

CIVIL SERVICE

CIVIL SERVICE COMMISSION

Classification, Services, and Compensation

Leaves, Hours of Work and Employee Development

**Proposed Amendments: N.J.A.C. 4A:3-3.9(d); 3-5.2; 3-5.3(c); 3-5.4; 3-5.7;
and 4A: 6-1.21A; 6-1.21B; 6-4.10(f); 6-5.2**

Authorized By: Civil Service Commission, Robert M. Czech, Chairperson.

Authority: N.J.S.A. 11A:2-6(d), 11A:2-11(h), 11A:3-1 through 7, 11A:6-1 through 11A:6-28 and 34:11B-1 et seq.; 29 U.S.C. §§ 201 et seq.; 29 U.S.C. §§ 2601 et seq.; and 29 CFR 825

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN

A **public hearing** concerning the proposed amendment will be held
on:

September 20, 2017, at 3:00 P.M.

Civil Service Commission Room

44 South Clinton Avenue

Trenton, New Jersey

Please call Walker Ristau at (609) 777-0910 if you wish to be included
on the list of speakers.

Submit written comments by October 20, 2017 to:

Christopher Myers, Director

Division of Appeals and Regulatory Affairs

Civil Service Commission

P.O. Box 312

Trenton, New Jersey 08625-0312

The agency proposal follows:

Summary

The Civil Service Commission proposes an amendment to N.J.A.C. 4A:3-3.9(d), which concerns classification appeals, to allow a classification appeal in local service to be forwarded to the Commission without a supervisor's signature from five days after the supervisor's receipt to 15 days, which will standardize the timeline between State and local appointing authorities.

Regarding N.J.A.C. 4A:3-5.2 and 4A:3-5.3, amendments are proposed to ensure that overtime compensation is based on hours actually worked by State employees rather than hours the employee was in pay status. Currently, for overtime compensation not falling under Federal law, N.J.A.C. 4A:3-5.3, 40 hours or less in a workweek: State service, bases a State employee's overtime eligibility, in part, on time spent in pay status. Additionally, the definitions section at N.J.A.C. 4A:3-5.2, Definitions: State service, does not define the word "work" and its grammatical variants "worked" and "works," even though the word is used throughout Subchapter 5 of Chapter 3 of Title 4A, which concerns overtime compensation.

Therefore, amendments are proposed that would uniformly apply one definition of "work" throughout N.J.A.C. 4A:3-5, regardless of whether the overtime pertains to work of 40 hours or less in a workweek, or work of over 40 hours in a workweek. The definition would indicate that only hours actually worked would be considered for overtime eligibility purposes.

First, an amendment is proposed to N.J.A.C. 4A:3-5.2, Definitions: State service, to add for purposes of overtime compensation a definition of “work,” “worked” or “works” meaning work actually performed by the employee rather than time spent in pay status when no work is performed. Also, amendments are proposed to N.J.A.C. 4A:3-5.3, 40 hours or less in a workweek: State service. An amendment to paragraph (c)1 would require that, to receive overtime compensation under this rule section, a State employee must have actually worked the full number of hours in the regular workweek and not just be in pay status for that period of time. Further, subsection (c) would be amended to provide that these overtime compensation rules apply to employees, notwithstanding the provisions of any collective negotiations agreement that becomes effective on or after the effective date of this amendment. In the case of a situation where a current collective negotiations agreement, that has not reached its initial expiration date, conflicts with the amendment, the rule shall take effect on the date that the collective negotiations agreement that existed at the time this amendment becomes effective was initially set to expire. If a collective negotiations agreement containing such a provision is continued or is continuing on a year-to-year basis after its initial expiration date, the amended rule will take effect upon the rule adoption.

The criteria for exemption from the FLSA set forth in N.J.A.C. 4A:3-5.4 is for illustrative purposes only, as the criteria are set by Federal, not

State law. In light of the recent amendments to the FLSA, especially the provision that automatically updates the standard salary threshold every three years beginning January 1, 2020, it is proposed that the criteria for exemption be replaced with a citation to the exemptions found in the FLSA.

