## ARIZONA EMPLOYMENT LAW LETTER

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# **Performance evaluations: critical tool or potential liability?**

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Evaluations can serve as an effective tool to boost employee performance and productivity levels if they're properly prepared and implemented. Because most managers dread the process, they fall prey to common mistakes that not only prevent the performance evaluation from being an effective tool but also can be costly for employers. Unfortunately, with wrongful termination and discrimination cases on the rise, this oftoverlooked tool has taken on an important role outside of just improving performance. It also can be key to defending against those claims.

Untrained managers who don't evaluate employees correctly can cost a company money due to inefficient business practices and also open an employer up to significant liability. With the help of the English rock band Radiohead, we'll explore common pitfalls of performance evaluations.

#### No surprises

Performance ratings should offer no surprises to the employee on the receiving end. Managers who treat the performance evaluation as the only time to provide employees with feedback are doing a disservice to the company and their subordinates. Yet, not providing feedback throughout the year is a common mistake.

Managers should provide feedback (positive and negative) throughout the year. Specific feedback provides employees with a fair opportunity to change their behavior (if bad) and increase their engagement (if good). Performance evaluations should be a summary of the regularly held touch points with employees throughout the year.

#### High and dry

Performance evaluations are meant to provide concrete feedback on what the employee is doing well and what needs improvement. Managers tend to use vague language or stick with the general evaluation ratings ("needs improvement") without citing specific examples that led to the scores. Instead of just telling an employee she handled the situation poorly, be specific about how she can manage it differently next time. If a report isn't completed properly, provide an example of a correctly completed report for guidance.

If managers don't tell employees how to correct what they're doing wrong, they are likely to repeat the mistakes. Without useful feedback, employees are left high and dry.

#### Karma police

Managers who don't understand the rating system tend to have an inconsistent scoring style. For example, a manager may rate an employee as exceptional but fill the comments section with examples of low-performing issues (and vice versa). Another problem is to rate employees as average across the board, rather than respect the system and spend the time necessary to address each assessment factor accurately.

Managers with an inconsistent scoring style upset the credibility of the review process and leave employees hoping the karma police will sort out their bosses. These types of reviews also can be used as evidence in potential litigation.

#### Creep

Managers need to be aware that certain unconscious rating errors or biases can come into play when they're writing and delivering performance reviews. Consequently, they should actively work to identify and overcome any biases. A bias isn't necessarily based on a protected category (e.g., race, sex, or age), although it can be. Other biases are things that may affect a manager's review of an employee that aren't directly related to overall job performance.

One of the most common biases is the "recency effect," in which a manager bases the review on the employee's

most recent performance rather than the entire review period. Biases such as the recency effect, the "similar-tome effect," and the "contrast effect" (to name a few) skew the review. Don't let bias creep into your evaluations.

#### Exit music

Following best practices for performance evaluations will provide you with a useful tool to offer feedback to your employees and evaluate their progress. It also limits potential liability caused by poorly completed evaluations. Best practices include training managers on what to document, what not to document, what to say, and how to say it when preparing for, writing, and delivering the review.

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