



**STATE OF WASHINGTON
OFFICE OF FINANCIAL MANAGEMENT**

STATE HUMAN RESOURCES DIVISION | DIRECTOR'S REVIEW PROGRAM
P.O. Box 40911 · Olympia, WA 98504-0911 · (360) 407-4101 · FAX (360) 586-4694

September 9, 2015

Deborah Reichelderfer

RE: Deborah Reichelderfer v. Department of Retirement Systems (DRS)
Rule Violation RULE-15-001

Dear Ms. Reichelderfer:

The Director's review has been completed based upon a review of the written documents submitted by the parties.

Background

On March 13, 2015, Ms. Reichelderfer filed a request for a Director's review alleging DRS violated the civil service law and rules regarding the performance evaluation process. (Exhibit A-1).

On July 15, 2015, DRS submitted its response to a request for information from State HR. (Exhibit B-1).

On August 21, 2015, Ms. Reichelderfer submitted a final response to DRS's submittal of additional information. (Exhibit A-2)

This information has been added to the record and incorporated as exhibits to the file.

Nature of Alleged Violation

Ms. Reichelderfer alleges the written feedback she provided to Ms. Stone prior to the evaluation meeting was not considered or incorporated into Ms. Stone's evaluation memo. Ms. Reichelderfer alleges Ms. Stone's failure to incorporate her input violates the agency's procedure DRS-HR-12.1, at steps 8, 9, 10, and 11. Ms. Reichelderfer requests that Ms. Stone's interim evaluation memo be removed from her personnel file.

Ms. Reichelderfer asserts DRS violated policy HR-OPS-6 section 2, by failing to provide her with an opportunity to review Ms. Stone's supervisory file that contained the documents or other information that was used by Ms. Stone to evaluate her performance.

Relevant WACs, Policies & Procedures

Chapter 357-37 WAC

Chapter 357-37 WAC provides rules regarding performance management.

WAC 357-37-015 states each employer must develop and implement an employee performance management process. It also states that employers must develop a performance management policy that documents the key points of the process.

WAC 357-37-030(2) indicates that employers must provide feedback and formally evaluate the performance of a permanent employee on an annual basis.

DRS Policy and Procedure

Policy DRS-HR-12 documents agency's process for conducting performance evaluations. This policy states in relevant part:

3. Supervisor is Responsible for Completion of Evaluation

The supervisor is responsible for completing the *Performance and Development Plan-Evaluation* form documenting the employee's performance for the established review period. The information contained in the form should be a summary of the supervisor's observations of the employee's performance, notes from the supervisory file, and a review of the employee's work product. Anything documented in the *Performance and Development Plan – Evaluation* should not be a surprise to the employee and should have already been discussed with him or her during the review period.

While mutual understanding and consensus are the goals of the performance evaluation process, the supervisor is ultimately responsible for determining the final evaluation. The completed evaluation form is reviewed and signed by the second-level supervisor or manager attesting that the evaluation process was properly followed.

Procedure DRS-HR-12.1 outlines the agency's procedure for conducting performance evaluations. The procedure states in relevant part:

- | | |
|-----------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Team Leader | 8. At the end of the evaluation period, schedules meeting with team member to discuss performance relative to established expectations and key competencies. |
| | 9. Completes a draft Performance Development Plan – Evaluation and gives to team member to review for meeting. |
| Team Leader and Team Member | 10. Meets and discusses job performance over the evaluation year. Reviews Performance Development Plan – Evaluation document. |
| Team Leader | 11. Finalizes evaluation form, incorporating any feedback from team member. Gives form to team member for review and signature. |
| Team Member | 12. Reviews and signs evaluation form, returns it to the team leader. |

13. If in disagreement with final evaluation, writes a rebuttal to include in official personnel file.

Policy HR-OPS-6 outlines the agency's policy for managing supervisory files. This policy state in relevant part:

3. Team Members May Review Team Leader Files

With reasonable advance notice, a team member may request to review his or her supervisory file maintained by the team leader. The team member may designate, in writing, a representative to review the supervisory file.

The file may be reviewed in the presence of the team leader. A team member or his/her representative reviewing the supervisory file will initial and date all materials reviewed in the file.

4. Team Members May Provide Rebuttals to Information in Team Member Files

A team member may provide written rebuttal pertaining only to a source document in the supervisory file. The rebuttal statement will be retained or destroyed along with the source document.

