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Unemployment Update

Effective Written Warnings: What's Important from an Unemployment Perspective?

Warnings are an aspect of progressive discipline that effectively ensures an employee understands what is expected of them. Warnings or corrective actions help an employee understand that a performance problem or opportunity for improvement exists and helps the employee overcome those performance problems and satisfy job expectations.

State unemployment agencies look for warnings, in most instances, to determine if the claimant was discharged for misconduct—a deliberate or willful violation of company rules. Effective documentation is crucial, as many times the employer will have the burden of proof with the state agency.

Best Practice Procedures

- When an employer issues or changes the employee handbook, retain employee acknowledgement of receipt.
- Special policies and procedures should, if possible, be posted.
- Be consistent. Enforce rules and policies uniformly and ensure that disciplinary action being taken is in accordance with the company policy and/or prior disciplinary action.
- All counseling sessions and warnings should be documented in writing – even if only informal or verbal.
- All disciplinary actions should be administered by authorized personnel in a timely manner.
- Retain documentation for at least 18 months and keep available to ensure timely responses to the state.

Elements of an Effective Written Warning

- The Violation - A detailed synopsis of the event that occurred including all facts, dates/times and witnesses. State what the observed behavior was, why it was unacceptable and what policy was violated.
- Expected Action or How to Improve - What the expected behavior or standard is and what changes are expected.
- The Consequences - Inform the worker what the consequences will be if the violation is repeated. For example, "further violations will result in more severe discipline, which may include discharge." Include expected time period to rectify (e.g., 30 days to improve) and consequences and next steps.
- Employee Action Plan and Comments

A good written warning is clear and legible and does not use opinion or judgment words. Focus is placed on words that indicate a violation of the rules. Avoid using general statements, e.g., "poor performance," to describe willful or deliberate violations of company policies within the employee's control. Remember, you know what happened but the state does not.

Be sure to include the signature of a witness whenever possible, signature of the person administering the warning, and the signature of the employee.

What If An Employee Won't Sign the Warning?

The employee's signature is not an admission of guilt or an agreement with everything on the form. Its primary purpose is to show that the employee was aware of the possible consequences for a future incident. Here are some alternatives if the employee refuses to sign the form.

- Explain that the employee is admitting nothing, only showing an understanding of possible consequences. Offer the employee a chance to tell their side of the story that they can sign and date.
- Put a line on the form and simply ask the employee to initial the form showing they received it.
- Have a witness present who can attest to the fact that the employee was given the form and had the consequences explained to them. Then have the witness sign the form and note "employee refused to sign."

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 visit our corporate blog at <http://blog.talx.com/> or contact Pete Krieshok at 314-214-7325, or by e-mail at pkrieshok@talx.com.