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Description of document: Privacy and Civil Liberties Oversight Board (PCLOB)
Policy on Compensation and Promotion Policy 2016-004
and Performance Evaluation Review Policy 2014-09, 2016

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PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD
WASHINGTON, D.C. 20511

October 23, 2017

Re: PCLOB FOIA 2017-037

This letter responds to your Freedom of Information Act (“FOIA”) request dated October 4, 2017 and received by PCLOB on October 16, 2017, in which you seek “a copy of the PCLOB Compensation/Promotion Policy and Performance Policy.” The policies are attached.

You may contact me or the PCLOB’s FOIA Public Liaison Eric Broxmeyer at (202) 331-1986 or foia@pclob.gov for further assistance and to discuss any aspect of your request. Additionally, you may contact the Office of Government Information Services (“OGIS”) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001; email at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

If you are not satisfied with my response to this request, you may administratively appeal by writing to the PCLOB Freedom of Information Act Appeal Authority, at MS2 Room 2C104, Washington, DC 20511, or you may submit an appeal via email to foia@pclob.gov. Your appeal must be postmarked or electronically transmitted within ninety calendar days from the date of this letter.

Sincerely,

A handwritten signature in blue ink that reads "Mason C. Clutter".

Mason C. Clutter
Freedom of Information Act Officer
Attorney-Advisor
(202) 296-4729



PRIVACY & CIVIL LIBERTIES OVERSIGHT BOARD

Policy on Compensation and Promotion

Policy 2016-004

- I. Scope. This policy establishes the Privacy and Civil Liberties Oversight Board's rules and procedures for providing increased compensation and promoting employees.
- II. Definitions.
 - A. *Board or PCLOB* means the Privacy and Civil Liberties Oversight Board created pursuant to 42 U.S.C. § 2000ee.
 - B. *Board Member or Member* means any of the individual members of the Board, including the Chairman.
 - C. *Chairman* means the Chairman of the Board.
 - D. *Employee* means any permanent or temporary Board employee, except where these procedures specify a particular position.
 - E. *Performance Evaluation Policy* means PCLOB Policy 2014-09, which governs the performance evaluation process for employees.
 - F. *Promotion* means a change of a rate of pay equivalent to a grade on the General Schedule ("GS") scale to a rate of pay equivalent to a higher grade on the GS scale.
 - G. *Quality Step Increase or QSI* means an additional Within Grade Increase used to reward employees at any grade level who display high quality performance and has the effect of moving the employee up the pay scale faster than by periodic step increases alone. These actions are processed and made effective the pay period after the decision to award the QSI communicated to the employee.
 - H. *Rater or Rating Official* means an employee's first-level supervisor who is responsible for staff development, setting performance goals, providing employees feedback on performance, and rating staff performance.
 - I. *Reviewer or Reviewing Official* means an employee's second-level supervisor who is responsible for setting strategic performance expectations, ensuring performance goals reflect organizational goals, and approving performance appraisal ratings.
 - J. *Within Grade Increase or WGI* means that an employee is advanced to the rate of pay equivalent to the next higher Within Grade step (following completion of the

required period of service if the employee's most recent performance rating of record is successful or higher). These actions are processed as a matter of course upon the expiration of the required period of service and become effective during the next pay period.

III. General Provisions. This policy governs any increase in compensation for PCLOB employees. Promotions shall be awarded solely on the basis of merit, achievement, and qualifications.

IV. Compensation.

- A. The Chairman (or, in the event the Chairman position is vacant, then the Board) may, consistent with this policy, increase an employee's base compensation based upon a Within Grade Increase, Quality Step Increase, or Promotion.
- B. The PCLOB is an excepted service agency. Changes in position classification or compensation for employees will be determined by reference to the GS standards and pay schedule as guidance, but the Board is not statutorily bound by OPM's pay and classifications guidelines. For certain senior positions, compensation may be set at an amount equivalent to Level V of the Executive Schedule. Under the Board's authorizing statute, in no event may the rate of compensation for any employee exceed the equivalent of that payable for a position at Level V of the Executive Schedule.
- C. All employees shall receive consideration without regard to race, color, national origin, sex, religion, marital or familial status, gender identity, sexual orientation, non-disqualifying physical handicap, or political affiliation.

