



United States Department of Agriculture

Departmental
Management

December 9, 2020

Office of the
Assistant Secretary
for Administration

TO: Victoria C. Christiansen, Chief
U.S. Forest Service

Office of Human
Resources
Management

FROM: Daniel M. Kline, Branch Chief/*Daniel M. Kline*
Labor Relations and Litigation Division
Office of Human Resources Management

1400 Independence
Avenue, SW
Washington, DC
20250

SUBJECT: Agency Head Review of the Memorandum of Understanding (MOU) between the USDA U.S. Forest Service and the National Federation of Federal Employees (NFFE) Forest Service Council regarding Implementation of the USDA Decision to Rescind its Table of Penalties

On behalf of the Secretary of Agriculture and in accordance with 5 U.S.C. § 7114(c), the Department has conducted an Agency Head Review of the subject MOU, executed on December 7, 2020. After review of the negotiated provisions, the Department finds them to be consistent with applicable law, rule, and regulation; therefore, the MOU submitted by the parties for Agency Head Review is approved. The MOU shall have the effective date of this memorandum.

Enclosure

cc: Mary Pletcher-Rice, OHRM
Claudette Fernandez, FS
Malcom A. Shorter, FS
Susan L. Cranmore, FS
Mark D. Green, FS
Nikki D. Wojcik, FS
Kristopher A. Cahoon, FS
Kenneth B. Dinsmore, NFFE

CERTIFICATE OF SERVICE

I hereby certify that a copy of the Agency Head Review was served on this day, December 9, 2020, to the U.S. Forest Service and NFFE Forest Service Council (FSC) regarding Implementation of the USDA Decision to Rescind its Table of Penalties:

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Rescission of Table of Penalties

MEMORANDUM of UNDERSTANDING

This MEMORANDUM OF UNDERSTANDING (MOU) is between the United States Department of Agriculture, Forest Service (Management), and the National Federation of Federal Employees, Forest Service Council (Union), hereafter referred to collectively as “the Parties.” This MOU is a Supplemental Agreement under Article 11 of the 2019 Master Agreement between the Parties, and it documents the Parties’ full and final agreement on the procedures and appropriate arrangements to apply to the Agency’s implementation of the USDA decision to rescind its Table of Penalties found in Appendix A of Chapter 751 of the Basic Department Personnel Manual.

The Parties agree:

1. The 2019 Master Agreement does not currently mandate that the Agency consider the Table of Penalties, as confirmed in the language within Article 22.6.a. The Table of Penalties was historically only one of many factors that guided management in determining the appropriate penalty in a disciplinary action. The rescission of the Table of Penalties does not impact Management’s commitment to evaluate all other relevant factors as agreed to in Article 22.2, Article 22.3, and as clarified in the Annotations to Article 22.
2. Management will issue an agency-wide memorandum within 45 days of Agency Head approval of this MOU notifying all employees of the rescission of the USDA Table of Penalties and identify the factors supervisors consider when determining appropriate penalties for disciplinary actions. The factors still include an assessment of the consistency of the penalty with those imposed upon other employees for the same or similar offenses (as required by both the Just Cause Standard and the Douglas Factors analysis).
3. This MOU becomes effective on the date of final approval by the Agency Head, or that date on which the thirty (30) day time limit for Agency Head review expires, whichever is earlier. Either Party may request, consistent with Article 11 of the Master Agreement, to reopen or renegotiate this Agreement. This MOU and its terms will remain in effect until such time as either party elects to renegotiate its terms, or a regulation, rule, policy or new Master Agreement language render it null.

SUSAN
CRANMORE

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Date: 2020.12.07 17:20:54
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Susan Cranmore
Assistant Director, Employee and Labor Relations

KENNETH
DINSMORE

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KENNETH DINSMORE
Date: 2020.12.07 15:11:18
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Ken Dinsmore
Acting Chair, NFFE-FSC Negotiations Committee