



Resolving Performance Issues

Participant Guide



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Welcome

Welcome to this TEL (Technology Enhanced Learning) training event. We are excited that you will be joining us today for *Resolving Performance Issues*, and we look forward to helping you to get as much out of this time as possible.

Your classroom today is not very large, 125 or fewer students from as many as 40 different locations across the NPS. We purposely keep the class size small to assure that if you have a question, there is time to get it answered. Don't hesitate to ask – if you have a question, there are probably several others in the class who have the same question – you might as well be the one to ask! It is our goal that you leave class today with no unanswered questions.

How To Interact with the Instructor

We encourage you to ask questions and share your comments with the instructors throughout this TELNPS course.

If you were physically in the classroom with the instructor, you would raise your hand to let her/him know you had a question or comment. Then you would wait for the instructor to recognize you and ask for your question. We are all familiar with that “protocol” for asking questions or making comments.

With TELNPS courses there is also a “protocol” to follow to ensure that you can easily ask questions and others can

participate as well. It may seem a little strange at first asking a question of a TV monitor. Remember, it is the instructor you are interacting with and not the monitor. As you ask more questions and participate in more TELNPS courses, you will soon be focusing only on the content of your question and not the equipment you are using to ask it.

As part of the TEL station equipment at your location, there are several push-to-talk microphones. Depending on the number of students at your location, you may have one directly in front of you or you may be sharing one with other students at your table.

When you have a question, press and hold down the push-to-talk button, maintaining a distance of 12-18 inches, and say,

“Excuse me [instructor’s first name], this is [your first name]

at [your location]. I have a question (or I have a comment).”

Then release the push-to-talk button. This is important.

Until you release the button, you will not be able to hear the instructor.

The instructor will acknowledge you and then ask for your question or comment. Stating your name and location not only helps the instructor, but also helps other students who are participating at different locations to get to know their classmates.



Course Overview

Why a *Resolving Performance Issues* program?

Managing employee performance can be said to be one of the most difficult tasks a supervisor must perform, because there is so much at stake – not only are you responsible for getting the most from each of your employees, you also don't want to turn your good employees into poor ones by failing to address their peers' performance issues. Today's course is designed to help you resolve employee performance issues at the earliest stages, with the least amount of complexity, helping to ensure that your employees are productive and that you are satisfied with their performance.

Target Audience

Any NPS employee with supervisory responsibilities, or who serves as an advisor to supervisors, such as an HR Specialist. This course has been approved to count towards the mandated NPS annual 40-hour supervisory training requirement.

Program Timing

Resolving Performance Issues is a 2-hour TELNPS course.

Learning Objectives

After completing this course, you will be able to:

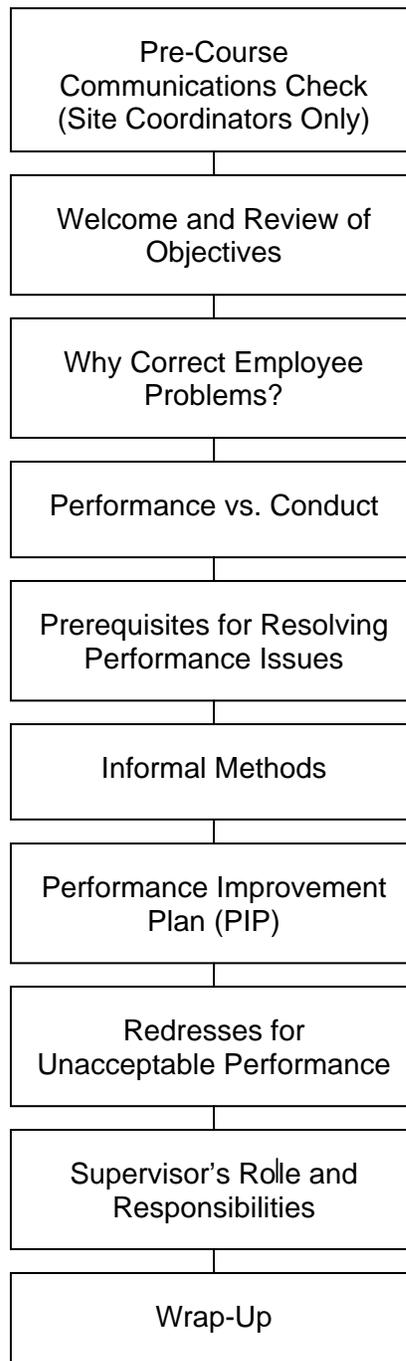
- List 3 reasons why it is important for supervisors to deal with employee problems in the workplace.
- Explain the difference between an employee performance issue and an employee conduct issue.
- Recognize and apply the prerequisites for resolving employee performance issues.
- List informal methods for resolving performance issues that you can use before implementing a formal Performance Improvement Plan (PIP).
- Explain when a PIP must be established.
- List redresses for unsatisfactory performance.
- Describe the supervisor's role and responsibilities in resolving employee performance issues.

Site Point-of-Contact Responsibilities

The TEL Station Site Point-of-Contact must reserve the training room, notify employees that the park will be participating in this TEL training event, make sure the Participant Guide is available to students, set up the TEL Station on the day of the training, make sure students sign in on the Student Roster form, and finalize the roster in My Learning Manager.

Resolving Performance Issues

Course Map



Why Correct Employee Problems?

