

## Job descriptions and performance management go hand-in-hand

By Pamela Wolf, J.D.

Calling the job description “home base” because it’s the central document that everything comes back to, Polsinelli attorney Robert Hingula and several of his colleagues discussed important issues surrounding performance management that employers should keep in mind. This fourth segment of Polsinelli’s *Lifecycle of an Employee* year-long webinar series continued to tie together concepts and legal issues that are present throughout the lifecycle of a worker’s employment with a company. The message seemed clear, however, that a good job description goes hand-in-hand with performance management.

**Job description is central.** The job description was again a focus of discussion, this time in its relationship to managing job performance. “As we have stated throughout the series, the importance of an accurate and current job description cannot be overstated,” said Moderator [Eric Packel](#), a shareholder in Polsinelli’s Kansas City office.

What, specifically, should a job description do and why is it so important? According to [Hingula](#), job descriptions:

- should always reflect that actual duties performed by the employee;
- set expectations for employees;
- provide a road map for the employee to succeed;
- are used for corrective action and evaluations;
- are used as evidence in lawsuit; and
- can provide evidence for FLSA exempt status (duties actually performed).

Hingula stressed that for all of these reasons, as well as others, it’s really important to keep job descriptions current.

A well-crafted job description not only helps an employer to identify prospective employees that will be best qualified for the position, it also sets up the expectations for the employee so that no confusion exists as to the employee’s responsibilities and essential functions, [Hingula](#) explained. “This is imperative in issuing meaningful and constructive feedback, discipline, and evaluations. It is also very helpful in navigating the newer and ever-changing requirements in entering into the interactive process and identifying if any reasonable accommodations exist—as has been a recent focus by EEOC and state administrative agencies.”

**Disability discrimination.** Hingula underscored that job descriptions should also identify the essential duties of the job. This is very important for ADA purposes, for example, in determining whether a reasonable accommodation exists. Documenting the essential job functions is also important in determining whether reassignment is a potential reasonable accommodation.

Noting that the ADA and the FMLA are both important in the context of job performance, Packel suggested that “employers now more than ever need to be conscientious about whether a disability is somehow affecting an employee’s job performance and if so, to be sure to engage in an interactive process and attempt to accommodate the employee.”

**Performance management.** “Managing employee performance is critical not only to developing and maintaining a successful employee, but managing its ongoing investment in human capital provides an employer an excellent way to find success for its business overall,” according to Polsinelli attorney [Jay Dade](#). The employee’s job description provides the touchstone to performance management.

The whole point of performance evaluations for employees, according to Polsinelli attorney [Jim Swartz](#), is so that the employer can set out its expectations and start to track the employees’ execution of their responsibilities against some meaningful performance goals. It’s important that on the front end employers think very carefully about how each position can be evaluated, Swartz said. The employer will not get employee buy-in to a performance evaluation process that is rigid and applies the same criteria to everyone across the board.

**The paper trail.** The Polsinelli attorneys stressed the importance of having a paper trail. “Starting with the well-tuned job description, an employer can build an employee’s written employment history, or paper trail, that provides the starting point to effective performance evaluations as well as any discipline or discharge decisions,” Dade explained. “A strong paper trail, in turn, can provide an employer an invaluable tool in fending off claims of improper treatment, including defending such claims in litigation.”

Polsinelli attorney [Michele Gehrke](#) added that “a well drafted job description and performance assessment is important in managing expectations for the job, addressing wage and hour, and ADA accommodation/leave of absence issues.” She said that job descriptions and employee performance reviews “are important pieces of evidence when terminating an employee becomes necessary and an employer must defend litigation that may arise.”

No matter how the performance evaluation process is completed, what is most important, according to Gehrke, is what shows up on paper. That’s why managers must be honest in the performance ratings and the narratives they give for employees—something that is often difficult for managers to do. Nothing is worse in litigation, she said, than having to defend in litigation that someone was let go because of performance problems when there are years of positive evaluations—it’s a hard sell to the jury.

Polsinelli’s webinar, *Life Cycle of an Employee: Performance Management*, has been recorded. To listen to the recording, click [here](#), which will take you to a registration page from which you can access the webinar.

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