

FFAS HANDBOOK

Employee Relations and Services

To access the transmittal page click on the short reference.

For FAS, FSA, and RMA Offices
(Not Including Foreign Service Employees and
Non-Federal Employees in County Offices
Except Where Indicated)

SHORT REFERENCE

15-PM
(Revision 1)

UNITED STATES DEPARTMENT OF AGRICULTURE
Farm Service Agency
Washington, DC 20250

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Farm Service Agency
Washington, DC 20250

Employee Relations and Services 15-PM (Revision 1)	Amendment 1
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Approved by: Deputy Administrator, Management



Amendment Transmittal

A Reasons for Revision

This handbook has been revised to eliminate unused and obsolete procedures, update and modernize the handbook, and provide new and revised policy and procedure on disciplinary and performance actions, suitability adjudications, and administrative grievances.

B Withdrawn Policy

The following policy has been withdrawn from this revision.

- Intra – Management Communication and Consultation has been withdrawn because it is unused and obsolete.
- Debt Complaints has been withdrawn because it has been incorporated into procedures implemented by the HRD, Special Projects and Information Branch, Personnel and Payroll Operations Section.
- Employee Organizations and Groups policy has been withdrawn because it has been incorporated into Department policy and procedure for recognition, rights, and responsibilities of employee organizations and groups.
- Employee Orientation policy has been withdrawn because it has been incorporated into procedures implemented by HRD.
- Request for Asylum policy has been withdrawn because it has been incorporated into Department of State policies and procedure.

Amendment Transmittal (Continued)

C Revised Policy

The following policy has been revised.

- Grievance appeal procedure, renamed Administrative Grievance System, has been revised to update and modernize the policy into a more employee-friendly format.
- Alcohol- and Drug-Free Working Environment policy has been revised to reflect changes in legislation and Department policy.
- Federal Executive Board policy has been revised to include technical updates.

D Added Policy

The following policies and procedures have been added to this handbook because no FSA policy existed:

- disciplinary, adverse, and performance actions
- suitability adjudication.

E Obsolete Material

This handbook obsoletes 15-PM.

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Part 1 Basic Provisions**1 Overview****A Handbook Purpose**

This handbook:

- clarifies areas of responsibility in the FFAS employee and labor relations program areas for offices having delegated classification, employment, or adverse action authority
- provides internal operating policies, procedures, and standards that supplement OPM and USDA regulations.

B Authority and Responsibility

FSA'S HRD:

- has the authority and responsibility for formulating and administering the following FFAS employee and labor relations programs for FFAS:
 - Federal Civil Service
 - Foreign Service
 - non-Federal COC employee program

Note: This includes developing and implementing all policies, directives, procedures, standards, and guidelines under which national and field personnel programs shall operate.

- shall give technical direction, guidance, and assistance as necessary to all offices.

Note: This includes all of the following:

- broad policy interpretations
- recommendations for new policy
- changes and adjustments in existing policies.

Where Federally recognized bargaining units and a negotiated bargaining agreement exist, the negotiated bargaining agreement takes precedence.

1 Overview (Continued)

C Related Handbooks

See the following handbooks for more information on personnel functions.

Handbook	Personnel Function
1-PM	Organizational Development and Relationships
3-PM	Delegations of Authority, Disciplinary Actions, and Adverse Actions
5-PM	Performance Management System
22-PM	Non-Federal County Office Personnel Management
34-PM	EAP

D Sources of Authority

5 U.S.C., as amended, is the primary statutory authority for FFAS employee relations programs. Related sources include regulations and directives developed by the following:

- 5 CFR
- OPM
- FFAS
- other Federal Agencies.

E Delegations of Authority

For delegations of authority, see 3-PM, paragraph 9.

2-20 (Reserved)

Part 2 Disciplinary and Adverse Actions

21 Management Tools to Correct and Deter Misconduct

A Overview

Discipline and adverse employment actions are management tools designed to correct and deter misconduct. Discipline and adverse employment actions are **not** punitive in nature, but rather are to be implemented in a progressive manner to meet the dual goals of correcting past misconduct and deterring future misconduct. While progressive discipline should be the norm, each situation **must** be addressed and assessed on its own merits to determine the appropriate disciplinary action. Where appropriate, this part may also be used to initiate a performance-based action.

In all actions, other than those resulting in removal, Agency officials should consider whether alternative discipline, as described in Departmental Personnel Bulletin 751-3 available at <http://www.usda.gov/da/employ/apsd/bul7513.htm>, is appropriate.

Agency officials should consult with their servicing Employee and Labor Relations specialist during **all** phases of the disciplinary and adverse action process.

B Coverage

This Part covers all FFAS nonbargaining unit employees; **except** the following:

- non-Federal County Office, SES, and Schedule C employees
- Foreign Service officers.

21 Management Tools to Correct and Deter Misconduct (Continued)

C References

The following references provide additional guidance:

- 3-PM, Part 1
- 5 CFR Part 315
- 5 CFR Part 752
- 5 U.S.C. 7503
- 5 U.S.C. 7513
- USDA Department Manual, Chapters 751 and 752
- USDA Departmental Personnel Bulletin 751-3.

22 Performance-Based Actions

A Reprimands

Reprimands shall be:

- maintained in an employee's OPF for **no** more than 2 years

Note: Reprimands should dictate the length of time, **not** to exceed 2 years, and be filed in the employee's OPF.

- removed from an employee's OPF, as follows:
 - at the end of the retention period
 - if the employee transfers to another Agency
 - if the employee permanently leaves the Agency **before** the retention period expires.

Note: Reprimands may be removed from employee's OPF at any time **before** the time indicated in the reprimand at the sole discretion of the employee's supervisor.

After removal of a reprimand from an employee's OPF, the reprimand may **not** be cited in future disciplinary or adverse actions as an aggravating factor for penalty determination purposes (subparagraph D).

22 Performance-Based Actions (Continued)**B Disciplinary Actions**

A disciplinary action is a suspension of between 1 and 14 calendar days and may be taken for such cause as will promote the efficiency of the Agency. According to 3-PM, Part 1, a disciplinary action shall be proposed, in writing, by any of the following and shall be signed by the proposing official:

- an employee's immediate supervisor
- another designated management official
- FSA, HRD, Employee and Labor Relations Branch Chief.

Note: A proposed disciplinary action shall do the following:

- contain a description of the alleged conduct and the proposed length of suspension
- advise an employee of the following:
 - right to representation
 - right to answer the proposal orally and/or in writing and timeframe for answering
 - Agency deciding official to whom such a response should be directed
 - right to review the materials relied upon in proposing the disciplinary action.

A proposed disciplinary action may be issued to an employee by any of the following methods in compliance with Agency policy and procedure respecting PII:

- hand
- interoffice, USPS, or overnight mail delivery
- e-mail.

22 Performance-Based Actions (Continued)

B Disciplinary Actions (Continued)

An employee's written and/or oral response to a proposed disciplinary action:

- **must** be made within 7 workdays of the employee's receipt of the written proposal regardless of the method of delivery

Note: This time period may be extended by mutual agreement of the employee and deciding official.

- may include issues or facts, including affidavits, not contained in the proposed disciplinary action.

The deciding official:

- ordinarily shall be the immediate supervisor of the Agency official who proposed the disciplinary action, but may be any other Agency official of a higher organizational rank than the proposing official
- shall base his/her decision solely on the proposed disciplinary action, materials in support of the disciplinary action, and the employee's written and/or oral response, if any
- shall issue a written decision to the employee that advises the employee whether the allegations of misconduct are "sustained" or "not sustained", whether the proposed action is upheld or mitigated, the effective dates of any action and, as applicable, the employee's grievance, EEOC, and appeal rights.

Written decisions may be issued to an employee by any of the following methods in compliance with Agency policy and procedure respecting PII:

- hand
- interoffice, USPS, or overnight mail delivery
- e-mail.

A disciplinary action shall be effective no earlier than 15 calendar days **after** the employee's receipt of the proposed disciplinary action.

22 Performance-Based Actions (Continued)

C Adverse Actions

An adverse action:

- is any of the following:
 - suspension of 15 calendar days or longer
 - reduction in grade
 - reduction in pay
 - furlough of less than 30 calendar days
 - removal
- may be taken for such cause as will promote the efficiency of the Agency.

According to 3-PM, Part 1, an adverse action shall be proposed, in writing, by any of the following and shall be signed by the proposing official:

- an employee's immediate supervisor
- another designated management official
- FSA, HRD, Employee and Labor Relations Branch Chief
- FSA, HRD, KCHRO, Employee and Labor Relations Section Chief.

Note: A proposed adverse action shall do the following:

- contain a description of the alleged conduct and the proposed length of suspension
- advise an employee of the following:
 - right to representation
 - right to answer the proposal orally and/or in writing and timeframe for answering
 - Agency deciding official to whom such a response should be directed
 - right to review the materials relied upon in proposing the adverse action.

An employee's written and/or oral responses to a proposed adverse action shall be made within 15 calendar days of the employee's receipt of the written proposal. This time period may be extended by mutual agreement of the employee and deciding official.

22 Performance-Based Actions (Continued)**C Adverse Actions (Continued)**

A proposed adverse action may be issued to an employee by any of the following methods in compliance with Agency policy and procedure respecting PII:

- hand
- interoffice, USPS, or overnight mail delivery
- e-mail.

An employee's written and/or oral response may include issues or facts, including affidavits, not contained in the proposed adverse action.

The deciding official ordinarily shall be the immediate supervisor of the Agency official who proposed the adverse action, but may be any other Agency official of a higher organizational rank than the proposing official.

The deciding official shall base his/her decision solely on the proposed adverse action, materials in support of the adverse action, and the employee's written and/or oral response, if any.

The deciding official shall issue a written decision to the employee that advises the employee whether the allegations of misconduct are "sustained" or "not sustained", whether the proposed action is upheld or mitigated, the effective dates of any action and, as applicable, the employee's grievance, EEOC, and appeal rights.

The written decision may be issued to an employee by any of the following methods in compliance with Agency policy and procedure respecting PII:

- hand
- interoffice, USPS, or overnight mail delivery
- e-mail.

An adverse action shall be effective no earlier than 30 calendar days **after** an employee's receipt of the proposed adverse action, **unless** the "crime provision" found in 5 U.S.C. 7513(b)(1) is deemed applicable. If the crime provision is found, a lesser notice period and, if appropriate, a lesser response period may be applied.

Note: The notice period **cannot** be shorter than 7 calendar days.

22 Performance-Based Actions (Continued)**D Indefinite Suspensions**

An indefinite suspension without pay may be appropriate when:

- there is reasonable cause to believe that an employee has committed a crime for which a term of imprisonment may be imposed
- an investigation or inquiry into an employee's conduct may **not** be completed within 30 calendar days and the employee's continued presence in the workplace is problematic or presents potential safety or health concerns.

Notes: Procedures contained in subparagraph C apply; however, the employee's time to respond to the proposed suspension may be shortened, at the Agency's discretion, to **no less than 7** calendar days and a final decision may be issued **no less than 7** calendar days after the employee's receipt of the proposed suspension.

An employee serving an indefinite suspension may still be subject to further disciplinary or adverse action based on the criminal or other conduct.

23 Penalty Factors, Responses, and Limitations

A Penalty Factors

Before deciding on a particular penalty, a deciding official **must** consider, to the extent applicable, all the following factors.

