

Taking the Grief Out of Administrative Grievances

Participant Guide



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Welcome

Welcome to this TEL (Technology Enhanced Learning) training event. We are excited that you will be joining us today for *Taking the Grief Out of Administrative Grievances*, and we look forward to helping you to get as much out of this time as possible.

How To Interact with the Instructor

We encourage you to ask questions and share your comments with the instructors throughout this TELNPS course.

If you were physically in the classroom with the instructor, you would raise your hand to let her/him know you had a question or comment. Then you would wait for the instructor to recognize you and ask for your question. We are all familiar with that “protocol” for asking questions or making comments.

With TELNPS courses there is also a “protocol” to follow to ensure that you can easily ask questions and others can participate as well. It may seem a little strange at first asking a question of a TV monitor. Remember, it is the instructor you are interacting with and not the monitor. As you ask more questions and participate in more TELNPS courses, you will soon be focusing only on the content of your question and not the equipment you are using to ask it.

As part of the TEL station equipment at your location, there are several push-to-talk microphones. Depending on the number of

students at your location, you may have one directly in front of you or you may be sharing one with other students at your table.

When you have a question, press and hold down the push-to-talk button, maintaining a distance of 12-18 inches, and say,

“Excuse me [instructor’s first name], this is [your first name]

at [your location]. I have a question (or I have a comment).”

Then release the push-to-talk button. This is important.

Until you release the button, you will not be able to hear the instructor.

The instructor will acknowledge you and then ask for your question or comment. Stating your name and location not only helps the instructor, but also helps other students who are participating at different locations to get to know their classmates.



Course

Overview

Why a *Taking the Grief Out of Administrative Grievances* program?

The word “grievance” sometimes has a negative connotation, especially if you’re a supervisor. The root word “grieve” (or “grief”) implies a sense of loss and unhappiness. In fact, while the grievance process may be initiated by an unpleasant situation, its results can be quite positive. Every employee, including you as a supervisor, has the right to request relief from work-related situations that create difficulties or interfere with productivity. Today, we will discuss the informal and formal ways in which the agency can respond to these requests to ensure that the employee and the agency are able to resume productivity. We will also cover what to do when an employee’s request is not “grievable,” that is, when the request is covered by another process. By the end of this course, we hope to take at least some of the “grief” out of the administrative grievance process.

Target Audience

Any NPS employee with supervisory responsibilities, or who serves as an advisor to supervisors, such as an HR Specialist. This course has been approved to count towards the mandated NPS annual 40-hour supervisory training requirement.

Program Timing

Taking the Grief Out of Administrative Grievances is a 2-hour TELNPS course.

Learning Objectives

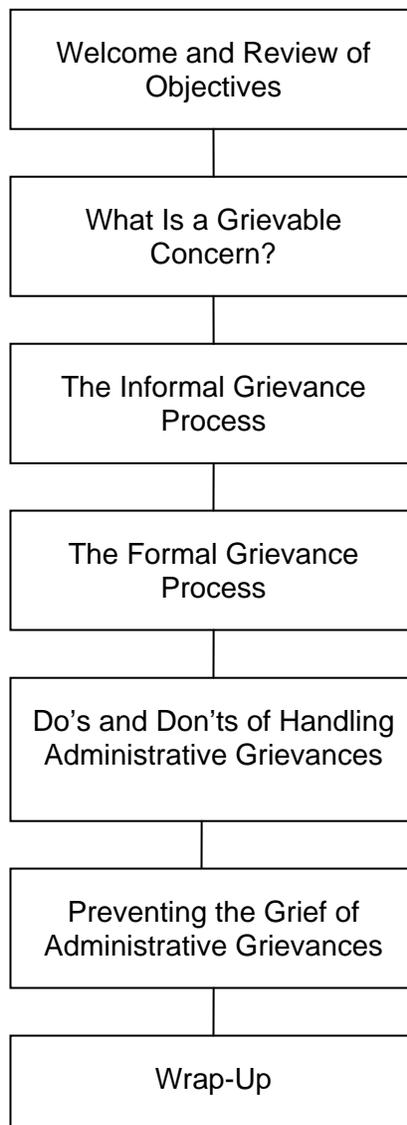
After completing this course, you will be able to:

