

5.3 PERFORMANCE STANDARDS, TRAINING, & EVALUATION

5.3.1 Performance Evaluations

OVERVIEW

Evaluation of an employee's performance is a continuous process based on conferences, discussions, and observations and is a method for increasing the worker's competence and his/her effectiveness with the program. Each new employee shall have a written evaluation from the immediate supervisor at mid-point, and prior to the end of the probationary period. At least once a year thereafter, a written evaluation of each employee shall be prepared. These annual evaluations shall form the basis for determining work performance, possible promotion, and/ or reference writing.

Materials for the evaluations will consist of the position description, program objectives, personal career development plans, compliance with board policy and procedures, written records kept by the employee and the supervisor, and any other material from competent sources which are pertinent. The employee shall have the opportunity to review, discuss, and make written comments of the evaluation.

GENERAL PURPOSE

The performance evaluation program is intended to be a system of communication between the supervisor, employee, and the administration. If conscientiously applied, a performance evaluation program will enable the employee to have an increased awareness of his/her work and what is expected.

The employee will be evaluated with reference to the requirements of the job as defined in basic form on the position description. The employee will be able to tell in what respect his/her work is most in need of improvement or is worthy of praise and recognition. It will also enable the supervisor to find some of the gaps or limitations in department procedures. An evaluation may also be helpful in suggesting needs for types of training to be provided in in-service programs.

The evaluation ratings in themselves may be useful in considering potential candidates for promotion and are used in the process of determining the sequence of employees to be laid off when such action is necessary.

EVALUATION TOOLS

The Ohio Department of Administrative Services Performance Evaluation Report appropriate for the position will be used where applicable for all classified employees of the County Board.

Alternate evaluation formats may be used with classified employees in place of Ohio Department of Administrative Services forms with the approval of the Superintendent.

WHO WILL EVALUATE

Each employee will be evaluated by the immediate supervisor to whom he/she is regularly assigned. If an employee has been reassigned to a new supervisor within one month of the evaluation date, the present and former supervisor will cooperate in the evaluation. If an employee receives approximately equal supervision from two persons, the supervisors will cooperate on the evaluation and both will sign the report as raters.

TYPES OF EVALUATION

The Performance Evaluation Report will be used for three (3) different types of ratings: (1) PROBATIONARY, (2) ANNUAL, and (3) SPECIAL.

PROBATIONARY EVALUATIONS

All employees in probationary status will be evaluated twice during the probationary period. The first evaluation is to be made at the mid-point of the probationary period. The second evaluation is to be made within ten days prior to the end of the probationary period. The immediate supervisor shall indicate on the final probationary evaluation whether the employee is to be retained or the employee is not to be retained. This recommendation is to be confirmed by the department director and forwarded to the superintendent.

ANNUAL EVALUATIONS

All employees who are not on probationary status are to be evaluated once a year. The evaluation will cover the employee's performance since the previous evaluation or during the time elapsed since the completion of the probationary period.

SPECIAL EVALUATIONS

Additional use may be made of the evaluation procedure at the discretion of the administration, for example, to document outstanding performance, to document close supervision following an unsatisfactory evaluation, at the request of the employee, or upon employee resignation.

THE PERFORMANCE INTERVIEW

When an evaluation is completed, the employee's performance rating will be reviewed and discussed by the supervisor with the employee during a conference called a Performance Interview.

The Performance Interview conference is of benefit to both the employee and supervisor. The interview provides excellent opportunity for the employee to express himself/herself and to explain or justify his/her performance. The interview will be closed by summarizing the strengths and areas of needed improvements of the employee's performance and by emphasizing any changes needed to produce further improvement. The employee will be asked to sign the evaluation form thus verifying that he/she has reviewed it with the supervisor. The employee signature does not imply concurrence with the evaluation, only that the employee has seen the evaluation. The employee has the right to submit a statement of explanation or rebuttal which is to be attached to the evaluation form. If the employee refuses to sign the evaluation form, the supervisor will

call in a witness to verify that the interview was held and to note that the employee refused to sign. The employee shall receive a copy of the evaluation regardless of whether or not he or she signed the evaluation.

