

MS 655 Direct Hire Employee Grievances

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MS 655_Employee Grievances Procedures

Table of Contents

- 1.0 Purpose
 - 2.0 Authority
 - 3.0 Scope
 - 4.0 Definition
 - 4.1 Grievance
 - 5.0 Exclusions to Grievance Consideration
 - 6.0 Policy
 - 6.1 Freedom to Initiate Grievances
 - 6.2 Entitlement to Representation
 - 6.3 Access to Agency Records
 - 6.4 Official Time for Presentation of Grievance
 - 6.5 Time Limitations Involved in Responding to Grievances
 - 7.0 Effective Date
-

1.0 Purpose

This Manual Section establishes Peace Corps policies for resolving employee grievances. Implementing procedures are set forth in MS 655 Employee Grievances Procedures.

2.0 Authority

Peace Corps Act, as amended, Section 7, 22 U.S.C. 2506.

Foreign Service Act, 22 U.S.C. 4010(a)(2).

Civil Service Reform Act of 1978, 5 U.S.C. 7101 *et seq.*

Article 20, Negotiated Agreement Between Peace Corps and Peace Corps Employees Union, American Federation of State, County, and Municipal Employees.

3.0 Scope

This Manual Section applies to all Direct Hire Peace Corps employees except Presidential appointees, Foreign Service National employees, and experts and consultants. This Manual Section cannot be used by employees who are members of a bargaining unit certified under the Civil Service Reform Act of 1978, 5 U.S.C. 7101 *et seq.*, for matters covered by a negotiated grievance procedure. It does not apply to personal services contractors.

4.0 Definition

4.1 Grievance

A grievance is a request by an employee, or by a group of employees acting as individuals, for personal or group relief in a matter of concern or dissatisfaction relating to the employment of the employee which is subject to the control of Peace Corps management. Typical examples of conditions or events about which an employee may file a grievance include, but are not limited to: disapproval of leave; inadequate space; relationships with supervisors and other employees; the scheduling of overtime; supervisory letters of warning concerning personal conduct or work performance; disciplinary actions, except for separations for misconduct or cause; intimidation or coercion; and office decor.

5.0 Exclusions to Grievance Consideration

The following are excluded from consideration as grievances:

- (a) A matter which is appealable to the Foreign Service Grievance Board, Merit Systems Protection Board, subject to final administrative review by the U.S. Office of Personnel Management, or the Equal Employment Opportunity Commission, or otherwise subject to final administrative review outside the Peace Corps, under applicable laws or regulations.

Typical matters excluded by this subparagraph include, but are not limited to, the following:

- (a) An allegation of discrimination or harassment;

- (b) The content of published Peace Corps regulations or policy;
- (c) Non-selection for promotion from a group of properly ranked and certified candidates;
- (d) An action terminating a temporary promotion within a maximum period of two (2) years and returning the employee to the position from which he or she was temporarily promoted, or reassigning or demoting the employee to a different position from which he or she was temporarily promoted, that is not at a lower grade or pay than the position from which he she was temporarily promoted;
- (e) The substance of the critical elements of an employee's position;
- (f) Non-adoption of a suggestion or disapproval of a quality salary increase, meritorious increase, performance award, or any other kind of honorary or discretionary award;
- (g) A preliminary warning or notice of action which, if effected, would be covered under the grievance procedure or excluded from coverage under this paragraph;
- (h) Termination for cause or misconduct;
- (i) A decision relating to political activities prohibited under subchapter III of 5 U.S.C. Chapter 73;
- (j) A decision relating to the classification of any position;
- (k) Separation of an employee at the expiration of his or her appointment; and
- (l) Separation of an employee during his or her trial period.

6.0 Policy

Peace Corps' policy is to conduct its relations with all employees in a fair and impartial manner. However, the Peace Corps recognizes that some employee dissatisfactions and misunderstandings will inevitably arise in working situations. In order to ensure that the inherent rights of an individual are recognized, this Manual Section provides informal and formal avenues through which all employees may seek remedial action with confidence of obtaining just treatment. The justness of the system, however, will be in direct proportion to the skill, understanding, fairness, and good judgment demonstrated by employees and supervisors alike.

6.1 Freedom to Initiate Grievances

The initiation of a grievance shall not be construed as reflecting on an employee's standing, performance, or desirability to the Peace Corps. Peace Corps intends that each supervisor maintain a healthy atmosphere in which an employee can speak freely and have frank discussions of problems. An employee who initiates a grievance shall be free from restraint, interference, coercion, discrimination, reprisal, or retaliation.

6.2 Entitlement to Representation

An employee has a right to present a grievance without representation or to be accompanied, represented, and advised by a representative at any stage of the grievance procedure. An employee may change his or her representative, but to do so he or she must notify the Director of

Human Resource Management (M/HRM) of the change in writing. The representative may be an employee in the federal service or may be outside the federal service. A person chosen by the employee as his or her representative must be willing to represent the employee. In addition, he or she must be eligible to do so, e.g., not subject to disqualification because of priority needs of the service, unreasonable cost to the government, or a conflict of interest or conflict of position - an incompatibility between the representation function and an employee's official duties.

6.2.1 Conflict of Interest

Conflict of interest can take many forms. One example would be for a supervisor, management official, or confidential employee, as defined at 5 U.S.C. 7103 (a)(10), (11), and (13), respectively, to be represented by an official of a labor organization that represents or has pending a petition to represent employees under his or her direction or control or with whom he or she has substantial contact and dealings, or by an officer or employee of an association, federation, or council with which such a labor organization is affiliated. In the event of a challenge to whether the employee may be represented by the individual designated, the Director of M/HRM shall decide the matter.

6.3 Access to Agency Records

In the course of pursuing a grievance, employees are entitled to review their Official Personnel Folder and any relevant documents or information of the Agency which is not legally exempt from disclosure. Peace Corps officials shall, upon the request of an aggrieved employee or the representative, make available for review any non-exempt document or information relevant to the grievance.

6.4 Official Time for Presentation of Grievance

An employee must be given a reasonable amount of official time to present a grievance if he or she is in active duty status. An employee's representative, if an employee of Peace Corps and in active duty status, must also be given a reasonable amount of official time to present the employee's grievance. Time for presentation will include time for review of Peace Corps' records or regulations to the extent they cannot be secured or reviewed during non-duty hours.

6.5 Time Limitations Involved in Responding to Grievances

Each grievance will receive full, impartial, and prompt consideration. The final decision on a grievance shall be issued as soon as possible, but not longer than ninety (90) days, after initiation of the informal procedure. To insure orderly processing, strict time limits are established for each step of the grievance process, as set forth in the accompanying procedures.

Management shall complete action on employee grievances under the informal procedure within the prescribed time limits based on the date an employee initiates a grievance. Completed action shall consist of resolution acceptable to the grievant or the last step of the informal procedure informing the employee of the reasons why the relief requested will not be granted.

Circumstances in individual cases may preclude meeting one or more of the time limits set forth in the accompanying MS 655 Employee Grievance Procedures; however, the parties and the

examiner should strive to complete processing within the time limits. Either party may request an extension of the time limits for good cause.

7.0 Effective Date

This Manual Section shall take effect on the date of issuance.