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Public Law Group® · Public Management Group™

PIP-PIP-HOORAY!:

Performance Management & Performance Improvement Plans

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Written By: Kerry O'Donnell and Mark Gregersen

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About the Authors

Kerry O'Donnell joined **Renne Sloan Holtzman Sakai LLP (Public Law Group®)** as an associate in 2009. Her main practice area is the representation of public agencies and non-profit organizations in labor and employment matters, including providing personnel advice and counseling to human resource and labor relations professionals. Kerry frequently handles traditional labor relations matters for her clients, including collective bargaining, workplace investigations, training, and preventative counseling. She has also served as project manager on a number of complex matters for clients, including drafting an agency-wide report regarding the impact of financial distress on public services for one of the firm's public sector clients.

Currently, Kerry's practice focuses on providing personnel advice to the firm's public sector and non-profit clients, conducting workplace investigations, negotiating collective bargaining agreements, and advising clients on a variety of labor and employment legal issues.

Contact information: 415.848.7217 | kodonnell@publiclawgroup.com

Mark Gregersen leads the firm's **Public Management Group™** as Principal Consultant. Mark has many years of local government human resource management and labor relations experience in the states of Wisconsin, Nevada and California. His experience includes all human resource management functions: classification and compensation, recruitment and selection, training and organizational development, workers compensation and risk management, labor relations, payroll and benefits administration; and equal employment opportunity. His labor relations experience is extensive having negotiated over 60 public sector labor contracts which included representing employers in the impasse processes of mediation, fact-finding and binding interest arbitration.

Recently, Mark served as the Director of Labor and Work Force Strategy for the City of Sacramento. Previously he served as human resources director for several other area agencies and has been an assistant county manager in Nevada. Currently, Mark's practice focuses on providing labor relations and human resources advice to public sector clients and representing public sector clients in labor contract negotiations.

Contact information: 916.258.8807 | mgregersen@publicmanagementgroup.com

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I. PROLOGUE

When we pitched the idea of writing on the topic of performance management, a colleague responded, “That is the most boring topic I can think of! Managers absolutely DREAD performance management and avoid it like the plague. They will never read an article about PIPs because it will force them to think about something they never want to think about.”

We were surprised. How could a topic like Performance Improvement Plans (PIPs, as they are known in the industry) provoke such an impassioned response? Then it dawned on us: performance management elicits this reaction because it is difficult, because it is emotionally charged, and because it is often fraught with risk of liability and/or union scrutiny. Not to mention the fact that human beings, in general, do not like to be criticized. So, what is a manager or Human Resources professional to do when faced with such obstacles?

In this article, we hope to propose a less painful and more holistic path—one that takes some of the misery out of performance management and that, just maybe, could have you cheering “PIP-PIP-HOORAY!” when you are next faced with a challenging employee.

II. PERFORMANCE MANAGEMENT VS. MISCONDUCT

Practitioners often take the misstep of addressing misconduct issues as if they were performance problems. Although there is overlap between the two concepts, misconduct typically refers to severe or serious conduct that violates a particular policy included in an employee handbook or a collective bargaining agreement. Poor performance, on the other hand, encompasses a broad range of conduct that generally falls below the acceptable standard of performance for a position.

When faced with a problem employee, assessing whether the conduct constitutes misconduct or poor performance is an important initial step. If misconduct is involved, your approach to addressing the problem will usually be dictated by the policy at issue. If the issue is really one of poor performance, your approach may involve a performance management strategy such as a PIP. Having said that, *continued* poor performance (following an appropriate performance management process to address the performance problems) and misconduct both have the potential to lead to the same place: termination of the employee.

The focus of this article is on managing performance rather than addressing misconduct.

III. WHAT IS A PIP?

Poor performance is a legitimate, non-discriminatory reason for an agency to propose reassignment, demotion or removal from employment. Before moving forward with any adverse action based on poor performance, however, agencies should provide the employee with a **meaningful** opportunity to improve his or her performance.

A Performance Improvement Plan, or PIP, is a great administrative tool to provide this meaningful opportunity to improve.¹ A properly drafted PIP serves a number of important purposes:

- a. It provides the employee clear **notice** of performance deficiencies, including specific examples of problematic behavior, and the consequences of not addressing the poor performance;
- b. It outlines a **plan** for improvement in the critical elements that are deficient;
- c. It provides **resources**, training, and support for the employee to improve his / her performance;
- d. It identifies a **timeline** in which the employee will have an opportunity to correct performance deficiencies;
- e. It provides a **written record** of the employer's legitimate business concerns with the employee's performance and the progressive manner in which the employer has attempted to address performance deficiencies.

From an employee's perspective, PIPs often have a bad rap. Some employees perceive PIPs as the employer's attempt to reduce its exposure before terminating an employee rather than a truly meaningful opportunity for improvement.² Rather, PIPs are actually an essential part of the agency's overall performance evaluation program and a necessary part of the evaluation process. If you think about it, it's a rare employee who is accomplishing all of their performance objectives. Most employees have at least one performance area that needs improvement. Too often, however, PIPs are given to employees in isolation, i.e., without establishing an on-going

¹ Some agencies refer to these as Performance Improvement Periods. A further discussion on how to ensure your PIP provides a meaningful opportunity for improvement is set forth below.

