

Executive Directive

PD-52, “Performance Evaluations”



September 1, 2023 (rev. 9)
Supersedes November 1, 2021 (rev. 8)

Authority

1. Tex. Gov't Code §§ 493.001
2. Tex. Gov't Code §§ 493.006(b)
3. Tex. Gov't Code §§ 493.007
4. Tex. Gov't Code §§ 659.2551
5. BP-02.08, “Statement of Internal Controls”

Applicability

Texas Department of Criminal Justice (TDCJ)

Employment At Will Clause

This directive does not constitute an employment contract or a guarantee of continued employment. The TDCJ reserves the right to change the provisions of this directive at any time.

Nothing in this directive limits the executive director's authority to establish or revise human resources policy. This directive guides the operations of the TDCJ and does not create a legally enforceable interest for employees or limit the executive director's, deputy executive director's, or division directors' authority to terminate an employee at will.

Policy

The TDCJ promotes equal employment opportunity through an employee performance evaluation system designed to evaluate employees' performance without regard to race, color, religion, sex (gender), national origin, age, disability, or genetic information. In addition, the TDCJ complies with the provisions of applicable federal and state laws relating to performance evaluations of members of the uniformed services.

The TDCJ has zero tolerance for all forms of employment discrimination in the employee performance evaluation process. Harassment or retaliation is prohibited. No employee will be subjected to retaliation for opposing or reporting employment discrimination in the employee performance evaluation process.

Definitions

The following terms are defined for the purpose of this directive and are not intended to be applicable to other policies or procedures.

"Discrimination"

unequal treatment of persons based on race, color, religion, sex (gender), including sexual harassment, national origin, age (40 or above), disability, or genetic information. Discrimination by employers falls into four general areas: (1) hiring and firing, such as failing or refusing to hire, or discharging; (2) employment conditions, such as compensation, terms, conditions, or privileges; (3) segregation and classification, such as limiting, segregating, or classifying employees in any way that would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect their status as an employee; and (4) training, such as unequal access to training that may affect an individual's ability to promote.

"Signature Date"

the date an employee signs the employee's performance evaluation, or the date that indicates an employee refused to sign the performance evaluation.

"Supervisor"

an employee who directs and oversees the work of other employees as indicated in the job description, completes subordinate employees' performance evaluations, approves subordinate employees' leave requests, and performs other supervisory duties.

"Workday"

a day when an employee is regularly scheduled to work.

Discussion

Performance evaluations indicate how well an employee is performing the essential functions of the employee's position. The performance of essential functions by employees at a level that meets or exceeds performance standards is vital in accomplishing the TDCJ mission.

Procedures

I. Ongoing Communication or Counseling

Performance evaluations periodically provide employees with a formal written acknowledgment of their job performance and a clear understanding of expectations and objectives. Performance evaluations also provide management with information that may be used as a basis for planning work assignments, as a justification for career ladder adjustments, to establish an employee's eligibility for a merit increase in accordance with PD-90, "Merit Salary Increases," to demonstrate a need for training, or to justify disciplinary action for substandard duty performance in accordance with PD-22, "General Rules of Conduct and Disciplinary Action Guidelines for Employees."

In addition to communicating during the performance evaluation process, supervisors are expected to adopt a proactive approach to employee development and engage in regular, candid, and responsive communication with employees. Such communication may include informal discussions in which supervisors periodically: (1) inform employees of their overall performance; (2) provide immediate feedback to employees on specific job performance or conduct; (3) reinforce effective behavior; and (4) identify opportunities for improvement.

If an employee's job performance does not meet standards, the supervisor shall immediately counsel the employee by communicating specific steps the employee should take to improve their job performance. Training and close supervision should be considered in addition to ongoing supervisory counseling.

A. Use of the PERS 401, TDCJ Employee Performance Log

The PERS 401 can assist in the completion of an employee's performance evaluation. A supervisor may use the PERS 401 throughout the year to record issues needing corrective action as well as exceptional achievements, ensuring all entries are objective, job-related, and applicable.

1. When counseling an employee whose job performance does not meet standards, a supervisor shall use the PERS 401 to document dates and notes regarding discussions, expectations, action plans, timelines, and measures to assist the employee in meeting established performance goals. Additional pages may be added to the PERS 401 if needed.

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2. A supervisor is also encouraged to use the PERS 401 to record significant events concerning the job performance of an employee who meets or exceeds performance standards.
 3. A warden or department head may establish supplemental procedures regarding the use of the PERS 401. The warden or department head shall ensure that supplemental procedures are consistently applied to all unit or department employees.
- B. Maintenance of the PERS 401 and Other Counseling or Job Performance Records

A supervisor shall maintain records relating to supervisory files in accordance with PD-55, "Human Resources Records and Files." Such documentation shall not be attached to the employee's PERS 11, Employee Performance Evaluation.

II. Performance Evaluators

Performance evaluators may include a rating supervisor, a senior rater, and a reviewer. The position of the employee being rated shall be considered to determine whether a senior rater or reviewer will be involved in the rating process.

A. Rating Supervisor.

1. The rating supervisor is an employee's first line supervisor or an employee within the line of supervision designated as the rating supervisor by the employee's unit or departmental procedure or by written notice from the warden or department head.
2. The rating supervisor shall complete an employee's performance evaluation when due.

B. Senior Rater

1. The senior rater shall review and sign the performance evaluation. A senior rater is not required if the rating supervisor occupies a division director position or higher. A senior rater is required in all other instances.
2. A senior rater is an employee's second line supervisor or employee within the line of supervision designated as the senior

rater by the employee's unit or departmental procedure or by written notice from the warden or department head.

C. Reviewer

A reviewer may review and sign the performance evaluation. Participation by a reviewer is not required.

1. The reviewer shall be provided the opportunity to:
 - a. Perform this function;
 - b. Have a designee perform this function; or
 - c. Elect to not participate in the evaluation process.
2. If the reviewer elects to participate in the evaluation process, the reviewer shall review and sign the performance evaluation. The reviewer may consult with another supervisor in the employee's line of supervision.

III. Performance Evaluation Intervals

A. Interim Performance Evaluations

1. An interim performance evaluation shall be completed when a rating supervisor is leaving the position and will no longer be the employee's rating supervisor, or an employee is moving to another TDCJ position and is no longer reporting to the same rating supervisor, and the following conditions are met:
 - a. A working relationship of at least 120 calendar days exists between the rating supervisor and the employee; and
 - b. The rating supervisor has not provided an annual performance evaluation for the employee, or it has been more than 120 calendar days since the employee's annual performance evaluation.
2. An interim performance evaluation may be completed to document an employee's qualification for advancement in a career ladder.

3. An interim performance evaluation shall be completed if a district parole officer I or II transfers to a different location prior to receiving their annual performance evaluation.
4. The completion of an interim performance evaluation does not affect the due date of future annual performance evaluations.
5. Interim performance evaluations shall be maintained by supervisors in a supervisory file in accordance with PD-55.

B. Annual Performance Evaluations

1. Due Date Notification

The TDCJ Payroll/Personnel system (PPS) identifies annual performance evaluation due dates and displays them on the Performance Evaluation Status (EVALLS) screen. The initial performance evaluation due date is the employee's anniversary date of employment with the TDCJ, and subsequent performance evaluations are due on the signature date of an employee's previous performance evaluation.

a. The human resources representative shall:

- (1) Access the PPS EVALLS screen in accordance with the *PPS Performance Evaluation Reference Guide* and review each monthly report;
- (2) Notify the appropriate rating supervisor of performance evaluation due dates; and
- (3) Advise the warden or department head on a monthly basis of any past due evaluations.

b. The warden or department head shall take appropriate steps to ensure rating supervisors complete performance evaluations in accordance with the timeframes established in Section III.B.2.

2. Completion Period

A performance evaluation shall be completed within 30 days before or after the one-year anniversary of the signature date of an employee's previous performance evaluation.

- a. If an employee is on leave for 30 consecutive calendar days or less during the completion period, the performance evaluation shall be completed either prior to the employee being placed on leave or after the employee returns to work.

If the completion period expires while the employee is on leave, the performance evaluation shall be completed immediately upon the employee's return from leave.

- b. If the employee is on leave for more than 30 consecutive calendar days during the completion period, the performance evaluation shall be postponed and completed in accordance with Section III.B.3.b.

3. Postponements

a. Change in Assignments

- (1) An annual performance evaluation should be postponed when:

- (a) An employee, whose annual performance evaluation is due, has not worked in a position for a period of at least 120 calendar days; or

- (b) A newly assigned rating supervisor has observed an employee's performance for a period of less than 120 calendar days.

- (2) The rating supervisor and the employee may agree to waive the 120-calendar day observation period, and their signatures and date of signatures on the performance evaluation constitute agreement to the waiver. If the 120-calendar day observation period is not waived, the performance evaluation shall be completed immediately after the end of the 120-calendar day observation period.

b. Employees on Leave

A performance evaluation for an employee who is on leave for more than 30 consecutive calendar days during the

evaluation completion period shall be postponed until after the employee returns to work.

(1) If the employee is out on leave for less than 120 consecutive calendar days, the performance evaluation shall be completed within 30 calendar days of the employee's return to work.

(2) If the employee is out on leave for 120 consecutive calendar days or more, the performance evaluation shall be completed no earlier than 90 calendar days after the employee returns to work and no later than 120 calendar days after the employee returns to work.

c. Rating Supervisor Responsibilities

The rating supervisor shall inform the employee and the appropriate human resources representative if a postponement of the performance evaluation is necessary.

d. Human Resources Representative Responsibilities

The human resources representative shall indicate the postponement of the evaluation on the PPS Performance Evaluation Update (EVALU) screen in accordance with the *PPS Performance Evaluation Reference Guide*.

e. Effect on Future Performance Evaluations

The next evaluation will be due one year from the employee's signature date on the postponed evaluation.

IV. Completing the PERS 11, Employee Performance Evaluation

The PERS 11 shall be completed in accordance with the following guidelines:

A. Part I - Administrative Data

The human resources representative shall complete Part I of the PERS 11, sections one through seven, based on information provided in the PPS EVALU screen.

1. If the performance evaluation was postponed, the rating supervisor shall ensure that "Postponed to (date evaluation was provided to employee)" is noted above the "To" in section two, "Period of Report."
 2. If an employee has only worked for the rating supervisor for a portion of the evaluation period, a statement may be included in the written justification area to clarify the actual period of supervision.
- B. Part II.A - Essential Functions
1. Identification of Essential Functions

The human resources representative shall provide the rating supervisor access to a PERS 11 with the employee's essential functions pre-printed on the PERS 11.

If an employee performs essential job functions that are not included in the current job description, the rating supervisor shall identify and prepare a list of the additional job functions on an additional sheet of paper for discussion with the senior rater and human resources representative prior to distribution. The rating supervisor shall:

- a. Indicate there are additional essential functions by checking the "No" checkbox in Part II.A of the PERS 11;
- b. Complete the performance evaluation using the essential functions on the employee's current job description; and
- c. Send a copy of the completed performance evaluation, the current job description, and the additional essential functions to the unit or department human resources representative or regional human resources coordinator.

The human resources representative or regional human resources coordinator shall review the suggested additional essential functions with the rating supervisor before contacting Employee Classification, Human Resources Division for assistance with reviewing the suggested additional essential functions and revising the job description, if required, in accordance with PD-93, "Employee Classification."

