



DEPARTMENT OF THE NAVY
NAVAL TRAINING CENTER
GREAT LAKES, ILLINOIS 60088-5000

NTCGLAKESINST 12432.1
(043)

21 MAY 1992

NTC GREAT LAKES INSTRUCTION 12432.1

From: Commander, Naval Training Center, Great Lakes

Subj: PERFORMANCE BASED REDUCTION-IN-GRADE AND REMOVAL ACTIONS

Ref: (a) 5 C.F.R. Part 432
(b) 5 C.F.R. Part 540
(c) CPI 432
(d) FPM Chapter 432

Encl: (1) Manual For effecting Reductions-in-Grade and Removal Based On Performance

1. Purpose. To implement procedures and guidance for Naval Training Center Consolidated Civilian Personnel Office (NTC CCPO) serviced activities to follow in effecting removals and reductions-in-grade based solely on unacceptable performance for all employees covered by the Performance Appraisal System (PARS) or the Alternative Performance Appraisal System (APAS), and performance below fully successful by Performance Management Recognition System (PMRS) employees, GM-13 through GM-15.

2. Background. References (a) through (d) provide guidance regarding taking reduction-in-grade and removal actions based on unacceptable performance by employees covered by PARS or APAS. This instruction also incorporates major changes in procedures for dealing with PMRS employees performing below the fully successful level, as implemented in references (a), (b) and (d).

3. Employees Covered. This instruction applies to all employees of CCPO serviced activities receiving Labor-Management Relations services except:

a. An employee in the competitive service who is serving a probationary or trial period under an initial appointment;

b. A re-employed annuitant;

c. A manager or supervisor returned to his or her previously held grade pursuant to 5 U.S.C. 3321 (a)(2) and (b);

d. An employee in the excepted service who has not completed one year of current continuous employment in the same or similar positions.

4. Actions Covered. This instruction applies to the removal or reduction-in-grade of:

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a. PMRS employees, based on performance below the fully successful level; and

b. PARS or APAS employees, based on unacceptable performance.

5. Actions excluded. The following actions are excluded from coverage of the provisions of this instruction:

a. An action imposed by the Merit Systems Protection Board (MSPB) under the authority of 5 U.S.C. 1206;

b. An action taken under 5 U.S.C. 7532 in the interest of national security;

c. A reduction-in-force governed by 5 C.F.R. 351;

d. A voluntary action by the employee;

e. An action that terminates a temporary or term promotion and returns the employee to the position from which temporarily promoted, or to a different position of equivalent grade and pay if the agency informed the employee that it was to be of limited duration;

f. A termination in accordance with terms specified as conditions of employment at the time the appointment was made;

g. The reduction-in-grade of a supervisor or manager who has not completed the probationary period under 5 U.S.C. 3321 (a)(2) if such a reduction is based on supervisory or managerial performance and the reduction is to be the grade held immediately before becoming a supervisor or manager in accordance with 5 U.S.C. 3321 (b);

h. 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;

i. A performance-based action taken under 5 C.F.R. 752.

7. Action. Addressees will ensure compliance with provisions of this instruction when effecting a removal or reduction-in-grade based solely on unacceptable performance by PARS or APAS employee or performance below fully successful by a PMRS employee.

8. Procedures. Where there is a conflict between procedures in enclosure (1) and those contained in a negotiated agreement with

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an exclusively recognized labor organization, the provisions of the negotiated agreement will take precedence and must be observed.



