

Guidelines for Writing Performance Objectives

1. Start with the word “To.” Follow it with an action or accomplishment verb.

Hint: Describe the primary result, not the activities needed to accomplish the result.

2. Specify a single measurable result to be accomplished. Select a single key measurement that is an overriding indicator of the desired result.

Hint: If two aspects of an objective seem critical and of equal value, consider specifying two objectives, not one.

3. Be as specific and quantitative as possible. The objective must be measurable or verifiable.

Hints: Use something that can be measured or quantified, if possible (e.g., reduce the turnaround time for XYZ by 10%, increase the number of clients placed in unsubsidized employment by 7%).

If the objective is not quantifiable, use something that is clearly observable or verifiable as a measure of accomplishment (e.g., develop and implement a cross training program for the division, or place all application forms for licenses on the web).

4. Specify the target date or time span for completion.

Hints: Do not include all action steps and dates, only the completion date.

If the beginning or completion of the necessary work is contingent on something else, specify the completion date as a time span (e.g., complete XYZ, 5 months after approval of ABC).

If the size and scope of the work required precludes completion within the rating period, specify the phase or portion that will be completed during the rating period rather than the full project.

5. Specify costs or resources required.

Hints: If the accomplishment is not dependent on additional resources, so state (e.g., without additional resources).

If the accomplishment reflects a shift in priorities/resources, so state (e.g., using the resources of the LMN unit, previously devoted to performing internal audits)

6. Specify only the what and when. Do not specify the how or why.

Notes: The objective itself should not contain the details of how it will be accomplished. If necessary, details should be specified in an operational or action plan which can be modified as better alternatives or barriers are encountered.

The objective should not contain or express the rationale (or why). If such information is necessary, it should be described in an attachment, not expressed in the objective (e.g., the objective should not be expressed as 'Broaden worker skills to provide better customer service.' Instead, the objective should state, 'To develop and implement a cross training program for employees in Units A and B.'

- 7. The objective should support or be compatible with the higher level plans of the organization.**
- 8. The objective should be realistic and attainable, but represent a significant stretch or challenge.**

Sample Statements of Performance Objectives

Objectives must be stated in a manner that permits clear identification/assessment of the results to be attained. The following pairs of statements illustrate common inadequacies and preferred alternatives.

- **Original:** *To improve the condition of housing rental units.*

Restated: To renovate 300 existing housing rental units by the end of this fiscal year using existing staff.

- **Original:** *To plan for the future IT staffing requirement of the department.*

Restated: To develop and implement a specific departmental plan to fill future IT vacancies, by the third quarter, with no increase in implementation cost.

- **Original:** *To increase the division's revenue from leases of property.*

Restated: To increase the proportion of division revenues from leases of property from 10% to a minimum of 40% of the division's total budget, by the end of the fiscal year.

- **Original:** *To provide better customer service by using the capabilities of the Internet.*

Restated: 1. To develop and install a web page that provides information on departmental services by the end of the second quarter.

2. To develop and install an Internet service that permits the electronic filing of all departmental forms used by the public to apply for services, by the end of the third quarter, at an implementation cost not to exceed \$10,000.

- **Original:** *To improve customer service by upgrading employee skills.*

Restated: To have at least 5 employees qualified in each of the 3 identified activities by September 30, at a cost not to exceed 80 supervisory hours and 400 worker hours.

- **Original:** *To provide faster response to customer inquiries on the status of their applications.*

Restated: To decrease response time to customer inquiries on the status of their application from an average of 10 hours down to 1 hour, by the end of the first quarter, with no increase in personnel cost.

- **Original:** *To gain a better understanding of the division's customer needs.*

Restated: To complete a study of the priority needs of the division's customers, by 3/15/02, without incurring additional cost and while maintaining the same level of customer service.

Scoring the Performance Objectives and Program Accomplishments

A. Types of Objectives

Two types of objectives are recognized in the Performance Objectives and Program Accomplishments Component.

