

07-16-1993 12:08

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STANDARD GRIEVANCE FORM

SSA D/O ARDMORE OK

this form, if necessary

NAME OF EMPLOYEE

ARTHUR B. ARMIJO JR.
ARTHUR B

OFFICE TELEPHONE

405-223-8378

OFFICE LOCATION

SSADO, ARDMORE OK

POSITION

CR

GRADE

GS-09

REPRESENTED BY:

SELF
 UNION

REPRESENTATIVE NAME

SY OVERTURF, .A.F.G.E Local 2505

REP TELEPHONE

405-231-5342

Description of grievance. What article(s) of the Agreement are involved?

Larry Gallup, OS at the Ardmore District Office has inappropriately accessed official materials in employees desks in violation of the Agency's own regulations, specifically PMS, Chapter S297. Furthermore, Larry Gallup has used these desk audits as the sole means of applying performance appraisal principles. By this action, Larry Gallup has violated the Agency's own regulations as well as the National Contract, including but not limited to, Article 21.

Relief sought:

Management, and in particular Larry Gallup, OS at the Ardmore District Office will cease and desist from this continuing practice and any material collected which has been used in adverse action should be purged since it has been obtained in violation of the Agency's own regulations and therefore cannot be used in any adverse action.

I hereby authorize my representative to examine any appropriate official document, personnel record, or medical information which may be related to the grievance.

EMPLOYEE SIGNATURE

DATE

1-15-93

STEP 1 SUBMITTED

SUPERVISOR

TELEPHONE

405-223-2427

ORAL PRESENTATION REQUESTED

YES NO

DATE RECEIVED

1/15/93



LOCAL 2505

AMERICAN FEDERATION of GOVERNMENT EMPLOYEES
Representing Districts in Oklahoma



7-9-93

Arthur Armijo
c/o Soc Sec Adm
PO Box 189
Ardmore, Okla. 73402

Dear Art:

The grievance procedure in our National Contract permits us to grieve SSA's violations of its own regulations. More specifically, this means that we can grieve SSA's violations of the Personnel Manual for Supervisors (PMS).

You commented that Gallup audited another CR and your workloads when neither of you were present. These audits may have been violations of provisions in the enclosed PMS reference. Please read it and we can discuss whether or not these audits may be the basis for a grievance.

Sy Overturf



LOCAL 2505

AMERICAN FEDERATION of GOVERNMENT EMPLOYEES
Representing Districts in Oklahoma



1321 Alviola
Midwest City, Ok 73110
July 23, 1993

TO: Larry Gallup, OS
Ardmore, Ok

FROM: Sy Overturf, Pres.
Local 2505

SUBJECT: Step #1 presentation for grievance filed by Arthur
Armijo against violations of PMS Chapt. S297:

The Grievant states that you examined materials from his desk without obtaining his prior approval. You used information obtained through this examination as the basis for allegations in the Desk Audit memo dated June 29, 1993. The Grievant states he was unaware of your actions until he was given the the memo.

Provisions of PMS Chapt S297, Sec. IV B are very clear. No official of HHS may open an employee's desk and examine its contents or authorize another person to do so without the employee's permission. The exceptions to the prior approval requirement are clearly stated and very limited. These exceptions to prior approval are limited to "compelling reasons". Certain examples are given to help illustrate the definition of compelling reasons. A routine desk audit comes no where near meeting the definition of a compelling reason. Also, undoubtedly you had scheduled this audit sufficiently in advance so there was ample opportunity to obtain the Grievant's permission in any event.

Agency regulations and policies are enforceable through the Contract's negotiated grievance procedure; therefore, they rise to a right. Also, the language in this section of the PMS is a restatement of the comparable section in the HHS personnel manuel. This section in the HHS manuel bears the subtitle "Condititons of Employment". Therefore, the Grievant has the right to privacy of his desk as a condition employment. It is a standard component of due process that materials obtained in violation of any employee's rights cannot be used to adversely affect him.

Proper relief due the Grievant includes.

1. Purge from the Grievant's records all negative material obtained as result of this examination of materials in desk.
2. Purge the Desk audit memo and any other negative references to his performance from his records.
3. The PIP was based on this examination of his desk. Therefore, the PIP must be rescinded.
4. Document his records that he performance is fully satisfactory at his current grade and he meets the requirement for career ladder promotion to the next highest grade at the date it is first due.
5. Refrain from performing examinations of the Grievant's desk in the future in violation of PMS provisions.

Sent your Step #1 response to the above address. If the Step #1 decision is a denial, please sent me a photo copy and give the original to the Grievant so he can advance it to Step #2. This is not an authorization for you to communicate with the Grievant about his grievance. Instead, it is only a procedural matter to facilitate the advancing of the grievance since the Step #2 official is in the Ardmore office.

Sy Overturf 7/23/93