



DEPARTMENT OF THE NAVY
UNITED STATES NAVAL ACADEMY
ANNAPOLIS, MARYLAND 21402-5000

USNA/AACINST 12431.3A
24/MER
31 August 1990

USNA/AAC INSTRUCTION 12431.3A

From: Superintendent, U.S. Naval Academy/Annapolis Area Coordinator

Subj: WITHHOLDING OF WITHIN-GRADE INCREASES

Ref: (a) CPI 431 (NOTAL)

Encl: (1) Sample Letter

1. Purpose. To provide U.S. Naval Academy (USNA) policy and procedures for withholding within-grade increases (WGIs) per reference (a).
2. Cancellation. USNA Instruction 12431.3
3. Information. This directive is a complete revision and should be reviewed in its entirety; no special markings appear because changes are extensive.

4. Applicability. This instruction applies to all Department of the Navy (DON) General Schedule (GS) and Federal Wage System (FWS) employees who occupy permanent positions, who are paid at less than the maximum step of their grades, and who are serviced by the USNA Civilian Personnel Department (CPD), Annapolis, MD. This instruction does not apply to:

- a. GM employees covered by the Merit Pay System (PMRS).
- b. Nonappropriated fund employees.

5. Definitions

a. Acceptable Level of Competence (ALOC). Applies to GS employees and means a rating of record showing performance at the "Fully Successful" or better level on all critical elements under the Performance Appraisal Review System (PARS).

b. Critical Element. Any requirement of the job 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.

c. Days. Calendar days.

d. Negative Determination. A written decision not to grant a within-grade increase.

e. Rating of Record. The official annual or special summary performance rating for pay, performance award, and retention purposes.

f. Reconsideration Official. The individual designated to reconsider a negative determination.

g. Satisfactory Performance. Performance at the "Fully Successful" or better level on all critical elements under the PARS for employees serving in FWS positions.

6. Responsibilities

a. Supervisors. Supervisors are responsible for:

(1) Notifying an employee of the performance elements and standards required to achieve an ALOC (GS) or satisfactory performance (FWS) to be granted a WGI.

(2) Ensuring that an employee otherwise eligible for a WGI who has failed to perform at an ALOC (GS) or satisfactory performance level (FWS) has received or is issued a timely rating of record which supports denial of the WGI, and for initiating action to deny the WGI.

(3) Completing a rating of record which supports granting the WGI and initiating action to grant the WGI should the employee improve and sustain his or her performance at an ALOC or satisfactory level.

b. Reconsideration Officials. Reconsideration officials are responsible for:

(1) Reviewing the reconsideration file.

(2) Reviewing the employee's reconsideration request, including granting or denying an extension of the time limit for its filing as provided for by paragraph 8b.

(3) Allowing or disallowing the employee's choice of representative.

(4) Hearing the employee's (or his/her representative's) personal presentation, if one is made; preparing a written summary of such a presentation; and allowing the employee or his/her representative to submit written exceptions to the summary for the reconsideration file if desired.

(5) Providing a written decision which considers the employee's written presentation, and personal presentation if one is made; summarizes the results of any investigation conducted; and grants or denies the reconsideration request.

c. CPD, Management-Employee Relations (MER) Division. The CPD MER is responsible for providing advice and guidance to supervisors and managers involved in the denial of within-grade increases and reconsideration thereof; and for maintaining reconsideration files per paragraph 9c.

7. Delegation of Authority

a. Per reference (a), the authority to withhold within-grade increases is delegated to first-line supervisors.

b. The authority to serve as a reconsideration official is delegated to the department head or division head for academic divisions. In instances where the Superintendent withholds a within-grade increase, the Superintendent will serve as the reconsideration official.

8. Withholding a Within-Grade Increase

a. Supervisors are responsible for ensuring that a GS employee's performance meets the ALOC, or performance is at least satisfactory for an FWS employee, before the employee is granted a WGI for which he or she is otherwise eligible. ALOC and satisfactory both equate to a rating of at least "Fully Successful" under PARS.

