

Performance Management II Transcript

Welcome and thank you for standing by. At this time, all participants will be on listen-only mode until the question-and-answer session of today's call. I would also like to inform parties that today's call is being recorded. If you have any objections, you may disconnect at this time. I would like to turn the call over to Mr. Tony John. Thank you and you may begin your conference, sir.

Thank you very much. Welcome, all, to the second session of virtual training for USDA Rural Development supervisors. Today, we'll be talking about performance and conduct issues. Just some housekeeping notes -- there were lots of questions after the end of last session. "When will I get credit for this training?" AgLearn will be updated two or three business days after this training.

If you are participating in this training with a whole group of people in the room and only signed into the web meeting under one name, please, please send Allison Savage the list of attendees you have in the room with you so that everyone can get credit. Send that list to Allison immediately after the training.

There's a lot to organize a training for 100-plus folks, a lot of logistics that goes on behind the scene, but the quicker you can send that list to Allison, the better. Again, my name is Tony John. I still work for OPM. I'm still based in Kansas City. I'm still sad about the World Series.

Anyway, I'm excited today to talk to you all about how to deal with performance and conduct issues. Just so you know, when it comes to federal surveys -- when they survey federal employees, one item in the federal viewpoint survey, across the board every federal agency, the response that gets the most negative response across the federal government gets to the questions about how your agency deals with poor performance -- most federal employees feel like their government agency does not deal with performance very well. Today, we're going to be part of the solution to that.

Again, if I have done my job well, we are going to get out on time. That is critical. Also, I want you to at least have one thing that you either have not thought about in a long time, maybe something you did not know before, but at least if you learned one thing over the course of this training that will change how you manage, then we will have spent the hour and a half, hour and 45 minutes we have together well.

The topics for this training have been chosen because of research has been shown that these topics are ones which managers need to know, and it's not just by regulation they need to know, but it makes a difference how they manage their employees.

I need to tell you what I'm going to talk about, and then we will talk about it, and one of the keys, we will talk about performance and conduct. We will talk about poor performance, but there is a lot of overlap in the counseling and coaching that happens when it comes to both conduct and performance. I'll address that. When surveys come in, employees have been telling managers and executives that their managers are not dealing with poor performance and poor conduct.

Will also be dealing with conduct issues, not because it is less important, but because we only have about two hours, we've got to be strategic about how we use that time.

Also notice I do not have a break, but we will take a break. That will probably happen about an hour into the training, just like last training. We are going to talk about identifying the issues and being able to tell the difference between performance and conduct issues.

All good trainings have to have definitions. Conduct issues pertain to behaviors related to sometimes unwritten rules or procedures that an organization has for their work laced. Performance issues deal with how well the employee does their job.

The main difference, at least for me, if there is a short issue to answer what's the difference between performance and conduct, conduct our willful issues -- your employee has done something willfully to harm the effectiveness of your work team, whereas when it comes to performance issues, the employee has done something not on purpose but because they do not have the skills or the ability, or maybe there was some other thing that interfere -- something else that interfered with their ability to perform the job, not just a willful choice to stick it to their supervisor. Conduct issue is a willful choice to stick it to their supervisor or coworker, and that is the problem there.

If you look at your screen, you will see -- I should have told you to cover your eyes. This is by expert opinion the ugliest baseball card that has ever been created according to baseball card experts. You will notice the glare on its eyes. It is kind of an awkward angle for his face. Makes it look like his neck is part of his face. Also notice that his name is on the baseball card in three places. It's in the imprint of the card, on the nameplate poster in front of his net, and also on the bottom of his hat. Experts have called this the ugliest baseball card, and when I see something like this, I wonder to myself if this was a performance issue or a conduct issue.

The truth of the matter is it's very hard to tell. All we know to the consumer of the card, it is ugly, so the results are not very good. When the results are not very good, you know it at least looks like a performance issue, but maybe this photographer did this willfully. Maybe he willfully stuck it to his supervisor and decided to produce the ugliest card of all time, or there could have also been a problem with how the performance was measured. But we just don't know. The point I want to make is that it can be very difficult to delineate between conduct performance issues.

Here are some classic examples -- an employee is tardy. They disappear. They are insubordinate. They fight with others. Again, those are will decisions that disrupt the effectiveness of your team, how efficiently the work is done.

The performance issues have to do with not meeting standards, inaccurate work products or untimely completion of work. Again, the employee is not deciding to stick it to their supervisors. They just do not have the skills to do their work, or there is something getting in the way. This illustrates the point pretty clearly.

There's two different columns, the left column deals with conduct issues, and the right column deals with a similar performance issue. Notice for the first row, the employee refuses to perform work. That's a conduct issue. The performance issue, employee lacks the ability. When we go down to the second row, notice that there really is a convergence of how these look. They conduct problem -- the employee failed to complete the assigned work, it's incomplete, and when the employee fails to complete the assigned work -- those things look very similar.

It is on managers to figure out what the issue is here. Through informal assessment, by asking questions of coworkers, and figuring out what type of problem you are dealing with. Once you figure out what problem you are dealing with, you really are dealing then with different regulations. It would be a foolish goal to have these regulations memorized, but it's not a foolish goal to be very familiar with these.

I'm always hesitant about really emphasizing regulations. If you have a conduct issue, the pertinent regulation that is the backbone of this training going forward is for conduct issues is 5 U.S.C. Ch.75 You can google that. Specifically, Chapter 752. You can google that, and it will give you a lot of the information more legal ease than what we will talk about today, and performance issues 5 U.S.C. Ch.43. Again, you don't need to memorize those things, but it is one of the burdens of being a manager to be familiar with those things so that as you move forward, that you can -- if you have to take action, that you protect yourself, and you will be doing it as efficiently and effectively as possible.

I just want to do an exercise. Actually, I want to start off asking you -- do you think this is a performance or conduct issue? An officer fails to mute her phone line during a staff meeting. You all are answering. I think, in general, this is probably a conduct issue, but it made the something where the employee does not know how to mute her phone line. That is more of an acknowledged skill issue. They are probably right -- it is most likely a conduct issue, the employee decided not to or forgot, but it also depends on how formally this rule was introduced to them.

