



UNITED STATES MARINE CORPS
MARINE CORPS AIR STATION
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StaO 12432.1A
3BF
02 SEP 1997

STATION ORDER 12432.1A

From: Commanding Officer
To: Distribution List

Subj: REDUCTION IN GRADE AND REMOVAL BASED ON UNACCEPTABLE PERFORMANCE

Ref: (a) CPI 432 (NOTAL)
(b) 5 CFR 432 (NOTAL)
(c) StaO 12430.3B

Encl: (1) Definitions
(2) Procedures for reduction in grade and removal based on unacceptable performance

1. Purpose. To implement the policies and procedures of references (a) and (b) as defined in enclosures (1) and (2).

2. Cancellation. StaO 12432.1.

3. Coverage. This Station Order applies to all appropriated fund civil service employees.

4. Policy. It is the policy of the Marine Corps Air Station to remove employees from their current position if their performance is determined to be unacceptable as outlined in references (a), (b) and (c).

5. Action. The policies and procedures contained in the enclosures shall be applied in conjunction with reference (c) in the establishment of critical elements and the identification of performance standards and for reduction in grade and removal based on unacceptable performance.

6. Summary of Revision. This revision contains a substantial number of changes and should be reviewed in its entirety.


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DISTRIBUTION: C

DEFINITIONS

1. Critical element. A component of a position consisting of one or more duties and responsibilities which contributes toward accomplishing organizational goals and objectives, which are of such importance that failure to perform these duties would effect the organization's mission and would result in unacceptable performance in the position.
2. Days. Calendar days.
3. Official. An employee who has been delegated authority to propose or decide an action under this order.
4. Opportunity to demonstrate acceptable performance. A reasonable chance for the employee whose performance has been determined to be unacceptable in one or more critical elements to demonstrate acceptable performance in the critical element(s) at issue.
5. Reasonable time. An amount of time commensurate with the duties and responsibilities of the employee's job which is sufficient to allow the employee to show whether or not the individual can meet minimum performance standards.
6. Reduction in grade. The involuntary assignment of an employee to a position at a lower classification or job grading level. For purposes of this instruction, a reduction in grade is always the first step or entry salary level of the grade to which the employee is reduced.
7. Removal. Means the involuntary separation of an employee from employment.
8. Unacceptable performance. Performance of an employee that fails to meet established performance standards in one or more critical elements of the employee's position.

**PROCEDURES FOR REDUCTION IN GRADE
& REMOVAL BASED ON UNACCEPTABLE PERFORMANCE**

1. Purpose. These procedures establish the policy and guidance for proposing and taking action based on unacceptable performance.
2. Exclusions. The following actions are excluded from the provisions of this order.
 - a. An action that has been initiated under authority of the Special Counsel (5 USC 1206).
 - b. An action taken in the interest of national security (5 USC 7532).
 - c. An action taken under a provision of statute, other than one codified in 5 USC, which excepts the action from the provisions of 5 USC.
 - d. A reduction-in-force action.
 - e. A voluntary action initiated by the employee.
 - f. An adverse action for cause.
 - g. An action which terminates a temporary promotion within a maximum of two years and returns the employee to the position from which the employee was temporarily promoted, or reassigns or demotes the employee to a different position that is not at a lower grade or pay than the position from which the employee was temporarily promoted.
 - h. An involuntary retirement because of disability.
 - i. A termination in accordance with terms specified at the time the appointment was made.
 - j. An action against a re-employed annuitant.
 - k. A reduction to the grade previously held by a supervisor or manager who has not completed the supervisory or managerial probationary period.
 - l. The reduction in grade or removal of an employee in the competitive service who is serving a probationary or trial period under an initial appointment or who has not completed one year of current continuous employment under other than a temporary appointment limited to one year or less.

ENCLOSURE (2)

m. The reduction in grade or removal of an employee in the excepted service who has not completed one year of current continuous employment in the same or similar positions.

3. Delegation of Authority

a. The authority to sign a notice of proposed reduction in grade or removal for unacceptable performance is delegated through the chain of command to first line supervisors.

b. The following authorities are delegated through the chain of command to department heads provided that the deciding official is not the first line supervisor.

(1) Sign a decision of reduction in grade or removal for unacceptable performance.

