

Table of Contents

Paragraph	Page
Chapter 1. General Provisions	
1. What Is the Purpose of this Standard Operating Procedure (SOP)?	9
2. What If this SOP Conflicts With a Negotiated Agreement?	9
3. Am I Covered by this SOP?	9
4. What Are the Rating Official's Responsibilities?	9
5. What Are the Reviewing Official's Responsibilities?	10
6. What Is the Role of Human Resources (HR)?	11
7. Who Is My Rating Official?	11
8. Who Is My Reviewing Official?	11
9. What Is SBA's Appraisal Period?	12
10. What Is SBA's Minimum Appraisal Period?	12
11. May My Rating Official Extend My Appraisal Period?	12
12. How Many Reviews Are Required During an Appraisal Period?	12
13. How Does My Rating Affect Other Personnel Decisions?	12
a. Training	12
b. Promotion	12
c. Probationary Period	13
d. Reduction-in-Force	13
Chapter 2. Preparing and Issuing a Performance Plan	
1. What Is a Performance Plan?	15
2. How Is My Performance Plan Documented?	15
3. What Is a Critical Element?	15
4. What Is a Performance Standard?	15
5. What Criteria Must Performance Standards Meet?	16
6. What Are the Timeframes for Establishing Performance Plans?	16
7. What Should I Do If I Don't Have a Performance Plan In Place?	17
8. Is a New Performance Plan Necessary Each Year?	17
9. Who Develops Performance Plans?	17

10.	How Many Critical Elements Are In a Plan?	17
11.	What Materials Identify Critical Elements?	17
12.	Should Critical Elements be Identical?	18
13.	How Does My Rating Official Revise My Performance Plan?	18
14.	What If I Didn't Have an Opportunity to Demonstrate Performance In a Particular Critical Element?	18
15.	How Will SBA Ensure that I Have a Performance Plan?	18
Chapter 3. Monitoring Performance		
1.	What Is a Progress Review?	21
2.	When Is a Progress Review Held?	21
3.	How Do Rating Officials Document Progress Reviews?	21
4.	How Will SBA Ensure that I Had a Progress Review?	22
Chapter 4. Preparing and Issuing a Rating		
1.	Are There Different Types of Ratings?	23
* 2.	When Is an Interim Rating Necessary?	23
3.	How Is My Interim Rating Used?	23
* 4.	What Is a Rating of Record?	23
5.	Who Prepares My Rating of Record?	23
6.	How Does My Rating Official Determine My Rating of Record?	23
7.	What Are the Five Summary Levels?	24
8.	Can My Rating Official "Carry Over" My Previous Rating of Record?	24
9.	Can My Rating Official Give Me an "Assumed" Rating of Record?	24
10.	Can My Rating Official Give Me a Rating of Record for a Past Appraisal Period?	* 24
11.	May My Rating Official Lower My Rating of Record Due to Absences?	25
12.	Must I Sign My Rating of Record?	25
13.	What Is the Reviewing Official's Role In the Rating Process?	25
a.	Can My Reviewing Official Change My Supervisor's Rating?	25
b.	Do All Employees Have Reviewing Officials?	25
* c.	Can My Reviewing Official Change a Rating Issued to Me as a Final Rating of Record?	* 25

14.	Where Are Copies of My Rating Filed?	25
15.	Does SBA Prescribe a Forced Distribution (Quotas) of Ratings?	25
Chapter 5. Recognizing and Rewarding Employee Performance		
1.	How May Supervisors Recognize and Reward Employee Performance?	27
2.	What Is a Within-Grade Increase?	27
a.	May I Receive a Within-Grade Increase?	27
b.	How May I Earn a Within-Grade Increase?	27
c.	Can My Rating Official Waive My Acceptable Level of Competence Determination?	27
d.	What Is the Waiting Period for a Within-Grade Increase?	28
e.	How Is a Within-Grade Increase Generated?	28
3.	What Types of Performance Awards Does SBA Have?	29
4.	What Is a Quality Step Increase (QSI)?	29
a.	How Can I Earn a QSI?	29
b.	Are There Any Restrictions On Granting a QSI?	29
5.	What Are Sustained Superior Performance (SSP) and Superior Accomplishment (SA) Awards?	29
a.	What Rating Must I Receive to Earn a Sustained Superior Performance Award?	29
* b.	What Rating Must I Receive to Earn a Superior Accomplishment Award?	* 29
6.	What Is the Procedure for Recommending and Approving Performance Awards?	30
7.	How Does SBA Ensure that Awards Are Equally Distributed?	30
8.	What Happens to the Award Recommendation After the Approving Official Signs It?	30
9.	Who Obtains Approval for Awards Exceeding the Respective Authority of Approving Officials?	30
Chapter 6. Addressing Less Than Fully Successful Performance		
1.	What Happens If My Performance Is Minimally Successful?	31
2.	How Do I Request Reconsideration of a Denial of My	

