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Employee Grievances

Lesson Objectives

After completing this lesson, you will be able to:

- Explain the Component and USD(I) roles relating to developing policies for and considering matters and disputes brought by employees.
- List and describe the elements of DCIPS Volume 2014, Employee Grievances.

Topics

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LESSON 9 INTRODUCTION



Duration: Allow 30 minutes for this lesson.



Instructor Notes:

- Show slide 9-1, “Lesson 9: Employee Grievances.”
- Participant Guide page 9-2



Lesson 9: Employee Grievances

Duration: 30 minutes

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Employee Grievances

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Your Notes:



Instructor Notes:

- Show slide 9-2, “Lesson 9 Topics.”
- Participant Guide page 9-3



Lesson 9 Topics

Lesson 9 Topics

- Topic 1 – Employee Grievance Policies
- Topic 2 – Employee Grievance Procedures
- Topic 3 – Informal Dispute Resolution
- Topic 4 – Formal Grievances



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Your Notes:



Speaking Points:

- In this lesson we’ll take a look at the policies and procedures that address employee grievances. **We’ll also explore informal dispute resolution and formal grievance procedures.**

TOPIC 1: EMPLOYEE GRIEVANCE POLICIES



Instructor Notes:

- Show slide 9-3, “Employee Grievance Policies.”
- Participant Guide page 9-4



Employee Grievance Policies

Employee Grievance Policies

- Matters and disputes presented by employees will be equitably and impartially resolved in a timely manner
- Alternative Dispute Resolution (ADR) processes will be fully supported and shall be free from restraint, interference, coercion, discrimination or reprisal
- “Employee,” for purposes of the Employee Grievances policy, includes any employee covered by DCIPS, except for DISES employees



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Your Notes:

- Explain the employee grievance policies.
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**Speaking Points:**

- **Grievance policy gives employees an opportunity to be heard.**
- If the group asks about Defense Intelligence Senior Level (DISL) employees, state ‘DISLs **are** covered by volume 2014.’

What You Should Know:*Employee Grievance Policy*

- Defense Intelligence employees with matters or disputes will be equitably and impartially resolved in a timely manner.
- Alternative Dispute Resolution (ADR) processes will be fully supported and shall be free from restraint, interference, coercion, discrimination or reprisal.
- “Employee” for purposes of the Employee Grievances policy, includes any Federal civilian employee, as defined in section 2105 of title 5, U.S.C, who is covered by DCIPS, except for Defense Intelligence Senior Executive Service (DISES) employees.

**Speaking Points:**

- Now let’s take a look at employee grievance procedures.

TOPIC 2: EMPLOYEE GRIEVANCE PROCEDURES



Instructor Notes:

- Show slide 9-4, “Employee Grievance Procedures.”
- Participant Guide page 9-5



Employee Grievance Procedures

Employee Grievance Procedures

- Component-specific grievance procedures:
 - Conform to Volume 2014
 - Identify list of subjects that cannot be grieved
 - Provide an Alternative Dispute Resolution (ADR) program
 - Entitle employees to present grievances and represent themselves, or be represented by someone of their choice, with Component approval
 - Provide for informal dispute resolution and formal grievance procedures
- What subjects cannot be grieved?



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Your Notes:

- Review Component-specific grievance procedures and ask participants to share what they know about what subjects cannot be grieved.
- Refer participants to *Employee Grievance Procedures* in the *What You Should Know* box on pages 9-5_9-7 of the Participant Guide. Information is below for your reference.
- Tell participants to take a few minutes to read through the procedures and list of subjects that cannot be grieved and identify information that wasn't discussed previously. Ask for volunteers to share what new information they have learned.

What You Should Know:

