



UNITED STATES OFFICE OF PERSONNEL MANAGEMENT

Washington, DC 20415

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Memorandum for Chief Human Capital Officers, Managers and Supervisors

From: Veronica E. Hinton
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Workforce Policy and Innovation

Subject: **Personal Liability for Managers and Supervisors Conducting Personnel Management Functions**

Performance management is critical to a high-performing, merit-based federal workforce. The [Merit System Principles](#) help ensure that the civil service is managed in a “competent, honest, and productive” manner, and charge agency managers and supervisors with improving the performance of inadequate performers and removing those who cannot or will not improve to an adequate level.¹ Managers and supervisors thus have an obligation to engage in effective performance management.²

Federal managers and supervisors sometimes express concern that they may be held personally liable for taking certain performance management actions. This memorandum provides an overview of the extremely limited scope of personal liability for managers and supervisors as they manage employees’ job performance and address unacceptable performance.

When conducting performance management, managers and supervisors are acting under the authority of, and on behalf of, the agency. When a federal manager or supervisor engages in performance management—such as issuing a performance rating, putting an employee on a performance improvement plan, or proposing or deciding to reduce in grade or remove an employee for unacceptable performance—that action is taken by the agency employer, not the manager or supervisor in their individual capacity. If an employee challenges a performance-based action, it is the United States or the agency who is held responsible for the action, not the supervisor.³ In the unusual event that a manager or supervisor is sued personally for actions within the scope of their employment, the Department of Justice (DOJ) typically

¹ Civil Service Reform Act of 1978 (P.L.-95-454), Statement of Purpose; 5 U.S.C. § 2301(b)(6).

² See U.S. Office of Personnel Management, [Performance Management for Federal Employees](#), at pp. 4-5 (June 17, 2025) (introducing new government-wide critical element for all supervisors, “Holding Employees Accountable”).

³ For examples, see: 5 U.S.C § 4303(a) (“an agency may reduce in grade or remove an employee for unacceptable performance”); 5 C.F.R. § 1201.4(f) (defining an MSPB appeal as “a request for review of an agency action”); 5 C.F.R. § 432.105(a)(1) (authorizing “an agency” to “propose a reduction-in-grade or removal action”).

provides representation.⁴

Of course, agencies can hold managers and supervisors responsible if they misuse their authority or act improperly. Examples include managers and supervisors who commit unlawful discrimination, harassment, or a prohibited personnel practice related to whistleblower protections.⁵ But even in these situations Congress did not give employees the right to hold their managers or supervisors personally liable for any performance or conduct-related adverse action. The agency, not individual managers and supervisors, ultimately is responsible for any performance or conduct-related adverse actions taken against employees.

Nonetheless, some managers and supervisors feel more secure having an additional safeguard in place. One option is professional liability insurance to guard against claims that would ordinarily be raised against the agency employer. Section 642 of Public Law 106-58 (as amended) requires Federal agencies to reimburse eligible employees—including law enforcement officers, supervisors, and management officials—for up to one-half of the cost of the insurance, with certain conditions.⁶ Some agencies may also impose a cap on the amount that is reimbursable.

Managers and supervisors with questions about any of the topics discussed in this memorandum should consult their agency's offices of the Chief Human Capital Officer or the General Counsel for more information.

cc: Deputy Chief Human Capital Officers and Human Resources Directors

⁴ 28 C.F.R. § 50.15(a).

⁵ 5 U.S.C. § 7515(b)(1).

⁶ See note preceding 5 U.S.C. § 5941, "Reimbursements Relating to Professional Liability Insurance."