- The nature and seriousness of the offense and its relation to the employee's duties, position, and responsibilities, including whether the offense was intentional, technical, inadvertent, committed maliciously, for gain, or frequently repeated.
- The employee's job level and type of employment, including supervisory or fiduciary role, contacts with the public, and prominence of the position.
- The employee's past disciplinary record.
- The employee's past work record, including length of service, performance on the job, ability to get along with fellow workers, and dependability.
- The effect of the offense on the employee's ability to perform at a satisfactory level and its effect on supervisors' confidence in the employee's ability to perform assigned duties.
- Consistency of the penalty with penalties imposed on other employees for the same or similar offenses.

23 Penalty Factors, Responses, and Limitations (Continued)**A Penalty Factors (Continued)**

- Consistency of the penalty with Departmental Personnel Manual, Chapter 751, Appendix A.
- The notoriety of the offense or its impact on the reputation of the Agency.
- The clarity with which the employee was on notice of any rules violated in committing the offense, or had been warned about the conduct in question.
- Potential for the employee's rehabilitation.
- Mitigating circumstances surrounding the offense; such as unusual job tensions, personality problems, mental impairment, harassment, bad faith, malice, or provocation on the part of others involved in the matter.
- The adequacy and effectiveness of alternative sanctions to deter such conduct in the future by the employee or others.

Note: Not all of these factors will be pertinent in every case, and frequently some of the pertinent factors will weigh in an employee's favor, while others may or may not constitute aggravating circumstances. Selection of an appropriate penalty **must** involve a responsible balancing of the relevant factors in the individual case.

23 Penalty Factors, Responses, and Limitations (Continued)

B Oral Responses

The oral response is an opportunity for an employee to personally appear and present his/her argument against the proposed action and penalty.

Note: An oral response is **not** an adversarial proceeding or a hearing. An employee may **not** present witnesses.

IF...	THEN the oral response ...
an employee elects to provide an oral response	typically should be made to the deciding official.
the deciding official appoints another Agency official to hear the employee’s oral response	official shall take notes and/or arrange for a verbatim transcript of the oral response. Note: The oral response official shall provide: <ul style="list-style-type: none"> • a copy of the notes and/or verbatim transcript to the employee and deciding official • a recommended decision to the deciding official.

The Agency official hearing the oral response:

- may ask the employee questions for clarification or about undeveloped issues of fact
- should **not** engage the employee in any discussion about the merits of the proposed action, a decision on the proposed action, or any other matter about the proposed action.

23 Penalty Factors, Responses, and Limitations (Continued)

C Probationary Employees

The provisions contained in this part do **not** apply to employees serving a probationary or trial period.

Removing a probationary employee is accomplished by providing the employee written notice of the removal, the Agency's conclusions as to the inadequacies of the employee's performance or conduct, the effective date of removal and, as applicable, the employee's grievance, EEOC, and appeal rights.

The written notice of removal may be issued to an employee by any of the following methods in compliance with Agency policy and procedure respecting PII:

- hand
- interoffice, USPS, or overnight mail delivery
- e-mail.

This subparagraph shall **only** apply if the employee's removal is effective **before** the end of the employee's tour of duty or last workday while serving in a probationary status.

Actions relating to supervisors/managers serving a supervisory probation period shall be handled according to 3-PM, Part 2, Section 3.

23 Penalty Factors, Responses, and Limitations (Continued)

D Official Time

Supervisors should allow employees reasonable official time to prepare responses to disciplinary and adverse actions and to prepare for and attend oral response presentations.

An employee seeking official time **must** provide reasonable advance notice to the employee's supervisor and obtain supervisory approval to use official time.

- A request for official time ordinarily need only provide the expected length of time, the date and time for the use of official time, and the general purpose of the request; such as 1 hour to meet with representative to prepare response to disciplinary action, although supervisors may request more information, if additional information is necessary, to consider and approve a request.
- Unless there is a compelling need for the employee's services during the period that official time has been requested, supervisors generally should approve reasonable requests for official time.
- As with any leave request, the employee **must** have supervisory approval **before** using official time.

Denial of official time may be grieved according to Part 5.

Although circumstances will dictate what a "reasonable" request is for official time, as a useful guideline for employees and supervisors, preparing written responses generally should **not** require more than 3 hours of official time and preparing for oral responses and meetings with representatives generally should **not** require more than 3 hours of official time. It is the **rare** situation that employees will need more than 8 total hours of official time to prepare written responses, oral responses, and attend meetings with representatives, excluding official time for attending an oral response presentation.

Employees, with supervisory approval, may use annual leave to supplement the use of official time, or instead of using official time.

24-30 (Reserved)

Part 3 Performance Actions**31 Management Tools for Improving Performance****A Overview**

Performance actions; such as OTI plans, are management tools designed to improve performance. Performance actions are **not** punitive in nature, but rather are to be implemented when an employee's performance in 1 or more critical elements does **not** meet Agency expectations. OTI's will describe, for an employee, the deficient performance and how the employee and supervisor, working together, can work to improve performance.

In cases where an employee does **not** improve performance after OTI issuance, a performance action can be proposed and taken to remove or reassign an employee or reduce the employee's grade (paragraph 33).

Agency officials should consult with their servicing Employee and Labor Relations specialist during **all** phases of the performance action process.

B Coverage

This Part covers all FFAS nonbargaining unit employees; **except** the following:

- non-Federal County Office, SES, and Schedule C employees
- Foreign Service officers.

31 Management Tools for Improving Performance (Continued)

C References

The following references provide additional guidance:

- 5 CFR, Part 315
- 5 CFR, Part 432
- 5 CFR, Part 531
- 5 U.S.C. Section 3515
- 5 U.S.C. Sections 4303, 4305
- 5-PM
- Department Personnel Manual, Chapter 432
- DR 4040-430.

32 Opportunity to Improve (OTI)

A Unsuccessful Performance

If an employee's performance in 1 or more critical elements of the employee's performance plan is unsuccessful, a supervisor may place the employee on OTI.

An employee may be placed on OTI at any point in the performance rating cycle.

An OTI **must** explain, in writing and in detail using AD-435D-1 (Exhibit 6), all the following:

- employee's performance deficiencies, providing **specific** examples
- supervisor's performance expectations
- resources available to the employee to improve performance, usually a combination of status meetings, training courses, etc.

B OTI Periods

An OTI period typically is 90 calendar days and can last for any length of time that is sufficient for an employee to achieve and demonstrate improved performance.

If an employee is prevented from achieving or the supervisor is prevented from assessing improved performance; such as because of absences or other issues, OTI may be extended. Extensions shall be in writing and provided to the employee.

At the end of an OTI period, the supervisor should advise the employee if the employee's performance has improved to an acceptable level.

33 Unsuccessful OTI's

A Performance Action Because of Unsuccessful OTI's

If, at the end of an OTI period, an employee's performance has **not** improved to the "Fully Successful" level for any critical element addressed by OTI, the supervisor may propose a performance action against the employee.

Note: In cases where an employee's performance improves to an acceptable level at the end of an OTI period, if the employee's performance should, within 1 year from the start of OTI period, fall to the "Unsuccessful" level for **any** critical element addressed by OTI, the supervisor may propose a performance action against the employee. In such a case, the employee need **not** be placed on another OTI.

B Performance Action Documentation

Performance actions shall be proposed, in writing, by an employee's immediate supervisor or another designated management official, shall be signed, and shall do **both** the following:

- contain a description of the alleged performance deficiencies, the element and related standards in question, and the proposed action; such as removal, reassignment, or reduction in grade
- advise an employee of the following:
 - right to representation
 - right to answer the proposal orally and/or in writing and timeframe for answering
 - Agency deciding official to whom the response should be directed
 - right to review the materials relied on in proposing the performance action.

A proposed performance action may be issued to an employee by any of the following methods in compliance with Agency policy and procedure respecting PII:

- hand
- interoffice, USPS, or overnight mail delivery
- e-mail.

An employee's response is due within 15 calendar days of receipt of the proposed performance action regardless of the method of delivery. This time period may be extended by mutual agreement of the employee and deciding official.

33 Unsuccessful OTI's (Continued)**B Performance Action Documentation (Continued)**

An employee's written and/or oral response may include issues or facts, including affidavits and information about medical issues, **not** contained in the proposed performance action.

The deciding official shall be the immediate supervisor of the Agency official who proposed the performance action or, if unavailable or a conflict exists, some other Agency official of a higher organizational rank than the proposing official.

The deciding official shall base his/her decision solely on the proposed performance action, materials in support of the performance action, and the employee's written and/or oral response, if any.

The deciding official shall issue a written decision to the employee that advises the employee whether the proposed action is upheld, the effective date of any action and, if applicable, the employee's appeal rights.

The written decision may be issued to an employee by any of the following methods in compliance with Agency policy and procedure respecting PII:

- hand
- interoffice, USPS, or overnight mail delivery
- e-mail.

A performance action shall be effective no earlier than 30 calendar days after the employee's receipt of the proposed performance action.

34 WGI Factors, Responses, and Limitations

A WGI for Fully Successful Performance

Employees ordinarily receive WGI's, if employee performance is at the "Fully Successful" performance level or higher when WGI is due.

B Performance Deficiencies

If an employee's performance is less than "Fully Successful" when WGI is due, the employee's supervisor may deny WGI.

Before WGI's due date, the supervisor **must** provide:

- written notice of WGI denial to the employee
- similar to an OTI letter, advise the employee of the employee's deficient performance in 1 or more critical elements
- provide **specific** examples of performance deficiencies
- explain the steps the employee can take to improve performance to an acceptable level.

Notes: The written notice **must** advise the employee that he or she has 15 calendar days to request reconsideration of WGI denial from the second-level supervisor. The request, similar to a response to a disciplinary action, can be made orally and/or in writing. An employee may be represented by an individual of the employee's choosing subject to Agency conflict guidelines.

The employee **must** be provided copies of, or access to, all documents relied on by the supervisor in WGI denial.

34 WGI Factors, Responses, and Limitations (Continued)

B Performance Deficiencies (Continued)

The second-level supervisor **must** issue a written final decision no earlier than 15 calendar days from the employee’s receipt of notice of WGI denial. The decision may **only** be based on the notice of WGI denial, the employee’s written and/or oral response, and any supporting materials.

IF the final decision is to...	THEN...
award WGI	WGI shall be awarded retroactively to the date WGI was originally due.
deny WGI	the decision letter will explain the reasons for denial and provide the employee information respecting the employee’s further appeal rights. Note: After a final decision denying WGI, WGI may be awarded at any time the employee’s performance improves to the “Fully Successful” level.

34 WGI Factors, Responses, and Limitations (Continued)

C Oral Responses

The oral response is an opportunity for an employee to personally appear and present his/her argument against the proposed performance action.

Note: An oral response is **not** an adversarial proceeding or a hearing. An employee may **not** present witnesses.

IF...	THEN the oral response...
an employee elects to provide an oral response	typically should be made to the deciding official.
the deciding official appoints another Agency official to hear the employee's oral response	official shall take notes and/or arrange for a verbatim transcript of the oral response. Note: The oral response official shall provide the following: <ul style="list-style-type: none"> • a copy of the notes and/or verbatim transcript to the employee and deciding official • a recommended decision to the deciding official.

The Agency official hearing the oral response:

- may ask the employee questions for clarification or about undeveloped issues of fact
- should **not** engage the employee in any discussion about the merits of the proposed action, a decision on the proposed action, or any other matter about the proposed action.

34 WGI Factors, Responses, and Limitations (Continued)

D Probationary Employees

The provisions contained in this part do **not** apply to employees serving a probationary or trial period.

