

§ 352.311 Reemployment.

* * * * *

(d) The period of separation caused by the employment of the employee with the international organization and the period necessary to effect reemployment are creditable service for all appropriate civil service employment purposes (*e.g.*, tenure, service computation date, retirement). Employees, upon return, are also entitled to restoration of any sick leave.

* * * * *

PART 410—TRAINING

■ 10. The authority citation for part 410 is revised to read as follows:

Authority: 5 U.S.C. 1103(c), 2301, 2302, and 4101, *et seq.*; E.O. 11348, 32 FR 6335, 3 CFR, 1967 Comp., p. 275; E.O. 11478, 34 FR 12985, 3 CFR 1966–1970 Comp., p. 803, unless otherwise noted; E.O. 13087, 63 FR 30097, 3 CFR 1998 Comp., p. 191; and E.O. 13152, 65 FR 26115, 3 CFR 2000 Comp., p. 264.

Subpart C—Establishing and Implementing Training Programs

■ 11. Amend § 410.307 by revising paragraphs (a)(1) and (2) and removing paragraph (a)(3). The revisions read as follows:

§ 410.307 Training for promotion or placement in other positions.

(a) * * *

(1) Agency authority to modify qualification requirements in certain situations as provided in the OPM Operating Manual for Qualification Standards for General Schedule Positions; and

(2) Agency authority to establish training programs that provide intensive and directly job-related training to substitute for all or part of the experience (but not education, licensing, certification, or other specific credentials) required by OPM qualification standards. Such training programs may be established to provide employees with the opportunity to acquire the experience and knowledge, skills, and abilities necessary to qualify for another position (including at a higher grade) at an accelerated rate.

* * * * *

[FR Doc. 2026–21319 Filed 10–16–26; 8:45 am]

BILLING CODE 6325–39–P

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 351, 430, 451, 534, 537, 630, and 894

[Docket ID: OPM–2025–0011]

RIN 3206–AO88

OFFICE OF MANAGEMENT AND BUDGET

5 CFR Part 1330

RIN 0348–AB92

Managing Senior Professional Performance

AGENCY: Office of Personnel Management and the Office of Management and Budget.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management (OPM) and the Office of Management and Budget (OMB) are issuing a final rule to strengthen the performance appraisal of senior-level (SL) and scientific or professional (ST) employees, collectively referred to as “senior professionals.” This final rule establishes a new subpart dedicated exclusively to senior professional performance appraisal that aligns more closely with Senior Executive Service (SES) performance appraisal regulations. The rule also eliminates senior professional appraisal programs, removes the prohibition of a standardized distribution of performance rating levels, and enhances oversight of the appraisal process.

DATES: Effective November 18, 2026.

FOR FURTHER INFORMATION CONTACT: Aaron Gottesman, Senior Advisor to the Director, 202–606–8046 or by email at SESpolicy@opm.gov.

SUPPLEMENTARY INFORMATION:

Background

The Office of Personnel Management (OPM) is issuing this final rule to revise the performance appraisal framework applicable to senior-level (SL) and scientific or professional (ST) employees, collectively referred to as “senior professionals.” These positions are established under 5 U.S.C. 5376 and are classified above GS–15 and just below the Senior Executive Service (SES). Senior professionals serve in positions that require a high level of expertise and are expected to exercise significant responsibility and independent judgment in support of agency missions. As such, they play a critical role in advancing agency priorities and delivering mission

outcomes comparable in impact to those of SES members.

Although Congress has aligned the pay structure for senior professionals with that of the SES, including through the Federal Employees Pay Comparability Act of 1990¹ and the Senior Professional Performance Act of 2008, Public Law 110–372 (October 8, 2008), the performance management requirements applicable to senior professionals have remained governed by the general appraisal provisions in 5 CFR part 430, subpart B. These regulations have not been updated since the mid-1990s and were designed to meet the needs of a broad population of federal employees such as prevailing rate employees, seasonal employees, and employees across all grades and steps of the General Schedule. Over time, these regulations have become increasingly incompatible with OPM’s efforts to develop a dedicated modern senior professional performance appraisal system. Hence, OPM has determined that this misalignment between pay, responsibilities, and performance appraisal requirements warrants regulatory revision.

In the proposed rule published on February 24, 2026 (91 FR 8763), OPM explained that the current performance appraisal framework does not sufficiently support meaningful differentiation in performance among senior professionals. As noted in the proposed rule, despite prior efforts by OPM to curb ratings inflation through guidance,² Governmentwide data showed that, in fiscal years 2023 and 2024, approximately 90 percent of senior professionals received ratings at Levels 4 and 5, while less than a half of one percent of senior professionals received ratings below Level 3 (“Fully Successful”).³ Additionally, the 2024 Federal Employee Viewpoint Survey (FEVS) results showed that only 47% of federal employees agreed with the statement, “In my work unit, differences in performance are recognized in a meaningful way.”⁴ This was the lowest

¹ Enacted as Section 529 of the Treasury, Postal Service and General Government Appropriations Act, 1991 (Pub. L. 101–509, 104 Stat. 1427).

² See, *e.g.*, Off. of Pers. Mgmt., *Applying Rigor in the Performance Management Process and Leveraging Awards Programs for a High-Performing Workforce*, (July 12, 2019), available at www.opm.gov/chcoc/transmittals/2019/applying-rigor-performance-management-process-and-leveraging-awards-programs-high-performing_508_0.pdf.

³ SL and ST Governmentwide ratings data for fiscal years 2023 and 2024 were obtained from OPM’s Enterprise Human Resources Integration-Statistical Data Mart and are on file with OPM.

⁴ See *Federal Employee Viewpoint Survey*, U.S. Off. of Pers. Mgmt., www.opm.gov/fevs/reports/

positive response rate for any question and has consistently been the lowest over the past three years.⁵ OPM noted that these data raise concerns regarding rating inflation and the effectiveness of existing appraisal systems in holding senior professionals accountable for performance. In this final rule, OPM eliminates the prior prohibition on forced, or standardized, distribution for senior professionals and provides that OPM may establish a standardized distribution of some or all rating levels for agencies to apply with respect to their senior professional cohorts, except that senior professionals appointed under Schedules C and G may be excluded from such requirements.⁶

Consistent with OPM's authority under 5 U.S.C. chapter 43 and the Civil Service Reform Act of 1978, this final rule is intended to strengthen performance management for senior professionals by better aligning appraisal practices with the scope and impact of their duties. The new subpart generally mirrors the provisions and structure of the SES appraisal regulations at 5 CFR part 430, subpart C, but certain elements of the non-SES appraisal regulations at 5 CFR part 430, subpart B, are retained in the new subpart due to the different statutory authorities and requirements that apply to the SES and senior professionals. The reforms in this final rule are designed to promote greater rigor, transparency, oversight, and accountability in the evaluation of senior professional performance.

Digest of Public Comments

In response to the proposed rule, OPM received 12 comments during the 30-day public comment period from various individuals, organizations, and a professional association representing employment law attorneys. Of the 12 comments received, nine were posted to *Regulations.gov*, including one comment that was substantively identical to another submission. Three of the comments received were outside the scope of this rulemaking and therefore not posted. At the conclusion

of the public comment period, OPM reviewed and analyzed the comments.

The comments are summarized and discussed in the subsequent sections, beginning with general comments followed by comments specific to each section. A discussion of the suggested revisions that were considered and either adopted, adopted in part, or declined, and the rationale therefor is included.

General Comments

The comments received reflect a range of views, with some expressing support, others acknowledging the need for performance management reforms but disagreeing with OPM's approach, and others strongly objecting to the rule. For example, Commenter 0007 stated "I support the proposed rule to implement standardized distributions for senior professional performance appraisals. The reasoning is that for too long, 'leniency bias' has led to rating inflation." Another individual characterized the rule as "a step in the wrong direction to ensure high level performers necessary for these positions are willing to become civil servants." (Commenter 0011). Most commenters focused their objections on only a few specific provisions of the rule and framed their concerns in terms of the potential impact on the Federal workforce, implementation challenges, and perceived legal issues, which OPM addresses below in the relevant sections of the preamble.

Commenter 0011 argued that OPM failed to provide sufficient time to address the proposed rule and that an additional 60 to 180 days should be provided, citing the complexity of the rule and the fact that OPM has recently issued several other proposed rules. Respectfully, OPM provided sufficient time for the public to review the proposed rule and submit comments. Courts have held that a 30-day comment period is generally sufficient to comply with the Administrative Procedure Act (APA).⁷

Commenters 0010 and 0011 also urged OPM to withdraw the rule based on the broader context in which it was

proposed, arguing that other recent personnel actions have destabilized the Federal workforce and that performance data generated in that environment cannot justify reform. Those objections are directed at actions and policies outside the scope of this rulemaking, and OPM does not address them here. OPM notes, however, that the ratings data on which this rule relies are from fiscal years 2023 and 2024, and the FEVS results it cites span 2022 through 2024, largely predating the events the commenters describe. OPM has evaluated this rule on its own record and pursuant to its own statutory authorities, as discussed throughout this preamble.

Part 430—Performance Management

This final rule revises 5 CFR part 430 by establishing a new subpart E dedicated to managing senior professional performance. In the following sections, we address the public comments related to the specific sections of the regulation to which each comment applied.

Section 430.501 General

This section identifies the statutory and regulatory basis for the senior professional performance appraisal subpart. This section also describes the conditions under which agencies and employees not covered by the provisions of this subpart can receive performance evaluations and ratings that are considered ratings of record for reduction in force purposes.

Commenter 0011 asserted that OPM lacks statutory authority for this rulemaking. As described in more detail in the Background and the proposed rule,⁸ OPM not only has authority to regulate performance management but is required to do so. Chapter 43 of title 5, U.S. Code, remains the applicable authority for performance appraisal systems and establishes OPM's responsibility to prescribe regulations governing performance management for senior professionals. The commenter's constitutional objections are likewise unavailing. This rule implements an express delegation of rulemaking authority from Congress at 5 U.S.C. 4305, 1103, and 1104; it does not purport to enact, amend, or repeal any statute. Nor does *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024), assist the commenter: that decision concerns judicial deference to agency interpretations of ambiguous statutes and does not diminish an agency's exercise of authority Congress has expressly conferred. Nothing in this

⁵ *governmentwide-reports* (last visited July 31, 2026) (providing FEVS Results for years up to 2024).

⁶ *Id.*

⁷ As used in this rule, the term "standardized distribution" refers to a prescribed allocation of performance rating levels across a rated population—e.g., limits or targets on the percentage of senior professionals who may receive a given rating level. The term is not used in its statistical sense and does not refer to a standard normal (Gaussian) distribution or any other formal probability distribution. Nothing in this rule requires that ratings conform to a bell curve or other statistical model.

⁸ See *Chamber of Com. of the U.S. v. U.S. Sec. & Exch. Comm'n*, 85 F.4th 760, 779 (5th Cir. 2023) ("[T]he APA generally requires only a minimum thirty-day comment period."); see also *Riverbend Farms, Inc. v. Madigan*, 958 F.2d 1479, 1484 (9th Cir. 1992) ("Although the APA mandates no minimum comment period, some window of time, usually thirty days or more, is . . . allowed for interested parties to comment."); *Nat'l Lifeline Ass'n v. FCC*, 921 F.3d 1102, 1117 (D.C. Cir. 2019) ("When substantial rule changes are proposed, a 30-day comment period is generally the shortest time period sufficient for interested persons to meaningfully review a proposed rule and provide informed comment.").

⁸ 91 FR at 8763–64.

rule purports to limit judicial review otherwise available by law.

Although 5 U.S.C. 4305 provides OPM the authority to prescribe regulations governing performance appraisal under subchapter I of chapter 43 of title 5, U.S. Code, Commenters 0005 and 0008 recommended that OPM instead use the demonstration project authority under 5 U.S.C. 4703 to test the proposed reforms in this final rule before implementing them Governmentwide. These commenters argue that the proposed changes, including the use of a standardized distribution of performance ratings and other structural modifications, are untested in the Federal context and may carry significant risks for workforce morale, retention, and organizational effectiveness. Commenters suggested that pilot programs, randomized trials, or phased implementation approaches would provide an evidence-based foundation for broader adoption and allow OPM to assess potential unintended consequences.

OPM appreciates the commenters' recommendations regarding the use of demonstration project authority and agrees that demonstration projects can be a valuable tool for testing innovative personnel management approaches in appropriate circumstances. However, OPM has determined that the use of a demonstration project under 5 U.S.C. 4703 is not necessary and would create unacceptable delays to the urgently needed reforms adopted in this final rule.

Demonstration projects, by definition, "must require the waiver of a provision of law, rule, or regulation which is eligible for waiver under the demonstration authority contained in 5 U.S.C. 4703."⁹ OPM requires no waiver of any provision of law or rule to exercise its statutory authority under 5 U.S.C. 4305 to prescribe non-SES performance appraisal regulations. Many of the provisions in this final rule are grounded in longstanding principles of effective performance management, including the need for meaningful differentiation in performance ratings, clear accountability, and alignment between performance outcomes and organizational goals.

Additionally, senior professionals have already been operating under a new senior professional performance appraisal system and plan¹⁰ since

October 1, 2025, which in many ways is similar to the new SES performance appraisal system and plan.¹¹ OPM also notes that the rule, Assuring Responsive and Accountable Federal Executive Management, published on September 15, 2025 (90 FR 44291), authorized OPM to establish a standardized distribution of rating levels for the SES and this final rule seeks to establish parity with that SES rule. The effects of standardized distribution systems have been extensively studied across multiple organizational contexts,¹² and OPM relied on this robust existing body of evidence in both the SES rulemaking and this current rulemaking. Conducting further study through a demonstration project is, therefore, unlikely to produce novel results that have not been documented elsewhere in the literature. Moreover, OPM will diligently monitor the implementation of all the reforms in this rule and through ongoing oversight, data analysis, and engagement with agencies, continue to refine its senior professional performance appraisal guidance to ensure the final rule achieves its intended objectives.

For these reasons, OPM has determined that proceeding with Governmentwide implementation of the final rule, rather than using demonstration project authority, is appropriate and consistent with the objectives of improving the rigor and effectiveness of senior professional performance appraisal and increased parity with the SES performance appraisal framework. Accordingly, OPM is adopting the language in this section as proposed.

