



# MANUAL TRANSMITTAL

Department of the Treasury  
Internal Revenue Service

6.432.1

NOVEMBER 20, 2025

## EFFECTIVE DATE

(11-20-2025)

## PURPOSE

- (1) This transmits revised IRM 6.432.1, Requirements to Address Performance Issues.

## MATERIAL CHANGES

- (1) Removed references to Diversity, Equity, and Inclusion (DEI), to comply with *Executive Order 14151* Ending Radical and Wasteful Government DEI Programs and Preferencing, dated January 29, 2025.
- (2) Replaced the former IRM section title, Addressing Poor Performance, with Requirements to Address Performance Issues.
- (3) IRM 6.432.1.1, Program Scope and Objectives:
  - a. Revised Policy Owner
  - b. Revised Program Owner
  - c. Removed Operations Owner, since it is not a requirement of IRM 1.11.2.2.4, Address Management and Internal Controls, and
  - d. Added Contact Information as recommended in IRM 1.11.2.5.5, Contact Information.
- (4) IRM 6.432.1.1.1 Background, added reference to IRM 6.316.1, Temporary and Term Appointments.
- (5) IRM 6.432.1.1.6, Related Resources, arranged resources in alphabetical order, added Document 11678-B and updated IRM references and links.
- (6) IRM 6.432.1.2, Actions Covered, revised the section title for IRM 6.752.1, Addressing Employee Misconduct, and deleted obsolete IRM 6.752.2, Adverse Actions.
- (7) IRM 6.432.1.5, General Requirements for Performance Actions, revised content to include contacting the Labor/Employee Relations & Negotiations Division.
- (8) IRM 6.432.1.8, Opportunity to Demonstrate Acceptable Performance Per 5 CFR 432, revised content to include contacting the Labor/Employee Relations & Negotiations Division.
- (9) IRM 6.432.1.10, Advance Notice (Proposal Letter) Based on Unacceptable Performance, revised to incorporate the relevant policies covered in Interim Guidance Memorandum (IGM) HCO-06-1122-0014, Interim Guidance on Performance and Conduct Actions, dated August 1, 2023, that do not conflict with Executive Order 14171, Restoring Accountability to Policy-Influencing Positions Within the Federal Workforce, dated January 20, 2025.
- (10) IRM 6.432.1.17, Settlements for a Performance-Based Action, revised to incorporate IGM HCO-06-1122-0014, Interim Guidance on Performance and Conduct Actions, dated August 1, 2023, that do not conflict with Executive Order 14171, Restoring Accountability to Policy-Influencing Positions Within the Federal Workforce, dated January 20, 2025.
- (11) IRM 6.432.1.18, Employee Death, added subsection, which was revised and moved from obsolete IRM 6.715.1.8, Employee Death.
- (12) IRM 6.432.1.19, Last Rights/Voluntary Separations, moved from former IRM 6.432.1.18 (same title), revised to incorporate IGM HCO-06-1122-0014, Interim Guidance on Performance and Conduct Actions, dated August 1, 2023.

- (13) IRM 6.432.1.21, Agency Finding (Remark) on SF-50, Notification of Personnel Action, added subsection per IGM HCO-06-1122-0014, Interim Guidance on Performance and Conduct Actions, dated August 1, 2023.
- (14) IRM 6.432.1.22, Redacting Letters with Personally Identifiable Information, added subsection.
- (15) IRM 6.432.1.23, Moratoriums on Addressing Performance Matters, moved from former IRM 6.432.1.20, deleted “for four weeks” from the Winter Holiday Season description since two Mondays before December 25 and two Fridays after December 25 does not always equal “four weeks.”
- (16) IRM 6.432.1.24, Correcting an Action, moved from former IRM 6.432.1.21.
- (17) IRM 6.432.1.25, Legal Findings and Orders, moved from former IRM 6.432.1.22.
- (18) IRM 6.432.1.26, Records Retention, moved from former IRM 6.432.1.23
- (19) IRM 6.432.1.27, Differences Between 5 CFR 432 and 752 Actions, moved from former IRM 6.432.1.24.
- (20) Exhibit 6.432.1-1, Sample Request for Material Relied on (Evidence) and Representative’s Access to Tax Information (if applicable), converted from a table to a paragraph sample letter.
- (21) Throughout this IRM, changed “servicing LRS, or the EMU, as appropriate” to “LERN specialist or “assigned LERN specialist”, and replaced LERN contact information: To request a LERN specialist’s help, contact IRS Service Central or call the LERN Support Gate at 1-866-743-5748, Option 1, and Option 6, Monday through Friday, 7 a.m. to 7 p.m., Central Time.
- (22) Throughout this IRM, removed redundant language, rewrote in plain language and updated links.

## **EFFECT ON OTHER DOCUMENTS**

This IRM:

- 1. Supersedes IRM 6.432.1, Addressing Poor Performance, dated May 15, 2023.
- 2. Incorporates the relevant policies from Interim Guidance memorandum HCO-06-1122-0014, Interim Guidance on Performance and Conduct Actions, dated August 1, 2023, that do not conflict with Executive Order 14171, Restoring Accountability to Policy-Influencing Positions Within the Federal Workforce, dated January 20, 2025.
- 3. Supersedes and obsoletes IRM 6.715.1, Voluntary Separations and Reductions in Grade or Pay, dated July 1, 2002.

## **AUDIENCE**

All IRS employees who are not serving a probationary/trial period or a temporary/term appointment excluding contractors and Chief Counsel.

David P. Traynor  
Acting IRS Human Capital Officer

6.432.1

Addressing Poor Performance

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6.432.1.1  
(11-20-2025)  
**Program Scope and Objectives**

- (1) **Purpose:** This IRM contains the Servicewide policy to address employees performing below the fully successful level (minimally successful or unacceptable). As appropriate, actions to address less than fully successful performance may be taken in compliance with 5 CFR 432, 531 or 752.
- (2) **Audience:** All IRS employees who are not serving a probationary/trial period or a temporary/term appointment excluding contractors and Chief Counsel.
- (3) **Policy Owner:** Human Capital Office (HCO), Policy Office.
- (4) **Program Owner:** HCO.
- (5) **Primary Stakeholders:** The Labor/Employee Relations and Negotiations (LERN) Division and IRS managers.
- (6) **Program Goal:** To correct employee performance deficiencies.

6.432.1.1.1  
(11-20-2025)  
**Background**

- (1) This IRM contains the Servicewide policy to address employees performing below the fully successful level who are not serving a probationary/trial period or a temporary or term appointment.

**Note:** For guidance about managers serving a probationary period and individuals serving a probationary/trial period or a temporary or term appointment who are performing at the less than fully successful level, see IRM 6.315.2, Probationary Period for Career and Career-Conditional Employment, or IRM 6.316.1, Temporary and Term Appointments.

