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- (4) Customer perspectives;
- (5) Employee perspectives;
- (6) The effectiveness, productivity, and performance results of the employees for whom the senior executive is responsible;
- (7) Leadership effectiveness in promoting diversity, inclusion and engagement as set forth, in part, under section 7201 of title 5, United States Code; and
- (8) Compliance with the merit system principles set forth under section 2301 of title 5, United States Code.

§ 430.309 Rating performance.

(a) When rating senior executive performance, each agency must—

(1) Comply with the requirements of this section, and

(2) Establish a PRB as described at § 430.311.

(b) Each performance management system must provide that an appraisal and rating for a career appointee's performance may not be made within 120 days after the beginning of a new President's term.

(c) When an agency cannot prepare an annual summary rating at the end of the appraisal period because the senior executive has not completed the minimum appraisal period or for other reasons, the agency must extend the executive's appraisal period. Once the appropriate conditions are met, the agency will then prepare the annual summary rating.

(d) Senior executive performance appraisals and ratings are not appealable.

(e) Procedures for rating senior executives must provide for the following:

(1) *Initial summary rating.* The supervisor must develop an initial summary rating of the senior executive's performance, in writing, including through the use of automated systems, and share that rating with the senior executive. The senior executive may respond in writing.

(2) *Higher-level review (HLR).* A senior executive may ask for a higher-level official to review the initial summary rating before the rating is given to the PRB. The agency must provide each senior executive an opportunity for review of the initial summary rating by an employee, or (with the consent of

the senior executive) a commissioned officer in the uniformed services on active duty in the agency, in a higher level in the agency.

(i) A single review by an official at a higher level who did not participate in determining the executive's initial summary rating will satisfy this requirement. An official providing HLR may not change the initial summary rating but may recommend a different rating to the PRB. HLR may be provided by an official who is at a higher level in the agency than the appointing authority who will approve the final rating under paragraph (e)(4) of this section.

(ii) When an agency cannot provide review by a higher-level official for an executive who receives an initial summary rating from the agency head because no such official exists in the agency, the agency must offer an alternative review as it determines appropriate, except that the review may not be provided by a member of the PRB or an official who participated in determining the initial summary rating.

(iii) If a senior executive declines review by agency-designated higher-level officials, the agency may offer an alternative review but it not obligated to do so. The agency must document the executive's declination of the HLR opportunity provided by the agency before offering an alternative review.

(iv) Copies of findings and recommendations of the HLR official or the official performing an alternative review under paragraph (e)(2)(ii) through (iii) of this section must be given to the senior executive, the supervisor, and the PRB.

(3) *PRB review.* The PRB must receive and review the initial summary rating, the senior executive's response to the initial rating if made, and findings and recommendations of any HLR or any alternative review under paragraph (e)(2) of this section before making recommendations to the appointing authority, as provided in § 430.311.

(4) *Annual summary rating.* The appointing authority must assign the annual summary rating of the senior executive's performance after considering the applicable PRB's recommendations. This rating is the official final rating for the appraisal period and

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must be communicated to the executive in writing, including through the use of automated systems, in accordance with the timelines developed under § 430.308(a).

(5) *Shortened appraisal periods.* The procedures of this section apply whenever an agency terminates an appraisal period under § 430.304(b)(5).

§ 430.310 Details and job changes.

(a) When a senior executive is detailed or temporarily reassigned for 120 days or longer, the gaining organization must set performance goals and requirements for the detail or temporary assignment. The gaining organization must appraise the senior executive's performance in writing, including through the use of automated systems, and this appraisal must be considered when deriving the initial summary rating.

(b) When a senior executive is reassigned or transferred to another agency after completing the minimum appraisal period, the supervisor must appraise the executive's performance in writing, including through the use of automated systems, before the executive leaves and provide this information to the executive.

(c) The most recent annual summary rating and any subsequent appraisals must be transferred to the gaining agency or organization. The gaining supervisor must consider the rating and appraisals when deriving the initial summary rating at the end of the appraisal period.

§ 430.311 Performance Review Boards (PRBs).

Each agency must establish one or more PRBs to make recommendations to the appointing authority on the performance of its senior executives.

(a) *Membership.* (1) Each PRB must have three or more members who are appointed by the agency head, or by another official or group acting on behalf of the agency head. Agency heads are encouraged to consider diversity and inclusion in establishing their PRBs.

(2) PRB members must be appointed in a way that assures consistency, stability, and objectivity in SES performance appraisal.

(3) When appraising a career appointee's performance or recommending a career appointee for a performance-based pay adjustment or performance award, more than one-half of the PRB's members must be SES career appointees.

(4) The agency must publish notice of PRB appointments in the FEDERAL REGISTER before service begins.

(b) *Functions.* (1) Each PRB must consider agency performance as communicated by the oversight official through the performance appraisal guidelines when reviewing and evaluating the initial summary rating, any senior executive's response, and any higher-level official's findings and recommendations on the initial summary rating or the results of an alternative review. The PRB may conduct any further review needed to make its recommendations. The PRB may not review an initial summary rating to which the executive has not been given the opportunity to respond in writing, including through the use of automated systems.

(2) The PRB must make a written recommendation, including through the use of automated systems, to the appointing authority about each senior executive's annual summary rating, performance-based pay adjustment, and performance award.

(3) PRB members may not take part in any PRB deliberations involving their own appraisals, performance-based pay adjustments, and performance awards.

§ 430.312 Using performance results.

(a) Agencies must use performance appraisals as a basis for adjusting pay, granting awards, retaining senior executives, and making other personnel decisions. Performance appraisals also will be a factor in assessing a senior executive's continuing development needs.

(b) Agencies are required to provide appropriate incentives and recognition (including pay adjustments and performance awards under part 534, subpart D) for excellence in performance.

(c) A career executive may be removed from the SES for performance reasons, subject to the provisions of part 359, subpart E, as follows: