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Precepts for the Performance Standards Board (PSB)

A Mandatory Reference for ADS Chapter 464

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A. PURPOSE

These Precepts prescribe the procedures and guidelines the Performance Standards Board (PSB) uses to make recommendations on retention or retirement/separation for career Foreign Service Officers (FSOs) who have failed to meet the standards of performance for their class or failed a formal Performance Improvement Plan (PIP).

B. Performance Standards Board Responsibilities

The PSB reviews career FSOs referred by the Office of Human Capital and Talent Management (HCTM) who have received two **low-ranked** ratings in five calendar years making them candidates for mandatory retirement for failure to meet the performance standards of the class based on Section 608 of the [Foreign Service Act](#). The PSB also reviews **career** FSOs whose performance remains unsatisfactory after a 90-day opportunity to improve under a PIP pursuant to [ADS Chapter 464](#).

The PSB reviews **career** FSO performance files for extenuating circumstances and makes recommendations to the Chief Human Capital Officer (CHCO) regarding the separation or retention of **career** FSOs referred to the PSB because they received two **low-ranked** ratings in five years (Path I, below), or they received an Unsatisfactory performance evaluation after completing a PIP (Path II, below).

NOTE: Career candidates receiving a low-ranked rating should refer to [ADS 450](#).

1. PSB REVIEWS FOR TWO LOW-RANKED RATINGS IN FIVE YEARS (PATH I)

When HCTM refers a **career** FSO to the PSB for having received two **low-ranked** ratings in five calendar years¹ the HCTM/Center for Performance Excellence (CPE) provides the PSB with the same five years' worth of performance data reviewed by the most recent Promotion Board. In addition, HCTM/CPE provides the PSB the memos and other information related to any prior Promotion Board ratings received in the past five years, including a **low-ranked rating** based on a Promotion Board review or based on a failed PIP if the individual was retained by the Agency after failing the PIP.

The purpose of the PSB review is to determine whether there are extenuating circumstances that might warrant granting an exception to the general policy that **career** FSOs with two **low-ranked** ratings in a five-year period must be retired under Section 608 of the [Foreign Service Act](#) for failing to meet the standards of performance for their class.

If the PSB determines that extenuating circumstances warrant granting an exception to the two **low-ranked** ratings threshold for mandatory retirement, the PSB documents the basis for recommendation in a Memo to the CHCO along with any suggestions to address the

¹ The five-year period covers time when the employee is on duty and on non-duty status.

extenuating circumstances (e.g., curtailment, compassionate leave of absence, mandatory training, reassignment). A PSB recommendation that there are no extenuating circumstances will also be documented in the PSB's memo to the CHCO.

2. PSB REVIEWS FOR UNSATISFACTORY PIP (PATH II)

When a **career** FSO is referred to the PSB for having failed to bring performance up to a satisfactory level within the 90-day PIP period, the PSB will review the completed PIP (which includes an employee statement and a reviewing official statement) and up to five years of performance records² of the **career** FSO who has failed a PIP to determine if there are reasons the **career** FSO should *not* be recommended to the CHCO for mandatory retirement based on relative performance under Section 608 of the [Foreign Service Act](#). Factors that might lead to a determination that the **career** FSO should *not* be referred for mandatory retirement may include a person-job mismatch (*i.e.*, an inappropriate assignment), or other unusual extenuating circumstances. **In the employee statement, the career FSO must neither reference, nor may the PSB consider, psychological or physical health issues.** Although the PSB is charged with reviewing records for possible extenuating circumstances, it is assumed that in the large majority of cases, properly documented unsatisfactory performance in the current assignment reflects a failure to meet performance standards of the class and is sufficient to warrant a mandatory retirement recommendation.

Recommending Separation

If the PSB determines that there are no compelling reasons for retaining the **career** FSO who failed a PIP, the PSB will submit to the CHCO a recommendation to separate the **career** FSO for relative performance under Section 608 of the [Foreign Service Act](#). If the CHCO accepts the PSB's recommendation, HCTM/Employee and Labor Relations (ELR) will initiate the actions required to separate an employee under Section 608.

