

# Proposed Rule Amendments—Legislative Format

## 2-3 ~~Performance~~ Ratings

### 2-3.1 Rating System

- (a) **Regulations.** The ~~state personnel~~ director shall issue regulations to establish a system of ~~probationary ratings, annual ratings, performance and~~ interim ratings, ~~and follow-up ratings~~ for appointing authorities to evaluate and report employee performance and behavior. Probationary ratings are addressed in rule 3-6.
- (b) **Ratings.**
- (1) **~~Types of performance ratings.~~** A rating issued under this rule is a single overall evaluation of the employee's performance and behavior ~~of the employee~~ for the relevant rating period:
- (A) **~~Probationary rating.~~** A probationary Performance. A performance rating rates the employee's overall performance and behavior ~~of the employee~~ as ~~either satisfactory or unsatisfactory.~~
- (B) **~~Annual rating.~~** An annual rating rates the overall performance and behavior of the employee as ~~either satisfactory~~ high performing, meets expectations, or needs improvement. High-performing and meets-expectations ratings are satisfactory.
- (C) **~~Interim and follow-up ratings.~~** An interim rating rates ~~the performance or behavior of the employee as unsatisfactory. A follow-up rating rates the~~ employee's overall performance ~~of the employee~~ and behavior as ~~either~~ satisfactory or unsatisfactory.
- (2) **Methods.** Unless ~~provided otherwise in~~ the regulations provide otherwise, an appointing authority may use any appropriate ~~performance-rating method developed or~~ approved by the ~~state personnel~~ director to evaluate and rate employees. If ~~an approved rating~~ a method yields overall ~~performance~~ evaluation categories different ~~than from~~ those in subsection (b)(1), the categories must equate to ~~the those~~ overall performance categories ~~required in subsection (b)(1).~~ An appointing authority may also develop systems to provide ongoing feedback to employees on performance that are not ratings, but may form a basis for ratings under this rule.
- (3) **Component parts.** If an overall rating is satisfactory, a ~~negative~~ non-satisfactory evaluation on ~~an individual~~ a subpart of the ~~performance evaluation~~ rating, such as an ~~individual~~ objective, a competency, or a factor, is not grievable or reviewable in the agency review procedure.
- (c) **~~Review with employee.~~** A supervisor ~~must or designee shall~~ review each ~~probationary, annual, performance or~~ interim, ~~and follow-up~~ rating with the employee. Both ~~the supervisor and the employee must shall~~ sign ~~and date~~ each rating as evidence of the review. The employee's signature ~~on the rating~~ does not indicate ~~that the employee agrees with the rating. The agreement.~~ An employee may file an explanatory statement ~~to accompany the~~ with a rating.
- (d) **~~Use of ratings.~~** A performance or interim rating may be considered in making ~~human resource~~ employment decisions, including, ~~for example~~ appointment, promotion, retention, assignment, and training.
- (e) **Report.** ~~If required by the civil service regulations, e~~ Each appointing authority shall report or certify ~~probationary, annual, performance and~~ interim, ~~and follow-up~~ ratings to civil service staff.

## 2-3.2 Probationary Ratings

~~(a) Probationary ratings. Unless a probationary appointment has been terminated or rescinded, an appointing authority shall evaluate the performance and behavior of each probationary employee and issue a probationary rating as required in the civil service rules and regulations.~~

~~(1) Full-time employment. At a minimum, an appointing authority shall issue a probationary rating for a full-time probationary employee after completion of 6 calendar months and again after completion of one calendar year of employment. In addition, if the probationary employee is a new hire without status in the classified service, the appointing authority shall rate the employee after completion of 3 calendar months of employment.~~

~~(2) Less than full-time employment. At a minimum, an appointing authority shall issue a probationary rating for a probationary employee working less than full-time after completion of 9 calendar months and again after completion of 18 calendar months of employment. In addition, if the probationary employee is a new hire without status in the classified service, the appointing authority shall rate the employee after completion of 3 calendar months of employment.~~