(1) A WGI will be denied for any covered employee not at the maximum step of his or her grade whose rating of record does not reflect an ALOC for a GS employee or satisfactory performance for an FWS employee.

(2) A GS employee whose most recent performance rating of record does not support the granting of a WGI may only receive the increase when a new rating of record is completed showing the employee has demonstrated a sustained ALOC.

(3) A FWS employee's performance rating of record must reflect satisfactory performance level or better in order to support granting a WGI. If it does not, the WGI may only be granted upon completion of a new rating of record showing the employee has demonstrated sustained satisfactory performance.

(4) If an employee's latest rating of record supports the granting of a WGI, but the employee is no longer performing at an ALOC (GS) or satisfactory level (FWS), a new rating of record must be completed prior to completion of the waiting period and the WGI denied.

b. When a negative determination is made, a GS employee will be given written notice following the completion of the waiting period or other period upon which the negative determination was based. A FWS employee will be given similar written notice. A notice of negative determination should be given to an employee within 30 days after completion of the period upon which the negative determination is based. Enclosure (1) is a sample notice of negative determination. The negative determination notice will contain the following:

(1) The reasons for the negative determination and the specific critical elements, work plan requirements, or objectives, if applicable, the employee is not performing acceptably and the performance standards necessary to support granting the WGI.

(2) The employee's right to request reconsideration in writing not more than 15 days after receiving the notice and the identity of the reconsideration official.

9. Procedures for Reconsideration of a Negative Determination

a. An employee, upon receipt of a negative determination, has the right to:

(1) Submit a written request for reconsideration stating the reasons for contesting the determination.

(2) A reasonable amount of official time, if in a duty status, to review the material relied upon to make the determination and to prepare a response.

(3) Be represented in requesting reconsideration of the negative determination. The reconsideration official may disallow the choice of an individual as a representative which would result in a conflict of interest or position, would result in a conflict with the priority needs of the activity, or would give rise to unreasonable cost to the government. The terms of any applicable bargaining agreement govern representation for employees in an exclusive bargaining unit.

b. The 15-day time limit to request reconsideration may be extended if the employee was not notified of the time limit and was not otherwise aware of it, or if the employee was prevented by circumstances beyond his/her control from requesting reconsideration within the time limit.

c. The CPD, MER Division will establish a reconsideration file which contains all pertinent documents relating to the negative determination and reconsideration process. This file will not contain any document that has not been made available to the employee or the employee's representative. Minimum requirements for reconsideration files are contained in reference (a).

d. The employee will be informed in writing of the decision to either reverse or sustain the negative determination and the right to further review if applicable. If the reconsideration official grants the WGI, it will be retroactive to its original due date.

10. Grievance or Appeal Rights

a. GS Employees

(1) If the reconsideration official sustains the negative determination, an employee has the right to appeal the decision to the Merit Systems Protection Board (MSPB), unless covered by a collective bargaining agreement which does not exclude these decisions from the negotiated grievance procedure. Employees covered by such collective bargaining agreements may grieve under that negotiated grievance procedure.

(2) An employee eligible to appeal to MSPB will be furnished the time limits for filing an appeal, the address of the appropriate Board Office, a copy of the MSPB's regulations and a copy of the MSPB appeal form.

b. FWS Employees. An employee in a bargaining unit covered by a collective bargaining agreement must use the negotiated grievance procedure unless these decisions are excluded from the negotiated grievance procedure. Non-bargaining unit FWS employees may use the administrative grievance procedure.

11. Timing of Actions

a. Delay in Determination

(1) An employee's WGI determination will be postponed at least 90 days when the employee does not have a rating of record for reasons such as:

(a) An employee has not been informed of the specific requirements for performance at an ALOC (GS) or satisfactory performance (FWS) in his or her current position at least 90 days prior to the end of the waiting period, and has not been given a rating of record in any position within 90 days before the end of the waiting period.

(b) An employee is reduced in grade because of unacceptable performance to a position in which he/she is eligible for a WGI or will become eligible within 90 days.

