DEPARTMENT OF THE ARMY
UNITED STATES ARMY GARRISON HEIDELBERG
UNIT 29237
APO AE 09102-9237

PECP-EUR-I 15 March 2006

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: United States Army Garrison Heidelberg (USAG Heidelberg) Command Policy Memorandum # 37, Administrative Grievance Plan

1. Reference DoD Administrative Grievance System (AGS), DoD Directive 1400.25-M, Subchapter 771, enclosed.

2. It is the policy of the USAG Heidelberg that the grievances of all employees will be given prompt and fair consideration. DoD policy encourages open communication and discussion. The focus is on creating favorable options which do not violate laws or regulations, and which balance the organization's mission with the employee's need.

3. This plan serves to supplement the DoD Administrative Grievance System (AGS) at reference 1, within the USAG Heidelberg. This plan outlines administrative grievance procedures for resolving employment misunderstandings, disagreements and concerns involving working conditions, performance appraisals, working relationships, or employment status.

4. It is the policy of this command that employee grievances will be given prompt and fair consideration. Employees desiring to grieve an issue should submit their request utilizing the procedures shown in the enclosure. This plan applies to all USAREUR U.S. citizen appropriated fund employees within the servicing and supporting area of the USAG Heidelberg, its garrisons, tenant units and other community supporting activities. Non-USAREUR tenant activity employees supported by Heidelberg Civilian Personnel Advisory Center will utilize the grievance procedures of their own component activity, if available.

5. Point of contact for submission of grievance actions is the Management-Employee Relations (MER) staff, Heidelberg Civilian Personnel Advisory Center, DSN 370-8529.

Encl

/s/
WILLIE E. GADDIS
Colonel, AV
Commanding

DISTRIBUTION:
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DoD STANDARD OPERATING PROCEDURE
ADMINISTRATIVE GRIEVANCE PLAN

1. Procedure:

a. When an employee chooses to make use of the administrative grievance process, he/she may be advised, represented, or accompanied by the person of his/her choice. It is the employee's responsibility to make all arrangements for securing a representative. The selection of a representative must not create a conflict of interest, of position, or of the organization's mission priorities. If there is a conflict, management may unilaterally disapprove an employee's choice of representative in writing, stating the specific reasons for the disapproval. Any fees or other cost involved (such as payment of attorney's fees) will be borne by the employee. In exercising the right to be represented or accompanied, the employee and his/her representative will be free from restraint, coercion, discrimination, or reprisal. An employee may also choose to act on his/her own behalf.

b. Supervisors, managers and employees should always attempt to resolve dissatisfactions concerning employment-related issues through informal day-to-day discussions. This is the best means of fostering effective work relationships. However, when dissatisfactions cannot be resolved informally, an employee may seek to resolve the issue by using the grievance procedure.

c. If an employee chooses to file a grievance, that decision will not reflect unfavorably on the employee's good standing, performance, or loyalty. Also, the filing of a grievance does not necessarily reflect negatively on the quality of supervision or the management of an organization.

2. Responsibilities:

a. Management officials and supervisors will promote and maintain a positive work environment, in which employees feel free to discuss their dissatisfactions with management. When an employee brings an informal grievance to the supervisor, that supervisor should seek advice and assistance from the CPAC's MER servicing specialist, as soon as possible to make sure he/she is in compliance with the requirements of the administrative grievance procedure.

b. Commanders and Principal Officials shall ensure compliance with this procedure. Most importantly, Commanders and Principal Officials shall designate a "Deciding Official" (as outlined in Paragraph 6d, below) to whom an employee will deliver the formal written grievance. The Deciding Official of each respective activity is responsible for receiving the formal written grievance, investigating the issue, and rendering a final decision (as outlined in Paragraphs 6e through 9 below). This facilitates and ensures that management will address grievances filed within their organization promptly and fairly.

c. A person who has been designated as a "Deciding Official" shall resolve the issue and complete the administrative grievance procedure within thirty (30) to sixty (60) days of receiving the formal written grievance from the employee. (This period may be extended an additional 30 days by mutual consent.) The Deciding Official should seek advice and assistance from the Civilian Personnel Advisory Center's (CPAC) MER servicing specialist to ensure compliance with the administrative grievance system procedures. The Deciding Official shall provide the employee a timely written response which outlines the final decision, and which is in compliance with governing regulatory and legal provisions.

d. Persons designated and appointed, as investigators by the Deciding Official shall conduct informal fact-finding procedures or inquiries. Investigators should seek advice and assistance about the procedure from the organization's servicing MER specialist, before proceeding with the investigation.