V. Within Grade Increase.

- A. Employees are advanced to the rate of pay equivalent to the next higher Within Grade step, provided the employee has a work performance rating of successful or better and has satisfied the period of service required for the step. However, employees whose rate of pay is equivalent to the highest GS grade and step level at or below the Board's statutory salary cap, or senior employees who are paid a rate of pay equivalent to the statutory maximum, are not eligible for any pay increases unless the rate of pay at Level V of the Executive Schedule is increased.
- B. Waiting Periods
 - i. Annual step advancements up to the equivalent of step 4 require a year of government service (52 weeks).
 - ii. Annual step advancements beyond the equivalent of step 4 and up to the equivalent of step seven require two years of government service (104 weeks).
 - iii. Annual step advancements beyond the equivalent of step seven and up to the equivalent of step 10 require three years of government service (156 weeks).

VI. Quality Step Increase.

- A. To be eligible for a QSI, Board employees must:
 - i. Be below step 10 of their grade level;
 - ii. Have demonstrated sustained performance of high quality;
 - iii. Have received an overall rating of excellent or outstanding on their performance appraisals; and
 - iv. Have not received a QSI within the preceding year (52 consecutive calendar weeks).
- B. A QSI does not affect the timing of an employee's next regular WGI. If the QSI places the employee in a step with a longer waiting period, the employee becomes subject to the full waiting period for the new step (e.g., two or three years, respectively), but the time an employee has already waited at the previous level counts towards the next increase. The employee receives the full benefit of receiving the QSI without losing any time creditable toward his or her next WGI.

VII. Promotion.

- A. Each employee will be eligible to be considered for promotion at the end of one year after entry on duty (52 weeks), provided that the employee has not already reached a maximum salary as described in subsection C below. Employees generally will be reviewed for promotion either as part of the annual performance review cycle, which corresponds to the federal fiscal year, or as part of mid-year reviews, depending on which date is closer to (but which may not necessarily fall on) their individual employment anniversary dates. However, an employee may request an off-cycle promotion consideration once the employee has achieved the required time in grade.
- B. Initial promotion recommendations will be made by the Rater. The Reviewer will then concur or disagree with the initial recommendations. A written narrative must be provided to support promotion determinations. Decisions to promote or not to promote an employee may be conveyed orally or in writing.
- C. An employee shall not be considered eligible for promotion unless his or her current rating of record is successful or higher. The following employees are not eligible for salary increases:
 - i. Employees who are already receiving a rate of pay equivalent to the highest GS and step level below the Board's statutory salary cap (based on the GS scale for Washington, DC locality pay, this is equivalent to a GS 15 step 6); and
 - ii. Senior employees who are paid a rate of pay equivalent to the statutory maximum for Board employees.
- D. Employees eligible for promotion will be considered for such increases even if they have received a QSI per Section VI above.

- E. If an employee is awarded a promotion, the employee is entitled to basic pay at the lowest rate of the higher grade that exceeds his or her existing rate of basic pay by two step increases of the grade from which promoted.
- i. The two-step method will be calculated by identifying the employee's rate in the grade before promotion and increasing that rate by the equivalent of two steps.
 - ii. The promoted rate will be the lowest step in the next grade that equals or exceeds the rate identified in subsection (i) above.
- F. Promotions will be awarded based on the quality of an employee's work over a sustained time period. Although employees will be eligible for promotions based on periods of service outlined in Sub-section G, promotions should not be considered automatic, and the lack of a promotion at the one-year period should not be considered as a negative reflection on an employee's performance. Any determination to award a promotion will be communicated to the employee.
- G. Promotion to a New GS Level
- i. To be eligible for a promotion to the next GS grade level, an employee must demonstrate the level of skill, responsibility, reliability, and leadership required for the next GS grade level. In general, as an excepted service agency, the Board will look to GS guidance as informative, though not binding in assessing the required competencies.
 - ii. For promotion to the equivalent of GS 15:
 1. An employee must have at least one year of time in grade at the GS 14 level for consideration of a promotion to the equivalent of GS 15.
 2. An employee shall have received a rating of outstanding in his or her last performance rating of record.
 3. An employee shall have demonstrated extremely high quality 14-level work, initiative in setting priorities and carrying out Board work, and leadership skills.
 4. Specifically, the employee shall have demonstrated that he or she can effectively lead projects and/or teams of other employees, including managing the project or team's workload, making strategic decisions to accomplish goals, facilitating constructive dialogue among team members (or otherwise with colleagues) and using conflict management skills when appropriate, coordinating with other agencies and outside organizations, representing the Board to other agencies and outside organizations, and communicating regularly with Board Members and staff leadership.
 5. An employee should have demonstrated proficiency in areas critical for supervisory work, including: accountability, oral

