

NOPD CONSENT DECREE MONITOR
NEW ORLEANS, LOUISIANA



May 4, 2021

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File Number: 37PA-191555

Deputy Superintendent Otha Sandifer
Compliance Bureau, New Orleans Police Department
714 Broad Street
New Orleans, LA 70119

Dear Deputy Superintendent Sandifer:

This letter constitutes confirmation that the Office of Consent Decree Monitor ("OCDM") has reviewed and provided comments on Chapter 13.34 – Evaluation of Employees. The OCDM has no objection to the policy as written.

We believe that Chapter 13.34 – Evaluation of Employees, incorporates all requirements of the Consent Decree and sets forth clear and appropriate rules to guide officer conduct. We will continue to assess the adequacy of this policy following its implementation. If we identify any concerns following implementation, we will present those concerns to you and the Department of Justice. Additionally, we note that, pursuant to the Consent Decree, NOPD has agreed to review and revise policies and procedures as necessary upon notice of a significant policy deficiency. We also note NOPD's obligation to review this policy after a year of implementation to ensure it "provides effective direction to NOPD personnel and remains consistent with the Agreement, best practices, and current law." Consent Decree at ¶ 8.

We appreciate your team's effort, cooperation, and responsiveness throughout this process.
Very truly

Very truly yours,

David L. Douglass
For SHEPPARD MULLIN RICHTER & HAMPTON LLP*
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SMRH:4816-6540-9429.7



NEW ORLEANS POLICE DEPARTMENT OPERATIONS MANUAL

CHAPTER: 13.34

TITLE: EVALUATION OF EMPLOYEES

EFFECTIVE:

REVISED: Replaces Policy/Procedure 1002

PURPOSE

The purpose of this Chapter is to set forth a process for completing member performance evaluations. This Chapter covers probationary and permanent employees, as well as commissioned and non-commissioned members. Supervision, evaluation, and rating of members shall be the responsibility of the member's designated evaluating supervisor. This evaluation process does not apply to those evaluations conducted by Field Training Officers (FTO) under the FTO Program (see **Chapter 33.4.3 – Field Training Program**).

POLICY

1. All employees shall be trained in conducting performance evaluations and the use of the performance evaluation forms upon promotion to the rank of Sergeant, or in the case of civilians, first-line supervisory positions. For all evaluations required by the City of New Orleans, the training shall be conducted by the Department of City Civil Service and organized by the Education & Training Division. NOPD-specific performance evaluation training shall be conducted by the Education & Training Division.
2. For all evaluations required by the City of New Orleans, performance evaluations shall be completed as per the directions found in the Civil Service Performance Evaluation Handout, which is compiled and maintained by the Department of City Civil Service. The Handout contains guidelines for conducting a performance evaluation session and for the use of performance evaluation forms. This Handout shall be provided to supervisory employees at the time they are trained in conducting performance evaluations. Performance is measured on three (3) possible evaluation categories:
 - a) "Does Not Meet Expectations,"
 - b) "Meets Expectations," and
 - c) "Exceeds Expectations."
3. NOPD has established a formalized system documenting performance evaluations in an "NOPD Specific Annual Evaluation" for each employee by the employee's evaluating (direct / immediate) supervisor that include assessments of:
 - (a) Community engagement and communication with the public as appropriate to assignment.
 - (b) Use of community-policing and problem-solving strategies as appropriate to assignment.
 - (c) Civilian commendations and complaints.
 - (d) Disciplinary actions.
 - (e) Compliance with policies on usage of sick leave and other leave.

- (f) Compliance with policies on police secondary employment.
- (g) Safety (e.g., POST officer safety standards and vehicle operations).
- (h) Training.
- (i) Report writing.
- (j) Decision-making skills.
- (k) When completing annual performance evaluations on supervisory personnel, a supervisor's direct supervisor shall evaluate the quality of his or her rating of other employees. (Note: An Evaluating Supervisor who fails to administer the performance evaluation system in accordance with these Rules shall not be eligible for a merit increase for that year.)

