



HUMAN RESOURCES

3.3 Performance & Related Matters

PERFORMANCE MANAGEMENT PROGRAM

A. Policy

For USMS employees to maintain a successful level of performance they must have a clear understanding of the organization's goals and objectives, found at the Department of Justice, *Strategic Plan*, and the 2006-2010 USMS Strategic Plan. Specifically, the USMS goals and objectives are aligned with the DOJ Strategic Plan, with emphasis on Goal #4, which is to ensure the fair and efficient operation of the Federal justice system, including providing protective services, apprehending fugitives, and ensuring the proper care of Federal prisoners.

The USMS performance management program encourages supervisors to provide feedback to employees through open communication during the formal planning, monitoring, and reviewing of performance. Specifically, the USMS's four-level performance appraisal program supports the following goals:

- Clear and honest communication between a supervisor and an employee about work performance, either individually or as a member of a work team, throughout the rating period; (Office of Personnel Management, *Performance Management*)
- Clarification of specific work responsibilities within the critical job elements and their relationship to the USMS Strategic Plan;
- Fair and efficient evaluation of employee performance and the annual determination of a specific rating of record; and
- Identification of employee development opportunities that will allow employees to acquire the skills, knowledge, and abilities to perform the work of a changing organization. The Department of Justice, *Skills Assessment Survey* web link is provided to help you assess employee skills and identify training needs. Additionally, managers need to identify their subordinates' training requirements/needs and request funds through the Training Academy.

B. General Procedures

1. The USMS Performance Management Program is a four-level rating system of Outstanding, Excellent, Successful, and Unacceptable. Employee ratings will be entered into the automated personnel system by HRD as Pattern E Level 5 for Outstanding, Pattern E Level 4 for Excellent, Pattern E Level 3 for Successful or Pattern E Level 1 for Unacceptable. These formulas are in accordance with 5 CFR 430.208 (d).
2. The program has a Performance Plan & Rating form USM-540S for all "managers and supervisors" incorporating three mandatory mission-critical elements. The program also has a Performance Plan & Rating form, USM-540N for all "non-supervisory" employees that includes four mandatory critical elements for all non-supervisory employees plus an additional four "law enforcement" critical elements for non-supervisory law enforcement employees.
3. Critical element standards have been written at the Successful level. Additional USMS critical elements and standards are not permitted.
4. The Attorney General or the Deputy Attorney General may issue mandatory elements which components must include in employees' performance plans.

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5. The appraisal period shall cover one year, from October 1 through September 30.
6. The minimum appraisal period shall cover a period of no less than 90 calendar days.
7. The Sustained Superior Performance (SSP) award is based solely on an employee's performance rating of record assigned at the end of the rating period. This award recognizes sustained levels of successful or higher performance over the course of the rating period. SSPs and other awards based on employee accomplishments are addressed in USMS Awards Program directive.
8. Nothing in this program directive shall change Article 14 of the Master Agreement, which specifically addresses performance evaluation.
9. **Planning Performance**
 - a. Employees will receive two specific documents which are important in performance planning:
 - (1) The employee Performance Plan & Rating USM-540S or USM-540N hereafter referred to as Performance Plan, with specific Performance Initiatives tied to higher-level goals and objectives.
 - (2) The employee's official position description.
 - b. The Performance Plan is generic across either all supervisory or non-supervisory positions within the USMS with exception of the following:
 - (1) Employees for whom employment is not reasonably expected to exceed 120 calendar days in a consecutive 12 month period; and
 - (2) Employees occupying positions otherwise specifically excluded by law or regulation, including United States Marshals and members of the Senior Executive Service.
 - c. Official position descriptions are currently available in district/division administrative files and are provided to employees when there is a change in the position. If necessary, copies of district standard position descriptions may be obtained through the Human Resources Division Web Site. HQ position descriptions may be obtained through HRD.
 - d. If the job has changed, rating officials will normally provide a Performance Plan and position description to the employee within 30 days of these dates:
 - (1) The first day of the rating period; or
 - (2) The first day of a detail or temporary promotion expected to last 90 days or longer; or
 - (3) The first day of an employee's entrance on duty.
 - e. In the context of the employee's current position, the rating official and the employee will discuss specific work requirements for the rating period as outlined at the Successful level. The discussion will focus on the specific requirements and the expected level of performance for these requirements.

Additionally, the rating official will attach relevant district/division performance initiatives and any additionally performance initiatives that will further define the employee's job responsibilities to be focused on during the rating year. The rating official and employee will discuss how these, along with the critical elements, relate to achieving USMS goals and objectives.

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- f. Critical elements 1 through 4 on the USM-540N Performance Plan are for non-supervisory law enforcement employees. Indicate, by checking the appropriate box(es), if they apply to the employee's law enforcement position. A minimum of one must be checked.
- g. All Performance Plans require review and approval at the next higher level of supervision above the immediate supervisor before issuance to the employee.
- h. The rating official and the employee will sign the Performance Plan. The employee's signature on the Performance Plan does not necessarily indicate concurrence. Signature indicates that the Performance Plan has been given to the employee and specific work requirements and performance initiatives have been discussed.

10. **Monitoring Performance**

- a. Monitoring performance is a continuous process. Rating officials and employees are encouraged to communicate on a regular basis about work expectations, successes, problems, and solutions.
- b. In order to ensure continuation of successful performance or to assist an employee who is not consistently performing at a successful level, rating officials and employees must meet at least once during the rating cycle, preferably at the midpoint, for an official progress review. Progress reviews may be held at any time during the rating period as requested or as necessary. **NOTE: Supervisory notes should not be attached to the appraisal form.**
 - (1) The discussion at a progress review focuses on strengths and deficiencies. Rating officials and employees should discuss recommendations for improving problem areas, assistance that may be provided from the supervisor or coworkers, opportunities for formal or informal training, etc.
 - (2) If the employee's performance in one or more of the critical elements is deficient, the rating official should be prepared to discuss possible corrective actions as well as the ramifications of unimproved performance.
 - (3) If the employee has questions or concerns about his/her responsibilities or performance to date, he/she should be prepared to discuss these issues with the rating official and seek clarification.
- c. Both the rating official and the employee sign and date the Performance Plan upon completion of the progress review. The signatures indicate that the progress review was held.
- d. If, at any time during the rating period, an employee's performance is seriously deficient, i.e., Unacceptable the rating official should act immediately by contacting the Employee Relations Branch (ERB) within the Human Resources Division for guidance. See number 13 (below) in this directive.