Removing a probationary employee is accomplished by providing the employee written notice of the removal, the Agency's conclusions as to the inadequacies of the employee's performance or conduct, the effective date of removal and, as applicable, the employee's grievance, EEOC, and appeal rights.

The written notice of removal may be issued to an employee by any of the following methods in compliance with Agency policy and procedure respecting PII:

- hand
- interoffice, USPS, or overnight mail delivery
- e-mail.

This subparagraph shall **only** apply if the employee's removal is effective **before** the end of the employee's tour of duty or last workday while serving in a probationary status.

Actions relating to supervisors/managers serving a supervisory probation period shall be handled according to 3-PM, Part 2, Section 3.

34 WGI Factors, Responses, and Limitations (Continued)

E Official Time

Supervisors should allow employees reasonable official time to prepare responses to performance actions and to prepare for and attend oral response presentations.

An employee seeking official time **must** provide reasonable notice to the employee's supervisor and obtain supervisory approval to use official time.

- A request for official time ordinarily need only provide the expected length of time, the date and time for the use of official time, and the general purpose of the request; such as 1 hour requested to meet with representative to prepare response to performance action, although supervisors may request more information, if additional information is necessary, to consider and approve a request.
- Unless there is a compelling need for the employee's services during the period that official time has been requested, supervisors generally should approve reasonable requests for official time.
- As with any leave request, the employee **must** have supervisory approval **before** using official time.

Denial of official time may be grieved according to Part 5.

Although circumstances will dictate what a "reasonable" request is for official time, as a useful guideline for employees and supervisors, preparing written responses generally should **not** require more than 3 hours of official time and preparing for oral responses and meetings with representatives generally should **not** require more than 3 hours of official time. It is the **rare** situation that employees will need more than 8 total hours of official time to prepare written responses, oral responses, and meetings with representatives, excluding official time for attending an oral response presentation.

Employees, with supervisory approval, may use annual leave to supplement the use of official time, or instead of using official time.

35-40 (Reserved)

Part 4 Suitability Adjudication

41 Federal and County Office Applicants and Employees

A Overview

FFAS is authorized by OPM to conduct suitability adjudications for Federal and non-Federal County Office applicants and employees. It is FFAS policy to hire and employ individuals whose past character and conduct demonstrate that their employment will promote and protect the efficiency of the Agency.

B Coverage

This Part covers all FFAS employees; including County Office employees who occupy positions subject to NACI.

C References

The following references provide additional guidance:

- 3-PM, Part 1
- 5 CFR Part 315
- 5 CFR Part 732.

42 Suitability Adjudication Standards

A Unsuitability Criteria

Under 5 CFR 731.202, the following criteria may be used to find an applicant or employee unsuitable for employment:

- misconduct or negligence in prior or current employment
- criminal or dishonest conduct
- refusal to provide testimony in connection with a background investigation
- abuse of alcohol of such a nature suggesting an inability to perform the duties of the position or that the individual poses a direct threat of harm to others
- illegal drug use without evidence of substantial rehabilitation
- act or activities designed to overthrow the U.S. Government by force
- material, intentional false statement, or deception in appointment or background documents
- any statute or regulation that prevents the lawful employment of the applicant or employee.

Cases concerning material, intentional false statements, or deception in appointment or background documents should be referred to OPM for further adjudication.

42 Suitability Adjudication Standards (Continued)

B Evaluating Standards

When evaluating the criteria in subparagraph A, the Agency will also consider the following:

- nature of the position for which the person applied or occupies
- nature and seriousness of the conduct
- circumstances surrounding the conduct
- how long it has been since the conduct took place
- age of the individual at the time of the conduct
- contributing societal factors
- absence or presence of actual rehabilitation or current efforts toward rehabilitation.

Notes: In any case of actual or apparent conflict, the language in 5 CFR 731.202 prevails.

All adjudications shall protect the integrity or promote the efficiency of the Agency.

43 Suitability Adjudication Procedures

A Procedure Regulation

All actions to remove an employee or deny an appointment to an applicant shall be taken according to 5 CFR Part 732 or Part 315, as warranted.

B Written Notification

Whether the Agency proceeds under 5 CFR Part 732 or Part 315, as authorized by 3-PM, Part 1, the notice of proposed action shall be made, in writing, by the FSA, HRD, Employee and Labor Relations Branch Chief, or the FSA, HRD, KCHRO, Employee and Labor Relations Section Chief, according to the following:

- notice should explain to the employee or applicant the basis for the proposed action
- employee or applicant shall be advised that he or she may obtain a copy of the materials relied on by the proposing official
- employee or applicant shall be provided a reasonable period of time, ordinarily 15 calendar days, in which to respond, in writing, to the proposed action.

Note: There is **no** right to provide an oral reply.

C Agency's Final Decision

The Agency's final decision shall be made:

- no earlier than 30 calendar days **after** providing notice of the proposed action
- in writing by the Director, HRD.

The effective date of a removal shall be no later than 5 workdays **after** the employee's receipt of the final decision. The final decision should do the following:

- explain the reasons for the Agency's decision
- provide the employee or applicant notice of his or her appeal rights.

Note: For actions taken under 5 CFR Part 315, less than 30 calendar days advance notice may be provided, if warranted; however, **no less than** 7 calendar days advance notice may be provided.

44 Exclusions and Limitations

A Exclusions

This Part shall **not** apply to an employee who, at the time suitability adjudication is performed, is/has **both** of the following:

- is **not** serving in a probationary capacity
- has worked in a position subject to NACI for at least 1 year.

Example: A 10-year FFAS employee receives a promotion to a position that requires, for the first time, NACI. The employee does **not** have to serve a new probationary period, but is subject to this part during the first year the employee works in the new position.

Employees excepted from this part still may be subject to administrative and/or disciplinary action under 5 CFR Part 752, based on the results of NACI or any other background investigation.

44 Exclusions and Limitations (Continued)**B Official Time**

Supervisors should allow employees reasonable official time to prepare responses to removals under this part.

An employee seeking official time **must** provide reasonable notice to the employee's supervisor and obtain supervisory approval to use official time.

- A request for official time ordinarily need only provide the expected length of time, the date and time for the use of official time, and the general purpose of the request; such as 1 hour to meet with representative to prepare response to removal, although supervisors may request more information, if additional information is necessary, to consider and approve a request.
- Unless there is a compelling need for the employee's services during the period that official time has been requested, supervisors generally should approve reasonable requests for official time.
- As with any leave request, the employee **must** have supervisory approval **before** using official time.

Denial of official time may be grieved according to Part 5.

Although circumstances will dictate what a "reasonable" request is for official time, as a useful guideline for employees and supervisors, preparing written responses generally should **not** require more than 3 hours of official time. It is the **rare** situation that employees will need more than 4 hours of official time to respond to a proposal under this part.

Employees, with supervisory approval, may use annual leave to supplement the use of official time, or instead of using official time.

45-50 (Reserved)

Part 5 FFAS Administrative Grievance System

51 Administrative Grievance System Policies

A Reasonable Consideration

Employee access to responsible administrative officials for discussing individual problems affecting their status and welfare is essential to good personnel administration. Problems affecting their status and welfare shall receive prompt and reasonable consideration.

B Grievance Rights

Employees may grieve any aspect of their working environment and working relationships with supervisors that is subject to management control and the implementation of personnel policies.

Employees shall be free from restraints, interference, coercion, discrimination, or reprisal in connection with a grievance filed under this part.

52 Administrative Grievance System Overview

A Purpose

This Part provides FFAS procedure for filing and considering employee grievances. The Administrative Grievance System gives employees an opportunity to present and seek resolution of workplace disputes and complaints.

B References and Authority

The following references provide additional guidance:

- 5 CFR Part 771
- DR 4070-711.

C Delegations of Authority

Authority to resolve a grievance is delegated to the lowest level individual that can make a decision on the matter being resolved.

53 Administrative Grievance Coverage

A Employees Covered

The Administrative Grievance System applies to the following:

- nonbargaining unit employees
- bargaining unit employees **not** covered by a negotiated grievance procedure.

B Employees Not Covered

The Administrative Grievance System does **not** apply to the following:

- applicants for employment
- bargaining unit employees covered by a negotiated grievance procedure
- former employees, **except** where otherwise indicated
- U.S. Foreign Service members covered under the Foreign Service Grievance System as defined by the Foreign Service Act of 1980
- non-Federal County Office employees covered under the County Office grievance system according to 22-PM.

53 Administrative Grievance Coverage (Continued)**C Subject Matter Covered**

The Administrative Grievance System applies to any matter of concern or dissatisfaction about the employment of an employee that is subject to the control of management, including but **not** limited to the following:

- improperly applying or failing to follow rules and regulations
- unfair treatment
- prohibited personnel practices **not** covered by the EEO or Merit Systems Protection Board systems
- working conditions

Exception: Discrimination based on race, color, religion, national origin, gender, age, disability, marital status, political affiliation, and sexual orientation.

- performance appraisals
- nonselection for training
- suspension from duty without pay for 14 calendar days or less
- letters of reprimand or warning
- changes in assignments, including details and reassignments
- denials of official time in connection with a performance, disciplinary or adverse actions, or an administrative grievance.

53 Administrative Grievance Coverage (Continued)**D Subject Matter Not Covered**

The Administrative Grievance System does **not** apply to the following:

- separation of employees serving under Schedules A through C appointments
- content of published Agency procedures and policy
- matters appealable to EEOC, MSPB, OPM, the Federal Labor Relations Authority, or the Comptroller General

Note: Such matters include, but are **not** limited to:

- suspension of more than 14 calendar days
- denial of a within-grade salary increase
- position classification action
- allegation or complaint of discrimination or unlawful harassment
- RIF action
- violation of re-employment priority rights
- violation of re-employment or reinstatement rights
- violation of military restoration rights
- salary-retention decision
- fitness-for-duty examination
- life insurance decision
- health benefits decision
- removal because of declining a directed reassignment
- suitability adjudications.

53 Administrative Grievance Coverage (Continued)**D Subject Matter Not Covered (Continued)**

- nonselection for promotion or lateral reassignment from a group of properly ranked and certified candidates
- failure to receive a noncompetitive promotion
- preliminary or proposed notice of a performance, disciplinary, or adverse action
- actions that do either of the following:
 - terminate a temporary or term promotion
 - return the employee to either of the following:
 - the position from which the employee was temporarily promoted
 - a different position, **not** lower in grade, where the employee is informed in advance that the promotion is only temporary
- return of an officer or employee from SES to GS during the 1-year probation period or for less than fully successful executive performance
- the substance of the critical elements and performance standards of an employee's position
- termination of an employee serving in a probationary or trial period

53 Administrative Grievance Coverage (Continued)

D Subject Matter Not Covered (Continued)

- performance appraisal of a member of SES according to 5 U.S.C. 4312(d)
- return of an employee from an initial appointment as a supervisor/manager to a nonsupervisory/nonmanagerial position for failure to satisfactorily complete the probationary period
- reassignment of an SES employee after the employee receives an unsatisfactory rating
- granting or failing to grant an employee performance or recognition award or a quality step increase
- adopting or failing to adopt an employee suggestion
- terminating an SES career appointee during probation for unsatisfactory performance
- actions taken according to terms of a formal agreement voluntarily entered into by an employee.

54 General Procedural Provisions

A Choosing a Representative

Employees are entitled to be accompanied, represented, and advised at any stage of a grievance by a representative of their choice who has been designated in writing.

The representative chosen by an employee may be disallowed for any of the following reasons:

- representative has a conflict of interest or conflict of position
- representative is required for other work to meet priority needs of the Agency
- selection would create unreasonable costs for the Government.

