

EMPLOYEE RELATIONS NOTES

June 2009

For the REE Agencies, USDA

Employee Relations Branch (ERB), HRD, ARS
301-504-1355

For management advice on issues of Employee Relations and Labor Relations, please do not hesitate to call your servicing specialist.

All past issues of ER Notes are now on the Employee Relations Branch (ERB) webpage at <http://www.afm.ars.usda.gov/hrd/er/index.htm>

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The Employee Relations Specialist

The Employee Relations Specialist!! We are here to work closely with you and provide advice and guidance on how best to address employee performance and conduct issues. We will help you prepare performance improvement plans, leave restriction letters, requests for medical information, proposal letters, and decision letters. We also serve as Agency Representatives before the Merit Systems Protection Board (MSPB); negotiate settlement of mediated disputes, MSPB appeals, discrimination complaints (affirmative defense in MSPB appeals), whistleblower complaints, Uniformed Services Employment and Reemployment Rights Act (USERRA) complaints, and other workplace conflicts; investigate Office of Inspector General (OIG) Hotline Complaints, prepare Reports of Investigation, and initiate through management any remedial actions; provide analysis and final decision on formal grievances; and develop employee relations instructional material, with an emphasis on remedial and preventive action, and train all employees. Call us as soon as you suspect you may have a problem with an employee. The names of the Employee Relations (ER) specialists, the Areas they service, and their telephone numbers and e-mail addresses are available on the ERB webpage at: <http://www.afm.ars.usda.gov/hrd/er/index.htm>.

The Probationary Period

The probationary period is the initial period of employment (“trial period”) during which the supervisor carefully considers whether the employee is able to meet the standards and expectations of the job and if the employee should be retained as a regular employee at the end of this period. A new employee can turn out to be one of the most valuable members of your staff, or not. Most companies make the mistake of believing that once the vacancy has been filled the initial recruitment is completed. This may be true, but to what extent? We don’t always get in person what we thought we had on paper. The employer and the employee should use this time wisely. Whatever the probationary period may be, this is the most critical time for all involved. This is the time for the employer and the employee to determine whether this opportunity is the right fit. How do we do that? The employer should ensure that the employee receives his/her performance standards as soon as possible so he/she will know what is expected of him/her, the training and support, and the tools needed to perform his/her duties. There should be open and honest communication between the supervisor and the employee at all times. If the employee does not understand, is confused, or is unclear on anything, he/she should discuss the matter with his/her supervisor immediately. The employee should know at all times how he/she is performing. In turn, as soon as there are any problems or an indication that the employee is in danger of failing, the supervisor should be communicating the issue(s) to the employee so that he/she will have the opportunity to improve. The probationary period works both ways. Either the employer or the employee can make the decision not to continue the employment relationship if it is evident that things are not working out.

During this period, the supervisor should be taking notice of the following:

- Ability to learn and perform duties
- Quality of work
- Productivity
- Work habits
- Cooperation
- Attendance
- Punctuality

Even during the probationary period, it is highly recommended that supervisors keep documentation on discussions that have taken place about performance, what was put in place to assist the employee, and the outcome. After a full and fair trial, at least 90 days, if the employee demonstrates a lack of either fitness, qualifications, or the capacity to acquire fitness for permanent employment, the supervisor should initiate action to separate the employee. The employee should be given notification **prior to the expiration** of the probationary period that he/she will not be retained. Once it is determined that the employee has failed to demonstrate his fitness or qualifications for continued employment, the supervisor should contact the ER specialist and provide the following information with ample amount of notice (30 days) for the specialist to prepare the letter.

- Reason for separation
- Effective date of separation
- Conclusions on the inadequacies of the performance and conduct

Supervisors must keep in mind that the effective date of the separation can be no later than the end of the employee's scheduled tour of duty on the last workday before the anniversary date of the employee's appointment. Otherwise, the employee will no longer be considered a probationary employee. Example: When the last workday is a Friday and the anniversary date is the following Monday, the probationer must be separated before the end of the tour of duty on Friday, since Friday would be the last workday the employee actually has to demonstrate fitness for further employment.