Also proposed for amendment is N.J.A.C. 4A:3-5.7, which would clarify the existing interpretation of the rule, which provides that only 35, 40 or NE on-call employees, Range 32 or lower, are eligible for overtime compensation. It is noted that N.J.A.C. 4A:3-5.2(d) already provides that employees in Range 32 or higher are not eligible for special project rate compensation. A new subparagraph 4 would be added to further clarify that employees in Range 32 or higher, including those in no-range titles, are not entitled to special project rate compensation. Finally, it is proposed that N.J.A.C. 4A:3-5.9(c) be eliminated, as this subsection is no longer in use.

N.J.A.C. 4A:6-1.21, Family leave, sets forth provisions common to both the State and Federal family leave programs and provides useful examples regarding interaction between the two programs. N.J.A.C. 4A:6-1.21A is specific to State family leave, while N.J.A.C. 4A:6-1.21B addresses Federal family and medical leave. N.J.A.C. 4A:6-1.21A is proposed for amendment at paragraph (b)3, where the term “employee” is defined. In State service, the necessary 1,000 base hours worked during the immediately preceding 12-month period for FLA eligibility would have to be hours actually worked, with the exception of hours paid through workers’ compensation (see N.J.A.C.

13:14-1.2) and, in accordance with the Uniformed Services Employment and Reemployment Act (USERRA), hours spent on paid or unpaid military leave. See 38 U.S.C. §§ 4311 et seq. Hours during which the employee was simply in pay status while on vacation, sick, or administrative leave would not count toward the 1,000 base hours.

Also proposed for amendment is paragraph (b)1 of N.J.A.C. 4A:6-1.21B, Federal family and medical leave, where an “eligible employee,” in either State or local service, is defined, in part, in terms of whether he or she has worked the minimum 1,250 hours for the employer for at least 12 months. The present language states that, in determining whether an employee has completed 1,250 hours, this work, even if not requested by the employer, must have been “suffered or permitted” by the employer. However, the amendment would more comprehensively reflect Federal law in this area. It would require that the employee must have actually worked the minimum number of hours, in accordance with the Federal Fair Labor Standards Act (FLSA), except that, pursuant to USERRA, hours on paid or unpaid military leave would still be counted toward base hours. The present language regarding work “suffered or permitted” would be deleted because the proposed new language would refer to the principles established under the FLSA, which principles include work that is “suffered or permitted,” in calculating the 1,250 hours.

It is proposed that N.J.A.C. 4A:6-4.10(f) be amended to modify the

requirement that an appointing authority must consult with the supervisor of the EAS program to a recommendation that an appointing authority **should** consult with the supervisor prior to seeking removal of an employee receiving service from the EAS program.

N.J.A.C. 4A:6-5.2, PAR Procedure: State service, sets forth the procedures for completion of PARs and provides a mechanism for the filing of a complaint regarding an agency's noncompliance with the PAR program. Current subsection (a) requires an employee and his or her supervisor to jointly develop a job performance plan. It is proposed that subsection (a) be amended to clarify that the Rater's supervisor must sign the performance plan as the Reviewer who is responsible for overall consistency within a job unit. Subsection (b) establishes a timeframe for the review of the job performance plan and requires the employee's supervisor to designate an interim performance rating at the end of six months and a final rating at the end of the rating cycle. It is proposed that subsection (b) be amended to require the employee's supervisor to designate an interim performance rating midway through the rating cycle and a final rating at the end of the rating cycle. The purpose of this amendment is to provide for employees who do not complete the full one year rating cycle with the same supervisor. Under current practice, such employees are evaluated on a prorated ratings cycle and this amendment would reflect this practice. Paragraph (b)1 currently states that a performance plan should be closed out when a change in either

the job assignment or supervisor during the evaluation period. It is proposed that this paragraph be amended to clarify that the old performance plan should be closed out upon the occurrence of the aforementioned events, but the employee's title remains the same. Subsection (e) provides for the supervisor's own PAR as it relates to his or her subordinates' PAR and the conditions in which the supervisor can receive a rating of Unsatisfactory. It is proposed that section(e) be amended to clarify that the supervisor would only receive an Unsatisfactory rating for the performance factor related to supervision if he or she fails to timely complete the final ratings of his or her subordinates or is responsible for another employee's failure to timely complete a final PAR rating.

Social Impact

The amendments to N.J.A.C. 4A:3-3.9 are expected to have a positive social impact. First, providing 15 days to a supervisor in local service to review and sign a classification appeal rather than five days will improve the classification appeal review process by ensuring greater participation from supervisors, which will in turn result in more accurate classification of employees. Second, distinguishing an evaluation to determine whether a position is properly classified in N.J.A.C. 4A:3-3.9(a)-(d) from an appeal of that evaluation in N.J.A.C. 4A:3-3.9(e) will provide greater clarity in the rule.

