



U.S. Chemical Safety and Hazard Investigation Board

SUBJECT: Extension of Advance Notice Period for Performance-Based Actions

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1. **PURPOSE.** This Order establishes policies and procedures within the Chemical Safety and Hazard Investigation Board (CSB) for extending the advance notice period for proposed actions based on unacceptable performance, to be taken under part 432 of Title 5 of the Code of Federal Regulations (C.F.R.).
2. **EFFECTIVE DATE.** This Order is effective upon passage by the Board.
3. **SCOPE.** This Order applies to all those CSB employees whose reduction in grade or removal based on unacceptable performance is covered by 5 C.F.R. part 432.
4. **REFERENCES.** This Order is based upon 5 C.F.R. § 432.105.
5. **POLICY.** It is the policy of the Board that CSB management should have the flexibility to extend the advance notice period for proposed actions based on unacceptable performance, in accordance with applicable regulations and the provisions of this Order.
6. **DEFINITIONS.**
 - a. **Advance notice period** – the initial 30-day period after an agency notifies an employee of a proposed performance-based action. The agency must make its final decision on the performance-based action within 30 days after the expiration of the advance notice period. See 5 C.F.R. §§ 432.105(a)(4)(i)(A) and (b).
 - b. **Days** – means calendar days. Time periods referred to or prescribed by this Order shall be calculated in the manner described by 5 C.F.R. § 210.102(b)(3).
7. **INITIAL EXTENSION.**
 - a. At any time after a notice of proposed action based on unacceptable performance has been issued to the employee against whom the action is proposed, but not later than 30 days after expiration of the advance notice period, the deciding official may extend the advance notice period.
 - b. The decision to extend the advance notice period is entirely within the discretion of the deciding official. However, the deciding official should consult with the CSB Office of General Counsel before deciding to extend the advance notice period.
 - c. **Duration of extension.** The advance notice period may be extended by up to an additional 30 days.

d. **Application of extension.**

- (1) When the deciding official extends the advance notice period before the expiration of the advance notice period, the extension shall begin to run on the day after the last day of the advance notice period.
- (2) When the deciding official extends the advance notice period after the expiration of the advance notice period, the extension shall run retroactively, beginning on the day after the last day of the advance notice period.

e. **Notification of employee.** Upon deciding to extend the advance notice period, the deciding official shall notify in writing the employee to whom the notice of proposed action was issued. The notification to the employee shall include a statement of the duration of the extension and the date on which the extended advance notice period will expire. The notification to the employee is the official record of the extension of the advance notice period.

8. **FURTHER EXTENSION.**

- a. After the advance notice period has been extended for an additional 30 days, the deciding official may, under certain circumstances, extend the advance notice period further. Such further extension must be made before the expiration of the first extension.
- b. The decision to further extend the advance notice period beyond an initial 30-day extension must be made for one of the reasons listed in subsection c., below, or in accordance with subsection d., below. The deciding official should consult with the CSB Office of General Counsel before deciding to further extend the advance notice period.
- c. **Further extension without OPM approval.** The deciding official may, without prior approval from the Office of Personnel Management (OPM), further extend the advance notice period beyond an initial 30-day extension for the following reasons:
 - (1) To obtain and/or evaluate medical information when the employee has raised a medical issue in the answer to a proposed reduction in grade or removal;
 - (2) To arrange for the employee's travel to make an oral reply to an appropriate agency official, or the travel of an agency official to hear the employee's oral reply;
 - (3) To consider the employee's answer if an extension to the period for an answer has been granted;
 - (4) To consider reasonable accommodation of a handicapping condition;

- (5) If agency procedures so require, to consider positions to which the employee might be reassigned or reduced in grade; or
- (6) To comply with a stay ordered by a member of the Merit Systems Protection Board under 5 U.S.C. 1208(b).
- d. **Further extension with OPM approval.** If the deciding official believes that it is necessary, for a reason other than one of those listed in subsection c., above, to further extend the advance notice period beyond an initial 30-day extension, the official must request prior approval from OPM. Such approval should be requested in accordance with the instructions at 5 CFR § 432.105(a)(4)(i)(C).
- e. **Duration of extension.** The advance notice period may be further extended for a duration that is consistent with the reason cited in support of the extension.
- f. **Application of extension.** A further extension of the advance notice period made pursuant to this Section shall begin to run on the day after the last day of the initially-extended advance notice period.
- g. **Notification of employee.** Upon deciding to further extend the advance notice period, the deciding official shall notify in writing the employee to whom the notice of proposed action was issued. The notification to the employee shall include a statement of the reason for the further extension, the duration of the further extension, and the date on which the further-extended advance notice period will expire. The notification to the employee is the official record of the further extension of the advance notice period.

U.S. CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD

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