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Chief of Staff

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MANUAL FOR EFFECTING REDUCTIONS-IN-GRADE AND
REMOVALS BASED ON PERFORMANCE

1. Definitions

a. "Acceptable performance" means performance that meets an employee's performance requirement(s) or standard(s) at a level of performance above "unacceptable" in the critical element(s) at issue where the employee is covered by PARS or APAS. For those employees covered by the PMRS, acceptable performance is performance determined to be at fully successful or above in the critical element(s) at issue.

b. "Critical element" means a component of a position consisting of one or more duties and responsibilities that contributes toward accomplishing organizational goals and objectives and that is of such importance that unacceptable performance on the element would result in unacceptable performance in the position.

c. "Official" means an employee who has been delegated authority to propose or decide an action under this instruction.

d. "Opportunity to demonstrate acceptable performance" means 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.

e. "Performance Improvement Plan (PIP)" means the plan activities are required to provide to a PMRS employee whose performance in one or more critical elements has been determined to be below the fully successful level. As part of the plan, activities shall notify the employee of the critical element(s) in which he or she is performing below the fully successful level; describe the types of improvements that the employee must demonstrate to attain fully successful performance in his or her position; offer assistance to the employee in attaining fully successful performance; and provide the employee with a reasonable period of time, commensurate with duties and responsibilities of the employee's position, to demonstrate fully successful performance. Activities may include as part of the PIP other information and matters considered appropriate. The term "PIP" is sometimes used less formally to refer to the opportunity to improve which must be given to PARS or APAS employees when they demonstrate unacceptable performance.

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However, as used in this instruction, its meaning is restricted to what is required by statute for PMRS employees.

f. "Reduction-in-grade" means the involuntary assignment of an employee to a position at a lower classification or job grading level.

g. "Removal" means the involuntary separation of an employee from employment with an activity.

h. "Similar positions" means positions in which duties performed are similar in nature and character and require substantially the same or similar qualifications, so that the incumbents could be interchanged without significant training or undue interruption to the work.

i. "Unacceptable performance" means performance of an employee that fails to meet established performance standards in one or more critical elements of such employee's position.

2. Delegation of Authority. Heads of activities are delegated authority by reference (c) to propose and decide reductions-in-grade and removals. Department heads and equivalent are delegated authority to propose reduction-in-grade and removals. Activity heads are authorized to extend the notice period under paragraph 3b and 4b, below, for not more than 30 days, i.e., 60 days from the date the employee received the notice of proposed action. Additional extensions may be granted only with prior approval from the Department of the Navy (DON), Office of Civilian Personnel Management (OCPM) and Office Personnel Management (OPM). Contact CCPO if the need for such an extension is recognized. Delegations may be different for non-Navy activities.

3. Actions Affecting Non-PMRS Employees. The following provisions apply to actions affecting PARS or APAS employees. In addition, the specific provisions of an applicable negotiated agreement must be followed for employees who are in a bargaining unit represented by an exclusively recognized labor organization (union).

a. Providing an Opportunity Period Based on Unacceptable Performance for PARS or APAS Employees. Any time during the performance appraisal cycle that a PARS or APAS employee is determined to be unacceptable in one or more critical elements, the supervisor shall notify the employee of the critical element(s) for which performance is unacceptable to ensure that

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the employee understands the specific areas in which his or her performance is deficient. The supervisor shall issue the employee a letter of opportunity which:

(1) Informs the employee of the performance requirement(s) or standard(s) that must be attained in order to demonstrate acceptable performance and allows the employee a reasonable opportunity to achieve the required level of performance;

(2) Gives the employee examples of the performance deficiencies in each critical element for which performance is unacceptable to further clarify the performance problem for the employee;

(3) Informs the employee that unless his or her performance in the critical element(s) improves to and is sustained at an acceptable level, the employee may be reduced-in-grade or removed;

(4) Affords the employee a reasonable opportunity, (minimum 30 days based on reference (c)), to demonstrate acceptable performance, commensurate with the duties and responsibilities of the employee's position; and

(5) Offers assistance to the employee in improving unacceptable performance.

b. Proposing and Taking Action Based on Unacceptable Performance for PARS or APAS Employees. An employee may be reduced-in-grade or removed when the employee's performance in one or more critical elements of the job becomes unacceptable. Reduction-in-grade or removal may be effected only after following the procedures below.

(1) An advance notice of proposed action may not be given until the employee has been informed, in writing, of the unacceptable performance on the critical element(s) of the job and been given a reasonable time (minimum of 30 days) to demonstrate acceptable performance.

