

The Value of a Good Performance Review

Article By:

Getting supervisors and managers to prepare detailed and thorough performance reviews is like getting kids to eat their vegetables. They don't want to do it, and they'll look for excuses to avoid it. But just as good parents can't let their children eat only chicken nuggets and ice cream, thoughtful Legal and HR Departments can't allow managers to skimp on their performance reviews.

Recently, yet another court provided a lesson in the value of good performance reviews. In [*Stelter v. Wisconsin Physicians Service Insurance Corporation*](#), the employee argued that she was terminated because of a back injury, in violation of the ADA. It was undisputed that the employee suffered a serious back injury while at work, was placed on a performance improvement plan less than two months after returning to work, and was fired six months later. (See the [district court opinion](#) for more details.)

The employer claimed that the termination was due to erratic attendance, lack of understanding of certain company products, and failure to follow directions. The employee argued that these reasons were just a pretext to cover up for the employer's disability discrimination. To support her claim, the employee pointed to the suspicious timing of the PIP, as well as allegedly antagonistic comments made by her supervisor.

But the judge rejected the employee's allegations – based almost entirely on the details of performance reviews the employee's manager had completed. The fact that the manager had raised these concerns regarding the employee before the injury “undercuts any inference that [the employer] raised these issues in response to the injury.” Because the earlier reviews “clearly foreshadow the concerns” leading to the employee's termination, the judge concluded that no jury could reasonably rule in the employee's favor, and dismissed the case.

Performance reviews are important for any number of reasons. They give employees useful feedback on how their manager views their performance. They give guidance on how employees can improve their performance and become more valuable assets to the team. They also provide an opportunity to recognize and reward high-performing employees. All of those things are valuable to the employee.

But – for the managers who don't want to eat their veggies – you can appeal to their self-interest. Emphasize the benefits to **them** from a good performance review. If they want to terminate an employee down the line, you'll be much more likely to support it if the manager can show that the employee was on notice of performance issues. Plus, no manager wants to be cross-examined in

front of a jury and accused of discriminating against an employee. Remind them that a proper performance review can help avoid such an outcome.

As a reminder, good performance reviews are:

- **Regular and Predictable:** They should be provided on an annual basis, if not more frequently, and not too long after each performance period that is reviewed.
- **Accurate:** Reviews should accurately disclose both the good and bad aspects of an employee's performance during the review period. Managers, especially new ones, may need guidance on how to be critical and how to have uncomfortable conversations, as a review that avoids challenging an employee's real performance concerns is worse than no review at all.
- **Detailed:** Reviews should include examples whenever possible. Broad conclusions are fine (e.g., "Employee lacks a sense of urgency.") But specific details are both more helpful and more persuasive (e.g., "Employee missed the deadline to complete Project X, causing Manager to need to apologize to Customer and seek extension.") For every piece of negative or constructive feedback included in the review, provide the one or two best examples that exemplify the concern.
- **A Conversation:** The content of the performance review – good and bad – should be shared with the employee, and the employee should have an opportunity to provide thoughts or concerns. This provides both accountability and notice.