

SUPPLEMENT #6: GRIEVANCE PROCEDURES

SECTION A. GENERAL

1. Purpose. The provisions hereof establish the procedures for the processing of grievances of employees furnished under the terms of this agreement, excepting that they shall not apply to cases of termination of employment for security reasons which are treated under Supplement #17. The provisions of this supplement shall be brought to the attention of, and shall be made available to all such employees by USFJ.

2. Definitions.

a. Grievance. A grievance is an employee's stated dissatisfaction with any aspect of his/her employment initiated by the person directly aggrieved and involved (hereinafter referred as "employee").

b. Indirect Hire Agreement Administrator's Representative (IHAR). The IHAR is designated by the service component commander or the USFJ authority and is the authorized representative of the IHA Administrator acting within the limits of the authority delegated by the IHA Administrator. The IHAR renders a decision at the Second Step except in the case where IHAR was directly involved with the case being grieved such as disciplinary action or other personnel actions.

c. Indirect Hire Agreement Administrator's Representative for Appeals (IHARA). The IHARA is designated by the service component commander and is the authorized representative of the IHA Administrator acting within the limits of the authority delegated by the IHA Administrator. The IHARA renders a decision at the Third Step except in the case where IHARA was directly involved with the case being grieved such as disciplinary action or other personnel actions.

d. IHA Administrator. The IHA Administrator is the Chief, Labor Branch, USFJ, who executes the agreement on behalf of USFJ. The IHA Administrator renders a decision at the Final Step.

3. Acceptance of Grievance. An employee's grievance will be accepted and processed at the installation at which he/she works by the authorized individuals or delegated representative as set forth below. Prior to acceptance and processing a grievance, the employee and the supervisor shall make every effort and exhaust all avenues to resolve the problem through an informal consultation. The employee may also consult with the Director/Chief of MOD's local authority outside the working hours on power harassment at the workplace by another MLC, MC, or IHA employee, who will then confer with the IHAR in accordance with subparagraphs 1a and 1b, Section D, Supplement #3. Grievances must be submitted within 180 calendar days after the alleged act and/or condition causing the grievance becomes known to the employee. Grievances will be presented in Japanese or in English. Grievances submitted after an employee's termination of employment shall be referred to the IHAR of the installation in which the employee was last employed and shall be heard initially at the third step as set forth in paragraph 3, Section B, below. Grievances in connection with administrative remedial actions will likewise be heard initially at the third step. No grievance will be accepted on matters outside the control of USFJ. When such non-acceptable grievances are of concern to MOD, the employee shall be advised of his right to discuss the matter with the Director/Chief of MOD's local authority.

Effective: 10 December 2021

4. Prohibition. Discriminatory action will not be taken against an employee due to his having undertaken action under these provisions.

SECTION B. PROCEDURES FOR HANDLING OF GRIEVANCE

1. First Step.

a. When an employee has a grievance, he/she shall present it in writing on USFJ Form 17EJ, "IHA First Step Grievance", to his/her immediate supervisor. The employee may be accompanied and represented by not more than two fellow employees of his/her own choice. If the requested remedial action is within the authority of the supervisor, he/she shall consider the grievance promptly and impartially. The supervisor shall collect and evaluate all the essential facts and shall inform the employee in writing within ten calendar days after the employee has presented his/her grievance of his/her decision and of the employee's right to discuss the problem with the next higher supervisor. If the requested remedial action is not within the authority of the supervisor, he/she shall forward it to the IHAR.

b. When an aggrieved employee believes that there are valid reasons why the initial presentation of his/her grievance to his/her immediate supervisor would be prejudicial to his/her interests, he/she may by-pass his/her immediate supervisor and present his/her grievance in writing to the next higher supervisor.

c. After having received a decision from his/her immediate supervisor or the next higher supervisor, within six calendar days following the receipt of the decision, the employee may seek redress in writing at any supervisory level within the functional unit in which he/she is employed. In this case, the first step decision shall be made and the employee will be notified in writing within 30 calendar days. When the employee is dissatisfied with the decision at the first step, the employee may present his/her grievance in writing to his/her immediate supervisor, by use of USFJ Form 333EJ, "IHA Second Step Grievance", within 15 calendar days following the receipt of the decision. The supervisor shall forward the grievance to the IHAR within six calendar days following the receipt of the grievance.

2. Second Step.

a. Upon receipt of the written grievance and determination by the IHAR that a grievable condition exists within the control of USFJ, the IHAR will initiate an investigation and afford the employee an opportunity to present his/her grievance. The employee will also be given the opportunity to provide no more than two witnesses who had direct knowledge of the grievance to present oral statements or evidence in support of the employee. Within 30 calendar days following receipt of the written grievance, the IHAR will render a written decision to the employee, setting forth the basis thereof, and advising him/her of his/her right to appeal.

b. If the employee is dissatisfied with the decision of the IHAR, he/she may present his/her appeal in writing, by use of USFJ Form 328EJ, "IHA Third Step Grievance", within 15 calendar days following receipt of the decision, to the IHAR, who shall forward the appeal to the Indirect Hire Agreement Administrator's Representative for Appeals (IHARA). All papers, including all records, findings of fact, recommendations and decision at the first and second steps, and the employee's reply, will be forwarded in a package, together with any comments the IHAR deems appropriate, to the IHARA.