~~(3) Extension of probation. If a probationary period is extended beyond one calendar year (for full-time employees) or 18 calendar months (for less than full-time employees), as authorized in rule 3-6.2(b) [Extension of Probationary Period], the appointing authority shall also issue a final probationary rating no later than 28 calendar days after the end of the extension of the probationary period.~~

~~(b) Satisfactory probationary rating. A satisfactory probationary rating is not discipline and is not grievable.~~

~~(c) Unsatisfactory probationary rating. The following apply to unsatisfactory probationary ratings:~~

~~(1) Discipline. An unsatisfactory probationary rating is discipline and may be the basis for additional discipline, up to and including dismissal.~~

~~(2) Grievance. An employee may grieve an unsatisfactory probationary rating only as authorized in rule 3-6.5 [Grievance of Probationary Rating or Discipline], rule 8-1 [Grievances], and the applicable regulations.~~

~~(3) Effects:~~

~~(A) An employee who receives an unsatisfactory probationary rating is not eligible for a step increase, a performance pay award, or reclassification until a later satisfactory rating is issued.~~

~~(B) The period beginning when the employee receives an unsatisfactory probationary rating is not counted as qualifying time for a step increase or reclassification. A step increase, performance pay award, or reclassification action cannot be made retroactive to a date before a new satisfactory rating is issued.~~

~~(4) Record. The employee's employment record must reflect any unsatisfactory probationary rating.~~

## 2-3.23 Annual Performance Ratings

~~(a) General. The following apply to all annual ratings for employees in compensation plans with fixed steps and in performance pay programs.~~

~~(1) Annual rating required.~~ An appointing authority shall evaluate ~~the performance of~~ each non-probationary ~~employee~~ employee's performance and issue ~~an annual a performance~~ rating as ~~required in~~ the ~~civil service~~ rules and regulations require.

~~(2) Number and timing.~~ (1) Timing. An appointing authority shall issue ~~an annual a performance~~ rating at least once annually. ~~In addition, the appointing authority, but~~ may issue ~~additional annual ratings at any time. If the employee has received an interim rating or an unsatisfactory follow-up rating, the~~ performance ratings anytime. An appointing authority ~~is need~~ not ~~obligated to~~ issue an ~~annual a performance~~ rating for any period covered by ~~the an~~ interim ~~or follow-up~~ rating.

~~(3) Performance improvement plan.~~ If an employee receives a needs-improvement ~~annual~~ rating, the appointing authority ~~must~~ shall establish a performance-improvement plan to monitor the employee's performance. The ~~performance improvement~~ plan must establish a date by which the appointing authority will issue another ~~annual rating to evaluate~~ evaluating the employee's performance under the ~~performance improvement plan. If performance has not improved, the~~ appointing authority may issue an interim rating based on performance under the plan.

~~(4) Agency review procedure.~~ Each appointing authority shall establish ~~an agency review a~~ procedure for employees to obtain a review of a needs-improvement ~~annual~~ rating. ~~The procedure must provide for a review~~ by the appointing authority or ~~the appointing authority's a~~ designee. If ~~the annual a~~ rating is not grievable ~~or, the appointing authority's review is also not~~ appealable to civil service staff, the review of the appointing authority is also not grievable or appealable.

(b) ~~Compensation plans with fixed steps.~~ ~~The following apply to annual ratings for employees in compensation plans with fixed steps:~~

(1) ~~Satisfactory annual rating.~~ A satisfactory ~~annual~~ rating is not discipline and is not grievable or reviewable.

(2) ~~Needs improvement annual rating.~~ ~~The following apply to needs improvement annual ratings:~~

(A) ~~Discipline~~ Complaints. A needs-improvement ~~annual~~ rating is not discipline.

