

Performance evaluations

Performance evaluations are useful for both the employer and the employee. They help the employer make informed decisions regarding important employment matters such as compensation, transfers, promotions, and termination. They keep the employee informed regarding his or her performance, including where he or she can improve. Performance evaluations are also important, however, in avoiding and defending against litigation. A performance evaluation that creates a record of an employee's performance can help build an excellent defense to an employment discrimination lawsuit.

It is important that managers and supervisors are informed as to the importance of an employment evaluation. There are several mistakes that managers typically make that can ruin the value of a performance evaluation. For instance, evaluators sometimes rate an employee's performance as "good" or "excellent" without really considering the employee's performance. Similarly, evaluators sometimes use the same language on each employee's evaluation, suggesting that little time or effort was devoted to their completion. Some evaluators try to use the performance evaluation as a motivational tool or morale booster by giving the employee undeservedly high marks, which leads the employee to believe that his or her employment is secure. Thoughtlessly evaluating the employee, using form language in the evaluation, or giving the employee undeservedly high marks defeats both the evaluative and litigation-defense purpose of employment evaluations.

The employment evaluation process can sometimes be an uncomfortable experience for the evaluator and employee. However, when evaluations are done in a candid, consistent and open manner, they can benefit both parties. Though there is no requirement under Tennessee or Federal law for employment evaluations, evaluations are an important component of the employer/employee relationship, and should be treated accordingly.

Supervisor instruction and training

Since supervisors and managers generally administer performance evaluations, it is essential that they receive the appropriate training and instruction. Even with an established performance evaluation procedure in place, a manager who ineffectively or erroneously performs the evaluation can render it useless or harmful to the employer and employee.

The company should give written instructions to supervisors and managers who evaluate employees regarding performance evaluations. The instructions should:

- outline the purpose and importance of performance evaluations, including the potential ramifications of a poorly administered evaluation

- emphasize the importance of honesty, fairness, and consistency within the evaluation procedure
- include information on how to deal with potential problems in an evaluation, such as incomplete information regarding the employee or factual disputes
- require that the supervisor review the job description of the employee prior to the performance evaluation.

Each supervisor or manager who receives a copy of the written instructions should sign an acknowledgement that they have reviewed the performance evaluation instructions, and that they agree to follow the instructions. The acknowledgement should also indicate that the supervisor/manager will be held responsible for his or her evaluations.

In addition to written instructions, the employer should provide training for managers and supervisors who will administer performance evaluations. The training should cover the evaluation procedure in detail, as well as address some common mistakes made during the process. It is important that the supervisor or manager know that the employer will not tolerate any bias or stereotyping in the evaluation process.

Scope and tone of evaluation

Performance evaluations should be job specific. A stock evaluation form, while consistent, may be insufficient to address the performance of a particular employee. The evaluation should be based on the tasks described in the job description of the employee, as well as job-related skills that bear on the employee's performance. Examples of generally appropriate areas of evaluation include commitment, judgment, initiative, leadership, professionalism and knowledge of the job.

Keep in mind that the traditional adjectives used in evaluation forms, such as "satisfactory" or "poor" are sometimes inappropriate. If the company uses a standard evaluation form for all or most of its employees, evaluators should indicate which categories are "Not Applicable" to a given employee.

Evaluations should be based on job performance, **not** personality traits. For an evaluation to appropriately help an employee develop, the evaluation cannot be received as an attack on the employee's personality. Personal attacks on an employee during an evaluation can create a number of potential liabilities for the employer, including discrimination claims if the criticism is arguably based on a stereotype.

It is also important that the evaluation cover all aspects of the employee's job. An evaluation that does not cover all key functions of an employee can make defending the corporation in a subsequent suit difficult. If the employee is fired because of his or her poor performance in an area that is not covered by the performance evaluation, then the employer will have no record of the employee's poor performance. Even if the employer can show that the employee did a poor job in a specific area without the performance evaluation, it is hard to show that the poor performance was a truly important part of the employee's job if it is not included in their performance evaluation.

Objective review of completed performance evaluations

To ensure against bias or stereotyping by an evaluator, the company should create a system that monitors the evaluation process. Human Resources should review all performance evaluations before they are presented to the employee. The evaluation should also be reviewed and approved by one of the evaluator's superiors, preferably one who is familiar with the person being evaluated or the job duties of that employee. Additional levels of review decrease the likelihood of bias, and reinforce the reliability of the evaluation.

Once an evaluation monitoring system is in place, the system itself should occasionally be tested by the employer to ensure that it is effectively creating a consistent and fair evaluation procedure for all employees.

