

Department of Military and Veterans Affairs
Regulation 430



Technician Personnel

Colorado National
Guard Technician
Performance Plan

The Adjutant General
Centennial, Colorado
1 May 2004

UNCLASSIFIED

Department of Military and Veterans Affairs Regulation 430

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Technician Personnel

COLORADO NATIONAL GUARD TECHNICIAN PERFORMANCE PLAN

By Order of the Governor:

MASON C. WHITNEY, Maj. Gen., COANG
The Adjutant General

Summary: This regulation contains regulatory requirements and guidance as defined by the Office of Personnel Management (OPM) in 5 CFR 430, the Department of Defense (DOD) in Directive 1400.25-M, and the National Guard Bureau in Technician Personnel Regulation (TPR) 430 for the Technician Performance Appraisal System. Although this regulation is meant to be a supplement to the NGB TPR 430, it is designed to be used as a stand-alone document. It contains specific guidance to be used by managers and supervisors in appraising technician performance.

Applicability: This regulation is applicable to all units and activities of the Colorado National Guard under the jurisdiction of the Adjutant General, State of Colorado.

Proponent: The proponent of this regulation is the Colorado National Guard Human Resources Office (COHRO).

Management Control Processes: This regulation is subject to the requirements of AR 11-2.

Interim Changes: Interim changes to this regulation are not official unless authenticated by the Adjutant General, Colorado Department of Military and Veterans Affairs. Users will destroy interim changes on their expiration dates unless rescinded or suspended.

Supplementation: Supplements to this regulation are not authorized.

Suggested Improvements: Users are invited to send comments and suggested improvements on DA Form 2028 (Recommended Changes to Publications and Blank Forms) to CO-HRO, Employee Relations Specialist, 6848 S. Revere Pkwy., Centennial, CO 80112-6709 (Stop REV).

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CHAPTER 1 GENERAL

1-1. Coverage and Scope. This Supplement establishes the performance appraisal system for all Colorado National Guard Technicians (Excepted and Competitive) employed under the provisions of 32 U.S.C. 709, and is consistent with the requirements of the Civil Service Reform Act (CSRA) of 1978, Code of Federal Regulations Part 430 and Technician Personnel Regulation 430. Chapters 1 through 4 of this regulation are mandatory requirements.

1-2. Objective. The objective of the National Guard Technician Appraisal Program is to provide a meaningful and efficient method for evaluation of individual, team (where elected), and organizational performance. Supervisors and managers will ensure technicians understand clearly what their performance standards are and that performance is rated in a timely manner in accordance with the Colorado Technician Performance Plan. In order to achieve this objective, it was designed to:

- a. Meet and fully integrate into organizational and/or mission goals and objectives and management processes.
- b. Be used as a tool to execute management and supervisory responsibilities; communicating and clarifying organizational goals and objectives to employees; involving technicians in improving organizational effectiveness and in accomplishing organizational mission and goals; and assessing individual, team (where applicable), and organizational effectiveness and performance.
- c. Identify accountability for the accomplishment of organizational and (where applicable) team goals and objectives.

- d. Provide for planning, monitoring, developing, and evaluating performance and using the results of measures of performance as a basis for appropriate personnel actions.

- e. Provide for involving technicians and their representatives in program development, implementation, and application.

- f. Encourage technicians to take responsibility to continuously improve, support team endeavors, develop professionally, and perform at their full potential.

1-3. Basic Requirements. This regulation requires that:

- a. Written performance standards and critical elements be established for all positions and are provided to employees within 30 days of the beginning of each appraisal period. A copy of the standards must be submitted to the Human Resources Office (HRO) within 30 days of appointment or change of duties.

- b. Employees be informed of their performance standards and elements prior to the start of, and during each appraisal period.

- c. Employees be provided counseling sessions as needed, but not less than 2 feedback sessions approximately 4 months apart and not less than 120 days before the end of the rating period. The purpose of the feedback sessions is to provide the employee input on how well they are progressing compared against the established performance standards. All counseling sessions will be recorded on DMVA Form 430.

- d. The results of the performance appraisal will be used as the basis for training, rewarding, reassigning, within grade and step increases, promoting, reducing in grade, and removing and as a basis for assisting employees in improving unacceptable performance.

e. Actions to reassign, reduce in grade or remove based on unsatisfactory performance can be taken only after the employee has been given a prior thirty (30) day notice.

f. No predetermined statistical distribution be used that would prevent a fair appraisal based on established performance standards.

g. A state review and appeals board be established to review and resolve disagreements over the assigned Rating of Record.

