

A Perfect Appraisal

“DRIVE-BY” EMPLOYEE REVIEWS DON’T JUST HURT YOUR STAFF, THEY CAN BE USED AGAINST YOU IN COURT. BY MATT STILES

MY WIFE CATCHES ME IN APPARENT CONTRADICTIONS ALL THE TIME.

“How was your day today?” she asks. “Busy as hell, slammed,” I say. “So ‘slammed’ you couldn’t return my call from this morning, huh?” she counters. (When they use your own words against you, you know you’re in for it.) “Yep, I just didn’t have a spare minute all day,” I say. Then 45 minutes later I tell her

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all about this op-ed column I read online that day, a hilarious piece

about last fall’s congressional elections. “Sounds interesting,” she says, “I guess that explains why you were too ‘slammed’ to return my call.” Busted again (and that’s just one of the examples that’s acceptable for print). I wasn’t on trial, but I sure felt like it.

Managing employee performance is a time-consuming, often tedious and confrontational task. Because managers are all trying so hard to be encouraging of their employees and efficient with their own responsibilities, they’re often limited to haphazard or “drive-by” employee performance management. The result is that employee performance documents—such as the annual performance appraisal—paint a picture of an employee that’s frequently very different from the manager’s honest opinion of her employee’s work. If termination of the employee for poor performance leads her to file suit against you, you can bet that your flowery performance appraisal will be Exhibit A against you.

Managing employee performance is a subject of constant business theorizing and strategizing. We’ve all encountered the man-

use the most common tool in the employer’s performance management toolbox, the annual performance appraisal.

Appraise Employee Performance As You Go Along, Not Just Annually

Annual employee performance appraisals can be a reliable management tool and a good resource for employees to develop in their jobs, but what you write and how you rate an employee in her annual performance appraisal should never come as a surprise to her. That’s because an employee should always know whether or not she’s doing good work and where she stands with her manager. Eliminate the risk of surprise by appraising employee performance as you go, giving both positive and constructive feedback on a regular basis. Jack Welch, the former president of General Electric and a widely recognized authority on managing people, says that the secret to good employee relations is to have at least one positive or constructive contact with each of your direct reports every day.

If that contact results in a particularly significant positive or constructive appraisal (employee performance that exceeds expectations or falls drastically short), after discussing it with the employee, write it down and file it in a place you’ll be able to locate when it comes time to write the annual performance appraisal. Managers have a lot to worry about and when they finally get around to the annual performance appraisal, they can’t be expected to remember a full year’s worth of every employee’s performance. Having a good record of the highlights and not-so-highlights from the prior year is going to be a helpful resource to you down the road.

Make It Easy For Managers to Do Thoughtful, Thorough Appraisals

I’ve represented plenty of employers >>



When businesses get caught in a contradiction—whether by their employees or worse, judges and juries—the penalty can be a lot harsher than spending a night on the couch. This is especially true when it comes to defending employment litigation.

ager who was so obsessed with implementing the latest management gimmick that he completely forgot what the business was really about. So let’s not waste any time trying to cover the endless supply of management gimmicks. Rather, let’s focus on how better to

>> whose managers got busted on the witness stand with a contradiction between their reason for terminating employees (some facet of poor performance) and the peculiarly radiant performance appraisals they gave to these same employees. Although it's hardly ever enough to save the case for the employer, the manager almost always has some handy excuse for the contradiction.

The employers themselves are often to blame. Employers know what a good tool annual performance appraisals can be, but as with many business processes, they can elevate form over substance. Doing an annual performance appraisal is utterly worthless if the substance of the appraisal is not reliable. Still, all too often, I see instances where businesses schedule their annual performance reviews at calendar or fiscal year-end, the same time that managers are supposed to be taking inventory or completing other lengthy, time-consuming and time-sensitive reports. If your performance appraisals are going to mean anything, you have to give your managers time to get organized,

DOING AN ANNUAL PERFORMANCE APPRAISAL IS UTTERLY WORTHLESS IF THE SUBSTANCE OF THE APPRAISAL IS NOT RELIABLE.

avoid distraction and allow time for thoughtfulness. Businesses should estimate what amount of time they would expect a manager to take with each appraisal and then make sure they've been given sufficient time to do it while also keeping up with their other work. No matter how simple your appraisal form is, it should take a well-organized manager at least 30 minutes per employee to complete a thorough, meaningful performance appraisal.