We're going to go to the next one. Performance or conduct issue -- your employee repeatedly calls in sick and is late on several assignments. I will say the way this is written, I probably would say it is a conduct issue. It is definitely loaded that way. It sounds like it might be a conduct issue, but also, it could be a situation where people get sick. Sadly, I have teammates who have serious health issues, and those health issues need them to be late on several assignments. Chances are, this is a conduct issue. It might be a performance issue.

If you are not sure what point I'm trying to make here, it's that it almost always depends.

Finally, this is the last one I'm going to ask. If I feel like I am boring people, we may do more of these. This seems pretty distinctly a case of insubordination. This is probably almost definitely a conduct issue. I see we have one merciful soul who says it depends. Three people who said performance issue. It could be indeed a performance issue, but most likely, this is specifically written to really make you think it's a conduct issue.

But the take-home message of these questions are this -- that it can be very difficult to identify just by knowing one thing about what the issue is, whether or not you are dealing with a performance or conduct issue, and it is one of the managers' first jobs in dealing with these things is to assess what is going on, and then, once you have made that assessment, that guides you on what the next steps are going to be.

We're going to talk a little bit about why even address poor performance at all. Within the federal government, we really have an aging culture of avoidance. Not even just within the federal government. I think it is actually a Western culture thing. It's a human thing. It is difficult and uncomfortable to give constructive criticism. Human beings do not like hearing it, and therefore, a lot of people do not enjoy giving it.

Also, a lot of managers have concerns that they will damage relationships. Then there are some legitimate concerns about grievances from employees and all of these factors adding up to the feeling that it is just not worth it to devote the time and energy to deal with poor -- performance concerns and also conduct concerns.

If you read the article and if you did not read the article Allison shared before this training, if you clicked on the handout link, you can read it another time. There is a performance versus conduct article. It looks like three white pieces of paper. You can download these. This whole training is designed to be almost like a handbook for dealing with these types of issues, but it is written very generally, not necessarily specific with rural development in mind.

There's lots of checklists that can help managers make sure they are going through the needed steps. Anyway, I've got a bunch of those handouts with this training. Also, all of the performance or conduct questions. Anyway, the article talked a lot about some of the hopelessness that managers feel, and I hope you came away at least feeling that it is possible to deal with performance issues. I think that's one of the feelings that I want to convey to you all, that though it can be difficult, that you can deal with poor performance, and oftentimes, it is worth it.

I have another poll to ask you -- how much do you agree with the following statement -- "it is more difficult to take a performance-based action than a conduct-based action with your employees." Give you all minute to think about it. Then I will open up so other people can see. Looks like the most common answer that you strongly agree or somewhat agree, and then there's other people -- interestingly enough, your answers perfectly mimic really the government manager's attitude at large.

This was based on a survey taken recently that when asked the same question, 29% strongly agreed with that sentiment and 24% at least somewhat agreed. We actually had higher percentages here. I actually have a lot of sympathy for the federal manager. I don't want to come off as someone who does not get it. I really do understand, having worked hand-in-hand with managers at various agencies. You are not alone in the feeling that it can be more difficult to take performance-based actions, so I hope that one of the things we talk about today will not necessarily -- maybe it will make things easier, but at least it will make this clear for you and maybe give you some ideas of ways in which you can deal with this proactively.

Even though we -- in General, there's a lot of fear and loathing towards dealing with poor performance, it ignoring it does not lead to results that you want. During it often times since a message that poor performers do not have to follow standards. It also reduces equity, which violates the merits and principles we talked about before. Rarely does poor performance ever correct itself. If you think about just waiting on it the employee will probably fix it -- that is really rarely the case.

Researchers found that taking action with poor performance increases morale at the office. What that does not mean is publicly shaming poor performers, bringing up their poor performance in a team meeting. But merely addressing the poor performance in formally with an employee is shown to be correlated with increased motivation and morale at the office. Often, construct of counsel in formally or informally, leads to performance improvement, without going to a formal employment -- performance improvement plan, often just having a discussion with an employee if you noticed there is a problem, that oftentimes improves performance without going into a performance improvement plan. It does not always, but it does sometimes.

Just so you can get an idea of the scope of the problem where talking about, this figure is based on the whole American economy, so, of course, it will be a huge number, but core performers topped the U.S. economy -- poor performers cost the U.S. economy \$145 billion each year.

Dealing with poor performance is one of the reasons why -- I say this jokingly, but one of the reasons they pay all of the managers the big bucks. One of the things I want to emphasize is what we talked about before when it comes to correct performance management practices can preemptively nip some of these problems in the bud. When it comes to things you can do, if you really want to avoid dealing with poor performers, then you can prevent poor performers on the front and by having good performance standards and clearly communicating them at the beginning of the year and then having feedback throughout the course of the year.

These are active things you can do to prevent poor performance from happening. Sadly, human nature dictates that even the best laid plans sometimes still are overcome by poor performance, and you may still have people on your team who don't perform up to snuff. For the rest of this training, we're going to talk about how to set the communication stage, and once you go through the coaching and communication stage and performance does not improve, then you move on to providing a formal opportunity to improve to your folks. If that does not kick them in the pants, then as a manager, you have to take action.

One of the things I want to emphasize is for most managers, they spend most of their managerial time and work and creativity in that communication stage. This is the stage where you are coaching and counseling your folks, giving feedback. So we are going to spend probably even more of our time talking about that as well. We move on to those other stages, just be aware that you need to know that there are people that can help you with the formal documents you have to do. The federal government has a system of dealing with poor performers. As a manager, you have to - to dot your i's and cross your Ts.

We have a subject matter expert on the line. They will help us -- I don't know if I brought this up before, but I need you also to know if you have questions at any time during this training, there is a Q&A button.

Many of you used it during our last training. At the top of your screen, Q&A, you can click on it and write in your question. I'll do my best to answer them throughout the training. If I do not answer them out loud, I will also just write you a little message, but also, I think that Darlene and Patsy will also be there to answer questions. We'll be doing that through the training and probably around the time we take a break, and also at the end of the training.

