

To arrange for this or any other Training for Supervisors course, or **to ask** about legal issues raised by the course materials, **contact the Law Department Field Office** that serves your office or facility. See the Law Department Field Office listings on our Web site at blue/uspslaw.

Training for Supervisors

Performance Improvement Plans For Non-Bargaining Employees

October 2002

Prepared by the Law Department
United States Postal Service



Visit the Law Department Web site at blue/uspslaw for course and reference materials, directory listings, publications, and more.

This publication is intended only for internal training purposes and as a general reference to be used in conjunction with training sessions conducted by the Law Department. It is not equivalent to an official handbook, manual, or policy statement, and may contain representations that are subject to interpretation and potential change in the law. All examples are intended as teaching exercises and not as representations of actual Postal Service events or practices.

Training for Supervisors

Performance Improvement Plans

CONTENTS

A. Introduction	A - 1
• Performance management	A - 1
• Performance Improvement Plans (PIPs)	A - 1
B. Performance management	B - 1
• What is performance management?	B - 1
• Why performance management?	B - 2
C. MSPB legal standards	C - 1
• Opportunity to improve performance	C - 1
• Basic requirements	C - 2
• Efficiency of the service	C - 3
• Penalty: The <i>Douglas</i> factors	C - 5
D. Contrasting misconduct and performance analysis	D - 1
• Misconduct	D - 1
• Performance	D - 2
E. Before starting the PIP process	E - 1
• Find out whether there is a problem and, if so, what it is	E - 1
• Find out the cause	E - 2
• Identify clearly stated performance expectations	E - 3
F. PIP process	F - 1
• Commitment is essential	F - 1
• Overview of process	F - 1

Training for Supervisors

Performance Improvement Plans

CONTENTS – continued

G. Identifying performance deficiencies	G - 1
H. Notice and employee input	H - 1
• Discussion with employee	H - 2
I. Assessment of options	I - 1
J. Elements of proposed PIP	J - 1
K. Meeting regarding proposed PIP	K - 1
L. Monitoring PIP and benchmark progress	L - 1
M. Close-out of PIP	M - 1
N. Options when employee has not met PIP	N - 1
O. Performance management flowchart	O - 1
P. PIP process chart	P - 1

Training for Supervisors

Performance Improvement Plans

CONTENTS – continued

Q. PIP process checklist	Q - 1
• Supervisor identifies employee's performance deficiencies	Q - 1
• Supervisor notifies employee of deficiencies, receives employee's input	Q - 2
• Proposed PIP	Q - 3
• PIP	Q - 4
• Monitor and benchmark progress	Q - 4
• Plan close-out	Q - 5

A. **Performance management**

Introduction

The Postal Service uses performance management to improve the work performance of non-bargaining unit employees.

There are various tools that may be used to manage performance. This training guide covers one of them, a Performance Improvement Plan (PIP).

- ☞ The use of a PIP is not a formal national Postal Service requirement. Also, this guide does not cover the Individual Performance Agreement (IPA), part of the merit performance process.

A. **Performance Improvement Plans (PIPs)**
Introduction
(cont'd)

A PIP should be implemented only if the supervisor can commit the time and resources necessary for the success of the plan.

The PIP process is designed to comply with the law prescribed by the Merit Systems Protection Board.

While there is no requirement that supervisors use a PIP, once employed, a PIP must be . . .

- ✓ fair
- ✓ closely followed, and
- ✓ aimed at improving an employee's identified and recurring performance deficiencies.

B.
Performance
management

What is performance management?

- # Performance management is a tool to help improve employee performance.
- # It provides the employee with a good faith opportunity to improve performance to an acceptable level.
- # The supervisor and employee communicate on the performance expectations and methods for achieving those goals.
- # Performance management objectives are:
 - ✓ Improvement of individual and organizational performance
 - ✓ Employee involvement in the development of performance expectations
- ☞ Hopefully, this will avoid discipline, the last resort.

B.
Performance
management
(cont'd)

Why performance management?

It helps the employee meet the expectations of his or her position.

It establishes a line of communication between the supervisor and employee. Sometimes this is all that is needed for the improvement.

It benefits the Postal Service; the organization's success depends upon individual employee performance.

It is an essential part of a supervisor's job.

