

DEPARTMENT OF THE ARMY  
Missouri River Division, Corps of Engineers  
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CEMRD-M 690-1-771

CEMRD-PO

Memorandum  
No. 690-1-771

1 October 1988

Civilian Personnel  
PERSONNEL RELATIONS AND SERVICE (GENERAL)  
Army Grievance System

1. Purpose. The purpose of this memorandum is to establish procedures for resolving grievances based on dissatisfaction with performance ratings or the performance appraisal process for employees of the Missouri River Division.

2. Applicability. This memorandum applies to all employees of the Missouri River Division Office, except those who are in a bargaining unit which has a negotiated grievance procedure. Those employees who are members of the Senior Executive Service (SES) are also excluded from coverage.

3. References.

a. 5 Code of Federal Regulations (CFR) Part 430, Performance Management.

b. 5 CFR Part 771, Agency Administrative Grievance System.

c. Federal Personnel Manual, Subchapter 3.

d. AR 690-700, Department of the Army Grievance System, Chapter 771, Subchapters 1, 2 and 3.

e. CEPE-CL Circular No. 690-1-685, Personnel Relations and Service (General) Army Grievance System, 10 July 1987.

4. General. These procedures apply to grievances which are based on dissatisfaction with the performance appraisal process, including dissatisfaction with the overall summary rating or with individual element ratings or both. The content of critical or noncritical elements of an employee's performance standards may not be grieved.

5. Information and Assistance to Employees. Matters pertaining to information and assistance provided employees, use of official time and resources, representation, and information from records and regulations are covered in Subchapter 2 of reference 1b. The Commander will ensure that employees will have a reasonable timeframe in which to present their grievances.

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6. Administrative Procedures.

a. The employee must submit his or her grievance within 15 days of his/her knowledge of or notification of the decision or occurrence being grieved. When the issue is the performance rating, the grievance must be submitted within 15 days after the employee was notified of the rating, as evidenced by the employee's signature on the performance rating, or the date of the supervisor's annotation if the employee refused to sign the rating. When an employee refuses to sign an appraisal, it would be well at that time for the supervisor to attempt to resolve the dissatisfaction, or at least to remind the employee of his/her grievance rights.

b. The Division Commander has the authority to reject these grievances if they are not filed in a timely manner, or the requested relief is not personal to the grievant. If the employee and management cannot agree that the performance appraisal process is the sole issue, the grievance will be forwarded to the appropriate region of the U. S. Army Civilian Appellate Review Agency (USACARA) for review. If USACARA determines that the performance appraisal process is the sole issue, the grievance will be returned to the activity for processing through the local procedure.

7. Informal Procedures. The informal procedures outlined in Subchapter 3, reference 3b may be used. If they are used and the grievance proceeds to Step 2 of the informal procedures, the rating supervisor and the supervisor who approved the rating will be the management officials at the meeting described in the regulation.

8. Formal Procedures.

a. A formal grievance may be filed when the employee is dissatisfied with the results of the informal process. Grievances related to the performance appraisal process may also be filed formally without going through the informal process when the employee is convinced that no useful purpose would be served by the informal steps. If the informal steps are not used, the grievance should be submitted to the appropriate official within 15 days of the performance rating. A formal grievance consists of a letter stating the matter grieved and the personal relief sought, together with any supporting documentation deemed appropriate and necessary.

b. In the Missouri River Division office a Deputy Commander will receive and decide formal grievances when the performance appraisal process is the only issue being grieved. The Deputy not involved in the rating process for the division or office involved will be assigned the grievance. For example, if the Deputy Commander for Military was involved in the rating process for the grievant or is in the supervisory chain of the grievant, the Deputy Commander for Civil will be designated to receive the grievance. In the event a Deputy position is vacant, or for other appropriate reasons, the Commander will appoint another Division official to decide the grievance.

c. The employee must be specific in stating his/her dissatisfaction with the rating. The grievant bears the burden of proving that his/her performance warrants a higher rating than the one officially assigned. At a minimum, employees must state the rating requested, the reason why the assigned rating is incorrect, and why they should be granted the requested rating. When the grievance involves or requires changing element ratings, employees must provide supporting rationale for the change. Grievants are encouraged to supply examples of work products and other information to support their claim. This documentation will assist the deciding official in determining whether this grievance procedure is appropriate, or if the grievance should be forwarded to USACARA. This documentation will also assist the deciding official in determining the nature and degree of factfinding necessary to process the grievance.

9. Representation. Employees are entitled to representation as prescribed in reference 3b, Subchapter 2. Challenges to employee representatives will be resolved by the Deputy Commander who has final decision making authority for the particular grievance.

10. Factfinding.

a. When the grievance concerns the performance rating, the deciding official may require factfinding, to be accomplished personally or by designating someone in the organization. Individuals selected as factfinders should be familiar with performance management principles and procedures, and may need technical and functional knowledge pertaining to the position occupied by the grievant. Factfinders may not be organizationally subordinate to any official previously involved in the matter being grieved.

b. When the factfinder is someone other than the deciding official, the individual will be tasked solely with compiling the pertinent facts pertaining to the rating issue. The factfinder may not render formal or informal recommendations concerning the performance rating, nor may such recommendations be solicited by the deciding official.

c. If the grievant raises issues beyond the scope of the performance rating during factfinding, the grievance will be forwarded to USACARA immediately.

11. Grievance Files. In addition to regular grievance files, a file will be established for each performance rating grievance which involves factfinding. Grievants and their representatives are entitled to reasonable access to the grievance file material.

12. Decision. The deciding official will render a written decision within 30 days of the formal filing whenever possible. In unusual situations where extensive factfinding is required, or appropriate officials or technical experts are unavailable for extended periods of time, a decision should be made in not more than 60 days. This decision is final.

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FOR THE COMMANDER:

/s/

GEORGE T. LA BLONDE, JR.  
Colonel, Corps of Engineers  
Deputy Commander

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