

## 2010 Best Practices Tip

### Composing an Effective Written Warning



#### Why Warn?

Warnings are an aspect of progressive discipline that effectively ensure 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 help 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. The scope of documentation may extend beyond unemployment to employment litigation and Equal Employment Opportunity Commission (EEOC) matters. Proper documentation can make a difference in your bottom line—about 50% of all avoidable losses for most TALX clients occur due to missing or incomplete documentation or a failure to prove misconduct. States consider it the employer's responsibility to ensure that all employees are aware of company rules, policies, and procedures.

#### Preparing for the Warning

- Set aside time to review the problem
- Investigate the events surrounding the problem
- Interview any witnesses
- Review policies/procedures/work rules
- Define the expectation
- Define the alternative choices—are there any?
  - Change working hours
  - Suspension
  - Medical referral—need for medical information
  - Is this the first, second, or final warning?
  - Is this a discharge?
    - In the event of a discharge, TALX makes available to its clients detailed separation checklists. The checklists are located in the Resource Center link in webManager.



## 2010 Best Practices Tip

### Good Documentation Procedures

- When an employer issues an employee handbook or rules, retain an acknowledgement of receipt in the employee's file. When changes are made to policies, another signed acknowledgement of the update must be obtained.
- 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 action should be administered by authorized personnel in a timely manner.
- Retain documentation for at least 18 months and keep it readily available to ensure timely responses to the state.

### Elements of a Good Written Warning

1. **The Violation:** Provide a detailed synopsis of the event which occurred including all facts, dates/times and witnesses. Clearly state what the observed behavior was and why it was unacceptable. Clearly outline exactly what policy was violated.
2. **Expected Action or How to Improve:** State or reaffirm what the expected behavior or standard is and what changes are expected.
3. **The Consequences:** Inform the worker what the consequences will be if the standard is not consistently adhered to. For example, state "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 should there be no improvement.
4. **Employee's Action Plan and Comments**
5. **Signature of Employee:** Ensure the employee acknowledges having received the warning (signs and dates).
6. **Signature of Witness:** Whenever possible, involve a witness so two people will be able to testify with firsthand knowledge regarding the counseling session should an unemployment hearing arise.
7. **Signature of Issuer**

#### What to Do 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.

- 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 which they can sign and date.
- 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."
- Put a line on the form and simply ask the employee to initial the form showing they received it.

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

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### An Effective Written Warning

Date and Supervisor's Name

Reason for the disciplinary action and disciplinary level

Prior disciplinary action taken

Who, What, Where, When, and Why

What steps will be taken for repeat offense

Employee Comments (if any)

Signatures

#### PERFORMANCE CORRECTION NOTICE

EMPLOYEE NAME: \_\_\_\_\_

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

Position: \_\_\_\_\_

Department: \_\_\_\_\_

Supervisor Name: \_\_\_\_\_

##### Subject for Disciplinary Action:

☐ Conduct or behavior (Interpersonal Skills) ☐ Company Policies ☐ Safety or Work Environment ☐ Attendance/Tardiness  
☐ Work Performance (Productivity or Quality) ☐ Other: \_\_\_\_\_

##### Disciplinary Level

☐ Written Notice  
☐ Final Written Notice - (State nature of issue, method of correction, and action to be taken if issue is repeated.)  
☐ Termination

##### Prior Notification

Level of Discipline: \_\_\_\_\_ Date: \_\_\_\_\_ Issue: \_\_\_\_\_  
☐ Written Notice  
☐ Final Written Notice

**Incident Description and Supporting Details:** Include the following information: Time, Place, Date of Occurrence, and Persons Present as well as Organizational Impact. (Attach documentation if necessary.) \_\_\_\_\_

##### Plan of Action

1. **Employee Action Plan:** What specific actions did we agree the employee will take, and by when?  
*(Measurable, Tangible Improvement Goals & Timelines):* \_\_\_\_\_
2. **Support Plan:** What specific actions did we agree I will take to assist/support, and by when?  
*(Measurable, Tangible Improvement Goals & Timelines):* \_\_\_\_\_
3. **Date of Next Meeting(s):** \_\_\_\_\_
4. **Next disciplinary step:** \_\_\_\_\_

**Our Work Life Balance Program** (1-888-267-8126) can be confidentially reached to assist you. This is strictly voluntary. A booklet regarding the Work Life Balance Program is available from Human Resources.

**Employee Comments:** (attach additional sheets if needed.)

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Employee Signature

Supervisor Signature

Manager Signature

Senior Management Signature

Witness Signature *(If employee refuses to sign)*

Date

Distribution of copies:

☐ Employee ☐ Supervisor ☐ Manager ☐ Human Resources