² As noted by John Hollon in his editorial HR blog: "Here's what performance improvement plans are really about: providing cover and documentation (if needed) to help get rid of an employee that someone in the management chain of command wants to move out. They're a CYA exercise, a way for management to claim they did all they could to help the employee in question, while at the same time sending a message to the person that their next step is probably out the door." John Hollon, *Weekly Wrap: The Dirty Little Secret of Performance Improvement Plans*, TLNT.com, Jun. 1, 2012, <http://www.tlnt.com/2012/06/01/weekly-wrap-the-dirty-little-secret-of-performance-improvement-plans/> (last visited on Nov. 10, 2014).

performance dialogue with the employee. Such a process would minimize the shock felt by many employees when they receive a PIP and might minimize the negative connotation associated with PIPs.

IV. WHY SHOULD I CARE ABOUT PERFORMANCE MANAGEMENT, ANYWAY?

Do any of these sound familiar to you?

- “I can’t address my employee’s performance problems because she is really popular with other employees and it will hurt morale.”
- “I can’t deal with performance issues because I am not good with confrontation.”
- “I am afraid to put the employee on a performance improvement plan, because the employee might sue for discrimination.”
- “I’m not sure this is the right time to address the performance issues.”

If they do sound familiar, you are not alone.³ There are myriad excuses to avoid addressing poor performance, many of which are valid. For instance, it is true that managing an employee through poor performance takes time and may divert precious energy away from other managerial priorities.

At the same time, addressing poor performance is vital to the health of every agency, organization, or company. Ignoring poor performance is not only a bad management practice, but it is costly. Allowing poor performers to go unchecked can diminish the quality of services provided to the public, decrease productivity and employee morale, and make managers look incompetent leading to problems with other staff. Failing to address performance issues in a timely and effective manner can also lead to higher turnover rates, which are costly and disruptive to organizations.

If managed properly, an effective performance management strategy can lead to better performing employees, greater productivity and higher quality services, improved employee morale, increased respect for managers, less turnover and better communication between employees and managers.⁴ A good performance management system can also help employers to get poor performers back on track or can help employers to lay a proper foundation to lawfully release poor performers from employment if they are unable to meet performance standards.

³ See Leigh Steere, *13 Bad Excuses for Letting Poor Performance Slide*, Lead Change Group, (Mar. 13, 2011), <http://leadchangegroup.com/13-bad-excuses-for-letting-poor-performance-slide/>, (Last viewed Nov. 10, 2014).

⁴ Amy DelPo, *The Performance Appraisal Handbook: Legal and Practical Rules for Managers*, pg. 2 (2d ed. 2007) (Nolo Publishing).

With all of this at stake, it is clear that a proactive approach to performance management is integral to the health of every organization. But where to begin?

V. UNDERSTAND PERFORMANCE STRUCTURES & LEGAL LANDSCAPE

Represented Employees: Employers must pay special attention when dealing with represented employees.

Duty to meet and confer. In California, the Meyers-Milias-Brown Act (MMBA) requires public employers to meet and confer in good faith with representatives of recognized employee organizations regarding wages, hours, and other terms and conditions of employment.⁵ Generally speaking, a proposed PIP should not trigger an employer's duty to meet and confer. Instead, PIPs generally fall under management rights, which include the right to direct and supervise employees and the right to discipline employees for cause. However, an employer may be required to meet and confer, or at least consult, with the union if the PIP directly modifies an existing past practice or if PIPs have been included in the union's memorandum of understanding or collective bargaining agreement.

Practice Pointer: Review any applicable employee handbooks or collective bargaining agreements to see if performance management or PIPs are covered.

Weingarten rights. Upon request by the employee, represented employees have a right to have a union representative present during an investigatory interview where the employer is questioning the employee and where the employee has a good faith belief that his or her responses to the employer's questions may result in disciplinary action.⁶ Under this doctrine (commonly referred to as *Weingarten* rights), the manager does not need to inform the employee of his or her right to have a union representative present for such an investigatory interview, but if an employee asks for a union representative, the manager must reasonably allow the employee to have one.

To be clear, managers have the right to meet individually with employees to discuss employee performance, set performance objectives, and communicate progress on those objectives. *Weingarten* rights do not apply to ordinary workplace conversations between a supervisor and employee (including conversations correcting the employee's work), unless those conversations

⁵ Cal. Gov't Code § 3505.

⁶ What are now commonly known as "Weingarten rights" were first defined by the U.S. Supreme Court in *National Labor Relations Board v. J. Weingarten* (1975) 420 U.S. 251. Employees covered by the Meyers-Milias-Brown Act have the right to union representation as provided under the Weingarten rule. *Civil Service Assn., Local 400 v. City and Co. of San Francisco* (1978) 22 Ca.3d 552, 40 CPER 59.

entail the manager questioning the employee under the circumstances noted above.⁷ Also, conversations between a manager and employee to discuss employee performance are not likely to result in discipline especially if these are initial meetings to set expectations and to create a plan for performance improvement.

In many cases, the PIP will be successful and performance will improve to satisfactory levels. However, if performance does not improve and discipline for poor performance is being considered, the employee would have a right to union representation, if requested, at meetings where the manager was conducting an investigation into the poor performance to decide whether to take disciplinary action against the employee for continued poor performance. If, on the other hand, the employee's responses during an interview will not be used as the basis of discipline, the employee is likely not entitled to union representation, even if requested.⁸ When in doubt, honor an employee's request for union representation. It is easier to provide representation rather than to have action overturned as a result of refusing to provide the employee with union representation where the employee had a right to such representation.

Public Sector Employees: Public employers are subject to special obligations when it comes to managing the performance of their employees.

Skelly rights. Under most circumstances, regular public employees have a property interest in their employment and are entitled to due process before they lose their jobs or suffer an involuntary reduction in pay.⁹ In most cases, employees will also be able to appeal such actions after the fact. Generally speaking, however, a negative evaluation on its own does not deprive an employee of his or her property interest in the employee's job or pay. Therefore, an employee will likely not be entitled to a hearing before the implementation of a PIP nor would he or she typically be entitled to an appeal of the PIP after it is implemented. The employee will, however, likely be able to appeal a termination, suspension, or demotion resulting from failure to bring performance up to satisfactory levels.

