

CHAPTER 11

DIA EMPLOYEE GRIEVANCE SYSTEM

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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

