

Managing for Performance Improvement




February 8, 2024

Helping Leaders Limit their Liability by Learning the LawSM

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Today's Agenda

- Welcome on Board! Tips for Coaching, Counseling & Correcting
 - Setting Expectations with a S.M.A.R.T. instructions
 - Dealing with Difficult Reactions
 - Tips for Documentation
 - Eliciting Employee Engagement
 - Performance Appraisals - Rating Error & Biases
- Factors that Impact Working Relationships: Stress, Trust, Power, Influence, Competition
- YOUR Questions (throughout)
- When All Else Fails: Pre-Termination Checklist




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YOUR Parking Lot

1. How can performance management/appraisals be used to develop new leaders, supervisors, and managers?
2. What are some pitfalls, especially legal ones, in giving performance appraisals?
3. How can we use performance management and appraisals to increase retention and encourage new employee referrals?




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Basics of Employment Law

- What is employment at-will?
- So, if employment is at-will why worry about managing for performance improvement?
- YOUR Question #1: Succession planning
- When might be the best time to set your expectations?
In the _____!



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A Few Words About Performance Reviews/Appraisals/Evals

PROS

- Career development
- Performance recognition
- Performance improvement

CONS

- Bias
- Not meaningful
- Lengthy / cumbersome




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Welcome on Board! Setting Expectations with SMART Instructions

- Specific
- Measurable
- Attainable
- Realistic
- Time-Based



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Objective v. Subjective

- ___ We expect all employees to maintain a professional appearance,
- ___ We expect all employees to be punctual.
- ___ You were rude.




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Dealing with Difficult Reactions

1. Anger
2. Denial (Blaming)
3. Silence
4. Passive-Aggressive
5. Tears




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Managing Emotional Reactions

1. Anger
 - _____
2. Denial (Blaming)
 - Stress accountability.
 - Ask, "What could you have done differently?"



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Managing Emotional Reactions

3. Silence

- Ask _____ questions.
- Invite to write their response/thoughts.
- Reschedule for next-day follow up.

4. Passive-Aggressive

- Ask coworkers to help you, help them.




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Managing Emotional Reactions

5. Tears

- Always have tissues within reach.



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Practical Tip

- When you tell HR you want to let an employee go, HR asks for you what? _____
- Why?

Derogatory Remarks • Lack of Documentation • Appearance of Discrimination

In a recent case, a district court granted the employer's request for summary judgment on all eight claims of alleged age discrimination and unlawful retaliation. But on appeal, the 5th Circuit Court of Appeals reversed three of those.

Why? As the court wrote, "We find that material factual disputes preclude summary judgment on these counts."

[Click here to read why the employer lost on appeal.](#)

**United States Court of Appeals
for the Fifth Circuit**

No. 22-30297


AMANTARA NIBB ALLEN,
Plaintiff—Appellee,

vs.

UNITED STATES POSTAL SERVICE, LOUIS D'JOY, POSTMASTER GENERAL,
Defendant—Appellee.

Appeal from the United States District Court
for the Eastern District of Louisiana
USDC No. 2:20-CV-364

FILED
March 21, 2023
Lyle W. Case
Clerk




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The W's of Documentation

- Who?
 - A 6th W - Witnesses?
- What?
 - Objective, not _____
- Where?
 - Informal or formal; same rules apply.




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The W's of Documentation

- When?
 - Early and often – first offense? Nature of the offense.
 - By exception
 - POSITIVE TOO!!
- Why?
 - When you *least* expect it, AKA for whom?!



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Eliciting Employee Engagement:
Conflict Management & Effective Negotiation
Strategies



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Employee Engagement: The Business Case

- Gallup: Managers account for at least 70% of the variance in employee engagement scores, and engagement is strongly linked to productivity.
- TLNT: Business units in the top engagement quartile experience 65% less turnover.
- What's this have to do with you?