If representatives are disallowed, employees may **directly** request review of the disallowance by writing to the USDA, Office of Human Capital Management at the following address; the USDA, Office of Human Capital Management will make a final decision in the matter:

USDA, OFFICE OF HUMAN CAPITAL MANAGEMENT
1400 INDEPENDENCE AVE SW
STOP 9611
WASHINGTON DC 20250-9611.

Note: Disallowance of a representative reviews **must** be requested within 7 calendar days of the receipt of notice of disallowance.

B Granting Official Time

The grievant and his or her representative shall be granted a reasonable amount of official time, **not** to exceed 8 total hours, to prepare and present the informal and formal grievance.

The reasonable amount of official time shall be determined at the discretion of the grievant's supervisor. Employees, with supervisory approval, may use annual leave to supplement the use of official time, or instead of using official time.

54 General Procedural Provisions (Continued)**C Resolving or Withdrawing the Grievance**

Nothing shall prohibit reasonable attempts by supervisors/managers to resolve, at any time, a grievance that is being processed. Informal resolutions are encouraged at any stage of the process. The employee may withdraw the formal grievance at any stage of the process by notifying, in writing, the official who is considering the grievance. Any successful resolution or withdrawal of the grievance shall be in writing and communicated to the official who is considering the grievance.

D Requesting the ADR Process

An employee may request the ADR process be used to resolve grievances before filing a grievance or in connection with the administrative grievance process. Employees should contact their servicing human resources office for information on the ADR process. Parties may agree to extend the deadlines herein with respect to any matter pursued through ADR processes.

E Rejecting EEO Complaints and MSPB, Federal Labor Relations Authority, or OPM Appeals

To avoid dual processing, a dispute over a matter for which an employee has either of the following will be rejected under the Administrative Grievance System:

- an entitlement to file an appeal
- a formal challenge in some other forum.

The grievance may be reinstated if the grievance issues are **not** addressed during the appeal process or any other forum.

The official considering the formal grievance shall:

- inform the grievant that the grievance is being rejected
- return the grievance to the grievant.

54 General Procedural Provisions (Continued)

F Canceling or Rejecting Grievances

A **formal** grievance may be canceled or rejected at any step of the grievance process by the considering official if any of the following occur:

- **no** relief can be granted because of the separation of the grievant
- relief requested by the grievant is granted
- matter is raised in another forum in addition to the Administrative Grievance System
- any other action or circumstances results in there being no other basis for other retroactive relief or monetary reward.

The cancellation or rejection of a grievance **must**:

- be communicated to the grievant, in writing, within 90 calendar days of the initiation of an informal grievance
- advise the grievant of the right to have the cancellation or rejection reviewed by the USDA, Office of Human Capital Management; this review should be requested within 10 calendar days after receipt of rejection according to subparagraph 57 A.

A copy of the cancellation or rejection will be included in the grievance file.

54 General Procedural Provisions (Continued)**G Freedom From Reprisal**

Grievants and their representatives shall be free from restraint, coercion, intimidation, or reprisal in presenting a grievance. Allegations of these actions may, at the option of the grievant, be handled according to the either of the following:

- added immediately to the grievance being presented for review
- submitted **directly** to the USDA, Office of Human Capital Management.

H Requesting Payment of Attorney Fees

Employees may request payment of attorney fees in cases where back pay is awarded and the employee's representative otherwise meets the requirements for attorney fees as provided in 5 CFR Part 550. Fees are **not** payable under **any** other circumstances.

55 Informal Grievance Procedure**A Submitting an Informal Grievance**

An employee shall present a matter as an informal grievance to the lowest level individual who can make a decision on the matter being grieved. If this individual is unknown to the employee, the grievance shall be submitted to the employee's immediate supervisor.

B Identifying an Informal Grievance

An informal grievance may be presented either orally or in writing. A written explanation should **not** be required from the employee. However, in presenting a grievance, it is the employee's responsibility to clearly identify **all** of the following:

- matter of concern
- corrective action sought
- that he or she is initiating the grievance process.

If the informal grievance is presented orally, the receiving supervisor should document the grievance, in writing, and provide a copy to the grievant.

C Timeframe for Presentation

An employee **must** present an informal grievance within 15 calendar days after the later of either of the following:

- date of the act or event that is the basis for the grievance
- date the employee became aware of the act or event.

Note: A grievance can **never** be presented more than 6 months after the act or event in question.

55 Informal Grievance Procedure (Continued)

D Resolving the Informal Grievance

Use the following steps to resolve informal grievance actions.

Step	Action
1	In consultation with the servicing Employee and Labor Relations office, the individual receiving the informal grievance shall determine whether he or she has the authority to resolve the grievance. If the individual does not have the authority to resolve the grievance, the individual shall forward the grievance to the proper level where the grievance can be resolved and inform the grievant of this action.
2	In consultation with the servicing Employee and Labor Relations office, the official who has the authority to resolve the informal grievance shall make a determination as to whether it is possible to resolve the informal grievance.
3	The informal grievance process must be completed by issuing a memorandum or resolution of the grievance within 20 calendar days after its initial presentation. Note: If this deadline is not met, the employee may file a formal grievance.
4	If the informal grievance cannot be resolved, the official who is considering the grievance shall prepare a memorandum to the grievant that includes all the following: <ul style="list-style-type: none"> • grievance issues • attempts to resolve the grievance issues • termination of the informal grievance process • right to file a formal grievance • that a formal grievance may be filed with the supervisor of the official who considered the informal grievance (second-level supervisor) • 10 calendar day timeframe in which a formal grievance should be filed after terminating the informal grievance process • that the grievant may, according to subparagraph 57 A, elevate the grievance to the USDA, Office of Human Capital Management at 1400 Independence Ave, SW, STOP 9611, Washington, DC, 20250-9611, if the grievance process is not completed within 90 calendar days after initiating the informal grievance.

Note: An informal grievance should be addressed whether or **not** it is presented within the timeframes contained in subparagraph C, although it may be rejected as a formal grievance based on timeframes grounds.

55 Informal Grievance Procedure (Continued)

E Waiving the Informal Process

If an employee has received a suspension of between 1 and 14 calendar days, the informal process is waived and an employee shall file a formal grievance. The formal grievance should be filed within 15 calendar days of the effective date of the suspension with the supervisor of the deciding official on the disciplinary action.

The grievant shall follow the formal grievance procedures contained in subparagraphs 56 A and B.

56 Formal Grievance Procedure

A Filing a Formal Grievance

A formal administrative grievance must be filed in writing. To be acceptable as a formal grievance, the formal grievance **must** contain **all** of the following:

- signature of the employee or the designated representative
- subject of the grievance
- corrective action being sought.

The formal grievance shall be filed with the supervisor of the official who considered or should have considered the informal grievance (second-level supervisor).

B Timeframe for Filing

A formal grievance **must** be filed within 10 calendar days after the earlier of either of the following:

- receipt of the memorandum closing the informal process
- passage of 20 calendar days from presentation of the informal grievance, if no memorandum or resolution is issued closing the informal process.

56 Formal Grievance Procedure (Continued)**C Acceptance or Rejection of a Formal Grievance**

The second-level supervisor shall send a copy of the formal grievance to the staff of the servicing Employee and Labor Relations office within 5 calendar days after receiving the formal grievance.

Upon receipt of the formal grievance, and in consultation with the servicing Employee and Labor Relations office, the second-level supervisor shall inform the employee of either of the following:

- formal grievance has been accepted for consideration
- formal grievance has been rejected because of 1 or more of the following:
 - informal or formal grievance was untimely filed
 - grievance concerns a matter excluded from coverage
 - grievance does **not** meet a requirement for processing
 - grievance includes a matter **not** presented as a part of the informal grievance, **except** as specified in subparagraph 54 G
 - grievance was filed by an employee excluded from coverage.

Notice of rejection of the formal grievance **must** advise the grievant that, within 10 calendar days after receipt of the notice of rejection, according to subparagraph 57 A, the employee may request a review of the rejection by the USDA, Office of Human Capital Management, in writing to the following address:

USDA, OFFICE OF HUMAN CAPITAL MANAGEMENT
1400 INDEPENDENCE AVE SW
STOP 9611
WASHINGTON DC 20250-9611.

56 Formal Grievance Procedure (Continued)**D Grievance Review**

If a formal grievance is accepted, a representative will be designated to review and attempt to resolve the grievance. This representative will normally be a staff member of the servicing Employee and Labor Relations office. After review, a proposed disposition of the formal grievance will be issued to the grievant. The proposed disposition should include the following:

- reasons for any determination on the grievance
- specific corrective actions, if any, that are to be implemented
- notice to the grievant that new issues may **not** be raised as a part of the grievance at this time, **except** as stated in subparagraph 54 G
- notice to the grievant of the following:
 - right to request a final decision by the Agency Administrator without further factfinding, if the matter has **not** been resolved to the employee's satisfaction **or** the right to further review by a grievance examiner, if the matter has **not** been resolved to the employee's satisfaction
 - 10 calendar day timeframe to request a final decision or further review
 - need to indicate **all** of the following in the request for a final decision or further review:
 - which matters are unresolved
 - corrective action being sought
 - any additional arguments and evidence the grievant wants to have considered, **except** that new issues may **not** be raised

56 Formal Grievance Procedure (Continued)

D Grievance Review (Continued)

- Agency’s intention to close out the grievance with no further action if the employee does **not** submit a request for further review or a final decision within the 10 calendar day allotted timeframe
- proposed disposition will become the Agency’s final decision on the grievance
- all requests for a final decision or further review should be forwarded to the attention of the following:

FSA, HRD, Employee and Labor Relations Branch Chief
STOP 0591
1400 INDEPENDENCE AVE SW
WASHINGTON DC 20250
FAX: 202-205-3781.

E Grievance File Availability

All of the material and information on which the proposed disposition is based shall be provided to the grievant or an authorized representative, along with the proposed disposition, if **not** provided previously.

57 Final Decision and Further Review Rights and Procedures**A Right to Further Review or Final Decision**

If the grievance is **not** resolved to the satisfaction of the employee, the employee may, within 10 calendar days of receiving the proposed disposition, request either of the following:

- a final decision by the Agency Administrator
- further review by a grievance examiner.

The request from the employee shall include all of the following:

- matter or issues over which there remains disagreement
- corrective action being sought
- any evidence available to the employee to support the continued request for corrective action
- the selection of either a final decision by the Agency Administrator **or** further review by a grievance examiner.

The request may **not** contain or address issues **not** presented in the formal grievance, **except** as specified in subparagraph 54 G.

B Final Decision by Agency Administrator

If a grievant requests a final decision, the Agency Administrator will issue a final decision to the grievant within 30 calendar days of receipt of the request for a final decision.

The Agency Administrator's final decision shall be based solely on the contents of the grievance file and any additional evidence presented by the grievant according to subparagraph A.

57 Final Decision and Further Review Rights and Procedures (Continued)

C Further Review by a Grievance Examiner

If the grievant requests further review, the Agency will promptly forward 1 copy of the grievance file containing **all** documents considered by the Agency and the grievant's request, to USDA, Office of Human Capital Management for assignment to a grievance examiner. The referral by the Agency shall provide the following:

- merits of any additional arguments or evidence presented by the grievant
- certification that the grievant has received a copy of all documents in the grievance file
- an index of the grievance file.

The USDA, Office of Human Capital Management will appoint a grievance examiner. The grievance examiner is responsible for the following:

- conducting any inquiry necessary to resolve any disputes as to facts
- developing a sufficient basis on which to recommend a decision.