1. Maintenance/enhancement of current operations (in terms of the quantity or quality of existing programs or services), and
2. Development and installation of new programs or initiatives, completion of special projects, etc.

Performance objectives should be scored by the scope and difficulty of the accomplishment, and the skill and effort involved in its attainment. The potential points for each result should be based on the benchmark descriptors in the *Results Evaluation Guide* (Appendix D).

B. Conditions

The following conditions should be followed when utilizing this component:

1. In all cases, there must be a discussion of the objective and it must be clear from the beginning of the rating period:
 - a. What weight will be accorded to the Performance Objective and Program Accomplishments Component,
 - b. How the results will be evaluated and scored, and
 - c. The significance of attaining or failing to attain each of the specified results (record relevant information in Section 7a of Form B1, B2, B3).
2. The difficulty, skill and effort required to achieve the result (as outlined in the *Results Evaluation Guide*) must be considered in determining the points for the result.
3. There must be a reduction in points for a specific planned objective that was not completed or is not on schedule at the end of the rating period. This may (or may not) affect the manager's overall score on the Performance Objective and Program Accomplishments Component.
4. Additions, deletions, or changes to the performance objectives established at the beginning of the evaluation period must be discussed with the Ratee prior to making the change.
5. The final score should be based on the extent of the accomplishment attained.

C. Scoring the Performance Objectives and Program Accomplishments Component

1. Points for Performance Objectives

a. Completed Performance Objectives

Completed objectives should receive the full point value (300, 400 or 500 points) shown on the *Results Evaluation Guide (Appendix D)*. (Accomplishments which are 95% complete and for which completion can reasonably be expected within a short period of time should be awarded the full value.)

b. Partial Completion of Performance Objectives

Partial credit may be provided for substantial progress (i.e., at least 50% done) in enhancements and/or projects that would, if fully completed, reflect 400 or 500 points. The adjusted points should be computed by multiplying the full point value by the percent completed.

2. Final Score

a. Scoring Options

Departments may employ different approaches to score this component, such as

- 1) Crediting fully the most difficult accomplishments attained, provided that satisfactory results or progress were attained on other critical objectives;
- 2) Establishing only one objective for each manager, and scoring it based on the difficulty of attainment in accordance with the *Results Evaluation Guide*;
- 3) Other, more individualized, approaches;

provided the Ratee is fully informed about the approach that will be used, at the beginning of the rating period when the objectives are being determined.

b. Variables to Consider in Evaluating Results

Overall scoring is somewhat unstructured because of the large number of variables that must be considered in evaluating results. These include:

- 1) External events and situations that affect programs and resource deployment or the Ratee's ability to work on the objective (e.g., work that must be performed by other organizational units is delayed, unexpected major assignments that require substantial time, etc.).
- 2) Objectives that may need to be added, deleted or modified during the year, to reflect current needs.
- 3) The different needs of different departments and programs which make it counterproductive to require all programs to have a set number of objectives and

results for all managers.

- 4) The relative importance of Program Objectives and Program Accomplishments, and Overall Management may vary from manager to manager, depending on the needs in their programs.
- 5) Differing degrees of skill and effort are required to achieve different objectives, and thus different amounts of credit should be awarded for their attainment.
- 6) The importance/criticality of attaining specific results may differ and their priority (in relation to other program needs) and thus the significance of their attainment will vary.
- 7) Work on some objectives may still be in progress at the end of the rating period (i.e., the result has not yet been fully attained).

c. Determining the Final Score

The point range for the Performance Objectives and Program Accomplishments Component is 100-500 points (paralleling the points attainable in the Overall Management Component).

A suggested rating guide is provided below and on the *Form B Summary*.

