**Informal Performance Warning [Sample Script]**

*In this sample, the managing director of a legal advocacy organization is meeting with a staff attorney whose casework has been poor. The staff member has 10 years of legal experience, with one year at this organization. While they are in their late 30s, they are often perceived as much younger than they are and spend a lot of energy establishing mutual respect with others in their field.*

*This initial performance warning conversation would typically be the first step in a performance improvement process. If your staff member’s performance did not improve, this would be followed by a* [*written performance plan*](https://www.managementcenter.org/resources/performance-improvement-plan-toolkit/) *and—if performance still did not reach the necessary level—firing.*

[***Reflect on any biases***](https://www.managementcenter.org/resources/tools-for-identifying-choice-points-the-bias-check/) *that could be shaping your perception or your approach to giving feedback, then use our* [***CSAW process***](https://www.managementcenter.org/article/give-more-and-better-feedback-with-csaw/) *to prepare: connect, share specific feedback, ask/invite questions, and use repeat-backs to wrap up the conversation.*

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| **CONNECT in an authentic way to build trust and learn from their experience** |

Thanks for taking the time to have this conversation right now. I know it's been busy—especially on the heels of being short-staffed. Use your opening to gauge how feedback will land, so you know where to focus the conversation. For example, if they say, “I’ve been feeling great about my work,” spend time sharing concerns and aligning on expectations. If they say, “I feel like I’m underwater,” share feedback and get to joint problem-solving and coaching quicker. If possible, ask for consent before giving feedback.

Before we dive in, I want to say that I can see how hard you’ve been working and I know it’s been tough. I'd like to move into talking about the work quality issues I mentioned in my email, and then talk through what's contributing so we can find solutions. **Is this still a good time for you to have that conversation?**

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| **SHARE a specific observation or concrete example** |

As I mentioned, I want to share some observations and feedback. I’m concerned because your performance has fallen short of our expectations. **The two areas I want to focus on are:** the quality of your written work and your interactions with our clients.![Provide specific examples of unmet expectations as well as the impact on results, relationships, etc.
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As you know, **clear, precise written communication** is a must-have performance standard for all staff attorneys. In terms of written work, I’ve been having to rewrite significant portions of your draft filings to get them to meet our standards. For instance, on last week’s reply to the motion to dismiss, your summary of the argument section was a page over the limit and missed one of our three major points.

The time I'm spending on rewrites is time I should be spending on developing our legal advocacy strategy with coalition partners. Also, on at least one occasion, a motion was turned in with errors that made us look unprepared to our client and the judge. This means we’ll have to work harder to re-establish credibility the next time we appear in front of this judge, and do some repair with the client.

On the client front, I’ve been hearing feedback that you aren’t responsive enough when they try to get in touch with you. **Relationship building and reliability is another key must-have** outlined in our performance standards. This means building trust by advocating for our clients, following through on commitments, and holding a high bar even when things are hectic.

One client was frustrated by the lack of responsiveness because they had information to share that could impact our legal strategy. Others have told me they sometimes feel left in the dark and unable to answer staff and board member questions about the status of their filing.

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| **ASK questions to better understand their perspective** |

Those are the two areas that really need attention.   
I want to better understand what's going on and make sure we're aligned moving forward. I just shared some of my observations. **Is there anything I'm missing?**

At the top of our meeting, you mentioned feeling overloaded and impacted by staffing vacancies. I definitely understood when we spoke about this last month. Since then, we hired both a paralegal and a new attorney, but the work quality issues I’m noticing haven’t improved. From my observation, the dip in these two areas started before the staffing gaps and continues. **Does that seem accurate to you?** I’d like to get to the source even though we both agree recent vacancies made things harder.

On the writing, do you have any sense of why the product hasn’t been strong? I know what you mean about writing under pressure and without enough time. The reality is that your caseload is within our average and our expectation is that staff attorneys are able to meet their duties at this level. I could see, though, how better planning in advance might lead to a better product. Let’s talk about how you might do that, working backwards from the deadline to ensure you don’t hit a time crunch. Can you walk me through your drafting and editing process?

**Similarly, what do you think is causing the rift with our clients?** I am so glad that you let me know you’ve been feeling disrespected by several clients. Assuming you’re young is no reason to doubt your skill or competence. I’m truly sorry you have been facing this and I will support you to address this. While we can’t always control the behavior of the judges and other attorneys we interact with, we can definitely have conversations with our clients to raise awareness and to clarify our non-discrimination policies. I will need to confirm a path forward with HR, so let’s finalize a plan at our next check in. How does that sound?

I understand why you pulled away to lessen troubling interactions and **I will do everything I can to support you to mitigate or prevent harm you've been experiencing. And, I still need to ask you to step forward on this part of your role** so that we can be effective advocates. We need to maintain consistent, timely communication with our clients. **What would most help you do this?**

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| **WRAP UP with expectations moving forward and specific next steps** |

This can be the first of several check-ins, and I really want to re-emphasize my open-door policy. I also want us to leave with a clear sense of next steps. Do you have any questions before we do that?![Lay out clear expectation and next steps. Specify the timeline and the actions you will take if you don’t see improvement. Check for understanding.
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In terms of next steps, first, **I want to be clear about my expectations and make sure we’re both on the same page** about: 1) what needs to happen and 2) what the potential consequences are.

We identified that better planning may help on the writing front, and I can be a resource by looking over your initial timeline. Over time, though, you’ll need to be able to do that independently. I can’t supervise everyone that closely in the long run. I expect you to begin producing drafts of written documents that are ready to file with minimal editing by me—and by that, I mean 30 minutes or less. Among other things, the arguments need to be clear, concise, well-supported, and flow smoothly.

In terms of client relations, we promise a response time of no longer than two days. I know that can be hard, but it’s a bar we’ve committed to meeting and we can’t continue to miss it. If clients continue to be disrespectful toward you after I have spoken to them, you will copy me on those emails and I’ll do my best to reassign clients. For now, I will transfer the one client you requested.

In the short term, I want you to re-draft the brief you sent me last night and have a stronger version to me by tomorrow end-of-day. I’m also going to put it on my calendar for us to check in on your performance in three weeks.![Be explicit about consequences if you don’t see improvement so there are no surprises.
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Assuming it improves and you sustain the higher level, then we’ll just roll forward. If it doesn’t, though, then I’m going to have to put you on a **formal written improvement plan.**

We’re not at that stage yet, but it’s important that you know my concerns here are serious. I will definitely take the understaffing issue and client problems into account. Given our workload even when we’re fully staffed, I need someone in your position who can create strong written documents and respond to clients promptly and reliably.

***Invite Questions and Ask for a Repeat-back:***

* Do you have any questions about how we’re moving forward?
* Can you recap your understanding of the next steps?

I am happy to answer additional questions if they arise. Before you leave, let’s get our check-in scheduled for three weeks from now.