Within-Grade Increase?	31
a. Can the Timeframe for Filing a Reconsideration Request for a Within-Grade Increase Denial be Waived?	32
b. When Will the Decision on My Reconsideration Request be Issued?	32
c. May I Review the Material in the Reconsideration File?	32
d. What If the Reviewing Official Sustains or Reverses the Denial of My Within-Grade Increase?	32
e. How Often Will a Determination Regarding My Performance Following My Within-Grade Increase Denial be Made?	32
f. What Happens If My Performance Improves After Denial of My Within-Grade Increase?	32
3. Can My Supervisor Delay My Within-Grade Increase Rather Than Deny It?	33
4. What Is the Effective Date of My Within-Grade Increase After Being Delayed Because I was not Ratable?	33
5. Am I Eligible for My Within-Grade Increase If I'm Reduced In Grade?	33
6. What Happens If My Performance Is Unacceptable?	34
7. Can I Have a Representative Present When My Supervisor Counsels Me About My Performance?	35
8. What If My Deficient Performance Is Due In Part to Medical and/or Personal Problems?	35
9. What Is the Procedure for Removing Me From My Position After Failing a Performance Improvement Plan (PIP)?	36
10. What Is the Role of the Deciding Official In an Adverse Action?	36
11. Can I Stop an Adverse Action By Applying for Disability Retirement?	37
Chapter 7. Appeal and Grievance Rights	
1. May I Appeal, Grieve, or Dispute a Reduction In Grade or Termination Action for Unacceptable Performance	39

2.	What May I Appeal to the Merit Systems Protection Board (MSPB)?	39
3.	What May I Grieve or Dispute?	39
4.	How Do I File A Grievance or Dispute?	40
Chapter 8. Records		
1.	What Is an Employee Performance Folder (EPF)?	41
2.	What Performance-Related Documents May My Rating Official Maintain On Me?	41
3.	Can SBA Disclose the Information In My EPF or Performance Work Folder?	42
4.	What Is the Retention Period for Performance-Related Documents?	43
5.	Is There a Performance-Related Document SBA Cannot Destroy?	43
6.	What Happens to My EPF If I Accept a Position Under a Different Servicing Personnel Office?	44
7.	What Happens to My PWF If I Change Positions During the Appraisal Period?	44
8.	What Happens to My EPF If I Leave SBA?	44
Appendices		
1.	Index to Forms and Reports	45
2.	SBA Form 1276, "PMAS Performance Rating"	47
3.	SBA Form 1276A, "PMAS Critical Element Worksheet"	49
4.	Delegation of Authority for Performance Awards	51
5.	Sample Notice of Negative Determination	53
6.	Sample Notice of Reconsideration Decision	55
7.	Sample Notice of Opportunity to Demonstrate Acceptable Performance	57
8.	Sample Proposal to Remove for Unacceptable Performance	59
9.	Sample Decision to Remove for Unacceptable Performance	63
10.	SF 52, "Request for Personnel Action"	65
11.	SF 50B, "Notification of Personnel Action"	67

6. What Is the Role of Human Resources (HR)?

- a. The Assistant Administrator for Human Resources (AA/HR) is responsible for:
 - (1) Updating this policy to effectively carry out and administer performance management as part of an integrated human resource program;
 - (2) Providing management advisory services, necessary training, and other appropriate support to managers and supervisors; and
 - (3) Evaluating the effectiveness of SBA's Performance Management System.
- b. Servicing Personnel Offices are responsible for:
 - (1) Communicating performance management policies and procedures, and their relationship to the overall human resource system, to supervisors, employees, and bargaining unit representatives;
 - (2) Reviewing performance plans and ratings for accuracy and adequacy to give technical advice to management;
 - (3) Safeguarding performance appraisal records and related documents as required by the Privacy Act, the Freedom of Information Act, and other applicable statutes and regulations;
 - (4) Submitting required reports on performance management operations; and
 - (5) Participating in developing and implementing a tracking and evaluation system.