For many supervisors, dealing with employee issues, especially those that may have a negative impact on the workplace, is about as appetizing as some of the main dishes on the TV show “Fear Factor.” Addressing and resolving performance issues is among the most central functions of a supervisor, yet this role can cause a great deal of discomfort for both employee and supervisor. We’re here today to help you manage the process in a way that helps to ensure that you and your employees are productive and satisfied.

Why do YOU think it is important for supervisors to deal with employee problems in the workplace?

1. _____

2. _____

3. _____

Case Study: Tom, the Visitor Use Assistant

Throughout today’s course, we will be analyzing a hypothetical employee case involving a Visitor Use Assistant that you supervise. You will be given some background information on Tom, who has begun to demonstrate some problems. At each stage of the analysis, you will be given information to help you to determine the best course of action to help Tom resolve these issues.

<i>Tom, the Visitor Use Assistant</i>
<ul style="list-style-type: none">• Permanent employee• 18 months in present position• Problems with balancing cash drawer• Confrontational attitude• No previous efforts to correct problems

Performance vs. Conduct

How do you know which course of action to take? The first thing you must do is to determine whether the issue is one of performance or conduct.

A *conduct* problem is....



A *performance* problem is....

How Do I Handle the Problem?	Employee Assistance Program (EAP)	Employee Assistance Program (EAP)
Is it a conduct problem? → Disciplinary action Is it a performance problem? → Performance management system	<ul style="list-style-type: none">• Grief• Stress• Substance abuse• Domestic problems	<ul style="list-style-type: none">• Confidential• Free initial assessment• 3-6 visits• Resource for supervisors

Exercise: Performance or Conduct?

At your site...

- Come up with an example that illustrates an employee conduct problem.

- Come up with an example that illustrates an employee performance problem.

Be prepared to share your examples without letting your classmates know which type of example (conduct or performance) it represents.

Prerequisites for Resolving Performance Issues

Supervisor's Checklist

Supervisory Action	(Circle One)	
1. Have I determined that this is poor performance and not misconduct?	Yes	No
2. Am I following the timelines required for the annual performance management cycle and documenting this on form DI-3100?	Yes	No
a. Reviewing the performance plan with the employee within 60 days of the start of the rating period.	Yes	No
b. Conducting at least 2 progress review counseling sessions during the rating period.	Yes	No
c. Reviewing the annual evaluation within 60 days after the end of the rating period.	Yes	No
3. Have I communicated the critical elements for acceptable performance to the employee? Are they in danger of failing? Are they clear and reasonable? (See following page for SMART guidelines for critical elements.) *Discuss with Supervisor- Employees Performance Improvement Plan (PIP)	Yes	No
4. Have I communicated to the employee:	Yes	No
a. they are in danger of failing a critical element?		
b. a specific example or documentation to support the non-achievement?		
5. Should an employee fail a critical element:	Yes	No
a. have I discussed with reviewing official/your supervisor?		
b. have I provided the reviewing official with adequate documentation?		
6. Have I counseled the employee on how to improve to an acceptable level?	Yes	No

Prerequisites, cont'd.

Writing SMART Critical Elements

Critical elements are used to describe expected performance in terms that are clear, measurable, and achievable. To help you to write critical elements that meet these standards, you may wish to use the SMART acronym.

Critical elements must be:



S _____

M _____

A _____

R _____

T _____

Writing SMART critical elements helps you and the employee to communicate more effectively about what performance is expected and how it will be evaluated.

Absolute Standards

Be sure that your critical elements don't OVER-STATE performance standards. In the past, an "absolute" standard (must be achieved 100% of the time) was only legally necessary in certain specific cases, where failure to achieve could result in death, serious injury, breach of security or great monetary loss. However, recent court decisions have allow any supervisor to use absolute standards if they are communicated to the employee, are reasonable, and attainable.

Prerequisites, cont'd.

The “Drop File”

The “drop file” is an important supervisory tool, and can be used for much more than merely correcting employee performance and conduct. This file should contain documentation of counseling sessions with the employee, evaluations, personnel forms, and notations that can be used to develop performance ratings, justify awards, and address other issues.

Be sure to document your communications with your employee and their responses. This is important to be able to demonstrate that you have provided an adequate amount of feedback and resources to the employee, and will help you to make your case if you need to move to a more formal method. **PLEASE NOTE: The employee has a right to know the drop file exists and have access to the file.**

Drop File

- Document counseling sessions
- Work or notations that will support an award
- Copies of SF-50's

Employee has a legal right to know the file exists and have access to the file.

Informal Methods for Resolving Performance Issues

You've determined that your employee has demonstrated a performance problem. You have SMART critical elements in place and have communicated with your employee your expectations for performance. What do you do next?

Before you enter the formal process, called the "Performance Improvement Plan" (PIP), be sure to thoroughly examine informal ways to help correct and maintain employee performance.

There are many ways to informally address performance issues. Be creative!

Examples of Informal Methods

1. _____

2. _____

3. _____

4. _____

5. _____

Reconsideration Process

If an employee is dissatisfied with an element rating that would affect the Summary Rating, they can begin the Reconsideration Process. The process includes either an informal or formal procedure, setup with specific timeframes, with the final decision remaining within the Bureau/Office.

DOI Proposed Process

Informal Reconsideration Process

The employee may submit comments, written or oral, to the Rating Official within 30 calendar days of receipt of the Employee Performance Appraisal/Rating-of-Record, which will be included in the Rating-of-Record file for the employee.