communication, problem solving, written communication, and leadership.

6. Promotions to or within GS 15 cannot exceed the statutory salary cap.

iii. For promotion to the equivalent of GS 14:

1. An employee must have at least one year of time in grade at the GS 13 level for consideration of a promotion to the equivalent of GS 14.
2. An employee shall have received a rating of outstanding in his or her last performance rating of record.
3. An employee shall have demonstrated consistently high quality 13-level work and be able to produce a work product that includes thorough analysis.
4. An employee should be able to complete projects and other assignments with limited supervisory guidance.
5. An employee shall be able to effectively contribute to projects and to convey recommendations to Board members.
6. An employee must be able to concisely inform the Board of the relative strengths and weaknesses of options presented to the Board.

iv. For promotion to the equivalent of GS 13:

1. An employee must have at least one year of time in grade at the GS 12 level for consideration of a promotion to the equivalent of GS 13.
2. An employee shall have received a rating of outstanding in his or her last performance rating of record.
3. An employee shall have demonstrated high quality 12-level work in carrying out all of the employee's responsibilities.
4. An employee shall have demonstrated that he or she is capable of producing a work product that includes thorough analysis with supervisory direction, and contribute to projects.
5. An employee shall be able to propose solutions to challenges as they arise.

v. For promotion to the equivalent of GS 12:

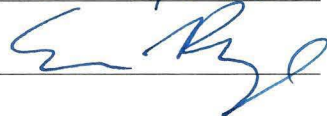
1. An employee must have at least one year of time in grade at the GS 11 level for consideration of a promotion to the equivalent of GS 12.
2. An employee shall have received a rating of outstanding in his or her last performance rating of record.

3. An employee shall have demonstrated high quality 11-level work in carrying out all of the employee's responsibilities.
 4. An employee must be able to produce a work product that needs minimal revisions by a supervisor.
- vi. For promotion to the equivalent of GS 11:
1. An employee must have at least one year of time in grade at the GS 10 level for consideration of a promotion to the equivalent of GS 11.
 2. An employee shall have received a rating of outstanding in his or her last performance rating of record.
 3. An employee shall have demonstrated high quality 10-level work in carrying out all of the employees' responsibilities.
 4. An employee shall be able to complete all tasks as assigned.
 5. An employee shall be able to convey relevant facts regarding matters to interested parties.
- vii. For promotion to the equivalent of GS 10:
1. An employee must have at least one year of time in grade at the GS 9 level for consideration of a promotion to the equivalent of GS 10.
 2. An employee shall have received a rating of outstanding in his or her last performance rating of record.
 3. An employee shall have demonstrated high quality 9-level work in carrying out all of the employees' responsibilities.
 4. An employee shall be able to complete assigned tasks as directed by his or her supervisor.

VIII. Applicability.

- A. This policy shall be effective for the performance period beginning October 1, 2016 and all subsequent performance cycles until this policy is superseded or revoked. This policy shall have no retroactive effect.
- B. This document is an internal agency procedure. Nothing herein creates any legal or enforceable rights, obligations, or liabilities for any private parties over and above those that already exist in applicable law.