(2) No instances of unacceptable performance more than one year old at the time of the advance notice may be the basis for a proposed removal or reduction-in-grade.

(3) The decision to retain, reduce-in-grade, or remove must be made within 30 days after the expiration of the notice

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period, (i.e., 60 days from the date the proposed notice was issued, unless an extension has been approved as provided by paragraph 2).

(4) The decision on a notice of proposed action shall be delivered to the employee on/or before the effective date of the action.

c. Procedures for Immediate Supervisors

(1) Contact your NTC CCPO Employee Relations Specialist for advice and assistance as soon as the employee's performance falls to the unacceptable level on one or more critical performance elements.

(2) Make sure all required steps in the appraisal system have been accomplished, (e.g., critical performance elements have been identified and performance standards have been established and communicated to the employee as well as all other employees in the work group who are performing similar work).

(3) Secure documentation related to the unacceptable performance.

(4) Prepare a draft letter (see Appendix A) notifying the employee of his/her unacceptable performance and giving him/her an opportunity to demonstrate acceptable performance. The notification must provide the following information:

(a) The critical element(s) of the employee's position involved in each instance of unacceptable performance;

(b) Specific instances of unacceptable performance related to the critical element(s);

(c) What the employee needs to do to be considered acceptable. This could involve referring the employee to the written performance elements and performance standards provided the employee at the beginning of the rating period;

(d) What assistance will be provided the employee in order to assist him/her in improving his/her performance;

(e) The amount of time, minimum of 30 days, he/she will be provided in order to demonstrate satisfactory performance; and

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(f) Inform the employee that, unless his or her performance in the critical element(s) improves to and is sustained at an acceptable level, the employee may be reduced-in-grade or removed.

(5) Send draft letter, along with a copy of the employee's performance standards and documentation of unacceptable performance, to your NTC CCPO Employee Relations Specialist for comment.

(6) Issue the notification letter to the employee after receiving the CCPO Employee Relations Specialist's advice.

(7) Ensure the employee is given appropriate assistance during the opportunity period.

(8) Secure documentation related to the employee's performance during the opportunity period.

(9) Determine whether the employee's performance at the end of the time period provided the employee to demonstrate acceptable performance meets the established performance standards cited in the opportunity letter.

(a) If the determination indicates that the employee is performing at an acceptable level, notify the employee in writing. Send a copy of the notification to your CCPO Employee Relations Specialist.

(b) If the determination indicates that the employee's performance continues at an unacceptable level, contact your CCPO Employee Relations Specialist for advice and assistance before proceeding.

d. Procedures for Proposing Officials

(1) Draft a letter proposing either a reduction-in-grade or removal from the Federal service (Appendix B).

(2) Send the draft letter, along with documentation of the employee's unacceptable performance, to your CCPO Employee Relations Specialist for comment. Proposing officials should ensure that all documentation is clearly indexed so the reader can easily locate information related to each critical element.

(3) Issue the notice of proposed reduction-in-grade or removal after receiving the CCPO Employee Relations Specialist's advice.

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(4) Forward a copy of the signed and receipted notice of proposed reduction-in-grade or removal along with documentation to the Designated Deciding Official (DDO) and to your CCPO Employee Relations Specialist.

4. Actions Affecting PMRS Employees. The following provisions apply to actions affecting PMRS employees.

a. Addressing Below Fully Successful Performance by PMRS Employees. Any time during the performance appraisal cycle that a PMRS employee's performance is determined to be below fully successful in one or more critical element(s), the supervisor shall afford the employee an opportunity to improve through a PIP. As part of the performance improvement plan the supervisor shall:

(1) Notify the employee of the critical element(s) in which he or she is performing below the fully successful level, provide examples of performance deficiencies in each critical element for which performance is below fully successful so that the employee is clearly on notice as to the nature of his or her performance and describe the types of improvements that the employee must demonstrate to attain fully successful performance in his or her position;

(2) Offer assistance to the employee in attaining fully successful performance;

(3) Provide the employee with a reasonable period of time, commensurate with the duties and responsibilities of the employee's position to demonstrate fully successful performance; and

(4) Inform the employee that unless his or her performance in the critical element(s) improves to and is sustained at a fully successful level, the employee may be reduced-in-grade or removed.

b. Proposing And Taking Action Based On Below Fully Successful Performance For PMRS Employees.