Public Safety Employees. Special consideration should also be made for employees subject to the Firefighters Procedural Bill of Rights Act (FBOR) or the Public Safety Officers Procedural Bill of

⁷ Even further, employees do not have the right to union representation if the meeting is only to inform them of discipline where the decision has already been made to impose discipline.

⁸ When possible, it is a good idea to clearly separate the planning and feedback part of the PIP process from any investigation into poor performance that may end in disciplinary action against the employee. Employees do not have a right to union representation during the planning and feedback part of the process. They do, however, have a right to union representation (if requested) during interviews with the manager where they have a good faith belief that their responses may result in disciplinary action.

⁹ The primary point of reference for a public employee's pre-deprivation due process rights is the California Supreme Court case *Skelly v. State Personnel Board* (1975) 15 Cal.3d 194.

Rights Act (PSOPBRA). Such employees must be given an opportunity to review and sign any adverse comment—which may include PIPs—before the comment is entered in the employee’s personnel file. An adverse comment is generally defined as an observation or remark expressing an opinion or attitude that might negatively impact an employee’s ongoing employment. Because a PIP most likely expresses an opinion about the employee’s performance that might negatively impact his or her ongoing employment, public safety employees should review and sign a PIP before it becomes a part of their file.¹⁰

At-Will Employees: Finally, special consideration should apply even when dealing with at-will employees – which may include employees during their probationary status or any other employee who does not have “just cause” job protections. “At-will” is the default employment status for non-represented employees in the private sector and for non-represented employees in the public sector who do not otherwise have a contract, rules or regulations providing otherwise. Employees who are at-will may be terminated for any reason that is not illegal.

There are two relevant performance appraisal considerations for at-will employees:

- (1) Take care not to jeopardize an employee’s at-will status in a performance evaluation. For example, it can be problematic for a manager to express to an employee (and/or document in a performance evaluation) assurances that an employee’s job with the organization is secure or to express an intention to keep the employee with the agency for a long time.
- (2) Ensure that you have taken preparations prior to releasing an at-will employee to counter any claims that the termination was illegal.

This can happen when an employer provides reasons to an employee for the separation from employment and when the stated reasons contradict recent documented evaluations of the employee.¹¹ A disgruntled, terminated employee may point to such discrepancies as evidence of pretext, i.e., that the employer’s real basis for termination was an illegal basis such as discrimination. To avoid this situation, ensure that all documentation of performance appraisals is truthful, thoroughly prepared, and anticipates problematic performance behaviors (rather than sugarcoating or ignoring such behaviors to spare an employee’s feelings).¹²

¹⁰ In November 2013, the Court of Appeal held that firefighters’ right to review adverse comments includes the right to review other records affecting personnel decisions beyond personnel files. *See Poole v. Orange County Fire Authority* (2013) 221 Cal.App.4th 155. Under this ruling, public safety officers likely have the right to review and respond to any performance-related documents supporting the PIP, such as informal logs used for preparing performance evaluations, even if those documents were never entered into the employee’s personnel file. This case is currently pending before the California Supreme Court.

¹¹ From a legal standpoint, an employer is not required to state reasons for releasing an at-will employee.

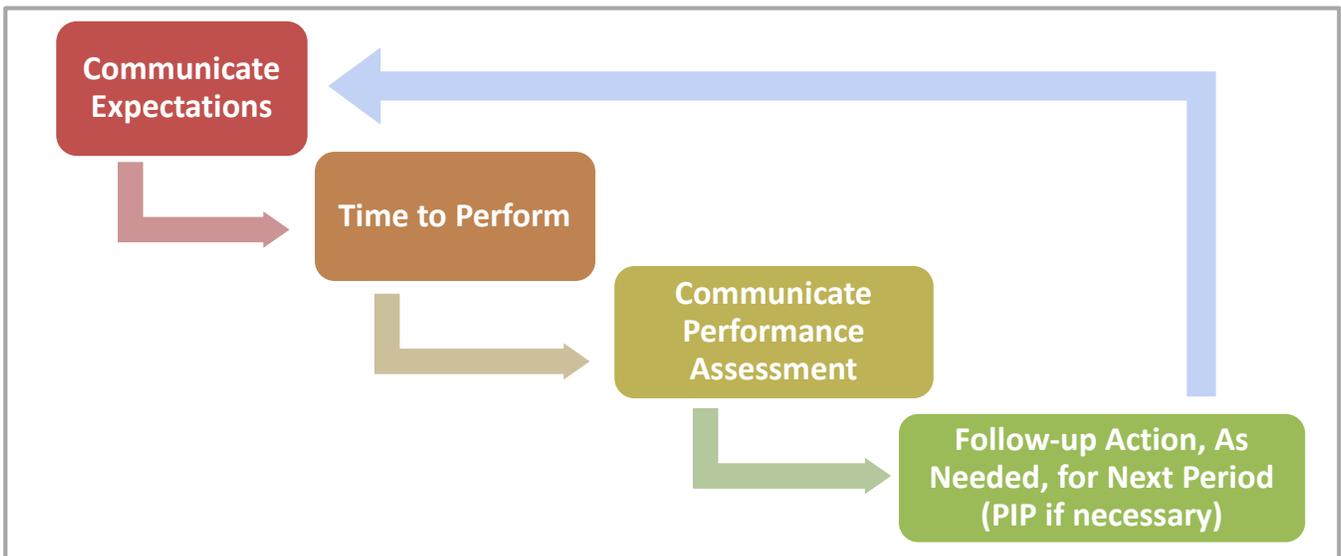
¹² See DelPo, *The Performance Appraisal Handbook*, pg. 30.