Effective Date: Nov. 11, 2016

Certification: 



PRIVACY & CIVIL LIBERTIES OVERSIGHT BOARD

Performance Evaluation Review Policy

PCLOB Policy 2014-09

(Revised Nov. 11, 2016)

- I. Scope. Performance Evaluations are conducted annually and employees are evaluated mid-year (April timeframe) and after the completion of the fiscal year (October timeframe.) The purpose is to assess an individual employee's job performance and productivity in relation to certain established criteria and organizational objectives. Other aspects of individual employees are considered as well, such as accomplishments and potential for future improvement. This consideration ensures that employees perform to the best of their abilities, are recognized for good performance, receive appropriate feedback, and are provided suggestions for improvement when necessary. This document establishes the Privacy and Civil Liberties Oversight Board's performance evaluation review policy.
- II. Definitions.
 - A. *Board or PCLOB* means the Privacy and Civil Liberties Oversight Board created pursuant to 42 U.S.C. § 2000ee.
 - B. *Board Member or Member* means any of the individual members of the Board, including the Chairman.
 - C. *Chairman* means the Chairman of the Board.
 - D. *Chief Management Officer or CMO* means the permanent or temporary employee designated by the Board to execute the agency's human resources and administrative functions.
 - E. *Employee* means any permanent or temporary Board employee, including an employee of another executive branch department or agency detailed to the Board, except where these procedures specify a particular position.
 - F. *Performance Evaluation Report* means the form employees and supervisors complete in connection with a performance review. This document includes a description of the employee's major duties and performance objectives, and outlines accomplishments corresponding to each rating criteria.
 - G. *Rater or Rating Official* means an employee's first-level supervisor who is responsible for staff development, setting performance goals, providing employees feedback on performance, and rating staff performance.

- H. *Reviewer or Reviewing Official* means an employee’s second-level supervisor who is responsible for setting strategic performance expectations, ensuring performance goals reflect organizational goals, and approving performance appraisal ratings.
- III. General Provisions. Board Members, the Executive Director, and other designated staff in supervisory roles are responsible for conducting written performance reviews of all Board employees based on the employee’s performance in relation to job responsibilities.
- IV. Requirements and Process.
- A. The rating scale (*see chart below*) for performance planning and review contains five levels: 1) Unacceptable, 2) Marginal, 3) Successful, 4) Excellent, and 5) Outstanding. Performance review comments and accomplishments are based on the employee’s individual performance objectives as specified in the Performance Evaluation Report (“PER”). Employees are expected to achieve a performance rating of successful.

Rating Scale

Rating	Achievement of Single Performance Objective	Overall Rating
Unacceptable (1)	The employee’s performance on this objective was not sufficient to meet the requirements of the position or the needs of the agency.	The employee failed to accomplish a majority of significant assigned performance objectives, and/or to perform on key objectives.
Marginal (2)	The employee accomplished the bare minimum needed for this objective, but work needs improvement for the employee to be fully effective.	The employee accomplished adequate results for some performance objectives, meeting minimum standards for the position, but did not successfully achieve all performance objectives.
Successful (3)	The employee accomplished the objective in a manner that met agency needs.	The employee achieved results on all performance objectives that were adequate to meet the agency’s needs. The employee’s overall contribution to the agency’s mission, in terms of results and the manner in which those results were achieved, was positive and valued. Employees are expected to achieve at least this level of performance.
Excellent (4)	The employee fully and completely accomplished the objective in a manner demonstrating a high level of skill, effort, and achievement.	The employee achieved superior results on a majority of and/or significant performance objectives, and achieved at least adequate results on the remainder. The employee’s overall contribution to the agency’s mission was above what is necessary for basic agency operations.
Outstanding (5)	The employee fully and completely accomplished the objective in a manner demonstrating an exceptional level of skill, effort, and achievement.	The employee achieved exceptional results on all performance objectives. The employee’s performance contributed to overall organizational results that otherwise would not have been achieved without the employee’s actions. The employee’s service to the agency was exemplary, and served as a model for others.

