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SECRETARY OF THE AIR FORCE

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ADMINISTRATIVE GRIEVANCE SYSTEM

COMPLIANCE WITH THIS PUBLICATION IS MANDATORY

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This instruction implements AFPD 36-12, *Dispute Resolution,* and Department of Defense Civilian Personnel Manual Subchapter 771, *The Administrative Grievance System.* This instruction contains the Air Force system for considering employee grievances. It reflects the policies of the Secretary of the Air Force concerning matters that are discretionary with the Air Force. It applies to US citizen employees of the Air Force who are paid from appropriated funds and who are either nonbargaining unit employees or bargaining unit employees in a unit where no collective bargaining agreement has been negotiated or where the negotiated procedure excludes the matters at issue. It also applies to supervisors, civilian personnel officers, career Senior Executive Service (SES) and Senior Intelligence Executive Service (SIES) members, Civilian Intelligence Personnel Management System (CIPMS) employees, and other management officials of the Air Force. It applies to civilian employees of the Air National Guard and Air Force Reserve, except it does not apply to Air National Guard Technicians administered by the National Guard Bureau under Title 32, U.S.C. Section 709. It does not apply to employees of the Army and Air Force Exchange Service. It does not apply to applicants for employment. It also does not apply to matters which employees may appeal to the Merit Systems Protection Board or matters that are covered by AFI 36-1201, *Discrimination Complaints*.

(DOVER) AFI 36-1203, dated 1 May 1996 is supplemented as follows. It implements and outlines Dover AFB procedures for the administrative grievance process. Grievants, representatives, and witnesses are free from restraint, interference, coercion, reprisal or discrimination in the exercise of their rights under this system.

SUMMARY OF REVISIONS

This instruction has been revised throughout.Certified Current 3 March 2014

(DOVER) Paragraph **3.** changes the Deciding Official from the Group Commander to the Squadron Commander. Paragraph **11.7.2. (Added)** changes reviewer designation from 436 AW/CC or appropriate tenant unit commander to appropriate group or tenant commander. Paragraph **11.7.3. (Added)** changes reviewer designation. **A bar (|) indicates a revision from the previous edition.**

Section A—Authorities and Responsibilities

1. HQ USAF. The Air Force Personnel Operations Agency, Work Force Appeals and Relations Division (AFPOA/DPW) provides overall Air Force guidance on the administrative grievance system.

2. Major Command (MAJCOM). The MAJCOM director of civilian personnel will designate a principal point of contact for administrative grievances for subordinate installations and with AFPOA/DPW.

3. Commanders. Installation commanders or their designee(s), except as provided below, will make final written decisions on grievances. This includes decisions on the rejection and cancellation of grievances.

- The deciding official must be at a higher organizational level than any person involved in the grievance or having a direct interest in the matter being grieved. If to meet this requirement, it is necessary to elevate the grievance above base level, the deciding official will be an individual in the next higher management level in the grieving employee's chain of command.
- Grievances filed by employees of a tenant organization will be decided by an official in the grievant's chain of command, except where the grievance concerns matters outside the authority of that chain of command.
- Grievances filed concerning career program issues will be processed in accordance with Air Force Manual (AFMAN) 36-606, Volume 1, Air Force Civilian Career Program Management, Section H, Grievances and Complaints, paragraph 1.45. Settlement agreements involving career program policies or positions must be in compliance with AFMAN 36-606, Volume 1, Section H, paragraph 1.46.

3. (DOVER) Commanders. The employee's Squadron Commander will be the deciding official.

4. Civilian Personnel Flights. Civilian Personnel Flights (CPFs), in conjunction with management, shall develop their own procedures in accordance with the system outlined in this AFI. CPFs provide policy direction and technical advice to management; serve as principal advisors to deciding officials and supervisors; assist them in processing and resolving grievances; publicize the grievance process to employees; and advise employees regarding grievance procedures.

Section B—Administrative Grievance System (AGS) General Provisions

5. Matters Covered and Those Excluded. The Air Force AGS establishes a process under which an employee or a group of employees acting as individuals, may request personal relief in any matter of concern or dissatisfaction relating to the employment of the employee(s) which is subject to the control of Air Force management. Grievances do not include any matters that are subject to review outside the Air Force or for which other authorized complaint or appeal systems, such as the Merit Systems Protection Board or the Inspector General (IG), are prescribed. See **Section E** for subject matter coverage which lists other excluded matters.

