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Policies and Procedures

Title: ARS Performance Appraisal System

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This DIRECTIVE:

Establishes the Performance Appraisal System for the Agricultural Research Service and the National Agricultural Library.

Provides guidance for employees, managers, and supervisors concerning:

- How performance plans are developed;
- When and how appraisals are completed; and
- How this system can be used as a management tool.

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1. REFERENCES

For information on:

- Performance appraisal grievance procedures, see DIRECTIVES 463.2 and 463.4.
- Performance Management and Recognition System, see DIRECTIVE 468.6.
- Processing awards, see DIRECTIVE 468.7.

2. ABBREVIATIONS

- CFR - Code of Federal Regulations
- CR - Civil Rights
- CSRA - Civil Service Reform Act
- DPM - Departmental Personnel Manual
- EO - Equal Opportunity
- EPF - Employee Performance Folder
- FPM - Federal Personnel Manual
- GM - General Schedule Employees in the Performance Management and Recognition System
- GS - General Schedule Pay Plan
- LERB - Labor and Employee Relations Branch, PD
- MSPB - Merit Systems Protection Board
- NFC - National Finance Center
- OPM - Office of Personnel Management
- PD - Personnel Division
- PIP - Performance Improvement Plan
- PMRS - Performance Management and Recognition System
- PRB - Performance Review Board
- SES - Senior Executive Service
- U.S.C. - United States Code
- WG - Wage Grade

3. FORM

AD-435 - Performance Appraisal Form

4. DEFINITIONS

Appointing Authority - The Secretary of Agriculture or other officials designated by the Secretary as appointing authorities.

Appraisal - The act or process of reviewing and evaluating the performance of an employee against the described performance standards, including oral or written progress reviews.

Appraisal Period - The period of time established by an appraisal system during which an employee's performance was or will be reviewed.

Appraisal System - The method used to develop and establish performance plans (elements and standards); establish procedures to appraise performance; provide feedback to employees about their performance; and assure appropriate use of appraisal information in making personnel decisions.

Appraisal Unit - The unit of measure used to establish the relative weighted value of critical and noncritical elements.

Critical Element - One or more duties and responsibilities of a position which contributes toward accomplishing organizational goals and objectives. A critical element is of such importance that unacceptable (for SES "unsatisfactory") performance on the element would result in unacceptable (unsatisfactory) performance in the position.

Decision Table - A matrix used for deriving a summary rating from appraisal of individual elements.

Element Rating - The level of performance on an individual element which is determined by comparing accomplishments to the performance standard.

Final Rating - A rating which applies only to SES employees and is the rating of record assigned by the appointing authority after considering recommendations of a Performance Review Board.

Initial Rating - A rating which applies only to SES employees and is the summary rating given to the senior executive by the immediate supervisor or rating official and reviewed by the Agency Head and Performance Review Board.

Noncritical Element - One or more duties and responsibilities of a position which do not meet the definition of a critical element, but is of sufficient importance to warrant appraisal and the assignment of an element rating.

Performance - An employee's accomplishment of assigned duties and responsibilities as specified in the critical and noncritical elements of the employee's position.

Performance Improvement Plan - The written plan which provides employees whose performance in one or more critical elements has been determined to be below the Fully Successful level a reasonable period of time to demonstrate Fully Successful performance.

Performance Management System - The total process of integrating performance, pay, and incentive systems with basic personnel management functions for the purpose of improving individual and organizational effectiveness in the accomplishment of Agency mission and goals. Basic to the foundation of performance management is the performance appraisal process.

Performance Management and Recognition System (PMRS) - The system which covers GM-13 to GM-15 supervisory and management officials whose annual pay increases are determined by DIRECTIVE 468.6.

Performance Plan - A compilation of the employee's written critical and noncritical elements and performance standards.

Performance Standard - A written statement of the expectations and requirements established by management for a critical or noncritical element at a particular rating level. A performance standard may include, but is not limited to, factors such as quality, quantity, timeliness, manner of performance, and impact of the results. The standards must be objective, reasonable, and attainable.

