

PART I. TITLE 5 PERFORMANCE APPRAISAL PROGRAM

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1. COVERAGE. This part applies to the process used to appraise the performance of the following Department of Veterans Affairs employees:

- a. General Schedule employees, including employees covered by the Performance Management and Recognition System Termination Act of 1993.
- b. Federal Wage System employees.
- c. Scientific and Technical (Senior Level) employees paid under 5 U.S.C. 5376.
- d. Licensed physical therapists, registered or certified respiratory therapists, licensed practical or vocational nurses, pharmacists, and occupational therapists appointed under 38 U.S.C. 7401(3) or 7405.
- e. [] Veterans Canteen Service employees appointed under 38 U.S.C., chapter 78.
- f. Temporary and Term employees, except as specifically excluded.

2. EXCLUSIONS. This part excludes the following:

- a. Officers appointed by the President by and with the advice and consent of the Senate, or by the President alone, to positions for which rates of basic compensation may exceed the maximum rate provided in the General Schedule.
- b. Employees in the Senior Executive Service.
- c. [Full-time, part-time, and intermittent] physicians, dentists, nurses, [nurse anesthetists,] optometrists, podiatrists, physician assistants, expanded-function dental auxiliaries [appointed under 38 U.S.C. 7401(1), 7405(a)(1)(A), or 7406], and individuals appointed under 38 U.S.C. 7306 in the Office of the Under Secretary for Health.
- d. Non-U.S. citizens employed at the VA Regional Office, Manila, Republic of the Philippines, who are paid according to local prevailing wage rates.
- e. Temporary employees in the excepted service for which employment is not reasonably expected to exceed 90 days in a 12-month period.
- f. Members of the Board of Veterans' Appeals and the Board of Contract Appeals.
- g. Veterans Benefits Administration (VBA) non-executive directors.
- [h. Veterans Health Administration (VHA) Associated Health Trainees.
- i. Employees covered by the VHA Executive Career Field Program.]

credit is granted for ratings of Fully Successful or better. Only ratings of record are creditable for the RIF process. Special ratings of record prepared in connection with an acceptable level of competence determination, and for other special circumstances, are not creditable for this purpose. No rating of record will be assigned for the sole purpose of affecting an employee's RIF retention standing (see 5 CFR 351.504).]

11. [GRIEVANCES AND APPEALS. This section contains the Administrative Grievance Procedure. An employee who is dissatisfied with an assigned performance rating may grieve the rating using the administrative or a negotiated grievance procedure, or use any other locally established alternative dispute resolution process. Negotiated grievance procedures are outlined in the grievance articles of appropriate collective bargaining agreements.]

[a.] **Administrative Grievance Procedure.** These procedures apply to performance ratings for individuals not covered by a negotiated procedure. []

[(1)] Informal Grievance Procedure

[(a)] Consistent with the principle that grievances should be resolved at the lowest level possible, an employee who is dissatisfied with an assigned performance rating may grieve the rating and/or elements at issue to the Approval Official (if used), otherwise to the Rater, within 15 calendar days after receipt of the rating. The employee and the employee representative, if any, will be provided the opportunity to explain the grievance.

[(b)] After exploring the grievance, the official to whom the matter was grieved should provide a written answer to the employee, through his/her representative, if any, within 10 calendar days. The response will include the decision on the grievance, supporting reasons, and the employee's right to present a formal grievance.

[(2)] Formal Grievance Procedure

[(a)] If the employee is not satisfied with the answer at the informal stage, within 10 calendar days from the receipt of the informal response, the employee may present the grievance in writing, through supervisory channels, to the management official at the next higher level in the organization.

[1.] The formal grievance will contain the date of the performance rating, the elements at issue and the reasons for seeking reconsideration for each element at issue, the performance rating desired, and the decision at the informal stage.

[2.] A grievance file will be established that will contain a copy of the performance rating, a copy of the formal grievance, a copy of the informal decision and related documentation, and any additional information that is appropriate for consideration in making a decision based on the record, but not any document that is not available to the employee and/or the employee's representative for review.

[(b)] The grievance file will be forwarded to the appropriate official to consider the grievance for a decision based on the record. A written decision will be forwarded through channels to the employee, through his/her representative, if any, usually within 10 work days.