

PROGRESSIVE DISCIPLINE

What it is and how it can work for you.

COURTESY OF THE CALIFORNIA RESTAURANT ASSOCIATION

Occasionally, California Restaurant Association receives calls from members asking what the smartest way to discipline employees might be.

Ideally, the smartest way either gets them to do what you need them to do or enables you to terminate them with out that action coming back to bite you.

First, employers should set clear rules of conduct and ensure that employees know when they have violated these rules. Second, employers need to document their actions based on employee performance. Traditionally, this involves an oral warning for the first transgression, a written warning for a second, then possibly a suspension without pay, and finally, a written termination. This approach is what is known as progressive discipline. Although this approach is standard with many companies, it is a common misconception that employees are entitled to three warnings before termination. In fact, there is no law requiring any specific number of warnings. California's Labor Code presumes employment is at-will, and employees can be terminated with no warning at all unless the parties have agreed otherwise.

Progressive discipline allows workers the opportunity to correct issues before they get out of hand. Used properly, it also can provide your company



PHOTO: CHRIS SCHMIDT

with a solid defense to an employee lawsuit alleging wrongful termination and protect the employer's Unemployment Insurance (UI) reserves.

PUTTING IT IN WRITING

In order for progressive discipline to work, managers must first clearly explain to employees why their actions or behaviors are wrong. To communicate the problem, labor law experts suggest using an incident description, turning subjective evaluations into objective, concrete facts whenever possible.

For example, instead of stating "you're slacking off again," the manager should say, "You were late for your shift three days this week and

left two guests unattended last night." Whenever possible, the employee's responses to the manager's concerns should be documented. This shows that the manager listened to the employee's side of the story before taking disciplinary action.

When documenting incidents of misconduct, managers should avoid using "state of mind" offenses. This means avoiding words such as "willfully," "purposely," "deliberately," or "intentionally." Because a manager can't know what's going on in the employee's mind, defining offenses in these "state of mind" terms only will cause trouble if the company has to defend the discipline in court.

[CONTINUES NEXT PAGE]

“Employers should set clear rules of conduct and ensure that employees know when they have violated these rules..”

Managers also should avoid describing an employee’s misconduct in terms of a legal conclusion – such as stating that an employee created a “sexually hostile work environment” or “defamed” a coworker. Instead, managers should state that the conduct violates company policy.

FIXING THE PROBLEM

The next step in progressive discipline is to outline a desired outcome. This

means telling the employee very clearly what is expected by including a performance improvement plan in the incident description. For example, the outcome may take the form of decreased errors or punctuality. To document the company’s attempts to help the employee succeed on the job, the manager should use positive tools in the performance improvement plan, such as training or special direction.

The employee must be allowed a reasonable period of time to fix the problem and to improve. How long depends on the nature of the infraction, the company’s policy, and the employee’s overall work record. In case of serious offenses, suspension or termination may be the only solution. For example, the oral/written/final written warning paradigm will not be appropriate in the case where an employee is physically threatening a coworker.

OUTLINING CONSEQUENCES

In addition to understanding the company’s expectations, the employee

“Progressive discipline allows workers ... to correct issues before they get out of hand.”

being disciplined also must understand the consequences of failing to change behavior.

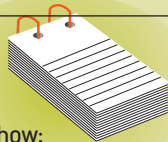
When an employee is at the final written warning stage, it is most crucial that the consequences are understood. Typically, this means the loss of the employee’s job. [Note: labor experts say it is a good practice to ask employees to sign any written warning that will go in their personnel record. Employers may want to emphasize that a signature is not an admission of wrongdoing, but rather an acknowledgement that a warning was received. If an employee refuses to sign a written warning, have another manager witness the employee’s refusal to sign and then file the record as usual. An employee cannot and should not be forced to sign a written warning.]

Finally, remember to enforce your policies consistently. For example, if you suspend one employee for an initial transgression, but only give an oral warning to another worker for the same transgression, you set yourself up for charges of discrimination. This article is provided for information only and is no substitute for legal advice. CRA strongly urges you to consult legal counsel with specific questions about progressive disciplinary measures and terminating employees. **BN**

From the March 2006 issue of California Restaurant Bulletin, a California Restaurant Association (CRA) publication. The CRA is the definitive voice of the California restaurant and hospitality industry and has served to protect and promote its success since 1906. For more information about the CRA, please call 800.765.4842 or visit www.calrest.org.