Not being given enough time to do a good job with the appraisal is probably a good excuse for meaningless or haphazard performance reviews. There are also a number of very poor excuses—a fear of confrontation, a need to be liked, a desire to avoid criticism, just to name a few. If these excuses apply to you, get over them quickly or you're not management material. Another poor management excuse for inaccurate

performance appraisals is that the manager didn't want to risk the employee's compensation or expected promotion by giving him an honest ranking on the appraisal. The temptation to use this excuse is particularly strong if the appraisal falls near the holidays. Employers can avoid this hazard by awarding pay increases and promotions on a different schedule from their performance appraisals.

A Useful Performance Appraisal is Specific and Detailed

Most pre-fab performance appraisal forms have some kind of ranking system (either a ranking from one to five on achievement in key performance areas or a choice of exceeds, meets, or does not meet expectations). If you use one of these standardized rating systems, be sure to include a section on the form for specific examples of the employee's conduct that are consistent with your ranking. Specific examples of employee performance are the most important ingredients in a good performance appraisal. When

providing examples, you should avoid subjective statements like, "has a poor attitude" or "not a team-player," unless those statements are backed up with objective examples such as, "refused to assist co-employees with large inventory order on December 15-16," or "lost her temper and walked out on November 8 when I was trying to show her the proper way to write an invoice."

If, in a particular category of performance, you've given the employee something other than a perfect score, provide a specific example of how the employee can improve performance. Where immediate improvement is required, set a well-defined goal for improvement and a target date to accomplish it.

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Don't limit your use of specific examples to the employee's shortcomings. If she's excelled in a particular area, provide examples of that, too. If, for example, you give the employee a perfect score in the attendance and punctuality category, provide a specific example such as "she's never been late and hasn't had an unexcused absence in 24 months."

When a manager starts writing that performance appraisal, she needs to think like an employment lawyer. (No, this doesn't mean she should start billing her employer for the grossly inflated value of her time in 10th of an hour increments.) She should start by looking at the document as a potential piece of evidence, something that will be enlarged on a billboard-sized display board, projected onto a gigantic screen in a courtroom and distributed to a jury of 12 to read and scrutinize. Not only should she be prepared for others to see the document, but she should be prepared to defend it on a witness stand.

I once had to defend a manager who wrote on a performance appraisal that his female assistant needed to "stop dressing like a hoochie-mama." (Note: If you use terms in your appraisal document that can only be defined by a word search at UrbanDictionary.com, you need to rethink your appraisal.) Unlike this manager (whose specific example was probably a little too specific), don't ever write something in a performance appraisal that is untrue, may be misconstrued or that you cannot comfortably explain.

Avoid These Appraisal Pitfalls


One cause of inflated performance appraisals is the "halo effect." A manager tends to view some employees—those he's closest to or those who at one time or another had absolutely stellar success in some facet of the job—as superhuman, above any criticism. This is the "halo >>

>> effect,” and the result is not only a risk that employee morale will suffer because you played favorites, but that your favorite employee will end up fundamentally misunderstanding her performance and career progress. The “horns effect” is the corollary, rating an employee lower than her performance would suggest because of a personality conflict between the employee and manager or because she royally flubbed a high-profile assignment sometime in the past.

Watch out, too, for the “Johnny-come-lately effect,” where a manager rates the employee’s performance based mostly on the most recent, easier-to-remember performance. If the purpose of the appraisal is to summarize a year’s worth of performance, managers must appraise the employee’s performance over the entire course of the year, not just what’s happened lately.