DEFINITIONS

Acknowledge - an employee was provided with an opportunity to review the evaluation. The term "acknowledge" shall not necessarily indicate that the employee agrees with the content of the evaluation.

Evaluating Supervisor - the person who, in the appointing authority's judgment, is in the best position to observe and document the employee's performance. The appointing authority shall designate an Evaluating Supervisor for each employee. For the NOPD, the employee's current, immediate supervisor at the time of the evaluation shall be the evaluating supervisor unless designated otherwise, in writing, by the employee's Captain or above.

Second Level Evaluator - the Evaluating Supervisor's supervisor. The Second Level Evaluator must approve the evaluated employee's performance plan and the performance evaluation prepared by the Evaluating Supervisor after they are discussed with and given to the employee for acknowledgement and/or signature.

Probationary Employee - an employee who has been appointed to a position from an employment list, but who has not completed the working test period. The terms "probation period" and "probationary employee" shall be considered identical with "working test period" and "working test employee". When a working test period, for employees who are probationary with no other permanent status, is interrupted for more than twelve weeks due to the employee's inability to perform the essential function(s) of a position as a result of a medical condition, injury, or light duty assignment shall be completed upon the employee's return to duty. The employee's inability to perform the essential functions of a position must be certified by a physician. In the case of an employee who was placed on military leave while serving a working test period, such an employee, upon returning to his position, shall be required to serve the remaining portion of the working test period before gaining permanent status in the class of positions.

PROBATIONARY EMPLOYEES

4. When a probationary Police Officer (P/O) is released from the supervision of his/her FTO upon successful completion of the FTO Program, it shall be incumbent upon the P/O's immediate supervisor (not the FTO) to continue the evaluation of the officer on a bi-monthly basis, using **Probationary Evaluation Form (Form 18)** until the probationary period is completed and the employee has attained permanent status.
5. Supervisors shall complete **Form 18** on all probationary employees in the classified service, under their supervision at the end of the third, sixth and ninth months of the employee's probationary period (working test period).
6. Employees shall be evaluated in all applicable categories, including recommendations for continued employment, evaluation/counseling, or dismissal. Any employee whose official overall evaluation is "**Does Not Meet Expectations**" shall be ineligible for: a merit increase, a

promotion, or a permanent status. If an employee has requested review of the rating, the performance improvement plan shall be held in abeyance pending the outcome of the review.

7. When a supervisor's rating of an employee as "Does Not Meet Expectations" does not become final, the supervisor shall initiate a meeting with the Captain and shall establish a **Performance Improvement Plan** within 30 calendar days of submission of the review for the employee and shall monitor the employee's work performance for a period of 90 calendar days. The Plan and intervention shall be recorded in Insight so that the Captain may provide performance counseling (see **Chapter 35.1.9 – INSIGHT**).
8. At the conclusion of the 90-calendar-day period, the Evaluating Supervisor must state in writing to the employee and the Superintendent, thru the chain-of-command, whether the employee's work performance has improved. If, upon review, the work performance has not improved, the Superintendent shall discipline the employee in accordance with the provisions of Rule IX, dismissal or demotion.
9. Employees may be recommended for counseling/evaluation or a **Performance Improvement Plan** without being rated "Does Not Meet Expectations" in any category. In those cases, a written explanation shall be provided in the remarks section of the Probationary Evaluation Form. Captains shall utilize the procedures outlined in **Chapter 35.1.9 – INSIGHT** to document any recommended and conducted counseling.
10. All performance evaluations shall contain a detailed written explanation of the employee's performance, including any areas in which the employee's performance needs to improve, and areas of growth and achievement during the rating period.
11. In specialized units where there is a designated training officer or "mentor", it shall be the responsibility of the probationary employee's immediate supervisor, if not the "mentor", to confer with the training officer or "mentor" prior to completing **Form 18**. Observations or comments by the training officer or "mentor" shall be noted as such in the evaluation report where appropriate.
12. Probationary employees shall be informed of the results of their evaluation by the evaluating supervisor. The probationary employee shall be counseled at the conclusion of the rating period by his/her immediate supervisor in, at least, the following areas:
 - (a) Results of the performance evaluation just completed;
 - (b) The level of performance expected, rating criteria or goals for the upcoming reporting period; and
 - (c) Career counseling relative to advancement, specialization, or training appropriate for the employee's position.
13. The probationary employee is required to sign the Probationary Evaluation Forms. The probationary employee shall be given the opportunity to make written comments to supplement the completed probationary evaluation. The evaluating supervisor shall supply the probationary employee with a copy (or access if electronic) of the completed, commented and signed probationary evaluation form.
14. Probationary employees who wish to contest a probationary evaluation shall forward an interoffice correspondence (form 105) to their Captain through their chain of command within 3 days of receiving the evaluation they are contesting.
15. The completed **Form 18** shall be forwarded to the evaluating supervisor's Captain within five (5) days of the end of the appropriate evaluation period. The Captain shall review and sign the form indicating acknowledgement. The Captain shall forward the approved and signed form to the Human Resource Management Division within five (5) days of receipt of the form.

