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TO: Subcabinet Officials
Agency Heads

FROM: Pearlie S. Reed
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SUBJECT: Guidance on Civil Rights Element in Performance Plans

Secretary Vilsack has established the priority of having a modern workplace with a modern workforce in support of the President's plan to bring government into the 21st Century. Employees have asked a number of questions related to the Department's requirement for Civil Rights performance elements in performance plans. The purpose of this memorandum is to provide guidance to these frequently asked questions so that all managers, supervisors, and employees can have effective performance plans.

Why include Civil Rights in my performance plan?

Our country's changing demographics are transforming the culture of this Nation and our workplace. To successfully carry out the Department's mission of serving our constituents fairly, equitably, and effectively, we must have a workforce that reflects, understands, and relates to the diverse customers we serve. All employees must have an active role in, and be held accountable for, promoting civil rights, equal employment opportunity (EEO), and diversity within our workforce and in the delivery of our programs. Therefore, these performance elements serve to reward and recognize employees who have made great efforts and achievements in these areas.

How do I define "Civil Rights" as it relates to my performance plan?

We encourage a broad definition of Civil Rights, to include fair and equitable treatment in the workplace and with the delivery of our programs. As Secretary Vilsack stated in his Civil Rights Policy statement, "There exists no reason to discriminate based on race, color, religion, national origin, age, sex, sexual orientation, disability, marital or familial status, political beliefs, parental status, receipt of public assistance, or protected genetic information. Our policy at USDA is simply to understand that there will be zero tolerance for any form of discrimination. This standard is applicable to every employee at USDA and to every action taken at USDA." This performance element also includes efforts to promote a diverse and inclusive workforce. At USDA, diversity is not just limited to racial or gender differences, but defined

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expansively as *all* the ways that make us different, including diversity of thought, perspective, personality, and generation.

What can I do to exceed the “Fully Successful” level of the Civil Rights elements?

Attached are some definitions and examples of appropriate performance elements and standards for Civil Rights, EEO, and diversity and inclusion. These are not comprehensive or intended to replace agency guidance. In some cases, one size may not fit all. Therefore, it is important for supervisors and employees to have conversations about defining criteria and measures for applying the standards.

One approach is to identify the events, themes, resources, or activities to be included in the performance plan that distinguish between levels of performance, for example, “Meets Fully Successful” versus “Exceeds Fully Successful” that are appropriate for the employee’s position. Developing two to five relevant and realistic performance standards is advisable.

I hope this information is helpful to all managers, supervisors, and employees in developing effective performance plans. Thank you for leading the way to success.

Attachments

cc: Agency Civil Rights Directors

The following examples are not written for EEO or Civil Rights Practitioners who have specific program management responsibilities or those employees who have collateral duties. They also do not specifically address the Senior Executive Service (SES) performance plan requirements.

MANAGER AND SUPERVISOR PERFORMANCE PLANS – Measures for Civil Rights, EEO, and Diversity and Inclusion

This is an example of a performance element and some accompanying standards that can be used for a managerial/supervisory employee to describe expectations for Civil Rights, EEO, and diversity and inclusion. Note: A separate critical element for Civil Rights, EEO, and Diversity and Inclusion is required.

Performance Element: Civil Rights, Equal Employment Opportunity, and Diversity and Inclusion

Element Definition: Fosters an inclusive workplace where diversity and individual differences are valued and leveraged to achieve the vision and mission of the organization through both personal leadership and appropriate managerial action. Performs in a nondiscriminatory manner that demonstrates behaviors that conform with civil rights and EEO laws, regulations, and policies, including fairness, cooperation, and respect towards employees and customers.

EXAMPLES of standards for "MEETS FULLY SUCCESSFUL" performance.

1. Demonstrates an understanding of diversity and inclusion, Civil Rights and equal opportunity goals by enhancing outreach programs designed to attract and retain minorities, women, and persons with disabilities.
2. Encourages a fair and equitable work environment by encouraging the use of, and when appropriate, utilizing problem solving and dispute resolution processes by addressing EEO complaints and employee issues in a timely and effective manner.
3. Demonstrates an understanding of career development, training, recognition, and advancement opportunities for employees at all levels by providing equitable training and career development opportunities and performance awards for all grade levels.
4. Utilizes diversity within the workforce by incorporating the diverse perspectives into business decisions. The manager routinely seeks out the perspectives of all employees. The manager uses a variety of methods for ensuring that employee suggestions are elicited, acknowledged and utilized.
5. Effectively recruits, hires, promotes and maintains a diverse workforce. Works with Human Resources and other networks as appropriate to assist in the recruitment process and expand the diversity of the applicant pool. Ensures that interview panels are diverse and trained in cross-cultural interviewing techniques. Supports the use of special programs designed to attract and utilize minorities, women, and persons with disabilities to the workforce.

Examples include the Student Programs, the Affirmative Employment Program for Individuals with Disabilities and Disabled Veterans, Career Enhancement Program, etc.