11. **Performance Rating**

- a. The official rating of performance is a natural result of the ongoing communication between an employee and the rating official about performance throughout the rating period.
- b. For most employees, the rating official will normally assign a rating of record within 30 days of the conclusion of the rating period.
 - (1) A rating of record will be prepared by the rating official up to 90 days before the conclusion of the rating period under the following circumstances:

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- The rating official departs within 90 days of the end of the rating period; or
- The employee changes positions or departs within 90 days of the end of the rating period.

(2) A rating of record will be delayed until the employee has met the minimum 90-day appraisal period.

- c. The rating official will review the employee's performance on the critical elements in light of the performance standards for the entire rating period. For each critical element, the rating official will check an element rating of Outstanding, Excellent, Successful, or Unacceptable. The rating official may seek employee input in order to assure performance in all aspects of the job is considered.
- d. Written justification supporting performance in any Critical Element that has been assigned an "Outstanding" rating should be documented on the Performance Plan in the space provided at the end of Part V.
- e. The rating official will obtain the reviewing official's signature before discussing the annual rating of record with the employee. The employee will sign and date the annual rating of record. Employee signature does not necessarily mean the employee agrees with the rating of record. Signature on the rating of record indicates the rating official discussed the rating with the employee.
- f. The rating official will meet with the employee and discuss his/her annual rating. The discussion should focus on the strengths evident in the employee's performance as well as those areas in which he/she needs to improve.

12. **Appraising the Performance of an Employee who is Detailed, Temporarily Promoted or Reassigned**

- a. An employee who is **detailed or temporarily promoted** for a period of 120 days or longer will have an **interim rating** for the period of the detail or temporary promotion. The interim rating will be a factor and considered in preparation of the rating of record. The supervisor of the detail or temporary promotion will serve as the rating official for the interim rating. He/she will ensure that the critical elements and performance standards and position description of the position to which the employee is detailed or temporarily promoted are provided to and discussed with the employee, normally within 30 days of the beginning of the detail or temporary promotion. If the employee is detailed to an unclassified set of duties, the rating official must clearly indicate to the employee the specific expectations while on the detail. He/she will prepare the interim rating documenting the employee's performance while detailed or temporarily promoted and then forward that interim rating to the employee's rating official within 30 days of the conclusion of the detail or temporary promotion. Outstanding ratings must include a written justification.
- b. An employee who **transfers to** the USMS from another agency will have his/her performance rating from that organization (for the position held immediately prior to departure) considered by the rating official in the preparation of the rating of record.
- c. When an employee is **reassigned to** another USMS position in the same line of work outside of his/her immediate organization, the rating official will **prepare an interim** rating indicating the employee's performance to date. The interim rating must be considered by the new rating official when preparing the rating of record. When an employee changes positions within the same organization and there is no substantive change in duties, an interim rating is not required except when there is a change in rating officials.

13. **Appraising Employee Performance which is Unacceptable**

- a. Whenever a rating official observes that an employee's performance on a critical element is beginning to decline, the rating official will discuss the specific shortcomings

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with the employee and encourage a discussion of the employee's views on his/her performance.

- b. In the event that the employee's performance in one or more critical elements appears to be Unacceptable, the rating official will contact the ERB within the Human Resources Division for advice and guidance on taking appropriate corrective action. If it is determined that there is insufficient documentation or instances of job failures to support an Unacceptable performance rating, ERB will discuss other corrective measures with the rating official. If it is determined that there is sufficient documentation or instances of job failures to support an Unacceptable rating, the rating official will provide this documentation or information to ERB for inclusion in the Performance Improvement Plan (PIP). ERB will work with the rating official in preparing a Notice of Unacceptable Performance and Performance Improvement Plan (NUP/PIP). The NUP/PIP will be reviewed and approved by the ERB and the reviewing official before it is communicated to the employee.
- c. The rating official will prepare a NUP/PIP for the employee wherein:
 - (1) The deficient critical element(s) will be identified and the employee will be informed of the performance requirements or standards that must be attained in order to demonstrate successful performance.
 - (2) An employee will have a reasonable opportunity to demonstrate performance improvement. The opportunity-to-improve period must be no less than 30 days in duration. This period may be extended by the rating official if circumstances warrant such an extension.
 - (3) The NUP/PIP will be reviewed, approved, and signed by the rating official and the reviewing official before it is put into place for the employee.
 - (4) If, after an opportunity to improve, the employee demonstrates acceptable performance on the NUP/PIP, the rating official will notify the employee that his/her performance has improved to the Successful level or higher. Additionally, the employee will be notified that should their performance decline in any of the NUP/PIP related elements within 12 months after issuance of the NUP/PIP, they will be deemed to be Unacceptable.
 - (5) If, after an opportunity to improve, the employee demonstrates Unacceptable performance, then adverse action proceedings based on Unacceptable performance may begin. These adverse actions are reduction in grade or removal.
 - (6) Any administrative or adverse action initiated under a previous performance appraisal program shall continue to be processed in accordance with the law and policy of that program until the action is resolved.

14. **Performance Rating Documentation**

- a. Completed original ratings of record will be maintained in the district/division's individual Employee Performance File (EPF) for four years and then destroyed.
- b. Employees will receive a copy of their completed rating of record.
- c. Rating officials will submit to their supervisor a summary list of the ratings of record assigned to their employees. The summary list will be reviewed and signed by the reviewing official and forwarded to the United States Marshal or the Division Assistant Director. The summary list(s) will then be certified as correct by the United States Marshal or the Division Assistant Director and forwarded to the Human Resources Division.

15. **Performance-Based Grievances or Complaints**



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- a. The administrative grievance procedure as set forth in USMS *Grievance Procedures* , or if applicable, the negotiated grievance procedure (for bargaining unit members) as set forth in the *Master Agreement* , are the formal methods available to employees to contest the rating of record.
 - b. An employee may file a complaint through the Office of Equal Employment Opportunity (EEO) within 45 days of being notified of the rating if the employee believes the rating given is based on race, color, age, religion, sex, national origin, physical or mental disability, sexual orientation, marital status, parental status, or previous participation in the EEO process.
 - c. An employee may choose the Alternative Dispute Resolution process in lieu of filing a grievance.
16. **Within-Grade Increase**
- a. An employee must perform at an acceptable level of competence in order to receive a Within-Grade Increase (WIGI). An employee whose current rating of record is Successful or higher is determined to be performing at an acceptable level of competence.
 - b. If an employee's performance declines to an Unacceptable level, the supervisor should disapprove the WIGI (5 CFR 531.409) by completing and returning the AD-658, "*WITHIN-GRADE INCREASE RECORD*" certification form to their assigned Human Resources Specialist in Staffing/HRD.
 - c. In addition to the above, the employee must also be issued a letter of notification of "Denial of Within Grade." This notice shall also inform the employee of his/her right to request reconsideration. The rating official should seek advice from the ERB within the Human Resources Division.
17. **Program Evaluation:** As part of the Human Resources Division's Program Evaluation process, the USMS will review the performance management program on a periodic basis to ensure compliance with applicable statutes, Department of Justice *Performance Management System* and USMS policy on performance management.