6. Representation Rights. Air Force employees are entitled to present grievances, communicate with management officials and their servicing CPF; and represent themselves, or be represented by someone of their choosing. The representative may accompany the employee or may act for the employee without the employee's presence. If the employee elects representation, he or she must designate the representation in writing and must notify management in writing of any change in that designation of representation. The choice of representative may be denied if it would result in a conflict of interest, conflict with mission priorities, or result in unreasonable costs. Employees must be notified in writing, as soon as possible, after the decision of any disallowance of representation and provided rationale for the disallowance.

7. Use of Official Time. Employees and their representatives will be allowed, upon request, a reasonable amount of duty time, if otherwise in a duty status, to prepare and present a grievance. Determinations of what constitutes a reasonable amount of duty time will be based on the facts and circumstances of each case. Additional time may be granted to the employee, upon request, when it is practical and reasonable.

8. Local Procedures. Installation commanders and management officials with delegated appointing authority, with the assistance of the CPF, may tailor the AGS to meet local needs, such as specification of deciding officials, time frames for holding grievances in abeyance, and organization or individual designated for review of grievance decisions. Matters excluded from grievance coverage by DoD and this AFI may not be changed unless approved by DoD. Neither may the types of employees covered by the AGS be changed. Processing time limits, as stated in this AFI, must also be observed.

9. Grievance Files. Activities must establish a grievance file whenever a formal grievance is filed. Upon request, the grievance file shall be made available to the grievant and/or the grievant's representative for review. The file shall contain all official documents or copies of documents related to the grievance. Grievance files will be retained for four years in accordance with applicable laws, regulations, and records retention schedules.

Section C—Administrative Grievance Procedure

10. Informal Dispute Resolution Process. Alternative Dispute Resolution (ADR) techniques, such as mediation, peer review panels, facilitation, and settlement conferences, should be utilized to the maximum extent possible with the consent of the parties to the dispute. ADR reduces the time and costs of settling disputes and empowers deciding officials to resolve issues in controversy more creatively and expeditiously. ADR may be invoked at any stage of the grievance process; however, it is most successful when initiated early or when the dispute is raised. Information about ADR should be made available to the parties.

10.1. An employee may seek informal resolution of a matter before filing a formal grievance, unless the matter involves an action that was effected through a notice of proposed action, a right to answer, and a notice of final decision.

10.2. The employee initially shall present the matter either orally or in writing, to the immediate supervisor. If the matter involves an action taken by, or a relationship with, that supervisor, the matter may be presented to the next level supervisor. The employee must clearly advise the supervisor of the basis of the matter and the personal relief or remedy sought.

10.3. The supervisor must consider the employee's problem and should not reject the grievance for any reason. However, if the supervisor believes the matter is not covered by the AGS or is untimely,

the supervisor should inform the employee. The employee must be allowed to subsequently submit a formal grievance on the matter if so desired.

10.4. The supervisor to whom the grievance has been submitted must attempt to resolve it and provide a written decision within 15 calendar days (but no later than 30 calendar days) from the date the matter is raised. If the initial 15 day time limit cannot be met, the supervisor shall inform the employee (and the employee's representative) in writing of the date by which a decision will be received.

10.4. (DOVER) Supervisors must attempt to resolve grievances informally and participate in ADR procedures.

10.5. If the matter is not resolved in the informal stage, the supervisor should inform the employee of the procedures for filing a formal grievance when conveying the decision to the employee. The employee should also be given the name of the CPF representative or union official, as appropriate, who can advise the employee regarding procedures for requesting further grievance consideration.

11. Formal Grievance Resolution Process.

11.1. An employee may file a formal written grievance if the matter is not resolved in the informal process (e.g., the requested relief is not granted or management's time limit expired with no decision) or where the employee chooses to bypass the informal process and initially file a grievance.

11.2. The employee shall file the grievance in writing with the locally designated deciding official. The grievance must be signed, dated, and contain a sufficiently detailed statement of the specific issue(s) and the personal relief sought; a statement that the employee has not filed an appeal or complaint (such as an IG or an Equal Employment Opportunity (EEO) complaint) on the same issue; 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, when applicable. Identical issues raised by the employee in any other grievance, appeal, or complaint are not grievable under this procedure.

11.3. Identical or similar grievances may be joined and processed together provided this does not adversely affect the rights of any employee and joint processing is more effective and efficient. Grievances are identical and similar when the concerns expressed and the relief requested are identical or similar.

11.4. The deciding official shall issue a final written decision which shall respond to all issues and shall provide the reasons for the decision. If the grievance is canceled or rejected, the deciding official should also give the reasons in writing for the decision. Deciding officials must be assigned to an organizational level higher than any employee involved in the grievance or having a direct interest in the matter being grieved unless the deciding official is the Secretary of the Air Force. The decision is final and not subject to review. However, an employee may request review of the following: a decision to reject, cancel, or otherwise terminate a grievance without a decision on its merits; a decision that did not grant the relief sought when the grievance involved a suspension without pay; or any other decisions as established by local procedures.

