

**OFFICE OF THE ATTORNEY GENERAL****NOTICE OF PROPOSED RULEMAKING**

Pursuant to the authority set forth in the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979, D.C. Law 2-139, as added by the Legal Service Establishment Amendment Act of 1998, effective April 20, 1999, D.C. Law 12-260, D.C. Official Code § 1-608.51 (2001) (collectively, the Act), the Attorney General hereby gives notice of his intent to adopt the following amendments to Chapter 36 of the District of Columbia Personnel Regulations, pertaining to the Legal Service (Legal Service Rules). Final rulemaking action shall not be taken in less than thirty (30) days from the date of publication of this notice in the D.C. Register.

These amendments to the Legal Service Rules clarify the authority of supervisors in the Office of the Attorney General to implement a Performance Improvement Plan for any Legal Service Attorney whose work is deficient in a performance rating element at any time during the rating period. In addition, these amendments clarify the process for supervisory approval of a performance improvement plan's outcome. These amendments are consistent with the Attorney General's authority under section 1400.1(d) and section 1414 of the D.C. Personnel Regulations to implement a Performance Improvement Plan, when required, for Senior Executive Attorney Service attorneys.

**Chapter 36 of the D.C. Personnel Regulations is amended as follows:****Section 3609.1 is amended to read as follows:**

3609.1 A supervisor shall complete a Performance Improvement Plan on a form approved by the Attorney General, that identifies specific areas where an attorney needs to improve in the performance of his or her work in a manner that meets the expectations of an attorney in that grade, when either of the following conditions is met:

- (a) The attorney's performance becomes deficient at any time during the rating period; or
- (b) An overall rating of "Needs Improvement" is assigned to an attorney in an annual or interim evaluation.

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**Section 3609.2 is amended to read as follows:**

3609.2 The Performance Improvement Plan shall be prepared by the supervisor and shall be provided to the attorney when an attorney's performance becomes deficient or within thirty (30) days of his or her receipt of the evaluation. A copy of all Performance Improvement Plans shall be provided to the Deputy Attorney General.

**New sections 3609.7 through 3609.9 are added to read as follows:**

3609.7 After an attorney completes a Performance Improvement Plan, the supervisor shall make a recommendation, in writing, to the Deputy Attorney General, within timeframes and in a format established by the Attorney General, regarding whether the attorney was successful or unsuccessful in completing the Plan.

3609.8 An attorney cannot successfully complete a Performance Improvement Plan unless the attorney is rated as "Meets Expectations" in all performance rating elements where improvement has been required.

3609.9 The time frame for completion of a Performance Improvement Plan may be extended, with the approval of the Deputy Attorney General, for up to three (3) months when circumstances require such an extension.

All persons desiring to comment on the subject matter of this proposed rulemaking should file comments in writing not later than thirty (30) days after the date of publication of this notice in the D.C. Register. Comments should be filed with Darryl G. Gorman, Esq., 441 4<sup>th</sup> Street, N.W., Suite 650 North, Washington, D.C. 20001. Copies of these rules may be obtained at the address stated above.