



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
3000 MARINE CORPS PENTAGON
WASHINGTON, DC 20350-3000

MCO 12771.3
MPC-40

MAR 28 2013

MARINE CORPS ORDER 12771.3

From: Commandant of the Marine Corps (CMC)
To: Distribution List

Subj: CIVILIAN MARINE ADMINISTRATIVE GRIEVANCE SYSTEM (AGS)

Ref: (a) SECNAVINST 12771.2
(b) DoD 1400.25-M Subchapter 771
(c) SECNAV M-5210.2

Encl: (1) Administrative Grievance System Process

1. Situation. In accordance with references (a) and (b), this Order provides guidelines and procedures to implement the Civilian Marine Administrative Grievance System (AGS) process. The purpose of the grievance procedure is to establish an avenue through which employees may voice their concerns and seek relief. This Order assigns responsibilities and clarifies the requirement under which Activity Heads and Commands can internally review civilian employee disputes involving working conditions within the control of management.

2. Mission

a. Grievances presented by Civilian Marines under the AGS will be considered expeditiously, fairly, impartially, and resolved as quickly as possible. The AGS is a dispute resolution process. All employees involved in the dispute resolution process shall be free from restraint, interference, coercion, discrimination, or reprisal. The procedures set forth in this instruction are designed to achieve these objectives.

b. Alternative Dispute Resolution (ADR) techniques should be used to resolve disputes consistent with the requirements of this instruction. ADR techniques include a broad range of approaches for dealing with conflict and seeking solutions satisfactory to all parties. These techniques include, but are not limited to, problem solving, facilitation, conciliation, fact-finding, and settlement conferences.

3. Execution

a. Commanders Intent and Concept of Operations

(1) Commander's Intent. Commanders shall implement the AGS and encourage employee participation in ADR process when appropriate.

(2) Concept of Operations

(a) As authorized by reference (a), commands shall make decisions on grievance matters and may delegate this authority to subordinate managers and supervisors who will serve as the deciding official(s).

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(b) Subordinate Commands may issue implementing guidance to provide additional instruction and processes.

(c) The AGS covers current appropriated fund non-bargaining unit Civilian Marines. It also covers former Civilian Marines with respect to matters arising during their previous employment at the activity or command, provided a remedy is available consistent with applicable laws, rules, and regulations.

(d) The AGS is used when a matter covered by the AGS cannot be grieved under a negotiated grievance procedure (NGP), either because an NGP is not in effect at the relevant time, or because it does not cover the matter being grieved.

(e) The AGS does not cover:

1. An applicant for employment who is not a present or a former Civilian Marine for whom a remedy can be provided;

2. Reinstatement and transfer eligible's who have applied for a position under a merit promotion program, non-citizens recruited overseas and appointed to overseas positions, or non-appropriated fund employees.

(f) Employment matters may be grieved under the AGS except for the following:

1. The content of published DON regulations, policy and guidance or, Marine Corps Orders, policy and guidance;

2. Any matter covered by an NGP or subject to formal review and adjudication by the Merit Systems Protection Board (MSPB), the Office of Personnel Management (OPM), the Federal Labor Relations Authority (FLRA), or the Equal Employment Opportunity Commission (EEOC), or any matter the employee files under another review or reconsideration procedure, or dispute resolution process within the DoD;

3. Non-selection for promotion from a group of properly ranked and certified candidates, or failure to receive a noncompetitive promotion;

4. Preliminary notice of an action that, if effected, would be covered under the grievance system or excluded from coverage under subparagraph 2(c) and 2(d) above;

5. The substance of an employee's performance elements, standards, or job objectives;

6. Determinations concerning awards, additional step increases, recruitment or relocation bonuses, retention allowance, physicians' comparability or additional pay allowances;

7. Supervisory differentials, critical position pay, or dual compensation waivers;

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

9. Termination of a probationer, return of an employee serving supervisory or managerial probation to a non-supervisory or non-managerial position, or separation or termination of an employee during a trial period;

10. For Senior Executive Service (SES) or Senior Intelligence Executive Service (SIES) employees, performance evaluations and awards (including meritorious or distinguished executive rank awards), reassignment following receipt of an unsatisfactory rating, return to another pay system during the one (1) year period of probation or for less than fully successful executive performance, or for failure to be recertified, conditional recertification, or termination during probation for unacceptable performance;

11. Termination or expiration of a time-limited excepted appointment, a term or temporary appointment or promotion, or an SES or SIES limited emergency or limited term appointment;

12. Termination of a temporary or term promotion at a time other than in subparagraph (11) above, provided the employee was informed in advance of the temporary nature of the appointment or promotion and the employee was returned to his or her former position from which temporarily promoted or to a different position of equivalent grade and pay;

13. SES or senior level pay rate changes and;

14. Oral admonishments and letters of caution.

b. Subordinate Element Missions

(1) Associate Director, Labor and Employee Relations, Manpower and Reserve Affairs (MPC-40)

(a) Provide technical advice and guidance to field activities in implementing the Marine Corps AGS.