6.432.1.1.2  
(11-20-2025)  
**Authority**

- (1) This IRM supplements policies and requirements contained in the authorities cited below. It is not self-contained and must be read in conjunction with cited authorities and applicable collective bargaining agreement (CBA), such as the Internal Revenue Service (IRS) and National Treasury Employees Union (NTEU) National Agreement (Document 11678), and the Addendum to the National Agreement (Document 11678-B).

**Note:** For BU employees, if this IRM conflicts with any relevant CBA, the agreement prevails.

- (2) 5, United States Code (USC), Government Organization and employees, at <https://uscode.house.gov/>
  - a. Section 4303, Actions based on unacceptable performance
  - b. Section 7511, Definitions; application
  - c. Section 7512, Actions covered
  - d. Section 9508, General workforce performance management system
- (3) 26 USC 7803 (Internal Revenue Code), Commissioner of Internal Revenue; other officials, at: <https://uscode.house.gov/>
- (4) 5 CFR 339.104, Definitions
- (5) 5 CFR 430, Performance Management
- (6) 5 CFR 432, Performance Based Reduction in Grade and Removal Actions
- (7) 5 CFR 531, Subpart D, Pay Under the General Schedule
- (8) 5 CFR 715, Nondisciplinary Separations, Demotions, and Furloughs

- (9) 5 CFR 752, Adverse Actions
- (10) 29 CFR 1614, Federal Sector Equal Employment Opportunity
- (11) Document 12829, The General Records Schedules (see 2.3, Employee Relations Records)
- (12) *Executive Order 14171*, Restoring Accountability to Policy-Influencing Positions Within the Federal Workforce, dated January 20, 2025, which reinstated *Executive Order 13839*, Promoting Accountability and Streamlining Removal Procedures Consistent with Merit System Principles, dated May 25, 2018.
- (13) The Guide to Processing Personnel Actions at <https://www.opm.gov/policy-data-oversight/data-analysis-documentation/personnel-documentation/#url=Personnel-Actions>
- (14) Office of Personnel Management (OPM) Civil Service Retirement System (CSRS) and Federal Employees Retirement System (FERS) Handbook, Chapter 44, at <https://www.opm.gov/retirement-services/publications-forms/csrsfers-handbook/c044.pdf>

6.432.1.1.3  
(11-20-2025)  
**Roles and Responsibilities**

- (1) The IRS Human Capital Officer is the executive responsible for this IRM.
- (2) The HCO Policy Office develops policy and authors this IRM content with input from business operating division stakeholders.
- (3) At the discretion of the business unit, embedded human resources staff, may assist their managers with performance issues.
- (4) The HCO, Labor/Employee Relations and Negotiations Division collaborates with the Policy Office on this IRM content, ensures IRM compliance, and assists managers with addressing performance issues.
- (5) Managers are responsible for ensuring government resources are used efficiently and effectively, with minimum potential for waste, fraud, and mismanagement. As such, they must timely address performance issues in compliance with applicable laws, regulations, and policies.
- (6) Employees are responsible for putting forth an honest effort in the performance of their duties.

6.432.1.1.4  
(11-20-2025)  
**Program Management and Review**

- (1) The Policy Office gauges the effectiveness of this IRM based on feedback from customers and program owners. During IRM review and publishing, sections may be revised, added, or deleted based in part on this process.

6.432.1.1.5  
(11-20-2025)  
**Program Controls**

- (1) The following activities help ensure program success:
  - a. Conducting an annual review of this IRM for needed revisions/clarifications,
  - b. Publishing educational articles, such as Leaders' Alerts and IRS Headlines,
  - c. Collaborating on interim guidance for policy changes related to this IRM,
  - d. Assisting LERN with regulatory and policy guidance during term and mid-term negotiations,

- e. Contacting LERN for bargaining unit condition of employment changes (see IRM 1.11.2.5.1.4, IRM Changes Affecting Conditions of Employment of Bargaining Unit Employees), if needed, and notice/bargaining determinations (see IRM 1.11.9.4.4, Labor/Employee Relations & Negotiations), if needed,
- f. Partnering with General Legal Services (GLS) for legal advice, as needed, and
- g. Reviewing communications and training materials, to ensure adherence to policies.

6.432.1.1.6  
(11-20-2025)

#### Related Resources

- (1) Delegation Order (DO) 6-29, Authority to Address Employee Performance or Conduct Issues, located in IRM 1.2.2, Servicewide Delegations of Authority

**Note:** Criminal Investigation (CI) employees see IRM 1.2.2.7.18.1, Criminal Investigation Deviation from Servicewide Delegation Order 6-29, Authority to Address Employee Performance or conduct Issues.

- (2) Document 11678, IRS and NTEU National Agreement - for bargaining unit employees; referred to as the National Agreement.
- (3) Document 11678-B, 2025 Addendum to the 2022 National Agreement
- (4) IRM 6.430.2, Performance Management Program for Evaluating Bargaining Unit and Non Bargaining Unit Employees Assigned to Critical Job Elements (CJEs)
- (5) IRM 6.430.3, Performance Management Program for Evaluating Managers, Management Officials and Confidential Management/Program Analysts
- (6) IRM 6.531.1, Pay Under the General Schedule and IRS Payband System
- (7) IRM 6.752.1, Addressing Employee Misconduct

6.432.1.1.7  
(11-20-2025)

#### Terms and Acronyms

- (1) The definitions in 5 USC 4301, 4303 and 7511, and the definitions in 5 CFR 430 and 432 are applicable to this IRM. For bargaining unit employees, any relevant CBA also applies.
- (2) **Bargaining Unit (BU) Employee** - An employee included in a BU certified by the Federal Labor Relations Authority who can be represented by a labor union.
- (3) **Critical Job Element (CJE)** - The critical actions, objectives and results the IRS expects its employees to accomplish during an appraisal year. Employees whose performance is evaluated against CJE (s) have the same five CJE (s), which are:
  - a. Employee Satisfaction - Employee Contribution
  - b. Customer Satisfaction - Knowledge
  - c. Customer Satisfaction - Application
  - d. Business Results - Quality
  - e. Business Results - Efficiency

**Note:** CJE employees are also rated against the retention standard for the Fair and Equitable Treatment of Taxpayers.



- (4) **Critical Performance Expectation (CPE)** – Managers, management officials, and confidential management/program analysts are rated against CPEs. The CPEs consist of three components:
  - a. Retention Standard for the Fair and Equitable Treatment of Taxpayers
  - b. Responsibilities
  - c. Commitments or Objectives
- (5) **Deciding Official** - The manager with the delegated authority to take a performance-based action. See IRM 6.432.1.4, Delegation of Authority.
- (6) **Last Chance Agreement (LCA)** - A written agreement that gives employees a final chance to avoid an adverse outcome, such as a performance-based action. The agreement contains conditions related to the employee's performance he/she must meet for a defined period (e.g. one year) and a statement waiving appeal and/or complaint (grievance) rights in the event of a breach of agreement.

