2014 Annual Education Conference

Seattle, Washington, April 11, 2014

MANAGING UP, DOWN, & SIDEWAYS

Presented by Tim Leishman

Materials

1. Agenda
2. Presentation Slides
3. Action Plan
4. Delegating & Supervising Effectively
5. Constructive Feedback Conversations

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2014 Annual Education Conference
Seattle, Washington, April 11, 2014

MANAGING UP, DOWN, & SIDEWAYS
Presented by Tim Leishman

Agenda

2:00 p.m. **Managing: An overview**

- Delegating, supervising, and providing feedback
- Effective and ineffective managerial behaviors

Lessons from the Best Leaders and Managers

- Enabling others to do their best work
- Planning and organizing effectively and efficiently

Best Practices

- Delegating: beyond the basics
- Supervising: increasing ownership and commitment
- Managing up and sideways

3:30 p.m. **Break**

3:45 p.m. **Using Feedback to Improve Performance**

- Positive feedback: why isn't there more of it?
- Avoiding the Set-Up-To-Fail Syndrome
- How to offer (and receive) constructive feedback

Action Plans: Next Steps

5:00 p.m. **End**

2014 Annual Education Conference & Resource Center Exhibition

NALP in Seattle

Managing Up, Down, & Sideways

Tim Leishman, Principal, Firm Leader Inc.
Seattle, April 11, 2014

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Managing

"Client"
- Objectives
- Expectations
- Relationship

Team
- Delegation
- Motivation
- Feedback

Strategy
- Judgment
- Approach
- Work product

Tasks
- Work plan
- Timeline
- Budget

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Interrelated Conversations

Delegation

- Explaining
- Directing
- Training

Supervision

- Coaching
- Problem-solving
- Reinforcing

Feedback

- Praising
- Confronting
- Counseling

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What will you do differently?

Delegation **Supervision** **Feedback**

Action Plan

↙ ↘

Habits, Routines

Skills, Techniques

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Make two lists:

1. Colleagues who have been supervising you

2. Colleagues whom you are supervising

What enables others to do their best work?

Ownership

Quality - and - Commitment

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Enabling Others to Do Their Best Work

Research highlights two approaches:

Organization	People
Focus on tasks, efficiency, and achieving results	Focus on motivation, development, and building teams

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Leading Others: Three Strategies

People

1. **Include** colleagues to create shared responsibility
2. Provide **opportunity**: challenge and training
3. Demonstrate **respect** and appreciation

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Managing Matters: Three Strategies

Organization

1. **Plan** ahead to achieve outcomes efficiently
2. Ensure clarity of **expectations**
3. Facilitate **dialogue** and flow of information

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The Basics: The Delegation Checklist

When it's appropriate, do you *habitually*…

1. Explain the "big picture" ☐
2. Ask about schedules and other commitments ☐
3. Learn about their relevant experience ☐
4. Be clear about expectations: product & process ☐
5. Talk about best approaches & resources ☐
6. Specify interim deadlines, working backwards ☐

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Beyond the Basics…

1. Decide the type of delegation

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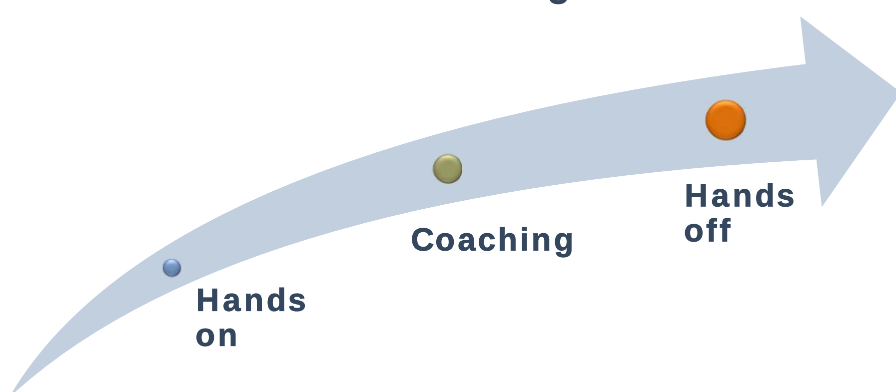
Situational Delegation



Assess the: **TASK** (difficulty, risk)

PERSON (experience, confidence, history)

CIRCUMSTANCES (time pressures, resources)

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Beyond the Basics…

1. Decide the type of delegation ☐

2. Plan further ahead ☐

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Developing the Planning Habit

"Once you start managing others, it becomes crucial to map out what they need to do - as far ahead as you can."

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Beyond the Basics…

1. Decide the type of delegation ☐
2. Plan further ahead ☐
3. **Provide a stretch opportunity** ☐

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Beyond the Basics

1. Decide the type of delegation ☐
2. Plan further ahead ☐
3. Provide a stretch opportunity ☐
4. **Segment difficult tasks** ☐

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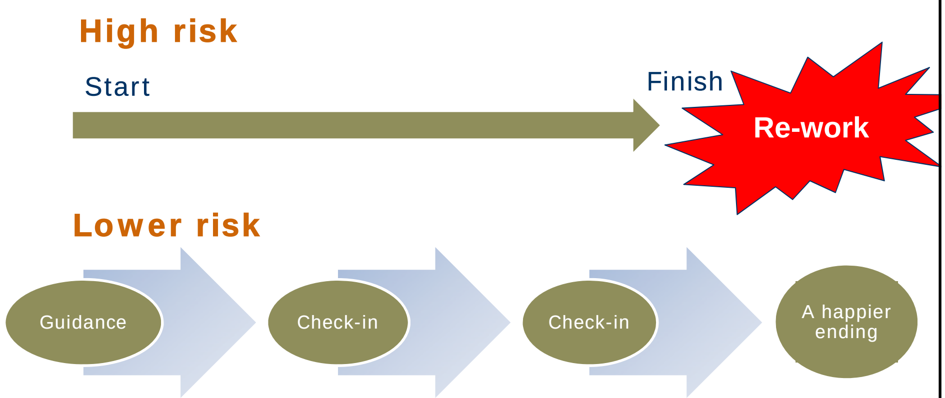
Segmenting Difficult Tasks



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Beyond the Basics

1. Decide the type of delegation ☐
2. Plan further ahead ☐
3. Provide a stretch opportunity ☐
4. Segment difficult tasks ☐
5. Kick-start the dialogue ☐
6. Confirm understanding ☐

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Supervising Effectively

1. Keep the other person in the loop constantly ☐
2. Include the other person whenever possible ☐
3. Drop by to check in, not check up ☐
4. Ask for the other person's opinion regularly ☐
5. Be accessible and review work promptly ☐
6. Share credit and communicate appreciation ☐

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"Multi – Focusing"

Planning	Clarity	Dialogue
Inclusion	Opportunity	Respect

Do you have a BLIND SPOT?

