

D. C. DEPARTMENT OF CORRECTIONS
Office of the Director
Washington, D. C. 20001

DO 3320.2
12 September 1986
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DEPARTMENT ORDER NUMBER 3320.2

Subject: Employee Grievance Procedure

1. Purpose and Scope. To establish grievance procedures for employees of the D.C. Department of Corrections. These procedures apply to all employees, except those who are covered by a collective bargaining agreement which provide for a grievance or appeal procedure.
2. Directives Affected or Referenced.
 - a. Directive Affected. None
 - b. Reference. Chapter 16, D.C. Personnel Regulations.
3. Policy. It is the policy of the Department that supervisors and managers shall make every effort to attempt to resolve complaints and/or employee dissatisfactions to the satisfaction of the employee without having to resort to grievance procedures. However, when these efforts fail, employees shall be afforded the opportunity to present their grievances in a manner which will ensure full, impartial and prompt consideration and further assure employees freedom from restraint, coercion, interference, discrimination or reprisals.
4. Delegation of Authority. The Deputy Director, or an official appointed by the Director is delegated authority to serve as "deciding official" for the purpose of resolving or attempting to resolve formal grievances. However, the Director shall, in all cases, render the final decision over his signature.
5. Definition. For the purpose of this Order, the following definitions apply:
 - a. Grievance - Any matter under the control of the District Government which impairs or adversely affects the interest, concern, or welfare of employees except:
 - (1) A requirement of law, or of rules or regulations established under the D.C. Administrative Procedures Act;

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(2) Any other matter which the Department does not have the power or authority to provide the remedy sought or an equivalent remedy;

(3) An allegation of unlawful discrimination, or any other matter within the jurisdiction of the D.C. Office of Human Rights;

(4) An allegation of an unfair labor practice, or any other matter required to be decided by the Public Employee Relations Board;

(5) A final Department decision which, pursuant to 1-606.3 D.C. Code (1981), may be appealed to the Office of Employee Appeals, (this includes appeals to adverse actions, reduction in force, a performance rating, resolving a grievance, erroneous employee payments, privacy and records management or deciding the classification of a position);

(6) A grievance which may be submitted through the grievance procedures contained in a collective bargaining agreement covering the employee;

(7) Non-selection for promotion from a group of candidates who were properly ranked and certified;

(8) Non-adoption of a suggestion, or disapproval of a quality step increase, performance award, or other kind of honorary or discretionary award: or

(9) Rating factors, written comments, or other items which are parts of a performance appraisal made under the provisions of Chapter 14, D.C. Personnel Regulations, which items may instead be relevant to an appeal (also under Chapter 14) of the adjective rating level assigned.

b. Deciding Official - The Director or any official designated by the Director who is at a higher administrative level than the official who denied the grievance under the informal grievance procedure.

c. Administrative level. That level in the chain-of-command at which grievance are presented and administratively processed, they are:

- (1) Institutional level,
- (2) Office Chief level
- (3) Service level, and
- (4) Department level

6. Procedures. All grievances by current employees shall be orally presented or filed in writing in accordance with procedures established in paragraphs 9 and 10, as applicable. In presenting a grievance an employee shall:

a. Be assured freedom from restraint, coercion, interference discrimination, or reprisal.

b. Have the right to be accompanied, represented, and advised by a representative of his/her choice.

c. Be assured of a reasonable amount of official time, if he/she is otherwise in an official duty status. The amount of time to present the grievance shall not exceed four hours.

7. Time Limits for Presenting or Filing Grievances.

a. An employee may present a grievance concerning a continuing practice or condition at any time.

b. An employee must present or file a grievance concerning a particular act or occurrence within 15 calendar days of the date of the act or the occurrence, or the date he/she became aware of the act or occurrence, whichever is later. The Department may extend this time limit for good cause shown by the employee.

8. Where Presented or Filed.

a. A grievance may be presented or filed at the lowest administrative level which has the authority to grant the remedy or relief sought. However, in all cases, the final decision shall be rendered or issued in writing, as appropriate, by officials indicated below:

- (1) At the Institution level - by the Administrator
- (2) At the Office Chief level - by the Office Chief

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(3) At the Service level - by the Assistant Director

(4) At the Department level - by the Director

b. The action required by paragraph 8a does not preclude officials enumerated in paragraph 8a (1), (2) and (3) from referring the grievance to the appropriate official for investigation, review and recommendations.