Such allegations can also arise from careless drafting of evaluations or PIPs, where they describe this employee’s problematic conduct with terms that could be associated with stereotypes about people who share a protected characteristic.¹³

VI. PERFORMANCE MANAGEMENT FRAMEWORK

A PIP does not exist in isolation, but is part of an agency’s ongoing performance management system. Effective performance management does not begin with a PIP. Rather, performance management starts early with a communication of expectations about performance between an employee and their supervisor. Below is a proposed basic framework for performance management.¹⁴ This general approach can be followed regardless of an employee’s performance, with the later steps only necessary to address identified poor performers.

Performance Evaluation / Management Cycle



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A. Communicate Expectations

When it comes to performance management, many managers or Human Resources professionals might think first about the annual performance evaluation process. A more effective approach to performance management is to envision performance feedback as an on-going process rather than a once-yearly event. When an employee is first hired, when he or she is transitioned to a new role, or when he or she is given a new project—all of these are perfect opportunities to begin a natural

¹³ *Id.*

¹⁴ Although this framework is intended to apply to performance management generally, as discussed below the concepts will be useful if you are eventually faced with implementing a PIP.

dialogue about performance. In these conversations, managers can set goals and communicate expectations. If the employee is newly hired, a manager will likely focus on communicating the job requirements. As the employee progresses, the focus may shift to job goals and communicating expectations relevant to those goals. In either event, expectations should be very clear and reasonable, with a specified time period to accomplish the tasks.

By setting expectations up-front and viewing performance management as a continuous process, managers and employees will have natural opportunities to address performance issues as they occur rather than wait for problems to become systemic. This dialogue about an employee's performance should be continued throughout all of the steps identified in the performance management framework.

B. Time to Perform

Once a manager has established expectations for an employee, the employee must be given a reasonable amount of time to perform in his or her position. What counts as a reasonable amount of time in which to assess performance depends on the circumstances. For example, organizations often have a defined probationary period for new employees applicable for assessing performance within that pre-determined time period. In other instances, a collective bargaining agreement might dictate timelines or the employee's responsibilities (for example, a project timeline) might indicate appropriate timelines.

Typically, a couple of months will suffice to get a rough sense of an employee's performance. It is important to allow an employee a reasonable time to perform before reaching conclusions on the employee's performance, since frustration with performance issues can often cause managers to shorten these timeframes more than is appropriate under the circumstances.

After a reasonable opportunity to perform has passed, the manager should make a deliberate assessment of the employee's performance. Is this employee exceeding expectations, meeting them, or falling short?

Examples of good and poor performance need to be documented. This need not be a formal "performance log" – but documentation of specific events, dates or communications will be invaluable at the time the supervisor is communicating the performance assessment to the employee. The best practice in evaluating an employee is to document all of the employee's behavior, not just the poor behavior.

C. Communicate Performance Assessment: Good, Bad and Ugly

Once an assessment has been made about the employee's performance, the next step is to communicate those results.¹⁵ Such communications should be made in private to the extent possible. If the process is working correctly, there should be no surprises at this point. Surprises are indicative of failure of the supervisor and employee to communicate during the performance evaluation period.

If the employee is exceeding expectations, acknowledge the employee's contributions and open a dialogue about how to continue that success. If the employee is meeting expectations, communicate that to the employee and discuss steps that can be taken to help the employee exceed expectations. While management energy can easily be diverted to dealing with poor performers, the value in on-going communication with all employees cannot be understated. Managers and employees should establish a plan (typically under the rubric of setting job goals) to ensure that good or high levels of performance continue. This cannot be left to chance. As part of the discussion about continuing those high levels of performance, the manager and employee should also discuss any areas that need improvement and steps to address those areas.

If the employee is falling short of expectations, prepare for the conversation in advance, bringing notes to the meeting if necessary. Provide the employee with as much specific performance feedback as possible, including concrete examples of when the employee fell below expectations and how that affected the work of the department.

Generic Performance Feedback: I've noticed problems with your ability to meet deadlines and with your communication.

Specific Performance Feedback: With respect to your work on the water main project, you have missed project deadlines at steps 3, 5 and 6. Prior to missing those deadlines, you did not communicate with me to let me know that you were behind until a few days before the deliverable was due. This has significant implications on our department's ability to deliver on the overall project within the promised timelines. It has pushed back timelines on the remaining

¹⁵ Keep in mind that performance feedback should also be provided to employees in a less formal ways on a continual basis. It is a good management practice to acknowledge an employee's effort or success through more casual communications – often a short email or a brief conversation will suffice. Similarly, if a manager observes an employee struggling, look for an opportunity to provide counseling or feedback alerting the employee that he or she should take certain steps to get back on course. See DelPo, *The Performance Appraisal Handbook*, pg. 67.

steps for the project and we have had to report to the Board that our anticipated project completion timeline will not be met.