Employee Grievance Procedures

- Components shall establish employee grievance procedures that support the provision that all employees have the right to present grievances to the appropriate authority for prompt and equitable consideration without fear of restraint, interference, coercion, discrimination, or reprisal.
- **Component-specific procedures must:**
 - Conform to DoDI 1400.25, Volume 2014.
 - Include a list of subjects that cannot be grieved, including all those noted in Volume 2014 and others, as applicable.
 - Provide a program for Alternative Dispute Resolution (ADR), supporting ADR practices and techniques as alternatives to formal administrative proceedings or litigation to resolve disputes.
 - Provide the entitlement to employees to present grievances and represent themselves or be represented by someone of their choice with approval by the Component, which may deny the employee's choice under certain circumstances noted in Volume 2014 (e.g., conflict of interest or cost to the Government).
 - Provide for informal dispute resolution and formal grievance procedures. Informal dispute resolution is not ADR. It is a process that supports initial informal discussions with the supervisor or other process to help resolve disputes before it is a formal grievance.
- **Subjects that cannot be grieved:**
 - The content of established Component regulations and policies.
 - The content of job classification and qualification standards.
 - The substance (e.g., approved performance objectives or standards) of an employee's performance elements, standards, or work objectives.
 - A rater or reviewing official's determination or ratings against performance objectives and elements. Such actions come under Volume 2011, Reconsiderations.
 - Adverse performance- or conduct-based actions (such as reductions in work level, pay band or pay, suspensions of more than 14 calendar days, furloughs of 30 calendar days or less, or removal). Such actions are not grievable but may be appealed in accordance with Volume 2009.

What You Should Know:

- Nonselection for a position or promotion as the result of an approved candidate evaluation process, or failure to receive a noncompetitive assignment.
- Determinations concerning additional compensation including the denial or non-receipt of monetary and non-monetary awards, performance-based payouts, recruitment or relocation bonuses, retention incentives or allowances, additional pay allowances or differentials, critical position pay, or dual compensation waivers.
- Any matter already the subject of a formal review and adjudication by an internal or external authority, or any matter that the employee has filed under another review or reconsideration procedure or dispute resolution process within the DoD.
- Preliminary notice of an action that, if executed, would be covered under the grievance system or be the subject of formal review and adjudication by an internal or external authority.
- Any action taken under a voluntary, formal agreement entered into by an employee involving geographic relocation or return from an overseas assignment.
- Termination of an employee prior to completion of his/her trial period.
- **Expiration of a term or temporary appointment on, or prior to, the date specified as a condition of employment.**
- Any action taken under AIF proceedings. Appeals of AIF actions must be completed according to the procedures in Volume 2004.
- Any action taken pursuant to national security, including determinations regarding eligibility for access to classified, compartmented, or other controlled access information.
- Any additional exclusions requested by a Component and approved by the USD(I).
- The terms of any mediated agreement that an employee is a party to resulting from participation in the ADR Program.

TOPIC 3: INFORMAL DISPUTE RESOLUTION



Instructor Notes:

- Show slide 9-5, “Informal Dispute Resolution.”
- Participant Guide page 9-8



Informal Dispute Resolution

Informal Dispute Resolution



Component-specific procedures must include:

- Steps an employee can follow to informally present a work-related matter
- Timelines
- Use of a neutral party
- Documentation requirements

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Your Notes:

- Inform participants that informal dispute resolution information is covered on pages 9-8_9-9 of the Participant Guide and invite them to follow along as you discuss the speaking points below.
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Speaking Points: Emphasize the highlighted text in the WYSK box below.

- **Often through informal processes, concerns can be shared and resolved before a formal grievance is filed.**

What You Should Know:

Informal Dispute Resolution Procedures

- Components are required to have informal dispute resolution procedures.
- **Component-specific procedures must include:**
 - **A procedure** through which an employee **may informally present** a work-related matter to his or her immediate supervisor, or through other information procedures established by the Component, (such as a board created for this purpose), for an initial and informal problem-solving effort before the employee can file a formal grievance.
 - **Established timelines** for informal dispute resolution procedures include:
 - An attempt to resolve the issue 30 days from the date it was first presented
 - The Permission to extend the timeline due to exigent circumstances or mutual agreement of the parties
 - **Procedure for use of a neutral party**, such as a conciliator, facilitator, or mediator, that includes specific limitations such as conflict of interest or cost to the Government by the Component.
 - **Procedures providing Component-specific documentation requirements** –including what must be maintained, for how long, and by whom.



Speaking Points:

- Now that we've covered informal dispute resolution, let's look at formal grievances.

TOPIC 4: FORMAL GRIEVANCES



Instructor Notes:

- Show slide 9-6, “Formal Grievances.”
- Participant Guide page 9-10



Formal Grievances

- What is the maximum number of days after the conclusion of the informal grievance procedure - or, if no informal grievance procedure was used, the act or event in question - by which the employee must file a formal grievance?
- May the remedy sought by the grievant in a formal grievance include a request for disciplinary or other action affecting another employee?
- The file maintained for each written formal grievance should be retained for how long?