1-4. Definitions.

a. **Appraisal:** The continuing process by which the employee is kept informed of how his/her performance compares against established performance standards which results in a final Rating of Record at the end of the appraisal period.

b. **Appraisal Period:** The period of time, normally one year, but not less than 120 days, for which the employee's performance will be appraised.

c. **Annual Appraisal:** The appraisal rendered for the period which normally begins the first day of the month following the employee's birth month and ends one year later on the last day of the birth month.

d. **Closeout Appraisal:** Required when the following situations occur with a minimum of 120 days supervision:

(1) The supervisor changes positions or leaves full-time force

(2) The assigned technician gets promoted, downgraded, reassigned or leaves full-time force.

e. **Trial/Probationary Appraisal:** The appraisal rendered on new employees after the first year of federal employment. The appraisal period begins on the date of hire and ends on the

one-year anniversary. An appraisal is required after the full one year probationary period is completed. After the initial probationary appraisal is completed, the employee will then be rated annually by their birth month.

f. **Rater:** The individual most responsible (1) for establishing performance standards, (2) for counseling the employee on the critical elements of the job, and (3) for appraising the employee based on pre-established mutually understood performance standards. The rater is normally the employee's immediate supervisor.

g. **Reviewer:** A manager or supervisor in the employee's chain of command who is at a higher level than the Rater (usually the Rater's Rater).

h. **Approving Official:** A manager or supervisor in the employee's chain of command who is at a higher level than the Reviewer (usually the Reviewer's Rater).

i. **Critical Element:** Any component of a position that is of sufficient importance that performance below the minimum standard established by management requires remedial action and denial of a within-grade increase, and may be the basis for reassigning, removing, or reducing the grade level of that employee. The supervisor will check the box on the DMVA Form 430 for each element that is considered critical. A minimum of at least one satisfactory element must be considered critical on the form.

j. **Element Rating:** A numerical value as defined below used to determine the overall Rating of Record score.

(1) Unsatisfactory (Value = 1 - 44) – Performance is below minimum standards. If the employee does not receive at least a satisfactory rating in a critical element, they *must* receive an unsatisfactory rating, regardless of the excellent/outstanding bullets that have been accomplished. A Performance Improvement Plan is required.

(2) Satisfactory (Value = 45 - 70) - An employee who meets all performance expectations established at the satisfactory level.

(3) Excellent (Value = 71 - 89) - Exceeds established requirements, consistently produces high quality work.

(4) Outstanding (Value = 90 - 100) - Shows superior knowledge, conduct, ability, workmanship, and/or leadership in position.

k. **Final Score (Rating of Record):** A numerical value obtained by adding the points together. The score is the total of all points and cannot exceed 100 points.

l. **Employee Performance File (EPF):** A file maintained by the Human Resources Office (HRO) on each employee containing all performance standards and ratings of record and which serves as an official historical record of performance. This file is consolidated with the employee's OPF when the employee separates or transfers to another agency.

m. **Official Personnel Folder (OPF):** A folder maintained in the Human Resources Office on each employee as required by Part 293 of the Code of Federal Regulations. Folders contain personnel actions identified in Section 2951 of Title 5, U.S.C.

n. **Performance Plan:** All of the written, or otherwise related, performance elements that set forth expected performance. A performance plan must include all critical elements and performance standards.

o. **Performance Standard:** A description of the minimum level of achievement for determining unsatisfactory, satisfactory, excellent, and outstanding performance concerning the duties and responsibilities of the position.

p. **Personnel Folder:** A file maintained by the first level supervisor that contains documents to assist in tracking performance, recording recognition, achievement, training and for annotating conduct deficiencies in the work place in need of correction. This file contains the NGB Form 904-1 (Supervisor's Record of Technician Employment), historical, and current information on an employee regarding personnel actions.

q. **Rating of Record (Final Score):** The rating calculated and assigned at the end of the appraisal period that describes the overall performance level of the employee based on performance in each individual element.

r. **Rating of Record Table:** A chart used to convert the total element scores to the overall Rating of Record as follows:

Outstanding = 90 - 100

Excellent = 71 - 89

Satisfactory = 45 - 70

Unsatisfactory = A raw score of 1 - 44 or any one (1) critical element rated unsatisfactory

s. **Trial/Probationary Period:** An employee's first year (12 months) of employment under 32 USC 709.