Rating Official provides the decision:

- Verbal or written
- Within 7 calendar days after employee submittal
- If the employee information is sufficient to change the rating, the Rating Official will issue a new rating. Any applicable personnel action will be taken such as within-grade increase.
- If the employee information is insufficient to change the rating, the Rating Official will, in writing, explain why and inform the employee they may file a Formal Reconsideration.

Formal Reconsideration Process

If the employee decides to pursue the formal process, they must in writing, submit pertinent information, within seven calendar days of the issuance of the Informal Decision. Use of official time and materials is allowed if reasonable.

The Human Resource Office will review the informal decision.

- HR Office will determine if it is complete or incomplete. If it is incomplete, it will be returned to the employee to complete.

Once complete, the HRO will determine if it is appropriate for acceptance.

- If it is determined that it is not acceptable, it will be returned to the employee with an explanation.
- If it is determined it is acceptable, it will be referred to the Reconsideration Official within 14 calendar days.
- The employee has the right to representation.

Be aware that this review is limited to reconsideration of rating only on that critical element that will impact the Rating of Record. Nothing else will be considered.

The Deciding Official is the employee's supervisor's supervisor, even if they have no or minimal knowledge of the history. This individual will:

- Review the evidence
- Secure additional work-product or other materials
- Consult with the necessary individuals
- Within 20 calendar days of receipt of the file from the HRO, the Deciding Official shall, in writing, make a decision.
- If there is sufficient reason to change the rating, a new Rating-Of-Record will be issued.
- If there is insufficient reason to change the rating, an explanation as to why will be transmitted.
- A copy of the decision is given to the employee and filed in the Employee's Performance File. The decision is Final, the employee has no further right of review.

Performance Improvement Plan (PIP)

Exercise: Put Yourself in the Employee's Place **(30-Second Brainstorm)**

Imagine that your supervisor has told you that your performance is unsatisfactory. That is all you have been told.



What questions would you have for your supervisor?

- _____
- _____
- _____
- _____

“Opportunity to Improve” Letter

After you have explored informal ways to address employee performance issues, and have documented your counseling sessions with the employee, you may now need to move to a more formal method, with more severe consequences, with which to resolve these issues.

The “Opportunity to Improve” letter is the formal mechanism by which employee performance issues are addressed. This letter lays out the Performance Improvement Plan, or PIP, under which the employee’s performance will be evaluated for a specific period of time. If the employee fails to perform during that time, with the expectations and resources provided, he or she may be terminated from their position.

Performance Improvement Plan (PIP), cont'd.

Specifically, the “Opportunity to Improve” letter or PIP:

1. Identifies the **critical elements** under which the employee’s performance is unsatisfactory and specific **examples of the deficiencies**.
2. Identifies the **specific period of time** the employee is being given an opportunity to demonstrate acceptable performance.
3. States the **improvements that are expected**.
4. States what you, as the supervisor, will do, and what **special training** (if appropriate) will be given to assist the employee to improve.
5. States that if the employee’s performance does not improve to a minimally successful level, a **proposal may be issued to separate the employee** from his/her position.
6. States the availability of the **Employee Assistance Program (EAP)**.

Remember to be clear and specific about what is wrong with the performance and what improvements are expected.

Opportunity to Improve Letter

- Identify critical element(s) where performance is unacceptable
- Identify time period for improvement
- State what improvements are expected
- State what you, as the supervisor, will do to assist
- State what will happen if they do not improve
- Availability of EAP

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Appendix B contains a sample “Opportunity to Improve” letter.

Exercise: Ways To Help

Take a few moments to think about these questions:



What are some realistic ways that you would assist your employee?

What have you seen that has worked well for yourself or others?

Redresses for Unsatisfactory Performance

You've tried everything, from the informal to the formal. Your employee has just failed to achieve while under a PIP. What do you do now?

There are several options available:

1. Involuntary Reassignment

2. Reduction in Grade

3. Removal from Service

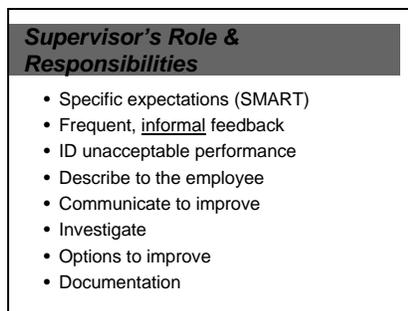
The option you choose will depend on the circumstances, specific problems identified during the process of correcting the performance, needs of your work station, available positions, and other factors. Be sure to work closely with your SPO to determine the best course of action. **For Reduction in Grade and Removal from Service, the employee must be given 30 days' advance notice in writing.**

Supervisor's Role and Responsibilities

As a supervisor, it is your responsibility and in fact a major emphasis in your own critical elements that you assist employees in achieving the desired results. It is YOUR responsibility to identify unsatisfactory performance and take the necessary steps to address these issues.

As a supervisor, you should:

- Provide specific performance expectations to your employee (SMART critical elements)
- Provide frequent, informal feedback
- Identify unsatisfactory performance
- Describe it in specific terms, with examples, to the employee
- Clearly communicate your expectations for improvement to the employee
- Investigate reasons for poor performance (see Appendix A for a sample worksheet to guide you)
- Provide options to help improve employee performance
- Maintain documentation of employee work performance and counseling/feedback sessions, both positive and negative



To Receive Credit for this Course

1. PRINT your name on the attendance roster.
2. UPON RECEIPT OF E-MAIL NOTIFICATION, complete the online course evaluation.