Section 430.502 Coverage

This section addresses coverage under the new subpart. It applies only to senior professionals paid under 5 U.S.C. 5376, which includes all SL positions that are classified above GS-15 pursuant to 5 U.S.C. 5108 and all ST positions established under 5 U.S.C. 3104. It also authorizes OPM to exclude certain excepted service positions where applicable.

¹¹ Off. of Pers. Mgmt., *New Senior Executive Service Performance Appraisal System and Performance Plan, and Guidance on Next Steps for Agencies to Implement Restoring Accountability for Career Senior Executives* (Feb. 25, 2025), available at www.opm.gov/policy-data-oversight/latest-memos/new-senior-executive-service-performance-appraisal-system-and-performance-plan-and-guidance-on-next-steps-for-agencies-to-implement-restoring-accountability-for-career-senior-executives.pdf.

¹² See, e.g., Aniek Wijayanti et al., *What do we know about the forced distribution system: A systematic literature review and opportunities for future research*, 75 Mgmt. Rev. Q. 747 (Feb. 2025), available at doi.org/10.1007/s11301-023-00396-8.

OPM received no comments on this section and is adopting the language as proposed.

Section 430.503 Definitions

This section provides definitions necessary for administration. Key defined terms include "agency," "appraisal period," "critical element," "initial summary rating," "oversight official," "performance standard," "PRB (Performance Review Board)," "progress review," and "rating official." Certain defined terms in the new subpart are retained from both the SES appraisal framework and non-SES appraisal regulations, tailored for senior professionals to reflect their unique performance management context. Notably, the definition of "agency" reflects that, under 5 U.S.C. 5108, OPM determines the maximum number of SL positions that may be established in an Executive agency and, under 5 U.S.C. 3104, OPM determines the maximum number of ST positions in any agency, except for the Library of Congress, which also may establish eight ST positions under 5 U.S.C. 3104.

OPM received no comments on this section and is adopting the language as proposed.

Section 430.504 Senior Professional Performance Appraisal Systems

This section requires agencies to establish performance appraisal systems specifically for senior professionals. OPM proposed to revise these systems to require that they be developed and administered in accordance with the system standards in § 430.505, which more closely align with those applicable to SES appraisal systems. To further align senior professional appraisal with SES appraisal, OPM also proposed to eliminate the requirement that agencies develop separate performance appraisal programs and instead require that senior professional appraisal systems encompass all policies, parameters, procedures, and requirements necessary for OPM approval and be consistent with the criteria for performance appraisal system certification.

Commenter 0006 challenges OPM's underlying authority to change the evaluation system for senior professionals, asserting that OPM's final rulemaking errs in interpreting the Senior Professional Performance Act of 2008 "as constituting Congressional authority to change the performance evaluation system for SL/ST employees." The commenter contends that because Congress did not make substantive changes to senior professional performance appraisal at the time of the 2008 Act, that OPM is

⁹ 5 CFR 470.103 (defining "Demonstration Project").

¹⁰ Off. of Pers. Mgmt., *New Senior Professional Performance Appraisal System and Plan* (Apr. 3, 2025), available at www.opm.gov/chcoc/latest-memos/new-senior-professional-performance-appraisal-system-and-plan.pdf.

precluded from making the regulatory reforms included in this final rule.

OPM respectfully disagrees because the commenter misunderstands OPM's authority. While OPM referenced the Senior Professional Performance Act of 2008 in the proposed rule as an example of legislation that has increased pay parity with the SES, the fact that the legislation did not also make statutory changes to how senior professionals' performance is appraised cannot be interpreted as Congress barring OPM from exercising its statutorily-conferred authority at 5 U.S.C. 4305 to prescribe non-SES performance management regulations. Coverage of senior professionals under subchapter I of chapter 43 of title 5, U.S. Code has not changed. Therefore, OPM is authorized to prescribe regulations affecting the performance management of senior professionals, consistent with statute.

Commenter 0010 argues that OPM has not sufficiently explained why the SES appraisal system is the right comparator to guide the development of the senior professional appraisal system rules, as opposed to constructing a more tailored model that reflects the actual duties of senior professionals. Along a similar line, Commenter 0005 asserts that because senior professionals perform such highly specialized and diverse work across a wide range of competencies, it makes more sense for their performance appraisal systems to align with non-SES appraisal systems as opposed to SES systems—which are focused on executive management competencies.

OPM recognizes and appreciates the broad range of competencies possessed by senior professionals. Using the SES appraisal framework as a model for developing the senior professional appraisal rules in no way equates to senior professionals being evaluated on the same competencies as SES members. The final rule maintains important distinctions that reflect the non-supervisory and highly specialized nature of senior professional roles. Agencies retain the flexibility to tailor senior professional performance plans through inclusion of position-specific performance objectives. Additionally, since senior professionals do not supervise employees other than personal assistants, they do not have “employee perspectives” included as a performance factor for their appraisals, nor do their performance plans include a critical element focused on holding others accountable. Although senior professionals do not carry supervisory or executive management responsibilities like SES, they are comparable in terms of their

organizational impact, influence on agency mission, and level of accountability. Senior professionals frequently serve as the Federal Government's leading experts in critical fields, provide authoritative technical or scientific advice, and contribute directly to high-level policy, programmatic, or mission outcomes. Thus, given the importance of these positions, OPM continues to believe that a more rigorous and structured appraisal framework—similar to that used for the SES—is appropriate to ensure meaningful differentiation, accountability, and consistency for these positions. Accordingly, OPM is adopting the language in this section as proposed.

Section 430.505 System Standards for Senior Professional Performance Appraisal Systems

This section sets forth the system standards that agencies' senior professional performance appraisal systems must incorporate. Standards include the use of critical elements, alignment of performance requirements with agency mission and strategic planning activities, defined performance standards for each summary rating level, annual performance appraisals, a mathematical method for deriving ratings, establishment of five summary performance levels, and that performance appraisals be used as a basis to adjust pay, reward, retain, develop, and remove senior professionals. OPM also proposed to eliminate the prohibition on a forced, or standardized distribution of rating levels and authorize OPM to establish and refine, as needed, a standardized distribution of some or all rating levels for senior professionals.

Justification of Policy Change

Commenter 0010 asserted that OPM has not provided sufficient justification for departing from its longstanding policy prohibiting pre-established distributions of performance ratings, as reflected in OPM's 1979 regulation.¹³ The commenter argued that the prior rule barred forced, or standardized distributions because they could interfere with appraisal of actual performance against standards, and that OPM has not adequately explained its change in position.

OPM respectfully disagrees that it has not articulated a sufficient reason for departing from its prior policy. The APA requires, as relevant here, that OPM provide a reasoned explanation and show awareness that there is, in

fact, a change in policy.¹⁴ The Court also held that an agency's reasoning need not prove to be a better solution than the status quo but rather that there are good reasons the agency believes support the change in policy.¹⁵

In the proposed rule, OPM expressly acknowledged its prior prohibition on pre-established rating distributions and explained that, based on current data, experience, and research, a different approach is warranted to address the persistent lack of meaningful differentiation that exists within senior professional performance ratings. OPM further notes that the 1979 regulatory prohibition was directed at rigid, pre-established “bell curve” distributions for fear that requiring a specific distribution of all rating levels would impede appraisal of actual performance against standards. As is common in rulemakings from that time, there is virtually no accompanying preamble explaining the rationale for the provision.

This final rule does not espouse adoption of the rigid “forced distribution” approach that animated the prohibition in the 1979 regulation. OPM has explained that it has no intention of imposing any limits on ratings at the Level 3 (“Fully Successful”) level or below and instead, will limit only the highest rating levels. As discussed in the Background, Governmentwide data show that performance ratings for senior professionals are heavily concentrated at the highest levels, with the vast majority of employees receiving top ratings and very few receiving lower ratings.¹⁶ As further explained throughout the proposed rule, this lack of meaningful differentiation limits the effectiveness of performance appraisal systems as tools for accountability, recognition, and workforce management. OPM emphasizes that such rating inflation raises concerns regarding whether existing systems are fully achieving the objectives reflected in 5 U.S.C. 4302 permitting the accurate evaluation of job performance, as systems that do not distinguish among levels of performance fail to meaningfully assess differences in contribution and impact. OPM believes the lack of differentiation in ratings under the current system is so severe that, because previous efforts to normalize ratings through guidance¹⁷ have failed, adoption of a standardized

¹⁴ *F.C.C. v. Fox Television Stations, Inc.*, 556 U.S. 502, 515–16 (2009).

¹⁵ *Id.*

¹⁶ See *supra* text accompanying note 3.

¹⁷ See *supra* note 2.

¹³ 44 FR 45587, 45590 (Aug. 3, 1979).

distribution is a necessary remedy. As such, OPM concludes that it has provided a reasoned explanation for its change in policy, grounded in current data, research, and statutory considerations, and that the final rule represents a permissible exercise of its authority under 5 U.S.C. chapter 43.

Commenter 0010 also asserted that OPM failed to consider narrower alternatives, such as clearer performance standards, stronger supervisory training, or more tailored agency-specific rating systems. OPM considered less sweeping approaches, including continued reliance on guidance, and explains in the Regulatory Alternatives section of this preamble why they are inadequate. Guidance-based efforts to instill rigor have been in place since at least 2019 and have not curbed ratings compression, and clearer standards and training do not address the structural incentives toward leniency documented by GAO. Nor does the final rule displace agency tailoring: agencies continue to design their own performance plans, standards, and position-specific requirements under the new subpart.

Consistency With 5 U.S.C. 4302

Commenters 0003 and 0010 argue that the proposed rule is inconsistent with 5 U.S.C. 4302(c)(1), which requires that performance appraisal systems permit the accurate evaluation of job performance on the basis of objective criteria related to the job in question. These commenters argued that a distribution framework substitutes relative comparisons for job-based standards and may result in ratings that do not reflect actual performance where multiple employees perform at a similarly high level. Commenter 0010 further articulated the argument stating, “If several employees satisfy the criteria for a high rating, but the system permits only a fixed percentage or number of such ratings, some employees necessarily will receive lower ratings for reasons unrelated to whether they met the requirements of their jobs.”

OPM does not agree that the final rule is inconsistent with 5 U.S.C. 4302. The statute requires that appraisal systems “to the maximum extent feasible, permit the accurate evaluation of job performance on the basis of objective criteria . . . related to the job in question for each employee or position under the system”¹⁸; it does not prescribe or prohibit a specific rating methodology or preclude the use of a standardized distribution to differentiate among levels of

performance. Under this final rule, agencies remain responsible for establishing performance plans with clear, job-related expectations and for evaluating employees against those expectations. The standardized distribution framework provides a structured mechanism to support consistent application of performance distinctions; it does not authorize ratings based on non-performance factors or require agencies to disregard evidence of individual performance.

OPM intends, in exercising its authority to establish a standardized distribution, to instruct that any established rating limits be applied at the appropriate aggregate level as opposed to supervisors applying the rating limits within their own group or team. Thus, the requirement to differentiate between relative levels of performance through the use of a standardized distribution operates only after employees are assessed against established performance standards and does not replace or supplant those standards. The concern put forth by commenters claiming that distributional requirements create tension with statute where multiple employees perform at similarly high levels is misplaced. The final rule does not require the mechanical application of quotas without regard to objective, job-related performance evidence. Rather, it requires agencies to exercise informed judgment within a structured framework designed to support meaningful differentiation.

The final rule also provides sufficient flexibility to accommodate circumstances in which performance is uniformly high, as determined through centralized review and the application of professional judgment, including recommendations from the Performance Review Board (PRB). Where an agency determines that adherence to the limits imposed by the standardized distribution is not appropriate because the performance of its senior professional population was genuinely outstanding, OPM’s new senior professional performance appraisal system¹⁹ provides that the President may waive the standardized distribution requirement by certifying that the performance of the agency’s senior professionals was outstanding during the relevant time period.

Merit System Principles

Several commenters, including Commenters 0003 and 0010 object to the rule on the basis that it undermines merit system principles at 5 U.S.C.

2301(b). Commenter 0003 specifically claims that a standardized distribution undermines principles calling for “efficient use of the Federal workforce” (5 U.S.C. 2301(b)(5)) and that “Employees should be retained on the basis of the adequacy of their performance.” (5 U.S.C. 2301(b)(6)). The commenter suggests that because a forced distribution centralizes control over ratings, it creates leverage for an agency to use ratings punitively against experts whose results or conclusions displease political appointees. The commenter argues that this creates an invitation for prohibited personnel practices such as discrimination based on political affiliation (5 U.S.C. 2302(b)(1)(E)) and coercion of political activity (5 U.S.C. 2302(b)(3)). Similarly, a commenter argued that “OPM’s proposed rule creates an unconstitutional loophole and attempts to remove power from established laws, tying employee “performance” to political perspectives.” (Commenter 0011).

OPM does not agree that the final rule undermines the merit system principles or creates an increased risk of prohibited personnel practices. The merit system principles require that employees be managed in a manner that promotes efficiency, effectiveness, and fair treatment based on performance. The final rule specifically includes “compliance with merit system principles” as a factor taken into account when appraising senior professionals. 5 CFR 430.508(d)(5). The final rule further advances merit system principles by strengthening the rigor and credibility of performance appraisals and ensuring that ratings meaningfully differentiate between levels of contribution and impact.

Any argument that this final rule negatively affects an employee’s ability to be retained on the basis of the adequacy of their performance is unfounded. As previously mentioned, OPM intends that the standardized distribution will apply only to the assignment of the highest performance rating levels (Levels 4 and 5) and will not impose limitations on any of the levels at or below Level 3 (“Fully Successful”), such as a “quota” requiring the issuance of a certain amount of Level 1 (“Unacceptable”) ratings. Because Level 3 represents fully adequate performance and remains unrestricted, the application of a standardized distribution will not require a senior professional to receive lower than a Level 3 rating, invalidating concerns over associated performance-based demotion or removal. As such, OPM concludes that a standardized

¹⁸ 5 U.S.C. 4302(c)(1) (emphasis added).