C Under ELM section 374, the supervisor is responsible for discussing performance with each employee. If the performance is unsatisfactory, the supervisor discusses constructive measures that employees should follow to improve their performance to a satisfactory level.

B. Performance management
(cont'd)

Why performance management? (cont'd)

It is an integral part of *CustomerPerfect*.

C *CustomerPerfect* voices:

- ✓ Voice of the customer: Improve customer satisfaction
- ✓ Voice of the business: Improve financial performance
- ✓ Voice of the employee: Improve employees' and organizational effectiveness
 - ☞ Deal with poor performance
 - ☞ Recognize good performance

It reduces labor/management conflicts.

In a 1995 report to Congress, the Government Accounting Office (GAO) found that labor/management conflicts were caused by:

C autocratic management culture

C adversarial attitudes

C inappropriate performance management systems

C. MSPB legal standards

Opportunity to improve performance

Current case law of the Merit Systems Protection Board (MSPB) recognizes that, prior to any discipline, employees should be given every opportunity to improve performance.

The Postal Service must adhere to MSPB standards for an employee who has the right to appeal a suspension (15-days or more), reduction in grade, reduction in pay, or a removal to the MSPB.

Who has MSPB appeal rights?

An employee who has completed one year of current continuous service in the same or similar position(s) **and is**:

- ✓ a preference eligible (veterans preference),
or
- ✓ a supervisor, or
- ✓ a manager, or
- ✓ the occupant of a position involving personnel work in other than a purely non-confidential clerical capacity.

C. MSPB legal
standards
(cont'd)

Basic requirements

These legal requirements supply valuable guidelines for managing **all** employees.

Prior to any discipline, there must be:

- ✓ Objective performance standards
- ✓ Notice of deficiencies to employee
- ✓ Reasonable opportunity to improve

If discipline is needed, there must be:

- ✓ a nexus between discipline and the efficiency of the service and
- ✓ a penalty that is within the zone of reasonableness and that tries to correct the behavior unless previous discipline has failed to do so.

C. MSPB legal
standards
(cont'd)

Efficiency of the service

Any disciplinary action taken against an employee must promote the efficiency of the service.

To establish the efficiency of the service, the disciplinary action must relate to the employee's poor performance of a **critical job element** relevant to an operational need of the Postal Service.

A **critical job element** can relate to any or all of the following areas:

- ✓ financial
- ✓ delivery
- ✓ productivity
- ✓ customer/community relations
- ✓ safety
- ✓ employee relations

C. MSPB legal
standards
(cont'd)

Efficiency of the service (cont'd)

Questions to ask relative to efficiency of the service:

- ✓ Do you really know what the employee's job is?
- ✓ Is there a "gap" between what the real expectations of the position are and what is in the Standard Position Description (SPD)?
- ✓ If the critical expectations are not in the written SPD, have they been established in some fashion?

C. MSPB legal
standards
(cont'd)

Penalty: The *Douglas* factors


An individualized inquiry as to what penalty is reasonable is necessary in each case.

The MSPB **requires** consideration of the following, known as "the *Douglas* factors":

1. nature and seriousness of the offense, and its relation to the employee's duties, position, and responsibilities, including whether the offense was intentional or technical or inadvertent, or was committed maliciously or for gain, or was frequently repeated.
2. employee's job level and type of employment, including supervisory or fiduciary role, contacts with the public, and prominence of the position;
3. employee's past disciplinary record;
4. employee's past work record, including length of service, performance on the job, ability to get along with fellow workers, and dependability;
5. effect of the offense upon the employee's ability to perform at a satisfactory level and its effect upon supervisors' confidence in the employee's ability to perform assigned duties;
6. consistency of the penalty with those imposed upon other employees for the same or similar offenses;

C. MSPB legal standards
(cont'd)

Penalty: The Douglas factors (cont'd)

7. consistency of the penalty with any applicable agency table of penalties; (NOTE: The Postal Service does not have a table of penalties.)
 8. the notoriety of the offense or its impact upon the reputation of the agency;
 9. the clarity with which the employee was on notice of any rules that were violated in committing the offense, or had been warned about the conduct in question;
 10. potential for the employee's rehabilitation;
 11. mitigating circumstances surrounding the offense such as unusual job tensions, personality problems, mental impairment, harassment, or bad faith, malice or provocation on the part of others involved in the matter; and
 12. the adequacy and effectiveness of alternative sanctions to deter such conduct in the future of the employee or others.
-  The relevant *Douglas* factors may differ with every individual. Individualized inquiry is necessary in each case, but the *Douglas* factors must be considered.