Performance Band	Characteristics	Final Score
Exceptional	At least one 500 point objective* completed. Completion or satisfactory progress on all other <u>critical</u> ** objectives.	500
Exceeds Expectations	At least one 400 point objective* completed. Completion or satisfactory progress on all other <u>critical</u> ** objectives.	400
Fully Meets Expectations	Completion or satisfactory progress on all other <u>critical</u> ** objectives.	300
Needs Improvement	Critical** results do not meet expectations (e.g., fall off in quantity/quality of essential services, insufficient progress on projects).	200
Unsatisfactory	Objectives not attained; inadequate progress made.	100

*As defined in the *Results Evaluation Guide*

**As indicated in Section 7a of Form B1, B2, B3

Results Evaluation Guide

Type of Result	Points		
	300	400	500
Maintenance/enhancement of current operations	<p>Made necessary improvements in the current program in order to meet quantity and quality expectations despite increase in workload or target group, new requirements, etc.</p> <p>And/or</p> <p>Maintained current functioning of the essential aspects of the current program at a satisfactory level despite some obstacles such as reduced resources (e.g., frozen positions) or a modest increase in workload (e.g., 5-10%) or other disruptions such as a reorganization</p>	<p>Substantially improved operations of the current program, as measured by two or more indicators of program success</p> <p>And/or</p> <p>Maintained current functioning of the program with no reduction in significant indicators of success (e.g., the same degree of customer satisfaction, timeliness, accuracy, etc.) despite the major obstacles such as need to substantially overhaul methods (e.g., automate a significant process) or substantially reduced resources</p>	<p>Completed revision of a significant, complex, current program by capitalizing on new technology, meeting needs in different/improved ways; substantial improvement in cost/benefits ratio; or comparable fundamental changes, etc.</p>
Development/installation of new program and/or completion of special project	<p>Planned, developed and implemented several new activities in order to meet client or agency needs</p>	<p>Planned, developed and implemented a significant new service or activity in order to meet client or agency needs</p>	<p>Planned, developed and implemented an extensive, new service or operation in order to meet client or agency needs</p>
Significant Characteristics	<ul style="list-style-type: none"> • Modest amount of planning • Some skill and effort in design and implementation • Informational activities for internal/external customers and affected individuals 	<ul style="list-style-type: none"> • A change in view • Significant planning • Significant skill and effort in design and implementation, and • Leadership within the organization or education of external customers 	<ul style="list-style-type: none"> • A new vision • Substantial planning • Substantial skill and effort in design and implementation • Overcoming significant barriers, inter-agency or inter-divisional coordination, and/or addressing significant new external requirements through <ul style="list-style-type: none"> ~ Substantial leadership within the organization and/or ~ Marketing to and education of external customers.

Maintenance/enhancement or new programs/projects that do not reflect at least the characteristics of a 300 point result, as described above, may be assigned but should not be reported on Form B1, B2, B3; or credited in the EMCP Performance Evaluation System.

General Information on Variable Pay

(also known as Pay for Performance)

The linking of pay with performance is long standing and widespread in the private sector. Contemporary literature shows that:

- High-performing companies tend to devote substantial attention and resources to differential rewards that are tied to performance and business goals.
- Pay for performance programs that are linked to well designed and well administered organizational goals encourage desired behavior and high performance. They also contribute to the success of the organization and foster a climate focused on performance rather than entitlement.
- More systems fail because of how they are administered rather than how they are designed. Ratings and rewards that are perceived as bona fide reflections of superior performance are essential for the program to have a positive impact on performance and to avoid demoralization of the group as a whole.
- No system will succeed without commitment from the top and from those who actually do the ratings.

Pay for Performance Methods

Pay for performance programs use different methods to determine the type and amount of payouts. These typically include:

- Increases to base pay (frequently called merit increases)
- Cash bonuses (lump sum payments which do not affect base pay)
- Combinations of merit increases and bonuses

Both types of increases have advantages and disadvantages:

- Merit increases tend to retain appropriate pay relationships with others in the organization but are most costly and extend higher pay, based on past performance, into the future.
- Bonuses best reflect the concept of pay commensurate with current contribution/performance but, because they do not increase base pay, they perpetuating current pay relationships within the group, rather than increasing the overall compensation of high performers over time. Pay for group members also tends to fall behind the pay of other workers in the organization whose pay adjustments increase base pay.
- Combinations can minimize the downside of either type, but are also more complicated to administer.

