

Being Too Nice in Performance Evaluations

Who likes criticism?

Problem

Like most people, Kind Principal and Unkind Teacher found giving and taking criticism uncomfortable, especially during the annual evaluation process. To keep Unkind Teacher's morale high through this process, Kind Principal always made a point to highlight Unkind Teacher's strong skills in working with certain students. Despite a few heated incidents with other teachers on her team, Unkind Teacher's performance was often rated as adequate or even above average for her professionalism.

Unfortunately for Unkind Teacher, Kind Principal retired. The next school year, New Principal heard several complaints from parents and teachers about Unkind Teacher's often rough and uncooperative attitude and took action on them. New Principal encouraged Unkind Teacher to be more professional and documented the complaints with memos about Unkind Teacher's policy violations. But after a particularly nasty shouting match in front of a student, and a poor – but accurate – annual evaluation, New Principal recommended the School District not renew Unkind Teacher's contract.

The School District's administration and board agreed. Unkind teacher, though, fought back. She demanded a hearing, accused New Principal of discrimination and harassment, and argued that she was a good teacher who fell victim to New Principal's unfair treatment. Her evidence? Years of good evaluations before New Principal evaluated her.



Solution

Because it is natural to want to be liked and respected, employee evaluations are often unpleasant for both the employee and the evaluator. Too often, though, the desire to avoid conflict encourages evaluators to err on the side of providing rosy evaluations and overlook deficiencies. Those errors become problems for a District and its students when they prevent teachers and staff from recognizing and correcting deficiencies.

They become legal problems when they impede the District from terminating a teacher or staff member for a long-standing, but poorly-documented, performance issue. When an issue escalates into an incident, and termination becomes the necessary and obvious action to take, a record of rosy evaluations gives a teacher or staff member strong evidence to fight termination and threaten litigation. They will argue that their good evaluations show that they are a good teacher or employee and that the incident is just an excuse to fire them for an improper reason.

Accurate and consistent evaluations prevent this problem, give teachers and staff a chance to improve – and saves your future selves (and attorneys) heartburn when the time comes to terminate a teacher or staff member who performs poorly in person, but looks good on paper.

Tips

Here are tips on writing effective and defensible performance reviews:

- Review previous years' evaluations before drafting an evaluation. Identify previous issues and note improvement or a failure to correct the issues.
- Take the time to make them look and sound professional. Typos and scribbles distract from an evaluator's credibility – especially when the criticism is about the teacher's or employee's lack of attention to detail, sloppy or incomplete documents, or unprofessionalism.
- Morale does not substitute for honest criticism in an evaluation. If a teacher or employee has issues with professionalism or deficiencies in other performance criteria, you must identify it in no uncertain terms. (Work on morale outside performance evaluations.)

Tips

- Goodwill is no substitute for meeting criteria. Honest and constructive evaluations when someone fails to meet expectations are more valuable than any goodwill you might earn by ignoring problems.
- Do not mention health issues. Address health issues and discuss accommodations – but not in a performance evaluation. Mentioning health issues in the same document as a poor performance evaluation can allow a teacher or staff member to present it as evidence of disability discrimination.
- Provide objective and detailed narratives that explain exactly how a teacher or employee failed to meet a performance criterion.
- Follow policies and procedures. An evaluation and its criteria should not be a surprise and the timing or content of an evaluation should never be suspect. If your Policy or practice requires evaluations at a certain time, be sure to perform the evaluation then. A teacher or staff member with a cursory evaluation or no evaluation can later argue that nobody explained criteria or expectations to them.
- With the exception of the Lake Wobegon School District, not everyone can be above average. When all teachers and staff members have expectations of excellent reviews from you, an accurate, average, review can foster feelings of discrimination instead of acceptance of constructive criticism.
- Have the teacher or staff member sign the evaluation. They need not agree with your evaluation, but they must acknowledge receiving it.
- Follow up on whether the teacher or staff member improves or continues to fail to meet a criterion. Do not allow a poor score to become a new, accepted standard of conduct.
- Put annual evaluations in perspective. As part of a system of regular, documented, feedback on expectations and deficiencies, annual evaluations help teachers and employees identify and correct areas that need improvement. Without other information, they can paint an inaccurate picture of an employee.

Take-away

Consistent and accurate performance evaluations can be a valuable tool for a School District, the evaluators, and the teachers and staff members who are evaluated. Poor or overly rosy evaluations can be a weapon against the School District and the evaluators. Take the time to do them properly and save your future self, you successors (and your attorney) heartburn from a failure to document or correct a festering issue before it becomes an unavoidable problem and a legal issue.

**For questions regarding Performance Evaluations,
please contact us at EdCounsel:**

Columbia Office

2401 Bernadette Dr., Ste. 117
Columbia, MO 65203
Phone: (573) 777-9645
Fax: (573) 777-9648

Independence Office

201 N. Forest Ave., Ste. 200
Independence, MO 64050
Phone: (816) 252-9000
Fax: (816) 252-9009

Overland Park Office

11111 W. 95th St., Ste. 201
Overland Park, KS 66214
Phone: (913) 766-0447
Fax: (913) 499-7917

Springfield Office

2833 B E. Battlefield, Ste. 100
Springfield, MO 65804
Phone: (417) 755-7190
Fax: (855) 876-4740

