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Managing Performance

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One of the primary roles of a supervisor is to manage worker performance. *Performance management* is the “continuous process of identifying, measuring, and developing the performance of individuals and teams and aligning performance with the strategic goals of the organization” (Aguinis, 2007, p. 2). Supervisors must regularly assess current performance levels and take steps to improve performance in a way that is congruent with agency goals. The ultimate goal is to achieve agency objectives through individual and team performance.

To effectively manage performance, supervisors must know what the performance expectations are for workers and clearly communicate these expectations to workers. They must regularly monitor and document performance while taking steps to facilitate and improve performance. In the event of unsatisfactory performance patterns, supervisors must analyze and address performance problems, sometimes using disciplinary measures. Finally, formalized performance management systems may include standardized performance evaluations, which supervisors will be expected to complete. In carrying out these multiple responsibilities, supervisors must be aware of and operate within legal guidelines for performance management.

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Child welfare supervisors with case management experience will find themselves well prepared to manage worker performance. The responsibilities are not unlike those required to help families ensure the safety and well-being of their children. Case management skills related to assessment, collaborative planning, goal setting, problem solving, progress evaluation, and documentation are valuable assets for evaluating and facilitating worker performance. Child welfare supervisors should capitalize on these strengths as they seek to help workers succeed.

Defining Performance Expectations

Job performance refers to measurable employee actions or behaviors that contribute to organizational goals (Borman, 1991; Campbell, 1990; Campbell, McCloy, Oppler, & Sager, 1993). Although some believe that behavioral results and outcomes should be included in this definition (Bernardin & Beatty, 1984; Viswesvaran & Ones, 2000), others firmly believe they are not a component of job performance (Campbell, 1990; Motowidlo, Borman, & Schmit, 1997), even though they are often the target of performance management systems. As will be discussed, this distinction has important implications for performance management in child welfare, given recent attention to outcome achievement for children and families.

Although a number of models of performance exist, one widely recognized approach is to define performance in terms of two broad dimensions: task performance and contextual performance¹ (Borman & Motowidlo, 1993). *Task performance* refers to core job duties and responsibilities, such as those that would appear in a job description. By definition, task performance is largely unique to a given job; in child welfare, examples include investigating allegations of maltreatment, preparing a safety plan, explaining agency policy and procedure to families, and coordinating provision of services. Critical job tasks are identified through a process of *job analysis*, which involves systematic examination of one or more features of tasks, such as importance, frequency, and consequentiality. One of a variety of formulas is typically used to analyze this information and pinpoint the core job tasks that contribute most to effective overall job performance. For more information on the use of job analysis in child welfare, see Graef and Potter (2002) and Graef, Paul, and Myers (in press).

Contextual performance, in contrast, refers to non-job-specific behavior that affects the social and psychological climate in which tasks are performed (Borman & Motowidlo, 1993). These behaviors are usually fairly similar across jobs and include providing assistance to others, investing extra effort, volunteering for extra responsibilities, supporting and defending agency goals, and complying with agency rules and procedures (Borman & Motowidlo, 1993). Some types of contextual behaviors might be considered an expected part of professional conduct and would therefore be an established expectation. Examples in child welfare might include helping to orient a new worker, always arriving on time for meetings with families and providers, and meeting deadlines for documentation. Other contextual behaviors are more obviously outside the bounds of the formal job description and are not likely to be treated as an expectation. Examples include volunteering to cover another worker's caseload during extended sick leave, suggesting improvements to the unit or agency, and giving public-education presentations. Whether or not they are formally required and recognized, contextual behaviors are valuable to the organization. They are associated with job satisfaction, organizational commitment, performance quantity, performance quality, financial efficiency, customer satisfaction, and unit effectiveness (see Podsakoff, MacKenzie, Paine, & Bachrach, 2000).

In practice, performance is sometimes defined in terms of knowledge, skills, abilities, and other characteristics (often referred to as *KSAOs*). Examples include knowledge of policy and procedure; communication, decision making, and documentation skills; and enthusiasm, self-awareness, and adaptability. Although these qualities may be desirable, such competency-based approaches are largely inappropriate for assessing job performance, primarily because they do not target behaviors. A worker could have excellent knowledge and skills, as demonstrated in training or in past job performance, but may not be translating these skills into performance, perhaps due to motivational issues or situational constraints. To the extent that a worker does demonstrate behaviors that might reflect these competencies, there is no guarantee that the behaviors make a valuable contribution to agency goals. Although *KSAOs* certainly play an important role in performance, they are typically considered antecedents of performance (Campbell, 1990) and are more appropriately used as indicators of performance potential, measured at the time of hire or during training, rather than as indicators of actual performance. (For a

review of how KSAOs can be used to predict performance in child welfare, see Graef et al., in press). Defining performance in terms of KS-AOs is therefore not recommended, except when acquisition of knowledge and skills is the primary goal, as is often the case in very early stages of employment or when workers have professional-development goals they must achieve.

Yet another approach is to define performance in terms of results or outcomes. As suggested earlier, these are not typically included in the standard definition of performance, but the reality is that employees are often held accountable for them anyway. Despite their appeal as indicators of performance, outcome-based measures are problematic because their achievement frequently involves circumstances beyond the employee's control. Moreover, in jobs where outcomes may not be achieved for some time, perhaps months or even years, more immediate indicators of performance are preferred (Aguinis, 2007).

Due to the federal Child and Family Services Reviews (CFSRs) and associated federal legislation, child welfare performance measures have shifted from focusing on procedural compliance to focusing on outcomes. For states, the desired outcomes are clear: safety, permanency, and wellbeing for children and families. In an effort to achieve these outcomes, many agencies have begun diligently monitoring associated indicators at local and unit levels, and some have even extended outcome accountability to individual workers. The successful implementation of such approaches will require agencies to limit outcome measures to those over which workers have direct control or to carefully account for circumstances that interfere with outcome achievement. Alternatively, agencies may want to follow the direction of the CFSR and assess the extent to which workers make concerted efforts toward outcomes. The ideal means of defining and measuring performance may be to focus on a combination of task and contextual performance, along with results over which workers have control.

It is not enough for supervisors to know that staff members are expected to complete certain tasks and achieve certain results. Detailed performance expectations for staff come from a variety of sources, including local, state, and federal laws and regulations; agency missions and values; agency policies, rules, directives, and guidelines; professional best-practice standards; and judicial system standards, to name a few. Supervisors must know what, how, and when things should be done to properly direct and manage staff performance.

Communicating Performance Expectations

Although many child welfare workers learn about performance expectations through extensive training, supervisors need to reinforce and supplement that training and assume long-term responsibility for conveying agency expectations. In addition to communicating performance standards, supervisors should also be sure to inform workers of the procedures and timelines for performance reviews.

Communication should be clear and consistent, using direct and unambiguous language. Supervisors have a variety of methods available to them to communicate expectations for staff performance, including face-to-face conversation, telephone calls, voice mail, written memos, e-mail, and staff meetings. Skilled supervisors effectively use each of these modalities when appropriate and keep records to establish evidence that workers know the standards for performance. Such proof might include records of training attendance, signatures for receipt of policy manuals, staff meeting agendas and minutes, or supervisory consultation notes. Having such documentation will be important if performance problems arise. Practical strategies for sharing expectations related to new policies, procedures, and directives are noted in **Box 1**.

Monitoring Performance

Effective performance management requires supervisors to keep themselves fully apprised of workers' conduct, behavior, activities, and progress. Supervisors can rely on a number of methods for monitoring performance at the unit, worker, and case levels. One of the most direct methods is to observe workers by accompanying them during interviews, routine home visits, court hearings, and family team meetings. This method is best for assessing casework quality and interactions with families and other professionals. One drawback, however, is that observation may not capture typical performance.

