

## You're Fired! Taking the Heat Out of the Disciplinary Process

Consider this statement: "The worse times in my practice have been because of troublesome employees who simply do not improve. No matter how much time and training I give them, it is never enough." As another pediatric dentist put it, "I do not like to discipline my staff. As a mom of three kids, I spend a lot of time disciplining at home. I hate doing it at work, too." Employee discipline is a difficult job, but every pediatric dental practice must have a strong disciplinary process. To help take the heat out of this management challenge, this article gives practical guidelines for handling disciplinary action from verbal warnings to termination.

## The Groundwork: Essential Materials and Honest Appraisals

Solid work performance relies upon clear, up-to-date job descriptions and effective training programs. In addition, employee policy manuals and annual performance appraisals are critical to helping employees fully accomplish their job responsibilities.

### Employee Policy Manuals

Your office should have a manual describing all personnel policies, including such topics as the terms for dismissal and how disciplinary issues are managed. The manual can also serve as a guide to performing all office functions from sterilization to processing insurance forms. If you do not have an employee policy manual, or have not updated yours lately, here are two excellent resources: *Employee Office Manual: A Guide for the Dental Practice*<sup>1</sup> and *Managing Dental Office Personnel: A Management Tool for Structuring and Administering Personnel Policies in the Dental Practice*.<sup>2</sup>

Your practice manual should include a statement regarding the at-will employment status of employees. An "at will" employee is one without an oral or written contract. Either the employer or the employee is free to end the work relationship without cause or notice at any time during the course of employment. There are exceptions to at-will employment, however, so you should consult with your attorney regarding the regulations in your state. Here is a sample at-will statement from the aforementioned *Employee Office Manual*:

*This employee handbook is not an expressed or implied contract of employment...either (dental office) or employee may terminate the employment relationship at any time with or without notice or cause.*

## Annual Performance Evaluations

Performance appraisals give you and your employees the opportunity to openly discuss strengths and weaknesses in work performance. Every employee should receive a performance review at least once each year. New employees should receive an appraisal after three months of employment. Their subsequent reviews should be conducted at the same time of year as the rest of the team. The performance evaluations serve as the foundation for your decisions regarding raises, promotions and continued employment in the practice.

Performance reviews are based on the standards of conduct expected by the practice and responsibilities detailed in the job descriptions. Sample performance standards include attendance, punctuality, positive relations with children, time management, workplace attitude, and work quality and quantity. The performance evaluation form should also feature a listing of the primary job responsibilities of the employee. Employees are rated on each standard and responsibility. The dentist (or office manager or supervisor) completes the evaluation form and then meets with the team member to discuss performance strengths and weaknesses. The dentist and employee should sign the evaluation form, and a copy should be placed in the employee's personnel file.

Keep in mind that performance appraisals must be done honestly in terms of both strengths and weaknesses. First, an employee with performance deficiencies must be informed and given a chance to improve. Second, an employee with a history of positive evaluations who is later fired could end up with a better case in court.

## The Disciplinary Process: Steps to Improve Performance

The best way to work with employees, who are not as productive or skilled as they need to be, is to provide training and performance evaluations as soon as you recognize the deficiency and long before termination becomes necessary. However, this route does not work with every employee. The following disciplinary steps are designed not just to protect you from wrongful termination suits, but to give the employee a chance to improve performance and change problem behaviors. Since the disciplinary process is a specialized area of management, you should consult with labor relations authorities or your attorney on how to proceed.

## Verbal Performance Warnings

In a verbal performance warning, meet with the employee in private near the end of the workday. Describe the rule violation or performance problem and listen to the employee's point of view. Then, outline the specific behavior that is required to improve performance. For example, "The data for accounts receivable must be entered into the computer within one day of the transaction or visit." Close the discussion with a summary and set a date for another review of performance.

The more precise your language in a verbal warning, the more likely performance improvement becomes. For example, you might say, "I reviewed the results of your work. Six of the last eight insurance reports had a number of errors. These examples show that your work has not met the standards of this practice."

The more you focus on employee performance, instead of employee personality, the better the session will go. For example, you would not say, "You just can seem to get a grip on our payment procedures." Instead, you would say, "In financial discussions, parents must be provided with a written estimate of care, insurance benefit information and our financial policies. As a case in point, Mrs. Anderson did not receive either the written estimate or financial policy statement." Your approach must focus on what's important in your practice, i.e. how much and how well work is accomplished.

