

Delivering Negative Feedback and Managing the Aftermath

How to foster productive, engaged and motivated employees and students while delivering tough messages

Agenda

1. Objectives of the Session
2. Case Study #1
3. Delivery & Preparation
4. Case Study #2
5. Post-Delivery Monitoring and Feedback
6. Concluding Thoughts

The Objective of Negative/Constructive Feedback

Targeted Result	Employee	Law Student
Improved Performance	Quality output/Productive process	Quality input/Strategic process
Modified Behavior	Engaged, dedicated and a positive influence	Engaged, dedicated and positive approach/outlook
Documented Performance Issue	Accurate representation of performance concerns and measurable objectives	Action Plan for addressing concerns, both substantively and when discussing with potential employers

Case Study #1

Delivery (employees)

Things to Avoid	Practices to Follow
Generalizations	Be specific. Provide examples of the employees behavior or performance concerns.
Addressing only current issues	Reference previous performance discussions or annual reviews where similar issues were addressed.
Personal bias	Deal with the business issues.
Skirting the issue.	Get to the point. Explain why you are meeting and what needs to be addressed.
Being apologetic.	Understand it is your role to effectively run the department and these discussions are part of your responsibility.
Discriminatory practices.	Do your homework. Make sure you are treating other people in your department consistently.

Delivery (students)

Things to Avoid	Practices to Follow
Generalizations	Be specific. Provide examples of the student's behavior or attitude.
Addressing only current issues	Reference previous discussions, failure to attend programs/meetings or times when they have failed to take ownership of the situation.
Personal bias	Deal with the issues at hand and treat them with respect.
Skirting the issue.	Get to the point. Explain why you are meeting and what needs to be addressed. Speak directly, even when it is hard to discuss.
Being apologetic.	Understand it is your role to best position the student for future success and these discussions are part of your responsibility.

Delivery (employees and students)

What not to say	How to say it
“I am sorry about telling you this”.	“I understand this may be difficult for you to hear”.
“I have some bad news to discuss”.	“As you are aware, we met three weeks ago to discuss some performance concerns . . .”
“You sound like your are mad at me”.	“I know this isn’t feedback you want to hear but it’s important we discuss and address these issues”.
“You have a bad attitude.”	“The perception of others is _____. For example _____.”
“You just don’t get it.”	“It is important that you take ownership of your situation.”/“You need to be accountable for your actions.”
“It’s not all about you.”	“The practice of law is a business. At the end of the day, your job is to meet the employer’s needs, not the other way around.”
“You are not a team player”.	“You told your supervisor you were unavailable to provide weekend support the last 4 weeks even though we notified everyone months in advance of this critical business need”.

Delivery (students)

What not to say	How to say it
“You are only in this for the money.”	“Employers are drawn to candidates that are enthusiastic about the work.”
“You have awful grades.”	“A reality of marketplace is that for many employers your grades will likely prevent you from being strongly considered.”
“There is no substance to what you are saying.”	“It is important to be able to not only convey that you want to be a litigator, but WHY you want to be one and that you understand WHAT it means to be a litigator.”
“You are the only one who does this”.	“I monitor the work of the entire department and you consistently make this mistake”.
“You are a poor communicator”	“You failed to notify your supervisor that you would not meet the submission deadline”.
“Let’s see how you do over the next three months”.	“Based on these issues, I am establishing the following objectives for you and expect to see improvement in the following timeframe. I expect these objectives to be met and your performance sustained”.

Preparation (employees)

- Review and document previous performance discussions.
- Ensure annual review feedback is consistent with performance concerns (if applicable).
- Determine whether performance issues are isolated or consistent with other employees handling similar roles.
- Identify measurable objectives and logical milestones.
- Schedule the appropriate time and location to conduct your feedback session.

Preparation (students)

- Review notes from prior appointments.
- Talk with the Dean of Students to see if the student has had issues with other departments and/or if there is anything else you “need to know”.
- When applicable, speak with a relevant recruiting coordinator or interviewer.
- Consider possible defenses and excuses.
- Think about potential strategic plans and measurable goals.

Case Study #2

- **Situation:** Career Advisor has asked Student to meet
- **Career Advisor's Perspective**
 - Knows Student did not receive offer from summer employer
 - Recruiting coordinator revealed this was due to inconsistent performance
 - Student's father passed away mid-summer
 - Student did not inform employer or school until after being non-offered
- **Student's Perspective**
 - Cannot believe no offer was given, especially in light of circumstances
 - As an unemployed 3L is concerned about debt and future

Post Delivery Monitoring and Follow-up (employees)

Don't	Do
Fail to follow-up with your employee	Adhere to the meeting expectations set in your Performance Improvement Plan
Skip over minor performance issues	Work with your employee and discuss performance issues arising after your discussion.
Forget to document performance concerns	Document discussions and include in future follow-up write-ups.
Fail to encourage your employee during this process.	Catch your employee doing good things and make them aware that you appreciate their efforts.
Notify the employee that their performance issue is no longer an issue.	Acknowledge that your employee has taken the necessary steps to correct their performance issues but that the effort needs to be sustained.
Take an employment action without escalating to the appropriate resource	Discuss with legal counsel, Head of HR, etc. to mitigate the risk of disparate impact or discrimination.

Post Delivery Monitoring and Follow-up (students)

Don't	Do
Fail to follow-up with your student	Track them down if they haven't followed up with you in a reasonable timeframe.
Reward partial effort	Meet the student where they are, but you are not helping them by enabling bad habits.
Forget to keep good notes	Document discussions and include in future follow-up and appointments.
Fail to encourage the student during this process	Be supportive of efforts and acknowledge positive efforts.
Tell the student that their issue is no longer a concern	Acknowledge successes but also remind them that this is an ongoing process.
Fail to be available	Be available to provide unsolicited <u>and</u> solicited advice since this is an ongoing process.

The Four Stages of Productive Feedback

1. Preparation
2. Message Delivery
3. Post delivery monitoring
4. Follow-up