- Define Administrative Grievance and Personal Relief.
- Determine which employee concerns are grievable.
- Outline the Department’s informal procedure for addressing grievances and the time frames involved.
- Outline the Department’s formal procedure for addressing grievances and the time frames involved.
- Recognize the challenges and strengths of the administrative grievance system.
- Identify how supervisors should handle administrative grievances.
- Describe a plan for preventing employee concerns from escalating into filed administrative grievances.

Site Point-of-Contact Responsibilities

The TEL Station Site Point-of-Contact must reserve the training room, notify employees that the park will be participating in this TEL training event, make sure the Participant Guide is available to students, set up the TEL Station on the day of the training, make sure students sign in on the Student Roster form, and finalize the roster in My Learning Manager.

Taking the Grief Out of Administrative Grievances Course Map



What Is a Grievable Concern?

Authority, definitions, and rules of procedure for the Administrative Grievance System are found in the Departmental Manual Part 370, DM 771, 3 Employee Grievances.

The four components of an administrative grievance are:

1. A **request** for personal relief by an employee or group of employees
2. in situations **related** to employment
3. which are subject to the control of agency **management**
4. and are **not covered** by another jurisdictional process.

An employee may be a current or _____ Department employee for whom specific relief can still be provided.

_____ unit employees, however, may not address grievances through the administrative grievance system.

Personal _____ refers to a specific remedy that benefits the grievant(s). It cannot include a request for _____ action against another employee.

***Exercise:* 60-Second Brainstorm**



Don has a complaint about the difficulty of completing his work because of distractions around his work station, including high traffic and an annoying co-worker.

What would be an example of a **legitimate** request for personal relief?

What would be an example of an **unreasonable** request for personal relief?

Matters Not Grievable

Issues that meet the 4 components of the definition of a grievable action (see p. 4 of this Guide) are covered under the administrative grievance process. While the number of grievable issues is virtually limitless, there are some issues that are clearly NOT grievable. Appendix A contains a list of the 16 categories of matters that are not covered under the administrative grievance process. Matters not covered by the administrative grievance process may be covered in another forum.

Available Forums	EEO Process	MSPB (Adverse Actions)
<ul style="list-style-type: none"> • EEO Process • MSPB • Administrative Grievance System 	<p>A complaint of discrimination because of race, color, religion, sex, national origin, age, or physical or mental handicap.</p>	<ul style="list-style-type: none"> • Performance-based removal • Reduction in grade • Suspension over 14 days • Furlough over 30 days • Termination • Denials of within-grade salary increase • Reduction-in-force action • Denial of restoration or reemployment rights

What Type of Concern Is Grievable?	Then?	...Because...
<p>Any concern arising out of such matters as working conditions and relationships with supervisors, other employees, and officials, including allegations of coercion, reprisal, or retaliation.</p>	<p>Administrative grievances are handled entirely within the Bureau or Department and may not be appealed to external forums such as the Office of Personnel Management.</p>	<p>A helpful key to evaluating a complaint is to use the word "because." e.g., "The employee feels that this practice is unfair <i>because</i>..."</p>

Matters Not Grievable

Nonselection for promotion
(properly ranked and certified candidates)

Decisions appealable to MSPB, OPM, or EEOC

A return from SES to GS during probation

An action which terminates a temporary promotion

Grievance by bargaining unit employees outside DOI

SES performance evaluation

Merit pay or lack of merit pay increase

Termination of an employee serving probation

Return to a nonsupervisory position

Published regulations

Content of critical results and performance indicators

Proposed disciplinary action covered under another grievance system

Expiration of a term appointment or promotion

Relief not personal to grievant or not in control of management

Disapproval of a QSI

Investigation by OIG, Atty. Gen., DoJ, or MSPB

Exercise: A Grievance or Not?