D.
Contrasting
misconduct
and
performance
analysis

Performance issues generally require more complex analysis than do misconduct issues.

Misconduct

Type of behavior: Misconduct issues deal with workplace rule violations.

Examples of types of misconduct:

- ✓ theft
- ✓ insubordination
- ✓ alcohol on duty
- ✓ harassment of co-workers

Addressing misconduct: Misconduct issues require direct and swift consequences.

- ✓ Penalties are imposed.
- ✓ Progressive discipline to correct behavior may be necessary.
- ☞ **HOWEVER:** Certain types of serious misconduct (such as theft, assault, etc.) do not require progressive discipline.

For more on misconduct issues, see the **Discipline for Misconduct** course in the Training for Supervisors series.

D. **Performance**
Contrasting
performance
and
misconduct
analysis (cont'd)

Types of behavior:

- ✓ Performance problems involve **task failures**.

⊆ Performance problems may involve failures of multiple tasks. Thus, multiple responses may be needed to correct deficiencies.

- ✓ Performance issues may involve **ability deficiencies**, such as:

⊆ lack of overall ability

⊆ lack of knowledge

⊆ motivational problems

- ✓ Performance issues may involve **organizational** problems.

When addressing performance problems:

- ✓ The responses to poor performance require a commitment of time by the supervisor to correct failures.
- ✓ Coaching/intervention techniques must be employed.

E. Before
starting the
PIP process

Find out whether there is a problem and, if so, what it is

Before considering a PIP, determine whether there is a problem. Answer these questions:

- ✓ What is the employee doing/not doing?
- ✓ Can the perceived performance deficiency be measured, defined, or described in exact terms?

☞ If not, there may not be a performance problem.

Identify what the performance problem is and who has responsibility for it.

Talk to the employee about these points.

E. Before
starting the
PIP process
(cont'd)

Find out the cause

A supervisor must remember that there may be different causes of poor performance. Each different cause requires a different solution.

Some causes of poor performance:

- ✓ Lack of knowledge or training
- ✓ Lack of feedback by supervisor
- ✓ Organizational barriers
- C Lack of tools/resources to adequately perform the job
- C Over- or under-supervision
- C No meaningful consequences for poor job performance
- ✓ Lack of aptitude/ability to do the job
- ✓ Motivational problems

E. Before
starting the
PIP process
(cont'd)

Identify clearly stated performance expectations

- # The supervisor and employee must discuss the work expectations and they should be specific enough to place the employee on notice of what the Postal Service requires.
- # Standards of performance. Each supervisor should determine and communicate to employees what is expected by way of:
 - ✓ quality of work
 - ✓ quantity of work
 - ✓ manner of performance, such as relationship with co-workers, contacts with public, work methods and habits, extent to which the employee should make decisions.

E. Before
starting the
PIP process
(cont'd)

Identify clearly stated performance expectations (cont'd)

Standards for evaluating performance:

- ✓ Amount of work performed
- ✓ Accuracy
- ✓ Reliability
- ✓ Neatness
- ✓ Thoroughness
- ✓ Application to duty
- ✓ Promptness
- ✓ Conduct
- ✓ Ability to get along with others
- ✓ Cooperativeness
- ✓ Where appropriate, other factors such as initiative, ability to direct the work of others, ability to establish and attain management objectives, etc., should be considered.

E. Before
starting the
PIP process
(cont'd)

Identify clearly stated performance expectations (cont'd)

Examples of appropriate types of expectations, standards and requirements:

- ✓ Time assignment due
- ✓ Format/content requirements
- ✓ Procedures to be followed
- ✓ Attendance/punctuality requirements
- ✓ Timely notice for scheduled leave usage
- ✓ Type of interaction among team members
- ✓ Timely notice by the employee of problems in completing assignment as agreed upon

Characteristics of clearly stated expectations:

- ✓ Effective
- ✓ Enforceable
- ✓ Reasonable
- ✓ Attainable
- ✓ Reasonably, fairly, and consistently applied for all similarly-situated individuals
- ✓ Measurable, if possible
- ✓ Within the control of the employee

F. PIP process **Commitment is essential**

- # The PIP process allows the employee to remain on the job while attempting to improve his or her work performance.
- # The integrity of the PIP process must be maintained if it is to be utilized.
- # Both the employee and the supervisor are accountable.
 - ✓ The employee is responsible for his or her performance.
 - ✓ The supervisor is responsible for his or her own performance and that of subordinates.