**Note:** LCAs are authorized at management's discretion during/after a last rights meeting (see below) or after a proposal letter is issued. For BU employee, see Articles 5 and 8 of the National Agreement. For the minimum terms required in an LCA see Article 5, Section 18, of the National Agreement.
- (7) **Last Rights** - An optional management-initiated meeting held with an employee prior to issuing a performance-based action. Prior to receiving the proposal letter, the employee is given an opportunity to voluntarily resign, retire, or request a change to lower grade, to avoid having a performance-based action recorded in his/her Official Personnel Folder (OPF). See IRM 6.752.1.19, Last Rights/Voluntary Separations.
- (8) **LERN Specialist** - Human Resource Specialists in LERN who provide guidance to managers addressing employee performance. They support managers with processing the performance case, and any appeal, if applicable.
- (9) **Minimally Successful** - The minimum performance level required for retention in a position. It is the level of performance between fully successful and unacceptable.
- (10) **National Treasury Employees Union (NTEU)** - The exclusive representative of IRS BU employees. NTEU is also referred to as the labor union or union.
- (11) **Non-Bargaining Unit (NBU) Employee** - An employee who is not covered by a CBA, such as the National Agreement, and is not represented by a labor union.
- (12) **Opportunity to Demonstrate Acceptable Performance** - A chance for an employee whose performance is determined to be unacceptable in one or more CJE (s) or CPE (s) or the retention standard for the Fair and Equitable Treatment of Taxpayers, to demonstrate acceptable performance in the CJE (s), CPE (s), or the Retention Standard for the Fair and Equitable Treatment of Taxpayers, at issue. See IRM 1.2.2, Servicewide DO 6-29. or IRM 6.432.1.4, Delegation of Authority.
- (13) **Oral Reply Officer (ORO)** - The deciding official with the delegated authority to propose an action.



- (14) **Performance-based Actions** - The reduction in grade/pay/payband or removal of an employee based on performance at the unacceptable level.
- (15) **Performance Improvement Plan (PIP)** - A letter issued to an employee performing at an unacceptable level which gives him/her an opportunity to demonstrate acceptable performance.
- (16) **Proposing Official** - The manager with the delegated authority to propose a performance-based action. See IRM 6.432.1.4 , Delegation of Authority.
- (17) **Reasonable Accommodation** - A change or adjustment that enables a qualified person with a disability to apply for a job, perform job duties, or enjoy benefits and privileges of employment. See IRM 1.20.2, Providing Reasonable Accommodation for Individuals with Disabilities.
- (18) **Retention Standard** - A specific performance standard that requires employees to administer the tax laws fairly, protect taxpayers' rights, and treat each taxpayer ethically with honesty, integrity, and respect.
- (19) **Standard Form 50 (SF-50)** - A Notification of Personnel Action that contains certain employment information. It is a permanent document that is filed in an employee's Official Personnel Folder (OPF). See Document 12787, : Notification of Personnel Action - An Overview, for details.

6.432.1.2  
(11-20-2025)  
**Actions Covered**

- (1) This IRM covers:
  - a. Reduction in grade/pay/payband or removal actions for employees covered by 5 USC 4303, whose performance, per 5 CFR 432.103(h), is unacceptable because they fail to meet established performance standards in one or more CJE (s) or CPE (s) of their IRS position.  
  
**Note:** Except for a within grade increase (WGI), a performance matter may be addressed as a conduct matter (e.g. refusing to follow IRM procedures). For more information about the differences between taking an action under 5 CFR 432 and 5 CFR 752, see IRM 6.432.1.28, Differences Between 5 CFR 432 and 752 Actions. For additional information about taking an action based on conduct, see IRM 6.752.1, Addressing Employee Misconduct.
  - b. Intent to deny and/or denial of WGI actions, per 5 CFR 531, Subpart D, for employees performing below fully successful.

6.432.1.3  
(11-20-2025)  
**Employees Covered for Performance Based Actions**

- (1) An employee in the competitive service who is not serving a probationary/trial period under an initial appointment who has completed one year of current continuous service under other than a temporary appointment limited to one year or less. An exception for Criminal Investigation (CI), the 1811 series, where the probationary period is typically three (3) years, in accordance with 5 USC 9510 (d).
- (2) A preference eligible in the excepted service who has completed one year of current continuous service in the same or similar positions in an executive agency.
- (3) An individual in the excepted service (other than a preference eligible) who is not serving a probationary or trial period under an initial appointment pending conversion to the competitive service or who has completed two years of

current continuous service in the same or similar positions in an executive agency under other than a temporary appointment limited to two years or less.

- (4) Per 26 USC 7803(c)(2)(D)(i)(ii), the National Taxpayer Advocate has responsibility and authority to evaluate and take personnel actions (including removal) with respect to any employee in any local office of a taxpayer advocate.

6.432.1.4  
(11-20-2025)

#### Delegation of Authority

- (1) See DO 6-29, Authority to Address Employee Performance or Conduct Issues in IRM 1.2.2, Servicewide Policies and Authorities, for the management levels authorized to issue letters (proposals, decisions, etc.).

**Note:** For authorized redelegations, refer to the respective business unit's delegation order(s) in the IRM 1.2 series, Servicewide Policies and Authorities.

6.432.1.5  
(11-20-2025)

#### General Requirements for Performance Actions

- (1) If management determines an employee's performance is less than fully successful and/or the employee is not meeting the retention standard, the employee's supervisor must promptly contact a LERN specialist, for guidance.
- (2) A covered employee (see IRM 6.432.1.3, Employees Covered), may be reduced in grade/pay/payband or removed at any time during their performance appraisal cycle if his/her performance becomes unacceptable in one or more Critical Job Element (CJE) or Critical Performance Element (CPE) or he/she fail to meet the retention standard. Prior to proposing such an action in compliance with 5 CFR 432, the employee is given an opportunity to demonstrate an acceptable level of performance (at least minimally successful).

**Note:** While a (PIP) is required to address performance under 5 CFR 432, a PIP is not required to address performance under 5 CFR 752. See IRM 6.432.1.28, Differences Between 5 CFR Parts 432 and 752 Actions, for more information.

- (3) All performance actions will be fair and administered as timely as possible.