(1) An employee may be reduced-in-grade or removed when the employee's performance in one or more critical elements of the job falls below fully successful. Reduction-in-grade or removal may be effected only after following the procedures:

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(2) An advance notice of proposed action may not be given until the employee has been informed, in writing, of the below fully successful performance on the critical element(s) of the job and been given a reasonable time (minimum of 30 days) to demonstrate acceptable performance.

(3) No instances of performance below fully successful that are more than one year old at the time of the advance notice may be the basis for a proposed removal or reduction-in-grade.

(4) The decision to retain, reduce-in-grade, or remove must be made within 30 days after the expiration of the notice period, (i.e., 60 days from the date the proposed notice was issued, unless an extension has been approved as provided for by paragraph 3, above).

(5) The decision on a notice of proposed action shall be delivered to the employee on/or before the effective date of the action.

c. Procedures For Immediate Supervisors.

(1) Contact your CCPO Employee Relations Specialist for advice and assistance as soon as the employee's performance falls below fully successful on one or more critical performance element(s).

(2) Make sure all required steps in the appraisal system have been accomplished, (e.g., critical performance elements have been identified and performance standards have been established and communicated to the employee as well as all other employees in the work group who are performing similar work).

(3) Secure documentation related to the below fully successful performance.

(4) Prepare a draft of a PIP (see Appendix C) for employees covered under PMRS. As part of the plan the activity shall:

(a) Provide the critical elements of the employee's position where the employee is performing below fully successful;

(b) Provide specific instances of less than fully successful performance related to the critical elements;

(c) Describe the types of improvements that the employee must demonstrate to attain fully successful performance in the position;

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(d) Annotate what assistance will be provided to the employee in order to assist him/her in attaining fully successful performance;

(e) Provide the reasonable amount of time, minimum of 30 days, he/she will be provided in order to demonstrate fully successful performance; and

(f) Inform the employee that, unless his or her performance in the critical element(s) improves to and is sustained at a fully successful level, the employee may be reduced-in-grade or removed.

(5) Send PIP, along with a copy of the employee's performance standards and documentation of below fully successful performance, to your CCPO Employee Relations Specialist for comment.

(6) Issue the PIP to the employee after receiving the CCPO Employee Relations Specialist's advice.

(7) Ensure the employee is given appropriate assistance during PIP time period.

(8) Secure documentation related to the employee's performance during the PIP time period.

(9) Determine whether the employee's performance at the end of the time period provided the employee to demonstrate acceptable performance meets the established performance standards cited in the PIP.

(a) If the determination indicates the employee is performing at an acceptable level, notify the employee in writing. Send a copy of the notification to your CCPO Employee Relations Specialist.

(b) If the determination indicates the employee's performance continues at the below fully successful level, contact your CCPO Employee Relations Specialist for advice and assistance before proceeding.

d. Procedures for Proposing Officials

(1) Draft letter proposing either a reduction-in-grade or removal from the Federal service (see Appendix B).

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(2) Send draft letter, along with documentation of the employee's below fully successful performance during the PIP time period, to your CCPO Employee Relations Specialist for comment. Proposing officials should ensure that all documentation is clearly indexed so that the reader can easily locate information related to each critical element.

(3) Issue the notice of proposed reduction-in-grade or removal after receiving the CCPO Employee Relations Specialist's advice.

(4) Forward a copy of the signed and receipted notice of proposed reduction-in-grade or removal along with documentation to the deciding official and to your CCPO.