Refusal to sign the evaluation form shall constitute a waiver of the employee's right to a review of the evaluation.

EVALUATION REVIEW

If the employee feels the evaluation is not a true reflection of job performance, he/she may within 14 calendar days request a review of the evaluation by submitting a written request for review of the evaluation to the director of his/her department providing the employee has signed his/her evaluation form. The written request must specify which part(s) of the evaluation the employee is requesting be reviewed and must include specifics related to job performance upon which the request is based. The director of the department responsible for reviewing the evaluation shall meet with the employee within ten days, unless otherwise agreed to, and present the findings to the employee.

The employee, if still not satisfied after the director's review conference, may request a review by the Superintendent. The final review is with the Superintendent, whose decision will be final.

5.3.2 Training

All personnel employed by or under contract with the Board are expected to participate in staff development activities such as formal course work, workshops, clinics, local area meetings, and observations of other programs.

Records of in-service participation shall be maintained in the personnel file of each staff member.

It is the staff member's responsibility to submit such records to the Human Resource Office in a timely manner.

Individuals participating in in-service activities may be given professional leave in accordance with the Board policy on Professional Leave. Individuals participating in in-service activities during professional leave time may be requested to submit a report or give a presentation concerning their observations and learning experiences.

Although an employee may be fully certified, registered and/or licensed for his/her position, the Board may request that additional training or course work be obtained in order to remain abreast of current information, improve upon weaknesses which appear in an employee's performance evaluation, and/or assist the employee in keeping up with the changes within his/her profession.

The Board may require that an employee attend workshops, seminars, and/or in-service training sessions which relate to his/her position, and or the performance of their duties.

Regularly scheduled staff meetings will be scheduled within each division/department. Attendance is required for all employees within the division/department. These staff meetings will allow time for discussion of topics of current concern within the program such as new policies, procedures, methods of training, instruction, curriculum, and other matters as needed. A copy of the minutes of each staff meeting will be filed in the administrative office.

5.3.3 New Staff Orientation

New staff shall complete the orientation program within ninety (90) days of their date of continuous employment with the Board. The orientation program for all employees shall consist of a basic orientation to include the following:

- A. Agency introduction and tour
- B. Program overviews
- C. Videos
- D. Policy/procedure review
- E. Safety class

New staff that must meet ODMRDD certification requirements will also participate in 30 hours of orientation training within 90 days of initial employment. The training will include those areas identified in the Ohio administrative code.

5.3.4 Staff Ongoing Training

Training shall occur on an annual basis via staff meetings, in-services, seminars and conferences.

All transportation, direct service, professional, and management staff shall complete a minimum of ten (10) hours of training each program year. All staff members shall be required to complete training and professional growth activities necessary for maintenance of his/her required registration, certification or license. In-service training shall be documented by the Superintendent/designee and maintained in the respective employee's personnel file.

Annual staff training shall include the following:

- An overview of Board policies and procedures including Major Unusual Incidents
- Health and Safety Procedures
- First Aide and CPR

Annual training may also include areas that affect each department or the overall operations of the Board may also be included.

Annual training may not meet all of the certification requirements for employees and as such employees may still be required to participate in other training or continuing education activities.

Annual staff training is a mandatory requirement. Use of vacation and personal time may be prohibited.

5.3.5 Outside Employment

Under no circumstances shall an employee have other employment which conflicts with the policies, objectives or operations of the Board.

Employment "conflicts", under this policy, are defined as an impairment of the employee's ability to perform the duties of his or her position with the Board. Two common employment conflicts which may arise are:

- A. Time Conflict - Defined as when the working hours required of a "secondary job" directly conflict with the scheduled working hours of an employee's job with the Board; or when the demands of a secondary job prohibit adequate rest, thereby adversely affecting the quality standard of the employee's job performance with the Board.
- B. Interest Conflict - Defined as when an employee engages in outside employment which tends to compromise his or her judgment, actions and/or job performance with the Board or which impairs the Board's reputation in the community. This includes any employment with an agency contracting with the Board and any employment dependent upon Board funding.

