



Focus on Human Resources

Dealing Effectively with Unacceptable Employee Behavior

By Allan Milder, SP3 Group

"Improve a crucial management skill and reduce your legal risk at the same time."

Coaching, feedback, discipline. As a boss you and your managers have probably done these many times. And yet, even when you're doing the right thing in the right way, you still could end up being challenged, either by formal complaint to a regulatory agency such as the Equal Employment Opportunity Commission, or by civil action, or by vocal dissent within the workplace.

All these are disruptive and potentially expensive, but there are some things you can do to prepare so if they occur the costs can be reduced or minimized.

The following is an outline of some key ideas for you to consider. They take a little extra time in the beginning but should be viewed as an investment to hopefully avoid more costly distractions in the long term.

Recognizing the Problem: Prompt recognition of the undesired behavior or performance, along with speedy and effective corrective action, is the best way to get a sliding employee on the right path. Some characteristics to watch out for are negative attitude, loss of productivity, violating rules of conduct, poor attendance and punctuality, wasting time, and conflict with others in the workplace, including both other employees and clients/customers.

Preparing for the Employee to be Defensive: Be mentally prepared for employees normal reactions, such as pushing back, denying the behavior, getting you hooked on non-pertinent stories about their personal woes, coming up with great excuses, digressing into other topics, and especially getting emotional (angry, offended, crying, forlorn, etc.).

Four Steps to Successful Intervention: There are four areas of management action that will help make the coaching and/or discipline process more effective, and in the event it is

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challenged, more defensible under scrutiny. These are:

1. Documentation. If you get challenged and have no documentation, you are going to have to spend a lot of time defending your memory. The best way to manage is to have a file folder for each person, and use it to drop notes in it about anything they do that is noteworthy, either positive or negative. Each note can be extremely informal, just make sure it is dated and describes the event and identifies who has written it. And make sure your employees know you do this. They'll appreciate it because most of them want to be recognized for the good things they do and that you'll deal with employees who are not doing well. One word of caution, however, is that any written records can be subpoenaed. Therefore your notes should be 100% factual. Do not write down opinions, only facts.
2. Feedback. Deliver feedback, both positive and negative, in as timely a way as possible. Do not give negative feedback in public...find a private place. Be unemotional, state facts, explain the consequences of their actions on the business, and make it clear to them what behavior is acceptable.
3. Commitment. Once you have finished providing negative feedback and explained what is necessary for the employee to improve, ask for their commitment to improve. Don't ask for excuses by asking why they do what they do. Ask them instead if you can count on them to change their behavior and/or performance. If you cannot obtain their commitment to improve then the conversation needs to migrate into one of whether or not they are interested in continuing to work there.
4. Once you obtain a commitment for improvement, be alert to observe improvements, even minor ones, and point them out to the employee. This will serve to underscore that you are paying attention, and it may reinforce the desired behavior, resulting in further improvement.

No one can run a business without employee problems. But some common sense investment up front can prevent little problems from becoming bigger problems.

This article has been written for Diamond Corporate Services by Allan Milder, Vice President of Human Resources Services for SP3 Group, Inc., a management consulting company that is available to you for consultations to assist you in handling your Human Resource challenges. For more information about this service contact Allan at 512-249-8427, or contact Ron Rice at 512-431-7620.

“State of TX data supports PEO’s strategy in offering low cost mini-med options.”

HEALTH INSURANCE

HOW MUCH SHOULD THE EMPLOYER PAY?

By Ronald Rice, Diamond Corporate Services

My clients often ask me about the requirements for offering health insurance. For most small companies, under 30 employees, health insurance is only partially paid by the employer and, in some cases, offered only to the owners and key employees. The common question is: What are most small companies paying these days?

