

STATE OF WYOMING  
ADJUTANT GENERAL'S OFFICE  
CHEYENNE, WYOMING 82009

Wyoming Military Department Personnel Pamphlet (WMD PP) 771  
AGENCY GRIEVANCE PROCEDURE

Supersedes WY TPP 771 dated 15 April 1999

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## AGENCY GRIEVANCE PROCEDURE

1. PURPOSE: This Wyoming Military Department Personnel Pamphlet ( WMD PP) prescribes Wyoming Military Department grievance procedures for resolving concerns that are within the control of management and The Adjutant General of Wyoming. These procedures allow technicians the opportunity for an objective review of their concerns with any aspect of their working conditions, working relationships, or employment status; except as excluded herein.

2. APPLICABILITY:

- a. The procedures contained in this WMD PP are intended for technicians of the Wyoming Military Department employed under Title 32 of the U.S. Code (excepted and competitive). These positions include supervisors, managers, confidential and professional employees.
- b. Technicians who are in the bargaining unit, whether or not union members, will follow the negotiated grievance procedures.
- c. Active Guard Reserve (AGR) personnel will follow their appropriate military channels.

3. GENERAL:

- a. Management recognizes the importance of settling disagreements and disputes promptly, fairly, and in an orderly manner. In addition, actions must support the self-respect of employees and be consistent with the principles of good management. To accomplish this, every effort will be made to settle grievances expeditiously and at the lowest level.
- b. Many grievances arise from misunderstandings or disputes that can be settled promptly and satisfactorily on an informal basis. Employees are encouraged to informally discuss issues of personal concern with the person involved at any time.
- c. Inasmuch as dissatisfactions and disagreements occasionally arise among people in any work situation, the filing of a grievance shall not be construed as reflecting unfavorably on any employee.

4. DEFINITION OF A GRIEVANCE: A grievance is a request by a technician or by a group of technicians, for relief in a matter of concern or dissatisfaction, which is subject to the control of The Adjutant General of Wyoming. Grievances pertaining to National Guard Technicians may include:

- a. Working conditions.

- b. Relationships with supervisors, other technicians, or with agency officials.
  - c. Implementation of personnel policies. (Technician grievances may not include questions of policy itself in the areas 4a. and b. A grievance may, however, include questions concerning the application or implementation of the policy to an individual or a group of technicians.)
  - d. Any concern relating to the employment of the employee(s), with the exception of the exclusions listed in paragraph 5 of this WMD PP, or by other applicable law, or regulation.
5. GRIEVANCE EXCLUSIONS: This plan does not cover any matter which is subject to final administrative review outside the Wyoming National Guard under law or the regulations of the National Guard Bureau or The Office of Personnel Management. This plan also does not cover:
- a. Content of published policy.
  - b. Non-selection for promotion or reassignment from a group of properly certified candidates.
  - c. A grievance over the interpretation or application of a negotiated agreement.
  - d. Non-adoption of a suggestion or disapproval of a quality step increase, monetary award, or other kind of honorary or discretionary award.
  - e. A preliminary warning or notice of specific action which, if effected, would be covered under the appeals system or would be excluded from this plan.
  - f. Reduction-In-Force (RIF) action.
  - g. Violation of reemployment or reinstatement rights.
  - h. Performance rating. (WY-TPM 430).
  - i. Position classification decision.
  - j. Level of competence decision.
  - k. Grade or pay retention decision or the denial of a within grade increase.
  - l. Job-grading decision.
  - m. An Equal Employment Opportunity complaint.

- n. An action excluded by law (i.e. political activities).
  - o. Adverse actions covered by NGB TPR 752.
  - p. Fitness-for-duty examination decision.
  - q. Health benefits decision.
  - r. Separation action of trial or probationary employees.
  - s. Action terminating a temporary promotion, regardless of length or basis for the action.
  - t. Mandatory retirement.
  - u. Any action based on an employee's military membership.
  - v. Any action taken pursuant to 32 USC 709 (e) (1-4). These provisions address the requirement of National Guard membership as a condition of employment as well as the jurisdictional authority of The Adjutant General.
6. REPRESENTATION: Technicians are entitled to present grievances, communicate with management officials and HRO; and represent themselves, or be represented by someone of their choosing. The representative may accompany the employee or may act for the employee without the employee's presence. If the technician elects representation, he or she must designate the representation in writing and must notify management in writing of any change in that designation of representation. The choice of representation may be denied if it would result in a conflict of interest, conflict with mission priorities, or result in unreasonable costs. Technicians must be notified in writing, as soon as possible, after the decision of any disallowance of representation and provided rationale for the disallowance. The technician bears full responsibility for securing representation and any compensation incurred with that decision.

7. OFFICIAL TIME:

- a. Technicians will be given a reasonable amount of official time to prepare and present a grievance in a normal duty status.
- b. A technician's representative, if a member of the Wyoming Military Department, will be given a reasonable amount of official time to prepare and present a grievance.
- c. Requests for a reasonable amount of official time, for investigation or preparation of a grievance, will be considered by HRO. Travel expense or per diem allowance is not authorized.