Progress Review - A supervisory review of the employee's progress toward achieving the performance standards and is not a rating.

Rating of Record - Except for SES, the summary rating required at the regular time specified in this DIRECTIVE or at the completion of a Satisfactory Performance Improvement Plan. For SES employees, rating of record means the "final rating" approved by the appointing authority.

NOTE: For PMRS employees, all parts of the performance pay decision (i.e., general increase, merit increase, and performance award) must be based on the same rating of record.

Reviewing Officials - Supervisors or management officials (usually supervisors at the second level) who review performance plans and appraisals proposed by first-level supervisors.

Summary Rating - The written record of performance, the appraisal of each critical and noncritical element, and the assignment of a summary rating level.

Supervisor - An individual employed by an agency having authority in the interest of the agency to hire, direct, assign, promote, reward, transfer, furlough, layoff, recall, suspend, discipline, or remove employees, to adjust their grievances, or to effectively recommend such action, if the exercise of the authority is not merely routine or clerical in nature but requires the consistent exercise of independent judgment, except that, with respect to any unit which includes firefighters or nurses, the term "supervisor" includes only those individuals who devote a preponderance of their employment time to exercising such authority (5 U.S.C. 7103(a)(10)).

Unacceptable Performance - Performance of an employee which fails to meet established performance standards in one or more critical elements of the employee's position. Unacceptable performance results in remedial action as required under 5 CFR 432. (See Section 13.) This applies to GM, GS, and prevailing rate employees only.

Unsatisfactory Performance - For SES employees, performance which fails to meet established performance standards in one or more critical elements. Unsatisfactory performance results in remedial action as required under 5 CFR 359, i.e., reassignment or removal from SES.

5. AUTHORITIES

5 U.S.C. Chapter 43 and 54
5 CFR Parts 430, 432, and 540
FPM Chapter 430
DPM Chapters 430 and 432
USDA Framework for Change (5/90)

6. POLICY

The ARS Performance Appraisal System was developed to improve communications between the supervisor and the employee. Evaluating performance is a continuing process and not restricted to the mandatory requirements contained in this DIRECTIVE. There should be interchange between employees and supervisors concerning performance throughout the year.

It is USDA and ARS policy to insure that performance appraisals are used as a tool for executing basic management and supervisory responsibilities by:

- Communicating and clarifying Agency goals and objectives;
- Identifying individual accountability for the accomplishment of organizational goals and objectives;
- Evaluating and improving individual and organizational accomplishments; and
- Using performance ratings as a basis for rewarding employees and taking other personnel actions.

7. COVERAGE

This performance appraisal system covers all employees except those exempt because of type of appointment or duration of employment. Exemptions include, but are not limited to:

- Positions in the excepted service for which employment is not expected to exceed 120 calendar days in a consecutive 12-month period.
- Positions filled by noncareer executive assignment.

Exclusions - Employees in the following categories are excluded from coverage under this plan:

- Employees in the following **non-PMRS** positions when filled by appointments limited to 1 year or less, or when employees are serving on intermittent tours of duty as follows:
 - Positions filled under 5 CFR 213.3102(g).
 - Positions filled under 5 CFR 213.3102(k) when no compensation is paid.
 - Positions filled under 5 CFR 213.3102(o) when occupied by faculty members.
 - Positions filled under 5 CFR 213.3102(1) when occupied by scientific, professional, or technical experts for consultation purposes.
 - Positions filled under 5 CFR 213.3102(p) when occupied by graduate students.
 - Positions filled under 5 CFR 213.3102(q) when occupied by students working intermittently or on a part-time basis while attending school. However, this exclusion does **not** apply to any position occupied by a student who may become eligible for noncompetitive conversion to a competitive service appointment.
 - Positions filled under 5 CFR 213.3102(v) when occupied by temporary summer aids.
 - Positions filled under 5 CFR 213.3102(y) when occupied by finalists in national science contests.
- The following **non-PMRS** pay positions when filled by individuals who are expected to work less than 120 consecutive calendar days for the same supervisor under an appointment limited to 1 year or less:

