

5. DEFINITIONS.

- a. Bargaining Unit Employee: an employee included in an appropriate bargaining unit as determined by the Federal Labor Relations Authority (FLRA), for which a labor organization has been accorded exclusive recognition.
- b. Day: calendar day.
- c. Employee: a non-bargaining unit employee; an employee in a bargaining unit that does not have a negotiated grievance process in effect; or, any former employee of the Coast Guard for whom a monetary remedy can be provided.
- d. Fact-Finder: an individual (civilian or military) designated by the step 2 grievance official to investigate the grievance, make findings of fact, and prepare a written report of the investigation. A fact-finder may not be subordinate to any official who recommended, advised, made a decision on, or otherwise is or was involved in the matter grieved nor may the fact-finder have been involved in the matter grieved. The fact-finder should be at least one grade level (or the military equivalent of one grade level) above the grievant.
- e. Grievance: a written request by an employee, or group of employees, for personal relief in a matter of concern or dissatisfaction that is subject to the control of management and relates to the employment of the employee(s). The matter may be inside or outside of the control of the command, e.g., qualification determinations. If the matter grieved is outside of the control of the command, the matter will be directed to the directorate in authority to grant the relief sought.
- f. Grievance Official: a management official (civilian or military) designated to make a decision on a grievance filed by an employee(s).
 - (1) Grievance officials must have the authority to grant the relief requested. Normally, the first step grievance official is in the chain of command over the grievant, except when the authority to grant the personal relief requested is outside of the chain of command; e.g., merit promotion matters.
 - (2) For grievances involving a disciplinary action, the grievance official shall be at a higher organizational level than the management official rendering the decision on the disciplinary action being grieved.
 - (3) For grievances involving an individual's annual performance rating, the grievance official shall be at least one level above the approving official of the performance rating.
 - (4) For grievances that personally involve area, district, base and sector commanders; commanders of logistics and service centers; commanding officers of headquarters units; Assistant Commandants for directorates, Deputy Commandant for Mission Support, TJAG, and special staff offices at Headquarters, the grievance official should be at least one administrative level higher than the official allegedly involved in the grievance.
 - (5) If the grievant is not satisfied with the first step grievance decision, the grievant can advance their grievance to a second step grievance official. The second step grievance official (also referred to as the step 2 grievance official), where applicable, shall be at

least one administrative level above the first step grievance official (also referred to as the step 1 grievance official). [Note: When the Commandant personally makes the decision at the step 1 level, the Department of Homeland Security (DHS) Secretary (or designee) can designate the second step grievance official.]

- g. Official Grievance File: an official file containing all documents relating to the grievance and upon which the grievance decision relied. The servicing human resources (HR) specialist maintains the official grievance file. The file is retained for five (5) years in accordance with applicable laws, regulations, instructions, and record retention schedules. grievance officials may elect to establish their own grievance file during the course of their deliberations, but the official file containing all relevant documentation should be maintained by the servicing HR specialist.
- h. Personal Relief: a specific remedy that directly benefits the grievant(s) regarding the matter(s) giving rise to the grievance, is within the authority and control of management officials of the Agency, and complies with controlling laws, rules and regulations. A request for any action affecting another employee (such as a request to have another employee reassigned or disciplined), or requiring a specific action be affected on another employee (such as an apology or change in another individual's behavior) is not considered personal relief under this grievance procedure.
- i. Prohibited Personnel Practice: a violation of the Merit System Principles as specifically identified in 5 United States Code (U.S.C.) 2301 and 2302.

6. POLICY.

- a. Commands must attempt to identify, prevent, and make reasonable efforts to resolve workplace disputes at the earliest opportunity, at the lowest organizational level, and to the mutual satisfaction of all parties.
- b. Efforts will be made to resolve disputes informally; however, it is recognized that despite the initial attempt to resolve an issue, an employee may feel the need to seek higher level resolution.
- c. Grievances presented by employees under this process will be considered expeditiously, fairly, objectively, and impartially, and will be decided as quickly as possible.
- d. All persons involved in the grievance process shall be free from restraint, interference, coercion, discrimination, and/or reprisal. Because grievances may arise in any office, supervisors must take care not to discriminate or take reprisal action against an employee filing a grievance. Such discriminatory or reprisal action by a supervisor is considered a disciplinary offense. Filing a grievance is not an indication of a lack of loyalty or dedication to the Coast Guard. The presentation of a grievance is also not considered an adverse reflection on the employee's supervisor or his/her managerial chain of command.

