



14 NOVEMBER 2002
Certified Current on 28 May 2015
Personnel

**GRIEVANCES AND APPEALS NON-US
CITIZEN EMPLOYEES**

COMPLIANCE WITH THIS PUBLICATION IS MANDATORY

NOTICE: This publication is available digitally on the AFDPO WWW site at:
<http://www.e-publishing.af.mil>

OPR: HQ USAFE/DPCP
(Ms. Eva Schmitt-Vogeley)

Certified by: HQ USAFE/DPC (Mr. John C. Day)
Pages: 6
Distribution: F

This instruction implements AFD 36-12, *Dispute Resolution*. The instruction outlines USAFE policy on the adjudication of non-US citizen employee grievances and appeals, and establishes procedures for their processing through internal USAFE channels. The instruction applies to all appropriated and nonappropriated fund employees of the US Forces administered by a US Air Force Civilian Personnel Flight (CPF) in Germany under the terms of the Collective Tariff Agreement (CTA II), or individual employment agreements related thereto; in Turkey, provided they are neither members of nor solidarity dues payers to the signatory union of the Collective Labor Agreement (CLA), and therefore, exempt from the scope of the latter. "For Air Force users: Maintain and dispose of records created by prescribed processes in accordance with Air Force Manual (AFMAN) 37-139. Records Disposition Schedule (will become AFMAN 33-322, Volume 4)."

SUMMARY OF REVISIONS

Rescinds applicability for Italy. Updates office symbols from DPCI to DPCP, and Civilian Personnel Division to Civilian Personnel and Personnel Resources Division (DPC), paragraph **3.5**. Deletes reference to outdated regulatory material, paragraph **8.**, and corrects references under **Attachment 1**.

1. Policy:

- 1.1. Employees will be guaranteed an opportunity for fair and impartial review of all grievances and appeals, and will receive equitable treatment in every respect.
- 1.2. Employees will be free from restraint, interference, coercion, discrimination, or reprisal when either expressing an intention to exercise any of their rights under this instruction, or actually presenting grievances or appeals, or furnishing testimony in relation thereto. *Certified Current 25 September 2012*

2. Exclusions . Do not use the USAFE Grievance and Appeal Procedures to review:

- 2.1. Applicable negotiated employment statutes, collective agreements or policy published by higher headquarters, except alleged incorrect application thereof;
- 2.2. The classification of positions;
- 2.3. Actions taken in the interest of military security;
- 2.4. Determinations of officially recognized medical authorities;
- 2.5. Separation during probationary period;
- 2.6. Voluntary resignations;
- 2.7. Termination of temporary employment due to expiration;
- 2.8. Termination of employment due to retirement;
- 2.9. Non-adoption of a suggestion or disapproval of a performance award or other kind of honorary or discretionary award;
- 2.10. Actions appealed directly to a court, unless the employee withdraws his or her court case or agrees to suspension of court proceedings pending decision on the grievance or appeal filed through internal channels.

3. Responsibilities:

3.1. Employees will:

- 3.1.1. Make every effort to understand, accept, and support the personnel policies which govern their employment.
- 3.1.2. Discuss problems with the immediate supervisor at the earliest opportunity.

3.2. Supervisors and operating officials will:

- 3.2.1. Establish and maintain the best possible working environment to promote the efficiency, productivity, and morale of employees in the organization;
- 3.2.2. Give prompt, thorough and unbiased attention to any grievance or appeal, regardless of whether it is filed with or without just cause;
- 3.2.3. Determine underlying causes of grievances and eliminate any conditions within their direct area of jurisdiction that might or do give rise to valid grievances;
- 3.2.4. Attempt to resolve grievances as expeditiously as possible, or assist employees in securing a satisfactory solution to problems presented;
- 3.2.5. Inform employees of the procedure for filing grievances or appeals.