Chapter 357-49 WAC

WAC 357-49-010(3) (b) states that an employee may request a Director's review of a performance evaluation process or procedure per WAC 357-37-080.

WAC 357-37-080(1) provides, in part, the following:

. . . within thirty days of receipt of a completed and signed performance evaluation . . .
. a WGS employee may request a director's review of alleged irregularities in the use of the approved performance evaluation form and/or procedures outlined in the civil service rules. The content of an evaluation is not subject to review.

Director's Rationale

Performance Evaluation Process

Ms. Reichelderfer's most recent evaluation period covered January 20, 2014, through January 19, 2015. Ms. Reichelderfer reported to Ms. Valerie Stone from January 19, 2014, to September 30, 2014. On October 1, 2014, Ms. Reichelderfer began reporting to Ms. Jennifer Goss. Ms. Goss continued as her supervisor through January 19, 2015.

Both Ms. Stone and Ms. Goss provided feedback on Ms. Reichelderfer's performance for the review period under consideration.

Ms. Stone completed an interim evaluation memo, dated February 2, 2015, which evaluated Ms. Reichelderfer's performance for the time she supervised Ms. Reichelderfer. Ms. Goss completed the Performance and Development Plan Evaluation (PDP) form for Ms. Reichelderfer's position

which covered the remaining review period. Ms. Stone's memo was incorporated as an attachment to the PDP evaluation form completed by Ms. Goss (Exhibit B-1 (A)).

On February 10, 2015, Ms. Reichelderfer received an email from Ms. Stone (exhibit A-1(C)) which included an attached copy of the interim evaluation memo. Prior to the evaluation meeting, Ms. Reichelderfer emailed her reply to Ms. Stone which included her written feedback. (Exhibit B-1(B)) Ms. Reichelderfer requested this information be incorporated into Ms. Stone's interim evaluation memo. (Exhibit A-1(D)).

Ms. Stone and Ms. Goss met with Ms. Reichelderfer on February 11, 2015, to discuss her performance. DRS states in its comments that Ms. Reichelderfer's feedback was discussed during the evaluation meeting. DRS states that Ms. Stone explained to Ms. Reichelderfer why information would or would not be incorporated into the into the final evaluation memo that was included with the PDP form completed by Ms. Goss.

Ms. Reichelderfer signed and dated the completed PDP Evaluation form and attached interim evaluation memo on February 11, 2015.

The PDP form is the method for providing feedback about work performance. The information contained in the completed PDP form and the attached interim evaluation memo documented Ms. Reichelderfer's performance for the established review period.

In this case, Ms. Reichelderfer's supervisors followed Policy DRS-HR-12 for conducting Ms. Reichelderfer's performance evaluation:

3. Supervisor is Responsible for Completion of Evaluation

...

While mutual understanding and consensus are the goals of the performance evaluation process, ***the supervisor is ultimately responsible for determining the final evaluation.*** The completed evaluation form is reviewed and signed by the second-level supervisor or manager attesting that the evaluation process was properly followed.

[Emphasis added]

Ms. Reichelderfer signed and dated the completed PDP Evaluation for the period of January 20, 2014, through January 19, 2015. There is no evidence any violations occurred.

Therefore, by following Policy DRS-HR-12 for the PDP evaluation process for Ms. Reichelderfer's position, DRS satisfied WAC 357-37-015 and WAC 357-37-030(2).

Further, WAC 357-37-080(1) specifically states, in part, that an employee "may request a director's review of alleged irregularities in the use of the approved performance evaluation form and/or procedures . . ." However, "[t]he content of an evaluation is not subject to review."

Therefore, the content of Ms. Reichelderfer's final evaluation is not subject to review. In addition, no violation in the use of the approved performance evaluation form and/or procedures occurred.

However; there is an apparent conflict in written language between *Policy HR-12* and *Procedure DRS-HR-12.1*. While the agency's policy states the supervisor responsible for determining the final evaluation content, the procedure states in relevant part:

Team Leader 11. Finalizes evaluation form, incorporating **any** feedback from team member. Gives form to team member for review and signature.

[Emphasis added]

DRS should review the language contained in *Procedure DRS-HR-12.1* step 11, and revise it as necessary to make it consistent with *Policy DRS-HR-12* step 3.