¹⁹ See *supra* note 10.

distribution does not interfere with an employee's ability to be retained on the basis of the adequacy of their performance and, therefore, does not conflict with 5 U.S.C. 2301(b)(6).

OPM also disagrees with the commenter's assertion that the rule invites prohibited personnel practices and will have a chilling effect on the independent professional judgment of experts. Under the final rule, performance ratings remain based on individual merit and individual performance—not on irrelevant factors like race, political affiliation, or religion. Supervisors who assign ratings based on personal favoritism or engage in political coercion would continue to violate merit system principles regardless of the rating structure in place. OPM emphasizes that all existing statutory protections remain fully applicable. Allegations of retaliation, discrimination, or coercion remain subject to review by appropriate oversight bodies, including the Office of Special Counsel (OSC), the Merit Systems Protection Board (MSPB), and equal employment opportunity (EEO) processes. Hence, distinguishing employees based on relative performance does not conflict with the merit system principles or undermine fair and equitable treatment.

Relatedly, Commenter 0010 argued that requiring supervisors to distinguish among similarly performing employees will shift appraisals toward subjective judgments about style, visibility, or personality, increasing the risk of favoritism and implicit bias, and cited Equal Employment Opportunity Commission (EEOC) best-practices guidance recommending neutral and objective criteria. OPM disagrees that the final rule invites such subjectivity. Ratings remain anchored to written, job-related critical elements and performance standards established in advance, and OPM intends for any rating limits to be applied at an aggregate level rather than within a supervisor's own team. Moreover, the multilayered review structure adopted in this rule—higher-level review, centralized PRB review, and the involvement of approving and oversight officials—provides more checks against idiosyncratic or biased judgments than the current framework, under which a rating may rest largely on a single supervisor's unreviewed assessment. These features are consistent with the EEOC guidance the commenter cites, and all EEO protections and remedies remain fully available to senior professionals.

OPM has also taken additional steps in the final rule to ensure that senior

professional appraisals under standardized distribution are free from undue political influence. Consistent with the standardized distribution approach adopted for the SES, which excluded noncareer appointees from the standardized distribution requirements, OPM is excluding Schedule C and Schedule G excepted service appointees from these requirements. This exclusion eliminates even the perception that rating distributions could be used in a manner that favors issuing high ratings to political appointees over career employees.

For these reasons, OPM concludes that the final rule is consistent with the merit system principles and continues to support accurate, objective, and job-related evaluation of employee performance.

Differentiation Among High Performers

Commenters 0003, 0005, and 0010 asserted that the use of a standardized distribution is inappropriate for senior professional employees because these positions are, by design, filled by highly qualified experts who are expected to perform at consistently high levels. These commenters argued that the concentration of ratings at the highest levels may not be indicative of rating inflation but rather a reflection of the inherently high caliber performance demonstrated by the senior professional workforce.

OPM recognizes that senior professional employees are selected based on their advanced expertise, qualifications, and ability to perform work of significant difficulty and responsibility. OPM agrees that senior professionals are expected to perform at a high level and that agencies rely on these employees to provide critical technical, scientific, and professional contributions. However, OPM does not agree that the presence of a highly qualified workforce obviates the need for meaningful differentiation in performance ratings.

As discussed in the proposed rule, available data indicate that performance ratings for senior professionals are heavily concentrated at the highest levels across agencies. While this may, in part, reflect the high caliber of the workforce, it also reflects the failure of agencies to distinguish among varying levels of performance, contribution, and impact. Even within a highly skilled population, differences in performance outcomes, innovation, leadership within technical domains, and contributions to mission results can and do exist. A performance appraisal system must be capable of recognizing these distinctions to support accountability and the

effective use of performance-based personnel decisions. As mentioned above, OPM's new senior professional performance appraisal system provides an exception to the standardized distribution requirements by Presidential waiver, so as to avoid a situation where truly high performing senior professionals are precluded from receiving appropriately high ratings.

Consideration of Empirical Evidence

Several commenters, including 0003, 0008, and 0010, asserted that the research literature generally does not support the use of standardized distribution in performance management systems and may, in some cases, demonstrate negative effects. Others suggested that such approaches lead to inaccurate ratings, can reduce collaboration, discourage knowledge sharing, and increase perceptions of unfairness. Commenter 0008 argued that OPM needs to consider the limits of the evidence it is relying on and the mixed experience employers have had with strategies like forced ranking.

In the proposed rule, OPM noted that the literature on standardized distribution reflects a broad range of findings with respect to its efficacy and potential impacts on collaboration, morale, and perceptions of fairness. However, OPM does not agree that the existence of contrary or mixed research findings precludes adopting the changes in the final rule. The APA does not require agencies to resolve all disagreements in the academic literature or to demonstrate that a policy is supported by uniform empirical consensus. OPM has considered the evidence cited in the proposed rule and in comments and has determined that the amendments made in the final rule are necessary to address longstanding concerns regarding the lack of meaningful differentiation in performance ratings across the Federal workforce.

Additionally, other research has demonstrated positive outcomes with respect to the accuracy of comparative judgments. Performance appraisal inherently involves human judgment and any human judgment is by nature comparative.²⁰ Thus, the quality of an evaluation is improved by ensuring that it is comparative in nature (that is, involving relative judgments of a target in comparison to other individuals and groups), instead of absolute (that is, involving judgments on scales that do

²⁰ Kedia G. Mussweiler T, Linden DE. *Brain mechanisms of social comparison and their influence on the reward system*. Neuroreport. 2014 Nov 12;25.

not reference others).²¹ One study, for example, concluded that “[t]he relatively few studies that have investigated the validity of comparative performance appraisal methods have tended to support their validity.”²² It found significant evidence from “at least three important and quite different domains that comparative evaluative judgments of the self or others may be more advantageous than absolute evaluative judgments.”²³ These findings suggest that a performance appraisal framework that permits comparative judgments among employees, by utilizing a standardized distribution of ratings, will more accurately and objectively measure individual performance than one that prohibits any comparative judgments between employees and requires that any measurement of employee performance be framed in absolute terms. Moreover, OPM’s reforms in this final rule not only address longstanding challenges in Federal performance management with respect to ratings inflation but also provide an approach designed to increase appraisal accuracy.

Use in Private Industry

Other commenters, including Commenters 0008 and 0010, asserted that standardized distribution approaches have been broadly abandoned in the private sector and argued that this trend demonstrates that such systems are ineffective or inappropriate for use in the Federal Government. They cite examples of large individual companies that have moved away from forced ranking systems and suggested that these developments undermine the rationale for adopting a standardized distribution framework.

OPM acknowledges that some private sector organizations have moved away from rigid forced ranking systems. However, the context of the Federal Government differs greatly from the private sector in terms of the relative value that utilizing a standardized distribution framework can provide. For instance, private sector companies have an inherent profit motive to drive distinctions among levels of performance. In contrast, the Federal Government has no such profit motive and instead provides broad procedural and legal protections for employees that discourage supervisors from holding them accountable.

The reluctance of Federal supervisors to identify poor performers has been an issue for decades. In 1990, GAO issued a Governmentwide report on the management of poor performers and found that more than 60% of the personnel officials, managers, and supervisors interviewed believed that not all supervisors were identifying poor performers. According to those officials, supervisors were often reluctant to identify poor performers because the process was too time-consuming, they wanted to avoid confrontation, or they believed they lacked management support. GAO further reported that many supervisors found it especially difficult to address employees performing at the minimally successful level and that the Government had often tolerated less-than-fully-successful performance for extended periods because supervisors had limited options for addressing such employees.²⁴

As a result, over time supervisors have defaulted to issuing lenient ratings, thereby avoiding the procedural hurdles and negative personal interactions associated with issuing low ratings. This tendency of supervisors to avoid issuing low ratings and instead issue high ratings inflates the overall ratings distribution and diminishes the value and meaning of a high rating. As previously mentioned, the 2024 FEVS results showed that only 47% of federal employees agreed with the statement, “In my work unit, differences in performance are recognized in a meaningful way.”²⁵ This was the lowest positive response rate for any question and has consistently been the lowest over the past three years.

Impact on Individual Employee Motivation

Commenter 0005 argues that standardized distribution will be demotivating to senior professionals because it will lead to lower ratings and reduced incentives.

On the contrary, because performance ratings for senior professionals are so heavily concentrated at the highest rating levels and agencies have limited awards budgets, the size of performance-based awards has decreased, along with the connection between ratings and rewards. In this environment, modestly sized awards are broadly distributed. However, under the framework established by the final rule, with fewer employees receiving the

highest ratings, those ratings will carry greater meaning and warrant more significant recognition and reward. OPM’s Governmentwide awards guidance²⁶ directly supports this approach by calling for agencies to allocate the majority of awards spending for the highest performers. By increasing the magnitude and visibility of rewards for top performance, the standardized distribution approach enables a stronger performance-reward connection and helps to establish a culture of excellence.

Impact on Teamwork

Several commenters contend that standardized distribution may specifically have a negative impact on teamwork. For instance, Commenter 0010 cited an MSPB study²⁷ as well as a study by Loberg et al. (2021)²⁸ to argue that standardized distribution may reduce collaboration, discourage knowledge sharing, and negatively affect team performance. The commenter suggests that such findings demonstrate that standardized distribution is not appropriate for the Federal workforce, where work is often collaborative in nature.

OPM acknowledges the studies cited and agrees that performance management systems must be carefully designed to support both individual accountability and effective collaboration. However, OPM does not agree that such findings warrant rejecting the use of a standardized distribution framework for senior professional performance appraisal. The Loberg et al. (2021) study itself found that the effectiveness of standardized distribution systems depends on the work context and, where the need for teamwork is not essential and there exist individual performance measures on which to base performance, that standardized distribution increases performance.²⁹ OPM acknowledges that the study observed these positive effects only where individuals worked alone and found reduced collaboration and knowledge sharing in team settings; that

²⁶ OPM, “Guidance on Awards for Federal Employees” (August 11, 2025), available at <https://www.opm.gov/chcoc/transmittals/2025/OPM%20Memo%20-%20Awards%20Guidance%208-11-2025.pdf>.

²⁷ U.S. Merit Sys. Protection Bd., Designing an Effective Pay for Performance Compensation System, 22–25 (Jan. 2006), available at www.mspb.gov/studies/studies/Designing_an_Effective_Pay_for_Performance_Compensation_System_224104.pdf.

²⁸ See Linda Loberg et al., *Forced Distribution Rating Systems and Team Collaboration*, 188 J. Econ. Behav. & Org. 18 (2021), available at www.sciencedirect.com/science/article/pii/S0167268121001827.

²⁹ *Id.* at 26, 31.

²¹ Goffin RD, Olson JM. *Is It All Relative? Comparative Judgments and the Possible Improvement of Self-Ratings and Ratings of Others*. Perspect. Psychol. Sci. 2011 Jan; 6(1):48–60.

²² *Id.* at 50.

²³ *Id.* at 53.

²⁴ U.S. Gov’t Accountability Off., *Performance Management: How Well Is the Government Dealing With Poor Performers*, GGD–91–7, at 3, 32 (Oct. 2, 1990).

²⁵ See *supra* note 4.

limitation, however, reinforces rather than undermines the approach adopted here. OPM also notes that senior professionals frequently perform highly specialized, expert-level work that is individually driven and assessed based on the quality and impact of their contributions. In such contexts, a structured approach to differentiating performance will enhance accountability and recognition. To the extent collaboration and teamwork are essential to mission outcomes, agencies retain the ability to incorporate those elements into senior professional performance plans and evaluate employees accordingly. Teamwork and collaboration may also be promoted through team-based awards.

Interaction With Other Rulemakings

Commenter 0010 claims that OPM has not adequately addressed how this rule will interact with other pending rules that give performance ratings greater weight. For instance, OPM has separately finalized a reduction in force rule that prioritizes ratings over tenure or length of service for determining retention standing.³⁰ The commenter argues that this makes ratings more consequential Governmentwide, given that this final rule will force greater distinctions in performance appraisal.

OPM notes that commenters had an opportunity to submit comments during the public comment period for each of its rulemakings including the proposed rule on reductions in force, and OPM continues to receive higher comment response rates than it has historically received. OPM has since issued a final rule in the reduction in force rulemaking, in which it responded to relevant concerns, and it will respond to comments in its other rulemakings if or when it issues a final rule in each.

OPM observes, however, that performance ratings have long affected retention standing in a reduction in force. Such usage is consistent with 5 U.S.C. 3502(a), which requires that OPM issue regulations that “give due effect” to, *inter alia*, “performance ratings” in determining retention standing among competing employees in a reduction in force. *See Am. Fed’n of Gov’t Emps., AFL-CIO v. Off. of Pers. Mgmt.*, 821 F.2d 761, 765 (D.C. Cir. 1987). Further, 5 U.S.C. 4302(a)(3) contemplates using appraisal results as a basis for training, rewarding, reassigning, promoting, reducing in grade, retaining, and removing employees. Thus, the interaction between this rulemaking and OPM’s reduction in force rulemaking

does not represent an unexplained gap in OPM’s reasoning, but a longstanding feature of the Title 5 statutory scheme.

Further, this rule is complementary to OPM’s reduction in force rule, as it seeks to ensure that performance appraisal systems accurately evaluate employee performance while better distinguishing levels of performance. A rule that makes performance matter more in RIF retention and a rule that seeks to improve the accuracy and differentiation of performance ratings address complementary parts of the same merit-based personnel system. Indeed, the current compression of ratings at the highest levels would deprive any performance-based retention criterion of meaningful content; improving the accuracy and differentiation of ratings makes any lawful downstream use of those ratings more, not less, merit-based.

While OPM recognizes that implementing standardized distribution could involve some risks, the current failure of senior professional appraisal systems to meaningfully distinguish performance presents an even greater risk. Therefore, OPM continues to believe that any potential negative effects in areas such as teamwork or collaboration can be adequately addressed through modifications to performance plans and tailored team-based awards. The increased accuracy and rigor that will be achieved by a standardized distribution directly addresses longstanding issues of leniency bias and rating inflation across the Federal Government, thereby strengthening accountability and the effectiveness of senior professional performance management. Accordingly, OPM adopts the language in this section as proposed.

