

Glossary of Terms and Concepts

Absence Without Leave

- Absence without prior approval, and therefore without pay, that may be a basis for disciplinary action.

Adverse Action

- An action taken against an employee for reasons such as poor attendance or inappropriate behavior, as distinguished from one taken because the employee's job performance does not meet expectations. Adverse actions are defined by law at 5 U.S.C. Chapter 75, and include suspensions without pay, reductions in grade or pay, furloughs of 30 days or less, and removal.

Appeal

- Suspensions of more than 14 days, reductions in pay, and furloughs of 30 days or less, and removals to the Merit Systems Protection Board (MSPB).

Appellant

- An individual who submits an appeal to the Merit Systems Protection Board (MSPB).

Alternative Dispute Resolution (ADR)

- A term applied to a varied array of techniques for resolving disputes without formal litigation. ADR can be as simple as a settlement agreement negotiated directly between the two parties, or as involved as binding arbitration. There are many other approaches, including: mediation; neutral fact-finding; facilitated problem solving; ombudsing; and interest based negotiation, among others. Most techniques stress cooperative examination of underlying facts, issues, and interests, and avoidance of rigid adversarial positions.

Arbitration

- A process by which a neutral decision-maker is jointly selected and paid by the parties to a dispute to hear both sides and provide a binding answer. Arbitration is generally less formal and legalistic than the MSPB appeal process, and does not involve, for instance, discovery or formal rules of evidence. For actions that could have been appealed to the MSPB, however, the arbitrator is required by law to follow Board precedents. It is the duty of the parties to brief the arbitrator about the applicable cases and concepts.

Bargaining Unit (BUE) Employee

- An employee included in a bargaining unit certified by the Federal Labor Relations Authority (FLRA).

Complainant

- An individual who files a complaint typically through the Equal Employment Opportunity (EEO) complaint process.
- Current Continuous Appointment
- A period of employment or service immediately preceding an adverse action without a break in Federal civilian employment of a workday.

Day

- A calendar day.
- Deciding Official
- The management official designated to make the final decision in connection with a proposed adverse action.

Discipline

- Measures intended to correct employee misconduct that adversely affect the efficiency of the service and to encourage employee conduct in compliance with the standards of conduct, policies, goals, work procedures, and office practices of the agency.

Employee

- An individual in the competitive service who is not serving a probationary or trial period under an initial appointment, or who has completed one (1) year of current continuous employment under other than a temporary appointment limited to one (1) year or less.

Equal Employment Opportunity Commission

- An independent agency charged with nationwide leadership in anti-discrimination efforts and enforcement of related laws.

Grievant

- An individual who files a grievance through the internal grievance process.

Merit Systems Protection Board

- An independent agency that hears and decides Federal employee appeals of certain personnel actions placed under its jurisdiction by law or OPM regulation. The MSPB also hears and decides certain other types of cases related to merit system abuse, reviews regulations of the Office of Personnel Management, and conducts studies of the merit systems. Further information is available on [MSPB's website \(external link\)](#).

Nexus

- A reasonable connection or factual relationship between the reasons for the action taken and the efficiency of the Service. Nexus is presumed if the misconduct occurs while on duty or on government premises but must be established if the misconduct occurs while the employee is not on duty or on government premises.

Notice Period

- The period of time that begins the day after the date an employee receives a written proposal of an action based on misconduct and which ends on the effective date of the action, if effected.

Offense

- A cause of action based on an employee's delinquency or misconduct.

Opportunity Period

- A period of time during which an employee, after being told that his or her performance is unacceptable, has a chance to show that he or she can improve to an acceptable level. At the beginning of the opportunity period, the supervisor generally tells the employee how long the opportunity period will be, what level of performance is necessary to remain in the position, and what assistance the agency will provide the employee to improve to that level.

Oral Reply Officer

- Agency designated official with authority to either recommend or propose an adverse action.

Pay

- The rate of basic pay fixed by law or administrative action for the position held by an employee.

Performance-Based Action

- An action taken against an employee because of unacceptable performance under 5 U.S.C. § 4303. These actions may also be taken as [adverse actions](#) or under the provisions provided in statute at 5 U.S.C. § 7501.

Performance Improvement Plan (PIP)

- A plan for improving performance when an employee's overall performance does not meet minimum expectations. A PIP is required when taking actions under 5 U.S.C. § 4303.

Poor Performance

- Performance that fails the established standards for one or more critical elements.

Preponderance of the Evidence

- Degree of relevant evidence that a reasonable person, considering the record as a whole, would accept as sufficient to find that a contested fact is more likely to be true than untrue. This is the standard of proof the Agency must meet when taking an adverse action against an employee.

Prior Offense

- A prior cause of action for which a disciplinary penalty has been imposed and which is still a matter of record.

Probationary Period

- Introductory period of employment that allows the employee and agency to determine if the employee is suited for the job. During this period, employees may be terminated. The probationary period is the initial 12 months of service.

Progressive Discipline

- Imposition of the least serious disciplinary or adverse action applicable to correct the issue or misconduct with penalties imposed at an escalating level for subsequent offenses

Proposing Official

- Management official who has the delegated authority to issue a notice of proposed adverse action.

Reduction in Grade

- The involuntary assignment of an employee to a position at a lower classification level under a position classification system.

Reduction in Pay

- An involuntary reduction in the rate of basic pay fixed by law or administrative action for the position held by the employee. Reduction in pay does not include the involuntary loss of any differentials such as standby pay, night work, overtime, hazardous duty, or holiday pay.

Reduction in Grade and/or Pay

- An involuntary assignment of an employee to a position at a lower classification level under a position classification system or an involuntary reduction in the rate of basic pay fixed by law or administrative action for the position held by the employee. Reductions in grade or rate of pay of an employee may be for either disciplinary (conduct) or non-disciplinary matters. This would include correction of an erroneous personnel action. An example of a nondisciplinary reduction in grade or pay is reassignment of a wage grade employee to another location having a lower wage schedule for each wage level. An example of a correction to an erroneous personnel action is to correct the erroneous placement of an employee by promotion or appointment into a position to which he/she is ineligible for promotion or appointment.

Removal

- An involuntary separation based on the decision of a Service official exercising delegated authority that terminates the employer-employee relationship. Such action may be based on disciplinary (misconduct) or non disciplinary (inability to perform one's job due to medical conditions) reasons.

Retention Standards

- The performance standard that describes the level of performance necessary to be retained in the job. The retention standard may be at the "fully successful" level or the "minimally satisfactory" level, depending on the applicable performance management program, but it is always one level above the unacceptable level.

- Substantial Evidence

- The standard of proof applied to the agency's case in performance-based actions taken under 5 U.S.C. 4303. MSPB's case law defines it as follows: "The degree of relevant evidence that a reasonable person, considering the record as a whole, might accept as adequate to support a conclusion, even though other reasonable persons might disagree."

Suspension

- Placing an employee, for conduct reasons, in a temporary status without duties or pay.

Within-grade Increase Denials

- The withholding of a regularly scheduled within-grade increase when the employee's performance is not at an acceptable level of competence. A within-grade increase must be based on the employee's most recent rating of record. Therefore, if the most recent rating is "fully successful" or better, and the employee's performance has since fallen below "fully successful," a new rating of record is given to the employee to support the denial of the within-grade increase.