

# INDIAN AFFAIRS MANUAL

Part 28

Human Capital Management

Chapter 8

Performance Appraisal – Reconsideration Process

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**1.1 Purpose.** This chapter provides information on Indian Affairs’ (IA) policy and procedure for requesting reconsideration of a critical element performance rating given as part of an employee’s annual performance appraisal plan.

**1.2 Scope.** This policy applies to all offices under the authority of the Assistant Secretary - Indian Affairs (AS-IA), including offices reporting to the AS-IA, the Bureau of Indian Affairs (BIA), and the Bureau of Indian Education (BIE).

This policy does not apply to the Senior Executive Services (SES). The performance appraisal procedures for the SES are addressed in 5 CFR 430 Subpart C.<sup>1</sup>

**1.3 Policy.** An employee may request a reconsideration of a critical element(s) rating given on an annual performance appraisal, which, if changed, would affect the outcome of the overall rating of record.

## **1.4 Authority.**

### **A. Statutes and Regulations.**

- 1) 5 CFR 430, Performance Management

### **B. Guidance.**

- 1) 370 DM 430, Performance Management System

### **C. Handbooks.**

- 1) 370 DM 430 HB, The Department of the Interior’s (DOI) Performance Management Handbook: A Guide for Managers/Supervisors and Employees, 10/1/18

## **1.5 Responsibilities.**

**A. Deputy Assistant Secretary – Management (DAS-M)** oversees the IA Office of Human Capital Management (OHCM), and facilitates IA’s compliance with Human Capital Management (HCM) initiatives, policies, procedures, laws, and regulations.

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<sup>1</sup> Additional SES resources can be found on the Department of the Interior’s SharePoint site here:

<https://doimsp.sharepoint.com/sites/os-Executive-Resources-Division>

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- B. Director, OHCM, DAS-M** is responsible for overall policy and direction to bureaus and offices with regard to effective human resources (HR) management, including providing information and guidance to supervisors, managers, and employees regarding the performance management program and reconsideration process.
- C. Director, Employee Relations/Labor Relations (ER/LR), OHCM** is responsible for:
- 1) administering the Performance Management Program, to include oversight of the performance appraisal rating reconsideration process; and
  - 2) providing technical guidance to employees, supervisors, and the Reconsideration Official regarding the performance rating reconsideration process.
- D. Rating Official** is responsible for:
- 1) establishing an Employee Performance Appraisal Plan for each employee on an annual basis according to IA and Departmental deadlines and requirements;
  - 2) ensuring that employees are appraised accurately and consistently based on their accomplishments and contributions, including meeting with their employees to discuss mid-year performance assessments;
  - 3) preparing the annual performance rating in accordance with IA and Departmental deadlines and requirements, and meeting with employees to discuss their final performance rating for the fiscal year; and
  - 4) formally notifying employees of the performance rating reconsideration process.
- E. Reconsideration Official** is responsible for reviewing the reconsideration and providing a response to the employee and to the Rating Official.
- F. Employees** are responsible for notifying the Rating Official of their dissatisfaction with the performance rating, to include the specific element(s) and providing documentation for the dissatisfaction. They must follow the process listed below in section 1.7 for an informal and/or formal reconsideration of their rating.

### 1.6 Definitions.

- A. Employee Performance Appraisal Plan Form** is the only authorized form for documenting an employee's Performance Plan and rating. For non-supervisory employees, this is DI-3100; for supervisor employees, this is DI-3100S. While the performance appraisal is completed online through the Office of Personnel Management's (OPM) USA Performance System (vs. being paper-based), these forms are generated from that system and uploaded to the employee's electronic Official Personnel Folder (eOPF).

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- B. Rating for critical element** is the performance rating assigned to each critical element (Outstanding = 5, Exceeds Expectations = 4, Fully Successful = 3, Unacceptable = 0).
- C. Rating Official** is the supervising official, which is ordinarily the employee's immediate supervisor, and the one who establishes critical elements and performance standards, evaluates the employee's performance, and assigns the annual rating of record.
- D. Reviewing Official** is the next higher level management official who reviews and approves the rating. The Reviewing Official's approval is essential for an Outstanding or Unacceptable rating.
- E. Summary rating** means the numerical rating level assigned for each of the critical elements in the employee's Performance Plan divided by the number of elements. Outstanding (level 5) is a 4.6 - 5.0; Exceeds Expectations (level 4) is 3.6 - 4.59; Fully Successful (level 3) is 3.0 - 3.59; and Unacceptable (level 1) is given if any Critical Element is rated "Unacceptable".