At the discretion of the grievance examiner, the inquiry may include, but is **not** necessarily limited to, any of the following:

- group meetings
- hearings
- personal interviews
- review of the records and documents
- written inquiries.

The grievance examiner will:

- ensure that the employee or designated representative is given an opportunity to review and comment on all the information on which a recommended decision will be based
- send the grievant and the Agency Administrator a recommended decision that contains:
 - a report of findings of fact
 - an analysis of the issues
 - a recommendation of a decision based on the grievance, including any corrective action that may be necessary.

57 Final Decision and Further Review Rights and Procedures (Continued)**D Agency Administrator's Decision After Further Review**

Within 20 calendar days after the receipt of a recommended decision from the grievance examiner, the Agency Administrator may do any of the following:

- accept the grievance examiner's recommendation as the final decision on the grievance
- grant more relief to the grievant than recommended by the grievance examiner
- appeal the grievance examiner's recommendation to the USDA, Office of Human Capital Management, when the recommended decision can be shown to be any of the following:
 - contrary to law, rule, regulation, or published Agency policy
 - supported by less than substantial evidence
 - a precedent of such wide and detrimental impact on the Agency that further review is necessary.

Note: The USDA, Office of Human Capital Management will render the Department's final decision on the grievance after ensuring that the grievant has had an opportunity to review and comment on the Agency's appeal.

The decision made by the Agency Administrator or USDA, Office of Human Capital Management, is final.

If the Agency Administrator fails to take 1 of the actions specified in this subparagraph within the allotted 20-calendar-day time period, the grievance examiner's recommended decision shall become final.

58 Timeframe for Decisions on Grievances

A Completion of Processing

The complete processing of an administrative grievance shall **not** exceed 90 calendar days. The 90-calendar-day period begins on the date that the employee definitively indicates that an informal grievance is being initiated. An administrative grievance is deemed to be completed if 1 of the following has occurred:

- grievance was rejected
- grievance was canceled
- grievance was resolved to the satisfaction of the grievant
- proposed disposition was issued on the grievance that includes the employee’s right to request further review by a Departmental grievance examiner or a final decision by the Agency Administrator.

B Grievance Process Not Completed

If the 90-calendar-day processing period is exceeded by the Agency, the employee may request, according to subparagraph 57 A, that the grievance be assigned to a grievance examiner by the USDA, Office of Human Capital Management. The grievance examiner shall proceed according to subparagraphs 57 C and D.

59, 60 (Reserved)

Part 6 Alcohol- and Drug-Free Working Environment

61 Overview

A Purpose

This Part:

- provides guidance and instructions for supervisors who are managing employees with drug or alcohol related problems
- establishes basic responsibilities of employees, supervisors, and the Agency in identifying employees with drug or alcohol problems that are affecting job performance or conduct.

B Policy

FFAS supports the goal of an alcohol- and drug-free Federal workplace. The Agency has a compelling obligation to the public and its employees to ensure an alcohol-free, drug-free, and safe working environment.

FFAS is concerned with the well-being of its employees, the successful accomplishment of Agency mission, and the need to maintain employee productivity.

FFAS intends to offer a helping hand to those who have a drug or alcohol problem; however, the Agency sends a clear message that illegal drug use and alcohol abuse that affects an employee's conduct or performance is incompatible with Federal service.

USDA's EAP plays a vital role in providing assistance for employees with drug or alcohol related problems.

61 Overview (Continued)**C Problem Identification**

Declining job performance may be caused by a number of personal facts, including alcoholism or drug abuse. Employees suffering from alcoholism or drug abuse may be identified through poor job performance, poor interpersonal relations with fellow employees, or demonstrations of inappropriate conduct, **except** when some obvious crisis or change in life style has occurred.

D EAP Availability

Employees found to be using illegal drugs or abusing alcohol will be referred to EAP. EAP will provide counseling or rehabilitation for all referrals, as well as educate and train employees about illegal drug use and alcohol abuse.

E Confidentiality

Confidentiality is assured for any employee, whether self-referred or referred by a supervisor. EAP participation is **not** reflected in any official personnel record. The statutory regulation published in 42 CFR Part 2 covers all alcohol/drug abuse records maintained in EAP. Unauthorized release of any information covered under this provision could result in fines up to \$5,000.

62 Responsibilities

A Employee Responsibilities

Employees shall:

- observe and follow the Drug-Free Workplace Program
- be responsible for his or her job performance and conduct, and for taking any action or treatment necessary to maintain job performance and conduct
- refrain from using illegal drugs on or off duty
- refrain from using alcohol and/or being intoxicated while on official time
- submit to a drug test, if required by regulations
- participate in EAP for counseling for alcohol problems that adversely affect work performance or conduct
- participate in EAP for counseling, if tested positive for illegal drug use.

62 Responsibilities (Continued)

B Supervisor Responsibilities

Supervisors shall:

- recognize and address illegal drug use and alcohol abuse
- identify and document performance and/or conduct issues about the employee with the drug or alcohol problem
- initiate procedures for a drug test after making appropriate factual observations, documenting the observations, and obtaining appropriate concurrence
- initiate appropriate disciplinary action upon finding illegal drug use and/or prohibited alcohol conduct by a subordinate

Note: Contact FSA'S HRD for assistance and guidance.

- refer employees to EAP for counseling if employees drug test is positive, and refer an employees for counseling for known alcohol problems that may adversely affect their work performance, conduct, attendance, and/or seen actual evidence of alcohol use or impairment at work
- initiate, if warranted, a conduct or performance-based action against employees who fail to improve their conduct or performance after being referred to EAP.

C Agency Responsibility

The Agency shall provide assistance, by referral to outside professional sources, for diagnosis and treatment when employees seek or are identified as needing treatment.

63 FFAS Drug-Free Workplace Program

A Overview

This paragraph provides the following:

- purpose
- drug testing policy
- testing legislation
- management and employee responsibilities
- employees to be tested
- drug testing procedures
- confidentiality of testing and reporting
- personnel actions an employee is subject to, if the test results are positive for drugs or if the employee refuses to submit to drug testing
- resources that are available to supervisors and employees
- how the Agency is billed for drug testing
- contact for questions about the Drug-Free Workplace Program
- TDP's for random drug testing.

63 **FFAS Drug-Free Workplace Program (Continued)**

B Purpose

FFAS has a responsibility to provide a safe and secure environment for employees. To ensure that a safe and secure environment exists, FFAS implemented the Drug-Free Workplace Program that prohibits possessing or using illegal drugs and alcohol in the workplace.

FFAS will identify illegal drug use through drug testing on a carefully controlled and monitored basis. FFAS is committed to providing a safe, efficient, and productive work environment for **all** employees. Using or being under the influence of drugs or alcohol on the job may pose serious safety and health risks. To help ensure a safe and healthful working environment, job applicants and employees may be asked to provide a collection sample (urine) to determine the illicit or illegal use of drugs. Refusal to submit to drug testing may result in denial of employment for job applicants or disciplinary action, up to and including removal of employment, for employees.

63 FFAS Drug-Free Workplace Program (Continued)**C Drug Testing Policy**

FFAS policy is to provide a drug-free, healthful, and safe workplace. To promote this goal, employees are required to report to work in appropriate mental and physical condition to perform their jobs in a satisfactory manner.

While on FFAS premises, and while conducting business-related activities off FFAS premises (including leased property and Government vehicles), no employee may use, possess, distribute, sell, or be under the influence of alcohol or illegal drugs. Using legal prescribed drugs is permitted on the job **only** if it does **not** impair an employee's ability to perform the essential functions of the job effectively and in a safe manner that does **not** endanger other individuals in the workplace.

Violations of FFAS policy may lead to the following:

- disciplinary action, up to and including **immediate** termination of employment
- requirement to participate in a substance abuse rehabilitation or treatment program
- personal legal consequences.

Employees with drug or alcohol problems that have **not** resulted in, and are **not** the immediate subject of, disciplinary action may request approval to take time off to participate in a rehabilitation or treatment program through their health insurance benefit coverage. Annual and sick leave or leave without pay may be granted if the employee agrees to abstain from using the problem substance, if the employee abides by all FFAS policies, rules, and prohibitions relating to conduct in the workplace; and if granting the leave will **not** cause FFAS undue hardship.

FFAS employees will be tested for the presence of marijuana, cocaine, opiates, amphetamines, and phencyclidines (PCP). Employees being tested for reasonable suspicion can be tested for **any** drug in Controlled Substances Act, Schedule I or II.

FFAS will provide supervisory training and employee education on illegal drugs and the impact on the work environment.

63 FFAS Drug-Free Workplace Program (Continued)**D Testing Legislation**

On September 15, 1986, the President signed EO 12564, establishing the goal of a drug-free workplace in the Federal Government. EO 12564 made it a condition of employment for **all** Federal employees to refrain from using illegal drugs on or off-duty, and required **all** Federal Agencies to implement a drug-free workplace program. EO 12564 recognized that illegal drug use is seriously impairing a portion of the national workforce, resulting in the loss of billions of dollars each year. As the largest employer in the nation, the Federal Government has a compelling proprietary interest in establishing reasonable and necessary conditions of employment. Prohibiting employee drug use and possession of illegal drugs is 1 reasonable and necessary condition.

The Secretary of Agriculture, on October 10, 1986, expressed the support of USDA for a drug-free Federal workplace. USDA is concerned with the well-being of its employees, the successful accomplishment of Agency missions, and the need to maintain employee productivity. The intent of the policy is to offer a helping hand to those who need it, while sending a clear message that any illegal drug use is, quite simply, incompatible with Federal service.

On July 11, 1987, legislation was signed implementing EO 12564 under Supplemental Appropriations Act of 1987, Section 503 (Pub. L. 100-71), 101 Stat. 391, 468-471, codified at 5 U.S.C. Section 7301. EO 12564:

- established uniformity among Federal Agency drug testing plans
- created reliable and accurate drug testing programs ensuring confidentiality of drug testing results
- established centralized oversight of the Federal Government's drug testing program
- provided employees the right to have access to their drug testing records.

Employees who are in TDP's (subparagraph M) will receive AD-2075 informing them of the Drug-Free Workplace Program and its requirements.

63 FFAS Drug-Free Workplace Program (Continued)**E Management and Employees Responsibilities**

The Agency personnel officer; that is FSA's HRD Director, **must**:

- in writing, designate DTL and notify:

JAMES STEVENS, DIRECTOR
USDA, QUALITY WORKLIFE DIVISION
1400 INDEPENDENCE AVE SW RM 3021
WASHINGTON DC 20250
Telephone: 202-720-8248

- ensure that a drug-free workplace program is established and implemented
- ensure that an EAP coordinator is appointed in FFAS
- ensure that EAP is implemented within FFAS according to this paragraph and other applicable laws, regulations, and guidelines
- make recommendations to the Assistant Secretary for Administration for additional job series to be included for applicant testing, if any, within FFAS
- make recommendations to the Director, USDA, Quality Worklife Division, for exemption of TDP's from drug testing on the basis of hardship because of remote location, unavailability of onsite testing, or the lack of an appropriate site for the test to be administered
- ensure that supervisory training and employee education on drug testing and illegal drug use is delivered within FFAS
- determine reasonable suspicion and post-accident testing needs based on facts and circumstances that have been documented.

Note: This authority can **only** be redelegated 1 level below FSA'S HRD Director.