In addition to giving the employee detailed feedback, engage the employee in the conversation. What is the employee's perspective on the performance issue? Try to assess whether the employee is surprised to hear the feedback or whether he or she was aware of the problem. Involve the employee in proposing ideas for a solution and/or next steps for addressing the performance problem. Consider any employee suggestions for additional support or guidance that may help to get them back on track.¹⁶

Be prepared for employees to cite personal life issues as the cause of the poor performance. If they do, they have at least acknowledged their poor work performance which is a huge step in the right direction. Employees need to understand that poor performance is not acceptable and that the employee must take responsibility for bringing performance up to satisfactory levels, even if the employee believes that personal life issues have caused the poor performance. Employees must ultimately be accountable for their individual job behavior.¹⁷

At this stage, the employee may ask to involve a union representative in these discussions. As discussed above, the *Weingarten* right is triggered when the employer is asking investigatory questions and where the employee has a good faith belief that his or her responses to the questions may result in disciplinary action. If the employer is resistant to having a union representative present, then this conversation should be structured to avoid triggering that right.

On the other hand, there can be benefits to allowing the union representative to participate at this stage. Union challenges to PIPs on behalf of employees can result in costly delays and will keep poor performers in positions longer. If the union is involved early, it will have the opportunity to see that the employer provided the employee with a meaningful opportunity to improve performance. The union may then be less inclined to fight if it has had the opportunity to be included early on in the process and see that the process is thoughtful and considered and not an excuse to terminate the employee. Moreover, having the union's buy-in at the outset on the performance measures and timelines might minimize challenges that the structure of the PIP was inherently unfair.¹⁸ Of course, the union may still elect to challenge the PIP if discipline results

¹⁶ If the employee reports that the reason for the performance deficiencies is a medical condition, a disability, or a need for family or medical leave, contact Human Resources or legal counsel immediately.

¹⁷ For a longer discussion on this point, see DelPo, *The Performance Appraisal Handbook*, pg. 104.

¹⁸ Don't forget that unions have a duty of fair representation which means they are obligated to represent all employees fairly, in good faith, and without discrimination. This representation may include challenging the PIP if the union feels it is necessary to fairly represent an employee.

or (even if you have initial buy-in) it may argue that performance was assessed unfairly under the PIP.

At the end of the conversation, make sure the employee is clear about the next steps, even if the next step is that you are going to consider what the appropriate next step is and will schedule a follow-up meeting to discuss it. If you've decided to place the employee on a Performance Improvement Plan, then explain that process to the employee.

D. Follow-up Action, As Needed, For Next Period (PIP or otherwise)

Whatever remedial action is appropriate at this stage, the important thing is to follow through with that action. If informal remedial efforts fail or if the performance failures are sufficiently severe to warrant a more formal process, it is time to begin the process of developing a Performance Improvement Plan for the employee. As discussed in greater detail below, the plan should include specific goals that, if achieved, will bring the employee up to a satisfactory level of performance. The plan should also highlight the manager's role in enabling the employee to meet those goals. If the employee's performance continues to be unsatisfactory after the conclusion of the performance improvement period, then corrective actions – including demotion or separation from employment – should be considered.

VII. DRAFTING THE PIP

Gather Information

Often the Human Resources professional is tasked with putting together the first draft of the PIP. If you find yourself in that position, a useful starting point is to review any relevant MOUs (i.e., collective bargaining agreements) or employee handbooks that address the process for performance improvement plans, if applicable. That way, you will know if any specific procedures, timelines, or structures apply to this employee. You will also want to have the employee's job description and any recent performance evaluations on hand.

After that basic fact-gathering, the next step is to meet with the employee's supervisor to ensure you fully understand the performance problems and to make a list of the relevant performance expectations. Often the starting point for this list will be the employee's job description and/or the performance evaluation document used by the organization. The manager may also want to add to the list relevant, project-specific expectations that have been communicated to the employee.

After you have identified the list of expectations, make a note of how and when those expectations have been communicated to the employee. Then, assess which expectations the employee is failing to meet. Ask the supervisor for specific examples of when the employee failed to meet

performance expectations. Ask the manager to explain the implications on the organization resulting from those failures.

Practice Pointer: To ensure that your PIP provides a truly meaningful opportunity, offer support to the employee to meet the performance objectives. Determine what resources, if any, the organization may want to offer the employee to help him or her change the behavior. This may take the form of training, a coach, or evening supervisory support and guidance. If you decide to offer support, then be sure to highlight that in the PIP communication.

This conversation is a good opportunity to ensure that manager understands that the goal of the PIP is to try to get the employee meeting performance expectations. Often, by the time a manager elects to proceed with a performance improvement plan, frustrations are running high between the supervisor and the employee. To be a meaningful opportunity to improve, the manager (who will likely be assessing whether the employee is meeting expectations during the plan) will need to be on board with the rehabilitative intention of the PIP. Otherwise, there is a good chance that the employee will not be fairly assessed during the evaluation period and the PIP process will live up to its bad reputation. This can cause serious damage to the credibility of management and Human Resources staff at your organization.

Accordingly, the Human Resources representative and the supervisor will want to discuss what action the organization will take if the employee meets performance expectations during the PIP period and what action to take if the employee does not meet expectations.

What to Include in the PIP?

To create a neutral tone, consider drafting the PIP as a letter or memorandum to the employee. Typically, the PIP will be from the employee's supervisor because the supervisor will have the most firsthand knowledge of the employee's performance. Below is a suggested step-by-step guide of what to include for a simple, clear and thorough Performance Improvement Plan communication. While there are a number of ways to structure a PIP, we found this structure to flow logically and naturally for most performance scenarios.

Following the explanation of each PIP component below, we have included the relevant excerpt from a sample Performance Improvement Plan letter. A complete version of the sample letter is located in the Appendix.

1. Introduction

The introduction will set the tone for the PIP. It is a good idea to emphasize the rehabilitative nature of the PIP. This will reassure the employee that the employer is entering into the plan in good faith with the intention to provide a meaningful opportunity for the employee to improve his

or her performance. We recommend referencing any documents or conversations where the performance issues have been previously communicated to the employee.