It's going to be really valuable to have people who I like to say speak USDA rural development -ese. They can answer your specific questions about how to deal with poor performers and poor conduct. When it comes to communication, really, there's two aspects of communication. One -- when it comes to dealing with performance issues. With your poor performers and good performers, you will throughout the year review performance and provide feedback on the results you care about. That is something that is going to happen, but it is a critical aspect of communicating with folks, whether they are performing well or not. Also, you counsel with employees.

Research has shown -- I alluded to it before -- that clarifying expectations raises employee performance. It increases performance about 33% in general, and that is a big up, especially when you consider that an average of all employees. I view this as one of the gaps. We can clarify, whether it is by referring to employee performance plans -- and I know a lot of you -- I can see a lot of you rolling your virtual eyes.

Maybe your performance plans are not very good. That is really some of the work that needs to be done, but it may be some of you do not even have full control over what is in your performance plan. If you can supplement those poor performance plans to clarify what the performance expectations are -- on my team, I will admit that our performance plan -- my plan is actually not up to my own standards, so there's nothing my team can do about that.

My supervisor creates a work plan which has given me more clarity on what is expected. From my own experience, I am more likely to accomplish the things she cares about because she takes the time to clarify those things for me. As we have already discussed, as you prepare to do your counseling, your informal coaching with your employees, make sure you diagnose what the problem is, whether it is conduct, performance -- if it is a performance issue, there's really a lot of different potential underlying causes. There also could be a lack of skills. There could be a lack of motivation.

There could be something in the work environment that is getting in the way of doing the job correctly. As you prepare for the counseling session in that vein, you want to make sure that you review all of the guidance that you have. There's the performance standards, but there's also operating procedures that you use. You want to be familiar with those if you are not. Also, if you have any sort of record of what was talked about during your initial performance conversation, if the employee expresses any sort of concerns about the standards, you want to be able to refer to that also.

You want to be able to jog your memory. They may bring that up again when there is a performance issue. Also, when there are product and performance issues, it is very common for employees to bring up that they half -- have some sort of problem, a personal problem or condition that maybe the supervisor did not know about beforehand. It's very common. Speaking from experience, sometimes it feels like employees are making an excuse.

My natural reaction was I did not want them to "get away with it," but I think that is a poor response. The natural human response is a poor response. When employees have problems, we don't want to take a basic performance issue and turn it into something with a manager is not being respectful to the employee's needs. They have a serious problem, whether it is a death in the family or financial problems or maybe even some sort of psychological issue like depression or PTSD. We do not want to convert a basic performance issue into something where the manager is not doing their duty. In that vein, you always want to be familiar with the employee assistance program and refer to people as, you know, as needed.

Again, I think even if someone tells you they are having a problem, that is not a reason to stop having this coaching and formal communication. Still, it is important that we, as managers, are respectful when employees communicate that they are having a problem. Just make sure you have a plan for what strategy you want to implement going forward, and also, just prepare what you want to say. I found an outline works well just because when you give a human being constructive feedback, they get defensive.

When an employee gets defensive, managers get defensive, and it derails constructive conversations. So it's good to have a plan. With specific examples that you want to bring up. I also want to be clear -- when you are dealing with performance, you want to make sure you are also dealing with recent performance.

Unless you are dealing with a roller coaster performance issue. We will talk about what that looks like. I can give you a cautionary tale -- this makes me think of talking to my wife. A lot of times, when my wife gives me constructive criticism about my husbandly duties, she brings up past performance from way back when -- constructive criticism about my husbandly duties. Like employees, I find bring that up indicates a general lack of faith on my part that I will be able to do something about this.

It makes me feeling this has been a problem for so long I will not be able to do anything. You want to make sure you are addressing the problems as immediately as you can, and if you did not address it years ago, don't bring up old performance. If there's a problem now, deal with the behavior you are seeing now, and you will find employees have the power to do something right now about it, and you are more likely to feel like they have a partnership with you as opposed to keeping a long record of all their past work sins. When you conduct a counseling session, it is important to be Professional -- it is important to become an professional -- important to be calm and professional. You want employees to feel like as a manager, you are invested in their success.

When they do well, you do well. When they do good, it makes you look good, and you want to partner with them to make sure that they are as successful as possible, and that is why we are having this feedback session. It is not to -- it is not a precursor to more pain. I've had sessions that almost always needed to and by telling me how valuable I am to the team.

It is important also that managers take notes. It is also important as you are in this informal stage where no formal actions have been taken, this is the opportunity or managers to review those performance standards and make sure they are written correctly. Oftentimes, they are telling them what they should not do and what they should do.

If you have those types of standards in your plan and you take a performance-based action against employees, you will -- if that employee appeals the decision, you will lose. The human capital subject matter experts, you can always turn to Darlene and Patsy. Those are people who can help you look at the standards. In the end, the burden is on managers to make sure that those are written correctly, and it is important that you look at those.

Supervisory notes are really important. If you are going to take action with employees, throughout all the informal counseling that you do, it is important to have memory joggers. Again, it does not make you a spy that you are writing things down. This is based out of the truth that federal managers have too much to do to memorize all of the performance-based coaching they have with folks. It is important that you keep notes.

We suggest that you keep all your notes together if you can. That has sometimes been shown to -- if you take all your supervisory notes from all your employees in the same place, some judges have respected managers' privacy, when instead of -- you know, they're sometimes freedom of information act requests. Sometimes you can protect yourself from those things by having all the information in a general folder. Also, make sure you review performance plans and provide feedback.

This is related to looking at the plan. Make sure that you understand what potential actions you might want to take, and make sure that the plan is ready for those things. Your performance plan needs to be in a certain state where that works. It is important that you also remember some of the things we talked about during our performance management training, that you can only put people on a performance improvement plan if they are not performing for critical performance elements in the plan, and is critical performance elements, they have to be -- they have to have measurable standards.