7. EMPLOYEE COVERAGE.

- a. This Instruction applies to all appropriated-fund non-bargaining unit civilian employees including those holding part-time, probationary, temporary, and excepted appointments. It

COMDTINST 12771.1

also applies to appropriated-fund bargaining unit employees who are not covered under a negotiated grievance procedure.

- b. The administrative grievance procedure does not apply to the following:
 - (1) Non-appropriated fund (NAF) civilian employees;
 - (2) A non-citizen appointed under 5 CFR Part 8.3 (appointment of persons not citizens of the United States);
 - (3) An alien appointed under Title 22 U.S.C. Section 1471(5);
 - (4) Non-career Senior Executive Service (SES) employees, including limited term and limited emergency appointments;
 - (5) Employees who are members of a bargaining unit represented by a union which is recognized as the exclusive representative and who are covered by a negotiated grievance procedure;
 - (6) An applicant for employment who does not meet the definition of employee in Paragraph 5.d.;
 - (7) Experts and consultants who are not employees of the Coast Guard at the time of the event giving rise to the grievance; and,
 - (8) An employee excluded from coverage by the Office of Personnel Management (OPM) on the recommendation of the Commandant of the Coast Guard.

8. GRIEVANCE SUBJECT MATTER COVERAGE.

- a. Matters covered: Generally, any matter of personal concern or dissatisfaction of an employee which is subject to the control of and related to the employment by the agency is grievable.
- b. Matters excluded: The following are matters this Instruction does not apply to:
 - (1) The content of published DHS and Coast Guard regulations and policies;
 - (2) Non-selection for promotion from a group of properly ranked and certified candidates or failure to receive a non-competitive promotion;
 - (3) The substance of an employee's core competencies, performance standards, and work goals and objectives;
 - (4) Progress reviews, performance counseling sessions, a notice of unacceptable performance and the rating upon which it is based, and Performance Improvement Plans (PIPs);
 - (5) The substance of any action taken under a voluntary, formal agreement entered into by an employee involving geographic relocation or return from an overseas assignment;

- (6) Termination of a probationer, or separation or termination of an employee during a trial period; or, return of an employee serving a supervisory or managerial probationary period to a non-supervisory or non-managerial position;
- (7) A voluntary action initiated by the employee;
- (8) The payment of, failure to pay, or the amount of a recruitment bonus, a relocation bonus, a retention allowance, or of a supervisory differential;
- (9) The receipt of or failure to receive a performance award or quality step increase;
- (10) Cancellation of a promotion to a position not classified prior to the promotion;
- (11) The termination of a probationary employee under 5 CFR 317 (SES personnel);
- (12) For SES 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 1-year probationary period or for less than fully successful executive performance, or for failure to be recertified, conditionally recertified, or termination during probation for unacceptable performance;
- (13) The termination or expiration of a time-limited excepted appointment, a term or temporary appointment or promotion, or a SES limited emergency or limited term appointment, on the date specified as a condition of employment at the time the appointment or promotion was made;
- (14) Termination of a temporary or term promotion at any other time 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;
- (15) SES pay rate changes;
- (16) A separation or termination action;
- (17) A notice of proposed action;
- (18) Informal discipline including, but not limited to, oral and written admonishments, letters of caution, letters of requirement, letters of instruction, letters of counseling, and warnings; and,
- (19) Any matter covered by a negotiated grievance procedure or subject to formal review and adjudication by the Merit Systems Protection Board (MSPB), OPM, the FLRA, the Equal Employment Opportunity Commission (EEOC), the Office of Special Counsel (OSC), or the Office of Workers' Compensation Programs (OWCP), Department of Labor (DOL); any allegations of prohibited personnel practices identified in 5 U.S.C. 2301 and 2302; any claims that are subject to review and adjudication under 31 U.S.C. 3702; or any other matter that can be reviewed and adjudicated under a Coast Guard review, reconsideration, or appeal process. The following are examples under this category: a reduction-in-force action; a violation of reemployment priority rights, reinstatement rights, or military

restoration rights; a salary retention, within grade increase, or level of competence decision; a position classification or job grading decision; an adverse action, i.e., removal, suspension of more than 14 days, indefinite suspension, or demotion; labor organization complaints; unfair labor practice (ULP) complaints; allegations of violations of the Fair Labor Standards Act (FLSA); and allegations of discrimination due to age, race, color, religion, sex, national origin, physical or mental disability, reprisal or retaliation (for participation in EEO complaints).