Section 430.506 Planning and Communicating Performance

This section explains the requirements for planning and communicating performance expectations. OPM proposed that rating officials must consult with senior professionals to develop written performance plans that include critical elements (no non-critical elements or additional performance elements), performance standards, and performance requirements. Performance plans must be communicated to senior professionals on or before the beginning of the appraisal period, or upon appointment to a new senior professional position. OPM also proposed that agencies may require a review of senior professional performance plans by the PRB or another body of the agency’s choosing to

ensure consistency of agency-specific performance requirements.

OPM did not receive comments specifically addressing this section. However, several commenters raised general concerns regarding the establishment of objective, job-related performance expectations and the challenges of applying standardized approaches to highly specialized senior professional roles. These comments are addressed in the relevant sections of this preamble. Accordingly, OPM is adopting the language in this section as proposed.

Section 430.507 Monitoring Performance

This section establishes expectations for ongoing performance monitoring and feedback throughout the appraisal period. Notably, this section requires that progress reviews be held at least quarterly, during which the rating official must inform senior professionals of how they are performing. Rating officials must also provide advice and assistance to senior professionals on how to improve their performance and may also discuss available development opportunities for the senior professional. The intent of this section is to promote frequent performance-related communication between the rating official and senior professional.

Commenter 0005 objected to the requirement that senior professionals receive progress reviews at least quarterly, claiming that it adds an unnecessary administrative burden. This commenter also noted that if OPM’s intention is to align the senior professional appraisal system more closely with the SES performance appraisal system, that the SES regulations only require senior executives to receive at least one progress review per year.

While it is true that the SES regulations require conducting progress reviews at least once during the appraisal period,³¹ on February 25, 2025, OPM issued a new Senior Executive Service performance appraisal system and performance plan,³² requiring that “[a]t least quarterly, supervisors and executives must meet to discuss, and document, progress toward meeting the critical elements in the senior executive’s performance plan.” Thus, requiring that senior professional progress reviews be conducted at least quarterly aligns with the progress review frequency OPM

³⁰ Reduction in Force, 91 FR 49178 (August 3, 2026).

³¹ 5 CFR 430.304(b)(2).

³² See *supra* note 10.

expects agencies to be providing for SES members.

OPM believes that frequent feedback is critical to effective performance management and that the benefits of such increased communication outweigh the costs, especially in the context of other changes that are being made in this final rule. Accordingly, OPM is adopting the language in this section as proposed.

Section 430.508 Appraising Performance

This section describes how agencies must appraise senior professionals' performance. It generally parallels the SES appraisal rules, requiring timely communication of expectations, establishment of appraisal timelines, and assessment of both individual and organizational performance. Appraisals must take into account factors such as results achieved, the overall quality of performance, appraisal guidelines based upon assessments of the agency's performance provided by the oversight official, customer perspectives, and compliance with merit system principles. The section clarifies that certain SES-specific factors, such as employee perspectives, are excluded given senior professionals' non-supervisory roles.

OPM received no comments on this section and is adopting the language as proposed. We note that the NPRM contained a typographical error in which the word "and" was omitted from the end of proposed § 430.508(d)(4). In this final rule, we correct that error.

Section 430.509 Rating Performance

This section specifies procedures for deriving and finalizing senior professional ratings. It mirrors certain aspects of the SES rating procedures, such as requiring rating officials to prepare initial summary ratings in writing, share them with senior professionals, and provide an opportunity for written response and higher-level review before finalizing ratings of record. OPM also proposed that agencies with ten or more senior professionals use their agency-level Performance Review Board (PRB) to conduct centralized review of the initial summary ratings and corresponding recommended pay actions. OPM additionally proposed that senior professional performance appraisals and ratings are not appealable, beyond what is otherwise provided under applicable law and regulation.

Commenter 0003 claims the final rule eliminates procedural protections by removing appeal rights and replacing

mandatory review of Level 1 ("Unacceptable") ratings with discretionary processes, thereby increasing the risk of arbitrary action.

On the contrary, while § 430.509(e) establishes that senior professional performance appraisals and ratings are not appealable beyond what is otherwise provided under applicable law or regulation, this provision does not limit or eliminate employees' ability to pursue recourse through established statutory or regulatory avenues, such as EEO processes or appeals to the MSPB, where applicable. The final rule simply eliminates the informal grievance process and the mandatory review of Level 1 ratings that previously applied to senior professionals under 5 CFR part 430, subpart B. In place of those mechanisms, the rule establishes a more structured and robust review framework aligned with SES review processes. OPM emphasizes that SES members are similarly prohibited by statute³³ from appealing performance appraisals or ratings, yet the SES rating process is widely recognized as providing strong procedural safeguards through multilayered review. Mirroring these SES provisions, the final rule provides that senior professionals are afforded the opportunity to receive a higher-level review of their initial summary rating regardless of the rating level. In addition, the employee's written response and the findings of the higher-level review are provided to the PRB, which conducts an independent review and makes recommendations to the approving official.

Commenter 0011 further argued that the rule violates the Due Process Clause of the Fifth Amendment, citing *Cleveland Board of Education v. Loudermill*, 470 U.S. 532 (1985), by eliminating review by a neutral adjudicator and foreclosing judicial review. OPM disagrees. A performance rating, standing alone, does not deprive an employee of a constitutionally protected property or liberty interest; *Loudermill* concerned the procedures required before removal from employment. Any suspension, reduction in grade or pay, or removal based on performance remains subject to the applicable statutory procedures, including advance notice, an opportunity to respond, and, where provided by law, appeal to the MSPB and judicial review under 5 U.S.C. 7703. Nothing in this rule alters those protections or forecloses any review otherwise available by law.

The final rule adopts a strong oversight framework for senior

professional ratings that has proven to be effective for the SES, ensuring that ratings are subject to multiple levels of review and oversight before being finalized. For these reasons, OPM concludes that the final rule maintains appropriate procedural protections, reduces the risk of arbitrary action, and strengthens the consistency and integrity of the senior professional rating process. Accordingly, OPM is adopting the language in this section as proposed.

Section 430.510 Details and Job Changes

This section addresses how performance appraisal systems are to handle senior professionals who experience job changes, such as details, temporary assignments, transfers, or reassignments during the appraisal period. It closely mirrors SES provisions, requiring performance goals and requirements to be established for such assignments and ensuring that written appraisals are completed and transferred appropriately to the receiving organization or agency.

OPM received no comments on this section and is adopting the language as proposed.

Section 430.511 Performance Review Boards (PRBs)

This section refines existing requirements for agency-level centralized review of senior professional performance ratings and pay actions. As discussed in the proposed rule, current senior professional pay regulations at 5 CFR part 534, subpart E, require agencies with 10 or more senior professionals to conduct a centralized review of proposed ratings and pay actions by a panel designated by the agency head. This final rule requires that agencies subject to the SES must use their established agency-level PRB to conduct the centralized review, including providing written recommendations to the approving official on senior professional ratings of record, performance awards, and pay adjustments. However, agencies not subject to the SES must establish a body equivalent to the PRB.

Commenter 0010 argues that the use of PRBs could introduce politicization into the appraisal process, citing a separate directive by the Administration to reconstitute ERBs with a majority of senior noncareer officials. The commenter states, "If that same approach is extended to PRBs reviewing SL/ST employees, the result would be a more politicized performance-review process at precisely the point where the proposal centralizes more authority in

³³ 5 U.S.C. 4312(d).

PRBs and makes ratings less contestable.”

OPM understands the commenter to be referring to the Presidential Memorandum titled, “Restoring Accountability for Career Senior Executives,”³⁴ which did direct agency heads to terminate their existing ERBs and reconstitute them with a majority of senior noncareer officials. However, the commenter erroneously conflates the ERB and PRB directives. The PRB directive makes no mention of noncareer officials. Rather, it calls for agency heads to reconstitute PRB membership “with individuals committed to full enforcement of SES performance evaluations that promote and assure an SES of the highest caliber.” 90 FR at 8482. This directive is specifically intended to strengthen accountability and ensure rigorous, consistent application of performance standards—not to politicize PRBs. OPM notes that both the SES appraisal regulations³⁵ and this final rule³⁶ require that the PRB, or equivalent body as appropriate, be comprised of a majority of career appointees when appraising the performance of a career appointee. The Presidential Memorandum does not alter that regulatory requirement: even a reconstituted PRB must consist of a majority of career appointees whenever it appraises the performance of a career senior professional—a structural safeguard that distinguishes PRBs from the ERB directive the commenter cites.

OPM also notes that prior approaches to PRB composition included practices which were determined to be inconsistent with merit-based principles, including the use of “DEI” considerations that were addressed in subsequent SES regulatory revisions.³⁷ Those changes clarified that PRB membership must be based on merit and free from impermissible considerations, reinforcing objectivity in the review process. Thus, reconstituting PRBs with members committed to full enforcement of performance evaluations enhances, rather than diminishes, merit-focused objectivity.

Further, the PRB, or the equivalent body conducting the centralized review, operates alongside higher-level review and other safeguards to ensure that ratings are not determined unilaterally but are subject to structured oversight. For these reasons, OPM concludes that

PRBs, as implemented under this rule, strengthen the integrity, consistency, and accountability of the senior professional performance appraisal process. Accordingly, OPM is adopting the language in this section as proposed.

Section 430.512 Using Performance Results

This section requires agencies to use performance results as a basis for making human capital decisions, including pay adjustments, awards, retention decisions, and other personnel actions. OPM reiterates that actions to suspend, demote, or remove senior professionals from the civil service for unacceptable performance remain subject to the provision(s) of applicable law. OPM also proposed that performance appraisals be used as a factor in assessing a senior professional’s continuing development needs and that agencies must provide appropriate incentives and recognition for high performance.

OPM received no comments on this section and is adopting the language as proposed.

Section 430.513 Training and Evaluation

To assure effective implementation of performance appraisal systems, this section requires agencies to provide appropriate information and training to individuals involved in the senior professional performance appraisal process, periodically evaluate the effectiveness of their appraisal systems, and implement improvements as needed. OPM proposed that these evaluations must provide for both assessment of effectiveness and compliance with relevant laws, OPM regulations, and OPM performance management policy.

OPM received no comments on this section and is adopting the language as proposed.

Section 430.514 OPM Review of Agency Systems

This section requires agencies to submit senior professional performance appraisal systems to OPM for review and approval. Appraisal systems are reviewed by OPM for compliance with statutory, regulatory, and OPM policy requirements. Consistent with 5 U.S.C. 4304(b)(3), this section also requires that if OPM determines a system does not meet the requirements of the law or regulation, OPM will identify the requirements that were not met and direct the agency to take corrective action, and the agency must comply. This review function supports consistent and compliant performance

management practices across the Federal Government.

Commenter 0011 asserted that OPM lacks authority to review agency performance appraisal systems and direct corrective action, arguing that such oversight constitutes an impermissible intrusion into agency personnel management and conflicts with statutory roles assigned to other entities, such as the MSPB and the OSC.

OPM does not agree that the review and oversight provisions in 5 CFR 430.514 exceed its statutory authority or improperly intrude on agency personnel management. OPM’s authority to oversee performance appraisal systems derives directly from 5 U.S.C. chapter 43, which authorizes OPM to prescribe regulations governing performance appraisal systems and ensure that such systems comply with statutory requirements. Under 5 U.S.C. 4302, agencies are required to develop performance appraisal systems in accordance with regulations prescribed by OPM. This statutory framework necessarily contemplates that OPM will not only establish requirements for agency systems but also ensure that those systems are implemented in a manner consistent with law and regulation. The authority to review agency systems for compliance and to require corrective action where deficiencies are identified is inherent in OPM’s responsibility to administer and enforce these statutory requirements.

OPM also does not agree that its oversight role conflicts with the statutory functions of the MSPB or the OSC. Those entities serve distinct and complementary roles within the Federal personnel system. The MSPB adjudicates appeals and enforces merit system principles in individual cases, while the OSC investigates and prosecutes prohibited personnel practices. In contrast, OPM’s role under chapter 43 is to establish Governmentwide performance management policy and ensure that agency systems comply with applicable requirements. The oversight provided in § 430.514 operates at the system level and does not replace or diminish the independent authorities of these entities. Nothing in this rule amends 5 U.S.C. 2302 or the Whistleblower Protection Act, and allegations of prohibited personnel practices remain fully within the jurisdiction of the OSC and the MSPB.

For these reasons, OPM concludes that the review and oversight provisions in § 430.514 are fully consistent with OPM’s statutory authority and responsibilities under 5 U.S.C. chapter 43 and are necessary to ensure that

³⁴ 90 FR 8481 (Jan. 30, 2025).

³⁵ 5 CFR 430.311(a)(3).

³⁶ 5 CFR 430.511 requires the PRB or equivalent body to fulfill all requirements of centralized review found in 5 CFR part 534, subpart E, including 5 CFR 534.505(f)(1).

³⁷ 90 FR 44291 (Sept. 15, 2025).

performance appraisal systems for senior professionals are implemented in a lawful, consistent, and effective manner across the Federal Government. Accordingly, OPM is adopting the language in this section as proposed.

Conforming Amendments

OPM proposed conforming amendments in parts 351, 430, 451, 534, 537, and 630 to harmonize terms, citations, and language to comport with this rule. OPM also proposed an editorial correction to a citation in part 894. OPM did not receive comments on those proposals and is adopting them in this final rule, except for technical updates to the part 351 conforming amendments described below.

After the proposed rule was published, OPM issued a final rule comprehensively revising its reduction in force regulations at 5 CFR part 351, effective September 2, 2026. See *Reduction in Force*, 91 FR 49178 (Aug. 3, 2026). In this final rule, OPM is accordingly updating the conforming amendments to part 351 to reflect part 351 as amended by that final rule, including the revised authority citation, the revised definition of “rating of record” in § 351.203, and the relocation of the performance-credit provisions from former § 351.504 to § 351.503. These updates are technical and conforming in nature; they harmonize terminology and cross-references with the amended part 351 and do not alter the substance of the amendments as proposed.

