

DEPARTMENT OF THE ARMY
NORTH PACIFIC DIVISION, CORPS OF ENGINEERS
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CENPP-HR
Portland District Regulation
No. 690-2-771
CENPD-HR
HQ, North Pacific Division Memorandum
No. 690-2-771

20 October 1995

Civilian Personnel
GRIEVANCE PROCEDURE FOR RESOLVING
DISSATISFACTION WITH PERFORMANCE RATINGS

History. This issue is a revision of the joint NPPR/NPDOM 690-2-771 and supersedes it.

Summary. This regulation/memorandum which establishes procedures for and instructs individuals on filing grievances when dissatisfied with performance rating is revised to update office symbols, forms to be used and change in program now used for employee evaluation.

1. **PURPOSE.** This regulation/memorandum establishes the procedures for resolving employees' dissatisfaction with performance ratings when they are the sole issue.
2. **APPLICABILITY.** This regulation/memorandum is applicable to all civilian employees of the Portland District (NPP), Headquarters North Pacific Division (HQNPD), Military Entrance *Processing Station (MEPS), and US Army Recruiting Battalion who are subject to the Total Army Performance Evaluation System (TAPES). This regulation/memorandum does not apply to employees covered by grievance procedures established through negotiated agreements except in those instances where dissatisfaction with performance ratings is not covered by the negotiated grievance procedure. In addition, this regulation/memorandum does not apply to employees who have been denied within-grade increases, reduced in grade or removed based on unacceptable performance.
- *3. **REFERENCE.** Related publication DOD Administrative Grievance System (AGS).
4. **RELATIONSHIP TO OTHER APPEAL OR COMPLAINT PROCEDURES.**
 - a. Whenever an employee files a grievance on matters other than the adjective performance rating, the grievance will be informed by the supervisor of the proper avenue to seek redress.

*This regulation supersedes NPPR/NPDOM 690-2-771, 28 July 1987.

b. Matters that can be appealed to the Merit Systems Protection Board (MSPB) or are subject to final administrative review by the OPM or the Equal Employment Opportunity Commission (EEOC) cannot be considered under this procedure.

5. PROCEDURES FOR FILING GRIEVANCE BASED ON DISSATISFACTION WITH PERFORMANCE RATING:

*a. Within 15 calendar days of receipt of the performance evaluation (DA Form 7222 or *7223), the employee, with or without representation, must contact his/her rater (block Part IIa of *DA Form 7222 or 7223) to initiate the grievance. The grievance may be verbal or in writing and must inform the supervisor that the employee is initiating an informal grievance. The supervisor *will meet with the employee and the reviewing and approving officials (blocks Part II b and c of *DA Form 7222 and 7223 as appropriate) within 10 calendar days of the initiation of the grievance. During this meeting the dissatisfaction will be considered informally. The employee and/or the representative will include in the grievance documentation the stated rating requested, the reasons why the rating is incorrect, and why the requested rating should be granted. The specificity contained in the grievance will assist the officials also in determining whether the *grievance is appropriately covered by the established procedures or by the Defense Civilian *Personnel Service's Office of Complaint Investigations (OCI) procedures which include grievances involving more than performance ratings. The approving official will prepare a memorandum for record (MFR) which summarizes the dissatisfaction, the position of both parties, the consideration given the dissatisfaction, and any conclusions reached. All participants will be given a copy of the MFR within 7 calendar days after the meeting is completed.

b. If the grievance cannot be resolved during the informal process, the employee, with or without representation, may file a formal grievance to the Deputy Commander (see paragraph f. below if the Deputy Commander served as the rating or approving official) within 7 calendar days of receipt of the MFR or after 7 calendar days have passed without receipt of a MFR. The written grievance must include the following as a minimum:

- *(1) A copy of the employee's support form and evaluation;
- (2) the name of the representative, if any;
- (3) evidence (including examples of work products) which supports the employee's view;
- *(4) the performance rating desired; and
- (5) the reason why the previous meeting (based upon PFFR) was unsuccessful.

c. Upon receipt of the formal written grievance, the Deputy Commander may elect to appoint a factfinder to review the appeal within 7 calendar days. The factfinder will be selected *from a list of employees who have been trained in the current TAPES System. The factfinder will be of a higher grade than the grievant and will not be in the employee's rating chain of command or subordinate to any official who recommended, rated, reviewed, or approved the *rating being grieved. The Human Resource Officer (HR) or his/her designee will serve as an advisor to the factfinder.

*d. The factfinder will compare the challenged overall performance rating, including any *objective/responsibility rating explanations, to the performance objectives/responsibilities of record and the evidence of the employee's actual performance. The factfinder will also review any additional written or oral information assigned. The employee bears the burden of demonstrating that the assigned rating should be higher. The factfinder may request that the *employee, rater, intermediate rater and/or senior rater present additional information concerning any aspect of the official rating. Within 15 calendar days of appointment, the factfinder will issue a report to the Deputy Commander. The report will include an evaluation of the grievant's performance during the rating period and other facts pertinent to the rating issue. The report will not provide any formal or informal recommendation to the Deputy Commander. The grievance file established by the factfinder will include the written grievance material submitted by grievant, interview notes, pertinent information obtained during factfinding process, and a copy of the report.

e. The Deputy Commander will issue the grievant a written decision as to the appropriate rating within 10 calendar days of receipt of the factfinder's report. The decision is final and the employee may not request further review within the established procedures.

*f. If the Deputy Commander served as either the employee's rater or senior rater, the factfinder's report will be forwarded directly to the Commander for a decision.

g. In grievances where factfinding is involved, a grievance file will be maintained.

*6. FACTFINDERS. A list of factfinders who have received training in the current TAPES *system will be maintained by the Human Resource Office for referral to the Deputy Commander. The factfinder must have knowledge of the technical and functional requirements of the position occupied by the grievant.

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7. QUESTIONS PERTAINING TO GRIEVANCE PROCESS. Questions on this grievance *process should be directed to the Management-Employee Relations Branch, Human Resource Office, ext. 7147 or 6840.

FOR THE COMMANDER:


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Deputy Commander

FOR THE COMMANDER:


CLIFTON P. JACKSON, JR.
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