

**Department of Behavioral Health  
TRANSMITTAL LETTER**

<b>SUBJECT</b> <b>Reconsideration and Resolution (RCC)</b>		
<b>POLICY NUMBER</b> <b>DBH Policy 730.1A</b>	<b>DATE</b> SEP 26 2018	<b>TL#</b> 321

**Purpose** The purpose of this policy is to provide information on the Department of Behavioral Health (DBH) performance rating review process found in the District Personnel Manual (DPM), Chapter 14, "Performance Management", sec.1415, "Employee Request for Review." DBH has established the Reconsideration and Resolution Committee (RRC)<sup>1</sup> to conduct the reviews in accordance with the DPM. This revision clarifies the procedures and timeframes for a paper review and formal review hearing.

**Applicability.** The policy applies to DBH employees who are eligible for a review of their overall performance evaluation rating pursuant to the DPM Chapter 14, "Performance Management." The regulation may be accessed at <https://dchr.dc.gov/page/electronic-district-personnel-manual-e-dpm> (Electronic-District Personnel Manual [E-DPM]). Career Service probationary employees at DBH are not eligible for the performance rating review.

**Policy Clearance.** Reviewed by affected responsible staff and cleared through appropriate Behavioral Health Authority (BHA) offices.

**Effective Date.** This policy is effective immediately.


**Superseded Policy.** DBH Policy 730.1, same subject, dated October 21, 2016.

**Distribution.** This policy will be posted on the DBH web site in PDF format at [www.dbh.dc.gov](http://www.dbh.dc.gov), accessible by clicking "About DBH" (top section), then choosing "Policies and Rules" and following the policy number. The WORD version is available upon request from the Policy Division, emails: [keri.nash@dc.gov](mailto:keri.nash@dc.gov) or [ana.veria@dc.gov](mailto:ana.veria@dc.gov).

Applicable entities are required to ensure that affected staff is familiar with the contents of this policy.

  
**Tanya A. Royster, MD**  
**Director, DBH**

<sup>1</sup> Performance Rating Review/Reconsideration and Resolution Committee FAQ's  
[https://dchr.dc.gov/sites/default/files/dc/sites/dchr/publication/attachments/perf\\_mgt\\_performance\\_rating\\_review\\_reconsideration\\_and\\_resolution\\_committee\\_faqs.pdf](https://dchr.dc.gov/sites/default/files/dc/sites/dchr/publication/attachments/perf_mgt_performance_rating_review_reconsideration_and_resolution_committee_faqs.pdf)

GOVERNMENT OF THE DISTRICT OF COLUMBIA  DEPARTMENT OF BEHAVIORAL HEALTH	<b>Policy No.</b> 730.1A	<b>Date</b> SEP 26 2018	<b>Page 1</b>
	<b>Supersedes</b> 730.1A, same subject, dated October 21, 2016		
<b>Subject: Reconsideration and Resolution Committee (RRC)</b>			

1. **Purpose.** The purpose of this policy is to provide information on the Department of Behavioral Health (DBH) performance rating review process found in the District Personnel Manual (DPM), Chapter 14, "Performance Management", sec.1415, "Employee Request for Review." DBH has established the Reconsideration and Resolution Committee (RRC)<sup>1</sup> to conduct the reviews in accordance with the DPM. This revision clarifies the procedures and timeframes for a paper review and formal review hearing.

2. **Applicability.** The policy applies to DBH employees who are eligible for a review of their overall performance evaluation rating pursuant to the DPM Chapter 14, "Performance Management." The regulation may be accessed at <https://dchr.dc.gov/page/electronic-district-personnel-manual-e-dpm> (Electronic-District Personnel Manual [E-DPM]). Career Service probationary employees at DBH are not eligible for the performance rating review.

3. **Authority.** D.C. Personnel Regulations Chapter 14, Performance Management; District of Columbia Government; Comprehensive Merit Personnel Act of 1978 (CMPA), effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-608.01 (2006 Repl. & 2011 Supp.)).

4. **Definitions.**

4a. Agency – In this policy, refers to DBH.

4b. Days – Unless otherwise indicated, "business days."

4c. Eligible employees – DBH employees who received an annual performance evaluation for the most recent performance management period. Exclusions to this policy are Career Service probationary employees.

