

## Overview of the Performance Rating Review Process

The purpose of this document is to provide general information on the District government's performance rating review process. This process has been revised and its provisions may be found in the District Personnel Manual (DPM)'s Chapter 14, "Performance Management", section 1415, "Employees Request for Review." Responsibility for the performance rating review process has been delegated to agencies subject to the Mayor's personnel authority. The committee responsible for the review process, the Reconsideration and Resolution Committee (RRC), is to be established by and located at the individual agency level. Independent agencies may establish their own performance rating review process.

Employees eligible for a review of their overall performance rating are consistent with employees covered under the District Personnel Manual's Chapter 14, "Performance Management, which may be found at : <http://www.dchr.dc.gov/dcop/cwp/view,a,1218,q,529231.asp>. **Exclusions** are Career Service probationary employees and the Office of the Attorney General's Senior Executive Service attorneys. All rating appeal procedures for Metropolitan Police Department (MPD) employees will follow the procedures established by the MPD.

An employee who receives an overall performance rating of "Inadequate Performer" (Level 1) or "Marginal Performer" (Level 2) may be eligible for a formal review hearing of the rating received. Employees who receive an overall performance rating at the level of "Valued Performer" (Level 3) or "Highly Effective Performer" (Level 4) may only be eligible for a "paper review" of the case materials submitted to the RRC. The performance rating received for the current performance management period, and not prior years, will be eligible for review by the committee. In addition, the official performance rating received is eligible for review and reconsideration by the RRC, and not the SMART goals' content, timeliness of the performance management process, and any other similar objections to the rating process.

A formal review hearing may consist of representation for both parties, witnesses and testimony presented, cross-examination of parties, and a panel decision made based on the information provided as a result of the hearing and the case materials. Performance rating reviews of the Valued Performer and Highly Effective Performer will be based on a "paper review" of the case materials submitted to the Reconsideration and Resolution Committee (RRC) by the employee and the agency supervisor.

### **Confidentiality and Burden of Proof**

All matters pertaining to the performance rating review process are confidential and participants (i.e. the committee, appellant, agency staff, witnesses, representatives) may be required to sign a confidentiality statement. The burden of proof rests with the employee to establish by a preponderance of the evidence presented that he/she is entitled to the performance rating requested.

### **Completing the Request for Review Form**

The employee must provide the following information on the Request for Review form, which may be accessed at this link:

<http://www.dchr.dc.gov/dcop/cwp/view,a,1220,q,644794.asp>

- The rating assigned and the rating desired;
- A copy of the performance evaluation document, and the date of the year-end discussion held with the supervisor;
- Documentation in support of the request;
- Organizational location (department, division, unit) and office telephone number;
- Position and grade;
- Signature of employee and date;
- Reason for requesting a rating review.

### **Procedures and Timeframes (Dates are based on calendar days)**

Note: During this first year of implementation of revised performance rating review procedures, the ten-day period for employee submission of the Request for Review form, as outlined in #1 below, will be waived. In addition, other time frames may be waived. Any related waivers will be addressed in DPM Instructions, Bulletins, and/or Variances published by the D.C. Department of Human Resources.

#### **Formal Hearing Timelines**

(For receipt of a rating of Inadequate or Marginal Performer)

1. Within ten (10) days of participating in a performance rating year-end discussion with the supervisor, the employee submits the Request for Review of the performance rating to the RRC Chairperson or other designated person.
2. The RRC Chairperson reviews the Request for Review and makes a decision within 14 days to: deny the request on the basis of technical grounds (procedural or regulatory violation) or forward the request to the RRC for review and disposition.
3. RRC chairperson has 10 days to schedule a review hearing date and notify both supervisor and employee.
4. The agency supervisor and employee must submit supporting documentation and materials to the Committee chairperson 5 days before the scheduled hearing date.

#### **Paper Review Timelines**

(For receipt of a rating of valued Performer or Highly Effective Performer)

1. Within ten (10) days of participating in a performance rating year-end discussion with the supervisor, the employee submits the Request for Review of the performance rating to the RRC Chairperson or other designated person.

2. The RRC Chairperson reviews the Request for Review and makes a decision within 14 days to: deny the request on the basis of technical grounds (procedural or regulatory violation) or forward the request to the RRC for review and disposition.
3. RRC chairperson convenes a panel to conduct the paper review within 14 days of receipt of the request from the RRC Coordinator.
4. The agency supervisor and employee must submit supporting documentation and materials to the Committee chairperson 5 days before the scheduled paper review date.

### **Representative**

The employee shall designate a representative, if any, before the hearing. The agency must have a representative. The employee and agency supervisor must provide the name, address and telephone number of the representative to the RRC and to each party within three (3) calendar days of receipt of the notice of the scheduled hearing/review date. Any subsequent changes in representation shall be made known to the RRC committee chairperson as soon as possible before the date of the hearing. The RRC is responsible for deciding on any objections to representatives.

An employee may choose any person as a representative. The agency, however, may challenge the representative on the grounds of conflict of interest or conflict of position. This challenge must be made in writing to the RRC Committee within two (2) calendar days after receipt of the designated representative. In the event the selected representative is disqualified, the employee shall be given adequate time to obtain another representative.

### **Witnesses**

Witnesses are the sole responsibility of the employee or agency. Both parties must provide the RRC and the other party a copy of the witness list, a written statement of what each witness will testify to, and the expected length of testimony within three calendar (3) days of receipt of the scheduled hearing/review date notice. Any party's challenge to the witness list must be made known to the RRC within five (5) days of receipt of the scheduled hearing/review date notice. The RRC is responsible for deciding on any objections to witnesses.

During the hearing, witnesses should be identified by name, title, and where necessary, credentials and qualifications to speak as an expert. They may be allowed to present testimony in their own format or by the direct questioning of the representatives or the panel.

The following are the procedural steps that occur during the RRC formal hearing.

<b>Action</b>	<b>Responsible Party</b>
Opening State	Both parties
Employee presents	By employee
Employee Witnesses	By witness
Direct Questioning	By employee representative
Cross Examination	By other party
Agency presents	By agency representative
Agency Witnesses	By witness
Direct Questioning	By agency representative
Cross Examination	By other party

Pursuant to section 603 (a) of the CMPA (D.C. Official Code § 1-606.03 (a)), an employee may appeal a final agency decision affecting a performance rating which results in removal of the employee with the Office of Employee Appeals.