

## HR in Practice

### Can You Deliver the Truth?

#### Why Candor is Critical in the Evaluation Process

by David L. Williams, Altman Weil, Inc.

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The importance of a well-designed and effectively implemented evaluation process to all businesses, including law firms and corporate legal departments, is unquestioned. However, even where all blocks are checked and deadlines met, a very common failure is the lack of real candor in feedback to the evaluatee, except where the feedback is virtually all positive.

It is uncomfortable for most of us to tell subordinates, peers or bosses something negative (aka “constructive criticism”). However, real candor is essential to achieving the benefits of the evaluation process, starting with correcting substandard behavior. People are unlikely to change unless they understand what needs to be changed and why it is important to do so. Subtle messages may work for the most astute and reflective receptor, but not for most.

*Evaluations should not contain riddles.*

Constructive criticism from lawyers to other lawyers is unpleasant but necessary. Providing such feedback to staff may be even more unpleasant, especially with secretaries/assistants. Long-standing working relationships between partners and their assistants often make it harder to say that some change in performance is necessary. For many newer associates, critiquing someone his/her parents' age can be intimidating.

However, candor doesn't need to be brutal or overly harsh. It can, in many cases, eventually be welcomed by the recipient as useful guidance on how to be better at one's job, how to advance one's career, or perhaps whether it is time for a change. Many people are truly unaware of shortcomings that are obvious to others (such as talking too much or being non-collaborative), and constructive feedback can be a very helpful revelation. It is just as important for the organization to have an accurate assessment of all individuals on its team, in order to make good and defensible decisions about individual and group staffing and compensation decisions.

There are a number of typical scenarios that most people in supervisory roles will recognize.

One common example is the long-service assistant/secretary who has worked with the same partner or senior corporate counsel for many years, but who also supports several other lawyers, usually those who are relatively new to the firm or company. Often the assistant has not kept up his/her technical skills and is rarely asked by the associates to do much work. The partner may have noticed the deficiencies but does not highlight them in the formal evaluation. The other lawyers often do much of their own typing and other clerical work, and tend to avoid the conflict that may occur with a negative evaluation.

In the meantime, the assistant has been receiving at least average raises. If the partner gets sufficiently frustrated to ask for a new assistant, the request may not be granted or if it is, the problem is passed on to others. If, at some point, the firm decides it must reduce the number of assistants and wishes to select the poorer performers, the evaluation record does not show an accurate picture of this assistant's performance and the reduction-in-force (RIF) selections become more difficult and harder to defend.

An example on the lawyer side is that of a generally high-performing associate with good billable hours and good legal skills, but who has some significant deficiency, such as not being a team player. It is not unusual for such a person to have received good raises and/or bonuses and for the constructive feedback to have been withheld or "soft-peddled" in the formal evaluations.

Often the act of clearly communicating the deficiencies is delayed until the year when the person becomes a candidate for partnership. Then, the lack of collaboration or other weakness holds the candidate back, and he/she learns for the first time that these issues are truly important. The result is surprise, disappointment and anger. Failure to be candid in earlier years has postponed the person's opportunity to address the deficiencies. This may set back his/her career, and even result in the organization losing a valuable lawyer.

Of course, there are many variations on these themes but the common thread is the lack of candor in the evaluation. The sooner weaknesses are raised, the

sooner they can be addressed and corrected or further action can be taken if they are not.

The best approach is to manage the performance issues when they arise during the year with informal coaching or an interim evaluation, rather than waiting for the annual evaluation. This will avoid surprises at evaluation and compensation time, and may even result in improved performance. Even if you do not offer interim feedback, full candor in the formal evaluation is in the best interest of the firm or company, and of the individual.

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### About the Author

**David L. Williams** is an adjunct consultant with Altman Weil, Inc. He combines broad experience as a general counsel and in-house specialist in labor and employment law with extensive knowledge of human resource policy and procedures garnered as a law firm HR executive. For more information, contact us at (610) 886-2000 or [info@altmanweil.com](mailto:info@altmanweil.com).