

# The Performance Appraisal Process: Lessons Learned

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Just as leadership styles and organizational work have evolved, so have perspectives on performance evaluation. Traditional performance evaluation is hierarchical, control-oriented, and focused on individual ranking and grading. Present-day performance evaluation is relational, facilitative, and focused on development and problem-solving (Leadership, R. Lussier, et al).

In Ontario, teacher performance appraisal requirements and processes are legislated. While the legislation is founded on a more traditional “three strikes you are out” mandate, the philosophy and practices are more contemporary. They are “designed to provide meaningful appraisals of teachers’ performance that encourage professional learning and growth; identify opportunities for additional support where required; and provide a measure of accountability to the public” (Education Act, Part X.2, Regulation 98/02, Reg 99/02).

Two recent arbitral awards regarding teacher performance appraisal in Ontario provide insight regarding best practices for strategic leaders in modern organizational work environments. A review of the Gusita award (OSSTF vs. TDSB, 2011) and the Tait award (OSSTF vs TLDSB, 2018) will highlight the arbitral standards that must be met, the essential features of performance appraisal to meet those standards, and lessons learned.

## **The Teacher Performance Appraisal Process**

The Technical Requirements Manual (2010) outlines both the philosophical underpinning and the required procedures of Teacher Performance Appraisal (TPA) in Ontario. The TPA is regarded as an integral component in a continuum of professional learning from pre-service education, the New Teacher Induction Program, Annual Learning Plans, school board sponsored professional development and individual learning commitment. Each component supports effective teaching, learning and assessment practices and promotes collaborative relationships designed to create and sustain schools as effective learning communities for students and staff alike. The goal is to support continual teacher growth. Effective Learning Communities promote shared values, a sense of purpose, inquiry based learning and sustained and substantive school improvement.

Procedurally, the TPA begins with the Ontario College of Teachers Standards of Practice for the Teaching Profession. These Standards establish five Domains:

- Commitment to Students and Student Learning,
- Professional Knowledge,
- Professional Practice,
- Leadership in Learning Communities and
- Ongoing Professional Learning.

Sixteen Competencies give substance to the Domains, and sixty-four “Look-fors” can be found in the Log of Teaching Practice in the Technical Requirements Manual. An example of one of the Competencies is: “Teachers use their professional knowledge and understanding of pupils, curriculum, legislation, teaching practices and classroom management strategies to promote the learning and achievement of his or her pupils”. An example of a Look-for is: “employs effective questioning techniques that encourage higher-level thinking skills”. This Look-for is included in the Commitment to Students and Student Learning Domain, but is equally applicable to Professional Practice, as well.

The components of the TPA process are designed to promote communication, a collaborative atmosphere, a review of expectations and procedures and, following classroom observations, sharing of information regarding the classroom and the teacher’s professional learning, feedback and self-reflection. The components of the process include:

- Notification that it is an evaluation year,
- Pre-Observation Meeting,
- Observation(s),
- Post-Observation Meeting and
- Delivery of the Summative Report.

If the Summative Report includes an ‘Unsatisfactory’ rating, there will be an Improvement Plan Meeting which is to include input from the teacher, as well as an ‘Explanation for Rating’ and recommended actions for improvement. Improvement Plans will include meetings to discuss progress. There are timelines associated with each of the required steps. The teacher is formally placed “On Review” after the second Unsatisfactory Summative Report. A third Unsatisfactory results in a recommendation to the school board that the teacher be dismissed.

There is a legislated onus on the teacher to actively participate in all meetings and observations. The response to an Unsatisfactory TPA is idiosyncratic as with any critical discussion. The Principal or Superintendent of Schools is responsible for delivering these ‘hard messages’ and it is expected that professional dialogue be maintained by both parties.