An indirect method of observation that can overcome this limitation is to gather information from secondary sources, such as other workers, other supervisors, training staff, families, attorneys, law enforcement, service providers, or medical professionals. These people are likely to have many interactions with workers and can provide

Box 1. Communicating Performance Expectations

- Understand the rationale or purpose of the policy, procedure, or directive.
- Identify the positive aspects of the policy, procedure, or directive. Specify the benefits to families, workers, and the agency, as well as any potential problems that may result.
- Anticipate concerns staff may have regarding implementation.
- Determine the best method and time to present the policy, procedure, or directive (e.g., during a staff meeting or in a memo).
- Remember that what you say (the actual words), your nonverbal messages (facial expressions, eye rolling, etc.), and your para-verbal messages (tone, pitch, and pacing of words) affect how the message is received, which influences workers' implementation.
- Be very clear about expectations regarding the implementation of the policy, procedure, or directive.
- Allow time for questions. Address concerns constructively and develop a system for monitoring those concerns.
- Provide a time and means for follow-up to see how implementation is going.

Source: Salus (2004).

alternative perspectives that a supervisor is otherwise unlikely to have. For example, in Nebraska, training staff regularly provide each supervisor with reports on the classroom and field performance of their new trainees. Another example would be when a supervisor contacts the county attorney after an important court hearing to obtain feedback on a worker's performance on the witness stand.

A third approach is to receive performance updates directly from the worker through phone calls, e-mails, and face-to-face meetings. In the process of routine supervision, supervisors should become informed of whether policy, procedures, and supervisory direction have been followed and what tasks workers have and have not completed, such as assessments, plans, and services. This is also a particularly useful means of learning about the workers' perceptions of particular cases and their own performance. During consultation, supervisors can explore workers' opinions about family dynamics and strengths, case progress, and next steps. Supervisors can also discover worker's perceptions about their own needs, strengths, and concerns regarding workload, performance barriers, supervision, stress management, and job satisfaction. Although supervisors are likely to have numerous

unanticipated opportunities to assess worker performance in this way, planned and structured meetings will maximize the chances of more thorough and systematic review and feedback.

The fourth approach for monitoring performance includes reviewing records and reports. Through a review of case files and child welfare information system data, supervisors can confirm what has been taking place within cases and the timeliness of those activities, including physical and mental health evaluations; children's visits with families; and service types, providers, dates, and payment details. They can also determine upcoming deadlines and tasks that need attention, especially through electronic reminders available in many information systems. Finally, supervisors can evaluate the quality of work products like assessments, safety and case plans, visitation plans, and correspondence with families and other professionals.

To obtain a broader picture of performance across cases and workers, supervisors can examine aggregate performance measures that reflect important patterns and trends. **Table 1** describes the five most common types of child welfare performance measures (Moore & Bryson, 2003; National Resource Center for Child Welfare Data Technology [NRCCWDT], 2007).

Table 1. Child Welfare Performance Measures

<i>Type of Measure</i>	<i>Definition</i>	<i>Categories or Examples</i>
Basic case	Amount of service being provided and to whom	<ul style="list-style-type: none"> • Number served • Client characteristics • Services provided • Units of service • Case status
Resource	Expenditure and acquisition of resources; efficiency of use	<ul style="list-style-type: none"> • Financial • Placement • Staffing
Compliance	Adherence to agency policies and procedures	<ul style="list-style-type: none"> • Number of completed assessments and plans • Number of home visits per month
Service response	Outputs or results that contribute to outcome achievement	<ul style="list-style-type: none"> • Parent-child visitation • Number of placements in family-like settings
Outcome	Client results, either during or at the conclusion of services	<ul style="list-style-type: none"> • Safety • Permanence • Well-being

Adapted from Moore & Bryson (2003) and National Resource Center for Child Welfare Data and Technology (2007).

Performance-measure data are often conveyed to supervisors through management reports. These reports provide a valuable means of monitoring and improving worker and unit performance. To be maximally effective, reports should meet several important criteria, which can be summarized using the acronym RESULTS, described in **Box 2** (Moore & Bryson, 2003). Supervisors can use management reports to identify exceptional, adequate, or inadequate performance and then work with their staff to interpret the reasons for the

Box 2. Qualities of Effective Management Reports

Relevant

- Aggregated for your management unit
- Timely and up to date

Easy

- Are easy to read, with data presented in graphs that are easily interpreted
- Provide trends to indicate whether performance is changing over time
- Give rates and numbers to compare performance between and among various agency levels (e.g., state, area, county) and over time
- Provide important comparisons

Stress Outcomes

- Emphasize outcomes through report design and provide display options (e.g., graphs, drill down capacity) for the outcome measures
- Provide indicators of progress toward outcome achievement

Utility

- Allow for easy identification of cases associated with a rate
- Allow for further sorting and analysis to reveal greater detail

Lean

- Are limited to a small number of reports to avoid overload and confusion
- Summarize data so no further calculation is necessary for interpretation

Trustworthy

- Accurate and verifiable

Standards

- Include standard or goal lines on graphs to enable users to instantly interpret their performance in relation to the standard
- Show the extent to which performance is above or below the standard

Source: Moore & Bryson (2003).

performance problems. For example, if a report shows that some children are changing placements too often, the supervisor can work with staff to examine the details about these cases (such as abuse or neglect type, race, age, specific worker, and what providers are involved) that are related to moving more often, which can provide clues about how to intervene to make improvements (Moore, Rapp, & Roberts, 2000).

Many agencies are beginning to make reports a fundamental management tool for improving outcome achievement. Agencies that have limited technology may rely on specialized staff to create and disseminate reports. Others have developed management reporting systems in conjunction with their child welfare information systems so that they are more automated and readily accessible. In agencies where reports are not available, supervisors may want to advocate for their implementation. **Table 2** describes key reports that have proven particularly useful in child welfare (Moore & Bryson, 2003; NRCCWDT, 2007).

The final approach to monitoring worker and unit performance is to develop a partnership with staff members who are responsible for agency quality assurance (QA) or continuous quality improvement (CQI). These staff members are responsible for ongoing, system-wide performance monitoring and improvement. In addition to possibly being responsible for summarizing and evaluating the quantitative data used in management reports, they often also collect qualitative data. Through analysis of information system data, structured case file reviews, and interviews and surveys with families and stakeholders, QA

Table 2. Specialized Reports

<i>Type</i>	<i>Description</i>
Detail	Lists the worker, case, and clients on which report data and analyses are based
Exception	Indicates missing or omitted key data by worker, case, client, and data element
Distribution	Shows the distribution of clients by age, race, and ethnicity within a worker's caseload or within a specific geographic area
Countdown	Shows the remaining number of cases or clients that would successfully meet a required measure
Trend	Shows what is happening over time for specific clients
Incident counts	Reflects the number of substantiated abuse or neglect reports of children in out-of-home care for a given period of time

Source: Moore & Bryson (2003).

and CQI staff identify the system's strengths and weaknesses (O'Brien & Watson, 2002). Supervisors should review QA or CQI findings and meet with reviewers to discuss performance trends and practice issues. Supervisors may also want to volunteer to participate in QA activities, such as case reviews, as the agency allows. Involvement and collaboration with QA or CQI is a valuable means of monitoring worker and unit performance (see **Case Example 1**).

Case Example 1

Tony was a new supervisor to Janelle, an ongoing services worker. Janelle was resistant to Tony's attempts at supervision, feeling that he was relatively inexperienced. Janelle was working with a family with serious incest and domestic violence issues and the mother was becoming increasingly withdrawn and uninvolved in services. Tony directed Janelle to work with the mother to get her re-engaged with her therapist and to actively pursue locating the absent father. Tony repeatedly asked Janelle for updates on the situation, but could not get Janelle to tell him what was happening beyond, "I told you, the mother does not want to be involved. We should seek relinquishment of her parental rights." Tony told Janelle that her position was unacceptable. She begged him not to reassign the case and gave him empty promises to meet with the mother again soon.

Tony decided to check other sources of information regarding Janelle's performance. He read Janelle's case documentation in the file, but it provided only minimal details. So he made a number of phone calls to speak directly to the mother and to collateral contacts such as the children's court-appointed special advocate, the judge, the children's elementary school principal, and the mother's relatives. Tony looked for information on the agency's computer system to see if Janelle had authorized therapy or family support worker services and to see if family team meetings were being held and who had attended them. He also checked his management reports on every aspect of the case and compared Janelle's case statistics to those for her other cases and those of the other members of his supervisory unit.

