

STATE OF WISCONSIN
DEPARTMENT OF MILITARY AFFAIRS
Office of The Adjutant General
Post Office Box 8111
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Human Resources
Regulation No. 771-1

25 April 1995

AGENCY GRIEVANCE PROCEDURES

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CHAPTER 1

GENERAL PROVISIONS

1-1. PURPOSE. The purpose of this regulation is to set forth the provisions under which grievances are processed. It also contains provisions of NGB Technician Personnel Regulation 700 that apply to grievances covered by this grievance procedure.

*Supersedes WISNG TPR 771, dated 15 March 1984

1-2. DEFINITIONS.

a. A grievance means a request by one or more full-time support personnel acting as individuals, for personal relief in a matter of concern or dissatisfaction which is subject to the control of The Adjutant General, State of Wisconsin.

b. Personal Relief means a specific remedy directly benefiting the grievant(s) and may not include a request for disciplinary or other action affecting another technician.

c. Days means calendar days, unless otherwise specified.

d. Full-time support personnel means both Air and Army National Guard Technicians.

e. Both employer and activity means The Adjutant General, State of Wisconsin.

f. A representative means a person chosen by the grievant to represent him in a grievance. The representative may be another support personnel of the activity, another employee in the Federal Service, or he may be outside the Federal Service.

g. Examiner means a person utilized by the employer to hold a hearing on a grievance.

1-3. PRESENTATION OF GRIEVANCE.

a. An individual presenting a grievance under this grievance system, shall:

(1) Be assured freedom from restraint, interference, coercion, discrimination, or reprisal;

(2) Have the right to be accompanied, represented, and advised by a representative of his own choosing; and

(3) Be assured a reasonable amount of official time for the preparation and presentation of a grievance under the procedures authorized in this regulation, if he is otherwise in a duty status. The time to be allowed will be determined on the basis of the facts and circumstances in each individual case.

b. An individual has the right to present a grievance without representation. He also has the right to be accompanied, represented, and advised by one representative of his choice at any stage of the proceedings. The representative must be designated in

writing at the time the grievance is submitted in writing or when the representative is to act in that capacity without the presence of the grievant.

c. When an individual designates another individual of the Wisconsin National Guard as his representative, the representative, in presenting a grievance under the grievance system, shall:

(1) Be assured freedom from restraint, interference, coercion, discrimination, or reprisal; and

(2) Be assured a reasonable amount of official time for the preparation and presentation of a grievance under the procedures authorized in this regulation, if otherwise in a duty status. The time to be allowed will be determined on the basis of the facts and circumstances in each individual case.

d. Individuals, whether principals, representatives, or observers, must make advance arrangements with their supervisors for the use of official time. When there is a disagreement concerning the amount of official time to be granted, the matter will be submitted by the supervisor to the Human Resources Office for resolution.

CHAPTER 2

GRIEVANCE PROCEDURE

2-1. PERSONNEL COVERED.

a. This grievance procedure is available to all nonbargaining unit personnel of the Air and Army National Guard. The procedure applies to all technicians regardless of their appointment, i.e., competitive, excepted, temporary or career, and applicants for employment in all capacities of the Wisconsin National Guard.

b. This grievance procedure does not apply to a technician employed in a bargaining unit. Their grievances are covered by a negotiated grievance procedure.

2-2. GRIEVANCE COVERAGE.

a. This grievance procedure applies to any matter of concern or dissatisfaction to a individual which is subject to the control of the employer. Grievances may not include questions of policy in the Human Resources Office (HRO). They may, however, include questions of the application of the policy to an individual or a group of individuals.

b. This grievance procedure does not apply to:

(1) A matter which is subject to final administrative review outside the activity under law or regulation;

(2) The content of published policy of The Adjutant General, State of Wisconsin;

(3) Nonselection for promotion from a group of properly ranked and certified candidates;

(4) A grievance that has been processed under a grievance procedure negotiated in an agreement.

(5) An action terminating a temporary promotion.

(6) Nonadoption of a suggestion or disapproval of a quality salary increase, performance award, or other kind of honorary or discretionary award.

(7) A preliminary warning or notice of an action which, if effected, would be covered under an appeals system.

2-3. RIGHT TO PRESENT GRIEVANCE.

a. An eligible individual is entitled to present a grievance under this grievance system. The employer shall accept and process a properly presented grievance in accordance with this regulation.

b. An individual, in presenting this grievance, is entitled to communicate with and seek advice from:

(1) The Human Resources Office (HRO).

(2) A supervisory or management official of higher rank than the technician's immediate supervisor.

2-4. AVOIDANCE OF DELAY. Each grievance shall be given full impartial, and prompt consideration which will permit a decision on the grievance to be issued within 90 days after initiation of the informal procedure.

2-5. CANCELLATION OF GRIEVANCE. The employer shall cancel a grievance:

- a. At the individual's request;
- b. Upon termination of the individual's employment with the activity unless the personal relief sought by the individual may be granted after termination of his employment;
- c. Upon the death of the individual unless the grievance involves a question of pay;
or
- d. For failure to prosecute if the individual does not furnish required information and duly proceed with the advancement of his grievance.

