

PPQ & NAAE Green Book Agreement Part V

Brought to you by:

APHIS LABOR RELATIONS
and EMPLOYEE RELATIONS

The PPO & NAAE Green Book Agreement

This presentation will cover the following Articles:

Article 15. Notice to Employees

Article 23. Employee Conduct and Discipline

Article 24. Adverse Actions

Article 25. Investigative Examinations

Article 26. Probationary Employees

Article 35. Personnel Records

Article 39. Actions Based Upon Unacceptable Performance

Article 41. Within-Grade Increases (WGI)

The PPO & NAAE Green Book Agreement

Article 15. Notice to Employees

Section 1. Written Notice to the Union

1. Two copies provided to employee
2. One copy may be provided to NAAE by employee
3. Actions covered

Section 2. Changes in Personnel Practices

1. Copies of changes sent to each employee
2. Changes posted electronically

The PPO & NAAE Green Book Agreement

Section 3. Notice of Representation

1. Union exclusive representative

Section 4. Information with the National Contract

1. Employer's distribution to new employees
2. Union's distributions to new employees

The PPO & NAAE Green Book Agreement

Section 5. Payroll Statement

1. Bi-weekly paper payroll statement
2. Electronically/Hard Copy

Section 6. Worker's Compensation

1. Form availability
2. Reasonable assistance

The PPO & NAAE Green Book Agreement

Section 7. Code of Conduct

1. Advisement of code of Conduct and Employee Responsibilities

Section 8. Strikes

1. No right to strike against U.S. Government
2. Union assistance

Section 9. Privacy Act

1. Privacy Act requirements

The PPO & NAAE Green Book Agreement

Article 23. Employee Conduct and Discipline

Section 1. General Provisions

1. Disciplinary Action Defined
2. Letters of Caution/Warning/Equivalent
 - a. Retention period
 - b. Rebuttal letter
3. Cause to Promote Efficiency of Service
4. Right to Union Representation
 - a. Reasonable belief; and, employee requests representation

The PPO & NAAE Green Book Agreement

Section 1. General Provisions cont.

5. Provision of Evidence File
6. Discipline Appropriate to Offense
7. Extension of Response Time Limits
8. Reasonable Time
 - a. Orientation

The PPO & NAAE Green Book Agreement

Section 2. Procedures

1. Suspension Proposals for 14 Days or Less

a. Proposal Actions

i. Provision to employee

ii. Information contained in Proposal

Notice

b. Employee Response

The PPO & NAAE Green Book Agreement

Section 3. Decision Making Factors

1. Cause to Promote Efficiency of the Service
2. Aggravating/Mitigating → Douglas Factors

Section 4. Grievance Rights

1. Article 16. Grievance Procedures

Section 5. Off-Duty Conduct

1. Statement of Nexus

The PPO & NAAE Green Book Agreement

Section 6. Service on Union

1. Advance notification
2. Representation at formal discussions
 - a. Dissemination vs. Discussion & Examination

Section 7. Purging Files

1. Purge of Letters of Caution & Reprimands
2. Article 35. Personnel Records
3. Reference in future personnel actions

The PPO & NAAE Green Book Agreement

Article 24. Adverse Actions

Section 1. General Provisions

1. Adverse Action Defined
2. Right to Union Representation
 - a. Reasonable belief; and, employee requests representation
3. _P Provision of Evidence File
4. Extension/Waiver of Time Limits

The PPO & NAAE Green Book Agreement

Section 2. Procedures

1. 30 Days Advance Written Notice
2. Official Time for Oral/Written Response
3. Decision Notice to Employee
4. Sanitized Decision Notice to Union
5. Grievance Procedures
 - a. Article 16. Grievance Procedures
6. Arbitration
 - a. Burden of Proof

