



USING EFFECTIVE PROGRESSIVE DISCIPLINE TO REDUCE EMPLOYEE TURNOVER

by: Laura K. Sitar, Esq.

Too often we look at progressive discipline policies as a means of getting a poor performing employees out the door with an evidence trail to use when the employee sues. Don't get me wrong, the thing I like most when I review a new discrimination or retaliation case is a well documented employee file. But that's just one side of the story. Remember **Positive Coaching** and **Employee Development** from the last newsletter? Those core philosophies from AYSO's soccer programs are equally applicable to a company's discipline policies.

Progressive discipline is a means of imposing increasingly more serious discipline for repeated infractions. The goal is to eliminate undesired behavior and encourage good behavior. Ultimately, most discipline should be undertaken with a genuine interest in helping an employee improve performance or behavior issues. It's one aspect of the positive coaching and employee development which helps improve employee satisfaction and reduce turnover. Of course, sometimes performance improvement isn't possible. It's only then that documentation of progressive discipline becomes important as it will later serve as support for the decision to terminate the employee.

Unfortunately, most of us would rather praise someone for a job well done than sit down with that employee to discuss policy violations or poor performance. Supervisors often let performance issues build until they've "had it" with an employee. Then the supervisor uses every little infraction as grounds for written disciplinary action. Unfortunately, all too often the employee is oblivious to the problem. The employee who is habitually late or absent from work with no consequences thinks it's not a problem while fellow employees who have to pick up the slack certainly notice and are frustrated. There's were added turnover comes in. Employees want every member of the team be held accountable for his or her contribution to the success of the facility. They want work to be predictable and to run smoothly. They want everyone to follow the same rules. When they look around and see that's not happening, they look for other places to work. The most successful supervisors are those who see progressive discipline as one means of coaching and developing their individual employees and improving the overall team.

What should your progressive discipline policy look like? It should be a policy in your employee handbook spelling out unacceptable behavior. It provides guidelines to help employees understand the consequences of their actions.

Here are a few tips:

1. First and foremost, start your policy by affirmatively telling your employees they must always use good judgment and the highest standards of ethical conduct in carrying out their job

responsibilities. Since your policy cannot cover every situation, this is the most important direction you can give your employees.

2. Spell out unacceptable behavior very clearly. If it is important that employees wear closed-toed shoes for safety reasons, spell it out. You can't list everything, but list the key things that tend to create problems.

3. List the discipline employees should expect to receive if they engage in inappropriate behavior. Fit the discipline to the severity of the offense. Wearing sandals to work probably warrants a verbal warning. Intentionally and maliciously hitting a resident certainly warrants swift termination.

4. Address issues as they occur, not just when you want to terminate an employee. Let employees know you are addressing issue as they occur so that the employee is aware of the problem and has a chance to improve.

5. Always document verbal warnings. Nothing fancy is needed. Simply put a note in the employee's file documenting the date you had a conversation regarding the employee's performance.

6. For most lesser violations or performance issues the sequence of verbal warning, written warning, final written warning and termination works well. Always tell the employee at the final written stage that they will likely be terminated if they violate the policy again.

7. Inform employees your progressive discipline policy only provides guidelines and reserve the right to take any disciplinary action deemed necessary, up to and including termination, at any time.

8. Be consistent with all employees. Nothing supports a claim of discrimination or retaliation better than policies that are enforced inconsistently.

Now's a good time to review your progressive discipline policy. Is it up to date? Do supervisors use it as a coaching and development tool and not just to get rid of employees? And try to make sure that you are using it as a tool to reduce rather than increase termination.

About the Author:

A shareholder at Wroten & Associates, Laura Sitar defends medical malpractice, employment, and elder abuse cases. She litigates cases on behalf of doctors, dentists and long-term care facilities involving all types of employment actions including sexual harassment, wrongful termination, retaliation and wage and hour claims. She also provides employment related risk management services to help clients avoid litigation. Ms. Sitar became an attorney after a 15-year career in corporate management where she directed the human resource function of a 2000 employee, \$100 million region. Since commencing a second career in law 10 years ago, she was a senior associate with a prestigious healthcare defense firm before joining Wroten & Associates, where she is a shareholder.

Ms. Sitar graduated cum laude from Tufts University, in Boston Massachusetts in 1979. She attended Western State University, College of Law, where she graduated summa cum laude and valedictorian of her class in 1998. While at Western State she clerked for Justice William Rylaarsdam on the California Court of Appeals and successfully argued a sexual harassment and retaliation claim before the Ninth Circuit Court of Appeals. She was a recipient of the 1998 Fellowship of the American Board of Trial Advocates. Ms. Sitar has been a member of the California State Bar since 1998 and is admitted to practice in the U.S. District Court for the Central District of California.

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