

Chg 1 (MinChg): 7-9-2018

**SUBJECT: MINOR CHANGE TO DOE O 331.1D, EMPLOYEE PERFORMANCE
MANAGEMENT AND RECOGNITION PROGRAM**

1. EXPLANATION OF CHANGES. Changes, edits, and additions based on Executive Orders 13836, 13837, and 13839; and the Dr. Chris Kirkpatrick Whistleblower Protection Act of 2017.
2. LOCATIONS OF CHANGES: Changes referenced are items of significance.

Page	Paragraph	Changed	To
	Throughout		Added Non-Senior Level (SL)
	Throughout	Professional or Technical employees (SP/ST)	Scientific or Professional employees (ST)
1	1.	Removed Senior Leader	
1	3.d.	Equivalencies and Exemptions. Requests for equivalencies or exemptions to this Order must be submitted for approval in memorandum form to the Director, Office of Human Capital Management, Office of the Chief Human Capital Officer (CHCO), unless specified below. The memorandum must include the basis for the equivalency or exemption, identify the requirement for which the equivalency or exemption is sought, and request a timeframe, as applicable.	Equivalencies and Exemptions. Requests for equivalencies or exemptions to this Order must be submitted for approval in memorandum form to the Chief Human Capital Officer (CHCO), unless specified below. The memorandum must include the basis for the equivalency or exemption, identify the requirement for which the equivalency or exemption is sought, and request a timeframe, as applicable.
2	3.d.(1)	Removed	
2	3.d.(1)(b)		Added SL and ST to clarify the language in terms of the executive positions excluded from the Order.

Page	Paragraph	Changed	To
3	4.a.(5)	Example Dates changed from: October 1, 2015; July 21, 2015, FY'15 , and September 30, 2017	FY18 appraisal period begins on October 1, 2017, but the employee is detailed to another position on July 21, 2018; the employee will receive his/her FY18 rating of record based on his/her performance in his/her permanent position from October 1, 2017 through July 20, 2018. The employee's FY19 appraisal period will begin on July 21, 2018 and end on September 30, 2019.
4	4.b.(2)(b)	The Rating Official signs prior to the employee to acknowledge that the employee was afforded the opportunity to discuss the performance plan with the Rating Official. If an employee declines to sign the plan, the Rating Official will advise the employee that his/her signature only acknowledges that the plan was discussed; it does not necessarily indicate the employee agrees with the plan. If the employee does not sign the plan within 7 days of the first request, the Rating Official will annotate on the form that the employee declined to sign and the employee will receive his/her rating of record for the appraisal period based on the evaluation of the critical elements in the plan. If the employee is not available to sign, the Rating Official will annotate the form that the employee was unable to sign and provide a reason.	The Rating Official signs prior to the employee to acknowledge that the employee was afforded the opportunity to discuss the performance plan with the Rating Official. If an employee declines to sign the plan, the Rating Official will advise the employee that his/her signature only acknowledges that the plan was discussed; it does not necessarily indicate the employee agrees with the plan. If the employee does not sign the plan within seven days of the first request, the Rating Official will annotate in ePerformance that the employee declined to sign. If the employee is not available to sign, the Rating Official will annotate in ePerformance that the employee was unable to sign and provide a reason.

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5	4.b.(8)	Only positions officially classified as supervisor (coded 2 or 4) must have a critical element for supervision which will be at least double weighted. The DOE supervisory critical element in Appendix A must be used as the supervisory element for all supervisors.	Only positions officially classified as supervisor (coded 2 or 4) must have a critical element for supervision that includes the protection of reprisal against whistleblowers. The DOE supervisory critical element in Appendix A must be used as the supervisory element for all supervisors.
9	C, Appraisal (Rating) Process, 16	For example, if an employee's WGI is due in three weeks, the employee's last rating of record was ME, and the employee was issued a Performance Improvement Plan memorandum that began last month, the Rating Official must decide whether the employee's current performance has come back up to ME. If so, he/she should terminate the PIP and approve the WGI. If the current performance is at FME, the PIP will remain active and a new rating of record must be prepared to document the employee's current performance level to support the denial of the WGI.	For example, if an employee's WGI is due in three weeks, the employee's last rating of record was ME, and the employee was issued a Performance Demonstration Period (PDP) memorandum that began last month, the Rating Official must decide whether the employee's current performance has come back up to ME. If so, he/she should terminate the PDP and approve the WGI. If the current performance is at FME, the PDP will remain active and a new rating of record must be prepared to document the employee's current performance level to support the denial of the WGI.

