Performance Management and Corrective Action

A Resource Guide For Managers & Supervisors
THE LITTLER LEARNING GROUP

LLG 2009 Training

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Why Performance Management Matters – Practical And Legal

A. The Legal Perspective

Proper management of performance problems is vital in the effort to help employers stave off the high cost of litigation. Indeed, employers are often subject to million- and even billion-dollar lawsuits based on decisions managers make every day about employee performance.

Here’s an example based on an actual case:

A manager decides to fire an employee, Michelle, who had repeatedly refused to assist clients. Michelle also frequently displayed a bad attitude by failing to volunteer for duties and making disrespectful comments about clients. (Based on Newman v. Deer Path Inn (N.D. Ill. 12/3/99). Despite this history of poor performance, Michelle still sued the company. In court, the managers could not remember the details of the poor performance and the written documentation was, as the judge put it, “unsigned, incomplete, and undated.” There were the annual performance reviews, but these were glowing (of course). Because the managers could not prove with any specificity why the employee was terminated, the company lost the case.

B. The Practical Perspective

Employees expect and want their managers to deal with work-related problems. Doing so helps:

- **Improve productivity.** Problem performance rarely goes away on its own. By actively managing performance, supervisors can help resolve those problems sooner rather than later.

- **Improve morale and keep the best employees.** There is a common misconception that employees do not like managers who directly deal with problem performance. The best employees are not afraid of feedback — they get frustrated when poor performers are left unmanaged. When you don’t deal with a problem, it usually means extra work for the best employees.

- **Make the manager’s life easier.** Performance management is often thought of as an extra task. In reality it allows managers more time to spend on productive work, instead of dealing with the ripple effect that bad performance causes.
C. What Does A Good Performance Management System Look Like

A good performance management system presents a mirror of employee performance. The performance mirror should reflect back the organization's views of how the employee is doing. To be most effective, managers should hold up a mirror to employees on a consistent basis. That's why performance management starts the first day of employment and does not end until an employee leaves the organization.

D. Common Problems When The Mirror Doesn't Work Properly

Sometimes the performance mirror is not an accurate reflection of an employee's performance. The following items can distort the feedback mirror:

- Late / after-the-fact feedback
- Unclear / vague language
- Incorrect information being given
- Conflicts with information from
  i. Different supervisors
  ii. The same supervisor
Managing Problems Before They Begin

Dealing with problem performance is part of every manager’s job. There is no magic potion that will keep problems from occurring. Managers are not, however, helpless. There are several actions managers can take before problems begin to best ensure exceptional performance from all employees.

A. **Set Clear Goals And Objectives**

Many performance problems would never occur if managers set clear goals and objectives with employees from the start of employment or from the start of a new task. In *The One Minute Manager*, Kenneth Blanchard makes an analogy between managing without clear goals and objectives and bowling with a sheet covering the pins. Imagine employees stepping up to the line and tossing the bowling ball down the alley. They hear something going on, but have no idea what is a good score or how many pins are being knocked down. It is a manager’s job to let employees know what’s expected and how they’re doing.

B. **Explain Why Tasks Are Important**

1. **Why the Task is Important to the Organization**

Employees perform better when they understand how their individual tasks promote the organization’s overall objectives and goals. For example, what is the receptionist’s job? The basic tasks include answering the phone quickly and professionally. The job is also a vital part of any organization’s client satisfaction efforts. Employees who do not understand the connection between individual tasks and the organization’s goals wonder why it is important to do a good job. Thus, they often fail to excel.

2. **Why the Task is Important to the Employee – “WIIFMs”**

“What’s In It For Me?” Directly connecting fulfillment of objectives with benefits to the employee is essential to obtaining good performance. Ensure that this connection is made for employees before being assigned tasks and duties.

C. **Provide Sufficient Resources**

Even the most self-motivated, technically proficient employees need adequate resources to do their jobs. Managers should ask themselves these questions in order to decide what resources are needed:

- Enough knowledge?
- Enough people assigned?
• Enough time?
• Appropriate equipment?
• Enough information?
• Places to go for help?