2-6. PRESENTING GRIEVANCE UNDER INFORMAL PROCEDURE.

- a. An individual shall present a grievance concerning a particular act or occurrence within 15 days of the date of that act or occurrence, or the date he became aware of that act or occurrence. The employer may extend the time limit in this subparagraph for good cause shown by the grievant.
- b. An individual may present his grievance under informal procedures either orally or in writing.
- c. An individual is required to complete action under the informal procedure before a grievance concerning the same matter will be accepted from him for processing under the formal procedure. A grievance may not be rejected in the informal procedure for any reason.
- d. Steps to be followed in presenting a grievance:
 - (1) The individual and/or his representative will informally present the grievance to the immediate supervisor. The second line supervisor may be appropriate for receiving the grievance if the individual can show that a discussion with his immediate supervisor would be prejudicial to his interests. The supervisor will discuss the matter promptly and review the situation impartially. If the matter is within the scope of the supervisor's authority, an effort will be made to work out a mutually satisfactory solution. If the matter cannot be resolved, the discussion will serve as a basis for clarifying the problem and reasons that prevent resolution.

(2) If the grievance is not resolved as a result of the first step, the supervisor involved at step one will make prompt arrangements for a discussion of the matter

between the individual, his representative, if any, and the next higher level supervisor. The consideration accorded the grievance during this discussion will be informal; however, a memorandum for record, summarizing step two, will be prepared by the supervisor involved and will contain; (a) the date of discussion and a summary of the grievance, (b) the consideration accorded it, (c) the conclusions reached, and the course of action decided upon during the discussions. A copy of the memorandum will be furnished all parties concerned. The HRO should be consulted prior to writing the memorandum for record.

(3) If an acceptable solution is not reached during the second step discussions, the individual will be advised of the right, and the time allowed for submitting a grievance and memorandum of record to the employer for processing under formal procedures.

(4) Time Limits.

(a) Supervisors are expected to take immediate action to hold the discussions required by the first step. Second step discussions should be arranged and held within 15 days after the first step discussion.

(b) Individuals desiring to submit their grievance under the formal grievance procedure must do so within 15 days after receipt of a copy of the required memorandum for record.

2-7. FORMAL GRIEVANCE PROCEDURE.

a. An individual is entitled to present a grievance under the formal procedure if he (1) has completed action under the informal procedure and (2) presents the grievance within the time limit established under paragraph 2-6d(4)(b).

b. The grievance shall (1) be in writing, (2) contain sufficient detail to identify and clarify the basis for the grievance, (3) specify the personal relief requested, and (4) include a copy of the memorandum furnished by the informal procedure.

c. Processing grievance under formal procedure.

(1) The grievance shall be referred to a deciding official at a level of management designated by the employer. The deciding official shall be at a higher administrative level than any official who could have adjusted the grievance under the informal procedure.

(2) The deciding official determines whether to accept or reject all or part of the grievance, and which issues, if any, will be investigated if the grievance is accepted. The deciding official selects one of the following methods to resolve the grievance and issues a final decision. The four available methods of grievance resolutions are:

- (a) Use the facts presented in the written grievance;
- (b) Conducting a formal investigation;
- (c) Utilize a third-party factfinder; or
- (d) Select a hearing examiner to conduct a hearing and report findings and recommendations to the deciding official.

(3) If the grievance will be decided on the record, the facts in the written grievance will receive full consideration and explanation in those cases where the relief being sought cannot be granted. Conversely, if the deciding official grants the relief being sought no explanation on how the record was considered need be given.

(4) Investigations of the facts and circumstances in a grievance should be disclosed in the written decision to the extent necessary for an understanding of the decision. Factfinding procedures shall be carried out by a person(s) who has not been involved in the matter being grieved and who does not occupy a position subordinate to any official who has recommended, made a decision or otherwise is or was involved in, the matter being grieved.

(5) The hearing examiners summary constitutes the report of a hearing and is made a part of the record of the proceedings. If the examiner and the parties fail to agree on the summary, the parties are entitled to submit written exceptions to any part of the summary, and those written exceptions and the summary constitute the report of the hearing and are made a part of the record of the proceedings. The examiner shall prepare a report of his findings and recommendations and submit that report, with the grievance file, to the deciding official.

(6) When a hearing is held and the grievance decision will be made by someone other than The Adjutant General, the deciding official must:

- (a) Accept the examiner's recommendations and issue the decision on the grievance:
- (b) Grant the relief sought by the individual without regard to the examiner's recommendations; or

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(c) Determine that the examiner's recommendations are unacceptable and transmit the entire grievance record to The Adjutant General for decision. When he transmits the grievance record to this final higher level for decision, the deciding official must include in the record a specific statement of the basis for finding the recommendations unacceptable, and he must give the individual and his representative a copy of the statement.

(7) The Adjutant General, as the deciding official, will consider the entire record. After the consideration, he must decide the grievance.

The proponent of this regulation is the Director, Human Resources,
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