

1 **Article 22**

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3 **Within-Grade Increases**

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6 **Section 1. Basis for Granting or Denying**

7 A. Within-grade increases will be granted or denied on the basis of whether an
8 employee attains an acceptable level of competence and meets other
9 statutory requirements. ~~The decision to grant or withhold a within-grade~~
10 ~~increase must be supported by the employee's most recent appraisal in~~
11 ~~accordance with Article 21.~~

12 **Section 2. Supervisory Responsibilities**

13 **A. The decision to grant or withhold a within-grade increase must be**
14 **supported by the employee's most recent appraisal.**

15 B. Denial of a within-grade increase may not be used in lieu of disciplinary
16 action.

17 C. At any time during the waiting period when a supervisor's evaluation leads to
18 a conclusion that an acceptable level of competence is not being met, the
19 supervisor will provide the employee with ~~performance assistance in~~
20 ~~accordance with Article 21.~~ **a minimum of 60 days to improve. When such**
21 **notice is necessary the employee will be given:**

22 **I. an explanation of each aspect of job-related activities in**
23 **which he/she falls below an acceptable level and how this**

- 24 renders his/her performance on the job, as a whole, below
25 an acceptable level;
- 26 **2. a statement of the acceptable level of competence in each**
27 **of those areas; and**
- 28 **3. a statement as to what the employee must do to achieve an**
29 **acceptable level of competence in identified areas.**
- 30 **4. the employee, upon request, is entitled to Union**
31 **representation in any meetings and/or discussions**
32 **regarding the alleged failure to achieve an acceptable level**
33 **of competence.**

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35 **Section 3—Decisions**

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37 **After completion of the waiting period, if the within-grade increase is to**
38 **be denied, the employee will be given the supervisor's official**
39 **determination in writing. The determination will include:**

- 40 **A. a statement of the reasons for the negative determination;**
- 41 **B. identification of the areas in which the employee must improve**
42 **in order to be granted a within-grade increase;**
- 43 **C. the right to request a reconsideration not more than 15 days**
44 **after receiving the negative determination;**

- 45 **D. the statement: "Pursuant to 5 U.S.C. 5335(c), an employee must**
46 **request a reconsideration prior to grieving a WIGI withholding."**
- 47 **E. the name of the official to whom the employee may submit a**
48 **request for reconsideration;**
- 49 **F. the opportunity for the employee to contest, orally and/or in**
50 **writing, the basis for the negative determination;**
- 51 **G. that an employee and/or his/her representative in duty status**
52 **shall be granted a reasonable amount of official time to review**
53 **material relied upon to support the negative determination and**
54 **to prepare a response to the determination;**
- 55 **H. that an extension of the time period for making a**
56 **reconsideration presentation may be granted upon request to**
57 **the reconsideration official.**
- 58 **I. Language will be added to the Notice of Decision to Withhold**
59 **Within-Grade Increase which states, "If you wish, you may**
60 **provide a copy of this Notice to your union representative."**

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62 **Section 3 4. Reconsiderations**

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- 64 A. When an employee files a request for reconsideration of a negative
65 determination, an employee reconsideration file will be established which
66 shall contain all pertinent documents relating to the negative determination.

67 B. On or before fifteen (15) days following the date of receipt of the employee's
68 presentation or the date of completion of any investigation, whichever is later,
69 the reconsideration official shall issue a notice of decision to the employee.
70 ~~Language will be added to the notice which states: "If you wish, you may~~
71 ~~provide a copy of this decision to your Union representative".~~ If the negative
72 determination is sustained, the notice of decision shall inform the employee
73 that any grievance filed will enter the grievance procedure at the pre-
74 arbitration stage. The employee has 15 workdays to file a grievance, **45**
75 **workdays to file a discrimination case with the Equal Employment**
76 **Opportunity Commission (EEOC), or 30 days to file an appeal to the**
77 **Merit Systems Protection Board (MSPB).**

78 C. If the decision reverses the negative determination, the within-grade increase
79 shall be effective on the first day of the first pay period following completion of
80 the required waiting period.

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82 **Section 4 5. Redeterminations**

83 When a determination is made that an employee's job-related activities are not
84 at an acceptable level and the determination is final, the determining official may
85 grant the within-grade increase at any time when in his/her judgment the
86 employee has demonstrated sustained total performance at an acceptable level
87 of competence. In such cases, the within-grade increase will be effective the first
88 day of the first pay period after the acceptable determination is made. After

89 withholding a within-grade increase, the determining official shall determine
90 whether the employee's total performance is at an acceptable level of
91 competence within each 26 weeks following the original due date for the within-
92 grade increase unless a favorable decision has been made during the interim or
93 action to demote or remove the employee has been taken. If the new
94 determination is favorable to the employee, the effective date of the within-grade
95 increase will be the first day of the first pay period after the acceptable
96 determination has been made. If the new determination is unfavorable, the
97 employee is entitled to a notice of negative determination and notification of the
98 right to reconsideration in accordance with Section 2 4 of this article. The parties
99 agree that any appeal to arbitration which may be filed on the basis of a final
100 decision sustaining a negative determination will be combined with any related
101 grievance which may be concurrently in process. **The employee will have 45**
102 **workdays to file a discrimination case with the Equal Employment**
103 **Opportunity Commission (EEOC), or 30 days to file an appeal to the Merit**
104 **Systems Protection Board (MSPB).**

105 **Section 5 6. Effective Date/Administrative Error**

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107 A within-grade increase shall be effective on the first day of the first pay period
108 following completion of the required waiting period and the employee meets
109 conditions for eligibility. When, due to administrative error, oversight or delay, a
110 positive determination is made after the waiting period is completed, the effective

111 date of the within-grade increase shall be retroactive to the original due date. In
112 such cases, interest will be paid in accordance with law and applicable
113 regulations.

114 **Section 6 7. Union Notification**

115 **A. The Union will be notified when a within-grade increase is withheld.**

116 **B. If travel and per diem is involved as a result of an employee request for**
117 **union representation regarding actions under this article, the Agency is**
118 **responsible for any and all travel and per diem expenses.**

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