Decide which of the following scenarios you feel would be appropriate for the employee to pursue through the administrative grievance process, which would not, and if not, which forum should be used. You may want to refer to the list of Matters Not Covered" in Appendix A of this guide.

1. Steve has a complaint about how his supervisor is assigning overtime hours. He believes that others in the department are consistently being offered the hours first, and that when they have all turned down the opportunity the time is being assigned to him, especially on major holidays. Steve believes the supervisor is retaliating for a negative supervisor evaluation that Steve turned in to management.

AGS or Not? If not, which forum should be used? _____

2. A GS-7 employee under your supervision comes to you to complain that she believes that she should be a GS-8. Along with her is her office mate, who is a GS-6 and claims that for the last 6 months he has been doing GS-7 work. He wants a retroactive promotion and back pay.

AGS or Not? If not, which forum should be used? _____

3. As new computers and space heaters have been acquired, the office supervisor has given them to the female office workers first. Now Joe, the one man in the office besides the supervisor, is the only one with a 486 and cold feet. He believes gender should have nothing to do with the allotment of new equipment.

AGS or Not? If not, which forum should be used? _____

4. An employee wants to submit a grievance because he claims he was injured on duty and that OWCP denied him benefits.

AGS or Not? If not, which forum should be used? _____

5. Cheryl has a complaint about her fellow employee Yvonne, who is making her work life miserable by spreading negative rumors about her to other employees. As part of her complaint, she wants Yvonne fired or severely reprimanded.

AGS or Not? If not, which forum should be used? _____

The Informal Grievance Process: The Immediate Supervisor Decides

<p>Directly to Supervisor</p> <ul style="list-style-type: none"> • Employee may come directly to Supervisor with complaint • Challenging, but non-threatening • Employee should leave supervisor's office feeling secure 	<p>Servicing Personnel Office</p> <ul style="list-style-type: none"> • Employee may contact his Servicing Personnel Office • Employee will become informed about the avenues available for addressing his concern 	<p>Employee's Options</p> <ul style="list-style-type: none"> • CORE • EEO • MSPB • Administrative Grievance Procedure
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<p>CORE</p> <ul style="list-style-type: none"> • Alternative dispute resolution method • Facilitates communication among disputing parties and encourages them to craft mutually beneficial resolutions to their conflicts 	<p>No Dual Processing</p> <p>If the employee enters into the Administrative Grievance procedure and then initiates the grievance under another procedure, the employee's grievance will not be processed further by the Administrative Grievance System.</p>	<p>Goal of the Department</p> <p>To help him resolve his complaint quickly and maintain a good quality of work life.</p>
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The Informal Process: 4 Steps

<p>Informal Process</p> <ul style="list-style-type: none"> • Attempts to resolve the matter at the lowest level possible • Parties with a vested interest in the matter have the opportunity to fashion a mutually acceptable resolution • Broken down into 4 steps 	<p>Step 1</p> <ul style="list-style-type: none"> • Employee presents matter to immediate supervisor • If grievance arises from relationship with or actions taken by immediate supervisor, then presents it to the next higher supervisor 	<p>Step 1</p> <ul style="list-style-type: none"> • Employee must present the grievance regarding a specific act or occurrence within 15 calendar days of that act or occurrence or the date the employee became aware of it
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The Informal Process, cont'd.