Overview of process

- ✓ Supervisor identifies the employee's performance deficiencies
- ✓ Supervisor provides notice to the employee of deficiencies and receives the employee's input
- ✓ Supervisor prepares a proposed PIP and discusses it with the employee
- ✓ PIP is revised and finalized based upon discussion with the employee
- ✓ Supervisor monitors and benchmarks progress
- ✓ PIP close-out

G. Identifying performance deficiencies

Steps for identifying performance deficiencies -- the gap between expectations and performance:

- ✓ Evaluate the employee's performance and list your observations of what the problems are.
- ✓ Locate and review underlying documentation, such as:
 - Ⓒ Supervisor's notes regarding performance problems
 - Ⓒ Any records indicating deficiencies, such as reports, statistics, etc.
- ✓ Locate and review required criteria, such as:
 - Ⓒ Job description
- ✓ Identify any ad hoc performance standards
- ✓ Isolate the problem: Isolate the problem: Determine whether the employee has the ability and resources to do the job, or whether or not there is a conduct problem.

Training for Supervisors

Performance Improvement Plans

G. Identifying performance deficiencies (cont'd)

After identifying the specific deficiencies:

- ✓ Identify potential causes of the performance problems
- ✓ Make a checklist of solutions and possibilities for solutions
- ✓ Review the procedures for conducting a discussion
- ✓ Review ELM, EL-312, and other sources as appropriate

Training for Supervisors

Performance Improvement Plans

H. Notice and employee input

After evaluating the employee's performance and identifying the specifics of poor performance, the supervisor must meet with the employee . . .

- ✓ to provide notice to the employee of the deficiencies, and
- ✓ to discuss the improvement process and all options.

H. Notice and
employee
input (cont'd)

Discussion with employee

- # Tell the employee that the purpose of the meeting is to assist the employee in improving or reaching acceptable performance.
- # Review with the employee your observations of performance problems and any evidence of deficiencies.
- # Clarify performance expectations.
- # Discuss where the performance "gap" is:
 - ✓ Does the poor performance relate to inadequate production/quality by the employee?
 - ✓ Is the performance problem caused by a lack of training?
 - ✓ Are the employee's people skills a problem?
 - ✓ Has the supervisor not been clear on communicating expectations?

H. Notice and
employee
input (cont'd)

Discussion with employee (cont'd)

- # Attempt to reach consensus on areas for improvement.
- # Discuss the employee's career goals.
- # **Throughout the discussion, listen to the employee.**
- # Make notes and clarify issues.
- # Have the employee identify training, resources, and/or mentors that might be incorporated into the PIP.
- # Consider whether representative / management association should be involved.

Training for Supervisors

Performance Improvement Plans

I. Assessment of options

Supervisor should assess other options before putting the employee on a PIP, especially:

- ✓ Reassignment to a position better matched to the employee's skills
- ✓ Detail to a position to receive training
- ✓ Discipline for misconduct
- ✓ Other training
- ✓ EAP counseling

Reassignment or detail: Should the employee be reassigned / detailed? If so:

- ✓ Consult ELM Section 375.2 (Unsatisfactory Performance): After employee maintains consistent or repeated unsatisfactory performance based on evaluation of job-related factors -- and after reasonable efforts toward improving performance prove unsuccessful, effort may be made to reassign the employee to job which the employee can be expected to perform satisfactorily.
- ✓ Consider voluntary reassignment.
- ✓ Identify open positions.
- ✓ Identify positions' and employee's knowledge, skills, and abilities (KSAs).

Training for Supervisors

Performance Improvement Plans

I. Assessment of options (cont'd)

- # Discipline for misconduct: Determine whether the problem is really misconduct and not performance; perhaps the employee should be disciplined for misconduct in lieu of a PIP.
- # Training or EAP counseling: Should the employee be provided training or EAP counseling before deciding whether to put the employee on a PIP?
 - ☞ HOWEVER: An EAP referral or training may be done **concurrently** with a PIP.
- # If any of these options are not appropriate, put the employee on a PIP.