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Ongoing Supervision

Inclusion	Opportunity	Respect
How can I include my colleagues more?	How can I help my colleagues succeed?	How can I build a relationship of mutual respect?
Include in meetings & calls	Make them visible	Plan to review work promptly
Involve in planning	Provide stretch assignments	Compliment in front of others
Think aloud	Coach	Ask for opinions

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Planning & Organizing

Planning	Expectations	Dialogue
What more can we anticipate?	Is everyone clear about tasks, roles and priorities?	Do I know what's going on?
Plan backwards	Use meetings	Check in at different levels
Give ownership for areas of work	Remove uncertainty between peers	Organize learning discussions
Use the budget for time-management	Use project lists	Manage your mood

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Conscious Practice

1. Choose the skills or habits you want to enhance
2. Each week, look ahead to decide when and how you will use that skill / habit
3. Each week, reflect to see how you did
4. Ask for feedback

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Different Types of "Positive" Feedback

Acknowledge

You handled that question well…

Reinforce

Keep going… you are on the right track

Appreciate

Thank you for taking the initiative to…

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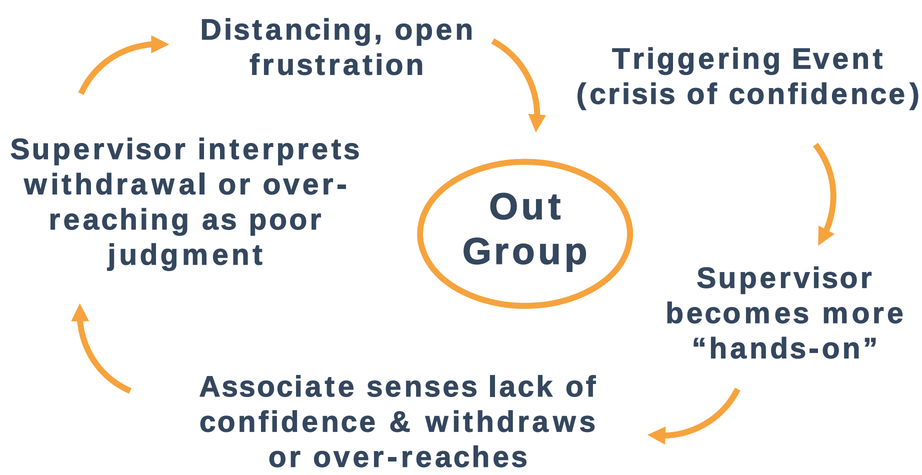
Set-Up-To-Fail Syndrome*



* Manzoni and Barsoux, "The Set-Up-to-Fail Syndrome," *Harvard Business Review* (March-April 1998): 101-113.

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Communication Styles

Direct	vs.	Indirect
Tell		Ask
Request		Suggest
More assertive		Less assertive
Straightforward		Round-about
Confront		Avoid

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How to Provide Feedback

1. Deal with issues right away
2. Focus on the problem, not the person
3. Frame the conversation in the future

… so that it feels like a coaching conversation, rather than a performance review

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When we feel **DEFENSIVE** we automatically:

Deflect	**Challenge**
It was out of my control	*This isn't fair; you don't have all the facts*
It was somebody else's responsibility	*Who are you to be giving me advice?*
There must have been a misunderstanding	*You contributed to this problem too*

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1. Deal with issues right away

- Fresh in memory
- Builds trust
- Lowers the stakes

Makes it easier to be DIRECT

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2. Focus on the problem, not the person

Tips: Put aside your judgments about the other person

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Judgments
(about the person)

Capabilities	Intentions	Motivations
This is not his strong suit	She must not think this is important	He's not interested in this
She's not very good with people	He's sending me a message	She only cares about herself

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2. Focus on the problem, not the person

Tips:

Put aside your judgments about the person

Describe the facts & their impact, objectively as an observer would

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Constructive vs. Destructive

Problem (objective) *vs.* **Person** (subjective)

Problem	Person
What happened (just the facts) + **The *impact* (or potential impact)**	**Avoid language that implies judgments about their:** Capabilities; Motivations; Intentions

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2. Focus on the problem, not the person

Tips:

- Put aside your judgments about the person
- Describe the facts & their impact, objectively as an observer would
- **Take on the perspective of a third person**

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3. Frame the conversation in the future

Tips:

- Focus on improvement: “Here is what I would suggest….”
- Brainstorm: “How might we do this differently next time?”

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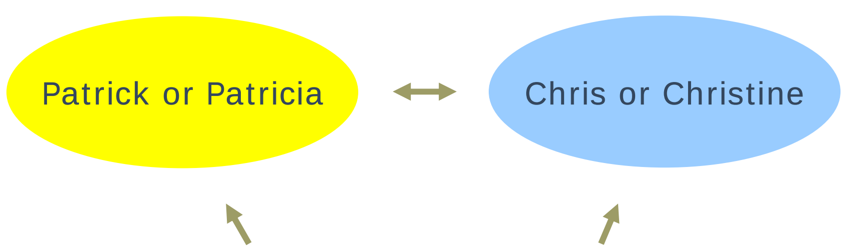
Constructive Feedback Conversation



Observer(s)

1. What worked effectively?
2. What was not so effective?

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3. Frame the conversation in the future

Tips:

Focus on improvement: "Here is what I would suggest…."

Brainstorm: "How might we do this differently next time?"

Excuses: no need to agree or disagree; listen and move on (how to handle it next time)

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Organize difficult conversations

- Start with a topic sentence
  "Let's talk about [this] and [that]."
- Reinforce the purpose or objectives
  "The goal is …"
- Acknowledge strengths and contributions
  "I like the way you handled this point."
- Share responsibility appropriately
  "<u>We</u> might try this… (avoid "I" and "you")

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Organize difficult conversations (continued)

- Balance explanation and inquiry:
  - Explain

    "Here's why ________________________"

    "This works better because ___________"
  - Explore

    "Walk me through your thinking ______"
  - If appropriate, problem-solve together

    "Next time, how could we ____________"

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Organize difficult conversations (continued)

- Recap: try the "don't/do" technique
- Ask one more question

  "What else could I tell you about ______?"

  "What else could we do next time?"

  "Is there anything else on your mind?"