7. Who Is My Rating Official?

Your rating official is almost always your immediate supervisor.

8. Who Is My Reviewing Official?

Your reviewing official is normally your rating official's immediate supervisor.

9. What Is SBA's Appraisal Period?

SBA's appraisal period coincides with the beginning and ending dates of the fiscal year (October 1 to September 30).

10. What Is SBA's Minimum Appraisal Period?

- * SBA's minimum appraisal period for either an interim rating or a rating of record is 90 calendar days performance against an established performance plan.

11. May My Rating Official Extend My Appraisal Period?

Yes. If a rating of record cannot be given as of September 30, because you have not performed against critical elements and performance standards for the minimum appraisal period, your rating official must extend your appraisal period for the amount of time necessary to meet the minimum appraisal period (90 calendar days) after which the rating official must prepare your rating of record.

12. How Many Reviews Are Required During an Appraisal Period?

Your supervisor must give you at least one formal progress review during the appraisal period and a rating of record if you performed against critical elements and performance standards for at least 90 calendar days. *

13. How Does My Rating Affect Other Personnel Decisions?

Your rating may affect the following.

- a. **Training.** Ratings may identify performance areas that warrant job-related training. When job-related training is necessary to help correct deficient performance, the rating official, in conjunction with your servicing personnelist, will identify the appropriate training.
- b. **Promotion.** Your most recent rating of record and performance awards are used in the ranking and certification of applicants. To receive a career ladder promotion you must have a current performance rating of at least Fully Successful.

Chapter 4

Preparing and Issuing a Rating

1. Are There Different Types of Ratings?

There are two types: interim ratings and ratings of record.

2. When Is an Interim Rating Necessary?

* If you performed against established critical elements and performance standards for at least 90 calendar days during the rating period, your rating official must give you an interim rating on SBA Form 1276 before he or she leaves the position as your rating official, or upon your:

- a. Leaving for a detail or temporary promotion;
- b. Completing a detail or temporary promotion of at least 90 days;
- c. Promotion;
- d. Reassignment; or
- e. Transfer. *

3. How Is My Interim Rating Used?

Your rating official must take your interim rating recorded on SBA Form 1276 or the performance plan obtained from an outside organization into consideration in deriving your next rating of record.

4. What Is a Rating of Record?

* A rating of record is your performance rating prepared and issued to you at the end of the appraisal period covering performance over the past year for which you received a summary level rating. Ratings of record may include the following:

- a. The annual rating given at the end of the appraisal period;
- b. The rating given at the end of the postponed appraisal period (because the employee did not serve 90 calendar days in the current position during the appraisal period); and
- c. The improved rating following the opportunity to improve unacceptable performance. *

5. Who Prepares My Rating of Record?

Your rating official must prepare your rating of record.

6. How Does My Rating Official Determine My Rating of Record?

Your rating official will consider any statement of accomplishments you provide when evaluating your actual performance against the critical elements and performance standards in your PMAS plan. Then use the numerical average of your individual critical element ratings and the descriptions of the five summary levels to derive your rating of record.

Upon completion, your rating official will forward your proposed rating of record to your reviewing official for approval.

7. What Are the Five Summary Levels?

- * a. **Outstanding.** Performance of excellent quality that is exceptional and usually deserving of a performance award. The average of the individual critical element ratings must be at or between a numerical score of 4.6 to 5.0 with no critical element rated lower than "Exceeds Fully Successful."
- b. **Exceeds Fully Successful.** Very good performance which deserves special recognition. The average of the individual critical element ratings must be at or between a numerical score of 3.6 to 4.59 with no critical element rated lower than "Fully Successful."
- c. **Fully Successful.** Good performance constituting the level of personal achievement expected of an employee to satisfactorily accomplish organizational goals or requirements. The average of the individual critical element ratings must be at or above a numerical score of 3.0 to 3.59 with no critical element rated lower than "Minimally Successful."
- d. **Minimally Successful.** Performance not at an acceptable level of competence, but at the minimum level of performance necessary to retain you in your position. It requires the supervisor to withhold any scheduled within-grade increase (see chapter 6-1). The average of the individual critical element ratings must be at or between a numerical score of 2.0 and 2.99 with no critical element rated lower than "Minimally Successful." [A rating at this level requires a written justification.](#)
- e. **Unacceptable.** Performance that fails to meet established performance standards in one or more critical elements of your position. One critical element rated "Unacceptable" results in an overall summary level of "Unacceptable." [A rating at this level requires a written justification.](#)