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9	4.c.(16)	For example, if an employee's WGI is due in three weeks, the employee's last rating of record was ME, and the employee was issued a Performance Demonstration Period (PDP) memorandum that began last month, the Rating Official must decide whether the employee's current performance has come back up to ME. If so, he/she should terminate the PDP and approve the WGI. If the current performance is at FME, the PDP will remain active and a new rating of record must be prepared to document the employee's current performance level to support the denial of the WGI.	For example, if an employee's WGI is due in three weeks, the employee's last rating of record was ME, and the employee was issued a Performance Demonstration Period (PDP) memorandum that began last month, the Rating Official must decide whether the employee's current performance has come back up to ME. If so, he/she should terminate the PDP and approve the WGI. If the current performance is at FME, the PDP will remain active and a new rating of record must be prepared to document the employee's current performance level to support the denial of the WGI.
9	4.c.(19)	When an employee's summary rating has improved above his/her current summary rating of FME at the completion of a PIP, a new rating of record must be prepared to document the employee's current performance level.	When an employee's summary rating has improved above his/her current summary rating of FME at the completion of a PDP, a new rating of record must be prepared to document the employee's current performance level.
10	4.d.(3)	A PIP shall not exceed 30 days. The Rating Official may extend the improvement period if he/she determines that a longer period is necessary to provide sufficient time to evaluate an employee's performance. Any extension may not exceed 30 days and requires consultation with the servicing employee relations specialist at the SHRO/SSC	A PDP shall not exceed 30 days. The Rating Official may extend the demonstration period if he/she determines that a longer period is necessary to provide sufficient time to evaluate an employee's performance. Any extension may not exceed 30 days and requires consultation with the servicing employee relations specialist at the SHRO/SSC

Page	Paragraph	Changed	To
10	4.d.(1)	<p>If at any time during the appraisal period an employee's performance begins to decline in any critical element, the supervisor will bring the performance issue to the attention of the employee. The supervisor will present a "Performance Counseling and Guidance" memorandum that identifies the performance issue(s) and identifies the assistance and guidance that will be provided on how to improve performance to the ME level.</p>	<p>Rating officials must make full use of employee and supervisory trial and/or probationary periods. The trial/probationary periods serve as a key period for addressing and resolving poor or unacceptable job performance. These periods are designed to give rating officials the opportunity to assess an employee's performance and conduct and determine whether his/her continued employment is in the best interest of the Department. The lapse of a trial/probationary period without a proper assessment may result in future performance problems. It is the supervisor's responsibility, in consultation with the servicing employee relations specialist, to address any poor or unacceptable performance with the employee. Supervisors shall not wait until the last 90 days of the trial/probationary period and performance cycle to address collectively all of the performance/conduct issues but rather shall address these issues at the time of occurrence.</p> <p>NOTE: An employee who is terminated during this period has limited appeal rights.</p>

Page	Paragraph	Changed	To
10	4.d.(2)	At any time during the appraisal period an employee demonstrates that he/she is performing at least one critical element at the FME (unacceptable) level, the supervisor must contact his/her Servicing Human Resources Advisory Office for guidance. The supervisor must then inform the employee of his/her performance in writing and provide the employee with an opportunity to improve performance to an acceptable level by developing a formal PIP.	If at any time during the appraisal period, if an employee demonstrates that he/she is performing at least one critical element at the FME (unacceptable) level, the supervisor must contact his/her Servicing Human Resources Office (SHRO) or Shared Service (SSC) for guidance. The supervisor will issue the employee with a PDP memorandum identifying the critical element(s) and actions needed to demonstrate performance at the ME level.
10	4.d.(3)-(8)	Renumbered	4.d.(6)-(10)
	4.d.(4)	Removed	
	4.d.(7)(d)-(e)	Removed	
10	4.d.(3)	Added	A PDP shall not exceed 30 days. The Rating Official may extend the demonstration period if he/she determines that a longer period is necessary to provide sufficient time to evaluate an employee's performance. Any extension may not exceed 30 days, unless there are extenuating circumstances. All extensions beyond the initial 30 days requires consultation with the servicing employee relations specialist at the SHRO/SSC, and general counsel; and requires concurrence by the Office of Human Capital Policy and Accountability.

Page	Paragraph	Changed	To
10	4.d.(4)	Added	<p>Special Considerations: Before placing an employee on a PDP, the rating official/supervisor (in consultation with the SHRO/SSC) should ensure the employee does not have an existing medical condition or disability that may inhibit the employee's successful performance. If the employee demonstrates that he/she is a qualified individual with a disability, the SHRO/SSC will assist (in consultation with the Office of General Counsel) to determine if a reasonable accommodation is warranted and whether the accommodation request will cause an undue hardship. If applicable, an accommodation should be designed to address an employee's physical or mental limitations so that the employee has the same opportunity to achieve acceptable performance as a non-disabled employee. Rating officials (in consultation with the SHRO/SSC) should design the demonstration period along with the accommodation to resolve the performance problem, not the mental or physical disability. Note, requests for accommodation does not preclude rating officials from proceeding with a performance-based actions. An accommodation can be put in place at the same time the employee is placed on a demonstration period.</p>
10	4.d.(5)	Added	<p>All PDP memos must be tracked and compiled in an annual report and submitted to the SHRO/SSC.</p>