9. The Informal Grievance Procedure. The informal grievance is processed in two steps. It is mandatory that all grievances be processed under Step 1 and Step 2, when applicable, before proceeding to the formal grievance procedure.

a. Step 1 An informal grievance may be presented to an employee's immediate supervisor or supervisor at the lowest administrative level which has authority to grant relief sought.

(1) The informal grievance may be presented either orally or filed in writing, including a detailed explanation of the employee's dissatisfaction and the relief or remedy sought. If the grievance is presented in writing, DCDC Form 1.534 (Enclosure #1) must be utilized.

(2) If the informal grievance is presented orally, or filed in writing at the Institution, Office Chief or Service level a decision shall be rendered as quickly as possible, but not later than ten calendar days from the date which the grievance was presented or filed.

(3) If the informal grievance is presented orally, or filed in writing at Department level, a decision shall be rendered or issued not later than 20 calendar days from the date which the grievance is presented or filed.

(4) If an informal grievance is filed in writing, then the decision shall be issued in writing.

(5) If within the time period prescribed a decision has not been rendered or the remedy or relief sought has been denied in part or totally, the grievant may, within five calendar days proceed to step 2.

b. Step 2. If, for reasons enumerated in paragraph 9a(5), the grievant is dissatisfied, he/she may present the informal

grievance at Step 2 to the next higher administrative level for resolution.

(1) At Step 2 the informal grievance may be presented either orally or in writing and must include a detailed explanation of the employees dissatisfaction and the relief or remedy sought. If the grievance is presented in writing, it is DCDC Form 1.534 must be utilized.

(2) The Assistant Director shall advise the employee in writing of his/her findings within ten calendar days of receipt of the grievance. If the decision results in requested relief or remedy being denied, the employee shall be advised of his/her right to submit a formal grievance to the Director within ten calendar days from the date of receipt of the notification. If no response is received by the employee within ten calendar days from the date the grievance is submitted, the employee has the right to present the grievance to the Director under the formal procedures.

10. The Formal Grievance Procedure. The formal grievance shall be governed by the following provisions:

a. An employee shall be entitled to present a grievance under the formal procedure as follows:

(1) The employee has not received a decision under the informal grievance procedure within the time specified in paragraph 9d above; or the employee has been denied the relief sought under the informal grievance procedure as provided in paragraph 9e above; and

(2) The employee files the formal grievance within ten (10) days after expiration of the time for decision or receipt of notification of denial of the relief or remedy sought.

b. The formal grievance shall be in writing (utilizing DCDC Form 1.534 at Enclosure #1) and contain sufficient detail to identify and clarify the basis for the grievance, and shall specify the relief requested.

c. The formal grievance shall be referred to a deciding official, (see paragraph 5,b) who shall be at a higher administrative level than the official who denied the grievance under the informal procedure; unless such denial was by the Director, in which case the formal grievance shall be submitted to the Director.

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d. The deciding official shall attempt to resolve the grievance in a manner acceptable to the employee.

e. The deciding official shall inform the employee in writing of the reasons therefore if requested relief has been denied in whole or in part, and of his or her right of appeal to the Office of Employee Appeals (OEA) in accordance with regulations (Enclosure #4) issued by that office.

f. The decision on the formal grievance must be issued in not more than sixty (60) calendar days from the date the formal grievance was filed. Failure to issue the decision within such period shall constitute a denial, and an appeal may thereafter be filed with the Office of Employee Appeals.

g. When a deciding official issues a decision to an employee on a matter appealable to OEA he/she shall provide the employee:

(1) Notice of the time limits for appealing to OEA and the address for filing the appeal;

(2) A copy of OEA Rules and Regulations (Enclosure #4) upon request;

(3) A copy of the OEA Appeal Form (Enclosure #2);

(4) Notice of any applicable rights to a grievance procedure; and

(5) A notice that there is a right to a lawyer or representative.

11. Filing Appeals with the Office of Employee Appeals.

a. Petitions for appeal must be filed not later than fifteen days after the effective date of the action being appealed.

b. To compute the number of days for filing, the first day counted shall be the day after the effective date of the appealable action and the last day of filing shall be included in the computation.

