

## § 432.103

## 5 CFR Ch. I (1–1–02 Edition)

current continuous employment in the same or similar positions under other than a temporary appointment limited to 1 year or less;

(3) An employee in the excepted service who has not completed 1 year of current continuous employment in the same or similar positions;

(4) An employee outside the United States who is paid in accordance with local native prevailing wage rates for the area in which employed;

(5) An individual in the Foreign Service of the United States;

(6) An employee who holds a position with the Veterans Health Administration which has been excluded from the competitive service by or under a provision of title 38, United States Code, unless such employee was appointed to such a position under section 7401(3) of title 38;

(7) An administrative law judge appointed under 5 U.S.C. 3105;

(8) An individual in the Senior Executive Service;

(9) An individual appointed by the President;

(10) An employee occupying a position in Schedule C as authorized under part 213 of this chapter;

(11) A reemployed annuitant;

(12) A technician in the National Guard described in 5 U.S.C. 8337(h)(1), employed under section 709(b) of title 32;

(13) An individual occupying a position in the excepted service for which employment is not reasonably expected to exceed 120 calendar days in a consecutive 12 month period; and

(14) A manager or supervisor returned to his or her previously held grade pursuant to 5 U.S.C. 3321 (a)(2) and (b).

[54 FR 26179, June 21, 1989, as amended at 57 FR 10125, Mar. 24, 1992; 57 FR 20042, May 11, 1992; 58 FR 13192, Mar. 10, 1993; 58 FR 65533, Dec. 15, 1993]

### § 432.103 Definitions.

For the purpose of this part—

(a) *Acceptable performance* means performance that meets an employee's performance requirement(s) or standard(s) at a level of performance above "unacceptable" in the critical element(s) at issue.

(b) *Critical element* means a work assignment or responsibility of such importance that unacceptable performance on the element would result in a determination that an employee's overall performance is unacceptable.

(c) *Current continuous employment* means a period of employment or service immediately preceding an action under this part in the same or similar positions without a break in Federal civilian employment of a workday.

(d) *Opportunity to demonstrate acceptable performance* means a reasonable chance for the employee whose performance has been determined to be unacceptable in one or more critical elements to demonstrate acceptable performance in the critical element(s) at issue.

(e) *Reduction in grade* means the involuntary assignment of an employee to a position at a lower classification or job grading level.

(f) *Removal* means the involuntary separation of an employee from employment with an agency.

(g) *Similar positions* mean positions in which the duties performed are similar in nature and character and require substantially the same or similar qualifications, so that the incumbents could be interchanged without significant training or undue interruption to the work.

(h) *Unacceptable performance* means performance of an employee that fails to meet established performance standards in one or more critical elements of such employee's position.

[54 FR 26179, June 21, 1989, as amended at 54 FR 49076, Nov. 29, 1989; 55 FR 25950, June 26, 1990; 57 FR 23045, June 1, 1992; 57 FR 60717, Dec. 22, 1992; 58 FR 65534, Dec. 15, 1993; 60 FR 43946, Aug. 23, 1995]

### § 432.104 Addressing unacceptable performance.

At any time during the performance appraisal cycle that an employee's performance is determined to be unacceptable in one or more critical elements, the agency shall notify the employee of the critical element(s) for which performance is unacceptable and inform the employee of the performance requirement(s) or standard(s) that must