

MEMORANDUM OF UNDERSTANDING

Legal Instrument Examiner (LIE) Performance Standard

The following constitutes an agreement between the Department of Veterans Affairs, Veterans Benefits Administration (VBA) and the American Federation of Government Employees (AFGE), AFL-CIO National VA Council (NVAC) #53, (Union) regarding the Legal Instrument Examiner (LIE) Performance Standard.

1. The parties agree to a 90-day acclimation period from the date this new standard is implemented. No adverse performance actions will be taken during this 90-day period. Both parties recognize the significant change in this standard and local management is encouraged to consider this and analyze data prior to taking any adverse action.
2. The VBA AFGE Mid-Term Bargaining Committee will monitor and assess the implementation of the national performance standard. The parties agree to gather Performance data regarding the Legal Instrument Examiner (LIE) Performance Standard under the new performance standard throughout the 90-day acclimation period. The AFGE Mid-Term bargaining committee will be provided this data each month for the preceding month, for up to 12 months. If at any point during this 12-month period the Union has concerns with this information, they can elevate these concerns to the Mid-Term Bargaining Committee for consideration.
3. Performance standard and elements, to the maximum extent feasible shall be reasonable, realistic, attainable, and sufficient under the circumstances to permit accurate measurement of an employee's performance. When quality, timeliness, and/or output are expressed in a standard, there must be a clear means of assessing whether objectives have been met.
4. Frequently Asked Questions (FAQ) will be prepared and presented to the employees at the same time as the performance standard. The Frequently Asked Questions (FAQ) and any changes to the FAQ will be communicated to the Midterm Bargaining Committee prior to implementation.
5. Where the FAQs conflict with the plain written language of the standard, the standard will be followed.
6. Management will meet with the employees to discuss the critical and non-critical elements in this national standard. They should communicate and provide written national performance standard and conduct group meetings to address employee questions and concerns to all affected employees. The local union will be invited to attend the meetings.

7. Local AFGE Presidents, or their designee will be provided individual employee data when representing that particular employee(s) on performance related matters.
8. When an employee moves from one level in a career ladder position to another level, the supervisory personnel shall meet with employee to discuss the effective date and change in elements.
9. Formal quality review will not begin until after the LIE is no longer in a training status.
10. The critical element of Quality will be based on a random review of an average of five (5) output items per month. The Legal Instruments Examiner Quality Checklist will be used to determine the employee's accuracy rate.
11. Employees will be allowed to rebut the validity of an error. Locally negotiated agreements concerning the rebuttal process will remain in place to the extent that they do not conflict with this agreement. This issue is appropriate for local bargaining.
12. The Legal Instruments Examiner Quality Checklist that will be used with this standard will be attached and provided to the employee along with the new national standard. If there is a future change in the Legal Instruments Examiner Quality Checklist, the employees will be provided the new questions and procedures. Management will notify the Mid-Term Bargaining Committee of the proposed change(s) in checklist separate from this standard, and will meet their bargaining obligations at the national level prior to implementing the new Quality Evaluation Score Card.
13. The output requirements will begin once the employee is no longer in trainee status.
14. Prior to any changes to this national performance standard that affect the type or weight of transactions employees receive credit for, to include retroactive changes which negatively affect employees' production standards, the VBA Mid-Term Bargaining Committee will be notified and all bargaining obligations at the national level will be met.
15. Bargaining unit employees, who spend unanticipated time performing uncredited work may bring the matter to the attention of their supervisor for consideration as to whether excluded time is warranted for the work performed. In the uncommon event that earned credits are insufficient to represent the amount of work expended, the supervisor may consider excluded time.
16. LIEs will receive credit for work completed, as defined in the performance standard, FAQs, and excluded time may be approved by a Supervisor for uncredited work.

17. VBA will ensure that all affected employees' equipment is adequate to run all programs and applications in connection with employees performing their duties.
18. All employees covered by this performance standard must receive training on the new standard.
19. If a training event is to be conducted in person, and the employee is not available due to leave, compressed day off, or in lieu of holiday, the employee must be scheduled for and attend a make-up training session before the employee is held accountable under the training element of the standard.
20. VBA is responsible for ensuring that all employees receive the training necessary for the performance of the employees' assigned duties. An employee can request additional training if needed.
21. Local management will ensure ongoing training regarding substantive changes to manuals, regulations, and law which impact the LIE work assignments is addressed; the time spent in training is to be considered excluded time, and the local union will be notified.
22. Core technical requirements and station level training assigned to employees in TMS will have a reasonable completion date.
23. The determination of a valid complaint or incident under element 4, will be made by the supervisor. Extenuating circumstances may be presented by the affected employee, which the supervisor will consider prior to determining the legitimacy of the incident/complaint.
24. If an employee requests a discussion with his/her rating official in writing to discuss his/her performance, it will be scheduled in a timely manner.
25. Management will review data for accuracy prior to using it for performance related actions.
26. Where a critical element is not applicable to the employee's assigned duties, the rating official may annotate the element as "not applicable" on the Performance Appraisal Program (VA Form 0750), Actual Achievement, Section E, instead of "fully successful" so that the element does not affect the employee's Overall Rating, Section D.
27. Consistent with procedures set forth in the Master Agreement, local bargaining may take place at individual facilities and may include substantive bargaining that does not conflict with negotiated national policy and agreements.
28. Management will not hold employees accountable for factors or extenuating circumstances which affect performance that are beyond the employees' control.

29. After implementation, if either party is made aware of issues that may affect employees, both parties agree to discuss the issues and work to mutually resolve the issues for the employees. Should discussions not resolve the issues, the parties will implement the negotiating process to the extent required by statute.
30. Management shall provide a copy of this MOU to the local president and/or designee at each AFGE local within 10 days of the date this MOU is signed.

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09/30/2021

Date