4d. Formal Review Hearing – A proceeding whereby both parties (employee and DBH) will be given the opportunity to present their case, give their reason(s) for sustaining the rating (DBH) or increasing the rating (employee), and present witness(es) who support the party's position. An RRC Formal Review Hearing will be available to any eligible employee who challenges an overall performance evaluation rating of "Inadequate Performer" (Level 1) or "Marginal Performer" (Level 2), but not "Valued Performer" (Level 3) or "Highly Effective Performer" (Level 4).

<sup>1</sup> Performance Rating Review/Reconsideration and Resolution Committee FAQ's  
[https://dchr.dc.gov/sites/default/files/dc/sites/dchr/publication/attachments/perf\\_mgt\\_performance\\_rating\\_review\\_reconsideration\\_and\\_resolution\\_committee\\_faqs.pdf](https://dchr.dc.gov/sites/default/files/dc/sites/dchr/publication/attachments/perf_mgt_performance_rating_review_reconsideration_and_resolution_committee_faqs.pdf)

4e. Harmless error – An error made by the RRC that was not damaging enough to justify reviewing the RRCs decision. Distinguished from reversible error (see sec. 4i below).

4f. Paper Review – A process whereby both parties (employee and DBH) will be given an opportunity to present supporting documentation for sustaining the performance rating (DBH) or increasing the performance rating (employee). An RRC Paper Review will be available to any eligible employee who challenges an overall performance evaluation rating of “Valued Performer” (Level 3) or “Highly Effective Performer” (Level 4). However, an employee receiving an overall performance evaluation rating of “Inadequate Performer” (Level 1) or “Marginal Performer” (Level 2) may choose to have a paper review.

4g. Reconsideration and Resolution Committee (RRC) - Responsible for the review and disposition of performance rating reviews held at the agency level. DBH has established an agency RRC. The RRC is a cross-section of DBH managers and non-supervisory employees who make up the panel for paper and formal reviews. The RRC makes the final decisions regarding contested employee performance evaluation ratings.

4h. Representative – A person chosen or appointed to act or speak on behalf of the employee or agency. The agency must have a representative. The employee may have a representative if he or she chooses. The employee’s representative may be an attorney, union representative or other individual of choice. No person shall serve as both a representative and a witness in a proceeding.

4i. Reversible error – An error made by the RRC that brings the validity of the RRC’s decision into question, justifying reviewing the RRC’s decision. Distinguished from harmless error (See sec. 4e above).

4j. Witness – A witness is someone who has knowledge relevant to an event or other matter of interest. Witnesses provide evidence at a Formal Review Hearing. Both the employee and agency (DBH) may present witnesses at the Formal Review Hearing.

5. **Policy.** Eligible DBH employees shall be afforded the opportunity to request a review of their overall performance evaluation rating as follows:

5a. Employees who receive overall review ratings of “Valued Performer” (Level 3) and “Highly Effective Performer” (Level 4) will only be offered a paper review.

5b. Employees who receive overall review ratings of “Inadequate Performer” (Level 1) and “Marginal Performer” (Level 2) will have the option of choosing either a paper review or formal review of their evaluation.

5c. The official performance rating received for the current performance evaluation period is eligible for review and reconsideration by the RRC. The S.M.A.R.T. goals’ content, timelines of the performance management process, or any other similar objection are not eligible for review.

**6. Procedures for and Composition of the RRC.**

6a. Each of the disciplines represented at DBH shall have an RRC panel preset according to discipline and/or subject matter. These three-member panels shall consist of the (1) RRC Chairperson, (2) an agency supervisor, and (3) an employee. If the employee is represented by the union, the employee panel member shall be in same union as the employee challenging the evaluation. If the employee is not a union member, the panel member shall be a non-union employee. The agency Director will appoint the RRC Chairperson. The Director of DBH Human Resources Division (HRD) will select the agency supervisor and non-union employee panel members. The union will select the union employee panel member. Selections of RRC panel members are subject to approval by the agency Director.