1-5. Responsibilities.

a. **Chief, National Guard Bureau:** The Office of Human Resources (NGB-HR) is responsible for the overall administration and evaluation of the appraisal system. NGB-HR may require corrective action in those cases when any aspect of a Rating of Record system is not in conformance with regulatory requirements.

b. The Adjutant General will:

(1) Establish a performance appraisal program within the Colorado National Guard and hold managers and supervisors accountable for the proper administration and operation of this program.

(2) Ensure all managers and supervisors are adequately trained in all aspects of the performance appraisal program.

(3) Establish a state review and appeals process to review complaints about assigned ratings.

(4) Ensure that, when appropriate, managers and supervisors are appraised on their performance in furthering equal opportunity goals and objectives.

(5) Ensure ratings do not conform to any predetermined statistical distribution or other arbitrary controls that would prevent a fair evaluation of performance.

(6) Ensure written performance standards are established for all employee positions encumbered by permanent, indefinite, or temporary employees hired for one year or more.

c. The Human Resources Office will:

(1) Administer the performance appraisal system within the Colorado National Guard.

(2) Provide advice and assistance to supervisors and managers during the performance appraisal process.

(3) Develop and conduct training necessary to insure all individuals involved in the appraisal process are adequately trained.

(4) Notify supervisors and managers of due dates for technician

performance ratings and follow up when they are not received in a timely manner.

(5) Review completed appraisals for timeliness, completeness, and conformance with the requirements of this system.

(6) Designate an HRO staff member (excluding clerical staff) to be responsible for the appraisal system. The Employee Relations Specialist will be the responsible staff member.

(7) Maintain necessary records, evaluate the effectiveness of the program and bring to the attention of the Adjutant General those areas in need of refinement or improvement.

(8) Ensure necessary personnel actions or decisions based on performance evaluation are implemented.

(9) Establish and administer the state's review and appeal process.

d. Supervisors (Raters) will:

(1) Establish written performance standards for each position using DMA Form 430. The supervisor and employee will develop the performance standards together. A copy of the established standards and critical elements will be provided to the employee and the HRO within 30 days after the beginning of the appraisal period.

(2) Maintain an ongoing dialogue that will personally inform employees of the performance required to achieve each performance rating.

(3) Provide employees with feedback as necessary, but not less than two feedback sessions between the supervisor and the employee per rating period. The dates should be approximately 4 months apart and not less than 120 days before the end of the rating period.

(4) Give guidance and assistance to each employee, as necessary, on how performance can be improved.

(5) Assign an overall Rating of Record in accordance with established standards.

(6) Coordinate the annual Rating of Record with the Reviewer and Approving Official prior to final discussion with the employee.

(7) Provide a copy of the completed appraisal to the employee after all signatures are obtained.

(8) Forward completed appraisals to the HRO to arrive no later than 30 days after the closeout of the appraisal period.

(9) Establish a Performance Improvement Plan (PIP) when the rating of record or a critical element is rated as unsatisfactory (see Chapter 4).

e. Reviewers will:

(1) Participate with subordinate supervisors and employees to resolve any disagreements over performance standards, or the employee's Rating of Record.

(2) Review overall performance standards and appraisals to insure that they are accurate, fair, and complete.

(3) Have the authority to non-concur with the Rater's rating and change the overall rating; however, justification for non-concurrence must be provided in written format and attached to the DMVA Form 430 with the appropriate pen and ink changes.

f. Approving Officials will:

(1) Make a comprehensive review of all unsatisfactory Ratings of Record at the end

of the appraisal period, including the written appraisal and discussion with the Rater and Reviewer, if necessary.

(2) Review overall Ratings of Record with a final appraisal score of unsatisfactory to insure that they are accurate, fair, and complete.

(3) Have the authority to non-concur with the Rater's and Reviewer's rating and change the overall rating; however, justification for non-concurrence must be provided in written format and attached to the DMVA Form 430 with appropriate pen and ink changes.

(4) Approve or recommend personnel actions and decisions resulting from the unsatisfactory Rating of Record in accordance with established procedures.

g. Employees will:

(1) Provide input into the development of performance standards.