In addition, OPM is making four technical corrections in subpart B of part 430, which this rule already amends. On July 7, 2026, OPM published a final rule, *Performance Appraisal for General Schedule, Prevailing Rate, and Certain Other Employees*, 91 FR 41521 (effective August 6, 2026), which revised and republished § 430.208 and relocated the patterns of summary levels from § 430.208(d) to § 430.208(e). That rule updated cross-references in §§ 351.504 and 537.108(b) but did not update four references within part 430 itself. This final rule accordingly revises the references to § 430.208(d) in § 430.201(c)(3), in the definitions of “Performance rating” and “Rating of record” in § 430.203, and in § 430.204(b)(3)(iv) to refer to § 430.208(e).

In revising the definition of “Rating of record,” OPM is also correcting a longstanding defective paragraph designation—the definition refers to “(2)” with no corresponding “(1)” —without change in meaning. OPM is further correcting § 430.204(b)(3)(iii),

which cites “§ 430.206(b)(7)(i)(A) and (ii)(A)” although § 430.206(b)(7) contains no subdivisions; the provisions cited are located in § 430.206(b)(8)(i)(A) and (b)(8)(ii)(A). These corrections are technical and non-substantive: they conform citations and paragraph designations to regulations previously promulgated and do not alter the rights or obligations of any party. To the extent these corrections were not included in the proposed rule, OPM finds good cause under 5 U.S.C. 553(b)(B) to adopt them without prior notice and comment because notice and comment are unnecessary for non-substantive, technical corrections.

Parallel Regulations in Part 1330

The regulations at 5 CFR part 1330, subpart D, are parallel regulations to 5 CFR part 430 subpart D, which govern the performance appraisal system certification requirements for the SES and senior professionals. Performance appraisal system certification is co-regulated by OPM and OMB and, since OPM proposed conforming amendments to 5 CFR part 430, subpart D, OMB proposed identical conforming changes to 5 CFR part 1330, subpart D. Neither OPM nor OMB received comments specific to those proposals and OMB is adopting them with changes consistent with those discussed in this final rule.

Expected Impact of This Rulemaking

A. Statement of Need

OPM is issuing this rule pursuant to its authority to issue regulations governing performance appraisals under subchapter I of chapter 43 of title 5, United States Code. As discussed in the Background, the purpose of this rule is to establish separate regulations that will be better suited to the performance appraisal needs of senior professionals. While many provisions applicable to senior professionals such as pay, aggregate limit on compensation, leave accrual, and leave carryover limit have evolved over the years to match what the SES receive, senior professionals have remained subject to the same general performance appraisal regulations that apply to most non-SES federal employees, including rank-and-file GS and prevailing rate employees. The lack of appraisal rules specifically tailored to senior professionals’ important roles and high level of compensation hinders agencies’ ability to fully leverage the strategic potential of these positions.

OPM found that, despite its previous efforts to promote rigor in senior professional performance appraisal by encouraging agencies to develop more

stringent performance requirements,³⁸ senior professional ratings distributions come nowhere close to resembling a normal bell curve. As mentioned in the Background, Governmentwide senior professional performance rating data for fiscal years 2023 and 2024³⁹ show that approximately 90 percent of senior professionals received a Level 5 (“Outstanding”) or Level 4 (“Exceeds Fully Successful”) rating and less than a half of one percent of senior professionals were rated below Level 3 (“Fully Successful”). The distribution of these ratings suggests there is inflation of senior professional ratings and poor performing employees are likely not being identified or held accountable through a rigorous appraisal process. As such, action must be taken to re-set and infuse rigor into the senior professional performance appraisal process.

OPM recognizes that agencies have operated under a regulatory framework that prohibited pre-established distributions of ratings for several decades. After evaluating Governmentwide ratings data, implementation experience, and academic literature, OPM has concluded that the previous approach has not adequately promoted meaningful distinctions in performance among senior professionals.

B. Impact

OPM is establishing a new subpart specifically dedicated to the performance appraisal of senior professionals and that more closely resembles the SES appraisal system—including changes that allow OPM to establish and enforce a standardized distribution of performance ratings—to enable agencies and senior professionals to be held to a higher standard of accountability and ensure only the truly deserving performers are rewarded for their performance.

Allowing for the establishment of limits on senior professional ratings will result in a more normalized distribution of performance ratings. OPM anticipates that a standardized distribution will incentivize improved performance of senior professionals as they no longer would expect to receive high ratings without demonstrating superior performance relative to the other senior professionals in their agency. Consequently, improved senior professional performance would ultimately improve the performance of the Federal Government in providing services to the American public.

³⁸ See note 2.

³⁹ See note 3.

Establishing senior professional performance appraisal regulations that more closely align with the Senior Executive Service appraisal regulations creates greater opportunities for oversight and review of senior professional ratings. In the final rule, agencies employing 10 or more senior professionals will utilize their agency-level PRB to conduct the centralized review required in subpart E of 5 CFR part 534. Additionally, all senior professionals will now be able to request higher-level review of their initial summary rating, regardless of the rating level, bringing enhanced credibility, transparency, and accountability to the rating process.

C. Costs

This rule will affect the operations of more than 60 Federal agencies—ranging from cabinet-level departments to small independent agencies—that have SL or ST employees. To comply with the regulatory changes, individuals employed by affected agencies will need to spend time updating agency senior professional performance appraisal policies and procedures. For this cost analysis, the assumed average salary rate of federal employees performing this work will be the rate in 2025 for GS–14, step 5, in the Washington, DC, locality pay table (\$161,486 annual locality rate and \$77.38 hourly locality rate). We assume the total dollar value of labor, which includes wages, benefits, and overhead, is equal to 200 percent of the wage rate, resulting in an assumed labor cost of \$154.76 per hour.

Additionally, affected agencies will need to review the rule and update their policies and procedures. We estimate that, in the first year following publication of the final rule, this will require an average of 80 hours of work by employees with an average hourly cost of \$154.76 per hour. This will result in estimated one-time costs of about \$12,400 per agency and about \$744,000 Governmentwide.

Senior professionals revise their performance requirements each year as they develop their performance plans. OPM anticipates that adjusting their specific performance requirements to reflect the updated critical elements may take each senior professional slightly longer than usual in the first year. We estimate that this will require approximately 15 additional minutes in the first year of implementation compared to the time usually spent developing specific performance requirements for the annual performance plan. Based on the average salary of the SL and ST pay plans in September 2024 (most recent available

data), we assume an overall average SL/ST salary rate of \$204,735, or \$98.43 per hour.⁴⁰ We assume the total dollar value of labor, which includes wages, benefits, and overhead, is equal to 200 percent of the wage rate, resulting in an assumed labor cost of \$196.86 per hour. There are approximately 1,420 employees with an SL or ST pay plan in the executive branch. We estimate this will result in a one-year, transitional increase in costs of about \$70,000 Governmentwide.

OPM anticipates that the overall implementation costs would be limited in duration and would total about \$814,000. OPM did not receive any comments on its estimates of costs.

D. Benefits

Senior professionals are critical to the effective operation and strategic direction of the Federal Government. The changes in this rule enhance parity between senior professionals and the SES by establishing appraisal rules for senior professionals that are more closely aligned with SES appraisal rules. This relieves agencies from superfluous requirements found in subpart B of part 430 that are not well-suited to managing senior professional performance, such as the requirement to establish one or more performance appraisal programs.

By allowing OPM to establish a limit on the number of senior professionals who can receive the highest ratings, there will be a clear distinction of the highest performers across an agency and the Federal Government. Agencies will no longer be able to rate all of their senior professionals at the highest performance ratings, thus encouraging senior professionals to strive for increased levels of performance and ultimately provide better results for the Federal Government and the American public.

Senior professionals will benefit from increased feedback and oversight under the new subpart, as it requires more frequent progress reviews and provides the opportunity for a higher-level review of an initial summary rating at any level instead of a mandatory review of a Level 1 (“Unacceptable”) rating of record. Agencies employing 10 or more senior professionals will see enhanced oversight by utilizing agency-level PRBs to oversee recommended ratings of record, pay adjustments, and performance awards, thus providing overall increased Governmentwide consistency for senior professional performance appraisal.

E. Regulatory Alternatives

An alternative to this rulemaking is to not establish a new subpart in part 430 dedicated to senior professional performance appraisal and instead OPM could issue further guidance encouraging agencies to be increasingly rigorous in managing the performance of their senior professionals. However, without the provisions in this subpart, agencies would continue to be prevented from applying a standardized distribution of senior professional ratings by 5 CFR 430.208(c). As mentioned in the Statement of Need, previous attempts to curb rating inflation through guidance have not been successful; instead, it appears that the percentage of senior professionals receiving Level 4 or 5 performance ratings has reached a point where almost all senior professionals (*i.e.*, approximately 90%) are receiving a Level 4 or 5 rating. Without the ability to place limits on senior professional ratings, the pervasive inflation of senior professional ratings will likely continue, resulting in a lack of meaningful rating distinction and thus, lack of accountability.

Another alternative to this rulemaking is for OPM to pursue a different rulemaking that would amend subpart B of part 430 by excluding senior professionals from the forced distribution prohibition contained in that subpart. While this approach would achieve some of the intended purpose of the proposed rule, it would lack the meaningful reforms to senior professional performance appraisal that increase parity with the SES appraisal rules, such as providing for higher-level review of initial summary ratings and the PRB providing centralized review. Failing to establish a separate subpart in part 430 dedicated to senior professional performance appraisal would result in senior professionals continuing to be subject to the cumbersome provisions of subpart B of part 430, which require agencies to establish both appraisal systems and appraisal programs, which is burdensome and not aligned with OPM’s vision of centralized, effective senior professional performance management.

Severability

OPM intends that, if any of the provisions of this rule as finalized were held to be invalid or unenforceable by its terms, or as applied to any person or circumstance, that provision would be severable from its respective section(s) and would not affect the remainder thereof or the application of the

⁴⁰ Average senior professional pay drawn from Office of Personnel Management FedScope data.

provision to other persons not similarly situated or to other dissimilar circumstances. For example, if the implementation of a standardized distribution of ratings were held to be unenforceable, the remaining provisions established by this final rule would be unaffected and could remain in effect.

Regulatory Compliance

A. Regulatory Flexibility Act

The Director of OPM certifies that this rulemaking will not have a significant economic impact on a substantial number of small entities because it will apply only to Federal agencies and employees.

B. Regulatory Review

OPM has examined the impact of this rule as required by Executive Order 12866 and Executive Order 13563, which direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public, health, and safety effects, distributive impacts, and equity). This rulemaking is not a “significant regulatory action” under section 3(f) of Executive Order 12866. This final rule is not an E.O. 14192 regulatory action because it does not impose any more than de minimis regulatory costs.

C. Federalism

This regulation will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to warrant preparation of a Federalism Assessment.

D. Civil Justice Reform

This regulation meets the applicable standards set forth in section 3(a) and (b)(2) of Executive Order 12988.

E. Unfunded Mandates Reform Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) requires that agencies assess anticipated costs and benefits before issuing any rule that would impose spending costs on State, local, or tribal governments in the aggregate, or on the private sector, in any 1 year of \$100 million in 1995 dollars, updated annually for inflation. That threshold is currently

approximately \$206 million. This rulemaking will not result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, in excess of the threshold. Thus, no written assessment of unfunded mandates is required.

F. Congressional Review Act

The Office of Management and Budget’s (OMB) Office of Information and Regulatory Affairs has determined this rule does not meet the criteria listed in 5 U.S.C. 804(2).

G. Paperwork Reduction Act

This regulatory action will not impose any reporting or recordkeeping requirements under the Paperwork Reduction Act.

List of Subjects

5 CFR Part 351

Administrative practice and procedure, Government employees.

5 CFR Parts 430 and 451

Decorations, Government employees.

5 CFR Part 534

Government employees, Hospitals, Students, Wages.

5 CFR Part 537

Administrative practice and procedure, Government employees, Students, Wages.

5 CFR Part 630

Emergency preparedness, Government employees, Reporting and recordkeeping requirements, Wages, Weather.

5 CFR Part 894

Administrative practice and procedure, Government employees, Health facilities, Health insurance, Health professions, Hostages, Iraq, Kuwait, Lebanon, Military personnel, Reporting and recordkeeping requirements, Retirement.

5 CFR Part 1330

Government employees.

Accordingly, for the reasons stated in the preamble, OPM amends 5 CFR parts 351, 430, 451, 534, 537, 630, and 894, and OMB amends 5 CFR part 1330 as follows:

PART 351—REDUCTION IN FORCE

■ 1. The authority citation for part 351 continues to read as follows:

Authority: 5 U.S.C. 1103, 1104, 1302, 2301, 3502, 3503, 38 U.S.C. 4331; E.O. 14284, 90 FR 17729; 5 CFR 2.2(c). Sec. 351.801 also issued under E.O. 12828, 58 FR 2965, 3 CFR, 1993 Comp., p. 569.

Subpart B—General Provisions

■ 2. Amend § 351.203 by revising the definition of “Rating of record” to read as follows:

§ 351.203 Definitions.

* * * * *

Rating of record means the performance rating prepared at the end of an appraisal period for performance of agency-assigned duties over the entire period and the assignment of a summary level within a pattern (as specified in § 430.208(e) of this chapter) or, for an employee covered by subpart E of part 430 of this chapter, a summary level specified in § 430.505(a)(6) of this chapter. For an employee not subject to 5 U.S.C. chapter 43, or part 430 of this chapter, it means the officially designated performance rating, as provided for in the agency’s appraisal system, that is considered to be an equivalent rating of record under the provisions of § 430.201(c) or § 430.501(b) of this chapter, as applicable.

* * * * *

Subpart E—Retention Standing

■ 3. Amend § 351.503 by:

■ a. In paragraph (a)(1), adding the words “or the summary performance levels in § 430.505(a)(6) of this chapter” after the words “the patterns of summary level in 5 CFR 430.208(e)”; and

■ b. Revising paragraphs (b)(2) and (3).

The revisions read as follows:

§ 351.503 Performance.

* * * * *

(b) * * *

(2) For competing employees who received ratings of record while covered by part 430, subpart B or E, of this chapter, the summary levels assigned for those ratings of record must be used to establish the employee’s performance credit in a reduction in force in accordance with paragraph (a) of this section (as augmented by veterans’ preference in accordance with § 351.504).

