

**§ 4312. Senior Executive Service performance appraisal systems**

(a) Each agency shall, in accordance with standards established by the Office of Personnel Management, develop one or more performance appraisal systems designed to—

- (1) permit the accurate evaluation of performance in any position on the basis of criteria which are related to the position and which specify the critical elements of the position;
- (2) provide for systematic appraisals of performance of senior executives;
- (3) encourage excellence in performance by senior executives; and
- (4) provide a basis for making eligibility determinations for retention in the Senior Executive Service and for Senior Executive Service performance awards.

(b) Each performance appraisal system established by an agency under subsection (a) of this section shall provide—

- (1) that, on or before the beginning of each rating period, performance requirements for each senior executive in the agency are established in consultation with the senior executive and communicated to the senior executive;
- (2) that written appraisals of performance are based on the individual and organizational performance requirements established for the rating period involved; and
- (3) that each senior executive in the agency is provided a copy of the appraisal and rating under section 4314 of this title and is given an opportunity to respond in writing and have the rating reviewed by an employee, or (with the consent of the senior executive) a commissioned officer in the uniformed services serving on active duty, in a higher level in the agency before the rating becomes final.

(c)(1) The Office shall review each agency's performance appraisal system under this section, and determine whether the agency performance appraisal system meets the requirements of this subchapter.

(2) The Comptroller General shall from time to time review performance appraisal systems under this section to determine the extent to which any such system meets the requirements under this subchapter and shall periodically report its findings to the Office and to each House of the Congress.

(3) If the Office determines that an agency performance appraisal system does not meet the requirements under this subchapter (including regulations prescribed under section 4315), the agency shall take such corrective action as may be required by the Office.

(d) A senior executive may not appeal any appraisal and rating under any performance appraisal system under this section.

(Added Pub. L. 95-454, title IV, § 405(a), Oct. 13, 1978, 92 Stat. 1167; amended Pub. L. 98-615, title III, § 306(b)(2), Nov. 8, 1984, 98 Stat. 3220.)

**Editorial Notes**

AMENDMENTS

1984—Subsec. (b)(3). Pub. L. 98-615 inserted “, or (with the consent of the senior executive) a commissioned of-

ficer in the uniformed services serving on active duty,” and directed that “executive” be struck out which was executed by striking “executive” only where it appeared before “level in the agency”.

**Statutory Notes and Related Subsidiaries**

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-615 effective following expiration of 90-day period beginning on Nov. 8, 1984, see section 307 of Pub. L. 98-615, set out as a note under section 3393 of this title.

EFFECTIVE DATE

Section effective 9 months after Oct. 13, 1978, and congressional review of provisions of sections 401 through 412 of Pub. L. 95-454, see section 415(a)(1), (b), of Pub. L. 95-454, set out as a note under section 3131 of this title.

**§ 4313. Criteria for performance appraisals**

Appraisals of performance in the Senior Executive Service shall be based on both individual and organizational performance, taking into account such factors as—

- (1) improvements in efficiency, productivity, and quality of work or service, including any significant reduction in paperwork;
- (2) cost efficiency;
- (3) timeliness of performance;
- (4) other indications of the effectiveness, productivity, and performance quality of the employees for whom the senior executive is responsible;
- (5) meeting affirmative action goals, achievement of equal employment opportunity requirements, and compliance with the merit systems principles set forth under section 2301 of this title; and
- (6) protecting whistleblowers, as described in section 4302(b)(2).

(Added Pub. L. 95-454, title IV, § 405(a), Oct. 13, 1978, 92 Stat. 1168; amended Pub. L. 103-424, § 6, Oct. 29, 1994, 108 Stat. 4364; Pub. L. 115-91, div. A, title X, § 1097(d)(2), Dec. 12, 2017, 131 Stat. 1620.)

**Editorial Notes**

AMENDMENTS

2017—Par. (6). Pub. L. 115-91 added par. (6).

1994—Par. (5). Pub. L. 103-424 amended par. (5) generally. Prior to amendment, par. (5) read as follows: “meeting affirmative action goals and achievement of equal employment opportunity requirements.”

**Statutory Notes and Related Subsidiaries**

EFFECTIVE DATE

Section effective 9 months after Oct. 13, 1978, and congressional review of provisions of sections 401 through 412 of Pub. L. 95-454, see section 415(a)(1), (b), of Pub. L. 95-454, set out as a note under section 3131 of this title.

**§ 4314. Ratings for performance appraisals**

(a) Each performance appraisal system shall provide for annual summary ratings of levels of performance as follows:

- (1) one or more fully successful levels,
- (2) a minimally satisfactory level, and
- (3) an unsatisfactory level.

(b) Each performance appraisal system shall provide that—

- (1) any appraisal and any rating under such system—