- Positions filled under 5 CFR 213.3102(a)(5) when occupied by State performance assistants, field assistants, or forest workers, except that this exclusion applies for up to 220 working days in a service year when positions are occupied by individuals providing emergency services.
- Positions filled under 5 CFR 213.3102(m) when occupied by custodians or general laborers.
- Positions filled under 5 CFR 213.3102(w) when occupied by students appointed under the Stay-in-School Program.

NOTE: These exemptions do not prohibit ARS from maintaining records of work on these employees or taking administrative action involving these personnel.

8. RESPONSIBILITIES

PD will

- Set policy and for the overall administration of the Performance Appraisal System.
- Provide assistance as needed and monitor compliance with Agency policy.

Supervisors will

- Develop performance plans and
- Complete appraisals as required by this DIRECTIVE.

9. ACTIONS BASED ON PERFORMANCE APPRAISALS

Performance Appraisal results will be used as the basis for the following personnel actions:

- **Training and Career Development** - Performance appraisals will be used as one basis for determining the training and developmental needs of employees. Training is also one option which may be used to assist employees in correcting performance deficiencies based on the knowledge, skills, and abilities needed to perform the job.
- **Recognition and Awards** - Performance will be considered when recommending employees for awards. (See DIRECTIVE 468.7.)

- **Performance Management and Recognition System** - All pay determination actions for GM employees.
- **Promotion** - Performance appraisals will be used to evaluate employees for promotion.
- **Quality Step Increases** - Increases for GS pay plan employees may be granted to employees who receive performance appraisals of Outstanding.
- **Reassignments** - Performance appraisals are used as the basis for reassignments of employees when:
 - Management chooses to reassign an employee rather than demote or take a removal action. See Section 13 for action to take when performance is unacceptable.
 - Management chooses to reassign an employee as part of a reduction-in-force.
 - Competitive promotion procedures are required.
- **Reductions-in-Force** - Performance appraisal ratings of record are used to establish service computation dates for reduction-in-force. A performance appraisal cannot be generated for reduction-in-force purposes only. The rating of record used for reduction-in-force purposes must be officially approved and on record 10 days before the date of the specific reduction-in-force notice.

Additional service credit based on performance will consist of the average of the employee's last three annual summary ratings of record computed on the following basis:

- 20 additional years for each level 5 (Outstanding) rating;
- 16 additional years for each level 4 (Superior) rating;
- 12 additional years for each level 3 (Fully Successful) rating.

Service credit for employees who do not have three actual ratings of record shall receive credit based on an assumed rating of level 3 (Fully Successful). This assumed rating does not constitute a rating of record.

- **Removals and Demotions for Unacceptable Performance** - Management shall reduce in grade, remove, or reassign employees who continue to have unacceptable performance. Before taking such action, management must assist employees in improving unacceptable performance and provide them an opportunity period to demonstrate Fully Successful performance. (See Section 13.)
- **Within Grade Increases** - Employee's performance of duties and responsibilities of the assigned position must be at an acceptable level of competence. To be at an acceptable

level of competence, the employee's most recent rating of record must be Fully Successful or better. When the acceptable level of competence decision is not consistent with the employee's most recent rating of record, a more current rating must be prepared.

10. SYSTEM REQUIREMENTS

Length of Appraisal Period: The appraisal period is normally 12 months; it must not be longer than 15 months or shorter than 90 days. Ninety days is considered the minimum amount of time in which a supervisor is able to make an objective appraisal.

A formal appraisal may not be given unless a performance plan (elements and standards) was established and communicated to the employee and the employee has served under this plan for 90 days or more.

