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Civilian Personnel  
SUPERVISOR'S GUIDE TO DEALING WITH THE PROBLEM CIVILIAN EMPLOYEE

Issue of changes to this pamphlet are not official unless they are authenticated by the Commander, U.S. Army Medical Department Center and School and Fort Sam Houston.

1. **PURPOSE.** This pamphlet provides guidance to supervisors and managers on how to handle problems that may arise with civilian employees.
2. **APPLICABILITY.** This pamphlet applies to the civilian workforce serviced by the Civilian Personnel Advisory Center Fort Sam Houston, Texas.
3. **REFERENCES.**
  - a. FSH Regulation 690-14, Leave and Absences
  - b. FSH Regulation 690-26, Conduct and Discipline.
4. **EXPLANATIONS OF ABBREVIATIONS AND TERMS.**
  - a. CPAC - Civilian Personnel Advisory Center
  - b. PMS - Personnel Management Specialist
  - c. MSPB - Merit Systems Protection Board
5. **PERFORMANCE VERSUS CONDUCT.** Prior to taking any action, a supervisor must decide if a problem stems from an employee's poor performance or an act of misconduct. The supervisor will base this decision upon whether an employee has done something or failed to do something, that adversely affects the employee's work, the work of others, or the mission of the activity.

a. Performance. In determining if the problem is related to performance, the supervisor should consider questions such as:

(1) Do finished projects reflect a satisfactory level of accomplishment per the employee's performance standard requirements?

(2) Does typed material contain an inordinate number of errors?

(3) Are there factors covered by one or more elements in the employee's performance standards that are not being met satisfactorily?

(4) Arriving at an affirmative answer to these and similar types of questions indicates that action should be initiated under the nondisciplinary procedures specifically designed to deal with performance problems. Such action should result in reassignment, demotion, or removal from the Federal Service.

b. Conduct. If conduct is the problem, the supervisor should arrive at affirmative answers to questions such as:

(1) Is the employee frequently tardy or failing to request leave properly?

(2) Is the employee rude and disruptive with coworkers or the public?

(3) Has the employee taken or misused government property?

(4) Is the employee impertinent or insubordinate to supervisors?

(5) Has the employee violated standing operating procedures or regulations/policies?

(6) Handle these types of problems through disciplinary procedures; depending upon the circumstance, they may result in reprimand, suspension, or removal (FSH Regulation 690-26, Conduct and Discipline).

c. Probationary Employees. The probationary or trial period is an extension of the examining process and any significant infraction may result in immediate separation for unsatisfactory completion of the probationary period. A supervisor should use the probationary or trial period to identify and deal with potential problem employees to avoid dealing with even greater problems later.

**6. LEAVE AND ABSENCES.** This area causes problems for most supervisors in considering when to approve/deny leave requests, what to do when an employee is or has been on extended sick leave, what documentation is required for approved leave, how to deal with suspected leave abuse, and what to do about repeated tardiness.

a. Prolonged or repeated absence is obviously going to impact upon the employee's ability to successfully meet the requirements of the job. Each case may have unique situations or factors to consider; however, the following concerns generally apply:

(1) As a primary consideration, employees are required to personally notify their supervisor or properly appointed designee of any absence and to secure approval for it. Failure to request such approval or absence after the leave request has been disapproved requires that the absence be charged to Absent Without Leave status and that disciplinary action should be initiated.

(2) Supervisors are not required to approve leave, even if previously scheduled or on an emergency basis, if there is a valid requirement for the employee to be on duty. This applies no matter how valid the reason for the employee's request. A supervisor must consider each case upon its own merits, with reason and consistency applied, to arrive at a decision.

b. The supervisor is also responsible for ensuring that absences from duty are legitimate, properly approved, and documented (as required). The FSH Regulation 690-14, Leave and Absences, addresses the topic in detail along with pertinent procedures in administering leave.

**7. DEALING WITH POOR PERFORMANCE.** Unsatisfactory performance is purely the result of the employee's inability to perform the assigned duties; it is not a conduct issue. Disciplinary actions are never the appropriate tool to attempt to improve performance because employees ought not be disciplined for something they are unable to do. Assuming that the employee is aware of what is expected, the appropriate action would be counseling, training, and closer supervision.

a. At the first sign of a performance problem, the supervisor should discuss the matter in detail with the employee. The discussion should center around those elements of the performance standards that are not being met, along with specific actions required to reach an acceptable (Fully Successful) level. It is highly recommended that the discussion be documented by a Memorandum For Record and the employee supplied with a copy.

b. If, at the end of a reasonable time (normally 30 days), performance remains unacceptable in at least one performance standards element, the supervisor should formally notify the employee in writing of the unacceptable performance. The notice should specify:

(1) The element(s) of the performance standards that is/are not being met.

(2) In what way(s) is (are) the employee failing to meet the standard(s) for the element(s).

(3) The amount of additional time (30, 60, 90, 120 days) management will provide the employee to demonstrate acceptable performance.

c. In addition, a Performance Improvement Plan must be included with the notification that specifies formal or on-the-job training that may be provided, ideas for improvement, closer supervision, or other similar ideas.

d. Should the employee fail to demonstrate acceptable performance by the end of the time given in the formal notice, management is required to initiate or propose action through the CPAC to reassign, change to lower grade, or remove the employee from Federal Service.

