Questions and Answers on 5 CFR part 430, subpart B Final Regulations

A. Overview of the Rule

1) What are the major changes made under this final rule?

The final rule makes several significant changes to performance appraisal regulations for General Schedule (GS), prevailing rate, and certain other non-SES employees. Major changes include:

- Authorizing OPM to establish and maintain a standardized distribution of some or all performance rating levels that agencies must apply.
- Removing the regulatory prohibition on comparing, categorizing, and ranking employees for purposes of assigning summary ratings.
- Eliminating summary rating patterns that include a Level 2 rating and retaining only approved summary rating patterns that provide meaningful distinctions in performance.
- Restricting use of the two-level (Pattern A) appraisal program to seasonal employees, teachers, GS-1 through GS-4 employees, and Federal Wage System employees.
- Eliminating the governmentwide requirement for mandatory higher-level review and approval of Level 1 (Unacceptable) ratings of record.
- Clarifying that ratings of record generally may not be challenged through negotiated grievance procedures under 5 U.S.C. 7121.
- Requiring all supervisors covered by 5 CFR part 430, subpart B, to have a supervisory critical element in their performance plans.
- Requiring OPM to evaluate and certify agency performance appraisal systems on a biennial basis.
- Requiring agencies to administer performance appraisal systems consistent with the merit system principles set forth in 5 U.S.C. 2301.

2) Why is OPM making these changes to the performance management regulations?

Federal performance appraisal systems have struggled for decades to meaningfully distinguish between levels of performance. Data shows that most employees receive ratings at or above Fully Successful and OPM believes the current appraisal system framework has contributed to rating inflation and reduced accountability. The rule is intended to improve the accuracy of performance ratings, promote meaningful distinctions in performance, strengthen accountability, and enhance OPM oversight of agency appraisal systems.

3) Who is covered by this rule?

The final rule applies to employees covered by 5 CFR part 430, subpart B, including:

- General Schedule (GS) employees.
- Prevailing Rate (Federal Wage System) employees.
- Certain other non-SES employees.

It does not apply to:

- Senior Executive Service (SES) employees.
- Senior Professional (SL/ST) employees (pending finalization of a separate rule that moves senior professional coverage to 5 CFR part 430, subpart E).
- Schedule C or G appointees.

4) When do the requirements of the final rule take effect?

The final rule becomes effective August 6, 2026. Compliance with the reduced summary level patterns and the elimination of a Level 2 rating of record at 5 CFR 430.208(e)(1) and (2) is delayed until January 1, 2027. This allows agencies to complete fiscal year 2026 performance appraisals using all five summary level ratings, including Level 2, as appropriate.

B. Rating Levels and Summary Level Patterns

1) What are the Rating Levels?

- Level 1 = Unacceptable
- Level 3 = Fully Successful (or equivalent)
- Level 4 = Agency-defined intermediate superior level
- Level 5 = Outstanding (or equivalent)

Note that only Level 5 may be called "Outstanding."

2) Is the Level 2 rating being eliminated?

Yes. The final rule eliminates all summary level patterns that contain a Level 2 rating. Agencies will implement this part of the regulations by January 1, 2027 for the FY27 performance cycle.

3) **What summary level patterns will remain?**

Only three summary level patterns will remain:

Pattern A: Level 1, Level 3
Pattern B: Level 1, Level 3, Level 5
Pattern C: Level 1, Level 3, Level 4, Level 5

4) **Can agencies still use a pass/fail system?**

Yes, but only for certain groups of employees. Agencies may continue to use Pattern A (pass/fail) for:

- Seasonal employees
- Teachers
- GS-1 through GS-4 employees
- Federal Wage System employees

5) **May agencies voluntarily use Pattern B or Pattern C for employees eligible for Pattern A?**

Yes. The final rule permits agencies to use a more differentiated rating pattern where appropriate.

6) **Will employees need to adjust their expectations about ratings?**

Employees should ensure they are informed on their agency's new performance management system and process. Although OPM expects fewer employees to receive the highest ratings, agencies should emphasize that Level 3 (Fully Successful) is a good rating.

7) **Could I receive a lower rating than I previously received even if my performance has not changed?**

Supervisors are responsible for rating employees on an annual basis, based on the individual's performance requirements. Although performance requirements remain the same from year to year, the supervisor's assessment is based on the employee's results for that time period. There is no way to determine that performance has not changed from year to year. As stated above in Question 6, a Level 3 rating represents successful performance and that the employee is a valued and fully successful member of the government workforce.

8) What can I do to improve my chances of receiving a higher rating?

Employees should:

- Understand performance expectations early
- Focus on mission impact
- Demonstrate measurable contributions beyond Fully Successful expectations
- Document accomplishments and provide a self-assessment
- Seek feedback regularly

These factors align with OPM's emphasis on meaningful performance differentiation.