e. The CPAC will provide technical assistance and advice to employees, management, grievance investigators, and Deciding Officials. The CPAC will also publicize the administrative grievance system (AGS) procedures, and ensure compliance. The CPAC will coordinate with Equal Employment Opportunity Office (EEO) to ensure grievance issues are only addressed through one avenue, since duplicity of efforts is not an efficient manner to address an issue.

f. Employees and their representatives (if applicable), will comply with the procedures and time limits of the grievance procedure, and will cooperate with management and any designated grievance investigator. The employee shall initially attempt informal resolution of an issue by presenting the matter verbally or in writing, to his/her immediate supervisor as outlined below in Paragraph 8. (If the matter being grieved relates to conduct or words of the supervisor, the person next in command would be the appropriate party to whom the matter should be informally addressed.) If the issue is not resolved, the employee may choose to have the matter addressed formally, as outlined in Paragraph 9 below. The employee will initiate the formal procedure by delivering a formal written grievance to the Deciding Official for resolution. The employee should provide a copy of the formal written grievance to the CPAC's MER servicing specialist.

3. Information to Employees:

a. Employees have a right to file an administrative grievance over any matter concerning their employment EXCEPT those matters specifically excluded in Paragraph D2b of reference 1 above, (See Appendix 1, DoD's Administrative Grievance System, DoD Directive 1400.25-M, Subchapter 771.)

b. Employees may seek technical assistance from the servicing MER specialist at the CPAC regarding the grievance procedure, the timelines and information about where, how, and to whom a formal written grievance must be submitted. CPAC employees and Personnel Officials cannot serve as an advocate for the employee. However, it is appropriate for a CPAC employee

to serve as a mediator between employees and first line supervisors, if no apparent conflict of interest exists.

c. An employee who is not on leave without pay (LWOP) or absence without leave (AWOL) status may use reasonable amounts of official duty time, subject to supervisory coordination and approval, in order to:

(1) Obtain information from official sources.

(2) Prepare grievances; and,

(3) Present grievances: The amount of time allowed depends on the facts of the specific case, and is at the discretion of the Deciding Official in coordination with the employee's supervisor.

d. Employees are not entitled to use Government resources, such as computers, typing or word processing assistance or equipment, supplies, and other materials in preparation of the grievance.

e. If the employee chooses a representative, as provided in the guidance at paragraph 4b above, the employee must:

(1) Designate the representative in writing, at the time the grievance is filed;

(2) Ensure the representative follows the same rules of conduct and procedure that apply to the employee; and,

(3) Ensure the representative has a proper security clearance, if applicable and required.

4. Subject Matter Covered: Employees have the right to file an administrative grievance over any matter concerning their employment EXCEPT those matters specifically excluded in Paragraph D2b of reference 1 above (See Appendix 1, DoD's Administrative Grievance System, DoD Directive 1400.25-M, Subchapter 771).

5. Informal Problem-Solving Procedure:

a. In accordance with reference 1 above, DoD Administrative Grievance System procedures, employees are encouraged to initially present the work-related problem to their immediate supervisor. This should be done before filing any formal grievance. If the matter being grieved involves the immediate supervisor, the employee should raise and present the informal grievance to the second line supervisor. Employees have fifteen (15) calendar days from the date of the occurrence of the matter or action being grieved, or from the date the employee learned of its occurrence, to present the issue and begin the grievance procedure. (If a personnel action is being grieved, the 15 days begin on the effective date of the personnel action.) Grievances related to continuing conditions may be submitted at any time.

b. The supervisor must consider the merits of the problem or concern, which the employee has presented in the form of an informal grievance either verbally or in writing. The supervisor has this responsibility regardless of the matter involved, and must therefore make a bona fide attempt at resolution. If the issue raised is outside the supervisor's control and authority, the supervisor must contact the official who may be able to assist in arriving at a mutually acceptable resolution. Supervisors are encouraged to contact their MER servicing specialist for advice and assistance in processing the informal grievance. The supervisor must consider the employee's informal grievance and attempt to resolve it within fifteen (15) calendar days, but no later than thirty (30) calendar days from the date the employee first brought the informal grievance to the attention of the supervisor. (This deadline may be extended by mutual agreement.) At a minimum, the supervisor must meet with the employee and the designated representative (if applicable). For grievances concerning performance appraisals, the meeting should include the senior rater as well as the rater. The use of a neutral mediator is encouraged, if applicable. The supervisor must provide the employee a memorandum for the record (MFR) of the supervisor's response and determination of the matter, regardless of whether the employee presented the informal grievance verbally or in writing. The MFR shall briefly summarize the matter being grieved, the consideration that was given to the issue, the conclusions reached, and the course of action that was decided. A copy of the MFR should be provided to each person who attended the meeting, and a copy should be forwarded to the MER servicing specialist as well. Any decision that requires documentation by a personnel action should be coordinated with CPAC-MER before a final decision is rendered. If the supervisor believes the matter grieved is not covered by the grievance process, the supervisor will inform the employee what, if any, is the appropriate channel through which that matter must be addressed (e.g., EEO, MSPB Appeal, or ADR).