6b. DBH and the employee may challenge a panel member other than the RRC Chairperson on the grounds of conflict of interest. Only one challenge from each party will be allowed. All challenges must be made in writing. The RRC Chairperson will determine the outcome of the challenge. In the rare event in which an employee has a reasonable good faith belief that the RRC Chairperson has a conflict of interest, the employee may submit a written challenge to the agency Director or designee, who will determine the outcome of the RRC Chairperson's challenge.

6c. Challenges must be submitted within five (5) days of a party receiving acknowledgement of a receipt of the Request for Performance Rating Review. Panel Member challenges shall be made on the RRC Challenge Form (Exhibit 4). The Chairperson shall respond in writing to the challenge request within five (5) days of receipt of the challenge and assemble a new panel, as appropriate.

**7. Procedure and Timeframes for Paper Review**

7a. Prior to filing a Performance Rating Request for Paper Review with the RRC, an employee may ask the rating supervisor to reconsider the evaluation informally during the evaluation period.

7b. If there is no resolution between the employee and the supervisor, the employee may formally submit a Performance Rating Request Review form (Exhibit 1) to the RRC through the DBH Human Resources Division Director within ten (10) days of participating in a performance year-end discussion with the supervisor.

7c. The employee must provide the following information on the Performance Rating Request for Review Form:

- (1) A copy of the Performance Evaluation and Tracking Form (Performance Evaluation Form);
- (2) Organization location (Administration, division, unit and office telephone number);
- (3) Position and grade;
- (4) Reason for requesting the performance rating review; and
- (5) Signature of the employee and date.

7d. Upon receiving the Performance Rating Request for Review form, HRD Director/designee will forward the document to the RRC Chairperson within five (5) days and send the employee an acknowledgement of receipt. This acknowledgement will include: (1) employee's right to have a representative of his/her choice who may be an attorney, union representative or other individual of

choice, (2) names of the RRC panel members, (3) right to challenge panel members and (4) a copy of the DBH Policy 730.1A Reconsideration and Resolution Committee (RRC).

Failure to comply with the procedural requirements delineated in this policy may result in dismissal of the Performance Rating Review Request.

7e. The RRC Chairperson assesses the Request for Review and makes a decision within fourteen (14) days to either forward the request to the RRC for review or deny the request for procedural deficiencies.

7f. If the request is denied, the employee is notified in writing with the reasons.

7g. If the request is forwarded to the RRC for review and disposition, the employee, reviewer and supervisor are notified.

7h. The agency supervisor and employee must submit supporting documentation and materials to the RRC Chairperson at least twenty (20) calendar days after receipt of the Notice of RRC Panel Review.

7i. The RRC Chairperson will provide the agency supervisor and employee a copy of all documents submitted by the opposing party at least ten (10) days after receipt of the documents.

7j. The RRC Chairperson will convene the panel to conduct a paper review within fourteen (14) days of the documentation exchange.

## **8. Procedures and Timeframes for Formal Review Hearing**

8a. Prior to a filing a Performance Rating Request for Formal Review Hearing to the RRC, an employee may ask the rating supervisor to reconsider the evaluation informally. If there is no resolution between the employee and supervisor, the employee may formally submit a Performance Rating Request Review form (Exhibit 1) to the RRC and DBH HRD Director/designee within ten (10) days of participating in the performance rating year-end discussion with the supervisor.

8b. Employees must provide the following information on the Performance Rating Request for Review form:

- (1) A copy of the Performance Evaluation and Tracking Form (Performance Evaluation Form);
- (2) Organization location (Administration, division, unit and office telephone number);
- (3) Position and grade;
- (4) Reason for requesting the performance rating review; and
- (5) Signature of the employee and date.

8c. Upon receiving the Performance Rating Request for Review form from the employee, HRD Director/designee will send the employee an acknowledgement of receipt. The acknowledgement of receipt will include (1) the employee's right to have a representative of his/her choice may be an attorney, union representative or other individual of choice, (2) names of the RRC panel members, (3) the right to challenge a panel member and (4) a copy of the DBH Policy 730.1A Reconsideration and Resolution Committee (RRC).

Failure to comply with the procedural requirement delineated in this policy may result in a paper review or dismissal of the Performance Rating Review Request.

8d. The DBH HRD Director/designee forwards the Performance Rating Request for Review to the RRC Chairperson within five days.