Page	Paragraph	Changed	To
11	4.d.(7)	Employees who have been given a notice of unacceptable performance and who are on a PIP on the last day of the appraisal period will have his/her appraisal period extended until the completion of the PIP. The appraisal period, <u>including the extension</u> cannot exceed 15 months of total time for the appraisal period	Employees who have been given a notice of unacceptable performance and who are on a PDP on the last day of the appraisal period will have his/her appraisal period extended until the completion of the PDP. The appraisal period, <u>including the extension</u> cannot exceed 15 months of total time for the appraisal period
10	4.d.(9)(a)	The length of the opportunity period (not less than 30 days and not more than 15 months of total time in the appraisal period);	The length of the demonstration period;
12	4.d.(10)	At the conclusion of the PIP, the Rating Official, in consultation with the SHRO/SSC, must take appropriate action based on the results of the employee's performance while on the PIP. For example, if the employee's performance does not rise to the ME level, the Rating Official must propose a performance-based action.	After the PDP, the Rating Official, in consultation with the SHRO/SSC, must take appropriate action based on the results of the employee's performance while on the PDP. For example, if the employee's performance does not rise to the ME level, the Rating Official must propose a performance-based action. Conversely, if the employee's performance improves, he/she should be advised of such.

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12	4.d.(11)	Added.	<p>The supervisor's options for addressing failed demonstration period include reassigning the employee, or proposing the employee's demotion or removal (under 5 U.S.C. Chapter 43 procedures or 5 U.S.C. Chapter 75 procedures). Refer to the Department's Workforce Discipline Order for more information on taking performance-based actions under 5 U.S.C. Chapter 43 or 5 U.S.C Chapter 75 procedures. Note, reassignment to a position at the same grade is a management right distinct from adverse and performance-based actions and can be accomplished with a simple notification and personnel action, after consultation with the servicing employee relations staff.</p> <p>When a supervisor intends to reassign a bargaining unit employee, they should confirm with employee relations staff in the applicable SHRO/SSC if there are collective bargaining obligations prior to informing the employee of the reassignment.</p>
12	4.d.(12)	Added.	<p>If, within one year from the start of the PDP, the employee's performance improves but lapses again to the FME level on the same critical element(s)PDP, the Rating Official may propose a performance-based action, (i.e., reduction in grade, reassignment or removal) without placing the employee on an additional PDP.</p>

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13	4.e.(3)	For example, if the employee's most recent rating of record is ME, but the employee is currently on a PIP and his/her WGI due date is approaching, the Rating Official must decide whether the employee's current performance has increased to ME level, and if so, cancel the PIP and approve the WGI.	For example, if the employee's most recent rating of record is ME, but the employee is currently on a PDP and his/her WGI due date is approaching, the Rating Official must decide whether the employee's current performance has increased to ME level, and if so, cancel the PDP and approve the WGI.
13	4.e.(4)(a) <u>1b</u>	<p><i>2 shares when all the weighted elements are rated ME; or</i></p> <p><i>1 share when all the weighted elements are rated ME and management elects to offer this award.</i></p> <p><i>Note: The supervisor must provide the employee the basis for electing one share. For example, if the employee had been under a PDP during the performance year.</i></p> <p>No shares will be awarded when all the weighted elements are rated ME and the employee has an active Performance Counseling and Guidance Memorandum at the end of the appraisal period.</p>	<p><i>1 or 2 shares when all the weighted elements are rated ME.</i></p> <p><i>Note: The supervisor must provide the employee the basis for electing one share. For example, if the employee had been under a PDP during the performance year</i></p>
13	4.e.(5)(a) <u>1b</u>	No hours will be awarded when all the weighted elements are rated ME and the employee has an active Performance Counseling and Guidance Memorandum at the end of the appraisal period.	Removed
20	4.g.(3)(e)	Added.	An employee who has a current rating of record of ME or above and is not on a PDP is eligible to receive a TOA.

Page	Paragraph	Changed	To
23	4.g.(8)	<u>White House Retirement Greeting</u> . A letter signed by the President of the United States may be requested for Federal employees retiring with 20 years of service or longer. Additional information can be found at whitehouse.gov/contact/president/request .	<u>White House Retirement Greeting</u> . A letter signed by the President of the United States may be requested for Federal employees retiring with 20 years of service or longer. Additional information can be found at hcnet.doe.gov
29	7.n.	<u>Performance Improvement Plan (PIP)</u> : A formal memorandum notifying an employee of the need to improve unacceptable performance, to identify specific performance deficiencies, to communicate the potential consequences of continued unacceptable performance, to inform the employee how performance may be improved, and to establish a timeframe for observing and reevaluating performance.	<u>Performance Demonstration Period (PDP)</u> : A formal memorandum notifying an employee that his/her performance is at the unacceptable level. The notice identifies specific performance deficiencies; communicates the potential consequences of continued unacceptable performance; informs the employee how performance must be demonstrated, and establishes a timeframe for observing and reevaluating performance.