The following criteria are essential for a successful Pay for Performance Program

- Ratings and rewards must be perceived by all as truly linked to performance.
- Ratings and rewards must be provided as consistently as possible within and between departments, to avoid negative effects. Thus, the system must be designed and administered to promote consistency and objectivity in ratings between and within departments.
- Ratings should be based on pre-established criteria so that the link between performance and reward is clear and certain.
- Top management must make a commitment to successful implementation, including use of statewide criteria and objective rating, because both are essential to success.
- The criteria for success should be linked to organizational goals rather than limited to good behavior, since the objective is to promote improved state programs and services to the public.

QUESTIONS AND ANSWERS

Performance Expectations and Ratings

- Q1** When should Raters begin work on the expectations for the evaluation period?
- A1** In June, prior to the evaluation year.
- Q2** Is it acceptable to give the Overall Management Component 100% of the weight and none to the Performance Objectives and Program Accomplishments Component?
- A2** Yes. Using the Performance Objectives and Program Accomplishments Component is optional, however, using the Overall Management Component is required.
- Q3** What if my supervisor (Rater) sets unrealistic expectations/objectives for me?
- A3** If possible, disagreements on expectations/objectives should be resolved at the beginning of the rating period. You should inform your supervisor that the expectations/objectives are unrealistic and explain why. If the expectations/objectives are not revised, document the discussion on the *Discussion Notes (Form D)*. Monitor progress during the evaluation period and, at an appropriate time, recommend that the expectations/objectives be modified. Also document this discussion. If the objectives have not been modified and you receive an overall rating that you feel is unfair, submit an *Employee Statement of Disagreement (Form E)* stating your disagreement, and why you disagree.
- Q4** Shouldn't the objectives and weights utilized for evaluation purposes be consistent with a strategic plan? If so, what can the EMCP employee do if there is no strategic plan?
- A4** Presence of a departmental strategic plan would be ideal, but may not be consistent with reality. If there is no strategic plan, you might want to consider using the development of a strategic plan for your own program as one of your objectives for the evaluation period.
- Q5** Do objectives have to tie in existing measures of effectiveness used in the Planning Programming Budgeting System?
- A5** Only if they are appropriate. PPB measures of effectiveness and targets are generally intended to measure the overall effectiveness of your program. The performance objectives established under the EMCP Performance Evaluation System typically involve a specific function or improvement and a specified period of time. Consequently, different measures may be appropriate.
- Q6** There are accomplishments worth pursuing, even if there is no certainty of success (e.g. submitting a grant proposal). However, under the EMCP Performance Management System it would not make sense to propose that type of accomplishment because I could fail no matter how good a job I actually do.
- A6** That is true only if you define your objective as "getting the grant." You need to rethink how "success" can be defined. In the example listed above, success should be defined as

submitting a solid proposal which meets all of the specified criteria rather than obtaining the grant. Your proposal could be outstanding, but another proposal might still be better.

Q7 Does the system encourage setting low standards?

A7 The system is not intended to encourage setting low standards. Excellence in Overall Management is rewarded with more points (5 points) than average performance (3 points). Performance objectives which are difficult to achieve are awarded more points than those which are easier to achieve. Thus, while an EMCP manager may propose easy-to-achieve performance objectives, their attainment will only provide an average rating. EMCP employees who aspire to receive better than average ratings enhance their opportunity to achieve the higher ratings by recommending and accomplishing difficult objectives and by demonstrating excellence in the management of their programs. Also, the Rater is responsible for approving the objectives for the employee; for example, a Rater may require a more demanding performance objective than that proposed by the employee.

