

ARTICLE 32
WITHIN-GRADE PAY INCREASES

Section 32.01 - General. Within-grade increases (WGI) are granted in accordance with applicable law and regulations which provide that the employee's supervisor determines that the employee's work is of an "acceptable level of performance," as demonstrated by an overall performance rating of fully successful or higher and the employee has completed the required waiting period.

Section 32.02 - Performance Rating of Record. If the decision to grant, a within-grade increase is not supported by the most recent performance rating of record, the employee shall receive a Special Rating. A rating of fully successful or higher must be recorded to support the WGI approval. Special ratings must be documented in HIHRTS or its successor system.

Section 32.03 - Notification of Intent. At least sixty (60) days prior to the date that an employee is eligible to receive a within-grade increase, the employee's supervisor shall notify the employee as to their performance. During the most recent progress review, as described in Article 30, Performance Management, if management communicates performance of below Fully Successful, it is understood that the employee's subsequent WGI may be denied. If the employee's level of performance has not been acceptable, the agency shall notify the employee, (opportunity to improve notice or performance improvement plan), in writing, as to the following:

- (1) Those critical elements and standards of the employee's performance in which the employee is not performing at an acceptable level and the measurable and demonstrable extent of the performance level;
- (2) That assistance shall be offered to enable the employee to improve their performance to meet the requirements specified for the position; and
- (3) That the employee's within-grade increase may be denied unless an acceptable level of performance is shown within the sixty (60) days established above. (If the agency does not give sixty (60) days advance notice and the within-grade increase is denied, the agency shall make a redetermination of the employee's acceptable level of performance within sixty (60) days. If the redetermination indicates that the employee's performance is at an acceptable level of performance or higher, the within-grade increase is granted effective the first day of the first pay period beginning on or after the redetermination.)

Section 32.04 - Delay of Within-Grade Increase. If at the end of the sixty (60) day period provided in Section 32.03, the employee's performance is not at an acceptable level of performance for the purpose of approving the within-grade increase, the employee shall be given a written notice which contains the following:

- (1) The fact that the decision of their within-grade increase is being postponed;
- (2) The reason for the postponement;
- (3) The date the determination will be made;
- (4) The fact that when the decision is made, it will be retroactive to the date it was originally due;

- (5) The specific requirements for performance at an acceptable level of performance. If the employee does not have a performance plan, they shall be given a plan; and
- (6) Advise that if a subsequent determination is made that the employee's performance is at an acceptable level of performance, the within-grade increase shall be granted retroactively to the beginning of the pay period following completion of the applicable waiting period.

Section 32.05 - Denial of Within-Grade (Negative Determination).

- (1) If at the end of the sixty (60) day period provided in Section 32.03, the employee's performance is not at an acceptable level of performance for the purpose of approving the within-grade increase, the employee shall be given a written notice which contains the following:
 - (a) A statement of denial of a within-grade increase including the reason(s) for the negative determination;
 - (b) A statement that the employee's work has been reviewed and determined not to be at an acceptable level of performance;
 - (c) A statement which identifies the performance elements in which the employee's performance was not at an acceptable level of performance;
 - (d) An explanation as to how the employee's performance was not at an acceptable level for that particular performance element;
 - (e) A statement that the employee has the right to request, in writing, a reconsideration of the negative determination, provided the request is made within 15 workdays of the employee's receipt of the negative determination;
 - (f) The name and title of the reconsideration official to whom the employee may submit a request;
 - (g) A statement that the employee may have a Union representative or other representative other than the exclusive representative, of the employee's own choosing in presenting a request to the reconsideration official;
 - (h) A statement that the employee and the representative, if designated, may appeal the basis for the negative determination in person and/or in writing;
 - (i) A statement that the employee may have a reasonable amount of official time to review, prepare and present a response; and
 - (j) An explanation that the employee may be considered for a WGI at any time if the employee demonstrates an acceptable level of performance.

- (2) Denial of a WGI is not to be used as a punitive measure or for an act of misconduct in lieu of appropriate disciplinary actions.
- (3) A notice of a proposed adverse/disciplinary action that is not based on performance is not a bar against a favorable determination of acceptable level of performance for purposes of WGI.

Section 32.06 - Reconsideration of Negative Determination. When an employee files a written request for reconsideration within 15 work days after receiving notice of the negative determination, Management shall respond within 15 work days, unless the parties mutually agree to an extension. The reconsideration official shall establish a reconsideration file to include copies of:

- (1) Written negative determination and supporting documents;
- (2) Employee's request for reconsideration;
- (3) Report of investigation if one was made;
- (4) Written summary or transcript of any personal presentation; and
- (5) Decision of the reconsideration official.

The file shall be retained and made available to the employee and their representative.

Section 32.07 - Waiver Of Requirement For Determination. An acceptable level of performance determination shall be waived and a within-grade increase granted when an employee has not served in any position for 90 days during the final 52 calendar weeks of the waiting period for one of the following reasons including but not limited to:

- (1) Because of absences that are creditable service in the computation of the waiting period under 5 CFR §531.406;
- (2) Because of paid leave;
- (3) Because the employee received service credit under the back pay provisions of 5 CFR part 550;
- (4) Because of details to another agency or employer for which no rating has been prepared;
- (5) Because the employee has had insufficient time to demonstrate an acceptable level of competence due to authorized activities of official interest to the agency not subject to appraisal under 5 CFR part 430 of this chapter (including, but not limited to, labor-management partnership activities under section 2 of Executive Order 12871 and serving as a representative of a labor organization under chapter 71 of title 5, United States Code); or
- (6) Because of long-term training.

Section 32.08 - Effective Dates.

- (1) A WGI is effective on the first day of the first pay period beginning on or after the completion of the required waiting period.
- (2) After a WGI has been withheld, the Agency may grant the WGI at any time after it determines that the employee has demonstrated performance at an acceptable level. In such cases, the WGI will become effective the first day of the first pay period after the acceptable determination is made.
- (3) A within-grade increase reconsideration favorable to the employee shall be made retroactive to the date it was originally due and all records relating to the negative determination shall be destroyed.
- (4) If a within-grade increase is delayed due to insufficient information, e.g., has not had standards and elements for ninety (90) days and the employee subsequently achieves an acceptable level of performance or better, the within-grade increase shall be granted retroactively to the date it was originally due.

Section 32.09 - Application of Article 51 and Article 13. The negative reconsideration procedure as set forth in this article substitutes for and, is in lieu of, the grievance procedure, Article 51. However, if a denial of a WGI is coupled with any performance based action, the provisions of Article 13 are applicable.

Section 32.10 - Arbitration. If an employee's negative determination is sustained after reconsideration, the Union may invoke arbitration within twenty-five (25) calendar days of the employee's receipt of the reconsideration decision.

Section 32.11 - Waiting Periods for WGI. The length of waiting periods shall be in compliance with 5 CFR 531.405.