



# Don't Sugarcoat Performance Reviews

But if you've avoided being truthful, here's how to deliver bad news for the first time during an employee review

By Paul Falcone

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**B**y far one of the biggest mistakes that managers make is inflating grades on annual performance reviews. Wanting to minimize confrontation, many managers give "meets expectations" scores to underachievers or workers with records of poor behavior. This documentation can come back to haunt managers should the organization later look to terminate the worker's employment.

Why? Because as a supervisor and leader, the manager has created a written record that says the employee's overall performance was acceptable.

"With no other progressive disciplinary documentation and an inflated performance record, businesses will likely have an uphill battle establishing a legitimate business reason to justify the termination decision," said Keerthi Sugumaran, employment law associate at Jackson Lewis P.C. in Boston.

Therefore, if you expect to terminate someone in the upcoming year, you should ensure the performance review accurately depicts why the employee's performance or conduct does not meet expectations.

"An objective performance review with concrete examples of an employee's shortcomings is a critical tool that supervisors can leverage to correct an employee's performance or conduct. And, if the performance or conduct does not improve, the performance review, combined with other progressive disciplinary measures, lays the groundwork for a defensible business decision," Sugumaran said.

And don't fall for those traps that too often plague managers in the performance review process. Sometimes supervisors give one particular employee in the group lower relative scores in individual performance categories than everyone else in the department. Still, if the overall score states that the individual meets expectations, then employees have little reason to believe that their employment is in jeopardy—or so their attorneys will argue.

"This isn't a game of relativity; it's a game of absolutes," said Sharon Bauman, partner at Manatt, Phelps & Phillips LLP in the San Francisco Bay Area. "It's not how employees rank relative to their peers, where the employee in question gets a 3 and everyone else on the team gets a 5. It's the final grade at the end of the review that will impact the employee's perception of her performance—and a 3 is a passing score, regardless of the other members' scores of 5."

## Call HR for Help

When you suspect that you'll need to introduce negative information on an employee's annual review, call in human resources as quickly as possible. Many HR departments will have the resources to help you construct a well-written review that introduces these elements. In certain cases, HR may recommend including progressive disciplinary language in the annual review, turning the review into a documented warning.

"HR can help you document a performance improvement plan, the company's expectations, and consequence language that is clear and incontestable in its intent. In certain cases, HR will also be able to coach the employee or offer outside training resources that help your company demonstrate its willingness to rehabilitate flagging performers," Bauman said.

### Explain the Communications Gap

Bringing up new information at the time of the annual review should always be the exception and not the rule. After all, you don't want your employees feeling blindsided when they receive their annual feedback, merit increase or bonus. But sometimes you'll have to share negative information for the first time during an annual review. When that's the case, make sure you assume responsibility for not having shared this feedback when the issue occurred. Here's what it might sound like when you explain that at the beginning of the meeting:

"Roger, I recognize that we haven't formally discussed how you've gotten along with others over the past year, but I felt it appropriate to bring this issue to your attention during the annual performance review because it's so serious and such a critical aspect of your overall contribution to the department. In fact, it could have a significant impact on your longer-term career potential if it's left unaddressed.

"I'll start with an apology: I realize that I should have shared more of this with you at the time these incidents occurred, but I was guilty of avoiding the confrontation and hoping the problem would simply fix itself. I realize now that wasn't fair to you. That being said, we can't avoid the issue any longer. This performance review window is the ideal time to discuss my concerns because it's intended to provide feedback, reset expectations and guide your career development going forward.

"Specifically, I believe you have a perception management problem: Regardless of your intentions, people tend to avoid you. You come across as being angry or upset much of the time, confrontational and, at times, overly challenging, and people—and I—tend to give you a wide berth and do the work ourselves rather than come to you for help. That's damaging the overall sense of morale and camaraderie in our department, Roger, and you're responsible for creating a friendly and inclusive work environment, just like everyone else. Your behavior is negating your overall performance contributions, as evidenced by the flare-ups that occur between you and your peers from time to time, as well as by some of the customer challenges you've experienced that I've had to step in to mediate.

"I'll make a commitment to you now to bring these matters to your attention immediately whenever I notice them in the future, but my main message to you during this performance review is that you're not meeting company expectations overall because of this significant detriment. Again, I apologize for not addressing some of these situations on the spot in the past or expressing how much they concerned me, and I'll commit to you that I'll bring this to your attention whenever I see an issue from now on. But it's significant enough to formally document now and to reset expectations going forward. Let's look at how I documented this on the review and the examples, development plan and goals that I've outlined."

### Reset Expectations Going Forward

Remember that one failing category, such as teamwork or communication, can negate an entire review, resulting in a "does not meet expectations" overall score. Detail your expectations in the appraisal. List in very clear terms how you expect this individual to communicate with team members and customers, create a friendly and inclusive work environment, and resolve conflict in a constructive manner. Emphasize the benefits that will result from such a turnaround, including stronger teamwork, a sense of having one another's backs, and an improvement in the overall mood in the office. Don't shy away from your responsibility: Admit your shortcomings in not sharing your concerns earlier, but hold the individual accountable to a higher performance standard going forward and starting now.

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