



James Wilber

Conducting Effective Associate Evaluations

By James Wilber

Nothing is more important to the professional development of a firm's lawyers than an effective associate evaluation process. And nothing is more difficult to get right. Although most partners understand the importance of providing formal feedback, many do not devote the necessary effort to making the process meaningful.

Rules for Performance Evaluations

If you promise associates that they will be evaluated, then do it and do it on time. Nothing sends a more negative message to associates than either not evaluating them or being tardy in delivery of the promised evaluations.

Evaluate the associate's actual performance for the period in question, mentioning names of matters or other examples to back up your criticism. Keep a log on performance issues for each associate you will be evaluating with examples of good and not so good performance.

Realize that no single evaluation form will fit all jobs in any firm. You need to have a form that is designed specifically for the associates in your firm. Do not evaluate associates using forms that are not applicable to them and their positions.

Avoid discussions of personality unless those issues directly affect job performance. Adherence to employment law generally requires employers to focus on performance and not personality. This is so not only because it is obviously a person's performance that is being reviewed and not his or her psychological makeup, but also because personality traits are often related to things that are forbidden to be considered in a performance appraisal.

Be brutally honest. This is often the most difficult rule for partners to follow.

Most of us find it easier to say that everything is fine rather than to confront an associate about specific problems. However, if you are not candid, it may come back to haunt you. If performance problems are not discussed with the employee and documented in his or her file, discipline or termination may be more difficult.

Even worse, it may lead to a successful suit against the firm. Note, however, that the rule says to be brutally honest, not brutal.

Be as specific as possible in your feedback. Give examples to support your conclusions. Nothing is more worthless than a generic, boilerplate performance appraisal that does not contain references to things on which the associate worked during the evaluation period.

As a firm or group of partners, evaluate the entire collection of evaluations and compare and review them. Are your average associates rated as average or is everyone turning out to be excellent? Are the evaluations consistent and supportable? It is just as important to make certain that your ratings are correct from one associate to another, as it is to ensure that your feedback regarding any one of them is correct.

Different Firms, Different Systems

The evaluation *process* will likely be different from firm to firm. The best process to use for a firm that has 50 associates will be very different from the one used by a firm with 500 associates. In general, the larger the firm the more likely it will need to rely on a form that lends itself to quick and easy tabulation of responses. Small firms can get by having the partners meet to discuss the performance of associates together, one after the other, whereas larger firms will need to be able to easily collect and tabulate the comments from many partners. There is no right or wrong system; the system simply needs to be customized to the size and needs of the firm in question.

Qualitative vs. Quantitative

It is not necessary to require partners to do a lot of writing in order to have an effective program. Some people who develop performance appraisal forms believe that the more writing the supervisor is forced to do, the more effective the appraisal will be. Some forms don't have any objective parts such as boxes to check or numbers to insert — this is a mistake. Evaluation forms should strike a balance between qualitative and

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quantitative feedback. Any ratings or comments provided should be supported by specific examples.

Timing of Performance Appraisals

The appraisal process should be continuous. Don't wait until the end of the evaluation period and then zing the associate with six months' worth of criticism. Coaching should be a day-to-day activity. A good manager gives constant feedback to the people who work for him or her.

In terms of formal, written associate evaluations, many firms conduct them every six months. No one should do so less often than annually.

Evaluate Specific Characteristics

Associates should be evaluated as lawyers, as employees of a firm, as co-workers, and as potential owners. Here is a list of key areas to consider.

- practice administration (relating to timekeeping, billing, and other responsibilities related to the business practices of the firm.
- writing ability
- thoroughness
- analytic ability
- advocacy skills
- efficiency
- ability to work independently
- professional development
- client relations
- business development potential and performance
- judgment and maturity
- initiative
- responsiveness
- commitment
- dedication to the firm
- relations with partners

Ensure the Process Is Fair and Valid

Get as much input as possible from others who supervise or work with the associate being evaluated. The participation of everyone involved is necessary for maximum acceptance of the evaluation process.

Be sure to avoid the common problems in performance appraisals that are set out in the sidebar below. Keep an ongoing record of each associate's performance. Put examples of good work and bad and your notes in a file for each associate you are required to evaluate. Don't try to remember what happened for the entire six-month or year period.

Get Associates Involved

The participation of the person being evaluated should be built into the program. Associates should be

involved in determining the significant responsibilities of their job, as well as in setting performance standards.

A self-appraisal by the associate should be required. It helps the lawyer buy into the evaluation process. It makes the process more informed because it forces the associate to prepare for the meeting. It makes the result more accurate. It also ensures that the associate will be more honest in the interview. There are no good reasons not to have associates do self-appraisals.

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Typical Appraisal Errors To Avoid

There are several errors to avoid in the appraisal process, most of which stem from the human factor. These errors, which reinforce the need to compare evaluations of associates against each other, include:

Halo Effect. An excellent rating in one quality influences the appraiser to give a similar or higher rating than actually deserved on other qualities.

Horn Effect. An unsatisfactory rating in one quality influences the appraiser to give a similar or lower rating than actually deserved on other qualities.

Central Tendency. The appraiser gives average ratings for all qualities as a matter of principle.

Strict Rating. The appraiser is overly harsh.

Lenient Rating. The appraiser is overly generous.

Bias About Recent Behavior. The appraiser rates the associate based only on recent behavior (positive or negative) and fails to recognize the most commonly demonstrated behavior during the entire appraisal period.

Underlying Reasons for Appraisal Errors

There are some psychologically-based reasons for the errors commonly made in the evaluation process. They include:

Desire to be accepted. All of us have both instinctual and learned behaviors to want to be accepted by others, including our subordinates.

Concern with image. If all our associates are not doing well, what does that say about our own job performance?

Concern with self-protection. An individual's response to an unsatisfactory performance appraisal can range from absolute indifference to distress and even violence. Very few appraisers like to face the more extreme consequences of a negative evaluation.

Affiliation with the familiar. Factors that may unconsciously influence our evaluations of others include: race, sex, national origin, educational background, work experience, physical characteristics, location of residence, etc. We all identify with those who are most like us.

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Meetings to discuss the completed evaluations should be conducted in such a way that the person being evaluated talks at least half the time. The meeting should be used as a means of giving the subordinate input into the final appraisal, for the determination of strengths and weaknesses, and for the development of a performance improvement plan.

Goal setting should be used in the performance appraisal process. Conduct a goal-setting exercise (performance improvement plan) with the associate during the evaluation meeting. Use the goals as standards for the next review. Make the goals quantifiable and realistic.

Summary

An effective associate evaluation program can accomplish the following:

- help you develop better lawyers
- be used as an effective management tool
- direct the lawyers to grow in directions required by your firm

- reduce turnover
- help you make better compensation and promotion decisions
- assist you in maintaining performance histories that can help avoid surprises and potential lawsuits
- provide you with a current inventory of firm's legal talent
- assist you in identifying hiring needs ♦

Note: An abbreviated version of this article appeared in the June/July 2004 issue of Law Firm Inc.

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Report to Legal Management

published by:

Altman Weil Publications, Inc.

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Newtown Square, PA 19073
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