

9

Employee Grievances

Lesson Objectives

After completing this lesson, you will be able to:

- Explain the Component and USD(I) roles relating to developing policies for and considering matters and disputes brought by employees.
- List and describe the elements of DCIPS Volume 2014, Employee Grievances.

Topics

Lesson 9 Introduction	2
Topic 1: Employee Grievance Policies	4
Topic 2: Employee Grievance Procedures	5
Topic 3: Informal Dispute Resolution	8
Topic 4: Formal Grievances	10
Lesson 9 Review.....	13

LESSON 9 INTRODUCTION

This lesson takes 30 minutes.



Lesson 9: Employee Grievances

Duration: 30 minutes

HR Elements for HR Practitioners
Employee Grievances

Slide 9- 1

Your Notes:



Lesson 9 Topics

Lesson 9 Topics

- Topic 1 – Employee Grievance Policies
- Topic 2 – Employee Grievance Procedures
- Topic 3 – Informal Dispute Resolution
- Topic 4 – Formal Grievances



HR Elements for HR Practitioners
Employee Grievances

Slide 9- 2

Your Notes:

TOPIC 1: EMPLOYEE GRIEVANCE POLICIES



Employee Grievance Policies

Employee Grievance Policies

- Matters and disputes presented by employees will be equitably and impartially resolved in a timely manner
- Alternative Dispute Resolution (ADR) processes will be fully supported and shall be free from restraint, interference, coercion, discrimination or reprisal
- “Employee,” for purposes of the Employee Grievances policy, includes any employee covered by DCIPS, except for DISES employees



HR Elements for HR Practitioners
Employee Grievances

Slide 9- 3

What You Should Know:

Employee Grievance Policy

- Defense Intelligence employees with matters or disputes will be equitably and impartially resolved in a timely manner.
- Alternative Dispute Resolution (ADR) processes will be fully supported and shall be free from restraint, interference, coercion, discrimination or reprisal.
- “Employee” for purposes of The Employee Grievances policy, includes any Federal civilian employee, as defined in section 2105 of title 5, U.S.C. (Reference (g)), who is covered by DCIPS, except for Defense Intelligence Senior Executive Service (DISES) employees.

Your Notes:

TOPIC 2: EMPLOYEE GRIEVANCE PROCEDURES



Employee Grievance Procedures

Employee Grievance Procedures

- Component-specific grievance procedures:
 - Conform to Volume 2014
 - Identify the list of subjects that cannot be grieved
 - Provide an Alternative Dispute Resolution (ADR) program
 - Entitle employees to present grievances and represent themselves, or be represented by someone of their choice, with Component approval
 - Provide for informal dispute resolution and formal grievance procedures
- What subjects cannot be grieved?



HR Elements for HR Practitioners
Employee Grievances

Slide 9- 4

What You Should Know:

Employee Grievance Procedures

- Defense Intelligence Components shall establish employee grievance procedures that support the provision that all employees have the right to present grievances to the appropriate authority for prompt and equitable consideration without fear of restraint, interference, coercion, discrimination, or reprisal.
- Component-specific procedures must:
 - Conform to DoDI 1400.25, Volume 2014.
 - Include a list of subjects that cannot be grieved, including all those noted in Volume 2014 and others, as applicable.
 - Provide a program for Alternative Dispute Resolution (ADR), supporting ADR practices and techniques as alternatives to formal administrative proceedings or litigation to resolve disputes.
 - Provide the entitlement to employees to present grievances and represent themselves or be represented by someone of their choice with approval by

the Component, which may deny the employee's choice under certain circumstances noted in Volume 2014 (e.g., conflict of interest or cost to the Government).

- Provide for informal dispute resolution and formal grievance procedures. Informal dispute resolution is not ADR. It is a process that supports initial informal discussions with the supervisor or other process to help resolve disputes before it is a formal grievance.
- Subjects that cannot be grieved:
 - The content of established Component regulations and policies.
 - The content of job classification and qualification standards.
 - The substance (e.g., approved performance objectives or standards) of an employee's performance elements, standards, or work objectives.
 - A rater or reviewing official's determination or ratings against performance objectives and elements. (Such actions come under Volume 2011, Reconsiderations).
 - Adverse performance- or conduct-based actions (such as reductions in work level, pay band or pay, suspensions of more than 14 calendar days, furloughs of 30 calendar days or less, or removal). Such actions are not grievable but may be appealed in accordance with Volume 2009.
 - Nonselection for a position or promotion as the result of an approved candidate evaluation process, or failure to receive a noncompetitive assignment or promotion.
 - Determinations concerning additional compensation including the denial or non-receipt of monetary and non-monetary awards, performance-based payouts, recruitment or relocation bonuses, retention incentives or allowances, additional pay allowances or differentials, critical position pay, or dual compensation waivers.
 - Any matter already the subject of a formal review and adjudication by an internal or external authority, or any matter that the employee has filed under another review or reconsideration procedure or dispute resolution process within the DoD.
 - Preliminary notice of an action that, if executed, would be covered under the grievance system or be the subject of formal review and adjudication by an internal or external authority.