5. Procedures for Deciding Officials.

a. Contact your CCPO Employee Relations Specialist for advice and assistance.

b. Review information contained in the case file.

c. Allow the employee at least the amount of time specified in the notice of proposed action to respond orally and/or in writing. Prepare summary of oral reply, if one is made.

d. After hearing the employee's oral reply, if one was made, and/or reviewing the employee's written reply, if one was made, obtain any additional information that may be necessary to make your decision.

e. Prepare draft decision letter (see Appendix D) and send it, along with any new documentation and memos to the file, to your CCPO Employee Relations Specialist for comment.

f. Issue the decision letter after receiving the CCPO Employee Relations Specialist's advice. Have the employee acknowledge receipt of the letter or make a note attesting to delivery of the letter.

g. Forward a copy of the signed and receipted decision letter to your CCPO Employee Relations Specialist.

h. Ensure that the employee's supervisor is aware of your decision.

6. Employee Entitlements. An employee's whose reduction-in-grade or removal is proposed is entitled to:

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a. Thirty days advance written notice (see Appendix B) of the proposed action which identifies:

(1) Specific instances of unacceptable performance (for PARS or APAS employee) or below fully successful performance for a PMRS 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 or below fully successful performance;

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

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

b. Be represented by an attorney or other specialist;

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 ten days, to answer orally and in writing; and

e. A written decision (see Appendix D) which:

(1) Considers any answer the employee and/or the employee's specialist makes to the designated official. If the employee wishes the activity to consider any medical condition which may contribute to his/her unacceptable performance, he or she shall be given reasonable time to furnish medical documentation, as defined in Civilian Personnel Instruction (CPI) 339, of the condition. Whenever possible, the employee shall supply this information at the time the activity offers him or her the opportunity to demonstrate acceptable performance. If the employee offers such documentation after the activity has proposed a reduction-in-grade or removal, he or she shall supply this information within the time limits allowed for a reply, whenever possible. After its review of medical documentation supplied by the employee, the activity may, if authorized, require a medical examination in accordance with the criteria and procedures of CPI 339. If the employee has five years of service, the activity shall provide information concerning disability retirement. The activity shall be aware of the affirmative obligations of the provisions of 29 C.F.R. 1613.704

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which require reasonable accommodation of a qualified handicapped employee. An employee's application for disability retirement shall not preclude or delay any other appropriate personnel action;

(2) In the case of reduction-in-grade or removal, specify the instance of unacceptable performance or below fully successful performance by the employee on which the reduction-in-grade or removal is based;

(3) Is signed by an official in a higher position than the official who proposed the action unless proposed by the head of the activity;

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

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

f. 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.

7. Disallowance of an Employee's Choice of Representatives.

a. 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 collective bargaining agreement govern representation for employees in an exclusive bargaining unit.

b. If the choice of an employee's representative is disallowed, the employee may raise the issue with the next higher level of management for the final decision on the matter. If pursued, the disagreement with the decision to disallow the employee's choice of representative must be presented in writing within five calendar days of notification of the disallowance. The written submission must contain sufficient detail to identify and clarify the basis for the disagreement. Processing of the removal or reduction-in-grade will be held in abeyance pending resolution of the question regarding representation.

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c. The next higher level of management, when presented with a disagreement over a disallowance of an employee's choice of representative, will conduct such inquiry into the matter as warranted by the circumstances and discuss the matter with the employee. The responding official shall further render a written response to the employee as soon as practical, but no later than seven calendar days from the date he/she received the employee's written disagreement.

8. Role of NTC CCPO, Code 043

a. NTC CCPO will provide advice and assistance to managers and supervisors as noted above;

b. NTC CCPO will provide employees with information related to procedural entitlements as well as their appeal rights; and

c. NTC CCPO shall maintain records required by paragraph 9, below.