11.5. Deciding officials shall determine:

11.5.1. The disposition of issue(s) which may arise in the processing of a grievance, such as whether to cancel or suspend processing of all or a portion of a grievance.

11.5.2. Whether the parties are willing to attempt an ADR procedure.

11.5.3. Whether to require an impartial investigation. ***Note: This is recommended when the grievance concerns the separation or removal of a CIPMS employee or a suspension without pay.***

11.5.4. Whether to allow the grievant's choice of representative.

11.5.5. Which issue(s) shall be investigated if the grievance is accepted.

11.5.6. How much duty time shall be granted to the employee and the employee's representative.

11.6. The deciding official may investigate the grievance. The official may also designate a fact-finder or select an investigator from the DoD Office of Complaint Investigations (OCI). The fact-finder or investigator must not have been involved in the grievance or have a direct interest in the matter being grieved. The official shall also decide the scope of the investigation, i.e., whether to require a report of fact, a report of facts with analysis, or report of fact with analysis and recommendations.

11.7. Requests for review by the grievant (as allowed in paragraph **11.4.**) are sent directly to the reviewer for a decision. Local procedures may specify that this review may be done by the Air Force Civilian Appellate Review Office (AFCARO) or by a deciding official at a higher organization level than the official who made the initial decision. ***Note: Review by AFCARO is recommended in cases involving suspensions without pay or for removal, reduction in grade or pay, or furlough for 30 days or less of a CIPMS employee. Employees should be notified of their review options, if any, by the deciding official.***

11.7.1. (Added-DOVER) Requests to review must be submitted in writing to the 436 MSS/DPCE within 15 calendar days of receiving the final decision. A request must fully and clearly explain the reasons for disagreeing with the decision.

11.7.2. (Added-DOVER) The 436 MSS/DPCE forwards the entire grievance file to the appropriate Group or Tenant Commander, as appropriate, within 10 calendar days of receipt.

11.7.3. (Added-DOVER) The appropriate Group or Tenant Commander reviews the grievance file and provides a written response to the grievant, within 30 calendar days of receipt.

11.8. A grievance or a portion of the grievance may be canceled or temporarily suspended:

11.8.1. At the grievant's request (cancel or suspend processing the grievance as requested).

11.8.2. If the subject matter of the grievance is excluded (cancel the grievance or that portion of the grievance containing excluded matters and advise the employee of any other appropriate forum for resolving the excluded issues).

11.8.3. Because the grievant failed to provide sufficient detail to clearly identify the matter being grieved or specify the personal relief requested (cancel the grievance or suspend processing the grievance until the deficiency is corrected).

11.8.4. Where the grievance requests disciplinary or other detrimental action be taken against another employee (cancel that portion of the grievance).

11.8.5. If the grievant fails to comply with established time frames (cited in paragraphs **12.1.** and **12.2.**) or procedures (cancel the grievance if time frames are not met or - if otherwise procedurally deficient, cancel the grievance or suspend processing the grievance until the deficiency is corrected).

11.8.6. Where the grievant files a formal appeal, complaint or other challenge on the same matter under the AGS or under another formal dispute resolution process identified above (cancel that portion of the grievance pending or resolved in another process).

11.9. When an employee alleges discrimination based upon race, color, religion, sex, national origin, physical or mental disability, or age, in connection with a grievance, the deciding official will hold the grievance in abeyance and refer the allegation of discrimination to the activity's Chief Equal Employment Opportunity (EEO) Counselor. The official will notify the employee, the employee's representative, and the CPF in writing of the referral. If the grievant withdraws the allegations of discrimination and requests further processing under the AGS, the deciding official will resume processing the grievance and notify all parties in writing. If the grievant files a formal discrimination complaint, or does not withdraw the allegations of discrimination in the grievance and requests further processing under the AGS, the grievance will be canceled by the deciding official.

12. Time Frames.

12.1. If the employee uses the informal dispute resolution process, he/she must raise the matter no later than 15 calendar days following the date of the act or event creating the problem or the date the employee became aware of (or reasonably should have become aware of) the act or event. An employee may present a matter of concern regarding a continuing practice or condition at anytime. If the informal dispute resolution process is not successful in resolving the employee's concerns, the employee must file a formal grievance no later that 15 calendar days after the mediation or other ADR process concluded or a decision was rendered on the informal grievance.