2. Rating the Performance of Essential Functions

The rating supervisor shall indicate which rating most accurately describes the employee's overall performance of the essential function listed. An employee's performance rating for one essential function shall not affect the employee's performance rating for another essential function, either positively or negatively.

a. When a rating supervisor is rating the performance of an employee whom the rating supervisor has supervised for only a portion of the evaluation period, the rating supervisor shall consider the ratings on an interim performance evaluation if:

- (1) The interim performance evaluation was completed within the annual period being reviewed; and
- (2) The employee is in the same position the employee held at the time of the interim performance evaluation.

Consideration of the ratings on an interim performance evaluation allows the rating supervisor to make an accurate assessment of the employee's performance for the complete period of evaluation.

b. If the employee does not perform an essential function, the rating supervisor shall:

- (1) Note the following next to the essential function: "Does Not Perform This Function";
- (2) Check the "No" checkbox in Part II.A of the PERS 11;
- (3) Complete the performance evaluation based on the essential functions performed by the employee;
- (4) Discuss the evaluation and removal of the essential function with the senior rater and division director for approval; and
- (5) If approved, send a copy of the completed performance evaluation, the current job description,

and the request to remove an essential function to the department human resources representative or regional human resources coordinator.

The human resources representative or regional human resources coordinator shall review the essential functions with the rating supervisor before contacting Employee Classification, Human Resources Division for assistance with reviewing the essential functions and revising the job description, if required, in accordance with PD-93.

C. Part II.B - Standards of Conduct

The rating supervisor shall indicate whether the employee has adhered to the expected standards of conduct described in PD-22. The rating supervisor shall indicate "no" if the employee has received a disciplinary action within the evaluation period and identify the specific rule violation and disciplinary action imposed in the area provided for comments within this section.

D. Part II.C - TDCJ Safety Policy

The rating supervisor shall indicate whether the employee has adhered to the provisions in ED-10.61, "TDCJ Safety Policy." If not, the rating supervisor shall identify the deficiency and the corrective action taken in the area provided for comments within this section.

E. Part II.D - Fraud Risk Assessment

This section applies to all employees in salary groups B22 or C5 and above. The rating supervisor shall indicate whether an employee has proactively addressed the potential of fraud in the discharge of the employee's assigned duties. If "no," the rating supervisor shall identify the deficiency and the corrective action taken in the area provided for comments within this section.

F. Part II.E - Supervisory Functions

If the employee's essential functions include supervisory functions, the rating supervisor shall complete this section.

1. Time Management, Training, and Counseling Functions

The rating supervisor shall rate the employee's overall performance of time management, training, and counseling functions.

2. Equal Employment Opportunity (EEO) Support

The rating supervisor shall indicate whether a supervisor has adhered to the TDCJ EEO policies, PD-12, "Equal Employment Opportunity," PD13, "Sexual Harassment and Discourteous Conduct of a Sexual Nature," and PD-31, "Discrimination in the Workplace." If not, the rating supervisor shall identify the deficiency and the corrective action taken in the area provided for comments within this section.

G. Part III - Performance Description

1. Justification of Ratings

A rating supervisor shall provide written justification for ratings of "needs much improvement," "needs some improvement," and "exceeds standards." The annual performance evaluation shall not contain an assessment rating of "needs much improvement" unless the employee received ongoing documented supervisory counseling in the area requiring improvement.

2. Additional Comments

Additional comments made by the rating supervisor shall be limited to one page. Additional comments may include recognition of the employee's performance of duties that are not an essential function; for example, being a qualified Spanish interpreter, an alternate grievance investigator, or a collateral duty safety officer. The page shall include the following:

- a. Employee's name;
- b. Employee's payee identification number;
- c. Period of report;
- d. The rating supervisor's signature and date of signature;

- e. A space for the senior rater's signature and date of signature;
- f. If applicable, a space for the reviewer's signature and date of signature; and
- g. A space for the employee's signature and date of signature.

