

## NEGOTIATED GRIEVANCE PROCEDURE

**SECTION 1. PURPOSE:** The purpose of the following grievance and arbitration procedure is to provide a process to ensure timely consideration of the grievances of bargaining unit employees, the Union, or the Agency.

**SECTION 2. DEFINITION:** A grievance is any complaint:

- A. By an employee concerning any matter relating to his/her employment;
- B. By the Union concerning any matter relating to the employment of any employee in the bargaining unit;
- C. By an employee, the Union, or the Agency concerning:
  - 1. The effect or interpretation, or a claim of breach of this agreement.
  - 2. Any claimed violation, misinterpretation, or misapplication of any law, rule, or regulation affecting conditions of employment.

**SECTION 3. EXCLUSIONS:** This negotiated grievance procedure shall not apply with respect to any grievance concerning:

- 1. Non-selection from a group of properly ranked and certified candidates.
- 2. A notice of proposed disciplinary, adverse, or performance based action (however, the subsequent decision may be grieved).
- 3. The granting of, or failure to grant, the amount of an award or retention allowance.
- 4. A return of an employee from a non-bargaining unit position as a supervisor or manager to a bargaining unit position,
- 5. Any claimed violation of subchapter III of Chapter 71 of Title 5 U.S.C. as amended relating to prohibited political activities;
- 6. Retirement, life insurance, or health insurance;
- 7. Any examination, certification, or appointment under 5 U.S.C. 7121 (c)(4);
- 8. A suspension or removal for national security reasons;
- 9. Termination of a probationary or trial period employee;

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10. Supervisory determination of job elements and performance standards;
11. The content of any Agency Policy or regulation;
12. The classification of any position which does not result in the reduction in grade or pay of an employee;
13. Oral or written counseling, written warning; such actions shall not be used in determining penalty for subsequent actions;
14. A fitness for duty decision which does not result in an action against the employee;
15. An action which terminates a detail or temporary or term promotion by its own terms.

**SECTION 4. EXCLUSIVITY:** This negotiated procedure shall be the only procedure available to the Union and bargaining unit employees for resolving grievances except as provided in Section 6 below. If an employee wishes to present a grievance on his/her own behalf, a representative of the Union will have the right to be present at any meeting with the Agency concerning the grievance. This right of grievance presentation without Union representation does not extend to arbitration which may be invoked only by the Union on the employee's behalf. Employees reserve the right to request Union representation at any time during the grievance procedure. The designation of a Union representative must be in writing.

**SECTION 5. RESOLUTION:** Employees and the parties shall cooperate to resolve grievances informally at the earliest possible time and at the lowest possible supervisory level.

**SECTION 6. ELECTION:** In three areas: (1) employment discrimination complaints; (2) removal or reduction in grade for unacceptable performance; and (3) adverse actions (removal, reduction in grade for other than unacceptable performance, suspension for more than 14 days, and furlough for 30 days or less) employees have the option to use either this negotiated procedure or a statutory appeals procedure, but not both. Employees exercise their option when they file a timely notice of appeal under the appropriate appellate procedure or file a timely grievance in writing under this procedure. In employment discrimination complaint actions this election is made in accordance with procedures set forth in the Agency and EEOC regulations.

**SECTION 7. COMPUTATION AND APPLICATION OF TIME LIMITS:** In computing time periods for Steps 1 and 2 of this Article, should the time to either file a grievance or respond to a grievance fall on a weekend, a holiday, or during a shutdown or furlough, the time limit will automatically be extended to the next business day.

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### SECTION 8. STEPS FOR FILING A GRIEVANCE:

#### STEP 1.

- A. The grievance shall first be presented in writing by the employee and his/her Union representative, if any, to the grievance official, i.e., the lowest level Agency official with authority to grant the relief sought. Normally, this will be the employee's first-line supervisor. Grievances must be presented within fifteen (15) calendar days from the date of the occurrence of the event giving rise to the grievance or the date the grievant became aware of the occurrence. The written grievance shall contain the following information:
1. Name of grievant;
  2. Specific article, section, law, rule, or policy allegedly violated, if known. If alluded to it must be identified;
  3. A specific statement of the grievance;
  4. The personal relief desired;
  5. The name of the representative, if any.
- B. The grievance official shall arrange a meeting to be held within fifteen (15) calendar days after receipt to discuss the grievance. Within fifteen (15) calendar days following the meeting, the grievance official shall reply to the grievant and his/her representative in writing.