<p>Official Time</p> <ul style="list-style-type: none"> • Early in the process, the employee will probably be using official work time to address the grievance • Employees are entitled to a "reasonable" amount of official time and travel without being charged leave or loss of pay to "present" the grievance 	<p>Official Time</p> <ul style="list-style-type: none"> • "Presenting" includes discussions with the immediate supervisor • Immediate supervisor determines what is reasonable as impartially as possible 	<p>Representation</p> <ul style="list-style-type: none"> • Employee has the right to be accompanied and represented by a representative of his choice at any time during the process • Designation of a representative has to be given to the supervisor in writing
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<p>Step 2</p> <ul style="list-style-type: none"> • Supervisor then seeks to reach a decision on the employee's grievance by gathering facts, advice, and assistance from others where necessary 	<p>Step 3</p> <ul style="list-style-type: none"> • Within 7 days of employee's presenting the grievance, the supervisor gives the decision to grant or not grant the relief requested • If a decision cannot be made in 7 days supervisor asks the employee in writing for an extension of time 	<p>Decision Letter</p> <ul style="list-style-type: none"> • Informs the employee of the decision to grant or not to grant the relief requested • Advises the employee of the participation of other supervisors or officials in reaching that decision
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<p>Decision Letter</p> <ul style="list-style-type: none"> • If the decision is to not grant the relief sought, it informs the employee that he has 5 days to submit the grievance for further consideration under formal procedures 	<p>Step 4</p> <ul style="list-style-type: none"> • Employee's call • If satisfied by the decision reached, the employee can accept it 	<p>Step 4</p> <ul style="list-style-type: none"> • If not satisfied or if the time limit for management expires without a decision, then within 5 calendar days the employee can request further consideration of his grievance through the Formal Procedure
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Appendixes B-1 through B-3 contain the following in response to an informal grievance:

- Sample supervisory summary of oral presentation
- Request for time extension
- Decision letter

Quiz: True or False?



Refer to the flowchart at the end of this guide, and the following scenario from p. 7 of this guide:

Scenario 1

Steve has a complaint about how his supervisor is assigning overtime hours. He believes that others in the department are consistently being offered the hours first, and that when they have all turned down the opportunity the time is being assigned to him, especially on major holidays. Steve believes the supervisor is retaliating for a negative supervisor evaluation that Steve turned in to management.

True or False – If Steve does not present his grievance in writing, you are not required to take any action.

True or False – Steve has the option of entering the CORE process at any time during the administrative grievance process and still return to the administrative grievance process if CORE fails to resolve his complaint.

True or False – Steve can use official work time to type up his grievance presentation on his office computer.

True or False – Steve has the right to be accompanied, advised, and represented by a representative of his choice at any time during the grievance process, even if he chooses a fellow employee.

True or False – If Steve did not submit a grievance within 15 calendar days of the act that he is grieving or within 15 calendar days of the date he became aware of it, you may deny his grievance at the informal stage and he may not request further review.

Caution

You cannot enter the
FORMAL process
without having first
gone through the
INFORMAL process!

The Formal Process: The Deciding Official (Steps 1-4)

Let's say our employee Steve is not satisfied with the informal decision. Now what?

<p>Step 1</p> <ul style="list-style-type: none"> The employee submits the grievance to the Servicing Personnel Office 	<p>Step 2</p> <ul style="list-style-type: none"> Personnel office reviews and within 7 calendar days <ul style="list-style-type: none"> Rejects it for not being a grievable concern Rejects it for not being timely filed with good cause for delay 	<p>Either....</p> <ul style="list-style-type: none"> Returns it if informal adjustment was not sought first Returns it if nonpersonal or improper relief is sought Accepts it, establishes a grievance file, and sends it for consideration to a deciding official
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<p>Grievance File</p> <ul style="list-style-type: none"> Important part of the process Subject to the Privacy Act and contains the documents related to the grievance Supervisors place in the file any documentation related to investigation during the informal stage 	<p>Grievance File</p> <ul style="list-style-type: none"> The documentation then becomes important to the deciding official in the formal stage If necessary, the file is forwarded to the examiner 	<p>Step 3</p> <ul style="list-style-type: none"> Employee's grievance has been sent to deciding official Official has 20 calendar days to adjust and decide the grievance
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<p>Step 3</p> <ul style="list-style-type: none"> If the official fails to meet the time limit, the employee would directly contact the Office of Hearing and Appeals to request further review by an examiner If the official disqualifies himself due to being a party at issue, the employee's grievance would be sent to the next administrative level 	<p>Step 4</p> <ul style="list-style-type: none"> Within the 20-day time limit, the deciding official reviews the employee's grievance file and takes one of the following actions... 	<p>Actions</p> <ul style="list-style-type: none"> Issues a written adjustment proposal to the employee or their representative, granting all or part of the requested relief or offering an alternative resolution Issues a negative determination in writing if an adjustment is deemed inappropriate
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Appendix B-4 contains a sample request for review of a grievance at the formal stage.