C. Performance Ratings and Standardized Distribution

1) What is a "standardized distribution" and how is it different from a "forced distribution" of ratings?

OPM generally uses the term standardized distribution rather than forced distribution, but the terms are often used interchangeably. The final rule uses the term "standardized distribution" and therefore all OPM guidance will use the same terminology.

Standardized distribution is a calibration-based approach with flexible ranges that helps create a performance management system that is fair, transparent, and consistently applied. The application of standardized distribution is measured through an OPM-directed percentage of rating levels within each agency.

2) Does the final rule require agencies to use a standardized distribution of ratings?

The rule authorizes OPM to establish and maintain a standardized distribution of some or all rating levels. Agencies must follow any distribution requirements established by OPM through policy or guidance.

3) Will supervisors still evaluate my actual performance?

Yes. Ratings must still be based on actual job performance during the appraisal period and cannot assume a level of performance without evaluation. Supervisors must evaluate each individual's performance based on documented standards and measurable outcomes. Supervisors will not assign a preliminary rating based on rating caps. The supervisor's preliminary rating will be used in the agency's calibration process.

4) **Does a Level 3 rating mean I'm a poor performer?**

No. A Level 3 rating means you have successfully met all of your performance requirements and are performing at the Fully Successful level. Employees who earn a Level 3 are valued contributors whose work supports the agency's mission and the success of the federal government.

A standardized approach to performance ratings helps ensure consistency across the agency. As a result, changes in the number of Level 4 or Level 5 ratings do **not** mean that employees receiving Level 3 ratings are performing less effectively. A Level 3 reflects solid, successful performance and recognizes employees who consistently fulfill the expectations of their position.

5) **How will my rating be affected by the standardized distribution?**

Agencies will determine objective and transparent calibration factors for supervisors to create a relative ranking within his or her group.

6) **Will employees be ranked against each other?**

The final rule permits agencies to compare, categorize, and rank employees or groups of employees for purposes of assigning summary ratings when implementing OPM-established distribution requirements. The agency's calibration panel will ensure consistency among ratings with respect to organizational performance by using consistent and transparent calibration factors.

7) **Does the final rule require establishing quotas for poor performers, such as requiring agencies to rate a certain percentage of their employees at Level 1 (Unacceptable)?**

No. The rule does not require agencies to assign a specified percentage of employees a Level 1 (Unacceptable) rating.

8) **Can everyone on a high-performing team still receive top ratings?**

OPM expects standardized distributions to limit concentration of the highest ratings. Agencies will have the flexibility to internally distribute ratings percentages, such as among components, but must still achieve any OPM-directed distribution rating caps at the agency level. See Question 8 for additional information.

9) **At what organizational level will standardized distribution be applied?**

OPM will provide further guidance on the methods and flexibilities agencies may consider in applying the standardized distribution requirements. OPM intends that such requirements be applied at an appropriate aggregate level rather than requiring individual supervisors to meet the standardized distribution limitations within their immediate work units. Compliance with the OPM-established distribution must ultimately be demonstrated at the agency level.

10) **How should an agency calculate the number of employees that may receive a given rating to comply with a standardized distribution limit that is established as a percent of the agency's total covered employees?**

Agencies should round **down** to the closest whole number and never round up. For example, if the agency has 983 employees and OPM establishes that no more than 30% of employees may receive a Level 4 or 5 rating: (983 * 0.3) = **294.9**. Therefore, **no more than 294** of the agency's total covered employees may receive a Level 4 or 5 rating. A covered employee is an employee covered by 5 CFR part 430, subpart B.

D. Performance Improvement and Assistance

1) **Does the final rule eliminate assistance to employees with performance deficiencies?**

No. Agencies remain responsible for addressing performance deficiencies and providing assistance consistent with chapter 43 requirements and agency policy.

2) **Why was the regulatory provision regarding assistance for performance below Fully Successful but above Unacceptable removed?**

The provision was tied to the existence of a Level 2 summary rating. Because Level 2 is being eliminated, employees performing below Level 3 (Fully Successful) would now be considered unacceptable.

3) **Must agencies still provide an opportunity to demonstrate acceptable performance before taking a chapter 43 action?**

Yes. The final rule does not change statutory requirements governing performance-based actions under chapter 43. Employees whose performance becomes unacceptable must still receive assistance and opportunities to improve as required by law.

E. Higher-Level Review of Unacceptable Ratings

1) **Does the final rule require mandatory higher-level review and approval of a Level 1 rating of record?**

No. The final rule removes the Governmentwide requirement for mandatory higher-level review and approval of Level 1 ratings of record.

2) May agencies continue to require higher-level review of Level 1 ratings?

Yes. Agencies may establish internal policies requiring review or approval of Level 1 ratings.

3) Does removal of the mandatory review requirement affect employee rights under chapter 43?