Supervisory File

Ms. Reichelderfer requested to see Ms. Stone's supervisory file on February 11, 2015 (Exhibit B-1(B)). Ms. Reichelderfer specifically requested to see the documentation in the file which served as the basis for the points Ms. Stone raised in the evaluation memo.

DRS policy, *HR-OPS-6* outlines the agency's policy for managing supervisory files. This policy state in relevant part:

3. Team Members May Review Team Leader Files

With reasonable advance notice, a team member may request to review his or her supervisory file maintained by the team leader. The team member may designate, in writing, a representative to review the supervisory file.

The file may be reviewed in the presence of the team leader. A team member or his/her representative reviewing the supervisory file will initial and date all materials reviewed in the file.

DRS indicates in exhibit B-1, that it is standard agency practice that when an employee moves from one supervisor to another the employee's supervisory file is forwarded to the new supervisor. DRS states Ms. Reichelderfer was informed of this during the February 11, 2015 evaluation and that she would need to work with Ms. Goss in order to review the supervisory file. However, DRS did not indicate whether the supervisory file was subsequently made available to Ms. Reichelderfer for her review in accordance with agency policy.

Therefore, it appears DRS did not provide Ms. Reichelderfer with an opportunity to review the information contained in the supervisory file for her position. DRS should make the file available for Ms. Reichelderfer in accordance with agency policy.

Determination

The content of Ms. Reichelderfer's final evaluation is not subject to review. In addition, no violation of the civil service law and rules occurred regarding the performance evaluation process with respect to Ms. Reichelderfer's position for the period January 20, 2014, to January 19, 2015.

Ms. Reichelderfer's request to remove Ms. Stone's interim evaluation memo from her personnel file is denied.

DRS is directed to review and revise *Procedure DRS-HR-12.1* step 11 as necessary in order to make it consistent with *Policy DRS-HR-12* step 3.

Separately, DRS violated Policy HR-OPS-6 section 2, by not providing Ms. Reichelderfer an opportunity to review the information contained in Ms. Stone's supervisory file in accordance with policy. Therefore, DRS is directed to make the supervisory file available to Ms. Reichelderfer for her review in accordance with her request. The parties will follow agency Policy HR-OPS-6 to complete this process.

Appeal Rights

WAC 357-49-018 provides, in relevant part, the following:

Except as provided in WAC 357-49-010(1), either party may appeal the results of the director's review to the board by filing written exceptions to the director's determination in accordance with chapter 357-52 WAC.

The mailing address for the Personnel Resources Board is P.O. Box 40911, Olympia, Washington, 98504-0911. The PRB Office is located on the 3rd floor of the Raad Building, 128 10th Avenue SW, Olympia, Washington. The main telephone number is (360) 407-4101, and the fax number is (360) 586-4694.

If no further action is taken, the Director's determination becomes final.

Sincerely,

Connie Goff, PHR
Rules & Appeals Program Manager
State Human Resources Division

c: Deborah Reichelderfer, DRS
Chris Greenwalt, DRS HR

DEBORAH REICHELDERFER v DEPT. OF RETIREMENT SYSTEMS

RULE-15-001

List of Exhibits

A. Deborah Reichelderfer Exhibits

1. Director's Review Form received March 23, 2015, with attached exhibits labeled:
 - A. *Copy of DRS Procedure DRS-HR-12.1*
 - B. *Copy of DRS Policy HR-OPS-6*
 - C. *Memo from Deb Reichelderfer to Val Stone dated February 2, 2015*
 - D. Memo from Deb Reichelderfer to Valerie Stone dated February 11, 2015, providing reply to Ms. Stone
 - E. Copy of feedback information provided by Deb Reichelderfer to Valerie Stone
2. Final response from Deborah Reichelderfer's position dated August 21, 2015

B. Department of Retirement Systems Exhibits

1. Letter from Chris Greenwalt to Kris Brophy dated July 14, 2015, with attachments:
 - A. Performance and Development Plan for Deborah Reichelderfer with attached interim evaluation memo from Valerie Stone dated February 11, 2015
 - B. Copy of email from Deb Reichelderfer to Valerie Stone dated February 11, 2015, requesting modification to interim evaluation memo.
 - C. Copy of DRS Policy HR-OPS-12.