~~(B) Complaints.~~ A needs improvement annual rating and cannot be grieved, unless ~~the employee alleges that the annual rating was issued in violation of~~ it violated rule 1-8 ~~[Prohibited Discrimination]~~ or rule 2-10 ~~[Whistleblower Protection]~~. ~~However, an~~ An employee may request a review of a ~~needs improvement annual~~ the rating ~~within the agency review procedure authorized in subsection (a)(4).~~

~~(C) Effects.~~

~~(1) Step.~~ An employee who receives a needs-improvement ~~annual~~ rating is eligible for a step increase.

~~(2) Reclassification.~~ An employee who receives a needs improvement annual rating is, but is not ineligible for reclassification until a later satisfactory rating is issued. A reclassification ~~action~~ cannot be ~~made~~ retroactive to a date before a new satisfactory rating is issued.

(c) ~~Performance-pay program ratings and actions.~~ ~~The following apply to annual ratings and performance-pay actions for employees in performance pay programs in (1) the senior executive service, (2) the senior~~

~~executive management assistant service, (3) equitable classification plan (ECP) Group 4, and (4) ECP Groups 1, 2, and 3 if the state personnel director has approved the employee's inclusion in a performance-pay program:~~

(1) **Salary review.** An appointing authority shall complete a salary review for each employee in a performance-pay program ~~at the same time it completes the annual~~ after completing a performance rating. The appointing authority shall use the ~~annual~~ rating as one factor in determining the employee's eligibility for ~~an increase in a~~ base salary increase or a lump-sum award authorized in rule 5-3.4 ~~{Operation of Compensation Schedules}~~.

(2) **Satisfactory ~~annual~~ rating.** A satisfactory ~~annual~~ rating is not discipline and is not grievable or reviewable.

(3) **Needs-improvement ~~annual~~ rating.** ~~The following apply to~~

(A) Complaints. A needs-improvement ~~annual~~ ratings:

~~(A) Discipline.~~ A needs improvement ~~annual~~ rating is not discipline.

~~(B) Complaints.~~ A needs improvement ~~annual~~ rating and cannot be grieved, unless ~~the employee alleges that the annual rating was issued in violation of~~ it violated rule 1-8 ~~{Prohibited Discrimination}~~ or rule 2-10 ~~{Whistleblower Protection}~~. ~~However, an.~~ An employee may request a review of a needs improvement ~~annual~~ the rating ~~within~~ in the agency review procedure ~~authorized in subsection (a)(4).~~

~~(C) Effects.~~

~~(1) Performance-pay award.~~ An employee who receives a needs-improvement ~~annual~~ rating is ~~not~~ ineligible for a performance-pay award or reclassification until a later satisfactory rating is issued. ~~A performance-pay award cannot~~ Neither can be made retroactive to a date before a new satisfactory rating is issued.

~~(2) Reclassification.~~ An employee who receives a needs improvement ~~annual~~ rating is ~~not~~ eligible for a reclassification until a later satisfactory rating is issued. ~~A reclassification action cannot be made retroactive to a date before a new satisfactory rating is issued.~~

(4) **Grievances ~~regarding other performance-pay actions.~~** Performance-pay awards are discretionary. An employee ~~is not authorized to~~ cannot grieve or appeal a performance-pay action, unless a ~~grievance or an appeal is~~ specifically permitted in this rule or ~~the applicable~~ regulations.

(A) ~~Grievance permitted~~ Permitted. An employee aggrieved by ~~any of~~ the following performance-pay actions may file a grievance ~~as authorized in rule 8-1 {Grievances} and the applicable regulations:~~

(1) The employee's ~~pay~~ base salary is reduced.

(2) The appointing authority does not rate the employee's performance ~~of the employee~~ at least once annually.

(3) The performance-pay action ~~is alleged to violate~~ violates rule 1-8 ~~{Prohibited Discrimination}~~ or rule 2-10 ~~{Whistleblower Protection}~~.