16. After completion of the ninth month Probationary Evaluation Form, the supervisor shall review the cumulative performance of the probationary employee and complete the required recommendation prior to the conclusion of the 10th month.
17. Final recommendations (10th Month) shall be forwarded to the probationary employee's Captain immediately upon completion and signature/acknowledgement by the probationary employee and evaluating supervisor, but no later than the conclusion of the 10th month.
18. All recommendations, especially for Rule IX (demotion or dismissal) shall be supported by supplemental correspondence from the employee's Captain, through the chain of command, to the Human Resource Management Division (Personnel Director). Such correspondence shall be submitted no later than 45 days prior to the completion of the employee's probationary period and must be received by Human Resources 30 days prior to the completion of the employee's probationary period.
19. The employee's Captain shall submit a copy of the 10th Month Probationary Form to the Human Resource Management Division no later than 45 days prior to the completion of the probationary period.
20. Probationary evaluation forms which are not received by the Human Resource Management Division within the allotted time period (4, 7, and 10 months) shall be considered delinquent. A list of all delinquent probationary forms shall be sent to the evaluating unit's Bureau Chief on a monthly basis.
21. The immediate responsibility for identifying, documenting, and reporting unsatisfactory performance on the part of any probationary employee exists with his/her immediate supervisor, and, where appropriate, his/her designated unit training officer or "mentor".
22. Captains may recommend, under Rule IX, dismissal or, if appropriate, demotion at any time during the probationary period after the first 2 months by submitting a review of the employee's performance on a supplemental correspondence to the Human Resource Management Division.
23. Employees who have completed their probationary periods with no "*Does Not Meet Expectations*" ratings or recommendations shall automatically be certified in a permanent status by the Human Resource Management Division and the Department of City Civil Service upon the conclusion of their probationary period.
24. Copies of the employee's probationary reports shall be maintained in the employee's personnel jacket file in the Human Resource Management Division. These documents shall be accessible to the employee through INSIGHT.
25. **DEPARTMENTAL INSIGHT QUARTERLY REVIEWS**
Departmental INSIGHT Quarterly Reviews are not completed for employees in probationary status. Those employees are evaluated as "Probationary Employees" outlined above.
26. There are four (4) NOPD Quarterly Insight Reviews (QPIR) each year. Each QPIR shall be completed within one month of the end of each of the quarters. (The Annual Performance Evaluation Form is done after the end of the 4th quarter.) The QPIR shall be conducted within Insight
27. The quarterly review periods are:
 - (a) January 1 – March 31 Due: April 30
 - (b) April 1 – June 30 Due: July 31
 - (c) July 1 – September 30 Due: October 31
 - (d) October 1 – December 31 Due: January 31