Submitted by: Sheila Pannell

Performance Deficiency Notice



When an employee is performing less than Fully Successful in one or more of his or her Critical Elements as determined by the supervisor, the employee can be issued a Performance Deficiency Notice. A Performance Deficiency Notice is a written warning for unsatisfactory job performance. In some cases, timely intervention by the supervisor corrects the deficiency and eliminates the need for a Performance Deficiency Notice.

In making a decision as to whether or not a deficiency involves unsatisfactory performance, supervisors must consider several performance factors. Some factors to be considered are accuracy of work, effectiveness, ability to follow instructions, directions, and procedures.

Throughout the Performance Management process, employees and supervisors should discuss the specific reasons for the performance deficiency. If the employee does not have the resources to perform the critical elements of the position, the employee should request the needed resources to correct the deficiency. However, if satisfactory improvements are not made, a Performance Deficiency Notice may be warranted.

If an employee is issued a Performance Deficiency Notice, the employee will be informed of the deficiencies, discuss the possible reasons for lack of improvements, discuss corrective measures to be taken, set reasonable timeframes for improvements, and discuss the consequences if satisfactory improvements are not made in a reasonable period of time.

Submitted by: Calvin Jacob

6 Steps in Becoming a Good Supervisor



Submitted by Rochelle Lovell

In my position as a Human Resources Specialist in the Employee Relations Branch, I have an

opportunity to observe a range of management styles. Over time, I have identified some traits that managers, whom I believe effectively manage their staffs, possess. What they all had in common was basic leadership competencies. Typically, no one is trained to be a leader. One has to learn how to manage people on a moment's notice after they are promoted into a management position. When learning to be a good supervisor, it is helpful to keep in mind the things that past supervisors have done that you liked and/or disliked, so you can use those experiences to guide your decisions as a supervisor. Here are six recommended steps to follow to ensure that you become a leader that others are happy to follow:

(1) **Tame yourself** – “You have to begin by understanding your personality and taming it.” If you are too quiet, you will need to work on becoming more outgoing and decisive. If you are too outspoken to the point where you offend your employees, you will need to work on toning yourself down. Knowing and understanding oneself is vital, since you are a reflection of what your subordinates must be.

(2) **Never harass or drive employees using fear** – “Leadership is not about power.” Good supervisory skills consist of encouraging others toward the goal of the organization. It is putting your employees on the same page and helping them see the big picture of the organization. Being a leader is not about what you make your employees do; instead it's about inspiring and motivating your staff to complete tasks willingly.

(3) **Have a “clear, simple message”** – “You must be able to convey your goal in a sound bite. People can understand and retain clear, simple messages.” You have to be able to repeat the message at meetings, in newsletters, and in general conversations. If your people know the message, they will be able to follow.

(4) **Look and act like a leader** – “People have a much easier time following someone who looks and acts as they should.” Additionally, supervisors should not disclose information to others that is only privy to management, and they should never allow personal feelings or opinions to influence decisions. As a supervisor, you should be professional and exhibit appropriate behavior that can be used as an example for your staff.

(5) **Be trustworthy** – “People won't follow you if they don't trust you. You should be ethical and honest at all times.” Subordinates trust supervisors who are clear about what they are doing. Employees may not trust management officials who say one thing and then say or do something different at a later date.

(6) **Care about your people** – “You can't supervise people if you don't like them.” You shouldn't become best friends with your staff, but you should know them and know what their professional strengths and weakness are. When getting to know employees, you should never give the appearance that you are favoring one employee over another, and you should facilitate all employees who want to advance to the next level in their careers.

Leave Restriction Guide

1) **What is Leave Restriction?**

It is a supervisory tool used to modify an employee's behavior (i.e., the way in which leave is scheduled and used). Leave restriction is not a disciplinary action. Leave restrictions are set out in memorandum form to the employee and are the "bible" on how leave issues will be dealt with in the future between the supervisor and the restricted employee.

2) **When is it used?**

Leave Restriction is used whenever a supervisor believes that an employee's absences are affecting the productivity of the office or are creating a hardship for his/her coworkers. It may also be used if/when a supervisor becomes convinced that an employee is abusing leave privileges.

3) **What does it say?**

Overly simplified, the leave restriction memorandum says that the employee must have all leave pre-approved before taking it. Submitting a leave slip does not constitute having leave "approved." The supervisor must okay the leave either verbally or in writing before the leave is "approved." The basis for granting emergency leave is outlined in the leave restriction memorandum. Failure to obtain prior approval for leave, or failure to provide appropriate documentation for instances of emergency leave will result in the employee being charged AWOL (Absence Without Official Leave).