Full-time employment with the Board shall be considered the employee's primary occupation, taking precedence over all other occupations.

"Outside" employment, or "moonlighting" shall be a concern to the Superintendent only if it adversely affects the job performance of the employee's duties with the Board or constitutes a conflict of interest. Should the Board feel that an employee's outside employment is adversely affecting the employee's job performance, the Superintendent may request that the employee refrain from such activity. Any conflict, policy infraction, or other specific offense which is the direct result of an employee's participation in outside employment shall be disciplined in accordance with the policies set forth in this manual.

No employee shall be employed by any entity having a contract with the Board unless the employee notifies the Superintendent and receives written authorization from the Superintendent permitting such employment. (Reference: R.C. 5126.033) ***(Note: Employment with an agency contracting with the Board and any employment dependent upon Board funding must be approved by the Board's Ethics Committee. The Superintendent can not approve contracts or authorize payment of a contract that violates the Ohio Ethics laws. An employee should seek an opinion as to whether or not***

outside employment is a conflict with respect to Ohio Ethics Law prior to accepting the outside employment.)

5.3.6 Employee Attendance

Staff attendance is a critical element in delivering quality care to individuals served by the Board. Employee absenteeism severely impairs the Board's ability to provide quality care because it destroys continuity of programming and takes money away from areas of programming which must then be spent on substitutes and in payment of sick leave to absent employees. Use of leave will be monitored and supervisors will periodically review leave reports with staff.

Employee Schedules: All employees shall be able and ready to work according to the Board adopted calendar.

The work week for all Board staff begins at 12:00 a.m. on Sunday and ends at 11:59 p.m. on Saturday. The annual typical hours for each employee are outlined on his/her position description. Hourly and annual rates are provided to each employee annually. This notice will indicate any variation from the annual work schedule on the position description.

There are many different jobs in the Board's programs requiring different hours of work. An employee's work schedule will depend upon the department to which he/she is assigned and his/her particular classification within the department.

Attendance Standards: The regular attendance of each staff member is vital to the effectiveness of the agency. Direct care and support services are most effective when performed with the continuity provided by regular staff members as opposed to substitutes.

Employees are encouraged to make routine medical/dental appointments during non-working hours or early morning/late afternoon. Employees are expected to do personal business during non-working hours.

All absences without approved leave will require detailed explanation by the employee and supporting documentation. Employees are expected to improve their attendance and sick leave balance. Employees who continue to have absence without leave will meet their supervisor and the superintendent to determine their fitness for continued employment.

Tardiness: Employees are to be on duty and ready for work according to their work schedule. Employees who are tardy for work are to immediately report to their supervisor and submit a Request for Leave form (EMR-2) for absence with approved leave or shall have their pay reduced accordingly.

Unexcused, frequent tardiness (two times during any three months) or excessive tardiness will be reviewed and addressed by the immediate supervisor.

5.3.7 Employee Ethics

The community knows our agency by the actions of its employees. Therefore, it is essential that individuals conduct themselves in a professional manner and refrain from any action which involves using an employee's public office for private gain or giving preferential treatment to any individual, group, or entity.

All employees are expected to maintain the highest possible ethical and moral standards and to perform within the laws of the State of Ohio and other rules and regulations as may be set forth by the Board and/or licensing or certifying agency.