That is the rule. That is the difficult homework managers have to do to make sure that they are ready to take action when and if they have to. I want to use the Q&A function. I want you to read this scenario and please respond over Q&A with any sort of ideas you would have over how you would deal with this scenario. The first subordinate on his team that has had unacceptable performance.

When he looked at the performance standards, he found out Stevie is not even doing the work described to him. What do you do now? You can think about this a little while, but if you clicked on the Q&A but nothing top of your screen, what would you do -- what would you do with that situation -- if you click on the Q&A button at the top1 of your screen. Some of things people are sharing is you want to make sure that performance standards apply to the work.

I think that is also a basic question with performance planning, making sure that the performance standards reflect the work managers actually care about. A lot of agencies use performance plans that are really old that are based on condition descriptions that are really old. I do view that as an important earth that. Other people are sharing ideas. You just have to update the standards first. That is critical. You want to make sure -- you need to take a look at the standards and see that the standards reflect what is right. If you as a supervisor decide that the standards are really what you care about and the employee should be held accountable, then you have to make an exception -- does Stevie not understand those expectations, or is he specifically avoiding doing any sort of work?

Again, avoiding -- willfully deciding to not do work is insubordination, whereas not knowing what work needs to be done -- that is a performance issue. Thank you so much to the people who responded and asked questions. We will get to a lot of these going forward. As I said before, typically, more often than not, having good coaching sessions with employees in it's the problem in the bud, and the performance issue stops, and it also even improves performance in general. If it does not improve performance, as a manager, you have to go on to the next stage. I know in certain sessions, I have had -- once you decide to going to the stage, one of the things you communicate to employees is that you have tried as a manager -- you are partners with them to get the work done and to have them be the best employee that they can be.

But unfortunately, the informal coaching that you attempted to do did not have the effect that either of you wanted. It did not improve performance. So you are forced I that to then go on to these next more formal steps to kind of get their rear ends in gear. You want to get their rear and in gear, again, so they can be the best employee that they can be, and the other stuff just was not working, and that is why you are addressing it in this way. Most agencies I know, when they are dealing with performance issues, they usually use be -- the CFR part 432.

Dealing with conduct issues, they usually use part 752, but you do not have to use a performance improvement plan when dealing some -- dealing with something based on performance issues. With conduct issues, you do not have to have a performance improvement plan or even an opportunity to improve. We'll talk a little bit more about that later. That is just one of the differences in a performance issue and a conduct issue. As we move forward with dealing with poor performance, these are the formal steps on your screen that you go through.

On the left, you will see we have already talked about coaching, counseling. Through that process, you determine that the employee is not performing well. With the employee and potentially union representatives, you develop a pit, and once you develop it, you issue a formal opportunity to improve notice, and then the employee has the opportunity to improve over a certain time. There is a determination if the performance improved or not. We'll talk about each of these steps. As you design the performance improvement plan, it should have things like checklists, and there could be a plan for mentoring.

Typically, what I see is usually just increased supervision. There is increased load for managers. Maybe more one-on-one meetings. There's typically some sort of formal action plan. What a manager will be looking for at certain dates as they go throughout this performance improvement time. One of the things for you to note is typically, your employee and the union must be present. Both parties typically need to have some sort of representation. Make sure to explore that a little bit if you are on sure with subject matter experts. The formal notice you issue in writing -- here's the checklist.

You need to note what critical performance of us in the plan they failed, and what they need to do to get performance up to an acceptable level, and how long they will have to improve performance and what the consequences will be for failure.

Performance standards in this way -- again, notice the performance plan standards really are based on a foundational document, and if it is not good, then you will not be able to take much action. In my opinion, one of the reasons why it feels like taking performance-based action is so difficult is based on kind of that old -- it's based on a lot of performance plans managers are using. A lot of managers are forced to use old plans were there is a cultural standard that they do not necessarily need to update them, and then the plans are not very good, so when they tried to take action, their hands are tied, and they are told that -- by subject matter experts that in order to take action, they have to redo the plan and wait for another three months.

That drives managers crazy, and I understand that. When it comes to roller coaster performance, -- once you put an employee on a PIP, let's say they do well and take them off of it. Within one year from the start of the opportunity period, that means you got a roller coaster performance situation. You do not have to look the employee on another PIP. You can, but you do not have to. I've spoken with managers who were frustrated that they thought they had to get the problem in the bud, and then the employee fixed things and did act -- dipped back down.

As you execute a performance permit plan, it is important to document examples. Make sure you are taking those supervisory notes. I have worked with managers who were in a rush. The employee was irresponsible and recording the days financial reports. It is much better using the second example when you are more specific about what responsibility looks like. In that way, the more time you qualify the work by writing things like the employee was irresponsible, it makes the manager look like they already formed an opinion on the character or what is going to happen to this employee. You want to be as objective as possible in monitoring this work.

The employee just did not injure daily receipts into the ledger, causing a delay in reporting monthly financial performance. That makes it clear the manager is not commenting on the character of the employee or not making judgment calls on the good work. They are just saying what happened. That's a very powerful. Managers who take notes like this -- I have not had much experience, but their performance plans are good. You are required to accommodate an employee with a disability. This is also another thing that commonly happens. A lot of times, managers do not know about some of the things their employees are dealing with, and when the manager tries to take some sort of performance-based action, the employee finally spills the beans that they are dealing with some sort of disability.

We talked a little bit about it before, engaging the employee. It's really important that if the employee requests an accommodation, as long as it does not cause an undue hardship on the organization, we want to be able to make an accommodation, whether there is a performance issue or not. Again, we do not to change what could be a more cut and dried performance-based issue into a situation where an employee has a legitimate complaint about a manager just because the manager is frustrated that the employee is making up excuses for why they are not performing. We want to be careful. Again, I expressed sympathy. I have been there. I have worked on teams where employees were not cutting the mustard, and is the project manager, I gave them feedback, and -- but I had an experience in work where I had an employee in the middle of that conversation let me know that she had cancer.