**Give Feedback –Today**

Good or bad, employees need to know how they are doing. Often managers avoid providing negative feedback because they do not want to hurt the employee’s feelings. Who does this approach help? Nobody. The employee’s performance will not improve, which hurts the organization. The employee is also hurt. By delaying getting feedback, the employee is not given a chance to improve before the problem becomes serious.

Conversely, managers often assume that top performers just “get it” and do not need feedback. The best performers strive hard to do a great job. Yet, without feedback, they are left guessing what doing a great job means. Giving feedback to the department’s stars allows them to work up to their potential.

Feedback, if done correctly, can help managers keep their “W.I.T.S.”

• **Why.** Make sure the employee knows the impact of their behavior on other employees, the department, and the organization as a whole.

• **Immediate.** Feedback (good or bad) is most effective when it is done soon after the performance occurs.

• **Think Small.** It is easy to recognize the major victory or the major mess-up. But think about all the small steps that lead up to a job being done well. For example, in winning a big account, the extra thank-you letter that someone sent or the embarrassing error someone caught are both small steps that can add up to a big success.

• **Specific.** A new employee just started and the manager has barely had a chance to say ‘hi’. Yet, everyone in the department has given the new employee high marks. After a couple weeks the manager tells her, “Great start. Keep up the good work.” What does the employee think? She’s probably glad the manager likes her, but has no idea what she’s been doing right.

Part of being specific is using objective terms when describing performance. Objective terms are those that describe actual tasks, not those that relay feelings or opinions.
<table>
<thead>
<tr>
<th>Subjective</th>
<th>Objective</th>
</tr>
</thead>
<tbody>
<tr>
<td>Not a team player</td>
<td>Judy was told to prepare an estimate of costs by August 10. She didn’t finish it on time. This prevented others who needed the information from finishing their parts of the budget.</td>
</tr>
<tr>
<td>Promotes our image</td>
<td>As a receptionist, Sue is in a public contact position. On four occasions (list dates), I noticed her thanking guests for coming by as they dropped off their security badges, and saying that she hoped to see them again soon.</td>
</tr>
<tr>
<td>Doesn’t fit in well</td>
<td>Bill is gruff when his coworkers approach him with questions. As a consequence, they try to avoid talking with him and the department loses the benefit of his knowledge and experience.</td>
</tr>
<tr>
<td>Doesn’t follow procedures</td>
<td>Tony has been repeatedly told to use his laptop to fill out order forms. He has not done this. As a result, accounting spends more time trying to read his handwritten orders, and makes more mistakes inputting customer information from his forms.</td>
</tr>
<tr>
<td>Sales oriented</td>
<td>In May Paula was given the goal of making 14 calls on new prospects per month, and increasing her new accounts by 10% by the end of 2002. Her call reports for the last three months show a maximum of 20 calls per month and a minimum of 14. Well done!</td>
</tr>
<tr>
<td>Unreliable</td>
<td>Jerry was out sick ten days in the last four months, including Mondays or Fridays, on (list dates). He was between five and ten minutes late to work two to three times per week.</td>
</tr>
<tr>
<td>Doesn’t carry his weight</td>
<td>Each member of the department is supposed to take overload from the others when they finish their assigned tasks. John has not done this. He goes to the lounge for coffee, makes frequent personal telephone calls, and chats with his coworkers. Each time I asked him to assist another employee, he sighed, frowned, and moved very slowly to perform the task.</td>
</tr>
<tr>
<td>Bad attitude</td>
<td>Brian seldom acknowledges that he understands an assignment by saying “Yes” or “When do you want it done?” Whenever I tell him that a particular task has not been completed properly, he contradicts me and tries to change the subject.</td>
</tr>
<tr>
<td>Reliable</td>
<td>Consistent attendance is a requirement of every job. Jerry has gone 3 months without being late or absent.</td>
</tr>
</tbody>
</table>

E. **Provide Incentives**

Incentives are one way to show the connection between personal benefits and good performance.

1. **Formal**

Most organizations have some type of formal incentive programs. While many managers may not be able to establish a formal incentive program, they can ensure that the existing programs are known and used.