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C. Responsibilities

1. Director

- a. Ensure that the goals and objectives of the Service are communicated to all employees; and
- b. Serve as both rating official and reviewing official for those who report directly to him/her.

2. Rating Officials (First-level Supervisor)

- a. Inform employees of the specific work responsibilities and performance initiatives within the critical elements and performance standards using the employee's Position Description;
- b. Communicate to their employees the organization goals and objectives and how the employee's position contributes to the USMS goals and objectives;
- c. Evaluate employee performance and assign the appropriate annual rating of record;
- d. Ensure that the reviewing official signs and dates employee ratings of record before discussing with employee;
- e. Discuss developmental opportunities with the employee to further enhance his/her performance of assigned work responsibilities;
- f. Recognize and reward employees for their accomplishments;
- g. Issue a NUP/PIP when an employee's performance is determined to be Unacceptable in one or more critical elements of the position. A NUP/PIP may be established at any time during the rating period. The NUP/PIP must be reviewed and approved by the ERB as well as the reviewing official before it is given to the employee.

3. Reviewing Officials (Supervisor of the Rating Official)

- a. Communicate the organization goals and objectives to subordinate employees;
- b. Advise and assist rating officials in the completion of their performance management responsibilities;
- c. Evaluate rating officials regarding the quality of ratings given to their employees to ensure that the rating official applies ratings uniformly and fairly;
- d. Insure review of NUP/PIP and/or Unacceptable rating of record has been obtained by ERB;
- e. Review and approve all rating official's employees' final ratings of record;
- f. Review and approve a NUP/PIP and/or Unacceptable rating of record before an employee is informed;
- g. Review and sign each subordinate rating official's summary list (Certification List) indicating compliance with their performance management responsibilities; and
- h. Forward summary list(s) to the United States Marshal or Division Assistant Director for certification.

4. Administrative Officers

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- a. Maintain locally in the Employee Performance File, for four years, the signed original of each employee's completed rating of record (Performance Plan); and
- b. Transmit to Human Resources Division the certified lists signed by the United States Marshal or Assistant Director summarizing the ratings of record for all district/division employees.

5. **Employees**

- a. Obtain clarification, as required, on performance standards, performance initiatives, work responsibilities and the requirements for their completion;
- b. Complete work responsibilities to the best of their ability;
- c. Seek information about developmental opportunities and discuss with the rating official;
- d. Retain a completed copy of the rating of record.

6. **Human Resources Division**

- a. Provide guidance to all rating officials and members of the management team on all performance appraisal related questions, issues and concerns;
- b. Provide guidance to employees on all performance appraisal related questions, issues, and concerns;
- c. Enter into the automated personnel system the rating of record for each employee of the USMS;
- d. Provide training and supplementary guidance on the performance appraisal program to all employees.

D. DEFINITIONS

- 1. **Appraisal:** The act or process of reviewing and evaluating the performance of an employee against described work requirements, performance standards, and performance initiatives.
- 2. **Appraisal Period:** The period of time for which an employee's performance will be appraised. For all USMS employees, the appraisal period begins on October 1 of each year and ends on September 30 of following year.
- 3. **Critical Element:** A component of a position consisting of one or more duties and responsibilities which contributes toward accomplishing organizational goals and objectives and which is of such importance that unacceptable performance of the element would result in unacceptable performance in the position.
- 4. **Employee Performance Plan & Rating:** The aggregation of an employee's written critical elements and performance standards.
- 5. **Grievance:** A written and signed request by an employee for personal relief concerning a particular act or occurrence which arises during the employment of the employee and is subject to the control of agency management.
- 6. **Interim Rating:** An interim rating is issued to appraise employee performance during details, temporary promotions, or during assignment to any position in which the employee served for at least 120 days during the annual appraisal cycle. In deriving the employee's rating of record, the weight given to interim ratings should be proportionate to the amount of time spent on the temporary assignment in relation to the entire appraisal period.
- 7. **Minimum Appraisal Period:** The minimum amount of time in which an employee must have served in a position under written performance elements and standards in order for an appraisal

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to be rendered concerning such performance. The USMS's minimum appraisal period is 90 days.

8. **Performance Initiative:** Initiatives are not critical elements. They are specific task(s) incorporated under a critical element to further define an employee's duties and job responsibilities that should be focused on during the rating year. The task(s) (aka performance initiative) does not eliminate the requirement to perform all other duties and responsibilities assigned to the employee, but merely indicates its important status.
9. **Performance Standard:** A statement of the expectations or requirements established by management for a critical element at a particular rating level. A performance standard may include, but is not limited to, factors such as quality, quantity, timeliness, and manner of performance.
10. **Progress Review:** The review of an employee's progress toward achieving the performance standards which is not, itself, a rating. The USMS requires at least one progress review, preferably midway through the appraisal period.
11. **Rating Levels:** The USMS uses four rating levels: Outstanding, Excellent, Successful, and Unacceptable.
12. **Rating of Record:** The written record of the appraisal of performance elements and the assignment of a summary rating level which is required annually or at such other times as this program specifies for special circumstances.
13. **Rating Official:** The individual who is responsible for informing the employee of the critical elements of his or her position, establishing performance requirements and performance initiatives for those elements, appraising performance, and assigning the performance rating. Normally, this is the employee's immediate supervisor.
14. **Reviewing Official:** The supervisor who assigns, controls, and is responsible for the work of the rating official, normally the rating official's immediate supervisor (unless there is no higher-level official in the office, board, division, or bureau). In the event the position of reviewing official is vacant or for other appropriate reasons, a higher-level official in the organization may serve in this capacity if the individual is in a position to evaluate the employee's performance.
15. **Summary Rating:** The written record of the appraisal of the critical elements of an employee's position and the assignment of a summary rating level. Under this Plan, a summary rating can be either an interim rating or a rating of record.