63 FFAS Drug-Free Workplace Program (Continued)

E Management and Employees Responsibilities (Continued)

DTL will:

- coordinate new applicant, random, reasonable suspicion, post-accident, and followup drug testing requests with the selected USDA contractor and ensure that all notices are delivered to employees subject to random testing
- provide support to Agency heads
- forward notification of verified positive test results to the Employee and Labor Relations staff
- schedule drug testing requests
- ensure that employees in TDP's receive a 30-calendar-day notification of drug testing requirements.

Employee and Labor Relations specialists will:

- after receiving notification from DTL, inform and consult with supervisors and management on appropriate disciplinary actions for employees who have been identified with positive drug test results or have refused to submit to drug testing
- initiate the appropriate disciplinary action as identified in subparagraph I
- inform DTL, in writing, of disciplinary actions taken for employees who have been identified with positive drug test results.

63 FFAS Drug-Free Workplace Program (Continued)

E Management and Employees Responsibilities (Continued)

Human resources staff will:

- provide training for supervisors/managers covering drug and alcohol use abuse
- provide AD-2075 to employees who are applying for Top Secret security clearance, which verifies that the employee is aware of the drug testing requirements once Top Secret security clearance is obtained
- coordinate and implement EAP training that is beneficial for supervisors/managers.

EAP coordinator will:

- implement EAP within the Agencies, ensuring that EAP services are available to all employees, and ensuring that supervisors and employees know how to access EAP; EAP's telephone number is 800-222-0364
- provide policy guidance about EAP to all employees, including supervisors/managers, union representatives, and the Agency drug-free workplace coordinator
- coordinate and implement EAP training that is beneficial for supervisors/managers
- serve as a liaison to all offices including FSA, HRD, Employee and Labor Relations Branch; union representatives; OHRM; and OPM in an effort to effectively carry out EAP requirements.

63 FFAS Drug-Free Workplace Program (Continued)

E Management and Employees Responsibilities (Continued)

Supervisors **must**:

- ensure that new applicants in applicable drug testing series have testing conducted as soon as a position is offered
- ensure that employees have knowledge of EAP services and the toll free number
- refer employees to EAP for counseling and rehabilitation when an employee's test results are reported positive
- initiate procedures for reasonable suspicion or post-accident testing.

Employees **must**:

- submit to drug testing, as required
- participate in employee education when offered
- be allowed to use EAP services for counseling and rehabilitation referral for illegal drug use and alcohol abuse, if desired.

63 FFAS Drug-Free Workplace Program (Continued)

F Employees To Be Tested

The FFAS Drug-Free Workplace Program consists of several components of drug testing, as follows:

- applicant testing
- random testing of employees in TDP's
- reasonable suspicion testing
- post-accident testing
- voluntary testing
- followup testing.

The following table provides detailed guidance for each testing component.

IF...	THEN...
applicant testing	<p>FFAS, in collaboration with USDA, determined that certain positions with FFAS are either safety or security sensitive positions. This means that if an employee who occupies a safety or security sensitive position used an illegal drug, the employee could jeopardize the safety or security of the employee, co-workers, and Agency. Applicant testing can only be conducted when a job applicant has been offered a position with FFAS. This is done to screen out potential drug problems before they enter the workplace. After an applicant has accepted the position and drug testing has occurred with negative results (no drug use detected), the applicant can be placed in the safety or security sensitive position.</p>
random drug testing	<p>USDA Drug-Free Workplace Program coordinator, as a part of USDA's Drug-Free Workplace Program plan to randomly test 10 percent of USDA employees in TDP's every year, randomly selects employees from all USDA Agencies to be tested monthly; the information is distributed to DTL, who coordinates the testing with supervisors.</p> <p>Notes: EO 12564 requires random testing for employees in sensitive positions, subject to Agency criteria. As specified in subparagraph M, the Secretary, USDA has determined that some of these sensitive positions are TDP's subject to random drug testing. FFAS TDP's are listed in subparagraph M, along with criteria and procedures applied in designating TDP's and justification for criteria and procedures.</p> <p>FFAS supervisors do not have individual authority to request an employee to submit to random drug testing.</p>

63 FFAS Drug-Free Workplace Program (Continued)

F Employees To Be Tested (Continued)

IF...	THEN...
reasonable suspicion	EO 12564 states that the determination for illegal drug use testing can be made on the “basis of any appropriate evidence, including direct observation, criminal conviction, administrative inquiry, or the results of an authorized testing program”. Reasonable suspicion must be clearly documented before an employee can be tested. Written and factual evidence to support reasonable suspicion testing must be obtained and, before testing can occur, approved by FSA’S HRD Director. FFAS must authorize testing. To ensure the safety of employees, AD-2076 provides a checklist for supervisors and Employee and Labor Relations staff to use when an employee has been referred for reasonable suspicion.
post-accident testing	<ul style="list-style-type: none"> • the National Institute of Drug Abuse has found that users of illegal drugs have a higher incidence of accidents and injuries on the job; therefore, EO 12564 requires that accidents that result in death, personal injury, or damage to property in excess of \$10,000, must be investigated • the Federal Property Management Regulations state that all vehicle accidents must be investigated; supervisors may obtain assistance for accident investigations from FSA’s MSD • if during an accident investigation the supervisor determines that an employee has been negligent and at fault, causing injury, death, or property or equipment damage in excess of \$10,000, the supervisor will request that the employee be tested for illegal drug use • the supervisor must submit all documentation to the Employee and Labor Relations staff, who will forward the documentation to the personnel officer to make a determination; AD-2077 provides a checklist for supervisors to use when investigating an accident • it is imperative that the post-accident test be conducted within 32 hours, as some drugs only stay in the body for a limited time; if the employee is hospitalized, the contractor can contact the hospital and obtain collection.

63 FFAS Drug-Free Workplace Program (Continued)

F Employees To Be Tested (Continued)

IF...	THEN...
voluntary testing	<ul style="list-style-type: none"> • to demonstrate their commitment to USDA’s and FFAS’s goal of a drug-free workplace and to set an example for other Federal employees, employees not in TDP’s may volunteer for unannounced random testing by notifying DTL who in turn will notify: <p style="text-align: center;">MANAGER, USDA DRUG-FREE WORKPLACE PROGRAM 1400 INDEPENDENCE AVE SW RM 3017 WASHINGTON DC 20250 Telephone: 202-720-9010</p> • volunteer employees will be included in the pool of TDP’s subject to random testing and will be subject to the same conditions and procedures, including the random drug testing provisions in this subparagraph • volunteers shall remain in the TDP’s pool until they withdraw from participation by notifying DTL, who in turn will notify the Drug-Free Workplace Program manager of withdrawal intent at least 48 hours before a scheduled test.
followup testing	<p>employees who have positive drug test results and have completed counseling/rehabilitation shall have followup testing.</p> <p>Notes: Employees are subject to unannounced testing for 2 years and will be tested at least 3 times during the 2 years.</p> <p>If the employee tests positive at any time for drug use, a proposal to remove the employee will be initiated.</p>

63 FFAS Drug-Free Workplace Program (Continued)

G Drug Testing Procedures

The following table provides detailed drug testing procedure for each component.

IF drug testing is...	THEN...
for new applicant	<ul style="list-style-type: none"> • supervisors/managers must contact DTL, after selecting an applicant who is in TDP for drug testing, and provide applicant’s first name, last name; Social Security number; home phone number, city, State, and ZIP Code <p style="margin-left: 40px;">Note: New applicants in TDP’s must be drug tested before reporting to duty.</p> <ul style="list-style-type: none"> • DTL shall enter the request into the contractor’s web site to request drug testing within 24 hours of receiving the information from the supervisor/manager; once a request has been entered, the request can be tracked through the web sites Reports Section • when notifying the applicant, DTL shall advise the applicant of the right and opportunity to submit medical documentation that may support legitimately using a specified drug; the medical documentation will be reviewed only by the contracted Medical Review Officer to determine the presence of illegal drugs • applicant shall report to the collection site within 48 hours of being notified of employment <p style="margin-left: 40px;">Notes: If an applicant fails to appear or refuses testing, he/she will not be extended an offer of employment.</p> <p style="margin-left: 40px;">Attempts to alter or substitute the specimen are deemed a refusal to test.</p> <ul style="list-style-type: none"> • USDA Drug-Free Workplace Program manager will contact DTL with the applicant’s test results. <p style="margin-left: 40px;">Note: A final offer of employment will not be extended to any applicant with a positive result. The applicant may not reapply for any FFAS position for 6 months.</p>

63 FFAS Drug-Free Workplace Program (Continued)

G Drug Testing Procedures (Continued)

IF drug testing is...	THEN...
random	<p>the USDA Drug-Free Workplace Program manager compiles a random list representing 10 percent of all USDA employees eligible for drug testing and contacts DTL with the list of the employees selected for random drug testing.</p> <p>Note: Each Agency is provided a specific list detailing employees from their respective Agency who were selected for random drug testing.</p> <p>Once DTL receives the list, he/she will:</p> <ul style="list-style-type: none"> • verify the list, ensuring that all applicants are within the designated series <p>Note: International locations will be handled through coordination with the contract collector.</p> <ul style="list-style-type: none"> • select a clinic for the employees to report for testing from the contractor’s web site • send out notifications to supervisors/managers that employees have been selected for random drug testing, with the clinic location, phone number, and a deadline for testing to be completed • work with the contractor to establish clinics within a 50 mile radius, or closer when requested by supervisors/managers, of all employees to be tested • notify the USDA Drug-Free Workplace Program manager of all employees deferred for testing and the reason for the deferment. <p>Note: An employee whose random drug test is deferred will be subject to an unannounced test with the following 60 calendar days.</p>

63 FFAS Drug-Free Workplace Program (Continued)

G Drug Testing Procedures (Continued)

IF drug testing is...	THEN...
for reasonable suspicion	<p>if supervisor/manager has reasonable suspicion that an employee is using illegal drugs in the workplace, the supervisor must work with the Employee and Labor Relations staff to complete AD-2076.</p> <p>Note: Testing must be approved and documented, in writing, by the personnel officer before an employee is notified to submit to drug testing (AD-2078).</p>
post-accident	<p>if supervisor/manager determines through an accident investigation that an employee is at fault and caused injury, death, or property damage over \$10,000, the supervisor must complete AD-2077 and submit it to the Employee and Labor Relations staff.</p> <p>Note: Testing must be approved and documented, in writing, by the personnel officer before an employee is notified to submit to drug testing (AD-2078).</p>
voluntary	<p>employees who want to be tested should follow the procedures for voluntary testing provided in subparagraph F.</p>

63 FFAS Drug-Free Workplace Program (Continued)

H Confidential Testing and Reporting

All test results and counseling are protected under the provisions of the Privacy Act. This means that any samples, records, and counseling are considered confidential information and **cannot** be released to FFAS personnel. However, the contracted medical review officer will inform the USDA Drug-Free Workplace Program manager of the results of **all** drug tests and, for positive results, will submit a copy of the clinic report.

To ensure the integrity of the collection process, employees will be asked to leave **all** personal items with the attendant before collection. Employees will be allowed to keep his/her wallet. Employees will be observed **only** when facts and circumstances suggest that the employee has equipment or implements capable of tampering with or altering the urine sample, or the individual has previously tampered with a sample. In all cases of observation, the collection site personnel **must** be of the same gender as the individual providing the sample. See AD-2079 for detailed procedures for supervisors and AD-2080 for employees.

All records and information on employees with positive test results will be maintained by the Employee and Labor Relations staff as confidential records, and will be kept in a locked and secure area with access **only** by authorized staff. Records **must** be disposed of according to Record Management guidelines.