8e. A Formal Review Hearing is not required. An employee may choose to have his/her case decided based on a review of the record even if the performance rating level qualified for a formal hearing. If the employee does not request a hearing, but the RRC Committee determines a hearing is necessary, a hearing should be held.

8f. The RRC Chairperson reviews the Request for Review and makes a decision within 14 days to deny the request on the basis of technical grounds (procedural or regulatory violations) or forward the request to the RRC for review and disposition. Should the request be denied, the employee is notified in writing and provided the reasons for the procedural or regulatory denial. Should the request be forwarded to the RRC for review and disposition, the employee, reviewer and supervisor are notified in writing.

8g. The RRC Chairperson has ten (10) days to schedule a review hearing and notify the reviewer, supervisor and employee. A "Notice of RRC Panel Review" indicating the date and location for the Panel Review, information on witness(es), and deadline for submitting supporting documentation is sent to the employee, reviewer and supervisor.

8h. Representative and witness challenges must be submitted within five (5) days of a party receiving notification of scheduled hearing for the Request for Performance Rating Review. Challenges shall be made on the RRC Challenge Form (Exhibit 4). The Chairperson shall respond in writing to the challenge request within five (5) days of receipt of the challenge and assemble a new panel, as appropriate.

8i. The agency reviewer, supervisor and employee must submit any supporting documentation and materials to the RRC Chairperson at least twenty (20) calendar days after receipt of the Notice of RRC Panel Review. The RRC Chairperson will provide the supervisor, reviewer and the employee a copy of all document submitted by the opposing party at least ten (10) days after receipt of the documents.

## **9. Confidentiality and Burden of Proof**

9a. All matters pertaining to the performance rating review process are confidential. Participants (i.e., the Committee members, appellant, agency staff, witnesses, representatives) will be required to sign a confidentiality agreement.

9b. The burden of proof rests with the employee to establish by a preponderance of the evidence presented that he/she is entitled to the performance rating requested.

9c. Notwithstanding the confidentiality of the RRC proceedings, an employee may be permitted to testify about information learned in an RRC proceeding in a subsequent legal proceeding in which such information is relevant and not otherwise precluded.

**10. Representative.**

10a. The employee may designate a representative to act on his or her behalf before the Formal Review Hearing. The employee has a right to a representative of his/her choice who may be an attorney, union representative or other individual of choice.

10b. The agency must have a representative.

10c. The employee, agency reviewer and supervisor must provide the name, address, and telephone number of the representative to the RRC Chairperson and DBH HRD Director/designee within three (3) days of receipt of the notice of the scheduled/hearing review date.

10d. Any subsequent changes in the representative shall be made known to the RRC Chairperson, DBH DHR Director/designee as soon as possible before the date of the Formal Review Hearing.

10e. The RRC Chairperson is responsible for deciding on any objections to representatives. An employee may choose any person as a representative. The agency, however, may challenge the representative on the grounds of conflict of interest or conflict of position. This challenge must be made in writing to the RRC Committee within five (5) days after receipt of the name of the designated representative. In the event the selected representative is disqualified, the employee shall be given adequate time to obtain another representative.

**11. Witnesses.**

11a. Neither party (employee or agency) is required to present witnesses at the Hearing. Witnesses are the sole responsibility of the employee or the agency (Exhibit 2 and Exhibit 3).

11b. Witnesses are called upon to provide evidence relevant to the case. Evidence is any relevant information submitted to a person who must decide on the truth of the matter in a contested issue and may be testimonial (oral evidence) or documentary (evidence in written form). The RRC has the discretion to admit only evidence that is relevant to the matter in dispute and is non-duplicative.

11c. Both parties must provide the RRC Chairperson and the other party a copy of their witness a list of written statements of what each witness will testify to, and the expected length of testimony within three (3) days of receipt of the scheduled hearing/review date notice. Any challenges to the witness list must be made known to the RRC Chairperson within five (5) days of receipt of the other party's witness list.

11d. The RRC Chairperson may not allow a witness to testify if the Chairperson determines that the proposed witness' testimony will not assist the RRC panel in finding that something in particular was more or less likely or more probably or less probably to have occurred.

11e. The RRC Chairperson is responsible for deciding on any objections to witnesses.