9. RESPONSIBILITIES.

a. Commandant (CG-12). Commandant (CG-12) is responsible for:

- (1) Monitoring the operation of the program within the Coast Guard; and,
- (2) Evaluating the program within the Coast Guard and directing such corrective actions and changes in policies and procedures as are deemed necessary in the interest of the Coast Guard; primary support and operating assistance is provided by Commandant (CG-121).

b. Office of Civilian Human Resources, Workforce Relations Division (CG-1214).

- (1) The Division is responsible for developing, issuing, and evaluating policies and procedures for the Administrative Grievance Process.
- (2) The Commandant (CG-1214) HR specialists are responsible for:
 - (a) Providing direct service to supervisors, managers, and employees on all matters covered by this Instruction to include providing advice, guidance, and necessary assistance on the processing of grievances (including drafting of grievance decisions).
 - (b) Coordinating with the step 2 grievance official on the selection of a fact-finder, when used, and provides guidance as needed.
 - (c) Maintaining the official grievance file.
 - (d) Approving the denial of a grievant's representative as noted in Paragraph 10.b.(4).
 - (e) Following a final decision by the grievance official, the servicing HR specialist is responsible for ensuring that any appropriate pay and/or human resources actions are processed and effected in a timely manner in accordance with the grievance decision.
 - (f) The servicing HR specialist should coordinate with the Coast Guard Civil Rights Office (CG-00H) to ensure that grievances and EEO complaints on the same issue are addressed through one forum only when the grievance raises any issue that touches on an EEO-based discrimination concern.

c. The Grievant. The grievant is responsible for:

- (1) Complying with the time limits and requirements to supply information established in this Instruction;

- (2) Providing sufficient detail to clearly and concisely identify the matter being grieved;
 - (3) Specifying the personal relief requested; and,
 - (4) Making the maximum effort to achieve settlement of a personal grievance at the lowest level.
- d. The Grievance Official. The grievance official at step 1 and step 2, as applicable, is responsible for:
- (1) Reviewing grievances fully and objectively;
 - (2) Eliminating the cause(s) of meritorious grievances when the cause is within their control and the relief sought is personal to the grievant;
 - (3) Obtaining technical advice, guidance and assistance from the servicing HR specialist; and,
 - (4) Providing appropriate background information in an attempt to reach an understanding with the grievant based on the facts of the matter and to allay any misperceptions when a grievance is unfounded, as the grievant's continuing dissatisfaction may interfere with office productivity.

10. EMPLOYEE RIGHTS.

a. Right to Present a Grievance.

- (1) An employee has the right to present a grievance free from restraint, interference, coercion, discrimination, or reprisal.
- (2) An employee is entitled to present a grievance through the procedures contained in this Instruction.
- (3) During preparation of the grievance, the grievant may make reasonable use of Coast Guard equipment and materials in accordance with applicable Commandant Instructions governing the limited personal use of government property.
- (4) An employee is entitled to seek regulatory and procedural guidance from the servicing HR specialist.

b. Right to Representation.

- (1) An employee may present a grievance with or without representation.
- (2) A grievant may be advised, represented, and accompanied by a representative of his/her choice, except that the command may disallow the choice of an individual if the grievant's choice could result in a conflict of interest, impact the priority needs of the Command, or be of unreasonable cost to the Coast Guard.

COMDTINST 12771.1

- (3) The grievant's choice of representative must be designated in writing to the step 1 grievance official, or to the step 2 grievance official when step 1 is not applicable (see Paragraph 13, The Grievance Process).
- (4) If the grievant's choice of representative is denied, the objecting official must provide the grievant with the reason for the objection in writing; the grievant may then designate another representative. The denial of a representative must be approved by Commandant (CG-1214).

c. Right to Duty Time.

- (1) Upon request, the grievant and his/her representative (providing that the designated representative is a Coast Guard employee) are allowed a reasonable amount of duty time to prepare and present a grievance if otherwise in an active duty and pay status with the Coast Guard.
- (2) Time for presentation of a grievance shall include time for review of appropriate records and regulations to the extent they cannot be secured or reviewed during non-duty hours and for discussions with officials and witnesses involved in the grievance.
- (3) The amount of duty time will be determined solely by management, but shall not exceed eight (8) hours each for the employee and his/her representative (if an employee of the Coast Guard). Arrangements for the use of duty time must be coordinated with and approved by the grievant's (and representative's, if applicable) supervisor prior to the use of the time.

