Bridging the Gap Between Policy & Practice

FIVE MISTAKES SUPERVISORS MAKE WHEN EVALUATING FLEXIBLE SCHEDULE ASSOCIATES

Nearly invisible and yet very powerful, flexibility stigma can infiltrate associate evaluations and undermine even the best flexible work program. Here are five mistakes supervisors often make when evaluating associates who work flexibly – and how to fix them.

1. Attributing missed deadlines to reduced hour schedules. Research has shown that when associates who work standard schedules miss deadlines, their supervisors are likely to attribute the lateness to the associates' busyness, poor time management, or uncontrollable events such as sickness. On the other hand, when associates who work reduced hour schedules miss deadlines, their supervisors are likely to assume that the lateness is due to the fact that the associates work fewer hours. This assumption can cause supervisors to attach their frustration over late work to the associates' schedules undermine the supervisors' support for flexible work. It can also prevent the supervisors from uncovering the real reason for the lateness and addressing it.

> **The fix:** talk to the associates about why their work was late. If they have too much work on their plates, or are trying to juggle too many high-priority projects from several partners, the cause can be corrected. If they need some coaching in managing their time or becoming more effective in the way they work, discovering the deficit is the first step toward getting the associates the help they need.

2. Not giving honest feedback. Supervisors often shy away from providing negative feedback, and even more so when giving feedback to associates who are in traditionally under-represented groups, such as women, minorities, and flexible schedule lawyers. It may be because of a fear of being labeled biased, a desire to appear understanding and supportive, or an unwillingness to spend effort on a lawyer who is perceived as likely to leave the firm. Whatever the reason, the lack of feedback can make it much more difficult for the associates to learn and develop.

> **The fix:** Ideally, feedback should be given frequently and close to the event so that there are no surprises at annual evaluation time. Plan feedback ahead of time, focusing on providing specific information that is focused on behaviors and not on personality or character. (For example, rather than saying "You have no regard for deadlines," say "You were two days late with the Smith brief and a week late with the Johnson documents.") State that change is needed and what the outcome has to be for satisfactory performance. (Example: "When we give you

assignments, we give you real deadlines that you need to meet so we are able to meet court deadlines.") Ask the associate to say how he or she will fix the situation going forward, set a timeframe, and follow up.

3. Not suggesting next steps. It is common to include at the end of performance reviews the next steps the associate should take to gain necessary experience or skills. A side-by-side comparison of performance reviews given to lawyers who work standard schedules and lawyers who work flexibly frequently shows that the flexible schedule lawyers are not given this next-step information. (This is true when reviews of male and female lawyers are compared as well.) This may be because their supervisors assume they do not have time to take on additional tasks, or it may be because they do not believe the lawyers want to advance in their legal careers.

The fix: Supervisors can check their reviews of associates to make sure that all are given the same type and quality of suggestions for improvement, as appropriate. Firms can help by creating evaluation forms or checklists that include suggestions for improvement, and by reviewing all performance reviews for consistency before they are given to the associates.

4. Torpedoing evaluations with schedule-related comments. We have seen more than a few well-done evaluations of flexible-schedule associates undermined with comments about the associates' schedules. For example, a generally positive evaluation that focused on the skills the associate had demonstrated and her positive relationships with colleagues and clients was undone by a gratuitous observation that she had been able to complete all her work on time and professionally despite working from home one day a week. Examples of other undermining comments include that a male associate had a successful year despite taking paternity leave, and that the associate did not let her reduced hours schedule hold her back. Such comments, while usually intended as compliments, shift the focus from performance to schedule and telegraph an opinion that nonstandard schedules are unprofessional hindrances. With one demeaning comment, the overall positive effect of the evaluation is undone.

The fix: Stay away from comments about schedule. After all, supervisors do not ordinarily comment on a standard-schedule associate's arrival or departure times, lunch hours, gym schedule, or vacation time. The Alliance recommends that schedule-related issues be addressed separately from performance evaluations, particularly when the schedules are newly instituted and frequent and timely feedback is important.

5. Providing an evaluation that appears adequate, until compared with others. Often, the deficiencies in an evaluation of a flexible schedule lawyer do not become apparent until the evaluation is compared to those of standard schedule lawyers. Differences can include lower numerical ratings given to flexible lawyers for the same level of performance, a willingness to overlook the mistakes of lawyers who work standard schedules, and less specific feedback given to flexible schedule lawyers. Comparison may also reveal that flexible schedule lawyers are not getting the same types of assignments, opportunities, or mentoring as standard schedule lawyers.

The fix: Compare the evaluations before they are given to the associates, and reflect deeply on differences. Are the differences the result of different expectations, stricter standards, or more leniency being given to one group? Do they reflect a willingness to put forth more effort to help the development of some associates over others and, if so, are there legitimate, defensible reasons for the difference? Use the answers as signs showing where more effort is needed to eliminate flexibility stigma.

These are just a few examples of flexibility stigma impacting the evaluation process. The Alliance is here to help – we can advise your organization in implementing the above guidelines.

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The Diversity & Flexibility Alliance (the Alliance) is a think tank dedicated to creating work environments centered on inclusion and innovative thought leadership. We provide practical solutions, increase organizational effectiveness, and create high performance cultures leveraging diversity and flexibility. Our firsthand experience in law firms and corporations drives us to make a difference. Using our collective expertise and skills, we create strategic approaches and conduct critical research that bridges the gap between policy and practice. Visit us at: www.dfalliance.com to learn more or contact the Alliance's President & CEO, Manar Morales at: manar@dfalliance.com.