Q8 I need to motivate my staff to achieve the expectations set for me. How can I motivate my staff?

A8 For many employees, motivation is influenced heavily by a sense of achievement, recognition, challenge, interest, a sense of responsibility, etc. Try to consider these elements in gaining their support. You may also find, as have others, that the simple existence of specific goals or targets is a motivating factor. In any event, your expectations of them should be identified in the beginning of the rating period.

Q9 I need to have adequate personnel and other resources in order to manage my program well and/or meet the objectives set for me. How are proper "resources" factored into the evaluations?

A9 Resources required and those available should be considered in planning your operations and setting your objectives. Serious resource deficiencies which affect your ability to maintain your operations or to accomplish mandated objectives should be carefully considered (e.g., Should certain regular activities be curtailed, should the objective be modified? Can the objective be accomplished in a different way that requires less resources? etc.) Discuss your recommendations with your supervisor and document them on the *Discussion Notes (Form D)*, as appropriate.

Q10 Can applicable competencies, objectives and/or weights be changed during the evaluation period due to changes in circumstances?

A10 The situation should be discussed with your supervisor and documented in the *Discussion Notes (Form D)*. Changes to the competencies, objectives and/or weights should be implemented, if appropriate. Do not wait until the end of the evaluation period to discuss changes that should have been made during the evaluation period.

Q11 How can I be evaluated fairly when new requirements come up frequently?

A11 It might be appropriate to give the Overall Management Component of your evaluation more weight than the Performance Objectives and Program Accomplishments

Component. In addition, it may also be appropriate to give the factor "Facilitating and Managing Change" substantial weight.

Q12 What if I work for an agency that is administratively attached to a department?

A12 Your performance objectives and evaluation will be approved by whoever you report to, whether it be a board, commission, or a particular individual; and you will be rated by that same group or individual. While the department head can question ratings to ensure consistency with statewide guidelines and standards, he/she cannot dictate the direction of the program (see HRS §26-35).

Q13 What role, if any, do higher level supervisors play in the evaluation process?

A13 Supervisors above the level of your immediate supervisor have the right to review the ratings given to you and require reconsideration. Therefore, it is recommended that the Rater discuss the ratings with his/her superiors, where appropriate, prior to finalizing the ratings.

Q14 Under the PAS system, we are being required to do a write-up for overall ratings of "Exceeds Expectations". Is a write-up required under this system?

A14 No, not at this time, but the Rater and Ratee should be able to explain why the score is appropriate. It is expected that the management-specific benchmark descriptors and accomplishment categories will provide sufficient, directly applicable criteria so that additional narrative explanations are not needed.

Pay and Performance Incentives

Q15 Who negotiates the pay increases for EMCP employees?

A15 EM pay adjustments are not negotiated. By statute, they are determined by the chief executive. Section 89C-2, HRS, specifies that the Governor may make adjustments for EMCP employees within the State executive branch provided that they are consistent with the merit principle; are uniformly applied to all EMCP employees to the extent practicable; but variable adjustments based on job performance or other job criteria are not precluded.

Moneys are appropriated by the legislature. It is anticipated that funds, at least comparable to the funds allocated for negotiated collective bargaining increases, will continue to be appropriated for EMCP pay adjustments.

Q16 If I receive a bonus under the variable pay program, will it be taxed at the same rate as normal income?

A16 Yes, but the payment may boost the employee into a higher tax bracket for that pay period.

Q17 Will bonuses count towards retirement?

A17 The intent is that bonuses be treated as regular income, so it would count toward EMCP employees' "high three" or "high five".

Q18 How can programs budget for "variable" adjustments?

A18 If funds are available for adjustments, monies are appropriated at the State level.

Q19 The system addresses performance evaluation for compensation purposes. How is substandard performance to be addressed, other than for compensation purposes?

