

FCC Employee Performance Appraisal System Policy and Procedures

Chapter 1: General Provisions

Policy and Purpose.

This chapter implements a performance management program for employees in the excepted and competitive service that is designed to:

- a. permit the accurate evaluation of performance in a position on the basis of criteria which is related to that position and which specifies the core competencies of that position;
- b. provide for systematic appraisal of employees and emphasize feedback communication, and employee development in order to improve individual and organizational performance within the FCC;
- c. evaluate and improve individual and organizational accomplishments and;
- d. use the results of performance appraisals as a basis for adjusting base pay, training, reassigning, reducing in grade and removing employees.

Philosophy.

It is important that employees receive feedback on their performance and be given every opportunity to be successful. This appraisal program is designed to meet this objective in an environment that recognizes the interdependence of employee contributions and the importance of teamwork in fulfilling the mission of the FCC.

Legal Basis.

The statutory and regulatory requirements are contained in Chapter 43 of Title 5, U.S.C., and CFR Parts 430.

Coverage.

This chapter covers all employees in the competitive and exceptive service except for the following:

- a. Administrative Law Judges;
- b. positions filled by non-career executive assignments under 5 CFR part 305;
- c. SES positions;
- d. Supervisors, Managers, and Management Officials as defined in Subchapter 2: Definitions;
- e. positions excluded by the Telecommunications Act or Office of Personnel Management (OPM) regulation; and
- f. positions for which employment is not reasonably expected to exceed 120 days in a consecutive 12-month period.

Responsibilities.

- a. The Managing Director is responsible for providing overall direction for the administration of the Employee Performance Appraisal System (EPAS), including assessing its effective integration with other Commission programs.

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- b. The Associate Managing Director - Human Resources Management (AMD-HRM) is responsible for:
 - 1. providing day-to-day administration of the Employee Performance Appraisal System (EPAS);
 - 2. providing technical advice and assistance, as needed, to Bureau/Offices on any aspect of the program.
- c. Bureau/Office Chiefs are responsible for ensuring consistency and objectivity in the performance appraisal process.
- d. Appraising Officials, who are normally immediate supervisors, are responsible for:
 - 1. communicating written performance plans to subordinates within 30 days of the beginning of each appraisal period;
 - 2. meeting at the beginning of the rating cycle with the employee to discuss the supervisor's specific job expectations and to give substance and meaning to the employee's core competencies;
 - 3. conducting progress reviews during the appraisal period;
 - 4. appraising the performance and assigning initial ratings of subordinates;
 - 5. ensuring that all within-grade prerequisites are met before authorizing an employee's within-grade increase; and
 - 6. recommending Employee Performance Appraisal System (EPAS) performance-based personnel actions for subordinates when appropriate.

Timetable:

The performance appraisal period for EPAS employees will begin on May 1 of each year and extend through April 30 of the following year, and may be extended up to 90 calendar days in order to provide a minimum appraisal period. Appraisals are expected to be completed within 30 days of the end of the appraisal period. A formal mid-term progress review will normally be conducted in November each year.

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Chapter 2: Definitions

The Definitions

Appraisal. The process under which performance is reviewed and evaluated.

Appraisal Cycle. The specific dates that mark the beginning and ending of the appraisal cycle (May 1 – April 30).

Appraisal Period. The established period of time for which performance will be reviewed and a rating of record will be prepared (i.e., the period of time covered by an employee's appraisal).

Appraising Official. The supervisor who prepares the rating.

Element Rating. The written record of the appraisal of each core competency and the assignment of one of two rating levels.

“Pass” Rating. The performance of an employee that meets or exceeds all established standards for the fully successful level in all core competencies.

“Fail” Rating. The performance of an employee which is unacceptable in one or more core competency.

Core Competency.

A critical component of a position consisting of one or more duties and responsibilities which contribute toward accomplishing individual and organizational goals and objectives and which is of such importance that a core competency rating of “Fail” would result in an overall summary of “Fail.”

Mid-term Review.

A review of the employee's progress toward achieving the performance standards and is not in itself a rating. This review is normally held mid-way through the appraisal period (November of each year) and is not intended to replace the continuous informal assessment of an employee's performance.

Performance. An employee's accomplishment of assigned work as identified in each of the core competencies of the employee's position.

Performance Standard.

The expressed measure of the expectations or requirements established by management for a core competency at a particular rating level.

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Rating of Record.

The summary rating of Employee Performance Appraisal System (EPAS) employees that is required on April 30 each year or at the conclusion of an extended rating period if the employee has not been under EPAS standards for the minimum period of 90 days. This includes a written notice at any time that an employee's performance is unacceptable on one or more core competency.

Summary Rating.

