



DEPARTMENT OF DEFENSE
Defense Commissary Agency
Fort Lee, VA 23801-1800

MANUAL

Administrative Grievance System

DeCAM 50-30.1
January 11, 2013

Human Resources
OPR: DeCA/COHL

- 1. POLICY.** This Manual implements policies as defined in DeCA Directive (DeCAD) 50-30 “Administrative Grievance System,” January 11, 2013, (Reference (a)) and is in compliance with references listed within this document.
- 2. PURPOSE.** This Manual provides detailed step-by-step procedures for carrying out the policy, assigns responsibilities, and provides guidance and procedures for the requirements of the “DoDI 1400.25-M,” Subchapter 771, December 1996, (Reference (b)).
- 3. APPLICABILITY.** This Manual applies to Defense Commissary Agency (DeCA) employees as defined under SC771.4.2.1 of Reference (b) as follows: current appropriated fund nonbargaining unit DoD employees as defined in “Title 5 United States Code, Section 2105,” (Reference (c)). It also covers former DoD employees with respect to matters arising during their previous employment at the activity, provided that a remedy is available consistent with applicable law and regulation. The Administrative Grievance System (AGS) covers bargaining unit employees when a matter covered by the AGS cannot be grieved under a negotiated grievance procedure (NGP), either because an NGP is not in effect at the relevant time, or because it does not cover the matter being grieved. The AGS does not cover reinstatement and transfer eligibles who have applied for a position under a merit promotion program, non-citizens recruited overseas and appointed to overseas positions, or non-appropriated fund (NAF) employees.
- 4. MANAGEMENT CONTROL SYSTEM.** This Manual does not contain internal management control provisions that are subject to evaluation, testing, and other requirements of DeCAD 70-2, “Title 5 United States Code, Section 2105,” (Reference (d)) and as specified by the Federal Manager’s Financial Integrity Act.

5. RELEASABILITY – UNLIMITED. This Directive is approved for public release and is located on DeCA's Internet Web site, www.commissaries.com.

6. EFFECTIVE DATE. This Manual is effective immediately.

A handwritten signature in cursive script that reads "P. Kaye Kennedy". The signature is written in black ink and is positioned above the printed name and title.

P. Kaye Kennedy
Director, Human Resources

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REFERENCES

- (a) DeCA Directive 50-30, "Administrative Grievance System," January 11, 2013
- (b) DoDI 1400.25-M, Subchapter 771, December 1996
- (c) Title 5 United States Code, Section 2105
- (d) DeCA Directive 70-2, Title 5 United States Code, Section 2105
- (e) DeCA Directive 80-13, "Alternative Dispute Resolution Program," October 2001
- (f) DeCA Directive 80-12, "Procedures for Investigating Officers," January 1994
- (g) DoD Directive 5105.55, "Defense Commissary Agency (DeCA)," March 12, 2008

CHAPTER 1

RESPONSIBILITIES

1-1. DIRECTOR, DEFENSE COMMISSARY AGENCY. The Director, Defense Commissary Agency (DeCA) shall ensure the implementation and application of the AGS within DeCA.

1-2. DIRECTOR, HUMAN RESOURCES. The Director, Human Resources shall:

- a. Make this directive available to employees, their representatives, and others.
- b. Provide advice, guidance and assistance to supervisors, Deciding Officials, and employees, and ensure a timely and equitable resolution of grievances.
- c. Maintain a separate grievance file for each written grievance filed under the DeCA AGS in accordance with Reference (b).

1-3. DECIDING OFFICIALS. Deciding Officials shall:

- a. Make decisions concerning grievances consistent with the requirement in Reference (b).
- b. Determine whether to join similar or identical grievances; whether to require, and how to conduct an investigation; whether to allow the grievant's requested representative; and how much official time shall be granted to the employee and the employee's representative.
- c. The Deciding Official may also designate an impartial individual to examine a grievance and, when authorized, to make recommendations concerning its disposition.

1-4. SUPERVISORS AND MANAGERS. Supervisors and managers shall:

- a. Consider the employee's problem and attempt to resolve it within the prescribed time limits, of their decision on informally presented grievances.
- b. Notify employees in the appropriate format (i.e., written or oral) and advise them of their right to file a formal grievance including the time limit for filing a formal grievance if the matter is not resolved in the problem solving process.
- c. Inform the employee if the matter is not covered by the grievance process and advise them of the appropriate process, if any, for resolving the problem.
- d. Record the date when an informal grievance begins and ends.

- e. Use a neutral (e.g., mediator, facilitator, or conciliator) to resolve grievance, where appropriate.
- f. Cancel an informal grievance when requested by the employee.

1-5. EMPLOYEES. Employees shall follow the procedures contained in Reference (b) and this guidance.