Questions

- How did Tony's strategy for monitoring Janelle's performance change?
- Would it ever be advisable to rely solely on a worker's self-report for performance data, and if so, when?
- What are some other sources of performance information that Tony could have used?

Documenting Performance

Just as workers must document families' efforts and progress, supervisors must document worker performance. When supervisors create systems for recording, organizing, and tracking performance data, they facilitate identification of performance patterns and ensure that sufficient evidence exists in the event of a disciplinary action. When recording specific incidents, supervisors should follow typical documentation standards by including information about who, what, when, where, and how. Notes should include names, facts, dates, times, locations, relevant rules or performance expectations, discussions, actions taken, and any supporting records or documentation. Performance notes should be documented as soon as possible, using thorough and orderly methods. A variety of systems can be used to track worker activity and performance, including the agency's child welfare information system, paper or electronic calendars, paper logs, electronic spreadsheets, notebooks, file folders, or card files (Salus, 2004). Other supporting documentation may include e-mails, voice mails, telephone logs, and case consultation notes. Although it may be challenging, it is best to keep performance notes separate from family case files. Supervisors should keep separate a personnel file for each worker, in accordance with recommendations from agency human resource specialists.

Facilitating Performance

Setting Goals

As supervisors know from working with families, the purpose of goals is to serve as behavioral motivators. In the realm of job performance, a goal is "the object or aim of an action, for example, to attain a specific standard of proficiency within a specified time limit" (Locke & Latham, 2002, p. 705). The belief is that goals enhance performance by improving the focus, intensity, and duration of effort toward goal-related activities (Locke & Latham, 2002, 2006).

For the most part, specific and challenging goals lead to higher performance than vague, moderately difficult, or easy goals (Locke & Latham, 1990). This relationship is most strong when employees are committed to the goal (Klein, Wesson, & Hollenbeck, 1999), tasks

are less complex (Wood, Mento, & Locke, 1987), the workload is manageable (Brown, Jones, & Leigh, 2005), and performance feedback is provided (Latham & Locke, 1991). (For a review of these factors, see Locke and Latham, 2002, 2006.) **Box 3** summarizes strategies supervisors can use to ensure the right conditions are present for goals to be effective.

Box 3. Goal-Setting Strategies

1. Make performance goals specific and challenging (Locke & Latham, 1990).
2. Increase workers' commitment to goals by helping them (a) understand the importance of each goal and (b) believe in their ability to attain the goal (Locke & Latham, 2002).
 - Explain the significance of a goal by clarifying the benefits of achieving it and the consequences of failing to achieve it. This is particularly important for goals that may appear unimportant to the worker, such as those related to documentation or other administrative tasks.
 - Provide opportunities for workers to have successful experiences and master necessary knowledge and skills through training and practice (Bandura, 1986).
 - Persuasively communicate expectations that workers will succeed (Bandura, 1986).
 - Provide workers with opportunities to observe desired behavior modeled by competent workers (Bandura, 1986).
3. When the tasks necessary for goal achievement are moderately or highly complex, provide additional guidance or alter the goal.
 - Break down the goal into smaller sub-goals that are more easily achieved (Latham & Seijts, 1999).
 - Help the worker identify specific strategies for accomplishing goals (Chesney & Locke, 1991).
 - If the task is complex because the worker doesn't have the necessary knowledge or skills, change the performance goal to a learning goal (Winters & Latham, 1996).
4. Help workers manage their workload to avoid role overload (Brown et al., 2005).
 - Reduce the number of cases or provide task assistance.
 - Provide time management strategies.
 - Designate priorities.

Giving Feedback

Whether for the sake of goal achievement or for general performance improvement, workers need to receive information about the effectiveness of their behavior. Performance feedback can be objective or subjective and can come from a variety of sources. Workers can learn about their own performance using many of the same methods that supervisors use to monitor performance: through feedback from families, coworkers, other professionals and quality assurance staff members, and information on performance reports. Most jobs have inherent feedback mechanisms, and child welfare is no exception. Workers often know whether their efforts are successful, but supervisors can provide additional and more specific information to guide them in the right direction. **Box 4** describes key features of effective, constructive feedback (London, 1997) and steps for implementing them with workers (London, 1997; Poertner & Massetti-Miller, 1996).

Providing Resources and Removing Barriers

An important part of a supervisor's role in facilitating performance is providing resources and removing barriers to performance. Supervisors should balance the desire for worker autonomy and empowerment with the responsibility to help workers do their jobs. It's not about being a super worker or micromanaging; it's about paving the way for worker success. In particular, supervisors should offer resources or remove barriers associated with factors beyond the worker's control, role, or expertise. For example, supervisors can provide resources related to equipment, space, work force, information, or expertise. They can improve worker effectiveness and efficiency by assigning an optimal workload, designating priorities, and offering protected time. Effective supervisors enhance relationships by acting as a liaison to internal and external partners by, for example, meeting regularly with other department or unit managers, service providers, community agencies, schools, or judges to share information and policies and discuss procedures, cases, and concerns. They can facilitate conflict resolution between workers and families, providers, and other staff members when workers' efforts to do so are unsuccessful. When working with agency administrators, supervisors can advocate

Box 4. Constructive Feedback

Features of Constructive Feedback

- Clear, specific, and easily understood
- Frequent and delivered soon after the relevant behavior
- Relevant to job-specific behavior that is under the worker's control
- Provided by a credible, trustworthy source who is familiar with the worker's job and performance
- Accompanied by an explanation and suggestions about how to use the feedback to improve performance
- Used in conjunction with goals, both before and after feedback
- Delivered with good intentions, respect, and consideration for the worker's viewpoint

Steps for Constructive Feedback

1. Choose an appropriate time and place; plan an appointment, if necessary.
2. Describe the good or poor performance in detail, using factual information.
3. Explain the impact of the performance on the worker, coworkers, clients, and the agency.
4. When appropriate, attribute poor performance to external factors and good performance to internal factors.
5. Specify what is expected of the worker in the future; reinforce desired behavior that has already been demonstrated or clarify expectations for changes in behavior.
6. Actively listen to and acknowledge the worker's reaction.
7. Establish goals and an action plan for future performance, drawing on the worker's input.
8. Thank the worker for his or her time and efforts.
9. Document the discussion.
10. Monitor performance and follow up with additional feedback, reinforcement, and redirection.

Sources: London (1997) and Poertner & Massetti-Miller (1996).

on behalf of workers to influence agency systems and procedures that facilitate or impede worker performance. Supervisors are uniquely positioned to help workers in ways that they cannot help themselves, and providing resources and removing obstacles is one of the primary ways to do so.

Recognizing and Rewarding Performance

When workers behave in desirable ways, supervisors should be the first to recognize or reward them for doing so. Supervisors are likely to have the most control over informal rewards that are not officially recognized by the agency's reward system. Informal rewards are typically nonfinancial and can often be more powerful than their monetary counterparts (Kerr, 1999). They include such things as praise, awards, certificates, plaques, celebrations, leave, flexible scheduling, parking privileges, gift certificates, conference attendance, or casual dress. Supervisors should not underestimate the power of gratitude and appreciation; workers report that support, recognition, praise, and appreciation from supervisors and administration are particularly important to motivation and job satisfaction (Graef & Paul, 2007).

Although child welfare work can be exceptionally demanding, it can also be very rewarding. Many workers report that the primary reason they chose the profession was because of their desire to help others and make a difference in people's lives (Graef, Potter, & Rohde, 2002). They also report that, once in the profession, the greatest rewards include helping children achieve permanency, helping others, making a difference, initiating change, and seeing families succeed (Graef et al., 2002). When workers have a sense of meaningfulness, choice, competence, and progress, they experience their job as intrinsically rewarding, which is positively associated with performance, job satisfaction, and organizational commitment (Thomas, 2002). Supervisors can enhance the likelihood of these by, for example, inspiring a sense of purpose in all tasks, especially those that don't appear to be important; giving workers the authority and resources to make effective decisions; building workers' skills; and facilitating outcome achievement for families. For additional empirically based suggestions about how to increase intrinsic rewards for workers, see Thomas (2002).