28. Quarterly Reviews shall be completed by the employee's evaluating supervisor for the Quarter under review. If the employee has changed supervisors during the review period, the current supervisor of the employee shall complete evaluation.
29. Employees Quarterly Reviews shall be in all applicable categories as directed by current evaluation procedure and as is appropriate to the employee's current assignment.
30. Written notification of unsatisfactory performance ("Does Not Meet Expectations") shall be provided to the employee by the evaluating supervisor. The Quarterly Review is available to the member in their Personnel Jacket once it is approved by the supervisor. The supervisor shall initiate a Performance Improvement Plan via INSIGHT or a Job Performance Improvement Plan (see **Chapter 35.1.9 – INSIGHT** or **Chapter 32.27.1 – Job Performance Improvement Plan (JPIP)**).
31. All Quarterly Reviews are time stamped indicating who generated and verified that the attached reports were reviewed and when. Routing by who and when is recorded in the routing section of the review to show the process (review/approval/possible rejection).
32. All employees shall be informed of the results of their reviews by the evaluating supervisor. The employee shall be counseled during the rating period by his/her evaluating supervisor in, at least, the following areas:
 - (a) Results of the performance review just completed.
 - (b) The level of performance expected, rating criteria or goals for the upcoming reporting period; and
 - (c) Career counseling relative to advancement, specialization, or training appropriate for the employee's position.
33. Department INSIGHT Quarterly Reviews are a management tool used to measure individual performance, develop employees, provide employees with direction and to assist in completion of the Annual Evaluation.
34. Quarterly Reviews shall be accessible to the employee through INSIGHT and shall be retained the Department until one year following the Annual Evaluation for the quarters covered

CITY OF NEW ORLEANS CIVIL SERVICE & NOPD SPECIFIC ANNUAL EVALUATIONS

35. The Performance Evaluation Process Phases shall consist of at least the following components:
 - a. The Performance Planning Period (September – December of year previous to the year being evaluated). **All links below are active.**
(See: <https://www.nola.gov/getattachment/Civil-Service/Resources/Performance-Management-Training/Performance-Planning-Handout.pdf/>)
 - b. The Performance Period (January – December of the year being evaluated).
(See: <https://www.nola.gov/getattachment/Civil-Service/Resources/Performance-Management-Training/Continuous-Monitoring-Feedback-Form.pdf/>)
 - c. The Performance Evaluation Period (January – April of the year following the year being evaluated).
(See: [https://www.nola.gov/getattachment/Civil-Service/Resources/Performance-Management-Training/Performance-Evaluation-Handout-\(1\).pdf/](https://www.nola.gov/getattachment/Civil-Service/Resources/Performance-Management-Training/Performance-Evaluation-Handout-(1).pdf/))
36. Each employee shall be evaluated on the employee's overall performance based on goals, work tasks, and competencies determined by the evaluating supervisor to be requirements of the employee's job. Additionally, each supervisory employee shall be evaluated on the supervisory employee's administration of the performance evaluation system as required by these Rules. All

supervisory employees shall have “successful administration of the performance evaluation system” as one of the performance goals.

