



### **Key points:**

- **Ensure assigned duties fall within performance goals**
- **Review PIPs to ensure tasks can be performed during telework**
- **Implement a daily reporting and check-in requirement**

### **5 tips to assist supervisors in managing performance during a pandemic**

By Anjali Patel, Esq., **cyberFEDS®** Legal Editor Washington Bureau

**BEST PRACTICE:** Managing performance during a [pandemic crisis](#) will create some challenges for supervisors who may have to manage [teleworkers](#) while working remotely themselves -- perhaps for the first time, James Eisenmann, of counsel at Kalijarvi, Chuzi, Newman & Fitch, P.C., told **cyberFEDS®** in an exclusive interview.

As a result, managers must be "very clear in communicating their expectations," he said.

Federal Practice Group partner Joanna Friedman agreed, telling **cyberFEDS®** that managers should communicate effectively throughout the day, especially with employees who have not previously teleworked.

Friedman and Eisenmann provided the following best practices to help manage performance throughout the coronavirus pandemic:

#### **1. Ensure assigned tasks fall within the employee's established performance goals.**

Review performance plans and job duties to see if they need to be adjusted while the employee is teleworking.

"Managers may want to establish goals or [performance measures](#) that take into account the realities of telework," Eisenmann said. For example, "if an employee's performance depends upon getting information from other employees or people at other agencies, then because of mass teleworking, there may be a delay in getting that information," he explained.

Also, employees "will need time to reschedule meetings, which can mean a lot of downtime," as "in-person meetings are now being cancelled or postponed," he added.

Under the law, managers cannot establish specific goals for the telework period that do not otherwise fit within the employee's established performance goals or the position description, Friedman said. However, most performance goals have a "catch-all critical element" that requires employees to perform duties assigned by the supervisor, she said. So, supervisors could require employees to perform additional tasks within that category, provided the tasks fall within the position description, she added.

"If managers do supplement performance requirements because the employee is now teleworking, those new performance requirements cannot be more stringent than the employee's already established written performance standards," Eisenmann added.

#### **2. Review performance improvement plans to ensure tasks can be performed via telework.**

"Management is going to try to keep [PIPs](#) in place and will not want to extend the PIP period," Friedman said. So, employees who can perform their duties from home will have to complete the required tasks within the assigned time period, she said. However, managers may need to eliminate certain tasks from a PIP or extend the PIP period if the elements require physical contact or tasks that cannot be performed during telework, she said.

Eisenmann added that "when an employee is on a PIP, the agency is required to provide that employee a reasonable opportunity to demonstrate improved performance," but "what a reasonable opportunity period is depends on the circumstances."

So, "if it is difficult for an employee on a PIP to perform or complete work because of circumstances related to teleworking, then that could impact the reasonableness of the PIP period and, thus, whether the agency has actually provided a reasonable opportunity to demonstrate improved performance," he added.

### **3. Remind managers that probationary periods are not flexible.**

The current pandemic crisis and maximized telework will not affect [probationary](#) or trial periods, both of which are "are set by law/regulation and cannot be extended by individual agencies deciding they need more time," Eisenmann said. Unless Congress or the Office of Personnel Management changes the law or regulations, Friedman said, the current one- to [two-year](#) probationary and trial periods cannot be changed.

### **4. Implement a daily reporting requirement and ensure regular communication.**

Friedman said the "vast majority of federal agency work can be performed through telework," but managers may be concerned that employees are not fully working from home. The "primary way" to allay those fears is "to implement some type of daily reporting requirement that applies equally to all employees," she advised.

This reporting can take many forms but should involve a combination of check-in times -- in the morning, midday, and evening -- that are appropriate for the type of work performed, she added. In these check-ins, the manager should have employees report what they intend to work on and give a status update for ongoing tasks, she said. In addition, employees can be asked to turn in a task report with corroboration showing that completed tasks were performed, she said.

"The more structure for employees about the parameters and rules for teleworking the better" for all employees, but especially for people who have never teleworked before, Friedman said.

Some agencies can monitor whether the employee is working on the computer through virtual private network access, Friedman said. So be specific if employees are required to be online through VPN, available on the phone, and accountable during particular time frames, she explained.

Also be sure to include teleworkers on relevant work communications, Eisenmann said. To avoid excluding teleworkers from particular work matters, managers should include all employees on relevant emails and conference calls, he added.

### **5. Be patient and ensure both managers and employees have the tools to telework.**

With so many employees teleworking, "there will be hiccups" because many managers and employees are teleworking for the first time, Eisenmann said. Everyone "needs to be patient" as agencies work to ensure everyone has the tools necessary for working from home, he added.

Management also "needs to ensure that the employee has all the tools that are required to effectively telework," such as a working computer, printer, internet connectivity, and IT support, he said. Managers should ask employees to tell them clearly "what they need to effectively telework if it has not already

been provided," Eisenmann added.

Resources on **cyberFEDS®**:

- [Quick Start Guide: Opportunity Periods \(OPs\) and Performance Improvement Plans \(PIPs\)](#)
- [Quick Start Guide: Performance Standards -- Employee Relations](#)
- [Quick Start Guide: Performance Standards -- Labor Relations](#)
- [Looking for guidance on the coronavirus \(COVID-19\)?](#)
- [OMB: Updated Guidance for the National Capital Region on Telework Flexibilities in Response to Coronavirus \(03/15/20\)](#)

**March 19, 2020**

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