The PPO & NAAE Green Book Agreement

Section 3. Decision Making Factors

1. Aggravating/Mitigating → Douglas Factors

Section 4. Off-Duty Misconduct

1. Statement of Nexus

Section 5. Service on Union

1. Advance Notification
2. Representation at Formal Discussions
 - a. Dissemination vs. Discussion & Examination

The PPO & NAAE Green Book Agreement

Article 25. Investigative Examinations

Section 1. Notice of Nature of Interview

1. Employer's Right
2. Employee's Right
 - a. General Nature of Investigation
 - b. Formal Interview Notification (document)

The PPO & NAAE Green Book Agreement

Section 1. Notice of Nature of Interview cont.

c. Right to Union Representation (“Weingarten Rights”)

i. Reasonable belief; and, employee requests representation

d. Upon Request for Union Representation

i. Three options

The PPO & NAAE Green Book Agreement

Section 2. Employee Role

1. Employer's Obligation to Inform
 - a. Disclosure of Information
 - b. Requirement to Provide Information
 - c. Failure/Refusal to Answer
 - d. False/Misleading Answers

The PPO & NAAE Green Book Agreement

Section 3. Union Role

1. Role of Representative
 - a. Inclusions
 - b. Exclusions

Section 4. Record of Interview

1. No Electronic Voice Recording/Media
2. Written Notes

The PPO & NAAE Green Book Agreement

Section 5. When Interviews May Be Conducted

1. During Duty Hours
2. At Employee's Work Unit
3. Extenuating Circumstances

Section 6. Employee As Primary Information Source

1. Gathering of all Reasonable and Necessary Information
2. Privacy Act

The PPO & NAAE Green Book Agreement

Section 7. Notification

1. Annual Weingarten Notification
2. Training of AICB Investigators
3. New Employee Orientation Program
4. APHIS Labor Relations Webpage
5. LR Supervisory Training Curriculum

Section 8. Criminal Investigations

1. Conducted within Applicable Laws
2. Rights Provided at Interview/Investigation



INVESTIGATIVE EXAMINATION NOTIFICATION

As a bargaining unit employee represented by a labor organization, you have the right to request representation by the labor organization (i.e. Union) at any investigative examination interview where you reasonably believe the examination may result in disciplinary action being taken against you. You may make this request at any time prior to or during the interview. If requested, the agency may opt to: suspend questioning and grant your request then resume the interview; discontinue the interview; or offer you the choice to proceed with the interview without a Union representative, or to forego the interview.

You may inquire if you are the subject of the investigation. You will receive an answer. If you are not the subject of the investigation, you may still be held responsible for any false statements you make or for any violation of the U.S. Department of Agriculture or APHIS Code of Conduct that you admit and for which you have not been granted immunity. Therefore, if at any time during the interview you reasonably believe you may be subjected to discipline as a result of your statements, you may request representation by the labor organization.

Signature of Employee

Date

The PPO & NAAE Green Book Agreement

Article 26. Probationary Employees

Section 1. Probationary Period

1. Probationary Period NTE 1 Year
2. Utilization of Probationary Period
3. Termination During Probationary Period
 - a. Must be effected prior to completion of 1 year

The PPO & NAAE Green Book Agreement

Section 2. Employee/Supervisory Obligations

1. Employer Expectations
2. Performance/Conduct Clarification/Counseling
3. Monitoring and Evaluation of Performance/Conduct

Section 3. Termination

1. Failure to Demonstrate Acceptable Performance/Conduct
2. Written Notification (Post-Appointment)

The PPO & NAAE Green Book Agreement

Section 3. Termination cont.

