

# Arkansas Community Action Agencies Association



## *IF I RAN THE CIRCUS: HUMAN RESOURCES: WHAT TO WATCH*

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# Human Relations at the Circus



- Diversity Mandates Good Human Relations
- Participative Management
- Employee Involvement
- Solicit Input
- Listen
- Patience
- “Golden Rule”

# Human Relations (continued)



- Uniform and Consistent Application of Policies and Procedures
- Good Communication – clear, concise directions
- Let employee “win” one now and then
- Learn how to say “I was wrong”
- Remember the “Golden Rule”
- Are we all under the same circus tent? Inclusion.

# Employee Due Process



- Notion of basic fairness
- Communication (notice) of behavior and job performance standards
- Following procedures
- A chance to be heard before action is taken

Still at-will.

# Employee Due Process (continued)



- Full and timely investigation and follow-up (plus cooling off period, too)
- A graduated system of penalties
- Unbiased review and an appeals process
- Consider methods to allow complaints about appraisals

# Employer Social Responsibility



- To “salvage” employee
- Better us than society

# Burden on Employer - Heavy



- Burden of proof, heavy
- Must show procedural fairness and due process
- Is “just cause” necessary?
- Rules, policies, and discipline must be reasonable
- Discipline applied uniformly and in nondiscriminatory manner
- Prepare appraisals fairly
- Documentation – if it’s not written, it didn’t happen

# Employee Responsibilities



- Maintenance of production/service standards – quality, quantity and priorities
- Responsible use of working time – self and other employees
- Cooperation with supervision and other employees
- Respect for other employees and their property
- Observance of safety and health rules



# Employee Responsibilities (continued)



- Proper use and maintenance of company equipment and materials
- Maintenance of attendance standards, including notification
- Maintenance of housekeeping standards
- Personal appearance or dress
- Protection of confidential information

# Prohibited Conduct



- On the job use or possession of alcohol/illegal drugs (or being under the influence)
- Possession of weapons
- Sexual harassment
- Insubordination
- Theft (or unauthorized possession)
- Smoking in restricted areas
- Falsification of records
- Fighting on the job



What is YOUR policy on conduct?

Do you know it?

# Employee Conduct and Work Rules



Follow your “Uniform Conduct Standards”

# Employee Conduct and Work Rules



- **Progressive Discipline** - A system of discipline which links certain types of offenses to specific levels of discipline and allows for variations due to mitigating, extenuating or aggravating circumstances. Disciplinary levels range from written warning to termination. In some instances verbal/oral warnings may be considered as disciplinary actions. Absent special circumstances, repetition of an offense is accompanied by an automatic progression to the next higher or more severe level of discipline. Progressive discipline emphasizes problem solving and increasing communication of expected behaviors before disciplinary action is taken.

# Employee Conduct and Work Rules



- **Disciplinary Actions** - Formalized actions taken by a supervisor in response to an employee's behavior. Actions range from written warning to termination. Such action is supported with documentation. Some actions may be utilized in combination with others, i.e. a written warning, plus a period of suspension.

# Employee Conduct and Work Rules



- Letter of Clarification - Written documentation to preserve an informal discussion between the supervisor and employee regarding a work-related behavior. Often referred to as a "counseling" or "memo of understanding", this document may not be considered a disciplinary action. Such a letter of clarification may serve as the foundation for future disciplinary actions if unacceptable work-related behaviors are not corrected, or recur.



# Get the Employee's Side of the Issue



# Get the Employee's Side of the Story



- Listen to the employee carefully
- Document exactly what was said
- Create accurate historical record
- Documentation prevents later fabrication

# The Employee's Story



- There are two objectives for documenting the employee's side of an issue.
  - Behavioral
  - Strategic

# The Employee's Story (continued)



- Behavioral - understand the conduct so as to effect a positive change
- Strategic - create a historical record as well as:
  - Increase likelihood management will act on basis of best information
  - Reduce risk employee will make up new “facts” later



**DOCUMENT,  
DOCUMENT,  
DOCUMENT!**

# Why Documentation is Important



- There are many reasons why documentation is critical in the employment context
- To improve and enhance employee performance
- To reward good and exceptional performance
- To assist in counseling poor performance
- To provide a record of progressive discipline, if applicable