  .... and re-engage

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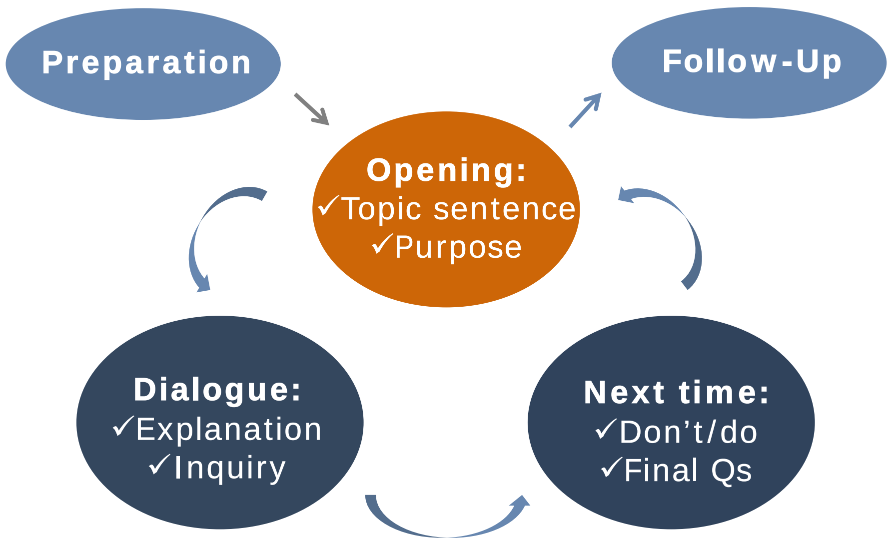
Difficult Conversations



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… but what if it's really serious?

1. Tell them "Here's how it is for me"
   - What you expected vs. what you received
   - The impact on the schedule, other people, you
2. Ask questions to prompt dialogue, but don't argue
3. Describe the potential consequences if the behavior continues
4. Talk through specific next steps

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Action Plan

Current working relationships

Please list colleagues who have been supervising you.

-
-
-
-
-
-
-

Please list colleagues whom you have been supervising.

-
-
-
-
-
-
-

What will you do differently?

1. When you plan, organize, delegate and supervise (up, down, or sideways):

What do you want to do better, or cultivate as a routine or habit?

-
-
-

Looking ahead to the next week or two, identify specific situations in which you can practice those behaviors or techniques.

-
-
-

2. When you provide – or receive – feedback:

What do you want to do better, or cultivate as a routine or habit?

-
-
-

Looking ahead to the next week or two, identify specific situations in which you can practice those behaviors or techniques.

-
-
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Delegating and Supervising Effectively

Before you give an assignment

When you give an assignment

After you give an assignment: supervising effectively

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Before you give an assignment

1. Plan further ahead. Working with others requires more planning, and a different kind of planning, than when you plan your own work. Look further ahead so you can:

- Delegate with enough lead time. Even if the work shouldn't begin yet, give a heads-up. Aside from avoiding unpleasant surprises, the heads-up may surface a scheduling or workload conflict, and it will generate more respect for your managerial abilities.
- Think through the specifics of what you want. Do you need to do some work yourself before you're in a position to explain the assignment effectively?
- Gather and review resources, such as precedents, model agreements, budgets for similar matters, or closing checklists, to guide your planning.

Tips:

- Develop a planning habit or routine. Set aside specific, regular times to think ahead about tasks that will need to be delegated eventually, if not immediately. One particularly effective delegator sets aside 30 minutes every Sunday evening and five minutes over lunch every day.
- Delegate as soon as you can. Other matters may be pressing, but delaying a delegation can create unfair time pressures for others and generate resentment – or may result in you doing more of the work yourself because you've run out of time to delegate.

2. Decide the type of delegation. Given the difficulty of the task, the consequences of a mistake, the time pressures, and what you know about the other person's experience, what type of supervision will work best? Between extreme hands-on and extreme hands-off, there's a range of possibilities, as the list in Appendix A demonstrates. Is your natural style more hands-on or hands-off, and will you need to vary your usual approach for the situation? The best delegators suit the style to the situation, because they are always thinking about how they can set the person up to succeed.

Your decision about how to delegate will have at least four practical consequences:

- How much detailed guidance will you provide at the beginning?
- How often will you expect the person to check in?
- What interim work-product will you ask to see?
- How much time should you build into the schedule for review and revision?

A Tip:

- When you are delegating to someone who hasn't handled the task before, it may be best to plan to do some of the work together – for example, sitting together to draft the trickiest pieces of an agreement. Keep an eye out for these time-consuming but high-value opportunities.

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When you give an assignment

3. Explain the big picture. Take as much time as necessary to explain the context. (If you don't have time at the moment, schedule a longer conversation or point them to someone else who can fill them in.) In addition to helping other people feel part of the team, an understanding of the big picture will allow them to anticipate issues, produce better work product, adapt more effectively to changes, and step in to help in a time crunch. The big picture may include:

- most importantly, the client's objectives and measures of success;
- background on the client, its industry and the individual contacts at the client;
- related matters on which the firm has been involved;
- the client's expectations for service and how they "like to do things";
- the client's billing preferences and cost concerns;
- special confidentiality issues;
- how each team member's responsibilities fit within the overall plan; and
- the plan for the overall matter, including timelines and milestones.

4. Ask about schedules and other commitments. Probe to find out about the competing demands on the other person's time. Not only does this information help you to plan, it also shows respect for the person's other commitments. He or she will probably be more willing to make sacrifices to get a job done if you are aware of the sacrifices and try to accommodate their other commitments when you can.

> **A tip:**
> If the situation allows, ask open-ended questions – "What else is on your plate now?" or "What does your schedule look like for the next two weeks?" – rather than questions such as "Do you have time to do this?" The open-ended question will elicit more reliable information, and it will also establish a different tone.

5. Ask about their relevant experience. Probe for the details the other person's experience on similar matters so you can adjust your delegation plan and style appropriately. It's easy to make assumptions about another person's capabilities if you have worked with them in the past, or simply based on their seniority. However, details about their roles and responsibilities, and the work product they have produced on matters supervised by others, can have an important impact on what you delegate to them and how you will work together.

- Once again, ask open-ended questions: "Can you tell me more about what you did with [so-and-so] on that matter?" Showing a genuine interest in the other person's experiences can make it easier for them to tell you what they don't know, and encourage open and ongoing dialogue.

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6. Provide a challenging "stretch" opportunity. Within the overall assignment, look for opportunities to fill in a gap in someone's experience, stretch them beyond their current comfort zone, respond to an interest, or otherwise help to develop them. When good lawyers are challenged to stretch, their motivation and engagement is usually much higher.

- Find opportunities to give ongoing ownership. The more someone can be given overall responsibility for a continuing aspect of a matter, the more enthusiastic they are likely to be – and the more they can take off your plate.
- Develop the habit of talking with your team about the tasks each person would like to tackle because they have an interest or would like the experience. Often, you have no choice about what you delegate. But you're more likely to find developmental assignments if you look for them.

