

SCOPE:

This step in the progressive discipline process consists of a conversation between the supervisor and the employee about a discipline problem. Following the conversation, the employee leaves work for the balance of his/her shift (not to exceed two (2) scheduled days of work) to decide whether to continue working for the company, which means following all the rules and doing a good job. This period of time is paid by the company as a good-faith gesture that the employee will improve.

The purpose of the Decision-Making Leave is to correct a performance problem. It is an extremely serious step, since the employee will be discharged if he/she does not change performance or behavior.

The Decision-Making Leave is usually used only after an oral reminder and a written reminder have been given to the employee and no change in performance has resulted. If the employee returns from the Decision-Making Leave having made the decision to work and follow all the rules, the supervisor should write a memo summarizing the Decision-Making Leave incident and attach it to the employee's document.

During the suspension, the employee is required to write a letter/memo to the company outlining the employee's understanding of the situation, what the employee did that is unacceptable and what the employee plans to do to make sure the situation is not repeated. Also, the employee must include in his/her statement that he/she understands that a reoccurrence of the behavior or a failure to change behavior will result in the termination of employment.

The supervisor should provide a memo to the employee outlining the items that must be covered in the employee's letter/memo. The employee must sign his/her name to the document that is returned.

The memo should be written to, not about, the employee and it must contain the following information:

1. The date of the Decision-Making Leave conversation;
2. The specific performance problem or rule violation that occurred;
3. The dates and nature of earlier conversations about the problem;
4. A statement about the specific change in the employee's behavior or performance that is expected:
 - a. Include the time allowed for improvement; and
 - b. State the consequences of not meeting the required performance or behavioral changes within the allotted time;
5. The duration of the leave;
6. A condition of the employee's decision to continue (or not continue) to work and to follow all the rules; and
7. A statement indicating that any further discipline problems will result in the employee's discharge.

If the employee decides to quit or does not return from leave, a memo should be written summarizing the Decision- Making Leave as part of the termination procedure, and the employee should be considered to have resigned voluntarily.

THE BENEFIT OF USING DECISION-MAKING LEAVE:

Every employer is required to contribute to the State Unemployment Tax Fund. The State Unemployment Tax is one of the few taxes that the individual business owner can control. The more employees that are discharged by a business for reasons that cannot be classified as "for just cause" by the Department of Workforce Services, contributes to an escalation of the businesses Unemployment Tax Contribution Rate. Simply put, if you have a high number of employees that are discharged who qualify for Unemployment Benefits, your business will have a higher tax rate. This tax rate is adjusted annually.

The key is to discharge employees for reasons that can be qualified as "for just cause." Even though employees are classified as "at will employees," (unless you have a written or verbal contract that moves an employee from "at will" status) you are

penalized for discharging employees for reasons that cannot be qualified as “for just cause” by having the rate of unemployment tax increase.

A proven tool for increasing the percentage of employees who are discharged “for just cause” is Decision-Making Leave. Again, if you can increase the percentage of employees who are classified as “discharged for just cause” you will not suffer the penalty of having a higher tax rate passed on to your business. And everyone knows, higher taxes mean lower profits.

When an employee creates a situation where that employee might deserve to be discharged, a prudent step to take before actually terminating that employee is to place the employee on Decision-Making Leave. Decision-Making Leave is best utilized when the employee is given a day of paid suspension, but can also be used in conjunction with unpaid suspension.

While the employee is on suspension, he/she is required to complete the attached Decision-Making Leave Worksheet as a condition of returning to work. If the employee refuses to complete the worksheet as and when directed, the employee would be guilty of insubordination. This offense is a “for just cause” offense and this employee could be discharged with little chance of receiving unemployment benefits. As well, if the employee returns to work and has not completed the worksheet, this would create a situation of the employee failing or refusing to follow a direct order (insubordination) and he/she would face a discharge situation. Often, the employee simply fails to return to work as scheduled at the completion of his/her suspension and this is viewed as a voluntary quit, due to job abandonment and does not qualify for unemployment benefits.

When the employee returns to work with the completed worksheet, he/she understands that a repeat of the conduct or behavior that led to the suspension and the requirement to complete the Decision-Making Leave Worksheet, will result in termination of his/her employment. The Department of Workforce Services also accepts the suspension and requirement to complete the worksheet as a final written warning to the employee that his/her conduct or behavior is unacceptable to the business and that the behavior or conduct must not be repeated. Proper use of the Decision-Making Leave Worksheet comes very close to guaranteeing that the discharged employee will not qualify for Unemployment Benefits.

Recent research indicates that it costs a company five hundred times an employee’s hourly salary to find and train a new employee and to get that new employee to a point where his/her production is profitable to the company. If you can save an employee, change his/her behavior by using the Decision-Making Worksheet in conjunction with a paid or unpaid suspension, you have avoided paying five-hundred times his hourly wage to replace and train that employee.

Proper use of Decision-Making Leave will benefit the business on two fronts;

1. The business will not suffer from higher unemployment tax rates
 2. The business will retain more trained employees which results in a reduction of recruiting and training costs.
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