Elements of Performance Appraisal Systems Linked to their Legal Defensibility

The following lists summarize some of the results of my research for a chapter on legal issues in performance appraisal, which can be found in full in a 1998 SIOP Professional Practice Series book, "Performance Appraisal: State of the Art in Practice". The presence of these aspects of the substance and procedure of performance appraisals has been found to be linked to their legal defensibility in various types of court cases, including those involving employment discrimination:

Substance: Criteria that are:

(1) objective rather than subjective;
(2) based on job analysis;
(3) based on behaviors rather than traits;
(4) within the control of the ratee;
(5) related to specific performance functions, not global assessments;
(6) communicated to the employee.

Procedure: Practices that:

(1) are standardized, formal, uniform for all employees w/i a job group;
(2) are formally communicated to employees;
(3) provide notice to employees of performance deficiencies and meaningful opportunities to correct them;
(4) provide access/allow employees to review appraisal results;
(5) provide formal appeals mechanisms that provide for employee input;
(6) use multiple, diverse, and unbiased raters including peers, subordinates, customers, or clients; [Note: this item may be in conflict with almost all others in this list!!]
(7) provide written instructions and training for raters that facilitate systematic, unbiased, non-discriminatory appraisals;
(8) require thorough and consistent documentation across raters that includes specific examples of job performance, over time, based on personal knowledge or observation of the ratee;
(9) establish a system to monitor potential discriminatory effects of appraisal processes overall.