CHAPTER 2

COVERAGE

2-1. SUBJECT MATTER COVERAGE. An employment matter may be grieved under the AGS except for the following:

- a. The content of established 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, the Office of Personnel Management, the Federal Labor Relations Authority, or the Equal Employment Opportunity Commission; or, any matter that the employee files under another review or reconsideration procedure, or dispute resolution process within DoD.
- c. Non-selection for promotion from a group of properly ranked and certified candidates, or failure to receive a noncompetitive promotion.
- d. Preliminary notice of an action that, if effected, would be covered under the grievance system or excluded from coverage under SC771.4.2.2.2 of Reference (b).
- e. The substance of an employee's performance elements, standards, or work objectives.
- f. Determinations concerning awards, additional step increases, recruitment or relocation bonuses, retention allowances, physicians comparability or additional pay allowances, supervisory differentials, critical position pay, or dual compensation waivers.
- g. Any action taken under a voluntary, formal agreement entered into by an employee involving geographic relocation or return from an overseas assignment.
- h. Termination of a probationary period or employee, such as return of an employee serving supervisory or managerial probation to a nonsupervisory or non-managerial position, or separation or termination of an employee during a trial period.
- i. For Senior Executive Service (SES) 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.
- j. Termination or expiration of a time-limited excepted appointment, a term or temporary appointment or promotion, or a SES limited emergency or limited term appointment, on the date specified as a condition of employment at the time the appointment or promotion was made.
- k. The termination of a temporary or term promotion at a time other than in subsection

SC771.4.2.2.10 of Reference (b), 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.

l. SES or Senior Level pay rate changes.

m. A separation or termination action except as provided in subsection SC771.4.3 of Reference (b).

n. Any action taken under 32 U.S.C. 709 (e) involving National Guard Technicians.

o. Any additional exclusion as requested by DeCA and approved by the DoD.

CHAPTER 3

PROBLEM SOLVING PROCESS

3-1. PRESENTING THE PROBLEM.

a. An employee may informally present a work-related problem concerning a continuing practice or condition within 15 calendar days of the date of that act or occurrence, or of the date the employee became aware of it or reasonably should have become aware of it.

b. An employee may present a problem orally or in writing for informal consideration. The employee must identify and clarify the basis for the presentation and specify the relief sought, which must be directly personal to the employee. The employee must advise the official hearing the presentation of the name of the employee's representative, if any.

c. The initial presentation normally is made to the immediate supervisor; however, it may be made to an official of higher grade. When the problem concerns a decision made by an official of higher grade than the immediate supervisor, the initial presentation shall be made to that official or one of still higher grade. Problems may not be initially submitted to the official who makes the final decision (Deciding Official).

3-2. CONSIDERATION.

a. The supervisor who receives the problem 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 grievance process. Where appropriate, the use of a neutral party (e.g., facilitator, or mediator) is encouraged.

b. If the problem was not resolved, the supervisor shall inform the employee of the time limits for filing a grievance. If the supervisor believes the matter is not covered by the grievance process, the supervisor will inform the employee and advise the employee of the appropriate process, if any, for resolving the problem.

c. 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.

CHAPTER 4

FORMAL GRIEVANCE PROCESS

4-1. FORMAL GRIEVANCE PROCESS. If the employee elects to use the informal problem-solving step set forth in Reference (b) and in paragraph 3-1, above, in any matter that is grievable under this system, but is not satisfied with the results, the employee may present a formal grievance in writing within 15 calendar days of the date of notification of the results. If the employee chooses not to use the informal problem solving process, the employee must present a formal grievance in writing to the appropriate supervisor within 15 calendar days of the date that the employee knew or should have known of the act or occurrence that gave rise to the grievable issue.

4-2. PRESENTING THE GRIEVANCE.

a. The grievance must be in writing, signed, dated, and submitted to the Deciding Official through the servicing Employee Relations Specialist.

b. The grievance must include a dated signature of the employee and name, address, and telephone number of the employee's representative, if any; employee position title and grade; employee organizational entity to which assigned; a clear statement of the issue, including sufficient detail to identify and clarify the matter being grieved (times, dates, names, places, and other pertinent data); a specific statement of the relief sought that must be directly personal to the employee; and copies of any documentation in the employee's possession relevant to the grievance.

4-3. CONSIDERATION.

a. Within 10 calendar days of receipt of the grievance, the servicing Employee Relations Specialist will forward it to the Deciding Official for consideration.

b. The Deciding Official shall determine whether to join similar or identical grievances; whether to require, and how to conduct an investigation; whether to allow the grievant's requested representative; and how much official time shall be granted to the employee and the employee's representative.

c. The Deciding Official will determine whether sufficient information exists to render a decision or whether to further investigate the matter before making the decision. If additional information is needed, the Deciding Official will determine what method or means will be used to further investigate the grievance, (e.g., fact-finder, investigator). DeCAD 80-13, "Alternative Dispute Resolution Program," October 2001, (Reference (e)), and DeCAD 80-12, "Procedures for Investigating Officers," January 1994, (Reference (f)), may be used as a guide for conducting the investigation.