I'm not a manager anymore, but as a manager and project leader, it was eye-opening and definitely a learning moment about how important it is to start from a position of mutual respect and to respect people's requests and not just assume the someone is making up excuses of why the work product is not coming in. Another thing to keep in the back of your mind is when you put an employee in a PIP, they can still take leave. It is up to a manager -- you can also extend it for a reasonable amount of time. If an employee is sick for a day, you do not need to extend the PIP period for one day. That is typically not part of an agency rule. However, if an employee takes sick leave or FMLA, if they use annually if, if it affects potentially the timeliness of the work, it is something you need to talk about with your employee and figure out what you are going to do, how you are going to compensate for that.

It is important to know your agency's rules as you decide whether or not you are going to approve or deny leave the area denying leave is kind of a serious choice. We want to make sure that you are doing so for the right reasons. At the end of the performance improvement plan, if your employee reaches the except of a level, congratulations. You've done a great job. And keep providing feedback until the end of the period. Keep giving them feedback and encouragement. It will contribute to the employee really fixing their behaviors. If the employee is still performing unacceptably, you have to consider reassignment.

The habit of the government is to reassign problematic employees to other parts of the agency. That is just spreading the problem around. There are situations in which that does X things -- fix things such as when there is a different skill set needed, but oftentimes, it is just a kind of passing of the buck and giving another manager returned to deal with a problematic employee. It is important that you considered the motion -- the motion -- consider demotion.

Will talk more about that later in what that looks like. If you could answer this in the Q&A button, that would be great. Employee is performing unacceptably. A PIP has been limited. Daisy wants to be certain that she gives J an opportunity to improve, but she is finding it difficult with the lack of communication. What should she do? All of these scenarios I am bringing up are based on real consulting work we have done with managers. I worked with a manager who had an employee doing this. Also, this scenario happened. It is more likely to happen when employees are located away from their managers. I know that is not uncommon in rural development where you are managing teams that are geographically dispersed. We've got some comments that someone says "stay the course," and I agree.

In general, Daisy needs to not give up. A simple as that sounds, once you have put a performance improvement plan in place, as long as the manager is doing the things that they promised they would do, the burden is on the employee to shape up, and if J refuses to shape up by refusing to talk to the supervisor and get feedback, especially if that is what is prescribed in the PIP, then J is in for a world of hurt. I would also suggest -- and this made a huge difference in this manager's issue. If you have any sort of conflict you can solicit to help with the situation -- sometimes, in these sort of situations, the employee is just being avoidant and embarrassed, but other times, he just does not want to fix things and is mad that they are on a PIP. The truth of the matter is the burden is on him to fix his performance. You just follow the plan and do what you are going to do. I see some other thoughts by people -- put in writing to ensure the employee is getting the information -- I agree.

That is probably what most of us would do is if the employee refused to meet with us and refused to talk to us, we would probably put something in writing. I would also consider that. I think that is a good idea. By my clock, it is 1:59. We'll say it's 2:00 central time. We are going to give a 10-minute break and start back up again at 2:10. We will finish up the training my guess by 2:30 or 2:40 and have the rest of the time for Q&A. Thank you so far, but again, we are going to go silent for 10 minutes and start back up again at 2:10. Do not be alarmed by the silence. We will start back up again at 2:10. Talk to you all then.

OK, it is 2:10 p.m. central time. In the top right part of your screen you can see a feedback, specifically a green square. If you click on it -- I know you don't have a question, it but if all of you could go down to the purple button and let me know that you -- this is how I will be able to tell that you are back from the break. I just want to make sure I have a critical mass of people back from the break. Looks like we are at least -- I either gave OK direction or not great direction, but we are probably about 50%. If you could make yourself green again, that would be good. Even if you make yourself purple, that's not how I answer questions. But if you do have questions going forward, click on the Q and a the top of your screen -- Q and a link on the top of your screen. Someone asked -- what do you do if you are the supervisor that does not want to do performance management?

Really, one of the requirements of the -- performance plan for managers is that in their own plan, not the plans of their employees, there is supposed to be language about how they will effectively conduct performance management. I think the phrase is that they will conduct robust performance management. Really, if you want to dazzle an auditor, use the phrase robust performance management practices. That being said, once you put it in the plan, if you as the ratings official can hold that employee accountable, it can work well. I think that that is a useful thing to have, employee performance plans the talk about that.

If you are the supervisor of a another supervisor. I actually do have a lot -- even though everyone is doing great performance management, I understand that historically and culturally that type of behavior has not always been reinforced for federal managers and federal employees. There are a lot of federal managers but I get a lot to do the best that they can. However, those are kind of their excuses based on the past. We have to look forward. We have to, when it comes to performance management -- I was thinking about this a little bit as I was discussing how to, you know, the employee assistant program and how to help employees dealing with disability.

We need to lead out on these types of problems. The private sector looks to the public sector in how they deal with their employees. We need to be the ones who show them how to do it. So, I very much understand that there is limited time, but as managers this is just one of the things we have to do. It makes a big difference in your ability to deal with a problem, like the problem we are talking about in today's training. If you don't have foundational plans in place, your hands are tied and there is nothing that you can do and you are stuck with the employees that you have. So, we talked a little bit about this part of the process that leads into the notice of proposed action. Once there is a notice of proposed action the employee has an opportunity to reply to that notice. They are given a certain amount of time. And then they can reply in writing, or after 30 days a decision is issued.

The decision that is issued is that they can go into -- it is not the manager that produced the initial action. It is usually a supervisor or whoever they have to go to in the chain to move the siding official away. Typically it is the supervisor's supervisor. Once that is issued, there's also a notice of the appeal given to the employee, they are given time to appeal and they will potentially appeal that to the board and the action will either be sustained or reversed.

Again, we will be talking about the factors they're looking at. Again, if on the left-hand you see performance-based action, one of the things I want to point out to you there is that there is a lower burden of proof. That is an oversimplification, but really, if you have a good performance and good supervisory notes, the recommendation really is based on the supervisory, managerial opinion of what is going on. If you have some good notes there is not much more work that you have to do. Whereas with conduct issues there is a potentially higher burden cut through.