Employees shall at all times adhere to the following standards of conduct:

- A. Employees shall not engage in outside employment which results in a conflict of interest with their duties as Board employees.
- B. Employees shall not solicit or accept anything of economic value from any individual or entity engaged in business dealings or seeking to engage in business dealings with the Board.
- C. Employees shall not use Board property for other than proper activities.
- D. Employees shall not serve as personal advocates of enrollees if they have the ability or authority to influence the enrollee's individual plan. Employees whom serve as personal advocates for enrollees shall not perform in this function during work hours.
- E. Employees shall not accept gifts from enrollees having a value greater than \$5.00 nor more frequently than two (2) times per year.
- F. Employees shall not hire program enrollees for private work except as specified in the Employment of Program Enrollees Policy.
- G. Employees shall not date individuals served by the Board.** Per the Ohio Revised Code, sexual relations between staff and clients are a criminal offense by staff. Knowledge of such conduct must be reported to the Board's Investigative Agent who will contact local law enforcement. *(Exceptions may be made for Board employees who were program enrollees prior to their employment. All issues of employees "dating" an individual served by the Board shall be submitted to legal counsel for review.)* Written documentation of the decision of the Superintendent, in such cases, shall be placed in the employee's permanent personnel file.

Employees should report any apparent violation of this policy to the Superintendent/designee who shall investigate and, if the circumstances warrant, take corrective action.

5.3.8 Conflicts of Interest – Ohio Ethics Law

The Ohio Ethics Law prohibits public officials from receiving payments from any party having a contract with the public agency employing the public official. The intent of this is clearly that public officials should not have an unlawful interest in public contracts. The law, however, applies to all public officials, which includes any employee, including

bus drivers and classroom aides. The law also applies to parents who may serve on the Board and also receive Family Resources or Supported Living funds directly.

In addition Ohio law states that except as provided in O.R.C. 5136.033 **none** of the following employees may be employed by the Board:

1. An employee of an agency contracting with the Board.
2. An immediate family member of an agency contracting with the Board unless the Board adopts a resolution authorizing the immediate family member's employment with the county Board or the employment agency and that employment is consistent with Board policy.
3. An individual with an immediate family member who serves as a county commissioner, unless the individual was an employee of the Board prior to October 31, 1980.
4. An individual who is employed by, has ownership interest in, performs or provides administrative duties for, or is a member of the governing board of an entity that provides specialized services, regardless of whether or not the entity contracts with the county board to provide specialized services.

I. Ethics Committee

- A. To address possible conflicts the Board shall establish an Ethics Committee to:
 1. Review any contracts that a Board member may receive as a parent to insure that they enjoyed no greater access to these services than any other parent.
 2. Review the employment of an immediate family member of an agency contracting with the Board, determine if there is a conflict or violation of Board policy, and make a recommendation on the employment of the immediate family member's employment with the county Board or the employment agency.

- B. A County Board of Mental Retardation and Developmental Disabilities shall not enter into a direct services contract for services provided in accordance with Section 5126.11 or Sections 5126.40 to 5126.46 of the Ohio Revised Code under which an individual, agency, or other entity will employ a professional or service employee who is also an employee of that county Board unless all of the following conditions are met:
 1. The employee is not in a capacity to influence the award of the contract.
 2. The employee has not attempted in any manner to secure or influence the contract on behalf of the individual, agency, other entity, or individual's family member.
 3. The employee is not employed in management level two or three according to rules adopted by the director of mental retardation and developmental disabilities and does not provide service and support administration.
 4. The employee is not employed by the board during the period when the contract is developed as an administrator or supervisor responsible for approving or supervising services to be provided under the contract and

agrees not to take such a position while the contract is in effect, regardless of whether the position is related to the services provided under the contract.

5. The employee has not taken any actions that create the need for the services to be provided under the contract.
6. The individual, agency, or other entity seeks the services of the employee because of his/her expertise and familiarity with the care and condition of one or more eligible persons and other individuals with such expertise and familiarity are unavailable, or an eligible person has requested to have the service provided by that employee.

C. The Ethics Council shall determine whether the conditions specified in division (B) of this section have been met before it certifies to the Board its recommendation to enter into the contract. The superintendent of the County Board shall notify the employee and the individual, agency, or other entity that seeks his/her services of the Council's determination. The Council's determination shall be binding on all parties.