~~(B) Grievance prohibited.~~ Except as expressly authorized in subsection (c)(4)(A), the employee cannot grieve a final performance pay decision of the appointing authority. By way of example only, the following performance pay actions cannot be grieved:

(B) Prohibited. Non-grievable performance-pay actions include:

- (1) The amount of a performance-pay award.
- (2) The failure to receive an ~~an~~ performance pay award.
- (3) The distribution of an ~~an~~ performance pay award between a base salary adjustment increase and a lump-sum award.
- (4) ~~The~~ Another employee's performance ~~evaluation~~ rating or ~~performance pay award of another employee.~~
- (5) The decision to include a position in, or exclude a position from, a performance-pay program.
- (6) The performance-pay program itself, including ~~for example, the~~ performance standards, agency evaluation methods, rating categories, and agency salary-range subdivisions.

### 2-3.43 ~~Interim and Follow-up~~ Ratings

(a) **Interim ratings.** An appointing authority may evaluate the performance and behavior of an employee, including a probationary employee, and issue an interim ~~service rating at any time. An interim rating is an unsatisfactory rating~~ rating anytime.

(b) **Follow-up ratings.**

~~(1) Follow-up rating~~ Rating period. If ~~the~~ an appointing authority issues an unsatisfactory interim rating but does not dismiss the employee, the appointing authority shall establish in writing ~~the length of~~ a follow-up rating period. If ~~during the follow-up rating period, the~~ an employee is ~~placed~~ suspended, on an unpaid leave of absence ~~without pay,~~ or on extended sick leave, the ~~follow-up rating~~ period is automatically extended ~~for an additional by a~~ period equal to the ~~period of the employee's~~ absence. Within 28 days after its end, an appointing authority may extend in writing the period's length to a total of up to 12 months. An extension cannot be grieved.

~~(2c)~~ **Follow-up interim rating.** The appointing authority shall evaluate the employee's performance and behavior ~~of the employee~~ during the follow-up rating period and issue ~~a follow-up~~ another interim rating ~~as required in the civil service rules and regulations.~~ The appointing authority shall issue the ~~follow-up~~ rating ~~or extend the rating period before or within~~ by 28 ~~calendar~~ days after the ~~end of the follow-up~~ rating period ends. If the appointing authority fails to timely issue ~~a follow-up~~ the rating ~~or an extension within the time allowed,~~ the employee may, ~~within 14 calendar days after the end of the period allowed for request its~~ issuance ~~of the follow-up rating, request~~ in writing ~~that~~ to the appointing authority's ~~issue the follow-up rating~~ human resources director. If the appointing authority fails to issue ~~the~~ a rating or an extension ~~follow-up rating~~ within 14 ~~calendar~~ days in writing after ~~the employee's~~ receiving a valid written request, the employee is returned to satisfactory standing, effective the end of the ~~follow-up~~ rating period. ~~However, the return to satisfactory standing does not nullify any prior interim rating or unsatisfactory follow-up rating or preclude the later use of any such rating.~~

(ed) **Discipline.** ~~Interim ratings and unsatisfactory follow-up~~ Unsatisfactory interim ratings are discipline and may be the basis for additional discipline, up to and including dismissal.

(de) **Grievances.**

(1) **Non-probationary employee.** A non-probationary employee who receives an unsatisfactory interim rating ~~or an unsatisfactory follow-up rating~~ may grieve the rating ~~as provided in rule 8-1 (Grievances) and the applicable regulations.~~

(2) **Probationary employee.** A probationary employee who receives an unsatisfactory interim rating ~~or an unsatisfactory follow-up rating~~ may grieve the rating only as provided in rule 3-6.45 ~~(Grievance of Probationary Rating or Discipline).~~