Tips:

- Think about assigning not only the work to be done at the moment, but also ongoing responsibility for an issue or an aspect of the matter.
- Even if the assignment is mundane, discuss how it may lead to other, more challenging work as the matter progresses, or find a way to give them more visibility, such as reporting to the client about the work they have done.
- Think carefully about whether it's better for the person's development to provide a lot of hands-on guidance and instruction at the start, or to push them to think through the task for themselves.
- Giving ownership does not have to be all or nothing. When experienced leaders work with a less experienced associate, they will structure assignments so they gradually give the associate more autonomy – and they will be explicit about what they are doing, so the associate understands the goal.

7. Be clear about expectations: work product and process. For the work product, the trick is to provide clarity about what's needed while encouraging the other person to think independently. How you strike that balance depends on the assignment, the urgency, and the other person's experience. Also take some time to talk about your preferences for working together. For example, do you want to see a to-do list or issues list at the start? Do you want to talk through the person's thinking before he or she begins to write or act?

- If you know exactly what's needed for the work product, be as specific as possible (summary report vs. full-fledged analysis, a particular format, etc.). If there's an example that demonstrates what you want, provide it.
- If there are options, or if it's not yet clear what the work product should look like, talk through the options and ask the other person to come back with a recommendation.
- Talk about how the product will eventually be used, if that's not obvious, and how the "end user" (e.g., a judge or client or partner) will judge its usefulness.
- What are your expectations about the other person's availability and responsiveness? When is it best to reach you? What are your preferences regarding voice mail and e-mail?

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8. Discuss resources, approaches and time-savers. How would you approach the assignment? What would you be looking for? Where would you look? Who else should the other person speak to? What documents should they review? You can save time and accelerate the other person's learning by pointing to resources and flagging potential pitfalls.

> **A tip:**
> Help the person build contacts by pointing them to others who have relevant experience or expertise.

9. Specify deadlines, working backwards in the timeline. Engage in a dialogue about the timetable and how the assignment interacts with the rest of the matter's timetable. Unless the assignment is urgent and there's no flexibility, ask questions about timing, rather than issuing commands disguised as questions ("Thursday at noon is ok, right?"). An open discussion helps to generate buy-in about the responsibilities and timeline.

- Let the person know when you will be traveling or otherwise hard to reach.
- Be explicit about how often you expect the other person to check in.

Tips:

- Given Murphy's Law, decide how much time you will need to review the work-product, and then work backwards to set interim deadlines.
- Listen for hesitations and less-than-100% commitment to deadlines. For example, if the other person says, "… and I will *try* to have that to you by Thursday morning," the word "try" is a signal to probe further.

10. Segment difficult assignments. Unless the assignment is simple or the other person is experienced, consider breaking the task into specific "chunks," with a scheduled check-in at the end of each segment. That allows you to catch problems early and influence the efficiency with which follow-on work is performed.

Tips:

- If the project involves writing, be specific about the interim steps (an outline, for example) before you receive an entire draft.
- If the assignment involves choosing a precedent to use for drafting, schedule a brief discussion about the choice when the other person is ready to make a recommendation.
- Even if you do not formally "chunk" the task, decide whether to specify check-in points or leave it up to the other person to check in when they need to.

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11. Kick-start the thinking. Look for ways in which you can simultaneously spark and guide the other person's thinking. For example, brainstorm briefly about options and tactics, without forcing a conclusion. Or discuss your initial take on the key issues or potential problems, and ask for other approaches as the assignment proceeds.

Tips:

- If precedents will be helpful, suggest looking at several relevant precedents rather than only one. That will force the person to think through alternatives in the context of what's best for this assignment.
- Invite the other person to begin thinking about another issue or task that you have not yet had time to focus on but will need to turn to later.
- Look for the most difficult or intellectually challenging part of the assignment, discuss it briefly, and ask them to come back after they have thought more about it.

12. Confirm understanding. Except with the simplest assignments, or with someone who has worked with you so often that you have mind-melded, it's risky to assume that you're on the same page, no matter how clear you tried to be. Some methods of ensuring clarity:

- When you wrap up after giving an assignment, don't summarize everything yourself. Summarize your own next steps and then ask the other person to summarize what he or she plans to do and by when. If it seems appropriate, do that through questions, not by asking for a repetition of what you just said. That may feel condescending. For example: "So what do you think the next steps should be?" "What's your initial sense of the key issues?"
- Except with simple and short assignments, the initial conversation is not likely to provide enough clarity. Schedule a *specific* time for a second conversation (for example, "tomorrow at 10" or "after you've put in three hours").
- If the assignment has several parts, ask for an e-mail summarizing the task list and timetable.
- Identify an issue or part of the project that isn't cut and dried, then ask the other person to think about it and come back to you. Often, that conversation will surface questions or misunderstandings.

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After you give an assignment: supervising effectively

13. Keep the other person in the loop constantly. Share new information quickly. Pick up the phone, walk down the hall, or send an e-mail after a conversation during which you learn something. Copy (or blind-copy as appropriate) team members on e-mails routinely (but be sure to explain your expectations at the beginning of the matter or in the e-mail itself, so they will not waste time wondering whether they should be taking action).

> **A tip:**
> However busy you are, don't rely too much on e-mail. It's fine for sharing information, but less effective for ensuring understanding, surfacing lurking problems, or generating ideas – and much less effective for establishing relationships.

14. Include the other person whenever possible. Constantly ask yourself, "How can I include this person more?" Involve the person from the beginning, even if their work will not ramp up right way. Look for opportunities to provide client contact, involve him or her in internal strategy sessions and other meetings and conference calls (taking account of the costs, the client's expectations, and how busy the other person is).

15. Drop by to check in, not check up. Check in with people, preferably in person, without an agenda in mind. "Checking in" is not "checking up." Checking in involves an informal, open-ended exchange, not a status update about whether a deadline will be met. (If you're frequently in the dark about how someone's assignment is progressing, tell them to update you more often.) Drop by their office. Go out for coffee. Call them about something other than what you're working on together. These casual encounters make it easier for someone to ask questions, and often reveal issues that wouldn't otherwise appear until much later.

16. Ask for the other person's opinion regularly. In order to instill ownership, provide challenge, and demonstrate respect, ask for opinions regularly. Often a comment or the ensuing dialogue will spark ideas that neither person had thought of previously.

> **Tips:**
> - Some junior associates feel comfortable volunteering opinions only after you've established a friendly, open relationship – by stopping by occasionally, talking about topics that aren't related to the work, going out for a meal or drink, etc.
> - Brainstorm about issues that are "yours" rather than "theirs," to show that you expect them to be thinking with you and regard them as a colleague.

17. Be accessible and review work promptly. Making time for team members is a way of showing interest and respect. If you're expecting a draft at a particular time, set aside time in your calendar to review it. If you can't tackle it then, let the other person know when you will. Try to be as accessible and responsive to your team members as you

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are to clients. If you find that you are not being as responsive as you would like to be, think about whether you should be delegating more so you have more time to supervise and manage.