c. If the problem was not resolved during the informal grievance phase, the supervisor must inform the employee, in the MFR, that he/she has fifteen (15) calendar days from the date the employee receives the MFR to begin the formal grievance process, as outlined in paragraph 9 below.

6. Formal Administrative Grievance Procedure:

a. If the employee used the informal problem solving procedure to informally present the grievance to the supervisor, the employee has fifteen (15) calendar days from the date the MFR is received, to begin the formal grievance process. An employee has the option of bypassing the informal process and proceeding directly to the formal procedure. If the employee chooses to bypass the informal process, he/she has fifteen (15) calendar days from the date of the occurrence of the event being grieved to submit the formal written grievance to the Deciding Official.

b. All formal grievances must be submitted in writing, and must contain the following information:

(1) A clear, concise and sufficiently detailed explanation of the specific issue(s) being grieved;

(2) A list of the specific remedies or relief sought (these must be items which are personal in nature to the employee grievant, (i.e., the remedy requested may not include a request for disciplinary (or other type of) action to be taken against another employee);

(3) Copies of any documents related to the grievance should be attached;

(4) A certification stating that he/she has not already filed an EEO complaint on the exact same issue or occurrence. The AGS does not provide an employee a duplicative means by which to have the same issue or concern addressed through various channels;

(5) The designation of the representative selected (if applicable) including his/her name, address, and telephone number; and,

(6) The grievance must be signed and dated by the employee.

An employee may not grieve the same matter already raised in any other grievance, appeal, complaint, or other dispute resolution process.

c. Upon receipt of a formal written grievance, the Deciding Official should contact the MER 33333servicing specialist at the CPAC for advice and assistance in choosing options for investigation, and/or preparation of the response to the employee. At this time the servicing specialist will establish an official agency file.

d. The person designated to serve as an organization's Deciding Official will normally be a member of the Commander's immediate staff, e.g., Deputy Commander, Executive Officer, etc. If someone is not specifically designated, the second lever supervisor, or Senior Rater will serve as the Deciding Official. At a minimum, the designated individual should hold the grade of GS-13 or above, or the military rank of LTC or above. The Deciding Official must be at a higher level than any official involved in the event or action being grieved, or any official having a direct interest in the matter being grieved. The exception to this rule is the Installation Commander, Head of DoD Component, or the Principal Official of the activity, all of which have discretion to forward the grievance to the next level when he/she feels it would aid in maintaining the integrity of the procedure.

e. After receiving the formal written grievance from the employee, or his/her representative, the Deciding Official should make the following preliminary determinations no later than ten (10) days following the receipt of the formal written grievance:

(1) Whether the grievance was submitted in a timely manner (if the deciding official dismisses the grievance as untimely, the employee may raise the late grievance to the next higher level of management);

(2) Whether the grievance has been through the informal problem-solving stage (if it has not, the Deciding Official may decide to send it back to the first-line supervisor level for

consideration and/or an informal attempt at resolution. The supervisor would then provide the Deciding Official a copy of the MFR as outlined in Paragraph 8b above);

(3) Whether the grievance contains any requests for remedies, which may not be personal to the grievant employee;

(4) Whether the grievance concerns a matter that is, has been, or should be addressed through another formal channel, e.g., EEO, MSPB Appeal, etc.;

(5) Whether the grievance concerns a matter that is the same subject matter of other formal administrative grievances being processed, or which have been processed in the past;

(6) Whether the grievance concerns a matter which is premature, e.g., a notice of intent to revoke a security clearance, or a notice of proposed discipline or adverse action (in these circumstances, the procedure of the action being proposed allows the employee an opportunity to respond before the final decision is made); and,

(7) Whether the grievance concerns a matter which is covered under another procedure, e.g., retirement issues, life or health insurance issues, matters over any examination or certification, a matter concerning a violation relating to prohibited political activities, or the classification of any position which does not result in a reduction in pay.

