

## CHAPTER 3. FINAL GRIEVANCE PROCEDURES

3-1. Who May Present Final Grievance. An employee is entitled to present a Final Grievance if he/she has completed action under the Initial Grievance process in Chapter 2 of this Handbook. For exceptions, refer to paragraph 2-1.C. and D. and 2-18.

3-2. To Whom Final Grievance is Presented.

A. The official to whom a Final Grievance is presented is referred to in this Handbook as the Final Grievance Officer. The Final Grievance Officer must be at the next higher administrative level than the official who served as the Initial Grievance Officer, but may be no lower than a Division Director. The Final Grievance Officer must also be at a higher level than any employee involved in any phase of the grievance or the matter being grieved. Normally, the Final Grievance Officer is in the direct chain of command above the Initial Grievance Officer.

B. Merit Staffing Exception. All Final Grievances concerning Merit Staffing actions are filed with the Director, Human Resources Division, in the Field and the Director, Office of Human Resources, in Headquarters.

C. Secretary or Deputy Secretary Exception:

1. When the Initial Grievance Officer is an individual who reports directly to the Secretary or Deputy Secretary (e.g., Assistant Secretary or equivalent, Assistant Deputy Secretary for Field Policy and Management), an SES executive within the Office of the Secretary (e.g., Chief of Staff, Deputy Chief of Staff, Executive Officer) may be designated to serve as the Final Grievance Officer.

2. When the Secretary has been the Initial Grievance Officer he/she will also be the Final Grievance Officer.

3-3. Time Limit for Presenting Final Grievance. An employee must present a Final Grievance within seven (7) calendar days after completing the Initial Grievance process (exceptions: refer to subparagraphs 2-1.C. and D. regarding grievances of suspensions of 14 days or less and certain official reprimands).

3-4. Content of Final Grievance.

A. A Final Grievance must:

1. Be in writing (a copy must be provided to the servicing Human Resources office);

2. Contain the grievant's name, grade, title, and duty station;

3. Contain the name and address of the grievant's representative, if any;

4. Contain sufficient detail to identify and clarify the issues of the grievance, including the date of alleged incident(s); and

5. Specify the personal relief requested by the grievant. A request for disciplinary action affecting an agency official or another employee is excluded as an acceptable personal relief under this Handbook.

B. The Grievant may not introduce new issues or request remedies that he/she did not raise at the Initial Grievance stage.

3-5. Review of Final Grievance. The Final Grievance Officer, in consultation with the servicing Human Resources office, must review the Final Grievance for the appropriateness and timeliness of the grievance and determine whether to accept or reject it.

A. Except in cases involving Merit Staffing grievances, the Final Grievance Officer may reject the Final Grievance for good cause, including but not limited to the following reasons:

1. The grievant is not covered under paragraph 1-2. or the subject of the grievance is excluded from coverage under paragraph 1-8.B.;

2. The grievance is untimely filed;

3. The remedy requested is not personal to the grievant or is not subject to the control of the Department; or

4. Issues or proposed remedies differ from those raised at the Initial Grievance stage by the grievant.

B. Rejection of the grievance shall be in writing and signed by the Final Grievance Officer.

The Final Grievance Officer must receive concurrence from the servicing Human Resources office prior to rejecting the Final Grievance. The rejection notice will become part of the official grievance file that will be in the custody of the servicing Human Resources office.

C. If the grievance is accepted, the Final Grievance Officer shall review the relevant issues and the merits of the case, in consultation with the servicing Human Resources office.

3-6. Action By the Final Grievance Officer. The Final Grievance Officer shall make every effort to resolve the grievance in a manner acceptable to the grievant. In doing so, the Final Grievance Officer shall proceed as follows upon receiving the Final Grievance.

A. Obtain the Initial Grievance Officer's Report of Disposition from the servicing Human Resources office;

B. Review the Final Grievance to establish that it contains the information required in paragraph 3-4. above and identify the issues being grieved;

C. Accept or reject the grievance, or remand the grievance to the grievant for additional information;

D. Fully and impartially consider all the facts and relevant issues of the grievance;

E. Take into consideration the grievant's viewpoint, the viewpoints of others concerned, and the interest of the Department. Consideration may include, as necessary, communication with any or all persons concerned as well as with any other appropriate official;

F. Based upon a review of the record, resolve the grievance in a manner acceptable to the grievant, if possible within law, regulation, and departmental policy;

G. Appoint a Fact Finder if it is necessary to get clarification on issues being grieved;

H. Furnish the grievant and the servicing Human Resources office a timely Report of Disposition as described below. The adjustment or report must be made no later than fourteen (14) calendar days after receipt of the Final Grievance; and

I. If the Final Grievance Officer cannot make a decision on the grievance in a timely manner, the Final Grievance Officer shall notify the grievant, in writing, of the need for additional time and provide a new response date. The extension correspondence must be routed through the servicing Human Resources office for concurrence. (See 1-15.B.)

3-7. Fact Finding Procedures. Follow the same procedures in conducting fact-finding as discussed in Sections 2-6. through 2-15. of the Initial Grievance chapter.

3-8.

Final Grievance Decision.

A. Upon receiving the final written report of findings and recommendations, if any, and the grievance file from the Fact Finder, the Final Grievance Officer shall review the report and issue the decision on the grievance within fourteen (14) calendar days.

B. If the Final Grievance Officer determines that the Fact Finder's recommendations are unacceptable and should be rejected, he/she must obtain the concurrence of a higher level management official.

C. The decision shall be in writing, will be the Department's final consideration of the grievance, and will not be subject to further administrative review. The Final Grievance Officer's decision shall describe, at a minimum, the following:

1. A statement of the issue(s) being grieved and the requested remedies;
2. The consideration given it;
3. Identification of any proposed settlement offers and their disposition;
4. Report of information collected relevant to the grievance with applicable findings or conclusions;
5. Actions taken to achieve a solution to the Final Grievance and results;
6. A clear decision which addresses the basis for the decision; and
7. A statement that the decision is the Department's final consideration of the grieved issue(s) and is not subject to further administrative review.

D. The decision must receive concurrence by the servicing Human Resources office before it is issued.

3-9. Distribution of Final Decision. Copies of the decision on a Final Grievance shall be transmitted by the Final Grievance Officer to the following persons:

- A. The grievant (and representative, if any);
- B. The management representative, if any; and
- C. The grievant's servicing Human Resources office.

3-10. Custody of Grievance File. Upon completion of the grievance process, the grievance file shall be forwarded to, and remain in the custody of, the grievant's servicing Human Resources office.