Although most agencies provide workers with financial rewards such as salary and paid time off, and benefits such as medical insurance and retirement plans, these formal rewards are typically inflexible and awarded on the basis of policies established by legislatures or the agency, often as a result of collective bargaining processes. In many cases, they are uniformly awarded to all employees, regardless of performance, and therefore do not properly recognize and distinguish

good performers from average or poor performers. With some exceptions (e.g., merit or incentive pay), they are designed more for the purpose of recruiting and retaining employees and for compensating minimally expected performance; they are not intended to specifically reinforce desired behaviors or recognize excellent performance.

Regardless of whether rewards are informal or formal, it is important for supervisors to understand the qualities of a good reward system, so that they can implement or advocate for one in their own agencies. Several important aspects have already been addressed, such as identifying desired behaviors aligned with agency goals and establishing a favorable environment that makes the behavior more likely (Cameron & Pierce, 2002). In addition, rewards should be contingent on meeting specific, achievable performance standards (see **Case Example 2**); effective and personally meaningful to the worker; and awarded in a timely manner (Wilson, 1995).

Analyzing Performance Problems

Faced with poor performance from one of their staff members, child welfare supervisors may find themselves instinctively turning to their agency's training department for assistance in "fixing the problem." In the typical response, the poorly performing staff member is enrolled in some additional training sessions and everyone assumes the problem has been resolved, until, of course, the poor performance occurs again.

Although interventions to correct performance deficits may ultimately involve collaboration with the agency's training and human resources professionals, a wise supervisor will first spend time systematically diagnosing the situation, to avoid wasting resources and to maximize the likelihood of solving the problem. *Performance analysis* is the systematic process of determining the reasons for discrepancies between desired and actual performance (Mager & Pipe, 1997), with the goal of better understanding the problem and correctly matching the solution to the problem.

One potential reason for poor task performance is a lack of knowledge, skill, or ability, whereas deficiencies in contextual performance are more likely to be associated with personality characteristics, especially conscientiousness (Borman, Penner, Allen, & Motowidlo, 2001). Beyond the individual, there are numerous other, often systemic,

Case Example 2

Veronica was a child protective services worker. Veronica enjoyed getting to know her families and believed that her clients' needs came first. She made herself available to her families at all times and was on the phone with them or visiting them in person for 7 out of 8 hours a day. She did not want them to have to leave her voice mail messages and didn't like other caseworkers coveting for her. Unfortunately, making herself so available to client families left her with no time to fulfill her other case management responsibilities. Thus, service providers often didn't get paid, visitations between families and state wards in out-of-home care were often delayed because transportation wasn't arranged, and Veronica's case timeframe statistics were typically the worst in the office. Veronica was frustrated with the situation but couldn't figure out how to make improvements.

Her supervisor, Marcella, saw her many strengths but recognized that Veronica needed feedback about her approach and help managing her workload. Veronica agreed to work with her supervisor to set goals and learn time management skills. Together they created a checklist that Veronica could use to track case-specific timeframes and due dates according to policy. Marcella advocated with her manager for permission to purchase Veronica an electronic planning/scheduling device and helped her learn how to use it to more effectively manage her time. Marcella and Veronica agreed to meet twice a month to review all of her cases and proactively plan for case milestones. Marcella also encouraged Veronica to try putting her phone on voice mail for one protected hour per day, during which time she would complete other case management tasks. As a result of Marcella's guidance and direction, Veronica's case statistics quickly improved and she was able to maintain effective working relationships with her families.

Questions

- How would you have given Veronica feedback about her performance and her strategies for meeting families' needs?
- What goals would you have set with Veronica?
- What methods of reward and reinforcement might be appropriate for Veronica?

reasons why people don't perform as they are expected to (Mager & Pipe, 1997, p. 3), including the following:

- They haven't been informed of the expectations for their performance.

- They don't have the resources, tools, space, or authority to do it.
- They don't get feedback about the quality of their performance.
- They are punished when they perform correctly.
- They are rewarded when they perform incorrectly.
- They are ignored whether they do it correctly or incorrectly.

Illustrations of these types of causes for poor employee performance abound in organizational settings, and child welfare is no exception. For example, when child protective services workers who conduct initial assessments of abuse and neglect complete their assessment and close the case, they are "punished" by receiving a new case (or more than one, if they are perceived as competent and efficient in their work). Thus, the case assignment system may actually reward poor performance, in that workers who do not close cases do not receive additional work assignments, and those who are competent receive an increased workload. As another example, when an agency's computer server is frequently out of service, staff may be unable to complete their work in a timely and thorough manner, despite their best efforts and intentions to do so. It is worth noting that many of the reasons for performance discrepancies are *not* the result of a lack of knowledge or skills and thus will not be resolved through additional training.

The challenge for supervisors is to understand the true reasons for the performance discrepancies they encounter. Armed with this information, they can then decide which problems are worth solving and appropriately match the most feasible and practical solution to the problem (Mager & Pipe, 1997). Mager and Pipe have developed a useful flowchart to guide supervisors through the performance analysis process (**Fig. 1**).

In general, the main steps of this diagnostic process involve determining the nature of the performance discrepancy; deciding whether it is worth pursuing a solution to the problem; considering whether fast fixes can be applied; analyzing the consequences of performance; determining whether a true skill deficiency exists; considering task, work environment, or staffing changes; and using cost-benefit analyses to select and implement solutions (Mager & Pipe, 1997). **Case Example 3** illustrates how a supervisor can use these considerations to analyze a performance problem and the types of solutions that might result from this process.