6.432.1.6  
(11-20-2025)

#### Employee Entitlements

- (1) If an employee's performance remains at the unacceptable level and/or he/she does not meet the retention standard after an opportunity to demonstrate acceptable performance, management may initiate a performance-based action under 5 CFR 432. The employee is entitled to:

- a. **Advance Notice** - Per 5 CFR 432.105, a 30-day (calendar days) written notice (proposal letter) identifying specific instances of unacceptable performance describing the CJE(s) and performance standards, or the CPE(s), and/or the retention standard, as appropriate, the employee is failing to meet. This period may be extended for specific reasons under certain circumstances. See IRM 6.432.10, Advance Notice Period, for more information. The Advance Notice is not grievable.
- b. **Opportunity to Answer** (guidance included in the Advance Notice) - An employee and/or representative may address the information covered in the Advance Notice by:

- 1) Requesting an oral reply within 7 calendar days of receiving the Advance Notice.
- 2) Submitting a written reply within 15 calendar days of receiving the Advance Notice.

**Note:** See IRM 6.432.1.12, Oral/Written Reply, for more information.

- c. **Representation** (guidance included in the Advance Notice) - See IRM 6.432.1.7, Right to Representation, for details.
- d. **Right to Material Relied On** (guidance included in the Advance Notice) - The employee and/or representative may request the material relied on to support the reasons and specifications. See Exhibit 6.432.1-1, Sample Request for Material Relied on (Evidence) and Representative's Access to Tax Information.
- e. **Consideration of Medical Condition(s)** (guidance included in the Advance Notice) - If the employee chooses to disclose a medical condition(s) that contributed to his/her unacceptable performance or failure to meet the retention standard, the employee or representative may raise the condition(s) and provide acceptable medical documentation for consideration, per 5 CFR 432.105(a)(4)(iv). If the employee chooses to disclose medical information, LERN will provide guidance to management in applying 5 CFR 339.104.
- f. **Final written decision with Appeal Rights** - After the advance notice period expires and any reply is considered, a decision letter is issued to the employee, which includes appeal and grievance rights. Per 5 CFR 432.105, a decision to reduce in grade/pay/payband or remove an employee for unacceptable performance may only be based on instances of unacceptable performance and/or failure to meet the retention standard that occurred during the one-year period ending on the date the advance notice (proposal letter) is issued. See IRM 6.432.1.16, Appealing the Performance-Based Decision, for more information.

6.432.1.7  
(11-20-2025)  
**Right to Representation**

- (1) Per Article 40 in the National Agreement, a BU employee may request to be accompanied by a union representative at a meeting between the employee and management if the principal topic of discussion is action or potential action based on unacceptable performance and/or failure to meet the retention standard.
- (2) Per 5 CFR 432.105, the IRS will allow the employee to be represented by an attorney, other representative, or a NTEU representative (for BU employees), unless such choice:
  - a. **Conflicts with the priority needs of the IRS** - The IRS mission takes precedence. The requested representative may be disallowed if a priority work assignment precludes release from official duties.
  - b. **Creates a conflict of interest or position** - This occurs when the representative's IRS duties conflict with the functions of the representative. For example, if the requested representative participated in or has special knowledge about the matter by virtue of his/her assigned duties.
  - c. **Imposes unreasonable costs to the government** - This can include any travel cost, or any expenses requested by the representative to fulfill his/her role.

**Note:** The employee's written designation of a representative is provided to the manager named in the advance notice. The manager will provide a copy of the designation to their assigned LERN Specialist.

- (3) If management disallows the designated representative based on any of the above reasons, within 10 workdays of receiving the employee's written designation of representative, management will provide the written disallowance to the employee and the disallowed representative. The written disallowance includes notice of the right to appeal the disallowance decision.

- (4) The employee (not the disallowed representative) may appeal the decision to disallow the representative by:
  - a. Submitting a written appeal (e-mail is acceptable) within 10 workdays of receipt of a decision. Send the appeal to LERN's Deputy Director, Field Operations (LERN's DD Field Ops). To find LERN's DD Field Ops' name and contact information, go to the *Labor/Employee Relations & Negotiations Contacts*
  - b. Including a copy of the disallowance decision in the appeal.
- (5) Within 15 workdays of receiving the appeal about the initial representative disallowance decision, the LERN's DD Field Ops will make and communicate a final decision to allow or disallow the representative. The final decision may not be grieved, and the performance action will proceed.

6.432.1.8  
(11-20-2025)  
**Opportunity to  
Demonstrate Acceptable  
Performance Per 5 CFR  
432**

- (1) When management determines the performance of an employee, as described in IRM 6.432.1.2, Employees Covered for Performance Based Actions, is unacceptable in one or more CJE(s) or CPE(s), and/or he/she fails to meet the retention standard, the manager will meet with the employee and advise him/her that he/she is being issued a PIP with 30 business days to demonstrate at least an acceptable level of performance (minimally successful) to prevent a performance-based action. The PIP period begins with the employee's receipt of the written PIP letter. The PIP is drafted by management's assigned LERN specialist. It is reviewed, approved, and issued by the manager with the delegated authority. See IRM 6.432.1.4, Delegation of Authority.

**Note:** Prior to placing an employee on a PIP, management must assure that there is adequate documentation to substantiate that the employee's performance is unacceptable in one or more CJE(s) or CPE(s), and/or he/she fails to meet the retention standard. .

- (2) The PIP must contain the following:
  - a. The CJE(s) and performance standard(s), or CPE(s), and/or the retention standard, if applicable, the employee is failing to meet citing specific instances of unacceptable performance that occurred within the one-year period prior to the date of the PIP,
  - b. Examples of how employee has failed to meet the CJE (s) and performance standard (s), or CPE (s) and/or the retention standard,
  - c. Advice as to what the employee must do to bring his/her performance up to an acceptable level (of at least minimally successful),
  - d. A statement that the employee has 30 business days, to bring his/her performance up to an acceptable level, and
  - e. A description of what management will do during the PIP period to assist the employee to improve his/her unacceptable performance (e.g. additional training, an on-the-job instructor, weekly meetings).

**Note:** A grievance may not be filed on the substance or procedural aspects of the PIP. However, if a proposal letter is issued, concerns regarding the PIP may be raised in the oral/written reply and/or in an appeal or grievance for BU employees after the decision letter is issued.

- (3) A rating of record will not be assigned to the employee while he/she is on a PIP. The rating of record will be postponed until the PIP expires, and if needed,

the manager will advise the employee in writing that his/her appraisal period is being extended. See IRM 6.430.2.4.2.2, Extension of the Appraisal Period, for more information.

6.432.1.9  
(11-20-2025)

**Determining Action After  
Opportunity to Improve**

- (1) The employee will be notified in writing of improved performance if he/she improves to minimally successful or better. The letter will also inform the employee that if his/her performance becomes unacceptable in the same CJE(s) or CPE(s), or the retention standard at any time during the year after receiving the PIP, an advance notice (proposal letter) will be issued to reduce him/her in grade/pay/payband or remove him/her without an additional PIP.

**Note:** If the employee's performance becomes unacceptable in a different CJE, CPE or the retention standard, a new PIP must be implemented to address the new CJE, CPE or retention standard.