Appendix A: Interview Worksheet-Performance

Use this form to help you document and communicate your observations to your employee, investigate reasons for poor performance, and determine options to improve.

Employee: _____ Date: _____

Supervisor: _____ Time: _____

What did you observe?	
When and where did it occur?	
Who was involved?	
Has it happened before? How often?	
What was the impact on the workplace?	
ASK: Why did it happen?	
ASK: What were the circumstances?	
ASK: Did the employee seek assistance?	
Notes/Follow-Up	

Appendix B: Sample Letter to Inform Employee of Opportunity to Improve Performance

[NOTE: Brackets below contain supervisory instructions and should not be included in the final letter. All formal performance improvement letters should be reviewed by the Personnel Office before being issued.]

Dear Les Wurk:

This letter *[or memorandum]* confirms our discussion of *[insert date]*, during which I informed you that you are failing to meet the critical element # *[insert number]* of your position. *[If applicable, you can summarize any informal counseling you provided to the employee in assisting him/her in improving performance.]*

Because your current performance is unsatisfactory, you will now be provided a formal opportunity to demonstrate that you can perform at the “Fully Successful” level with respect to the critical elements and performance indicators listed below. This formal opportunity will begin on *[insert date]* and end on *[insert date]*. If, as of the end of this period, your performance has not improved to the “Fully Successful” level, or if your performance does improve to the “Fully Successful” level but you do not sustain that level for at least 1 year, then you may be reassigned or a proposal may be issued to remove you from the Service or reduce you in grade. *[If applicable, you must postpone the annual rating until after the completion of the opportunity-to-improve period.]* Your annual rating for the period from *[insert date]* through *[insert date]* will be postponed until after you’ve completed this opportunity period.

[If the employee is due to receive his/her within-grade increase (WGI), due to the acceptable level of competence determination, the WGI can be postponed until the end of the opportunity-to-improve period.] You will complete your waiting period for a within-grade increase on *[insert date]* (i.e., during your opportunity-to-improve period). Because I must certify that you are performing at an acceptable level of competence in order for you to receive your step increase, I have decided to postpone my decision regarding whether or not your performance is at an acceptable level of competence until you complete your opportunity-to-improve period. At that time, I will inform you in writing of my decision with respect to your within-grade increase. If you have demonstrated performance at an acceptable level of competence, you will receive your within-grade step increase retroactive to *[insert date]*.

The critical element(s) that you are failing and examples of your unsatisfactory performance follow:

[State the critical element for which the employee was rated Minimally Successful or Unsatisfactory, followed by representative examples of performance for each element. Examples should be concise, direct, and easy to understand, with enough specificity so that the employee has sufficient information to know what the performance deficiencies are. As applicable, this could include information on what the employee did (or did not do) with reference to specific dates, places, cases, etc., and what the employee should have done. Examples should not be broad, vague, or imprecise. As appropriate, examples should include reference to required procedures, counseling, or instructions given previously concerning the matter, and any harm caused by or resulting from the deficiency. Each example listed should have supporting documentation (e.g., if a draft letter is mentioned as an example in the opportunity letter, a copy of the draft letter should be kept as supporting documentation). The following are examples of how the elements should be listed and how the examples of "fails to meet" performance should be written.]

Critical Element: "Historic building restoration plan will be implemented on 5 buildings and a 75% completion is targeted by September 30. The employee maintains and demonstrates technical expertise in area of assigned responsibility. Plans, organizes, executes work logically. Anticipates and analyzes problems clearly and determines appropriate solutions. Work is correct and complete. Assesses tasks objectively and researches and documents assignments carefully. Weighs alternative courses of action, considering long- and short-term implications. Makes and executes timely decisions.

You have been rated Minimally Successful or Unsatisfactory in this critical element of your position.

[You are advised to elaborate on your interpretation of each indicator.]

Example. Booker T. Washington Project. Your draft letter was very critical of the building restoration project, yet it did not present a good case for your recommendation that the project be dropped. It did not discuss the potential damage to the current structure, safety considerations, nor a projected total cost-run analysis. Further, you did not present alternative plans for restoration.

[Include advice or guidance as to what must be done to bring the performance up to an acceptable level. This could include such things as how time would be best spent (prioritizing and planning), suggested sources of assistance or information, ways or techniques of performing work, formal or informal training available, etc. In conjunction

with the critical element and counseling sessions or memoranda, this paragraph should make clear exactly what is expected of the employee. An example follows.]

During your opportunity period, you will need to do the following in order to meet the fully successful level in the critical elements listed previously:

You must improve your ability to quickly and independently consider the range of possible impacts, both positive and negative, attributable to a project; prioritize your concerns with regard to the resources involved and the significance of those resources; assess the degree of impact, and our legislative ability to influence change; and prepare the documentation needed to adequately support your conclusions. You should read through the project plans when they are assigned to you and plan and prioritize your work effectively so that you will be able to complete it on time.

[Describe the supervisory assistance and support that will be provided to the employee. This could include any specific work reviews and/or counseling sessions planned, or other active assistance/training planned on work techniques, time management, or technical issues. An example follows.]

You may expect the following from me to help you improve to an acceptable level:

1. I will make assignments (other than routine assignments) to you in writing. I will also discuss the work assignment with you before you begin.
2. As you work on the assignment, I will be available to discuss your progress, questions, and problems. Feel free to approach me at any time to discuss your work.
3. I will meet with you every 2 weeks, or as needed, to give you ongoing feedback on your progress on each performance indicator. As you complete each assignment, I will personally review it and meet with you in order to provide you with feedback. At the conclusion of each assignment, I will provide you with a memo that conveys my appraisal of your work on that assignment. Throughout this process, I will strive to provide constructive feedback to help you improve your performance.