Time of Appraisal: The appraisal period for SES employees will be from October 1 to September 30 of every year.

The appraisal period for all other employees will be as follows:

April 1 - March 31

Support Scientists
Technicians
Wage Grade
Clerical/Secretarial

September 1 - August 31

Research Scientists
Service Scientists
Research Associates/Research Affiliates
Specialists (managerial, advisory, or administrative)

When a rating of record cannot be prepared at the time specified in the plan, the appraisal period shall be extended to include at least the minimum appraisal period (90 days) at which time a rating of record shall be prepared.

Records: Employee's ratings of record for 3 years (5 years for SES employees) and the performance plan on which the most recent rating was based will be filed in the EPF which is maintained in PD.

When an employee satisfactorily completes a PIP and the employee is not reduced in grade or removed and the employee's performance continues to be acceptable for 1 year, any entry or other notation of the unacceptable performance for which the action was proposed shall be removed from any agency record relating to the employee.

When an employee transfers to another Federal position or leaves the Government, these ratings of record and the performance plan will be placed in the Official Personnel Folder and transferred to the gaining agency or the National Personnel Records Center.

Clearance with Labor Organizations: ARS will negotiate or consult with recognized labor organizations concerning aspects of the performance appraisal system.

Rating of Record after Satisfactory Completion of a PIP: When an employee satisfactorily completes a PIP, a new AD-435 will be prepared which will become the new rating of record. The PIP must have lasted at least 90 days or 90 days must have lapsed since the last rating before the new AD-435 can be prepared.

11. ESTABLISHING A PERFORMANCE PLAN

General Policy

- A performance plan consisting of performance elements and standards will be developed for each employee.
- Within 30 days of the beginning of the appraisal period, the supervisor will communicate the performance plan to the employee in writing. For SES employees, the performance plan must be communicated at or before the beginning of the appraisal period.
- The reviewing official must approve the performance plan before it is finalized. Reviews of these plans are required to ensure that they are accurate, objective, reasonable, and attainable.
- Supervisors and managers have a major responsibility to ensure consistency, objectivity, and equity in development of performance plans. Communication between the supervisor and the employee is essential in this process. Supervisors must include the employee when the performance plan is developed. The supervisors may use any of the following methods:
 - Employee and supervisor discuss and develop performance plan together.
 - Employee provides supervisor a draft of performance plan.
 - Employee comments on draft performance plan prepared by supervisor.

- Performance plan is prepared by a group of employees occupying similar positions, with supervisor's approval.

Final authority for establishing performance plans rests with the supervisory officials.

- When a work assignment changes significantly, even if a personnel action is not required, the performance plan should be revised. Employees must be informed in writing of any revisions.

Establishing Performance Elements:

- Elements describe products or services. These elements are what the employee is expected to do. Elements can be derived from sources such as position descriptions, organizational goals and objectives, budgets and work plans, supervisor/employee discussions, or analysis of a job conducted by a subject matter expert or a group familiar with the job.
- Each performance plan will have at least 3 and no more than 10 elements. At least one element must be identified as a critical element; however, all elements cannot be critical.
- Critical elements are elements sufficiently important that, if performance is unacceptable, definitive remedial action must be taken. Remedial action may include removal, demotion, reassignment, or training.

There are several criteria that may indicate which elements might be critical. These include:

- Percentage of time spent performing the element. If a high percentage of time is spent working on an element, this can be a strong indicator. However, a low percentage of time spent on an element is not a disqualifier.
- Impact on mission. If the success of the unit depends on the employee performing the element at the Fully Successful level, this is also a strong indicator.
- Consequence of error. If unacceptable performance would result in a serious negative outcome for an individual, the unit, or the Government, this is an indication of a critical element.
- Legislative or regulatory requirements. If unacceptable performance would mean violation of a law or regulation, this is most likely a critical element.