**1.7 Standards, Requirements, and Procedures.** If an employee has a concern about the final performance rating given on a particular critical element that, if changed would affect the rating of record, they are entitled to request a reconsideration of their performance rating. There are two options available to an employee: the informal reconsideration process, and the formal reconsideration process, both of which are documented as follows.

### **A. Informal Reconsideration Procedure**

- 1) The employee and Rating Official should informally attempt to resolve any disagreement about the performance appraisal and/or rating. An employee must discuss their dissatisfaction with the Rating Official before requesting a formal reconsideration unless the employee requests in writing to move directly to the formal stage.
- 2) This informal discussion should take place within seven calendar days of the employee's receipt of their annual Performance Plan rating.
- 3) The Rating Official's decision—whether they are changing the rating or not (and if so, what the new rating will be)—must be communicated to the employee in writing within seven calendar days of the informal reconsideration discussion (14 calendar days in total after the employee received the appraisal results).

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- 4) The written decision of the informal reconsideration must include:
  - a. A summary of the critical element(s) of which reconsideration is requested and the basis for the reconsideration.
  - b. The Rating Official's decision on the critical element(s) of which reconsideration is requested, including the basis for that decision.
- 5) If an agreement cannot be reached informally, the employee may request a formal reconsideration of the rating through the Director, ER/LR.

### **B. Formal Reconsideration Procedure**

- 1) To request a formal reconsideration of their performance rating, the employee should send a written request to the Director, ER/LR via email within seven calendar days of receiving their Rating Official's reconsideration decision based on their informal meeting.

The formal reconsideration request will be limited to any unresolved issues from the informal reconsideration request. Employees cannot contest additional critical elements in the formal reconsideration request that were not included in the informal reconsideration request.

- 2) This request should include the following:
  - a. employee's organization and duty station;
  - b. a copy of the annual performance appraisal for which a reconsideration is being requested;
  - c. specific area(s) or details of the annual appraisal for which the reconsideration is being requested;
  - d. the identity of the employee's designated representative (name, title, address, and telephone number), if applicable;
  - e. why the employee believes the rating is in error, with supporting facts and documents;
  - f. the action the employee requests of the reconsideration official; and
  - g. a copy of the written decision of the informal reconsideration by the Rating Official, a statement confirming that the informal process was followed, and/or a written request to move directly to the formal stage.

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- 3) The Director, ER/LR will review the formal request for reconsideration to determine if it is appropriate for acceptance under these procedures.
  - a. If the request is not accepted, the request will be returned to the employee with an explanation of the reason(s) for non-acceptance, and the reconsideration process would end here.
  - b. If the request is accepted, the request for reconsideration is referred to the Reconsideration Official within 14 calendar days of receipt.
- 4) The formal reconsideration process should be carried out by a person who has not been involved in the reconsideration request. The Director, ER/LR will inform the Reconsideration Official of his/her responsibilities during this formal process.
- 5) An employee may be represented during the formal reconsideration process; however, IA management may disallow the employee's choice of representative for reasons of conflict of interest, position, or unreasonable cost to the Federal Government.
- 6) The authority of the Reconsideration Official is limited to an impartial reconsideration of the employee's dissatisfaction with the performance rating given on a particular element that he/she believes may adversely affect the annual rating of record. The employee may not dispute:
  - a. the number or type of performance elements identified for their position; or
  - b. the substance or contents of performance standards, including the objective criteria against which performance will be measured.
- 7) The Reconsideration Official will be provided all the resources necessary to complete the impartial reconsideration and render the final decision. The Reconsideration Official is responsible for the following actions when considering an employee's formal reconsideration request:
  - a. reviewing any evidence or information submitted by the employee, Rating Official, and/or Director, ER/LR;
  - b. consulting with the employee, the employee's representative (if applicable), the Rating Official, the Director, ER/LR, and staff experts, as necessary and appropriate;
  - c. increasing the summary rating or an element rating; removing or modifying narrative comments; or leaving the summary rating, element ratings, or narrative comments unchanged; and

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- d. issuing a final written decision within 20 calendar days of receipt of the request for reconsideration that includes documentation of the basis for the decision. This written decision must be emailed to the employee and will include determination of each critical element(s) specified in the request along with a brief narrative on the basis for the determination.
- 8) The decision rendered by the Reconsideration Official is final and binding and becomes the official rating of record. There is no further right of review in the performance management process.
- 9) Timeframes outlined above may be extended on a case-by-case basis upon mutual consent of the parties and with concurrence of the Director, ER/LR.
- 10) Employees covered by a Collective Bargaining Agreement that includes a reconsideration procedure will be governed by that procedure as the exclusive method to request reconsideration.

## Approval

JASON FREIHAGE  Digitally signed by JASON  
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Jason Freihage  
Deputy Assistant Secretary – Management

Date