{Performance Improvement Plan Communication Excerpt}

Dear Cynthia:

This is in follow-up to your annual review dated July 31, 2014 (attached) and the recent discussions we've had regarding your performance. As indicated in that review, while you are meeting some of the performance objectives of the Budget and Finance Analyst position, there are several areas where you have not met performance expectations consistently. As a valued member of our budget and finance team, we want to support you and help get you back on track. Accordingly, you are being placed on a Performance Improvement Plan.

2. Identify Performance Problems, Citing Examples

To give the employee an opportunity to improve, the PIP should focus on the employee's performance deficiencies that are critical elements of the employee's job performance. An employee will not be able to change or correct their behavior if they do not have a clear understanding of where and how they've gone wrong in the past.

The problematic behavior should be tied to examples of the employee's conduct. Connect the examples with details – e.g., dates, consequences of the behavior for the organization, how the manager learned about the behavior. Most jobs will entail both quantitative (objective) and qualitative (subjective) aspects and both should be included in the PIP.

{Performance Improvement Plan Communication Excerpt}

Identified Performance Deficiencies

Calculation and Data Entry Errors In Budget Spreadsheets

The agency appreciates your efforts over the past year to update the spreadsheets monitoring the budgets for the departments you have been assigned and to keep those spreadsheets up-to-date. However, in March, June, and again in October, we found formula errors in those spreadsheets that have resulted in erroneous calculations in the health department's and the IT department's budget trackers. Those errors have made it difficult for those departments to make projections and to plan their budgets and have also caused them to lose trust in the budget data.

In June and July, we also uncovered a handful of data entry errors that you made in the budget spreadsheets. Thankfully, these errors were discovered in a timely manner, but they reflected a lack of conscientiousness in ensuring that information was properly entered. This has been a recurring performance issue for you - data entry errors have increased during the busy season of the fiscal year close-out. As we have discussed, we saw the same pattern last year.

Untimely & Incomplete Monthly Reconciliation of Purchasing Accounts

Over the last year there have been four times (December, March, July and September) that you have not resolved discrepancies in the purchasing accounts for your assigned departments in a timely manner. In these instances, I was required to intervene to ensure that all transactions were legitimate and properly approved. On several of these occasions, you initiated the research process but did not follow through to ensure resolution of the questionable transactions to complete the reconciliation in a timely manner.

3. Communicate Expectations, Focusing On Relevant Performance Objectives

The next step is to communicate the relevant performance expectations or objectives that are the focus of this improvement plan. A common mistake is to restate all of the expectations from job description out of an abundance of caution. While it's a good idea to acknowledge those expectations (see exemplar language below), the key to this step is to narrow the focus to the performance objectives where the employee is deficient. This will avoid the employee later claiming they he or she did not understand what they needed to do to achieve a successful rating.

A common error is to describe objectives using vague and subjective language such that it would be difficult to prove that the objective has been met. A good example of a vague and subjective objective is "improve communication skills" without further instruction or specifics. We often encourage employers to remember the commonly used Human Resources acronym "SMART" at this stage. The acronym stands for:

- S Specific**
- M Measurable**
- A Achievable & Appropriate to the Job**
- R Reasonable and/or Realistic**
- T Time Bound**

Are the performance objectives or goals identified in your PIP communication SMART?

{Performance Improvement Plan Communication Excerpt}

Performance Expectations

This Performance Improvement Plan is designed to clarify performance expectations. It is a supplement to, not a replacement for, the Budget and Finance Analyst job description (attached).

Ensure Budgetary and Financial Spreadsheets Are Properly Functioning

It is your responsibility to ensure that all budget and financial reporting spreadsheets for the departments assigned to you have properly operating formulas. You are expected to utilize the internal auditing procedures we discussed (attached) to ensure that all of your spreadsheets are functioning properly.

Ensure Accuracy of Data Entry into Budgets and Financial Reports

Budget spreadsheets and financial reports must accurately reflect department revenues and expenditures and must be kept up-to-date. You will utilize the internal auditing procedures we discussed (attached) to ensure that data has been correctly entered. During busy times in the fiscal year, you have agreed to meet with me in advance to ensure that you have sufficient support mechanisms in place to avoid errors resulting from workload pressures.

Timely Completion of Purchasing Account Reconciliations

You are expected to reconcile all monthly purchase accounts assigned to you by the 5th of the following month. You are also expected to complete the reconciliation process independently (i.e., without the intervention of your supervisor). Finally, during the term of this Performance Improvement Period you are directed to send me an email notification once you have completed the reconciliation process for the purchase accounts each month.

If you believe that you will be unable to complete a reconciliation in this timeframe, you are expected to bring those concerns to my attention at the earliest possible time so that we can work together to resolve any impediments to meeting this performance objective.

4. How Performance Will Be Measured & Assessment Timeframe

The next step is to clarify the standards by which the employee's performance will be evaluated and to identify who will be conducting the evaluation. Bring as much specificity as you can into identifying what will constitute successful performance under the performance expectations that you've identified. This section should also clearly state the duration of the PIP, in days or months. The best practice is to also include the actual end date for the PIP so that you and the manager can calendar the PIP period and schedule interim check-ins with the employee. We also recommend including language reserving the ability to change the duration of the time period.

{Performance Improvement Plan Communication Excerpt}

Performance Measurement and Period of Assessment

This agency must have confidence that as Budget and Finance Analyst you are able to build and maintain budget and finance documents that your assigned departments have confidence in and rely upon for planning. Further, the efficient running of our department requires timely and appropriate reconciliation of purchasing accounts.