11. TIME LIMITS.

- a. When calculating any time limits referenced throughout this Instruction (such as time limits for filing, time limits for issuing of a decision, etc.), the day a document is received or the effective date of an action 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 workday.
- b. All time limits are counted in calendar days (see Paragraph 5.c.).
- c. Time limits may be extended in writing by mutual agreement of the parties.

12. OFFICIAL GRIEVANCE FILE.

- a. The official grievance file should contain all documents relating to the grievance and is maintained by the servicing HR specialist. As applicable, the official grievance file should contain:
 - (1) The step 1 and step 2 grievances filed by the grievant;
 - (2) Documentation of any extensions granted;
 - (3) Any additional materials provided by the grievant;

- (4) Documentation of the grievance official's communication efforts with the grievant;
- (5) Copies of records relevant to the grievance;
- (6) Copies of policies and regulations at issue or relevant to the matter at issue;
- (7) Affidavits or signed statements of witnesses;
- (8) Fact-finding report;
- (9) Grievance meeting notes;
- (10) Any correspondence related to the disallowance of an employee's representative; and,
- (11) The step 1 and step 2 grievance decisions.

- b. When a disciplinary action is involved, the official grievance file need not contain copies of all documents maintained in the disciplinary case file. However, the documents in that file should be reviewed and considered, as appropriate.
- c. The official grievance file is available for review by the grievant and his/her representative and, therefore, should not contain any document that is not releasable to the grievant and his/her representative.
- d. Access to the grievance file will be on a need-to-know basis.

13. THE GRIEVANCE PROCESS. Management and employees are encouraged to resolve grievances at the earliest opportunity and at the lowest possible management level without unnecessary delays. Before initiating the step 1 grievance process addressed below, beginning in Paragraph 13.c., employees are encouraged to attempt to informally resolve any grievance and underlying concerns by initially discussing the problem with their immediate supervisor or the lowest level management official involved in the matter. However, any informal discussion with anyone in the management chain does not expand the period of time in which a grievance must be filed.

a. Step 1 Grievance Procedure.

- (1) General. An employee who wishes to file a grievance must file it in writing at the step 1 level (except as noted in Paragraph (2) below) with his/her immediate supervisor. If the matter being grieved or the relief being sought resides outside of the grievant's chain of command or the immediate supervisor does not have the authority to grant the grievance, the supervisor receiving the grievance will consult with the servicing HR specialist in order to determine the appropriate management point of contact for rendering a decision. The grievance will then be forwarded to the appropriate grievance official for action and the grievant will be so notified.
- (2) Exceptions. It is mandatory that an employee complete action under step 1 of the Administrative Grievance Procedure before a grievance will be accepted for processing under step 2 of the procedure – with the following exceptions (these matters must be filed beginning at step 2):

COMDTINST 12771.1

- (a) Grievances involving formal discipline, i.e., letters of reprimand or suspensions of 14 days or less;
 - (b) Grievances over an individual's annual performance rating; and,
 - (c) Grievances that personally involve area, district, base and sector commanders; commanders of logistics and service centers; commanding officers of headquarters units; Assistant Commandants for directorates, Deputy Commandant for Mission Support, TJAG, and special staff offices at Headquarters.
- (3) Time Limits for Filing. An employee must file a grievance concerning a particular act or occurrence within 15 calendar days of the date of the act or occurrence, or the date that the employee first became aware of or should have been aware of the act or occurrence. (Timeframes may be extended by management if it is shown that circumstances exist which are beyond the grievant's control, e.g., illness, absences, complex issues, or workload.) An employee may file a grievance concerning a continuing practice or condition at any time.
- (4) Step 1 Grievance. A properly submitted grievance must:
- (a) Be submitted on Form CG-12771, enclosure (1), and contain a brief, concise description of the grievance with sufficient detail to identify and clarify the matter being grieved. Supporting documentation may be attached to the form;
 - (b) Be dated and signed by the employee and the employee's designated representative (if applicable);
 - (c) Be timely filed;
 - (d) Cite the specific section(s) of law, policy or procedure allegedly violated (if applicable);
 - (e) List the names of anyone believed to have witnessed the occurrence (if applicable); and,
 - (f) Specify, as corrective action sought, relief that is directly personal to the grievant (such relief may not include a request for disciplinary or other action against another employee).
- (5) Action by the Step 1 Grievance Official. The step 1 grievance official must do the following:
- (a) Contact the servicing HR specialist immediately upon receipt of the grievance and provide him/her a copy of the grievance filed;
 - (b) Fully and impartially consider all of the facts of the grievance;
 - (c) Investigate and discuss the grievance with the grievant and the grievant's representative, if designated, either face-to-face or by conference call, if so desired by the grievant;

