

HR can help managers address poor performers

Addressing poor performance is a necessary evil for federal managers. It's not an easy task, and fortunately it does not have to be done very often, but it is critical. Even one poor performer can have a negative impact on workplace productivity and morale.

Many managers hesitate to take action because the process is time-consuming and complicated. In the long-run, however, the time will be well worth the effort, according to **Barbara Haga**, head of the organizational development and workforce relations branch at **NASA's Langley Research Center**.

Educated human resources staff can help make the process go more smoothly and ensure all rules and regulations are being followed. The first step may be to convince managers that action is necessary. Haga said HR should make the case by showing managers that:

- Leaner organizations cannot afford nonperformers.
- Left unaddressed, a poor performer can cause problems when it comes to awards, selections, training assignments and reductions in force.
- Other employees' morale and motivation are affected.

The best-case scenario, Haga said during the **Society of Federal Labor and Employee Relations Professionals'** annual symposium, is for the manager to take action during the employee's probationary period, when minimal appeal rights are available.

If the employee makes it past the probationary period and other types of assistance such as counseling and mentoring have failed, the manager can take action in two ways: a chapter 43 or 432 action — 5 CFR part 432 — or a

752 actions

A 752 action can be taken when an employee is required to perform a particular duty, the performance is unacceptable, and the agency measured the performance accurately and reasonably.

In a 752 action, the agency must prove:

- There is a nexus or logical connection between the employee's conduct and the efficiency or service.
- The penalty selected is reasonable.

A 752 action is not designed to improve performance, **NASA's Barbara Haga** said, but is effective when:

- There is a combination of performance and conduct issues.
- There are absolute standards, making a performance improvement period risky.
- There is a legitimate way to establish that performance is unacceptable.

If the action is appealed to the **MSPB**, the board will evaluate the evidence and determine whether the penalty is reasonable using the Douglas factors. ■

chapter 75 or 752 action — 5 CFR part 752. The best course is determined by individual circumstances.

While 432 actions have a lower standard of proof, they require a performance improvement period.

PIPs are not necessary for 752 actions, but a higher standard of proof is required. In addition, 752 penalties can be mitigated by the **Merit Systems Protection Board**. ■

432 actions

In order to take a 432 action, the employee's performance must be below the acceptable level on at least one critical job element. If informal assistance has not helped, the employee should be placed on a performance improvement plan.

NASA's Barbara Haga said the PIP should include:

- Critical elements in which the performance is deficient.
- The standard that must be met to be retained.
- How long the opportunity to improve will be.
- What type of assistance will be provided.

If the employee fails the PIP, action should be taken.

Possible actions include reassignment, a reduction in grade or removal.

Even though 432 cases are designed to help employees improve, they are generally dreaded by everyone involved in the process, Haga said.

Managers, she said, do not like them because:

- The logic of letting the employee try to perform while having major problems is troubling.
- Cases take a long time and require a lot of attention.

• The manager's judgment could come into question.
• Managers don't see the system as supporting them.
Unions don't particularly like 432 actions, according to **Howard Friedman** from the **National Treasury Employees Union**, because:

- Many performance plans are poorly done.
- Supervisors generally have not tried to help the employee improve. "In a lot of these cases, something outside the workplace is going on, and the employee just needs to get over the hurdle," Friedman said.

• Many times the employee has never been confronted about performance.

A 432 action, Haga said, can help teach and reinforce successful performance, but it will not solve:

- Attitude problems.
- Medical issues.
- Single errors or lapses in judgment that could cause death, injury, breach of security, or substantial monetary loss.

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