

Management behavior and performance law employment essay

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Introduction

In this report, it will discuss issues related to the employment-at-will doctrine and liability of an employer based on actions and responses to the employee's behavior and actions. This report will provide adequate solutions for each questionable behavior, as well as, indicate what solutions to be implemented in a particular situation. First, describe what steps needed to address the employee's skills, competence, and abilities. Second, describe what steps taken to address the involvement of management, behavior, and performance. Third, describe what steps taken to address the scenario involving labor and laws. Finally, describe what steps taken to address the behavior involving policies and procedures.

Describe what steps you would take to address the following scenario involving skills, competence and abilities:

[The employee seems to be unable to learn the computer applications that are basic to her job responsibilities, but, consistently "tells" her boss that she is "a good worker and a genius" and that he does not "appreciate her." Even after a few months of training and support, she is unable to use the computer tools to be productive and efficient in completing the required tasks.] In this situation, there is a clear disconnect between the expectations of the firm and the perception of the employee. It is therefore the company's responsibility to insure that the employee thoroughly understands the responsibilities of her position as it relates to the overall job function. The company can accomplish this in a variety of methods. First, create a comprehensive overview of the job functions of the position and where the

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employee stands relative to those functions. Second, implement a scoring system or balanced scorecard, rating each method that is both comprehensive and intuitive to the average person. Third, implement monthly, quarterly or annual reviews to insure that the employee understands the expectations of the firm's benchmark, and the sequential stand relative to those expectations. If subsequent progress has not been made relative to the skills and competencies needed to perform the job functions, the employer does have the right to terminate the employee (if no predetermined work time frame was discussed). Unfortunately, the employment-at-will doctrine provides employers the right to immediately terminate the working relationship with no warning (Haymes, 2001). In 2000, the supreme court of California reaffirmed this case after a very controversial trial in which it explained, " An employer may terminate its employees at will, for any or no reason. The employer may act peremptorily, arbitrarily or inconsistently, without providing specific protections such as prior warning, fair procedures, objective evaluation, or preferential reassignment. The mere existence of an employment relationship affords no expectation, protectable by law that employment will continue, or will end only on certain conditions, unless the parties have actually adopted such terms." The conditions are demonstrated in the above scenario. It is the firm's job to make sure the employee has a clear understanding of the overall expectations of the job and how the employee is performing relative to those expectations. After sufficient time has elapsed, if no improvement is made, the company can terminate the relationship with no warning as discussed by the Supreme Court of California in 2000 (Haymes, 2001).

Describe what steps you would take to address the following scenario involving

management, behavior, and performance:

[The employee tends to burst into a rage when criticized and is frequently late to work as noticed by her boss and other staff members. When her boss attempts to address her behavioral issues and the company late policy, the employee's response is that she " knows her rights and what to do" if she is wrongfully discharged. She also says she took a business law class in undergrad that taught her " everything she needs to know about exceptions to the employment-at-will doctrine and wrongful discharge in violation of public policy".]First, would foster a thorough attempt to remedy the grievances of both parties involved. In this case, the employer wants the employee to be more punctual in regards to their work schedule. The employee believes she is being wrongly accused and therefore burst into anger when criticized by management. Second, both parties must understand the views of each other relative to the overall work environment. Meetings, discussions, or calls can provide a means of determining, the actual cause of the underlying problem. Third, once both parties secure a mutual beneficial arrangement, actions can be taken to help alleviate future tardiness. In the event that the employee continues to come to work late, the employer, under the employment-at-will doctrine does have the right to terminate the employee. The employee in this case exclaims that she, "... knows her rights and what to do." However, prior precedent has shown that employees have very few rights in regards to employment-at-will. In roughly 37 states, the implied contract law may be an exception to the employment-