Effective: 10 December 2021

3. Third Step.

a. Within 10 calendar days following receipt of a third step grievance, the IHARA may render a decision or refer it to the Grievance Advisory Committee if determined that additional fact finding is necessary. If the third step grievance is based upon the introduction of new evidence or facts that were not considered initially, the case may be returned to the second step for action.

b. The Grievance Advisory Committee will promptly conduct an additional fact finding inquiry for the IHARA and, if necessary, may schedule a hearing at which the employee shall be present. He/she may be accompanied and represented by not more than two fellow employees of his/her choice. He/she shall be given full opportunity to present his/her case, written evidence to support his statements and to present witnesses who provide evidence or witness statements at the hearing to support his/her position. Further, he/she shall be given an opportunity to reply to any evidence against him/her. Hearings will be conducted informally without the strict use of legal rules of evidence. A record of such third step hearing shall be taken and shall include the names of the individuals who participate, a statement of the employee's grievance, and a summary or transcript of each person's testimony. The Grievance Advisory Committee will forward this record along with the Committee's findings of fact and recommendations to the IHARA, who will render a written decision within 10 calendar days following receipt of the findings. The notice of decision will advise the employee of his/her right to appeal. A copy of the notice of decision may be furnished to the Director/Chief of MOD's local authority. When the employee is dissatisfied with the decision by the IHARA, he/she may present his/her appeal in writing, by use of USFJ Form 332EJ, "IHA Request for Grievance Review", within 15 calendar days following receipt of the decision to the IHARA. The employee shall prepare USFJ Form 332EJ, "IHA Request for Grievance Review", which the IHARA will retain one copy and forward the original appeal to the IHA Administrator and one copy to the Director/Chief of MOD's local authority.

4. Final Step. If the request for review at the final stage is based upon the introduction of new evidence, the case will be returned to the third step for consideration. All papers, including all records, findings of fact, recommendations and decision at the first, second, and third steps, and the employee's personnel folder, will be forwarded, together with any comments the IHARA deems appropriate, to the IHA Administrator. Within 30 calendar days following receipt of the case by the IHA Administrator, the employee will be notified of the decision on his/her case. A copy of the notice of decision may be furnished to the Director/Chief of MOD's local authority. If, while the request for review is under consideration by the IHA Administrator, any cognizant authority in the chain of command determines that corrective action, which is satisfactory to the employee, is appropriate, the IHA Administrator will direct that such action be taken. In such case, the employee will be notified through his chain of command and the case returned to the IHAR concerned.

5. Grievance Advisory Committee.

a. Membership. The IHARA may appoint a Grievance Advisory Committee composed of two US Forces personnel (normally one US officer, if available, and one US civilian employee) and one IHA employee at the installation. One of the two US Forces members will be designated as chairman.

Effective: 10 December 2021

b. Responsibility. The Grievance Advisory Committee shall review and investigate grievances appealed to the third step that are referred to the Committee by the IHARA and shall make recommendations thereon to the IHARA only after full and fair hearing and consideration of all the facts in the case.

c. Procedures. The Committee may hold hearings or interviews on all grievances referred by the IHARA. The Committee may call upon installation personnel to render assistance, present evidence, and furnish pertinent records or material as the circumstances may require.

d. Findings of Fact and Recommendations. The Committee's findings of fact and recommended action on each grievance, together with a transcript or summary of the fact finding, hearing, or interviews, if any, shall be presented to the IHARA. In the event of a minority opinion, both the majority and minority opinions and recommendations shall be presented.

6. Submission of Grievance. The employee may submit his/her grievance in English or in Japanese. The statement must define the grievance clearly and state the relief which is desired by the employee. A grievance submitted in Japanese will be translated by USFJ. USFJ shall provide interpreters as needed. The decision shall be provided to the employee in English and/or in Japanese. The employee is prohibited to use duty hours and/or government property (i.e. computers, papers, etc.) to prepare the grievance statement and other materials for submission.

7. Meetings and Hearings. Administrative leave with pay shall be granted to employees who participate in grievance procedures as set forth herein.

8. Cases where the same employee submits multiple grievance appeals with the same subject matter or arising out of the same set of facts. If, after the second step, the IHAR/IHARA determines that his/her grievance was processed in the past and his/her grievance has been submitted as another grievance with the same subject matter or arising out of the same set of facts, the IHAR/IHARA will render a written decision that includes, as a summary of the dismissal, the fact that the case is the same as the case that was processed in the past, clarifying the written grievance and the notice of decision for the case. In addition, at the second and third steps, the notice of decision shall advise the employee of his/her right to appeal.

Effective: 10 December 2021