(ef) **Effects.**

~~(1) An employee who receives an unsatisfactory interim rating or an unsatisfactory follow-up rating is not ineligible for a step increase, a performance-pay award, or reclassification until a later satisfactory rating is issued. (2) The period during which the employee is rated as unsatisfactory is not counted as qualifying time for a step increase or reclassification. A step increase, performance pay award, or reclassification. Any such action cannot be made retroactive to a date before a new satisfactory rating is issued. (f) Commission action. If an employee receives an interim rating and a subsequent unsatisfactory follow-up rating and the appointing authority has taken no adverse action, the state personnel director may recommend to the civil service commission that the employee be separated from the classified service. The period under an unsatisfactory rating is not qualifying time for a step increase or reclassification.~~

## 2-6 Discipline

### 2-6.1 Discipline

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(c) **Forms of discipline.** Permissible discipline includes, ~~but is not limited to,~~ the following:

(1) An unsatisfactory probationary rating, ~~an or~~ interim rating, ~~or an unsatisfactory follow-up rating.~~

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## 3-6 Probation and Status

### 3-6.1 Probationary Period

(a) ~~New employee~~ Employee without status. A newly appointed ~~classified~~ employee who ~~does not have~~ lacks status in the classified service when appointed must satisfactorily complete a working test period, called a probationary period, and receive a ~~final~~ satisfactory probationary rating ~~as provided in rule 2-3 (Performance Ratings)~~ at its end as a condition of continued employment.

(b) **Employee with status.** An employee with status who is appointed to a ~~new~~ classification where the employee does not have status must satisfactorily complete a working test period, called a probationary period, and receive a ~~final~~ satisfactory probationary rating ~~as provided in rule 2-3 (Performance Ratings)~~ at its end as a condition of continued appointment in that position, unless otherwise provided in the regulations.

- (c) ~~SES and SEMAS exceptions.~~ This rule does not apply to ~~persons appointed~~ appointees to positions in the senior executive service (~~SES~~) and ~~the~~ senior executive management assistant service (~~SEMAS~~).

### 3-6.2 ~~Length of Probationary Period~~ Length

- (a) **Minimum length.** ~~The minimum length of~~ Unless a probationary appointment is terminated or rescinded, an appointing authority shall evaluate each probationary employee's performance and behavior and issue a probationary rating. The minimum probationary period is 12 calendar months of full-time employment or 18 calendar months of less-than-full-time employment. An appointing authority may, however, issue an interim rating to a probationary employee anytime during a probationary period.

(1) Full-time. An appointing authority shall rate a full-time probationary employee after 6 and 12 months of employment. The appointing authority shall also rate a probationary new hire after 3 months.

(2) Not full-time. An appointing authority shall rate a probationary employee not working full-time after 9 and 18 months of employment. The appointing authority shall also rate a probationary new hire after 3 months.

- (b) ~~Extension of probationary period.~~ If the appointing authority determines that (1) the probationary period has been insufficient to adequately test ~~the performance of~~ a probationary employee or (2) ~~the performance of~~ a probationary employee's performance and behavior ~~has~~ ve been unsatisfactory, the appointing authority may extend the probationary period ~~for an employee.~~ Any extension beyond ~~an additional 6 calendar~~ a total of six months requires the director's approval ~~of the state personnel director.~~ The appointing authority shall give written notice of ~~the~~ any extension ~~of the probationary period~~ to the employee. An extension cannot be grieved.

- (c) ~~Leave without pay during probationary period.~~ Automatic extension. If a probationary ~~an~~ employee is ~~placed~~ suspended, on ~~an~~ unpaid leave of absence ~~without pay,~~ or on extended sick leave, the ~~period of the leave of absence does not count toward completing the probationary period and the length of the probationary period is automatically extended for an additional~~ by a period equal to the ~~length of the employee's~~ absence.

(d) Review. A supervisor or designee shall review each probationary rating with the employee. Both shall sign each rating as evidence of the review. An employee's signature does not indicate agreement. An employee may file an explanatory statement with a rating.