To attain the minimum standard for retention in your position, you must meet all the performance indicators listed in the Critical Element above. Your failure to do so will result in either a reassignment to another position or a proposal to remove you from the Service or reduce you in grade.

If you believe that personal, medical, or other problems are reasons for your performance difficulties, you may provide documentation of the medical condition or raise these issues. You may also contact the Employee Assistance Program (EAP) at *[insert telephone number]* or myself for assistance. If you wish to provide medical documentation, the Employee Relations Specialist in the Regional Personnel Office at *[insert telephone number]* will provide you with information concerning medical documentation requirements.

During your opportunity period, I will be monitoring your performance closely and, at the end of the period, I will evaluate your work and make a determination whether your performance during the period has reached the level required for retention in your position. You will be informed soon thereafter of whatever further action is to be taken.

If you have any questions on this matter, feel free to contact me. I am available to answer your questions and to assist you in improving your performance during this period.

Sincerely,

Mr. Manny Jer
Field Supervisor

[NOTE: nN a copy of the letter, type the following for the employee to sign:]

“I acknowledge receiving this document.”

Employee Signature

Date

Appendix C: Sample Memorandum Indicating Satisfactory Performance

[NOTE: All formal performance improvement letters should be reviewed by the Personnel Office before being issued.]

Memorandum

To: Les Wurk, Park Ranger
From: Manny Jer, Supervisor
Subject: Improvement of Performance to an Satisfactory Level

In a letter to you dated *[insert date]*, I informed you that your performance was unsatisfactory in the following critical element:

Critical Element: "Historic building restoration plan will be implemented on 5 buildings and a 75% completion is targeted by September 30. " The employee maintains and demonstrates technical expertise in area of assigned responsibility. Plans, organizes, executes work logically. Anticipates and analyzes problems clearly and determines appropriate solutions. Work is correct and complete. Assesses tasks objectively and researches and documents assignments carefully. Weighs alternative courses of action, considering long- and short-term implications. Makes and executes timely decisions.

You were also informed that you would be given an opportunity to demonstrate improved performance with respect to the above specified critical element, and that I would be evaluating your performance during that period. Based on my evaluation of your performance in the critical element, I am pleased to inform you that your performance has reached the level required for retention in your position. Accordingly, no further action will be taken to remove you or to reduce you in grade for your unsatisfactory performance.

Your performance, of course, must continue to be satisfactory. In accordance with Office of Personnel Management Regulations, if your performance again becomes unsatisfactory before *[insert date (choose date that is 1 year after the date on which the initial opportunity period began)]*, I may recommend your removal or reduction-in-grade without affording you an additional opportunity to improve your performance. I therefore encourage you to continue your efforts.

Please let me know if you have any questions concerning this matter.

Appendix D: Reconsideration Written Request to Human Resource Office

These seven items must be included:

1. Employee organization and duty station;
2. Copy of the annual appraisal for which a reconsideration is being requested;
3. Specific area(s) or details of the annual appraisal for which the reconsideration is being requested;
4. The identity of the employee's designated representative (name, title, address, and telephone number), if applicable;
5. Why the employee believes the rating is in error, with supporting facts and documents;
6. The action the employee requests of the reconsideration official or the reconsideration committee; and
7. A copy of the written decision of the informal reconsideration by the rating official, a statement confirming that the informal process was followed, or a written request to move directly to the formal stage.

Appendix E: RATING-OF-RECORD Reconsiderations

I. INTRODUCTION:

The following represents the National Park Service's implementation guidelines for employee-initiated Rating-of-Record reconsiderations consistent with Department policy identified in Section 4. of 370 DM 430, of the Performance Appraisal Handbook.

II. AUTHORITY:

370 DM 430, 1.5(c), Performance Management System¹

370 DM 430, Section 4, Reconsideration Process, Performance Appraisal Handbook²

370 DM 770, Conflict Resolution Program³

III. RESPONSIBILITIES:

Associate Director, Regional Director, Chief, USPP, or Center Managers: Shall ensure that all subordinate managers fully implement this guidance in an equitable manner that is consistent with law, regulation and policy.

Servicing Human Resource Offices: Shall provide support to Rating, Reviewing and Deciding Officials regarding both Informal and Formal Reconsiderations identified within this guidance. May assume Reconsideration jurisdiction at any stage in the proceedings. Upon notification by either the Rating or Deciding Official, shall effect changes in job status as may be required by decision on reconsideration. For any Informal or Formal reconsideration process, shall maintain the Reconsideration File as a part of the Rating-of-Record file.

Supervisors: Those supervisors designated Rating Officials, shall hear employee initiated comments or complaints related to a request for reconsideration of a critical element(s) in a Rating-of-Record. Will clarify any misunderstandings and make all reasonable adjustments in a Rating-of-Record when, in the opinion of the Rating Official, the comment or complaint is sufficient to support an adjustment in a critical element(s).

¹ <http://www.doi.gov/hrm/guidance/curronly.htm>

² <http://www.doi.gov/hrm/guidance/curronly.htm>

³ <http://elips.doi.gov/elips/release/3300.htm>

Employees: Shall timely submit appropriate comments or complaints to the appropriate official, shall furnish sufficient documentation or other materials needed to clearly identify their concern or complaint, shall timely communicate with officials as prescribed in this guidance and shall specify the adjustment sought in a Rating-of-Record.

