

REGISTER NUMBER: 614

NOTIFICATION FOR PRIOR CHECKING

Date of submission: 30/07/2010

Case number: 2010-0589

Institution: EACEA

Legal basis: article 27-5 of the regulation CE 45/2001 ⁽¹⁾⁽¹⁾ OJ L 8, 12.01.2001INFORMATION TO BE GIVEN⁽²⁾⁽²⁾ Please attach all necessary backup documents

1/ Name and address of the controller

Unit or service: R1 – Human Resources, Administration, IT, Communication

Function: Head of Unit

Administrative address: BOUR 01/25

Postal address: Education Audiovisual and Culture Executive Agency, Avenue du Bourget 1, BOUR, BE-1140 Brussels

2/ Organisational parts of the institution or body entrusted with the processing of personal data

Full name: PASTUSZKA-VALITUTTI Irena

Unit or service: R1 (HR)

Function: Competencies Manager

3/ Name of the processing

The career development review system (CDR)

4/ Purpose or purposes of the processing

The purposes of the processing are the following:

- take stock of the jobholder's working area and performance;
- establish the manager's and staff member's mutual expectations;
- clarify possible development areas for the staff member, seen in the light of existing as well as future tasks;
- identify possible problems;
- discuss routines and workflows that matter for the day-to-day work;
- establish a development plan for the jobholder in both short and long-term perspective;

5/ Description of the category or categories of data subjects

All temporary and contract agents working at the Agency

6/ Description of the data or categories of data (including, if applicable, special categories of data (article 10) and/or origin of data)

Data relating to the evaluation of personal aspects of the data subject (such as his or her ability, efficiency and conduct)

7/ Information to be given to data subjects

The whole process is detailed in the main policy document "Appraisal guide EACEA".

This document is available for all staff on the HR section of EACEA's intranet (available in English and French).

The appraisal procedure is explained to staff during the induction

course and further mandatory trainings provided to newcomers at EACEA .

Through the "Appraisal guide EACEA" and the mandatory training presentations EACEA's

staff members are informed about the procedure and about their rights as defined by Art. 11 of regulation n° 45/2001.

8/ Procedures to grant rights of data subjects (rights of access, to rectify, to block, to erase, to object)

Right of access: As indicated under point 9) below, each staff member receives a copy of her or his completed "Career Development and Appraisal Cycle Form" and, upon a request, can obtain access to his personal file containing the CDR even after leaving the service.

Right of rectification: Staff members are being asked to add their comments directly on the "Career Development and Appraisal Cycle Form" so that these comments are clearly visible to all recipients of the report. Moreover, in order to rectify the data, the staff member in question can refuse the evaluation report and have the matter automatically referred to the Joint Evaluation Committee. Therefore, the concerned agent is able to correct his factual data, as well as to add comments related to his (by nature subjective) evaluation data provided by his hierarchical superior

9/ Automated / Manual processing operation

Activity in the frame of which the processing is carried out:

One of the main tasks of Unit R1 is to manage the Human Resources policy of the Agency.

This includes, among others, the implementation of the career development review system (CDR), applicable to all temporary and contract agents who have completed their probationary period.

The HR sector in the Unit R1 provides administrative support in the process.

While waiting the implementation of the relevant module Sysper2_EA, the process is still managed on paper.

It is worth mentioning that Commission officials seconded at the Agency in the interest of the service have a double career: one at the Agency as Temporary Agent and one parallel career in the Commission as official. In this framework, Sysper2 COMM is partly being used for seconded officials, for their Commission career. The person with CDR (Sysper2COMM) authorisations is the Career Development Manager (CDM) working in the HR sector of the EACEA.

This person supports the Commission for the officials' CDR.

The whole process is detailed in the main policy document. "Appraisal guide EACEA" available for all staff on the HR section of EACEA's intranet (available in English and French).

The appraisal procedure is briefly explained to staff during the induction course (at the entry into service) and a mandatory training of half day for newcomers is provided internally on a regularly basis (at least once a year, during the first trimester).

Working procedure followed within the framework of this activity:

The career development review consists of two phases:

1. Performance planning during which the jobholder (JH) and reporting officer (RO) agree on the objectives and discuss on the competencies, conduct and training needs.
2. Performance review which is an annual discussion and report that assesses how the JH has performed during the reference period based on agreed objectives taking into consideration the demonstration of competences and aspects of conduct.