PERFORMANCE ANALYSIS FLOWCHART

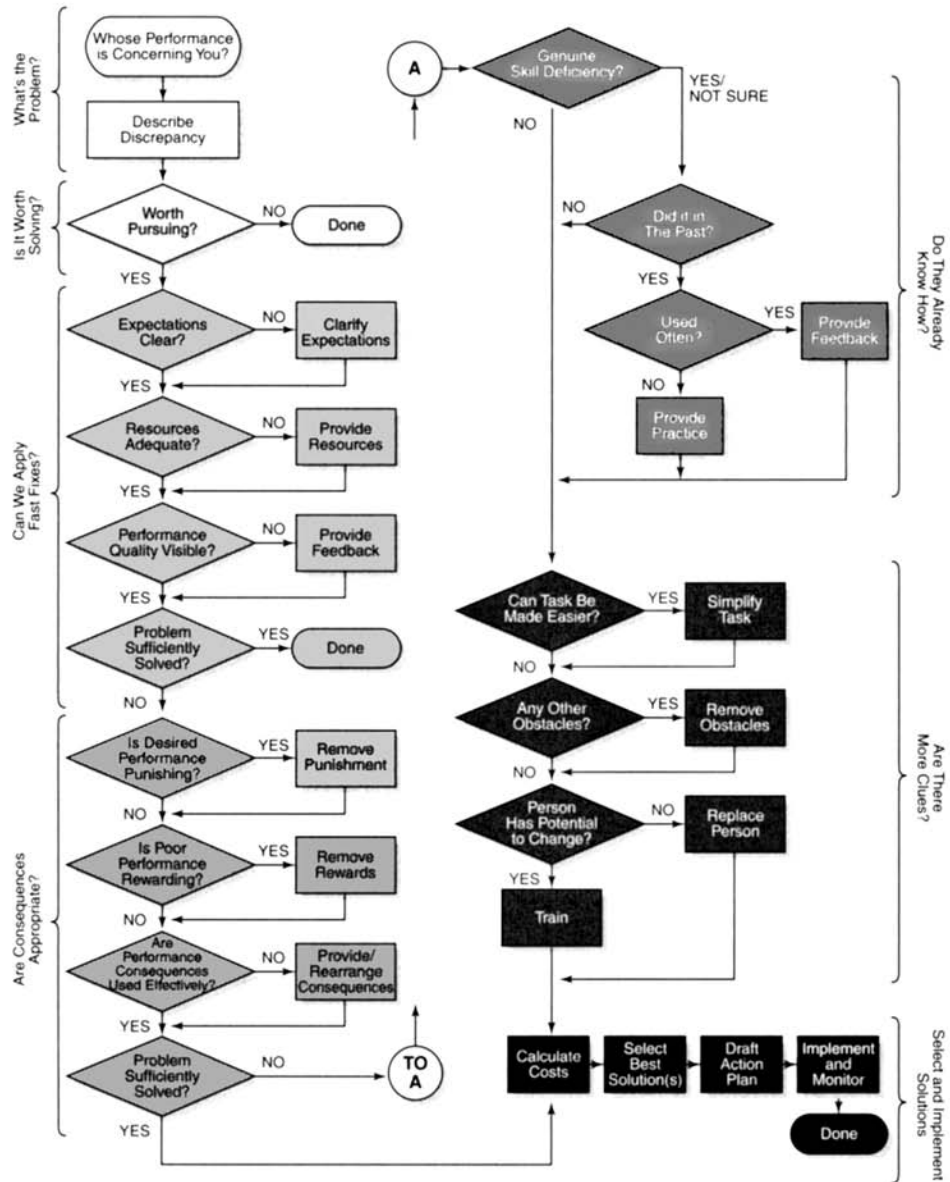


Figure 13.1 Performance Analysis Flowchart. ©1997, “Analyzing Performance Problems” Mager & Pipe, 3rd Edition. The Center for Effective Performance, Inc., 1100 Johnson Ferry Road, Suite 150, Atlanta, GA 30342. www.cepworldwide.com 800-558-4237. Reprinted with permission. All rights reserved.

Case Example 3

Shelly supervised a team of child protection workers doing investigations of reports of child abuse and neglect. Rodney, one of her newest staff members, had joined the agency 1 year ago. He had excelled in pre-service training and received positive evaluations on all of his performance ratings during training and probation. He was keeping up with the fast pace of investigations and seemed to make reasonable decisions. After meeting with him regularly, Shelly decided he didn't need her help very much, so she shifted her daily attention to some of her other staff. After the agency began to institute quality assurance reviews, however, Shelly was surprised to learn that Rodney's work was not meeting documentation standards. Shelly's management reports had always indicated that Rodney's documentation was completed on all of his cases, and the agency's computer system required workers to enter some type of information into each field before they were able to advance to the next page, so she was puzzled as to how his documentation could be deficient. Shelly's cursory review of Rodney's paper files and computer documentation revealed that Rodney kept notes in the paper files but was not entering most of the required data into the agency's computer system. In particular, the computer fields intended for case narrative all appeared to be blank except for a period or a dash.

Before jumping to any conclusions about the cause of Rodney's poor performance, Shelly decided to consult Mager and Pipe's (1997) Performance Analysis Flowchart, which led her to the following conclusions. Rodney's poor performance was definitely an issue worth pursuing. Her expectations on this matter and those of the agency had been made very clear through a series of memos and in her weekly case discussions with Rodney. His resources for doing case documentation were adequate, given that he was assigned a computer for his own use and had a case aide available to assist him if needed. Shelly knew that Rodney had performed well in his pre-service training on the case documentation unit, so she was fairly certain that he had the knowledge and skills to complete his documentation.

When Shelly discussed the situation with Rodney, he admitted that computer data entry seemed unimportant and took too much time away from his "real" work with families, and he told her about the computer system "work-arounds" he had discovered. Although policy dictated that computer documentation be completed, the system did not provide workers with any sort of feedback about the quality of their efforts, and there seemed to be no negative consequences for *not* doing the documentation. Supervisors in the agency did not routinely review their workers' computer documentation and relied on the management system summary reports that tracked completion of the required fields. Thus, workers had learned to develop shortcuts to bypass the system controls, such as entering a meaningless single character (such as a period or a dash) into a narrative field, which the system interpreted as sufficient to allow the worker to advance through all of the required fields as quickly as possible. In short, a number of factors contributed to a situation where the desired performance was not being rewarded.

Questions

- How did performance analysis change Shelly's view of Rodney's performance?
- What solutions would you suggest for this performance problem?

Discipline

When, despite goals, feedback, and rewards, a worker's performance or conduct does not meet standards, discipline may be warranted. Despite perceptions to the contrary, discipline is not intended to simply pave the way for a justifiable employee termination. The intent of discipline should be to provide reasonable efforts to rehabilitate employees (Redeker, 1989). As with efforts to help families, there should be consequences for personal choices, but there should also be guidance and support for change.

Government agencies typically use one or a combination of two models of discipline, *progressive discipline* and *positive discipline* to correct behavior and performance problems (Selden, 2006). The more common approach is progressive discipline, which addresses repeated or increasingly severe performance problems with increasingly severe consequences. Positive discipline (also known as *discipline without punishment* or *nonpunitive discipline*), in contrast, is less punitive and engages the employee in a participatory process of decision making and commitment to performance improvement (Grote, 2006; Redeker, 1989; Sherman & Lucia, 1992).

The most frequent steps of progressive discipline include verbal warning, written warning, suspension without pay, and termination (Redeker, 1989). Additional steps may include additional warnings, probation, reassignment, demotion, or a reduction in salary. First-time offenses are met with a verbal warning to change the behavior or face a more serious penalty. Repeated misconduct or continuation of poor performance of the same or a similar nature is then met with a written warning, again with a caution that failure to resolve the problem will result in an even more serious consequence, and so on. Although the intent is to begin at the first step and progress through a series of steps, a progressive discipline policy does not prevent a supervisor from starting at a later step. Discipline should be proportionate to the offense (Mader-Clark & Guerin, 2007), and more severe offenses, even first-time offenses, can and should be met with more severe consequences. Failure to do so can put the agency at risk for liability for harm caused by the employee's behavior.

Critics of traditional progressive discipline systems argue that they have the wrong focus, rationale, and dynamic (Redeker, 1989). They lead to short-term compliance rather than long-term change

and cause negative emotional reactions among employees. They focus only on the past and not the future, on punishment instead of rewards, and on problems rather than solutions. As an alternative to rigid progressive discipline, positive discipline addresses these deficiencies by compelling employees to take responsibility for their actions, providing encouragement, and engaging in collaborative problem solving (Redeker, 1989).

The basic elements of positive discipline include informal coaching and counseling, followed by one or more formalized and structured discussions, and a final decision opportunity for the employee (Grote, 2006; Redeker, 1989; Sherman & Lucia, 1992). According to one model (Grote, 2006), when spontaneous and unstructured feedback is ineffective, a supervisor initiates a performance improvement discussion with the employee. Should the problem not be resolved through this informal method, the formal discipline process begins. Models vary slightly, but the first two steps generally include focused discussions about expectations, responsibilities, solutions, and commitments (Grote, 2006; Redeker, 1989). The first step is primarily an oral reminder, and the second step includes a written reminder. The final step is what most distinguishes positive discipline from traditional progressive discipline: in what is known as *decision making leave* employees are given a day of paid leave to decide whether to make a commitment to meeting performance standards or choose to leave the organization (Grote, 2006; Redeker, 1989; Sherman & Lucia, 1992).

Discipline practices in most agencies are likely dictated by federal and state statutes, agency policies and procedures, or employment contracts. Any of these are likely to require that employees be given *due process* or that the agency establish *just cause* for discipline or termination. Adherence to due process standards requires agencies to follow a set of six procedures (Redeker, 1989), listed in **Table 3**. Just cause is a related standard, typically included in labor agreements. Although it is technically open to interpretation, it is typically defined according to what are known as *the seven tests* (Enterprise Wire Co., 46 LA 359, 1966):

1. Reasonable Rule or Order: Was the agency's rule or managerial order reasonably related to (a) the orderly, efficient, and safe operation of the employer's business, and (b) the performance that the company might properly expect of the employee?

2. Notice: Did the agency give the employee forewarning or foreknowledge of the possible or probable consequences of the employee's disciplinary conduct?
3. Investigation: Did the agency, before administering discipline to an employee, make an effort to discover whether the employee did in fact violate or disobey a rule or order of management?
4. Fair Investigation: Was the agency's investigation conducted fairly and objectively?
5. Proof: At the investigation, did the "judge" obtain substantial evidence or proof that the employee was guilty as charged?
6. Equal Treatment: Has the agency applied its rules, orders, and penalties evenhandedly and without discrimination to all employees?
7. Penalty: Was the degree of discipline administered by the agency in a particular case reasonably related to (a) the seriousness of the employee's proven offense and (b) the record of the employee in his service with the company?