11f. During the hearing, witnesses should be identified by name, title and where necessary, credentials and qualifications to speak as an expert. They may be allowed to present testimony in their own format or by the direct questioning of the representatives or the panel. Witnesses are not allowed to sit in and listen to the proceedings. Witnesses will be called in by the RRC Chairperson.

11g. If a witness cannot/does not appear at the Formal Review Hearing, the party may elect to proceed with the Hearing without the witness.

## 12. Procedural Steps that occur during the RRC Formal Review Hearing

12a. The agenda of the RRC Formal Review Hearing is sequenced below:

Action	Responsible Party
Opening Statement	Both parties
Employee presents	By employee
Employee Witnesses	By witnesses
Direct Questioning	By employee representative
Cross Examination	By other party
Agency presents	By agency representative
Agency Witnesses	By witnesses
Direct Questioning	By agency representative
Cross Examination	By other party

12b. Either party may raise an objection to evidence (which is testimonial or documentary). The RRC Chairperson can rule on the objection by either sustaining or overruling the objection. The RRC Chairperson may prohibit testimony and/or exclude written evidence that is redundant.

12c. Either party may request a postponement or continuance of the proceeding. The RRC Chairperson will make a final decision on the continuance or postponement based on substantive reasons and circumstances.

12d. The presentation of an oral closing statement or post-hearing written statement will be determined at the conclusion of the hearing by the RRC Chairperson.

## 13. RRC Final Decision

13a. The RRC Chairperson will ensure that the panel completes a final decision. The RRC decision will be issued within ninety (90) days of the conclusion of the hearing. Upon consent of the employee, the deadline may be extended.

13b. The panel will evaluate all evidence and make specific findings of facts and conclusions based solely upon pertinent evidence and the appropriate District government regulations.

13c. The panel cannot decrease a performance rating.



13d. The RRC Committee, or designee, will provide a copy of the RRC's Final Decision, which will include procedural history, facts, analysis and conclusion to the employee, representative and supervisor and representative(s), if applicable.

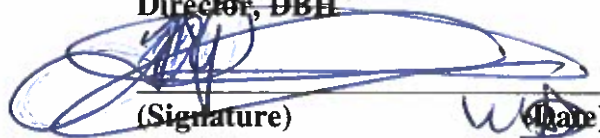
13e. The RRC's decision is final and neither grievable nor appealable, except on the basis of a reversible error. Employees may appeal their rating to the agency Director, who may sustain or increase the rating. . If the agency Director does not increase the employee's rating, union members may utilize the grievance procedures outlined in their collective bargaining agreements to invoke arbitration. The arbitrator's authority will be limited to determining whether the RRC committed a harmless or reversible error in the review process. If the arbitrator finds reversible error, the sole remedy will be to remand the matter to the RRC.

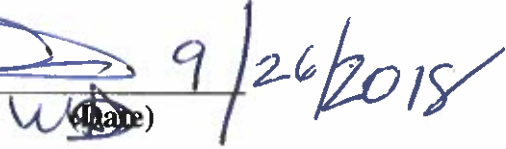
14. **Exhibits.**

- Exhibit 1 - Performance Rating Request for Review
- Exhibit 2 - Employee Witness Form
- Exhibit 3 - Agency Witness Form
- Exhibit 4 - RRC Challenge Form

**Approved by:**

**Tanya A. Royster, MD  
Director, DBH**

  
(Signature)

  
(Date)

# PERFORMANCE RATING REQUEST FOR REVIEW

## Exhibit 1



### INSTRUCTION FOR COMPLETING THE REQUEST FOR REVIEW OF PERFORMANCE RATING

Completion of this form will provide valuable information to the Reconsideration and Resolution Committee (RRC) when a Request for Review is filed. Employees who use this form must complete all parts. Information may be typed in the form in its Microsoft Word format, the form may be typed on a typewriter or completed in a legible handwriting.

The RRC has the authority to determine whether a performance rating should be sustained or increased. As a first step of the rating review process, this Request for Review of Performance Rating and supporting documentation must be submitted within ten (10) days of participating in the year-end performance rating review discussion with the supervisor.