Recommending Retention

If the PSB determines that extenuating circumstances warrant retention, the PSB will document the basis for the recommendation and submit this documentation to the CHCO along with any suggestions for addressing the situation (e.g., curtailment, compassionate leave of absence, reassignment).

The CHCO and the Operating Unit head (Mission Director or Bureau/Independent Office head familiar with the situation) will determine what, if any, actions—including those suggested by the PSB, HCTM, or Backstop Coordinators—may need to be taken. The Mission Director or Bureau/Independent Office head may request that the **career** FSO be reassigned due to the FSO's inability to meet the position's requirements. If the CHCO agrees that a reassignment is appropriate, HCTM/Foreign Service Center (FSC) will be responsible for finding a suitable placement for the **career** FSO and his/her skillset, grade,

² To include all promotion package materials (*i.e.*, Annual Accomplishment Records, Annual Performance Evaluations, Promotion Input Forms, Multi-Source Ratings, and Operating Unit Context Statements) and AEFs as relevant, submitted to Performance Boards in the past five years, plus prior Board ratings and Memos, and documentation related to current and previous performance issues and PIPs.

and backstop pending a future reassignment through the formal FS assignment process. HCTM/CPE will retain the final PIP, the **low-ranked** rating, and the Annual Performance Evaluation.

Except in the rare cases where a PSB determines that a PIP was improperly instituted or conducted, an Unsatisfactory PIP evaluation will result in an automatic **low-ranked** rating that can be used as the basis for a subsequent separation action should the **career** FSO receive a second **low-ranked** rating.

Career FSOs who receive a **low-ranked** rating at any point during a performance cycle (from a PIP or a Promotion Board) will not receive the next scheduled within-grade increase.

C. ORGANIZATION OF THE PERFORMANCE STANDARDS BOARD (PSB)

HCTM establishes PSBs consisting of direct hire **career** FSOs and Senior Foreign Service (SFS) Officers and public members. For the FS/SFS members, HCTM compiles a formal PSB roster consisting of four or five **career** FSOs at the FS-01 level and four or five SFS. All **career** FSOs on the roster will commit to a two-year term of service, with the understanding that they may be called multiple times, or not at all, to serve on PSBs during that term. The two-year term of service will alternate, so that half of the members are replaced each year. Public members will serve for one-year terms. The goal is to ensure that HCTM will always be able to convene an appropriately constituted Board, either regularly scheduled (e.g., at the conclusion of the Promotion Boards) or ad hoc (e.g., when needed to review **career** FSOs in a timely fashion who have failed a PIP).

Each PSB will include a public member and three **career** FSOs from the roster who are at least one grade higher than the officer under review. If the **career** FSO under review is in the SFS, Board members will be from the SFS, but only the Chair must be at the same or a higher rank than the officer. The Chair of each PSB will be the most senior ranking career officer on that Board. The Agency strives to ensure diverse representation on the PSB in terms of backstops, background, and experience, in addition to race, ethnicity/national origin, sex, and disability.

Prior to being called to serve, HCTM will orient members to their roles and responsibilities, including the recusal process. PSB members who, within the last three years, rated or served as a member of an Appraisal Committee for the **career** FSO under review, will recuse themselves from the PSB deliberations for the **career** FSO. HCTMs provide instructions and relevant materials once they are sworn in as PSB members.

HCTM will publish an Agency Notice annually with the names of all PSB Board members.

D. PSB DECISION RULES

The **Board** reaches decisions by majority vote. In the event of a split decision, the PSB must recommend the **career** FSO for retention. The PSB must communicate decisions in writing, along with statements justifying such Board decisions, to the CHCO.

The PSB is responsible for determining how to resolve any discrepancies in the rating official and reviewer's evaluations and the **career** FSO's narratives.

E. CHCO REVIEW OF PSB RECOMMENDATIONS

The CHCO will make the final decision on whether to separate a **career** FSO. The CHCO may reject the PSB recommendation if he or she determines that such action would not be in the best interest of the Agency.