8. GRIEVANCE PROCEDURES: As a matter of principle, we expect the member and their supervisor to solve problems early through open candid dialog. There may be occasions, however, when it may be appropriate for the parties (by mutual consent) to bring an issue before a mutually agreed upon third party mediator or facilitator. The use of mediator/facilitator services is encouraged at any time during the grievance process. A grievant may not proceed to the formal process without exhausting the steps in the informal process first.

STEP 1 – INFORMAL PROCESS: Most problems may be resolved verbally before becoming formal. At this informal stage, the employee should meet with the supervisor/manager concerned and attempt to resolve (through verbal discussion) the issue(s) of the grievance.

- a. The grievant must present their grievance concerning a particular act or occurrence within ten (10) work days of that act, or occurrence, or the date they become aware of the act or occurrence.
- b. The meeting between grievant and supervisor/manager will occur within three (3) work days after the supervisor/manager learns of the matter from which the grievance arose.
- c. The supervisor/manager will respond to the grievant with a decision immediately, if possible, but not later than ten (10) work days after discussion.
- d. The grievant must accept or reject the decision of the supervisor/manager within ten (10) work days.
- e. If, at this point, a settlement cannot be agreed upon, the procedure outlined in step 2 will be utilized. The grievant must inform the immediate supervisor/manager of their intent to proceed to the formal process within ten (10) work days.

STEP 2 – FORMAL PROCESS

- a. The grievance will be prepared in writing and submitted to the next level supervisor/manager within ten (10) work days of intent to proceed to the formal process. The event(s) leading to the grievance will be discussed at the time of the presentation of the grievance. An informational copy of the grievance will be forwarded to HRO.
- b. That supervisor/manager will provide a decision, in writing, within five (5) work days, to the grievant.

- c. If the grievant is dissatisfied with the decision at this step, an appeal may be forwarded to the next level supervisor/manager within ten (10) workdays. An informational copy will be provided to the HRO.
  - d. This procedure will continue through each intermediate level supervisor/manager up to the Wing Commander, USPFO, HRO, ESSO, or the Chief of Staff until resolution is reached or the grievance is withdrawn or cancelled.
  - e. If the next level supervisor is the TAG, HRO will identify a neutral third party equal or senior in rank to both parties. Selection of neutral should be agreeable to both parties. Neutral will prepare the written decision in STEP 2. b.
9. CANCELLATION OF A GRIEVANCE: A grievance will be cancelled under the following conditions:
- a. At the written request of the grievant.
  - b. Upon termination of the employment grievant from the Wyoming National Guard unless the personal relief sought by the technician may be granted after termination of their employment.
  - c. Upon death of the grievant unless the grievance involved a question of pay.
  - d. For failure to pursue if the grievant does not furnish required information and proceed with the advancement of the grievance within established time frames.
10. ADJUSTMENT OF A GRIEVANCE: If the grievance is not adjusted to satisfaction after the informal and formal procedures, the grievance may be submitted through channels to The Adjutant General for an inquiry/hearing by an impartial hearing examiner.
- a. Selection of Examiner. See NGB TPR 752, Chapter 4.
  - b. Inquiry by Examiner. Before initiating an inquiry, the examiner must eliminate from consideration any matters not covered by the grievance system. For matters covered, the examiner must conduct an inquiry of a nature and scope appropriate to the issues involved in the grievance. At the examiner's discretion, the inquiry may consist of:
    - (1) the securing of documentary evidence,
    - (2) personal interviews,
    - (3) a group meeting,

- (4) a hearing,
  - (5) any combination of the above.
- c. Hearing. If the examiner holds a hearing it will be conducted in accordance with NGB TPR 752, Chapter 3.
- d. Review of Grievance File. When the examiner has completed the inquiry/hearing all documents in the grievance file at that time will be made available to the technician and their representative for review and comment. Comments will be presented to the examiner's designated representative no later than three workdays after the file availability. Their comments, if any, must be included in the file.
- e. Examiner's Report. The examiner will prepare a report of findings and recommendations within twenty (20) working days of receipt of grievance file from technician and will submit the grievance file containing a report of findings and recommendations to The Adjutant General of Wyoming. The grievant will be furnished a copy of the report.

11. GRIEVANCE DECISION:

- a. The final decision on a grievance rests with The Adjutant General unless the grievance is resolved at a lower level.
- b. The decision on the grievance will be in writing and will contain findings on all issues covered by the examiner.

12. TIME LIMITS: All the time limits in this WMD PP may be extended by mutual written consent. Failure of the agency to observe the time limits shall entitle the employee to advance to the next step. Failure of the employee to observe the time limits is grounds for cancellation of the grievance.

FOR THE ADJUTANT GENERAL:

// SIGNED//  
KATHY J. WRIGHT  
COL., GS, WY ARNG  
Human Resources Officer