The proposed amendments to N.J.A.C. 4A:3-5.2 and 4A:3-5.3 will ensure conformity of the rules with State and federal law. Moreover,

appointing authorities and users of the rules would benefit from a more consistent application of overtime eligibility requirements and a more consistent reading of the term “work” and its grammatical variants in the context of overtime. It is anticipated that the amendment to N.J.A.C. 4A:3-5.4 will not have an appreciable social impact, as the criteria for exemption from the FLSA is Federal and thus, in the current form of the rule, provided for informational purposes only. Under the proposed amendment, readers of the rule will still be able to access the criteria for exemption, as citations will be provided. Additionally, it is anticipated that a hyperlink to the exemption criteria listed on the federal Department of Labor’s website will be provided in the rule section on the Civil Service Commission’s website. The proposed amendment to N.J.A.C. 4A:3-5.7 will not have a social impact, as the rule in its current form restricts overtime compensation for exceptional emergencies to non-limited employees in salary range 32 or above. This language is consistent with other provisions in Subchapter 5 that restrict compensatory time off for such employees. Finally, the proposed repeal of N.J.A.C. 4A:3-5.9(c) will not have a social impact, as the subsection is no longer in use.

A positive social impact is expected from the proposed amendments to N.J.A.C. 4A:6-1.21A and 4A:6-1.21B, as the amendments will ensure that the rules comply with federal law. Additionally, appointing authorities could benefit from the amendments because employees will work an actual 1,250 hours before being eligible for these benefits. Moreover, appointing

authorities and users of the rules would benefit from a more consistent reading of the term “work” and its grammatical variants in the context of eligibility for FLA and FMLA.

The amendment to N.J.A.C. 4A:6-4.10(f) is expected to enhance the important role of the EAS, while avoiding any misinterpretation that the EAS has a decision-making role in the disciplinary process. The amendments of the PAR rules in N.J.A.C. 4A:6-5.2 are expected to have a positive social impact, as they will assist supervisors in better understanding and applying the rating scale and, just as important, ensure that employees are evaluated in a timely fashion. Moreover, the amendments to paragraph (b)1 and section (e), which clarify the existing rules, will aid appointing authorities and employees in implementing them.

Economic Impact

The proposed amendment to N.J.A.C. 4A:3-3.9(d), which would change the provision allowing a classification appeal to be forwarded to the Commission without a supervisor’s signature from five days after the supervisor’s receipt to 15 days, will likely have a positive economic impact by ensuring that local employees’ titles are properly classified. Misclassification of titles could negatively impact local taxpayers by overcompensating employees for the work they perform. Conversely, misclassification of titles could also result in employees being undercompensated.

There may be an economic impact on certain State employees as a result of some of the proposed amendments to N.J.A.C. 4A:3-5.2 and 4A:3-5.3. Overtime eligibility for State employees where an employee works 40 hours or less in a workweek would be narrowed due to the requirement that “work” means “actual work.” Therefore, it would be somewhat more difficult for some State employees to be eligible for this category of overtime and potentially they could receive less overtime compensation than they had received previously. On the other hand, these amendments would likely result in cost savings to State appointing authorities, since the eligibility criteria for overtime payments would be limited to those employees who had actually worked more than the hours established for their workweek. Finally, no new economic impact is expected from the amendments to N.J.A.C. 4A:3-5.7, as the rule codifies existing practice.

There may be an economic impact on certain State employees as a result of some of the proposed amendments to N.J.A.C. 4A:6-1.21A and 4A:6-1.21B. Overtime eligibility for State employees where an employee works 40 hours or less in a workweek would be narrowed due to the requirement that “work” mean “actual work.” Therefore, it would be somewhat more difficult for some State employees to be eligible for this category of overtime and potentially they could receive less overtime compensation than they had received previously.

Similarly, a State employee applying for State Family Leave could find it more difficult to qualify for such leave, regardless of whether it is paid or unpaid, since the 1,000 base hours would have to include only hours actually worked. The same goes for the ability of State employees to qualify for FMLA, as the proposed amendment to N.J.A.C. 4A:6-1.21B would specifically require that only hours actually worked could count toward the number of hours an employee must have accumulated to be eligible for FMLA.