2. **Informal**

Because the “sun never sets on performance management,” managers should think small and develop incentives that can reward performance on a continual basis. Examples that managers can consider are the following:

- Time off
- Small gifts
- Meals
- Public recognition
- Charitable donation in the employee’s name

F. **Caution: What Are The Incentives Encouraging?**

The law of unintended consequences frequently applies to providing incentives. Before adopting any incentive plan, formal or informal, think about the behavior that will be encouraged. For example, one software company gave a monthly award to the programmer who found the most bugs in a software program. The incentives
worked so well that the programmers wrote in bugs just to find them. Source: Patricia Addesso, Management Would Be Easy ... If It Weren’t for the People.

G. Avoiding Common Mistakes

There are a few common mistakes that managers often make that have a tendency to cause serious performance problems, instead of solving them. Managers should avoid these common mistakes:

1. Procrastination Of Giving Feedback To Difficult Employees

Few managers actually enjoy giving negative feedback to employees. The job is particularly difficult when a manager knows that the employee will push back. To avoid this unpleasant task, many managers will let bad performance slide until a major performance erupts. This approach is a serious mistake as it practically guarantees that the manager will have to resort to disciplinary action.

2. Assuming That Employees Know How To Do The Job

Managers who hear themselves saying “he should have known better” have likely already violated rule one in the section on managing performance before problems begin – set clear expectations and goals. The assumption that employees should “know better” arises frequently when managers got promoted from the ranks and is extremely proficient at performing the jobs of his/her direct reports. These managers forget that they had to learn the tasks, and have to now teach new employees.

3. Taking Over Tasks Instead Of Showing Employee To Do The Task Correctly.

An employee has just done the month-end report for the first time. Overall, the manager is thrilled with the work because there is only one section of the report that needs reworking. The report is due in three hours, so the manager makes the corrections herself. What will happen when the report is due next month? The employee will make the same mistakes again. In the long term, managers who resist the temptation to finish off or correct work themselves will save time and avoid long-term performance problems.
Assessing Performance Problems

All the proactive measures to keep performance on track have been utilized, and the employee’s performance still falls into the problem area. It’s time to consider more serious action, including discipline. Analyzing the problem is the first step in devising a solution.

A. What Is Causing The Problem?

- Identifying the cause of a performance problem is a key strategy in establishing the goals and designing ways to improve performance. These include:
  - Lack of knowledge or skill
  - Lack of motivation
  - Personal life difficulties
  - Performance obstacles
  - Inability to perform

Proceed With Caution: Managers are not psychologists, counselors, or physicians. It is not up the manager to delve into the employee’s personal lives and solve personal problems. Doing so often results in getting stuck in a morass of issues unrelated to performance at work. Delving into the personal life of an employee also creates legal issues. An employee may believe that the manager is invading the “right of privacy.” The manager may also learn information that is not helpful in solving the problem but could be used by the employee to raise legal complaints later. Whenever an employee blames performance problems on their own disability or serious health condition, the serious health condition of a close family member, or pregnancy, managers should work with human resources to ensure that the organization’s legal obligations are being met.

B. What Type Of Problem – The Performance Matrix

There seem to be no end to the variety of performance problems. While the specifics of each situation differ, performance problems can generally be broken down into one or more of the following categories:

Execution: This is the employee who is simply not doing his or her job functions well (or well enough). For example, a person hired to be an IT support person that cannot answer most questions from users.

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1 The matrix is based, in part, on Dick Grote, Discipline Without Punishment (Ammacon 1995).
**Conduct:** This is the employee who is acting out. Often the disruptive employee does the core job duties well but makes every one else's life miserable. An example is the employee who snaps at co-workers or challenges every decision a manager makes.

**Work Rules:** There organization has established some rules that all employees must follow (e.g., attendance, no OT). Often violating the work rules will also fall under the execution and conduct category. However, violating work rules can be dealt with as a separate problem. For example, if the organization has a “no OT” policy, but an employee works extra hours. The employee may actually be showing an exemplary effort. However, s/he has still violated a work rule.

**Legal:** These problems, such as sexual harassment or safety violations, can cause major liability issues for the organization.