The CHCO's decision to separate the **career** FSO may be reversed through the appellate process (*i.e.*, Foreign Service Grievance Board, Merit Systems Protection Board, or Equal Employment Opportunity Commission). Please see 3 FAM 4400 for the grievance process.

F. PERFORMANCE STANDARDS BOARD MATERIAL

HCTM/CPE will provide the PSB an oral briefing and written materials to enable Board members to carry out their responsibilities as follows:

1. [ADS 463, Foreign Service Promotion Eligibility and Performance Boards](#);
2. [ADS 464 Foreign Service Performance-Based Actions](#);
3. [ADS 464maa, Precepts and Procedures for the Performance Standards Boards](#);
4. [ADS 463mai, Precepts for Foreign Service Promotion Boards](#);
5. [ADS 461maa, Employee Evaluation Program \(EEP\) Guidebook \(SFS only\)](#);
6. [ADS 461mab, Employee Performance & Development Guidebook for Supervisors](#);
7. [ADS 461mac, Employee Performance and Development Process: Guidebook for Employees](#);
8. [The Foreign Service Act of 1980, as amended](#);
9. A list of **career** FSOs to be reviewed; and
10. The performance evaluation file and other relevant documents on each **career** FSO to be reviewed (*e.g.*, PIPs, rating reports, Promotion Board memo).

G. INFORMATION TO BE CONSIDERED

The PSB will make decisions based only on the materials provided by HCTM/CPE. The PSB will ignore any information in the performance evaluation file that is inadmissible (see Section H below and [ADS 463mai, Precepts for Foreign Service Promotion Boards](#)). Such

information will not be the basis for the Board's recommendation concerning a **career** FSO. The PSB will not consider a **career** FSO's medical problem or any personal or physical characteristics. A PSB will neither seek nor receive, from any outside source, information on any **career** FSO under consideration (e.g., health, suitability, assignability, or reputation). If any unauthorized communications of this nature come to the attention of any Board member, the Board member must immediately (*i.e.*, within 24 hours) report this to HCTM/CPE.

H. Equality of Consideration (Inadmissible Comments)

It is Agency policy and federal law to neither discriminate against, nor confer advantage to, any employee, directly or indirectly, on the basis of protected class or activity. USAID employees, Rating Officials, Reviewing Officials, and Approving Officials must not submit documents containing inadmissible comments, or other non-merit related information. Specifically:

- 1. References to members of the USAID Workforce.** It is not permitted to reference the protected class or activity of specific and identifiable members of the USAID workforce, including oneself.
- 2. References to specific groups or protected classes (as defined in the list below).** References to specific groups or protected classes are allowed when describing efforts to promote a diverse, inclusive, equitable, and accessible workplace, so long as those references do not violate merit-based personnel practices or identify specific persons, including oneself (*i.e.*, employees may not reference their own protected class).
- 3. References to Employee Non-labor Organizations (NLOs).** Employee NLOs, such as Employee Resource Groups, are non-federal entities. Pursuant to [ADS 115.3.1\(e\)\(4\)](#), employees are prohibited by law from being granted official duty time or administrative leave for NLO-related matters, including attendance at NLO-sponsored events and meetings. This prohibition does not apply to Agency-sponsored events or events associated with nationally-observed History and Heritage Months. Employees are permitted to reference engagement with, or membership in, a specific and identified NLO ***only*** if it is part of their official, assigned or collateral position duties. Such references may not specify the employee's own protected status or the protected status of specific and identifiable members of the USAID workforce.
- 4. References to working groups or councils established by U.S. Embassies or USAID Operating Units.** Reference to participation in specific and identified federal entities such as U.S. Embassy or USAID Operating Unit groups such as DEIA Councils are permitted, but employees may not identify their own protected status or the protected status of specific and identifiable members of the USAID workforce.
- 5. References to U.S. Embassy-run groups.** References to participation in U.S. Embassy-run groups such as the Post Housing Board or Commissary Board are

permitted.

6. References to USAID partners and beneficiaries. References to the protected status of USAID partners and program beneficiaries are permitted.