The written or otherwise recorded appraisal of performance compared to the performance standard(s) for each core competency and the assignment of an overall summary rating level of "Pass" or "Fail".

Supervisor.

1. An individual, as defined in 5 U.S.C. 7103 (a)(10), having authority to hire, direct, assign, promote, reward, transfer, furlough, layoff, recall, suspend, discipline, or remove employees, to adjust their grievances, or to effectively recommend such action, if the exercise of that authority is not merely routine or clerical in nature but requires the consistent exercise of independent judgment.

If an employee possesses the authority to perform just one of the functions mentioned above in the statutory definition, and this person does so in a manner requiring the consistent exercise of independent judgment, that person is a supervisor.

2. The exercise of independent judgment requires that a decision be based on the judgement of the supervisor regarding a particular situation and not simply dictated by established procedures or directed by higher level officials.
3. An effective recommendation must be made on behalf of management, based upon the independent judgment of the supervisor, and considered separately or in conjunction with the recommendations of other supervisors or management officials so as to result in a decision by management to hire, transfer, suspend, or take any of the other actions set forth in the definition of a supervisor. To be effective, it is not necessary that one recommendation by one individual be the sole criterion used by higher level management in determining whether to take one of the actions listed in the definition. Further, the mere fact that a recommendation is reviewed or approved by a higher-ranking management official does not, of itself, render a recommendation ineffective.
4. The authority to evaluate the performance of others is not specifically included in the definition of a supervisor. This authority, by itself, does not indicate the employee is a supervisor.
5. An employee who sporadically or occasionally acts as a supervisor (e.g., when the supervisor is on leave) is not considered a supervisor under this Chapter since the supervisory authority is not a regular or recurring part of the job.
6. Project or team leader positions, where the employees do not have

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the authority to exercise effective personnel management responsibilities on a regular or recurring basis, and where such authority is clearly focused in a higher level supervisory or management position, are not considered supervisors.

Management Official.

An individual, as defined in 5 U.S.C. 7103 (a) (11), who formulates, determines, or influences the policies of the Commission. The definition of a management official includes those employees who:

1. create, establish, or prescribe general principles, plans, or courses of action for an agency; or
2. decide upon or settle upon general principles, plans, or courses of action for an agency; or
3. bring about or obtain a result as to adoption of general principles, plans, or courses of action for an agency.

Manager.

Usually a second level supervisor who manages a program administered by one or more subordinate supervisors.

Transfer Rating.

A summary rating required for an EPAS employee who is being transferred from one agency to another agency. If the transfer is effective less than 90 days before the end of the performance appraisal period, then the transfer rating becomes the employee's rating of record.

Chapter 3: Performance Appraisal

General.

The Employee Performance Appraisal System (EPAS) provides management with a mechanism for planning and communicating work goals and objectives to employees, and provides a mechanism for providing feedback to employees concerning their performance.

Appraisal Period and Mid-term Reviews.

- a. The annual performance appraisal period for Employee Performance Appraisal System (EPAS) employees is May 1 through April 30. If the employee has not been under EPAS standards for the minimum appraisal of 90 days, the appraisal period may be extended the amount of time necessary to meet this minimum appraisal period of 90 days. At that time a rating of record must be prepared.
- b. Employee performance cannot be properly assessed by a once-a-year appraisal. Rather, supervisors should review employee performance periodically and, if performance problems exist, assistance and counseling should be provided immediately.
- c. A formal mid-term progress review will normally be made in November each year. Appraising officials, normally the first-line supervisor, must discuss their employee's performance with them vis-à-vis each of their identified core competencies as well as their overall performance. Employees and appraising officials must acknowledge in writing on the appraisal form that this review has occurred. They may also make written comments if so desired. This is particularly important if less than Fully Successful performance is apparent in order to document problems and efforts taken to resolve them.

Communication of Performance Plans.

- a. Supervisors must provide written core competencies to their employees within 30 days of the beginning of the appraisal period.
- b. Supervisors must meet with their employees at the beginning of the rating cycle to discuss the supervisor's specific job expectations and to give substance and meaning to the employee's core competencies.
- c. Meaningful two-way communication about the job and the appraisal plan before the appraisal period begins and during the mid-term progress review provides the opportunity to identify problems and avoid later misunderstandings.
- d. Employees and their supervisors should sign the Employee Review Form upon completion. Employees' signatures indicate that they have been informed of the core competencies applicable to their positions, and that these criteria will be the basis of any rating for the ensuing appraisal period. When agreement on the plan cannot be reached, supervisors are responsible for deciding what is expected and informing the employee of that decision. If the employee refuses to sign the performance plan, the supervisor

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should so note on the plan.