at-will doctrine. In this instance, an employer may not fire an employee when an implied contract is formed between both parties even though no express, written instrument regarding the employment relationship exists. The burden of proof in this instance lies with individual employee, which in court, is difficult to provide (Adams, 2004). Recent law cases also suggest that the implied contract law is often trumped by that of the employee-at-will doctrine. In 2006, the Texas Court of Civil Appeals in *Matagorda County Hospital District v. Burwell* and *Tameny v. Atlantic Richfield* held that a provision in an employee handbook requiring records to specify the reason for termination did not modify an employee's at-will employment (1980). In this case, the court maintained the employers right to terminate an employee relationship without prior notice. The New York Court of Appeals also rejected the implied-contract theory to circumvent employment at will. In *Anthony Lobos, Appellant v. New York Telephone Company/NYNEX*, Respondent and *Toussaint v. Blue Cross & Blue Shield of Michigan* the court restated the prevailing rule that an employee could not maintain an action for wrongful discharge, as the above employee anticipate to invoke. The only other exception to the employment-at-will doctrine is that of public policy (Toussaint, 1980). In *Adams v. George W. Cochran & Co.*, the court held that an employer can not retaliate against an employee for complying with public policy such as informing authorities of illegal acts, or acts of abuse. Clearly, in the above situation, the employee cannot use this exception (Adams, 2004). Finally, in the Supreme Court of California case mentioned above, the court held that the length of an employee's long and successful service is not evidence of an implied contract. In all three cases mentioned, the burden of

proof was on the employee, which subsequently failed in court. As such, the employer after through discussion over the employee's tardiness does have the right to fire the individual if progress is not being made regarding timeliness (Rothstein, 1987).

3. Describe what steps you would take to address the following scenario involving labor and laws:

[The employee takes a day off from work, without management consent, for her religious holiday observance that falls on a day that is during " tax season." The day off occurred during an incredibly busy period for the company during which the employer had notified all employees they were not allowed to take off without prior management approval. Also, there is no labor union for accountants. However, she begins talking to her co-workers during lunch breaks and sometimes during regular work hours, encouraging them to organize and form a union to " protect ourselves".]The company in many instances is required to make religions accommodations for employees. These accommodations, although occurring during a busy period, must be adhered to by the company. First, prior to hiring, the company must thoroughly understand the availability of a potential candidate during the tax season. This will provide the company with a better understanding of what days a candidate may take off. By thoroughly addressing the availability issue prior to employment, the company can prevent days off during peak periods of the year. Second, it is also the right of employees to form labor unions if they elect to do, but the obligation and burden in this circumstance relies heavily on the company. Third, the company should be engaged with its employee base in order to prevent

unionization. Employee engagement starts foremost with the overall work environment. I would first ensure that the work environment is one in which is favorable to all employees. If discrepancies arise, then management must adequately address them in a manner suitable to all parties involved.

Through proper engagement, and commensurate pay, labor union activity will be prevented. Four, steps can also be taken legally to prevent solicitation within the company of labor unions. The company does have the right to prevent solicitations within the confines of its premises. However outside of work, the law does not apply. Management should take appropriate measures which to prevent solicitations of labor unions within the workplace.

4. Describe what steps you would take to address the following scenario involving policies and procedures:

[The employee's supervisor consistently asks her out on dates; the employee initially refuses to go out on a date with her supervisor. The employee later discusses the issue with her girlfriend who encourages her to accept his offers. During her new employee orientation, the employee was informed of the company policy which prevented employees from dating their supervisor and was given an employee handbook with the written policy. The employee and her supervisor later begin having a consensual relationship.]First, adhering to the company policy in which it clearly states the expectation of the firm. A supervisor is strictly prohibited from having an intimate relationship with subordinates. Relationships outside of work can cause work environment stress for both the company and individuals within the relationship. This stress could ultimately hinder work performance as both parties are occupied with aspects outside of work. Second, retain good

employees. The company must be mindful not to allow talented individuals to leave the company who otherwise could contribute significantly to its growth. Third, one course of action would be to separate both parties. If for instance, the company has multiple locations, placing each individual in a separate work location would benefit both the couple and the company. If multiple locations are not feasible, then separating both parties in regards to their subsequent departments may also be considered. If this too is not possible, the company could consider giving each member different roles and responsibilities within the firm. In this capacity, the supervisor may be moved to another capacity in the job. The above mentioned solutions are not used to necessarily disintegrate the relationship, but rather to protect the work environment that other employees must share. Aspects such as domestic disputes, arguments, unrest, and other occurrences, could cause a harmful work environment in which other employees are therefore affected. Although, separating both parties job functions, classifications, and geography would help to mitigate any negative aspects in regards to the overall work environment. Conclusion While there company policies and procedures to be adhered in referenced to behaviors within the work environment, there are also several steps, resolutions, and laws to be administer by management to help alleviate and prevent any business destructions, employee's morale, and safe a company's reputation. Employers and employees must value each contribution to being successful and ??.(<http://www.msha.gov>).