**C. Describing The Performance Gap**

Managers must be able to articulate, very specifically, the answer to these two questions:

1) What does the manager want the employee to do?

2) What is the employee actually doing?

Think of being at a restaurant and getting really bad service. What does one often do? Leave a small tip. “That’ll show him,” the patron says. But what is the waiter thinking caused the small tip? Probably anything but his own performance (e.g., “That customer is so cheap. or “The cook has been dishing out cold soup all night. It’s surprising I got anything.”). The problem behavior simply will not change unless the manager can explain what s/he wants from the employee and what the employee is actually doing.

**D. How Serious Is The Problem?**

Not all problems are alike, and not all problems require calling out the National Guard. Before reacting, managers should review the following factors to ensure that they are not over- or under-reacting:

- What is the employee’s length of employment?
- What is the problem’s impact on workflow, production, or productivity?
- What is the problem’s impact on other employees (e.g., morale)?
- Should there be an investigation?
E. **How Have Similarly Situated Employees Been Treated?**

Before deciding on what tool to use to correct a problem, managers must consider what tools they have used when dealing with similarly situated employees. Treating like situations alike has several benefits, including:

- Promoting the perception of fairness
- Taking some of the “guesswork” out of the decision making process
- Helping to defend lawsuits

But remember that many situations that seem similar on the surface are vastly different. For example, what if you had two employees who both violated company policy by punching in for time they had not worked. Would you treat both employees the same in terms of discipline? What if this was a first offense for one employee on an otherwise spotless record and for the second employee it was one of a series of offenses? Now would you treat both employees the same? Based on job duties alone, the employees are similarly situated. But their job performance is not comparable, so they may warrant different treatment. The first employee may only receive a verbal warning while the second employee may warrant a final warning due to other documented problems.

To decide if two employees are similarly situated, examine:

- Policies and procedures
- Job duties
- Work histories
- Performance records
- Positions
- Qualifications
- Seniority

F. **What Managers Cannot Consider**

There are a number of factors that must be off the table.
Decisions Based On Protected Categories

The law forbids managers from making decisions based on certain protected categories. These laws are generally called anti-discrimination laws. The main anti-discrimination federal laws are the following:

**Title VII**
Title vii of the 1964 civil rights act, as amended, prohibits discrimination against employees or job applicants on the basis of race, color, religion, sex, or national origin. Title vii applies to companies with 15 or more employees doing business in interstate commerce. The equal opportunity act of 1972, an amendment to title vii, brought most federal, state and municipal employees under the same protection. In addition, the civil rights act of 1991, which amends title vii, has broadened the remedies available under title vii and has made some cases of discrimination harder for employers to defend against.

**The Age Discrimination in Employment Act (ADEA)**
The ADEA, as amended in 1986, prohibits employment discrimination on the basis of age against anyone over 40. The law was also amended in 1990 by the Older Workers Benefit Protection Act, which prohibits discrimination in the provisions of pension benefits and sets standards for waivers of rights under the ADEA.

Those who file suit under the ADEA are entitled to a trial by jury, which gives the law added punch. Juries in such cases frequently hit employers with large damage awards. Double damages can be awarded if there is a finding that the violation was willful.

**The Americans with Disabilities Act (ADA)**
The American with disabilities act of 1990 covers practically every type of organization in the united states in one way or another. The ADA aims to make it easier for disabled persons to hold jobs, travel on public transportation and use public telecommunications services. It also requires virtually all businesses that serve the general public, from mom-and-pop groceries to the biggest corporations, to make their public services and facilities accessible to disabled customers. It requires covered employers to reasonably accommodate applicants and employees who have disabilities, which are broadly defined.

**The Civil Rights Act of 1991**
The Civil Rights Act of 1991, which amends Title VII of the 1964 Civil Rights Act, places a heavier burden on employers attempting to defend themselves against discrimination charges. It also allows compensatory and punitive damages awards in cases of intentional discrimination, including cases brought under the Americans with Disabilities Act. This amendment to Title VII should make some discrimination lawsuits easier for the suing individuals to win, and it will hold out the potential for more lucrative damage awards. The Act has increased significantly the number of
discrimination lawsuits filed by women, members of minority groups, and people with disabilities.

