

Two Supervisor Snafus to Avoid

*In a recent issue of Tennessee Employment Law Letter, attorney Kara Shea of Miller & Martin PLLC in Nashville described the top 10 blunders that supervisors make. All of the mistakes mentioned in Kara's insightful article are a concern, but a couple in particular merit special attention. This issue of **Frontline Supervision** takes a closer look and shows you how to (1) sidestep knee-jerk reactions and (2) eliminate sloppy documentation.*

Temper, Temper

We all know that we should corral our temper as we go into the office because the resulting emotional firestorms just don't belong in the workplace — especially for supervisors. Even the calmest, most seasoned supervisor can have a short fuse and/or poor impulse control from time to time, but making a decision or addressing a difficult situation while angry is never a good idea. It almost always guarantees a harsher response than usual and can, unfortunately, turn an awkward problem into a full-scale disciplinary brouhaha.

Every adverse employment action, whether it's a verbal reprimand or a formal write-up, has the potential to cause serious repercussions for your employer, and taking action out of anger without considering the ramifications is a recipe for litigation. Which is why when you're faced with an employee situation that gets your dander up, you should always step back, count to 10, and get input from HR personnel who are trained to spot potential legal exposure.

HR professionals can objectively look at the situation as a whole and take into account, among other things, the employee's conduct and/or protected status, the company's policies and practices, and any extenuating circumstances. They can advise you on the best way to handle any difficult employment situation and help you navigate the ins and outs of appropriate and effective disciplinary measures. They are at your service so consult with them often and keep

them informed. They've got your back.

Carved in Stone

If you've been a supervisor for any length of time, you know to document, document, document. But all the documentation in the world, especially when it comes to disciplinary measures, can be discredited if it doesn't have substance. To be complete and, more important, relevant in a lawsuit, documentation must include the four W's — who, what, when, and where — of the event and/or employee action being documented.

Write-ups stuffed into your desk drawer instead of placed in an employee's official human resources file can create more problems than they solve. Granted, if presented to the employee, they can turn around the individual's behavior, but if they've never been a part of the official file, they may be an inadequate defense of your actions if the employee later sues for wrongful termination.

Appraisal documents that are delivered late or contain vague comments about the employee's performance can cause problems, so use examples instead of general descriptions. Scoring the employee low for attendance when he was on family or medical



Tip

- Set up a file for each employee and drop
- in notes about performance throughout
- the year. It makes crafting an evaluation a much
- speedier process because you have examples of good
- and/or poor performance at your fingertips come an-
- nual review time.



More Top Supervisory Blunders

As a supervisor, you are one of your employer's greatest assets. Uninformed supervisors, however, are potential weak links in the organization, and their actions, statements, and omissions can be the source of costly litigation. So, beware of some of the most common supervisory missteps shown below:

- ◆ **Treacherous triangle.** Denying employee leave requests protected by the FMLA or workers' comp or failing to engage in an interactive process with disabled employees as required by the ADA places the organization in jeopardy.
- ◆ **Wage and hour pitfalls.** Ignoring "off-the-clock" work, enacting informal "comp time" systems, or erroneous timekeeping procedures are a source of liability.
- ◆ **Playing favorites.** You must consistently apply the same rules and dish out the same discipline to all employees engaging in the same conduct.
- ◆ **Being a buddy.** You're in charge and should refrain from indulging in the "we're one big happy family" style of leadership.
- ◆ **Wishful thinking.** Failing to pull the trigger on poor performers can lead to reduced productivity and poor morale from consistent performers.
- ◆ **Loose lips.** Engaging in inappropriate banter or breaching employee confidentiality destroys your credibility.
- ◆ **Termination anxiety.** Poorly executed terminations — e.g., being too mean or too nice ("we're eliminating your position") — invites litigation from departing employees.
- ◆ **Pick your battles.** Contesting unemployment claims when you think the employee doesn't deserve to be "rewarded" can bite back if the employee takes legal action.

leave during the appraisal period can spur a lawsuit for violation of the Family and Medical Leave Act, so be sure you're not downgrading him for legal behavior. Another performance appraisal "no-no" is comparing one employee's performance to another's in an attempt to give the first employee a role model. No one likes to be told someone else is "better," and aside

from being a breach in confidentiality, it sets up one or both employees for potential resentment and conflict.

Wrapping Up

"It pays to sleep on it" is a good motto for any supervisor. It can help keep you from making a rash decision and reduce the chances you'll ever have to explain your actions to the head of HR or, even worse, to a judge and jury.

Paperwork is always a chore, and as a busy supervisor you don't have a lot of time. But making sure you timely and accurately document employee behavior — whether it's used as part of an employee performance evaluation or in a disciplinary action — can keep you out of hot water in the long run, so "just do it." Another good motto!

Tip

- Refrain from keeping the details about strikes one and two tucked away in your file until strike three forces you to take disciplinary action against an employee. Forward those notes on to HR as events occur and keep only a "copy" in your file for reference.



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