IV. DEFINITIONS:

Alternate Dispute Resolution Program is an employee/management process that is a fair, equitable and effective tool used to resolve workplace disputes at the earliest opportunity and at the lowest organizational level.

Collective Bargaining Agreement: An exclusive employee representation determined by appropriate authority.

Critical Element: A work assignment or responsibility of such importance that the employee's unsatisfactory performance on that element would result in a determination that the employee's overall job performance is unsatisfactory.

Days: Means calendar days.

Deciding Official: A management official who is designated to receive and attempt to resolve and/or decide Formal Reconsiderations and to participate in the alternate dispute resolution process as an official having authority to enter into an agreement. Where practical, this official should be at the next higher organizational level from that of the official having issued the Rating-of-Record.

Employee: An individual holding either a permanent, term or excepted service appointment, either full or part-time, subject-to-furlough, that is subject to annual performance appraisal and that is not excluded by statute from the appraisal process described herein.

Notice of Results and Options: A document produced out of the Alternate Dispute Resolution program that is addressed to the employee that outlines and documents the final disposition of an employee complaint submitted and provides notice to the employee of available options.

Rating Official: Ordinarily the employee's immediate supervisor, who evaluates employee job performance and assigns the summary rating. At the discretion of management, and in rare situations, the Rating Official may be another equally situated manager.

Rating-of-Record: The rating of performance prepared at the end of an appraisal rating period, or at any time during the rating period after the employee has been under performance standards for ninety (90) days, that measures overall job performance over the appraised period and constitutes the assignment of the summary rating.

Reconsideration File: A separate file, subject to the Privacy Act, which contains all documents related to the formulation and issuance of a Rating-of-Record. This includes, but is not limited to, the employees Performance Appraisal Plan, official Position Description, copies of employee work products upon which the rating was based, statements and documents submitted by the employee, statements from other individuals, interview notes, and other applicable Informal and Formal Reconsideration documents.

Reviewing Official: Generally the second-level supervisor, having the authority to review and approve ratings at the exceptional, minimally successful, and unsatisfactory levels.

Servicing Human Resources Office: The administrative office that provides personnel services to employees within a specific geographic area.

V. SCOPE:

This guidance applies to all non-SES employees not covered by Collective Bargaining Agreements who elect to contest the rating of one or more critical elements, where if any one element were changed, the outcome of the overall rating of record would change. Employees covered under Collective Bargaining Agreements, that include a process to reconsider a Rating-of-Record, are bound by those procedures and are excluded from using the guidance expressed in this document.

VI. DELEGATION:

Informal Reconsideration:

A management official designated as the Rating Official whose responsibility is to decide an Informal Reconsideration. Where the Rating-of-Record is determined "minimally successful" or "unsatisfactory," a Reviewing Official would hear the Informal Reconsideration.

Formal Reconsideration:

The Deciding Official must be at least one organizational level above the Rating Official. When the Rating-of-Record is determined "minimally successful" or "unsatisfactory," the Deciding Official must be at least one organization level above that of the Reviewing Official.

Rating or Reviewing Official is an Associate Director, Regional Director, Chief, USPP, Center Manager, or equivalent:

Where the Rating-of-Record was issued by these officials acting as either a Rating or Reviewing Official, the authority to delegate a Deciding Official for a Formal Reconsideration is made by the Human Capital Officer, or designee.

VII. SUBMITTING COMMENTS:

All employees may submit written comments for the record, either regarding an overall Rating-of-Record or concerning any critical element(s) therein without affecting the reconsideration process. Comments may include reference to relevant information, such as noteworthy accomplishments, that the Rating Official may have overlooked, or the comments may reference other relevant issues that the employee wishes to make a part of the formal record. The employee shall submit comments to the Rating Official within thirty (30) days of the employee's receipt of a Rating-of-Record. The Rating Official shall include those comments in the Rating-of-Record file for that employee.

Informal Reconsideration:

1. Employee:

a. Informal Reconsiderations provide employees a means to submit comments/materials that contest one or more critical element(s), where, if the individual rating(s) were changed, the overall Rating-of-Record would be changed. To initiate an Informal Reconsideration, an employee must:

1. submit either oral and/or written comments that provide the basis for contesting the rating of critical element(s);
2. clearly state that the comments represent the employee requesting an Informal Reconsideration of a Rating-of-Record;
3. identify the specific element(s) being contested;
4. state specifically what change in rating is requested and why;
5. submit supporting documentation, if any, and;
6. submit⁴ the comments to the Rating or Reviewing Official within seven (7) days of the employee's receipt of the Rating-of-Record.

b. As an alternative, the employee may elect to contest the Rating-of-Record using alternate dispute resolution which may be accessed through the Alternate Dispute Resolution Program, at: <http://www.doi.gov/core/index.html>.

⁴ For an oral submission to meet the seven (7) day time requirement, the employee need only request a meeting with the Rating Official within the seven days that is sufficient to place the Rating Official on notice that the subject of the meeting will concern the Rating-of-Record.