3. Supporting Documentation

Documents from a supervisory file, such as commendations or counseling documentation, shall not be attached to the original PERS 11. However, documentation maintained in a supervisory file may be used to support the performance rating determinations.

V. Performance Evaluation Review Process

Information related to an employee's performance evaluation shall be limited to authorized personnel who require the information on a need-to-know basis for the implementation of their official duties.

A. Discussion with Senior Rater or Reviewer, if applicable

1. Rating Assessments

After the rating supervisor has completed a draft of the PERS 11, the rating supervisor shall discuss the proposed performance evaluation with the senior rater and reviewer, if applicable, before the rating supervisor provides the evaluation to or discusses the evaluation with the employee.

- a. The rating supervisor, senior rater, and reviewer, if applicable, shall ensure the assessment of the employee's performance is in compliance with the TDCJ's EEO policies by determining that:
 - (1) The assessment is objective;
 - (2) The assessment is based on the employee's job-related performance; and
 - (3) The standards used to determine the performance ratings are consistent with those used for other employees within the unit or department.

- b. The senior rater shall be the final authority to determine which rating assessment is the most objective and consistent with standards used for other employees within the unit or department. That assessment shall be the one reflected on the final PERS 11 presented to the employee.

2. Signatures

After the final ratings have been assessed, the rating supervisor, senior rater, and reviewer, if applicable, shall sign and date the PERS 11 before discussing the ratings with, or providing the form to, the employee.

3. Comments

The senior rater and reviewer may provide comments to support the employee's rating assessments on the PERS 11 or on a separate page. If the rating supervisor already provided additional comments on a separate page, the senior rater's and reviewer's comments shall be included on that same page. If the rating supervisor did not provide additional comments on a separate page, the senior rater and reviewer may provide additional comments on a separate page in accordance with Section IV.G.2. The senior rater and reviewer shall sign and date any separate page on which additional comments are provided. The separate page shall include a space for the rating supervisor's signature and date of signature and the employee's signature and date of signature.

- B. Discussion with Employee

After the rating supervisor, senior rater, and reviewer, if applicable, have signed and dated the PERS 11 and any attachments, the rating supervisor and/or senior rater shall discuss the performance evaluation with the employee.

Discussion of all aspects of an employee's job performance is required for a complete review. The employee's accomplishments shall be recognized, improvement encouraged where it is needed, and goals set for the next review period. Any differences the rating supervisor, senior rater, or reviewer may have had regarding the employee's rating assessments shall not be discussed.

C. Employee Comments and Signature for Performance Evaluation

1. Immediately after discussing the employee's job performance, the rating supervisor or senior rater who met with the employee shall advise the employee of the following:
 - a. The employee may indicate in the employee comments section whether the employee agrees or disagrees with the performance evaluation. The employee may provide additional comments on issues covered by the current performance evaluation.
 - b. The employee's signature on the performance evaluation acknowledges receipt of the PERS 11; it does not indicate agreement with the performance assessments.
 - c. If the employee provides comments on the PERS 11, the employee shall sign and date the PERS 11. If the employee provides additional comments on an attachment, the attachment shall be limited to a single page and include the heading "Employee Comments," the employee's printed name, payee identification number, signature, and date of signature.
 - d. Only comments submitted by the employee within three workdays from the discussion date shall be attached to the PERS 11. If the rating supervisor or senior rater who conducted the discussion is not available, the employee may submit comments to the human resources representative.
2. If an employee refuses to sign the PERS 11, the rating supervisor or senior rater who held the discussion shall explain that the employee's signature only indicates receipt of the PERS 11, not agreement with the performance ratings.

If the employee still refuses to sign the PERS 11, the rating supervisor or senior rater shall record on the employee's signature line the employee's refusal to sign, the date of the discussion, and initial the PERS 11 above the employee signature line.

