

Performance Rating Review/ Reconsideration and Resolution Committee FAQ's

1. What is the RRC?

The RRC is the Reconsideration and Resolution Committee responsible for the review and disposition of performance rating reviews held at the agency level. The RRC replaces the D.C. Performance Rating Impartial Review Committee (IRC).

2. Who may file a rating review request?

Employees eligible for a review of their performance rating are the employees covered under the District Personnel Manual's Chapter 14, "Performance Management", which may be accessed at: <http://dchr.dc.gov/dcop/cwp/view,a.1218,q.529217.asp>. Exclusions are Career Service probationary employees and the Office of the Attorney General's Senior Executive Service attorneys. Rating review procedures of Metropolitan Police Department (MPD) employees will follow the procedures established by the MPD.

3. What rating levels are eligible for review by the RRC?

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 a rating at the level of "Valued Performer" (level 3) and "Highly Effective Performer" (Level 4) may be eligible for a "paper review" of the case materials submitted to the RRC.

4. Can an employee request that the RRC review a previous year's performance rating?

Only the performance rating received for the current performance evaluation period, and not prior years, will be eligible for review by the committee.

5. Can an employee request that the RRC review one comment in the performance evaluation?

The official overall performance evaluation rating received may be submitted and be eligible for review by the RRC and not the performance rating justification, SMART goals content, timeliness of the performance management process, and any other similar objections.

6. What is the timeframe for filing a review request to the RRC?

According to the DPM Chapter 14, "Performance Management", the employee submits the Request for Review form to the RRC within ten (10) calendar days of participating in the performance rating year-end discussion with the supervisor. During the first year of revised performance rating review procedures, a Variance to allow for a waiver to this 10 day deadline will be published. Agencies will be notified of the waiver provisions.

7. Where can I get the Request for Review form for this process?

The Request for Review form is available on the DCHR website at this link: <http://www.dchr.dc.gov/dcop/cwp/view,a.1220,q.644794.asp>

8. Who makes the final decision on the employee's rating when a review is held?

The panel chairperson will ensure that the panel completes a Final Decision, which includes the committee's overall performance rating recommendation. Agencies, however, may exercise discretion in designating the final reviewer (i.e. decision-maker) of RRC case decisions. In controversial and/or cases which involve receipt of a rating of Level 1, "Inadequate Performer", it is recommended that the agency general counsel or attorney advisor review the final decision.

9. Can the panel downgrade an employee's rating?

The panel cannot decrease the rating.

10. How is it handled if an agency is small and everyone knows most, if not all, employees? Is there any assurance that the panel will be impartial?

Agencies have been made aware of the need to have a committee that is objective, maintains confidentiality, and has the necessary skills to conduct the performance rating review process. In addition, we are considering having small agencies "partner" with other agencies so that they can have their cases reviewed by another agency's committee.

11. Are the review/hearing proceedings confidential?

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

12. May an objection be raised during the proceedings?

A party may raise an objection to evidence (which is testimony or documentary). The chairperson can rule on the objection by either sustaining or overruling the objection. The IRC chairperson may prohibit testimony and/or exclude written evidence that is redundant or irrelevant.

13. Is the employee required to have a hearing if he/she files an appeal?

A hearing is not required. The party may choose to have his/her case decided based on a review of the record even if the performance rating level qualifies for a formal hearing. If the employee does not request a hearing, but the Committee determines a hearing is necessary, a hearing shall be held.

14. Can a party request a postponement or continuance of the hearing?

Either party may request a postponement or continuance of the proceedings. The panel chairperson will make a decision based on substantive reasons and circumstances.

15. How is the employee notified of the review outcome?

The RRC committee, or designee, will provide a copy of the RRC's Final Decision, which is a document of the review, including procedural history, facts, analysis and conclusion, to the employee and agency representative.

16. Can the employee witness also represent the employee?

Witnesses shall not be present other than for purposes of testifying. At the employee's discretion, the witness may serve as representative or witness, **but not both**.

17. May witnesses be subpoenaed?

The RRC does not have the authority to subpoena witnesses.

18. Are the agency and employee required to have a representative?

The agency must have a representative.

19. Can the employee's supervisor represent the agency?

Normally the supervisor assumes the role of witness since it is presumed that the supervisor has knowledge of and can answer questions regarding the case. An administrative person, preferably familiar with or knowledgeable of agency and human resources policies, should represent the agency.

20. What are the subject areas in which a witness may participate?

Witnesses are called upon to provide evidence relative to the case.

21. Do the involved parties have to present a witness or witnesses at the hearing?

Neither party is required to present witnesses at the hearing.

22. What happens if the witnesses cannot/do not appear at the proceedings?

The party may elect to proceed with the hearing without the witness(es). Parties may also request a continuance of a hearing, which will be considered by the panel. If requested before the RRC proceedings, the request must be in writing and set forth substantive reasons for a continuance.

23. Are the witnesses called in to the hearing one at a time?

Witnesses are not allowed to sit in and listen to the proceedings. They will be called in.

24. What prohibits a witness from participating?

The Chairperson may not allow a witness to testify if the Chairperson determines that the proposed witness' testimony will not assist the RRC panel in finding that something in particular was more or less likely or more probable or less probable to have occurred.

25. What is the definition of evidence?

Evidence is any relevant information submitted to a person who must decide on the truth of the matter in a contested issue and may be testimonial or documentary. The RRC has the discretion to admit only that evidence which bears a significant relationship to the matters in dispute. The RRC panel may exclude evidence from the record if it is incompetent, irrelevant, immaterial, or unduly repetitious.

26. What is the difference in testimonial and documentary evidence?

Testimonial evidence is oral evidence given under oath or affirmation. Documentary evidence is evidence in written form.

27. Is there a specific amount of time afforded to the agency and to the employee to present their case?

The RRC Chairperson will use his/her discretion in setting time limits to ensure that the proceedings move along in a reasonable time frame.

28. What happens during the formal hearing?

Both parties will be given the opportunity to present the case, give their reason(s) for: sustaining the rating (agency) or increasing the rating (employee), and present witnesses who support the party's position. Afterwards, the panel will prepare a Final Decision, which, after review, will be presented to the employee and the agency.

29. What happens during the panel paper review?

Both parties will be given a chance to present any supporting documentation. The panel will review the materials and if necessary, ask for follow-up or additional information. Neither party is present when the panel reviews the supporting materials and discusses the case. Afterwards, the panel will prepare a Final Decision, which will be presented to the employee and the agency supervisor.