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6 JUN 2001

HIHRO

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Grievance Procedures

1. PURPOSE This memorandum establishes the procedures for the consideration and disposition of technician grievances subject to the limitations of paragraph 2.d., below.

2. GENERAL

a. These procedures are applicable to all Army and Air National Guard technicians, and supplements Changes 2 and 4, Technician Personnel Regulation (TPR) 700, subchapter 771.

b. It is the policy of the department that all technicians will be treated fairly and equitably in all respects. Individuals who feel they have not been treated fairly have the right to present their grievances to appropriate management officials for prompt consideration and decision.

c. A grievance is defined as a non-disciplinary matter of personal concern or dissatisfaction of a technician or a group of technicians which is within the control of a management official or the Adjutant General. Matters that may be considered under this directive include but are not limited to:

(1) Any expression of dissatisfaction of a technician which arises from his/her immediate work environment or work group, relationships with supervisors or other technicians, application of policies or regulations, or assignment of work in the unit.

(2) Any personnel action not excluded from coverage under these procedures which has or may have the effect of placing the technician in a less favorable position than that which was enjoyed prior to the action.

d. Expressions of dissatisfaction over the following matters are excluded from coverage under this regulation:

(1) Matters involving the interpretation or application of the provisions of a negotiated labor-management agreement. Technicians who are covered by a negotiated agreement will process such grievances in accordance with the provisions of the agreement.

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(2) Matters involving the content of policies and regulations, except when the complaint alleges that the local implementation is at variance with requirements established by an appropriate higher authority.

(3) Actions resulting from a reduction-in-force. Such appeals will be submitted as provided in TPR 300, subchapter 351.

(4) Non-selection for promotion through the merit selection process. Grievances for non-selection will be processed through procedures established in Full-Time Support Personnel Regulation 335-1-1.

(5) A decision to withhold a within-grade increase. Reconsideration of such actions will be submitted in accordance with 5 C.F.R. 771.101.

(6) Disciplinary actions. Appeals of disciplinary actions will be processed in accordance with TPR 752.

(7) Grievances filed after the effective date of a resignation or separation.

(8) Any other matter specifically excluded by appropriate regulations of the National Guard Bureau, the Office of Personnel Management, or the Adjutant General.

(9) An action terminating a temporary promotion and returning the technician to the position from which he was temporarily promoted, or to a different position that is not at a lower grade or level.

(10) Non-adoption of a suggestion or disapproval of a quality salary increase, performance award, or other honorary or discretionary award.

e. A technician, in processing a grievance under this regulation, is assured freedom from restraint, interference, coercion, discrimination, or reprisal.

f. The technician may be accompanied, represented, and advised by a representative of his/her own choosing. The grievant must provide written designation of his/her representative to the supervisor. The grievant and his/her representative (if a technician) will be granted a reasonable amount of duty time to prepare and present the grievance.

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3. GRIEVANCE PROCEDURE

a. Step 1 – Immediate Supervisor. The technician shall seek relief by first discussing the subject of his/her grievance with his/her immediate supervisor. This discussion must be held within fifteen (15) calendar days after the technician became aware of the action or event which led to the grievance. The immediate supervisor will consider the grievance, and after appropriate consultation, inquiry or investigation, render a decision to the grievant within ten (10) calendar days. If the grievant is dissatisfied with the decision, he may proceed to Step 2.

b. Step 2 – Secondary Supervisor. The technician must submit his grievance in writing to the next level of supervision within ten (10) calendar days following receipt of the Step 1 decision. The memorandum will specify: (1) the nature of the grievance, (2) why the Step 1 decision is not acceptable, and (3) the corrective action desired. Within ten (10) calendar days after receipt of the written grievance, the secondary supervisor will meet with the grievant, his/her representative, and any other appropriate persons, and attempt to resolve the grievance. Within five (5) calendar days following the meeting, the secondary supervisor will render a written decision to the grievant. A copy of the grievance and the supervisor's decision will be forwarded to the Human Resources Office (HRO). If the decision is not acceptable to the grievant, he/she may submit the grievance to Step 3 of this procedure within five (5) calendar days after receipt of this decision.