3.3. Civilian Personnel Officers (CPO) will:

- 3.3.1. Implement procedures for local review and processing of grievances and appeals.
- 3.3.2. Ensure that employees, management officials, and employee representatives are informed of the procedures established in this instruction and local supplement thereto, if any, at least annually.

3.3.3. Furnish advice and assistance to employees and management as further outlined in para 6. below.

3.3.4. Maintain an unbiased and disinterested viewpoint in handling all grievances and appeals.

3.4. Installation commanders will:

3.4.1. Direct, as necessary, investigation of appeals and group or individual grievances to determine whether just cause or valid basis exists for dissatisfaction.

3.4.2. Make final installation review of facts and render decision;

3.4.3. Advise appellants by written notification of their final decision, and right of further appeal.

3.5. Civilian Personnel and Personnel Resources Division, (HQ USAFE/DPC) will:

3.5.1. Provide guidance and technical assistance to installation commanders and CPFs on all aspects of the USAFE grievance and appeal procedure.

3.5.2. Review and render final decision on grievances and appeals from decisions of installation commanders as prescribed in paragraph 8.

4. Time Limits. Employees may present a grievance concerning a continuing practice or condition at any time, but must present a grievance concerning a particular act or occurrence within 15 calendar days of the date they became aware of it. File appeals from adverse action not later than 15 calendar days following receipt of written notice. Extend time limits if the employee shows that extenuating circumstances beyond his or her control prevented filing of the appeal in time. Extensions must be requested and approved in writing. The fact that an employee files or intends to file a grievance or an appeal will not delay administrative action.

5. Representation:

5.1. An employee has the right to be accompanied, represented, and advised by one representative of his or her choice in the presentation of an appeal or a grievance to any administrative supervisor above the first level of supervision, the civilian personnel officer, or to any other person designated by the installation commander to consider or review the grievance or the appeal. The employee must designate the representative in writing at the time he or she presents the grievance or appeal or when the representative is to act in that capacity without the employee's presence. A written designation may be changed only by written notification to the official then considering the matter.

5.2. Management shall have the right to disallow the employee's selection of a representative on the grounds of conflict of interest or conflict of position. The disallowance must be in writing. It must state the specific reasons for the disallowance, and be delivered to the employee within five calendar days after receipt of the employee's notification of a representative.

5.3. An employee may challenge disallowance of a representative within five calendar days from receipt of a respective notification. The challenge must be in writing and addressed to the installation commander, who will render final decision. Pending that decision, all action on the appeal or grievance will be held in abeyance.

6. Processing of Grievances and Appeals:

6.1. An individual employee or a group of employees may present a grievance provided that, in the latter case, the issues in the grievance and the remedy sought are identical for each employee joining in the grievance. Process group grievances as a single grievance in the name of one employee designated by the others to act for them. However, all employees joining in the grievance must be identified, and all must sign the grievance at the stage it is placed in writing. If no individual is designated to carry the grievance, address communications to the employee whose name appeared first in the grievance.

6.2. Employees desiring consideration of a grievance must first seek informal adjustment of the matter through supervisory channels.

6.2.1. Usually make the initial presentation, which may be oral or written, to the immediate supervisor, stating the case in detail, and indicating the remedy sought. When the complaint concerns relationships with or actions taken by a supervisor, present the grievance to the next higher supervisor in the chain of command.

6.2.2. The supervisor to whom the grievance is presented will attempt to resolve it as expeditiously as possible, and will give the employee a decision on the matter within 10 calendar days after the day of presentation. In arriving at a decision, the supervisor will collect and review all essential and pertinent facts and give to the person or persons who are the target of the complaint an opportunity to execute a written statement. Obtain coordination with appropriate levels of line management or concerned staff officials if appropriate. If the supervisor cannot grant the adjustment sought, inform the employee of the reasons and his or her right to request further consideration under formal procedures in paragraph 6.4. below.