(e) Satisfactory rating. A satisfactory probationary rating is not discipline and is not grievable or reviewable.

(f) Unsatisfactory rating.

(1) Discipline. An unsatisfactory probationary rating is discipline and may be the basis for additional discipline, up to and including dismissal.

(2) Grievance. An employee may grieve a probationary rating only as provided in rule 3-6.4.

(3) Effects. An employee who receives an unsatisfactory rating is not eligible for a step increase, performance-pay award, or reclassification until a later satisfactory rating is issued. Any such action

cannot be retroactive to a date before a new satisfactory rating is issued. The period under an unsatisfactory rating is not qualifying time for a step increase or reclassification.

(4) Record. The employee's employment record must reflect any unsatisfactory rating.

(g) Failure to issue. An appointing authority shall issue a probationary rating or extend the probationary period by 28 days after a rating period ends. If an appointing authority fails to timely issue a rating or an extension, the employee may request its issuance in writing to the appointing authority's human resources director. If the appointing authority fails to issue a rating or extend the probationary period within 28 days after receiving a valid written request, the employee is deemed to have received a satisfactory rating for the period.

### 3-6.3 Unsatisfactory Service

(a) **Employee without status.** If an employee without status does not perform satisfactorily during ~~the~~ probationary period, ~~as provided in rule 2-3 [Performance Ratings],~~ the appointing authority may issue an unsatisfactory rating and dismiss or otherwise discipline the employee anytime~~at any time during the probationary period or within 28 calendar days after the probationary period ends. The appointing authority shall give notice of a dismissal or other discipline to the employee no later than 28 calendar days after the probationary period ends.~~

(b) **Employee with status.** If an employee with status is appointed to a new classification and does not perform satisfactorily during the probationary period, ~~as provided in rule 2-3 [Performance Ratings],~~ the appointing authority may, ~~at any time during the~~ issue an unsatisfactory ~~probationary period or within 28 calendar days after the probationary period ends~~rating anytime and, (1) dismiss or otherwise discipline the employee or (2) rescind the appointment and demote the employee.

### 3-6.4 — Satisfactory Service; Notice

~~If an employee's service during the probationary period is satisfactory, the appointing authority shall give notice to the employee and the civil service staff within 28 calendar days after the probationary period ends.~~

### 3-6.5 Grievance of Probationary Rating or Discipline

(a) **Probationary employee without status.** A probationary employee without status who is dismissed or otherwise disciplined may can only grieve ~~the discipline only~~ within the agency steps of the civil service grievance procedure. The employee cannot appeal at the appointing authority's final determination ~~of the appointing authority~~ to civil service staff ~~or the civil service commission,~~ unless the ~~employee alleges that the~~ discipline violated rule 1-8 ~~[Prohibited Discrimination]~~ or rule 2-10 ~~[Whistleblower Protection]~~.

(b) **Probationary ~~E~~employee with status.**

(1) **Rescission ~~of appointment~~ and demotion.** ~~A~~ If an appointing authority demotes a probationary employee with status ~~(1) who receives an interim rating or unsatisfactory probationary or follow-up rating or (2) whose appointment is rescinded for any reason and who is demoted to a classification level not less than the level that~~ occupied at immediately before the probationary appointment, the ~~time of the appointment,~~ employee may can only grieve the ~~rating or the~~ rescission and demotion as provided in rule 8-1 ~~[Grievances]~~ and the applicable regulations. ~~In any appeal of its final grievance decision, the appointing authority need only. The employee cannot appeal the~~

~~appointing authority's final determination, unless the discipline violated rule 1-8 or rule 2-10 establish a rational basis for the rating or the rescission and demotion. This subsection does not apply to the revocation of an appointment authorized in rule 3-7 [Revocation of Appointment].~~

- (2) **Other discipline.** A probationary employee with status who is dismissed or disciplined other than as provided in subsection (b)(1) may grieve the ~~rating or discipline as provided in rule 8-1 [Grievances] and the applicable regulations~~ discipline. The appointing authority must demonstrate just cause for the discipline in any appeal.