Unionized agencies are often held to the just cause standard for discipline and discharge, and any dispute about it in a particular case will usually be resolved through arbitration. At issue will be whether the agency passed the seven tests. Even in rare cases where due process or just cause are not explicitly required by law, policy, or a labor agreement, agencies are strongly advised to ensure fairness by adhering to the principles behind them. Supervisors are responsible for helping the agency ensure that discipline decisions meet these standards. They must understand the importance of these principles and cooperate with human resources staff to administer discipline in a way that honors the agency's and the employee's rights and responsibilities. **Table 3** describes the role of the supervisor in ensuring due process. **Box 5** presents additional strategies for ensuring effective discipline.

Conducting Performance Appraisals

An important component of a successful performance management system is a formal performance appraisal. *Performance appraisal* is the "process by which an organization measures and evaluates an

Table 3. Supervisor Role in Guaranteeing Due Process Rights

-
1. Notice of Standards and Effects of Violating Standards: Workers have a right to know the rules and the consequences for violating the rules.
 - During employee orientation, ensure that all workers receive written descriptions of the agency rules and expectations for conduct and performance (e.g., in an employee handbook or employment contract) and the agency's discipline process.
 - When there is a specific performance problem with a worker, ensure that the worker is informed of a) the nature of the misconduct or poor performance; b) the reasons the behavior is unacceptable, including the rule or standard that was violated; c) the subsequent consequences for future performance problems, of the same or a different nature, during a specified time period; and d) the role of such notice as a step in the formal discipline process.
 - Document evidence of all such notice.
 2. Factual Accuracy of Basis for Discipline: Workers have a right to discipline that is based on facts.
 - Thoroughly investigate the alleged misconduct or performance problem. Find out the facts related to the behavior or performance in question; the surrounding circumstances, if any; and when and where the behavior occurred.
 - Check relevant records (e.g., case records, court reports, e-mail, internet files, SAC-WIS records, attendance records, time logs, witness statements).
 - Review applicable laws, policies, rules, and labor contracts to determine what rule was violated.
 - Document all factual information gathered in the process of investigation and any action taken in response.
 3. Employee Knowledge of the Facts and Opportunity to Defend: Workers have a right to know the allegations against them and the facts supporting those allegations. They have a right to prepare and present an effective defense.
 - Ensure that the worker is given written notification of the alleged misconduct or performance problem, including all relevant facts used to support the allegations.
 - Ensure that the worker is given adequate time to prepare a defense.
 - Meet with the worker (and all other relevant parties, such as an administrator, human resources representative, and employee representative) to listen to the worker's side of the story.
 - Solicit information and mitigating circumstances from the worker.
 - Document the date of the meeting, who attended, and what information was gathered during the meeting.
 4. Equal Treatment: Workers have a right to consistent and predictable employer responses to violations of rules.
 - Before responding to a performance problem, review how similar problems have been handled in the past. Consult with the human resources department to assist in collecting this information.
 5. Progressive Discipline: Workers have a right to opportunities to improve their performance before discipline is administered.
 - Follow the agency's policies and procedures regarding progressive discipline, if such policies exist.
 - Document actions taken at each step.
 6. Grievance and Appeal Procedures: Workers have a right to contest a discipline decision and have it reviewed by an impartial decision making body.
 - Inform workers of their grievance and appeal rights.
 - Explain the process for initiating a grievance or appeal.
-

Box 5. Strategies for Ensuring Effective Discipline

- Become familiar with and follow all disciplinary procedures outlined in employment contracts or agency policies. If the guidelines and forms are not readily available, request that they be made available, preferably in an electronic format for quick access through an agency intranet or other shared systems.
- Find out if and how the rules differ for recent hires.
- Ask for training on the agency's discipline system.
- Avoid the urge to dismiss problems in the hopes that they will resolve themselves.
- Respond to performance problems in a timely manner.
- Establish a collaborative relationship with human resources staff; consult them and the agency's legal counsel for advice and guidance.
- Consult with upper management and administrators.
- Draft notes in preparation for discussions with employees.
- Stay calm and avoid emotional responses; don't take misconduct or poor performance personally.
- Focus on the behavior, not the person; be specific, concrete, and objective.
- Stick to the facts; avoid unwarranted assumptions or conclusions .
- Avoid sharing personal opinions about the worker or the agency's policies and decisions.
- Document the details of performance issues and how they were handled, even if they weren't a step of the formal discipline process; keep in mind that all documentation is discoverable in the event of legal action.
- Maintain confidentiality; only share worker performance and discipline information with those who have a legitimate need to know.

individual employee's behavior and accomplishments for a finite time period" (DeVries, Morrison, Shullman, & Gerlach, 1981, p. 2). Surveys consistently show that most large and medium-sized organizations have some sort of formal appraisal process in which employee performance is evaluated by an immediate supervisor, typically on an annual or semi-annual basis (Murphy & Cleveland, 1991).

Organizations use performance appraisal results for myriad purposes, most commonly to facilitate employee development and to provide a basis for administrative decisions such as personnel actions and pay increases. Other, less frequent uses of performance appraisal information are to place employees within the organization

after a probationary period, to identify hiring tools that predict future job performance, and to determine organizational training needs (Murphy & Cleveland, 1991). Not surprisingly, research shows that the purpose(s) for which the information will be used greatly impacts the quality of supervisory ratings that are received (Murphy & Cleveland, 1991). For example, if the appraisal has important consequences for the employee, such as when the results are used to determine pay increases, supervisors tend to be more lenient in their evaluations than if the results are used solely for employee development (Murphy & Cleveland, 1991). Although performance appraisal systems may be used effectively for many different purposes, a single system designed to serve multiple, incompatible purposes (such as for pay raises and for employee development) is unlikely to be successful (Murphy & Cleveland, 1991).

Performance appraisals assess performance in accordance with an organization's definition of performance for a given job. As previously mentioned, this typically includes some combination of knowledge, skills, and abilities; task performance; contextual performance; and results. For practical purposes, performance appraisals are not designed to assess every aspect of performance, but rather a representative sample that can be accurately measured. For example, an effective performance appraisal tool for child welfare workers would sample an employee's performance on tasks from a variety of dimensions, such as arranging services, consulting and collaborating with other professionals, composing reports, documenting and maintaining records, empowering and helping families, evaluating and monitoring case progress, and gathering information.

The way in which performance is defined and the performance appraisal tool is designed will ultimately determine what data are necessary to accurately reflect employee job performance. The two major categories of data are objective data and subjective, or judgmental, data.

Objective data are quantitative forms of data that summarize the frequency with which an employee performs a task or achieves an outcome. Thus, when a performance appraisal addresses task performance or results, objective data may be used. In child welfare agencies, objective data regarding many aspects of individual, worker-level performance can be captured, such as the number of intakes accepted for assessment, initial assessment response time, number of home visits per month, number of cases closed, and substantiation rate. These

data are most likely drawn from case record reviews, child welfare information system data, and management reports. Despite the advantage of being readily available in many agencies, these measures are often deficient in that they measure quantity without quality and do not take into account factors beyond the employee's control (Pulakos, 2007). In addition, many important aspects of worker performance, such as effectiveness of written communication, are not or cannot be systematically captured through objective means.

The limitations of objective data can be overcome with *subjective data*, which are judgmental data that reflect professional opinions, usually in the form of ratings, about a worker's performance. Ratings are typically provided by immediate supervisors, although some performance appraisal systems, known as *360-degree appraisals*, incorporate feedback from several additional sources, such as peers, clients, and workers, in order to get a comprehensive view of employee performance (Smither, London, & Reilly, 2005). Subjective data can be used to evaluate all types of performance, including competencies, task performance, contextual performance, and results, and they are usually the primary form of data used in performance appraisals (Pulakos, 2007).

Subjective data can be created to reflect qualitative assessments about a number of tasks, some of which may be partially captured by objective data. Examples might include assessing child safety and risk and providing foster families with appropriate information about the child. Although supervisors may be able to find objective data about these tasks, such as the number of completed safety assessments or foster parent signatures on agency disclosure forms, these data may inadequately reflect important aspects of quality. After having talked with foster parents, for example, a supervisor may have a more comprehensive view of worker performance in this area.