CALENDAR OF UPCOMING events

March 4-6: International Restaurant and Foodservice Show; Jacob K. Javits Convention Center, New York, NY; Booth #1756



March 6-7: Nightclub & Bar/ Beverage Retailer/Beverage & Food

Convention and Tradeshow; Las Vegas Convention Center, Las Vegas, NV; Booths #5136-5236

March 7: Golf Recreation and Pub Show; Kelowna, BC

May 2: Spring Foodservice Expo; Kelowna, BC

May 19-22: National Restaurant Association Show; McCormick Place, Chicago, IL; Booth #4818

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zanecampbell@bevinco.com

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Cape Coral, FL: Francisco Baserva
fbaserva@bevinco.com

Mexico: Guillermo Ramirez-Wiella V
jchennault@bevinco.com

Clifton, NJ: Marc Zanetti
m.zanetti@bevinco.com

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MEASURING YOUR WAY TO Better Labor Costs

Three labor numbers that are often more effective than labor cost percentage **BY RICK BRAA, CLOTHIER & HEAD**

A common trap in labor management is to measure labor efficiency by a percentage of sales only. While they offer a good measurement and provide overall operating guidelines, labor percentages lose meaning over time. The number of guests, guest check averages, number of hours worked, and wage rates all affect labor percentages. For example, it's possible for labor percentages to decrease if menu prices were increased. If the same amount of labor dollars were used, the labor percentage would decrease. This scenario is played out time after time as operators struggle by adjusting prices to disguise labor problems.

The quote, "What gets measured gets managed," is true. Here are three key performance measures to evaluate and improve efficiency:

- 1 Guests per labor hour**
(GpLH—Guests/Labor Hours)
- 2 Labor dollars vs Sales, by hour of the day**
(6pm, 7pm, 8pm, etc.)
- 3 Sales per labor hours**
(Sales/Labor Hours)

MEASURING GUESTS PER HOUR

Guests per hour is an excellent measure of the number of guests served per labor hour used.

This measurement eliminates sales and labor dollars from the equation



entirely. It is a true indicator of changes in productivity of time. In its purest form, GpLH is a ratio of people needed to serve guests. Productivity improves as more guests are served per labor hour or the same number of guests are served with fewer labor hours. The opposite is true in both cases.

ANALYZE CURRENT OPERATIONS

Labor dollars by hour of the day is a surprisingly simple analysis of current operations that can be produced by an average point-of-sales system. More and more as I visit restaurants I notice an army of people during the first and last hour of each shift. Do you realize that \$10,000 per year is roughly \$30 per day? It would be pretty easy to reduce labor by \$30 per day by being careful about the first and last hour of each shift. Compare labor dollars by hour of the day to sales for the same hours. Match labor with sales activity and make some logical assumptions for meal prep. You may find pockets of labor dollars that can be moved from one part of the day to another to make the operation less expensive and more efficient.

COMPARING LIKE EMPLOYEES

Sales per labor hour is a terrific measurement for comparing individuals to one another within a work group such as server vs.



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server, bartender vs. bartender, etc. It is really about driving the top line as much as it is about labor management. Since your personnel are your sales representatives, when sales increase without increasing labor hours (or menu prices) generally an increase in productivity has taken place. The result is a competition between individuals to produce the best sales per hour. It is a statistic that your crew can internalize and manage. You may see individuals managing clock-in and out times and being excited about selling.

All of these key performance measures should be evaluated by program, day of the week, front of the house, heart of the house, and work group. Labor management does not have to be difficult, simply measure more to manage more. Use these key performance measures and create the results you desire. **BN**

Clothier & Head, P.S. has worked with many restaurants regarding labor management issues. If you need assistance, contact Rick Braa at 206.334.7518 or rbraa@c-h.com

INSIDE:

Are you into discipline?

If not, it's your bottom line that will get the spanking.

In all seriousness, though, this issue contains some great ideas about effectively handling disciplinary issues with your employees, as well as aids to help you find the best ones in the first place.

Employees: Your Most Important Asset

So how do you hire the right ones?

KRISTA RECOSKIE

After reviewing the resumes and conducting your screening process, the next and most important step is the interview.

In order to get the most (and best) feedback from the questions you ask during an interview, you should follow the 80/20 rule, meaning the interviewee should be doing 80% of the talking. The most effective way to implement this is to ask open-ended questions rather than questions that lead to a yes or no answer.

Most importantly, you should focus on asking behavioral questions to uncover the candidate's personality and reactions to specific scenarios. That being said, before beginning the interview you should have a very clear idea about what type of employee you are looking for, and then formulate

behavioral-type questions that will help discover if the candidate is best suited for the position.

In a customer service-based business, it is essential that a potential employee be able to interact with your customers and effectively overcome any obstacles that may arise. With that in mind, you will want to ask questions like, "Tell me about a time you had an obstacle with either a co-worker or customer and how you overcame the issue," or "Tell me about a time you went over and beyond your daily routine."

So remember, during the interview focus on behavioral-based questions and you will uncover the attitude and abilities of your potential employee, which will lead to their success within your business. **BN**

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