4) **What is AWOL?**

AWOL is leave which has not been approved by the supervisor, either before or after it was taken. Employees do not receive pay for time charged to AWOL.

5) **What is the difference between AWOL and LWOP?**

The employee receives no pay in either case; however, LWOP is approved, AWOL is not. LWOP is rarely the basis for an adverse action. AWOL is definitely the basis for an adverse action. It does not take vast amounts of accumulated AWOL in order to begin an adverse action against the employee. A few hours may be sufficient, depending on the circumstances.

6) **What's the penalty for AWOL?**

Discipline ranges from a letter of warning up to and including removal from a position in the Federal service. Suspensions are usually proposed for approximately the same number of hours as the amount of AWOL used by the employee. Since progressive discipline is the name of the game in Government, employees are rarely removed on their first offense of AWOL--- but it can and does happen!

7) **How long does a leave restriction last?**

Leave restriction can be lifted whenever the supervisor becomes convinced the employee's leave usage has improved. In any case, leave usage is usually analyzed every 6 months to determine whether not progress is being made. Leave restrictions are normally removed in writing.



Submitted by Katina Whitehead

Proposing Official vs. Deciding Official

At sometime during your Federal career as a supervisor or manager, you will be faced with taking disciplinary or adverse actions against an employee. This is something most supervisors shy away from because it is time consuming and can be a very stressful process. The supervisor should begin the process by contacting their ER specialist for guidance. In moving forward to take a disciplinary action, the specialist will ask the supervisor if he/she will be willing to testify in a court hearing if the employee files an appeal.

In the initial stages of a disciplinary/adverse action, the immediate supervisor is referred to as the "proposing official." The proposing official has firsthand knowledge of the employee's performance and/or conduct. To get to the disciplinary stage, the supervisor has had counseling sessions with the employee, has documented the events leading up to the disciplinary action, and has given the employee a written warning and numerous chances to correct the behavior. The proposing official will provide copies of the documentation to ER. When the documentation has been reviewed, the ER specialist advises the supervisor on a recommended action. The ER specialist will draft the proposal letter from the documentation provided by the supervisor. When the proposal letter has received final approval from the ER Branch, it is forwarded to the supervisor for his/her review and approval. When the document meets the supervisor's approval, it can be issued to the employee. The letter must be issued by the proposing official.

The Deciding Official (DO) comes into play after the proposal letter has been issued by the proposing official. The specialist will provide the DO with a copy of the proposal letter and the case file that contains all documentation that was relied upon to propose the disciplinary/adverse action. The DO is instructed not to make a decision until he/she has given the employee the required time to respond to the proposal either orally or in writing. When the required response time has passed, the DO can make inquiries to resolve any questions or discrepancies he/she has. The DO must review and respond to the Adverse Action Checklist, which includes the Douglas Factors. In determining if the penalty is appropriate for misconduct cases, the DO must weigh these factors, take into consideration each of the factors, and explain the factors that are pertinent to the case. After giving consideration to those factors, the DO will determine whether to cancel the proposed action in its entirety, sustain the action as proposed, or he/she can chose to reduce the penalty. With the assistance of the specialist, the decision letter will be drafted from the summary notes of the DO. When the decision letter has received final approval from the ER

Branch, it is forwarded to the DO for his/her review and approval. When the document meets the DO's approval, it can be issued to the employee. The letter must be issued by the DO.

Submitted by: Betty Gibson

“Funny Pic’s”



“Oops, someone left the water running.”

Inside the Employee Relations Branch



The Employee Relations Branch also includes Labor Relations and Employee Relations Policy. These programs are administered REE-wide.

Labor Relations

Manages the Labor Relations Program, which includes contract management, negotiations, Partnerships, impact and implementation bargaining, and arbitration. Represents and serves as an advisor to management officials during union contract negotiations.

Employee Relations Policy

Initiates ER policy, develops ER training and communications, adjudicates grievances, and provides investigative leadership. Provides guidance and service in preparation and presentation before MSPB.

EMPLOYEE AND LABOR RELATIONS DIRECTORY

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