Tips:

- When one first-rate manager sets an internal deadline for a draft, she plugs the time she will need to review it into her calendar. That signals that the deadline is a real one, which involves a commitment from her, not only the other person. And, if it turns out she can't review the draft when she planned, the "appointment" reminds her to explain that to the associate.
- If you don't have time to answer an urgent e-mail fully, try at least to say when you'll respond.
- Don't be shy about telling junior associates when you prefer to talk about non-urgent matters. Do you prefer to have those conversations when the day begins, for example, or after 5 or 6 p.m.?
- Monitor your body language and tone when someone walks in with a question. If you keep one eye on your e-mail and never use the occasion to open a broader conversation, you will be sending a clear signal. If the question isn't urgent and you don't have time to talk, say so and set a time to regroup.
- Enlist your assistant: Make sure he or she always knows where to find you and understands the importance of helping team members communicate with you.

18. Share credit and communicate appreciation regularly. Seize every opportunity to tell others about a team member's contributions, and to express appreciation for extra effort and first-rate work.

Tips:

- If someone is working late, stop by to check in before you leave. If someone is working on a weekend when you're not, phone to check in.
- Don't get too casual about saying "thanks." If someone has stayed all night to finish a task for you, an e-mail that says "thx" isn't enough.
- Try your best to involve others in meetings and calls that reflect some of their work.

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Appendix A - Delegation Styles

This list isn't exhaustive. It's intended simply to help you think about how to handle a specific assignment – and then to explain your approach to the other person.

Instructional: "Here's how I'd like you to go about this, and here's what I'd like to see as the work-product. Let me know if that approach doesn't seem to be working or you come up with other ideas, and let's talk again anyway tomorrow."

Close monitoring without micro-managing: "Let's talk every day at 6 to debrief and plan the next steps." *or* "Tackle this piece, then come back to me when you finish (*or* when you have an outline, *or* have identified the issues, *or* after you've spent three hours)."

Coaching: "Let's talk through the major issues and the best way of tackling this. …. Now, why don't you dig in for five or six hours, then come back and let me know what you think?"

Collaborative hand-off: "You take the lead on this. Think about how to deal with it; then let's talk through your approach Wednesday afternoon before you dig into it."

Modified hand-off: "This is all yours. Check in with me Thursday morning and let's talk about how things stand." *or* "This is all yours. Let's talk when you've finished the first piece, before you go on to the rest."

In-the-loop hand-off: "This is all yours, but cc me on everything" (*or "*update me at the end of each day").

Hand-off: "You've done this a lot. It's all yours. Give me a call if you'd like to talk."

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Constructive Feedback Conversations

Techniques

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Introduction

"Feedback" describes many different types of conversations. Feedback can provide positive reinforcement as well as constructive criticism; it can focus on long-term development as well as short-term issues; and it can involve joint problem-solving as well as advice. The tips on the next pages focus on the most difficult type of conversation: confronting a colleague about a specific problem or an opportunity to improve.

Confronting a colleague about a specific problem or an opportunity to improve is one the most difficult types of conversations because of the potential for defensiveness. We never know how the other person will react, and we can't be sure of how we may react to their reaction. Whenever we feel defensive, it's human nature to deflect responsibility ("it was someone else's fault more than mine," "it was out of my control," "there must have been a misunderstanding") or "attack" the source, by arguing ("this isn't fair, you don't have all the facts"), questioning credibility ("who are you to be giving me advice?"), lashing out ("you're only saying that because you want the credit for yourself"), or making threats ("If I am not appreciated, then I will have to consider my options"). Defensiveness can undermine any conversation and may strain an ongoing relationship. How can you manage a difficult conversation so as not to provoke defensiveness, and what can you do if it rears its ugly head? The tips on the next pages offer some practical advice.

There's no single formula for delivering feedback effectively. What works best will depend on the issue you're dealing with, your relationship with the other person, his or her personality, and your own style. Underneath all the variables, however, three qualities are critical:

- **Honesty**: Are you frank and forthright – or evasive and indirect? Do you complain about associates' performance to other people or in a written evaluation long after the fact, without having given them the feedback to their face? Can associates trust that you will tell them truthfully what you think, and what they must do to improve?

- **Fairness**: If your management or communications could have contributed to a problem, do you acknowledge that (without letting the associate off the hook)? If it's not clear why something happened, do you ask for the associate's perspective? Do you listen? Do you communicate with respect? Do you ever ask for feedback about how you managed an assignment?

- **Intention**: Are you genuinely interested in the success and development of the associate – or simply making judgments? Do you coach as well as complain? Re-engage rather than disappear? Praise as well as criticize? Have you taken the time to identify their strengths and consider how you might help them succeed?

A fourth quality is also critical, but it has to do with what precedes and follows the conversation. Have you actually demonstrated a commitment to the other person's

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development and success? A demonstrated commitment requires a track record of actions, such as the following.

- Singing the person's praises to others, especially when the person is present.
- Showing interest in the other person as a person.
- Being accessible to, and spending time with, the other person.
- Following through on promises related to the other person's development (e.g., brokering work opportunities with other senior lawyers, assigning increased responsibility and client contact, and meeting with the other person to provide feedback).

This handout contains seven best practices for feedback conversations and tips and techniques for each. The first ("Facilitate Ongoing Dialogue") is aimed at reducing the need for constructive feedback by ensuring that there is an ongoing conversation, and therefore, less chance of a miscommunication or the work going off the rails. The second ("Manage Your Assumptions and Intentions") will help you prepare and "take the edge off" potentially difficult conversations.

The remaining five best practices focus on how to provide constructive criticism, but they are presented in no particular order. As noted above, the approach that you decide to take in a given situation will be influenced by the circumstances, your relationship with the other person, his or her personality, and your own style. For example, if you are already inclined to be straightforward, you may be comfortable getting started ("Be Direct" and "Be Objective in Your Delivery"), but you may be looking for advice on how to generate dialogue ("Find Out What You Don't Know") or deal with defensiveness ("Frame the Conversation in the Future" and "Anticipate and Defuse defensiveness"). Choose the best practices and specific techniques that you would like to use more consistently or effectively in your feedback conversations with colleagues.

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I. Facilitate Ongoing Dialogue

The first best practice is about reducing the likelihood that difficult conversations will be necessary by ensuring that there is ongoing dialogue that enables you and your colleague to spot and deal with issues before they become problems, and to make course corrections as priorities evolve. Of course, another way to reduce the need for constructive feedback is to delegate in a manner that enables others to do their best work (e.g., planning ahead, gathering helpful resources, meeting in person, explaining the context, asking about the person's other experience and commitments, being explicit about expectations for the work product, deadlines and the process of working together, and confirming understanding). Try the following techniques to encourage ongoing dialogue.

