

How to Manage Poor Performers

Managing employee performance is an important part of a supervisor's role. A poor-performing employee can lower office morale and decrease overall productivity. Recently, two government leaders made recommendations regarding poor-performing federal employees. Both recommendations acknowledge that poor performance is an issue in the federal workplace, but one suggests supervisors need to improve their skills, while the other advises changes to the law.

In November, the director of the Office of Personnel Management, John Berry, spoke at the Human Capital Management-Federal conference in Arlington, Va. Among other things, his speech touched on reforming the law surrounding poor performance to better meet the needs of supervisors. Berry spoke about the need for managers to be able to take swifter action, specifically for removal.

In September, a report from the Merit Systems Protection Board analyzed the two sections of the law that allow a supervisor to take adverse action against a poor performer. It concluded that the lack of action by supervisors in demoting or removing poor performers was not the fault of the law, but of the supervisors for not properly managing employee performance. Among other things, MSPB recommended that agencies hire and train supervisors carefully based on their ability to deal effectively with poor performers.

According to government figures, less than 0.02 percent of federal civil service employees are fired for poor performance every year, but in federal employee surveys, poor performance is frequently listed as a top problem in the office. As a supervisor, you need to know the correct way to manage poor performance, and the options you have for taking formal action.

Part of performance management is making sure employees are not confused about what is expected of them. Initially, you must ensure that your employees have been properly placed on and understand clear, written performance standards related to solid position descriptions of their jobs.

Then you need to give them a reasonable period to work and be supervised by you under those standards and to demonstrate fully successful or better performance.

After this reasonable opportunity, if an employee's performance is deemed unacceptable in any of the critical elements of his job, he should receive written notice of that unacceptable performance and be placed on a written performance-improvement plan.

The plan should include specific goals designed to improve performance to the fully successful level or better, with specific efforts made by the supervisor to help the employee improve. If, after the performance-improvement period, the employee's performance remains unacceptable, he should be considered for removal or demotion.

This is the process codified in civil service law to enforce employee performance requirements in the federal government. Supervisors can remove or demote an employee based on unacceptable performance and need only prove their case by substantial evidence, a lower burden of proof than is required to prove a misconduct case. However, the

performance improvement plan takes longer than a misconduct case before disciplining an employee.

Employees can also be disciplined for unacceptable job performance under the law's misconduct regulations. In these cases, adverse action need take no more than 30 calendar days from the occurrence of the unacceptable performance. A supervisor can remove an employee without first giving him a formal opportunity to improve, but the supervisor is held to a higher standard of proof. Also, less severe penalties than removal or demotion are available, such as reprimand or suspension.

Deciding when and which of these processes to use to manage employee performance varies depending on the facts of each case.

Agencies will often use the performance improvement period in cases where the employee's unacceptable performance has developed slowly over the course of the appraisal period and is more general with regard to a particular element of their overall performance.

On the other hand, if the employee's unacceptable performance came on quickly and perhaps was related to one major project or constituted negligent performance of duties, which caused palpable harm to the agency's mission, the agency may want to discipline the employee quickly through the misconduct process, without the need to first go through a performance-improvement plan.

To protect yourself from accusations of discrimination or other employee claims, consult a human resources professional who is knowledgeable about federal employment law before initiating any disciplinary action.