D. Confidential Information Agreement

The TDCJ's Information Resources Security Program requires all users to adhere to security standards to protect TDCJ information resources, in accordance with ED-15.08, "TDCJ Information Resources Security." As part of satisfying this requirement, the Confidential Information Agreement on the PERS 11 shall be read and signed by the employee when reviewing the annual performance evaluation.

E. Submission to and Review by Human Resources Representative

After the performance evaluation discussion and all comments have been received from the employee, the rating supervisor or senior rater shall submit the PERS 11 and employee comments to the human resources representative. The human resources representative shall review the PERS 11 to ensure the document has been accurately completed, to include:

1. The employee's name and payee identification number on all pages;
2. Written justification for ratings of "needs much improvement," "needs some improvement," and "exceeds standards";
3. Removal of all unnecessary attachments; and
4. The employee's signature on the signature line of the PERS 11, unless the employee refused to sign, and the employee's signature in the space indicated for the Confidential Information Agreement.

VI. Maintaining and Distributing Documentation

A. Documents Developed During Evaluation Process

The rating supervisor shall ensure all PERS 11 forms and comments, including drafts of such documents, are maintained in a secure area prior to the discussion with the employee in order to prevent unauthorized access.

B. Interim Performance Evaluations

After the human resources representative has reviewed an interim PERS 11, the human resources representative shall provide one copy to

the employee and provide the original form to the employee's supervisor. The supervisor shall maintain the interim PERS 11 in a supervisory file in accordance with PD-55.

C. Annual Performance Evaluations

After the human resources representative has reviewed an annual PERS 11, the human resources representative shall:

1. Enter the appropriate data into the PPS EVALU screen in accordance with the *PPS Performance Evaluation Reference Guide* within 21 calendar days of the date the employee signed or refused to sign the PERS 11.
2. Distribute the PERS 11 within 30 calendar days from the date indicated on the employee's signed or refused to sign performance evaluation.
 - a. The original PERS 11 and attachments shall be forwarded to Employee Services, Human Resources Division, for imaging into the employee's master human resources file in accordance with PD-55;
 - b. One copy of the PERS 11 and attachments shall be forwarded to the employee; and
 - c. One copy of the PERS 11 and attachments shall be retained in the employee's unit or department human resources file.

D. Employee Moving to Position with Different Rating Supervisor

When an employee moves to a position with a different rating supervisor, the human resources representative at the losing unit or department shall ensure that:

1. A copy of the employee's interim PERS 11 is forwarded to the new rating supervisor under separate cover for maintenance in a supervisory file; and
2. A copy of the employee's current annual PERS 11 is included in the employee's unit or department human resources file when the file is forwarded to the gaining unit or department, or is forwarded under separate cover within 30 calendar days of the employee's move.

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The human resources representative at the gaining unit or department shall maintain the evaluation in the employee's unit or department human resources file.

VII. Grievances

The TDCJ encourages an employee to discuss negative performance ratings with the employee's rating supervisor. However, an employee who is dissatisfied with a performance evaluation rating may file a grievance in accordance with PD-30, "Employee Grievance Procedures."

If a performance evaluation rating is changed as a result of a grievance proceeding, a new PERS 11 shall be completed. The PERS 11 shall be clearly marked "Corrected Copy" and distributed in accordance with Section VI.C.2. Upon receipt of the corrected PERS 11, Employee Services, Human Resources Division, shall ensure the corrected copy is filed on top of the original copy of the performance evaluation. PERS 11 forms and related documents that have been grieved shall remain in the employee's master human resources file or the employee's unit or department human resources file.

VIII. Maintenance of Documentation

An executed PERS 11 and attachments are considered official state records and shall be stored, managed, and disposed of in accordance with the TDCJ *Records Retention Schedule* and ED-02.29, "Records Management."

IX. Forms/Documents

The related forms and documents listed below are available by following the hyperlink.

- A. [PERS 401](#), Employee Performance Log
- B. [PERS 11](#), Employee Performance Evaluation

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