



U.S. Immigration  
and Customs  
Enforcement

DEC 3 2004

MEMORANDUM TO ALL MANAGERS AND SUPERVISORS  
OFFICE OF INVESTIGATIONS

FROM:

Marcy M. Forman  
Director  
Office of Investigations

A handwritten signature in black ink, appearing to read "Marcy M. Forman".

SUBJECT:

Review of Prohibited Personnel Practices and Merit System Principles

The Office of Investigations is a young organization with a substantial number of recent promotions into key supervisory and managerial positions. Some new supervisors and managers may not have yet had an opportunity to attend mandatory supervisory training. I have recently had an opportunity to review these issues and wanted to ensure we all understand the importance of adhering to appropriate personnel practices and merit system principles. Please review and implement the following guidance.

**A. Prohibited Personnel Practices:**

Prohibited personnel practices are those actions a Federal employee with personnel authority may *not* do. Federal employees have personnel authority if they can take, direct others to take, recommend, or approve any personnel action. This includes appointments, promotions, discipline, details, transfers, reassignments, reinstatements, or any decisions concerning pay, benefits, training, and any decision to order psychiatric testing or examination. A personnel action now also includes any significant change in duties, responsibilities, or working conditions which is inconsistent with the employees salary or grade. People with personnel authority -- managers and supervisors - are charged with avoiding prohibited personnel practices. The rules governing prohibited personnel practices are as follows:

1. Don't DISCRIMINATE on the basis of race, color, religion, sex, national origin, age, handicapping condition, marital status, or political affiliation.
2. Don't SOLICIT or CONSIDER any personnel recommendation or statement not based on personal knowledge or records of performance, ability, aptitude, general qualifications, character, loyalty, or suitability.
3. Don't COERCE an employee's political activity.

4. Don't DECEIVE or OBSTRUCT any person with respect to such person's right to compete for employment.
5. Don't INFLUENCE a person to withdraw from competition for the purpose of improving or injuring the prospects of another person for employment.
6. Don't GRANT any preference or advantage not authorized by law, regulation, or rule to any [employee or applicant for the purpose of improving or injuring the prospects of another person for employment].
7. Don't ENGAGE in nepotism (*i.e.*, hire, promote, or advocate the hiring or promotion of relatives).
8. Don't RETALIATE against a Whistleblower, whether an employee or an applicant.
9. Don't RETALIATE against employees or applicants who exercise their appeal rights, testify, or cooperate with an Inspector General or the Special Counsel, or refuse to break the law.
10. Don't DISCRIMINATE based on actions not adversely affecting performance.
11. Don't VIOLATE any law, rule, or regulation implementing or directly concerning the merit principles.
12. Don't VIOLATE Veteran's Preference by taking or failure to take a personnel action. (National Defense Authorization Act for FY97).

#### **B. Merit Promotion Principles:**

Personnel management is based on and embodies Merit System Principles. These principles support the public's expectations of a system that is efficient, effective, fair, open to all, free from political interference, and staffed by honest, competent, and dedicated employees. As the Office of Investigations experiences continued change in the management of human resources, it becomes increasingly important that supervisors and managers incorporate the merit system principles into every decision process they use.

The Merit System Principles are:

1. Recruit qualified individuals from all segments of society and select and advance employees on the basis of merit after fair and open competition which assures that all receive equal opportunity.
2. Treat employees and applicants fairly and equitably, without regard to political affiliation, race, color, religion, national origin, sex, marital status, age, or handicapping condition, and with proper regard for their privacy and constitutional rights.
3. Provide equal pay for equal work and recognize excellent performance.
4. Maintain high standards of integrity, conduct, and concern for the public interest.

5. Manage employees efficiently and effectively.
6. Retain and separate employees on the basis of their performance.
7. Educate and train employees when it will result in better organizational or individual performance.
8. Protect employees from arbitrary action, personal favoritism, or coercion for partisan political purposes.
9. Protect employees against reprisal for the lawful disclosure of information in "whistleblower" situations (i.e., protecting people who report things like illegal and/or wasteful activities).

To maintain the integrity of our internal human resources processes, it is very important that all Office of Investigations managers and supervisors be aware of, and adhere to, the spirit and guidance provided by the above prohibited personnel practices and the merit promotion principles.

If you have questions or require further information on this issue, visit

(b) (7)(E) or contact your Workforce Management specialist for assistance.