***Exercise:* Positive Benefits**



Take a moment to write in the space below some of the positive benefits that can come out of the correct handling of administrative grievances in the informal process or in the first phase of the formal process.

Remember, this does not mean that you grant the employee relief if the request is not reasonable, only that you correctly handle the grievance.

Be prepared to discuss your ideas with your classmates.

The Formal Grievance Process: The Examiner's Inquiry (Steps 5-9)

Let's suppose that after going through the first part of the formal process, Steve is still not satisfied with the deciding official's decision. The next phase is to have the decision reviewed by an outside examiner.

<p>Step 5</p> <ul style="list-style-type: none"> The employee makes a request to the deciding official for review of his grievance by an examiner 	<p>Step 6</p> <ul style="list-style-type: none"> The deciding official then has 7 calendar days to contact the Chief Personnel Appeals Examiner at the Office of Hearings and Appeals Official will also forward copies of the grievance to the OHA and to the employee 	<p>Step 7</p> <ul style="list-style-type: none"> An appointed examiner reviews the employee's grievance file and within 21 calendar days of being assigned the grievance, conducts an inquiry to obtain additional facts necessary to make an accurate decision
<p>Step 8</p> <ul style="list-style-type: none"> The deciding official has 10 calendar days from receiving the examiner's report to take one of 3 actions in writing... 	<p>Actions</p> <ul style="list-style-type: none"> Accept the examiner's recommendation and issue a decision on the grievance, including further review rights, if applicable Grant the relief requested without regard to the examiner's recommendation, including specific corrective action to be taken 	<p>Step 9</p> <ul style="list-style-type: none"> Employee cannot request further review of grievance beyond this point, unless the grievance <ul style="list-style-type: none"> Has been rejected, canceled, or terminated without decision based on its merit by a deciding official Involves a loss of pay <ul style="list-style-type: none"> e.g., due to suspension

Exercise: Challenges and Strengths

As you look back on Steve's experience, you have likely noticed some challenges and some real strengths in the Administrative Grievance system.



What challenges are presented by the process? What concerns do you have?

What impresses you about the system in terms of its effectiveness in addressing Steve's grievance? What are its strengths?

Do's and Don'ts of Handling Administrative Grievances

Employees have the right to grieve if they perceive nearly any situation to be unfavorable, unpleasant, or otherwise in need of remedy. Chances are that you will be faced with a grievance from an employee during your career as a supervisor. Here are some Do's and Don'ts to consider:

DON'T:

- Take it personally
- Shoot from the hip with immediate answers, but take time to check the facts and confer with personnel experts.

DO:

- Process the grievance according to procedures
- Thoroughly investigate the grievance
- Document all interviews
- Address all issues
- Obtain a copy of materials needed to make a decision
- Attempt to resolve the problem and issue, if possible
- Settle those grievances that have a basis and that management cannot defend
- Consider all grievances solely on their merits
- State why the grievance lacks merit, if it does
- Be fair and impartial
- Be able to defend or have a valid reason for any action taken
- Use the CORE program at any stage of the grievance process

Preventing the Grief of Administrative Grievances

Grievances exact a cost in quality of work relationships as well as in dollars and cents.

