not resolved, the employee may file a grievance no later than 15 days from the conclusion of the problem-solving process.

(2) If the employee chooses not to use the problem-solving process, he/she must present the grievance within 15 days following the date of the act or event that the employee believes created the problem, or within 15 days following the date the employee became aware of (or reasonably should have become aware of) the act or event.

b. An employee may present a grievance regarding a continuing practice or condition at any time.

c. Step-by-Step Grievance Procedures.

### STEP 1.

(1) The employee must present his/her grievance within the established timeframes and must include all of the following requirements:

(a) State specifically that is it a grievance.

(b) Present it orally or in writing.

(c) Present it to the immediate supervisor or, if more appropriate, a higher level supervisor.

(d) Ensure the matter is covered by the grievance procedure and is under the authority of DIA management to grant relief.

(e) State the specific personal remedy requested.

(2) The employee may include, as a part of his/her grievance, a request to use ADR procedures to resolve the issue(s).



(3) Failure to comply with the above requirements will result in rejection of the grievance.

STEP 2. The supervisor is required to accomplish the following in order to respond within 15 days of receipt of the grievance:

(1) Establish a grievance file.

(2) If the employee has requested use of ADR, determine if the grievance can be resolved using ADR procedures. If the supervisor determines ADR is appropriate, the supervisor will contact [redacted] to initiate the process.

(b)(3):10  
USC 424

(3) If the supervisor elects not to use ADR, he/she must provide the decision on the grievance in writing to the employee.

(4) In negative determinations, inform the employee of his/her right to make a final presentation in writing to the KC. The grievance file will be provided to the KC or [redacted] as required.

(b)(3):10 USC 424

STEP 3. Within 10 days of receipt of the written determination from his/her supervisor, the employee may present the grievance to the KC for further consideration. If the grievance involves the KC, the employee may present the grievance to the Director (for any official designated to accept grievances on behalf of the Director). The presentation must be in writing.

STEP 4. Within 10 days after receipt of the employee's final presentation, a decision must be reached, if possible. The KC or, when applicable, the Director has the following options.

(1) Resolve the grievance.

(2) In consultation with [redacted] deny the grievance.

(3) In consultation with [redacted] reject a grievance that does not meet criteria established in this chapter.

(4) In consultation with [redacted] determine that the grievance requires further review by a fact finder. The KC or [redacted] will notify the employee in writing that the grievance has been assigned to a fact finder and that additional time will be required to gather additional information.

(b)(3):10 USC 424

STEP 5. The final grievance decision will be provided to the employee in writing.

## **10. Fact-Finding Procedures.**

(b)(3):10 USC 424

STEP 1. Within 10 days after notification that the grievance requires further review, [redacted] will assign the case to a fact finder.

STEP 2. Within 15 days, the fact finder will review the grievance file and obtain additional information, as required. The fact finder will notify the employee that he/she has 10 days to review the file and provide written comments to be included in the file.

STEP 3. Within 10 days following the employee's comment period, the fact finder will prepare a written report that includes finding and recommendations. The written report, grievance file, and all supporting



materials will be forwarded through [ ] to the deciding official. A copy of the report will be provided to the employee.

(b)(3):10 USC 424

STEP 4. Within 10 days following receipt of the fact finders report, the final deciding official, normally the KC, will issue a written decision to the employee. This decision is not subject to further review.

(b)(3):10 USC 424 Time limits may be extended by [ ] in extenuating circumstances or by mutual agreement between the employee and the applicable parties.

**11. Cancellation of a Grievance.** A grievance will be canceled:

- a. at the employee's written request;
- b. upon termination of the employee's employment with DIA unless the personal relief sought involves pay or may be granted after termination of employment;
- c. upon the death of the employee unless the grievance involves a question of pay; or
- d. if the employee does not furnish required information and duly proceed with the grievance.

**12. Rejection of a Grievance.**

a. A grievance may not be rejected during the initial presentation and attempted resolution of the grievance procedures (steps 1 and 2 of paragraph 9.c.). If the supervisor receiving the grievance believes that it is not timely, or consists of a matter not covered under the grievance system, the employee should be advised in writing but must be allowed to proceed to the next step.

(b)(3):10 USC 424 b. The KC may, after coordination with [ ] reject the grievance for any of the following reasons:

- (1) It consists of matters not covered by the grievance procedure.
- (2) It is not filed on time, and the employee does not show good cause for delay.
- (3) The relief requested by the employee is not personal to the employee.
- (4) It was not processed properly through steps 1 and 2.
- (5) No official in DIA has authority to grant the relief sought.

c. The notice of rejection must be in writing and include reasons for the rejection. If the reason for rejection is that it was not first submitted under Step 1, the employee may resubmit the grievance. The grievance must be resubmitted within 10 days after receipt of the notice of rejection.

d. The decision to reject a grievance is final.