

GOVERNMENT OF GUAM
OFFICE OF THE GOVERNOR
AGANA, GUAM

EXECUTIVE ORDER NO. 80-4

DEPARTMENT OF ADMINISTRATION
PERSONNEL RULES AND REGULATIONS
APPEAL PROCEDURE FOR
PERFORMANCE RATING



WHEREAS, Section 4004 of the Government Code of Guam provides in part that Personnel Rules and Regulations shall be adopted by the Department of Administration; and

WHEREAS, Section 4004 of the Government Code of Guam provides that such Rules and Regulations must be approved by the Civil Service Commission and promulgated by Executive Order; and

WHEREAS, the Department of Administration has adopted appeal procedure for redetermination of performance rating; and

WHEREAS, the Civil Service Commission has approved the procedure on March 27, 1980,

NOW THEREFORE, I, PAUL M. CALVO, Governor of Guam, by virtue of the authority vested in me by Section 4004, Government Code of Guam, hereby order as follows:

1. The Appeal Procedure for Redetermination of Performance Rating adopted by the Department of Administration and approved by the Civil Service Commission, and attached hereto, is hereby approved and promulgated.

Dated this 22nd day of April, 1980, Agana, Guam.

PAUL M. CALVO
Governor of Guam

COUNTERSIGNED:

JOSEPH F. ADA
Lieutenant Governor

APPEAL PROCEDURE FOR REDETERMINATION OF PERFORMANCE RATING

I. PURPOSE

This procedure outlines the responsibilities and procedures to be followed by management and employees in handling performance rating appeals.

II. COVERAGE

Employees covered in this procedure are those employees who have satisfactorily completed their original probationary period and have attained permanent status in the Government of Guam. Such employee who believes he was unjustly rated may request for a redetermination of his performance rating. Original probationary period performance ratings are not appealable under this procedure.

III. REPRESENTATION

An employee has the right to present an appeal without representation. He also has the right to be accompanied, represented, and advised by a representative of his choice at any step of the appeal proceedings.

IV. FREEDOM FROM REPRISAL OR INTERFERENCE

An employee and his representative shall be free to appeal a performance rating without restraint, interference, coercion, discrimination, or reprisal. An employee must not interfere with another employee's exercise of his rights under this appeal procedure. Supervisors shall refrain from making any statement or taking any action which has the appearance of a threat, interference, or intimidation.

V. MANAGEMENT'S RESPONSIBILITY FOR TIMELY ACTION

Management shall expedite the resolution of an appeal and shall abide by the allotted time. Failure to render a decision within the allotted time at any step constitutes denial, and the employee may then proceed to the next step of the appeal procedure.

VI. INFORMAL APPEAL PROCEDURE

(A) INFORMAL APPEAL TO SUPERVISOR

- (1) The employee who believes he was unjustly rated shall bring the matter to the attention of his immediate supervisor not later than five (5) workdays after he was notified of his performance evaluation rating by his supervisor. The employee may present his informal appeal either orally or in writing.
- (2) A review of the rating shall be afforded the employee by the rater. Settlement of matters shall be encouraged at the lowest possible administrative level and in the shortest possible time. The employee shall be notified of the decision not later than five (5) workdays after presentation of his informal appeal to his supervisor.

APR. 10 1980

VII. FORMAL APPEAL PROCEDURE

Civil Service Commission
Gov't. of Guam
P. O. Box 3156
Agaña, Guam 96910

(A) DEPARTMENT PERFORMANCE RATING APPEAL REVIEW COMMITTEE

- (1) An employee may appeal under the formal procedure only after settlement had been previously attempted but failed to satisfy the appellant during the informal procedure.
- (2) If the employee is not satisfied with the decision rendered in the informal stage, he may then appeal to the department head. The appeal shall be in writing and shall be transmitted to the department head within five (5) workdays of notification of the rater's decision. The written appeal shall identify the basis for the complaint and the resolution sought by the employee.
- (3) Within five (5) workdays of receipt of the written appeal, the department head shall appoint a Performance Rating Appeal Review Committee whose members shall be five (5) classified employees. Of the five (5) members, two (2) shall be selected by the department head and two (2) shall be selected by the appellant. The fifth (5th) member shall be selected by the other four (4) members of the Committee from among the list of Equal Employment Opportunity (EEO) Coordinators obtained from the Civil Service Commission, except that the EEO Coordinator of the department in which the appeal is filed shall not be a member of the Committee.
- (4) The Performance Rating Appeal Review Committee shall convene not later than the fifth (5th) workday of the date of appointment and shall review pertinent information and issues from the testimony and/or documents given by both parties. The Performance Rating Appeal Review Committee shall complete the investigation and conduct the final hearing not later than ten (10) workdays from the date the Committee convened. The investigation shall be summarized and documented in writing.
- (5) The Committee's written report of findings and recommendations shall be submitted to the department head within five (5) workdays of the date of the final hearing.
- (6) The department head shall render a written decision based on the Committee's recommendations to the appellant within five (5) workdays of receipt of the written report from the Committee. If the appellant is not satisfied with the department head's decision, he may proceed to the next step.

(B) PERFORMANCE RATING BOARD OF REVIEW

- (1) When the decision of the department head fails to satisfy the employee, the employee may appeal to the Performance Rating Board of Review via the Director of Administration. The appeal shall be in writing to the Director and filed within five (5) workdays after the appellant receives the department head's decision.

- (2) The Board shall be appointed by the Director of Administration and shall consist of five (5) classified employees of which two (2) shall be at the same position level as the appellant and three (3) shall be at the managerial level. Board members shall not be from the same department where appellant is employed. The Director shall appoint the Board members within five (5) workdays of receipt of the written appeal.
- (3) The Board shall conduct its first hearing within five (5) workdays of its appointment. The Board shall complete the investigation and conduct the final hearing not later than ten (10) workdays from the date the Board convened. The Board shall give notice of hearings and shall provide all pertinent documents related to the appeal to the appellant, his representative, the rater, and all other parties concerned.

The conduct of the hearing shall be consistent with the opportunity to present all information necessary to decide the merits of the appeal. Both oral and written information which the Board considers pertinent may be given as well as any other information the Board requests concerning the appeal.

- (4) The Board shall select a chairperson among its members. The chairperson shall preside and rule on all questions and conduct of hearings during the proceedings. Board members shall consider the case objectively. They shall give consideration to the merits of the case and secure all necessary information. They shall encourage a harmonious relationship between employees and supervisors during proceedings before the Board. All members of the Board shall be present at all times during hearings and shall participate in decisions. Hearings shall be summarized and documented in writing. Hearings are not open to the public.
- (5) When all pertinent information in an appeal has been presented to the Board, the Board shall render a decision by majority vote. The Board may either amend the performance rating or sustain the rating without change. When an amendment is made, by the Board, to the performance rating, that amended rating shall not be lower than the original rating.

The Board shall make its decision within five (5) workdays of the final hearing. The Board's decision shall be in writing with the chairperson's signature. The decision shall contain a brief summary of the facts on which the Board based its decision. The written decision shall be sent immediately to the appellant and signed copies forwarded to the department head and the Director of Administration.

- (6) When the department head receives a Board decision amending the employee's rating, the department head shall immediately substitute the original rating for the amended rating. The department head must reconsider administrative actions based on the original rating and redetermine and adjust those administrative actions to conform to the amended rating.