Even though this step is a verbal warning, it should be documented. Note the name of employee, performance problem and required improvements. Sign, date and place it in the employee's personnel file.

## Written Performance Warnings

A written warning is similar to a verbal warning, except the employee is asked to sign the statement as well. Describe the performance problem, behaviors expected to resolve the problem, a time frame in which improvement is expected and the consequences of further misconduct. Employees in this situation must understand that as a result of their performance, they are on the road leading to probation and possible discharge. In addition, employees on this road must recognize that they can choose to change their route at any time.

The written warning should include the name of the employee, performance problem, required improvements, consequences of a lack of improvement and the date when performance will be reevaluated. It should be dated and signed by both the employee and dentist or office manager. (You may need to explain that an employee signature does not represent agreement with the warning, but represents an acknowledgement that the performance issue has been brought to their attention.)

## Disciplinary Sanctions

Disciplinary sanctions include probationary periods from 90 days to six months, followed by suspension without pay. The employee must be informed that additional misconduct

will result in stronger sanctions, including termination. As with the preceding disciplinary step, probation and suspension notices should be dated and signed by both the dentist and employee.

## Termination: When All Else Fails

Although firing an unsatisfactory employee is difficult, you must do it to protect your practice and the morale of your competent team members. Cheryl Matchek states in *The Principled Practice*,<sup>3</sup> "When you work with your employees and give them continual feedback, you will find that the same procedures that help most employees grow will also reveal those who cannot or choose not to grow in your environment. It becomes clear who should move out of the practice and on to another opportunity." That said, there are limits to discharging employees. Unlawful reasons include firing on the basis of such characteristics as race, gender, religion, age or disability. In addition, an employee cannot be fired for filing a workers' compensation claim, accepting jury duty, or refusing to violate the law or a professional code of ethics.

Lawful reasons for termination include insubordination, practice rule violation, absenteeism, lateness, low productivity, safety violations, incompetence and negligence. Employees can also be dismissed when the position is no longer required for the practice or because the practice suffers a significant loss of patients or revenue.

*Do your homework.* If the employee is being fired for poor performance, the record must show the reason for the action and disciplinary process – performance evaluations, verbal warnings, written warnings and probation. You should follow the disciplinary process before firing an employee unless the situation involves violence, theft, falsifying records, release of confidential information, sexual harassment or drug/alcohol abuse at work. In addition, review your employee policy manual on such topics as medical coverage, disability coverage and unemployment compensation.

*Cut the check.* Have the employee's final check ready on the last day of employment. All earned salary and compensation for unused accumulated vacation should be paid, even when the discharge is because of gross misconduct. (This is a legal requirement in many states.) Follow the policies in your employee manual to decide if you need to include payment for unused sick leave.

*Hold the exit interview.* Meet with the employee at the end of the business day. Calmly but truthfully present your decision. Even though you must communicate that the decision is a final one, be willing to listen to the employee and discuss the reasons for the termination if the employee wishes it. (Fired employees are more likely to sue when they are not given a reason for the termination or when you show little interest in their perceptions.) Allow the employee to gather personal belongings, and request the return of office keys and other practice property.

*Be consistent.* Your disciplinary process cannot be employee specific. (You cannot fire one employee for low productivity and allow others who perform the same amount of work to stay.) You must apply standards of conduct to all employees in an equal manner.

*Get good advice.* Laws regarding termination are constantly changing. It is important to check with your attorney to be sure you are complying with the guidelines established by state and federal laws.

A strong disciplinary process will not just reduce the potential of wrongful discharge litigation, it will also benefit your practice. When employees recognize and solve work behavior problems, they improve team performance and enhance patient care.

## Resources

1. *Employee Office Manual, A Guide for the Dental Practice*, Council on Dental Practice, American Dental Association, 2004. For further information on this publication, visit the ADA's online Product Catalog at [www.ada.org](http://www.ada.org) or call the ADA catalog customer service at (800) 947-4746.
2. Moawad, Karen and Costain, Lynne Ross. *Managing Dental Office Personnel: A Management Tool for Structuring and Administering Personal Policies in the Dental Practice*. Tulsa, Oklahoma: PennWell Publishing, 1992.
3. Matchek, Cheryl. *The Principled Practice*. New York: Princess Publishing, 1995.

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