DISCIPLINE AND ADVERSE ACTIONS

A. General

1. 5 CFR 752 and Department of Justice Human Resources Order 1200.1 implement those portions of the Civil Service Reform Act of 1978 (CSRA) dealing with discipline and adverse actions. In addition, DOJ Order 1430.3 (Performance Appraisal System) provides separate procedures for actions against employees because of unacceptable performance.
2. This section sets forth a delegation of authority for discipline and adverse actions, including letters of caution, reprimand, suspensions, demotions and removals. It also establishes a USMS Table of Offenses.
3. The provisions of this section apply to all offices, divisions and districts within the USMS. They apply to all discipline and adverse actions taken against USMS employees who are not excluded from coverage by DOJ Human Resources Order 1200.1, Chapter 1.

B. Responsibilities

1. The Director, USMS, is responsible for the USMS adverse action system and all actions processed under 5 USC 75, as amended by the CSRA of 1978, 5 CFR 752 and DOJ Human

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Resources Order 1200.1.

2. The Assistant Director for Human Resources administers this section and the USMS Adverse Action program.
3. The Chief, Employee Relations Team provides staff assistance to the Director and the Assistant Director for Human Resources. The team leader assists districts and other offices in the discharge of their responsibilities.
4. Supervisors and managers must inform employees of rules and standards of conduct and performance as well as ensure their subordinates' compliance. Supervisors and managers will:
 - a. Take appropriate steps to prevent situations from reaching the stage where adverse action is required.
 - b. Initiate action by promptly reporting, through channels, to the Office of Internal Affairs alleged infractions of statutes or regulations or other misconduct that may warrant discipline.
 - c. Consider the total effect of the proposed disciplinary measure upon both the affected employee and others in the work force before recommending it.
5. Failing to provide required instructions to subordinates, permitting or requiring actions that violate regulations and/or failing to report allegations of misconduct may result in adverse action against the supervisor or manager.

C. Status of Employees under Investigation

1. If a supervisory official learns that an employee who is up for a promotion, incentive award or other favorable personnel action may face investigation due to allegations of misconduct, the official will inform the Chief, Employee Relations Team, so that such reward may be withheld temporarily.
2. If the information is credible, the employee may face disciplinary action. The Assistant Director for Human Resources may approve the favorable personnel action if he or she determines that it would not be affected by the adverse information. Within-grade increases will not be affected.
3. When an advance notice of a proposed action to suspend, demote or remove has been issued to an employee, the Personnel Officer will not approve any favorable personnel action for the employee until the adverse action is finalized.

D. Appeal Rights

1. Appeal rights for non-bargaining-unit employees are set forth in DOJ Human Resources Order 1200.1. These employees may challenge suspensions of 14 days or less and lesser disciplinary actions using the agency grievance procedure contained in Section 3.14 or the DOJ equal employment opportunity procedure when discrimination is alleged. Challenges to longer suspensions, reductions in grade or pay, furloughs of 30 days or less, or removals may be filed with the Merit Systems Protection Board (MSPB) under 5 CFR 1200, 1201 and 1202. When such challenges allege discrimination, they may be pursued through the MSPB or the DOJ equal employment opportunity procedure.
2. Appeal rights for bargaining-unit employees are set forth in DOJ Human Resources Order 1200.1. These employees may challenge suspensions of 14 days or less and lesser disciplinary actions using the negotiated grievance procedure or the DOJ equal employment opportunity procedure when alleging discrimination. Challenges to longer suspensions, reductions in grade or pay, furloughs of 30 days or less, or removals may be pursued through the negotiated grievance procedure, the DOJ equal employment opportunity procedure or the

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MSPB. An employee may choose only one of these courses of appeal.

E. Effect of Disciplinary and Adverse Actions on Positive Personnel Actions

1. A letter of reprimand or lesser disciplinary measure will not, in and of itself, prevent an employee from receiving a favorable personnel action.
2. An employee subject to an investigation or who has received a disciplinary action more serious than a letter of reprimand may not be promoted for one year after the date of the offense. At the Director's discretion, that period may be extended to two years. Such matters will be referred to the Director through the Assistant Director for Human Resources for consideration. This provision does not apply to within-grade increases.

F. Instructions for Applying the Table of Offenses

1. The USMS Table of Offenses provides guidance in applying uniform discipline as a supplement to the Department of Justice Standard Schedule of Disciplinary Offenses and Penalties, which also applies to USMS employees. The offenses listed are not all-inclusive but are examples of offenses for which employees of the USMS may be penalized for on-duty and off-duty misconduct. While this table should be used as a guide in determining appropriate penalties, management officials have enough flexibility that offenses listed in the Table can be used in proposing and deciding penalties for similar infractions not found there. The table does not cover discipline required by law. 28 CFR 45-735 and 5 CFR 2635 contain additional statutory and nonstatutory provisions relating to conduct of USMS employees.
2. Suspensions are set forth in calendar days.
3. The reckoning period is used to determine whether an infraction is a first, second or third offense. It begins on the date management becomes aware of a first offense and continues until the end of the reckoning period. Recurrences of similar offenses within the reckoning period will result in increasingly severe penalties.

For example, the reckoning period for excessive unauthorized absence (Offense 3, DOJ Table of Offenses) is two years (730 days). If a manager becomes aware of a violation of Offense 3 on July 12, 1992, the range of penalties provided is a five-day suspension to removal. A subsequent violation of Offense 3 taking place before July 11, 1994, has a range of penalties from a 15-day suspension to removal, and a third violation of the same offense before July 11, 1994, merits removal.

4. Prior offenses are considered when determining appropriate penalties regardless of the reckoning period. An employee who demonstrates a pattern of misconduct will be subject to progressively higher penalties within the allowable range.
5. When appropriate, directed reassignment or other remedial action may be considered in addition to the suggested penalties.
6. Employees must know and adhere to the Standards of Conduct of the Department of Justice and the USMS directives governing conduct and responsibility.
7. A wide range of penalties is listed for various serious offenses because the table is intended to provide maximum flexibility in the assignment of penalties. An offense committed by a supervisor or management official, for example, may be treated more seriously because of his or her position than a similar offense committed by a non-managerial employee. In aggravated cases, a measure outside the range of penalties may be imposed. When a more severe penalty than that provided for in the range of penalties is proposed, the adverse action file should document the reason for imposing it.
8. Copies of the table must be provided to all employees and copies must also be posted prominently in each USMS office. Deciding officials will explain the effects of the disciplinary action on future favorable personnel actions in all decision letters.