- (d) Develop a grievance file and ensure that copies of all relevant material are provided to the servicing HR specialist to be maintained in the official grievance file;
 - (e) Discuss findings and recommendations with the servicing HR specialist; and,
 - (f) Provide the grievant with a written decision within 15 calendar days of receipt of the written grievance. The servicing HR specialist will assist with preparing the written grievance decision. If the grievance official is unable to issue the decision within 15 calendar days, he/she must inform the grievant of the reason additional time is needed and indicate when a response can be expected. (If no decision or reason for delay is received by the grievant within 15 calendar days, the grievant may proceed with filing a step 2 grievance.)
- (6) The Step 1 Grievance Decision. The written decision shall be in memorandum form and include the following:
- (a) The date of the step 1 grievance and the date it was received;
 - (b) A brief summarization of the issue(s) grieved and the relief requested;
 - (c) Identification of any rules, policies, or instructions that apply;
 - (d) Findings, conclusions, and the decision on the issue(s) grieved. If the relief requested by the employee is granted or if an alternative resolution is provided, a statement should be included to that effect. If the grievance is not resolved, a statement of any attempts made to obtain satisfactory resolution should be included; and,
 - (e) A statement informing the grievant of his/her right to file a step 2 grievance if dissatisfied with the step 1 decision - to include the name, title, location, phone number, and email address of the step 2 grievance official, as well as the time limit within which the grievance must be submitted.
- b. Step 2 Grievance Procedure.
- (1) Time Limits for Filing. If any issue(s) from the step 1 grievance remains unresolved, a step 2 grievance must be submitted to the step 2 grievance official noted in the step 1 decision within 10 calendar days of the grievant's receipt of the step 1 decision.
 - (2) Exceptions. The grievant has 15 calendar days, from the date of the action or occurrence or the date grievant was or should have been aware of the action or occurrence, to file an initial grievance at the step 2 level for the following matters excluded from step 1 grievance processing:
 - (a) Grievances involving formal discipline (i.e., a letter of reprimand or suspension of 14 days or less)-within 15 days of the effective date of the action;
 - (b) Grievances involving an annual performance rating-within 15 days of the date that the employee received or was informed of his/her annual performance rating; and,

COMDTINST 12771.1

- (c) Grievances that personally involve area, district, base and sector commanders; commanders of logistics and service centers; commanding officers of headquarters units; Assistant Commandants for directorates, Deputy Commandant for Mission Support, TJAG, and special staff offices at Headquarters-within 15 days of the date of the act or occurrence, or the date that the employee first became aware or should have become aware of the act or occurrence.

(3) Step 2 Grievance. A properly submitted grievance must:

- (a) Be submitted on Form CG-12771, enclosure (1);
- (b) Indicate measures taken to attempt to resolve the matter at step 1, if applicable, and explain why management's efforts were not acceptable;
- (c) Include only issues and/or remedies that were raised in the step 1 grievance, if step 1 is applicable. Matters not raised in the step 1 grievance will not be addressed at step 2;
- (d) Be dated and signed by the grievant and the grievant's representative (if represented);
- (e) Be timely filed;
- (f) Cite the specific section(s) of law, regulation, policy, or procedure allegedly violated (if applicable);
- (g) Contain sufficient detail to identify and clarify the basis of the grievance, but should not normally exceed one typewritten page;
- (h) List the names of anyone believed to have witnessed the occurrence (if applicable); and,
- (i) Specify, as corrective action sought, relief that is directly personal to the grievant (such relief may not include a request for disciplinary or other action against another employee).