8. Can My Rating Official “Carry Over” My Previous Rating of Record?

No. A rating of record can cover only one appraisal period.

9. Can My Rating Official Give Me an “Assumed” Rating of Record?

No. A rating of record must reflect an appraisal of an employee’s actual performance.

10. Can My Rating Official Give Me a Rating of Record for a Past Appraisal Period?

Yes. Your rating official may go back, after the fact, and give you a rating of record where none was given, when ordered by a third party under the provisions of 5 CFR §430.208(i)(2). *

11. May My Rating Official Lower My Rating of Record Due to Absences?

Your rating official may not lower your rating of record solely because you were absent from work. Absence from work is not a performance issue.

12. Must I Sign My Rating of Record?

No. Your signature indicates that the rating of record was discussed with you and that you reviewed it. If you choose not to sign, your rating official will indicate on the form your decision not to sign.

13. What Is the Reviewing Official's Role in the Rating Process?

Your reviewing official reviews your recommended rating, any justification for the rating, and your statement of accomplishments, if applicable, before approving your rating.

a. Can My Reviewing Official Change My Supervisor's Rating?

Yes. If your reviewing official changes your rating officials recommended rating, your reviewing official must document the reasons for the change on SBA Form 1276 or on bond paper so long as the reasons for the change are attached to SBA Form 1276.

b. Do All Employees Have Reviewing Officials?

No. You will not have a reviewing official if your rating official is either the Administrator or the Inspector General. Nor will you have an automatic review if your reviewing official is either the Administrator or the Inspector General. You must request a review. In such cases, the Administrator or Inspector General may choose to serve as reviewing official or may designate an appropriate official to serve in that capacity.

*** c. Can My Reviewing Official Change a Rating Issued to Me as a Final Rating of Record?**

Once approved and issued to you, your final rating of record cannot be unilaterally changed unless you challenge it. *

14. Where Are Copies of My Rating Filed?

The rating official sends the original of SBA Form 1276 and 1276A's to your servicing personnel office for input into the automated Personnel Payroll system and filing in your Employee Performance Folder (EPF). The rating official will give you a copy and may file a copy in your Performance Work Folder.

15. Does SBA Prescribe a Forced Distribution (Quotas) of Ratings?

No. Supervisors are encouraged to rate employees against established critical elements and performance standards.

Chapter 5

Recognizing and Rewarding Employee Performance

1. How May Supervisors Recognize and Reward Employee Performance?

Supervisors may recognize and reward employee performance with within-grade increases and performance awards.

2. What Is a Within-Grade Increase?

A within-grade increase is synonymous with the term "step increase" and is a periodic increase in an employee's rate of basic pay from one step of the grade of the position to the next higher step of that grade.

a. May I Receive a Within-Grade Increase?

Yes, if you occupy a permanent position under the General Schedule (GS) and are paid at less than the maximum step of your grade.

b. How May I Earn a Within-Grade Increase?

You may earn a within-grade increase if:

- (1) Your performance is at an acceptable level of competence, i.e., your most recent rating of record is at least Level 3 (Fully Successful);
- (2) You have completed the required waiting period to advance to the next higher step of the grade of your position; and
- (3) You did not receive an equivalent increase during your waiting period.

c. Can My Rating Official Waive My Acceptable Level of Competence Determination?