***Exercise:* What Can You Do?**

Take a moment to think about this: Is there anything that could have prevented Steve's concern, or at least resolved it more quickly and effectively to lessen the costs?



Making a conscious effort to remember these suggestions could help to prevent some situations from escalating. Although they can sometimes be costly, it may help to remember that sometimes "good can come from grievances" – when an employee files a grievance, whether formally or informally, it can help supervisors to identify "blind spots" or chronic issues that need to be addressed. Changes that come about as a result of grievances may affect many people, and can improve the work environment and employee job satisfaction.

Helpful Web Sites

Department of the Interior Personnel Manager: www.doi.gov/hrm/pmanager

DOI HR Policy Guidance: www.doi.gov/hrm/guidance/curronly.htm

DOI Conflict Resolution (CORE) Program website: www.doi.gov/core

To Receive Credit for this Course

1. PRINT your name on the attendance roster.
2. UPON RECEIPT OF E-MAIL NOTIFICATION, complete the online course evaluation.

Appendix A: Matters Not Covered by the Department's Administrative Grievance Procedures (370 DM 771, 3.6)

1. The content of published regulations and policy.
2. A decision which is appealable to the Merit Systems Protection Board (MSPB), the Office of Personnel Management (OPM), or the Equal Employment Opportunity Commission (EEOC).
3. Nonselection for promotion from a group of properly ranked and certified candidates.
4. A notice of proposed disciplinary action which, if effected, would be covered under a grievance system or excluded from coverage by 370 DM 771, 6A(2)
5. A return of an officer or employee from the Senior Executive Service (SES) to the General Schedule during the one-year period of probation or for less than fully successful executive performance.
6. An action which terminates a temporary promotion within a maximum period of 2 years and returns the employee to the position from which the employee was temporarily promoted, or reassigns or demotes the employee to a different position that is not at a lower grade or pay than the position from which the employee was temporarily promoted.
7. The content of the critical results and performance indicators of an employee's Performance Plan and Results Report.
8. Non-adoption of a suggestion or disapproval of a quality step increase, or discretionary awards, including awards of rank for members of the SES.
9. A merit pay determination or a merit pay increase or the lack of a merit pay increase under the Merit Pay System.
10. The termination of an employee serving a probationary or trial period after initial appointment for unsatisfactory performance or conduct.
11. An evaluation of performance for a member of the Senior Executive Service (SES).
12. A return of any employee from an initial appointment as a supervisor or manager to a nonsupervisory or nonmanagerial position for failure to satisfactorily complete the probationary period.

Appendix A: Matters Not Covered by the Department's Administrative Grievance Procedures (370 DM 771, 3.6), cont'd.

13. A separation action (other than those affecting certain excepted employees as specified in 370 DM 752), or expiration of a term appointment, or term promotion of any duration.
14. An audit or investigation being made by any employee of the Office of Inspector General; the Attorney General; Department of Justice; or the Special Counsel, MSPB
15. Relief specified that is not personal to grievant or is not subject to the control of management
16. Any grievance presented by bargaining unit employees covered by a negotiated grievance procedure or applicants for employment from outside the Department pursuant to 5 CFR 771.204(b).

Appendix B-1: Sample Memo for Supervisory Summary of Verbal Informal Grievance

DATE

MEMORANDUM

TO: Employee Name, Title, and Location

FROM: Supervisor to Whom Grievance Was Addressed

SUBJECT: Informal Grievance

On [DATE], you verbally told me that you wished to initiate a formal grievance. The purpose of this memorandum is to summarize what I understand to be the issues in your grievance and the relief being requested. I will also briefly explain the informal grievance process for your information.

The issue(s) of concern which you identified verbally as the subject of your informal grievance is(are):

1.

The relief(s) you requested is(are):

1.

If I have incorrectly stated the issues and/or relief, please provide me with any changes in writing by the close of business today. Otherwise, I will make my decision on the issue and relief as stated here.