63 FFAS Drug-Free Workplace Program (Continued)**I Personnel Actions if Employees Test Positive or Refuse To Be Tested**

According to EO 12564, employees should be referred to EAP for counseling and/or referral for rehabilitation. Employees, who are found to be using illegal drugs and are referred to EAP, but do **not** obtain counseling or rehabilitation and refrain from using illegal drugs, can be removed from Federal service.

Disciplinary action will be initiated against any employee found to use illegal drugs or refusing to submit to drug testing, **except** voluntary admissions. Disciplinary action will depend on the circumstances of each case, but will be consistent with EO 12564 and the Civil Service Reform Act of 1978. Disciplinary action includes:

- reprimanding the employee in writing
- placing the employee in enforced leave status
- suspending the employee without pay
- suspending the employee without pay until the employee successfully completes rehabilitation, or until it is determined that action other than suspension is more appropriate
- reducing the employee's grade or rate of pay
- removal from service; employees can be removed from Federal service if they do **any** of the following:
 - refuse to obtain counseling or rehabilitation
 - continue to use illegal drugs after the first finding of illegal drug use
 - refuse required testing
 - attempt to alter or substitute specimens during collection
 - distribute or sell illegal drugs.

63 FFAS Drug-Free Workplace Program (Continued)

I Personnel Actions if Employees Test Positive or Refuse To Be Tested (Continued)

Employee in TDP's may **not** be allowed to remain on duty until they successfully complete counseling or rehabilitation. Employees:

- may be detailed to another position
- may use annual leave, sick leave, or LWOP
- can be allowed to return to work in TDP's if it will **not** endanger public health or safety or national security.

Note: A written determination **must** be placed in the employee's personnel file clearly indicating the reason for returning to TDP. Only the individuals identified in the following table have the authority to approve returning to work in TDP's.

Re-Appointment Authority	Positions
Secretary of Agriculture	Presidential appointees.
Assistant Secretary for Administration	SES's
USDA, Office of Human Resources Management, Director	Schedule C employees and GS/GM/14 and above.
Agency head (cannot be redelegated).	All other positions.

63 FFAS Drug-Free Workplace Program (Continued)

J Resources Available to Supervisors and Employees

The following 2 resources are available:

- for supervisors and employees, EAP provides the following:
 - free professional counseling to help employees manage personal or work-related issues or concerns that could affect their well-being, conduct, or performance
 - supervisor consultations, orientations for employees and supervisors, and critical incident stress debriefing when an office experiences a traumatic incident that could affect the office

Note: See 34-PM for information about EAP.

- for supervisors, training **must** be provided about drug and alcohol use and abuse, EAP, and how to recognize and address illegal drug use.

63 FFAS Drug-Free Workplace Program (Continued)**K Drug Test Agency Billing**

USDA has an interagency agreement with DOI, to “ride” on the established contract with Pembroke Occupational Health, a private corporation that provides drug testing collection sites, analysis of findings, and reports.

Pembroke Occupational Health bills to USDA for collection kits and analysis are charged back to the USDA Agencies. The collection kits mailed from Pembroke Occupational Health have a chain of custody form and billing instructions. The following provides guidance to ensure correct billing:

- DTL **must** provide the USDA Drug-Free Workplace Program manager the accounting codes for the programs that have employees in the drug testing program.
- USDA Drug-Free Workplace Program manager will send DTL a report of the amount charged to the accounting codes
- DTL will provide copies of the bills to the personnel director so the charges can be tracked and accounting codes can be properly adjusted for the charges.

Note: Clinics should **not** be charging employees or program units/divisions for drug testing.

L Contact for Questions on the FFAS Drug Testing Program

Questions about the Drug Testing Program policy or administration should be directed to DTL at 202-401-0629.

63 FFAS Drug-Free Workplace Program (Continued)

M Position Titles Designated for Random Drug Testing

The following table provides position titles with descriptions that have been designated for random drug testing.

Position	Description
<p>Agency Heads</p> <p>Note: Not subject to applicant testing.</p>	<p>Incumbents serve as the top cadre of USDA management personnel in both career and noncareer positions. They manage and supervise Agencies of the Department, participate at the highest levels in policy formulation and direction, and make extremely complex and sensitive decisions requiring a high degree of public trust and confidence.</p> <p>Drug usage could result in actions and decisions that could lead to a failure to implement laws and program delivery that could negatively impact the protection of life and property, public health and safety, or lead to the waste of public funds. This could lead to a loss of trust and confidence in USDA and the U.S. Government by the public and foreign Governments.</p>
<p>Drug-Free Workplace Program Personnel</p> <p>Note: Not subject to applicant testing.</p>	<p>Incumbents who hold the EAP coordinator positions and DTL are directly involved in the administration and day-to-day operation of the Drug-Free Workplace Program. As such they are in positions having access to sensitive employee and drug testing program information.</p> <p>Drug usage by the incumbents could result in incorrect decisions, embarrassment to USDA, or the release of information that could undermine the Drug-Free Workplace Program. Therefore, the incumbents have a responsibility to demonstrate the absence of using illegal drugs to maintain the credibility and employee confidence in the Drug-Free Workplace Program.</p>
<p>Employees with Top Secret Security Clearances</p> <p>Note: Not subject to applicant testing.</p>	<p>Incumbents have access to national security information with Top Secret classification, serve in sensitive Foreign Service or overseas positions that require a Top Secret security clearance, or are involved in duties demanding the highest degree of public trust.</p> <p>Drug usage could result in the inability to properly perform the duties of their positions, indiscretions while under the influence of drugs, or susceptibility to financial considerations that could cause an incumbent to be susceptible to releasing classified information or otherwise compromising national security for personal gain.</p>

63 FFAS Drug-Free Workplace Program (Continued)

M Position Titles Designated for Random Drug Testing (Continued)

Position	Description
<p>Motor Vehicle Operator (WG-5703)</p> <p>Note: Subject to applicant testing.</p>	<p>Incumbents operate motor vehicles; such as buses, trucks, passenger vans, and other passenger carrying vehicles, as their predominant duty and responsibility. The vehicles are used to move people and equipment including providing chauffeur services to high level officials. Vehicles must be operated in a safe manner to avoid endangering lives of the public or passengers, or risking the loss of property.</p> <p>Drug usage produces diminished mental and neuromuscular capacity. This could in turn lead to the operator’s inability to properly control the vehicle, leading to the possible loss of life, personal injury, or destruction of property. For example, if the driver of a passenger carrying shuttle failed to notice a traffic light, death or serious injury could result to USDA employees and the general public. Using illegal drugs is; therefore, inconsistent with the responsibility of safe vehicle operation.</p>
<p>Presidential Appointees</p> <p>Note: Not subject to applicant testing.</p>	<p>These are individuals appointed by the President with the advice and consent of the Senate. They serve the American public in the highest levels of the Department in positions; such as Secretary of Agriculture, Deputy Secretary of Agriculture, Assistant and Under Secretaries, and Agency heads. They participate with the President and the Congress in developing public policy in the many areas within the scope of USDA, make the most complex and sensitive decisions, and require the highest degree of public trust and confidence.</p> <p>Drug usage could result in loss of trust and confidence by the American public and Governments throughout the world. In addition, drug usage by incumbents in these positions will have a direct and negative affect on USDA and the U.S. Government, national security, and the efficiency, effectiveness, and cost of USDA programs.</p>

63 FFAS Drug-Free Workplace Program (Continued)

M Position Titles Designated for Random Drug Testing (Continued)

Position	Description
<p>Special-Sensitive Positions</p> <p>Note: Not subject to applicant testing.</p>	<p>Incumbents of special-sensitive positions are designated as special-sensitive positions under Federal Personnel Manual, Chapter 731 and 732 criteria. Individuals serve in positions of the highest level of sensitivity with the potential for greatest degree of damage to the national security. Most occupants of special-sensitive positions require access to Top Secret national security information according to EO 10450, or access to sensitive compartmented information under authority of Director of Central Intelligence Directive No. 1/14. Special-sensitive positions include any ADP-computer position that meets the above criteria or is determined by the Agency head to impose a risk in terms of ADP-computer security above that at the critical-sensitive level.</p> <p>Incumbents are in positions that have potential for inestimable impact involving duties especially critical to the Agency mission. They have broad scope and authority; such as overall direction of a major Federal program, or other extremely important responsibilities that affect the overall efficiency of the Agency.</p> <p>Drug use could result in the inability to properly perform the duties of their positions or indiscretions while under the influence of drugs. Drug use could cause incumbents to be subject to increased financial need that may cause them to be susceptible to compromising national security information or otherwise compromising national security for personal use.</p>

64-70 (Reserved)

Part 7 Federal Executive Boards

71 Presidentially Established Federal Executive Boards

A Purpose

Federal Executive Boards are established by the President and are located in metropolitan areas of the country where there are significant concentrations of Federal activity. The boards have been created to provide a means for improving Federal service through the developing a sense of partnership between Federal, State, and local Governments.

B Responsibilities

The Federal Executive Boards are to:

- coordinate activities of national interest at the local level
- provide channels of communication from the President to the public
- improve communications about the activities of the Federal Government
- provide management improvement across Department and Agency lines.

C Locations

Federal Executive Boards are in the following locations.

City, State	City, State	City, State
Albuquerque, New Mexico	Denver, Colorado	Newark, New Jersey
Atlanta, Georgia	Detroit, Michigan	Philadelphia, Pennsylvania
Baltimore, Maryland	Honolulu, Hawaii	Pittsburgh, Pennsylvania
Boston, Massachusetts	Kansas City, Missouri	Portland, Oregon
Buffalo, New York	Los Angeles, California	St. Louis, Missouri
Chicago, Illinois	Miami, Florida	San Francisco, California
Cincinnati, Ohio	Minneapolis/St. Paul, Minnesota	Seattle, Washington
Cleveland, Ohio	New Orleans, Louisiana	
Dallas/Ft. Worth, Texas	New York, New York	

71 Presidentially Established Federal Executive Boards (Continued)**D Support and Cooperation**

FSA officials are expected to support the Federal Executive Boards and their activities with particular emphasis in the following areas:

- Government-wide policies requiring the full cooperation of all Government Agencies

Example: Include EEO's and summer youth programs.

- Community Chest Campaigns, blood donor drives, and other continuing and emergency community needs
- improving efficiency of operations, service to the public, sharing of space and equipment, and employee recognition.

E Guidelines for Cooperation

Heads of offices at locations where Federal Executive Boards are established shall:

- cooperate within their delegated authority
- comply with requests from Federal Executive Boards for information and assistance in carrying out approved local projects, subject to the following conditions:
 - the information requested is available locally and is not beyond the offices scope of responsibility
 - requests to spend significant amount of time on board projects shall be reported to the appropriate Deputy Administrator for decision.

Reports, Forms, Abbreviations, and Delegations of Authority

Reports

None.

Forms

This table lists all forms referenced in this handbook.

Number	Title	Display Reference	Reference
AD-435D-1	Opportunity to Improve Letter	Ex. 6	32
AD-2075	FFAS Drug-Free Workplace Program Drug Testing Notification Form		63
AD-2076	FFAS Drug-Free Workplace Program Reasonable Suspicion Checklist		63
AD-2077	FFAS Drug-Free Workplace Program Post Accident Checklist		63
AD-2078	FFAS Drug-Free Workplace Program Personnel Officer Certification Reasonable Suspicion		63
AD-2079	FFAS Drug-Free Workplace Program Random Drug Testing Checklist for Supervisors		63
AD-2080	FFAS Drug-Free Workplace Program Random Drug Testing Checklist for Employees		63

Abbreviations Not Listed in 1-CM

This table lists all abbreviations not listed in 1-CM.