Subjective data are also particularly suited for taking into account situational constraints that might affect task performance or results, such as failing to meet agency deadlines because of delays in the judicial system. Finally, subjective data are essential for judging behaviors that are not or cannot be objectively measured, such as making reasonable or active efforts, conducting thorough interviews, or being helpful and courteous toward others.

Subjective evaluations should be informed by direct observation, consultation with workers, discussions with professional partners, case record reviews, and findings from QA or CQI staff. Careful

monitoring and documentation of worker performance will help supervisors develop the most reliable and accurate evaluations of worker performance.

One drawback of subjective evaluations is that when supervisors are called upon to make subjective evaluations of worker performance, errors can, and do, occur. These errors can be caused by a wide variety of factors, such as imperfect observation skills, unwillingness to give negative feedback, fear of having to justify poor ratings, abnormally high or low standards, personal prejudices, lack of clarity of dimensions on an appraisal form, or inadequate opportunities to observe employee performance (Murphy & Cleveland, 1991). **Table 4** lists examples of some of the most common rating errors in performance appraisals. It's important to remember that these errors distort the accuracy of a supervisor's evaluation of an employee's performance. When performance evaluations are inaccurate and biased, the performance appraisal system ceases to serve a useful function for the organization and may instead cause harm (Pulakos, 2007). For example, if inaccurate performance appraisal information is used to make important personnel decisions, incorrect decisions could result. Thus, supervisors should routinely review the performance appraisals they complete and monitor their results for evidence of these potential errors.

Because these rating errors are so prevalent, child welfare organizations may choose to provide training for supervisors, with the goal of improving the accuracy of performance appraisal ratings. In

Table 4. Common Rating Errors in Subjective Performance Appraisals

<i>Type of Error</i>	<i>Description</i>
Halo	Raters have difficulty distinguishing between dimensions on a performance appraisal and rate the employee equally across all dimensions.
Similar-to-me	Raters evaluate employees that are similar to the rater higher than those that are dissimilar.
Severity	Raters are too harsh in providing ratings of performance.
Leniency	Raters are too generous in providing ratings of performance.
Central tendency	Raters do not use the entire rating scale to rate employees.
Recency	Raters only take into account the <i>last</i> observations of performance of that employee, rather than the entire performance of the employee.
Spillover	Raters allow the scores on previous performance appraisals to impact the scores on the current performance appraisal.

Source: Aguinis (2007).

general, training focused on teaching raters about the performance appraisal dimensions and the types of behaviors associated with effectiveness levels on the rating scales has been shown to be effective for increasing rating accuracy (Pulakos, 1984). The focus of rater accuracy training is on improving supervisors' observational skills, making the particular types of judgments required by the rating tool, and using the rating scales appropriately. For example, child welfare supervisors in Nebraska receive this type of training, which includes an opportunity to practice using the appraisal form with sample performance scenarios.

In addition to being prone to accuracy problems, subjective performance appraisal ratings are also subject to concerns regarding fairness. It is important that workers perceive that their evaluation was conducted in a fair manner and that any outcomes of the performance appraisal, such as pay increases, have been fairly distributed. Research suggests that both of these fairness reactions must be present to guarantee that the system will be perceived as fair (Murphy & Cleveland, 1991). Enhancing workers' perceptions of fairness of the appraisal *procedures* is best accomplished through the careful design and administration of the performance appraisal system. For example, the appraisal forms should be created on the basis of a job analysis, so that the dimensions on which workers are evaluated are seen as being highly relevant. In addition, supervisors who evaluate performance should receive training on the use of the forms and methods to prevent bias in their ratings (Greenburg, 1996). Strategies to enhance perceptions of fairness of the appraisal *outcomes* center on improving the acceptability of the results of the system, such as ensuring that any pay increases or promotions are based on accurate performance evaluations.

Despite the fact that many aspects of performance appraisal system design and administration are beyond the control of individual supervisors, there is much that a child welfare supervisor can do to maximize the effectiveness of their agency's system. For example, research shows that supervisors can enhance workers' perceptions of the fairness of the performance appraisal process and outcomes (Greenburg, 1996). **Box 6** lists a number of practical strategies worth considering. Many of these strategies are reiterated elsewhere in this chapter, in the context of setting goals and rewarding performance.

Box 6. Supervisory Strategies for Using Performance Appraisal Systems Effectively

- Understand the agency's performance appraisal tools, procedures, and processes before attempting to use them. Enlist the help of your human resources manager, if necessary.
- Attend supervisory training on conducting performance appraisals if it is available.
- Ensure that workers understand the agency's performance appraisal process. Make sure they are aware of your performance expectations and the goals that you and the agency have for improving performance.
- Actively involve workers in the development of their performance goals.
- Make sure that the potential consequences of adequate and poor performance are clear to workers.
- Keep notes on worker performance as frequently as possible, using something like a performance diary or notebook. Try to capture a broad sample of your worker's performance.
- Be aware that when performance appraisals are used for administrative decisions (e.g., pay raises), workers may perceive the system as unfair and may need additional support and explanation of the process.
- Be an advocate for system change, if necessary, to ensure that your agency's performance appraisal system is sound and to ensure that administrative decisions, such as pay raises, equate with the results of performance appraisals.

Sources: Greenburg (1996) and Murphy & Cleveland (1991).

Legal Issues

As with other areas of personnel decision-making, there are a number of laws and legal principles that speak to performance management issues. Supervisors should understand that the manner in which they treat staff when evaluating, documenting, and managing their performance has important legal consequences for themselves and for their employers. Thus, a brief overview of the primary legal principles and laws that relate to performance management practices is presented in **Table 5**. For example, *misrepresentation* occurs when an employer discloses untrue favorable information about an employee's performance and this information causes risk or harm to others (Malos, 1998). This might occur if a supervisor gives a positive recommendation for

Table 5. Selected Legal Principles and Laws with Implications for the Practice of Performance Appraisal

<i>Legal Principle or Law</i>	<i>Specific Implications for the Performance Appraisal Process</i>
Employment at Will	A type of employment relationship in which either the employer or employee may end the relationship at any time, potentially without documenting any performance problems. However, there are important exceptions, such as when there is an implied contract through conversations or agency documents suggesting that an employee will be terminated for just cause only.
Negligence	If an employer describes a performance management system in their employee manual or other documentation and supervisors do not implement the system as described or expected, negligence may be claimed. An employer may be required to inform an employee of poor performance and provide them with the opportunity to improve.
Defamation	An employer who discloses untrue unfavorable information about an employee's performance that damages the employee's reputation. Defamation does not exist when the information regarding poor performance is true and clearly documented.
Misrepresentation	An employer who discloses untrue favorable information about an employee's performance, causing risk or harm to others.
Disparate Treatment	Employers may not intentionally discriminate against employees. An example would be assigning lower performance ratings to employees based on factors that are not performance related, such as race, gender, ethnicity, age, or disability status.
Family and Medical Leave Act (FMLA)	An employee returning from leave must be reinstated to a similar position and thus cannot be subjected to new or more difficult performance standards than those in place before taking leave.
Title VII of the Civil Rights Act of 1964	Employers may not discriminate in performance appraisal procedures and results on the basis of race, color, gender, religion, or national origin.
Age Discrimination in Employment Act (ADEA)	Employers may not discriminate on the basis of age of 40 or over in the use of appraisal procedures and results.
Americans with Disabilities Act of 1990	Employers may not discriminate on the basis of disability, record of disability, or perceived disability. Performance appraisal rating criteria must be limited to the essential job functions. Employers may be required to provide reasonable accommodations in the criteria for appraisal as well as the appraisal procedures.

Source: Adapted from Aguinis (2007) and Malos (1998).

a past employee who had actually been terminated for poor performance. As can be seen in **Table 5**, a number of laws exist to protect employees in protected classes from discrimination in personnel decisions, including those decisions involved in performance appraisal. Supervisors should be prepared to provide evidence to support these types of decisions to demonstrate that they are based on legitimate, nondiscriminatory, job performance-related factors (Aguinis, 2007).

