

# Strategies for Performance Management To Reduce Potential Liabilities

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# 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

- Derive rights from Management's Rights clauses. Contract regulates how you exercise those rights.
- 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, CCLP (former FOP) – one year
- CTU - 1040 hours worked (full-time, prorated for others)
- 1585, 324, 999 – 1040 hours worked and six months (some proration)

## ○ Trial (does not apply to reclassifications)

- APA – Six months
- APSA, Nurses – Six months
- CCLP – 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.

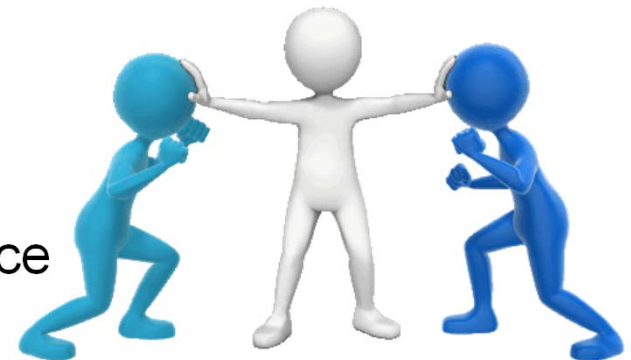




# Conflict Avoidance

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

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



# Prevention and Early Intervention

When ER and the supervisor partner early on for case management:

- Reduction in “urgency of cases”
- Improved understanding of timing of interventions and level of response
- Reduces number of administrators involved or at least time spent
- 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?

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