c. Step 3 – Division Commander/Deputy Adjutant General. The grievance may now be submitted in writing through command channels to the Deciding Official. The Commanders, HIARNG and HIANG, or their appointed representatives, are designated Deciding Officials for all National Guard technicians under their jurisdiction. The Deputy Adjutant General, or his appointed representative, is designated the Deciding Official for all other technicians (e.g., USPFO, HRO, Special Staff).

(1) The technician's written request for consideration by the Deciding Official will clearly state: (a) the reason(s) why the decision is not acceptable, (b) the corrective action that is desired, and (c) any other matters pertinent to the grievance. A copy of the Step 3 request will be forwarded to the HRO.

(2) The Deciding Official shall attempt to adjust or resolve the matter with the grievant and the appropriate supervisor within ten (10) calendar days or, at the option of the Deciding Official, appoint an Examiner to perform an inquiry or investigation. If the option to appoint an examiner is exercised, the Deciding Official will advise the grievant.

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(3) The Examiner will complete the inquiry/investigation within 30 days and provide the Deciding Official with a written report of findings and recommendations. If additional time is required to complete the inquiry/investigation, the Examiner will request an extension from the Deciding Official. A copy of the extension request will be forwarded to the grievant. As a minimum, the report must provide an identification of the issue(s), an analysis of the evidence pertinent to the issue(s), a statement of whether the grievant's proposed adjustment is reasonable or not, and a recommendation for disposition of the grievance.

(4) The Deciding Official may: (a) accept the examiner's recommendation and issue a final decision on the grievance, (b) grant the relief sought by the technician without regard to the Examiner's recommendation, (c) obtain an agreement through negotiation, or (d) offer to seek an agreement through mediation. If mediation services are required, either the grievant or the Deciding Official may initiate such action by contacting the Human Resources Office. The Deciding Official will issue a final decision within ten (10) calendar days of receipt of the Examiner's report. If the grievant is not satisfied with the final decision, he/she may submit the grievance to Step 4 of this procedure within five (5) calendar days after receipt of the decision. A written notice requesting that the grievance be elevated to Step 4 will be provided to the Deciding Official.

d. Step 4 – Adjutant General. The final step in this process is an appeal to the Adjutant General (TAG).

(1) The Deciding Official, or his/her staff, will consolidate the grievance materials and provide a summary for TAG review.

(2) The grievant may request a personal meeting with TAG to express his/her version of the grievance materials.

(3) TAG may task an appropriate staff office/officer to gather additional information or inputs prior to a decision on the appeal.

(4) TAG will issue a final written decision to sustain the actions of the Deciding Official or to provide partial or full relief as requested by the grievant.

e. The decision of the Adjutant General is final in accordance with 32 U.S.C. 709e(5). No other administrative review or appeal will be considered.

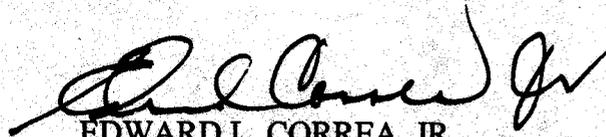
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4. CANCELLATION OF GRIEVANCES A grievance will be cancelled under the following conditions:

- a. At the technician's request.
- b. Upon termination of the technician's employment, unless the personal relief sought by the technician may be granted after termination of his employment.
- c. Upon death of the technician, unless the grievance involves a question of pay.
- d. The technician fails to furnish required information or to duly proceed with the advancement of his grievance.

5. I support all efforts for fair consideration and disposition of technician grievances. If you have any questions regarding this policy, point of contact is Colonel Joseph J. Chaves, Personnel Officer, (808) 733-4118.



EDWARD L. CORREA, JR.
Major General, HIARNG
Adjutant General

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