(4) Action by the Step 2 Grievance Official. The step 2 grievance official must do the following:

- (a) Contact the servicing HR specialist immediately upon receipt of the grievance and provide him/her a copy of the grievance filed;
- (b) Request the grievance file from the step 1 grievance official, if applicable, or from the servicing HR specialist;
- (c) Review the entire grievance file thoroughly;
- (d) Investigate the grievance in one of the following manners:

- 1) Personally investigate and discuss the grievance with the grievant and the grievant's representative, when represented, either face-to-face or via conference call; or,
 - 2) Appoint a fact-finder to conduct a formal investigation and to prepare a report of findings for review and final determination by the grievance official. Using a fact-finder is recommended when the issue is complex and requires an in-depth investigation to confirm the accuracy and completeness of the matter. (See Paragraph 14 below on fact-finding.);
- (e) Fully and impartially consider all of the facts of the grievance;
- (f) Add supplementary documentation, including meeting notes, to the grievance file and provide copies to the servicing HR specialist for the official grievance file;
- (g) Discuss findings and recommendations with the servicing HR specialist; and,
- (h) Provide the grievant with a written decision within 45 calendar days of receipt of the step 2 grievance unless the decision deadline has been extended. The servicing HR specialist will assist with preparing the written decision. If an extension of time is needed because of heavy workload requirements, travel, or because additional information pertaining to the grievance is needed, the grievance official will notify the grievant and other interested parties to the grievance. Notification will include the duration of the extension and the notification will become part of the grievance file.
- (5) The Step 2 Grievance Decision. The written decision shall be in memorandum format and include the following:
- (a) The date of the step 2 grievance and the date it was received;
 - (b) A brief summarization of the issue(s) grieved and the relief requested;
 - (c) Identification of any rules, policies, or instructions that apply;
 - (d) Findings, conclusions and the final decision on the issue(s) grieved. If the relief requested by the grievant is granted, or if an alternative resolution is offered, a statement to that effect should be included; and,
 - (e) A statement that the step 2 decision is the final Coast Guard decision and that no further consideration to the matter grieved will be provided.

c. Acceptance, Rejection, Remand.

- (1) The grievance official will initially determine whether to accept, reject in whole or in part, or remand any grievance presented. If the grievance is presented to a management official without authority to resolve the matter, he or she will contact the servicing HR specialist for procedural guidance.
- (2) A grievance may be rejected without consideration of the merits of the grievance if:

COMDTINST 12771.1

- (a) It was not filed within the specified time limits and an extension of the time limits was not requested or approved; or, if an extension was approved, the grievance was not filed within the approved extended timeframe.
- (b) The grievance wholly involves a matter(s) excluded from coverage under Paragraph 8.b. If one or more matters are rejected, but other matters are not, those matters not rejected will continue to be considered if timely filed. The grievant will be notified in writing by the grievance official of the specifics of such a determination.

(3) A grievance may be remanded to the grievant for clarification or additional information if the issues presented in the grievance or the relief sought is not clearly and concisely defined or if the grievant did not file the grievance by using USCG Administrative Grievance Form, Form CG-12771, Enclosure (1). The grievant must provide clarification, or resubmit using enclosure (1), within 5 days of the notice of remand or the grievance will be rejected.

(4) If the step 1 grievance official rejects all or part of the grievance, that decision may be grieved to the step 2 grievance official, in writing, within five calendar days of the receipt of the rejection. The step 2 grievance official must have his or her decision to reject the grievance, in whole or in part, reviewed and concurred on by CG-1214; this decision is final and not subject to further review.

d. Dual Processing. The filing of a formal complaint of employment discrimination under EEO complaint procedures forecloses advancement of the same matters under the administrative grievance process. If the matter being grieved becomes or is the subject of a formal EEO complaint by the grievant alleging discrimination, the official considering the administrative grievance must terminate its processing and dismiss the grievance in writing.

e. Merit Promotion Plan Grievances. Grievances over alleged violations of a Merit Promotion Plan procedure must be filed at step 1 with the Office of Civilian Human Resources, Operations Division (CG-1211) Branch Chief servicing the organization where the vacancy occurred. If matters are not resolved at the step 1 level, the grievance official for the step 2 grievance is the Office of Civilian Human Resources, Chief, Operations Division, CG-1211.