(2) Advise their supervisor, if necessary, of the need to revise performance standards during the appraisal period.

(3) Request clarification of any element of the job or performance standard not clearly understood.

(4) Identify work problems and cooperate with the supervisor in resolving any problems, advising the supervisor on special factors and circumstances that should be considered in the appraisal process, and discussing objectives for improving job performance.

(5) Participate actively with the supervisor during discussions of performance throughout the appraisal period.

(6) Provide input into the appraisal, when requested.

CHAPTER 2 THE APPRAISAL PROCESS

2-1. Performance Planning. At the beginning of the appraisal period, each supervisor will (with employee input), identify performance elements and standards. Although employees will participate in the process, final determination will be made by the immediate supervisor with the concurrence of the Reviewer, and, if necessary, the Approving Official. Elements and performance standards will be recorded on DMVA Form 430. They will be updated to reflect minor changes in duties during the appraisal period. If significant changes in duties occur during the appraisal period, a closeout appraisal must be accomplished and new performance standards issued with the appropriate changes. If the employee and supervisor cannot come to agreement on the performance standards, and all attempts to resolve the issue fail, contact the Human Resources Office Employee Relations Specialist for guidance.

2-2. Identification of Rated Elements. Identification of rated elements is accomplished two ways:

a. **Manner of Performance Section.** First and foremost are the minimum mandatory elements listed in the Manner of Performance Elements and Evaluation Page on the DMVA Form 430. These categories examine measurable or definable results with expected levels of performance of the key job processes. All categories have elements for Satisfactory and Excellent/Outstanding rating. Supervisors and Employees may add additional elements or further clarify the elements in these categories, but may not remove or elect not to rate on the mandatory elements.

b. **Performance Results Category:** The elements in this category will be determined by performing a thorough analysis of the duties and responsibilities in the individual position descriptions and/or items reasonably related to

the job and related performance standards. These elements must be specific and measurable requirements with results. The supervisor will decide the requirements and points possible for each performance level. The maximum number of points in the satisfactory elements will be 70 and the employee must achieve a minimum of 45 points in the Satisfactory elements in order to be rated in the Excellent/Outstanding elements. The maximum number of points in the Excellent/Outstanding elements is 30. The supervisor must complete at a minimum all 6 satisfactory elements and at least one excellent/outstanding element.

2-3. Critical Elements.

Technician performance plans may contain any combination of critical, non critical, and additional elements reasonably related to the job and related performance standards. However, the technician performance plan shall have at least one critical element in the satisfactory elements that addresses individual performance. Unsatisfactory performance is that which fails to meet established standards in one or more critical elements.

2-4. Element Values. Each of the two element sections are assigned a weighted value of 50%. Each element in the Manner of Performance section must be rated and cannot be deleted. In the Performance Results section, the supervisor must complete at a minimum all 6 satisfactory elements and at least one excellent/outstanding element.

2-5. Final Score (Rating of Record). At the end of the appraisal period, the supervisor will review the employee's performance in relation to the established standards and assign a rating for each element category. The rating will be determined by comparing observed performance with the performance standards outlined in the performance plan.

a. After the rating for each critical element is determined, a numerical value will be assigned to each element rating as follows:

Outstanding = 90 – 100

Excellent = 71 – 89

Satisfactory = 45 – 70

Unsatisfactory = A raw score of 1 – 44 or any one (1) critical element rated unsatisfactory

Note: An unsatisfactory rating in any critical element will result in an overall unsatisfactory appraisal and remedial action will be required (see Chapter 4). Also, see the Colorado Technician Performance Plan User's Guide (page 2) for an explanation of critical elements and calculating the minimum satisfactory points required.

b. All ratings must be approved by the Reviewer. A signature from the Approving Official is required only when the final appraisal score is unsatisfactory. The Reviewer and/or Approving Official may concur with the appraiser's element ratings and/or the overall rating of record or change the ratings. Ratings received in the HRO will not be accepted until processed through the appropriate full-time channel i.e. Rater, Reviewer, and Approving Official. It is important for appraisals to be honest, un-inflated, and identify when additional training and development is required, what steps an employee must take to improve weak areas, and how performance correlates to organizational goals and objectives.

2-6. Trial/Probationary Period Appraisals.