On the other hand, these amendments would likely result in cost savings to State appointing authorities, since the eligibility criteria for overtime payments would be limited to those employees who had actually worked more than the hours established for their workweek.

Federal Standards Statement

The proposed amendments to N.J.A.C. 4A:3-5.2, 4A:3-5.3, 4A:3-5.4, 4A:3-5.7, 4A:6:1.21A and, 4A:6:1.21B meet, but do not exceed, Federal standards established by the FLSA with respect to the receipt of overtime for work hours exceeding 40 in a workweek and Federal standards established by that Act. Proposed amendments concerning overtime for working 40 hours or less in a workweek and affecting how a State employee may be found eligible for FLSA benefits fall within State agency discretion, and are neither required nor prohibited by Federal standards. Additionally, the proposed amendments meet, but do not exceed, USERRA standards relevant to determining an employee's accumulated work hours for purposes of FLSA

eligibility. The remaining proposed amendments are not subject to any Federal requirements or standards.

Therefore, a Federal standards analysis is not necessary.

Jobs Impact

It is not anticipated that any jobs will be generated or lost if the proposed amendments are adopted. The proposed amendments concern the existing classification and compensation program, as well as leaves and hours of work in the civil service system.

Agriculture Industry Impact

The proposed amendments concern the existing classification and compensation program, as well as leaves and hours of work in the civil service system.

Regulatory Flexibility Statement

A regulatory flexibility analysis is not required since the proposed amendments will have no effect on small businesses as defined under the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The rules will regulate employment in the public sector.

Housing Affordability Impact Analysis

Since the rules proposed amendments concern job classification, compensation, leaves and hours of work under the civil service, they would have no impact on the number of housing units or the average cost of housing in New Jersey.

Smart Growth Development Impact Analysis

Since the rules proposed amendments concern job classification, compensation, leaves and hours of work under the civil service, they would have no impact on smart growth or on new construction within Planning Areas 1 and 2, or within designated centers, under the State Development and Redevelopment Plan.

Full text of the proposed amendments follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

4A:3-3.9 Appeal procedure

(a) – (c) (No change.)

(d) In local service, an appeal from an employee, union representative, or appointing authority shall be submitted, in writing, to the appropriate representative of the Civil Service Commission. The appeal must identify the specific duties that do not conform to the specification for the title and, if the appellant proposes a different title for the position, an explanation of how that existing title more accurately describes the duties of the position than the current or proposed title. If requested by a representative of the Commission, the appeal shall also include a completed position classification questionnaire and an organizational chart. If the appellant's supervisor has not signed the questionnaire within [five] **15** working days of receipt of the

questionnaire from the appellant, the appellant may forward the questionnaire to the appropriate representative of the Commission without the supervisor's signature but with a notation of the date of presentation to the supervisor.

1. (No change.)

(e) – (f) (No change.)

4A:3-5.2 Definitions: State service

The following terms, when used in this subchapter, shall have the following meanings unless the context clearly indicates otherwise.

"Base salary" means the employee's rate of pay exclusive of any additional payments or allowances.

"Cash overtime compensation" means payment at a rate of one and one-half times the hourly proration of the employee's base salary, or one and one-half times the employee's regular rate, as specified.

"Compensatory time off" means the granting of time off in lieu of cash payment where permitted for excess or unusual work time.

"Covered position" means a position which is subject to the provisions of the Fair Labor Standards Act, 29 U.S.C. 201 et seq.

"Exempt position" means a position which is excluded from the provisions of the Fair Labor Standards Act.

"Fixed workweek title" means a title specified in the State Compensation Plan as having a 35 hour (35, 3E) or 40 hour (40, 4E) workweek. See N.J.A.C. 4A:6-2.2.

"Holiday" means a legal holiday or a special holiday authorized by law or executive order.

"Non-limited title" means a title having irregular or variable work hours. Such titles may be designated as exempt non-limited (NL, N4), or covered, also known as non-exempt, non-limited (NE). See N.J.A.C. 4A:6-2.3.

"Overtime compensation" means cash overtime compensation or compensatory time off as permitted.

"Pay period" means the period beginning 12:01 A.M. Saturday and ending midnight the second Friday following (Note: A schedule of pay periods is published annually by the New Jersey Department of the Treasury.).