# Why Documentation is Important



- To have a written record of events which occur in the workplace
- To demonstrate logic of employment decision
- To demonstrate equity in employment decisions
- To jog supervisor memories after – sometimes long after – an event occurs

# Why Documentation is Important



- To establish the facts as they occurred and “fix” those, so later they cannot be changed by an employee, for example, in an attorney’s office
- Supervisors may change and new supervisors need a written record of performance for future use
- To use as a defense to claims of employees for discipline and termination

# Why Documentation is Important



- If written documentation exists to establish that certain performance or actions occurred on a particular date, employees, former employees, and/or their attorneys, are less likely to file or continue pursuing claims against an employer



# The Dreaded Documentation



- “I’m too busy.”
- “I’ve got a lot of other work to do.”
- “I don’t have time.”
- Excuses, excuses, excuses.....
- Documentation is part of what management does.
- **YOU ARE MANAGEMENT!**
- **GOOD MANAGERS DOCUMENT!**

# Making Documentation Effective



- Organize
- Keep related ideas together
- New paragraphs for new ideas
- Be clear
- Be concise
- Use active voice
- Limit each sentence to single idea
- Use short but complete sentences
- Avoid statements of personal opinion
- Focus on job-related standards and behaviors
- Focus on important incidents and behaviors
- Avoid fancy words

# Making Documentation Effective



- Do promptly while memories are fresh
- Don't postpone documentation merely because of insufficient time to create a perfect memo
- Focus on important incidents and behaviors
- Establish internal system to check for consistency
- Focus on job-related standards and behaviors
- Reflect good faith attempts to salvage the employee
- Ensure appraisals and documentation consistent
- Take action to bridge past warnings

# Written Warning



Date: \_\_\_\_\_

It was reported to me that you are not doing your share of the work in the department. I realize that we all get slower with age and that you have had several health problems. However, you need to do your share of the work and not assign it to the younger employees. If your performance does not improve, we will need to talk again.

Signed: \_\_\_\_\_ I. M. Clueless \_\_\_\_\_

Supervisor

# Written Warning



Date: \_\_\_\_\_

I have observed that you are not processing the amount of work expected. It is important that you improve your performance in this area since it places a burden on the other employees in your department. If your performance does not improve in thirty (30) days, we will have to terminate your employment.

Signed: \_\_\_\_\_

Supervisor

# The EEOC Says:



“If an action is not documented by a written record, state the offense and the resulting action, and explain why it is not recorded.”

# RECOMMENDATIONS



# INCIDENT FILE VS PERSONNEL FILE

# Remember!



**THE “SYSTEM” DOESN’T  
BELIEVE YOU!**

**YOU’RE MANAGEMENT.**





**Watch out for Retaliation!**

**You need that documentation trail!**

# Progressive Discipline



- Assures due process
- Gives employee extra chance
- Adequately warns employee

# Warning the Employee



- Specific examples of shortcomings or infractions
- An opportunity to present their own case
- Respect
- A clear understanding of the consequences
- Specific recommendations to correct performance
- A positive attitude from management
- A second chance

# DR. SEUSS



- “A person’s a person, no matter how small.”
- It’s good to remember that everyone deserves the same respect, no matter their size, the way they look, or their place of residence.

# Implementing Disciplinary Action



1. Describe facts of incident – don't judge
2. Ask what happened
  - Listen to employee's side
3. State policy violation
  - Share your point of view
  - Explain
4. Commit yourself to problem solving approach
5. Get commitment for improvement
  - State your expectations clearly
  - Request employee's cooperation

# Steps of Insubordination



1. Order given
  - Clear
  - Concise
  - Direct
2. Repeat the order
  - Clear
  - Concise
  - Direct
  - Warning of discipline
3. Ask for explanation – communicate – Why?

# Steps of Insubordination (continued)



4. Repeat the order (Get a management witness)
  - Clear
  - Concise
  - Direct
  - Warning of discipline
5. Discipline

# Purpose of Performance Appraisals



- Constructive feedback
- Record of performance
- Compensation tied to it



# Importance



- Documentation for future litigation  
(poor documentation is often worse than none)
- Constructive approach to performance

# What the Appraisal Should Be



- A conversation with the employee about his/her performance
- A process for on-going development of the employee
- Tailored to the employee
- A system which depends on the manager to manage.

