

3 FAM 4700 GRIEVANCES—CIVIL SERVICE

3 FAM 4710 GENERAL PROVISIONS

(TL:PER-375; 11-09-1999)

3 FAM 4711 DEFINITIONS

(TL:PER-375; 11-09-1999)

(State Only)

(Applies to Civil Service Employees)

a. “Bargaining unit employee” means an employee included in an appropriate exclusive bargaining unit, as determined by the Federal Labor Relations Authority, for which a labor organization has been granted exclusive recognition.

b. “Days” means calendar days and not “workdays.”

c. A “grievance” is an official complaint by an employee or group of employees acting as individuals about some aspect of the employee’s work situation which is subject to the control of the Department.

d. “Grievance Staff”—See 1 FAM 234.

e. *A “negotiated grievance procedure,” once negotiated by a labor union and the Department, shall be the exclusive procedure available to bargaining unit employees for resolving grievances which fall within its coverage.*

3 FAM 4712 AUTHORITY

(TL:PER-257; 4-17-95)

(State Only)

(Applies to Civil Service Employees)

The procedures in this chapter are established in consonance with 5 CFR, part 771.

3 FAM 4713 COVERAGE

(TL:PER-375; 11-09-1999)

(State Only)

(Applies to Civil Service Employees)

a. Any Civil Service employee of the Department who is not covered by a negotiated grievance procedure may use the procedure in these regulations to appeal any situation or action in 3 FAM 4711.

b. U.S. citizen Foreign Service employees are covered under regulations for employee grievances contained in 3 FAM 4400.

c. Foreign Service National employees are covered by procedures established at individual posts pursuant to 3 FAM 7290.

3 FAM 4714 MATTERS EXCLUDED

(TL:PER-375; 11-09-1999)

(State Only)

(Applies to Civil Service Employees)

Formal appeals are not considered under this procedure on:

- (1) Matters outside the administrative discretion of the Department;
- (2) The content of Departmental policies;
- (3) An action taken in accordance with the terms of a formal agreement voluntarily entered into by an employee which:
 - (a) Assigns the employee from one geographical location to another, or
 - (b) Returns the employee from an assignment *abroad*;
- (4) Separations during the probationary or trial period;
- (5) Termination of temporary appointment;
- (6) Termination of temporary promotion within maximum period of *two* years and return to position from which temporarily promoted, or reassignment or demotion to a different position not at a lower grade or pay than the position from which temporarily promoted;
- (7) Appointments of re-employed annuitants;

(8) A preliminary warning notice of an action which if effected, would be covered under the grievance procedure or through other appeals machinery; or on matters for which other appeals machinery has been established, including matters subject to final administrative review outside the Department, such as:

(a) Classification actions (see 3 FAM 2600);

(b) Reduction-in-force (see 3 FAM 2530);

(c) Government employment policy;

(d) Security (see 3 FAM 2220 and 12 FAM);

(e) Non-selection for promotion from a group of properly ranked and certified candidates or non-competitive promotion;

(f) Acceptable level of competence (this is covered under a separate procedure; see 5 CFR, part 531 and 3 FAM 3124); or

(g) Equal employment opportunity (EEO complaints should be filed with S/EEOCR—see 3 FAM 1500);

(9) Suspension of more than 14 days, demotion, or discharge action taken as a result of an adverse decision in accordance with part 432 or part 752, of title 5, CFR (see 3 FAM 4500);

(10) Return of an employee from Senior Executive Service (SES) to General Schedule (GS) or another pay system during the *one*-year probationary period for less than fully satisfactory executive performance under 5 U.S.C. 3592;

(11) Reassignment of a Senior Executive Service appointee following receipt of an unsatisfactory rating under 5 U.S.C. 4314 and 3 FAM 2400;

(12) Termination under 5 CFR part 359, subpart D of an SES career appointee during the probationary period for unsatisfactory performance;

(13) Unacceptable performance evaluation of a career appointee to the Senior Executive Service (see 5 U.S.C. 4312);

(14) Substance of critical elements and performance standards established in accordance with 5 U.S.C., chapter 43, subchapter 1;

(15) Granting of or failure to grant a performance or meritorious award, or adoption of or failure to adopt an employee suggestion or invention;

(16) Receipt of or failure to receive a quality step increase;

(17) Merit pay determinations; or

(18) Separation actions not excluded by 3 FAM 4714, paragraphs a through g.

3 FAM 4715 POLICY

(TL:PER-257; 4-17-95)

(State Only)

(Applies to Civil Service Employees)

a. Each employee has freedom to seek adjudication of a grievance without fear of interference, coercion, or reprisal. This principle applies equally to any employee taking part in the presentation and adjudication of a grievance. Any employee having evidence of a violation of this principle should bring it to the attention of the Deputy Assistant Secretary, Bureau of Personnel, or designated representative for investigation of the alleged violation and appropriate action.

b. Although an employee is ordinarily expected to follow normal administrative channels, nothing in these regulations shall be construed to prevent the employee from seeking, at any time, an informal interview directly with any official in line of authority to the employee's division or office, the Equal Employment Opportunity Office, or with an officer in the Bureau of Personnel below the level of the Deputy Assistant Secretary.

c. An employee has the right to be accompanied, represented, and advised by a representative chosen by the employee in presenting a grievance provided that such representation would not create a conflict-of-interest or conflict-of-position as prohibited by Federal regulations.

3 FAM 4716 RESPONSIBILITIES

(TL:PER-257; 4-17-95)

(State Only)

(Applies to Civil Service Employees)

The Director of the Grievance Staff is responsible for technical administration of and serves as a consultant on the grievance procedure and has custody of the records on all grievance cases.

3 FAM 4717 THROUGH 4719 UNASSIGNED