Appraising Performance.

- a. A written rating of record must be given to all employees within 30 days of the end of the appraisal period. Employee Performance Appraisal System (EPAS) employees must receive a rating of record if they have been under the core competencies for the minimum appraisal period of 90 days.
- b. Before the appraising official executes the appraisal as noted in Sections c-d below, the appraising official is expected to have a substantive and meaningful dialog with the employee about the employee's performance and accomplishments. In this meeting the appraising official should explain the extent to which the employee's performance did or did not meet his or her expectations and the employee should be encouraged to comment on his or her performance. If the appraising official has not supervised an employee for 90 days, the second level supervisor or management official knowledgeable of the employee's performance should meet with the employee. After this dialog is completed, the appraising official should proceed to execute the appraisal in accordance with Sections c-d, below.
- c. Appraising officials must rate employees' performance on each core competency at one of the two levels:
 1. **"Pass"** is performance that meets or exceeds the established written fully successful standard(s) for that core competency.
 2. **"Fail"** is performance that is unacceptable for that core competency.
- d. Appraising officials must then appraise and rate employees' overall performance at one of the two levels:
 1. **"Pass"**. The performance of an employee that meets or exceeds all established standards for the fully successful level in all core competencies.
 2. **"Fail"**. The performance of an employee that is unacceptable in one or more core competency.

The following rules apply to determining Summary Rating Levels:

3. performance that is "Fail" on one or more core competency must be given a Summary Rating "Fail".
 4. performance that meets or exceeds the fully successful standard for all core competencies is given a "Pass" Rating.
- e. Appraising officials' recommended ratings must be reviewed and approved by a reviewing official at a higher level in the Bureau/Office than the appraising official when an employee will be given a "Fail" Summary Rating. If the Bureau/Office Chief is the appraising official, the "Fail" rating must be approved by the Managing Director. All appraising officials and reviewing officials must sign the rating.
 - f. Only after the rating has been reviewed and approved, as discussed above, may the supervisor give the employee the rating and discuss it. The employee should sign the rating acknowledging receipt and may make written comments if so desired. If the

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employee refuses to sign the appraisal, the appraising official should so note on the rating.

- g. A forced distribution of ratings may not be prescribed by any level within the Commission.

Interim Summary Ratings.

- a. If an employee is detailed or temporarily promoted within the Commission, and the detail or temporary promotion is expected to last 90 days or longer, written job elements and performance standards will be provided to the employee as soon as possible, but not later than 30 calendar days after the beginning of a detail or temporary promotion. Interim summary ratings must be prepared for these details and temporary promotions.
- b. If an employee is detailed outside of the Commission, a reasonable effort should be made to obtain appraisal information from the outside organization.
- c. If an employee is reassigned or promoted during the annual appraisal period, an interim ("close out") summary rating must also be prepared.
- d. These interim ratings, as well as ratings transferred with an employee from another agency during the appraisal period, must be considered when preparing the annual rating of record. Due weight should be given to the length of time covered by the interim summary rating or transfer rating, the nature of the assignment, and the Summary Rating Level given.
- e. If employees receive a transfer or interim rating during the performance appraisal period and if those employees are not in their current position for 90 days before the end of the performance appraisal period, then the transfer or interim rating becomes the employees' rating of record.

Unrateable Employees.

When a rating of record cannot be given on April 30, the appraisal period shall be extended for the amount of time necessary to allow for the minimum appraisal period of 90 days.

Use of Performance Appraisals.

Performance appraisal information is used in the following personnel decisions:

- a. results of performance appraisals are to be used along with any other relevant data as a basis for training, rewarding, reassigning, promoting, reducing in grade, retaining, and removing employees.
- b. any time an employee's performance becomes less than "Pass" (regardless of whether a formal appraisal has been given), that determination should trigger prompt action to bring the employee's performance up to a "Pass" level.

Chapter 4: Opportunity Periods

Before employees receive a notice of proposed reduction in grade or removal because of unacceptable performance, they must be afforded a reasonable opportunity to demonstrate whether they can perform at the acceptable level.

a. **Reasonable Time.**

Employees must be allowed an amount of time commensurate with the duties and responsibilities of their jobs which is of sufficient duration to allow them to demonstrate whether they can perform at the acceptable level.

b. **Duration.**

The opportunity period must be at least thirty days in duration.

c. **Written Notice.**

Employees must be advised in writing that they are being given an opportunity to demonstrate acceptable performance. The written notice should include the following.