According to the Department of the Interior Grievance Procedures, I have 7 days from [DATE INFORMAL GRIEVANCE WAS RECEIVED} to give you my response on this matter. Accordingly, I will give you my response in writing no later than [DATE].

Sincerely,

/s/

cc: Supervisor's file

Appendix B-2: Sample Memo for Extension of Time on Informal Grievance

DATE

MEMORANDUM

TO: Employee Name, Title, and Location

FROM: Supervisor To Whom Grievance Was Addressed

SUBJECT: Informal Grievance Extension

I received your informal grievance on [DATE]. According to the Department of the Interior Grievance Procedures, I have 7 calendar days to respond to your grievance, which would be by [DATE]. I will not be able to meet that date because I will be out of town and unable to give your grievance adequate attention until

_____. I will have a response to you by that date. **OR** I will not be able to meet that date because I have determined that I need to gather more information before I can respond to your grievance. I expect that my fact finding will take about _____ days and will plan to respond to your grievance by

_____.

According to your informal grievance, you raised the following issues of concern:

1.

As relief for your grievance, you are requesting that:

1.

I have included this summary of the issue and relief, which are the subject of your grievance, as I understand them to give you an opportunity to review them and provide clarification to me if necessary. If you wish to provide any clarifying information to me, please do so in writing by the close of business today. If I do not hear anything from you, I will make my response based on the issue and relief as stated above.

If you have any questions, please feel free to ask me at any time.

Sincerely,

/s/

cc: Supervisor's File

Appendix B-3: Sample Memo for Response on Informal Grievance (Decision Letter)

DATE

MEMORANDUM

TO: Employee Name, Title, and Location

FROM: Supervisor to Whom Grievance Was Addressed

SUBJECT: Informal Grievance Decision

I received your informal grievance on [DATE]. According to the Department of the Interior Grievance Procedures, I have 7 calendar days to respond to your grievance, which would be by [DATE].

According to your informal grievance, you raised the following issues of concern:

1.

As relief for your grievance, you are requesting that:

1.

After reviewing all of the facts and statements I have reached the following decision:

1. [RESTATE ISSUE #1]

DECISION ON ISSUE #1:

The above is my response to your informal grievance. If you are not satisfied with the relief granted, you may submit a formal grievance in writing within 5 days of your receipt of this decision memorandum. Applicable Departmental policy states that a formal grievance is submitted to the servicing personnel office for referral to the Deciding Official. Therefore, any formal grievance should be sent to [NAME], Employee Relations Specialist, at [ADDRESS]. The Employee Relations Specialist will review your request for a formal grievance, make a procedural review of acceptability, and within 7 days of receipt of the request will take one of the following actions:

Appendix B-3: Sample Memo for Response on Informal Grievance (Decision Letter), cont'd.

1. Accept the grievance, establish a grievance file, and refer it for consideration to the Deciding Official.
2. Reject the grievance and explain the reason.

The Employee Relations Specialist can be reached at [PHONE NUMBER], and can provide additional information relative to your right to a representative, policies regarding official time to present your grievance, and other matters of a similar nature.

I am available to discuss any questions you may have about this response.

Sincerely,

/s/

cc: Supervisor's file
Employee Relations Specialist

Appendix B-4: Sample Memo Employee Request for Review of Grievance at the Formal Stage

DATE

MEMORANDUM

TO: Employee Relations Specialist
FROM: Employee Making Request
SUBJECT: Request for Review of Grievance at the Formal Stage

Please let this memorandum serve as notice that I am requesting review of my grievance at the formal stage of the grievance process. The issues I wish to have addressed is/are _____ . The relief(s) I am seeking is/are _____ . I have sought adjustment of this matter through an informal grievance and am now exercising my right to request review at the formal stage.

Please feel free to contact me at [PHONE NUMBER] if you have any questions. Thank you for your consideration of this matter.

Sincerely,

/s/

cc: Supervisor
Employee

The Administrative Grievance Process

