

August 3, 2006

Eva Donaldson  
President  
AFGE, Local 0709  
Littleton, CO 80123

Dear Ms. Donaldson:

I have reviewed your grievance filed on July 6, 2006, which alleges violations of the Master Agreement, Articles 6, sections a, b, Article 7, sections b, 17, 31, (d) and 36; Title 5 U.S.C., 7116 (a) (1) (4) (5) (8), 29 C.F.R., section 1614; the Back Pay Act; 5. U.S. C. 5596, and Program Statement 3000.02, Human Resource Manual, Performance Evaluation System bargaining unit.

You oppose the overall performance evaluation rating issued to Mr. Molina on May 25, 2006. You contend Mr. Molina was not afforded his rights as his 2006 annual performance evaluation was issued late and he did not receive his 6 month progress review. As a result of not receiving his 6 month progress review, Mr. Molina was not given fair notice to improve his overall performance. In addition, you contend the performance log entries were vague and did not adequately reflect the things that Mr. Molina did during the course of the year.

Your grievance is rejected for timeliness. Article 31, Section d states, "Grievances must be filed within forty (40) calendar days of the date of the alleged violation." In block 7 of the grievance you state the date of violation as May 1, 2005 to present. Mr. Molina's alleged violation occurred on May 25, 2006, when he signed Block G, Final Discussion on his 2006 Employee Performance Appraisal Form. Furthermore, the 6 month progress review is due half-way through a performance rating period. In this case, Mr. Molina's progress review was due no later than November 15, 2005. Mr. Molina has been a BOP employee for 12 years; subsequently he has received at least 11 yearly evaluations. Therefore, it is reasonable to assume he was aware of the time frames regarding the progress reviews. Your grievance was filed on July 6, 2006. To be considered timely your grievance must have been filed by July 4, 2006.

However, although this grievance is rejected, after reviewing Mr. Molina's 2005/06 performance file, it is determined the supervisor did not issue any log entries nor the progress review, which is required by policy. Subsequently, Mr. Molina's annual performance evaluation for the 2005/06

Page 2

rating period will be upgraded to an Outstanding overall rating. In addition, as policy dictates an Outstanding rating must be recommended an award, the rating official will nominate Mr. Molina for an award as a result of the Outstanding overall rating.

I hope this clarifies the issues and addresses your concerns.

Sincerely,

W. A. Sherrod  
Warden