# What the Appraisal System Should Not Be



- Not a complex series of grades, numbers, or formulas
- Not a bureaucratic maze that makes the person fit onto a performance grid
- Not an "officer efficiency report"

# Potential Attacks to an Appraisal System



- Vague standards
- Procedures not followed by supervisors
- Lack of valid review procedure
  - review of reviewer—not rubber stamp
- Lack of job-relatedness (e.g., racial/sex stigmatism)

# Position Description



- Must have a current position description
- Important for performance evaluation
- Important to have duties specified for ADA/FMLA
- Must reflect essential job functions
- Update annually and when job changes

# Criteria for Effective Appraisals



- On-going process
- Participative employee contribution
- Involves two-way communication—consensus building
- Based on job relevant behavior
- Based on performance criteria—not personality traits

# Criteria for Effective Appraisals



- Emphasis on positive as well as negative feedback
- Offers constructive and specific actions for improvement
- Separates appraisal of current job performance from potential for future jobs



# **1. FOLLOW THESE GUIDELINES IN COMPLETING THE FORM!**



# Guidelines - Effective Appraisals



- Base appraisal on the performance of the job functions
- Do a draft first before finalizing

# Guidelines - Effective Appraisals



- Have evaluation thoroughly reviewed by upper management
- Communication with the employee
- Allow the employee to appeal an unfavorable evaluation

# Guidelines - Effective Appraisals



- Look out for adverse impact in the area/ department by specific supervisor, etc.
- Achieve common understanding among supervisors regarding performance rating scale and definition of terms
  - Communicate these to the employees
- Write the appraisal, as well as any documentation, with this question in mind:  
“How will this appraisal look when projected on a screen in front of an arbitrator or a jury?”

# Guidelines - Effective Appraisals



- Make satisfactory completion of the performance appraisals part of the appraiser's own performance review
- Focus on the act, not the actor
- Protect employee's privacy by limiting internal communication of performance appraisal contents to those who have a business need to know



**2. UTILIZE THE BLANK SPACES TO MAKE EFFECTIVE COMMENTS/GUIDANCE!**



### **3. GIVE EXAMPLES WHERE POSSIBLE!**

# Best Appraisal Discussions Are



- Descriptive
- Problem oriented
- Empathetic
- Equal
- Provisional
- Cause-oriented

- Not evaluative
- Not controlling
- Not neutral
- Not superior
- Not certain
- No conclusion

# Potential Problems of Poor Appraisal



- Negligent evaluation
- Inaccurate evaluation which is released to potential future employers
- Claims of favoritism and bias
- Disciplinary problems associated with inaccuracies



# Advantages of Candid Appraisal



- Support successful defense of possible future negative personnel decision
- Comparison with appraisals of better performing employees will demonstrate reasonable cause for the employer's actions
- Helps maximize long-term productivity of the organization as a whole
- Has morale-enhancing effect on entire workforce



- Watch what you write on performance appraisals!
- “Think” before you fill out the form!



These individual quotes were reportedly taken from actual employee performance evaluations in a large U.S. corporation:

- “I would not allow this employee to breed.”
- “When she opens her mouth, it seems that it is only to change feet.”
- “This young lady has delusions of adequacy.”



- “He sets low personal standards and then consistently fails to achieve them.”
- “This employee is depriving a village somewhere of an idiot.”
- “Got a full six-pack, but lacks the plastic thing to hold it all together.”
- “A gross ignoramus – 144 times worse than an ordinary ignoramus.”



- “He doesn’t have ulcers, but he’s a carrier.”
- “I would like to go hunting with him sometime.”
- “He’s been working with glue too much.”
- “When his I.Q. reaches 50, he should sell.”



- “A prime candidate for natural deselection.”
- “Has two brains: one is lost, and the other is out looking for it.”
- “If he were any more stupid, he’d have to be watered twice a week.”
- “If you give him a penny for his thoughts, you’d get change.”



- “It’s hard to believe that he beat a million other sperm to the egg.”
- “Takes him two hours to watch 60 Minutes.”
- “The wheel is turning, but the hamster is dead.”

# DR. SEUSS



- “With your head full of brains and your shoes full of feet, you’re too smart to go down any not-so-good street.”





THANK YOU  
AND  
ENJOY THE REST OF  
THE SHOW!!