## **The Gusita Award**

The Gusita award was released in August of 2011. Mr. Gusita began teaching with the Toronto District School Board in September of 2002. Almost immediately, the administration of the school received complaints from students and parents about the teaching practices and assessments of Mr. Gusita. The Teacher Performance Appraisal was initiated, as required, for a new teacher. Mr. Gusita received three Unsatisfactory performance appraisals and his employment was

terminated by the school board in accordance with the Education Act and its regulations. According to the arbitration award, the Summative evaluations indicated that Mr. Gusita did not use a variety of teaching strategies and that he taught the same way to all students. There was no indication that he modified instruction to support students with Individual Education Plans. He did not teach for student understanding and was insensitive to students. His speech and lesson plans did not engage students. He used only a rote learning teaching strategy. His assessments were not clear and communicated poorly.

In summary, the observations and evidence highlighted above indicated that he was not able to demonstrate competencies in at least three Domains: Commitment to Students and Student learning, Professional Knowledge and Professional Practice. Moreover, Mr. Gusita was unable to ultimately demonstrate competency despite three Improvement Plan opportunities.

The Ontario Secondary School Teachers' Federation (OSSTF) grieved the termination. At arbitration, OSSTF complained about the TPA process itself, arguing that it was subject to bias, arbitrariness, manipulation and unfairness. They further challenged the competence of the Vice-Principal who conducted the first two evaluations and complained that the third evaluator and Superintendent were not independent or objective. The OSSTF argued that the TPA process and termination were subject to the just cause standard. As such, the arbitrator had to determine that the process was fair, non-arbitrary, reasonable and in good faith and that the evaluators, their observations, conclusions and actions met the just cause standard.

The significance of the Gusita award by Arbitrator Picher is not so much that she upheld the dismissal of Mr. Gusita, but rather, that in doing so, she set the standard against which future cases under the TPA process would be adjudicated. Arbitrator Picher agreed with OSSTF that just cause was the applicable standard of review. She indicated that the TPA process, as outlined in the legislation and Regulations, when followed appropriately, met that standard. As a consequence, Arbitrator Picher established a four-part test that the employer must demonstrate to demonstrate "just cause". (p.40):

1. "That the essential elements of the mandated teacher performance assessment were followed";
2. "That the essential elements of fairness built into the TPA process to enable (the Grievor) to demonstrate his competence as a teacher were applied to (the Grievor);
3. "Whether the respective Evaluators carried out the TPA process without discrimination, arbitrariness or bad faith"; and
4. "Whether the three successive Overall Performance Ratings of 'Unsatisfactory' were reasonable based on supporting facts".

## The Tait Award

Mr. Tait began teaching in the Trillium Lakelands District School Board in 1999. Initial performance appraisals in 1999 and 2002 were “good”. By 2006, Mr. Tait’s performance was rated as “satisfactory” which meant that Mr. Tait’s performance had not met all of the competencies and that performance needed to improve. Lesson planning, classroom management and assessment and evaluation were identified as areas for improvement. The performance appraisal process that gave rise to the grievance began in 2010. This time, Mr. Tait’s performance was rated as “unsatisfactory” in each of the Domains and sixteen Competencies. Specific reference was made to lesson planning, classroom management and assessment and evaluation again and the Improvement Plan contained a number of suggestions regarding how performance could be improved. After the third “unsatisfactory” performance appraisal, Mr. Tait was dismissed by the Board.

In both the Gusita and Tait awards the school boards were accused by OSSTF of failing to meet the tests above. In addition to strictly legal evidentiary submissions, for the Tait arbitration in 2018, the Trillium Lakelands District School Board was able to demonstrate just cause and that the four essential elements as outlined by Picher were met.

The process was followed and any missteps were not fatal. Clear articulation of expectations were provided to the teacher after the first Unsatisfactory rating including, the areas where improvement was needed, and the things he needed to do to improve. Resources, access to support from school board and school colleagues and other professional development opportunities were provided. Regular meetings with the Principal and Superintendent with appropriate feedback had taken place. Suggestions about practice were shared. Evidence was also provided that indicated that any improvements were short-lived and not sustained. The Improvement Plan, rather than being simply a checklist to complete, is a guideline to promote sustained professional growth and competency in all facets of teaching. Arbitrator Howe concurred.