(2) When a WGI determination has been so postponed:

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(a) The employee will be informed in writing of the reason for the postponement, the length of time the rating period will be extended, and the performance requirements necessary to be granted a WGI.

(b) The WGI will be granted retroactively to the beginning of the pay period following the completion of the applicable waiting period, if, following the delay, the employee's performance rating of record supports granting a WGI.

b. Actions After Withholding

(1) When a sustained ALOC has been demonstrated by a GS employee, or sustained satisfactory performance has been demonstrated by a FWS employee, a new rating of record will be completed promptly and the employee will be granted the WGI at the beginning of the first day of the next pay period after completion of the new rating.

(2) After the initial withholding of the WGI, the supervisor, at a minimum, shall determine whether an employee's performance warrants the WGI no more than 52 calendar weeks following the original eligibility date. If the supervisor continues to deny the WGI, determinations will be made not later than each 52 calendar weeks thereafter.

(3) Completion of a rating of record showing an ALOC for a GS employee or satisfactory performance for a FWS employee requires an activity to grant a WGI if it is currently withholding.

c. When, due to administrative error, oversight, or delay, a positive determination is made after the waiting period is complete, the effective date of the WGI shall be retroactive to the original due date.

d. When, for reasons such as listed in paragraph 11c, a WGI has been granted where the employee's rating of record prior to the effective date did not reflect an ALOC (GS) or satisfactory performance (FWS), the activity must so notify the employee and reduce the employee's rate of pay. Such a reduction is not an appealable adverse action. The employee will be issued a notice of negative determination as described in paragraph 8.

12. Action. The information contained in this instruction is of vital interest to both employees and supervisors. All supervisors should familiarize themselves with the procedures and insure the timeliness of actions taken under this instruction. Prior to taking any written actions under this instruction, supervisors/managers must consult with an Employee Relations Specialist, CPD, MER Division, extension 2804 or 2533.


B. A. SPOFFORD
Deputy for Operations

Distribution:
AA
S
CPD (50)

SAMPLE LETTER

From:
To:

Subj: NOTIFICATION OF DENIAL OF WITHIN-GRADE INCREASE

Ref: (a) CPI 431
(b) USNA/AACINST 12431.3A

Encl: (1) Performance standards for (Federal Wage System) job/(General Schedule) position # _____
with rating

1. Per references (a) and (b), you are hereby notified a negative determination has been made and you will not receive your within-grade increase due (date).
2. The reason for this negative determination is (for Federal Wage System (FWS)): your failure to demonstrate satisfactory performance by meeting the Fully Successful level for critical element(s) number(s) _____ of your job (enclosure (1)) during the waiting period. (for General Schedule (GS)): that you have failed to perform at the Fully Successful level for critical element(s) number(s) _____ of your position (enclosure (1)) during the waiting period and have thereby not performed at an acceptable level of competence (ALOC). (For both FWS and GS employees, specify how the employees performance failed to meet the Full Successful level of the critical element(s) mentioned above.)
3. You have the right to request reconsideration of this negative determination by an official at a higher organizational level than I. To do so you must:
 - a. File a written request for reconsideration with (name and organizational title of official) (see paragraph 7b of reference (b)).
 - b. File such request within 15 calendar days of the date of your receipt of this negative determination. This time limit may be extended if you were prevented from filing within the time limit due to circumstances beyond your control.
4. A request for reconsideration will provide you an opportunity to contest, personally and/or in writing, the basis for the negative determination. You may also have a representative of your own choosing in presenting your request. In addition, you and your representative, if an employee of this activity, will be allowed a reasonable amount of official time in presenting the request. You should contact me to request such official time.
5. If you desire further information concerning the contents of this letter or your rights concerning a reconsideration, you may contact the Civilian Personnel Department (CPD), Management-Employee Relations (MER) Division, extension 2804.

Signature

I acknowledge receipt of the original of this letter.

Signature

Date

(Have employee sign a copy of this letter acknowledging receipt of the original and date received. Forward copy signed by the employee to the CPD, MER Division. A copy may be retained by the department.)

NOTE: Determination cannot be made until after the employee completes the waiting period.

Enclosure (1)