* Yes, if you did not perform under standards in any position for the minimum 90 calendar day appraisal period because of: *

- (1) Absences that are creditable service in the computation of a waiting period or periods under 5 CFR § 531.406; leave;

- (2) Service credit under the back pay provisions of 5 CFR Part 550 Subpart H;
 - (3) A detail to another agency or employer which did not prepare a rating for you;
 - (4) Long term training; or
 - (5) Insufficient time to demonstrate an acceptable level of competence due to authorized activities of official interest to SBA not subject to appraisal under this SOP (including but not limited to, labor-management partnership activities under section 2 of Executive Order 12871, and serving as a representative of a labor organization under Chapter 71 of Title 5, United States Code). In such situations, there is a presumption that you would perform at an acceptable level of competence if you performed the duties of your position of record for at least 90 calendar days.
- * *

d. What Is the Waiting Period for a Within-Grade Increase?

The table below shows the required waiting period for a within-grade increase.

<i>If you are in Step...</i>	<i>then your waiting period is...</i>
1, 2, 3	52 calendar weeks
4, 5, 6	104 calendar weeks
7, 8, 9	156 calendar weeks

e. How Is a Within-Grade Increase Generated?

The National Finance Center will automatically generate a within-grade increase unless an employee has a level 1 or 2 rating in the system. If an employee is not working at an acceptable level of competence, **supervisors must immediately inform the servicing personnel office to initiate appropriate action to deny an employee's within-grade increase.**

3. What Types of Performance Awards Does SBA Have?

SBA has three performance awards based on an employee's rating of record:

- a. Quality Step Increase (QSI);
- b. Sustained Superior Performance (SSP); and
- c. Superior Accomplishment (SA).

4. What Is a Quality Step Increase (QSI)?

A QSI is an increase in your rate of basic pay from one step or rate of your grade to the next higher step or rate of your grade. This award recognizes outstanding performance by granting faster than normal step increases.

a. How Can I Earn a QSI?

If you are a General Schedule (GS) employee occupying a permanent position and you are paid at less than the maximum step of your grade, your supervisor may recommend you receive a QSI after giving you an Outstanding rating.

b. Are There Any Restrictions On Granting a QSI?

You may not receive more than one QSI within any 52 consecutive calendar weeks.

5. What Are Sustained Superior Performance (SSP) and Superior Accomplishment (SA) Awards?

These awards are one-time lump sum cash payments based on your rating of record.

a. What Rating Must I Receive to Earn a Sustained Superior Performance Award?

A rating of record of Outstanding or Exceeds Fully Successful.

*** b. What Rating Must I Receive to Earn a Superior Accomplishment Award?**

A rating of record of Fully Successful with one critical element rated "Outstanding." *

You **are not** eligible for an award if you receive a "Minimally Successful" rating on any critical element.

6. What Is the Procedure for Recommending and Approving Performance Awards?

Your rating official must complete Part E of SBA Form 1276, "PMAS Performance Rating," appendix 2) and send it through your supervisory chain to the appropriate approving official. (See appendix 4.)

7. How Does SBA Ensure that Awards Are Equally Distributed?

Award Fund Managers must document the methodology used to distribute awards in their organization. For example, Award Fund Managers should grant the:

- a. Same dollar amount to employees at the same grade and earning the same rating; or
- b. Same percentage of base salary (excluding locality pay) to employees earning the same rating.

8. What Happens to the Award Recommendation After the Approving Official Signs It?

The approving official must send the approved award recommendation to your servicing personnel office for technical review and payment.

9. Who Obtains Approval for Awards Exceeding the Respective Authority of Approving Officials?

Your servicing personnel office will send any awards exceeding the approving official's authority to the appropriate approving official.

Chapter 6

Addressing Less Than Fully Successful Performance

1. What Happens If My Performance Is Minimally Successful?

- a. Whenever a rating official determines that your performance is at the Minimally Successful level on any critical element, he/she must immediately initiate appropriate counseling and consider appropriate corrective action to assist you in improving your performance to the Fully Successful level.
- b. Your supervisor must withhold any within-grade increase, if applicable, until your performance has improved and a higher rating achieved. To do so, your supervisor must inform you of this determination in writing (appendix 5) as soon as possible before the end of your waiting period. The notice will contain:
 - (1) The critical element(s) and performance standards of your position for which your performance is judged below an acceptable level of competence;
 - (2) Examples of your performance which are less than Fully Successful;
 - (3) Ways to improve your performance;
 - (4) A copy of your most recent rating of record and supporting documentation;
 - (5) Your right to request reconsideration within the next 15 calendar days;
 - (6) The name and title of the reviewing official to whom you must submit your request for reconsideration; and
 - (7) Your right to representation.