1. the specific core competency on which the employee has performed unacceptably.
 2. an explanation of how performance has been unacceptable.
 3. an explanation of performance requirements necessary to demonstrate acceptable performance.
 4. an explanation of the assistance that will be provided to the employee during the opportunity period.
 5. a notice that continued failure to perform at the acceptable level may result in reduction in grade or removal; and
 6. the duration of the opportunity period.
- d. FCC Personnel Manual Chapter 432 Subchapter 4 and applicable provisions of the **Basic Negotiated Agreement** describe the Commission's procedures for effecting reductions in grade and removals if an employee fails to demonstrate acceptable performance during the opportunity period.

Chapter 5: Within-grade Increases

Basic Requirements.

Employees earning less than the maximum step of their grade shall advance in pay to the next higher step upon meeting the following requirements:

- a. they must have completed the required waiting period;
- b. they must not have received an equivalent increase during the waiting period; and
- c. their performance must be determined to be at an acceptable level of competence (GS) or at a satisfactory level (WG) as documented in the most recent rating of record.

5 CFR 531 provides specifics on within-grade waiting periods, creditable service, and equivalent increases.

Communicating Performance Requirements and Within-grade Increase Determinations.

- a. For all covered employees except as noted below:
 1. the "Pass" standard(s) established for each core competency constitutes the acceptable level of competence for within-grade purposes; and
 2. employees are performing at an acceptable level of competence if they receive a "Pass" rating for all core competencies and an overall summary rating of record of "Pass."
- b. For employees in positions excepted by the Telecommunications Act:
 1. job and acceptable performance requirements must normally be provided to them by their supervisor within 30 days of their appointment or a change of position; and
 2. a written justification of how they have met their requirements must be provided by their supervisor to support an acceptable level of competence.

Postponing a Within-grade Increase.

- a. An acceptable level of competence or satisfactory level determination must be delayed and the within-grade increase postponed when either of the following applies:
 1. employees have not had 90 days to demonstrate acceptable performance because they have not been informed of the specific requirements for acceptable performance in their current position, and have not received a summary rating in any position within the 90 days before the end of the waiting period; or
 2. employees have been reduced in grade because of unacceptable performance and are due a within-grade increase within 90 days of the effective date of the downgrade.

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- b. When a within-grade increase is postponed, employees should be advised that the rating period is extended, and what the specific requirements are for performance at an acceptable level.
- c. If at the end of the extended appraisal period, the employee's performance is determined to be at an acceptable level, the within-grade increase must be granted retroactively.
- d. An acceptable level of competence determination may be waived under very limited circumstances outlined in 5 CFR 531.409(d).

Negative Determinations.

- a. An employee should be notified at least 90 days in advance of the date the employee will complete the waiting period if the employee's performance is such that he/she might receive a negative acceptable level of competence determination.
- b. If the employee's performance is not at an acceptable level, the employee should be advised in writing as soon as possible after completion of the waiting period if their within-grade increase is denied.
- c. This notice should set forth the reasons for the negative determination and the steps needed to improve performance in order to be granted a within-grade increase, such as:
 - 1. an explanation of what employee performance falls below the acceptable level of competence;
 - 2. identify what the employee must do to bring his/her performance up to an acceptable level of competence;
 - 3. a statement indicating the employee may receive a negative determination of acceptable level of competence at the end of the waiting period unless performance improves; and
 - 4. a statement indicating the employee has a period of time (not exceeding the end of the waiting period) to bring up his/her performance to an acceptable level and the failure to give a 90 day notice (as noted in "section a" above) due to administrative error or deterioration of performance shall not warrant a favorable acceptable level of competence determination at the end of the waiting period.
 - 5. A new appraisal must be executed if the negative determination is not consistent with the employee's most recent rating of record.
- d. General Schedule employees should also be advised of their right to request reconsideration of the negative determination.

Continuing Evaluation.

When a within-grade increase has been withheld, a new determination may be made anytime after 90 days. For General Schedule employees, such a determination must be made no more than 52 calendar weeks following the original eligibility date for the within-grade increase, and for as long as the within-grade increase continues to be denied, determinations must be made no longer than every 52 calendar weeks.

Chapter 6: Training, Evaluation and Documentation

Training

- a. As needed, supervisors of Employee Performance Appraisal System (EPAS) employees will be provided training on the appraisal process regarding the utilization of performance appraisals as a basis for making performance based personnel decisions; and performance/pay linkages.
- b. Employee Performance Appraisal System employees will be provided training, as needed, on coverage of EPAS, and the appraisal process.

Evaluation.

The AMD-HRM will conduct periodic evaluations of the Employee Performance Appraisal System (EPAS) to determine whether it meets the needs of the Commission management and EPAS employees and complies with law and regulations.

Records Maintenance.

Performance ratings of record, including the performance plans on which the ratings are based, will be maintained in accordance with regulation promulgated by OPM.