

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. Zuniga on May 25, 2006. You contend Mr. Zuniga 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. Zuniga 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. Zuniga 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. Zuniga'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. Zuniga's progress review was due no later than November 15, 2005. Mr. Zuniga has been a BOP employee for 15 years; subsequently he has received at least 14 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 3, 2006.

However, although this grievance is rejected, after reviewing Mr. Zuniga'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. Zuniga's annual performance evaluation for the 2005/06

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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. Zuniga 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