1. Kick-start the discussions in your first meeting. Create the expectation from the start that there will be dialogue. Encourage questions. Ask for their ideas and opinions. Brainstorm briefly about options and tactics, without forcing a conclusion. Or discuss your initial take on the key issues or potential problems, and ask for other approaches as the assignment proceeds. At the same time, make it clear that you expect the associate to take ownership, communicate proactively, and use your time efficiently by taking an issue as far as they can before involving you.

2. Schedule a prompt check-in and segment difficult assignments. At the end of the initial delegation meeting, schedule a check-in (e.g., later that day or the next) to confirm understanding and reinforce the expectation for ongoing dialogue. With complex assignments, decide in advance how to "stage" the coaching throughout the assignment with scheduled check-ins. For example, if the associate is drafting a major brief for the first time, you might have an initial discussion of the issues and "story"; another discussion after the research is underway; then ask to see an outline; and finally, after you review the draft, sit down to discuss your guidance for a revision, rather than providing a redline. Each meeting provides an opportunity for coaching and dialogue.

Tips:

- Agree to talk at the same time each day or week. A regularly scheduled meeting makes it easier for an associate to ask questions and offer ideas.
- Drop by, or pick up the phone, to chat informally, without an agenda in mind ("What else are you working on?" "Did you see this?" "How was your weekend?"). These casual encounters make it easier for an associate to ask questions and offer ideas. Be sure you are "checking in" rather than "checking up."
- Impromptu get-togethers for coffee, lunch, or drinks can build relationships that facilitate open communications among team members, especially at different levels of seniority.

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3. Manage your affect. Stress can be contagious. If you're busy, you may show impatience or lack of interest even if you don't intend to. It's easy to underestimate how much a "bad mood," curt reply, or defensiveness, can shut down dialogue and negatively impact the willingness of associates to communicate proactively with you. If you're stressed, take a deep breath before saying or doing something that transmits the stress to others.

Tips:

- Welcome questions and ideas with enthusiasm even if your initial reaction is to dismiss them.
- Be careful not to rely too much on e-mail, and resist the temptation to respond to an e-mail question with an e-mail answer if the question deserves a discussion. Pick up the phone, or ask the person to drop by.

4. Provide feedback in the moment. Constructive feedback delivered in the moment has three advantages.

1. It is easier to agree on the context while it is fresh in both your minds (e.g., what was said and expected).

2. It builds trust. If you delay for a week, the associate will wonder why you didn't talk about it at the time, and they may wonder if you have talked to anyone else about it in the interim.

3. The stakes are lower. Feedback offered in the moment is more likely to be received as a coaching conversation as opposed to a performance review.

An important caveat: postpone the feedback if you are upset, either because of the other person's performance or for any other reason, or if the matter is moving at full speed and everyone is under pressure. As well, take the time you need to be clear about how to explain the issue and your specific advice for improvement.

Tip:

- If circumstances allow, let the associate see your comments on a document before meeting to discuss them so he or she can be ready to engage in a discussion rather than simply listen to your explanations.

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II. Manage Your Assumptions and Intentions

We can make any conversation more difficult by making assumptions about the other person or their performance that are wrong or unhelpful. As we become more senior, it's easier to do. We are convinced that we know exactly what's going on, but we may be mistaken. Sometimes our own actions have contributed to a problem or our judgment is clouded by our own defensiveness, which we are slow to recognize or reluctant to admit. The following techniques are designed to help you prepare for a feedback conversation by focusing first on yourself.

5. Compartmentalize your thoughts about the person, and focus on the problem. It's human nature to be making judgments about our colleagues. We interpret and assess their behaviors, and hypothesize about their capabilities, intentions, motivations, interests, and beliefs. Sometimes, our assessments become labels, e.g., "John *is* a perfectionist." But if you share your interpretations or assumptions in a feedback conversation (e.g., "you don't seem to be interested in this kind of work"), or apply a "label" (e.g., "this is not your strength") then the other person is bound to become defensive. They will think it is unfair for you to be "mind-reading" or making judgments that imply that improvement will be difficult or unlikely. Being honest and forthright does not mean sharing whatever is on your mind; keep your thoughts about the other person to yourself and focus objectively on the problem (see #13 below).

Tips:

- Assume the other person has the best of intentions. How could their behavior be consistent with that?
- Second-guess your judgments. If you thought the person was a "star," would you interpret his or her performance differently?

6. Second-guess your assumptions about what happened. There are two sides to every performance story. What don't you know that might influence your views? Anticipate the other person's perspective and consider the following possibilities:[1]

- **You may be wrong about their contributions**. Do you have all the facts? Are you jumping to conclusions too quickly?

- **You may be right, but there may be reasons**. Do you know if the associate has done this kind of work before? What would the associate say about your assessment (if they felt they could be fully open with you)? What other priorities was the associate juggling?

[1] Adapted from Manzoni, J-F and Barsoux, J-L, *The Set-Up-To-Fail Syndrome* (Boston: Harvard Business School Press, 2002) p. 166.

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- **You may have contributed to the problem**. Were your instructions clear? Did you unwittingly influence the person's initiative or self-confidence (e.g., by micro-managing the assignment)?

7. Clarify your purpose. Think beyond the conversation and broaden your perspective about the results that you would like to achieve:

- What do I really want for the other person?

- What do I really want for myself as a result of the conversation?

- What do I really want for our ongoing working relationship?

After answering these questions, second-guess your goals and approach for the conversation. Ask yourself, "How would I behave if I really wanted these results?"[2]

8. Examine and manage your emotions. The need for constructive feedback is usually triggered by poor work product or unexpected outcomes, which, in turn, can trigger negative emotions. We may feel impatient, frustrated, disappointed, let down, annoyed, irritated, or resentful. We may also be worried about the potential consequences of the situation and how it may look for us in the eyes of our other colleagues or the client. We may feel nervous, uneasy, worried, or fearful. The threat of embarrassment or looking incompetent can cause us to be defensive, especially if we may have contributed to the problem in the way we delegated or supervised the assignment. In other situations, we may be worried about how the credit – or blame – may be apportioned for an outcome. We may be feeling jealous, indignant or spiteful. Are our feelings justified? Perhaps so, but that's not the point. The issue is whether your negative emotions may undermine the constructive feedback conversation.

- **Examine your emotions**. What has triggered them? Are your assumptions about the other person's intentions or motivations upsetting you? Are you feeling defensive about your role in the matter?

- **Manage your emotions**. Second-guessing your assumptions about what happened (#6 above) and clarifying your purpose (#7 above) may influence your emotions. Is it important to let your colleague know how you are feeling as part of the conversation, or not really?