**The Equal Pay Act**
This law prohibits discrimination on the basis of sex in the payment of compensation, including benefits. It has one important thing in common with the ADEA – double damages can be awarded if there is a willful violation. The Pregnancy Discrimination Act (PDA) Congress passed this amendment to Title VII in response to a Supreme Court ruling that discrimination on the basis of pregnancy was not covered by the ban on sex discrimination. The PDA leaves no doubt that discrimination on the basis of pregnancy or any pregnancy-related condition is against the law. Various states have additional laws. Check with HR.

**G. Avoiding The Perception Of Discrimination**

Fortunately, most managers will not make an employment decision directly based on one of characteristics protected by law. For example, few managers will say to themselves, “I know I wouldn’t fire some one if they were young for missing two deadlines, but I’m just going to let this older employee go.” However, when the legitimate business reasons for an employment decision are unclear or not documented, it is easy for an employee to feel that the decision was unfair or arbitrary. It is this feeling of unfairness that drives employees to their attorneys, who can often turn this feeling into a discrimination lawsuit. By following the guidelines in this manual, employees are less likely to believe a manager's decision is unfair.
Assess The Solutions And Tools

Once managers understand the nature of the problem, the next step is to assess the tools they will use to solve the problem. Common tools include:

- Training
- Coaching
- Corrective Action
- Verbal Warnings
- Written Warnings
- Final Warnings
- Last Chance Agreements or Suspension
- Termination

Abraham Maslow, the father of management psychology, had a saying: “If the only tool you have is a hammer, you treat every problem like a nail.” Managers often think of the above bullet points as steps not tools. “Do training first, then counseling, etc....” This approach is often appropriate. However, sometimes a manager may need to go straight to termination (e.g., an employee physically attacks a customer). Other times a combination of approaches will work. For example, if an employee has not been doing her job well for some time and counseling has not worked, a verbal or written warning might be appropriate, along with some additional training.

Create An Action Plan

Upon deciding on the appropriate tools, the manager next needs to create a plan describing how the employee will improve his or her performance. A good action plan is:

- Task oriented
- Specific
- Offers the appropriate training/help
- Sets goals
- Sets timetable for effecting change
- Explains the consequences of continued poor performance
- Removes obstacles to performance
- Considers appropriateness of professional resources
Document The Problem

A. The Importance Of Documentation

Documenting performance problems has many advantages, including:

- Allows managers to organize thoughts
- Provides a “script” for the performance counseling meeting
- Helps the employee know what to do
- Lessens confusion later
- Allowing the organization’s business reasons to stand up in court

B. Use Evidence Of The Performance

Evidence of the performance problem is a powerful way to let employees know exactly what they are doing right or wrong. Evidence can include:

- Written correspondence such as reports, memos, notes, and letters
- Meeting agendas
- E-mail and voice mail
- Photos and videos
- Calendars

C. Questions to Ask Yourself

Before completing the documentation, take a step back and look at it as if you were an outsider. At some point, others will likely need to obtain information about the employee from the documentation. This could include a new manager that has to deal with the employee or a jury trying to decide whether the organization’s business reasons for its decisions were justified. Ask yourself the following questions:

- Is the document understandable to a stranger to the business?
- Does the document make it clear why a problem is serious?
- Is the criticism obvious?
- If you received the document, would you be able to create an action plan from it?
Make Sure The Documentation Is Complete

When documenting misconduct, each document describing employee performance deficiencies should contain most, if not all, of the elements identified below:

___ 1. The date the document was prepared.
___ 2. The signature of the person preparing the document.
___ 3. The printed name of the person preparing the document.
___ 4. A description of the location, date and exact time of the event(s).
___ 5. An identification of all witnesses to the event.
___ 6. A description of what occurred: an objective recording of sensory observations, not subjective conclusions or value judgments.
___ 7. An identification of the rule, policy or contract provision that has been violated or which is being abused or threatened. Be specific and spell out the entire rule.
___ 8. A description of the severity of the act.
___ 9. A description of the steps employee is directed to take to correct the situation.
___ 10. An offer of management/supervisory help.
___ 11. A suggestion of employer resources that might help.
___ 12. A suggestion of outside resources that might help.
___ 13. A statement that the document will be placed in the employee’s personnel file.
___ 14. An indication that other relevant documents, photographs, etc. are attached. The documents should then actually be attached.
___ 15. A description of past conduct by the employee which is similar to the current conduct and which therefore sheds light on the need for the immediate documentation.
___ 16. A discussion of any employee explanations received to date, including the supervisor’s reaction to those explanations.
___ 17. A space for the employee’s signature, indicating the employee has received, read and understands the document.
Meet With The Employee