Training for Supervisors

Performance Improvement Plans

J. Elements of proposed PIP

- # Supervisor should draft proposed PIP with technical assistance from Labor Relations.
- ⌄ The Law Department is also available to consult with Labor Relations and/or postal supervisors as complex legal questions arise.
- # The proposed PIP must contain the following:
 - ✓ A description of the deficiencies
 - ✓ A clear statement of acceptable standard of performance for each area of deficiency
 - ✓ A time frame for the employee to show improvement
 - ✓ Training, programs or mentors to be utilized to help the employee with his or her performance
 - ✓ A plan to wrap-up issues, including:
 - ⌄ A close-out date
 - ⌄ A review of the employee's performance
 - ⌄ The employee's options at conclusion of the PIP
 - ⌄ Input from appropriate employee / management organization, if requested

K. Meeting regarding proposed PIP

- # Once the proposed PIP is drafted, hold another PIP meeting with the employee:
 - ✓ Establish rapport.
 - Ⓒ The meeting should be conducted in a proper setting and must be private.
 - Ⓒ Avoid physical barriers between parties in the set up of the room.
 - Ⓒ Promote equal participation of the employee.
 - ✓ State the purpose of meeting: to establish the PIP.
 - ✓ Attempt to gain the employee's agreement to improve performance.
 - ✓ Discuss each component of the proposed PIP:
 - Ⓒ Notice of deficiencies
 - Ⓒ Criteria
 - Ⓒ Goals, with deadlines for improvement
 - Ⓒ Training and assistance to be provided
 - Ⓒ Close-out plan
 - ✓ **Receive employee input** -- essential element of meeting.
 - Ⓒ Discuss all comments on the plan.
 - Ⓒ Keep focused.
 - Ⓒ Do not get into arguments with or respond to accusations by the employee.
 - Ⓒ Stress to the employee the importance of being honest about required time frame and resources needed, because failure to meet the PIP may result in discipline.

Training for Supervisors

Performance Improvement Plans

K. Meeting regarding proposed PIP (cont'd)

- # Modify the PIP based on employee input and issues raised in meeting.
- # Ensure that the PIP is acceptable to both employee and supervisor.
- # Finalize the PIP.
 - ✓ Present the PIP to the employee. Secure the employee's acceptance and signature, with date, if possible.
 - ✓ Get agreement on early notification of problems with any element or commitment in the PIP so that the problem is quickly resolved.

Training for Supervisors

Performance Improvement Plans

L. Monitoring PIP and benchmark progress

Feedback: The supervisor should provide ongoing feedback.

- ✓ At established intervals, i.e., every week or two, every 30 days, etc.
- ✓ Issues to be prepared for while monitoring the employee's progress and providing feedback:

⊆ Employee may deny that he or she is not improving.

⊆ Employee may attempt to compare his or her treatment to that of other employees.

⊆ Employee may raise instances of prior enforcement or lack of enforcement with respect to other employees.

⊆ Employee may want a witness present.

- ✓ Employee must be treated with fairness.

Provide assistance at appropriate times.

Provide additional support to the employee. This may involve:

- ✓ Positive feedback
- ✓ EAP/rehabilitation where warranted
- ✓ Enlisting the help of employee / management associations

Training for Supervisors
Performance Improvement Plans

Training for Supervisors

Performance Improvement Plans

M. Close-out of PIP

Meet with the employee

- ✓ Review progress and data
- ✓ Assess whether the PIP was successful

If the employee meets goals:

- ✓ Congratulate the employee.
- ✓ Have a discussion regarding follow-up.
- ✓ Give support for continued satisfactory performance

If the goals are not met

- ✓ Discuss with the employee the evidence of poor performance.
 - Ⓒ Refer to specific instances.
 - Ⓒ Provide documentation of poor performance (i.e., statistics, written or computerized reports, etc.)
- ✓ Discuss all options with the employee.