[2] Adapted from Patterson, K. et al, *Crucial Conversations, Tools for Talking When the Stakes are High* (New York: McGraw-Hill, 2002)

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III. Be Direct

Each of us has a preferred style of communication that falls on a spectrum of direct to indirect. If we tend towards being direct, we "tell it like it is," make requests, get straight to the point, and confront difficult situations. If we tend towards being indirect, we ask more questions, make suggestions, get to the point in a roundabout manner, and often delay confronting difficult situations. Both styles have their strengths and weaknesses. The direct style has the advantage of clarity and transparency, but an approach that is overly direct may offend the other person and strain the relationship. The indirect style can be an asset for finding out what you don't know and being diplomatic and supportive, but an approach that is overly indirect can create uncertainty and misunderstanding, may seem disingenuous, and cause problems to fester.

As a general rule for constructive feedback, it is more effective to be direct. That said, a direct approach must be tempered to avoid sharing your thoughts about the person (see #5 above) as opposed to focusing on the problem (see #13 below), and finding out what you don't know (see #17 to #20 below) before jumping to conclusions. Try the following techniques to be more direct in a difficult conversation.

9. Open with a topic sentence and get to the point. "I would like to talk about [this] and [that]." Take the time to think through your core message, so you can articulate it clearly and strongly. Depending on the situation, the core message may have a positive element (strengths and contributions), a critical component (how performance has failed to meet expectations), and a forward-looking element (what you would like to see for improvement).

10. Avoid leading off with a self-assessment question. Supervising lawyers often think they should ease in to criticism by asking the other person to start by assessing their own performance: "How do you think you did on the draft?" "Is there anything that you would have done differently?" The easing-in approach may actually shut down dialogue because it can seem disingenuous or unnecessarily indirect. Until the other person knows your bottom-line assessment, he or she may be unwilling to be open or play along.

11. Provide specific examples, not general characterizations.[3] Describe the concrete manifestations of the problem, rather than characterizing it in general terms (e.g., "sloppy"). Avoid the trap of broadening a specific issue into an unfair generalization by using words like always or never. Then provide specific examples of the desired performance. Specific examples will help for two reasons:

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[3] Kinlaw, D., *Coaching for Commitment, Interpersonal Strategies for Obtaining Superior Performance from Individuals and Teams*, 2nd ed. (San Francisco: Jossey-Bass/Pfeiffer, 1999) p. 86.

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1. The other person will be more likely to understand the problem if it can be described with specific examples, particularly in the case of behavior as opposed to work product.

2. The other person will be more likely to accept the criticism as valid if you can point to specific examples. If they don't think it is valid, they are likely to be defensive.

12. If it's serious, be direct about the potential consequences for them. Sometimes it is important for an associate to know that you are disappointed or that their work needs to improve significantly. If your approach is indirect – hoping that they will "get it" – the danger is that the associate may not appreciate the seriousness of the situation. Before taking a direct approach, second-guess your assumptions (see #5 to #7 above) and examine your emotions (see #8 above). If you still believe that a serious message is necessary, consider taking the following steps:

1. **Describe your expectations and the gap** between their performance and what you expected: "I was expecting something different… this analysis deals with A, but not B. I was expecting the analysis to address B in this way."

2. If appropriate, **describe the impact on you**: "I was disappointed… I am getting anxious about our timing… I was frustrated that I had to re-draft…"

3. **Describe the potential consequences for the other person**: "[Partner X] won't have patience for this, which may mean that he will be reluctant to involve you in future matters" or "You will have to show that you have mastered the facts in order for me to feel comfortable with you managing the communications with the client."

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IV. Be Objective in the Delivery

The other person is more likely to listen constructively to critical feedback, and less likely to take it personally or react defensively, if the feedback focuses objectively on the behavior or work product rather than what you may be thinking about the person's capabilities, intentions or motivations. Here are some techniques for delivering a message objectively.

13. Stick to the facts. Objectively describe the problem and its impact or potential consequences. The "problem" is usually "words on the page" or behavior that you witnessed. Stand back from the situation and describe what occurred, dispassionately as a neutral observer. Consider the following examples.

> Less effective: *I didn't like the way you failed to emphasize the first option in your draft so I rewrote it to make it clear that the first option is preferable. Did you really think the second option was just as good as the first?* [Focuses on the person, rather than the problem]
>
> More effective: *The key difference between the first and second drafts is the emphasis on the options. The first draft presented both options without indicating a preference. In the second draft, I tried to make it clear that the first option was preferable. What was your reasoning when you were laying out the options in the first draft?* [Focuses on the problem]

In addition to describing the problem dispassionately, it's important to describe the impact or potential consequences of "what happened" because that is *why* you are having the conversation. The following techniques provide options for a more objective approach than simply saying "This is what I prefer."

14. Take on the perspective of the client or another third person. Describe the impact or potential impact of the problem from another person's perspective: how would the client, a senior partner, opposing counsel, or a judge react to the document? Inviting the associate to "step into the shoes" of the client is often the most effective approach.

15. Focus on the ultimate goal. The outcome that you are trying to achieve also provides an objective frame of reference for the discussion. "This won't get us there because…"

16. Invoke a standard of practice. "This is the approach that we usually take in the group." "The active voice is more effective than the passive voice."

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V. Find Out What You Don't Know

17. Balance explanation with inquiry. Generating dialogue is not just about asking questions. A dialogue requires you to explain and test your perspectives and inquire into the other person's perspective. The goal is for both of you to make your thinking visible to one another. Consider the following examples of what to do and say.[4]

What to Do	What to Say
When explaining …	
State your assumptions and what data led you to those assumptions	"Here is my perspective and here is how I got there."
Explain your assumptions	"I assumed that …"
Make your reasoning explicit	"I got to this conclusion because…"
Encourage the other person to explore your approach, assumptions and data	"What do you think about what I just said?" or "What else might we take into consideration?"
Encourage the other person to provide a different view	"How do you see it?"
When inquiring …	
Encourage the other person to expose his or her thinking	"What leads you to that conclusion?" or "What causes you to say that?"
Probe without provoking defensiveness	"Tell me more about your thinking here"
Draw out their reasoning	"What is the significance of that?"
Ask for examples and implications	"Can you give me an example of what you are saying?"
Check your understanding	"Have I got it right that you are saying…"

[4] Adapted from Senge, P. et al, *The Fifth Discipline Fieldbook, Strategies and Tools for Building a Learning Organization* (New York: Currency Doubleday, 1994) pp. 256 – 258.

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18. Probe with “how” and “what” rather than “why.” Questions that begin with “why” can provoke defensiveness by implying that the other person must justify – rather than explain – their thinking or actions. Consider the subtle differences in the following questions.

Why did you draft the opening paragraph that way?
vs.
What led you to draft the opening paragraph that way?
How did you decide to draft the opening paragraph that way?