To facilitate sustained improvement in the areas identified above, you will be placed on this Performance Improvement Plan for a period of 90 days (ending on February 6, 2015). This plan may be modified (including the duration) as necessary during this period, depending on your progress.

I will be evaluating your performance during this period on a continual basis and will do my best to communicate feedback relating to my assessment throughout this period.

Successful performance will be measured based on the following:

- *You will be evaluated, in part, based on your ability to implement and continually follow the internal audit procedures we have established;*
- *I will be spot-checking your budget trackers and spreadsheets for formula accuracy and data entry accuracy;*
- *I will be in communication with the budget contacts in the departments assigned to you to evaluate your performance under the identified criteria;*
- *Finally, you will be evaluated based on the timeliness of your completion of the reconciliations (based in part on the email notifications to me), your ability to work independently to complete that process, and the accuracy / thoroughness of your research.*

As part of my assessment, I will be seeking feedback from you on this plan (especially on the implementation of the internal audit protocols). Additionally, you are encouraged to schedule meetings with me to discuss your progress and to let me know how I can support you in meeting these performance expectations.

5. Identify Possible PIP Outcomes

In concluding the PIP, identify the possible outcomes of the PIP. This includes communicating what will happen if the employee successfully meets performance expectations during the PIP period. The conclusion should also explain the possible consequences if the employee does not improve performance during the evaluation period. The PIP communication should specifically reserve the employer's right to take disciplinary or corrective action, up to and including termination, regardless of any timelines specified in the PIP.

Finally, the communication should be signed by the supervisor and/or the Human Resources representative involved in drafting the PIP. We also recommend including an acknowledgement of receipt of the PIP for the employee as reflected in the Appendix.

{Performance Improvement Plan Communication Excerpt}

Conclusion

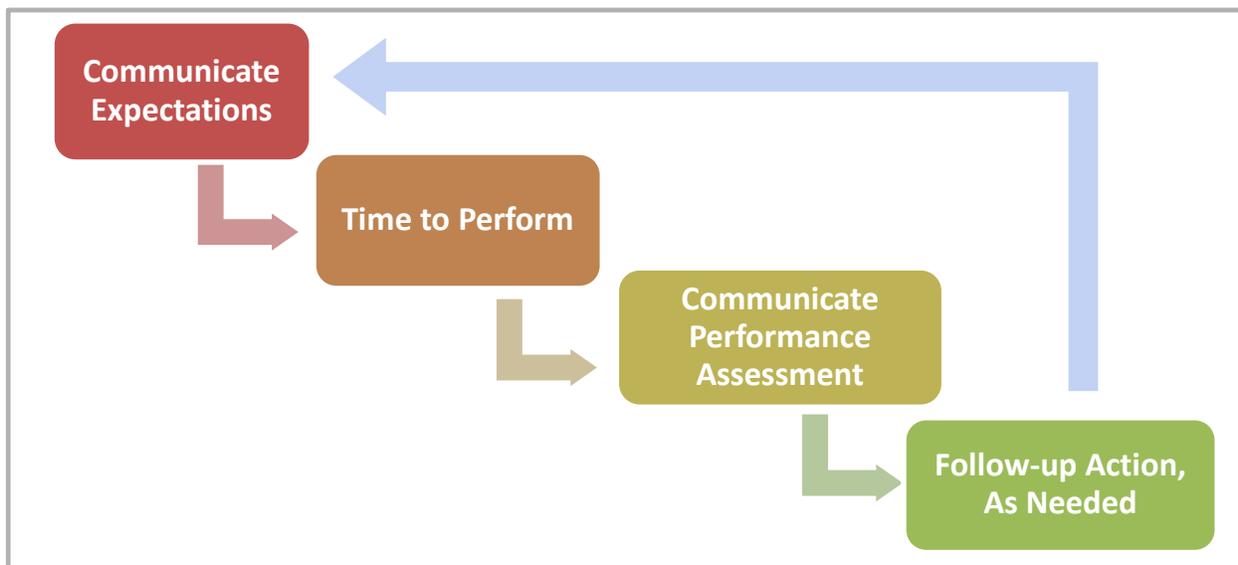
Upon successful completion of this Performance Improvement Plan, you will continue in your current position of Budget and Finance Analyst. Please be advised that if immediate and sustained improvement in your performance is not demonstrated, you will be subject to further corrective action up to and including immediate termination of employment. Furthermore, the agency reserves the right to take additional action as appropriate regardless of the timeframes specified in this document.

VIII. RETURN TO PERFORMANCE MANAGEMENT CYCLE

Once you've established that a PIP is necessary, you will return to the beginning of the Performance Evaluation / Management Cycle. The PIP letter or memo that you have drafted is a formal mechanism for communicating expectations, the first step in that cycle.

After drafting the PIP, set a meeting with the employee to walk through the document. The date of PIP should match the date of that meeting and any corresponding timeframes should be calculated from that day. Be prepared to respond to the employee's questions during the meeting or to offer to schedule a follow-up meeting after the employee has an opportunity to digest the information in the PIP. Then, continue to move through the Performance Evaluation / Management Cycle: give the employee time to perform (and assess his or her performance), communicate that performance assessment during the PIP period. At the conclusion of the PIP period, take whatever follow-up action is appropriate under the circumstances.

Performance Evaluation / Management Cycle



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IX. CONCLUSION

It is inevitable that, from time to time, employees will fall off course. Hopefully this white paper has offered some tools that will empower managers and Human Resources professionals to step in at those times and support the employee to get back on track. While performance management has its challenges, motivating employees to contribute to an organization in a meaningful and sustained way is incredibly rewarding and essential to an organization's effectiveness and well-being.