Workflow of the review report

The following persons are involved in the appraisal procedure and have access to the data:

- The Reporting Officer (RO), the jobholder's hierarchical superior, who has the responsibility of supporting, monitoring and assessing the jobholder's performance;
- the Countersigning Officer (CO), who ensures that the appraisal standards are consistently applied (in EACEA this role belongs to the Director of the Agency);
- the Joint Evaluation Committee (JEC), an appeal body, consisting of representatives of the Agency's parents DGs and the Agency Staff Committee;
- appeal assessor, the Director or the Chairperson of the Steering Committee, depending on the case, responsible for the final determination of an appeal, once the JEC has given an opinion);
- the Career Development Manager (CDM), a member of the HR sector, who assists in the process.

All internal recipients are reminded of their obligation not to use the data received for any other further purposes than the one for which they are transmitted

Performance planning

At the start of the reference period the reporting officer and the jobholder discuss and agree on a development plan. This includes the job description tasks, related objectives and expected results, development needs for the reference period.

The objectives must be in line with the job description; they relate to what the individual jobholder should achieve and the standards to which this should be done in order to perform a job effectively. Each objective is accompanied by assessment criteria which are the measurements describing what should be expected to be seen when a job is being performed effectively and to the required standard. During the dialogue, the reporting officer makes clear to the jobholder what a good performance means, so that the jobholder knows what is expected. Development needs relate to the development of skills or knowledge in order to close the gap between current and desired performance or in order to enhance an already good performance.

Performance review

At the end of the reference period, the appraisal is carried out on the basis of the achievement of objectives related to the job, together with the jobholder's efficiency, competencies and conduct.

- The reporting officer requests a self assessment from the jobholder
 - The Jobholder completes the self assessment within 8 working days of request.
- The self assessment is a formal part of the final report.
- Within 10 working days of the jobholder's self-assessment, the reporting officer and jobholder hold a review meeting, where the fulfillment of the objectives including competencies and conduct are reviewed and objectives for the next reporting year are agreed. Training and development needs are established.
 - The reporting officer writes a draft report after the review meeting.
 - The countersigning officer and reporting officers hold a meeting to review completed draft reports to ensure that the assessment standards have been consistently applied.
 - The countersigning officer confirms the report and sends it to the jobholder for comments.
 - Within 5 working days of receiving the report, the jobholder completes the relevant sections and sign.
- This closes the process.

Appeals

If the jobholder is dissatisfied with the content of the report, he/she suggests meeting the countersigning officer stating the reasons for his/her refusal of the report.

- Within 10 working days of receiving the report, the countersigning officer meets the jobholder to resolve the disagreement, then within 5 working days from the review meeting either confirms or amends the report and transmits it once more to the jobholder. The reporting officer is kept informed.
 - Within 10 working days of receiving the report, the jobholder signs and closes the report, or accepts the report adding comments or refuses to accept the report stating justification for refusal. In the latter case the report will be taken for the referral of the Joint Evaluation Committee.
 - Within 10 working days of receiving the report, the Joint Evaluation Committee gives an opinion on the appeal. The result is notified to the jobholder, reporting officer and the countersigning officer.
- Then the report is transmitted to the countersigning officer. The role of the Committee is to ensure that the report is fair and objective and that it has been drawn up in accordance with relevant implementing rules.
- Within 5 working days of receiving the report from the Committee, the appeal assessor takes a final decision and informs the jobholder in writing about the outcome.

The completed "Career Development and Appraisal Cycle Form" is kept in the person's personal file. Each staff member can have a copy of it at any moment, upon a request to the CDM (even after leaving the service).

The RO may keep an electronic version of parts of the reports; in fact there are standard parts of the report that are not modified (or slightly modified) and can be used from one year to the other. Part 1: Report details; Part 2. Personal details of the Jobholder; Part 3. Job Description (introducing relevant modification of tasks in case of changes from one year to the other); Part 4. Initial Dialogue (planning of objectives for the period); Part 6: appraisal. The RO makes sure that electronic files containing these parts, considered as "working documents" are saved in secured folder of their computer, not accessible to other staff members.

In special circumstances (for example when the job holder has written a special comment or remarks on the final paper copy of the report) the RO can keep a paper copy (locked in a secure place) of the report until the end of the reclassification exercise; once the reclassification exercise is over, the paper copy is destroyed.

The interim and simplified reports

In case there is a significant change in the nature of the tasks carried out by the jobholder during the reporting period (if the changes occur more than four months after the period covered by the preceding annual report or the preceding interim report), the reporting officer draws an interim report.

In this report the appraisal is carried out on the basis of the achievement of objectives related to the job – within the given time frame – , together with the jobholder's efficiency, competencies and conduct (the procedure is the same as for the yearly performance review).

In case the jobholder changes jobs within the Agency, or his or her reporting officer changes, (if the changes occur more than four months after the end of the period covered by the last annual report, interim report or simplified report) the reporting officer draws up a simplified report relating only to efficiency, competencies and conduct in the service. The jobholder is informed of its content and can enter his/her comments in the section reserved for that purpose. The simplified report is included in the following annual or interim report.

