Managing Problem Employees

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Objectives

• Recognizing common areas of concern
• Ascertaining the facts
• Determining appropriate response
• Minimizing future incidents
RECOGNIZE THE PROBLEM
Common Areas of Concern

- Abuse of leave/Absenteeism
- Harassment/Bullying
- Alcohol/Substance abuse
- Poor performance
- Insubordination
- Chronic/Repeat offenders
GET THE FACTS
Best Practices

• Prompt/Immediate
• Thorough
• Objective/Impartial
• Confidential as possible
Just The Facts

• Do not attack or accuse employee
• Focus on behaviors and not personality
• Do not make assumptions
Weingarten Rights

**NLRB v. J. Weingarten, Inc. (1975)**

- Union members have a right to union representation at investigatory interviews where employee reasonably believes interview may result in discipline
- No right to delay interview to enable specific union representative attend interview
TAKE ACTION
Non-Disciplinary Measures

- Counseling
- Employee Assistance Programs
- Performance Improvement Plans
- Training
- Policy adoption/changes
Progressive Discipline

• Public sector different from private sector where most employment is “at will”

• Levels of progressive discipline
  • Verbal warning
  • Written warning
  • Suspension
  • Termination
Loudermill Rights

Loudermill v. Cleveland BOE (1985)

• Requires notice and opportunity to be heard

• Applies to terminations, suspensions without pay, demotions, or other deprivation of property interest
Termination

- Decide who will communicate decision and timing
- Plan for immediate exit
- Retrieve employer property
- Escort employee out
- Arrange for return of employee’s personal property
- Take immediate precautions to prevent access to workplace/systems
BE PROACTIVE
Good Hiring Practices

- Background checks
- Pre-Employment Drug Screening
- Check references
- Challenges of civil service/merit system
Employee Expectations

- Lead by example
- Handbook/Personnel Policies
  - Use plain language
  - Make accessible
- Communicate
- Be consistent
Supervisor Training

- Trained for specific job and necessary "people skills"
- Know policies and procedures
- Accountable for consistent application
  - Deviations for good cause should require higher authority approval and be documented
- Recognize and pre-empt problems
- Have difficult conversations
- Document!
Take Notice

- Employees may engage in disruptive behaviors because they do not feel they are being heard
- Pay close attention to what is going on and take action, do not avoid problem
- Make note of specific behaviors, including when they were observed and who was present
- Solicit problematic employee's point of view
- Just being heard can de-escalate negative behaviors quickly
Enforcement

• Work rules, policies, and procedures applied consistently

• Risks of inconsistency
  • Perception of unfairness and resulting poor morale
  • Time wasted addressing internal complaints
  • Avoidable claims of discrimination or retaliation
  • Unfair labor practice complaint based on violation of binding past practice

• Remember principles of just cause and progressive discipline
Summary

• Treat employees with respect even if you feel they do not deserve it
• Changing workplace culture to minimize/eliminate bad behavior is the goal
Questions?
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