3. Pre-Appointment

- a. Written Proposal Notice
- b. Reasonable Response Period
- c. Written Decision Notice
- d. Meeting with Designated Management Official

Section 4. Appeal Rights

1. Appeal to Merit Systems Protection Board (MSPB)

The PPO & NAAE Green Book Agreement

Article 35. Personnel Records

Section 1. Content of Personnel Folders

- a. Authorized Information (OPF)
- b. Letter of Reprimands – Removal no later than 18
- c. Letter of Caution (or similar) – Removal no later than 9 months

The PPO & NAAE Green Book Agreement

Section 2. Access to Personnel Records

1. Access to OPF
2. Access to Evidence Files
3. Copies/Opportunity to Copy
4. Reasonable Amount of Time
5. Written/Electronic Requests
6. Location/Time of OPF/Personnel Folder Review
7. Written Explanation of Denial
8. Adverse Information in OPF
 - a. Inclusion of Employee's Rebuttal

The PPO & NAAE Green Book Agreement

Section 3. Protection of Personnel Records

1. Authorized Personnel
2. Privacy Act

Section 4. Notice of Supervisor Records

1. Use of Supervisory Records, Notes, Diaries
2. Employee Notification
3. Employee's Written Response

The PPO & NAAE Green Book Agreement

Section 5. Local Personnel Records

1. Confidential/Secure
2. Accessibility (Section 3)

Section 6. Prohibited Information

1. Records Pertaining to Employee's Protected Status

The PPO & NAAE Green Book Agreement

Article 39. Actions Based Upon Unacceptable Performance

Section 1. General Provisions

1. Reduction-in-Grade/Removal for Unacceptable Performance
2. Nexus
3. Request/Accept Offer of Lower Grade
4. Initiation/Extension of PIP

The PPO & NAAE Green Book Agreement

Section 2. Notice to Employee

1. Reduction-in-Grade or Removal

- a. Advance Notice
- b. Specific Instances
- c. Critical Elements/Performance Standards
- d. Reasonable Time
- e. Right to Union Representation

i. Reasonable belief; and, employee requests representation.

- f. Written Decision

The PPO & NAAE Green Book Agreement

Section 3. Notice to Union

Section 4. Procedures

1. Reasonable Time
2. Employee Response
3. Consideration by Deciding Official

Section 5. Extension of Time

1. Granting of Reasonable Extensions

The PPO & NAAE Green Book Agreement

Section 6. The Agency Decision

1. Reasonable Period of Time
2. Basis for Reduction-in-Grade or Removal

Section 7. Appeal Rights

1. MSPB Appeal
2. Grievance Procedures
3. Union Representation

The PPO & NAAE Green Book Agreement

Article 41. Within-Grade Increases (WGI)

Section 1. General Provisions

1. Applicability
2. Granting of WGI
3. Denial of WGI

The PPO & NAAE Green Book Agreement

Section 2. Procedures

1. Acceptable Level of Competence
2. Use of Last Rating of Record
3. Advance Notice to Employee (PIP)
4. Denial of WGI

Section 3. Effective Date

1. Acceptable Level of Competence
2. Negative Level of Competence
3. Untimely(Back-pay)

The PPO & NAAE Green Book Agreement

Section 4. Procedures Following Withholding

1. Determination of Performance Level
 - a. 90 Days after original WGI due date
2. Granting of WGI

Section 5. Appeals

1. MSPB Appeal*
2. Article 16. Grievance Procedures

The PPO & NAAE Green Book Agreement

Section 6. Limitations on Use

1. Performance vs. Misconduct

Section 7. Notice to Union

1. Written Notice Withholding WGI
 - a. 2 Copies of Notice
 - b. "This copy may at your option be furnished to NAAE Representative."

The PPO & NAAE Green Book Agreement

This presentation covered the following Articles:

Article 15. Notice to Employees

Article 23. Employee Conduct and Discipline

Article 24. Adverse Actions

Article 25. Investigative Examinations

Article 26. Probationary Employees

Article 35. Personnel Records

Article 39. Actions Based Upon Unacceptable Performance

Article 41. Within-Grade Increases (WGI)

Questions?

The PPO & NAAE Green Book Agreement

APHIS LABOR RELATIONS:

- Peter Brownell, LR Specialist (970) 203-4476
- Ron Dale, LR Specialist (970) 219-3300
- Frank King, LR Specialist (540) 775 2557
- Robi Maple, LR Specialist (803) 396-9150

http://inside.aphis.usda.gov/mrpbs/labor_relations.shtml