Protected classes and activities include:

1. Race, color, national origin, sex (including pregnancy, gender identity, sexual orientation, or transgender status), age, religion, or genetic information;
2. Geographic or educational affiliation within the United States;
3. Retirement, resignation, or other separation plans;
4. Disability status, whether a reasonable accommodation has been requested or provided due to a disability, the nature/type of any reasonable accommodation requested or provided, and medical information (including information regarding alcoholism, drug abuse, rehabilitation efforts, or medical conditions that affects job performance or ability to accept overseas assignments). However, reference to disability as it relates to the work of the Agency (without identifying individual employees) is permitted;
5. Marital or parental status; references to spouse, partner, or family;
6. Veteran status;
7. Participation or non-participation in union activities, either as a representative of the union or as a bargaining unit member;
8. Political affiliation;
9. Filing, initiating, involvement in, or participation in any grievance, Equal Employment Opportunity or Harassment complaint, or other formal complaint investigative or adjudicative process;
10. Reluctance or refusal, and any known reason for doing so, to work voluntary overtime;
11. Leave record, except absence without leave (AWOL) (consultation with HCTM is required). This includes the Family Medical Leave Act (FMLA), Leave without Pay (LWOP), and leave for medical reasons;
12. Using or not using workplace flexibilities (e.g., telework, or away from a post on authorized/ordered departure) or negative reference to the impact of a detail/TDY assignment or the employee's ability to complete their regular duties. If the

employee's work supported the workplace flexibilities of other employees, then references to that performance is acceptable;

13. Use of the dissent channel or direct or indirect reference to, or consideration of, judgments in dissent channel messages as a basis for an adverse evaluation of performance or potential (however, expressions of dissenting views on policy that are outside the dissent channel and that raise substantive questions of judgment relative to the Foreign Service Skills Matrix may be discussed in an evaluation, with specific instances cited);
14. "Whistleblowing," or the protected disclosure of information. This includes statements by an employee who reasonably believes they are providing evidence of an activity constituting a violation of law, rules, or regulations, or gross mismanagement, gross waste of funds, abuse of authority, or a substantial and specific danger to public health or safety;
15. Decisions or proposals concerning disciplinary action (this does not include references by managers to describe efforts to improve the performance or conduct of a subordinate or otherwise address performance or conduct issues in a manner relevant to the skills matrix);
16. Negative or derogatory discussion of another employee's (including predecessor's) performance (this does not include references by managers to describe efforts to improve the performance or conduct of a subordinate or otherwise address performance or conduct issues in a manner relevant to the skills matrix); and
17. References to private U.S. citizens by name.

Foreign Service Promotion Board, Performance Standards Board, and Tenure Board members must be alert to potentially discriminatory, biased, or non-merit based comments in employee files and report such findings to HCTM immediately. HCTM must verify whether the comments are admissible or inadmissible. If a comment is determined to be inadmissible, the Board must be instructed to ignore the inadmissible comments in the file and not allow such comments to influence their assessments of candidates. If a Board member believes another Board member is violating this policy in their review of an employee's file, the member must immediately bring the matter to the attention of HCTM for appropriate action. HCTM's Employee Labor Relations Division must also consider inadmissible comments for potential disciplinary action.

I. OATH OF OFFICE – PERFORMANCE STANDARDS BOARD

When the PSB is convened, but before the beginning of their deliberations, each Board member will sign the following oath of office and adhere to the Precepts and procedures of this ADS mandatory reference:

“I, _____, do solemnly swear (or affirm) that I shall, without prejudice or partiality, perform faithfully and to the best of my ability, the duties as a member of the USAID Performance Standards Board; that I shall preserve the confidential character of the personnel records used by the Board; that I shall adhere to the precepts for employee evaluation and such other guidance as appropriate to the discharge of these duties; and that I shall not reveal to any unauthorized person information concerning the deliberations, finding, and recommendation of the Board [so help me God].”

Failure to observe these instructions may result in disciplinary action or penalties as prescribed by the Privacy Act. Board members must report to the HCTM/CPE any attempt to provide them information not authorized by the Precepts.

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