

**Performance Management - Labor Relations**  
**Ref: OPM Performance-Management-FAQS**

1. [Is there a minimum amount of time an employee must be under the direction of a supervisor before that supervisor can rate that employee?](#)

Governmentwide regulations do not establish a minimum time that an employee must be under a supervisor before he/she can be rated. **Instead, the regulations require that appraisal programs establish a minimum appraisal period (a minimum amount of time that employees must work under a specific set of elements and standards) before they can be assigned a rating of record.** As long as a supervisor has the necessary information and the employee has been under an established set of elements and standards for the minimum appraisal period, the supervisor can assign a rating (*\*on the very same day they are appointed to the position as supervisor*).

2. [Are performance standards negotiable?](#)

**No. Case law establishes that performance elements and standards are nonnegotiable** based on management's rights to direct employees and assign work through the establishment of performance plans.

3. [Does an agency have to negotiate implementation of appraisal program changes with its union?](#)

If the proposed program covers bargaining unit employees, the agency is obligated to notify the union and afford it the opportunity to negotiate on the impact and implementation of the appraisal program. In addition to the agency's legal requirements, OPM encourages agencies to involve employees in the design and implementation of their appraisal program.

4. [Is the pattern of summary levels an appraisal program uses negotiable?](#)

**No. The number of summary levels is an exercise of management rights and not subject to collective bargaining.** However, where the agency system permits some flexibility in deciding about a program's pattern of summary levels, employee involvement could play an important role in program acceptance.

5. [How does the flexibility of performance management regulations affect negotiability?](#)

As a general principle, when an agency has discretion over a condition of employment of bargaining unit employees, and that discretion is not reserved to management by law, there is a duty to bargain on how the agency will exercise that discretion. Even when the decision is reserved to management, there is a duty to give notice to the union and, upon request, bargain on the impact and implementation of the otherwise protected decision.

6. [Are the performance crediting provisions in the reduction in force regulations negotiable?](#)

No. In giving agencies some discretion on performance crediting, the reduction in force regulations make clear that any decisions must be uniformly and consistently applied throughout the competitive area. Since competitive areas normally also include non-bargaining unit employees, there is no obligation to bargain on otherwise negotiable proposals that are aimed at the entire competitive area. Management is not required to negotiate with the union the conditions of employment of non-bargaining unit employees.