

## It is Not Fair for a Company to Pay for Substandard Work

It is about time that we discuss fairness from the company's point of view. One of the biggest laments I hear from my clients is that it is next to impossible to get rid of the poor performers. The truth of the matter is that the managers or business owners are being ruled by fear. They are afraid that the employee will file a lawsuit. They feel as though an employee of a protected class must get special treatment. Race, color, creed, religion, gender, pregnancy, disability, marital status, age, sexual orientation and veteran status are all examples of protected status. Until the manager realizes that all employees are members of a protected class, the manager will be paralyzed into inaction and will be unable to deal with any employee who is not meeting expectations.

The answer to this dilemma is consistency. Treating employees in a consistent manner will go a long way to ensuring that you will stay out of court. It is not a guarantee and it would be foolish to make a guarantee that you can prevent employment related lawsuits. The best you can do is to reduce your chances of being sued when disciplining poor performers.

### Document, Document, Document

Without documentation, you are putting the company at risk of losing a very expensive lawsuit regardless of the reason for a termination and the number of witnesses you have to verify poor performance. You should be able to prove that you informed the individual of their performance deficiencies and the consequences of continued low level of non performance. You do this through documentation.

Write down the expectations versus the substandard performance. The following is an example of a written warning.

"You are expected to report to work every day at 8:00 a.m. In the last two weeks you arrived late on four occasions. This is an unacceptable attendance record. We must see an immediate and sustained improvement. Failure to arrive at 8:00 will result in additional disciplinary action up to and including discharge.

I am sure that you understand the importance of arriving for work in a timely basis and we will not have to resort to additional disciplinary action in the future. Please sign where indicated below signifying your acknowledgement of receipt of this memorandum."

If the person refuses to sign, call in another person, preferably someone in a supervisory capacity. Read the memo out loud to the individual and have the witness sign the memorandum stating that they were present during the discussion.

If the employee is late again in the next couple of months, termination is not only justified it is fair to the company and employees who are able to get to work on time.

Applying policies and practices to all of your employees regardless of the protected status is the key to protecting yourself against charges of discrimination.

Remember to be fair, be consistent and document, document, document.



The World's Leading Supplier of Employee and Management Training Programs.

McKenzie & Company is a certified distribution partner

### McKenzie & Company

Your Solution to Employee Issues

Bob McKenzie, President

[www.mckenziehr.com](http://www.mckenziehr.com)

220 Seamist Court

Ponte Vedra Beach, FL 32082

Telephone: (904) 273-8637

Cellular: (904) 501-4083

E-mail: [bobm@mckenziehr.com](mailto:bobm@mckenziehr.com)