The State of Texas surveyed small companies in 2003 about this very question, and is doing a follow-up survey in 2004. More than 50,000 surveys were sent to small employers in Texas to collect information about their ability and willingness to purchase group insurance. More than 13,000 companies, each having less than 30 employees, responded (an excellent response rate). The study showed that:

- (1) Approximately 23% of employers can afford to pay less than \$50 per month per employee for coverage; 22% can pay no more than \$50; and 20% can pay no more than \$100. The complete premium in another survey averaged \$218 per month for single coverage.
- (2) Nearly 14% of the small businesses would not purchase insurance at any cost. Thus 79% of small businesses would be not be willing to pay even half of the average monthly group premium.
- (3) Only 10% of the employers believe employers are primarily responsible for assuring that individuals are insured. 27% believe the Federal government is responsible, 13% believe State government is responsible, and 42% believe individuals are responsible.
- (4) 25% of small employers currently not offering health insurance report that they definitely will not offer insurance in the next 3 years, and 50% probably will never offer insurance!

In another survey, the State of Texas polled households who were currently uninsured. They asked about their reasons for not carrying insurance and their interest in obtaining insurance.

The survey households had incomes over 200% of the federal poverty line. This eliminated from the survey most families eligible for government assistance. Significant findings of this survey are:

- (1) More than half of these adults were under age 40
- (2) 65% of these adults have not purchased insurance because it is too expensive,
- (3) 16% are reluctant to purchase insurance at any cost; most of these are young males who are healthy.
- (4) 58% of these adults are employed by firms that offer health insurance, but many of those are not eligible for these insurance plans. The others are offered coverage but it is too expensive.
- (5) Both individuals and small employers feel overwhelmed by the complexity of the insurance market.

WHAT ABOUT MINI-MED PLANS?

Many employee leasing companies (PEO's) can provide solutions to these concerns. One solution is to have a range of different prices and coverage levels available. Some PEO's offer a cafeteria-style menu where each employee can choose insurances based on their specific needs and budget. Quite often, a PEO will offer "mini-med" options. These mini-med plans are partial coverage plans, or medical indemnity plans, which are not technically health insurance. Despite holes in coverage, the mini-med plans are the only affordable coverage for many working adults and their dependents. Monthly plan costs are usually between \$50/month and \$150/month, depending on coverage levels. The price compares favorably to small group major medical insurance at \$200-\$300 per month per employee.

My experience has been that small employers must keep the employee cost below \$50/month to get decent participation in medical plans. Offering mini-med choices is a great way to hold down the employer's portion of the premium, while holding employee cost below \$50/month. Some PEO's will allow the employer to have three levels of their contribution towards the medical plan cost. For example, an employer could offer \$100/month towards key employee coverage, \$50-75/month for regular employees after one year of service with the company, and \$25-\$35 for any employee after 90 days of service. With a small contribution towards the cost, an employer can advertise that medical plans are available while controlling overhead.

"Do you have an employee handbook and are you using it to your advantage?"

Employee Handbook Updates

By Ronald Rice, Diamond Corporate Services

In recent years, ex-employees have increasingly been able to successfully make the assertion that they did not know or were not informed of company policies. Their employment was terminated and the reason given was violating a policy that the employee did not know about. In this way, ex-employees can sometimes win the right to unemployment compensation or can win a civil lawsuit against their former employer.

Therefore, all employers should have written policies and procedures to guide employment rules in the workplace. Most companies will develop an Employee Handbook. This document should evolve over time, as new legal precedents are set and your workplace changes. Employees should sign a statement confirming that they have been given a copy of the Employee Handbook and that they have been given an opportunity to review it and ask questions. The following are topics to consider adding to your Employee Handbook:

At-Will Employment Statement (applicable in Texas and most other states)

Attendance/Tardiness Policies

Sexual Harassment Policy

Dress Code Policy

Personnel Records Access Policy

Drug/Alcohol Testing

Internet and Computer Usage Policy

E-Mail and Voice Mail Policies

House Rules

AT-WILL EMPLOYMENT

The At-Will Employment doctrine has been quietly undermined in Texas and most other states over the last 20 years.

Although employment continues to be "at-will", exceptions are allowed for many reasons. For example, in Texas, it is unlawful to discharge an employee for military service, attending a political convention, or filing a workers compensation claim. An employee cannot be terminated for refusing to commit a criminal act, or if a valid employment contract exists. Other exceptions involve age discrimination, race discrimination and sexual harassment. The most "pure" at-will employment states are Delaware, Florida, Georgia, Louisiana and Mississippi.