How a manager conducts the meeting will likely depend on what tool is being used to correct the performance problem.

<table>
<thead>
<tr>
<th>Coaching</th>
<th>Corrective Action or Discipline</th>
</tr>
</thead>
<tbody>
<tr>
<td>Asking questions</td>
<td>Directed approach</td>
</tr>
<tr>
<td>Supportive</td>
<td>Directed approach</td>
</tr>
<tr>
<td>Active listening</td>
<td>Employee must accept behavior</td>
</tr>
<tr>
<td>Work through problems</td>
<td>Agreed-upon solutions</td>
</tr>
<tr>
<td>Creative solutions</td>
<td>Specific consequences</td>
</tr>
<tr>
<td>Agreed-upon steps</td>
<td></td>
</tr>
</tbody>
</table>

A. Be Prepared

Performance problems are serious to the success of both the organization and the individual. Being prepared conveys this sense of seriousness. Managers should make sure they can answer the following:

- What the problem is
- Why it needs to be solved
- What will happen if it is not solved
- How we are going to solve the problem

B. Tips on Meeting With The Employee

- Briefly explain the reasons for the decision
- Listen to the employee’s feedback
- Respond appropriately
- Get agreement from the employee to improve performance
- Explain the consequences of failing to improve
Post-Discussion

There are a few steps managers should take after the discussion occurs:

- Record any negative reactions by employee
- Document that the interview occurred, including obtaining employee’s signature
- Distribute the documents to HR and the personnel file

Follow-Up

The performance meeting is not the manager’s last step. Remember that feedback on performance is just as important after a performance meeting as before. For good or bad, let the employee know how he or she is doing.
Corrective Action

A. Goal Of Corrective Action
- Create an understanding of the reason for action
- Create a record to protect the campus
- Help a jury (or Administrative Law Judge) understand why the action took place
- Remember who’s on your jury: the 12 worst employees you’ve ever had!

B. Why Do Employees Challenge Disciplinary Decisions?
- Sense of unfairness
- Surprise
- Hurt feelings
- Resentment
- Sense of injustice
- Revenge

C. How Can You Minimize The Likelihood Of A Successful Appeal or Lawsuit?
- Proper supervisory practices
- Proper investigation
- Document performance problems
- Offer training opportunities fairly
- Evaluate regularly and honestly (don’t over-inflate)
- Consistent treatment
- Train your supervisors on
  - Good management practices
  - Harassment and discrimination prevention
  - Avoiding retaliation

PROPER INVESTIGATION

A. Goals
- Be fair
- Be objective
- Create a written record that will support a later decision to impose discipline

B. Key Elements
- Thorough documentation
- Timely Notice and opportunity for employee to respond
- Appropriate level of discipline
C. The Role Of Human Resources
- View HR as an ally
- Consult HR early on
- Use their expertise

FINAL ACTION CHECKLIST

A. Avoid Surprises – Why Important?
- Employee should know what’s coming
- Creates a sense of fairness
- Requires honest communication about deficiencies (particularly with evaluations)

B. How Do You Avoid Surprises?
- Investigate complaints of misconduct or poor performance
- Impose corrective action where misconduct or poor performance is found
- Document misconduct and poor performance

C. Prevent Workplace Violence When Giving The Bad News
- Plan timing of suspension/termination
- Ensure equal access to exits
- Make clear discussion is non-negotiable
- Do not touch or physically restrain
- Position yourself at an angle, not directly in front of the person
- De-escalate violent conditions – be calm
- Speak quietly and listen actively
- Be thoughtful, not angry
- Don’t argue with the employee