There is sometimes a little bit more work and sometimes those actions can take longer. There is more of a prescribed calendar of things that happened in performance issues. Sometimes those performance issues are dealt with in a more timely manner. Things to have, documents that you just need to have. This is part of dotting your eyes and crossing your T's, you issue the notice of proposed action, you can kind of refer back to the things that you have, the document that you gave to the employee when you started, let them know what they failed to click on.

Give them examples how they did not meet the performance during the performance. Let them know what their rights are, what actions you will be taking, what it is based on. Make sure that they know that there is time allowed. Then you have at least 30 days before you issue a decision. Again, in this file that you have you need a signed copy with all the supervisor notes during the informal coaching sessions, but then also during the picture in you need to notice that you just used, the evidence, and if you have work product that is not standard, e-mail, memos that you have received, and then the employee response to the docks that have been created.

Again, typically the file will be honored as part of the inquiry by any sort of -- by anyone where you want to make sure that you have got those things and that all the information there presumably will lead them to the proper conclusion. Some things to have in mind as a manager, before the fact that you want to remove the employee, you want to think of the employee can still function and help the team. Maybe at the GS 11 level. It is important to consider those things, working with human capital experts to see if you can then change the position so that they can do the work at a lower grade.

But it is not -- also, performing consideration, I also want to reiterate that the burden is on managers to know the law. A lot of times these performance issues are actually trial conduct issues. Some of the managers to exciting risk management that they want to go down with. Do they want to go down performance or conduct? It really is based off the important decision of what is going to help the manager accomplish the best group. This is best for the employees going forward. It is OK to consider what is best for the employee. It is an expensive decision to remove an employee.

So, reassigning or demoting them is not something that you want to do because it costs so much time and resources to bring someone new in that often times there is a freeze on hiring where they have severely reduced hiring rates. It can mean a lot of extra work for other employees. Typically when you try to take formal action, it is very common to have an appeal. You can go to the website to see what the appeals process looks like.

Unionized employees will also grieve whatever action you take through the negotiated agreements and it may look different from what I described. But it is important that you work with HR and the legal counsel throughout this process so that you protect yourself and it does not become a bigger problem than it needs to.

Again, here is our final scenario of the day, respond if you can. Joe has an employee in the middle of his probation. Does Joe need to give him an opportunity? I see that some of your key -- picking up on the key, which is that Lori is in a probation. In a new position. Typically unless there is some sort of agency rule that is different and I have not encountered those agencies yet, typically Joe -- if Lori is not producing, Joe can remove the probation and managers can remove employees, really, without going through a formal.

I will however suggest that just removing the employee without any sort of counseling or any sort of opportunity to improve is a -- it can be a very demotivating and frustrating experience for other workers on your team. If you just remove him, even though it is within your rights, word to the wise there may be people affected outside of Lori and that may not be worth it. Again, is within the managers rights to remove an employee on a probationary.

Once who are in that year long or to your long probation, they can be let go. So, that is the scenario. Last but not least we will be talking about composite issues that look a little bit different when dealing with performance. When having conduct issues, one of the things to keep in mind, some of the tools that you can potentially have with serious conduct issues, where someone perhaps has assaulted someone or can -- or committed a felony on the job, you can use more serious considerations that do not go through the kind of -- the dealing with the process.

Now, as you consider involuntary leave or indefinite suspension, this subject matter expert in general counsel has to be involved. Again, -- I don't want to use the phrase hold your hand, but that indicates that this is kind of helpless. Managers have to be involved. They will be creating a lot and working with those officials. Again, the subject matter experts can help you decide if that is the right course for you. A principle to always keep in mind, though, is not always to go straight to the harshest, but it is progressive. It means to use the least of your actions that will most likely improve employee behavior and conduct.

It does not prohibit the use of more severe penalties, but it does mean that you need to make sure that for minor infractions people are getting relatively minor actions taken against them. A lot of agencies actually have a conduct chart. I have heard that Darlene and Patsy would know correctly. We will talk a little bit about the factors. We will go over what factors are. I will not lecture that long about it, but if you click on the handout link the last handout is a listing of Douglas factors.

This is what it might look like. On the low-end these are the first two options. Typically, a manager for a minor infraction, the important thing is that they let them know that there is a problem. More formal managers can make a written official reprimand or suspend an employee. Those are actions that are horrible enough that an employee can sue them and they can grieve those decisions. They are adverse actions. You these are actions that can be appealed if you suspend people for more than 50 days or remove them from federal service altogether. A lot of times just letting the employee know is enough to curb it. Just consider taking a phone call, having a formal meeting, or putting something in writing for the employee.

Also, you -- if you think that there is potential -- this is a problem with common issues, like substance abuse issues, and they say if you have heard that there may be a problem there, it is perfectly within good practices to suggest that the employee take advantage of the employee assistance program as part of dealing with this issue. Now, if you just kind of softly suggests that the employee participate, you know, consider using it, that is just not adequate. If the employee is hesitant you can tell them -- they can just tell you, for example, you know what I have a problem with alcohol and thinks that the issue is done with.

They need to, if they have a problem like that, they need to take action on it. And as a manager you need to hold them accountable. You cannot just wait. They need to do something about it. You are supposed to take action on the conduct, even if the employee won't fix their potential substance abuse. Again, when it comes to the employee assistance program this is another thing whereas the federal government should lead the way in understanding these potential problems by helping employees. We don't necessarily want to lead the way in getting people fired. An organization can change its decision to remove employees.

They can always appeal the grievance is in those cases and we want to make sure that we are hearing employees and what they have to say and reacting in the correct manner and moving forward. Not just because we want to be nice, but because it is what is good for upper managers and for the agency. If you have to perform a formal reprimand, you should. Written reprimand by a formal letter. There are typically different rules for non-union and union employees. Typically there are 15 days for them. For union employees they act according to the grievance feature. Typically government agency reprimands are in for three years. The supervisor then decides, as a reward for good behavior, that they want to take the reprimand off.