While a discussion of case law is well beyond the scope of this chapter, several experts on employment law have comprehensively reviewed the relevant court cases and distilled the important implications for performance management (e.g., Cascio & Bernardin, 1981; Malos, 1998; Veglahn, 1993; Werner & Bolino, 1997). Some court decisions point to systems issues seemingly beyond the reach of line supervisors, while others have direct implications for individual supervisors' behavior. Both types of information are presented as a checklist in **Box 7**, and agency supervisors and managers are encouraged to evaluate the adequacy of their current system and advocate for system improvements if needed. It is important to note that there is *no* legal requirement that a performance appraisal system possess all of these characteristics. Rather, analyses of recent court decisions indicate that employers who enact systems with these qualities may be able to prevent or successfully defend against a legal challenge (see Malos, 1998; Veglahn, 1993; Werner & Bolino, 1997). In general, it appears that agencies that use performance criteria that are job related, clearly communicate the procedure and standards to employees, apply the system fairly and consistently, incorporate mechanisms to avoid bias and discrimination, and ensure that supervisors follow the system requirements will be following best practice and, in turn, be better positioned to defend the decisions that result from their system.

Finally, supervisors should remember that in addition to the legal principles and laws highlighted in **Table 5**, there are potentially numerous local constraints on the way a supervisor conducts performance appraisals. State fair-employment laws; agency collective bargaining agreements; and agency rules, regulations, and policies may also pertain to the practice of performance appraisal. In short, supervisors are urged to consult with their agency's human resources staff or legal counsel for direction and guidance on specific employee performance issues (see **Case Example 4**).

Box 7. Features of a Legally Sound Performance Appraisal System

Does your system:

- Use a standardized and uniform procedure for all employees in the same job category?
- Use objective, job-related rating dimensions?
- Focus on performance that is within the control of the employee?
- Ensure that only the essential functions of the job are evaluated?
- Integrate performance information from multiple, diverse, unbiased sources?
- Provide a means for employees to review their appraisal results?
- Provide formal appeal mechanisms for employees?
- Provide written instructions and training to supervisors on such topics as evaluating performance consistently and avoiding bias?
- Include procedures to detect potential discrimination or biases and abuses of the overall system?

Do supervisors:

- Clearly communicate the appraisal rating dimensions, standards, and procedures to all employees?
- Maintain thorough and consistent documentation on specific examples of performance based on personal knowledge?
- Avoid references to age in verbal and written performance reviews?
- Understand how to work with disabled employees to identify reasonable accommodations in performance criteria and procedures in a confidential manner?
- Provide notice of performance deficiencies and of opportunities to correct them?
- Give employees a voice in the appraisal and treat them with courtesy and respect throughout the process?

Sources: Aguinis (2007), Malos (1998), Werner & Bolino (1997), and Veglahn (1993)

Conclusion

Agencies rely on supervisors to help achieve organizational objectives through individual and team performance. This is accomplished with effective performance management, which involves identifying, measuring, and developing performance in a way that is congruent with

Case Example 4

Marcia was a new supervisor with a staff of eight child protective services initial assessment workers. One of her employees, Lucinda, had been working successfully in the agency for more than 25 years. Lucinda was well liked and respected for her longevity with the agency. Although Lucinda was a talented interviewer and was able to effectively conduct investigations, the agency's current initiative to computerize all case management documentation had challenged her skills and patience. She preferred to make hand-written case notes and disregarded some of the agency's protocols for computer data entry, despite attending the required training sessions. On her first formal evaluation of Lucinda's performance, Marcia gave Lucinda poor ratings on the dimensions of "case documentation," "initiative" and "overall competence." Lucinda was surprised to see these poor ratings, but when she asked for an explanation Marcia suggested that perhaps she was "getting too old to keep up with the job" and encouraged her to consider retirement. Lucinda reluctantly agreed to retire early and subsequently applied for part-time work with another employer in the community. Marcia was contacted by the employer for a reference on Lucinda, and informed the employer that due to her age, Lucinda had been unable to learn to use the agency's computer system and would be risky to hire.

Questions

- What types of rating errors might be evident in Marcia's performance appraisal ratings of Lucinda?
- How might Marcia have used positive discipline to address concerns about Lucinda's performance?
- Which legal principle(s) or laws have relevance to this case?

agency goals. To successfully manage worker performance, supervisors must understand what constitutes performance. One recommended approach is to define performance in terms of a combination of task and contextual performance, along with results over which workers have control. After clearly conveying these performance expectations, supervisors should carefully monitor worker and unit performance, using a variety of methods, including observation and obtaining information from sources such as other professionals, workers, case records and management reports, and QA or CQI staff. Supervisors should systematically record, organize, and track performance data and maintain personnel files for each worker, in accordance with

recommendations from agency human resource specialists. To facilitate and improve performance, supervisors should help workers set performance goals, give feedback, provide resources and remove barriers, and recognize and reward effective performance. When faced with poor performance, supervisors need to thoroughly analyze the performance problem to determine the reasons for discrepancies between desired and actual performance before implementing a solution. If a worker's performance or conduct continues to not meet standards, discipline may be warranted. Supervisors should cooperate with human resources staff to administer discipline in a way that honors the agency's and the employee's rights and responsibilities. If the agency has a performance appraisal system, supervisors should strive to ensure accurate and fair ratings, which can be improved through training and practice. In carrying out the many performance management responsibilities, supervisors are strongly encouraged to be aware of and operate within applicable legal guidelines.

Reflection Questions

1. How are performance expectations defined and communicated in your agency?
2. In what ways do you monitor performance? How effective are these approaches?
3. Think about a recent situation in which you gave performance feedback. If you could do it over again, what would you do?
4. In what ways do you reward performance at your agency? In your unit? What ideas do you have for new approaches?
5. Consider one of your most vexing discipline issues with a case worker, past or present. What new ideas might you bring to bear on this situation?

Notes

1. These and other types of similar behaviors are sometimes commonly labeled *organizational citizenship behaviors* (Smith, Organ, & Near, 1983) or *prosocial behaviors* (Brief & Motowidlo, 1986), although subtle but important distinctions exist among the three.

Glossary

360-degree appraisal: A performance appraisal system that incorporates feedback from several sources, such as supervisors, peers, clients, and self-reports, to get a comprehensive view of employee performance.

Contextual performance: Non-job-specific behavior that affects the social and psychological climate in which tasks are performed; sometimes referred to as *prosocial* or *organizational citizenship behaviors*.

Decision making leave: A component of positive discipline that gives employees a day of paid leave to decide whether to make a commitment to meeting performance standards or choose to leave the organization.

Due process: Rights that employees have to fair and adequate procedures for imposing discipline.

Job analysis: A process of analyzing a job to identify the job's tasks and the associated knowledge, skills, and abilities required to successfully perform such tasks.

Just cause: A standard applied to determine the appropriateness of a disciplinary action. Often defined in terms of the seven tests.

KSAOs: The knowledge, skills, abilities, and other characteristics needed to successfully perform a job.

Objective data: Quantitative forms of data that summarize how frequently an employee performs a task or an outcome is achieved.

Performance: Measurable employee actions or behaviors that contribute to organizational goals.

Performance analysis: The systematic process of determining the reasons for discrepancies between desired and actual performance.

Performance appraisal: The process by which an organization measures and evaluates an individual employee's behavior and accomplishments for a finite time period.

Performance management: The continuous process of identifying, measuring, and developing the performance of individuals and

teams and aligning performance with the strategic goals of the organization.

Positive discipline: Discipline that engages the employee in a participatory process of decision making and commitment to performance improvement; sometimes referred to as *discipline without punishment* or *nonpunitive discipline*.

Progressive discipline: Discipline that addresses repeated or increasingly severe performance problems with increasingly severe consequences.

Seven tests: Seven factors that are frequently used to determine whether just cause is present for a disciplinary action.

Subjective data: Qualitative, judgmental forms of data that are most commonly obtained in the form of ratings of how well an employee is performing on specific dimensions of performance.

Task performance: The core job duties and responsibilities, which are normally outlined in a job description.

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