II. Employee Notification

- A. An employee shall immediately inform the superintendent of the County Board of any immediate family member who is employed or becomes employed by any individual, agency, or other entity that has a contract with the County Board or any entity that provides services to individuals with developmental disabilities. If the employee fails to comply with this notification the provisions for ethics review in section B above shall not apply to him/her.
- B. At least annually every employee shall complete and submit a notice of potential conflict verifying that they are not employed by any agency or entity that provides specialized services and identifying any immediate family members who are employed by an agency or entity that provides specialized services.

5.3.9 Employment of Program Enrollees by Board Employees

Employment as used in this policy means engagement in work for which remuneration is customary (includes, but is not limited to babysitting, lawn mowing, assistance with moving, janitorial/custodial tasks).

This policy shall apply to all Board employees.

It is the intent of this policy to inform Board employees that engagement of the services of program enrollees to perform tasks outside of the normal programming scope is viewed as employment.

Remuneration at the usual or prevailing wage is expected for program participants who perform personal work for Board employees. In order to comply with all applicable federal, state and local regulations, it is suggested that the services of the individual served by the Board be arranged through the appropriate day service provider.

The payment of services to a program enrollee should be billed to the appropriate board employee through the appropriate day service provider to insure the proper payment and/or deductions of all taxes.

Adherence to this policy will provide an assurance for both the enrollee and the employee of compliance with ethical and legal standards.

References: U. S. Department of Labor, Federal Wage & Hour Division, Fair Labor Stds. 29CFR, 525

5.3.10 Staff-Enrollee Relationships

All individuals served by the Board have the right to be treated with courtesy and respect, and with full recognition of their dignity and individuality at all times by staff members . All individuals served by the Board have the right of access to opportunities that enable them to develop their full human potential.

Each individual served by the Board has the right to be treated equally as citizens under the law. Each individual has the right to be free from emotional, psychological and physical abuse and to be free from unnecessary chemical and physical restraints.

Each Board employee shall endeavor to protect these rights at all times. Staff shall report any suspected abuse or neglect of enrollee rights to their immediate supervisor. Staff shall cooperate in any investigations regarding abuse or neglect.

No staff member shall subject an enrollee to physical, verbal or psychological/emotional abuse.

As outlined in the Board's behavior support policy, procedures that cause physical, visual and/or auditory pain are strictly prohibited. Attacks on personal dignity, such as foul language, name-calling, shouting and other types of verbal abuse are forbidden. Actions such as threats, whether founded or unfounded or the use of objects that are frightening to an enrollee constitute psychological/emotional abuse and are forbidden. Each staff member shall comply with the proper procedures for behavior support intervention as adopted by the Board.

No staff members shall subject any individual served by the Board to sexual abuse or take advantage of any individuals served by the Board by procuring sexual favors either on or off regular work hours.

At no time shall a staff member betray the trust relationship that exists between himself/herself and the individuals served by the Board. In particular, relationships outside the school/work environment require caution regarding social contacts, financial dealings, or any other activities which would take advantage or appear to take advantage of the trust the enrollee has in the staff member who is working for the well-being of the enrollee.

5.3.11 Confidentiality of Client Information

All information contained in an enrollee's record, including information in an automated data bank, shall be considered confidential. The content of these records is never to be the subject for discussion except as an official member of a habilitation team. All requests for enrollee information are to be accompanied by a signed release of information and forwarded to the appropriate records custodian. No other staff is authorized to release client information. Employees in violation of this policy are subject to discipline up to and including termination of employment.

5.3.12 Suggestions and Complaints

There are occasions when an employee has a complaint or suggestion for improvement regarding the service or operation of the Board

There already exist many formal procedures to raise complaints. The Board's Civil Rights Policy outlines procedures that protect the rights of people receiving services from or employed by the Board. Likewise, there are procedures defined by the rules of the Department of Education and Department of Mental Retardation and Developmental Disabilities. Employees have formal complaint/grievance procedures. All of these are available and have specific requirements on the agency and on the complainant.

Another, and probably more effective way to get ideas across, is direct, face-to-face contact with the right person. The guidelines for such interaction are:

Start with the right person. The people who have the best and quickest solutions are the department directors. If they cannot answer the employee's concerns, they will direct the employee to the appropriate person.

