

Performance Management, Incentive Awards, Training and Development

Performance Based Reductions in Grade and Removal Actions

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Applicability. California National Guard Full-time Personnel Regulation (CNGFPR) applies to all California Army and Air National Guard technicians plus commanders, managers, and supervisors (military or civilian) with authority over technician personnel management.

Proponent and Exception Authority. The proponent of this regulation is the Joint Force Headquarters, J-1, Directorate for Human Resources. The proponent has authority to approve exceptions to this regulation when they are consistent with controlling laws and regulation.

Supplementation. Supplementation of this regulation is prohibited.

Suggested Improvements. Users of this regulation are invited to send comments and suggestions to Joint Force Headquarters, Directorate for Human Resources, 9800 Goethe Road (Box 37), Sacramento, CA 95826-9101.

Distribution. Distribution of the regulation is Army - A and Air Force - F.

History. None

Summary. This regulation establishes the procedures for performance based reductions in grade and removal actions. This regulation replaces the earlier version dated 15 October 2007. It reflects the changes in performance levels due to the conversion to a five-tier appraisal system.

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1. Purpose.

This regulation establishes the procedures for performance based reductions in grade and removal action. This area excludes:

- (a) reduction in grade of a supervisor or manager who has not completed the probationary period.
- (b) basic condition(s) of employment specified at the time of appointment.
- (c) employees serving their initial probationary period.
- (d) an action based on conduct or otherwise related incidents covered under CNGFPR 752, Disciplinary and Adverse Actions.

2. Definitions.

a. Conduct Based Action – An action based on a single or multiple incidents of inappropriate behavior or conduct in the workplace. This action is taken in accordance with progressive discipline principles and is the minimum level of penalty necessary to correct the behavior.

b. Performance Based Action – An action based on unacceptable performance in one or more critical elements of a technician's performance plan after an employee has had opportunity to improve in deficient areas using a Performance Improvement Plan (PIP). A proposed action may be based on instances of unacceptable performance which occur within a one (1) year period ending on the date of the notice of proposed action.

3. Responsibilities.

a. Directorate for Human Resources.

(1) Keeping supervisors and managers informed of performance regulations, policies, and procedures.

(2) Advising supervisors and managers in managing and measuring performance standards; of their responsibilities, initiatives, and obligations to assist technicians in improving performance; and in determining appropriate action to be taken in individual cases.

(3) Reviewing and certifying that adverse actions conform to applicable law, rule, and regulation.

(4) Advising technicians involved in adverse actions of their rights and procedures.

(5) Maintaining the official adverse action case file.

b. Commanders and Directors.

(1) Insure that all technicians in their organizational units are informed of applicable laws, rules, and regulations governing acceptable performance.

(2) Are the approving officials for any 30-day written notice of reduction-in grade, removal, or reassignment based on job performance, if proposed at a lower level within their organization or directorate.

c. Supervisors and Managers.

(1) Must insure that the provisions of this regulation and their respective Collective Bargaining Agreement (CBA) are followed prior to initiating any adverse action.

(2) Must receive certification of regulatory compliance from the Directorate for Human Resources, Labor Relations, prior to issuing any PIP or 30-day notice of reduction-in-grade, removal, or reassignment based on job performance.

(3) Responsible for insuring expectations and performance are effectively communicated to technicians and that counseling of work deficiencies is conducted, as appropriate.

(4) Insure that performance issues are addressed as they surface and initiate training, guidance, and assistance in a timely manner to encourage productivity.

(5) Responsible for providing required documentation to process an action.

d. Technicians.

(1) Must perform duties of their position, as specifically outlined in their performance plan.

(2) Continually perform self-assessment of performance and in areas needing improvement.

(3) Must request assistance, guidance, and training plus inform supervisor when areas of improvement are needed during self-assessment.

(4) Understand their responsibilities in maintaining personal performance levels and take initiative when deficiencies are identified, making every effort to improve duties to an acceptable level.

4. Documenting Unacceptable Performance.

Technicians will be periodically reminded of the critical elements for their positions and will be informed by counseling when performance is unacceptable. These efforts should be in writing and documented on the NGB Form 904-1 during counseling sessions. However, if technician performances in any critical element continue to be unsatisfactory despite efforts by supervisors to improve work, a PIP will be issued. A written PIP will be drafted and will include increased supervisory mentoring, guidance, assistance, plus additional training. A PIP may be used at any time during the rating period. If improvement does not occur, an unacceptable appraisal should be rendered at the end of the PIP period. Before initiating an action to reduce grade or remove technicians based on unsatisfactory performance, consideration should be given to reassignment to another position for which they are qualified. No personnel action based on unacceptable performance may be initiated until critical elements have been identified in writing; technicians have been given a copy of their performance plan; and they have been given an opportunity to improve their work.

5. Performance Improvement Plan (PIP).

A PIP may be established whenever technician job performance in an established critical elements fall below Level 2 (Marginal). The PIP should clearly outline critical element(s) where deficiencies exist by using criteria used in accessing the deficiency. Only after attempting unsuccessfully to complete a PIP, can permanent technicians be reduced in grade or removed from employment for poor job performance. See CNGFPR 431 for specific requirements and a sample PIP.

6. Performance Based Reduction/Removal Actions.

a. If technicians fail to obtain or maintain Level 2 (Marginal) performance in critical elements identified in the PIP, an action to reduce grade or remove them from employment may be initiated by supervisors. If technicians complete PIPs successfully but again become unacceptable in the same critical element(s) as identified in the PIP within one (1) year from date of issuance, an action to reduce in grade or remove them from employment may be initiated by supervisors without issuing another PIP and by following the Procedures for Performance Based Reduction/Removal Action. If technicians complete PIPs successfully but again become unacceptable in the same critical element(s) as identified in PIPs after one (1) year from date of issuance, they must again be given opportunity to improve their performance under a written PIP.

b. No personnel action based on Level 2 (Marginal) performance may be initiated until critical elements have been identified in writing; technicians have been given a copy of performance plans; and they have been given opportunity to improve their duties under a written PIP.

c. Supervisors need not wait until the end of appraisal periods to initiate a reduction in grade or removal. Before initiating an action to reduce in grade or remove technicians based on unacceptable performance, consideration should be given to reassignment to another position for which supervisors feel the workers are qualified and can successfully perform. All adverse actions must be in accordance with Procedures for Performance Based Reduction/Removal Action.

7. Procedures for Performance Based Reduction/Removal Action.

A minimum 30-day advance written notice of the action to be taken (reduction in grade, reassignment, or removal) identifying critical element(s) and instances of unacceptable performance on which the action is based is needed. A 30-day notice is provided only after the performance improvement period has already been provided to technicians. The 30-day written notice must be coordinated with the Directorate for Human Resources, Employee Relations, prior to issuance. The 30-day written notice must be concurred from an official who is the next level of chain of command to immediate supervisors. This is final notice of action to be taken, not a proposal.

8. Appeal of a Performance Based Reduction/Removal Action.

Technicians have the opportunity to answer orally and/or in writing to supervisors or appeal directly to the Deputy Director for Human Resources within 20 days of receipt of a 30-day advance written notice. At the complete discretion of the Directorate for Human Resources, the effective date of a reduction in grade or removal may be extended while awaiting final decision.