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9. The Employee Relations Team will assist in resolving questions pertaining to disciplinary actions. Discipline should always be administered confidentially insofar as possible.
- G. Disruptive Behavior:** An employee whose behavior is disruptive or abusive, and who poses a hazard to himself or herself or others, may be placed on administrative leave temporarily, not to exceed 10 days, after coordination with the Employee Relations Team to ensure that it is in accordance with the Department of Justice Leave Administration Order 1630.1B. In addition, any administrative leave that may exceed 10 days must also be coordinated with the Employee Relations Team and have the prior written approval of the Department of Justice, Assistant Attorney General for Administration.

DISCIPLINE DELEGATION

A. Purpose: This policy directive concerns the delegation of disciplinary actions within the U.S. Marshals Service (USMS).

B. Authority: The Director's authority to supervise the USMS is set forth in 28 USC 561(g) and 28 CFR Section 0.111.

C. Policy

1. **Informal Discipline:** Minor corrective actions—i.e., oral admonishments, letters of instruction, letters of caution, and leave-restriction notices—will be issued at the lowest appropriate level.
2. **Performance-based Actions:** The Chief Deputy U.S. Marshal, or appropriate counterpart for non-district cases, will be the proposing official for performance-based actions and the deciding official for within-grade increase denials. The U.S. Marshal, or appropriate counterpart for non-district cases, will be the deciding official in performance-based actions and reconsideration of within-grade increase denials.
3. **Disciplinary Actions of 14 Days or Less and Letters of Reprimand:** The Chief Deputy U.S. Marshal, or appropriate counterpart for non-district cases, will be the proposing official for all disciplinary actions warranting a suspension of 14 days or less and letters of reprimand. The U.S. Marshal, or appropriate counterpart for non-district cases, will be the deciding official in these instances.
4. **Disciplinary Actions Greater Than 14 Days:** A panel comprising supervisory/managerial employees will propose all disciplinary actions warranting a suspension of more than 14 days. In addition, a supervisory administrative employee will serve on the panel for cases involving administrative employees. An alternate will be appointed to serve in the absence of one of the members. The Director or designee will appoint panel members as well as a senior official, who will decide all disciplinary actions the panel proposes. Panel members and the senior official will normally serve two-year terms.
5. **Probationary Employees:** All discipline involving employees serving an initial probationary period must be referred to the Employee Relations Team (ERT), after which these cases will be handled at the local level.
6. **Procedures:** The ERT will determine where each case gets routed (i.e., district or appropriate counterpart or panel). Generally, cases warranting a suspension of 14 days or less will be routed to the district (or appropriate counterpart) and those involving longer suspensions will be routed to the panel. A case will be referred to the panel if a district believes it should be rerouted there and the ERT leader agrees, or if the latter believes a case should go the panel after speaking with a district about it. The panel has the authority to take any actions it deems appropriate.

D. Procedures

1. **Proposing Officials:** Before issuing a proposal, proposing officials must consider all relevant factors and obtain a review from the ERT.

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2. **Deciding Officials:** Before issuing a decision, deciding officials must consider all relevant factors, including those in *Douglas v. Veterans Administration*. For example, under this decision, if a deciding official determines that an employee's actions show the need for training, he or she will ensure that training is provided.

E. Definitions

1. **Adverse Actions:** This policy incorporates the principal statutory requirements in Chapter 75 of the Title 5 United States Code, Subchapter I, for suspensions of 14 days or less, and Subchapter II for suspensions of more than 14 days, removals, reductions in grade or pay, or furloughs for 30 days or less.
2. **Suspension:** placing an employee, for disciplinary reasons, in a temporary status without duties and pay.

PERSONAL APPEARANCE STANDARDS

- A. **Purpose:** This policy directive sets forth standards of dress and grooming for U.S. Marshals Service (USMS) employees.
- B. **Authority:** The Director's authority to issue written directives is set forth in 28 CFR 0.111 and 28 USC Section 561 (g).
- C. **Policy:** Employees will dress and groom in good taste, conforming to standards generally accepted in the business, court and law enforcement community. Dress and grooming must make a positive contribution to the public's acceptance of USMS employees. Duties in hazardous situations require dress and grooming that will not be a liability to the employee's safety.
- D. **Procedures**
 1. U.S. Marshals and division chiefs will maintain reasonable and consistent personal appearance standards within their districts and divisions, respectively. They may designate a day as "casual dress" in keeping with the accepted business standards of their communities.
 - a. Employees who are sent on special assignments are responsible for determining the personal appearance standards for the assignment areas and complying with them.
 - b. Standards for duty uniforms are described in USMS Duty Uniform directive.
- F. **Responsibilities**
 1. **U.S. Marshals and Division Chiefs:** maintain personal appearance standards within their districts and divisions.
 - a. **USMS Employees:** comply with the personal appearance standards set forth by their supervisors.

GRIEVANCE PROCEDURES

A. General

1. This section establishes procedures for non-bargaining-unit employees (referred here throughout as employees) to use in filing or processing grievances under the USMS Grievance Procedure. These employees consist of management officials, supervisors, criminal investigators, confidential employees, nonclerical personnel workers, professional employees and others excluded from bargaining-unit coverage by executive order.

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2. The Office of Personnel Management provides criteria for the establishment of an administrative grievance system by each agency and bureau and defines the employees and actions that may be addressed under the system in 5 CFR 771.
3. In addition, Department of Justice Human Resource Order 1200.1 establishes policies, procedures, authorities and responsibilities that must be adhered to in the attempted resolution of employee grievances within the Department of Justice (DOJ).
4. It is the policy of the USMS to provide employees with a simple, expeditious, orderly method whereby they may bring complaints over matters that are under management control. Grievances presented under this section will be resolved as close to their source and as promptly and economically as possible.

