

Membership Matters

Quarterly News from The 501 Alliance

September 2006

Tips for Controlling Unemployment Costs

In this issue, we decided to provide our members with some tips to help them increase their chances of receiving a favorable decision when protesting a claim for unemployment benefits. These include guidelines for providing warnings to employees, a discharge checklist and a list of items to include when documenting violations of company policy.

1. Providing Warnings to Employees

A warning or corrective action plan is an effective method to assure that an employee understands what is expected of him or her. State agencies look for warnings, in most instances, to determine if the claimant was discharged for misconduct. This is usually defined as a deliberate or willful violation of the employer's best interests. It is the employer's responsibility to ensure that all employees are aware of company rules, policies and procedures. The following are some guidelines to follow in regards to your company's personnel policies and providing warnings to employees.

- When your company issues an employee handbook or rules, retain a signed acknowledgment of receipt in the employee's file. This proves that the handbook or rules were provided.
- Special policies and procedures should, if possible, be posted.
- Be consistent; enforce rules and policies uniformly.
- Be specific and objective when you counsel employees. Avoid using general statements such as "poor performance" to describe willful or deliberate violations of rules within the employee's control. Permit the employee to respond in writing.
- Note witnesses, dates, time, etc. of documented incidents.
- Request employees to sign all warning notices. If the employee refuses, write on the notice that the employee refused and have a witness sign his or her name next to the statement. Remember, signing a warning notice does not mean that the employee is admitting to the offense; it is simply an acknowledgment of receipt.
- If you need to conduct an investigation into possible misconduct, suspend the employee during this process.
- Follow-up. If you warn or suspend an employee, document what is expected and note any important timeframes.
- Although written warnings are better, notes or verbal warnings are important if documented.

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2. Discharge Checklist

Even after an employer has taken the steps to help an employee meet an organization's policies, sometimes it's still necessary to discharge an employee for cause. Before you terminate, review the following list to ensure that you have given the employee every opportunity to meet your standards.

- *Employee Knew What Was Expected*
 - Clear and proper instructions were given on job procedures and tasks.
 - Applicable written rules and policies were previously reviewed.
 - Violated rules or policies have a rational relationship to the employer's interest.
- *Counseling and Warnings Were Given*
 - Efforts were made to help employee correct problem.
 - Standards of conduct were clearly defined.
 - Remember that certain acts of major misconduct may warrant immediate dismissal.
- *Employee Knew the Consequences*
 - Warnings were issued and/or other disciplinary action was taken prior to discharge.
 - There was no reason to believe that violations were condoned.
 - The final incident clearly violated a previously defined rule or policy.
- *Employee was Treated Fairly*
 - Rules were applied consistently and timely.
 - Mitigating circumstances (if any) were considered. Employee was given the opportunity to explain his or her side.

3. Documenting Violations

In a busy day, managers and supervisors sometimes forget or don't take the time to document their employees' performance. While failing to document routine disciplinary steps and meetings is – on one level – understandable, organizations whose managers follow recognized documentation practices are in a better position to protest unwarranted unemployment claims. The following are five items to include in all effective documentation of progressive discipline:

1. Date of the infraction
2. Details of infraction
3. Explanation of corrective action needed
4. Statement of next disciplinary steps
5. Signature of the employee