37. A performance planning session may be conducted when:
 - a) The employee is assigned a new Evaluating Supervisor.
 - b) Performance expectations change.
 - c) The Evaluating Supervisor deems a performance planning session is appropriate.
38. Planning sessions for the upcoming year shall be conducted during the annual Performance Planning Period (September 1 to December 31 of the previous year). During this period, an evaluating supervisor shall prepare a Performance Plan for the upcoming year in cooperation with the employee, or the team of employees if the work is performed in teams. The performance plan shall list goals, related work tasks, and competencies on which the employee’s overall performance should be evaluated. The plan may also provide for professional development for each employee, appropriate performance measures, and work strategies or assignments for which results can be measured through objective performance data. The goals, work tasks, and competencies shall be recorded on the Planning and Evaluation Form. **Failing to establish a performance plan will result in the employee receiving a “Not Evaluated” designation.**
39. During the planning session, the Evaluating Supervisor shall present the performance planning and evaluation form to the employee and discuss the performance goals, work tasks, and competencies on which the employee will be evaluated and the performance that will be expected during the coming performance year.
40. The Evaluating Supervisor and the employee shall sign and date the performance planning and evaluation form to document the planning session. The employee shall be given access to a copy of the form. Should the employee decline to acknowledge the performance planning and evaluation form, the Evaluating Supervisor shall note this on the form and record the date that the planning session occurred. An employee cannot prevent the planning session from becoming official by refusing to acknowledge the form.
41. If an employee disagrees with the work tasks, goals, and behavior standards as stated on the performance planning and evaluation form, the employee may use the appointing authority’s grievance process to challenge the form during the annual planning period (September 1 to December 31).
42. Before obtaining the Second Level Evaluator’s signature approval of the performance plan, the Evaluating Supervisor will have conducted a performance planning session with the employee. The Evaluating Supervisor shall obtain the Second Level Evaluator’s approval of the performance plan after presenting it to the employee for his or her acknowledgment. **Failing to establish a performance plan for one’s employee(s) will result in the supervisor(s) receiving an overall “Does Not Meet Expectations” designation.**
43. At the end of the performance period, the Evaluating Supervisor shall assign one of the three evaluation categories listed below to the employee’s overall performance based upon the established performance plan, goals, work tasks, and competencies:
 - a) **Exceeds Expectations:** Employee’s performance consistently exceeded the performance criteria.
 - b) **Meets Expectations:** Employee’s performance met the performance criteria.
 - c) **Does Not Meet Expectations:** Employee’s performance did not meet the performance criteria.

44. An Evaluating Supervisor shall assign the overall evaluation category (i.e. Does Not Meet Expectations, Meets Expectations, and Exceeds Expectations) based on seven predefined criteria of performance:
 - a) Performance Goal
 - b) Work Task/Behavior Expectations
 - c) Competencies
 - d) Quality and Completeness of Work
 - e) Supervision and Guidance Requirements
 - f) Person-Role Fit
 - g) Overall Placement
45. A new employee with less than one year of continuous service **in the position** (probationary) as of December 31 of the performance year shall be evaluated based on his or her progress toward predefined criteria established via their probationary period assessment. However, this employee shall receive an overall designation of "Not Evaluated" for that specific performance year. Official performance evaluations are required for all classified employees who have at least 12 months of continuous service as of December 31 of the performance year.
46. All evaluating supervisors shall distribute employee self-assessment evaluation forms to direct reports 30 days prior to the Annual Evaluation posting date. Employees shall submit the self-assessment to immediate supervisor two (2) weeks prior to the posting date. Supervisors shall review and verify the information submitted by direct reports within one (1) week of receipt to review and assist with completion of the Annual Evaluations. In addition to Insight's: Employee Summary Reports, Employee Activity Report, self-assessment evaluation forms any documentation shall be attached to all evaluations submitted in NEOGOV.
47. City of New Orleans annual performance evaluations shall be completed annually, as per Rule XI Section 1.7 (c) "Official evaluations shall be made after the performance year has ended and must be rendered between January 1 and April 1 of the following year. Evaluations become official on the date they are rendered. Evaluations rendered after April 1 will not be accepted. And, the concerned employee(s) will receive an overall "Not Evaluated" designation. The Civil Service performance evaluation time guidelines shall be followed for NOPD-Specific Annual Evaluations.
47. A supervisor that does not complete the annual performance evaluation by the due date shall be subject to corrective action and progressive discipline. Failing to establish a performance plan for one's employee(s) will result in the supervisor(s) receiving an overall "Does Not Meet Expectations" designation.
48. To render an official evaluation, the Evaluating Supervisor shall:
 - a) Complete a performance evaluation form after January 1 of the following year.
 - b) Provide documentation to support the overall evaluation.
 - c) Provide the employee access to a copy of the evaluation form with the employee's official overall evaluation noted along with the supporting documentation.
 - d) Discuss the evaluation with the employee and present the evaluation form to the employee to be acknowledged and dated.
 - e) Obtain the Second Level Evaluator's approval of the evaluation form after the discussion with the employee.
49. A checklist shall be provided to supervisors along with the two-week advance notification prior to the posting date for the NOPD-Specific Annual Performance Evaluation Form (NEOGO) to assist in the supervisor in covering all expected areas of the evaluation. The NOPD-Specific Annual Performance Evaluation Form (NEOGO) shall be completed by the employee's evaluating (immediate) supervisor.