Ultimately, the most important pitfall to avoid is the inflated performance appraisal. You do a disservice to both employer and

employee if you write an inflated, overly-positive, largely untrue performance appraisal. It can happen for a number of reasons, be it a haphazard effort by the manager, lack of time to do a thorough review or the result of a mistake, but the inflated performance appraisal is the one most likely to come back and get you busted or worse—it could land you in front of a jury and bite you in the you-know-what.

Next month we’ll delve further into performance management and useful tools for handling employee discipline. 

LEARN MORE

What Every Employee Needs to Know About Employer Performance Appraisals

1. YOUR PERFORMANCE IS PROBABLY NOT BEING REVIEWED BECAUSE YOU DID SOMETHING WRONG.

Don’t sweat it! Employers use performance reviews to measure your performance compared to your co-employees. They’re usually standardized for all employees, even the manager who’s evaluating you. Many employers have a very quick (90-day) performance review for new hires to evaluate whether the gig is working out. If things aren’t working out, then this is the time to fish or cut bait. Most employers do performance appraisals at least annually. They’re commonly used to award pay increases, bonuses and promotions. They can also be helpful tools for an employer that has to decide who to keep and who to let go as part of a downsizing, but are rarely used solely for that purpose.

2. FIND OUT WHAT KIND OF PERFORMANCE MANAGEMENT SYSTEM YOUR EMPLOYER USES.

Stay informed about the place where you work. Whether you’re subject to monthly, quarterly or annual performance management is something you need to know when you accept a job. Of course, we all think we do our jobs well every day, but you need to know when and how your employer evaluates your performance in order to take full advantage of securing a favorable review. The “Johnny-come-lately effect” (where the manager evaluating your performance has your recent performance foremost in her mind) is a common factor in all subjective management systems. Use this performance appraisal secret to your advantage by timing your best on-the-job achievement or highest production at or near your next performance appraisal.

3. KNOW WHAT’S EXPECTED OF YOU.

Most performance appraisals start with a pre-fab form document that’s left to your manager to fill out. Know what’s on the form and understand what the key categories of performance are. You can ask for a copy of the form today. The employer is not required to give it to you, but a good employer will be happy to provide you a copy. If there’s some component of the appraisal that doesn’t make sense to you, ask your manager to explain it. Make sure you know who will be writing your appraisal and how she keeps track of your performance. That’s the person you have to dazzle.

4. MAKE SURE YOU’RE WILLING TO DO WHAT’S EXPECTED OF YOU.

Performance management isn’t perfect. It frequently results in the company trying to cram a square peg into a round hole. And sometimes you’re going to be evaluated and appraised on tasks and responsibilities that you simply don’t want to do. If you’re the square peg and the performance management system your employer uses is skewed toward a heavy emphasis on some facet of the job you hate, let your manager know that it’s a deal-breaker or start looking for another job.

5. PREPARING FOR A PERFORMANCE REVIEW INTERVIEW.

Treat a performance review interview like an initial job interview. Show up on time, organized and prepared to discuss your strengths on the job. Bring a legal pad to take notes.

6. BE RESPECTFUL AND COOPERATIVE DURING THE INTERVIEW.

Unlike an initial job interview—and unless you’re superhuman—you’re probably going to hear at least a little tough talk about your work performance. Don’t get defensive or nasty about it. Keep your cool. Take good notes and make sure you leave that meeting with a clear understanding of what specifically your manager wants you to do to improve your appraisal the next time. If you take issue with the appraisal, make sure you can back it up and let your manager know.

7. IF A REBUTTAL IS REQUIRED, PROVIDE ONE IN WRITING.

If your manager flat out got it wrong, don’t let her get away with it. Most performance appraisals include a section for the employee’s signature and comments. Frankly, there’s never really enough room for you to write any meaningful comments on the form. If you are not given enough room to write the basis for your disagreement on the appraisal, write “I disagree and will submit a response by separate memo.” Then write a succinct, specific, well-articulated rebuttal memo. If it looks like you wrote it in anger or wrote it haphazardly, it will risk the employer taking you less seriously. Proofread it thoroughly before you turn it in. You should probably even sleep on it for a night—my desk drawer is full of emotional letters that I wrote on one day and decided not to send on the next. 