
Please see below.

ARTICLE 43

Performance Management System

Section 1 – Coverage

The Article concerns the impact and implementation of the Government-wide regulations on the Performance Management System (PMS), and the DOL regulation DPR 430 dated 5/9/06. These regulations, as appropriate, apply to employees in the NCFL bargaining unit except as provided herein.

The Government-wide regulations and the Department's implementing regulation are applicable to employees in the bargaining unit, except where non-mandatory provisions of the regulations are in conflict with this Article. In such cases, the parties agree that Article 43 is controlling.

Section 2 - Procedures for Developing Elements and Performance Standards

- A. Consistent with Management's right to assign work, the performance elements should be consistent with the duties and responsibilities contained in an employee's position description.
- B. In establishing standards, due consideration will be given to employee input.

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- C. Employees are entitled to an explanation of the rationale for their elements and standards.
 - D. Due consideration will be given the employee as to the resources available and the authority delegated necessary to meet the identified standards and elements.

Section 3 - Performance Standards

A performance standard will, to the maximum extent feasible, permit the accurate evaluation of job performance on the basis of objective criteria related to the job in question for each employee or position under the System.

After receiving proposed elements and standards from the supervisor, the employee will have the opportunity to meet and discuss these standards with the supervisor, and to provide his or her written comments.

When a performance standard has more than one criterion, employees will be advised as to the relative importance of the criteria contained within the standard.

A performance standard may be in the form of meeting less than all the criteria under a performance standard or of meeting all the criteria under a performance standard.

Upon request, supervisors will inform employees orally on what is expected in order to exceed a standard. Employees will be provided ongoing feedback from their supervisors on their work performance.

Section 4 - Annual Rating of Record

- A. Within 30 days after the end of the rating period, each employee shall receive an annual rating of record.
- B. Each Agency will ensure regular performance feedback is provided to each employee during the appraisal period. As part of this feedback, a progress review must be held at least once during the appraisal period, but no later than 120 days before the end of the rating period. This review will include areas of critical competencies requiring improvement and feedback on sustaining positive performance. At a minimum, during this progress review, employees will be informed orally of their performance relative to the elements and standards in their performance plans. The employee's progress review discussion will reflect the necessary information needed to assess progress toward attaining a career

ladder promotion as reflected in Article 20, Section 10. The rating official and the employee will certify on the performance appraisal form that the progress review was held. The Department is committed to recognizing desired performance, and to providing opportunities to correct poor performance.

- C. The rating official must confer with the reviewing official and secure the approval of the reviewing official of the tentative rating for the employee before discussing the tentative rating with the employee. The supervisor will discuss the rating of record with the employee to avoid misunderstandings and possible inaccuracies. The rating official will confer with the employee to review accomplishments, problems, and general performance during the appraisal period and will discuss the tentative conclusions regarding the rating with the employee. The employee's performance rating discussion will reflect the necessary information needed to assess progress toward attaining a career ladder promotion as reflected in Article 20, Section 10. The discussion will be face to face to the extent practicable but may be by telephone.
- D. The employee will have an opportunity to present his/her assessment of work accomplishments, as well as time to respond in writing to the rating official on the rating. Employees have up to ten working days in which to review, sign, or prepare comments to the rater or reviewing official, as appropriate, on their ratings. Any written comments will be forwarded to the reviewing official(s) along with the tentative rating. After the rating has been reviewed and approved, it will be discussed with the employee by the rating official if any changes have been made in the tentative rating. Such written response is to be considered by the rater or reviewing official, as appropriate, and attached to the performance appraisal and will be maintained in the employee performance file.

Section 5 - Improving Unsatisfactory Performance

- A. Any employee not meeting the performance standards of one or more critical elements will be promptly notified.
- B. Informal efforts by the supervisor will include guidance to the employee regarding specific actions which should be taken to improve performance.

Section 6 - Performance Improvement Plan

- A. When informal efforts made by the supervisor do not result in improved performance when an employee is failing a standard, a Performance Improvement Plan will be developed with the participation of the employee. The Plan will be discussed between the immediate supervisor and the employee and put into writing. This Plan will be geared toward efforts which must be initiated by both employee and immediate supervisor and which are designed to result in overall job performance at the effective level or above.

At a minimum, this Plan will include the following:

1. An explanation of the elements and the related performance standards in which the employee's performance fails to meet the standard;
 2. specific goals in terms of time and results expected for levels of progress against each performance standard where performance improvement is needed; also, advice about what the employee must do to bring his or her performance up to the meet level, as well as periodic counseling and reassessment by the supervisor during this period; and
 3. training, if appropriate.
- B. No performance-based action (5 CFR 432) will be proposed unless the employee is given at least a 90-day period of time in which to correct any deficiencies noted and a detailed explanation of the work to be accomplished in the 90-day period to correct performance deficiencies. To this end, the Performance Improvement Plan will be utilized.

Section 7 - Special Circumstances

Performance appraisals must take into account: authorized absences, including Union representation, during the course of working hours, and factors outside the employee's control.

Section 8 - Initiation of a New Appraisal Period

- A. After receiving the tentative elements and standards from the supervisor, the employee will have a period not to exceed ten working days within which to examine and consider this material and to meet with the supervisor to discuss these elements and standards. During this period, the employee, upon request, will be granted a reasonable amount of official time to consult with

the Union Steward concerning the elements and performance standards.

- B. At a bargaining unit employee's request, when assigned a new supervisor, the new supervisor will discuss the bargaining unit employee's performance plan.

Section 9 - Removal of "Fail" and "Need to Improve" Performance Information in Personnel Files

If, because of performance improvement by the employee during the notice period, the employee is not reduced in grade or removed, and the employee's performance continues to be acceptable ("Meet") for one year from the date of the advance notice, then any entry or other notation with regard to the "Fail" or "Need to Improve" performance for which the action was proposed shall be removed from any Agency record relating to the employee.

Section 10 - Information Sharing

Management agrees to share Agency prototype elements and standards developed at the regional or national level for similar or common positions within the bargaining unit with the NCFLL in a timely manner. The NCFLL will have a minimum of 30 calendar days to submit comments on standards before their implementation.

"Prototype elements and/or standards" are performance elements and standards that apply to several positions with similar duties, responsibilities, and job requirements. Usually they are developed centrally for all positions in a particular mission-critical occupation and grade.

Section 11 - Grievability and Arbitrability of Job Elements and Performance Standards

Performance Standards may only be grieved when they are applied in a rating of record.