#### STEP 2.

- A. If the employee is not satisfied with the reply received at Step 1, the grievance may be submitted to the next higher person in the chain of command over the person rendering the Step 1 decision within fifteen (15) calendar days from the receipt of the answer at Step 1. The Step 2 grievance shall be submitted in writing and shall contain the same information submitted in Step 1 (see Section 7, Step 1 A.), the Step 1 reply, and any additional information/evidence the employee wishes to submit.

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- B. The Step 2 official, or his/her designated representative, shall conduct such investigation as he/she deems necessary to determine the facts in the case. If requested by the employee or the Step 2 Official, he/she shall meet and discuss the grievance with the employee and/or the Union representative for the purpose of giving the employee the opportunity to make any argument he/she believes may impact the decision. The Union may decline the meeting in writing. The Step 2 official, after considering all the facts, shall render his/her decision in writing to the employee within fifteen (15) calendar days after the employee submits his/her Step 2 written grievance or within fifteen (15) calendar days after meeting with the employee and his/her representative, if such meeting is held.

### STEP 3.

- A. A third step grievance must be filed within fifteen calendar days from receipt of the Step 2 written decision to be timely. It must be filed with the higher management official above the step two official or his/her designee, as designated in the Step 2 decision. If requested by the employee or the Step 3 Official, he/she shall meet and discuss the grievance with the employee and/or the Union representative for the purpose of giving the employee the opportunity to make any argument he/she believes may impact the decision. The Union may decline the meeting in writing. The third step management official shall render a written decision within fifteen calendar days after the meeting, or fifteen calendar days after receiving the grievance if a meeting is not held. If the grievance is denied, the decision will set forth the reasons for the denial in writing. The Step 3 written decision is final and not subject to further review unless the matter is submitted to arbitration as discussed below.

**SECTION 9. ALTERNATIVE DISPUTE RESOLUTION:** At any point during the grievance process, the parties, by mutual agreement, may elect to utilize the services of a mediator obtained for Alternative Dispute Resolution. Time periods shall be tolled during the ADR process. Enforcement of discipline, other than removal, may be held in abeyance during the ADR process by mutual agreement.

**SECTION 10. HIGH LEVEL DECIDING OFFICIAL:** Where an employee wishes to grieve a written decision to suspend or remove from a Designated Deciding Official at the Department Head level or above, the Grievance will be filed at Step Two. (See Section 8, Steps for Filing a Grievance above).

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### SECTION 11. UNION GRIEVANCE:

**A.** In the case of any grievance which the Union may have against the Agency or the Agency may have against the Union, such grievance shall be submitted in writing to the Director, Civilian Human Resources Center, or the Local 1410 President, as the case may be, within fifteen (15) calendar days after the date of occurrence of the event giving rise to the grievance or the date the Party became aware of the occurrence. It shall contain the following:

1. A statement setting forth the facts upon which the grievance is based;
2. The specific Article and section of the agreement, law, rule, regulation or policy alleged to have been misapplied and/or misinterpreted; and
3. The correction sought.

**B.** A meeting of the Parties will be held within fifteen (15) calendar days after receipt of the grievance with a written response by the appropriate party within fifteen (15) calendar days after the meeting.

**SECTION 12. ADVANCEMENT OF GRIEVANCE:** Failure of the grievant or the Union to proceed with a grievance within any of the time limits specified in this agreement shall render the grievance void or settled on the basis of the last decision given by the Agency, unless an extension of time limits has been agreed upon. Failure of the Agency to answer a grievance within the time limits prescribed in each step shall allow the grievant or the Union to proceed to the next higher step of the procedure, unless an extension of time limits has been agreed upon by the Parties.

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