Strategies for Performance Management To Reduce Potential Liabilities

Amy Holda
Employee Relations Manager
Agenda

• Who are we?
• What do we do?
• Contract Administration
• Performance Management
• Role of the Union
Employee Relations (ER) Responsibilities

- Establish and maintain relations with bargaining unit leadership representing MSU employees
- Negotiate collective bargaining agreements
- Administer and oversee adherence to collective bargaining agreements
- Assist and counsel supervisors and administrators on contract interpretation, performance management/setting expectations and issuing discipline
Contract Administration

- Laws further limit rights (FMLA, ADA, ADEA, PERA)
- Clauses to be familiar with:
  - Probationary Language
  - Layoff Language
  - Filling of Vacancies
Probation and Trial Period

- Know what probation/trial period length applies – Talent Management will assist with timelines
  - Probation
    - APA, APSA, Nurses, FOP – one year
    - CTU - 1040 hours worked (full time, prorated for others)
    - 1585, 324, 999 – 1040 hours worked and six months (some proration)
  - Trial
    - APA – Six months
    - APSA, Nurses – Six months
    - FOP – One year
    - CTU – 256 hours worked
Probation and Trial Periods

Represent the majority of “urgent” cases in ER
• APA and APSA require interim evaluations
• CTU requires evaluation at conclusion of probation
• Best practices would dictate that all employees receive ongoing and specific feedback
• The halfway point is a great place for a supervisor to evaluate.

EXTENSIONS AND TERMINATIONS REQUIRE ER AGREEMENT!
(Extensions require two-week notice to ER and may also require Union concurrence)
Layoff Language

• Contract language defines employees’ rights to other employment opportunities through either “bumping” or “bypass”

• Used during financial hardship or restructuring of duties

• Never to be used to address performance issues
Filling of Vacancies

Contract language prescribes how long positions will be posted and in some cases, who may be selected for interview.
Conflict Avoidance

- There is probably a performance issue which needs to be addressed when:
  - Duties and responsibilities are being moved to reduce interactions or errors
  - Others are refusing to take work to the employee
  - The employee is being reassigned
  - There is talk of staff reductions – of a specific position
  - There has been a physical move, rearrangement of the office, doors closed
  - Staff are “coordinating” absences
  - Staff are “going around” the supervisor
  - Communication is through email, avoidance of face-to-face conversation
Liabilities

• The impact of neglecting these opportunities to address performance
  o Irritation, stress, conflict
  o Delay or failure in meeting deadlines
  o “Product” isn’t best quality
  o Internal issues become public
  o “Invites” external parties to review your operation (Union, General Counsel, Internal Audit, Arbitrator, Outside Agencies)
  o Time!
  o Records collection, review and release
  o Financial settlements
  o Unwanted turnover
  o Place yourself “on the radar” of union
Prevention and Early Intervention

• When ER and the supervisor partner early on for case management:
  o Reduction in “urgency of cases”
  o Improved understanding of timing of interventions and level of response
  o Reduces number of administrators involved or at least time spent
  o Pre-emptive efforts = stronger cases = stronger university position

• Behavioral Threat Assessment Team (BTAT) involvement?
Continuum of Performance Management

- Coaching
- Counseling
- Written Record of a Verbal Warning
- Written Reprimand
- Suspension (long and short)
- Discharge

Formal discipline: triggers right to union representation and right to grieve
Just Cause Discipline

• Notice/prior warning
• Reasonable rule or order
• Investigation held
• Fair and objective investigation
• Proof: conclusion supported by evidence
• Equal treatment/Nondiscriminatory
• Penalty “fits the crime”
Role of the Union

- Protect the interests of members
- Maintain adherence to contract provisions
- Has this changed with Right-to-Work law?
Questions?

Contact information
Jim Nash, Director
517-884-0108

Amy Holda
517-884-0116
amyholda@hr.msu.edu

Greg Harris
517-884-0103
harri437@hr.msu.edu