EXAMPLE: If an employee receives a decision notice which is effective on June 1, the 15 days for filing starts to run on June 2. The filing must be made by June 16. If June 16 is a Saturday, the last day for filing would be Monday, June 18.

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c. Filing must be made by personal delivery during business hours to the Office of Employee Appeals or by certified mail addressed to the Office (Office of Employee Appeals, 415 - 12th Street, N.W., Suite 303, Washington, D.C. 20001).

d. Filing must be made on OEA appeals form at Enclosure #2.

12. Cancellation of Grievance. The Department may cancel a grievance in the following instances:

a. At the employee's request;

b. Upon termination of the employee's employment with the Department, unless the personal relief sought may be granted after termination of employment;

c. Upon the death of the employee, unless the grievance involves a question of compensation; or

d. For failure to prosecute, if the employee does not furnish required information or duly proceed with the advancement of his/her grievance.

13. Rejection of Grievance. A grievance may not be rejected under the informal procedures for any reason. If the grievance is not timely or consists of a matter not covered under the grievance procedures, the employee shall be so advised, but he/she must be allowed to submit his/her grievance under the informal procedure if he/she insists.

14. Employee Responsibility. An employee must comply with the procedures of the grievance regulations. Employees are cautioned against knowingly making false or unfounded charges in presenting grievances, as unwarranted attacks tend to undermine the morale and efficiency of the department. If the person hearing the complaint has reason to believe that the employee is knowingly making false and damaging statements, he/she should advise the employee that if his/her statements are found to be intentionally false and damaging, he/she may be subject to disciplinary action. If any witness is also an employee of the District Government and there is reasons to believe that he/she is making unfounded statements, he/she should be similarly advised. If any witness is not an employee, he/she should simply be advised that any or all of his/her testimony, if unfounded, will be disregarded.

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15. Right to Representation. An employee may present his/her own case; however, if he/she so desires, any person of his/her choice may accompany and represent him/her. An employee may change his/her representative, but on doing so, should notify his/her department in writing of such change.

16. Right to Seek Advice and Guidance.

a. The employee is entitled to seek advice on regulations governing grievance procedures from the servicing Personnel Office and Employee Relations Division.

b. The employee is entitled to seek advice and communicate with the Office of Human Rights, Department EEO Officer or Counselor, or:

(1) A supervisor or management official of higher rank than the employee's immediate supervisor;

(2) A departmental official who may have been specifically designated to counsel employees on such matters; and

(3) His/her union representatives.

17. Records and Reports.

a. Records. Deciding officials shall maintain an accurate record of all grievances except those resolved under the informal procedures.

b. Reports. Deciding officials shall submit a monthly Grievance Report to the Director in the format indicated at Enclosure #3. Negative reports are required. Reports shall be submitted so as to arrive at the Director's Office not later than ten calendar days after the close of the month for which the report is prepared.

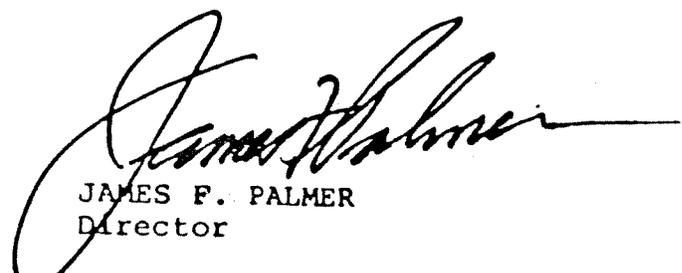
18. Dissemination. A copy of this Order shall be permanently posted all employees bulletin boards. In addition, a copy of the Order shall be made available to each employee upon request.

19. Implementation. Assistant Directors and Administrators and Office Chiefs may develop local procedures, not inconsistent with

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this Order, for the implementation of the grievance procedure contained herein.



JAMES F. PALMER
Director

4 Enclosures
as

DISTRIBUTION:

"A" & "B"
D.C. Council Judiciary Committee
D.C. City Administrator
D.C. Criminal Justice Project
D.C. Corporation Counsel
Chief Judge, D.C. Superior Court