

**§ 4121. Specific training programs**

In consultation with the Office of Personnel Management, the head of each agency shall establish—

- (1) a comprehensive management succession program to provide training to employees to develop managers for the agency; and
- (2) a program to provide training to managers on actions, options, and strategies a manager may use in—
  - (A) relating to employees with unacceptable performance;
  - (B) mentoring employees and improving employee performance and productivity; and
  - (C) conducting employee performance appraisals.

(Added Pub. L. 108-411, title II, § 201(b)(1), Oct. 30, 2004, 118 Stat. 2311.)

**CHAPTER 43—PERFORMANCE APPRAISAL****SUBCHAPTER I—GENERAL PROVISIONS**

Sec.	
4301.	Definitions.
4302.	Establishment of performance appraisal systems.
[4302a.	Repealed.]
4303.	Actions based on unacceptable performance.
4304.	Responsibilities of <sup>1</sup> Office of Personnel Management.
4305.	Regulations.

**SUBCHAPTER II—PERFORMANCE APPRAISAL IN THE SENIOR EXECUTIVE SERVICE**

4311.	Definitions.
4312.	Senior Executive Service performance appraisal systems.
4313.	Criteria for performance appraisals.
4314.	Ratings for performance appraisals.
4315.	Regulations.

**Editorial Notes****AMENDMENTS**

1993—Pub. L. 103-89, § 3(b)(1)(B)(ii), Sept. 30, 1993, 107 Stat. 981, struck out item 4302a “Establishment of performance appraisal systems for performance management and recognition system employees”.

1984—Pub. L. 98-615, title II, § 202(b), Nov. 8, 1984, 98 Stat. 3216, added item 4302a.

1978—Pub. L. 95-454, title II, § 203(a), title IV, § 405(b), Oct. 13, 1978, 92 Stat. 1131, 1170, in chapter heading substituted “APPRAISAL” for “RATING”, added heading for subchapter I, in item 4302 substituted “Establishment of performance appraisal systems” for “Performance-rating plans; establishment of”, in item 4303 substituted “Actions based on unacceptable performance” for “Performance-rating plans; requirements for”, in item 4304 substituted “Responsibilities of Office of Personnel Management” for “Ratings for performance”, in item 4305 substituted “Regulations” for “Review of ratings”, struck out items 4306 to 4308 “Performance-rating plans; inspection of”, “Other rating procedures prohibited”, and “Regulations”, respectively, and added item for subchapter II and items 4311 to 4315.

**SUBCHAPTER I—GENERAL PROVISIONS****Editorial Notes****AMENDMENTS**

1979—Pub. L. 96-54, § 2(a)(20), Aug. 14, 1979, 93 Stat. 382, added heading for subchapter I.

<sup>1</sup> So in original. Does not conform to section catchline.

**§ 4301. Definitions**

Except as otherwise expressly provided, for the purpose of this subchapter—

- (1) “agency” means—
  - (A) an Executive agency; and
  - (B) the Government Publishing Office;

but does not include—

- (i) a Government corporation;
- (ii) the Central Intelligence Agency, the Defense Intelligence Agency, the National Geospatial-Intelligence Agency, the National Security Agency, or any Executive agency or unit thereof which is designated by the President and the principal function of which is the conduct of foreign intelligence or counterintelligence activities; or
- (iii) the Government Accountability Office;

(2) “employee” means an individual employed in or under an agency, but does not include—

(A) an employee outside the United States who is paid in accordance with local native prevailing wage rates for the area in which employed;

(B) an individual in the Foreign Service of the United States;

(C) a physician, dentist, nurse, or other employee in the Veterans Health Administration of the Department of Veterans Affairs whose pay is fixed under chapter 73 of title 38;

(D) an administrative law judge appointed under section 3105 of this title;

(E) an individual in the Senior Executive Service or the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service;

(F) an individual appointed by the President;

(G) an individual occupying a position not in the competitive service excluded from coverage of this subchapter by regulations of the Office of Personnel Management; or

(H) an individual who (i) is serving in a position under a temporary appointment for less than one year, (ii) agrees to serve without a performance evaluation, and (iii) will not be considered for a reappointment or for an increase in pay based in whole or in part on performance; and

(3) “unacceptable performance” means performance of an employee which fails to meet established performance standards in one or more critical elements of such employee’s position.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 440; Pub. L. 91-375, § 6(c)(8), Aug. 12, 1970, 84 Stat. 776; Pub. L. 95-251, § 2(a)(1), Mar. 27, 1978, 92 Stat. 183; Pub. L. 95-454, title II, § 203(a), Oct. 13, 1978, 92 Stat. 1131; Pub. L. 100-325, § 2(f), May 30, 1988, 102 Stat. 581; Pub. L. 101-474, § 5(e), Oct. 30, 1990, 104 Stat. 1100; Pub. L. 101-510, div. A, title XII, § 1206(e), Nov. 5, 1990, 104 Stat. 1661; Pub. L. 102-54, § 13(b)(2), June 13, 1991, 105 Stat. 274; Pub. L. 103-359, title V, § 501(e), Oct. 14, 1994, 108 Stat. 3429; Pub. L. 104-201, div. A, title XI, § 1122(a)(1), Sept. 23, 1996, 110 Stat. 2687; Pub. L. 108-271, § 8(b), July 7, 2004, 118 Stat. 814; Pub. L. 110-417, [div. A], title IX,