B. Responsibilities and Rights

1. **Director, USMS:** The Director has delegated to the Human Resources Division the responsibility for implementing the provisions of this section and for providing technical review and guidance to management officials, supervisors, fact-finders and employees when processing and reviewing grievances originating within the USMS under the grievance procedure.
2. **Human Resources Division** is responsible for the development, interpretation, administration, review and evaluation of the USMS grievance system. The team provides technical review and guidance to management officials, employees and fact-finders when processing grievances under the USMS grievance procedure.
3. **Management Officials and Supervisors:** Management officials and supervisors are required to recognize and correct the courses of legitimate grievances and make efforts to adjust employee complaints informally whenever possible. These officials must process grievances in a timely fashion in accordance with the provisions set forth in this section and DOJ Human Resources Order 1200.1. They will perform their duties in a manner that promotes confidence and teamwork and assures employees that their rights and concerns receive fair consideration.
4. **Employees:** are responsible for promptly bringing matters of concern or dissatisfaction to the attention of management and supervisory officials and for making the maximum effort to achieve informal resolution of their issues. They must know this section as well as DOJ Human Resources Order 1200.1 and follow the procedures described herein. Employees are required to comply with the time limits for submission of a grievance set forth here when filing grievances. When filing a grievance, an employee or group of employees is assured:
 - a. Freedom from restraint, interference, coercion, discrimination or reprisal.
 - b. The right to be accompanied represented and advised by a representative of their choice except when the USMS rejects the representative selected.
 - c. A reasonable amount of administrative time, not to exceed eight hours, to present the grievance if the employee is in a duty status.
 - d. The right to communicate with the Human Resources Division and other counselors, including Employee Relations Specialists, Personnel Management Specialists, and the Equal Employment Opportunity Officer and counselors designated under the DOJ Equal Opportunity and Treatment Procedures. (Employees are strongly encouraged to discuss work-related concerns with their supervisors and use the chain of command before contacting a headquarters office.)
5. Designated employee representatives will be permitted to discharge their representational duties without restraint, interference, coercion, discrimination or reprisal, and will have a reasonable amount of administrative time (not to exceed eight hours) to present grievances if they are USMS employees in a duty status.

C. Definitions

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1. **Personal Relief:** a specific remedy directly benefiting the grievant(s) that does not include a request for disciplinary or other action affecting another employee.
2. **Computation of Time for Filing a Grievance:** To compute the number of days for filing a grievance at the informal and formal stage of the USMS grievance procedure, count the days after the event giving rise to the grievance and include the last day for filing the grievance at each level of the computation. For instance, if the grievant receives a decision on an informal grievance on November 3, the 15 days for filing a formal grievance begin November 4. The grievance must then be filed at the formal stage by November 18 (if that is the employee's day off, it must be filed on the next workday).

D. Matters Excluded from Coverage: The following actions are excluded from coverage under the USMS grievance procedure:

1. The content of published agency regulations and policy, though an employee's dissatisfaction or concern with the application or impact of a regulation or policy is covered.
2. A decision that may be appealed to the Merit Systems Protection Board (MSPB) or is subject to final administrative review by the Office of Personnel Management or the Equal Employment Opportunity Commission. This does not include actions appealable to the Special Counsel of the MSPB for prohibited personnel practices, which would be covered.
3. Not being selected for promotion as a member of a group of properly ranked and certified candidates or not receiving a noncompetitive promotion. However, allegations of improper ranking or failure to promote in a career-ladder position are covered.
4. A preliminary warning notice of an action that, if effected, would be covered by the grievance system or excluded under this directive. This includes performance or misconduct counselings or warnings, or a proposed adverse action where no decision has been issued.
5. A return of an SES career appointee to the general schedule or other pay system during the one-year probationary period or for less than fully successful executive performance under 5 USC 3592.
6. Reassignment of an SES appointee after he or she has received an unsatisfactory rating under 5 USC 4314.
7. The termination of a temporary promotion within two years and the return of the employee(s) to his or her former position, or the reassignment or demotion of the employee to a position that is not at a lower grade or pay than the individual's former position.
8. The termination of a term promotion after a project or specified period is over or at the end of a rotational assignment of between two and five years, and the return of the employee to the position from which he or she was promoted or to a position of equivalent grade and pay in accordance with 5 CFR 335.102(g).
9. The substance of the critical elements and performance standards of an employee's position that have been established in accordance with the requirements of 5 USC 43 and 5 CFR 430.
10. The granting of or failure to grant or the amount of a performance award, or the adoption of or failure to adopt an employee suggestion or invention under 5 USC 4503-4505, or the granting of or failure to grant an award of the rank of meritorious or distinguished executive under 5 USC 4507. Decisions to give or not give awards, suggestions and awards of rank are not grievable.
11. The receipt of or failure to receive a performance award under 5 USC 5384 or a quality-step increase under 5 USC 5336. Decisions to give or not give awards are not grievable.
12. A decision to grant or not grant a general increase, merit increase or performance award, or a decision concerning the granting of or failure to grant cash awards or honorary recognition under 5 USC 54, and 5 CFR 540.

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13. The termination under 5 CFR 315(H) of a probationary employee for unsatisfactory performance or misconduct.
14. The termination under 5 CFR 359(D) of an SES career appointee during probation for unsatisfactory performance.
15. A performance evaluation under 5 USC 43. This refers to SES performance evaluations, which are not covered.
16. An action taken under the terms of a formal agreement voluntarily entered into by an employee that changes the employee's geographic location or returns an employee from an overseas assignment.
17. A return of an employee from an initial appointment as a supervisor or manager to a non-supervisory or non-managerial position for failure to satisfactorily complete a probationary period under 5 USC 3231 and 5 CFR 315(l).
18. Any matter subject to the negotiated grievance procedure.
19. Actions that are or have been the subject of an unfair labor practice complaint.
20. Actions that are or have been the subject of a complaint under the Department of Justice Equal Employment Opportunities procedures.
21. A diminished penalty or other lesser action resulting from a decision issued by an outside authority or a grievance appeal under this section.
22. Any aspect of a removal, separation, termination, suspension of more than 14 days, reduction in grade and/or pay, or furlough.

E. Cancellation of Grievance: A grievance under this section may be canceled in the following circumstances:

1. At the grievant's request.
2. Upon termination of the grievant's employment with the USMS, unless the personal relief sought by the employee may be granted after the termination.
3. Upon the death of an employee, unless the grievance involves a question of pay.
4. For failure to prosecute if the employee does not furnish required information or unduly inhibits the advancement of the grievance. This includes noncompliance with time limits, insufficient identification of the grievance at both stages of the procedure, and failure to specify the personal relief requested.

F. Employee Representation under the Usms Grievance Procedure

1. Designation of a Representative

- a. An employee, in pursuing a grievance, has the right to be accompanied, represented and advised by a representative of his or her choice; however, any employee excluded from bargaining-unit coverage in accordance with Chapter 71, Title 5 of the U.S. Code for reasons other than Executive Orders 12171 and 12546 may not be represented by a labor organization or the officers, agents or representatives of an organization that represents USMS bargaining-unit employees. Therefore, professional employees, confidential employees, supervisors and management officials may not be represented by an official of a labor organization.
- b. The employee must notify, in writing, the official to whom the grievance is presented of his or her choice of representative. Failure to do so will delay the processing of the

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grievance and may prevent a representative from being admitted to the proceedings.