APPENDIX: SAMPLE PIP LETTER

November 7, 2014

Cynthia Miller
Budget and Finance Analyst

Re: Performance Improvement Plan

Dear Cynthia:

This is in follow-up to your annual review dated July 31, 2014 (attached) and the recent discussions we've had regarding your performance. As indicated in that review, while you are meeting some of the performance objectives of the Budget and Finance Analyst position, there are several areas where you have not met performance expectations consistently. As a valued member of our budget and finance team, we want to support you and help get you back on track. Accordingly, you are being placed on a Performance Improvement Plan.

Identified Performance Deficiencies

Calculation and Data Entry Errors In Budget Spreadsheets

The agency appreciates your efforts over the past year to update the spreadsheets monitoring the budgets for the departments you have been assigned and to keep those spreadsheets up-to-date. However, in March, June, and again in October, we found formula errors in those spreadsheets that have resulted in erroneous calculations in the health department's and the IT department's budget trackers. Those errors have made it difficult for those departments to make projections and to plan their budgets and have also caused them to lose trust in the budget data.

In June and July, we also uncovered a handful of data entry errors that you made in the budget spreadsheets. Thankfully, these errors were discovered in a timely manner, but they reflected a lack of conscientiousness in ensuring that information was properly entered. This has been a recurring performance issue for you - data entry errors have increased during the busy season of the fiscal year close-out. As we have discussed, we saw the same pattern last year.

Untimely & Incomplete Monthly Reconciliation of Purchasing Accounts

Over the last year there have been four times (December, March, July and September) that you have not resolved discrepancies in the purchasing accounts for your assigned departments in a timely manner. In these instances, I was required to intervene to ensure that all transactions were legitimate and properly approved. On several of these occasions, you initiated the research process but did not follow through to ensure resolution of the questionable transactions to complete the reconciliation in a timely manner.

Performance Expectations

This Performance Improvement Plan is designed to clarify performance expectations. It is a supplement to, not a replacement for, the Budget and Finance Analyst job description (attached).

Ensure Budgetary and Financial Spreadsheets Are Properly Functioning

It is your responsibility to ensure that all budget and financial reporting spreadsheets for the departments assigned to you have properly operating formulas. You are expected to utilize the internal auditing procedures we discussed (attached) to ensure that all of your spreadsheets are functioning properly.

Ensure Accuracy of Data Entry into Budgets and Financial Reports

Budget spreadsheets and financial reports must accurately reflect department revenues and expenditures and must be kept up-to-date. You will utilize the internal auditing procedures we discussed (attached) to ensure that data has been correctly entered. During busy times in the fiscal year, you have agreed to meet with me in advance to ensure that you have sufficient support mechanisms in place to avoid errors resulting from workload pressures.

Timely Completion of Purchasing Account Reconciliations

You are expected to reconcile all monthly purchase accounts assigned to you by the 5th of the following month. You are also expected to complete the reconciliation process independently (i.e., without the intervention of your supervisor). Finally, during the term of this Performance Improvement Period you are directed to send me an email notification once you have completed the reconciliation process for the purchase accounts each month.

If you believe that you will be unable to complete a reconciliation in this timeframe, you are expected to bring those concerns to my attention at the earliest possible time so that we can work together to resolve any impediments to meeting this performance objective.

Performance Measurement and Period of Assessment

This agency must have confidence that as Budget and Finance Analyst you are able to build and maintain budget and finance documents that your assigned departments have confidence in and rely upon for planning. Further, the efficient running of our department requires timely and appropriate reconciliation of purchasing accounts.

To facilitate sustained improvement in the areas identified above, you will be placed on this Performance Improvement Plan for a period of 90 days (ending on February 6, 2015). This plan may be modified (including the duration) as necessary during this period, depending on your progress.

I will be evaluating your performance during this period on a continual basis and will do my best to communicate feedback relating to my assessment throughout this period.

Successful performance will be measured based on the following:

- You will be evaluated, in part, based on your ability to implement and continually follow the internal audit procedures we have established;
- I will be spot-checking your budget trackers and spreadsheets for formula accuracy and data entry accuracy;
- I will be in communication with the budget contacts in the departments assigned to you to evaluate your performance under the identified criteria;
- Finally, you will be evaluated based on the timeliness of your completion of the reconciliations (based in part on the email notifications to me), your ability to work independently to complete that process, and the accuracy / thoroughness of your research.

As part of my assessment, I will be seeking feedback from you on this plan (especially on the implementation of the internal audit protocols). Additionally, you are encouraged to schedule meetings with me to discuss your progress and to let me know how I can support you in meeting these performance expectations.

Conclusion

Upon successful completion of this Performance Improvement Plan, you will continue in your current position of Budget and Finance Analyst. Please be advised that if immediate and sustained improvement in your performance is not demonstrated, you will be subject to further corrective action up to and including immediate termination of employment. Furthermore, the agency reserves the right to take additional action as appropriate regardless of the timeframes specified in this document.

Supervisor Name

Date

Human Resources

Date

I acknowledge by my signature below that I have been afforded the opportunity to review and sign this correspondence prior to it being placed in my personnel file.

Cynthia Miller

Date

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Renne Sloan Holtzman Sakai LLP

Public Law Group[®] · Public Management Group[™]

San Francisco Office

350 Sansome Street,
Suite 300
San Francisco, CA 94104
P: (415) 678-3800

Berkeley Office

1220 Seventh Street,
Suite 300
Berkeley, CA 94710
P: (510) 995-5800

Sacramento Office

428 J Street,
Suite 400
Sacramento, CA 95814
P: (916) 273-1710