- Category 1 Research Scientists should have as a minimum the following four critical elements:
 - Plan Research
 - Conduct Research
 - Report Research
 - Equal Employment Opportunity
- All performance plans must contain an Equal Opportunity/Civil Rights (EO/CR) element, and it must be critical. (See Exhibit 1 for the element and standard which must be used for supervisory employees. Exhibit 2 is the element and standard for nonsupervisory employees.)
- Each manager or supervisor must have performance elements that address supervisory or managerial responsibilities, and these elements must be critical.
- Where it is appropriate and job-related, employees should have performance elements in the following areas:
 - Health and safety.
 - Cost reduction.

The need for these performance elements will depend on the responsibilities of the position, and it is the supervisor's responsibility to include them in the performance plan when it is developed.

Establishing Performance Standards

- Performance standards must only be defined at the Fully Successful level, but may be defined at the Exceeds and Does Not Meet levels. Fully Successful performance is performance of good quality where the employee produces the required amount of work and meets deadlines or schedules for completion of work.
- A performance standard is a measure. It should enable a supervisor to gauge the employee's accomplishment of performance elements in objective, easily understood units.
- Objective measures include:
 - quality - how well a thing is done
 - quantity - how much or how many
 - timeliness - how fast or by when
 - method - following procedures, policies, technical requirements
 - monetary savings in human resources and time

The absence of a written standard at the Exceeds or Does Not Meet levels will not preclude the assignment of a rating at those levels.

Approval of Performance Plans: The performance plans must be reviewed and approved at the beginning of appraisal period by a person at a higher organizational level than the rating official (usually the reviewing official).

Within 30 days of an employee's assignment to a position (e.g., promotion, temporary promotion, reassignment), an approved performance plan shall be established and communicated to the employee in writing.

Details: A performance plan shall be established for an employee who is detailed or temporarily promoted for 120 days or more to another position in the Agency or the Department. The supervisor with whom the employee will work during the detail or temporary promotion shall prepare a performance plan and communicate it to the employee within 30 days of the start of the detail. A summary rating shall be prepared to document the employee's accomplishments at the end of the detail and sent to the employee's supervisor. This rating must be considered in deriving the employee's next rating of record.

When details are less than 120 days in duration, written performance elements and standards are not required, but some documented record of performance should be kept.

12. APPRAISAL PROCESS

Periodic Review: There must be at least one documented progress review of accomplishments during the appraisal period. The documentation can be a note that the performance plan was discussed and the date the discussion took place. This review should take place within 5 to 7 months of the beginning of appraisal period. The review is used to insure the performance plan is appropriate and current and to advise the employee of current performance. If the employee is being rated for the minimum appraisal period (90 days), this review is not necessary.

Supervisors should be alert to any change in the employee's performance. If there is a decline in performance or if the employee's usual performance falls off, the supervisor should discuss these issues with the employee. If this discussion surfaces a personal problem which may be affecting his/her work, the supervisor should only discuss the performance issue and advise the employee of the availability of the ARS Employee Assistance Program for personal problems.

Documentation: Documentation is required for each element appraised Does Not Meet and for a summary rating of Outstanding. The documentation is a written statement describing how the employee did not meet the standard or a written statement explaining the basis for an

Outstanding summary rating (all Exceeds). Performance at the Fully Successfully level is checked in the appropriate box on the appraisal form.

Do not rate an element if the employee did not have an opportunity to perform this work during the rating period. If this situation occurs and if it would result in the employee not being rated on at least one critical and one noncritical element with a total of three elements, contact LERB.

Element Ratings: Performance for each element is appraised using the following levels:

- **EXCEEDS** - Performance exceeds performance standard established for Fully Successful level
- **FULLY SUCCESSFUL** - Performance meets standard established for Fully Successful level
- **DOES NOT MEET** - Performance falls below standard established for Fully Successful level.

Summary Ratings

Definitions of the five required summary rating levels follow. Once the elements are appraised, the summary rating is calculated using the Decision Table (See Exhibit 3 or the instructions on the AD-435.)

