

Managing Toxic Employees: Performance Plans, Reporting Mechanisms, Discipline & Terminations

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Presentation Roadmap

1. Policies & Setting the Tone of the Organization
2. Specific Policies: Purpose & Examples
3. Using Policies: When, Content, Other Elements
4. Beyond the Policies
5. Addressing the Misconduct
6. Management of High-Level Employees
7. Best Practices
8. Takeaways

Policies



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Policies & Setting the Tone of the Organization

- **Helpful in defining the workplace culture & key values**
 - **Codes of Conduct**
 - **Codes of Ethics**
 - **Mission Statements**
 - **D&I Policies and Initiatives**
 - **etc.**

Policies: Your Starting Point

- **When an incident or conflict arises:**
 - Refer to any applicable early on for guidance: your starting point
- **Examples:**
 - Respect in the Workplace Policy
 - Anti-Harassment / Anti-Discrimination Policy
 - Social Media Policy
 - Progressive Discipline Policy

Policies: Your Starting Point

- Ensure policies are up to date, compliant and that they make sense for your organization
 - <https://www.ontario.ca/page/code-practice-addresses-workplace-harassment>
- Ensure some employer flexibility
- Limit mandatory language
- Familiarize yourself with them before conflict arises
- Follow them!

Using Policies as a Guide

- Employee misconduct occurs
 - Next step: Pull up your policies
- Policy content:
 - Harassment
 - Discrimination
 - Domestic violence policy
 - Definitions
 - Discrimination
 - Sexual Harassment
 - Workplace Violence
 - Harassment
 - Bullying
 - Reprisal

Using Policies as a Guide (continued)

- **Policy content continued:**
 - **Complaint process**
 - **Investigation process**
 - **Confidentiality**
 - **Post-investigation**
 - **Progressive Discipline Policy**

Beyond Policies

- Early planning
- Discrete collaboration with leadership team
- Investigation plan for an investigation that is “appropriate in the circumstances”
- Document all steps
- Avoid prejudice (including in documents)
- Procedural fairness
- Standard is reasonableness, not perfection



Addressing The Misconduct

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Addressing the Misconduct

- Contextual approach to determine disciplinary measure
- Considerations:
 - Nature and seriousness of the infraction
 - Surrounding circumstances
 - Proportionality

Management of High-Level Employees

- Consistent process for all employees
- Ensure reporting options exist in complaint process
- Complaints are not always formal, written complaints
- Process should not differ, but the outcome may differ due to seniority and being held to a higher standard

Best Practices

- **Frame criticism as feedback**
- **Be clear about consequences**
- **Separation of employee**
- **Acceptance and next steps**
- **Professional coaching or other third party**



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Takeaways

- **Policies: familiar, compliant and applicable**
- **Plan and strategize early**
- **Document, document, document**
- **Procedural fairness & impartiality**
- **Contextual approach**
- **Reasonableness not perfection**

Questions?

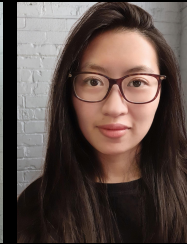
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