- (2) A 30-day advance notice of a performance-based action will be issued as soon as possible if the employee's performance remains unacceptable when the PIP ends. The examples of unacceptable performance and/or failure to meet the retention standard cited in the advance notice (proposal letter) must have occurred within the one-year period prior to issuing the advance notice (proposal letter).

- a. Consideration may be given to options other than a reduction in grade/pay/payband or removal, such as:

**1) Reassignment to Another Position** - A reassignment to the employee's former position or a similar position at the same grade as the current position.

**2) Voluntary Reduction in Grade/Pay/Payband or Reassignment** - An employee may acknowledge his/her inability or unwillingness to fulfill the responsibilities of the position and may voluntarily request a reassignment or downgrade to a lower-graded position.

**3) Retirement or Resignation** - An employee may advise his/her manager they are eligible to retire or plan to resign in lieu of an involuntary performance action. Unreasonable delay in submitting a retirement application or resigning will not prevent management from issuing a performance-based action.

**4) Disability Retirement** - An employee's unacceptable performance may be the result of a mental and/or physical disability. Any indication that the employee may apply for disability retirement will not prevent or delay issuing any performance-based action.

**5) Discontinued Service Retirement (DSR)** - DSR is a tool that lessens the impact of an involuntary separation if the employee is not eligible for a voluntary retirement. DSR may be an option if the separation is against the employee's will and consent of the employee, and he/she being removed for unacceptable performance and/or failure to meet the retention standard, unrelated to misconduct (which is an action taken under 5 CFR 752). An employee must receive a specific written notice of a proposed involuntary separation (the advance notice/proposal letter) to qualify for DSR. See OPM Chapter 44, Discontinued Service Retirement, at <https://www.opm.gov/retirement-services/publications-forms/csrsfers-handbook/c044.pdf>, for age and length of service requirements.

6.432.1.10  
(11-20-2025)  
**Advance Notice  
(Proposal Letter) Based  
on Unacceptable  
Performance**

- (1) Advance notice of proposed action is drafted by management's assigned LERN specialist. Then it is reviewed, discussed, approved, and issued by the manager with the delegated authority (Proposing Official). See IRM 6.432.1.4, Delegation of Authority.
- (2) An advance notice proposing a reduction in grade/pay/or removal will include, as applicable, the following information:
  - a. Specific instances of unacceptable performance and/or failure to meet the retention standard that occurred, both before and during the PIP, within the one-year period prior to the date of the advance notice (proposal letter),
  - b. The CJE(s) or CPE(s), and/or retention standard the employee is failing to meet,
  - c. The performance standard(s) not met for each specification,
  - d. A statement of the employee's right to be represented by an attorney, other representative, or a NTEU representative, if he/she is a BU employee,
  - e. A statement of the employee's right to a reasonable amount of time to answer orally and/or in writing; and
  - f. A statement of the employee's right to request and review the material relied on (evidence) to support the reason(s) and specifications in the notice.

**Note:** The manager will consult with his/her assigned LERN specialist, for guidance about releasing material relied on and/or tax information, if requested, before providing a copy. See IRM 6.432.1.15, Guidelines for Identifying and Releasing Tax Information for Use in a Personnel Matter.

- (3) Management delivers the advance notice to the employee in person when possible. If personal delivery is not possible/appropriate (e.g. the manager would need to travel since the employee is not co-located with them), management delivers the advance notice by encrypted email. Management asks the employee to acknowledge receipt of the notice by signing and dating it. If the employee refuses to acknowledge receipt, the manager delivering the notice attests to delivering the notice by signing and dating it and includes the following statement: Employee refused to acknowledge receipt; hand delivered [or emailed] on (date) at (time).

**Note:** If an employee is on extended leave, consideration will be given to delivering the notice via certified mail and U.S. Postal mail. Contact the assigned LERN specialist to determine when to start calculating the first day of the advance notice period.

- (4) When the advance notice (proposal letter) is issued to a BU employee, the NTEU chapter that represents the employee and the NTEU National Field Office simultaneously receive a redacted copy (personally identifiable information and information protected by the Internal Revenue Code is removed) of the notice, per Article 40 of the National Agreement.

**Note:** If a taxpayer key is attached to the employee's letter, it is not provided with the simultaneous delivery. See IRM 6.432.1.15, Guidelines for Identifying and Releasing Tax Information for Use in a Personnel Matter.



- (5) Employees usually remain in a duty status during the advance notice period unless they are a seasonal employee who is placed in non-duty status due to lack of work.

**Note:** See IRM 6.610.1.3.15, Conduct-Related Actions for occasions when an employee may be placed on conduct-related administrative leave during the advance notice period (e.g. his/her continued workplace presence may pose a threat to them or others, result in loss of or damage to government property, or otherwise jeopardize legitimate government interests).

- (6) Employees may request and receive approval for leave during the advance notice period per the IRM 6.630 Absence and Leave series and the National Agreement for BU employees.
- (7) Management may rescind and reissue an advance notice if, for example, new information is discovered that may result in an additional charge (reason) or specification and/or a more severe penalty, a procedural error is found, or there is a change in the nexus. If the Advance Notice is rescinded, the advance notice period restarts.
- (8) If an employee chooses to resign or submit a retirement application during the advance notice period, management must not rescind the proposal letter since a resignation or retirement can be withdrawn or cancelled any time before the effective date.

6.432.1.11  
(11-20-2025)  
**Advance Notice Period**

- (1) Per 5 CFR 432.105(a)(4)(i)(A), the agency shall afford the employee a 30-day advance notice of the proposed performance-based action identifying both the specific instances of unacceptable performance by the employee on which the proposed action is based and the CJE(s) or CPE(s) of the employee's position involved in each instance of unacceptable performance.
- (2) Per 5 CFR 432.105(a)(4)(i)(B), an agency may extend the advance notice period for a period not to exceed 30 days under regulations prescribed by the head of the agency. An agency may extend this notice period further without prior OPM approval for the following reasons:
  - a. To obtain and/or evaluate medical information when the employee raises a medical condition(s) in his/her reply to the proposed performance-based action,
  - b. To consider the employee's reply if an extension to the reply period is granted (e.g. because of the employee's illness or incapacitation),
  - c. To consider reasonable accommodation of a disability,
  - d. To consider positions to which the employee might be reassigned or reduced in grade; or
  - e. To comply with a stay ordered by a member of the Merit Systems Protection Board (MSPB) per 5 USC 1208(b).
- (3) If an extension of the advance notice period is necessary for another reason, prior approval must be requested. To request approval management will contact their assigned LERN specialist, to request prior approval from the Manager, Employee Accountability, Accountability and Workforce Relations, Employee Services, OPM, 1900 E Street NW, Washington, DC 20415.