A19 In the same fashion as for other civil service employees. Please refer to the State of Hawaii Personnel Rules and the PAS Supervisory Manual.

Q20 Sometimes employees do well one year but do poorly the next year. As such, doesn't it make more sense to give bonuses rather than salary increases to base pay?

A20 Bonuses serve well as an immediate means of rewarding employees for services already rendered. However, providing only bonuses over an extended period would be detrimental to EMCP employees because their base salaries would lag in comparison to other employees. A combination of across the board increases plus bonuses, or variable increases to base would be preferable.

Rating Period

Q21 Under the PAS system, the annual performance evaluation must be completed prior to the end of the rating period. Is this true of the EMCP Performance Evaluation System?

A21 No, the performance evaluation is to be completed after June 30 of the applicable year.

Q22 What should be done in situations where an employee is first appointed to an EMCP position toward the tail end of the evaluation period, and must serve a new or initial probationary period?

A22 The probationary period need not coincide with the July 1 to June 30 rating period. Raters are encouraged to conduct a three-month appraisal of their probationary employees to let the employee know how he/she is performing early on. Subsequently, the six-month probationary evaluation must be completed to determine if the employee passes and gains "regular status" in the job.

Q23 What should be done in situations where an EMCP employee is away from the job for an extended period?

A23 A partial annual evaluation should be done if the employee worked more than three months during the evaluation period

Other

Q24 Can I appeal my evaluation if I believe that it is unfair?

A24 No, there is no appeal process (see p. 20), however an employee who does not believe that their performance evaluation rating is consistent with the guidelines, may attach an *Employee Statement of Disagreement (Form E)* to the performance evaluation form.

Q25 How do I obtain the EMCP performance evaluation forms and instructions?

A25 The EMCP performance evaluation forms and instructions are found on the DHRD website under Position Classification and Compensation. The EMCP evaluation forms are generated by the Rater and saved electronically so the final rating will be automatically calculated on the excel spreadsheets.

REFERENCES

Hawaii Revised Statutes Adjustments for Excluded Civil Service Employees

§89C-2 Adjustments authorized; limitations, restrictions. Each appropriate authority may make adjustments for their respective excluded employees subject to the following guidelines and limitations:

- (1) The compensation of excluded employees, whose pay is presently limited or fixed by legislative action, or prescribed by a salary commission, shall not be adjusted under this chapter and shall continue to be limited or fixed by the respective legislative body or salary commission;
- (2) The compensation of excluded employees exempt from civil service coverage, whose pay is set at the discretion of the appointing authority, shall continue to be adjusted at the discretion of the appointing authority from funds allowed for this purpose;
- (3) Any adjustment made for excluded civil service employees shall be consistent with the merit principle and shall not diminish any rights provided under chapter 76;
- (4) For excluded employees under the same classification systems as employees within collective bargaining units, adjustments shall be not less than those provided under collective bargaining agreements for employees hired on a comparable basis;
- (5) For excluded employees other than those under paragraph (4), adjustments shall, to the extent practicable, uniformly apply to every excluded employee within a homogeneous grouping, such as, cabinet members or managerial employees, to ensure fairness. This does not preclude variable adjustments based on performance or other job criteria and specific adjustments warranted based on the nature of work performed or working conditions; and
- (6) No adjustment shall be made in benefits provided under chapter 88 unless specifically authorized by that chapter, or with respect to any other matter that the legislature may specifically prohibit or limit by law.

§89C-3 Adjustments for excluded civil service employees. (a) Each jurisdiction shall provide adjustments for its respective excluded civil service employees based on recommendations from its respective personnel director.

(b) In formulating recommendations to the appropriate authority, the respective director shall:

- (1) Establish procedures that allow excluded civil service employees and employee organizations representing them to provide input on adjustments that are relevant and important to them for the director's approval;
- (2) Ensure that adjustments for excluded civil service employees result in compensation and benefit packages that are at least equal to the compensation and benefit packages provided under collective bargaining agreements for counterparts and subordinates within the employer's jurisdiction; and
- (3) Ensure that proposed adjustments are consistent with chapter 76 and equivalent or not less than adjustments provided within the employer's jurisdiction.