6. Provides EEO/Civil Rights/Sexual Harassment/Diversity information (USDA material) to employees through information sessions, staff meetings, etc., at least two times a year.
7. Provides opportunities for and encourages employees to attend training to increase interpersonal skills, e.g., cross-cultural communication, negotiation, dispute resolution, problem solving, active listening, etc. For example, gives all employees equitable consideration for appropriate training and/or developmental opportunities. Shows evidence of counseling employees in the development of Individual Development Plans.
8. Provides pro-active assistance to employees to help with problem solving and resolving conflicts. Positive outcomes based on employee feedback or surveys, random oral surveys from second level supervisor, providing employee skills training in related topics.
9. Integrates diversity development into performance planning and evaluation. The manager holds staff accountable for participating in activities that support these efforts. The manager holds staff accountable for behaviors that are exclusionary and offensive.
10. Assures culturally competent customer service. Sets the tone for creating a welcoming environment; assures that service delivery is provided in a culturally competent way; assures that printed materials are available in alternate formats and in different languages as requested, and facilities are accessible for all customers.

EXAMPLES of standards for "EXCEEDS FULLY SUCCESSFUL" performance.

1. Demonstrates increase over time of the representation of women, minorities, or individuals with disabilities in the workforce.
2. Demonstrates increase in the participation of women, minorities, or individuals with disabilities in USDA programs.
3. Demonstrates reduction over time of the number of unresolved EEO or other administrative complaints through the use of alternative dispute resolution.
4. Implements projects that increase the accessibility of facilities or workplace to individuals with disabilities or for customers with limited English proficiency.
5. Provides examples of improving the integration of civil rights, EEO, and diversity and inclusion into program planning and program implementation.
6. Regularly promotes and utilizes Special Emphasis Programs, which result in improved representation and utilization of minorities, women, and individuals with disabilities. When progress or program participation is limited due to budgetary consideration or other constraints, develops alternative strategies and long-term plans or initiates other actions, which demonstrate commitment to EEO/Civil Rights.

7. Makes significant contributions to the development and implementation of the Agency's Affirmative Employment Plan for Individuals with Disabilities and Disabled Veterans, and the Federal Equal Opportunity Recruitment Plan.
8. Solicits advice or assistance from Agency Civil Rights Officials and initiates action to achieve EEO/Civil Rights goals and objectives.
9. Actively pursues or implements new ideas to improve the work environment and/or enhance progress toward achieving workforce diversity.
10. Volunteers to serve as a mentor or establishes mentoring relationships, which results in positive feedback concerning assistance provided by the supervisor.
11. Actively seeks assistance from Human Resources and Civil Rights Divisions in locating minorities, women and individuals with disabilities as applicants. Establishes recruitment contact with schools (e.g., 1890 Land Grant Colleges/Universities, vocational schools) with significant minority and female enrollment. Outreach activities with 1890 Land Grant Colleges and Universities, Hispanic Serving Institutions, 1994 Tribal Colleges and Universities, and other institutions with a high enrollment of minorities, females and individuals with disabilities result in the implementation of research projects, the hiring of students, or the implementation of partnerships (e.g., Adopt a School) in order to achieve long-term EEO objectives.
12. Consistently contributes to EEO/Civil Rights efforts through the implementation of effective ideas/employee suggestions.
13. Is recognized as a positive influence in the furtherance of EEO/Civil Rights based on noticeable results or changes within the organization supervised. Ideas are accepted and utilized by other organizations.
14. Proactively develops and implements initiatives and programs that are consistent with civil rights performance and strategic plans within specified timeframes.
15. Consistently provides leadership by motivating employees to contribute to meeting the goals and objectives in the civil rights performance and strategic plans.

EXAMPLES of standards for "DOES NOT MEET FULLY SUCCESSFUL" performance.

1. Demonstrates unwillingness to improve the representation and utilization of minorities, women, and individuals with disabilities.
2. Fails to address conflict or interpersonal relationships that are disruptive, disrespectful and create or contribute to a hostile work environment.
3. Does not fairly consider minorities, women or individuals with disabilities in the distribution of awards, promotions, details, assignments, workgroups, special projects and reassignments.

4. Fails to interact with employees and customers in a manner that supports agency policies and program objectives.
5. Responds to ideas, suggestions, and feedback from minorities, women, and individuals with disabilities in a condescending and/or negative manner.

The following examples are not written for EEO or Civil Rights Practitioners who have specific program management responsibilities or those employees who have collateral duties. They also do not specifically address the SES performance plan requirements.

NON-SUPERVISORY EMPLOYEE PERFORMANCE PLANS – Measures for Civil Rights, EEO, and Diversity and Inclusion

This is an example of a performance element and accompanying standards that may be used for a non-supervisory employee to describe expectations for Civil Rights, EEO, and diversity and inclusion. Note: Non-supervisory employees can have a separate critical performance element or have performance standards incorporated within an existing critical performance element related to communication, customer service, and interpersonal relations.