New employees must be carefully observed and appraised during this period to determine whether they have the qualities needed for permanent government service. During this period, supervisors will provide specific training

and assistance to improve the employee's work performance. An employee serving in a trial/probationary period will not be given an official Rating of Record until the required 12 months of initial Federal Service are complete. After completing 12 months of service, the employee will then be given an official Rating of Record in accordance with the established appraisal process. The appraisal period begins on the date of hire and ends on the one-year anniversary. After the initial probationary appraisal is completed, the employee will then be rated annually by their birth month

2-7. Rating of Record While on Detail.

When an employee has been officially detailed to another position, whether with the same or a different supervisor, for a period of 120 days or more, written performance standards will be established for this position and the employee's performance (while on detail) will be appraised. If the detail is less than 120 days, the employee will not be issued new performance standards nor will the employee be rated on the detailed duties.

2-8. Postponement of Annual Ratings of Record.

Annual Ratings of Record may be postponed in circumstances when the immediate supervisor has not had enough time to observe the employee's performance in the present assignment because:

a. The supervisor or employee is newly assigned.

b. The employee has not been performing the regularly assigned work because of extended details or absences.

c. The Performance Improvement Plan (PIP) extends beyond the annual appraisal period.

The supervisor must forward the request for postponement with justification to the HRO/ERS prior to the appraisal due date. The request must also include a date when the appraisal is expected to be completed and the

technician's signature stating that they were counseled about the delay.

2-9. Records. Official performance records are available for review by the employee concerned. These include, but are not limited to, performance standards, appraisals, certifications in connection with within-grade or step increases, incentive award determinations, trial/probationary period certifications, and other related personnel management documents. Any documents that are used in support of a Rating of Record will be maintained by the supervisor and kept in the employee's personnel folder. During the processing phase of performance appraisals, only the individuals directly in the employee's chain of command and those with an official need to know in the performance of assigned duties will be permitted to review performance related documents. This applies even after the final action has been accomplished.

2-10. Evaluating the Effectiveness of the Appraisal System. The records and information outlined in this paragraph will be used to monitor the effectiveness of the appraisal system. The HRO is responsible for evaluating appraisal results to insure that the system is in conformance with this regulation. Evaluations should include, but not be limited to:

- a. Timeliness and completeness of appraisals.
- b. Proper use of performance elements and standards.
- c. Insuring appraisals are valid and not required to conform to any predetermined statistical distribution.
- d. Insuring recommended personnel actions are consistent with the overall Rating of Record assigned.

CHAPTER 3 PERSONNEL DECISIONS BASED ON PERFORMANCE APPRAISALS

3-1. General. Appropriate consideration must be given to employee Rating of Records when making certain personnel decisions. At the end of the appraisal period (or at anytime during the appraisal period) the appraiser will make recommendations involving the personnel actions or decisions listed in 3-2 through 3-5 below. The recommendations are subject to review by the Reviewer and the Approving Official.

3-2. Within-Grade and Step Increases. To be eligible for a within-grade increase (GS employees) or a step increase (FWS employees) overall performance must be at the Satisfactory level or higher. If overall performance, according to the performance appraisal, is below satisfactory, the within-grade or step increase will be withheld. The supervisor may, at anytime thereafter, prepare a new rating of record for the employee and grant the within grade or step increase when it is determined that the employee has demonstrated sustained performance at the satisfactory or higher level. However, the supervisor must determine whether the employee's performance is at the satisfactory or higher level after no more than 52 calendar weeks following the original eligibility date for the within-grade or step increase. Determinations will be made by the supervisor after no longer than each 52 calendar week period for as long as the within-grade or step increase continues to be denied.

3-3. Rewards. Based on a level of performance, employees may be recommended for monetary or honorary awards in accordance with the Colorado National Guard's Employee Incentive Awards Program.

3-4. Reassigning, Reducing in Grade or Removing. See Chapter 4 of this regulation.

3-5. Training. The performance evaluation process, including counseling sessions, between the supervisor and the employee may result in identification of specific training needs. Recommendations for training should not be limited to less than satisfactory employees. Recommended training may be remedial or developmental in nature to help any employee achieve a higher level of job performance and proficiency.

3-6. Trial/Probationary Period Completion. Information gained during the appraisal process will provide the necessary insight to assist the supervisor in deciding whether or not to retain an employee beyond the trial/probationary period. A decision to terminate an employee during this period may be made at anytime (see Chapter 2, para 2-5).