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Employee Engagement: The Business Case

- Dale Carnegie: ___% of employees dissatisfied with their direct manager were disengaged.
- ___% of employees who lack confidence in the abilities of senior leadership were not fully engaged.
- [A MANAGER'S GUIDE TO EMPLOYEE ENGAGEMENT STRATEGIES | DALE CARNEGIE TRAINING](#)



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What Can Get in the Way? Conflict in the Workplace

Are *there* any benefits to workplace conflict? If so, name and describe three:

1. _____
2. _____
3. _____




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Factors Impacting Working Relationships

1. Stress
2. Trust
3. Influence
4. Power
5. Competition



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Stress and Productivity

Are you generally a procrastinator?

Do you feel you work better under some level of pressure?



Use the space in your booklet to draw the relationship you believe stress has on productivity e.g., as stress increases, what impact does that have on productivity?



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Stress and Productivity





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Trust as a Factor

- Trust Earned
- Trust Lost




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Power & Influence

- What is Power?
 - Is it a good or bad thing to have?
 - Would you rather have it or not have it?
 - Why?
 - Studies on Control and Stress




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Power & Influence

- What is Influence?
 - How is it different from Power?
 - Stephen Covey’s Tenet (Habit) #5
 - Seek First to Understand...
 - Then... _____




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Individual, Team and Competitive Productivity

- Researchers ran trials under three different models to assess the impact of competition on productivity. Subjects would be sent into an orange grove with various baskets and told to pick oranges. Their payout would be determined by the number of oranges they picked.
- **Individual Model.** In this group, a container was divided into four individual sections and each subject was paid according to the quantity of oranges he picked himself.
- **Team Model.** In this group, the container was not divided and each worker received an equal share of the group's payoff based on overall group production.
- **Competitive Model.** In this group, the container was divided into two equal parts. The group was divided into two dyads. Each dyad was assigned one section of the container. At the end, each member of the more productive dyad earned a bonus. Members of the less productive dyad would receive no bonus.
- Which model do you think was the most productive over time?



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**“Getting To Yes”
Negotiation and Conflict Management Skills**

- Separating Emotion From Fact
- What You Want (Positions)
- Why You Want It (Interests)
- Bargain Over **INTERESTS** not **POSITIONS**.




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Roadblocks?

Two people are studying in a library. One opens the window. The other waits a time and, annoyed by the draft that ruffles his paperwork, closes the window. Bothered by the stuffy air, Person A reopens the window. The two open and close the window until the librarian comes to then disturbed by the noise. One wants the window open for fresh air; the other wants the window closed to avoid the draft. What will the librarian do?



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Generating Options...Creating Thinking...Seeing and Hearing

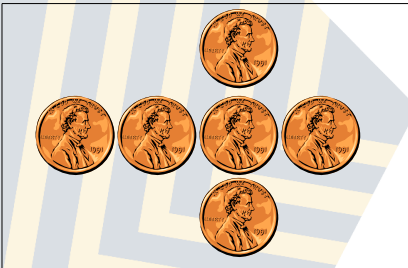


Using a Letter to Describe Each Way to Form a Number

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By moving just one coin within the lines below, create one column and one row with an equal number of coins in each row.



Using a Letter to Describe Each Way to Form a Number

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By drawing just one line, create the number 6.

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Using a Letter to Describe Each Way to Form a Number

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Brain Teaser

What one letter is common to “What” “Where” and “When” that you can remove and replace with just one other letter to get the answer to each question?



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Getting To Interests

Open vs. Closed – Appropriate vs. Inappropriate
Using an “O” or “C” and “A” or “I” indicate whether the questions below are open or closed and appropriate or inappropriate: O/A.

