



Don't Create Additional Protected Groups

This month's column digs a bit deeper into the subject of "accountability" that I wrote about in September, specifically related to those employees with poor performance and work habits. In it, I advised against creating the perception of any "protected employees." The premise of this article is that there are already a significant number of protected classifications – including 20 for City of Madison employers – so do not add to the list by creating "informal protected groups" through poor management practices.

First, though, what is meant by the term "protected groups or classes" of employees? You may be familiar with the terms if you are a Human Resources professional or have a HR department, have read articles on the subject or attended a seminar on employment law or, in a worst case scenario, have been involved with a employment discrimination complaint or suit. Protected groups or "classes" refer to categories or characteristics of employees or applicants which are protected from discrimination under federal, state and, where established, local municipal law. They have been established largely within the past 45 years and provide needed and valuable protections from unlawful discrimination.

In case you are not familiar with the categories, following are the protected classes established by federal, state and City of Madison statutes.

Federal: age, race, color, sex, religion, national origin/ancestry and disability.

State of Wisconsin: all of the above plus creed, marital status, sexual orientation, arrest record, conviction record, military service, and use or nonuse of lawful products off the employer's premises during non-working hours.

City of Madison: all of the above WI classes plus student, political beliefs, physical appearance, retaliation, less-than-honorable discharge of military service, family status, source of income, Social Security/public accommodation, and domestic partners/public accommodation.

While it is essential to have lawful employment practices that don't discriminate, why give a perceived "protected status" to certain employees who underperform or demonstrate unacceptable work habits (i.e. behaviors) by not holding them accountable to expected standards?

In our leadership development work with very diverse types and sizes of organizations, it's not unusual to fairly quickly hear about chronic "problem performers", those employees with a history of poor or unacceptable performance or work habits. How do you deal with these employees who require an inordinate amount of supervisors' time? Here are a few ideas.

1. Identify and describe the specific poor performance and work habits. It is important to have supervisors get beyond the labels and encourage them to identify specific *performance* issues and *work habits* that need correcting. Work habits are frequently lumped together under the term “performance, but differentiating them will enable a more explicit conversation to occur.

Performance issues – relate to quantity or quality of output

Work habits issues – relate to behaviors (e.g. attendance, housekeeping, safety compliance, interpersonal relations, teamwork, initiative, (etc.)

While the two components tend to be reinforcing, it is possible for someone to have good performance and poor work habits and vice-versa.

2. Examine reasons why the employee has not been held accountable. Help supervisors diagnose why the problem situation has occurred and been tolerated. Does the supervisor avoid conflict and confrontation? Have they been trained in how to conduct effective and constructive coaching discussions? Do they perceive the problem employee has a special relationship with a manager or owner and is “untouchable”. Is the employee viewed as “indispensable” to the organization, so their poor work habits need to be tolerated? In the case of bullying, is the “bully” in a position of authority and considered above confronting? Has the problem gone on for so long (years?) that the supervisor questions how to even begin the needed conversation? These are all potential rationales for not dealing with the problem. Provide assistance to supervisors, if necessary, in diagnosing the problem.

3. Get agreement on a corrective course of action. If the problem employee is in another department, discuss your concerns with the supervisor or manager of the employee and ask that the issues be addressed through coaching and, if necessary, additional progressive discipline. Describe the reasons for concern and the impact of the problem performance or work habits on productivity and other employees. If there is reluctance on the part of the supervisor to deal with the issue, “elevate the discussion” to HR or other member of management charged with assisting with employee issues.

4. Where possible, tie the corrective action plan to established organizational values and expectations of all employees. Even if the organizational “values” are informal and unwritten, connect future expectations to the organization’s cultural norms of expected performance and behaviors for *all* employees.

5. Acknowledge the corrected performance and work habits. Providing feedback to the individual on their corrected performance and work habits will help reinforce and sustain the change.

Addressing those “problem employees” and requiring them to perform and work consistent to expected standards should avoid the creation of any unintended “protected groups” in your organization.

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