- B. Performance objectives have been established for each position. Each performance objective in the PER identifies actions necessary to achieve a rating of unacceptable, marginal, successful, excellent, or outstanding. Employees' performance will be evaluated by their supervisor on an ongoing basis throughout the fiscal year, and all performance reviews (mid-year and end-of-year) will be based on overall performance in relation to job responsibilities. The assessments will be based on observable behaviors, demonstrated results, and professionalism and cooperation. When an employee is subject to new performance expectations, the supervisor will provide the employee with a new PER to communicate the new performance expectations of the position.
- C. As part of the performance review process, employees will develop a performance accomplishment narrative for the supervisor, who will subsequently prepare a narrative and rating for the employee. Employees are not responsible for conducting a self-assessment and therefore should not rate themselves on each of their stated performance objectives.
- D. If an employee receives a performance rating of marginal or unacceptable, or an employee has been orally counseled and counseled in writing about poor performance before a regularly scheduled performance review has been conducted, a supervisor may require the employee to complete a performance improvement period ("PIP"). The supervisor will develop a performance improvement plan to assist the employee in improving his or her performance during the PIP. The plan will identify the performance expectations that must be met for successful completion of the PIP. Employees completing PIPS are not precluded from receiving a regularly scheduled performance review. The formal rating of record will reflect an entire year's performance.

V. Mid-Year Performance Review

- A. A mid-year performance review will be conducted for every employee every fiscal year (approximately around an April timeframe) to discuss the employee's performance objectives, the employee's performance to-date, and what the employee needs to do in order achieve his/her stated performance objectives.
- B. A new employee whose supervisor has not had at least 90 days to observe his/her performance will receive a Memorandum for the Record (MFR) in lieu of the mid-year performance review.

VI. Year-End Performance Review

- A. At the completion of the fiscal year, employees will provide their supervisor (Rating Official) with a report of their accomplishments to be used in connection with their performance evaluation reviews. All employee accomplishments will support the employee's stated performance objectives. The supervisor (Rating Official) will then prepare a narrative justification of the summary rating required for all categories. The employee's performance evaluation will then be forwarded to the reviewing official for narrative justification of the summary rating required for all categories. The

Rating and Reviewing Officials will review the results of the year-end performance review and discuss the achievement of the performance and promotions as appropriate. Where the supervisor serves as both Rater and Reviewer (e.g., the Chairman's evaluation of the Executive Director), the performance evaluation will be conducted solely by the supervisor (or Rater) with no Reviewer. A new employee whose supervisor has not had at least 90 days to observe his/her performance will receive a Memorandum for the Record ("MFR") in lieu of the year-end performance review.

- B. The Rating and Reviewing Officials will prepare a brief summary of the evaluation for each intended awardee, which will be submitted to human resources as the justifying document. The summaries of all evaluations will be maintained by the Chief Management Officer in the appropriate personnel folders.
- C. The Rating and Reviewing Officials may evaluate the following aspects of employee performance when rating/reviewing an employee against established objectives:
 - 1) Quality of work product
 - a) Consistently produces a high quality work product; and
 - b) Written work and oral presentations are clear and effectively presented.
 - 2) Dependability and Communication
 - a) Regularly completes assignments in a timely manner;
 - b) Coordinates and effectively communicates with others; and
 - c) Ensures all tasks are being handled on each project.
 - 3) Cooperativeness and adaptability
 - a) Builds teamwork among colleagues and subordinates; and
 - b) Provides support to the Board as needed.
 - 4) Project planning and implementation
 - a) Plans ahead and organizes work to achieve objectives in a timely manner; and
 - b) Effectively implements plans.
 - 5) Decision-making and problem solving skills
 - a) Consults with appropriate individuals before making decisions;
 - b) Gathers information needed for sound decision making;
 - c) Considers alternative solutions to problems before making a decision; and
 - d) Makes sound decisions in a timely manner.
 - 6) External Relations
 - a) Portrays a professional image on behalf of the Board; and
 - b) Communicates well with the external community.

VII. Applicability.

- A. This revised policy shall be effective for the performance period beginning October 1, 2016 and all subsequent performance cycles until this policy is superseded or revoked. This policy shall have no retroactive effect.
- B. This document is an internal agency procedure. Nothing herein creates any legal or enforceable rights, obligations, or liabilities for any private parties over and above those that already exist in applicable law.

Effective Date: Nov. 11, 2016

Certification: 