(2) Extend the notice period in a proposed reduction in grade or removal for up to 30 calendar days.

4. Timing of actions

a. Once an employee has been afforded a reasonable opportunity to demonstrate acceptable performance, a supervisor may propose a reduction-in-grade or removal action if the employee's performance during or following the opportunity to demonstrate acceptable performance is unacceptable in 1 or more of the critical elements for which the employee was afforded an opportunity to demonstrate acceptable performance. Procedures for determining unacceptable performance are described in reference (c).

b. If an employee has performed acceptably for 1 year from the beginning of an opportunity to demonstrate acceptable performance (in the critical element(s) for which the employee was afforded an opportunity to demonstrate acceptable performance), and the employee's performance again becomes unacceptable, the supervisor shall afford the employee an additional opportunity to demonstrate acceptable performance before determining whether to propose a reduction in grade or removal.

c. A proposed action may be based on instances of unacceptable performance which occur within a 1 year period ending on the date of the notice of proposed action.

5. Employee entitlements: An employee whose reduction in grade or removal is proposed under this order is entitled to:

ENCLOSURE (2)

a. Thirty days advance written notice of the proposed action which identifies:

(1) Specific instances of unacceptable performance by the employee on which the proposed action is based.

(2) The critical element or elements of the employee's position involved in each instance of unacceptable performance.

(3) The name and title of the official designated to hear an oral reply and/or receive the written reply.

(4) The number of days that the employee is allowed to answer orally and in writing.

b. Be represented by an attorney or other representatives.

c. A reasonable amount of official time to prepare an answer to the advance notice, if the employee is otherwise in an active duty status.

d. A reasonable time, not less than seven days, to answer orally and in writing.

e. A written decision which:

(1) In the case of reduction in grade or removal specifies the instances of unacceptable performance by the employee on which the reduction in grade or removal is based.

(2) Is signed by an official in a higher position than the official who proposed the action.

(3) Specifies the employee's right of appeal to the Merit Systems Protection Board (MSPB) and right, when applicable, to file a grievance under negotiated grievance procedures, but not both.

(4) Provides the time limits for filing an appeal to MSPB, the address of the appropriated Board office for filing the appeal, a copy of the Board's regulations and a copy of the Board's appeal form.

f. A written decision to retain, reduce in grade, or remove must be made within 30 days after the expiration of the notice period.

g. The decision on a notice of proposed action must be delivered to the employee before the effective date of the action.

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6. The head of the activity may extend the 30 day notice period in 3a for more than 30 days with prior approval from the Workforce Effectiveness and Development Group, Office of Personnel Management, 1900 E. Street, N.W., Washington, D.C. 20415.

a. Employees in receipt of an advance notice may request additional time to respond orally and in writing. The official designated to accept the response may make a decision regarding such request subject to the time limitations set in these procedures.

b. An employee's choice of representative may be disallowed if such representation would result in a conflict of interest or position, a conflict with the priority needs of the activity, or would give rise to unreasonable cost to the Government. The terms of any applicable bargaining agreement govern representation for employees in an exclusive bargaining unit.

7. Role of the Human Resources Office (HRO)

a. Written performance warnings, notices of proposed action and written decisions will be reviewed by the HRO before delivery for procedural and evidentiary sufficiency.

b. The HRO will provide advice and guidance to individuals involved in reduction in grade or removal actions based on unacceptable performance.

c. The HRO shall maintain records required by paragraph 8 below.

8. Records

a. When an action is effected, all relevant documentation concerning a reduction in grade or removal based on unacceptable performance will be available for review by the affected employee and the employee's representative. As a minimum, these records shall consist of:

- (1) A copy of the notice of proposed action.
- (2) A copy of the employee's written answer, if any.
- (3) A summary of the employee's oral reply, if one was made.
- (4) A copy of the notice of decision and the reasons therefore.

(5) Copies of any supporting material including documentation regarding the opportunity afforded the employee to demonstrate acceptable performance.

ENCLOSURE (2)

b. The HRO shall maintain the record for a minimum of one year or until an appeal or complaint arising from an action under this Order is finally adjudicated, whichever is longer.

c. 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 for one year from the date of the advance written notice, any entry or other notation of the unacceptable performance for which the action was proposed shall be removed from any activity record relating to the employee.

ENCLOSURE (2)