Critical elements have twice as much weight as noncritical elements in determining the summary rating, and this weighting system is built into the calculation.

- **UNACCEPTABLE (UNSATISFACTORY FOR SES)** - Performance which fails to meet established performance standards in one or more critical elements of the employee's position. When performance is unacceptable or unsatisfactory, corrective action must be taken.
- **MARGINAL (MINIMALLY SATISFACTORY FOR SES)** - Performance which needs improvement to achieve the Fully Successful level. This may be evidenced by the need for close supervisory review, discussion, and correction of work products.
- **FULLY SUCCESSFUL** - Performance which is of good quality. A Fully Successful employee produces the expected quantity and quality of work and meets deadlines or schedules for completion of work.
- **SUPERIOR** - Performance of unusually good or excellent quality. A Superior employee produces a very high quantity and quality of work ahead of established schedules or deadlines and with less than normal supervision.

- **OUTSTANDING** - Performance of rare, very high quality. An Outstanding employee produces an exceptional quantity and quality of work significantly ahead of established schedules or deadlines and with very little supervision. Performance for each element consistently exceeds the Fully Successful level.

Review Procedures

Ratings of record must be reviewed and approved by an official in the organization at a higher level than the rating official before they are discussed with the employee. Ratings of GM employees must also be approved by the Funding Unit Managers. Evidence of this approval can be recorded on the AD-435. For SES performance appraisals, the Administrator, ARS, is the higher level official. Ratings of record must not be communicated to the employee prior to all necessary final approvals. This does not preclude communication concerning performance between the supervisor and employee prior to the determination of the rating of record.

Employee Certification

After the reviewing official (and Funding Unit Manager for PMRS employees) approves the rating, the supervisor shall discuss the rating of record with the employee. This discussion should take place no later than 30 days after the end of the appraisal period. At this meeting, the employee should sign Block 22. The employee's signature on the appraisal form shall serve as certification that a rating discussion took place. If this discussion cannot be held, or if the employee either refuses or is unable to sign the rating, the supervisor shall document the reason on the appraisal form.

Multiple Appraisals

When multiple appraisals of performance are made during the appraisal period, these must be considered by the supervisor when preparing the rating of record.

Inability to Rate

Except for SES, when a rating of record cannot be prepared at the time specified in the plan, the appraisal period shall be extended for the amount of time necessary to meet the minimum appraisal period, at which time a rating of record shall be prepared. SES employees must be rated on an annual basis. (For pay purposes for PMRS, refer to DIRECTIVE 468.6.)

Change in Supervisors and Position Changes

When an employee works under different supervisors or changes positions during the appraisal period, each supervisor of 90 days or more shall prepare a summary rating and forward it to the employee's supervisor of record for appropriate consideration in deriving the next rating of record.

Transfer of Rating

If an employee moves to a new agency or new organization in the employing agency at any time during the appraisal period, the three latest performance ratings of record must be transferred to the gaining organization. A summary rating must be prepared and sent to the gaining organization which must be taken into consideration when deriving the next rating of record.

Change in Administration

In the case of an SES career appointee, an appraisal and rating may not be made within 120 days after the beginning of a new Presidential administration.

Satisfactory Completion of PIP

Upon completion of a satisfactory PIP, a new performance appraisal form will be prepared which will become the current rating of record.

Reconsideration Process

Grievances of performance appraisals by PMRS employees are covered by Disputes Resolution on Performance Appraisal of PMRS Employees, DIRECTIVE 463.4.

Grievances of performance appraisals by GS/WG employees are covered by Employee Grievances, DIRECTIVE 463.2, or negotiated grievance procedure, as appropriate.

Grievance procedures do not apply to SES employees.

Processing Appraisal Form

After the supervisors discuss the rating with the employee, performance appraisals for GM employees will be forwarded to the Funding Unit Manager for transmittal to LERB. The schedule for forwarding these appraisals will be provided by LERB not later than August 15 each year.

