



Fort Eustis Civilian Personnel Advisory Center Bulletin

www.eustis.army.mil/cpac

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Weingarten Rights

What are Weingarten Rights?

The rights of unionized employees to have a union representative present during investigatory interviews were announced by the U.S. Supreme Court in a 1975 case (*NLRB vs. Weingarten, Inc.*, 420 U.S. 251.88 LRRM 2689). These rights have become known as the *Weingarten* rights.

Employees have Weingarten rights only during investigatory interviews. An investigatory interview occurs when a supervisor questions an employee to obtain information which could be used as a basis for discipline or asks an employee to defend his or her conduct.

If an employee has a reasonable belief that discipline or other adverse consequences may result from what he or she says, the employee has the right to request union representation. Management is not required to inform the employee of his/her *Weingarten* rights; it is the employees' responsibility to know and request.

When the employee makes the request for a union representative to be present management has three options:

1. it can stop questioning until the representative arrives.
2. it can call off the interview or,
3. it can tell the employee that it will call off the interview unless the employee voluntarily gives up his/her rights to a union representative

Employers will often assert that the only role of a union representative in an investigatory interview is to observe the discussion. The Supreme Court, however, clearly acknowledges a representative's right to assist and counsel workers during the interview.

The Supreme Court has also ruled that during an investigatory interview management must inform the union representative of the subject of the interrogation. The representative must also be allowed to speak privately with the employee before the interview. During the questioning, the representative can interrupt to clarify a question or to object to confusing or intimidating factors.

While the interview is in progress the representative can not tell the employee what to say but he may advise him/her on how to answer a question. At the end of the interview, the union representative can add information to support the employee's case.

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Restored Leave

To request restoration of annual leave forfeited (should be requested after forfeited, not before) as a result of an exigency of public business or illness, employees must submit a written request, through their supervisory chain, to the management official delegated authority to approve the restoration. A list of organizations and who approves the exigency is located at the following website: Exigency Approval. The written request must include the following information (Standard Form 71, Application for Leave, may be used for this purpose):



- The calendar date the leave was scheduled, i.e., approved by the leave approving supervisor/official,
- The actual date(s) the leave was scheduled for use and the amount of leave (days/hours) that was scheduled for use,
- Reasons for the subsequent canceling of approved leave. If leave was denied because of an exigency of the public business, documentation (e.g. a memorandum signed by the designated approving official, stating the specific exigency of public business and the beginning and ending dates of the exigency) supporting the exigency decision must be attached to the employee's request,
- The calendar date the canceled leave was rescheduled for use, or the reason why leave was not rescheduled and,
- The date(s) during which the leave was rescheduled for use and the amount of leave that was rescheduled for use.

Approved requests for restoration of forfeited leave should be forwarded to the CPAC, ATTN: DFAS Customer Service Representative.

Adverse/Severe Weather



When adverse weather threatens the area, employees should check several TV/Radio stations to confirm the status of the installation. Sometimes the information relayed by the station may be confusing or incorrect. The installation status is also posted on the installation web page <http://www.eustis.army.mil>. If in doubt contact your chain of command, beginning with your supervisor.

2009 NSPS Performance Payout Example

The following example illustrates how an employee may be compensated under NSPS in 2009:

NSPS Employee Located in Washington, DC

Final rating of record: 3 – Valued Performer

Performance Shares Earned: 2



| Current Salary | |
|---|-----------------|
| The employee's base salary is: | \$60,000 |
| Current (2008) Washington, DC Local Market Salary of 20.89%: | \$12,534 |
| Employees current adjusted salary: | \$72,534 |
| January 2009 Pay Changes | |
| The employee receives the NSPS General Salary Increase of 1.74%: (\$60,000 x 1.74% = \$1,044) | \$1,044 |
| The new BASE salary after adding the NSPS General Salary Increase: | \$61,044 |
| The employee earns a \$1,620 performance salary increase: <i>The employee receives a rating of "3" and receives 2 shares. The total value of the performance payout is \$2,700, of which \$1,620 is given in base salary increase. The share value in this pay pool was 2.25%.</i> | \$1,620 |
| The new base salary after adding the performance-based salary increase is: | \$62,664 |
| The new 2009 LMS for Washington DC area is 23.10%: (\$62,664 x 23.10% = \$14,475) | \$14,475 |
| Employee's new adjusted salary: | \$77,139 |
| The employee also received a one-time performance-based bonus. The amount of the bonus is: | \$1,080 |

In this example, the employee receives a total adjusted salary increase of 6.3%, in addition to the cash bonus of \$1,080. The employee's salary increase includes the NSPS General Salary Increase, a performance-based salary increase, and the increase in the Washington DC Local Market Supplement.

Performance Objectives/Responsibilities

Performance objectives/responsibilities describe the actual work elements to be performed during the current appraisal period. They describe a major job component upon which an employee is rated for success. Job objectives/responsibilities are descriptive and relate to what needs to be done. They should be written as clearly and objectively as possible and should be of such impact that failure to accomplish one or more of them could result in the employee's removal from the position. All job objectives/responsibilities in Total Army Performance Evaluations System (TAPES) are critical.

The objectives/responsibilities are documented on the TAPES Counseling Checklist form (DA Form 7223-1) for Base System employees and the support form (DA Form 7222-1) for Senior System employees.

In the Base System, the DA standardized responsibilities categories are listed on the reverse side of DA Form 7223-1. They consist of Technical Competence, Adaptability/Initiative, Working Relationships/Communications and Responsibility/Dependability. For Base System positions with supervisory duties, two other responsibilities apply, i.e., Supervision/Leadership and Equal Employment Opportunity/Affirmative Action. So for nonsupervisory Base System employees you rate the four responsibilities indicated above and for supervisory Base System employees you rate all six responsibilities listed. The performance standard is written at the "success" level and follow each of the responsibilities on the form.



For the Senior System, there are no standardized objectives except for certain select positions:

- a) Supervisors and managers must be rated on Supervision and/or Leadership and Equal Employment Opportunity/Affirmative Action planned efforts. Those requirements must be reflected in the standard DA supervisory objectives.
- b) Plans to increase competition and achieve cost savings in contracting and of contracting officers to make awards to small business concerns (10 USC 2301)
- c) Individual efforts to eliminate wasteful practices and achieve cost savings in inventory management (Section 323 of Public Law 101-510)
- d) Discharge of security, internal control, safety, and other relevant responsibilities of the position.

The objectives are documented on the front side of DA Form 7222-1 (Part IVb). The performance standards to be applied to each objective are contained in Part V on the reverse side of the form.

Appraisal due dates can be found by following this link http://www.eustis.army.mil/cpac/TAPES/appr_due_dates.htm to the Civilian Personnel Advisory Center website.

If you need additional assistance, contact your Civilian Personnel Advisory Center.

Feedback



This bulletin is designed to inform employees and supervisors of new civilian human resources issues and refresh their knowledge of existing policies and procedures.

We welcome your [feedback](#); contact your servicing Human Resources Specialist. The bulletin is available on our web page, <http://www.eustis.army.mil/cpac> Request you print and post on Bulletin Boards throughout your organization for those employees who do not have access to our web page.