2. Rating or Reviewing Official:

a. Upon personal receipt of an employee's request for an Informal Reconsideration, the Rating or Reviewing Official shall communicate a decision to the employee within seven (7) days.⁵ Where an employee submits only an oral reply, the Rating or Reviewing Official, or their designee, shall prepare a written summary. A copy of this written summary is given to the employee and placed in the Reconsideration File. If the employee makes significant changes to the summary, such changes are also made part of the Reconsideration File.

b. If the Rating or Reviewing Official determines that the information presented by the employee is sufficient to change the rating of critical element(s), and that such change will result in the change of the overall Rating-of-Record, the Rating or Reviewing Official will issue a new Rating-of-Record. The superceded Rating-of-Record will be maintained only in the Reconsideration File for a period of five (5) years, when it will be destroyed. The new Rating-of-Record will be issued to the employee, with a copy maintained in the Reconsideration File. The Rating or Reviewing Official shall timely initiate any applicable personnel action, such as a within-grade increase, the employee may be due based upon the new Rating-of-Record. In addition, consideration will be given to a quality-step-increase, promotion action, etc., as appropriate, based on the new Rating-of-Record.

c. If the Rating or Reviewing Official determines that the information is insufficient to change the rating of a critical element(s) sufficient to change the overall summary rating, the Rating or Reviewing Official will, in writing:

1. identify the element(s) being contested by the employee;
2. summarize the employee's comments and documents received in support of the request for reconsideration;
3. advise that all comments and documents were fully considered;
4. explain the basis how the submitted materials are insufficient to change the contested element(s);⁶
5. notify the employee he/she may file a Formal Reconsideration within seven (7) days from receipt of the Rating or Reviewing Official's decision on Informal Reconsideration or within fifteen (15) days from issuance of a

⁵ The Rating Official's time to communicate a decision begins to run upon receipt of the employee's comments, unless prior commitments such as scheduled official travel or pre-scheduled leave provides for a legitimate delay. Any legitimate delay should be communicated to the employee in writing to include a date that a decision will be anticipated.

⁶ Where more than one element was contested, but where the comments or documents were determined insufficient to change all elements contested, the employee should be advised of those elements changed and advised whether the changes were sufficient to change the overall rating of record.

Notice of Results and Options, if not satisfied with the Informal Reconsideration decision, and;

6. provide the name, address, and telephone number where the request for Formal Reconsideration should be submitted.

Formal Reconsideration:

1. Employee:

a. Employees may seek further review, at the conclusion of the Informal Reconsideration step or upon issuance of the Notice of Results and Options, if the rating of an individual critical element(s) and/or the Rating-of-Record was not changed to the employee's satisfaction.

b. To file a Formal Reconsideration, the employee shall submit written notice that will:

1. identify his/her position title, duty station, and grade;
2. identify the specific element(s) and reasons why the element(s) was rated incorrectly;
3. state the requested changes to the Rating-of-Record in the Formal Reconsideration;
4. submit a copy of the Informal Reconsideration or a copy of the Notice of Results and Options;
5. submit a copy of the Rating-of-Record being contested;
6. submit supporting documents and facts;
7. state the name, title, address, and phone number of any designated representative, and state that such person shall represent the employee in the matter of the Formal Reconsideration, and;
8. sign and date the submission in original ink.

c. The employee shall submit the above information to his/her servicing Human Resources Office (HRO) within seven (7) days from issuance of the Informal Reconsideration decision or within fifteen (15) days from issuance of a Notice of Results and Options.

d. Employees may represent themselves, be accompanied by, or elect to be represented by an attorney or other individual of their choosing,⁷ unless such representation would result in a conflict of interest or position, conflict with the priority needs of the National Park Service, or give rise to unreasonable costs to the government. Where an employee's representative is

⁷ Representation by an attorney or other person designated by the employee is allowed only at the Formal Reconsideration step.

disallowed, the employee may appeal that decision to the Human Capital Officer, National Park Service, 1201 Eye Street NW, Washington, D.C. 20005. Such appeal should be in writing and be submitted within ten (10) days of the date the employee was notified their representative was disallowed. Such request will interrupt the Deciding Official's processing time for any Formal Reconsideration.

2. Servicing HRO:

a. Within fourteen (14) days of receiving a request for a Formal Reconsideration, the servicing HRO shall either:

1. If the materials submitted are complete, the servicing HRO shall refer a copy of the employee's request for Formal Reconsideration, all materials submitted in support of that request, and a copy of the Reconsideration File, that at a minimum shall contain:
 - the Rating-of-Record for which a Formal Reconsideration is requested;
 - work product materials used by the Rating or Reviewing Official to issue the Rating-of-Record;
 - materials and comments submitted by the employee in support the Informal Reconsideration;
 - materials relied upon by the Rating or Reviewing Official during the Informal Reconsideration, and;
 - notice of changes granted to any critical element(s) during the Informal Reconsideration.
2. Where the Rating or Reviewing Official was an Associate Director, Regional Director, Chief, USPP, Center Manager, or equivalent, and where the Rating-of-Record is determined "minimally successful" or "unsatisfactory," the materials for Formal Reconsideration are referred to the Human Capital Officer, or designee, National Park Service, 1201 Eye Street NW, Washington, D.C. 20005, for assignment to an appropriate management official;
3. If the materials are incomplete, the HRO shall notify the employee in writing of what information is missing. The employee is provided a reasonable amount of time to submit the missing information and is advised that failure to submit such material within the time provided will result in the rejection of the request for Formal Reconsideration, or;
4. If the materials submitted consist wholly of matters excluded from coverage, or if the materials are submitted outside the seven (7) days from issuance of the Informal Reconsideration decision or fifteen (15) days from issuance of the Notice of Results and Options, the employee is notified in writing that the request for Formal Reconsideration is rejected with an explanation for that decision.

b. Ensure all correspondence to the employee is either hand delivered, with a signed acknowledgement of receipt, or is mailed both by regular mail and via certified mail/return receipt requested.

c. If an employee's request for a representative is disallowed, the request is rejected due to matters wholly excluded from coverage, or if the appeal is submitted outside the seven (7) days from the Informal Reconsideration or fifteen (15) days from issuance of the Notice of Results and Options, the employee is notified, in writing,⁸ of the reasons and that an appeal may be filed.