Performance appraisal forms for GS/WG employees will be transmitted to LERB not later than 45 days after the appraisal period ends.

Performance appraisal packages for SES employees will be forwarded to the National Services Branch, PD, Greenbelt, Maryland, according to a time schedule provided by that Branch.

13. ACTION BASED ON UNACCEPTABLE PERFORMANCE

Unacceptable Performance

- When performance on a critical element is unacceptable, the supervisor must inform an employee in writing as soon as that fact becomes apparent. Managers and supervisors must provide the employee reasonable time to demonstrate Fully Successful performance and must offer reasonable assistance. If performance continues at the unacceptable level, management must reduce in grade, remove, or reassign the employee.
- The supervisor will, in consultation with LERB, determine the performance deficiencies, and LERB will assist the supervisor in preparing a notice to the employee. The notice is a Performance Improvement Plan (PIP) and will contain:
 - Specific description of the employee's unacceptable performance.
 - Description of what the employee must do to demonstrate Fully Successful performance.
 - Timeframe for the employee's improvement. The timeframe must be reasonable and appropriate to the duties.
 - What assistance will be provided by management to help the employee improve, such as regularly scheduled meetings with supervisor to discuss assignments.
 - Consequences of employee's failure to improve performance.

Satisfactory Completion of PIP:

- If the employee brings his/her performance up to the Fully Successful level, the supervisor will prepare an AD-435 reflecting the employee's performance at the end of the PIP. If the PIP was not for at least 90 days, the supervisor must wait to prepare the new rating until 90 days have elapsed since the unacceptable rating was given. The rating will become the new rating of record for purposes of WGI's and future personnel actions.
- If the employee's performance reverts back to unacceptable on any of the elements included in the PIP at any time up to 1 year from the date the PIP began, action to reduce in grade or remove can be taken without giving the employee another opportunity to perform, i.e., a new PIP is not required.

Unsatisfactory Completion of PIP

LERB will assist the supervisor in determining the appropriate action if the employee fails to improve to the Fully Successful level. Analysis of possible options or actions may include one or more of the following:

- Demonstrated competence in the employee's previous assignments.
- Availability of an appropriate position within the commuting area.
- Reassignment based on unacceptable performance may be made when it is determined that the employee has demonstrated the qualifications and ability to successfully perform duties of any other position at the same grade level and management is willing to fill the available position in this manner.
- If reassignment is not made, then management may propose to reduce the employee in grade to a position that the employee has demonstrated the qualifications and ability to successfully perform, if such a position is available and management is willing to fill the position in this manner. Compensation at the lower grade shall be set at the minimum rate for the lower grade.
- If a reassignment or demotion is not made, removal of the employee must be proposed.
- In cases where demotion or removal is chosen as the appropriate remedy to propose, LERB will give the employee advanced written notice of the action proposed.
- At the end of the notice period, the employee will be provided a written decision which will specify the action to be taken, the effective date of action, and the employee's appeal rights.

Appeal

An employee may appeal an action under this procedure directly to the MSPB or file under any applicable negotiated grievance procedure, but not both. An allegation of discrimination may be considered by the Board if otherwise appealable or if raised for the first time on appeal with the Board.

Records

If the employee's performance improves during the PIP period or during the notice period after a reduction in grade or removal is proposed, and the employee is not reduced in grade or removed, the following procedure applies:

If the employee's performance continues to be acceptable for 1 year from the date of the beginning of the PIP, or the beginning of the notice period, any entry or other notation of the unacceptable performance shall be removed from any agency record relating to the employee.

Note: Performance appraisal variations for the Senior Executive Service employees are covered on a yearly basis by specific instructions to the Senior Executives from the National Services Branch, PD.