Training for Supervisors

Performance Improvement Plans

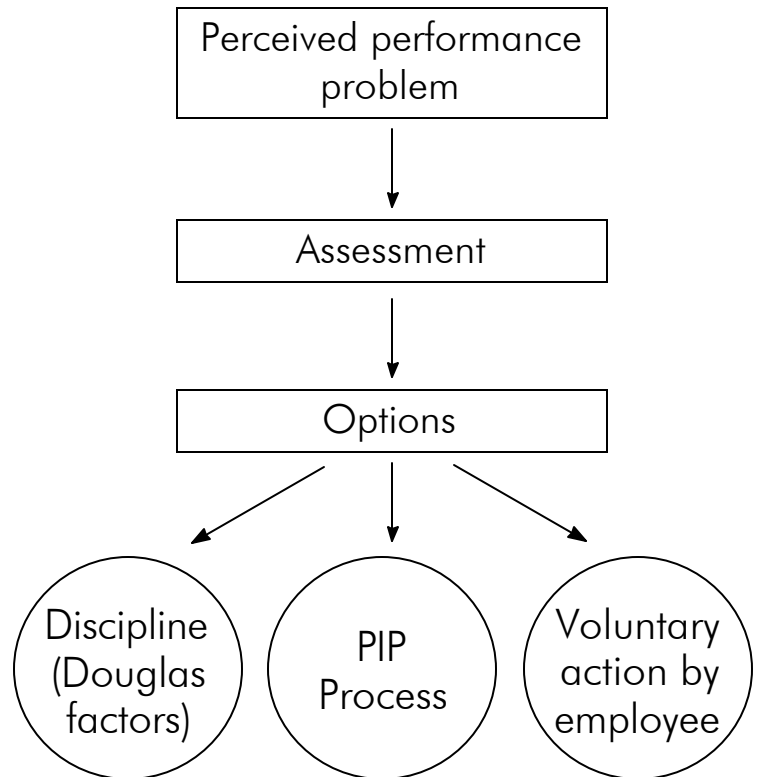
N. Options when employee has not met PIP

- # Extension or revision of the PIP
- # Voluntary reassignment
- # Involuntary reassignment/downgrade
 - ✓ Apply ELM Section 375.2 (Unsatisfactory Performance)
- # Discipline
 - ✓ Follow normal disciplinary procedures
 - ✓ Any discipline, including downgrade, may be subject to MSPB review:
 - ⊆ Must promote the efficiency of the service
 - ⊆ Penalty must be reasonable -- consider *Douglas* factors (see page C-5).

