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5 U.S. Code § 4302 - Establishment of performance appraisal systems

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(a) Each agency shall develop one or more performance appraisal systems which

—

- (1)** provide for periodic appraisals of job performance of employees;
- (2)** encourage employee participation in establishing performance standards; and
- (3)** use the results of performance appraisals as a basis for training, rewarding, reassigning, promoting, reducing in grade, retaining, and removing

employees.

(b)

(1) The head of each agency, in consultation with the Director of the Office of Personnel Management and the Special Counsel, shall develop criteria that—

- (A)** the head of the agency shall use as a critical element for establishing the job requirements of a supervisory employee; and
- (B)** promote the protection of whistleblowers.

(2) The criteria required under paragraph (1) shall include—

(A) principles for the protection of whistleblowers, such as the degree to which supervisory employees—

- (i)** respond constructively when employees of the agency make disclosures described in subparagraph (A) or (B) of section 2302(b)(8);
- (ii)** take responsible actions to resolve the disclosures described in clause (i); and
- (iii)** foster an environment in which employees of the agency feel comfortable making disclosures described in clause (i) to supervisory employees or other appropriate authorities; and

(B) for each supervisory employee—

(i) whether the agency entered into an agreement with an individual who alleged that the supervisory employee committed a prohibited personnel practice; and

(ii) if the agency entered into an agreement described in clause (i), the number of instances in which the agency entered into such an agreement with respect to the supervisory employee.

(3) In this subsection—

(A) the term “agency” means any entity the employees of which are covered under paragraphs (8) and (9) of section 2302(b), without regard to whether any other provision of this section is applicable to the entity;

(B) the term “prohibited personnel practice” has the meaning given the term in section 2302(a)(1);

- (C)** the term “supervisory employee” means an employee who would be a supervisor, as defined in section 7103(a), if the agency employing the employee was an agency for purposes of chapter 71; and
- (D)** the term “whistleblower” means an employee who makes a disclosure described in section 2302(b)(8).

(c) Under regulations which the Office of Personnel Management shall prescribe, each performance appraisal system shall provide for—

- (1)** establishing performance standards which will, to the maximum extent feasible, permit the accurate evaluation of job performance on the basis of objective criteria (which may include the extent of courtesy demonstrated to the public) related to the job in question for each employee or position under the system;
- (2)** as soon as practicable, but not later than October 1, 1981, with respect to initial appraisal periods, and thereafter at the beginning of each following appraisal period, communicating to each employee the performance standards and the critical elements of the employee’s position;
- (3)** evaluating each employee during the appraisal period on such standards;
- (4)** recognizing and rewarding employees whose performance so warrants;
- (5)** assisting employees in improving unacceptable performance; and
- (6)** reassigning, reducing in grade, or removing employees who continue to have unacceptable performance but only after an opportunity to demonstrate acceptable performance.

(d) In accordance with regulations which the Office shall prescribe, the head of an agency may administer and maintain a performance appraisal system electronically.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 440; Pub. L. 95-454, title II, § 203(a), Oct. 13, 1978, 92 Stat. 1132; Pub. L. 102-378, § 2(18), Oct. 2, 1992, 106 Stat. 1347; Pub. L. 106-398, § 1 [[div. A], title XI, § 1104], Oct. 30, 2000, 114 Stat. 1654, 1654A-311; Pub. L. 115-91, div. A, title X, § 1097(d)(1), Dec. 12, 2017, 131 Stat. 1619.)