Issues need to be timely. The best time to correct a problem or consider a new idea is when it is fresh. It is very difficult to do anything about a problem that happened many days earlier.

Be specific. An employee should objectively state his/hers concerns, stating the involved individuals, and the facts surrounding the concerns.

One issue at a time. Some concerns can be addressed quickly and completely. Others will take more time. A shopping list of problems usually can never be totally and finally resolved.

By using these guidelines an employee will be able to have most of the ideas or questions answered quickly by simple verbal requests. If verbal requests do not resolve the issue the employee should reduce his/her concerns to writing and submit them to the appropriate personnel.

5.3.13 Protection of ‘Whistleblowers’

Any employee of the Board who learns in the course of his/her employment of a violation of state or federal statutes, rules, or regulations or the misuse of public resources which his/her supervisor or the Superintendent could correct may report that violation or misuse without reprisal as follows:

- A. Reports must be written. Oral reports have no protection under the "whistleblower" statute, O.R.C. §124.341.
- B. The report must be filed with either the superintendent or the employee's supervisor unless the employee reasonably believes the violation or misuse constitutes a criminal offense or a violation of O.R.C. §102 (ethics) or O.R.C. §2921.42 (unlawful interest in a public contract) or O.R.C. §2921.43 (soliciting or receiving improper compensation).

Suspected criminal offenses can be reported to a prosecuting attorney, the chief legal officer of a municipality or a peace officer.

Suspected violations of O.R.C. §102, §2921.42, or §2921.43 may also be reported to the Ohio Ethics Commission.

- C. Except as provided in Section D of this policy, employees may not be punished for making any report authorized in the first paragraph of this section.
- D. Employees shall make reasonable efforts to determine the accuracy of any information reported under this policy. Employees may be punished, up to and including removal, for purposely, knowingly or recklessly reporting false information.
- E. Employees who are punished as a result of reporting violations or misuse under this policy may appeal that punishment to the State Personnel Board of Review. Appeals must be filed no more than thirty (30) calendar days after the employee learns he/she has been punished. O.R.C. §124.341 (D) makes appeal to the State Personnel Board of Review the exclusive remedy for employees who are punished for reporting violations or misuse under this policy.
- F. For purposes of this policy:
 - 1. A person acts purposely when it is his specific intention to cause a certain result, or, when the gist of the offense is a prohibition against conduct of a certain nature, regardless of what the offender intends to accomplish thereby, it is his specific intention to engage in conduct of that nature.
 - 2. A person acts knowingly, regardless of his purpose, when he is aware that his conduct will probably cause a certain result or will probably be of a certain nature. A person has knowledge of circumstances when he is aware that such circumstances probably exist.
 - 3. A person acts recklessly when, with heedless indifference to the consequences, he perversely disregards a known risk that his conduct is likely to cause a certain result or is likely to be of a certain nature. A person is reckless with respect to circumstances when, with heedless indifference to the consequences, he perversely disregards a known risk that such circumstances are likely to exist.

(References: O.R.C. §102.01, et seq.; 124.341; 2901.22; 2921.42 and 2921.43.)

5.3.14 Reporting of Abuse and Neglect And Notice of Conduct for placement on the Abuse Registry (See policy Appendix A)

All staff is required to immediately submit a written report of suspected abuse or neglect to the Board's Investigative Agent. Employees may also report to the statutorily responsible agency (Department of Job and Family Services or local law enforcement). If the Investigative Agent is not available, the report is to be made to the Investigative Agent for the Clearwater COG. The Investigative Agent will take a written report from the complainant, investigate the facts and make a report to the appropriate agencies. Except for the report to the Investigative Agent and to other authorized investigative bodies, information on the alleged abuse or neglect is confidential.

***Cross references: Reporting Abuse, Neglect, and Major Unusual Incidents
Reporting of Abuse and Neglect And Notice of Conduct for
placement on the Abuse Registry***