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Your Notes:

- Have participants read through *Formal Grievances* in the *What You Should Know* box on pages 9-10_9-12 of the Participant Guide.

Information is below for your reference.

- Ask the following questions:
 - What is the maximum number of days after the conclusion of the informal grievance procedure - or, if no informal grievance procedure was used, the act or event in question - by which the employee must file a formal grievance? (Answer: 15 calendar days.)
 - May the remedy sought by the grievant in a formal grievance include a request for disciplinary or other action affecting another employee? (Answer: No; the remedy must be personal to the employee.)
 - The file maintained for each written formal grievance should be retained for how long? (Answer: 4 years, or as provided for in accordance with applicable laws, regulations, and records retention schedules.)

What You Should Know:

Formal Grievances

- Components shall establish and maintain formal grievance procedures that are generally consistent with the provisions of Subchapter 771 of Title 5 unless otherwise noted in DCIPS policy. If information or requirements differ, DCIPS policy must be used.
- All Components shall follow these principles in managing formal grievance programs:
 - An employee may file a formal, written grievance on matters not excluded when it is not resolved during the informal dispute resolution process, or when the employee chooses to bypass that process and invoke the formal grievance process.
 - If the employee used the informal dispute resolution process, the employee must file a formal grievance no later than 15 days from the date the decision of the informal process is communicated.
 - If the employee does not use the informal dispute resolution process but raises the matter initially as a formal grievance, the employee must present the formal grievance within 15 days following the date of the act or event

What You Should Know:

- 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.
- An employee may present a formal grievance regarding a continuing practice or condition at any time as long as the practice or condition is continuing at the time of the filing of the grievance.
 - An employee's formal grievance must be signed and dated and must contain a detailed statement of the issue(s) and the specific personal remedy sought; copies of any documents in the employee's possession related to the grievance; and the name, address, and telephone number of the employee's representative, if any.
 - The remedy sought by the grievant in a formal grievance 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 that he or she has raised in any other formal grievance, appeal, complaint, or other dispute resolution process.
 - Formal grievance processes shall state the responsibilities of the deciding official that shall include, responsibility to 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 duty time shall be granted to the employee and the employee's representative.
 - A deciding official may designate an impartial individual to examine a formal grievance and, when authorized, to make recommendations concerning its disposition.
 - Formal grievance processes shall stipulate the time frame from the filing of the formal grievance by which the deciding official shall issue the decisions that is no more than 90 calendar days from the filing of the formal grievance, absent mutual agreement to extend this time limit to accommodate resolution of the dispute or exigent circumstances.
 - Formal grievance processes shall specify the conditions under which the deciding official may cancel or temporarily suspend a formal grievance or the appropriate portion of a formal grievance, and shall allow for employee

What You Should Know:

cancellation.

- A separate file shall be established and maintained for each written formal grievance and retained for 4 years, or as provided for in accordance with applicable laws, regulations, and records retention schedules. The file shall contain all documents or copies of documents related to the formal grievance.

**Speaking Points:**

- Now let's review what we've learned in this lesson.

LESSON 9 REVIEW



Instructor Notes:

- Show slide 9-7, “Lesson 9 Review.”
- Participant Guide page 9-13



Lesson 9 Review

Lesson 9 Review

- Topic 1 – Employee Grievance Policies
- Topic 2 – Employee Grievance Procedures
- Topic 3 – Informal Dispute Resolution
- Topic 4 – Formal Grievances



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Your Notes:

- Review the lesson’s topics.
 - Ask the participants if they have any questions about what was covered in this lesson.
 - Refer participants to *Useful References for Employee Grievances* on page 9-14 of the Participant Guide. Information is shown below for your reference.
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Useful references for Employee Grievances

- DoDI 1400.25, Volume 2014, Defense Civilian Intelligence Personnel System Employee Grievances
- DoD Directive 5124.02, “Under Secretary of Defense for Personnel and Readiness (USD(P&R)),” June 23, 2008
- DoD Directive 5143.01, “Under Secretary of Defense for Intelligence (USD(I)),” November 23, 2005
- DoD Directive 1400.25-M, “DoD Civilian Personnel Management System,” November 25, 1996
- DoD Directive 1400.35, “Defense Civilian Intelligence Personnel System (DCIPS),” September 24, 2007
- DoD Directive 5145.5, “Alternative Dispute Resolution (ADR),” April 22, 1996

Lesson Transition:

The next lesson covers a favorite topic – awards and recognition!