

5 Common Workplace Issues

How to be Proactive in Resolving Reoccurring Workplace Problems

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NOTE: The information set forth in these materials is intended to provide an outline of the law existing as of the presentation date. It is not intended as, nor should it be considered, “legal advice.” If you are presented with a specific issue, you should consult with legal counsel.



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Overview

1. Performance Reviews for Poor Performers
2. Relationship Problems - options to relieve the tension
3. Employee Discipline - making it work for them and for you
4. Reduction of hours to part-time
5. Experienced (Old) Employees - time to say goodbye?



1. Performance Reviews for Poor Performers

What is the purpose of a performance review (for anyone)?

- Feedback on employee performance
- Identifies strengths and weaknesses
- Opportunity for management to reflect
- Opportunity for employee to be recognized and to improve
- Set goals
- Documents performance issues
- Handbook requirement - annual review



1. Performance Reviews for Poor Performers

Misconceptions about performance reviews:

- *Not* a one-time feedback opportunity
- *Not* a disciplinary action
- *Not* a cheerleading activity
- *Not* a check-the-box activity
- *Not* a time for surprise issues

1. Performance Reviews for Poor Performers

Key points for a good performance review:

- Communicate about performance throughout the year
- Review job description as you prepare
- Provide accurate feedback (not sugar-coated, not doom and gloom)
- Provide actionable items
- Review prior goals, and progress made
- Specifically list and discuss performance issues
- Do *not* avoid tough topics (esp. areas of concern)
- Prepare and provide a document
- Establish a system that you must follow



1. Performance Reviews for Poor Performers

Why is it important to include performance concerns?

- Provides employee the opportunity to improve
- Creates a record of issues
- Provides a clear and consistent story
- Simplifies the discipline and discharge process

2. Relationship Problems

The situation:

- John and Sandy have never gotten along; they've fought for years.
- Sandy often complains that John is insulting, doesn't do his job, and is always "hanging around."
- John is surly.
- Sandy is a busy-body.
- Something has happened again, Sandy came to your office to tell you John has to be fired.
- You calmly thank her for her input, and tell her you will consider.
- As she storms out of your office, Sandy says she is in a hostile work environment and John is harassing her.
- You're pretty sure nothing serious has happened.



2. Relationship Problems

Why it's important to handle this situation:

- Bad for John and Sandy
- Bad for workplace environment (gossip & negativity)
- Bad for productivity
- Unaddressed problems escalate
- Unaddressed problems spread to others



2. Relationship Problems

Why it's important to handle this situation:

- Risk losing valuable employees
- Deny employees the opportunity to improve
- Employers are responsible for hostile work environment & harassment
 - Investigate, even if you think the complaint is frivolous (see Scott's presentation)
 - At minimum, meet with Sandy and ask the basis for complaint
 - If serious, hire outside investigator to handle



3. Employee Discipline

Why discipline?

- Important to promptly address performance/behavior issues
- Gives the employee fair warning and an opportunity to improve
- Unaddressed issues stay, get worse, and spread
- Even if at will, discipline and termination must have reasons

3. Employee Discipline

How to Discipline:

- Know - and follow - your policies
- Consider the level of misbehavior, respond accordingly
- Investigate complaints (for serious allegations, consider external investigation) - at minimum, meet with complainant & employee
- When ready, meet with the employee to discuss the issue, provide opportunity to respond, and discipline if necessary
 - *Plan* your meeting, don't wing it; if you expect discipline will be necessary, that the employee will be difficult, or that there could be additional issues, contact counsel before taking action

3. Employee Discipline

How to Discipline:

- For meetings, do not meet alone, and have your witness take notes
- Documentation is critical
 - If informal discussion, send a follow-up email
 - For any formal warning, write out the issue - have counsel draft or review
 - Incorporate these issues into performance evaluations
- Is suspension necessary? Police contact?
- *REVIEW* your handbook for necessary steps to include

3. Employee Discipline

Suggested Disciplinary Path:



- Minor offense
w/no prior issues

- Minor offense w/
prior minor issues

- Minor but serious
offense with no
prior issues

- Moderate Offense

- Minor offense
with prior verbal
warning

- Serious offense

- Minor or
moderate offense
with prior written
warning

- Serious offense

- Minor or
moderate offense
with prior final
written warning



4. Reduction of Hours to Part-Time

The situation:

- Cindy is a full-time employee, working 40 hours per week
- You have decided to reduce her to 20 hours per week
- You plan to tell her next Friday

4. Reduction of Hours to Part-Time

What to keep in mind:

- Is the decision clearly based on organizational needs?
- Why Cindy and not someone else?
- Does Cindy have some sort of protected status:
 - Recent sick leave, FMLA leave, or ADA issues?
 - Recent harassment, discrimination, safety complaints?
 - Is she oldest, minority, only woman, etc.?
- Is Cindy hourly or salaried? How will this impact her pay?
- What will the overall impact be on Cindy (benefits, dependents, etc.)?
- Not hiring someone else to do the rest of Cindy's job?
- If a job is substantially reduced and employee quits, can be considered an "constructive discharge" (potential liability, unemployment pay)



5. Old Employees – Time to Say Goodbye?

The situation:

- Carl has worked at the parish for 28 years.
- He is now 71 years old.
- He is slowing down, can't get things done like he used to.
- You assigned some of his tasks to others, so he does about half of his job.
- Still, Carl can't get everything done.
- You are considering whether it's time to let Carl go.



5. Old Employees – Time to Say Goodbye?

What to consider:

- Remember, you can't terminate an employee just because he is old!
 - MHRA, OWBPA, etc.
- Employment decisions must be based on objective employment criteria
- Carl likely places high value on serving the parish and performing his duties
- Has Carl indicated whether he plans to retire?

5. Old Employees – Time to Say Goodbye?

Options to handle the situation:

- Discuss performance concerns
- Reduce hours commensurate with amount of work he can get done (remember issues with moving an employee to part-time though)
- Grin & bear it
- Early Retirement Plan
- Discipline & Discharge
- Consider each carefully, take your time, and get legal advice before taking action

Questions?

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