



Document Your Employee Performance Deficiencies

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For multiple reasons, it is imperative that employers document and communicate performance deficiencies with the employee and keep written documentation in the employee's personnel file. The write-up and counseling should occur at the time the deficiency occurs not at the annual review.

This written documentation and communication with the employee is important to defend against litigation. First, if the employee files an employment discrimination claim, the record of performance deficiency and the employee's knowledge of the issues illustrate a legitimate, non-discriminatory reason for termination. Second, it may save the employer from paying unemployment benefits. The documented performance problems may illustrate misconduct, which will exclude the employee from receiving unemployment. If the employee were to receive unemployment benefits, they would be charged to the employer's unemployment account.



Guidance on Depression and PTSD

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On December 12, 2016, the EEOC published information summarizing the rights of individuals in the workplace who suffer from depression, PTSD, and other mental health conditions. The information covers information such as discrimination and harassment, privacy and reasonable accommodations in the workplace.

The link to the publication is https://www.eeoc.gov/eeoc/publications/mental_health.cfm.

For help with employment law questions or other civil litigation issues, call Tracy Stroud, Attorney with Colombo Kitchin Attorneys in Greenville, NC, at 252-321-2020.