To file an appeal, the employee should:

1. submit the appeal in writing within ten (10) days of the employee's notification of a decision for which this appeal is applicable to the Human Capital Officer, National Park Service, 1201 Eye Street NW, Washington, D.C. 20005;
2. identify his/her position title, duty station and grade;
3. submit a copy of the document that caused this appeal;
4. state the reasons why the decision should be changed, and;
5. be advised that any appeal will interrupt any Deciding Official's time to consider any Formal Reconsideration, if applicable.

3. Deciding Official:

a. Only one person may be designated a Deciding Official. Generally, the person designated should have no or only minimal knowledge of the specific history for the rating process for which he/she has been designated. Once designated, the Deciding Official will:

1. review all materials submitted by the employee and that contained within the Reconsideration File
2. secure additional work-product or other materials as deemed necessary and appropriate, and;
3. consult the employee, the employee's representative (if any), the Rating Official, the Reviewing Official, other staff experts as deemed necessary and appropriate;

b. The HRO shall provide the Deciding Official all assistance needed for that official to reach a decision on a Formal Reconsideration

⁸ Either hand delivery with signed acknowledgment or mailed both by regular mail and via certified mail/return receipt requested.

c. Within twenty (20) days⁹ of receipt of the Reconsideration File from the HRO, the Deciding Official shall communicate, in writing, a decision to the employee regarding the employee's request for a Formal Reconsideration.

d. If the Deciding Official determines there is sufficient reason to change the rating of a critical element(s), and that such change will result in the change of the overall Rating-of-Record, the Deciding Official will issue a new Rating-of-Record. The Deciding Official will direct the servicing HRO to destroy all record of the previous Rating-of-Record and shall timely initiate any applicable personnel action, such as a within-grade increase, the employee may be due based on the new Rating-of-Record. In addition, consideration will be given to a quality step increase, promotion action, etc., as appropriate based on the new Rating-of-Record.

e. If the Deciding Official determines there is insufficient reason to change the rating of a critical element(s) sufficient to change the overall summary rating, the Deciding Official will, in writing:

1. identify the element(s) being contested by the employee;
2. summarize the employee's comments and documents received that contested the critical element(s) within the Rating-of-Record, and Informal Reconsideration decision;
3. advise that all comments and documents were fully considered;
4. explain why the submitted materials are insufficient to change the contested element(s),¹⁰ and;
5. advise that this Formal Reconsideration decision represent the full and final decision on the matter of the identified Rating-of-Record.

VIII. SPECIAL CONSIDERATIONS:

Employees shall be free from restraint, interference, coercion, discrimination or reprisal for having contested a Rating-of-Record.

⁹ The Deciding Official's time to communicate a decision begins to run upon personal receipt of the employee's comments, unless prior commitments such as scheduled official travel or pre-scheduled leave provides for a legitimate delay. Any legitimate delay should be communicated to the employee in writing to include a date that a decision will be anticipated.

¹⁰ Where more than one element was contested, but where the comments or documents were determined insufficient to change all elements contested, the employee should be advised of those elements changed and advised whether the changes were sufficient to change the overall Rating-of-Record.

At any time during either an Informal or Formal Reconsideration Process, an employee may initiate a complaint of discrimination by contacting a local or regional Equal Opportunity Counselor.

Confidential counseling services for employees are available without cost through either a local or regional Employee Assistance Program. Information on this service may be obtained by contacting the servicing HRO

IX. USE OF OFFICIAL TIME AND MATERIALS:

Employees representing themselves are allowed a reasonable amount of official duty time to present both Informal and Formal reconsiderations. Employees may also use government office equipment on a limited basis during official duty when presenting a reconsideration reply.¹¹

If the employee chooses and management approves, an agency employee as a representative, that employee is allowed up to eight (8) hours of official duty time to review the Rating-of-Record, review supporting materials, seek advice and assistance in preparing a reply, and secure affidavits and other relevant statements. Requests for estimates of official time required for an agency employee acting as an employee's representative are submitted, in advance, and prior to each occurrence to the appropriate immediate supervisor for approval.

Postage paid Federal government envelopes may not be used for purposes of submitting reconsideration materials.

¹¹ <http://www.doi.gov/ethics/docs/internet.html>

Appendix F: Helpful Web Sites

Department of the Interior:

- DOI Personnel Manager
www.doi.gov/hrm/pmanager

Office of Personnel Management:

- Resource Center for Addressing and Resolving Poor Performance
www.opm.gov/er/poor/ppp_tips.asp
- Employee Relations Performance-Based Actions guidance
www.opm.gov/er/performance.asp

Guidance

Human Resource Guidance at: www.doi.gov/hrm/guidance/curronly.htm

- 370 DM 430, Performance Management System
- Performance Appraisal Handbook

Any questions should be directed to your servicing Human Resource Office