14. FACT-FINDING. The step 2 grievance official may elect to appoint a fact-finder to conduct an investigation into the issue(s) raised in the grievance. This appointment should be done by memorandum or email in consultation with the servicing HR specialist. The grievance official shall determine how the fact-finder will proceed with the investigation, the scope of the investigation, and the requirements of the report. The fact-finder will assist the grievance official by determining the facts; the fact-finder will not make the grievance determination.

a. The grievance official shall appoint a fact-finder who:

(1) Has not been involved in the grievance and does not have a direct interest in the matter being grieved;

(2) Is not in a position directly subordinate or accountable to any official who recommended, advised, made a decision on, or who otherwise is or was involved in the matter being grieved;

- (3) Is not normally assigned to the organizational unit in which the grievant is assigned (an exception might be a remote command);
- (4) May be a military or civilian employee, a contractor, or an employee from another DHS component or governmental agency (a request to obtain a non-Coast Guard fact-finder must be approved by CG-1214 and if payment is involved, must be paid for by the Command against which the grievance is filed);
- (5) Must be at least one grade level, or the military equivalent of one grade level, above the grievant; and,
- (6) Is fair, impartial, and objective and has demonstrated analytic and fact-finding skills.

b. The fact-finder will:

- (1) Review the official grievance file;
- (2) Consult with the servicing HR specialist for guidance;
- (3) Limit the scope of the investigation to what the grievance official has stated in the memorandum or email of appointment;
- (4) Conduct a fact-finding inquiry to confirm the accuracy and completeness of the grievance; clarify the issue(s) involved in the grievance; as appropriate, secure relevant evidence (e.g., time cards, statements, etc.); conduct personal interviews of witnesses and/or others; and, obtain applicable policies and/or regulations; and,
- (5) Issue a timely report of findings based on the Grievance Official's specifications. The report may include the purpose of the report; background information; statement of facts; key issues presented; analysis and findings; and recommendations as well as any reference materials, evidence gathered and enclosures relied on such as command policies, list of interviewees, witness/interviewee statements, etc.

c. The step 2 grievance official will review the fact-finder's report and may accept, reject or modify the recommendations of the fact-finder, if any. The fact-finder will not make the grievance decision; the fact-finder provides assistance to the grievance official by investigating the facts and presenting them to the grievance official in a report.

d. The fact-finder's report should be made a part of the official grievance file.

15. TRAVEL EXPENSES. Management will not be responsible for travel expenses for a grievant or his/her representative in situations where the grievant and grievance official are not co-located unless the travel is requested by management.

16. COMBINING GRIEVANCES. When two or more employees within a Coast Guard command have similar or identical grievances (i.e., the dissatisfaction expressed and the relief requested are similar or identical), the grievances may be combined and processed as one group grievance at management's determination. When grievances are combined, the employees will be notified and required to designate a representative for the group.

17. CANCELLATION OF A GRIEVANCE. A grievance may be cancelled by:

- a. The Grievant. A grievant may cancel a grievance at any stage of the grievance process. This cancellation must be submitted in writing to the grievance official and may be done by email, memorandum, or letter. Once cancelled by the grievant or his/her representative, the grievance will not be reactivated.
- b. Termination of Employment. The grievance will be cancelled upon the termination of a grievant's employment with the Coast Guard unless the relief sought by the employee would result in a remedy of pay should the grievance be sustained.
- c. Death. Death of a grievant automatically terminates a grievance unless the relief sought involves a matter of pay to be paid to the beneficiaries of the deceased should the grievance be sustained.
- d. Failure to Act. Failure to act by the grievant, including failure of the grievant to meet deadlines, failure to furnish required information, or other failure to cooperate in the processing of the grievance will result in the cancellation of the grievance.

18. DISCLAIMER. This document is intended to provide operational requirements for Coast Guard personnel and is not intended to nor does it impose legally-binding requirements on any party outside the Coast Guard.

19. DISTRIBUTION. No paper distribution will be made of this Instruction. Official distribution will be located on the following Commandant (CG-612) websites. Intranet: <http://cgweb.comdt.uscg.mil/CGDirectives/Welcome.htm>, Internet: <http://www.uscg.mil/directives/> and the CGPortal: <https://cgportal2.uscg.mil/library/SitePages/Home.aspx>.

20. RECORDS MANAGEMENT CONSIDERATIONS. This Instruction has been thoroughly reviewed during the directives clearance process, and it has been determined there are no further records scheduling requirements, in accordance with Federal Records Act, 44 U.S.C. 3101 et seq., NARA requirements, and Information and Life Cycle Management Manual, COMDTINST M5212.12 (series). This policy does not have any significant or substantial change to existing records management requirements.

21. ENVIRONMENTAL ASPECT AND IMPACT CONSIDERATIONS.

- a. The development of this Instruction and the general policies contained within it have been thoroughly reviewed by the originating office in conjunction with the Office of Environmental Management, and are categorically excluded (CE) under current USCG CE #1 from further environmental analysis, in accordance with Section 2.B.2. and Figure 2-1 of the National Environmental Policy Act Implementing Procedures for Policy for Considering Environmental Impacts, COMDTINST M16475.1(series). Because this Instruction contains guidance on, and provisions for, routine personnel, fiscal and administrative activities, actions, procedures and policies which clearly do not have any environmental impacts, Coast Guard categorical exclusion #1 is appropriate.