6.2.3. In presenting a grievance, employees are entitled to communicate with and seek advice from the CPO or a responsible member of his or her staff. Where it appears that settlement of a grievance may be expedited, the CPO will attempt to bring together the individuals concerned with the matter for the purpose of their resolving the matter informally.

6.3. Address initial appeals from adverse action in writing to an official above the level of the individual who made the adverse action decision and signed the respective notice or notification, as designated therein. Apply principles and procedures in paragraphs 6.2.2. and 6.2.3. with respect to processing of an appeal at this level.

6.4. On receipt of an unfavorable decision on his or her grievance or appeal under informal procedures in 6.2. and 6.3., or when the time limit for management action has expired without a decision, the employee may, within 10 calendar days thereafter, submit the grievance to the installation commander, Attn: Civilian Personnel Officer. The grievance or appeal must be in writing, signed by the employee, specify the basis for the action and relief sought, and explain efforts made to resolve the matter informally.

6.4.1. The CPO will promptly review the case and make a determination as to whether the grievance or appeal is procedurally acceptable or should be rejected on the basis of paragraph 2. In the latter case, notify the employee in writing. If the grievance or appeal is acceptable, the CPO will prepare a summary of facts and recommendations, and forward the case file to the installation commander.

6.4.2. The installation commander will review all available evidence and determine whether or not a decision can be rendered without further investigation. If deemed necessary, he or she may appoint an impartial examiner to further investigate into the facts and make a recommendation. The installation commander will inform the complainant of his or her decision in writing within 10 calendar days from receipt of the grievance or appeal file. If an employee of a serviced organization or installation filed the grievance or appeal, the installation commander will coordinate his decision with the respective serviced commander. A decision rendered on a group grievance applies to all employees in the group, and each will be provided a copy of the written decision.

7. Review of Installation Level Decisions:

7.1. If the decision of the installation commander is not favorable, employees may request a review and appeal for a final decision within 10 calendar days to HQ USAFE/DPC.

7.2. Requests for review must be in writing, explaining fully and clearly the basis for disagreeing with the contested decision, and submitted to the servicing CPF. The CPF will transmit requests in a timely manner to the reviewing authority together with the complete case file, and if appropriate, the employee's official personnel folder.

8. Works Council Participation in Germany. When an employee elects to present a complaint to the installation works council rather than under procedures established in this instruction, the works council is expected to work for its redress through negotiations with the employee's supervisor, the agency chief, or the CPO as appropriate. Give full consideration at all levels of supervision to recommendations of the works council regarding legitimate complaints.

9. Remedial Action. When decisions on grievances or appeals are made in favor of employees, take appropriate remedial action promptly insofar as possible under governing law or instructions.

LEO E. KRINGER, JR., Colonel, USAF
Director of Personnel

Attachment 1**GLOSSARY OF REFERENCES AND SUPPORTING INFORMATION*****References***

AFPD 36-12, *Dispute Resolution*

AFI 36-102, *Basic Authority and Responsibility for Civilian Personnel Management and Administration*

USAFEPAM 36-720, *Collective Tariff Agreements (CTA II) That Apply to Persons Employed by the U.S. Forces in Germany, (English Translation)*

Abbreviations and Acronyms

CLA—Collective Labor Agreement

CPF—Civilian Personnel Flight

CPO—Civilian Personnel Officer

CTA—Collective Tariff Agreement

Terms

Adverse Action—Any management-initiated personnel action that adversely affects an employee's pay, conditions of or continuity of employment.

Appeal—The written request by an employee for reconsideration of an adverse action decision.

Grievance—The verbal or written request by an employee, or a group of employees acting as individuals, for personal relief in a matter of concern or dissatisfaction related to specific employment aspects, working conditions, or work relationships which is subject to the control of Air Force management.

Installation Commander—The commander to whom authority has been delegated under AFI 36-102, as supplemented, to appoint, assign, promote, demote, and separate, or to administer non-US citizen personnel under a direct or an indirect hire employment system.