T. J. CLARK
Deputy Administrator
Administrative Management

Exhibits

- 1 EO/CR Element for Supervisory Positions
- 2 EO/CR Element for Nonsupervisory Positions
- 3 Decision Table

EXHIBIT 1

EO/CR ELEMENT FOR SUPERVISORY POSITIONS

ELEMENT: EQUAL OPPORTUNITY AND CIVIL RIGHTS (EO/CR)

CRITICAL: YES

FULLY SUCCESSFUL LEVEL

- Performs all duties in a manner which consistently demonstrates fairness, cooperation, and respect toward coworkers, office visitors, and all others in the performance of official business. Demonstrates an awareness of EO/CR policies and responsibilities.
- Through personal action, demonstrates support of equal employment opportunity principles in all decisions affecting subordinate employees which may include activities in one or more of the following functional areas: recruitment, interviewing, selection, training, performance evaluation, promotion, travel, awards, adverse action, and work assignments.
- Advises subordinates and establishes through personal example that when addressing employees, delivering speeches, making public appearances, or representing the Agency in any capacity, inappropriate comments regarding race, age, color, sex, religion, national origin, individuals with disabilities, or marital status will not be tolerated.
- Is conversant on the Agency's Affirmative Employment Program Plan (AEPP) and actively participates in the accomplishment of goals and objectives.
- Distributes to all employees with supportive comments Agency and Departmental EEO issuances.
- Maintains an atmosphere of equal treatment in the work unit by discouraging discrimination of all forms. This includes assuring the prompt and fair resolution of all formal and informal complaints of discrimination.

EXHIBIT 2 EO/CR ELEMENT FOR NONSUPERVISORY POSITIONS

ELEMENT: EQUAL OPPORTUNITY AND CIVIL RIGHTS (EO/CR)

CRITICAL: YES

FULLY SUCCESSFUL LEVEL

Performs all duties in a manner which consistently demonstrates fairness, cooperation, and respect toward coworkers, office visitors, and all others in the performance of official business. Demonstrates an awareness of EO/CR policies and responsibilities.

Through personal action, demonstrates support to Equal Employment Opportunity/Civil Rights principles and policies in accomplishing assigned duties. Ensures written and oral communications are free of discriminatory bias. Refrains from making and discourages inappropriate comments, jokes, gestures, etc. regarding an individual's race, religion, color, age, sex, national origin, disability, or marital status when on duty or representing the Agency in any capacity. Attempts to discourage unlawful discrimination by maintaining an unbiased atmosphere. Displays a helpful attitude and willingness to assist persons to become a part of the workforce without regard to their race, color, sex, religion, national origin, age, disability or handicapping condition, or marital status. Reviews and adheres to the Agency/Departmental policy on the prevention of sexual harassment in the work place.

EXHIBIT 3

DECISION TABLE

Use this Decision Table or the instructions on the AD-435 to determine the summary rating after all elements have been rated.

UNACCEPTABLE	ONE OR MORE <u>CRITICAL ELEMENTS</u> ARE APPRAISED AT "DOES NOT MEET"
MARGINAL	MORE APPRAISAL UNITS ARE AT "DOES NOT MEET" THAN AT "EXCEEDS"
FULLY SUCCESSFUL	ANY COMBINATION OF APPRAISAL UNITS WHICH FALLS BETWEEN THOSE DESCRIBED AT "SUPERIOR" AND "MARGINAL"
SUPERIOR	MORE APPRAISAL UNITS ARE AT "EXCEEDS" THAN AT "FULLY SUCCESSFUL," BUT NONE ARE BELOW "FULLY SUCCESSFUL"
OUTSTANDING	ALL APPRAISAL UNITS ARE AT "EXCEEDS"

Instructions:

1. If any critical element is appraised at the "DOES NOT MEET" level, this is an "UNACCEPTABLE" or "UNSATISFACTORY" rating.
2. If all elements are appraised at "EXCEEDS," this is an "OUTSTANDING" rating.
3. If neither of these conditions are met, compare the appraisal unit values at each of the three element rating levels to the approval unit combinations listed in the Decision Table, and assign the proper rating.