9. Records

a. When an action is effected, all documentation relied upon in making a decision concerning a reduction-in-grade or removal based on unacceptable performance or below fully successful 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 opportunity concerning unacceptable performance or the PIP concerning below fully successful performance;

(2) A copy of the employee's performance standards demonstrating that they were set and communicated to the employee in a timely manner;

(3) A copy of the notice of proposed action;

(4) A copy of the employee's written answer, if any

(5) A summary of the employee's oral reply, if one was made;

(6) A copy of the notice of decision and the reasons therefore; and

(7) Copies of any supporting material substantiating the

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employee's unacceptable performance or below fully successful performance.

b. NTC CCPO shall maintain the record for a minimum of four years or until an appeal or complaint arising from an action under this instruction is finally adjudicated, whichever is longer. If an employee appeals to the MSPB, the record shall be furnished to the employee affected upon the employee's request and to the MSPB.

c. If, because of performance improvement by the employee during the opportunity 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 or below fully successful performance for which the action was proposed shall be removed from any activity record relating to the employee.

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APPENDIX A

SAMPLE
OPPORTUNITY CONCERNING UNACCEPTABLE PERFORMANCE

From: (Title, Department, Activity, Address)
To: (Name, Position Title, Grade)

Subj: LETTER OF OPPORTUNITY CONCERNING YOUR UNACCEPTABLE
PERFORMANCE

Ref: (a) NTCGLAKESINST 12432.1 (current edition)
(b) PARS/APAS Performance Standards set on (date)

1. You are hereby notified, in accordance with reference (a), your performance is unacceptable on critical elements _____, _____, and _____. This letter addresses your unacceptable performance for the period (date) through (date). Critical performance elements and performance standards were communicated on (date).

2. Listed below are critical elements and specific instances of unacceptable performance on which this action is based.

a. Critical element number: (Restate the element as it appears on the employee's evaluation form).

(1) Minimally Successful Performance Standard: (Restate the standard as it appears on the employee's evaluation form).

(2) Instances of unacceptable performance: (Provide a factual summary of the projects or tasks. Include a statement concerning why the employee's performance on the projects or tasks is considered unacceptable).

b. Critical element number: (Restate the element as it appears on the employee's evaluation form).

(1) Minimally Successful Performance Standard: (Restate the standard as it appears on the employee's evaluation form).

(2) Instances of unacceptable performance: (Provide a factual summary of the projects or tasks. Include a statement concerning why the employee's performance on the projects or tasks is considered unacceptable).

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c. Critical element number: (Restate the element as it appears on the employee's evaluation form).

(1) Minimally successful performance standard: (Restate the standard as it appears on the employee's evaluation form).

(2) Instances of unacceptable performance: (Provide a factual summary of the projects or tasks. Include a statement concerning why the employee's performance on the projects or tasks is considered unacceptable).

3. You will be given _____ calendar days beginning the day after you receive this letter to demonstrate at least minimally successful performance on critical elements _____, _____ and _____. During this period you will be given specific work assignments that will enable you to demonstrate the minimally successful performance level or better as specified in reference (b). You will also be given assistance in the form of _____ to enhance your ability to demonstrate acceptable performance.

4. Your performance will be evaluated again at the end of the opportunity period. You will be notified in writing of the evaluations results.

5. You may be sure that it is my desire to see you succeed in your position. I firmly believe this unfavorable situation can be eliminated by positive action on your part, providing you possess a complete understanding of the seriousness of your unacceptable performance. If your performance remains unacceptable on any of the critical elements identified above, a proposal to reduce you in grade or remove you from the Federal service may be issued.

(Signature)

I acknowledge receipt of this

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APPENDIX B

SAMPLE

PROPOSED REMOVAL BASED ON UNACCEPTABLE PERFORMANCE

For Proposed Actions Against Employees Covered by a Negotiated Agreement, add the following to paragraph 2:

2. An extra copy of this letter is provided in case you wish to provide the UNION a copy.

From: (Department, Activity, Address)

To: (Name, Position Title, Grade)

Subj: PROPOSED REMOVAL BASED ON UNACCEPTABLE PERFORMANCE

Ref: (a) Our discussion of _____ (date) _____

(b) My letter of _____ (date) _____

Encl: (1) Examples of performance During Opportunity Period

1. I am proposing you be removed from the Federal service based on your unacceptable performance on critical element(s) _____, _____, and _____.