Hawaii Revised Statutes

Performance Management and Tenure for All Employees, Including EMCP

§76-41 Performance appraisal systems; failure to meet performance requirements. (a) There shall be established and maintained performance appraisal systems for the purpose of evaluating the performance of employees in the civil service and improving the employees' performance. The performance appraisal systems shall be the basis for evaluating whether employees in the civil service meet the performance requirements of their respective positions as required in section 76-27. For the purposes of this section, "performance requirements" includes any qualification required for the position such as a license.

(b) An appointing authority may release an employee from the employee's position or discharge an employee from service if the employee fails to meet the performance requirements for the employee's position under the following conditions:

- (1) The evaluation process and its consequences were discussed with the employee;
- (2) The employee was made aware of the employee's current job description and job-related performance requirements;
- (3) The evaluation procedures were observed, including providing the employee the opportunity to meet, discuss, and rebut the performance evaluation and apprising the employee of the consequences of failure to meet performance requirements;
- (4) The evaluation was fair and objective;
- (5) The employee was provided performance feedback during the evaluation period and, as appropriate, the employee was offered in-service remedial training in order for the employee to improve and meet performance requirements;
- (6) The evaluation was applied without discrimination; and
- (7) Prior to the end of the evaluation period that the employee is being considered for discharge due to failure to meet performance requirements, the feasibility of transferring or demoting the employee to another position for which the employee qualifies was considered.

(c) Any civil service employee who fails to meet performance requirements shall have the right to grieve under:

- (1) A collective bargaining grievance procedure that culminates in a final and binding decision by a performance judge pursuant to section 89-10.8; or
- (2) The departmental complaint procedure that culminates in a final and binding decision by the merit appeals board under section 76-14.

The performance judge or the merit appeals board, as the case may be, shall use the conditions in subsection (b) as tests in reaching a decision on whether the employer's action, based on a failure by the employee to meet performance requirements of the employee's position, was with or without merit.

§76-27 Probationary service and other requirements for membership in the civil service. (a) All employees appointed to civil service positions shall constitute the membership of the civil service, but no employee shall be entitled to membership in civil service until the employee has:

- (1) Successfully completed the initial probation period required as part of the examination process to determine the employee's fitness and ability for the position; and
- (2) Satisfied all requirements for employment prescribed by this chapter and the qualifications prescribed by section 78-1.

(b) Upon becoming a member in the civil service, the employee shall be entitled to hold the member's position for the duration of the member's appointment, subject to section 76-46. In addition, civil service employees with permanent appointments, including an employee who has return rights to a position in which the employee has a permanent appointment, shall have layoff rights under section 76-43. All other civil service employees whose appointments have a limitation date shall not have layoff rights and shall be released at the end of their appointments or earlier if there is lack of work, lack of funds, or other legitimate reasons.

(c) To retain membership in the civil service, all employees must continue to demonstrate their fitness and ability for their current positions by meeting all performance requirements of their positions. If an employee fails to meet performance requirements, section 76-41 shall apply.

(d) A member who is promoted or transferred to another position in the civil service may be required to successfully serve a new probation period as part of the examination process to determine the employee's fitness and ability for the new position but shall be entitled to all the rights and privileges of a member of the civil service, except the right to appeal a discharge from the new position (as distinguished from discharge from the service) for inefficiency during the probationary period, in which case the member shall be returned to the former position or a comparable position.

