

CHAPTER 12 - GRIEVANCE PROCEDURES

1. General.

a. Purpose. The provisions hereof establish the procedures for the processing of grievances of employees furnished under the terms of this contract, excepting that they shall not apply to cases of termination of employment for security reasons which are treated under Chapter 9. The provisions of this chapter shall be brought to the attention of, and shall be made available to all such employees by Party A.

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

c. Acceptance of Grievance. An employee's grievance will be accepted and processed at the installation at which he 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 Party B'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 COR in accordance with subparagraphs 1a and 1b, Section D, Chapter 8. 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 COR of the installation in which the employee was last employed and shall be heard initially at the third step as set forth in paragraph 2c, 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 Party A. When such non-acceptable grievances are of concern to Party B, the employee shall be advised of his right to discuss the matter with the Director/Chief of Party B's local authority.

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

2. Procedures for Handling of Grievance.

a. First Step.

(1) When an employee has a grievance, he shall present it in writing on USFJ Form 17EJ, "MLC First Step Grievance", to his immediate supervisor. The employee may be accompanied and represented by not more than two fellow employees of his own choice. If the requested remedial action is within the authority of the supervisor, he 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 grievance of his 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 shall forward it to the COR.

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(2) When an aggrieved employee believes that there are valid reasons why the initial presentation of his grievance to his immediate supervisor would be prejudicial to his interests, he may by-pass his immediate supervisor and present his grievance to the next higher supervisor.

(3) After having received a decision from his immediate supervisor or the next higher supervisor, within six calendar days following the receipt of the decision, the employee may seek redress at any supervisory level up to but not including the officer-in-charge of the functional unit in which he 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 grievance in writing to his immediate supervisor, by use of USFJ Form 333EJ, "MLC Second Step Grievance", within 15 calendar days following the receipt of the decision. The supervisor shall forward the grievance to the COR within six calendar days following the receipt of the grievance.

b. Second Step.

(1) Upon receipt of the written grievance and determination by the COR that a grievable condition exists within the control of Party A, the COR will initiate an investigation and afford the employee an opportunity to present his 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 COR will render a written decision to the employee, setting forth the basis thereof, and advising him of his right to appeal.

(2) If the employee is dissatisfied with the decision of the COR, he may present his appeal in writing, by use of USFJ Form 328EJ, "MLC Third Step Grievance", within 15 calendar days following receipt of the decision, to the COR, who shall forward the appeal to the COR for Appeals. 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 COR deems appropriate, to the COR for Appeals.

c. Third Step.

(1) Within 10 calendar days following receipt of a third step grievance, the COR for Appeals 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.

(2) The Grievance Advisory Committee will promptly conduct an additional fact finding inquiry for the COR for Appeals and, if necessary, may schedule a hearing at which the employee shall be present. He may be accompanied and represented by not more than two fellow employees of his choice. He shall be given full opportunity to present his case, written evidence to support his statements and to present witnesses who provide evidence or witness statements at the hearing to support his position. Further, he shall be given an opportunity to reply to any evidence against him. 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

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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 COR for Appeals, 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 right to appeal. A copy of the notice of decision may be furnished to the Director/Chief of Party B's local authority. When the employee is dissatisfied with the decision by the COR for Appeals, he may present his appeal in writing, by use of USFJ Form 332EJ, "MLC Request for Grievance Review", within 15 calendar days following receipt of the decision to the COR for Appeals. The employee shall prepare USFJ Form 332EJ, "MLC Request for Grievance Review", which the COR for Appeals will retain one copy and forward the original appeal to the Contracting Officer and one copy to the Director/Chief of Party B's local authority.

d. 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 COR for Appeals deems appropriate, to the Contracting Officer. Within 30 calendar days following receipt of the case by the Contracting Officer, the employee will be notified of the decision on his case. A copy of the notice of decision may be furnished to the Director/Chief of Party B's local authority. If, while the request for review is under consideration by the Contracting Officer, any cognizant authority in the chain of command determines that corrective action, which is satisfactory to the employee, is appropriate, the Contracting Officer 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 COR concerned.

3. Installation Grievance Advisory Committee.

a. Membership. The COR for Appeals 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 MLC employee at the installation. One of the two US Forces members will be designated as chairman.

b. Responsibility. The Grievance Advisory Committee shall review and investigate grievances appealed to the third step that are referred to the Committee by the COR for Appeals, and shall make recommendations thereon to the COR for Appeals 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 COR for Appeals. 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 COR for Appeals. In the event of a minority opinion, both the majority and minority opinions and recommendations shall be presented.

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4. Submission of Grievance. The employee may submit his 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 Party A. Party A 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.

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

6. 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 COR/COR for Appeals 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 COR/COR for Appeals 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.

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