CHAPTER 4 UNSATISFACTORY PERFORMANCE

4-1. Actions Based on Unsatisfactory Performance. Employees will be counseled regarding the elements and expected performance standards for their position and will be informed when their performance is unsatisfactory in any element of their job. Employees will be assisted in improving areas of unsatisfactory performance by counseling, increased supervisory assistance, additional training, mentoring, and mandatory entrance into a Performance Improvement Plan (PIP). If an employee is placed in a PIP and their performance in any element continues to be unsatisfactory despite the efforts of management to improve performance, the employee must be reassigned, reduced in grade (demoted), or removed from employment.

4-2. Performance Improvement Plan (PIP) Initiation. Before initiating an action to reassign, reduce in grade (demote) or remove from employment based on unsatisfactory performance, the employee will be advised in writing and placed on a formal PIP should their

performance become unsatisfactory in any critical element of the job standard. After consultation with the HRO, supervisors will use the Performance Improvement Plan Form obtained from the HRO to document the PIP. The PIP will normally be for a period not less than thirty (30) days but not more than 120 days. It will consist of the supervisor identifying in writing the performance deficiencies of the employee and what steps are needed to correct them. It will outline what additional training or assistance will be afforded the employee and what other resources will be made available to the employee to assist him/her in improving job performance to the Satisfactory level or better. The employee will also be put on notice that failure to bring performance to the Satisfactory level by the end of the PIP period will result in a 30 day notice of reassignment, reduction in grade (demotion), or removal. Technicians will be assisted in improving areas of unsatisfactory performance by proactive counseling, increased supervisory assistance, additional training, etc. The supervisor is responsible to consult with the employee on a periodic basis to evaluate their progress during the PIP period. Once the PIP period has expired, the supervisor will be required to complete a new appraisal for the employee to indicate progress/performance during the PIP period.

4-3. Requirements. An action to reassign, reduce in grade (demote), or remove from employment may be initiated anytime by the employee's immediate supervisor if the employee's performance continues to be unsatisfactory in one or more critical elements. The supervisor does not have to wait until the end of the appraisal period to initiate these actions. An employee against whom such an action is planned is entitled to:

a. A minimum of thirty (30) days advance written notice of the action to be taken (reassignment, reduction in grade or removal) which identifies the performance elements and unsatisfactory performance upon which the action is based. The advance written notice

must have the concurrence of an official who is in a higher level position from the immediate level supervisor (usually the Reviewer). This requirement does not apply if the action is being taken by the Adjutant General. This advanced notice is not a proposed notice. It is the final notice of the action to be taken because the employee would have already received adequate assistance and opportunity to improve performance.

b. After receipt of the the formal 30-day written notice, the employee may either reply to the notification, either orally or in writing, or may appeal the unsatisfactory performance appraisal to the State Review and Appeals Board. If an employee submits a request to his/her supervisor to change an Unsatisfactory Rating of Record, the supervisor will carefully review the information and advise the employee in writing, whether the Unsatisfactory Rating of Record is sustained or will be upgraded to the Satisfactory level. A request submitted to the State Review and Appeals Board will be handled in accordance with instructions contained in Chapter 5.

c. An appeal to the State Review and Appeals Board is limited to the Rating of Record which forms the basis of the reassignment, reduction in grade, or removal, not the personnel action itself. The effective date of reassignment, reduction in grade, or removal from employment will be extended/held in abeyance pending recommendation of the Board and final action by the Adjutant General.

4-4. Records. When a performance-based action is taken against an employee, all relevant documentation will be placed in the Employee's Personnel Folder. This file is maintained by the supervisor and will contain any records of counseling, the PIP, and documentation of deficiencies. This documentation will be maintained by the supervisor for a period of one (1) year following any action based on performance.

CHAPTER 5 APPEALS

5-1. State Review and Appeals Board. The Adjutant General, through the Human Resources Office, will establish a State Review and Appeals Board consisting of at least three (3) members to provide an impartial review of Rating of Record appeals. Members serving on the board cannot be in the chain of command of the Appellant and should not be in a lower graded position. A representative from the HRO will serve on the board as a non-voting technical advisor and recorder. The employee is entitled to representation of his/her choice during the board process. If an Appellant elects to have another employee as a representative, the representative must be excused from normal duties by their supervisor during the hearing process.

