

ARTICLE 50

GRIEVANCE PROCEDURE

Section 50.01. General

- (1) The purpose of this Article is to provide a mutually acceptable method for prompt and equitable settlement of employee grievances. Most grievances arise from misunderstandings or disputes, which can be settled promptly and satisfactorily on an informal basis at the immediate supervisory level. Every appropriate effort shall be made to adjust grievances at the lowest level. Grievances shall be filed according to the procedures set forth in this Article and the Employer shall direct the grievance to the lowest level of authority at which relief can be granted.
- (2) A grievance may be initiated by an employee, a group of employees, the Union or the Employer. The Union has the right to file a grievance on behalf of two or more employees within the jurisdiction of a single NTEU Chapter or multiple NTEU Chapters. It is understood that an employee processing a grievance under this Article shall be limited to Union representation or self-representation. The Parties will resolve all grievances consistent with the terms and conditions of the Agreement.
- (3) The Parties recognize that the Alternative Dispute Resolution (ADR) process is available with the mutual consent of the parties at any time in the grievance process. Either party may opt-out of the ADR process at any time. ADR proceedings shall remain confidential and all nonfactual information related to such proceeding shall not be used, or referred to, in the grievance/arbitration process.
- (4) Official time for employees and the Union to prepare for and present grievances will be in accordance with Article 6, Union Representation and Official Time.

Section 50.02. Scope and Coverage

- (1) For the purpose of this Article, grievance means any complaint:
 - (a) By an employee concerning any matter relating to the employment of the employee;
 - (b) By the Union concerning any matter relating to the employment of an employee; or
 - (c) By any employee or the Union concerning:
 - i) the effect or interpretation, or a claim of breach, of this Agreement; or
 - ii) any claimed violation, misinterpretation, or misapplication of any law, rule, or regulation affecting conditions of employment; or

- iii) any claimed violation, misinterpretation, or misapplication of the Agency's policies affecting conditions of employment.

Section 50.03. Filing a Grievance

Inasmuch as dissatisfactions and disagreements arise occasionally among people in any work situation, the filing of a grievance shall not be construed as reflecting unfavorably on an employee's good standing, performance, loyalty, or desirability to the organization.

Section 50.04. Union Observer at Grievances

In situations where employees present grievances on their own behalf to the Employer, the Union shall have the opportunity to have an observer present at all informal and formal discussions and will normally be notified two (2) workdays in advance. The observer will take no part in the proceedings but will be allowed to present the Union's position to the Employer at a mutually agreed upon time. The employee has the right to be present during the Union presentation. All written grievance correspondence shall be provided to the Union.

Section 50.05. Matters Precluded from Negotiated Grievance Procedure

- (1) This procedure shall be the exclusive procedure for resolving all grievances except:
 - (a) any claimed violation of prohibited political activities;
 - (b) retirement, life insurance, or health insurance;
 - (c) a suspension or removal for National Security reasons;
 - (d) any examination, certification or appointment;
 - (e) the classification of any position which does not result in the reduction in grade or pay of an employee;
 - (f) the termination of a probationary employee;
 - (g) non-selection for promotion from a group of properly ranked and certified candidates from a properly certified register;
 - (h) a preliminary warning notice of an action which, if effected, would be covered under the grievance system; and
 - (i) issues previously filed under any other statutory procedure.

Section 50.06. Right to Select Appeal Process

- (1) Adverse actions and performance based actions may be raised under the appellate procedures to the Merit Systems Protection Board or the negotiated grievance procedures, but not both.

- (2) Employees shall be deemed to have exercised their option to raise a matter under any applicable statutory procedure or this negotiated grievance procedure at such time as employees timely file under any applicable statutory procedures or timely file a grievance in writing in accordance with the provisions of this Article, whichever occurs first.

Section 50.07. Procedure for Raising Disputes of Grievability/Arbitrability

- (1) The Parties will raise any questions of grievability or arbitrability of a grievance at the lowest level of the negotiated grievance procedure. If either party timely requests a determination on the grievability or arbitrability of the grievance presented for arbitration, the requesting party will notify the opposite party and the arbitrator at least ten days in advance of the scheduled hearing on the merits.
- (2) When the Employer alleges an issue is non-grievable or non-arbitrable, the Union will have five (5) workdays to amend and refile the grievance. It will be resubmitted at the level at which the issue was raised and proceed as a normal grievance.
- (3) Where the grievance is filed and the Union or employee alleges a violation of rules or regulations, the Employer agrees that it will not dispose of the grievance solely because of an incorrect reference or citation.

Section 50.08. Negotiated Grievance Procedure

A grievance shall be processed as follows:

Step 1

The aggrieved employee and/or Union representative shall first present the grievance in writing to the first level supervisor. Grievances must be presented within sixty (60) calendar days from the date of the act or occurrence, or sixty (60) calendar days from the date the employee first became aware of the problem, unless the grievance is an issue covered by the terms of a statute, in which case any statutorily imposed time limits shall apply.

- (1) The grievance will contain the following information:
 - (a) Date of the grievance and name of the grievant(s), or a statement that NTEU or the Employer is filing a grievance on its own behalf pursuant to Section 50.12 of this Article;
 - (b) Issue and description of circumstances giving rise to the grievance, including approximate time, date, and place of the incident, if available;
 - (c) If relevant, the article and section of the agreement or any rule, regulation, or law alleged to be violated;
 - (d) The remedy or relief desired; and

- (e) Name and signature of Union representative, if applicable.
- (3) If requested, within twenty (20) calendar days of receipt of the written grievance, the supervisor will meet with the employee and/or representative. If the Parties work within the local commuting area, this meeting shall be in person; otherwise, the meeting will be by teleconference unless the Parties mutually agree to a face-to-face meeting.
- (4) The supervisor or appropriate official shall render a decision, in writing, to the employee or the representative, if one has been designated, within fifteen (15) calendar days from the date of the step one meeting or receipt of the grievance, whichever is later. The decision will include, if the relief is denied or modified, the reason(s) for such actions, the name and location of the Step 2 official and the time limits for filing a Step 2 grievance.

