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ADMINISTRATIVE GRIEVANCE SYSTEM

Section Overview: Upon completion of this section, you will be familiar with the basics of NRCS policy for filing and handling grievances, both informal and formal.

From GM360.412 http://policy.nrcs.usda.gov/RollupViewer.aspx?hid=17053

A system of informal and formal grievance procedures is in place in NRCS for filing and consideration of employee grievances. This system gives employees an opportunity to present grievances and to seek a resolution.

Subject matter covered:

The administrative grievance system applies to any matter of concern or dissatisfaction relating to the employment of an employee that is subject to the control of management, including but not limited to:

1. Improper application of or failure to follow rules and regulations.
2. Prohibited Personnel Practice except discrimination based on race, religion, national origin etc., (covered by the EEO Complaint System).
3. Performance appraisals (except for a Summary Rating of Results Achieved).
4. Non-selection for training.
5. Suspension from duty without pay for fourteen (14) calendar days or less and letters of reprimand or warning.
6. Changes in assignments including details and reassignments.
7. Allegations of partisan political discrimination.

Subject matter not covered:

The Administrative Grievance System does not apply to:

1. Separation of employees serving under Schedule A, Schedule B, or Schedule C appointments.
2. The content of published Agency procedures and policy.

3. Matters appealable to the Equal Employment Opportunity Commission, Merit Systems Protection Board, Office of Personnel Management, the Federal Labor Relations Authority, or the Comptroller General. Such decisions include but are not limited to:

   (a) Adverse action, except suspension of 14 days or less
   (b) Denial of within-grade salary increase
   (c) Position classification action
   (d) Allegations or complaint of discrimination or sexual harassment
   (e) Reduction-in-Force action
   (f) Violation of re-employment priority rights
   (g) Violation of re-employment or reinstatement rights
   (h) Violation of military restoration rights
   (i) Salary-retention decision
   (j) Fitness-for-duty examination
   (k) Life insurance decision; and
   (l) Healthy benefits decision

4. Non-selection for promotion or lateral reassignment from a group of properly ranked and certified candidates or failure to receive a noncompetitive promotion.

5. A preliminary warning notice of an action which, if effected, would be covered or excluded from coverage under the grievance system.

6. An action that terminates a temporary or term promotion, and returns the employee to the position from which the employee was temporarily promoted or to a different position (not lower in grade) when the employee is informed in advance that the promotion is only temporary.

7. Return of an officer or employee from the Senior Executive Service to the General Schedule during the one (1) year period of probation or for less then fully successful executive performance.

8. The substance of the critical element and performance standards of an employee's position.

9. Performance appraisal of a member of the Senior Executive Service, per 5 U.S.C. 4312 (d).

10. Return of an employee from an initial appointment as a supervisor or manager to a non-supervisory or non-managerial position for failure to satisfactorily complete the probationary period.

11. Termination of a probationer of unsatisfactory performance or misconduct.

12. Reassignment of a Senior Executive Service (SES) employee after the employee receives an unsatisfactory rating.

13. Granting, or failure to grant, receipt or failure to receive an employee performance award or a quality salary increase; adoption or failure to adopt an employee suggestion.

14. The termination of a SES career appointee during probation for unsatisfactory performance.

15. Actions taken in accordance with terms of a formal agreement voluntarily entered into by an employee are not grievable.

INFORMAL GRIEVANCE PROCEDURE – to see the full text of procedures go to GM360.412

Procedure:

An employee, who has a grievance, shall present the matter as an informal grievance to the lowest level individual who can make a decision on the matter being grieved. If this individual is unknown to the employee, the grievance shall be submitted to the employee's immediate supervisor.

Form:

An informal grievance may be presented either orally or in writing. A written explanation should not be required from the employee. However, in presenting a grievance, it is the employee's responsibility to identify the matter of concern, the corrective action sought, and clearly identify that he or she is initiating the grievance process.

Time Limit for Presentation.

An employee shall present an informal grievance within fifteen (15) calendar days after either of the following:

1. The date of the act of occurrence that is the basis for the grievance.
2. The date he or she became aware of the act or occurrence.

FORMAL GRIEVANCE PROCEDURE - to see the full text of procedures go to GM360.412

Procedure:

All formal grievances shall be filed by submitting the grievance in writing, to the supervisor of the official who considered the informal grievance (second level supervisor).

The second level supervisor shall inform the employee of acceptance of the formal grievance or reject it as:

1. Untimely.
2. A matter excluded from coverage.
3. Not meeting a requirement for processing.
4. A matter not presented as a part of the informal grievance, except as specified in Section 412.4 (h).
5. A matter excluded from coverage because it was filed by and employee excluded from coverage.
6. The second level supervisor shall send a copy of the formal grievance to the Employee Relations Staff, within five (5) calendar days after receiving the formal grievance.
7. Within seven (7) calendar days after receipt of a rejection of a grievance the employee may request a review of the rejection by the Director, Appeals and Grievance Staff, Office of Human Resources Management, USDA.

Form:

A formal grievance must be submitted in writing. To be acceptable as a grievance, it must be signed by the employee or the designated representative; state the subject of the grievance, and specify the corrective action being sought.

Time Limit for Filing:

A formal grievance must be filed within ten (10) calendar days after receiving either of the following;

1. The memorandum closing the informal process.
2. Notification of the ten (10) calendar-day time limit.

Summary: You should now be familiar with the basics of NRCS policy for filing and handling grievances, both informal and formal.

Take some time now to test your understanding by answering the following questions:

1. What should you do if one of your employees files an informal grievance, a formal grievance?

2. Are there any time restrictions on filing or responding to grievances?

3. To whom would you go for assistance at the state level?