(e) An employee serving an appointment with a limitation date may subsequently be appointed to the same position or a related position in the same class within the department when a permanent position is established or is vacated; provided that the employee was hired initially through civil service recruitment procedures and the period of service as a temporary appointee immediately preceded the appointment to the permanent position. The period of service performed as a temporary appointee may be credited toward the probation period if the appointing authority certifies that the employee has been performing satisfactorily and that the duties the employee has been performing are essentially similar to those required of the probationary appointment. Upon such certification, the period of service performed as a temporary appointee shall be credited toward fulfilling the required probation period and the employee shall serve only the remainder of the probation period, if any.

Hawaii Revised Statutes

Merit Appeals Board Appeal of Adverse Actions for Failure to Meet Performance Requirements, Excluded Employees

§76-14 Merit appeals board; duties, and jurisdiction. (a) The merit appeals board of each jurisdiction shall decide appeals from any action under this chapter taken by the chief executive, the director, an appointing authority, or a designee acting on behalf of one of these individuals, relating to:

- (1) Recruitment and examination;
- (2) Classification and reclassification of a particular position, including denial or loss of promotional opportunity or demotion due to reclassification of positions in a reorganization;
- (3) Initial pricing of classes; and
- (4) Other employment actions under this chapter, including disciplinary actions and adverse actions for failure to meet performance requirements, taken against civil service employees who are excluded from collective bargaining coverage under section 89-6.

(b) Any person suffering legal wrong by an action under subsection (a)(1) or aggrieved by such action shall be entitled to appeal to the merit appeals board. Any employee covered by chapter 76 suffering legal wrong by an action under subsection (a)(2) or (3) shall be entitled to appeal to the merit appeals board. Only employees covered by chapter 76, who are excluded from collective bargaining, suffering legal wrong by an action under subsection (a)(4) shall be entitled to appeal to the merit appeals board. Appeals under this section shall be filed within time limits and in the manner provided by rules of the merit appeals board.

- (c) The rules adopted by the merit appeals board shall provide for the following:
- (1) The merit appeals board shall not act on an appeal, but shall defer to other authority, if the action complained of constitutes a prohibited act that is subject to the jurisdiction of another appellate body or administrative agency or the grievance procedure under a collective bargaining agreement;
 - (2) The merit appeals board shall not proceed on an appeal or shall hold proceedings in abeyance if there is any controversy regarding its authority to hear the appeal until the controversy is resolved by the Hawaii labor relations board;
 - (3) The merit appeals board shall prescribe time limits for filing an appeal that require exhaustion of all internal complaint procedures, including administrative review and departmental complaint procedures, before an appeal is filed; and
 - (4) The merit appeals board shall use the conditions listed in section 76-41(b) in reaching a decision on whether actions taken by the appointing authority based on a failure by the employee to meet the performance requirements of the employee's position is with or without merit.

(d) Notwithstanding the provisions of this section, the merit appeals board shall have the authority to hear and decide appeals pending before the state civil service commission as of June 30, 2002, in accordance with the jurisdictional requirements and procedures applicable to the state civil service commission as of June 30, 2002.

(e) This section shall be construed liberally to determine whether the appeal falls within the jurisdiction of the merit appeals board.

OSHA Regulations

§12-110-2 Employer responsibilities. (a) General duty clause.

- (1) Every employer shall comply with the State laws and standards regarding a safe place of employment and safe practices, and shall do everything reasonable and necessary to protect the life, safety, and health of the employees.
- (2) Employers involved with construction or related activities shall provide safe and healthful work places and practices that protect the employees and the affected general public as well.

Every employer shall effect safe work places and practices by eliminating, mitigating, or protecting against existing or potential hazards. Elimination by design, process substitution, or other appropriate methods is preferred because it obviates the need for further employee protection. Modification, using such methods as engineering or administrative controls, isolation, and guarding, shall be used to reduce existing hazards. When this mitigation is feasible, it shall be affected expeditiously, with personal protective equipment required until an acceptable reduction of the hazard in the situation or condition is reached. Whenever it is not feasible to eliminate or reduce hazards to acceptable levels or where hazards continue to exist, personal protective equipment shall be provided and used.