

EXECUTIVE ORDER



DISTRICT OF COLUMBIA

Subject: Performance Rating Appeals
Number EO-19-007
Effective Date October 29, 2019
Related To: GO-PER-201.20 [Performance Management System (PMS) for Sworn Members in the Rank/Position of Civil Service Sergeant, Investigative Personnel and Officer] Title 6B, DCMR, Chapter 14 (Performance Management)
Rescinds: SO-17-07 (Performance Rating Appeals), Effective Date October 18, 2017

The performance evaluation process is guided by GO-PER-201.20 [Performance Management System (PMS) for Sworn Members in the Rank/Position of Civil Service Sergeant, Investigative Personnel and Officer] and Title 6B DCMR Chapter 14 (Performance Management). It is the policy of the Metropolitan Police Department (MPD) to provide an appeal process for specified performance ratings. The purpose of this executive order is to provide procedures for performance rating appeals for all sworn and civilian members. To the extent that provisions in this executive order conflict with existing directives, the provisions set forth in this executive order shall prevail.

I. PERFORMANCE RATING APPEAL ELIGIBILITY

- A. Ratees maintain the right to appeal their annual performance rating by requesting an appeal to one or more performance standard ratings. Requests for appeals must be made according to the procedures set forth in this order **by January 10**. Untimely appeals will not be considered.
- B. Only the most current year-end rating may be appealed.
- C. Only the official performance rating received is eligible for review and reconsideration. Established performance expectations, the timeliness of the performance management process, and other objections to the rating process may not be appealed.
- D. The ratee has the burden of proof to establish, by a preponderance of the evidence presented, that he or she is entitled to a higher performance rating than received. Requests for appeals shall specify the reasons that each appealed rating component should be the higher requested rating. The employee may not appeal the overall performance rating without addressing the specific component ratings that constitute the overall rating.

II. APPEAL PROCEDURES

- A. Requesting a Performance Rating Appeal
 1. Members rated as a Valued/Meets Expectations or Highly Effective Performer/Exceeds Expectations may request a **paper review panel appeal**. Members rated as an Inadequate/Does Not Meet Expectations or Marginal

Performer/Needs Improvement may request either a **hearing review or a paper review panel appeal**.

2. Requests for appeals are made by submitting a memorandum requesting a review of the performance rating, **by January 10**, with all supporting documentation, through channels, to the Human Resources Management Division (HRMD). Untimely appeals will not be considered.
3. The ratee shall submit the following documentation directly to hrmd.adminbox@dc.gov with a subject line formatted as "PERFORMANCE RATING APPEAL: Element / Member Name / Member CAD #":
 - a. A memorandum requesting a review of their performance rating;
 - b. All supporting documentation; and
 - c. For ratees appealing a rating of Inadequate or Marginal Performer, whether they are requesting a paper or hearing review of their performance rating.
4. HRMD shall either forward the request to the performance rating appeal panel chairperson for review and recommendation or deny the request due to an existing procedural or regulatory violation.

B. Establishing Performance Rating Appeals Panels

1. HRMD shall establish panels comprised of the following voting members:

Performance Rating Appeals Panel
Chairperson at the sworn rank of captain or above or a civilian management supervisory service (MSS) employee, grade 14 or above
Member at least one rank or grade above that of the ratee
Member of the same rank or grade as the ratee (if the ratee is a union member, this member shall be selected by the relevant union)

2. Panel members shall not include the ratee, the rater, or the reviewer of the performance rating being appealed.
3. HRMD shall provide the names of panel members to the appellant, who shall notify HRMD in writing within **15 calendar days** of any conflict of interest. HRMD shall resolve the conflict in a timely manner and schedule the review.

C. Paper Review Panel Appeals

The panel chairperson shall convene the panel to review all paper appeals according to the following procedures.

Steps	Procedures
Step 1	The chairperson shall forward a copy of the ratee's appeal request with all supporting documentation to the rater and require the rater to submit documentation supporting the rating, including copies of the failed performance improvement plan (when applicable) and all supporting documentation.

Step 2	The rater shall provide all documentation and supporting material to the chairperson.
Step 3	The chairperson shall forward all documentation and supporting material provided by the rater to the ratee.
Step 4	The panel will review the materials, and if necessary, ask for follow-up or additional information from either party. <ul style="list-style-type: none"> • Neither party shall be present when the panel reviews the supporting materials and discusses the case. • Either party may request a postponement or continuance of the proceedings. The panel chairperson shall decide based on substantive reasons and circumstances.
Step 5	The panel shall submit its findings and recommendations directly to the Director of the HRMD. <ul style="list-style-type: none"> • The panel may recommend that the overall rating be sustained or increased.

D. Hearing Review Panel Appeals

The panel chairperson shall convene the panel to hear all appeals according to the following procedures.

Steps	Procedures
Step 1	The chairperson shall schedule a hearing date, notify both the ratee and the rater, and forward a copy of the ratee’s request and all supporting documentation to the rater. <ul style="list-style-type: none"> • Either party may request a postponement or continuance of the proceedings. The panel chairperson shall decide based on substantive reasons and circumstances.
Step 2	The ratee may have a representative of their choice at the hearing, provided that the selected representative presents no conflict of interest or conflict of position. Ratees bringing representation shall: <ul style="list-style-type: none"> • Provide the representative’s name, work address and telephone number to the chairperson and the rater. • In the event that the chairperson disqualifies the selected representative, the ratee shall be given adequate time to obtain a new representative. • Report any subsequent changes in representation to the chairperson as soon as possible before the date of the hearing.
Step 3	All documentation and supporting material shall be submitted to the chairperson. <ul style="list-style-type: none"> • The ratee and the ratee’s representative (if any) may submit evidence, documentation, and other relevant information. • The rater shall submit evidence and documentation supporting the rating.
Step 4	The chairperson shall forward all supporting material to all parties. <ul style="list-style-type: none"> • The panel may request additional evidence, documentation, and other information in order to render a decision. • All requested information must be submitted back to the chairperson.
Step 5	Either party may request a postponement or continuance of the proceedings. The chairperson shall decide based on substantive reasons and circumstances.
Step 6	The panel shall submit its findings and recommendations directly to the Director of the HRMD. <ul style="list-style-type: none"> • The panel may recommend that the overall rating be sustained, or increased.

E. Final Decision


1. Performance rating appeal panels shall submit their findings and recommendations directly to the Director of the HRMD **no later than February 21.**

2. The Reconsideration and Resolution Committee (RRC) shall render their final decision no later than **April 1**. RCC decisions are final.
3. The original RCC decision shall be filed in the ratee's official personnel folder at HRMD. The HRMD director shall ensure that copies are distributed to the ratee, the rater, and the ratee's element personnel folder.
4. Raters shall maintain documentation in support of the annual rating for three full calendar years from the date that the appeal decision was rendered.

IV. DEFINITIONS

When used in this directive, the following terms shall have the meanings designated.

	Term	Definition
1.	Performance expectations	SMART goals and competencies that describe what and how work is to be performed. Performance expectations are established by the supervisor and employee at the beginning of a review period.
2.	Reconsideration and Resolution Committee (RRC)	Group comprised of the Chief Operating Officer, who serves as the Chair, and two bureau heads appointed by the Chief of Police.



Peter Newsham
Chief of Police