Keys to a meaningful evaluation

- **Be honest**

A review should be honest and candid. Resist the temptation to avoid the areas of the employee's performance that need improvement. While it is appropriate to point out the achievements and strengths of an employee, the evaluation must also cover his or her deficiencies. Provided that the statements made are true, a harsh evaluation cannot be used against the employer in a lawsuit. Remember that the performance evaluation procedure is designed to help the employee know how he or she is doing in their job, as well as to serve as a tool for the employer in defense of litigation. If the performance evaluation does not deliver a straightforward, candid picture of the employee's performance, then neither of those goals are achieved.

- **Avoid excessively favorable reviews**

Evaluators are sometimes motivated to give excessively favorable reviews of employees. Some supervisors hope to avoid confrontation or an uncomfortable evaluation meeting with the employee. Other supervisors believe that an overly positive performance review is a good motivational tool to boost the morale of an employee.

The employer should include controls in the employee review process to guard against overly favorable reviews. For instance, the design of the performance evaluation form, if done carefully, can be effective in preventing excessively favorable reviews. Also, requiring a group of managers or supervisors to evaluate their subordinates collectively can expose evaluators who might otherwise give overly favorable reviews. Finally, occasional refresher training of supervisors and managers regarding employment evaluations can be effective in preventing inflated reviews.

The employer should set expectations for the scale of evaluation ratings and communicate those expectations to the managers and supervisors. There must be room on the scale to distinguish exceptional employees and poor employees. Some companies accomplish this goal by rating satisfactory employees in the middle of the grading scale and reserving the highest grades for those who truly stand out from their peers.

- **Skip the quota approach**

Rigid mathematical quotas or bell curves requiring a certain percentage of employees in each evaluation category are not advised. Groups will likely have different numbers of outstanding, average or poor employees, and mathematical quotas create an unequal evaluation system from group to group. Notice that setting a quota or curve is different from setting an expected evaluation range and communicating that range to supervisors and managers. While supervisors and managers need to be informed of the standards and expectations of the procedure, they should not be forced to make artificial categorizations based on mathematical formulas.

- **Keep evaluations uniform**

It is important that the rating scale of the performance evaluation be explained to supervisors and managers. The words “Poor” or “Satisfactory” may mean different things to different evaluators. Be sure that all evaluators have a consistent understanding of the forms, standards and terms that are used in the evaluations.

- **Address strengths and weaknesses**

Even when evaluating an employee with poor performance, evaluators should note any strengths that employee may have. It is also advisable to offer some type of constructive criticism to each evaluation. A discharged employee who brings a discrimination suit may allege that he or she was held to a different standard than other employees. Showing that other coworkers receive criticism in their evaluation can help diffuse such an allegation. Including criticism in performance evaluations also helps to establish a pattern for good employees whose performance deteriorates later on. If the employee is discharged because of poor performance, it can help to show that this problem existed in the past as well, though not acutely enough to warrant discharge.

Employee acknowledgment

It is important that performance evaluations be carefully documented. An evaluation is of little use if there is no documented record of it. A consistent system of documentation should be a fundamental step in any performance evaluation procedure.

The employee should have the opportunity to review the completed evaluation and comment on it. Allowing the employee to review the evaluation provides proof of fairness, and can potentially alert the employer to additional problems with the employee.

The employee should also have the opportunity to disagree or agree with the job criteria for which he or she is evaluated. If the employee agrees with the duties being described, then there can be no dispute regarding the scope of the evaluation. If the employee disagrees with the evaluation, then the employer has the opportunity to change the criteria of the evaluation or reintroduce the employee to the duties of his or her job.

The employee should sign an acknowledgement that he or she has read the evaluation. This prevents the employee from claiming ignorance as to the criteria or results of the evaluation. The employee should also be given the opportunity to write a response to his or her review. This improves communication between the employer and employee, and creates a record of the employee’s assent to the evaluation.

To the extent that performance evaluations are used as an opportunity to motivate an employee to reach some stated goal, acknowledgement of that goal should also be made on the evaluation. If, for example, the supervisor and employee agree that the employee has frequently been late for work, and agree that the employee must work harder to be on time, then the goal of better punctuality should be noted on the evaluation.

When not to evaluate

Though performance evaluations can be helpful in improving employee performance and defending against litigation, they should not be used at all if certain elements of the procedure are missing. Remember, although an employee evaluation is a confidential document, it is not exempt from discovery during litigation. The following are examples of crucial omissions from the evaluation procedure that render the evaluation useless or even harmful to the employer:

- inconsistent performance reviews among employees
- poorly defined or non-job related performance criteria
- non-documented performance evaluations
- unclear delineations of employee deficiencies
- failure by the employer to follow up or enforce performance goals set in an evaluation.