2. How Do I Request Reconsideration of a Denial of My Within-Grade Increase?

You must file a written response to the decision to deny your within-grade increase within 15 calendar days of the decision, specifying the reasons you believe the reviewing official should reconsider the decision. Upon receipt, your reviewing official must establish a reconsideration file containing all pertinent documents relating to the denial of your within-grade increase.

a. Can the Timeframe for Filing a Reconsideration Request for a Within-Grade Increase Denial be Waived?

Yes, if you can show that you did not receive notification of the time limit, or that circumstances beyond your control prevented you from making a timely reconsideration request.

b. When Will the Decision on My Reconsideration Request be Issued?

If there are no unusual circumstances, your reviewing official will issue a decision based on the material in the reconsideration file, within 30 calendar days following receipt of your reconsideration request.

c. May I Review the Material In the Reconsideration File?

Yes. If you are in a duty status, you will have a reasonable amount of official time to review the material relied upon in denying your within-grade increase and respond to the denial either in writing, orally, or both.

d. What If the Reviewing Official Sustains or Reverses the Denial of My Within-Grade Increase?

Your reviewing official will notify you in writing of the reasons for the decision and your right to appeal to the Merit Systems Protection Board (MSPB). (See appendix 6.) If the decision is to grant your within-grade increase, your deciding official will notify you in writing and your within-grade increase will be effective on the original due date.

e. How Often Will a Determination Regarding My Performance Following My Within-Grade Increase Denial be Made?

Your rating official must determine whether your performance warrants granting your within-grade increase after no more than 52 calendar weeks following the original eligibility date of your within-grade increase. Additionally, as long as the within-grade increase is denied, your rating official must make determinations at least every 52 calendar weeks.

f. What Happens If My Performance Improves After Denial of My Within-Grade Increase?

Your within-grade increase becomes effective the first day of the first pay period following the date your rating official determines that your performance is at the "Fully Successful" level or higher.

To effect your within-grade increase, your rating official must immediately prepare a new rating and send it to your servicing personnelist with a cover memorandum requesting that your within-grade increase be granted.

3. Can My Supervisor Delay My Within-Grade Increase Rather Than Deny It?

Your rating official will delay your within-grade increase only if:

- * a. You haven't had an opportunity to demonstrate an acceptable level of competence in your current position because you have not performed under standards for the minimum 90 calendar days, and you did not receive a performance rating in any position within 90 calendar days of the end of your waiting period; or
- b. Your supervisor reduced your grade because of unacceptable performance to a position in which you are eligible for a within-grade increase or will become eligible within 90 calendar days. *

In such cases, your rating official must notify you of the delay in your acceptable level of competence determination, an extension of your rating period, and the specific requirements for performance at an acceptable level of competence.

4. What Is the Effective Date of My Within-Grade Increase After Being Delayed Because I was not Ratable?

When your rating official determines that your performance is at an acceptable level of competence, your within-grade increase is retroactive to the original due date.

5. Am I Eligible for a Within-Grade Increase If I'm Reduced In Grade?

- * If you served in a position under performance standards at the lower grade for at least 90 calendar days, your rating official will use the rating of record at the lower grade as the basis for an acceptable level of competence determination. If you have not served in the position for at least 90 calendar days, your rating official will postpone your determination and extend your rating period. *

6. What Happens If My Performance Is Unacceptable?

Whenever your rating official determines that your performance on any critical element is Unacceptable, unless you are excluded by paragraph (e) below, your rating official must give you an opportunity to improve your performance by placing you on a performance improvement plan (PIP). Your rating official must do the following.

