



**Administrative Instruction  
ICC/AI/2010/002**

Date: 22 December 2010

**Performance Appraisal Rebuttals and Procedures**

In accordance with Staff Rule 104.17(a), the Registrar, in consultation with the Prosecutor, promulgates this Administrative Instruction on Performance Appraisal Rebuttals and Procedures.

**Section 1**

**Purpose**

- 1.1. The purpose of the present Administrative Instruction is to establish panels and procedures for rebuttal of performance appraisals in accordance with Staff Regulation 1.3 (a) and Staff Rule 104.17.
- 1.2. The present Administrative Instruction applies to all staff members serving in the Court on established posts and staff members on positions funded by General Temporary Assistance (GTA) serving appointments of one year, except those staff members serving a probationary period.
- 1.3. It is the responsibility of immediate supervisors to ensure the application of the Court's performance appraisal system and compliance with the objectives of the appraisal system, its deadlines and principles of equity. In cases of disputed performance assessments and/or appraisal ratings, staff members and supervisors are encouraged to seek assistance from the Human Resources Section or, with respect to

the Office of the Prosecutor, HR(OTP), to organize an informal mediation process at any time during the appraisal period. Staff members may also appeal formally to a Rebuttal Panel.

## Section 2

### Rebuttal Panels

2.1. The Prosecutor and the Registrar shall respectively promulgate a list of nine staff members to serve on Rebuttal Panels for the OTP and nine staff members for the other organs of the Court. The staff members on the list shall be divided into three groups as follows:

- (a) Three staff members appointed by the Prosecutor and three staff members appointed by the Registrar;
- (b) Three staff members from the OTP and three staff members from the other organs designated by the Staff Council; and
- (c) Three staff members appointed by the Prosecutor in consultation with the Staff Council to serve as OTP Rebuttal Panel chairpersons and three staff members appointed by the Registrar, in consultation with the Staff Council to serve as Rebuttal Panel chairpersons for other organs.

Each Rebuttal Panel shall consist of three members, one from each group on the list. The Human Resources Officer or her/his designee shall act as the secretary of the OTP Rebuttal Panel, without voting rights. This role is assumed by the Chief, Human Resources (Chief, HR) or his/her designee on Rebuttal Panels for other organs.

2.2. Efforts shall be made to ensure appropriate gender and geographical representation in the composition of the lists of possible panel members.

2.3. Staff members shall be informed in writing of the composition of the promulgated list of members designated to serve on rebuttal panels relevant to the organ within which they are serving.

- 2.4. Rebuttal Panel members shall serve for a two-year term. If a Rebuttal Panel member is unable to continue service on Rebuttal Panels, he/she shall be replaced for the remainder of his/her term by a person appointed or designated in accordance with, as applicable, sub-sections 2.1 or 2.2 above.

### Section 3

#### Rebuttal Process

- 3.1. A staff member who wish to appeal against their performance assessment or rating shall, within 30 (thirty) calendar days of signing the completed appraisal, submit to the competent Human Resources officer a written rebuttal statement setting forth briefly the specific reasons why he/she should have received a different assessment or rating. The rebuttal statement shall also contain the names of the three staff members, one from each group on the list, whom the staff member has selected to serve on the Rebuttal Panel. The immediate supervisor may object once to one of the Panel members selected. In such a case, the staff member shall designate another Panel member from the same group.
- 3.2. Upon receipt of the rebuttal statement, the Secretary of the Panel shall place one copy on the staff member's Official Status File, and shall copy the statement to the staff member's immediate supervisor and second reviewer. The immediate supervisor shall promptly and no later than within 15 (fifteen) calendar days after receipt of the rebuttal statement, submit to the Rebuttal Panel a written statement in reply to the rebuttal statement submitted by the staff member with a copy to the staff member, the second reviewer and the Secretary of the Panel, who shall place it in the staff member's official status file. The second reviewer shall submit to the Rebuttal Panel his/her statement in reply to the staff member's rebuttal statement within 15 (fifteen) calendar days after receipt of the immediate supervisor's written statement.
- 3.3. The Rebuttal Panel may hear the staff member, the immediate supervisor and the second reviewer, and, at the discretion of the Panel, any other staff member(s) who, in the Rebuttal Panel's view can submit information relevant to its review of the performance assessment and/or rating in question. Staff members invited by the Panel are expected to cooperate in the rebuttal process.

- 3.4. The Rebuttal Panel shall submit to the staff member and his immediate supervisor, within 60 (sixty) calendar days of receiving the second reviewer's response to the rebuttal statement, a report setting forth the reasons why the original performance assessment and/or rating should, or should not, be maintained. In this context, the Panel shall evaluate whether the manager's assessment is fair, objective and consistent with the underlying arguments and facts. In the event that an overall rating should not be maintained, the Rebuttal Panel shall designate the new rating on performance evaluation.
- 3.5. In all cases the rebuttal process shall be conducted and concluded without undue delay. However, all deadlines related to the rebuttal process which are specified above may be waived or modified by the Rebuttal Panel in circumstances beyond the control of the staff member and/or designated supervisor involved in the rebuttal process, such as work-related absence or a lengthy leave.
- 3.6. The Rebuttal Panel shall send its report to the staff member with copies to the immediate supervisor, the second reviewer, and the Secretary of the Panel, to be included in the staff member's official status file.
- 3.7. If the Rebuttal Panel is of the view that the original rating should not be maintained, the report shall state what, in the Rebuttal Panel's view, is the appropriate rating of the staff member's performance and provide its reasoning. Subject to any condition specified by the Prosecutor with respect to the performance appraisal of OTP staff members, the findings of the Rebuttal Panel as specified in the report shall be binding.
- 3.8. The rating resulting from an appraisal that has not been rebutted, or from the rebuttal process, shall not be subject to further appeal. However, administrative decisions which stem from any final performance appraisal and which affect the conditions of service of a staff member may be appealed in accordance with Staff Rule 111.1.

Section 4

Final provisions

- 4.1. The present Administrative Instruction shall enter into force on 22 December 2010. It shall remain in force until otherwise amended or repealed.
- 4.2. A review and amendment of these guidelines shall be conducted after one year of their entry into force and thereafter as and when required.



Silvana Arbia  
Registrar

The findings of the Rebuttal Panel as referred to in Section 3.7 shall be binding, subject to the ultimate authority of the Prosecutor where the performance appraisal concerns an OTP staff member.

Date:

Luis Moreno Ocampo  
Prosecutor