

Unemployment Update – Written Warnings

Effective Written Warnings: Key Element of Lowering Your Cost

Written warnings are the most important component of a successful progressive disciplinary policy. When done correctly, warnings and corrective action documents help employees understand the nature of a performance issue and provide a blueprint of the behavior needed to overcome the problem and satisfy the employer's job requirements. If the desired improvement ultimately does not take place, the employer then has effective documentation confirming the employee was aware of the employer's expectations.

When determining eligibility on a case involving a discharge, state unemployment agencies review the content of any warnings issued in order to decide if the claimant was discharged for job related misconduct involving a deliberate or willful violation of the employer's policies. As the employer will have the burden of proof in these cases, effective documentation makes the difference between a favorable or unfavorable outcome.

Best Practice Procedures

- When issuing or making changes to employee handbooks, always retain copies of employee acknowledgements of receipt
- Consistent enforcement of rules and policies is critical. Disciplinary action must be in accordance with your company policy
- All counseling sessions, even verbal, should be documented in writing
- All disciplinary actions should be administered only by authorized personnel and in a timely manner
- Documentation should be kept readily accessible for at least 18 months in order to provide timely responses to the states

Elements of an Effective Written Warning

- **The Violation** – Create a detailed synopsis of the event that occurred and include all facts, dates/times, and witnesses. State the observed behavior, explain why it was unacceptable and confirm the policy violated
- **Expectations for Improvement** – Outline in detail all expected changes in future behavior
- **Consequences** – Be specific regarding the time frame being given for improvement (30 days, etc.), as well as the next steps to be taken if expectations are not met; Example: further violations will result in more severe disciplinary action, which may include discharge

A written warning should reflect an objective summation of the facts relating to the situation and should not include statements reflecting judgments or opinions. Avoid using general statements such as "poor performance" to describe willful or deliberate violations of policy within the employee's control. Be sure to include the signatures of the employee and the individual administering the warning, along with a witness signature whenever possible.

What if the Employee Will Not Sign the Warning?

The employee's signature is not an admission of guilt or confirmation they are in agreement with everything stated in the warning. Its primary purpose is to show the employee was aware of the possible consequences of a future incident. The following are alternative methods for gaining the employee's signature, if the employee initially refuses to sign the warning:

- Add a line to the form indicating the employee does not agree with the action and is simply acknowledging receipt of the document
- Have a witness present who can attest to the fact the employee was presented with the form and had future expectations and consequences explained to them. Have the witness sign the form and note "employee refused to sign"
- Offer the employee the chance to add their comments and sign and date, confirming their receipt of the document

TALX's experience, expertise, and proven results help employers navigate the uncertainty of the unemployment insurance system. For additional information regarding this article or other proactive unemployment cost management techniques, please contact Pete Krieshok at 314-214-7325, or by e-mail at pkrieshok@talx.com or visit our corporate blog at <http://blog.talx.com>.