6.432.1.12  
(11-20-2025)  
**Oral/Written Reply**

- (1) The purpose of an oral and/or written reply is to give an employee and/or representative an opportunity to present information in response to the advance notice (proposal letter) before a decision is made.
- (2) The Oral Reply Officer who hears the oral reply will be different than the manager who proposed the performance-based action.
- (3) The Oral Reply Officer will conduct an oral reply, if requested, and ask questions to clarify factual matters, if needed. To prepare for the oral reply, the Oral Reply Officer will:
  - a. Consult with his/her assigned LERN specialist,
  - b. Review the written proposal notice and supporting documentation (material relied on/evidence),
  - c. Review the appropriate provisions in the National Agreement if the subject of the action is a BU employee,
  - d. Listen,
  - e. Do not discuss or argue the merits of the proposal, and
  - f. Review the verbatim transcript of the oral reply and edit, if needed.
- (4) If management receives a request to postpone the oral reply, he/she will be promptly provided it to their assigned LERN Specialist, who will assist management with responding.

6.432.1.13  
(11-20-2025)  
**Supplemental Notice**

- (1) A supplemental notice is issued to an employee if the deciding official wants to consider new or material adverse information to support his/her decision, and the adverse information was not covered in the proposal letter.
- (2) If a supplemental notice is issued to the employee, he/she may:
  - a. Request an oral reply within two workdays of receiving the supplemental notice, which must be held within 10 workdays, and/or
  - b. Submit a written reply within 10 workdays of receiving the supplemental notice.
- (3) A supplemental notice is rarely needed. In lieu of a supplemental notice, management has the option to rescind the proposal letter and reissue one containing the new or material adverse information, which restarts the advance notice period.

6.432.1.14  
(11-20-2025)  
**Decision**

- (1) Per 5 USC 4303(c)(1), the decision (decision letter) on the proposed action shall be made within 30 calendar days after the advance notice period expires.
- (2) The decision regarding a proposed performance-based action for unacceptable performance and/or failure to meet the retention standard must be made by a higher management position than the proposing official. See DO 6-29, in IRM 1.2.2, Servicewide Delegations of Authority, for details.
- (3) The decision will sustain or not sustain the reason(s) and specification(s) in the advance notice (proposal letter). The decision will also address factual disputes if any were raised in the oral/written reply, and if applicable, will explain how they were resolved.
- (4) The decision will inform the employee of his/her appeal rights and/or grievance rights. An appealable action is not grievable under IRM 6.771 , Agency Grievance System.

- (5) The deciding official will consider any medical condition raised by the employee, and the decision will inform the employee that the medical condition he/she raised was considered. If the employee has the required years of CSRS or FERS service, he/she will be provided information concerning application for *Disability Retirement* See 5 CFR 831, Subpart L and 5 CFR 339.104, for more information.
- (6) If a removal decision is issued and the employee accepts a position with a different federal agency before the effective date, a statement about the employee's performance (also known as a remark or agency finding) may not be placed on the SF-50.
- (7) When the decision letter is issued to a BU employee, the NTEU chapter that represents the employee and the NTEU National Field Office simultaneously receive a redacted copy of the notice (i.e., personally identifiable information and information protected by the Internal Revenue Code is removed), per Article 40 of the National Agreement.

6.432.1.15  
(11-20-2025)  
**Guidelines for  
Identifying and  
Releasing Tax  
Information for Use in a  
Personnel Matter**

- (1) For the definition of a tax "return," see 26 USC Section 6103(b)(1), at <https://www.govregs.com/uscode/26/6103>.
- (2) For the definition of "return information," see 26 USC Section 6103(b)(2), at <https://www.govregs.com/uscode/26/6103>.
- (3) Upon written request, per 26 USC 6103(l)(4)(A), tax returns, and/or return information may be disclosed for use in a personnel matter as described in (4) below. If a tax return and/or return information is cited as an example in a performance action, the confidentiality of the taxpayer's information must be safeguarded (e.g. cited in an attachment or taxpayer key). For general guidance, see IRM 10.5.6.8.1, Privacy Act Requirements for Personnel Records, and IRM 11.3.29.8, Disclosure of Returns and Return Information for use in Personnel or Claimant Representative Matters - IRC 6103(l)(4). See Exhibit 6.432.1-1, Sample Request for Material Relied On (Evidence) and Representative's Access to Tax Information.
- (4) Upon written request, per 26 USC 6103(l)(4), returns and/or return information may be disclosed to an employee, former employee, or an approved representative. See IRM 6.432.1.7, Right to Representation, for more information on designating a representative.
- (5) In compliance with 26 USC 6103(p)(3)(A), Form 5466-B, Multiple Records of Disclosure, is completed when disclosing tax returns or return information. See IRM 11.3.37, Disclosure of Official Information, Recordkeeping and Accounting for Disclosures, for more information.

6.432.1.16  
(11-20-2025)  
**Appealing the  
Performance-Based  
Decision**

- (1) Appeal Rights include:
  - a. In most cases, an MSPB appeal must be filed no later than 30 calendar days after the effective date of the action being appealed, or 30 calendar days after the receipt date of the agency's decision, whichever is later. See MSPB.gov, at <https://mspb.gov/>, for details.
  - b. If the employee believes the action was taken in retaliation for whistleblowing, the employee may file an appeal to the MSPB or a negotiated grievance, per the National Agreement (for BU employees), or a com-

plaint with the Office of Special Counsel with the option to file an Individual Right of Action appeal with MSPB. See MSPB.gov, at <https://mspb.gov/>, for details.

- c. If the employee believes the action, in whole or in part, violated 29 CFR 1614, Federal Sector Equal Employment Opportunity (EEO), the allegation may be brought to the attention of an EEO Counselor within 45 calendar days of the effective date of the action. Contact the OCRO *Office of Civil Rights and Compliance mailbox* for more information.
- d. BU employees may file a grievance following the procedures in Article 41 in the 2025 Addendum to the National Agreement Document 11678-B .

**Note:** BU employees must choose either a MSPB appeal or a grievance. Per Article 40 of the National Agreement, “Under no condition may an employee appeal an adverse action to both MSPB and arbitration.”

6.432.1.17  
(11-20-2025)

#### Settlements for a Performance-Based Action

- (1) A “**Clean Record**” or “**Clean 50**” settlement agreement (settlement) is not authorized after a performance-based proposal/decision letter is issued.

A clean record/50 settlement means the SF-50 states the employee resigned or retired for personal reasons instead of stating they resigned/retired in lieu of receiving a performance-based action. Consistent with The Guide to Processing Personnel Actions, if an employee resigns/retires after receiving a proposal or decision letter, the SF-50 must contain a statement referring to their performance issue(s).

- (2) **Mitigating a Performance Action** - Management may settle a performance based action by mitigating (reducing) the original penalty if the mitigated penalty:
  - a. Preserves the original performance issue,
  - b. Results in a record filed in the employee’s OPF, and
  - c. The SF-50 record retention period is equal to the record retention period for the original penalty.
- (3) **Third Party Settlement** - Must be coordinated with a LERN specialist, and with the appropriate Area Counsel, General Legal Services. Management must contact their assigned LERN specialist if they want to settle a performance action by mitigating (reducing) the original penalty.