(b) Coordinate and exercise AGS reporting requirements as required by higher-level authority, directives, or instructions.

(2) Activity Heads/Commanders

(a) Are authorized to decide all grievances filed by employees under their command.

(b) May delegate authority to decide grievances to subordinate managers and supervisors.

(c) May issue an implementing instruction following this instruction and reference (a).

(d) Process each AGS as prescribed in the enclosure.

(3) Deciding Officials

(a) 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 head of the activity or command.

(b) Must determine whether to accept, suspend, or cancel all or part of the grievance; and limits.

(c) Must issue a final decision within the prescribed time.

(d) Must coordinate all grievance decisions with their servicing Human Resources Office.

(4) Grievant

(a) Must present the grievance to the deciding official in writing and within the prescribed time limits.

(b) Must provide a clear statement of the issues and indicate the specific personal relief sought in the AGS.

(5) Servicing Human Resources Office (HRO)

(a) Provide advice, guidance, and necessary assistance on ADR and the processing of grievances to managers and employees and provide the grievant with the name of the command/activity ADR coordinator.

(b) Maintain a separate grievance file for each written grievance filed under the Marine Corps AGS for a period of four (4) years after the case is closed. The file shall contain all documents or copies of documents related to the grievance.

(c) Use the ADR Tracker online tool to record and track the total number of ADR processes attempted along with their success rate.

(d) Address barriers to the use of ADR.

(e) Use the Department of Defense (DoD) Labor and Employee Relations (LER) Case Management and Tracking System (CMTS) to record and track grievances.

c. Coordinating Instructions. Submit all recommendations concerning this Order to CMC (MPC-40) via the appropriate chain of command.

4. Administration and Logistics

a. Point of contact for the AGS is the Associate Director, Labor and Employee Relations, Manpower and Reserve Affairs, commercial (703) 784-9763 or DSN 278-9763.

b. The servicing HRO shall use the ADR Tracker online tool to record and track the total number of ADR processes attempted along with their success rate. The ADR Tracker website is <https://adrtracker.law.navy.mil/tracker/>.

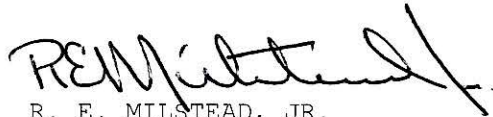
c. The servicing HRO shall use the DoD LER CMTS to record and track grievances. The CMTS website is <https://cmts.cpms.osd.mil/>.

d. Records created as a result of this Order shall be managed according to National Archives and Records Administration approved dispositions per reference (c) to ensure proper maintenance, use, accessibility and preservation, regardless of format or medium.

5. Command and Signal

a. Command. This Order is applicable to Civilian Marines.

b. Signal. This Order is effective the date signed.



R. E. MILSTEAD, JR.
Deputy Commandant for
Manpower and Reserve Affairs

DISTRIBUTION: PCN 10212500200

LOCATOR SHEET

Subj: CIVILIAN MARINE ADMINISTRATIVE GRIEVANCE SYSTEM (AGS)

Location: _____
(Indicate the location(s) of the copy(ies) of this Manual.)

RECORD OF CHANGES

Log completed change action as indicated.

Change Number	Date of Change	Date Entered	Signature of Person Change

Administrative Grievance System (AGS) Process

1. Rights of Grievant and Representatives

a. To be accompanied, represented, and advised by a representative of their own choosing in processing a grievance under this Order unless as noted in the limitations of subparagraph (4) .

b. Entitled to freedom from restraint, interference, coercion, discrimination, or reprisal in presenting a grievance.

c. Entitled to a reasonable amount of official duty time, as determined by the deciding official, to present a grievance, and to communicate with management and personnel officials, if they are Civilian Marines and are in a duty status. Employees shall be given a reasonable amount of official time to prepare a grievance.

d. Shall have full access to relevant information and shall be provided copies of such information unless to do so would be unduly burdensome or contrary to laws or regulations.

2. Time Limits. When calculating time limits under the AGS, the day of an action or receipt of a document is not counted. The last day of the time limit is counted unless it is a Saturday, a Sunday, a legal holiday, or a 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 work day. All time limits are counted in calendar days.