Performance Element: Civil Rights, Equal Employment Opportunity, and Diversity and Inclusion

Element Definition: Performs assignments in a manner that demonstrates fairness, cooperation, and respect toward employees and customers. Fosters an inclusive workplace where diversity and individual differences are valued. Leverages diversity to achieve the vision and mission of the organization. Supports and maintains an environment that is free of unlawful discrimination and reprisal.

EXAMPLES of standards for “MEETS FULLY SUCCESSFUL” performance.

1. Understands the importance of diversity. Performance is demonstrated when employees exhibit behaviors that encourage acceptance in a culturally diverse environment.
2. Maintains fair and impartial delivery of programs, activities, and services.
3. Actively pursues knowledge and understanding of different perspectives and ideas.
4. Demonstrates a belief in the concept of treating all others with consideration, respect, and fairness, and openly, consistently challenging bias, intolerance, and incivility.
5. Demonstrates support for diversity strategies that strengthen service delivery for a diverse customer base.
6. Demonstrates an understanding and knowledge of cross-cultural issues, cultural differences, nonverbal cues, feelings and emotions when dealing with and resolving complaints.
7. Supports a workplace culture that welcomes and values new thoughts, different perspectives, and nonconventional approaches.
8. Effectively works with customers, peers and stakeholders from all backgrounds.
9. Demonstrates a basic knowledge and understanding of individual and cultural differences.
10. Demonstrates prevention of complaints and actively pursues resolution of complaints.

EXAMPLES of standards for "EXCEEDS FULLY SUCCESSFUL" performance.

1. Demonstrates a commitment to the implementation of the civil rights, EEO, and diversity programs through effective ideas or activities.
2. Obtains approval for an employee suggestion which promotes or improves the effectiveness of the civil rights, EEO, and diversity programs.
3. Makes a presentation on a relevant civil rights, EEO, or diversity topics during staff or work unit meetings.
4. Actively assists new employees in their adjustment to the workplace and consistently contributes to team efforts in carrying out assignments.
5. Suggests or actively supports new ideas that improve the work environment and/or enhance progress toward achieving workforce diversity.
6. Is recognized as a positive influence in the furtherance of diversity based on noticeable results/changes within assigned area of responsibility.
7. Actively plans, conducts or participates on inter-office projects which promote the program. Recommends or plans activities which bring individuals of diverse backgrounds together for the opportunity to share concerns and interests.
8. Is openly recognized as one who consistently meets and deals with others in a non-discriminatory manner.
9. Participation on task groups results in significant EEO/Civil Rights contributions.
10. Assists in the recruitment of individuals either directly or through the referral of others, which contribute to workforce diversity.

EXAMPLES of standards for "DOES NOT MEET FULLY SUCCESSFUL" performance.

1. Make offensive comments about age, religion, national origin, race, gender, color, mental or physical disabilities, sexual orientation or marital status.
2. Displays materials in the workplace, which would be offensive, based on race, color, religion, sex, age, national origin, mental or physical disabilities, and gender, sexual orientation or marital status.
3. Interacts with co-workers, the public and others in a discriminatory manner.
4. Fails to interact with internal and external customers in a manner that supports EEO/Civil Rights policies and program objectives.

I Want to Excel!

(These are just a few examples of ways in which you can demonstrate exemplary performance.)

- Each year there are multiple special emphasis months and activities hosted throughout USDA. Organize or attend an event in your office during this period (or any other time) that highlights a specific group.
- Identify underserved groups in your community and develop an outreach plan, or assist your supervisor in developing such a plan. Talk to these groups or individuals and find out what their needs are and if changes are needed in our programs to meet those needs. Remember that an underserved group may not be an identified minority. They may be persons who raise specialty crops, have limited resources, or just be a group/community that has not participated with USDA in the past.
- Lead a discussion on how your office can better work with an underserved group by removing barriers to their participation.
- Recruit, recruit, and recruit! Many forget that even though you may not have hiring authority, you can be part of the recruitment process.
- Show initiative in participating with employee groups or committees.
- Serve as an informal or formal mentor for a new and/or current employee.
- Support networking with minority-serving institutions to educate career services professionals, faculty, and students.
- In addition, other characteristics and factors could merit a rating of Exceeds Fully Successful, such as initiative, quantity, quality, applicability, innovation, timeliness, cost-effectiveness, special circumstances and manner of performance. These characteristics and factors are defined and described in the early planning and developmental stages of performance management when supervisors and employees collaboratively develop the performance plan.

References

1. Departmental Regulation 4300-006, Civil Rights Policy for the Department of Agriculture; June 30, 2000;
2. Departmental Regulation 4300-010, Civil Rights Accountability Policy and Procedures; January 18, 2006; and
3. Departmental Regulation 4040-430, Performance Management; October 1, 2007.