



HUMAN RESOURCES

3.3 Performance & Related Matters

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 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 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.
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.
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.
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

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.
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(I).
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 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

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.

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
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.
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.