5-2. Filing an Appeal. An employee desiring to file an appeal of a Rating of Record may file an appeal through the HRO to the State Review and Appeals board no later than thirty (30) calendar days after the technician's receipt of the performance appraisal. If the employee has received a formal 30-day notice of removal/reduction in grade based on unsatisfactory performance, the appeal must be submitted within 15 calendar days of receipt of the written notice. In reviewing Rating of Record appeals, including unsatisfactory performance, the Board (by majority vote) will recommend to the Adjutant General to change the appraisal as requested by the Appellant or to sustain the appraisal without change. The Board may also recommend an appraisal score based on factual evidence and testimony presented which is different than the original score or the Appellant's request. When reviewing unsatisfactory Ratings of Record, the Board's review is limited solely to the Rating of Record appeal. It will not review any personnel action taken as a result of an Unsatisfactory Rating of Record. All members of the Board must be present at all times during the hearing and participate in deciding upon a recommendation. The Adjutant General will make the final

decision on any appeal. The Appellant has no appeal rights beyond the Adjutant General.

5-3. Appeals Processing. An appeal to the Board is submitted to the Human Resources Office in memorandum format and must contain the following information:

- a. Name of Appellant
- b. Organization
- c. A copy of the appraisal being appealed
- d. Why the appraisal should be changed
- e. Date notice and/or appraisal received

When the required information is not available, the Appellant should submit what is available and state why missing information is not available. The Human Resources Office will then be responsible for providing all pertinent materials to include the appeal to the designated board members.

5-4. Board Procedures. Board proceedings are to be formal but will utilize liberal rules as to what evidence will be allowed. The Appellant must show that the appraisal received is inappropriate and must prove this by substantial evidence. Substantial evidence is defined as the degree of relevant evidence that a reasonable person, considering the record as a whole, might accept as adequate to support a conclusion, even though other reasonable persons may disagree. The Appellant may submit documentary evidence to support his/her case, as well as having witnesses testify on his/her behalf. If the Appellant desires to call other employees as witnesses, adequate advance notice must be provided to the Human Resources Office who will be responsible for arranging their presence. If a dispute arises as to whether a witness should be required to be

present, the chairperson of the Board will make the final determination based upon the relevance of the witness's testimony. All testimony before the Board will be sworn. The process for Board proceedings will be as follows:

a. The Board Chairperson will convene the Board and review the procedures and rules with fellow Board Members, the Appellant, and Supervisor/Management Representatives. The Appellant or Management Representative can challenge any Board Member for cause. The Board Chairperson makes a determination concerning the challenge.

b. The Supervisor/Management Representative may give an opening statement. Then the Appellant or Representative may give an opening statement.

c. The Supervisor/Management Representative will present any documentation or witnesses as desired. These witnesses will be questioned first by the Supervisor/Management Representative, cross-examined by the Appellant and/or Representative and then questioned by Board Members.

d. At the conclusion of the Supervisor/Management Representative evidence, the Appellant and/or Representative may present documents and witnesses to the Board. Each witness will be questioned first by the Appellant and/or Representative, then cross examination will be conducted by the Supervisor/Management Representative. The witnesses may then be questioned by the Board Members.

e. The Board has the right to request any witness or documentation that it determines is necessary to decide the appeal. The Board may not use any evidence or information to render a recommendation until all parties to the hearing have had an opportunity to examine and reply to all evidence presented.

f. After the presentation of evidence is concluded, both sides will be allowed to make a brief closing statement. The Supervisor/

Management Representative will present his/her closing statement followed by the Appellant and/or Representative.

g. Board members must serve as impartial judges and review each case objectively ensuring that the interests of the Appellant and the Colorado National Guard are protected. Board members must give consideration to the merits of each case and secure all necessary information. All participants of Board proceedings must maintain confidentiality.

h. The Board will then adjourn to consider the evidence. The Board will render written findings and recommendations within fifteen (15) calendar days through the HRO to the Adjutant General. There is no requirement for a transcript; however, the Board may request clerical assistance from the HRO. A copy of the Board's recommendation, along with the Adjutant General's final decision, will be forwarded to the Appellant and the Supervisor/Management representative. The HRO will attach the board results and TAG final decision to the original appraisal for inclusion in the employee's performance file located in the HRO as documentation supporting the change (if any) to the original appraisal.