Training for Supervisors

Performance Improvement Plans

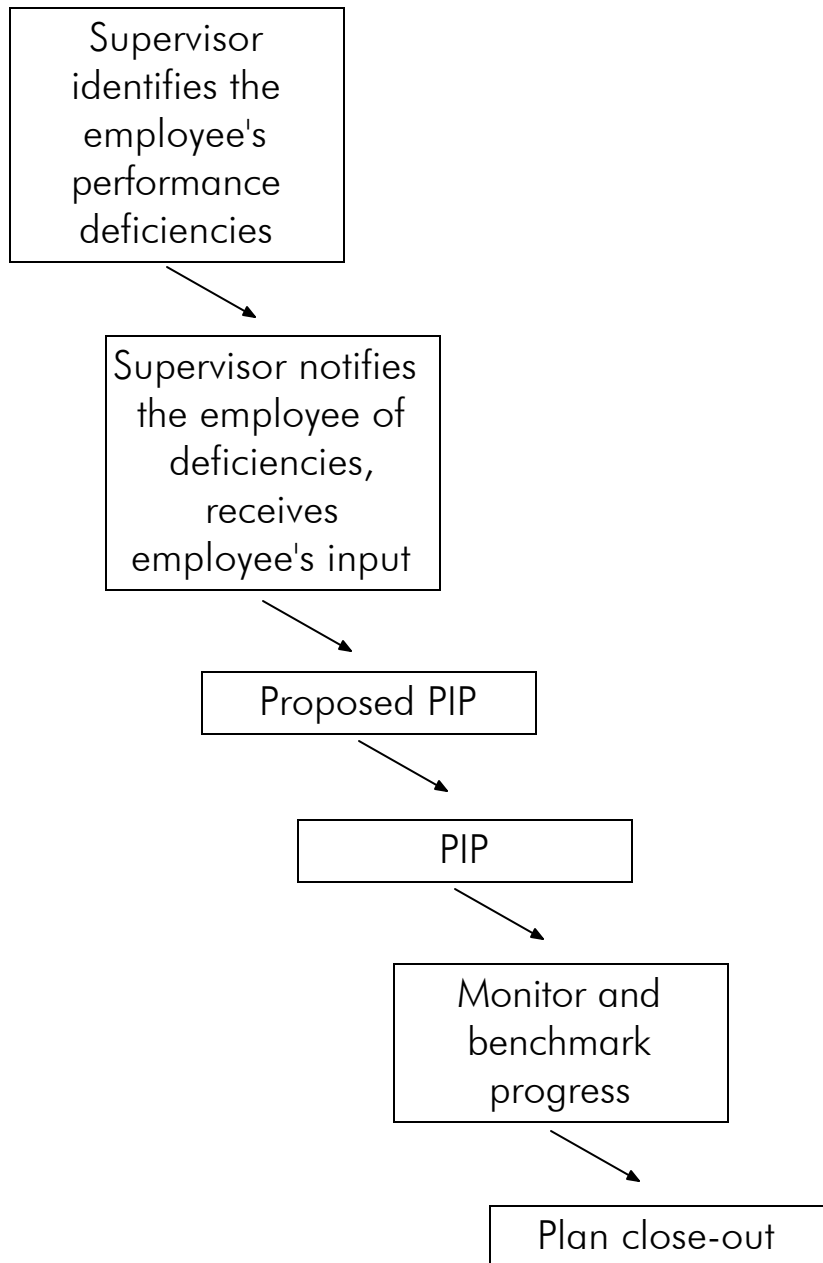
○.
Performance
management
flowchart



Training for Supervisors

Performance Improvement Plans

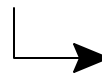
P. PIP process chart



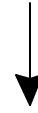
Q. PIP
process
checklist

**Supervisor identifies employee's
performance deficiencies**

- ✓ List evaluation observations
- ✓ Locate and review underlying documentation and criteria:
 - Ⓒ Job description
 - Ⓒ ELM Sections 372 - 373
 - Ⓒ Records of poor performance
- ✓ Compare performance with performance standards
- ✓ Identify specific deficiencies
- ✓ Identify potential causes
- ✓ Identify potential solutions
- ✓ Review procedures for conducting discussion



Q. PIP
process
checklist (cont'd)



Supervisor notifies employee of deficiencies, receives employee's input

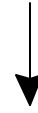
- ✓ Meet with the employee
- ✓ Tell the employee: Purpose of process is to assist in improving/reaching acceptable performance
- ✓ Review with the employee: Supervisor's observations, paperwork, evidence of deficiencies
- ✓ Clarify expectations
- ✓ Receive the employee's input
- ✓ Discuss performance gap
- ✓ Discuss the employee's career goals
- ✓ Have the employee identify training, resources, and/or mentors to be incorporated into the PIP
- ✓ Consider whether representative/management association should be involved
- ✓ Assess options



Training for Supervisors

Performance Improvement Plans

Q. PIP process checklist (cont'd)



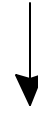
Proposed PIP

- ✓ Supervisor draws up the PIP with technical assistance from Labor Relations
- ✓ Ensure that the PIP has all components (notice of deficiencies, criteria, goals, with deadlines for improvement, training and assistance to be provided, close-out plan)
- ✓ Go over the proposal with the employee, including all major areas
- ✓ Stress that it is important for the employee to be honest about time frame, resources needed, etc. because failure to meet the PIP may result in reassignment, discipline, etc.
- ✓ ***Modify the proposal based on the employee's input***



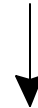
Training for Supervisors Performance Improvement Plans

Q. PIP process checklist (cont'd)



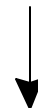
PIP

- ✓ Present to the employee
- ✓ Acceptance and signature of the employee with date
- ✓ Remind the employee to tell supervisor ASAP if a problem develops with PIP - any aspect, i.e., training, resources, mentor, time frame



Monitor and benchmark progress

- ✓ Ongoing feedback at set intervals set forth in plan (more can always be provided if the supervisor/employee has time)
- ✓ Assistance to the employee at appropriate times
- ✓ Support



Training for Supervisors

Performance Improvement Plans

Q. PIP process checklist (cont'd)

Plan close-out

If the goals are met:

- ✓ Congratulations
- ✓ Discussions of what follow-up support is needed for the employee to sustain acceptable performance

If goals not met: Options . . .

- ✓ Voluntary reassignment
- ✓ Career options
- ✓ Discipline
- ✓ Extension or revisions of the plan