(3) For competing employees who received performance ratings while not covered by the provisions of 5 U.S.C. chapter 43 and subpart B or E of part 430 of this chapter, those performance ratings must be considered ratings of record with summary levels for designating an employee’s performance credit in a reduction in force only when the agency conducting the reduction in force determines, in its sole discretion, that those performance ratings are equivalent to ratings of record under the

provisions of § 430.201(c) or § 430.501(b) of this chapter, as applicable.

PART 430—PERFORMANCE MANAGEMENT

■ 4. The authority citation for part 430 continues to read as follows:

Authority: 5 U.S.C. 2301, chapter 43 and 5307(d).

Subpart B—Performance Appraisal for General Schedule, Prevailing Rate, and Certain Other Employees

§ 430.201 [Amended]

■ 5. Amend § 430.201, in paragraph (c)(3), by removing “§ 430.208(d)” and adding in its place “§ 430.208(e)”.

■ 6. Amend § 430.202 by revising paragraph (a)(2) to read as follows:

§ 430.202 Coverage.

(a) * * *

(2) Section 4301(2) of title 5, United States Code, defines employees covered by statute by this subpart. In addition to General Schedule (GS/GM) employees, coverage includes, but is not limited to prevailing rate employees, and excludes senior-level and scientific and professional employees paid under 5 U.S.C. 5376.

* * *

■ 7. Amend § 430.203 by revising the definitions of “Performance rating” and “Rating of record” to read as follows:

§ 430.203 Definitions.

* * *

Performance rating means the written, or otherwise recorded, appraisal of performance compared to the performance standard(s) for each critical and non-critical element on which there has been an opportunity to perform for the minimum period. A performance rating may include the assignment of a summary level within a pattern (as specified in § 430.208(e)).

* * *

Rating of record means the performance rating, which constitutes the official rating of record referenced in this chapter, prepared—

(1) At the end of an appraisal period for performance of agency-assigned duties over the entire period, including the assignment of a summary level within a pattern (as specified in § 430.208(e)); or

(2) In accordance with § 531.404(a)(1) of this chapter.

* * *

§ 430.204 [Amended]

■ 8. Amend § 430.204 by:

■ a. In paragraph (b)(3)(iii), removing “§ 430.206(b)(7)(i)(A) and (ii)(A)” and adding in its place “§ 430.206(b)(7), (b)(8)(i)(A), and (b)(8)(ii)(A)”;

■ b. In paragraph (b)(3)(iv), removing “§ 430.208(d)” and adding in its place “§ 430.208(e)”.

Subpart C—Managing Senior Executive Performance

■ 9. Amend § 430.305 by revising paragraph (d) to read as follows:

* * *

(d) OPM may establish, and refine as needed, a standardized distribution of some or all SES rating levels which agencies must apply when rating SES members, except that noncareer SES members may be excluded from such standardized distribution requirements, as determined by OPM.

Subpart D—Performance Appraisal Certification for Pay Purposes

■ 10. Amend § 430.402 by revising the definitions of “Appraisal system” and “Performance expectations” to read as follows:

§ 430.402 Definitions.

* * *

Appraisal system means the policies, practices, and procedures an agency establishes under 5 U.S.C. chapter 43 and subparts C and E of this part, or other applicable legal authority, for planning, monitoring, developing, evaluating, and rewarding employee performance. This includes performance management systems as defined at § 430.303 and performance appraisal systems as defined at § 430.503.

* * *

Performance expectations means critical elements and performance requirements that constitute the senior executive performance plans (as defined in § 430.303) established for senior executives, the critical elements and performance requirements that constitute the senior professional performance plans (as defined in § 430.503) established for senior professionals, or other appropriate means authorized under performance appraisal systems not covered by 5 U.S.C. chapter 43 for communicating what a senior employee is expected to do and the manner in which he/she is expected to do it, and may include contribution to agency performance, where appropriate.

* * *

■ 11. Amend § 430.403 by revising paragraphs (b) through (d) to read as follows:

§ 430.403 System certification.

* * *

(b) Except as provided in paragraph (c) of this section, agencies subject to 5 U.S.C. chapter 43 and this part seeking certification of their appraisal systems must submit systems that have been approved by OPM under § 430.314 or § 430.514 as applicable. In some agencies, the performance appraisal system(s) covers employees in many organizations and/or components, and their ability to meet the certification criteria in § 430.404 may vary significantly. In such cases, an agency may establish and/or submit separate performance appraisal systems for each of these distinct organizations and/or components to ensure timely certification of those performance appraisal system(s) that meet the criteria. New appraisal systems established under subpart C or E of this part, as applicable based on the employees covered, must be approved by OPM.

(c) When an agency establishes a new appraisal system for the purpose of seeking certification under this subpart, the agency may submit that system for certification even if it has not yet been approved by OPM under § 430.314 or § 430.514, as applicable. OPM will certify, with OMB concurrence, only those systems that OPM determines meet the approval requirements of subpart C or E of this part, as applicable.

(d) An agency must establish an appraisal system(s), as defined in § 430.402, for its senior professionals that meets the requirements of subpart E of this part, and is separate from the system(s) established to cover its SES members under subpart C of this part. For the purpose of certification under this subpart, such senior professional appraisal system(s) must meet the certification criteria set forth in § 430.404.

* * *

■ 12. Amend § 430.404 by revising paragraphs (a)(2), (5), (7), and (8) to read as follows:

§ 430.404 Certification criteria.

(a) * * *

(2) Consultation, so that the performance expectations for senior employees meet the requirements of subparts C and E of this part, as applicable, and/or other applicable legal authority; are developed with the input and involvement of the individual senior employees who are covered thereby; and are communicated to them at the beginning of the applicable

appraisal period, and/or at appropriate times thereafter;

* * * * *

(5) Appropriate assessments of the agency's performance—overall and with respect to each of its particular missions, components, programs, policy areas, and support functions—such as reports of the agency's Government Performance and Results Act (GPRA) goals, annual performance plans and targets, program performance measures, and other appropriate indicators, as well as evaluation guidelines based, in part, upon those assessments, that are communicated by the agency head, or an individual specifically designated by the agency head for such purpose, to senior employees, appropriate senior employee rating and reviewing officials, and PRB members. These assessments and guidelines are to be provided at the conclusion of the appraisal period but before individual senior employee performance ratings are recommended, so that they may serve as a basis for individual performance evaluations, as appropriate. The guidance provided must conform to subpart C or E of this part, as applicable;

* * * * *

(7) Accountability, so that final agency head decisions and any PRB recommendations regarding senior employee ratings consistent with subparts C and E of this part, individually and overall, appropriately reflect the employee's performance expectations, relevant program performance measures, and such other relevant factors as the PRB may find appropriate; in the case of supervisory senior employees, ratings must reflect the degree to which performance standards, requirements, or expectations for individual subordinate employees clearly link to organizational mission, GPRA strategic goals, or other program or policy objectives and take into account the degree of rigor in the appraisal of their subordinate employees;

(8) Performance differentiation, so that the system(s) includes at least one summary level of performance above fully successful, including a summary level that reflects outstanding performance, as defined in § 430.402, and so that its annual administration results in meaningful distinctions based on relative performance that take into account the assessment of the agency's performance against relevant program performance measures, as described in paragraph (a)(6) of this section, employee performance expectations, and such other relevant factors as may be appropriate. For equivalent systems

that do not use summary ratings, the performance appraisal system must provide for clear differentiation of performance at the outstanding level; and

* * * * *

■ 13. Amend § 430.405 by revising paragraphs (b)(1)(iii)(B) and (C) and (h)(2) to read as follows:

§ 430.405 Procedures for certifying agency appraisal systems.

* * * * *

(b) * * *

(1) * * *

(iii) * * *

(B) For the agency's senior professionals covered by subpart E of this part, five summary levels—an outstanding level, a fully successful level, a level between outstanding and fully successful, an unacceptable level, and a level between fully successful and unacceptable; and

(C) For agencies not subject to subparts C and E of this part, a summary rating level that reflects outstanding performance or a methodology that clearly differentiates outstanding performance, as defined in § 430.402;

* * * * *

(h) * * *

(2) An agency's system certification is automatically suspended when OPM withdraws performance appraisal system approval or mandates corrective action because of misapplication of the system as authorized under §§ 430.314(c), 430.403(e), and 430.514(c).

* * * * *

■ 14. Add subpart E to read as follows:

Subpart E—Managing Senior Professional Performance

Sec.

430.501 General.

430.502 Coverage.

430.503 Definitions.

430.504 Senior professional performance appraisal systems.

430.505 System standards for senior professional performance appraisal systems.

430.506 Planning and communicating performance.

430.507 Monitoring performance.

430.508 Appraising performance.

430.509 Rating performance.

430.510 Details and job changes.

430.511 Performance Review Boards (PRBs).

430.512 Using performance results.

430.513 Training and evaluation.

430.514 OPM review of agency systems.

§ 430.501 General.

(a) *Statutory authority.* Chapter 43 of title 5, United States Code, provides for the establishment of agency performance appraisal systems and

requires the Office of Personnel Management (OPM) to prescribe regulations governing such systems. The regulations in this subpart in combination with statute set forth the requirements for managing the performance for senior-level (SL) positions classified above GS–15 pursuant to 5 U.S.C. 5108 and scientific or professional (ST) positions established under 5 U.S.C. 3104, and which are compensated under 5 U.S.C. 5376.

(b) *Equivalent ratings of record.* (1) If an agency has administratively adopted and applied the procedures of this subpart to evaluate the performance of its employees, the ratings of record resulting from that evaluation are considered ratings of record for reduction in force purposes.

(2) Other performance evaluations given while an employee is not covered by the provisions of this subpart are considered ratings of record for reduction in force purposes when the performance evaluation—

(i) Was issued as an officially designated evaluation under the employing agency's performance evaluation system;

(ii) Was derived from the appraisal of performance against expectations that are established and communicated in advance and are work related; and

(iii) Identified whether the employee performed acceptably.

(3) When the performance evaluation does not include five summary levels comparable to those established at § 430.505(a)(6), the agency may identify a level based on information related to the appraisal process.

§ 430.502 Coverage.

(a) *Covered positions.* This subpart applies to the following types of positions:

(1) Senior-level (SL) positions classified above GS–15 pursuant to 5 U.S.C. 5108 and paid under 5 U.S.C. 5376; and

(2) Scientific or professional (ST) positions established under 5 U.S.C. 3104 and paid under 5 U.S.C. 5376.

(b) *Administrative exclusions.* OPM may exclude any position or group of positions in the excepted service under the authority of 5 U.S.C. 4301(2)(G). Excepted service positions for which employment is not reasonably expected to exceed the minimum period established under § 430.504(b)(4) in a consecutive 12-month period are not subject to this subpart.

§ 430.503 Definitions.

In this subpart—
Agency means—

(1) An Executive agency as defined in 5 U.S.C. 105;

(2) Any other entity that is not part of an Executive agency and for which OPM has approved establishment of one or more scientific or professional positions under 5 U.S.C. 3104.

Appraisal period means the established period of time for which a senior professional's performance will be appraised and rated.

Approving official means an agency designated official with authority to make SL or ST appointments and who assigns the rating of record.

Critical element means a key component of a senior professional's work that contributes to organizational goals and results and is so important that unacceptable performance on the element would make the senior professional's overall job performance unacceptable.

Initial summary rating means an overall rating level the rating official derives, from appraising the senior professional's performance during the appraisal period in relation to the critical elements and performance standards and requirements, and forwards to the Performance Review Board as the recommended rating of record.

Oversight official means the agency head or the individual specifically designated by the agency head who provides oversight of the performance management system and issues performance appraisal guidelines.

Performance means the accomplishment of the work described in the senior professional's performance plan.

Performance appraisal means the review and evaluation of a senior professional's performance against critical elements and performance standards and requirements.

Performance appraisal system means the policies, practices, and procedures an agency establishes under 5 U.S.C. chapter 43 and this subpart, or other applicable legal authority, for planning, monitoring, developing, evaluating, and rewarding employee performance.

Performance rating means the written, or otherwise recorded, appraisal of performance compared to the performance standard(s) for each critical element on which there has been an opportunity to perform for the minimum period. A performance rating may include the assignment of a numerical summary performance level.

Performance requirement means a description of what a senior professional must accomplish, or the competencies demonstrated, for a critical element. A performance

requirement establishes the criteria to be met to be rated at a specific level of performance and generally includes quality, quantity, timeliness, cost savings, manner of performance, or other factors.

Performance standard means a normative description of a single level of performance within five such described levels of performance ranging from unacceptable performance to outstanding performance. Performance standards provide the benchmarks for developing performance requirements against which actual performance will be assessed.

PRB means Performance Review Board, which for the purposes of this subpart includes a PRB established under § 430.311 or an equivalent body, as described in § 430.511.

Progress review means a review of the senior professional's progress in meeting the performance requirements. A progress review is not a performance rating.

Rating official means the official, generally the supervisor of the senior professional, who develops the initial summary rating and forwards it to the Performance Review Board, as the recommended rating of record.

Rating of record means the final official performance rating at the end of an appraisal period for performance of agency-assigned duties over the entire period after the initial summary rating has been reviewed and approved by the approving official.

Senior professional means an employee in a senior-level (SL) or scientific or professional position (ST) paid under 5 U.S.C. 5376.

Senior professional performance plan means the written critical elements and performance requirements against which performance will be evaluated during the appraisal period by applying the established performance standards. The plan includes all critical elements, performance standards, and performance requirements, including any specific goals, targets, competencies, objectives, or other measures established for the senior professional.

Strategic planning initiatives means agency strategic plans as required by the GPRA Modernization Act of 2010, annual performance plans, organizational work plans, and other related initiatives.

§ 430.504 Senior professional performance appraisal systems.

(a) Each agency must develop and administer one or more performance appraisal systems for its senior professionals in accordance with the

system standards established in § 430.505.