If you're subject matter expert can help you to create these letters, it is important that employees hear your voice and a lot of these formal documents. You don't want to just create documents that don't have anything from you in them at all. I feel like those documents often lead to employees feeling like I have a combative relationship. Granted, if taking formal action it is not surprising to find an employee with a combative relationship, but having some of your voice in the language of the partnership will mitigate this and allow you to have much more of a partnership with your employees, even if you are taking performance-based or conduct-based action. If you go for suspension of less than 14 days, those things cannot be appealed but they can be grieved. So, make sure that you were with subject matter experts within USDA to execute that suspension into it right. To do it well.

Really, the main thing for managers is to make sure that they have all the pertinent information around what happens. This is what the grievance process looks like for the lesser actions. Again, I think the main thing I want people to realize is that the grievance process can take a while. Really, it takes a long time as someone enters a technical review. When the employee puts their formal grievance in place, the technical review could take, you know, it could take a really long time.

Sometimes a month or two for the technical review to take place. Really this whole process can take up to three months. Conduct issues, they can sometimes feel easier, but they can also take a long time and it can also be a difficult process as well. Actions that look more like suspension over 14 days, choosing to remove the employee altogether, all of these actions, you have to have information that proves these three things to the protection board. There needs to be proof of the charges. There needs to be obvious misconduct. You need to show how the behavior affected your team's ability to do the work. That is fairly self-evident, but while some of the work happens managers need to make sure that the penalties are appropriate. And him -- if you look at the factors the handout that I shared, it is about making sure it matches the agency history about what has been done in the past.

There needs to be some sort of evidence that this is not an arbitrarily decided upon penalty that is out of the blue for the employee. There needs to be some sort of justification based on a previous LT, either for the agency or the USDA. Maybe from the government at large, you need to show that this is an appropriate penalty. Again, this is a heavier burden of proof on managers than is typically involved. Something to keep in mind. Again, this is what it looks like and again, once you appeal to the protection board this can be an open-ended process that takes however long that it takes. So, just keep that in mind when you are deciding. If you are involved or know that there is an issue and there is both performance and conduct issues, you have to decide what is best for the agency, your team, and the employee. You need to have all the facts of what it might look like.

Here are some final takeaways. Addressing poor performance and conduct before it gets worse can develop a cultural partnership between you and your employees. Instead of being a combative relationship between the employee and the supervisor, having that kind of partnership will enable you to get more work done and it will mitigate your risk for poor performance in the future. Also, document, document, document. It is really important to keep notes when you notice you have an issue. And just be familiar. Know the law. I know that it says to know the law or know who to call, but you really have to know who to call. You need to have it memorized, but be familiar with what it means for you, the things you need to pay attention to, the next steps in the process.

Always seek counsel from your agency subject matter experts and legal counsel. These people can help you to dot the I's and cross the T's. They will also always want you to produce the documents. They need your help. I am a consultant from OPM. I go in and help managers deal with things like this, performance management issues. It is very rare that I know everything about what the employees do, but I can do the work for them in an effective way. They would do it well. But it doesn't work for me to do the work for them. Employees need to hear the voice of their managers in these types of documents. I want to again and this session with the same polling question that I ended the last session with -- based on what we talked about today, is there at least one thing that you learned -- was there any take away to reinforce

that was useful? Maybe there isn't, maybe there is, but if there is a challenge you , either download the session -- you can re-watch the recording and a lot of times we get mad at ourselves and our behavior .

There will be training slides?

Yes, we have useful set of links. We can download the slides from a handout portion. Here are some links that are really useful for supervisors to know. These are just potential useful things for you to have on hand, should you encounter bad performance or poor conduct. This is my name, my e-mail address. At this point in the training I am going to -- if we are released, if you have time, people are free to leave the training. I am going to devote two or three people -- two or three minutes to leaving the training and then afterwards we will have a Q&A session, we can take everyone off mute and you will have a case -- chance to rest me and the consultants the Rural Development resident experts. -- element experts.

Again, you are free to leave if you're busy. I will also be answering some of the questions that people have asked. Someone asked -- what if the employee refuses to sign the and -- the performance standards? This is a good standard -- to question. There is a difference between an employee that refuses and one that never got the opportunity.

In the end, refusal to sign if the employee has been given the standard and the manager feels strongly that they are the correct standard, unless there is some sort of agreed upon union agreement, those are the standards they are held accountable for.

Most of our performance plans are in Empower. There is a block for employees to check if they refuse to sign.

Right. Then we have another question -- if you have an employee that continually has conduct problems, like nearly every day, how can it be documented and counseled? I have an employee that could ye up all day, every day, and I just can't do it. I very much understand that. Whereas if you bring the issues to their attention and you are supposed to continually and if you think you have brought it up and if the intent -- engine continued to ratchet, and I also suggest, though, as you go up the ladder of progressive discipline it is always good to work with subject matter experts to make sure that your penalty is proportionate to the crime.

But if someone is late every day , that is a legitimate problem. It can affect how the team is able to function. Is usually a within your power to do something about it. Someone asked, can hit extend into the subsequent waiting. As far as I understand it, yes. Managers I have worked with in different agencies, my understanding is that it can extend into the subsequent rating and a lot of managers have been encouraged him -- encouraged to wait until after, but they can also give it in the middle.

Our appraisals go from October 1 -- our appraisal period goes from the fifth every year. Here in St. Louis there is an accumulative average where they basically cannot decide if they are passing or failing until the end of the year. But we always put it with managers that you have -- if you have mostly things to be done or so many allowances than they should be seen immediately at that time, joined the test.

Our agency regulation does say that on the 30th we should race down unexpectedly and then do the PIP, but in previous years we were waiting until the end of the PIP to do the rating.

I think that if anything your response shows that people need to reach out to you to make sure that they, dotting their eyes or crossing the T's

Some places have unions and we do have obligations to change that practice. They need to reach out to their ER or HR person before doing it.

Another person asked an interesting question. If you can take the phone lines off after this, someone writes in and asks -- as a manager, may we ask for a drug test if we suspect substance abuse and it is denied? Oh, boy. Patsy, darling?