No. Employees retain all procedural rights associated with any subsequent performance-based action.

F. Employee Rights and Challenges to Ratings

1) May employees challenge a rating of record through a negotiated grievance procedure?

Generally, no. Under the final rule, ratings of record may not be challenged through negotiated grievance procedures established under 5 U.S.C. 7121.

2) What if my collective bargaining agreement currently allows grieving ratings?

Existing contract provisions may continue until the collective bargaining agreement expires. After expiration, the new rule would be in effect.

3) Can agencies continue to allow administrative reconsideration of ratings?

Yes. Agencies may establish procedures permitting employees to request reconsideration of ratings within agency-established parameters.

4) Can a rating of record still be changed after issuance?

Yes. A rating may be changed under the circumstances identified in the regulations, including correction of errors, certain formal proceedings permitted by law or regulation (other than a negotiated grievance procedure barred by 5 CFR 430.208(k)), or the reconsideration processes established by the agency's own policy.

5) Do I still have EEO rights?

Yes. The rule does not affect employees' rights to pursue EEO complaints, whistleblower complaints, or prohibited personnel practice complaints.

6) Do I still have MSPB appeal rights?

Employees who retain MSPB appeal rights for performance-based removals or reductions in grade are generally: (1) preference-eligible employees; (2) competitive service employees who have completed their probationary or trial period; and (3) excepted service employees who qualify as "employees" under 5 U.S.C. chapter 75, subchapter II (generally those with at least two years of continuous service in the same or similar positions).

G. Supervisory Accountability

1) What is the new supervisory critical element?

Every supervisor covered by 5 CFR part 430, subpart B, must have a supervisory critical element in their performance plan, comprised of OPM-established supervisory requirements and agency-established criteria for protecting whistleblowers, as required by 5 U.S.C. 4302(b).

2) What is the purpose of the supervisory critical element?

The supervisory critical element is intended to strengthen accountability for effective performance management, employee development, recognition of high performance, and timely action taken to address performance deficiencies.

3) May an agency modify the supervisory requirements in the supervisory critical element?

No. The supervisory critical element must be included in the supervisor's performance plan and include the OPM-established supervisory requirements. An agency may not modify these requirements. If an agency wishes to add additional requirements, it may do so by adding the requirements to one or more separate critical elements.

4) Will supervisors be evaluated based on the ratings' distribution of their subordinate employees?

No. The supervisory critical element focuses on how supervisors carry out performance management responsibilities, not on the distribution of ratings assigned to subordinates.

5) Will supervisors receive additional training?

Yes. OPM plans training, tools, and implementation guidance for supervisors, managers, and HR professionals.

H. Biennial Certification of Appraisal Systems

1) What is the new biennial appraisal system certification requirement?

OPM will evaluate and certify agency performance appraisal systems on a biennial basis to ensure agency systems maintain compliance with applicable law, regulation, merit system principles, and OPM performance management guidance. OPM will issue biennial certification criteria, policy, and instructions for agencies to submit their system(s) for certification.

2) What happens if OPM determines an appraisal system does not comply with requirements?

OPM will direct the agency to take corrective action and implement changes necessary to achieve compliance.

3) What happens if an agency fails a biennial certification?

The final rule authorizes that OPM may recommend that the Office of Management and Budget limit an agency's aggregate awards spending based on an unfavorable certification determination.

I. Other Personnel Actions

1) May performance ratings continue to be used for personnel decisions?

Yes. Ratings may continue to be used, where authorized by law and regulation, for decisions involving awards, retention standing, and other personnel actions.

2) Does the final rule change agency authority to grant performance awards?

No. Agencies retain authority to grant performance awards consistent with applicable law, regulation, OPM policy, and agency policy.

3) Can ratings still affect promotions?

Yes. The final rule specifically notes that rating procedures may continue to inform promotion decisions where authorized.

4) Will ratings still transfer with me when I move agencies?

Yes. Agencies must continue transferring ratings of record when employees move between agencies or organizations.

J. Special Employee Populations

1) Are Schedule C and Schedule G employees subject to the standardized distribution requirements?

No. The final rule included a provision that OPM may exclude Schedule C and Schedule G employees from standardized distribution requirements. Additionally, OPM issued a memorandum on April 28, 2026, excluding Schedule C and G General Schedule positions from the performance appraisal requirements under subchapter I of chapter 43 of title 5, United States Code.

2) Are Schedule Policy/Career employees excepted from these changes?

No. Schedule Policy/Career positions, as a group of excepted service employees, are not excluded from the performance appraisal requirements under subchapter I of chapter 43 of title 5, United States Code. Employees serving in Schedule P/C positions do not have appeal rights before the MSPB.

3) Will additional excepted service employees be excluded?

OPM does not currently intend to exclude additional excepted service populations.