**8. DEALING WITH EMPLOYEE MISCONDUCT.** Many instances of misconduct such as tardiness, rudeness to a co-worker, or disturbing the work of others are relatively minor. They require nothing more than an informal discussion or, at most, an informal written warning. Prior to counseling or initiating disciplinary action, a supervisor should become familiar with the appropriate negotiated agreement for the organization, if applicable. This ensures that a bargaining unit employee is afforded his/her rights.

a. Major infractions such as fighting, Absent Without Leave, leave abuse, or insubordination require a more severe action, such as a formal reprimand, suspension, or removal. It is the established policy at Fort Sam Houston that the penalty assessed for a given offense will be within the range specified in the Standard Table of Penalties contained in FSH Regulation 690-26, Conduct and Discipline.

b. Prior to deciding upon a penalty, the supervisor should consider past practices used within the organization. This will assist in assuring that employees are given like penalties for like offenses, which is basic to the concept of constructive discipline. As a reminder, it is established policy that supervisors and managers may receive the next higher penalty for a given offense. A supervisor must keep in mind, however, that the broad objective of discipline is not to punish, but to train and motivate employees in the maintenance of reasonable standards of conduct and work performance.

c. Formal disciplinary actions require advance written notice to the employee along with a specific explanation of rights. Due to the highly technical procedural and regulatory requirements, all such notices must be coordinated with a PMS in the servicing CPAC.

**9. SPECIAL CONSIDERATIONS.** In discussing performance or conduct problems with an employee, the employee may reveal a problem with alcohol or drugs, or a health situation that is affecting performance or conduct. Consult FSH Regulation 690-14, Leave and Absences, first. If further guidance is required, the supervisor should contact the servicing PMS for assistance in obtaining medical documentation of the possible handicapping condition so that appropriate rehabilitative assistance may be offered.

a. As a general rule, supervisors must provide reasonable accommodation and assistance where indicated. However, once an employee has entered into a program (for generally around 90 days--but not required) and either does not participate or the employee's efforts do not bring performance or conduct to an acceptable level, formal action should be initiated.

b. When determined by the Federal Medical Officer that the employee is medically disabled from partial or total performance of duties, other procedures apply. If possible, the employee may be accommodated by changes to the current position or reassignment to another position. If this is not possible and the employee is otherwise eligible, the employee may apply for disability retirement. The supervisor should contact the servicing CPAC for further guidance in this area.

**10. THE PERSONNEL MANAGEMENT SPECIALIST AND SUPERVISOR.** The PMS is the supervisor's staff advisor, technical and regulatory expert, and provides advice to the employee on employee rights and grievance/appeal procedures.

a. A supervisor should be aware that any formal disciplinary action taken may result in a grievance or an appeal. Either of these opens the entire action to review by the activity commander, the Office of Complaint and Investigation, the Equal Employment Opportunity Commission, the Office of Personnel Management or the Merit Systems Protection Board (MSPB). Therefore, prior to proposing any action, the PMS will want to review all available documentation to ensure that the case can be supported on appeal. Time and attendance records, counseling statements, medical statements, letters of warning, investigative reports, statements from witnesses, and the employee's prior disciplinary record are all valuable sources of information and will be reviewed.

b. In the case of a performance related action, documentation must show that the employee was informed:

(1) Of the failure to meet one or more elements of the performance standards.

(2) Of the improvements needed to meet Fully Successful standards.

(3) Of what assistance would be given

(4) Of the consequences of failure to meet the standards within a reasonable time (30, 60, 90, or 120 days).

(5) That the performance during the warning period failed to improve to the Fully Successful level.

(6) That retention in the position is neither feasible nor warranted

c. Once review of the documentation is complete and the penalty decided, the supervisor is then ready to proceed with the action.

d. As the case progresses, the PMS is also the staff advisor to the commander and may eventually serve as a witness or technical expert for the Department of the Army in a formal hearing before the MSPB. It is important for the supervisor to understand this relationship because, while the PMS is certainly interested in resolving the supervisor's personnel management problems, the PMS must also be aware of the goals and objectives of the serviced commander. Each step of the action, therefore, will be managed so as to minimize possible impacts upon the commander's resources.

11. **ADVICE AND ASSISTANCE.** Although supervisors are responsible for personnel management functions, CPAC personnel understand that supervisors are not specialists in the technical/legal aspects. It is up to the supervisor to recognize a developing problem and take action to resolve it. Inaction usually turns small difficulties into major disruptions, and these require significant blocks of both the supervisor's and CPAC personnel's resources to resolve.

a. The servicing PMS is available to assist supervisors in the areas of conduct, discipline, leave, fitness for duty, performance, awards, and almost any other matter not clearly within the scope of Recruitment and Placement, Training and Development, Position Management and Classification, Labor Management Relations, Retirement, or Workers' Compensation.

b. The most important thing for supervisors to remember is that the resources of the CPAC are available to them. The CPAC personnel cannot and do not desire to take over a supervisor's personnel management responsibilities. The CPAC can and will make every effort to work with a supervisor in resolving personnel management problems.

The proponent of this pamphlet is the Directorate of Civilian Personnel, ATTN: MCGA-CP. Users are invited to send comments and suggested improvements on DA Form 2028 (Recommended Changes to Garrison Publications and Blank Forms) to the Commander, U.S. Army Medical Department Center and School and Fort Sam Houston, ATTN: MCGA-CP, Fort Sam Houston, Texas, 78234-5022.

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