f. After these preliminary determinations are made, the deciding official will turn his/her attention to the actual processing of the grievance. During this phase, depending on the complexity of the grievance, the deciding official may choose to order a fact-finding investigation, an informal or formal (AR 15-6) investigation, or investigate the matter in some other form, including the use of mediation and ADR techniques. Any fact-finder who is appointed by the Deciding Official to investigate the matter must be someone who has no connection to, has not been involved in, or has no interest in the outcome of the matter being grieved. If the matter is investigated, at a minimum, the investigator shall provide the Deciding Official a written report summarizing the key facts, a brief description of the efforts made to resolve the issue, and an explanation of management's position on the merits of the grievance.

g. At this phase, the Deciding Official also has an option to send the grievance packet to the DoD Office of Compliant Investigations (OCI). The OCI will, on a fee for service basis, investigate or mediate the matter being grieved. The OCI provides the option of having an analysis, conclusions, and recommendations provided in the examination report. The cost involved here would normally be borne by the grievant's organization.

h. For grievances concerning denial of foreign allowances, travel, transportation benefits, and interpretation of regulations and policies, the Deciding Official is responsible for obtaining official determinations from the appropriate DoD proponent activity, and providing a final ruling to the employee grievant. The Deciding Official normally submits a memorandum to the proponent activity through the CPAC, requesting advice and an official determination. The CPAC servicing specialist will forward the request to the appropriate proponent, will receive the

proponent's response including the official determination, and will subsequently provide the deciding official a memorandum summarizing the official determination. The CPAC's memorandum to the Deciding Official will advise him/her that this decision is final, that he/she is restricted to whatever latitude (if any) he/she is allowed by the official determination, and that he/she cannot knowingly violate agency regulations or laws in his/her decision.

i. After the investigative process is complete, the Deciding Official may render his/her final decision to the employee. That final decision is not subject to further review. Any decision that requires a personnel action to effectuate the decision, must first be coordinated with the appropriate Civilian Personnel Officials, before a written decision is provided to the employee. The final decision must be made and provided in writing to the employee within thirty (30) to sixty (60) calendar days of the date the Deciding Official received the formal written grievance. This time frame may be extended unilaterally by the Deciding Official if warranted by special or extenuating circumstances, e.g., unavoidable delay by an outside examiner, or a delay in the response from the proponent of the decision. The Deciding Official and the grievant may mutually agree to extend the grievance response time for an additional thirty (30) calendar days from the date the formal written grievance was filed. However, a grievance decision should be rendered within no more than ninety (90) calendar days form the date the grievance was received by the Deciding Official.

j. If the Deciding Official fails to render a final decision within ninety (90) calendar days (absent mutual agreement) of having received the formal grievance, the employee may request a review of the written formal grievance at the next higher management level within his/her organization or DoD component, as applicable.

7. Decision Implementation:

a. When a decision is favorable to the employee, the written decision will state the specific action to be taken, the date it is to be taken, and a designation of who will take such action. An action affecting the employee's pay will be implemented within two pay periods of the date of the final written decision.

b. Supervisors should ensure that the employee's status as a productive member of the workforce is maintained and that the employee who filed the grievance does not suffer reprisals for having filed the grievance. Conversely, the grievant should not allow his or her conduct or performance to deteriorate due to dissatisfaction with the grievance procedure or with a less than favorable final decision. Supervisors are reminded of their responsibility to notify an employee of any problems with conduct or performance and to give the employee an opportunity to respond, when applicable.

8. Records Maintenance:

a. The servicing CPAC will establish a grievance file upon receiving a notice copy of a formal grievance that has been filed. This file will be kept separate from the official personnel

folder (OPF). The grievance file is the official record of the grievance proceedings. It must contain all documents related to the grievance, including:

(1) A copy of the formal written grievance;

(2) The written designation of the representative, if applicable;

(3) Statements of witnesses, if applicable;

(4) MFR Reports of any personal interviews or group meetings, including memos prepared following informal discussions;

(5) Any reports of any investigations which were conducted, if applicable; and,

(6) The final written formal grievance decision.

b. The grievance file shall be maintained in accordance with Paragraph D5 of the DoD Administrative Grievance System Procedure at Appendix 1 and reference 1 above, in addition to all governing laws, regulations, and record retention schedules.

9. Employee relations servicing specialists within the CPAC are available to provide technical assistance and additional advice and guidance regarding this grievance plan.