

New Article 24

Old Article 37

Within-Grade Increases

37.1 Within-Grade Increases

An employee paid at less than step 10 of the grade of his/her position shall be advanced in pay to the next higher step of that grade upon meeting the following requirements:

37.1.1 the employee must have completed the applicable period of creditable service as shown in Section 37.3;

37.1.2 the employee must not have received an equivalent increase during the applicable period; and

37.1.3 the employee's performance must be at an acceptable level of competence.

An acceptable level of competence is a level of performance at or above “Fully Successful” by an employee of the duties and responsibilities of his/her assigned position during the applicable period of creditable service and includes a determination of satisfactory conduct during such period.

37.2 Relationship to Conduct

A within-grade increase may be denied based on misconduct within the year preceding the eligibility date of a within-grade increase which results in a suspension when the employee's misconduct affects his or her qualifications or ability to successfully perform the duties of the position. The notice of proposed disciplinary or adverse action based on such misconduct must notify the employee if the misconduct will result in denial of the employee's next scheduled within-grade increase. The employee must have received at least a memorandum of admonishment for the misconduct during the period of creditable service.

If information becomes available to the supervisor from an ongoing investigation that an employee may be guilty of misconduct which may warrant at least a suspension memorandum of admonishment, the within-grade increase may be delayed pending the outcome of that investigation.

37.23 Waiting Period

For full-time or part-time GG employees with a prearranged regularly scheduled tour-of-duty, completion of the following number of scheduled workweeks of creditable service

since the effective date of the last increase, shall be required for advancement to the step rate specified:

37.23.1 To advance to Steps 2, 3, or 4 in any pay grade, the employee must have worked 52 workweeks of creditable service.

37.23.2 To advance to Steps 5, 6, or 7 in any pay grade, the employee must have worked 104 workweeks of creditable service.

37.23.3 To advance to Steps 8, 9, or 10 in any pay grade, the employee must have worked 156 workweeks of creditable service.

#### 37.34 ~~Notification~~ Performance Feedback

At least 60 calendar days prior to the date that an employee's period of creditable service ends, the employee's supervisor will review the employee's performance and, if the supervisor determines that the employee's performance is below fully successful and therefore does not meet. ~~The immediate supervisor shall inform the employee at least 60 calendar days before completion of the prescribed period of creditable service whether there is any aspect of the employee's performance that raises a question about the employee's work being of an acceptable level of competence, the employee will be immediately notified and counseled, as required under Article 27.11.~~ Such counseling will provide specific advice as to how the employee can improve his/her performance to an acceptable level of competence and a statement that the within-grade increase will be denied unless the employee's performance improves to an acceptable level of competence.

#### ~~37.5~~ Content of Notification

~~If a question is raised about the employee's work being at an acceptable level of competence, the notification shall be in writing and shall inform the employee of such aspect. The statement will include:~~

~~37.5.1 specific advice as to how the employee can improve his/her performance to an acceptable level of competence;~~

~~37.5.2 a statement that a determination will be made as of the completion of the required period of creditable service; and~~

~~37.5.3 a statement that the within-grade increase will be denied unless the employee's performance improves to an acceptable level of competence.~~

#### 37.46 Final Determination

At the end of the employee's required period of creditable service, management shall make a determination as to whether the employee's performance has been at an acceptable level of competence. In making that determination management shall base the determination on the essential requirements of the employee's position and on the

employee's performance during the required period of creditable service. If the employee's performance has been at the acceptable level of competence and can reasonably be expected to continue at that level, management will approve the employee's within-grade increase no later than 5 workdays after the end of the period of creditable service. If the employee's performance is not at an acceptable level of competence, management will so notify the employee in writing no later than 5 workdays after the end of the period of creditable service. Such notification shall include:

- | 37.46.1 a statement that the within-grade increase is denied and the effective date;
- | 37.46.2 a statement of the reasons for the denial;
- | 37.46.3 a statement that the employee has the right to grieve the denial and to whom the grievance should be addressed (normally that person will be the Step B official in the grievance process);
- | 37.46.4 a statement that failure to improve to the fully successful level will result in continued within-grade denial;
- | 37.46.5 if the within-grade denial is based on unacceptable performance rather than minimally successful performance, a statement that failure to improve performance to the minimally successful level will be cause for the NRC to effect the employee's removal, demotion, or reassignment in accordance with Article 27, Performance Appraisal System;
- | 37.46.6 a statement that if the supervisor will review the employee's performance on a regular basis (at least quarterly), and if he/she determines that the employee is performing at an acceptable level of competence, the within-grade increase can be approved at any time; and
- | 37.46.7 a statement that in any event, a new determination will be made no later than 52 weeks after the date of the original determination.

#### | 37.57 Effective Date of a Within-Grade Increase

When an employee's performance is determined to be at an acceptable level of competence before the expiration of the prescribed period of creditable service, the effective date of the within-grade increase will be the first day of the first full pay period following the completion of the period of creditable service. When a within-grade increase is delayed beyond the proper effective date through administrative error, unintentional delay or oversight, or based on an investigation which does not result in a suspension of the employee, it shall take effect retroactively as of the date it was properly otherwise due. Failure to meet the advance notice requirement under 37.3 will not constitute grounds for granting a within-grade increase which would otherwise have been denied.

| 37.68 Effective Date of Improved Performance

When an employee's performance is determined to be at an acceptable level of competence, following an earlier negative final determination, the effective date of the within-grade increase will be the first day of the first full pay period following the new determination.

| 37.79 Burden of Proof

In any grievance arising under this Article, the NRC shall bear both the initial burden of going forward and the ultimate burden of proving by substantial evidence that the aggrieved employee was not performing at an acceptable level of competence.

| ~~37.10—Other Effective Date Issues~~

~~When a within-grade increase is delayed beyond the proper effective date through administrative error, unintentional delay or oversight, it shall take effect retroactively as of the date it was properly due.~~