2. You were notified in references (a) and (b) that your performance on critical elements _____, _____ and _____ was unacceptable. As a result you were given _____ days to demonstrate acceptable performance. During this period you were given projects/tasks to complete which would enable you to demonstrate at least minimally successful/fully successful acceptable performance. You were also given assistance in the form of _____. While you demonstrated at least minimally successful/fully successful acceptable performance on critical element number _____, your performance on critical elements _____, and _____ remains unacceptable, as shown in enclosure (1).

3. You have the right to reply orally or in writing, or both and to furnish affidavits and other documentary evidence. Your reply should support why you feel this action should not take place. You are entitled to be represented by a representative of your choice. Before a representative may act on your behalf on this matter, however, that person must be designated by you, in writing, to (IDENTIFY THE NAME AND TITLE OF THE MANAGEMENT OFFICIAL WHO WILL DECIDE ON THE PROPOSAL REMOVAL), the Designated Deciding Official (DDO) on this proposed removal.

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4. You and your representative are entitled to review the material relied upon to support your proposed removal. If you are otherwise in an active duty status, you will be allowed a reasonable amount of official time to review such material relied upon to support the proposal and prepare an answer and secure affidavits.

5. Your reply must be received by the DDO within ten calendar days from the date you received this letter. If you encounter difficulty in preparing your reply by that date, you may request additional time from the DDO. If you desire to reply in person, contact the DDO to schedule an appointment. Due consideration will be given any explanation(s), fact(s), affidavit(s) or rebuttal you furnished in a timely manner. In preparing and presenting a reply, you are assured freedom from restraint, interference, coercion, discrimination, or reprisal.

6. You are hereby given 30 full calendar days advance notice of this proposed action beginning the day after you receive this letter. During the 30 days advance notice period you will be carried in an active duty status at your present position, grade level, and salary. As soon as possible after your reply is received or after ten calendar days after you receive this letter if you do not answer, a written decision will be issued.

7. Copies of applicable regulations as well as the official case file are available to you and/or your representative through the Labor Relations Division, Consolidated Civilian Personnel Office, Building 1-H, Great Lakes, Illinois 60088. If you require assistance or additional information concerning your rights, you may consult with (NAME OF SPECIALIST), Labor Relations Division, CCPO, on 688-2025.

(s) _____

I acknowledge receipt of this letter on

Date Employee's Signature

Copy to:
CCPO, Code 043

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APPENDIX C

SAMPLE
PERFORMANCE IMPROVEMENT PLAN

From: (Title, Department, Activity, Address)
To: (Name, Position, Title, Grade)

Subj: PERFORMANCE IMPROVEMENT PLAN (PIP) TO IMPROVE YOUR
UNACCEPTABLE PERFORMANCE

Ref: (a) NTCGLAKESINST 12432.1 (current edition)
(b) PMRS Performance Standards set on (date)

1. You are hereby notified, in accordance with reference (a), that your performance is below fully successful on critical elements _____, _____ and _____. This letter addresses your less than fully successful performance for the period date through date. Critical performance elements and performance standards were communicated to you on _____.

2. Listed below are the critical elements in which you are performing below the fully successful level:

a. Critical element

(1) In order to demonstrate fully successful performance in this critical element you must achieve the following:

b. Critical element

(1) In order to demonstrate fully successful performance in this critical element you must achieve the following:

3. You will be given _____ calendar days beginning the date after you receive this letter to demonstrate at least fully successful performance on critical elements _____, _____, and _____.

4. I am available during working hours to assist you in anyway possible. I will answer your questions and clarify issues. Additionally, you will be given assistance in the form of _____.

5. Your performance will be evaluated again at the end of the PIP period. You will be notified in writing of the evaluation results.

