

dures made applicable under paragraph (2) of this subsection have been provided or completed by that date.

(Added Pub. L. 106-554, § 1(a)(3) [title VI, § 639(a)], Dec. 21, 2000, 114 Stat. 2763, 2763A-168.)

EFFECTIVE DATE

Pub. L. 106-554, § 1(a)(3) [title VI, § 639(c)], Dec. 21, 2000, 114 Stat. 2763, 2763A-168, provided that: “The amendments made by this section [enacting this subchapter] shall take effect 30 days after the date of enactment of this Act [Dec. 21, 2000] and shall apply to any conviction of a felony entered by a Federal or State court on or after that date.”

CHAPTER 75—ADVERSE ACTIONS

SUBCHAPTER I—SUSPENSION OF¹ 14 DAYS OR LESS

Sec.	
7501.	Definitions.
7502.	Actions covered.
7503.	Cause and procedure.
7504.	Regulations.

SUBCHAPTER II—REMOVAL, SUSPENSION FOR MORE THAN 14 DAYS, REDUCTION IN GRADE OR PAY, OR FURLOUGH FOR 30 DAYS OR LESS

7511.	Definitions; application.
7512.	Actions covered.
7513.	Cause and procedure.
7514.	Regulations.
7515.	Discipline of supervisors based on retaliation against whistleblowers.

SUBCHAPTER III—ADMINISTRATIVE LAW JUDGES

7521.	Actions against administrative law judges.
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SUBCHAPTER IV—NATIONAL SECURITY

7531.	Definitions.
7532.	Suspension and removal.
7533.	Effect on other statutes.

SUBCHAPTER V—SENIOR EXECUTIVE SERVICE

7541.	Definitions.
7542.	Actions covered.
7543.	Cause and procedure.

AMENDMENTS

2017—Pub. L. 115-91, div. A, title X, § 1097(e)(2), Dec. 12, 2017, 131 Stat. 1622, added item 7515 and struck out former item 7515 “Discipline of supervisors based on retaliation against whistleblowers”. Item was added to and stricken from analysis for this chapter, notwithstanding directory language adding item to, and striking item from, analysis for subchapter II of this chapter.

Pub. L. 115-73, title I, § 104(b), Oct. 26, 2017, 131 Stat. 1238, added item 7515. Item was added to analysis for this chapter, notwithstanding directory language adding item to analysis for subchapter II of this chapter.

1978—Pub. L. 95-454, title II, § 204(b), title IV, § 411(1), Oct. 13, 1978, 92 Stat. 1137, 1173, substituted “SUSPENSION OF 14 DAYS OR LESS” for “COMPETITIVE SERVICE” in subchapter I heading, substituted “Definitions” for “Cause; procedure; exception” in item 7501, added items 7502 to 7504, substituted “REMOVAL, SUSPENSION FOR MORE THAN 14 DAYS, REDUCTION IN GRADE OR PAY, OR FURLOUGH FOR 30 DAYS OR LESS” for “PREFERENCE ELIGIBLES” in subchapter II heading, inserted “; application” in item 7511, substituted “Actions covered” for “Cause; procedure; exception” in item 7512, added items 7513 and 7514, substituted “ADMINISTRATIVE LAW JUDGES” for “HEARING EXAMINERS” in subchapter III heading, substituted “Actions against administrative law

judges” for “Removal” in item 7521, and added subchapter V heading and items 7541 to 7543.

EX. ORD. NO. 13839. PROMOTING ACCOUNTABILITY AND STREAMLINING REMOVAL PROCEDURES CONSISTENT WITH MERIT SYSTEM PRINCIPLES

Ex. Ord. No. 13839, May 25, 2018, 83 F.R. 25343, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including sections 1104(a)(1), 3301, and 7301 of title 5, United States Code, and section 301 of title 3, United States Code, and to ensure the effective functioning of the executive branch, it is hereby ordered as follows:

SECTION 1. *Purpose.* Merit system principles call for holding Federal employees accountable for performance and conduct. They state that employees should maintain high standards of integrity, conduct, and concern for the public interest, and that the Federal workforce should be used efficiently and effectively. They further state that employees should be retained based on the adequacy of their performance, inadequate performance should be corrected, and employees should be separated who cannot or will not improve their performance to meet required standards. Unfortunately, implementation of America’s civil service laws has fallen far short of these ideals. The Federal Employee Viewpoint Survey has consistently found that less than one-third of Federal employees believe that the Government deals with poor performers effectively. Failure to address unacceptable performance and misconduct undermines morale, burdens good performers with subpar colleagues, and inhibits the ability of executive agencies (as defined in section 105 of title 5, United States Code, but excluding the Government Accountability Office) (agencies) to accomplish their missions. This order advances the ability of supervisors in agencies to promote civil servant accountability consistent with merit system principles while simultaneously recognizing employees’ procedural rights and protections.

SEC. 2. *Principles for Accountability in the Federal Workforce.* (a) Removing unacceptable performers should be a straightforward process that minimizes the burden on supervisors. Agencies should limit opportunity periods to demonstrate acceptable performance under section 4302(c)(6) of title 5, United States Code, to the amount of time that provides sufficient opportunity to demonstrate acceptable performance.

(b) Supervisors and deciding officials should not be required to use progressive discipline. The penalty for an instance of misconduct should be tailored to the facts and circumstances.

(c) Each employee’s work performance and disciplinary history is unique, and disciplinary action should be calibrated to the specific facts and circumstances of each individual employee’s situation. Conduct that justifies discipline of one employee at one time does not necessarily justify similar discipline of a different employee at a different time -- particularly where the employees are in different work units or chains of supervision -- and agencies are not prohibited from removing an employee simply because they did not remove a different employee for comparable conduct. Nonetheless, employees should be treated equitably, so agencies should consider appropriate comparators as they evaluate potential disciplinary actions.

(d) Suspension should not be a substitute for removal in circumstances in which removal would be appropriate. Agencies should not require suspension of an employee before proposing to remove that employee, except as may be appropriate under applicable facts.

(e) When taking disciplinary action, agencies should have discretion to take into account an employee’s disciplinary record and past work record, including all past misconduct -- not only similar past misconduct. Agencies should provide an employee with appropriate notice when taking a disciplinary action.

(f) To the extent practicable, agencies should issue decisions on proposed removals taken under chapter 75

¹ So in original. Does not conform to subchapter heading.