(b) Performance appraisal systems must provide for—

(1) Identifying employees covered by the system;

(2) Monitoring progress in accomplishing critical elements and performance requirements and conducting progress reviews at least quarterly during the appraisal period, including informing senior professionals on how well they are performing;

(3) Establishing an official performance appraisal period for which a rating of record must be prepared;

(4) Establishing a minimum appraisal period of at least 90 days;

(5) Establishing criteria and procedures to address performance of senior professionals who are on detail, temporarily reassigned, or transferred as described at § 430.510, and for other special circumstances established by the agency.

§ 430.505 System standards for senior professional performance appraisal systems.

(a) Each agency performance appraisal system must incorporate the following system standards:

(1) Use critical elements to evaluate the quality of the senior professional's job performance for the designated appraisal period;

(2) Align performance requirements with agency mission and strategic planning initiatives;

(3) Define performance standards for each of the summary rating performance levels, which also may be used for the individual elements or performance requirements being appraised;

(4) Appraise each senior professional's performance at least annually against performance requirements based on established performance standards and other measures;

(5) Derive a rating of record through a mathematical method that ensures the senior professional's performance aligns with level descriptors contained in performance standards that clearly differentiate levels above fully successful;

(6) Establish five summary performance levels. Level 1 through Level 5 are ordered categories, with Level 1 as the lowest and Level 5 as the highest, as follows:

(i) An outstanding level (Level 5);

(ii) An exceeds fully successful level (Level 4);

(iii) A fully successful level (Level 3);

(iv) A minimally satisfactory level (Level 2); and

(v) An unacceptable level (Level 1);

(7) Include equivalency statements in the system description for agency-specific terms for the five summary performance levels aligning them with the five performance levels required in paragraph (a)(6) of this section; and

(8) Use performance appraisals as a basis to adjust pay, reward, retain, and develop senior professionals or make other personnel decisions, including removals as described in § 430.512.

(b) An agency must develop and implement a performance appraisal system for its senior professionals in accordance with the requirements of this section and applicable OPM guidance.

(c) OPM may establish, and refine as needed, a governmentwide performance management system incorporating all requirements of this section for agencies to adopt, with limited adaptation, for performance appraisal of its senior professionals.

(d) OPM may establish, and refine as needed, a standardized distribution of some or all rating levels for senior professionals which agencies must apply when rating senior professionals, except that senior professionals appointed under Schedules C or G in the excepted service may be excluded from such standardized distribution requirements, as determined by OPM.

§ 430.506 Planning and communicating performance.

(a) Each senior professional must have a performance plan that describes the individual and organizational expectations for the appraisal period that clearly fall within the senior professional's area of responsibility and control.

(b) Rating officials must develop performance plans in consultation with senior professionals and communicate the plans to them in writing, including through the use of automated systems, on or before the beginning of the appraisal period, or upon appointment to a new SL or ST position.

(c) A senior professional performance plan must include—

(1) *Critical elements.* Critical elements must reflect individual performance results or competencies as well as organizational performance priorities within each senior professional's respective area of responsibility and control.

(2) *Performance standards.* Performance plans must include the performance standards describing each level of performance at which a senior professional's performance can be appraised. Performance standards describe the general expectations that

must be met to be rated at each level of performance and provide the benchmarks for developing performance requirements.

(3) *Performance requirements.* At a minimum, performance requirements must describe expected accomplishments or demonstrated competencies for fully successful performance by the senior professional. An agency may establish performance requirements associated with other levels of performance as well. These performance requirements must align with agency mission and strategic planning initiatives. Performance requirements must contain measures of the quality, quantity, timeliness, cost savings, or manner of performance, as appropriate, expected for the applicable level of performance.

(d) Agencies may require a review of senior professional performance plans at the beginning of the appraisal period to ensure consistency of agency-specific performance requirements. Such reviews may be performed by the PRB or another body of the agency's choosing.

§ 430.507 Monitoring performance.

Rating officials must monitor each senior professional's performance throughout the appraisal period and hold at least quarterly progress reviews. At a minimum, rating officials must inform senior professionals during the progress review about how well they are performing with regard to their performance plan. Rating officials must provide advice and assistance to senior professionals on how to improve their performance. Rating officials and senior professionals may also discuss available development opportunities for the senior professional.

§ 430.508 Appraising performance.

(a) Agencies must establish appropriate timelines for communicating performance plans, conducting appraisals, and assigning and communicating ratings of record.

(b) At least annually, agencies must appraise each senior professional's performance in writing, including through the use of automated systems, and assign a rating of record at the end of the appraisal period.

(c) Agencies must appraise a senior professional's performance on the critical elements and performance requirements in the senior professional's performance plan.

(d) Agencies must base appraisals of senior professional performance on both individual and organizational performance as it applies to the senior professional's area of responsibility and

control, taking into account factors such as—

(1) Results achieved in accordance with agency mission and strategic planning initiatives;

(2) Overall quality of performance rendered by the senior professional;

(3) Performance appraisal guidelines that must be based upon assessments of the agency's performance and are provided by the oversight official to senior professionals, rating and reviewing officials, PRB members, and approving officials at the conclusion of the appraisal period and before completion of the initial summary ratings;

(4) Customer perspectives; and

(5) Compliance with the merit system principles set forth under 5 U.S.C. 2301.

§ 430.509 Rating performance.

(a) For agencies employing ten or more senior professionals, when rating senior professional performance, each agency must use its agency-level PRB, as described at § 430.511 to fulfill the requirements of centralized review under part 534, subpart E, of this chapter.

(b) The rating of record or performance rating for a disabled veteran shall not be lowered because the veteran has been absent from work to seek medical treatment as provided in Executive Order 5396.

(c) Each rating of record shall cover a specified appraisal period. Agencies are prohibited from carrying over a rating of record prepared for a previous appraisal period as the rating of record for a subsequent appraisal period(s) without an actual evaluation of the employee's performance during the subsequent appraisal period.

(d) When a rating of record cannot be prepared at the time specified, the appraisal period must be extended. Once the conditions necessary to complete a rating of record have been met, a rating of record must be prepared as soon as practicable.

(e) Senior professional performance appraisals and ratings are not appealable, beyond what is otherwise provided under applicable law or regulation.

(f) Procedures for rating senior professionals must provide for the following:

(1) *Initial summary rating.* The rating official must develop an initial summary rating of the senior professional's performance, in writing, including through the use of automated systems, and share that rating with the senior professional. The senior professional may respond in writing.

(2) *Higher-level review (HLR).* A senior professional may ask for a higher-

level official to review the initial summary rating before the rating is given to the PRB. The agency must provide each senior professional an opportunity for review of the initial summary rating by an employee, or (with the consent of the senior professional) a commissioned officer in the uniformed services on active duty in the agency, in a higher level in the agency than the rating official who issued the initial summary rating.

(i) A single review by an official at a higher level who did not participate in determining the senior professional's initial summary rating will satisfy this requirement. An official providing HLR may not change the initial summary rating but may recommend a different rating to the PRB. HLR may be provided by an official who is at a higher level in the agency than the approving official who will approve the final rating under paragraph (f)(4) of this section.

(ii) When an agency cannot provide review by a higher-level official for a senior professional who receives an initial summary rating from the agency head because no such official exists in the agency, the agency must offer an alternative review as it determines appropriate, except that the review may not be provided by a member of the PRB or an official who participated in determining the initial summary rating.

(iii) If a senior professional declines review by agency-designated higher-level officials, the agency may offer an alternative review but is not obligated to do so. The agency must document the senior professional's declination of the HLR opportunity provided by the agency before offering an alternative review.

(iv) Copies of findings and recommendations of the HLR official or the official performing an alternative review under paragraph (f)(2)(ii) through (iii) of this section must be given to the senior professional, the rating official, and the PRB.

(3) *PRB review.* For agencies with ten or more senior professionals, the agency-level PRB must receive and review the initial summary rating, the senior professional's response to the initial rating if made, and findings and recommendations of any HLR or any alternative review under paragraph (f)(2) of this section before making recommendations to the approving official, as provided in § 430.511 and consistent with the requirements in part 534, subpart E, of this chapter pertaining to centralized review. Centralized review is not required for agencies employing fewer than ten senior professionals.

(4) *Rating of record.* The approving official must assign the rating of record of the senior professional's performance after considering the applicable PRB's recommendations. This rating is the official final rating for the appraisal period and must be communicated to the senior professional in writing, including through the use of automated systems, in accordance with the timelines developed under § 430.508(a).

(g) A performance rating may be prepared at such other times as may be necessary, such as for special circumstances including, but not limited to, transfers and performance on details.

§ 430.510 Details and job changes.

(a) When a senior professional is detailed or temporarily reassigned for 120 days or longer, the gaining organization must set performance goals and requirements for the detail or temporary assignment. The gaining organization must appraise the senior professional's performance in writing, including through the use of automated systems, and the rating official must consider this appraisal when deriving the initial summary rating.

(b) When a senior professional is reassigned or transferred to another agency after completing the minimum appraisal period, the rating official must appraise the senior professional's performance in writing, including through the use of automated systems, before the senior professional leaves and provide this information to the senior professional.

(c) The most recent rating of record and any subsequent appraisals must be transferred to the gaining agency or organization. The gaining rating official must consider the rating and appraisals when deriving the initial summary rating at the end of the appraisal period.

§ 430.511 Performance Review Boards (PRBs).

Each agency that employs ten or more senior professionals must use its agency-level PRB established under § 430.311, or an equivalent body if the agency is not subject to the SES, to make written recommendations to the approving official on ratings of record, performance awards, and pay adjustments regarding senior professionals. The agency-level PRB or equivalent body will be responsible for fulfilling all requirements of centralized review found in part 534, subpart E, of this chapter.

§ 430.512 Using performance results.

(a) Agencies must use performance appraisals as a basis for adjusting pay,

granting awards, retaining senior professionals, and making other personnel decisions. Performance appraisals must be a factor in assessing a senior professional's continuing development needs.

(b) Agencies must provide appropriate incentives and recognition (including pay adjustments under subpart E of part 534 of this chapter and performance awards under part 451, subpart A, of this chapter) for excellence in performance.

(c) A senior professional may be suspended, demoted, or removed from the civil service for unacceptable performance, subject to the provisions of 5 U.S.C. 4303, 7503, and 7513.

§ 430.513 Training and evaluation.

(a) To assure effective implementation of agency performance appraisal systems, agencies must provide appropriate information and training to agency leadership, rating officials, and senior professionals on performance management, including planning and appraising performance.

(b) Agencies must periodically evaluate the effectiveness of their performance appraisal system(s) and implement improvements as needed. Evaluations must provide for both assessment of effectiveness and compliance with relevant laws, OPM regulations, and OPM performance management policy.

(c) Agencies must maintain all performance-related records for no fewer than 4 years from the date the rating of record is issued, as required in § 293.404(a)(1) of this chapter.

§ 430.514 OPM review of agency systems.

(a) Agencies must submit proposed senior professional performance appraisal systems to OPM for approval. Agency systems must address the system standards and requirements specified in this subpart.

(b) OPM will review agency systems for compliance with the requirements of law, OPM regulations, and OPM performance management policy, including the system standards specified at § 430.505.

(c) If OPM finds that an agency system does not meet the requirements and intent of subchapter I of chapter 43 of title 5, United States Code, or of this subpart, OPM will identify the requirements that were not met and direct the agency to take corrective action, and the agency must comply.

PART 451—AWARDS

■ 15. The authority citation for part 451 continues to read as follows:

Authority: 5 U.S.C. 4302, 4501–4509; E.O. 11438, 33 FR 18085, 3 CFR, 1966–1970 Comp., p. 755; E.O. 12828, 58 FR 2965, 3 CFR, 1993 Comp., p. 569.

Subpart A—Agency Awards

- 16. Amend § 451.103 by revising paragraph (c)(2) to read as follows:

§ 451.103 Agency award program(s).

* * * * *

(c) * * *

(2) Documenting justification for awards that are not based on a rating of record (as defined in §§ 430.203 and 430.503 of this chapter).

- 17. Amend § 451.104 by revising paragraph (a)(3) to read as follows:

§ 451.104 Awards.

(a) * * *

(3) Performance as reflected in the employee's most recent rating of record (as defined in §§ 430.203 and 430.503 of this chapter), provided that the rating of record is at the fully successful level (or equivalent) or above, except that performance awards may be paid to SES members only under § 534.405 of this chapter and not on the basis of this subpart.

* * * * *

PART 534—PAY UNDER OTHER SYSTEMS

- 18. The authority citation for part 534 is revised to read as follows:

Authority: 5 U.S.C. 1104, 3161(d), 5304, 5307, 5351, 5352, 5353, 5376, 5382, 5383, 5384, 5385, 5541, 5550a, 7302; 18 U.S.C. 207.

Subpart D—Pay and Performance Awards Under the Senior Executive Service

- 19. Amend § 534.402 by revising the definition for “PRB” to read as follows:

§ 534.402 Definitions.

* * * * *

PRB means Performance Review Board, as described in § 430.311 of this chapter.

* * * * *

Subpart E—Pay for Senior-Level and Scientific or Professional Positions

- 20. Amend § 534.503 by revising the definitions for “Performance appraisal system”, “Performance rating”, and “Rating of record” to read as follows:

§ 534.503 Definitions.

* * * * *

Performance appraisal system means the framework of policies, practices, and procedures an agency establishes under subchapter I of chapter 43 of title 5,

United States Code, subpart A of this part, and this subpart for planning, monitoring, developing, evaluating, and rewarding both individual and organizational performance and for using resulting performance information in making personnel decisions.

* * * * *

Performance rating means the written, or otherwise recorded, appraisal of performance compared to the SL or ST employee's performance standard(s) for each critical element on which there has been an opportunity to perform for a minimum of 90 days. A performance rating may include the assignment of a summary level.

* * * * *

Rating of record means the performance rating prepared at the end of an appraisal period for performance of agency-assigned duties over the entire period and the assignment of a summary level that has been reviewed and approved in accordance with § 534.505(a).

* * * * *

- 21. Amend § 534.505 by revising and republishing paragraph (a)(5) introductory text to read as follows:

§ 534.505 Written procedures.