_____ Do you really think that’s the right way to go about this?

_____ Why are you hiding information?

_____ Can you meet with me today at 2:00?



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Getting to Interests

- Reflective Listening
- Building Rapport

– F _____

– F _____

– F _____




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Practical Tip: YOUR Q#3

- How can we use performance management/evals to increase retention and encourage new employee referrals?
 - Open-ended portion
 - Goals (whose?)
 - Establish a path and resources




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Practical Tips

Avoid:

1. Presumptive Inquiries: “What’s wrong?” Instead ask, “_____ or _____”
2. Presumptive Thoughts – Self-fulfilling prophecies
3. Statements of Exclusion, “You don’t want to work on this, do you?”
4. Assumptions, “He wouldn’t want to do that kind of work.”



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Do:

- Use the sandwich technique
- Talk *to* someone before you talk *about* someone
- Exercise the Power of Why
- Active Listening: Stop the Tape!
- Use YOUR resources:
 - HR
 - What else? _____




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Proactive Communication Tips

- Manage the *What* versus the *How*
- Ask “How” before “Who”
- “You” vs. “I” statements
- Consistent Application
 - Equal v. Equitable?




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Performance Evals In the News (YOUR Q#2)

- [COMPANY] sued by former employee alleging age discrimination, fired for poor performance despite “met or exceeded” rating on **prior performance appraisals**
- [COMPANY] Agrees to **\$10.5M** Settlement of Suits Alleging **Bias in Evaluation Program**
- Female workers sues citing **performance appraisal** as evidence of retaliation following complaint of unlawful harassment;
- Male worker sues alleging a violation of federal whistleblower statutes citing his **performance evaluation** as evidence of retaliation.
- Class action lawsuit alleges age discrimination (favoritism) for younger workers citing **performance evaluation** scores as evidence.
- Complainant awarded **\$8,000** for non-pecuniary harm stemming from **low performance appraisal** motivated by racial and sex discrimination.




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Performance Feedback: Pitfalls to Avoid

<ul style="list-style-type: none"> • Primacy Effect • Halo Effect • Error of Central Tendency • Recency Effect • Leniency Error 	<ol style="list-style-type: none"> 1. Tendency to let the first impression overshadow other behavior 2. An employee’s competency in one area overshadows incompetencies in other areas 3. Rating all employees favorably to avoid giving low marks 4. Tendency to let the last event overshadow prior behaviors 5. Rating all employees within a narrow range regardless of differences in individual performance
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Performance Eval/Appraisal/Review Tips

- Set the Expectation
- Include Self-Eval
- Online or Hard Copy (pencil)
- Provide options / resources
- Hold accountable / follow up
- Use the sandwich technique




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**When All Else Fails:
A Pre-Termination Checklist**

- A. Forewarning?
- B. Evidence?
- C. Proper Investigation?
- D. Lack of Discrimination?
- E. Penalty Meets the Offense?
- **WORK WITH HR** and know your organizational demographics




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Practical Application

Name at least two concepts from today's program and describe how you can *practically* begin applying them in your day-to-day activities.

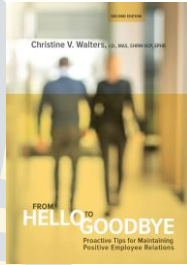


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A Resource for You

- Chapter 1 – When All Else Fails...
- Chapter 2 – Document, Document, Document
- Chapter 3 – Coaching, Counseling & Correcting
- Chapter 5 – Maintaining an Inclusive Workplace



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Some More Resources

GALLUP | Consulting | Services & Solutions | Learning & Center | News & Insights

Workplace | Services | Insights

Harvard Business Review | Developing Employees | How to Conduct a Great Performance Review

DEVELOPING EMPLOYEES | HOW TO CONDUCT A GREAT PERFORMANCE REVIEW

DEVELOPING EMPLOYEES | **How to Conduct a Great Performance Review** by Frank V. Coepedes | July 06, 2022

NEWS & INSIGHTS | SEPTEMBER 20, 2017 | **Give Performance Reviews That Actually Inspire Employees** | BY BEN WISERT AND ADAMARIE SWANN | **Forbes ADVISOR**

Performance Review Template & Examples (2024)

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Questions/Comments/Closing Remarks?

Thank YOU!



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