6.432.1.18  
(11-20-2025)

#### Employee Death

- (1) The performance-based action process ceases upon receipt of an employee’s proof of death, which may include an SF-50, Notification of Personnel Action.

6.432.1.19  
(11-20-2025)

#### Last Rights/Voluntary Separations

- (1) Management has the option of offering Last Rights to employees who may be issued an advance notice/proposal letter for a removal action taken under 5 CFR 432.
- (2) When an employee faces a potential performance-based action, they may choose to resign, retire, or request a change to lower grade prior to receiving the Advanced Notice/proposal letter. An employee’s decision to resign, retire, or request a change to lower grade, is voluntary.

- (3) If management decides to offer Last Rights to a BU employee prior to issuing a proposal letter, they must read Article 5, Section 5, of the National Agreement.
- (4) Management must contact their assigned LERN specialist (or LERN manager) before holding the Last Rights meeting to ensure adherence to policy and hiring compliance (for example, see IRM 6.332.2.4, Prior Performance & Misconduct Check/Screening).

**Note:** In the event the LERN specialist/manager is not available, and management chooses to hold a last rights meeting with a NBU employee, management must contact their assigned LERN specialist/manager no later than the next workday to notify them the last rights meeting was held.

6.432.1.20  
(11-20-2025)  
**Agency Finding  
(Remark) on SF-50,  
Notification of Personnel  
Action**

- (1) Per the OPM's Guide to Processing Personnel Actions (GPPA), if an employee, as defined in 5 USC 7501:
  - a. **Resigns/Retires before receiving a proposal letter** - Their SF-50 may not contain a remark describing the underlying performance issue.
  - b. **Resigns/Retires after receiving a proposal/decision letter unrelated to a tax violation** - Their SF-50 must contain a remark describing the performance issue, such as resigned/retired after receiving written notice on (date) of proposal to remove for unacceptable performance.
  - c. **Violates a Last Chance Agreement** - The SF-50 must contain a remark describing the underlying performance issue rather than stating the employee failed to meet the terms of the agreement.
  - d. **Abandons his/her position** - The SF-50 may contain a remark stating the conditions under which the employee abandoned the position.
  - e. **Transfers or is reassigned to another federal agency before a decision letter is issued** - An agency finding may not be placed on the SF-50.

6.432.1.21  
(11-20-2025)  
**Redacting Letters with  
Personally Identifiable  
Information**

- (1) As stated in IRM 10.5.1.2.3, Personally Identifiable Information (PII), PII refers to information that can be used to distinguish or trace an individual's identity, either alone or when combined with other information that is linked or linkable to a specific individual.
- (2) PII may include, for example, social security numbers, birth dates, addresses, or telephone numbers.
- (3) See IRM 10.5.4.3.1, Timely Reporting: Immediately Upon Discovery, for actions required in response to IRS data breaches, such a PII and tax information.

6.432.1.22  
(11-20-2025)  
**Within Grade Increase -  
Action Required for  
Less than Fully  
Successful Performance**

- (1) See IRM 6.531.1, Pay Under the General Schedule and IRS Payband System, for more information about Within Grade Increases.
- (2) Per 5 CFR 531, Subpart D, an employee occupying a permanent position, classified and paid under the General Schedule or Law Enforcement Officers (identified by the GL pay plan), who is **not** an SES employee or on a payband position, must be performing at a fully successful level to receive a WGI. If he/she is performing at a minimally successful or unacceptable level, approximately 90 days before he/she completes the waiting period for the WGI, the manager must contact his/her LERN specialist for guidance and preparation of the intent to deny WGI notice to the employee.

- (3) Per 5 CFR 531.409(e) and Article 17 of the National Agreement (as a matter of policy, provision is extended to NBU employees), at least 60 days before the employee completes the required WGI waiting period, management will issue a notice of intent to deny the employee's WGI unless his/her performance improves to at least fully successful. The letter is drafted by management's assigned LRS. It is reviewed, approved, and issued by the manager with the delegated authority (see IRM 6.432.1.4, Delegation of Authority). The letter provides the employee an opportunity to improve and identifies which CJE(s) or CPE(s), as appropriate, and/or the retention standard the employee is failing to meet and provides examples of less than fully successful performance.
- (4) If the employee's performance does not improve to at least fully successful, he/she is issued a notice advising him/her that the WGI is denied. The letter is drafted by management's assigned LRS. It is reviewed, approved, and issued by the manager with the delegated authority, (see IRM 6.432.1.4, Delegation of Authority). The notice advises the employee:
- Of his/her right to request the designated agency official reconsider the negative determination, per 5 CFR 531.410, and
  - That acceptable level of competence evaluations will continue. Per 5 CFR 531.411, a new rating of record may be prepared at any time after a WGI is withheld. The employee's WGI may be granted if management determines the employee has demonstrated sustained performance at least at the fully successful level. Management may not wait more than 52 weeks from the employee's original WGI eligibility to make another acceptable level of competence determination. For as long as the WGI continues to be denied, a new determination must be made in no more than 52 weeks.
- Note:** For BU employees: redacted copies of the notices referenced above are provided simultaneously to the NTEU chapter that represents the employee, per Article 17 of the National Agreement. Refer to Article 17 for information on requesting reconsideration of a negative WGI determination.
- (5) If the employee's performance improves to at least fully successful after a negative determination, management inputs the new rating in the automated performance appraisal system and issues him/her a notice with the effective date of their WGI. The effective date of the WGI is the first day of the first pay period after the acceptable level of competence (at least fully successful) determination.

6.432.1.23  
(11-20-2025)

**Moratoriums on  
Addressing Performance  
Matters**

- (1) **Types of moratoriums and the annual holiday moratorium.**
- a. **National Emergency** - If the president declares a national emergency, such as the Coronavirus Diseases pandemic, the IRS Human Capital Officer will determine if a moratorium on actions related to a performance matter is appropriate and announce the beginning and ending dates.
  - b. **Natural Disaster** - If the president or other appropriate authority (e.g. city or state official) declares a geographic area as a natural disaster, the business units' strategic human resource liaisons will collaborate with LERN and the Senior Commissioner's Representative to determine if a moratorium is appropriate and announce the beginning and ending dates.

**Note:** Natural disasters are defined as any natural catastrophe (e.g. hurricane, tornado, storm, high water, wind driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, or drought), or any fire, flood, or explosion, regardless of the cause, in any part of the United States, which the president or city/state official declare is causing damage of sufficient severity and magnitude to warrant major disaster assistance to help alleviate the damage, loss, hardship, or suffering caused by the disaster. Depending on the severity of the incident (e.g. explosion, fire), this may include a terrorist attack.