2. **Representation Challenges**

- a. The USMS has the right to reject the representative of an employee or group of employees when the choice:
 - Conflicts with priority needs of the government.
 - Would bring an unreasonable cost to the government.
 - Would result in a conflict of interest or position.
- b. A decision to reject a designated representative may be made at any time during the processing of a grievance, but normally should be made before a merit consideration of the grievance and after consultation with the Human Resources Division. The Human Resources Division will establish controls and procedures necessary to ensure that uniform standards are applied in the approval and disapproval of a grievant's representative.
- c. When an employee elects to appeal the deciding official's decision to reject his or her representative, the employee must submit a written challenge to the Deputy Director within 10 days of being notified of the decision. But if the Deputy Director has been involved in the decision, the employee's challenge will be decided by the Director.
- d. The Deputy Director will normally issue a written decision to the employee within 10 days of receiving the appeal.

3. **Effect of Disallowance Decision on Processing a Grievance:** The processing of the grievance will be held in abeyance pending a final decision on the representative issue, after which the processing times outlined in this section will again be followed.

G. **Presentation of an Informal Grievance**

1. **Time Limits:** These time limits may be extended by the agency for good cause shown by the employee.

An employee may file a grievance about a particular act within 15 days of it or within 15 days of becoming aware of it.

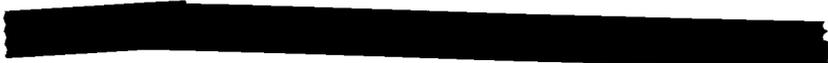
2. **Form of Grievance:** At the informal stage the employee should submit a grievance, in writing, with the date.

3. **Official Who Receives the Grievance**

- a. An employee will present the grievance at the informal stage to the immediate supervisor or other management official who has the authority to resolve the matter. If the complaint raised is outside the authority of the immediate supervisor, it will be submitted to the official having authority to adjust the grievance at the informal stage.
- b. If the employee doesn't know who the proper official is, he or she should present the grievance to the immediate supervisor.

- H. **Mandatory Use of the Informal Procedure:** In general, a complaint must be responded to at the informal stage before it can be submitted at the formal stage of the USMS grievance procedure. But performance appraisals and disciplinary actions involving penalties of 14 days or less should be submitted initially at the formal level, as set forth below.

I. **Processing the Informal Grievance**



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1. **Mandatory Consideration and Response**

- a. The official who acts on an employee grievance must provide the employee with a written response. If the grievance is not timely or is non-grievable, the employee should be so advised; however, the employee must be allowed to file the grievance at the formal stage, since it cannot be rejected for any reason at the informal stage unless the issue relates to excluded matters.
- b. The official hearing a complaint at the informal stage will attempt to resolve the matter according to the prescribed time standards described below. Efforts to resolve a grievance may include oral discussions with the employee or his or her co-workers, interviews, file reviews and taking written statements.

2. **The Written Response**

- a. If the grievance is resolved informally, a written decision should be given to the employee.
- b. If it is not resolved, the employee will be advised in writing by the management official who handled the grievance. The response must be issued within 10 days of when the employee presented or filed the informal grievance. Failure to adhere to this time limit means the employee may submit the grievance at the formal stage. The written response to the informal grievance will:
 - Advise the grievant that the response constitutes completion of the informal grievance procedure.
 - State briefly what action has been taken by the management official in an attempt to informally resolve the grievance.
 - Inform the employee that he or she has the right to submit a formal grievance in writing within five days.
 - Specify the designated management official to whom the formal grievance should be submitted.
 - Advise the employee of the items that must be addressed in the formal grievance.

J. **Formal Grievance Procedure**

1. **Presenting the Formal Grievance**

- a. An employee is entitled to present a grievance at the formal stage of the procedure if:
 - The employee has already submitted it at the informal stage or there has been no response within the time limits.
 - It is presented by the employee or his or her designated representative within five days of receiving the written response to the informal grievance. In the absence of a written response, the formal grievance must be presented within five days of the expiration date for responding at the informal stage.
 - The grievance is in writing, dated, contains sufficient detail about the issues, specifies the personal relief requested by the employee, and identifies the official who signed the informal grievance decision. If the management official who heard the informal grievance attempted to resolve the issues raised, the employee should explain why the solution is unacceptable.

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2. Processing the Formal Grievance

- a. The deciding official will normally accept the fact-finder's recommendations and the USMS will issue the final administrative decision for the DOJ.
- b. The deciding official must first determine whether the complaint is timely, covered by the grievance system and, if required, has been through the informal stage. He or she may reject the grievance if it was not filed within the specified deadline or if it consists wholly of a matter excluded from coverage under the grievance system. A written notice of rejection with the reasons will be sent to the grievant. If the grievant failed to complete the informal stage, the deciding official must return the complaint to him or her, advising that the informal procedure must first be used before the time limit expires.
- c. The deciding official will issue a written formal grievance decision within 15 days of receiving the complaint. A record will be made of the grievance file.
- d. If the employee is not satisfied with the response and believes that material facts are still at issue, he or she may request that the deciding official appoint a fact-finder. If the official determines that the essential facts of the matter are not at issue, the grievance is referred to the next higher level supervisor who, in consultation with the Assistant Director for Human Resources, will make a final decision.
- e. If the deciding official determines that material facts are still at issue, he or she will refer the matter to the Assistant Director for Human Resources, who will forward a memorandum to the Assistant Director for Labor-Management Relations, DOJ, requesting the assignment of a fact-finder. All costs associated with the fact-finder's activities are charged to the USMS.
- f. The fact-finder may administer oaths and takes sworn testimony in hearings. The grievant and management may be represented during hearings and may cross-examine witnesses with the fact-finder's permission. The fact-finder will prepare a formal report with recommendations, which will be provided to the deciding official.
- g. If the deciding official determines that the fact-finder's recommendations are unacceptable, he or she will transmit the file with a detailed statement regarding that determination to the next higher management official, providing copies of these documents to the employee. The next higher management official will then issue the final administrative decision on the grievance.

K. Avoidance of Delay

- 1. Each grievance will be given full, impartial and prompt consideration, with the final decision normally issued within 90 days of the date of the occurrence.
- 2. The following are suggested time limits for each stage of the USMS grievance procedure.
- 3. The filing date at any stage of the grievance procedure is defined as the day the grievance is delivered or postmarked. Time limits may be extended by the Human Resources Division if a party to the grievance, including the fact-finder, can show good cause. For example, witnesses or parties to the grievance may be unavailable to provide statements to the fact-finder regarding the issue being grieved because they are on leave.

