Bureau of Indian Education

Human Resources Office
Writing Effective & Measurable Performance Standards

Summer Institute 2012
Building a Brighter Tomorrow through Positive & Progressive Leadership
Why are performance standards important?
BIE SUMMER INSTITUTE 2012
WRITING EFFECTIVE & MEASURABLE PERFORMANCE STANDARDS

Introductions:

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Participants
Distinguish between performance and conduct.
Identify critical elements.
Develop performance standards.
Identify methods for tracking the standards you have developed.
Conduct versus performance

- Attendance or reporting to work on-time.
- Well-written correspondence.
Critical elements

- Work that is essential to the position
- If performed at an unsatisfactory level the position may as well be vacant.
- Based upon duties within the position description not cut and pasted from it.
- Must have at least 1 critical element and no more than 5.
- At least 1 critical element must be linked to GPRA goals.
Performance standards

- Five different levels
  - Differentiation between the performance at each level of performance.
- Standards must be measurable and should be objective, to the greatest practicable extent.
  - Any reader should be able to glance at them and understand the specific performance necessary for each level.
Performance standards

- Must be reasonable.
- Identify the requisite level of performance required to attain an appraisal at a particular level.
- Must identify the level of performance to be attained not the performance that is unacceptable, must be avoided and/or should not be done.
- Specificity is inverse to the amount of independence and discretion which is expected of the incumbent of the position.
- Must describe work assignments and responsibilities within the employee’s control., except for supervisors. (Page 5, 370 DM 430)
- Must be sufficient to withstand legal challenge.
Consequences

- If employee cannot improve performance he must be:
  - Terminated (if probationary);
  - Removed;
  - Demoted to a position previously held and which they performed successfully; or
  - Contract non-renewed.
- Employee can contest the matter in the grievance process, EEO complaint process, or MSPB appeal procedure, as applicable.
Proof elements
- The agency must show by substantial evidence that ::
  - The employee fails to meet the established performance standards in 1 or more critical elements;
  - Critical elements and standards communicated to employee;
  - Employee warned about deficient performance and provided an opportunity to improve; and
  - Despite opportunity to improve employee’s performance is still unacceptable.
Quantum of proof

- Substantial evidence is defined in 5 CFR 1201.56 as:
  - The degree of relevant evidence that a reasonable person, considering the record as a whole, might accept as adequate to support a conclusion even though other reasonable persons might disagree. This is a lower standard of proof than preponderance of the evidence.
  - Lower standard of proof than the preponderance of evidence required in a disciplinary action.
  - Penalty cannot be mitigated.
  - Must prepare and do work up front.
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Performance standards

- Start with the minimally successful standard.
  - This defines the minimum level of performance that can be achieved for the employee to retain his employment.
  - Work up from there.
- Let’s look at some examples of deficient EPAPs
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- EPAPs
  - Let’s look at an example of a decent EPAP.
EPAPs

Start with the minimally successful standard.
- This defines the minimum level of performance that can be achieved for the employee to retain his employment.
- Work up from there
- Critical element = task
- The standard measures how the task is performed.
EPAPs

How can student achievement be utilized in a teacher evaluation?

What is a reasonable standard?

What is a reliable method of measurement?
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- EPAPs
- Common core standards
Definitions

- **Appraisal Period**
  - Coincides with the school year: July 1 – June 30

- **Maximum Time to Finalize Performance Standards**
  - Timeframe in which performance standards are finalized and approved. The maximum time a rating official has to put an employee under elements and standards, i.e., establish an Employee Performance Appraisal Plan (EPAP)

- **Minimum Appraisal Period**
  - The length of time, 90 calendar days, that the employee must be performing under an approved EPAP in a given position in order to be eligible for an interim or annual rating
Progress Review

- Discussion with the employee at least once during the appraisal period to review the employee’s progress and communicate performance as compared to the established standards; to make any recommended revisions to critical elements/performance standards; and to consider/identify any developmental needs or performance improvement required.

Article 21 section 3 requires that you advise an employee of deficient performance if you’re aware of it prior to a progress review.
Rating Critical Elements

- Compile performance data from various sources
- Ask employees to keep track of their own progress
- Should also talk to customers and peers
- Review documentation
- Incorporate other feedback if available

Goal: to ensure a complete picture of the employee’s performance
The rating assigned reflects the level of the employee’s performance as compared to the standards established.

If an employee does not have an opportunity to perform a critical element during the rating period, no rating will be assigned and the words “Not Rated” should be written on the EPAP for that element.
Narrative Summary

- Required for ratings of Exceptional, Minimally Successful, or Unsatisfactory
  - Must contain examples of the employee’s performance that substantiate and explain how the performance falls within the level assigned. Narrative must be recorded on the EPAP
- Encouraged, but not required, for ratings of Superior and Fully Successful
Review by Reviewing Official
- Required for ratings of Exceptional, Minimally Successful and Unsatisfactory
- Required prior to delivering the completed EPAP to the employee
Discussion with Employee

- Rating official should ensure:
  - All necessary approvals of the rating of record have been completed
  - Employee performance on each critical element during the rating period has been reviewed and noted, including tasks that were completed well and any areas needing improvement.
  - Specific examples should be noted when possible or available
After the meeting

- Supervisor provides a copy of the EPAP to the employee
- Supervisor retains a copy of the EPAP for their files
- Supervisor forwards the original EPAP to the Human Resources Office
  - School Year Employees: with contract renewal paperwork
  - Year-Long and Title V employees: within 60 days
What if the employee refuses to sign?

- Annotate that the employee refused to sign in the employee space, and sign your name in the rating official space.
Exceptional (Level 5) – eligible for:

- Individual cash award up to 5% of base pay;
- Quality Step Increase (QSI)
- Time-Off Award

Superior (Level 4) – eligible for:

- Individual cash award up to 3% of base pay;
- Time-Off Award
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- Links to other personnel actions
  - Within-grade pay increases
  - Increments (contract educators)
  - Promotions (non-competitive career ladder positions)
  - Probationary/Trial Periods
  - Probationary Period for Supervisors and Managers
  - Determining additional retention service credit in a RIF
  - Determining eligibility to participate in Telework
Opportunity to improve

- Performance improvement plan
- Increase to minimally successful
- At least 30 days
- Don’t obligate yourself to do something that you cannot do
Performance improvement plan

- Agency must prove that we provided a fair opportunity to improve.
- PIP cannot change the level of performance required of employee but can flesh out ambiguous standard, if necessary.
- At least 30 days.
- Must advise of exactly what is expected of him during the PIP.
- Don’t obligate yourself to do something that you cannot do
- If employee successfully completes the PIP, they are held to that standard for one year from the date of completion.
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