d. The Deciding Official shall fully and fairly consider the grievance and issue a written decision with supporting rationale for the decision. The Deciding Official shall issue the decision as soon as possible, but normally no later than 60 calendar days from the filing of the grievance. The Deciding Official may extend time frames when warranted by special circumstances (e.g., when those involved are geographically dispersed or where a fact-finder is used in the process). However, a grievance decision should be rendered no more than 90 calendar days from the filing of the grievance absent mutual agreement to extend this time limit to accommodate resolution of the dispute. If the Deciding Official fails to render a decision within 90 calendar days absent such mutual agreement, the grievant may request review by the next higher management level, if any, within DeCA.

e. Wherever possible, the Deciding Official should rule on the merits of a grievance. However, the Deciding Official may cancel or temporarily suspend a grievance, or the appropriate portion of a grievance, if: the grievant requests such action; the grievant or grievance is excluded from coverage; the grievant fails to provide sufficient detail to identify clearly the matter being grieved or specify the personal relief requested; the grievant fails to comply with applicable time limits or procedural requirements or requests actions be taken against another employee; or, the grievant raises the same matters under another formal dispute resolution process.

f. A Deciding Official's decision, on the merits of the grievance, is final and not subject to further review. However, an employee may request that an individual at the next higher management level within DeCA, if any, review a decision to cancel a grievance.

4-4. GRIEVANCE FILE. The servicing Employee Relations office shall establish and maintain a separate file for each written grievance filed under the AGS and retain it for four years, in accordance with applicable laws, regulations, and records retention schedules. The file shall contain all documents or copies of documents related to the grievance.

GLOSSARY

DEFINITIONS

alternative dispute resolution. A variety of techniques, methods, or processes involving a neutral third party, which are used as alternatives to the traditional dispute resolution process. ADR includes, but is not limited to, the following ADR techniques: problem solving, facilitation, and mediation.

deciding official. The official designated to make decisions on grievances. The Deciding Official must be at a higher organizational level than any employee involved in the grievance, except when the Director, DeCA, has been involved. The Deciding Official's decision, on the merits of the grievance, is final and not subject to further review.

employee. An individual who is currently, or was formerly, employed in an appropriated position by DeCA for whom a remedy can be provided.

facilitation. A form of ADR. Facilitation involves the use of techniques to improve the sharing of information in a meeting between parties to a dispute. Facilitation focuses on providing procedural assistance to the parties to assist them in resolving a dispute.

facilitator. A person trained in facilitation techniques who serves as a neutral third party.

grievance. A request by an employee or group of employees, who submitted a written request under formal procedures for personal relief in a matter of concern or dissatisfaction, not excluded by this Manual or Reference (b), which is subject to the control of DeCA management and relates to the employment of the employee. This includes any matter on which an employee(s) alleges that coercion, reprisal, or retaliation has been practiced against him or her for filing a grievance

grievance file. A separate file, which contains all documents related to the grievance. It includes but is not limited to, the written grievance filed by the employee(s); any statements of witnesses, and records or copies thereof; the report of the investigator/fact finder or other alternative dispute technique used; statements made by the parties to the grievance; and the agency decision. The grievance file must be maintained by the servicing Employee Relations office of DeCA for four calendar years after the case is closed.

investigator. An individual authorized by the Deciding Official to analyze grievances, conduct inquiries or investigations, and make recommendations concerning the disposition of a grievance.

mediation. A form of ADR. Mediation is an informal process in which a trained mediator assists the parties to reach a negotiated resolution of a dispute.

mediator. A person trained in mediation technique, who serves as a neutral third party and facilitates open discussions between the parties and assists them in negotiating a mutually acceptable resolution. The mediator does not have the authority to impose a decision or resolution on the parties.

personal relief. The specific remedy personally benefiting the grievant(s), which may not include disciplinary or other actions affecting another employee.

problem-solving process. An informal work-related problem presented by the employee to his or her supervisor, before filing a formal grievance. This process in itself is not a grievance.

time limit. When calculating time limits under the AGS, the day of an action or receipt of a document is not counted. The last day of the time limit is counted unless it is a Saturday, Sunday, or a legal holiday, or a day on which the employee is not regularly scheduled to work. In those cases, the last day of the time limit shall be moved to the next regularly scheduled work day. All time limits are counted in calendar days.

When the U.S. postal system is used, the postmark date will be used to determine whether participants in the grievance process have met their responsibilities for timeliness. When the U.S. postal system or a postmark is not used; the date of receipt will be used to determine whether participants in the grievance process have met their responsibilities for timeliness. The date of receipt for a grievance will also be recorded at each step.

GLOSSARY

ACRONYMS

ADR	Alternate Dispute Resolution
AGS	Administrative Grievance System
DeCA	Defense Commissary Agency
DeCAD	Defense Commissary Agency Directive
DoD	Department of Defense
NAF	Non-appropriated Fund
NGP	Negotiated Grievance Procedure
SES	Senior Executive Service
USC	United States Code