### 3-6.65 Status

An employee who ~~has been~~is appraised, qualified, and properly appointed ~~on an indefinite or limited term basis, and who has~~and satisfactorily ~~completed~~completes the probationary period, for a career appointment has status while ~~the employee remains~~continuously employed in the classified service. An employee who ~~has~~ attained status and later accepts an appointment to a position at a different classification level continues to have status at the former classification level while ~~the employee remains~~continuously employed in the classified service. An employee separated with a break in continuous service loses previous status in all classes upon rehire and is treated as newly appointed. An employee whose appointment is revoked under rule 3-7 ~~[Revocation of Appointment]~~ cannot earn status at that classification and classification level or credit for qualification purposes during the period before revocation.

## 5-3 Compensation Schedules

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### 5-3.4 Operation of Compensation Schedules

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- (b) **Schedules with steps.** If the compensation plan creates steps in the pay range, an employee receives pay increases in the amounts and at the intervals provided ~~for~~in the compensation schedule for the employee's classification level. An employee under an unsatisfactory probationary, or interim, ~~or follow-up~~ rating is ~~not in~~eligible for a step increase.

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- (c) **Performance-pay programs.**

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- (2) **Performance-pay awards.**

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- (B) **Performance ratings.**

- (1) ~~If the~~An employee who receives a needs-improvement annual performance rating or an unsatisfactory interim ~~or follow-up~~ rating, ~~the employee is not in~~eligible for a base-salary increase or lump-sum award.
- (2) ~~If the~~The base salary of an employee who receives an unsatisfactory interim ~~or follow-up~~ rating, ~~the appointing authority may reduce the employee's base salary~~be reduced in accordance with the compensation plan.

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## 8-1 Grievances

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### 8-1.3 Types of Grievances

(a) **Types of grievances permitted.** A grievance must allege that the employee is aggrieved by one or more of the following actions of the appointing authority:

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(4) ~~Written counseling~~ A written reprimand issued without just cause.

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## 8-2 Appeals of Grievance Decisions

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### 8-2.2 Limitation on Grievance Appeals

A grievant is not authorized to file a grievance appeal unless the grievance alleges one or more of the following:

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(c) One ~~or more~~ of the following types of discipline imposed without just cause:

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(6) Unsatisfactory ~~Interim rating or unsatisfactory follow-up rating~~, as provided in rule 2-3.34(d) ~~[Interim and Follow-up Ratings]~~ and rule 3-6.45 ~~[Grievance of Probationary Rating or Discipline]~~.

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### 8-2.3 Further Limitations on Grievance Appeals

The following additional limitations apply to a grievance appeal, unless the grievant alleges that a tangible adverse employment action resulted from an ~~action of the~~ appointing ~~authority~~ authority's action that violated rule 1-8 ~~[Prohibited Discrimination]~~ or rule 2-10 ~~[Whistleblower Protection]~~:

(a) **Probationary employee without status.** A probationary employee without status cannot appeal the appointing authority's final grievance decision ~~of the appointing authority regarding any of~~ over the following:

(1) A probationary rating, ~~or~~ an interim rating, ~~or a follow-up rating~~.

(2) A ~~decision to extend an employee's probationary term~~.

~~(3) A decision by the appointing authority to discipline the employee, including dismissal, during the~~ when issuing an unsatisfactory probationary ~~period or within 28 calendar days after the end of the probationary period~~ rating.

- (b) ~~Probationary employee with status.~~ A probationary employee with status cannot appeal the final grievance decision of the appointing authority regarding a decision to extend the employee's probationary term.
- (c) ~~Reprimand or counseling.~~ An employee cannot appeal the appointing authority's final grievance decision ~~of the appointing authority regarding~~over a written reprimand ~~or counseling~~.