- c. **Winter Holiday Season** - Annually during the winter holidays, beginning two Mondays before December 25 and ending in January, two Fridays after December 25 (e.g. December 12, 2022, through January 6, 2023).

- (2) **What Occurs During a Moratorium** - A moratorium does not prohibit *all* actions. Management may proceed with certain actions if appropriate.
- a. When a moratorium is in place, managers continue to work with their assigned LERN specialist, to begin addressing a performance matter or continue addressing performance actions already in progress.
  - b. During a moratorium, managers will consider whether the following activities should be held in abeyance or if they should proceed:
    - Signing/issuing an advance notice (proposal letter),
    - Signing/issuing an advance notice (proposal letter),
    - Interviewing/questioning an employee about a performance matter,
    - Issuing grievance replies/decisions,
    - Holding grievance replies/decisions,
    - Holding performance discussions with an employee on a PIP, and
    - Holding oral replies.

6.432.1.24  
(11-20-2025)  
**Correcting an Action**

- (1) After consulting with their assigned LERN specialist, management may unilaterally, correct mistakes made when taking a performance-based action (e.g. modifying an employee's personnel record to remove inaccurate information or an SF-50 for an erroneous/illegal action).
- (2) If management determines a performance-based action was taken erroneously, they may take corrective action, even if an appeal/complaint has been filed about the matter.
- (3) Management must ensure it removes only the information they determine to be inaccurate or to reflect an action taken illegally or in error.

6.432.1.25  
(11-20-2025)  
**Legal Findings and Orders**

- (1) Management may unilaterally act on a finding of discrimination or implement an EEO, MSPB, arbitrator, or other third-party order.
- (2) Management and their assigned LERN specialist, must coordinate these actions with Chief Counsel's Labor & Personnel Law Branch and/or the Office of Civil Rights and Compliance, as appropriate.

6.432.1.26  
(11-20-2025)  
**Records Retention**

- (1) In compliance with Document 12829, The General Records Schedules (see 2.3, Employee Relations Records), LERN retains performance case files for six years.



**Note:** All records and documentation (e.g. e-mail, electronic documents, system printouts) relevant to the performance case must be retained until all appeal periods have expired, which may be longer than the six-year period.

- (2) Per 5 CFR 432.107(b), if the employee is not reduced in grade/pay/payband or removed because of improved performance and the employee’s performance continues to be acceptable for one year from the date of the advance notice (proposal letter), any entry or other notation of the unacceptable performance for which the action was proposed shall be removed from any agency record relating to the employee.
- (3) The SF-50 for the performance-based action is a permanent record filed in the employee’s OPF.

6.432.1.27  
(11-20-2025)  
**Differences Between 5  
CFR Parts 432 and 752  
Actions**

- (1) For SES employees, see
  - a. 5 CFR 430, Subpart C, Managing Senior Executive Performance.
  - b. 5 CFR 752, Subpart F, Regulatory Requirements for Taking Adverse Action Under the Senior Executive Service.

	5 CFR 432, Perfor- mance Based Reduction in Grade and Removal Actions	5 CFR752, Adverse Actions
Types of Actions	Reduction in grade/ pay/payband, Removal	Suspension, Reduction in grade/ pay/payband, Removal
CJE, CPE or Retention Standard	Not required to prove the action will promote the effi- ciency of the IRS.	Must prove the action will promote the effi- ciency of the IRS.



<b>Burden of Proof</b>	<p><b>Substantial evidence.</b> The degree of relevant evidence that a reasonable person, considering the record as a whole, might accept as adequate to support a conclusion, even though other reasonable persons might disagree. This is a lower standard of proof than preponderance of the evidence.</p> <p><b>Note:</b> Must be able to prove the employee's performance was unacceptable <u>before</u> issuing the PIP. See IRM 6.432.1.8, Opportunity to Demonstrate Acceptable Performance Per 5 CFR 432</p>	<p><b>Preponderance of the evidence.</b> The degree of relevant evidence that a reasonable person, considering the record as a whole, would accept as sufficient to find that a contested fact is more likely to be true than untrue.</p>
<b>PIP</b>	Required.	Not required.
<b>Decline Following One Year of Improvement</b>	If performance improves during the PIP, remains acceptable for one year, and then declines, a new PIP is required before taking an action.	No obligation to offer a period of improvement at any point.
<b>Timing of Action</b>	30- business day PIP required before issuing advance notice of proposed action (the proposal letter).	Can take immediate action after considering oral/written replies and expiration of 30-day advance notice period.
<b>Douglas Factors</b>	Not used.	Must consider relevant Douglas Factors.

<b>Advance Notice (Proposal Letter) Content</b>	Must state specific instances of unacceptable performance that are the basis for the action and the CJE/CPE involved and/or the retention standard. Limited to performance deficiencies occurring within the one-year period prior to the advance notice. Advance Notice of proposed action must be given 30 days in advance of the final action.	Must state specific instances of poor performance that are the basis for the action. No requirement to propose an action within a particular timeframe; however, unexplained excessive delays can have a negative effect on the ability to support the action.
<b>Penalty Mitigation</b>	If requirements, such as a reasonable period, adherence to due process procedures, etc., were met to take action, the MSPB cannot reduce the penalty.	After determining requirements, such adherence to due process procedures, were met to take action, the MSPB may reduce the penalty.

**Exhibit 6.432.1-1 (11-20-2025)****Sample Request for Material Relied On (Evidence) and Representative's Access to Tax Information (if applicable)**

I [or the designated representative] am requesting a copy of the material relied on to support the performance letter issued to (employee's name) dated. I [or the representative] am requesting relevant tax information, such as tax cases or other documents, which supports the letter. My request for this information relates to my reply to the proposal letter [or my representational responsibilities regarding (employee's name) personnel matter]. As stated in IRM 6.432.1.15, Guidelines for Identifying and Releasing Tax Information for Use in a Personnel Matter and per 26 USC 6103(l)(4), I understand relevant tax returns and return information used in a personnel matter may be disclosed to an employee, former employee, or an approved representative. I understand irrelevant tax information, such as employer identification numbers and/or social security numbers, will be redacted to protect the taxpayer's privacy. I understand the evidence provided may not be used in any public proceeding or disclosed to any person other than a Treasury Department employee in connection with the employee's official duties (e.g. the Deciding Official or Oral Reply Officer) regarding this personnel matter. As stated in 26 USC 7431, I understand a taxpayer may bring a civil action against a person who knowingly or negligently discloses tax information in violation of 26 USC 6103. If the action is appealed, I understand a separate written request is not required for submitting evidence to the Merit Systems Protection Board.

**Note:** Requests may be submitted via email or in person if the parties are co-located. If the performance matter is not related to a tax matter, modify the above.