(a) * * *

(5) The administrative and management controls that will be applied to assure compliance with applicable statutes, OPM regulations, the agency's written procedures established under this section, the applicable maximum rate of basic pay in § 534.504(a), and, where applicable, the certification requirements set forth in part 430, subpart D, of this chapter. In an agency that employs ten or more senior professionals, these controls must include centralized review of ratings proposed under § 430.509 of this chapter and pay actions proposed under § 534.507 by a panel of individuals designated by the agency head to provide advice from an agency-wide perspective for authorized agency officials to consider before approving pay adjustments on whether—

* * * * *

- 22. Amend § 534.507 by revising paragraphs (c)(2), (f), and (h) to read as follows:

§ 534.507 Annual increases in basic pay.

* * * * *

(c) * * *

(2) A performance rating that covers a period of at least 90 days and is assigned in accordance with subpart E of part 430 of this chapter and the centralized review required by § 534.505(a)(5), but only if a rating of

record is not available or does not reflect current performance.

* * * * *

(f) Except as required by paragraph (g) of this section, a pay increase under this section may not be provided to an employee—

(1) Who has a current rating of record below Level 3 (Fully Successful or equivalent), as described in § 430.505(a)(6) of this chapter; or

(2) Who, after receiving a rating of record at Level 3 or above, receives a more recent performance rating as defined at § 430.503 of this chapter that rates performance in a critical element at a level below Level 3 (Fully Successful).

* * * * *

(h)(1) If the rates of basic pay under the General Schedule are increased under 5 U.S.C. 5303 on the date specified in paragraph (a)(1) of this section and the agency head decides upon a zero adjustment for an SL or ST employee who has a current rating of record or applicable performance rating at Level 3 or above, the agency must communicate the reasons for that decision to the employee in writing.

(2) Paragraph (h)(1) of this section does not apply to a senior professional with a rate of basic pay described in § 534.505(c)(1) unless—

(i) The rates of basic pay for the Executive Schedule are also increased on the date specified in paragraph (a)(1) of this section; and

(ii) The senior professional has a current rating of record or applicable performance rating at Level 5.

(3) Paragraphs (h)(1) and (2) of this section may not be construed to require a pay increase for any senior professional employee.

PART 537—REPAYMENT OF STUDENT LOANS

- 23. The authority citation for part 537 is revised to read as follows:

Authority: 5 U.S.C. 2301, 2302, and 5379(g). E.O. 11478, 3 CFR 1966–1970 Comp., p. 803, unless otherwise noted; E.O. 13087, 63 FR 30097, 3 CFR 1998 Comp., p. 191; and E.O. 13152, 65 FR 26115, 3 CFR 2000 Comp., p. 264.

- 24. Amend § 537.108 by revising paragraph (b) to read as follows:

§ 537.108 Loss of eligibility for student loan repayment benefits.

* * * * *

(b) For the purpose of applying paragraph (a)(2) of this section, an acceptable level of performance is one that is equivalent to level 3 (“Fully Successful” or equivalent) or higher, as described in § 430.208(e) or

§ 430.505(a)(6) of this chapter, as applicable. An employee loses eligibility for student loan repayment benefits if his or her most recent official performance evaluation does not meet this requirement.

PART 630—ABSENCE AND LEAVE

■ 25. The authority citation for part 630 continues to read as follows:

Authority: Subparts A through E issued under 5 U.S.C. 6133(a) (read with 5 U.S.C. 6129), 6303(e) and (f), 6304(d)(2), 6306(b), 6308(a) and 6311; subpart F issued under 5 U.S.C. 6305(a) and 6311 and E.O. 11228, 30 FR 7739, 3 CFR, 1974 Comp., p. 163; subpart G issued under 5 U.S.C. 6305(c) and 6311; subpart H issued under 5 U.S.C. 6133(a) (read with 5 U.S.C. 6129) and 6326(b); subpart I issued under 5 U.S.C. 6332, 6334(c), 6336(a)(1) and (d), and 6340; subpart J issued under 5 U.S.C. 6340, 6363, 6365(d), 6367(e), 6373(a); subpart K issued under 5 U.S.C. 6391(g); subpart L issued under 5 U.S.C. 6383(f) and 6387; subpart M issued under Sec. 2(d), Pub. L. 114–75, 129 Stat. 641 (5 U.S.C. 6329 note); subpart N issued under 5 U.S.C. 6329a(c); subpart O issued under 5 U.S.C. 6329b(h); and subpart P issued under 5 U.S.C. 6329c(d).

Subpart C—Annual Leave

■ 26. Amend § 630.301 by revising paragraph (b)(3) to read as follows:

§ 630.301 Annual leave accrual and accumulation—Senior Executive Service, Senior-Level, and Scientific and Professional Employees.

* * * * *

(b) * * *

(3) Covered positions are subject to a performance appraisal system established under 5 U.S.C. chapter 43 and 5 CFR part 430, subpart B, C, or E or other applicable legal authority, for planning, monitoring, developing, evaluating, and rewarding employee performance.

* * * * *

PART 894—FEDERAL EMPLOYEES DENTAL AND VISION INSURANCE PROGRAM

■ 27. The authority citation for part 894 is revised to read as follows:

Authority: 5 U.S.C. 8962; 5 U.S.C. 8992. Subpart C also issued under 2 U.S.C. 2051. Sec. 894.601(b) also issued under sec. 1111, Pub. L. 116–92, 133 Stat. 1600 (5 U.S.C. 8956 note).

Subpart C—Eligibility

■ 28. Amend § 894.302 by revising paragraph (k)(1) to read as follows:

§ 894.302 What is an excluded position?

* * * * *

(k) * * *

(1) An *employee* appointed to perform “part-time career employment,” as defined in 5 U.S.C. 3401(2) and 5 CFR part 340, subpart B; or

* * * * *

PART 1330—HUMAN RESOURCES MANAGEMENT

■ 29. The authority citation for part 1330 continues to read as follows:

Authority: 5 U.S.C. 5307(d).

Subpart D—Performance Appraisal Certification for Pay Purposes

■ 30. Amend § 1330.402 by revising the definitions of “Appraisal system” and “Performance expectations” to read as follows:

§ 1330.402 Definitions.

* * * * *

Appraisal system means the policies, practices, and procedures an agency establishes under 5 U.S.C. chapter 43 and 5 CFR part 430, subparts C and E, or other applicable legal authority, for planning, monitoring, developing, evaluating, and rewarding employee performance. This includes performance management systems as defined at § 430.303 and performance appraisal systems as defined at § 430.503.

* * * * *

Performance expectations means critical elements and performance requirements that constitute the senior executive performance plans (as defined in 5 CFR 430.303) established for senior executives, the critical elements and performance requirements that constitute the senior professional performance plans (as defined in 5 CFR 430.503) established for senior professionals, or other appropriate means authorized under performance appraisal systems not covered by 5 U.S.C. chapter 43 for communicating what a senior employee is expected to do and the manner in which he/she is expected to do it, and may include contribution to agency performance, where appropriate.

* * * * *

■ 31. Amend § 1330.403 by revising paragraphs (b) through (d) to read as follows:

§ 1330.403 System certification.

* * * * *

(b) Except as provided in paragraph (c) of this section, agencies subject to 5 U.S.C. chapter 43 and 5 CFR part 430 seeking certification of their appraisal systems must submit systems that have been approved by OPM under 5 CFR 430.314 or 430.514, as applicable. In

some agencies, the performance appraisal system(s) covers employees in many organizations and/or components, and their ability to meet the certification criteria in § 1330.404 may vary significantly. In such cases, an agency may establish and/or submit separate performance appraisal systems for each of these distinct organizations and/or components to ensure timely certification of those performance appraisal system(s) that meet the criteria. New appraisal systems established under 5 CFR part 430, subpart C or E, as applicable based on the employees covered, must be approved by OPM.

(c) When an agency establishes a new performance appraisal system for the purpose of seeking certification under this subpart, the agency may submit that system for certification even if it has not yet been approved by OPM under 5 CFR 430.314 or 430.514, as applicable. OPM will certify, with OMB concurrence, only those systems that OPM determines meet the approval requirements of 5 CFR part 430, subpart C or E, as applicable.

(d) An agency must establish an appraisal system(s), as defined in § 1330.402, for its senior professionals that meets the requirements of 5 CFR part 430, subpart E, and is separate from the system(s) established to cover its SES members under 5 CFR part 430, subpart C. For the purpose of certification under this subpart, such senior professional appraisal system(s) must meet the certification criteria set forth in § 1330.404.

* * * * *

■ 32. Amend § 1330.404 by revising paragraphs (a)(2), (5), (7), and (8) to read as follows:

§ 1330.404 Certification criteria.

(a) * * *

(2) Consultation, so that the performance expectations for senior employees meet the requirements of 5 CFR part 430, subparts C and E, as applicable, and/or other applicable legal authority; are developed with the input and involvement of the individual senior employees who are covered thereby; and are communicated to them at the beginning of the applicable appraisal period, and/or at appropriate times thereafter;

* * * * *

(5) Appropriate assessments of the agency’s performance—overall and with respect to each of its particular missions, components, programs, policy areas, and support functions—such as reports of the agency’s GPRA goals, annual performance plans and targets,

program performance measures, and other appropriate indicators, as well as evaluation guidelines based, in part, upon those assessments, that are communicated by the agency head, or an individual specifically designated by the agency head for such purpose, to senior employees, appropriate senior employee rating and reviewing officials, and PRB members. These assessments and guidelines are to be provided at the conclusion of the appraisal period but before individual senior employee performance ratings are recommended, so that they may serve as a basis for individual performance evaluations, as appropriate. The guidance provided must conform to 5 CFR part 430, subpart C or E, as applicable;

* * * * *

(7) Accountability, so that final agency head decisions and any PRB recommendations regarding senior employee ratings consistent with 5 CFR part 430, subparts C and E, individually and overall, appropriately reflect the employee's performance expectations, relevant program performance measures, and such other relevant factors as the PRB may find appropriate; in the case of supervisory senior employees, ratings must reflect the degree to which performance standards, requirements, or expectations for individual subordinate employees clearly link to organizational mission, GPRA strategic goals, or other program or policy objectives and take into account the degree of rigor in the appraisal of their subordinate employees;

(8) Performance differentiation, so that the system(s) includes at least one summary level of performance above fully successful, including a summary level that reflects outstanding performance, as defined in § 1330.402, and so that its annual administration results in meaningful distinctions based on relative performance that take into account the assessment of the agency's performance against relevant program performance measures, as described in paragraph (a)(6) of this section, employee performance expectations, and such other relevant factors as may be appropriate. For equivalent systems that do not use summary ratings, the appraisal system must provide for clear differentiation of performance at the outstanding level; and

* * * * *

■ 33. Amend § 1330.405 by revising paragraphs (b)(1)(iii)(B) and (C) and (h)(2) to read as follows:

§ 1330.405 Procedures for certifying agency appraisal systems.

* * * * *

(b) * * *

(1) * * *

(iii) * * *

(B) For the agency's senior professionals covered by 5 CFR part 430, subpart E, five summary levels—an outstanding level, a fully successful level, a level between outstanding and fully successful, an unacceptable level, and a level between fully successful and unacceptable; and

(C) For agencies not subject to 5 CFR part 430, subparts C and E, a summary rating level that reflects outstanding performance or a methodology that clearly differentiates outstanding performance, as defined in § 1330.402;

* * * * *

(h) * * *

(2) An agency's system certification is automatically suspended when OPM withdraws performance appraisal system approval or mandates corrective action because of misapplication of the system as authorized under 5 CFR 430.314(c), 430.514(c), and 1330.403(e).

* * * * *

Office of Personnel Management.

Scott Kupor,

Director.

Office of Management and Budget.

Russell Vought,

Director.

[FR Doc. 2026–21316 Filed 10–16–26; 8:45 am]

BILLING CODE 6325–39–P

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 351, 630, and 715

[Docket ID: OPM–2026–0397]

RIN: 3206–AP07

Administrative Leave for Workforce Realignment and Other Purposes

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management (OPM) is issuing a final rule to amend its regulations governing administrative leave for workforce realignment and other purposes. This final rule more fully addresses the appropriate uses of administrative leave, including use in connection with deferred resignation programs and other workforce realignment initiatives, and for other purposes. The final rule also clarifies when an agency may provide administrative leave during a reduction-

in-force notice period and accept or deny an employee's request to withdraw a resignation in the context of a deferred resignation program.

DATES: This rule is effective November 18, 2026.

FOR FURTHER INFORMATION CONTACT: Bryce Baker by telephone at (202) 606–2858 or by email at leavepolicy@opm.gov.

SUPPLEMENTARY INFORMATION: OPM is issuing a final rule to amend its regulations on administrative leave in 5 CFR part 630, subpart N, and related regulations on reductions in force in 5 CFR 351.806 and on resignations in 5 CFR 715.202. OPM issued a proposed rule on June 29, 2026 (91 FR 39032).

I. Digest of Public Comments

In response to the proposed rule, OPM received 30 comments during the 30-day public comment period from multiple individuals, one agency (0027), two unions (0022 and 0030), and three employee advocacy groups (0025, 0026, and 0029). All comments were posted and made available to the public in the docket at <https://www.regulations.gov/docket/OPM-2026-0397>. A reference to a comment provides the location of the item in the public record (*i.e.*, comments filed in response to the proposed rule are available at <https://www.regulations.gov/comment/OPM-2026-0397-nnnn> where “nnnn” is the comment number).

At the conclusion of the public comment period, OPM reviewed and analyzed the comments. In general, the comments on the proposed regulation changes were mixed. The comments are summarized below, including suggestions for revisions that OPM considered and either adopted, adopted in part, or declined to adopt, along with OPM's supporting rationale. Section II of this preamble provides background information. Section III responds to the comments. Section IV provides a section-by-section analysis of the regulatory changes, section V sets forth the regulatory analysis, and section VI addresses regulatory compliance requirements.

II. Background

On December 17, 2024, OPM issued final regulations on administrative leave that added a new subpart N in 5 CFR part 630 (89 FR 102256). The regulations in subpart N govern use of administrative leave authorized for Federal employees under 5 U.S.C. 6329a, which was enacted as part of the Administrative Leave Act of 2016 (section 1138 of Pub. L. 114–328, December 23, 2016). OPM subsequently