- b. This directive will not have any of the following: significant cumulative impacts on human environment; substantial controversy or substantial change to existing environmental conditions; or inconsistencies with any Federal, State, or local laws or administrative determinations relating to the environment. All future specific actions resulting from the general policies in this Instruction must be individually evaluated for compliance with the National Environmental Policy Act (NEPA), DHS and Coast Guard NEPA policy, and compliance with all other environmental mandates. Due to the administrative and procedural nature of this Instruction, and the environmental guidance provided within it for compliance with all applicable environmental laws prior to promulgating any directive, all applicable environmental considerations are addressed appropriately in this Instruction.

22. FORMS/REPORTS. The form referenced in this Instruction is available in USCG Electronic Forms on the Standard Workstation or on the Internet: <http://www.uscg.mil/forms/>; CGPortal at <http://cgportal.uscg.mil/delivery/Satellite/uscg/References>; and Intranet at <http://cgweb.comdt.uscg.mil/CGForms>.

CURTIS B. ODOM /s/
Director of Civilian Human Resources, Diversity
and Leadership

Enclosure (1): USCG Administrative Grievance Form, Form CG-12771

DEPARTMENT OF HOMELAND SECURITY
U.S. Coast Guard
UNITED STATES COAST GUARD ADMINISTRATIVE GRIEVANCE

Privacy Act Statement

Authority: 5 CFR Part 771. Principal Purpose(s): This information will be used to process your administrative grievance in accordance with appropriate guidelines and instructions. Routine Use(s): This information may be shared in investigation of your grievance and in response to a request for discovery or for appearance of a witness, information that is relevant to the subject matter involved in a pending judicial or administrative proceeding. Disclosure: Voluntary.

Name of Employee	Org. Code
Geographic Location	Job Title/Series/Grade
Office E-mail	Office Telephone
Do you wish to designate a Representative? <input type="checkbox"/> YES <input type="checkbox"/> NO	Representative's Name
Representative's Telephone	Representative's E-mail
Is your Rep. a Coast Guard Employee? <input type="checkbox"/> YES <input type="checkbox"/> NO	Do you wish to meet with the Grievance Official? <input type="checkbox"/> YES <input type="checkbox"/> NO

STEP 1 GRIEVANCE

Date of decision/action being grieved or date you became aware of matter being grieved:	
Detailed description of the grievance	
Specific laws, regulations, policies, or procedures alleged to be violated and how violated	
State the names of anyone believed to have witnessed the occurrence	
Personal Relief Requested	
Has a complaint or an appeal been filed on this issue with any other avenue/forum (such as EEO, MSPB, etc)? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, where/with whom was it filed?	
Employee's Signature	Date
Representative's Signature (if applicable)	Date
Date Step 1 Grievance was received by immediate Supervisor	Supervisor's Initials
You may attach relevant documents, evidence, witness statements, or other evidence you wish to have considered. A copy of this form MUST be provided to the servicing CSA or Human Resources Specialist	

STEP 2 GRIEVANCE

Please note: if Step 1 of the grievance process was applicable, no new issues may be presented at the Step 2 level.

If you are grieving a matter for which you received a Step 1 Grievance Decision, indicate the date you received the Decision

Do you wish to meet with the Grievance Official?

Yes No

Detailed description of the issues remaining at the Step 2 grievance level

Describe measures taken to resolve matter at Step 1, if applicable, and provide an explanation of why management's efforts were not acceptable

Specific laws, regulations, policies, or procedures alleged to be violated and how violated

State the names of anyone believed to have witnessed the occurrence

Personal Relief Requested (*NOTE – must be consistent with the relief requested at Step 1, if applicable*)

Has a complaint or an appeal been filed on this issue with any other avenue/forum (*such as EEO, MSPB, etc*)?
If yes, where/with whom was it filed?

Yes No

Employee's Signature

Date

Representative's Signature (*if applicable*)

Date

Date Step 2 Grievance was received by Grievance Official

Grievance Official's Initials

You may attach relevant documents, evidence, witness statements, or other evidence you wish to have considered.

A copy of this form MUST be provided to the servicing CSA or Human Resources Specialist