

Appendix F

PERFORMANCE REVIEW BOARD GUIDE

1-1 PREFACE

Note: A Performance Review Board (PRB) is not a judicial proceeding, but rather an informal administrative hearing. However, a PRB shall be conducted with formality and decorum. Testimony under oath is not necessary. In the event the proceedings are not recorded, the recorder should take sufficient notes in order to prepare such summaries. A verbatim transcript is not required.

The following abbreviations will be used throughout this guide.

SM: Senior Member of the Board

REC: Recorder

STU: Student

WIT: Witness

A. Any objections may be considered and ruled on by the senior member if necessary to the fairness of the proceedings. If, in the senior member's judgment, the conduct of any person interferes with the orderly conduct of the board, the hearing will be adjourned until order is restored. The rulings of the senior member are final with respect to the proceedings, but are subject to review by higher authority.

B. The board shall not be limited to only considering those performance shortcomings listed as reasons for the PRB specified in the student notification letter. Rather, the board will be allowed to consider and make its findings and recommendations on any additional grounds that are discovered during the hearing. However, the student shall be afforded the right to an adjournment for a reasonable period to prepare a response to any additional grounds not previously addressed.

C. Again, testimony under oath is not necessary. If testimony under oath is preferred, the recorder should administer the following oath: "Do you swear (or affirm) that the evidence you shall give in the case now in hearing shall be the truth, the whole truth, and nothing but the truth?"

1-2 COMING TO ORDER

SM: The board will come to order. The recorder shall record the time, date, and place of hearing.

Note: The recorder should record the time and date of the opening and closing of each session of the board and the presence (or absence) of all parties (board members, recorder, and student).

SM: The board is convened by an order of the appointing authority, _____,
dated _____.

The following persons named in the convening order are present:

Senior Board Member: _____
Member: _____
Member: _____
Non-Voting Member: _____ (if applicable)
Recorder: _____
Student: _____

SM: This board has been convened for the purpose of considering the pertinent facts relating to the case of **(student's name, rank and unit)**, who is being reviewed by this board on the following basis:
_____. (Note: The SM shall only provide statements of fact pertaining to the nature of the board.)

SM: The possible outcomes of this board include recommendations to the Professor of Naval Science (PNS) of: (1) no action, (2) issuance of a 30-day compliance letter to investigate medical concerns, (3) warning, (4) probation, (5) leave of absence, and (6) interim leave of absence pending disenrollment by the appropriate authority. If disenrollment is recommended by the PNS and approved by the appropriate authority, ASN Directed Active Enlisted Service and recoupment are possible outcomes.

SM: (Student's name), If you elect, I shall now review with you your rights in connection with this hearing. If you have any questions about any of these rights, do not hesitate to ask me. You have been previously informed of these rights by letter dated _____. Do you wish me to review your rights again?

- a. You may appear in person before this board.
- b. You may challenge a member of this panel for cause. I will make the final determination of a member's suitability to serve on this board. If I am the member that you wish to challenge, the PNS will determine my suitability.
- c. You may submit a written statement in your own behalf to the board.
- d. You may present documents or witnesses in your own behalf, at your own expense.
- e. You may review your record prior to the convening of this board.

SM: (Student's name), do you have any questions concerning your rights or procedures before this board?

STU: (No, Sir/Ma'am.) or (_____).

SM: Do you wish to challenge any member of this panel for cause? (If yes, the SM will determine the appropriateness of replacing the board member. If the challenge regards the SM, the PNS will be contacted to make the determination of suitability).

SM: Is the recorder ready to present the case on behalf of the command?

REC: The recorder is ready to proceed.

1-3 COMMAND'S CASE

REC: The following documents are presented for the board's consideration in this matter:

Exhibit 1: Copy of the PRB Convening Order, including signed Privacy Act Statement.

Exhibit 2: Proof of delivery of the Convening Order and receipt of all materials provided.

Exhibit 3: Note: The recorder must present documentary evidence, which documents the student's deficiencies, e.g., counseling sheets, witness statements, preliminary inquiry (if applicable), etc.

Exhibit 4: Copy of ROD Appendix B.

REC: The recorder intends to call the following witnesses:

REC: The first witness is (**full name, grade, and duty station**).

REC: Would you state your name, rank, unit, and armed force? (If civilian, state name and mailing address.)

WIT: _____

REC: Do you know the student in this case?

WIT: _____

Note: The recorder will now be afforded a full opportunity to question the witness. At the senior member's discretion, any board member and the student may question the witness.

SM: You may be excused.

REC: (After all witnesses have testified.) I have nothing further to present.

SM: (**Student's name**), you have already indicated an understanding of your rights at these proceedings. Do you have any documents or witnesses you would like to present to this board?

STU: (No, Sir/Ma'am.) or (Yes, Sir/Ma'am.).

1-4 STUDENT'S CASE

SM: (Student's name), do you and/or your counsel or representative wish to make an opening statement?

SM: (Student's name), please present your documents to the board at this time.

Note: At this point in the proceedings, the student may present documentary evidence. If documents are presented in the student's behalf, the exhibits should be marked as **Exhibits A, B, C**, etc.

SM: (Student's name), please present your witnesses at this time.

Note: At this point in the proceedings, the student may present witnesses. If witnesses are presented, the following procedure should be used.

REC: Would you state your name, rank, unit, and armed force? (If civilian, state name and mailing address.)

WIT: _____

REC: Do you know the student in this case?

WIT: _____

Note: The student will now be afforded a full opportunity to question the witness. At the senior member's discretion, any board member and the recorder may question the witness.

SM: You may be excused.

Note: After the student's witnesses have testified, the student is afforded an opportunity to make a statement.

1-5 STUDENT'S CLOSING STATEMENT

SM: (Student's name), this is the time for you to submit a written statement. You may also make an oral statement on your own behalf at this time. Additionally, you may elect to have your counsel or representative make a statement at this time. You are not required to make a written statement or an oral statement.

SM: (Student's name), do you want to submit a written statement?

STU: (No, Sir/Ma'am.) or (Yes, Sir/Ma'am.)

Note: The student may have already presented his/her written statement with his/her documentary evidence. If so, the senior member should confirm that the student intends such document as his/her written statement in his/her own behalf.

SM: (Student's name), do you and/or your counsel or representative want to make a closing statement?

STU: (No, Sir/Ma'am.) or (Yes, Sir/Ma'am.)

STU: _____

Note: At the senior member's discretion, any board member may ask the student to clarify any testimony or statements brought before the board.

1-6 BOARD CLOSING AND ADJOURNMENT

SM: This board will close for deliberations.

Note: When the board deliberates, only the voting members will be present. To prevent the appearance of undue command influence, vote by secret ballot is required. A simple majority will determine the finding(s) of fact and the outcome. Upon reaching a decision, the senior member will reconvene the board (to include the recorder, the student and any witnesses the student desires).

SM: This board will come to order. This board has concluded its deliberations. The board makes the following **FINDINGS OF FACT:**

SM: This board, by a vote of ___ to ___, **RECOMMENDS** the above findings of fact:

SM: This board, by a vote of ___to ___, **RECOMMENDS:** no action / issuance of a 30-day compliance letter to investigate medical concerns / warning / probation / leave of absence / leave of absence pending disenrollment.

Note: If the board recommends disenrollment for a student who has incurred an obligation, they shall also make a recommendation regarding recoupment or ASN Directed AES.

SM: The board is adjourned at (time and date).