### STEPS

1. Complete this form in its entirety.
2. Attach a copy of the Performance Evaluation and Tracking Form (performance evaluation form) to this document.
3. Supporting documentation may be included with this form. Note: the supporting documentation must pertain to the rating period for which a review is requested.
4. Submit this Request for Review of Performance Rating, including supporting documentation, to the RRC or designated official within ten (10) calendar days of participating in the performance rating review discussion with the supervisor.
5. Keep a copy of this form.
6. Be sure to include only relevant information that supports this Request for Review and the requested performance rating.
7. Employees who complete this form manually or type it on a typewriter must complete all forms. If necessary, additional sheets of paper, or attachments, may be submitted with the form.

# PERFORMANCE RATING REQUEST FOR REVIEW

## PART I: GENERAL

1. Name

2. Position

3. Grade

4. Office Telephone No.

5. Agency Name and Address

Name:

Street:

City:

## PART II: RATING INFORMATION

6. Overall Rating Assigned: (Attached copy of Performance evaluation form)

7. Rating Desired

8. Date Performance Rating Year-end Discussion was held:

9. Date employee submitted the Request for Review Form:

# PERFORMANCE RATING REQUEST FOR REVIEW

## Part III: REASON FOR REQUESTING A RATING REVIEW

(Type your justification for requesting the performance rating review)

## PART IV : HEARING

An employee eligible for submitting a performance rating review, who receives an overall performance rating of Inadequate Performer or Marginal Performer, is entitled to a formal performance rating review hearing conducted by the Reconsideration and Resolution Committee. A formal hearing may include representation for both parties (employee and agency), which includes, but is not limited to attorneys, union representatives, or other personnel. The RRC Committee will notify the employee when the hearing will be held and what additional information may be submitted. Performance rating reviews for other ratings received will consist of the RRC's panel review of the case materials submitted. The RRC Committee will notify the employee when the hearing or review will be held and inform the employee what additional information may be submitted.

The employee requesting a performance rating review (either the full hearing or a paper review) is required to submit four (4) copies of this form, together with any attachments, to the RRC Committee upon notification of a scheduled hearing/review by the Committee.

Signature of Employee

Date

Employee Witness list

SEP 26 2018



TO: Reconsideration and Resolution Committee

FROM: [Redacted]

DATE: [Redacted]

In accordance with the RRC, panel review scheduled for the matter of

[Redacted] vs [Redacted]

Review No: [Redacted], this Witness List is submitted for the employee witness(es)

1. Name: [Redacted]

Title/Position: [Redacted]

It is anticipated that Ms./Mrs./Mr. [Redacted] Will testify regarding the following:

- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]

2. Name: [Redacted]

Title/Position: [Redacted]

It is Anticipated that Ms./Mrs./Mr. [Redacted] will testify regarding the following:

- [Redacted]
- [Redacted]

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3. Name:

Title/position:

It is anticipated that Ms./Mrs./Mr.  will testify regarding the following

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4. Name:

Title/Position:

It is anticipated that Ms./Mrs./Mr.  will testify regarding the following:

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5. Name:

Title/Position:

It is anticipated that  
Ms./Mrs./Mr.

will testify regarding the following:

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.

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Agency Witness list



TO: Reconsideration and Resolution Committee

FROM:

DATE:

In accordance with RRC, panel review scheduled for the following employee:

Review No: , this witness List is submitted for the Agency witness(es)

1. Name:

Title/Position:

It is anticipated that Ms./Mrs./Mr.  will testify regarding the following:

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- 
- 
- 
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2. Name:

Title/Position:

It is Anticipated that Ms./Mrs./Mr.  will testify regarding the following:

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- 
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GOVERNMENT OF THE DISTRICT OF COLUMBIA



**DEPARTMENT OF BEHAVIORAL HEALTH**

**Reconsideration and Resolution Committee (RRC) Challenge Form**

**Directions:** If you wish to challenge an RRC panel member, representative or witness, please fill out the required information below and submit this form to the RRC Chairperson and Human Resources Division Director/designee at the address shown below.

Subject of the Challenge:

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Check one or all options below to indicate what or who is the being challenged.

- Panel Member
- Panel Chairperson
- Representative
- Witness

Justification of the Challenge:

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Printed Name: \_\_\_\_\_

Signature/Title/Date: \_\_\_\_\_