50. All performance evaluations shall contain a detailed written explanation of the officer's performance, including any areas in which the officer's performance needs to improve, and areas of growth and achievement during the rating period.
51. Employees shall be evaluated in all applicable categories as directed by current Civil Service procedure and as is appropriate to the employee's current assignment.
52. When an employee is not available for a performance evaluation session, the provisions of Civil Service Rules and this Chapter shall be satisfied when notification to the employee is made by mail. If the employee is notified by mail, the notification shall be deemed timely if it was mailed to the employee's most recent address on or before April 1, as evidenced by official proof of mailing. The Superintendent, thru his/her designee must maintain documentation that the employee was notified on or before April 1. If an appointing authority fails to notify an employee, the employee shall receive a designation of "Not Evaluated".
53. Written notification of unsatisfactory performance (Does Not Meet Expectations) shall be provided to the employee as per Civil Service Rule XI, Service Ratings. An evaluation of "Does Not Meet Expectations" **is not a disciplinary action**.
54. Regular employees (permanent status) shall have a right to request a review in accordance with the provisions of Sections 1.12 and 1.13 of Civil Service Rules.
 - a. The Performance Improvement Plan shall be held in abeyance pending the outcome of the review.
 - b. If the designation of "Does Not Meet Expectations" does not become final, the appointing authority shall establish a performance improvement plan within 30 calendar days of submission.
 - c. The Evaluating Supervisor must establish a performance improvement plan for the employee and shall monitor the employee's work performance for a period of 90 calendar days.
 - d. At the conclusion of the 90 calendar day period, the Evaluating Supervisor must state in writing to the employee and the Superintendent or his/her designee whether or not the employee's work performance has improved.
 - e. If, upon review, the work performance has not improved, the appointing authority shall discipline the employee in accordance with the provisions of Rule IX (dismissal or demotion).
55. All performance evaluations shall be signed by the evaluating supervisor (rater) in the appropriate space. Each rater's Second Level Evaluator shall initial or sign the signature of the evaluating supervisor indicating that he/she has reviewed the evaluation. All performance evaluations shall be reviewed and signed by the appointing authority, or his/her designee as specified by Civil Service Rule XI, Service Ratings.
56. All employees shall be informed of the results of their evaluation by the evaluating supervisor. The employee shall be counseled at the conclusion of the rating period by his/her supervisor in, at least, the following areas:
 - (a) Results of the performance evaluation just completed.
 - (b) The level of performance expected, rating criteria or goals for the upcoming reporting period; and
 - (c) Career counseling relative to advancement, specialization, or training appropriate for the employee's position.
57. The employee is required to acknowledge the evaluation form. The employee shall be given the opportunity to make written comments to supplement the completed evaluation. The evaluating supervisor shall supply the employee with a copy of the completed, commented and signed / dated evaluation upon request.

58. Appeals of contested evaluations shall be processed as per Civil Service Rule XI, Service Ratings. A regular employee who receives an overall performance evaluation of "Does Not Meet Expectations" may request an official review of that evaluation by a Review Panel. The guidelines of Civil Service Rule XI 1.10 thru 1.12 apply to Review Panels and subsequent processes of appeal.
59. Copies of the Civil Service Performance Evaluation Form shall be maintained in the employee's personnel jacket file in the Human Resource Management Division. These documents shall be accessible to the employee through INSIGHT.