3. Processing Grievances. ADR techniques should be used where practicable in the resolution of disputes as described in paragraph 2(b) of this Order.

a. Informal AGS Process

(1) An employee may informally present a work-related problem to his or her immediate supervisor before filing a formal grievance. If the problem involves a matter or action directly involving that supervisor, and the employee has been unable to resolve the matter with that supervisor, the employee may present the matter to the next level supervisor, if any, within the activity or command. The problem must be presented within 15 days following the date of the act or event the employee believes created the problem, or the date the employee became aware of (or reasonably should have become aware of) the act or event. The employee may present a matter of concern regarding a continuing practice or condition at any time.

(2) A supervisor must consider the employee's problem and attempt to resolve it within 15 days, and no later than 30 days from the date the problem is first brought to the supervisor's attention, even though it may not be covered by the grievance process. Where appropriate, the use of a neutral party (e.g., conciliator, facilitator, mediator) is encouraged. If the employee presents the problem orally, the supervisor's determination may be oral or written. If the employee's problem is presented in writing, the supervisor's determination must be in writing. If the employee's problem is not resolved, the supervisor shall inform the employee of the time limits for filing a formal grievance. If the supervisor believes the matter is not covered by the grievance process, the supervisor shall so inform the employee and advise the employee of the appropriate process, if any, for resolving the problem.

(3) The above time limit for resolving the problem may be extended by mutual agreement.

b. Formal AGS Process

(1) An employee may file a formal, written grievance with the deciding official when a problem is not resolved during the informal process or where the employee chooses to bypass the informal process and invoke the formal grievance process. If the employee used an ADR process, the employee must file a grievance no later than 15 days after the process concluded or a decision was rendered on the informal grievance. Where the employee does not use the informal or ADR process, but raises the matter initially as a formal grievance, the employee must present the grievance within 15 days following the date of the act or event that the employee believes created the problem, or within 15 days following the date the employee became aware of (or reasonably should have become aware of) the act or event. The employee may present a grievance regarding a continuing practice or condition at any time.

(2) An employee's grievance must be signed, dated, and contain a sufficiently detailed statement of the specific issue(s) and the remedy sought; a statement the employee has not filed an appeal or complaint (such as an inspector general or Equal Employment Opportunity complaint) on the same issue; copies of any supportive documents; and, the name, address, and telephone number of the employee's representative, if any. The remedy must be personal to the employee and may not include a request for disciplinary or other action affecting another employee. An employee may not grieve the same matter raised in any other grievance, appeal, complaint, or other dispute resolution process.

(3) The deciding official shall determine whether to join similar or identical grievances; whether to require and how to conduct an investigation; whether to allow the grievant's requested representative; and how much official time shall be granted to the employee and the employee's representative. The deciding official may also designate an impartial individual to examine a grievance and, when authorized, to make recommendations concerning its disposition.

(4) The deciding official shall fully and fairly consider the grievance and issue a written decision with supporting rationale for the decision. The deciding official shall issue the decision as soon as possible, but normally no later than 60 days from the filing of the grievance. The deciding official may extend time frames when warranted by special circumstances (e.g., when those involved are geographically dispersed or where a fact-finder is used in the process). However, a grievance decision should be rendered no more than 90 days from the filing of the grievance absent mutual agreement to extend the time limit. If the deciding official fails to render a decision within 90 days absent such mutual agreement, the grievant may request review by the next higher management level, if any, within the MC.

(5) The deciding official should rule on the merits of a grievance. The deciding official may cancel or temporarily suspend a grievance, or the appropriate portion of a grievance, if the grievant requests such action; the grievant or grievance is excluded from coverage; the grievant fails to provide sufficient detail to identify clearly the matter being grieved or specify the relief requested; the grievant fails to comply with applicable

time limits, procedural requirements, or requests actions be taken against another employee; or the grievant raises the same matters under another formal dispute resolution process.

(6) A deciding official's decision on the merits of the grievance is final and not subject to further review. An employee may request an individual at the next higher management level within the Marine Corps, if any, review a decision to reject a grievance or a portion of a grievance. The employee's request for review of a decision to reject a grievance or a portion of a grievance must be submitted within 15 days from the date of receipt of the decision to reject the grievance.

4. Disallowance of Grievant's Representative. The deciding official may disallow the grievant's representative if it would result in a conflict or apparent conflict of interest or position, a conflict with the priority needs of the activity or command, or would give rise to an unreasonable cost to the Federal Government. If a deciding official disallows the grievant's choice of representative, that decision may be grieved within 10 days to the next higher level of management, unless the deciding official is the head of the activity or command. The decision on that grievance is final and is not subject to further review.

5. Combining Grievances. When two or more employees within the same activity have identical grievances (the dissatisfaction expressed and the relief requested are the same), the activity may process them as one grievance. The employees will be so notified and required to designate a common representative.