

Why Can't a Poor Performer be Terminated?

It has been erroneously said that it is impossible to terminate a County employee for poor performance. There is also the misperception that once an employee is hired by the County, he or she will be able to work for however long he or she wishes. These beliefs are not only held by some at the County, but also in most other government agencies from the federal government to the smallest municipalities.

This issue of terminating an employee for poor performance was highlighted in a recent article in *The Washington Post*. A recent report issued by the office that hears employee termination appeals for federal employees cites the main reason that managers do not terminate employees for poor performance is simply lack of action on the part of management.

Closer to home, only 23% of Unified Personnel System (UPS) employees in 2013 stated they believed management did a good or excellent job in dealing with poor performing employees.

Borrowing from the above cited report in *The Post* titled, "Adverse Actions: The Rules and The Reality," the following are some myths cited about separating poor performing employees from government employment.

Myth #1: Managers feel compelled to keep employees beyond the probationary period, even if they are not a good fit.

The UPS probationary period is one year from the date of hire and is a time to be used by management to ensure employees properly learn their jobs and become proficient in their positions. This time is vital in the evaluation of the new employee and, if the relationship is not working well for all involved, steps should be taken by management to remove the employee before he or she achieves "permanent" status.

Myth #2: Managers assume when a person is promoted to supervisor, that person should stay there, regardless of performance.

As with any promotion in the UPS classified service, there is a six-month probationary period for an employee promoted to a new classification. Again, this is a vital evaluation period to ensure the person will be successful in the new position. If not, steps should be taken by management to return the employee to his or her old, non-supervisory classification.

Myth #3: To terminate an employee, managers believe they need to prove misconduct or poor performance "beyond a reasonable doubt."

Through effective performance management utilizing the FACE of Performance, good faith efforts to train and coach, and following progressive discipline, management may reach a point where it needs to terminate employment. If the employee appeals that termination, the burden is on the employee to show by a preponderance of the evidence that some other action should have been taken. Management, in turn, need only show by a preponderance of the evidence that the employee who continues to perform or behave poorly should be terminated. Proving "beyond a reasonable doubt," is a much more difficult and higher standard.

Myth #4: Managers believe it takes too long to terminate.

Effective performance management utilizing the FACE of Performance and the progressive discipline process can help guide management dealing with the poor performing or behaving employee. By documenting effectively and staying on track with discipline processes when needed, management can proceed to move toward terminating employees who do not correct deficient performance or behavior in a timely manner.