Many of the criticisms by OSSTF were of the behaviours and attitudes of the evaluators. This is in part due to the need to demonstrate, pursuant to the just cause standard that behaviours, attitudes, actions and decisions be fair, reasonable and without discrimination, arbitrariness or bad faith. In the Tait award, Arbitrator Howe referenced the credible testimony and actions of the Principal and Superintendent as well as the testimony of Mr. Tait himself, to dismiss such allegations.

## Reflections on Contemporary Performance Appraisals

The shift from traditional to present-day organizational structures based upon communication, collaborative and relational activity, team-building, empowerment, coaching and the development of a learning culture are also important factors. The Ontario TPA Program is explicitly rooted in such a vision and strategy. Both the employee and the evaluator are expected to demonstrate the vision and strategy in practice.

Students, teachers, support staff and leaders are expected to have an interest in the success and well-being of others. Schools are not just learning communities for students, but are expected and legislated to be learning communities for the adults that work there too.

Alignment of values, purpose and a commitment to continual growth and improvement are meant to be more than buzzwords. They are daily expectations. As a result, it should not be unexpected that the evaluators will be held to these expectations in the exercise of their responsibilities in the performance appraisal process. That the evaluators in each case met the just cause standard and exhibited the collaborative, relational and coaching expectations of the process is a testament to their leadership.

Communication is a key element in a contemporary performance appraisal process. However, it is not an easy task to deliver negative news nor deal with angry responses or criticism.

Strategic leaders already have communication skills that promote well-being, creativity, trust and collaboration in the workplace. Mastering hard conversations still requires practice, however. Hard conversations with an employee about performance deficiencies should take place prior to any formal performance appraisal being undertaken to provide support and coaching. The results of a performance appraisal in a work environment that is collegial and supportive should not be unexpected. Performance appraisal should be seen as the last stage of a continuum of practices that promote professional growth and learning.

The Ontario TPA process incorporates many of the typical traditional performance evaluation criteria including accountability to the public or customers as in the private sector, legislated steps and timelines and the inclusion of knowledge, practice and attitudes in the appraisal scheme. It also reflects present-day organizational structures with the addition of two Domains emphasizing Leadership in Learning Communities and Ongoing Professional Learning. The descriptions of the competencies in all five Domains reflect collaborative and relational approaches with students and other adults. The Pre and Post Observation Meetings and the discussion of Annual Learning Plans are meant to promote collaboration.

Strategic leaders in contemporary organizational structures need to ensure that the performance appraisal process used in the organization is aligned with the organizational mission, vision and practices that form the underlying culture of the workplace. Collaborative and relational behaviour, teamwork and leadership in learning communities, for example, need to be recognized and given weight in the evaluation model. Competency descriptions must have more behavioural focus. Ranking and comparative systems of evaluation need re-examination, if not elimination.

Following the legislated procedure matters, where they exist. Providing the teacher with support, opportunities for growth, and opportunities to demonstrate competence matters. The attitudes, behaviours and actions of the evaluators must be objective, collaborative, supportive and grounded in the legislation, regulations, Standards of Practice, curriculum and school board and school objectives. The observations and evidence relied upon must support the conclusions drawn.

The commitment to professional growth, improvement and competent performance matters. All of these characteristics, along with documentation in support these practices, will help ensure that the process was followed and applied fairly and that our schools and workplaces are truly collaborative learning communities. The principles that guide the TPA process are equally applicable to other sectors and performance appraisal procedures, generally.

## About the Author



Earl Manners has been at the forefront of Ontario labour relations in the education sector for his entire career in education. Earl spent the first 10 years of his teaching career with the Grey County District School Board. From there, he moved on to serve on the executive for the Ontario Secondary School Teachers' Federation. In 1995, Earl was elected as the President of OSSTF. From 2003 to 2007, he worked with various stakeholders as a consultant in labour relations and communications, including the Trillium Lakelands District School Board. Earl was the Human Resources Administrator for the Trillium Lakelands District School Board from 2007 until his retirement in 2016. Since retirement, Earl has continued to be engaged with public education as a Labour Relations Consultant, Instructor, and a guest speaker and coach at the Queen's IRC Labour Relations Foundations program.

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