D. Know The Law
California Education Code § 89535: Causes For Dismissal, Demotion Or Suspension:
- Immoral conduct
- Unprofessional conduct
- Dishonesty
- Incompetence
- Addiction to controlled substances
- Failure/refusal to perform normal, reasonable duties of position
• Conviction of felony or misdemeanor involving moral turpitude
• Fraud in securing appointment
• Drunkenness on duty

California Education Code section §89538 (Cal State Universities):
Notice of dismissal, demotion or suspension for cause of an employee shall be:

• In writing, signed by the chancellor or his designee, and served on the employee;
• The writing must set forth a statement of causes, events or transactions upon which causes are based, the nature of the penalty and the effective date; AND
• The writing must also disclose the employee’s right to answer within 20 days and to request a hearing before the State Personnel Board.

E. Assess The Risks of Action
  • Protected category status (e.g. sex, national origin, etc…)
  • Injured worker
  • Protected labor/union activity (e.g. spokesperson)
  • Complaints to state or federal agencies (e.g. harassment, discrimination)
  • Assistance to another employee (e.g., testifying on their behalf)
  • MOU limitations

F. Versus The Risks of Not Taking Action
  • Workplace violence
  • Litigation for negligent hiring, supervision or negligent retention
  • Poor morale
  • Poor productivity
  • Loss of other valued and qualified employees

VII. FINAL TERMINATION PROCESSING

• Severance pay
• Release of claims
• Payment of accrued but unused vacation
• COBRA
• Avoid improper deductions from final paycheck
• Return of campus property
• Security measures (passwords, keys)
• Do not advertise the termination

REMEMBER: Wrongful Termination Lawsuits Are Won Before The Termination

• Know MOU and Education Code provisions, campus policies
• Investigate disciplinary problems
• Take corrective action promptly
• Document every step
• Be forthright and fair always
• Be honest
• Remember:
  o Avoid angering employee
  o Avoid misrepresentation/defamation lawsuits
  o Avoid fraud claims
Performance Management and Corrective Action

**COURSE EVALUATION**

To better serve your needs, we would appreciate you rating this training program below.

<table>
<thead>
<tr>
<th>Speaker: ___________________________</th>
<th>Date: ___________________________</th>
</tr>
</thead>
</table>

### Course Content

- The course is important for our organization
  - **Rating:** 5 4 3 2 1
- The course will help me on the job
  - **Rating:** 5 4 3 2 1
- My understanding of the subject matter **before** training was
  - **Rating:** 5 4 3 2 1
- My understanding of the subject matter **after** training is
  - **Rating:** 5 4 3 2 1
- The quality of the information
  - **Rating:** 5 4 3 2 1

### Course Presentation

- Speaker's knowledge of subject
  - **Rating:** 5 4 3 2 1
- Speaker's thoroughness of preparation
  - **Rating:** 5 4 3 2 1
- Speaker's clarity
  - **Rating:** 5 4 3 2 1
- Speaker's attention to questions
  - **Rating:** 5 4 3 2 1
- Speaker's ability to enliven material
  - **Rating:** 5 4 3 2 1

<table>
<thead>
<tr>
<th>Overall Course Rating (compared with similar courses):</th>
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<tbody>
<tr>
<td>5 4 3 2 1</td>
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### Overall Comments:

________________________________________________________________________

<table>
<thead>
<tr>
<th>Which part of the program was of <strong>most</strong> value to you? Why?</th>
</tr>
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<tr>
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<table>
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<th>Which part of the program was of the <strong>least</strong> value to you? Why?</th>
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<tbody>
<tr>
<td>________________________________________________________________</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Would others in the organization benefit from this program? (circle) Yes / No</th>
</tr>
</thead>
</table>

If yes, what departments or areas? _________________________________________

<table>
<thead>
<tr>
<th>WHAT OTHER COURSE TOPICS WOULD YOU FIND VALUABLE?</th>
</tr>
</thead>
<tbody>
<tr>
<td>________________________________________________</td>
</tr>
</tbody>
</table>

### Optional:

Name: ___________________________ Organization: ___________________________

Please complete and return to trainer