10/ Storage media of data

The paper procedure is used in the Agency for the evaluation. When the CDR reports are signed, they are added to the staff personal file. An appraisal form is attached as Annex.

11/ Legal basis and lawfulness of the processing operation

- Article 11, paragraphe 6, and Article 18, paragraph 1, of Regulation 58/2003 laying down the statute for executive agencies;
 - Art. 43 of Staff Regulations applicable by analogy to contract agents and temporary agents by virtue of Art. 15 (2) and 87 (1) of the Conditions of Employment of Other Servants of the European Communities;
 - EACEA Implementing Rules, namely Steering Committee Decisions:
 - § AE/2008/CD04/D-3a on Temporary Agents evaluation of 10/09/2008
 - § AE/2008/CD04/D-3d on Temporary Agents reclassification of 10/09/2008
 - § AE/2008/CD04/D-3b on Contract Agents evaluation of 10/09/2008
 - Commission Decision C(2009)7072 of the 16/09/2009 approving EACEA contract agent reclassification system
- All relevant documents are available to staff on the intranet of the Agency
http://intranet.eacea.cec.eu.int/human_resources/index.htm

Grounds for lawfulness

Regulation (EC) No 45/2001, Article 5, point a), in conjunction with Recital 27: Processing is necessary for the management and functioning of the Agency.

Regulation (EC) No 45/2001, Article 5, point b): Processing is necessary for compliance with the abovementioned legal obligations concerning staff evaluation, to which the Agency is subject.

12/ The recipients or categories of recipient to whom the data might be disclosed

The Reporting Officer (RO),
- the Countersigning Officer (CO),
- the Joint Evaluation Committee (JEC),
- the Career Development Manager (CDM);
- Head of Sector;
- Head of Unit R 1;
- Director of EACEA.

The European Court of Justice, The Court of First Instance and/or the Civil Service Tribunal or a national judge as well as the lawyers and the agents of the parties in case of a legal procedure

The competent Appointing Authority (the Director of the Agency, the delegated Authority and the body in charge of the examination of the complaints) in case of a request or a complaint lodged under Articles 90 and 90c of the Staff Regulations.

OLAF in case of an investigation conducted in application of Regulation (EC) No 1073/1999 and the Decision of the Steering Committee of the Agency of 9 June 2006

The internal auditor within the scope of the tasks entrusted to him/her by Articles 85 to 87 of the Financial Regulation and by the article 49 of Regulation (EC) No 1653/2004

The Court of Auditors within the tasks entrusted to it by Article 248 of the EC Treaty and Article 20, paragraph 5, of Regulation (EC) No 58/2003

The European Ombudsman within the scope of the tasks entrusted to it by Article 195 of the EC Treaty

The European Data Protection Supervisor in accordance with Article 47, paragraph 2, of Regulation (EC) N° 45/2001

13/ retention policy of (categories of) personal data

Bearing in mind that the appraisal forms are kept in the personal file of the Jobholder, the rules applicable to the conservation of personal file apply - 8 years after the extinction of all rights of the person concerned and of his/her dependants, but until at least 120 years after the date of birth of the person concerned [See Common Conservation List (CCL), SEC (2007) 970 adopted by the Commission on 04/07/2007, Annex 1, p. 19, point 12.3.7].

13 a/ time limits for blocking and erasure of the different categories of data (on justified legitimate request from the data subject)

(Please, specify the time limits for every category, if applicable)

BLOCKING

- To rule on a request: maximum 45 working days (beginning from the reception of the request)
- Blocking period: depending on the case

ERASURE

- 15 working days (beginning from the reception of the request)

14/ Historical, statistical or scientific purposes

If you store data for longer periods than mentioned above, please specify, if applicable, why the data must be kept under a form which permits identification.

15/ Proposed transfers of data to third countries or international organisations

16/ The processing operation presents specific risk which justifies prior checking (*please describe*):

AS FORESEEN IN:

Article 27.2.(a)

Processing of data relating to health and to suspected offences, offences, criminal convictions or security measures,

Article 27.2.(b)

Processing operations intended to evaluate personal aspects relating to the data subject,

Data relating to the evaluation of personal aspects of the data subject (such as his or her ability, efficiency and conduct)

Article 27.2.(c)

Processing operations allowing linkages not provided for pursuant to national or Community legislation between data processed for different purposes,

Article 27.2.(d)

Processing operations for the purpose of excluding individuals from a right, benefit or contract,

Other (general concept in Article 27.1)

17/ Comments

PLACE AND DATE: Brussels, 30 July 2010

DATA PROTECTION OFFICER: Hubert Monet

INSTITUTION OR BODY: The Education, Audiovisual and Culture Executive Agency (EACEA)