19. Probe when you sense hesitation or you’re puzzled by remarks. More junior lawyers may be reluctant to tell you what’s on their mind in a feedback conversation because they don’t want to appear defensive or to be making excuses. If they are feeling that the feedback is unfair or unbalanced, and they do not express their thoughts, those thoughts will still get in the way of their listening and learning. Be alert for hints that the associate has more to say. Look for hesitations or pick up on off-hand comments that you may find puzzling. The associate may be waiting for you to invite them to share their thoughts: “What are you thinking?” (when you sense hesitation) or “Say more about that” (when you’re puzzled by a comment).

20. Ask one more question. This technique encourages the other person to put everything on the table, especially when the other person may be feeling that his or her side of the story has not been appreciated fully.[5] After it appears as though the feedback conversation has run its course, pause and ask:

What other thoughts do you have?

When you are confident that everything is on the table, bring closure to the conversation with the following question.

Is there anything else you would like to say?

[5] Malandro, L., *Say It Right the First Time* (New York: McGraw-Hill, 2003) p. 53.

VI. Frame the Conversation in the Future

Framing the conversation in the future is critical for two reasons. First, it reduces the potential for defensiveness. Talking about "how something might be done in the future" is likely to be received constructively as a collaborative, coaching conversation, rather than defensively as a performance evaluation. The more time that is devoted to describing, interpreting, and assessing what happened, what worked, what didn't, and why, the more it will feel to the other person that you are apportioning blame. Second, the future is where you want to be to generate changes in behavior.

Feedback conversations are likely to begin in the past as you describe the problem and its consequences directly and objectively. However, look for opportunities to shift the conversation to the future as soon as you can, using the following techniques.

21. Focus on improvement. Shift the conversation to the future by engaging the associate in a problem-solving conversation about how to improve the work product for next time.

- *If we had the chance to do this again, here are my suggestions for how it might be done differently. What are your thoughts?*
- *How do you think this could be improved?*
- *What could I do differently next time to enable you to do your best work?*

22. Brainstorm possibilities. A variation of the improvement conversation is brainstorming. Shift the conversation to the future with phrases such as:

- *How could we do this differently next time?*
- *What are the possibilities for…?*
- *Would either of these approaches make sense?*
- *What do you think the client would prefer next time?*

23. Handle excuses by moving on – without agreeing or disagreeing. When an associate says something that sounds like an excuse (e.g., "I was juggling three matters that all had the same deadline," or "I didn't realize that's want you wanted."), a supervising lawyer will often feel stuck. You don't want to "agree" with the excuse because that might let the associate off the hook, and you don't want to "disagree" with the excuse because that might provoke defensiveness. However, there is a third option: (i) listen attentively, allow them to make their point, and reflect your understanding (without necessarily agreeing or disagreeing); and then

(ii) shift the conversation to what they (and you) might do in the future to handle the situation differently.

> *I see that you were working all weekend on several matters, which I hadn't appreciated. Next time we begin a new matter together, let's make sure that we talk more about what else is on your plate.*

24. Dispel uncertainty about whether you will work with them again. An associate on the receiving end of constructive feedback may be worried about whether they have fallen into your "out-group." The anxiety or uncertainly they may be feeling will get in the way of listening and learning. You can diffuse the tension with one simple phrase:

> *Next time we work together…*

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VII. Anticipate and Defuse Defensiveness

Many of the techniques discussed above are designed to defuse defensiveness, which is always lurking in the shadows of a feedback conversation. Consider the following additional techniques.

25. Acknowledge the person's strengths and contributions. Ask yourself, "What is the strongest praise I can offer genuinely to this person?" If your remarks focus only on what could have been done better, the associate may feel that the criticism is unbalanced, which may provoke defensiveness (whether they express it or not). While you do not want to "sugar-coat" or confuse a serious message with praise, it's important to acknowledge the other person's strengths and contributions for two reasons.

1. They are unlikely to accept criticism fully unless their contributions or strengths have been recognized.

2. The more confident they become about their strengths, the more their overall performance is likely to improve.

Guard against qualifying your praise: "You did a good job here, ***but*** there were other parts that could have been more effective." Banish the word "but" from your feedback conversations. After acknowledging an associate's contributions, pause to let the message sink in. Deal with your concerns as a separate topic.

For praise to be effective, it should be as specific as any other form of feedback. If it's not, it may lack credibility, and it will not tell the other person what specific behaviors or skills you are praising. Use feedback to reinforce good performance or habits. Junior lawyers may not know what they are doing well.

Even if there is nothing to praise in the person's work product, either because it's not good or it's simply meeting expectations, you can always thank them for their effort. A simple thank you can set a positive tone for the conversation.

26. Share responsibility appropriately. If an assignment has not met your expectations, it is likely that you may have influenced the outcome, unintentionally of course. If the feedback conversation focuses only on the contributions of the associate, the associate may feel that the criticism is unbalanced, which may provoke defensiveness (whether they express it or not). Acknowledge your own contributions: "I may not have been clear about…" or "I should have let you know about my timing." Sharing responsibility will create a balanced, problem-solving tone for the conversation, and is likely to prompt the associate to take full responsibility for their contributions rather than to be defensive. But be careful not to share too much responsibility so that you don't let the associate off the hook.

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Tip:

- Use "we" as much as possible, rather than "I" and "you," in feedback conversations to signal you are working together as a team.

27. Talk about your own learning experiences. Share examples of mistakes that you have made, or of difficult situations you have faced, as a way of breaking down barriers to communication. Disclosing your own doubts, mistakes, and lessons learned can lead to a more open conversation by building trust and modeling the behavior that you want to encourage from the associate. It also suggests that you are confident that the associate can and will learn from the experience, just as you did.

28. Clarify your intentions with the "Don't / Do" contrasting technique.[6] If you sense that the other person is anxious about the conversation or becoming defensive, you can diffuse the tension by clarifying your intentions. The technique involves first saying what you "don't want" followed immediately by what you "do want." The *don't* part addresses any concerns the other person may have about your intentions or whether you respect their capabilities. The *do* part clarifies your purpose or confirms your respect.

- [The don't part] *The last thing I want to do is leave the impression that I don't appreciate all the work you put into this. I think that your effort on such short notice has been excellent.* [The do part] *I do want to suggest that we communicate more often when we're in a crisis mode, even if it's hard to find me.*

- [The don't part] *I don't want you to think that these comments are going to make me think twice about working with you again.* [The do part] *I do want to work with you again. My goal is to help you improve your client skills.*

The don't/do contrasting technique can also be used at the end of the conversation to recap an important point:

- [The don't part] *I don't want you to think that I don't want you to be making judgments about what to include in the document for the client.* [The do part] *I do want you to make those judgments. I also want you to keep me in the loop as you are making them.*

[6] Patterson, K. et al, *Crucial Conversations, Tools for Talking When the Stakes Are High* (New York: McGraw-Hill, 2002) pp. 76 – 80.

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