Approved Abbreviation	Term	Use
ADR	Alternative Dispute Resolution	54, Ex. 2
DTL	FFAS Drug Testing Liaison	63, Ex. 2, 11, 14, 15
EO	Executive Order	63, Ex. 2, 10
NACI	National Agency Check Investigation	41, 44
OTI	Opportunity to Improve	31, Ex. 2
SES	Senior Executive Service	21, 31, 53, 63
TDP	testing designated position	41, 63, Ex. 2
WG	wage grade	63

Reports, Forms, Abbreviations, and Delegations of Authority (Continued)

Redelegations of Authority

This table lists the redelegations of authority in this handbook.

Redelegation	Reference
<p>FSA’s HRD Director has authority to determine reasonable suspicion and post-accident testing needs based on facts and circumstances that have been documented.</p> <p>Note: FSA’s HRD Director can only be redelegated 1 level below to a personnel officer.</p>	<p>63</p>

Definitions of Terms Used in This Handbook

Alternative Dispute Resolution (ADR)

ADR means a confidential process that encompasses various techniques to informally resolve conflicts between people or organizations.

Examples: Mediation, neutral evaluation, facilitation, and conciliation.

Adverse Action

An adverse action means removal, suspension of 15 calendar days or more, or a reduction in grade or pay.

Agency Grievance Examiner or Factfinder

An Agency grievance examiner or factfinder means a person appointed to conduct appropriate inquiry into a formal grievance and recommend a decision on the issue or issues of the grievance.

Agency Personnel Officer

The Agency personnel officer means FSA's HRD Director.

Note: FSA's HRD Director can only redelegate his/her authority 1 level below to a personnel officer.

Applicant

An applicant means any individual tentatively selected for employment with FFAS in TDP, according to subparagraph 63 M, who is subject to applicant drug testing, or any individual within FFAS tentatively selected for movement into TDP, according to subparagraph 63 M, who is subject to applicant drug testing who has **not**, immediately before the selection, been subject to random drug testing.

Bargaining Unit Employee

A bargaining unit employee means an employee included in an appropriate exclusive bargaining unit as determined by the Federal Labor Relations Authority for which a labor organization has been granted exclusive recognition.

Definitions of Terms Used in This Handbook (Continued)

Disciplinary Action

Disciplinary action means a suspension of 14 calendar days or less, or a reprimand.

Drug Testing Liaison (DTL)

DTL means the individual designated by FFAS to act as the USDA Drug-Free Workplace Program manager liaison with Agency heads, supervisors, and employees of their Agencies for the Drug-Free Workplace Program.

EAP

EAP means the counseling program that offers assessment, short-term counseling, and referral services to employees for a wide range of drug, alcohol, and mental health problems, and monitors the progress of employees while in treatment.

EAP Coordinator

EAP coordinator means the individual designated by FFAS to be responsible for implementing and operating EAP within their Agency.

Factfinder or Agency Grievance Examiner

A factfinder or Agency grievance examiner means a person appointed to conduct appropriate inquiry into a formal grievance and recommend a decision on the issue or issues of the grievance.

Grievance

A grievance means a request by an employee or a group of employees, acting as individuals, for personal relief in a matter of concern or dissatisfaction that is subject to the control of Agency management.

Definitions of Terms Used in This Handbook (Continued)

Grievance File

A grievance file means a file established expressly for creating and preserving a record of all documents and evidence pertinent to a grievance. This includes, but is **not** limited to:

- letters and memoranda generated by the person filing the grievance
- letters and memoranda generated by the involved supervisor
- statements of witnesses
- official records
- documents on which the proposed and final dispositions of the grievance are based.

Note: The grievance file may **not** contain any document or item **not** made available to the grievant for review before a final decision on the grievance.

Illegal Drug

Illegal drug means a controlled substance as defined in 21 U.S.C. 802(6), the possession of which is unlawful under 21 U.S.C. 13, unless possessed or used according to a valid prescription or other lawful means.

Medical Review Officer

Medical review officer means the individual responsible for receiving laboratory results generated from the USDA Drug-Free Workplace Program who is a licensed physician, with appropriate medical training in substance abuse disorders, to evaluate and interpret all positive test results received from the drug testing laboratory together with an individual's medical history and any other relevant biomedical information.

Nonbargaining Unit Employees

Nonbargaining unit employees are current FFAS Federal employees, **not** excluded in subparagraph 21 B, for whom a remedy can be provided and who are **not** covered by a collective bargaining agreement that addresses disciplinary and adverse actions.

Definitions of Terms Used in This Handbook (Continued)

Opportunity to Improve (OTI)

OTI means a formal period in which an employee is provided the opportunity, with supervisory and other defined support, to improve his or her performance in noted deficient areas.

Performance Action

Performance action means a removal or reassignment of an employee or a reduction of an employee's grade because of an employee's unsuccessful performance in 1 or more critical elements of the employee's performance plan.

Personal Relief

Personal relief means a specific remedy directly benefiting the grievant and may **not** include a request for disciplinary or other action adversely affecting another employee. Failure to request personal relief in a grievance may be grounds for rejection of the grievance.

Personal Relief

Personal relief means a specific remedy directly benefiting the grievant. Failure to request personal relief in a grievance may be grounds for rejection of the grievance.

Note: A request for disciplinary action against another employee is **not** a request for personal relief.

Random Testing

Random testing means a system of drug testing imposed without individualized suspicion that a particular individual is using illegal drugs.

Note: Random testing may either be uniform, unannounced testing of employees occupying TDP's in a specified area, organizational element, or position, or may be a statistically random sampling of a percentage of such employees based on a neutral criterion, such as Social Security numbers.

Definitions of Terms Used in This Handbook (Continued)

Representative

Representative means any person designated by an employee, in writing, to assist or to act for that employee in presenting a grievance.

Reprimand

Reprimand means a written document that describes and warns against repeating misconduct.

Note: A reprimand is the lowest level of formal discipline.

Sensitive Position

Sensitive position means a position that is any of the following:

- designated as special-sensitive, critical-sensitive, or noncritical-sensitive under Federal Personnel Manual, Chapter 731, or designated as sensitive by the Secretary of Agriculture according to EO 10450, as amended
- in which employees have either been or will be granted access to classified information according to a determination of trustworthiness under EO 12356, Section 4
- filled by a Presidential-appointment with the advice and consent of the Senate
- entailing law enforcement as defined in 5 U.S.C. 8331(20) and 8401(17)
- that the Secretary of Agriculture determines involves law enforcement, national security, the protection of life and property, public health or safety, or other functions requiring a high degree of trust and confidence.

Suitability Adjudication

Suitability adjudication means the determination, based on a background investigation, of whether the integrity and efficiency of the Federal service is protected and promoted by employment of an individual.

Supervisors

Supervisors means employees who have the authority to hire, direct, assign, promote, reward, transfer, furlough, layoff, recall, suspend, discipline, or remove employees, to adjust their grievances, or to effectively recommend such action, if the exercise of the authority is **not** merely routine or clerical in nature, but requires the consistent exercise of independent judgment.

Definitions of Terms Used in This Handbook (Continued)

Testing Designated Positions (TDP's)

TDP's are positions within USDA that have been designated for random testing according to subparagraph 63 M.

Verified Positive Test Results

Verified positive test results are test results that have been screened positive by a Food and Drug Administration approved immunoassay test, confirmed by a Gas Chromatography/Mass Spectrometry assay, or other confirmatory test approved by the Department of Health and Human Services, and reviewed and verified by the medical review officer according to USDA Drug-Free Workplace Plan and the Mandatory Guidelines for Federal Workplace Drug Testing Programs.

Workday

A workday means any day of business **not** including weekends, Federal holidays, or any day on which OPM has authorized the closure of Government offices.

Example AD-435D-1

AD-435D-1 shall be used if an employee's performance in 1 or more critical elements of the employee's performance plan is unsuccessful. An employee may be placed on OTI at any point in the performance rating cycle.

<p>This form is available electronically.</p> <p>AD-435D-1 (03-25-09)</p> <p style="text-align: center;">U.S DEPARTMENT OF AGRICULTURE Farm Service Agency Foreign Agricultural Service Risk Management Agency</p> <p style="text-align: center;">OPPORTUNITY TO IMPROVE LETTER</p>		
1. Employee's Name	2. Position	3. Organization

This is to confirm my discussion with you on **[Date]** during which I informed you that your performance has been unacceptable for certain critical elements of your position, specific examples of which are as follows.

Critical Element 1 – [Title]

Performance Standard:

[Insert performance standards from performance plan.]

You are failing to meet the performance standards for this critical element as discussed below:

Example 1:

[Describe in detail the employee's deficient work.]

Example 2:

[Describe in detail the employee's deficient work.]
[repeat, as necessary, for additional critical elements]

OTI Plan

In order to improve your performance you will need to do **all** of the following:

1. Review the performance standards for the above Critical Elements and strictly adhere to them.
2. Carefully review your work **before** it is submitted to eliminate grammatical and other errors.
3. Before seeking my or a co-worker's assistance, research and attempt to resolve your questions or concerns on your own initiative and document such work in the even you nonetheless require assistance.
4. Complete **all** work assignments within assigned timeframes unless you request, at least three workdays in advance of a deadline, and receive an extension of time.

To assist you in improving your performance, I will meet with you weekly to discuss your progress, review your work product, and address any issues of concern. In addition, I am requiring that you enroll in and complete an effective writing course, or its equivalent, in the next 90 calendar days. Within ten workdays of your completion of this course, you **must** submit a written review of the course. You may find and enroll in such courses through AgLearn.

To attain a fully successful level of performance, you **must** meet the performance standards listed in the Critical Element(s) above. Your failure to attain and sustain a fully successful level of performance may result in a reassignment to another position, reduction in grade, or in a proposal to remove you from your position and the Federal Service.

Beginning on the date you receive this letter, you will be provided ninety (90) calendar days during which you will have the opportunity to demonstrate that you can perform at a fully successful level with respect to the above Critical Element(s) and performance standards. I will monitor your performance closely during this period and, at the end of the period, I will evaluate your work and make a determination whether your performance during the period has reached the level required for retention in your position. You will be informed soon thereafter of whatever further action is to be taken.

Example AD-435D-1 (Continued)

AD-435D-1 (03-25-09)

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If you want to agency to consider any medical condition that you believe has contributed to your performance problem, please contact the Agency Reasonable Accommodation Program Manager at 202-401-0571. This program Manager can assist you in determining whether you are eligible to receive a reasonable accommodation to help you perform the essential functions of your position.

In addition, it is FSA policy to offer free and confidential counseling to all employees who may be experiencing personal problems that are affecting their job performance. An EAP counselor can help and provide support for a variety of situations. By advising you of EAP, I am **not** implying that you have problem or otherwise have a need for EAP counseling. The availability of EAP is communicated to all employees who are experience job-related problems. If you believe that EAP may be of service to you, please contact a EAP consultant at 1-800-222-0464.

If you have any questions about this letter, your rights, or the procedures described above, you certainly are free, and encouraged, to discuss them with me.

You are requested to sign and date where indicated below as evidence that you have received this letter. Your signature does **not** mean that you agree or disagree with the contents of this letter. However, your failure to sign the proof receipt copy does **not** void the contents of this letter.

4. Immediate Supervisor's Name	5. Immediate Supervisor's Signature	6. Date (MM-DD-YYYY)
PROOF OF RECEIPT OF OTI LETTER		
7. Employee's Signature		8. Date (MM-DD-YYYY)

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