- Any action taken under a voluntary, formal agreement entered into by an employee involving geographic relocation or return from an overseas assignment.
- Termination of an employee prior to completion of his/her trial period.
- Expiration of a term or temporary appointment on, or prior to, the date specified as a condition of employment..
- Any action taken under AIF proceedings. Appeals of AIF actions must be completed according to the procedures in Volume 2004.
- Any action taken pursuant to national security, including determinations regarding eligibility for access to classified, compartmented, or other controlled access information.
- Any additional exclusions requested by a Component and approved by the USD(I).
- The terms of any mediated agreement that an employee is a party to resulting from participation in the ADR Program.

Your Notes:

TOPIC 3: INFORMAL DISPUTE RESOLUTION



Informal Dispute Resolution

Informal Dispute Resolution



Component-specific procedures must include:

- Steps an employee must follow to informally present a work-related matter
- Established timelines
- Use of a neutral party
- Documentation requirements

What You Should Know:

Informal Dispute Resolution Procedures

- Components are required to have informal dispute resolution procedures.
- Component-specific procedures must include:
 - A procedure through which an employee may informally present a work-related matter to his or her immediate supervisor, or through other information procedures established by the Component, (such as a board created for this purpose), for an initial and informal problem-solving effort before the employee can file a formal grievance.
 - Established timelines for informal dispute resolution procedures include:
 - An attempt to resolve the issue 30 days from the date it was first presented
 - The permission to extend the timeline due to exigent circumstances or mutual agreement of the parties
 - Procedure for use of a neutral party, such as a conciliator, facilitator, or

mediator, that includes specific limitations such as conflict of interest or cost to the Government by the Component.

- Procedures providing Component-specific documentation requirements, including what must be maintained, for how long, and by whom.

Your Notes:

TOPIC 4: FORMAL GRIEVANCES**Formal Grievances**

- What is the maximum number of days after the conclusion of the informal grievance procedure - or, if no informal grievance procedure was used, the act or event in question - by which the employee must file a formal grievance?
- May the remedy sought by the grievant in a formal grievance include a request for disciplinary or other action affecting another employee?
- The file maintained for each written formal grievance should be retained for how long?

What You Should Know:***Formal Grievances***

- Components shall establish and maintain formal grievance procedures that are generally consistent with the provisions of Subchapter 771 of Title 5 unless otherwise noted in DCIPS policy. If information or requirements differ, DCIPS policy must be used.
- All Components shall follow these principles in managing formal grievance programs:
 - An employee may file a formal, written grievance on matters not excluded when it is not resolved during the informal dispute resolution process, or when the employee chooses to bypass that process and invoke the formal grievance process.
 - If the employee used the informal dispute resolution process, the employee must file a formal grievance no later than 15 days from the date the decision of the informal process is communicated.

- If the employee does not use the informal resolution process but raises the matter initially as a formal grievance, the employee must present the formal 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.
- An employee may present a formal grievance regarding a continuing practice or condition at any time as long as the practice or condition is continuing at the time of the filing of the grievance.
- An employee's formal grievance must be signed and dated and must contain a detailed statement of the issue(s) and the specific personal remedy sought; copies of any documents in the employee's possession related to the grievance; and the name, address, and telephone number of the employee's representative, if any.
- The remedy sought by the grievant in a formal grievance must be personal to the employee and may not include a request for disciplinary or other action affecting another employee.
- An employee may not grieve the same matter that he or she has raised in any other formal grievance, appeal, complaint, or other dispute resolution process.
- Formal grievance processes shall state the responsibilities of the deciding official that shall include, responsibility to 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 duty time shall be granted to the employee and the employee's representative.
- A deciding official may designate an impartial individual to examine a formal grievance and, when authorized, to make recommendations concerning its disposition.
- Formal grievance processes shall stipulate the time frame from the filing of the formal grievance by which the deciding official shall issue the decisions that is no more than 90 calendar days from the filing of the formal grievance, absent mutual agreement to extend this time limit to accommodate resolution of the dispute or exigent circumstances.
- Formal grievance processes shall specify the conditions under which the deciding official may cancel or temporarily suspend a formal grievance or

the appropriate portion of a formal grievance, and shall allow for employee cancellation.

- A separate file shall be established and maintained for each written formal grievance and retained for 4 years, or as provided for in accordance with applicable laws, regulations, and records retention schedules. The file shall contain all documents or copies of documents related to the formal grievance.

Your Notes:

LESSON 9 REVIEW



Lesson 9 Review

Lesson 9 Review

- Topic 1 – Employee Grievance Policies
- Topic 2 – Employee Grievance Procedures
- Topic 3 – Informal Dispute Resolution
- Topic 4 – Formal Grievances



HR Elements for HR Practitioners
Employee Grievances

Slide 9- 7

Your Notes:

Useful references for Employee Grievances

- DoDI 1400.25, Volume 2014, Defense Civilian Intelligence Personnel System Employee Grievances
- DoD Directive 5124.02, “Under Secretary of Defense for Personnel and Readiness (USD(P&R)),” June 23, 2008
- DoD Directive 5143.01, “Under Secretary of Defense for Intelligence (USD(I)),” November 23, 2005
- DoD Directive 1400.25-M, “DoD Civilian Personnel Management System,” November 25, 1996
- DoD Directive 1400.35, “Defense Civilian Intelligence Personnel System (DCIPS),” September 24, 2007
- DoD Directive 5145.5, “Alternative Dispute Resolution (ADR),” April 22, 1996

Lesson Transition:

The next lesson covers a favorite topic – awards and recognition!