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6. You are hereby advised that unless your performance in the critical elements listed above improves to and is sustained at a fully successful level, you may be reduced-in-grade or removed.

7. You may be sure that it is my desire to see you succeed in your position. I firmly believe this unfavorable situation can be eliminated by positive action on your part, providing you possess a complete understanding of the seriousness of your below fully successful performance.

Signature

I acknowledge receipt of this letter on

(date)

Employee's Signature

Copy to:
CCPO, Code 043

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APPENDIX D

SAMPLE

DECISION ON PROPOSED REMOVAL BASED ON UNACCEPTABLE PERFORMANCE

Contact your CCPO Employee Relations Specialist for proper wording of paragraph 5 should the employee raise the issue of discrimination, either orally or in writing, at any point prior to issuing the decision letter effecting the removal.

For Actions Against Employees Covered by a Negotiated Agreement, substitute the following for paragraph 3 (unless otherwise precluded by the agreement):

3. You may appeal this removal through the grievance procedure negotiated by (ACTIVITY) and (UNION) or to the Merit Systems Protection Board (MSPB), but not both. An appeal to MSPB may be made by submitting enclosure (1) or information required by enclosure (2) to the Merit Systems Protection Board, 230 South Dearborn Street, Chicago, Illinois 60604. Petitions for appeal to MSPB may be filed anytime after receipt of this letter, but not later than 20 calendar days after the effective date of this removal to be considered timely filed. An extra copy of this letter is provided in case you wish to provide (UNION) a copy or otherwise obtain its assistance.

From: (Department, Activity, Address)

To: (Name, Position Title, Grade)

Subj: DECISION TO EFFECT YOUR REMOVAL

Ref: (a) Letter of Proposed Removal dated _____
(b) Letter of Opportunity/Performance Improvement Plan
(dated)
(c) Your _____ oral reply to the Letter of Proposed
Removal
(d) Your _____ written reply to the Letter of Proposed
Removal

Encl: (1) Merit Systems Protection Board (MSPB) Appeal Form
(2) Merit Systems Protection Board (MSPB) Regulations

1. Reference (a) proposed your removal from the Federal service based on your unacceptable performance on the critical element(s) identified below:

Appendix D to Encl (1)

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a. Critical element number _____: (Restate the element as it appears on the employee's evaluation form).

b. Critical element number _____: (Restate the element as it appears on the employee's evaluation form).

References (a) and (b) provided specific instances of unacceptable performance on which the proposal is based. Reference (a) also advised you that I would give consideration to any explanation, facts, or rebuttal you elected to present to me upon exercising your right to reply to the proposed action. My decision, after making consideration outlined below, is to effect your removal from the Federal service.

2. I carefully reviewed reference (a) and the related case file and references (b) and (c) before making my decision. I concluded from my review there is substantial evidence to indicate your performance is unacceptable.

3. You responded to reference (a) in references (c) and (d). You indicated (summarize the employee's oral and written responses). I find (summarize conclusions you made after reviewing references (c) and (d)).

4. You will be removed from the Federal service effective (Day and Date). Before leaving, you must check-out through the personnel and security offices.

5. You may appeal this removal by submitting enclosure (1) or information required by enclosure (2) to the Merit Systems Protection Board (MSPB), 230 South Dearborn Street, 31st Floor, Chicago, Illinois 60604. Petitions for appeal to MSPB may be filed anytime after receipt of this letter, but not later than 20 calendar days after the effective date of this removal to be considered timely filed.

6. Copies of applicable regulations as well as the official case file are available to you and/or your representative through the Labor Relations Department, Consolidated Civilian Personnel Office, Building 1-H, Great Lakes, Illinois 60088. If you

NTCGLAKESINST 12432.1

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require additional information concerning your rights, you may consult with (NAME OF SPECIALIST), Labor Relations Division, CCPO, on (708) 688-2025.

Signature
I acknowledge receipt of this
notice on

Date Employee's Signature

Copy to:
CCPO, Code 043