

DAS Director's Review of
Annual Agency Employee Evaluations
Standard Procedures
May 17, 2007¹

The DAS Human Resources Division's Office of Performance Management will review the content of OPRS appeal claims from classified, exempt employees for the Director. That review will cover the substance, evidence and answers to DAS appeal forms submitted by the appellant and the employer. DAS will typically request documentation and/or other factual materials to clarify questions relating to the areas that DAS may investigate: lapses of supervisory discretion and/or violations of evaluation procedures. E-mail will be the preferred means for all communication between DAS and the affected parties to insuring reviews are completed within 30 days of receipt.-

1. When DAS receives an appeal we first seek to determine that the employee has standing, including whether the employee will suffer financial loss as a result of the contested evaluation.
2. When DAS has determined that the appeal meets the standard of timeliness DAS will begin its formal review, provided the applicable DAS forms have been received at the Office of Performance Management.
3. DAS will then issue a letter of acknowledgement to the employee, and the appointing authority stipulating that DAS received a timely appeal request and that DAS's intention is to issue a finding within 30 days.
4. DAS will e-mail the "DAS Appeal Request" form to the appellant and the "DAS Agency Information" form to the Agency designee to be completed and returned by e-mail **before the date indicated on the form.** ²
5. The employee will be asked to provide DAS with a complete legible copy of the evaluation document used to assess his/her performance if the initial request for DAS review did not include one.
6. The standard for decision in performance appeals cases imposed on DAS by the Ohio Administrative Code is stringent: DAS can only find for the appellant if the **preponderance** of the evidence supports the appellant.³ .

¹ Revised on 8/30/2007 after DAS Legal Review

² Where e-mail correspondence is impossible, DAS will allow the use FAX, inter-office mail, U.S. Mail or hand delivery, which ever is most practical for both the agency and DAS.

³ OAC 123:1-29-03 (D). Preponderance is synonymous with "overwhelming" thus, weak cases and even cases that appear tied between the parties must be resolved in favor of the agency.

7. An official finding from the Director of DAS will only be reached and reported if the dispute can be shown to be a meaningful departure from sound professional judgment and/or proper procedure.

8. A formal DAS finding, consistent with OAC 123:1-29-03, will take one of the following forms: a. the evaluation will stand unaltered; b. all or part of the evaluation will be ordered expunged from the employee's personnel file; c. an individual rating may be ordered raised or lowered; d. any other appropriate remedy may be ordered by the director if he/she finds that a preponderance of the evidence provided by the appellant shows abuse of supervisory discretion or non-compliance with internal or State procedures and resulted in an unfair evaluation. The director's finding will be issued by letter to the affected participants and the review ends at that point.

9. DAS may issue optional agency directives to correct substandard practices that may reflect poorly on the agency, the state or public officials pledged to serve the public interest at the Director's discretion.

10. Records generated by the performance review appeal process will become the property of DAS and will be retained there consistent with an officially approved retention schedule for OPRS documents.