Step 2

- (1) If the matter is not satisfactorily settled within Step 1, the employee, and/or Union representative may, within twenty (20) calendar days from the time the reply is received or should have been received, forward the matter, in writing, to the next level supervisor. If requested, within fifteen (15) calendar days of receipt of the written grievance, the supervisor will meet with the employee and/or representative. If the Parties work within the local commuting area, this meeting shall be in person; otherwise, the meeting will be by teleconference unless the Parties mutually agree to a face-to-face meeting.
- (2) The supervisor or appropriate official shall render a decision, in writing, to the employee or the representative if one has been designated, within fifteen (15) calendar days from the date of the step two meeting or receipt of the grievance, whichever is later. The decision will include, if the relief is denied or modified, the reason(s) for such actions, the name and location of the Step 3 official and the time limits for filing a Step 3 grievance.

Step 3

- (1) If the grievance is not satisfactorily settled within Step 2, the employee, and/or Union representative may, within twenty (20) calendar days from the time the reply is received or should have been received, forward the grievance to the next level supervisor for further consideration. If requested, the next level supervisor or designee will meet with the employee and or Union representative within fifteen (15) calendar days from the date the meeting was requested. If the Parties work within the local commuting area, this meeting shall be in person; otherwise, the meeting will be by teleconference unless the Parties mutually agree to a face-to-face meeting. If the Parties mutually agree, the grievant(s) and the representative shall be allowed travel and per diem expenses for the third step meeting only when otherwise in a duty status. The Employer will consider the seriousness of the issues when making this determination. The supervisor or designee shall render a decision, in writing, to the employee or the representative, if one has been designated, within fifteen (15) calendar days from the date of the Step 3 meeting or receipt of the grievance, whichever is later. The decision will include, if the relief is denied or modified, the reason(s) for such actions, and will be sent to the Chapter President.

- (2) If the grievance cites the Regional Administrator or Deputy Regional Administrator with personal violations, the grievance will be filed with the Associate Administrator at Step 3.

Step 4

- (1) If the grievance is not satisfactorily resolved at Step 3, the Union or the Employer may invoke arbitration. The decision to invoke arbitration shall be made within thirty (30) calendar days after the Union or the Employer receives the Step 3 written decision.
- (2) Only the Union or the Employer may invoke arbitration.

Section 50.09. Grievance Alleging Discrimination

Employees who believe they have been illegally discriminated against with regard to EEO laws, (e.g., on the basis of race, color, religion, sex, genetic information, pregnancy, national origin, age, or disability) have the right to raise the matter under the statutory procedure or the negotiated grievance procedure of this Agreement, but not both. Employees will have elected a forum (grievance or EEO procedure) if the grievance is reduced to writing and presented to the Employer as set forth in this Article alleging discrimination or a formal EEO complaint is filed. For grievances alleging discrimination as described above, the time limits for filing grievances shall be forty-five (45) calendar days.

Section 50.10. Extension and Waiver of Time Limits. Advancement of Grievance.

- (1) The Parties agree that, by mutual consent, the time limits contained in this Article may be extended and any step waived in writing or by electronic mail.
- (2) Failure on the part of the Agency to respond to a grievance within the appropriate time frame will entitle the aggrieved, at their option, to advance the grievance to the next step. Failure on the part of the aggrieved or the Union to respond within the appropriate time frame may be cause for cancellation of the grievance.
- (3) Upon mutual agreement of the Parties, grievances may be combined and processed as one, up to and including arbitration.

Section 50.11. Request for Information

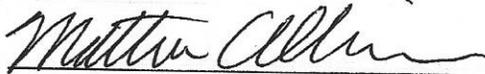
The grievant, or his/her representative, may request the Employer to provide such written information as is relevant to the subject matter of the grievance and necessary to its resolution. If the Employer refuses to provide all necessary and relevant information, that issue may be joined with the grievance and processed to arbitration. At arbitration, the arbitrator shall review the information denied to the Union "in camera" and decide whether or not it is to be provided to the Union.

Section 50.12. Filing Employer or Union Grievances

- (1) If the Employer is aggrieved at the local or national level, its representative shall file a grievance with the local or national Union President, as appropriate, within sixty (60) calendar days of the act or awareness of the act causing the grievance. At the request of the Employer, representatives of the Parties shall meet within fifteen (15) calendar days from the date of submission of the grievance. Within fifteen (15) calendar days of said meeting or receipt of the grievance, whichever is later, the Union Official shall render a decision, in writing, to the Employer. If such decision fails to resolve the matter, the Employer may invoke arbitration in accordance with procedures set forth in Article 51.

- (2) If the Union is aggrieved, the Union shall submit the grievance, in writing, to the FNS Administrator or Regional Administrator, as appropriate, within sixty (60) calendar days of the act or awareness of the act causing the grievance. At the request of the Union, representatives of the Parties shall meet within fifteen (15) calendar days from the date of submission of the grievance. Within fifteen (15) calendar days of said meeting or receipt of the grievance, whichever is later, the Employer shall render a decision, in writing, to the Union. If such decision fails to resolve the matter, the Union may invoke arbitration in accordance with the procedures set forth in Article 51.

For NTEU:



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4/4/2016

Date

For FNCS:



Walter Vick
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4/6/2016

Date