12.2. If the employee does not use the informal dispute resolution process, the employee must raise a matter within 15 calendar days following the date of the act or event creating the problem, or the date the employee became aware of (or reasonably should have become aware of) the act or event. An employee may present a matter of concern regarding a continuing practice or condition at anytime.

12.3. The deciding official shall thoroughly and fairly consider the formal grievance and issue a written decision as soon as possible but no later than 60 calendar days from the filing of the grievance. The deciding official may extend time frames when warranted by special circumstances (i.e. when those involved are geographically dispersed or when a third party fact-finder is used in the process). If extensions are used, a grievance decision must be issued no later than 90 calendar days from the filing or 120 calendar days from the filing if a third party fact-finder is utilized, i.e. an examiner from OCI. The 120 calendar days time limit may be extended only when OCI is unable to schedule and complete the grievance examination during this period. In that case, a decision will be rendered no later than 30 calendar days after receipt of the OCI report.

12.4. When calculating time limits under the AGS, the day of an action or receipt of a document is not counted. The latest day of the time limit is counted unless it is a Saturday, a Sunday, a legal holiday, or day on which the employee is not regularly scheduled to work. In those cases, the last day of the time limit shall be moved to the next regularly scheduled workday.

Section D—Civilian Intelligence Personnel Management System (CIPMS) Employees

13. CIPMS (Title 10, U.S. Code, Section 1590) Employees. Non-preference eligible CIPMS employees who have completed one year of continuous service in the same or similar positions within DoD under other than a temporary appointment limited to two years or less, may grieve their removal, suspension,

reduction in grade or pay, or furlough for 30 days or less. This provision does not apply to terminations for national security reasons under Section 1590(e)(1) of Title 10, United States Code. Activities should normally conduct an impartial hearing in removal cases. Such hearings may be conducted by OCI or another independent fact-finding party.

Section E—Subject Matter Coverage

14. Matters Excluded. Any employment matter may be grieved under this procedure except for the following:

14.1. The content of established agency regulations (Air Force Instructions) and policy.

14.2. Any matter covered by a negotiated grievance procedure or subject to formal review and adjudication by the Merit Systems Protection Board, the Office of Personnel Management, the Federal Labor Relations Authority, or the Equal Employment Opportunity Commission or any matter that the employee files under another review process or reconsideration procedure, or dispute resolution process (e.g. classification appeals) within the DoD.

14.3. Non-selection for promotion from a group of properly ranked and certified candidates or failure to receive a non-competitive promotion.

14.4. Preliminary notice of an action that, if effected, would be covered under the Air Force appeal or grievance systems or adjudication by the agencies cited in paragraph **14.2.**

14.5. The substance of performance standards, elements and or work objectives.

14.6. The granting of, or failure to grant a performance award or the adoption of, or failure to adopt a suggestion or invention under 5 CFR Part 451. The receipt of or failure to receive a performance award under 5 U.S.C. 5384, performance awards in the SES/SIES. The receipt of or failure to receive a quality step increase under 5 U.S.C. 5336.

14.7. The payment of, failure to pay, or the amount of a recruitment bonus, a relocation bonus, a retention allowance, or a supervisory differential under 5 CFR Part 575 or 10 U.S.C. 1590. The payment of, or failure to pay, or the amount of critical position pay under 5 U.S.C. 5377; or the failure to request or grant an exception to the dual compensation restrictions under 5 CFR 575 or 10 U.S.C. 1590.

14.8. Any action taken under a voluntary formal agreement entered into by an employee involving geographic relocation or return from an overseas assignment.

14.9. The termination of a probationer.

14.10. The return of an employee serving a probationary period as a supervisor or manager to a nonsupervisory or nonmanagerial position for failure to satisfactorily complete the probationary period.

14.11. The separation or termination of an employee during a trial period.

14.12. Reassignment of a SES/SIES member following receipt of an unsatisfactory rating. Also return of a SES/SIES member to another pay system during the one-year period of probation or for less than fully successful executive performance, and failure to be recertified, conditional recertification, or termination during probation for unacceptable performance.

14.13. The termination or expiration of a term or temporary appointment or promotion, whether in the competitive or excepted service, in accordance with conditions of the appointment or promotion provided the employee was informed in advance of the temporary nature of the appointment or promotion and is returned to his or her former or equivalent position if temporarily promoted.

14.14. SES/SIES performance evaluations and awards (including meritorious or distinguished executive rank awards) and SES/SIES or Senior Level pay rate changes.

14.15. A separation or termination action from a permanent position, except as provided for in paragraph **13.**

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