- a. Give you a reasonable opportunity (commensurate with the duties and responsibilities of your position) to improve your performance.
- b. Notify you in writing of the critical element(s) which pertain to your Unacceptable performance and the Minimally Successful performance standards you must attain to avoid a reduction in grade or termination of your employment. (See appendix 7.) The letter will also identify the assistance your rating official will provide you in order to help you correct your performance. This assistance may include the following:
 - (1) Improvement of work procedures, instructions, or processes;
 - (2) Clarification of critical elements and performance standards;
 - (3) Training;
 - (4) Counseling assistance; and/or
 - (5) Increased direct supervision.
- c. If your performance **doesn't improve** to at least the Minimally Successful level by the end of your performance improvement period (PIP) (including any extensions), your supervisor may:
 - (1) Propose to terminate your employment;
 - (2) Propose to reduce you in grade; or
 - (3) Reassign you to a different position if one is vacant and management believes that you can perform at an acceptable level in the new position.
- d. If your performance **does improve** to at least the Minimally Successful level, you must maintain that level of performance for 1 year. If you later resume performance at an Unacceptable level within 1 year of the beginning of the opportunity period in the same critical element(s) for which you were afforded an opportunity to improve, your supervisor may propose action without affording you an additional opportunity to improve (5 CFR 432.105).
- e. The requirement for a performance improvement period (PIP) does not apply to:

- (1) Employees in the competitive service serving a probationary or trial period;
- (2) Employees in the competitive service, who did not serve a probationary or trial period, and who have not completed 1 year of current continuous employment in the same or similar position other than a temporary appointment limited to 1 year or less;
- (3) Employees in the excepted service who did not complete 1 year of current continuous employment in the same or similar position;
- (4) Individual's occupying a position in the excepted service for which employment is not reasonably expected to exceed 120 days in a consecutive 12-month period;
- (5) Schedule C employees;
- (6) Re-employed annuitants; or
- (7) Managers and supervisors returned to their previously held grade for failure to satisfactorily complete a probationary period (5 U.S.C. §3321(a)(2) and (b)).

7. Can I Have a Representative Present When My Supervisor Counsels Me About My Performance?

No, you are not entitled to representation because meetings to discuss performance are not disciplinary or investigatory in nature (5 U.S.C. § 7114(a)(2)(B)).

8. What If My Deficient Performance Is Due In Part to Medical and/or Personal Problems?

If your rating official has reason to think that your deficient performance may be due in part to alcohol, drug, behavioral, emotional, or other personal problems, he/she must

advise you of SBA's Employee Assistance Program (EAP). You may contact your servicing personnel office for an EAP brochure and the EAP toll free number. If you meet the necessary requirements, your rating official will give you information concerning eligibility for disability retirement.

9. What Is the Procedure for Removing Me From My Position After Failing a Performance Improvement Plan (PIP)?

Your rating official (the proposing official) must give you a 30 day advance notice of the proposed action and an opportunity to prepare and respond both orally and in writing to the proposed action. (See appendix 8.)

The notice proposing your reduction in grade or termination of your employment will:

- a. Identify the specific instance(s) of unacceptable performance. These specific instance(s) may have occurred during the opportunity to improve your performance or at any time during the 1-year before issuance of the proposed action;
- b. Identify the critical element(s) of your position where performance is Unacceptable;
- c. Notify you of the entitlement to a reasonable amount of official time, typically 16 hours, to both review the material relied upon by the proposing official, and to answer the proposed action orally or in writing or both; and
- d. Notify you of the right to representation by an attorney or other representative as long as there is no conflict of interest or the appearance of a conflict of interest.

10. What Is the Role of the Deciding Official In an Adverse Action?

The deciding official will consider your performance during the performance improvement period (PIP), your performance during the 1-year period before the notice of the proposed action, and any written and/or oral response you or your representative furnishes in response to the proposed action.

5 CFR 432.105(b) requires the deciding official to issue a written decision within 30 calendar days after the expiration of the advance notice period (appendix 9). If there is reasonable cause, the Assistant Administrator for Human Resources or the Inspector General (for IG employees) may extend the notice period. You may request an extension of the notice period in writing from the Assistant Administrator for Human Resources or the Inspector General.

The decision will:

- a. Inform you whether the deciding official sustained the proposed action, substituted a less severe action than the proposed notice, or canceled the proposed notice;

- b. Where appropriate, specify the instance(s) of Unacceptable performance on which the proposing official based the action;
- c. Document that the deciding official carefully considered the issue(s) raised in your oral and/or written reply;
- d. Specify the effective date of any action decided; and
- e. Advise you of any appeal right.

11. Can I Stop an Adverse Action By Applying for Disability Retirement?

No. Your application for disability retirement will not stop or delay any appropriate action under this chapter.