I don't know for sure about all of our national office positions, but most of the ones in the field do not have any medical standards for blood testing. We may have it with the USDA , the floors service or the meat inspectors -- typically they don't have drug testing or even really physical requirements that even require a physical or mental exam.

Yeah. And really without that the key, though, the key for a manager , if there are behaviors affecting the effectiveness , that is really the theme. As much as you do care about employees who may have it or maybe under the influence of alcohol, we do care about that. Really, without that sort of drug testing for care about is how it affects the work or manifests itself in behavior that affects your team. Do not worry about necessarily being able to administer a drug test. It is how it affects your team. Can you take all the lines off of mute? Managers, people on the phone lines, ask questions.

Do you have any questions for me? For Darlene?

At this time all lines are open and interactive. All lines are open and interactive.

Are there any brave souls with questions? You have all been on muted. You can also mute yourself again, if you want to. But I really wanted to open it to questions. Or around the general training. While you are thinking I should have two more written questions coming into Live Meeting. How do they view the advisability of having managers being geographically located away from employees and being supervised on their daily tone towards those employees? How OPM views things, I am a lowly consultant, but I would say that you want to be careful about what we put in our measurable and non-measurable standards.

If the geographically dispersed ratings official is responsible for rating managers , the tone with their employees, that is probably a noncritical performance element. I would say that if you are going to have something in a performance plan that is measurable, there needs to be a lack of complaint and typically the effective language that we see in performance land they don't necessarily make the requirement a measurable standard for their employees to come out in the noncritical element. Does the manager have all of those performance plans signed? That daily attitude is very difficult. If there is someone party that can be something that needs to be addressed. Is there a policy for the moving probationary employee? A great question. Is there a more specific policy that is problematic?

We do have instruction that does not cover probationary terminations. You still have to have some sort of evidence in termination for conduct with witness statements and place. You still need to have some sort of documentation. The scenario that we talked about in the trading , the only difference is that speaking about general government rules don't need more in the plan.

We typically would not do that for the probation, but you have to at least make sure that you put them on notice. The why and do what they need to be doing. Supervisors waiting until the last hour and wanted to get a termination letter done, they were running up against the clock as far as when the probation ends and trying to get that done. Definitely do not wait until the last minute. But you definitely need communication with the employee during that time to say that this is your status in your performance so far in each of the problems I am seeing.

It should not be a total surprise. Typically my experience with managers is that it is a total surprise. He is someone who on the Q&A function raised their hand. If you raise your hand, you get to ask that Western out loud.

Folks coming to work sick. Is it safe for the other employees?

Can you acquire it? A great question. I can say that with my team , as a team we reinforce the behavior and we just don't want to see her face. Nothing personal, but at least for my team can the manager require them? That is a very specific thing.

You have to be very careful. The best course of action coming into work, even if they seem under the influence, having that conversation with them and asking if they are up to work today. Get them to be the one to initiate believe. If they are the one saying you need to go home and you're the one forcing them to take leave, MS PB can interpret that as a suspension. Depending on how long that goes for. If we don't follow those procedural requirements, we will lose the case. A lot of times we have put employees -- not because they are sick, but because they should not be in the worksite, they have got to be very careful about that process. We definitely don't want to put them on admin leave if they are not able to do the job.

Right.

we have time for one more question.

We do allow the use of telework, which may be helpful if they are sick and should not be in the work office.

Do we have time for one more question?

Yes.

What if we have a probationary employee that is not on standards yet because we do not put them on until after they have been here for 90 days and they are not really getting the training and are not understanding the training? What is your suggestion?

Once the training is complete?

Yes.

Are they probationary?

They are promotion -- probationary. Only 90 days.

If they are in that training they're obviously not able to do the role. Let's we have documentation.

He would not necessarily have to remember them for 90 days. Unless you are putting them on a clip.

I have another question. What are these numbers of standards for the number of days for the performance plan?

As far as performance-based, it does not say what the time is , just reasonable. USDA says a minimum of 60 days, but we have been doing it for 90 days.

Yeah.

Other questions?

As far as directors not signing off on performance reviews by September , can we really hold anybody accountable? This happens every year.

The employees have not gotten them either.

From my understanding I cannot go over them.

The performance plan or the rating?

The performance plan for the new year.

Technically that is because the reviewing official put these rules on. Are they the same ones from last year?

Theoretically there are changes coming down in the national office, but we have not seen them.

That carried throughout the year. We did it in April, February.

It is the stake in the standard. If you are seeing problems, just e-mail the letter of expectations that the handbook says that these sections have to be done within five days of receipt of the application or some sort of advisory.

Kind of a general frustration. That is something that does need to happen. Again, the good performance manager practice is foundational to the other performance.

Hopefully what I have found change that, people like this with other managers generally wanted to change it, bringing up that feedback in a constructive way. Him can we please go over these reasonable accommodations, just for clarification? The reason the lookup -- reasonable accommodation, I am not going to go back to it. His point was that in my experience a lot of times performance or conduct issues, when the supervisors bring them up there likely to bring it up in an accommodation. We should not just view it as a whiny excuse not to work.

I have just worked with so many managers who say that if you feel that way, realize that it is a normal way to feel, but we can't be mad at that behavior. We have got to respect people's requests for accommodation. Make those accommodations if it is reasonable. Reasonable accommodation is what you find in the literature and the regulation. What is reasonable is something that you to have to work out as a manager and with your human subject matter.

Tony, I was going to say that we do have reasonable accommodation procedure regulations out there, if they want to consult their HR person. How do we handle it? What forms we have to fill out. Keep in mind that the employee has to be able to perform the job with or without the accommodation. You are not required to lower the standard because somebody has an accommodation.

Exactly.

I hate to cut it off, but are there any other questions? I will take that pregnant pause to me no. Thank you again to all the people who participated. Thank you again, Darlene and Patsy. I very much appreciate it. I appreciate you piping up and sharing your expert opinion. I will let everyone go. If your more questions were not answered, you can e-mail me. Again, I can give you more -- the ideas that I have are often the basis for general regulation and my experience in working with a lot of different agency. If you need more specific info, reach out to your HR folks people like Patsy and Darlene. Thank you.