Time Limits	Action not to Exceed
a. Employee submits informal grievance after the incident.	15 days
b. Issuance of written response to employee's grievance, marking end of informal stage of procedure.	10 days

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c. Employee submits grievance at the formal stage of the procedure.	5 days
d. Deciding official resolves grievance or submits it to a fact-finder, rejects grievance as untimely or non-grievable, or refers it to next higher level for final decision, in which case the final decision is issued within omitting action 5, below.	15 days
e. Fact-finder submits report to official after completing inquiry.	30 days
f. Final decision is made on the formal grievance (includes submission to higher authority where deciding official disagrees with fact-finder's recommendation).	15 days
Total:	90 Days

L. Expedited Grievance Procedure for Performance Appraisals and Discipline: Grievances concerning performance appraisals or disciplinary actions covered by this process should be filed at the formal level within 30 days of the disciplinary action or receipt of the performance appraisal.

M. Adverse Actions Involving Suspensions of 14 Days or less and Other Lesser Disciplinary Actions

1. The merits of and procedures concerning suspensions of employees for 14 days or less for disciplinary reasons are grievable under the USMS grievance procedure. However, if an employee alleges that such a suspension was taken for prohibited personnel reasons, the action could be appealed to the Special Counsel of the Merit Systems Protection Board.
2. **Presentation of Grievance**
 - a. Compliance with the proposal/decision process for disciplinary actions (suspension/reprimand) satisfies the requirements for the informal grievance procedure; therefore, an employee may file a grievance directly at the formal stage of the grievance procedure.
 - b. The formal grievance will be submitted to the management official directly above the one who effected the suspension. Except when the Director effected the suspension, the formal grievance will be submitted to the Assistant Attorney General for Administration, Department of Justice.
 - c. The grievance must be submitted within 30 days after the effective date of the action.

N. Performance-Rating Grievances

1. Performance-rating grievances should be submitted initially at the formal stage of the USMS grievance procedure. The Deputy Director will be the deciding official at the formal stage for all such grievances. Formal grievances concerning performance ratings should be sent to the Human Resources Division, after which they are forwarded to the Director or his or her designee within 30 days of receiving the official, reviewed rating. This performance-rating grievance process applies to non-attorney positions only. Attorneys must file their grievances with the Director.
2. Presentation of a grievance will not delay any proposed action stemming from unacceptable performance.
3. When a rating is increased as a result of a successfully pursued grievance, the amended rating will be placed in the employee performance file.
4. Any administrative actions that were based on the original rating will be reconsidered and, insofar as possible under law and regulations, be modified to conform to the amended rating.



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5. Corrective administrative actions, as a result of a successfully pursued grievance, will be completed by the Human Resources Division.
- O. **Appeal of Grievance Decisions:** Grievance decisions under this section are final and are not appealable outside the USMS/DOJ.
- P. **Facilities, Clerical Support, Cost and Files:** The Human Resources Division will arrange the necessary facilities and clerical support, including preparation and cost of the required fact-finder's report, and if necessary, reimburse travel and per diem expenses if the parties, including the fact-finders, are DOJ employees. However, if the above clerical support provisions are not report, the fact-finder is responsible for obtaining other clerical assistance.
- Q. **Records:** A grievance file must be established by the Human Resources Division. When a fact-finder is appointed, the file must be made available to the grievant and the grievant's representative. The grievance file should contain investigative reports, statements of witnesses, records or copies of records, reports of personal interviews or group meetings, the record of the hearing, and the fact-finder's report and decision.

ALTERNATIVE DISPUTE RESOLUTION PROGRAM

- A. **Purpose:** This policy directive establishes the Alternative Dispute Resolution (ADR) program in the U.S. Marshals Service (USMS). The program provides employees and managers an opportunity to use alternative, informal methods to effectively resolve disputes in a timely manner.
- B. **Authority:** The Director's authority to implement the ADR program is set forth in 29 CFR 1614.105 (f); Administrative Dispute Resolution Act of 1990; Public Law 101-522, Stat. 2736-37; Executive Order 12871; U.S. Department of Justice Order 1160.1; National Performance Review Recommendations HRMO-08-02.
- C. **Policy**
 1. The USMS is committed to ensuring that all employees and managers have adequate processes available to address concerns over work conditions and practices. It encourages the use of ADR procedures to provide an informal process for the timely resolution of disputes.
 2. Employees may opt to use ADR procedures before, or in addition to, existing formal dispute resolution procedures. When an employee decides to use ADR, managers are required to participate.
- D. **Procedures**

Refer to *Alternative Dispute Resolution Handbook*, USMS Publication 95
- E. **Responsibilities**
 1. **ADR Ombudsman:** The ADR Ombudsman serves as a neutral, third-party facilitator. The Ombudsman directs program activities and manages the cost accountability of the ADR program. After a thorough compliance review, the Ombudsman has full authority to institute agreements arising out of ADR processes. He or she may make general managerial recommendations as well as decline and/or discontinue any ADR case, prior to agreement, when this action is in the best interest of the USMS.
 2. **Managers, Respondents and Technical Representatives:** These parties participate in the ADR process and make good faith efforts to meet, share information and work to resolve disputes while ensuring that the interests of the USMS are well served. Managers should attempt to reach appropriate settlements that promote USMS mission accomplishment. At any time during the ADR process, including the ADR meeting, managers and employees are free to consult with representatives, technical specialists or other appropriate individuals on issues related to the dispute or possible resolutions.

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3. **Employee Complainants:** If a complainant requests ADR, he or she fully participates in the ADR process and makes a good faith effort to meet, share information and work to resolve disputes.
4. **Facilitators:** Official facilitators schedule ADR conferences and facilitate the resolution of work-related disputes. During the ADR process, they maintain fairness and confidentiality in accordance with ADR business rules and practices.

F. Definitions

1. **Alternative Dispute Resolution (ADR):** A nontraditional and non-adversarial method of resolving workplace conflicts between two or more parties, with mutually acceptable results.
2. **ADR Ombudsman:** an agency official empowered to receive, process (i.e., personally conduct or assign an ADR facilitator for fact-finding) and suggest resolutions to ADR disputes. The USMS operates with a single national ombudsman who also coordinates the efforts of USMS facilitators.
3. **Complainant:** the employee or manager who brings the dispute, grievance or concern forward for resolution.
4. **Compliance Review:** an administrative review of all proposed ADR agreements that is required before any agreement becomes final. This review ensures that the proposed agreement or decision does not conflict with laws, rules or regulations.
5. **Dispute:** any matter of conflict that is within the discretion of the employee or an agency official to resolve.
6. **Facilitator:** a trained individual, appointed by the ADR Ombudsman, who helps disputants reach a satisfactory resolution.
7. **Respondent:** the employee or agency official designated to resolve the dispute.

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