"Regular rate" means the hourly proration of the employee's annual base salary plus the fair market value of goods and facilities received as part of the wages. For employees in covered titles, the regular rate includes clothing allowances unless the allowance is for the purchase or maintenance of prescribed clothing required by the employer. Employees in covered non-limited titles (NE) shall be deemed to have a 40-hour workweek for determining the hourly proration. Employees who work at different pay rates in a single workweek shall have their hourly proration based on a weighted average of the different rates.

"Seven day coverage position" means a position assigned to an area where work coverage is required on a seven day basis throughout the year.

“Work,” “worked” or “works” means work actually performed by the employee, and does not mean time the employee spent in pay status when no work is performed.

"Workweek" means the period beginning 12:01 A.M. Saturday and ending midnight the following Friday except in those instances where the Chairperson or designee has approved an alternate workweek for overtime purposes for employees engaged in seven day operations.

4A:3-5.3 40 hours or less in a workweek: State service

(a) – (b) (No change.)

(c) **[An] Notwithstanding the provisions of any collective negotiations agreement that becomes effective on or after (the effective date of this amendment), an employee shall be eligible for overtime compensation under this section only when:**

1. The [employee is in pay status for the full number of hours in his or her regular workweek;] **employee has worked the full number of hours in his or her regular workweek;**

2. – 3. (No change.)

(d) (No change.)

4A:3-5.4 Criteria for exemption from Federal Fair Labor Standards Act: State service

(a) For the criteria for exemption from the Federal Fair Labor Standards Act, 29 U.S.C. 201 et seq., see 29 U.S.C. § 213 and 29 CFR 541.

[(a) The following are the criteria for exemption from the Federal Fair Labor Standards Act, 29 U.S.C. 201 et seq.:

1. An unclassified employee is exempt if he or she:
 - i. Holds a public elective office of the State;
 - ii. Is a member of the personal staff of an elected office holder;
 - iii. Is appointed by such an office holder to serve on a policy making level;
 - iv. Is an immediate adviser to such an office holder with respect to the constitutional or legal powers of the office; or
 - v. Meets one of the criteria for exemption set forth in (a)2 through 6 below.
2. An executive employee paid at least \$250.00 a week on a salary basis exclusive of board, lodging and other facilities is exempt if the employee regularly directs the work of two or more other employees and the employee's primary duty is management of the enterprise or a recognized department or subdivision thereof.

3. An administrative employee who is paid on a salary or fee basis at least \$250.00 a week, exclusive of board, lodging or other facilities, is exempt if his or her primary duty is responsible office or non-manual work directly related to management policies or general business operations or responsible work in the administration of an educational institution and his or her work requires the exercise of discretion and independent judgment.

4. A professional employee who is paid at least \$250.00 per week is exempt if his or her primary duty requires advanced knowledge in a field of science or learning or involves work as a teacher, and requires the consistent exercise of discretion of judgement; or his or her primary duty involves artistic work in a recognized field of artistic endeavor.

5. Executive, administrative and professional employees who are paid less than \$250.00 per week may be exempt under conditions specified in Federal regulations. See 29 C.F.R. 541.

6. Employees engaged in law enforcement or fire protection activities, including security personnel in correctional institutions, who are employed by a public agency that employs less than five law enforcement or five fire protection workers in a workweek, are exempt.]

(b) An individual position may be exempt if it meets the criteria in this section, even if it is in a covered title. See N.J.A.C. 4A:3-5.10(b) for position designation appeals.

4A:3-5.7 Special circumstances: State service

(a) – (d) (No change.)

(e) Eligibility for special project rate compensation shall be as follows:

1. If a[n] **35, 40 or NE** employee, **Range 32 or lower**, works on a part time, occasional or sporadic basis, and solely at the employee's option, in a different capacity from which the employee is regularly employed, the hours employed in the different capacity shall be excluded from the calculation of the hours to which the employee is entitled to overtime compensation. Such employment may be paid at special project rates as approved by the Chairperson or designee.

2. – 3. (No change.)

4. Employees above Range 32, including employees in no range titles, are not entitled to any special project rate compensation.

4A:3-5.9 Appointing authority responsibilities: State service

(a) – (b) (No change.)

[(c) For budget requests, the appointing authority shall provide an annual summary to include the extent and justification for overtime required during the past fiscal year, current fiscal year, and the extent and justification of anticipated overtime during the next fiscal year. The latter shall be supported by a description of the work programs to be accomplished, the amount of hours and money involved, the circumstances dictating that it

be overtime, and alternatives that would permit accomplishment of the overtime work on regular time. The instructions for the above shall be included in the "Manual for Preparation of Budget Request" which is published and distributed to all State agencies by the Office of Management and Budget in the Department of the Treasury. The appointing authority shall file a copy of this summary with the Chairperson or designee.]

([d]c) The following records shall be kept:

1. – 13. (No change.)

([e]d) Upon demand, the appointing authority shall make available to the Chairperson or designee all records and accounts of overtime work at the time(s) and location(s) specified.

([f]e) Upon demand for reports of compensatory time off or comparable time off, the appointing authority shall make available to the Chairperson or designee the following items:

1. – 8. (No change.)

([g]f) Procedures for payments of compensable overtime will be published as part of the payroll manual.

4A:6-1.21A State family leave

(a) (No change.)

(b) The following definitions are used in this section:

1. – 2. (No change.)

3. "Employee" means a person who is employed for at least 12 months by an employer, with respect to whom benefits are sought under the Family Leave Act, P.L.1989 c.261, for not less than 1,000 base hours during the immediately preceding 12-month period, and includes employees in the career, senior executive and unclassified services. **In State service, base hours include hours actually worked, hours paid through Workers' Compensation, and hours on military leave whether paid or unpaid, but do not include hours not worked due to vacation, sick, administrative or any other leave, paid or unpaid.**

4. – 12. (No change.)

(c) – (j) (No change.)

4A:6-1.21B Federal family and medical leave

(a) (No change.)

(b) Definitions, unique to this section, are as follows:

1. "Eligible employee" means an employee of the State or a political subdivision who has worked for the employer for at least 12 months for a minimum of 1,250 hours. [In determining whether an employee meets this hours of service requirement, work not requested by an employer but suffered or permitted is work time for purposes of meeting this requirement. See 29 U.S.C. 207; 29 CFR 785.11.] **Whether an employee has worked the minimum 1.250 hours of service is determined according to the**

principles established under the Fair Labor Standards Act (FLSA) for determining compensable hours of work. See 29 U.S.C. 207; 29 CFR 785. In calculating the 1,250 hours, only actual hours of work are included, as well as hours on military leave whether paid or unpaid; however, hours not worked due to vacation, sick, administrative, or any other leave, paid or unpaid, are not included.

2. – 5. (No change.)

(c) – (j) (No change.)

4A:6-4.10 Employee Advisory Service: State service

(a) – (f) (No change.)

(f) An appointing authority that is informed that an employee is receiving services through EAS, [shall] **should** consult with the supervisor of the EAS program prior to seeking removal of the employee.

(g) (No change.)

4A:6-5.2 PAR procedure: State service

(a) An employee and his or her supervisor shall jointly develop a job performance plan consisting of work assignments together with measurable performance standards. The employee shall be provided with a copy of the performance plan once established. If an employee disagrees with the established performance plan, he or she may note such disagreement. **The**

Rater's supervisor shall sign the performance plan as the Reviewer who is responsible for overall consistency within a job unit.

(b) At the end of six months and at the end of one year **of the rating cycle**, the employee and the supervisor shall review the employee's performance. **When the employee's supervisor changes before the end of the rating cycle**, [T]the **new** supervisor shall designate an interim performance rating [at the end of six months] **midway through the remainder of the rating cycle** and a final rating at the end of [one year] **the rating cycle**.

1. When there is a change either in job assignment or supervisor during the evaluation period, **but the title remains the same**, the old performance plan shall be closed out. The employee's performance during the portion of the rating period under the old performance plan shall be rated and a new performance plan shall be prepared. The final rating shall be a proration of all ratings received during the review period.

2. – 3. (No change.)

4. The employee shall be entitled to a copy of the rating.

(c) When a rating below the Successful level is received, a performance conference shall be conducted after three months or such shorter period of time as determined by the supervisor.

(d) (No change.)

(e) A supervisor's own PAR shall provide that the supervisor shall complete the PAR of his or her subordinates. A supervisor who fails to timely complete the final ratings of his or her subordinates, or who is responsible for another employee's failure to timely complete a final PAR rating, shall receive a rating of Unsatisfactory **for the performance factor related to supervision**, and may be subject to discipline.

(f) – (h) (No change.)