

The Lives of Documents: From Inception Through Litigation (And Maybe Even Trial)

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Scenario One Little Details Matter

Work History Entry

Name: [REDACTED] Title: [REDACTED]
From: [REDACTED] Position: [REDACTED]

Subject: Documented Verbal Warning
 First Written Warning
 Final Written Warning
 Probation Notice

The following is a brief synopsis of the employee's verbal warning in this written notification. This document is not intended to be a substitute for the actual verbal warning. The actual verbal warning is available in the employee's personnel file. The actual verbal warning is available in the employee's personnel file. The actual verbal warning is available in the employee's personnel file.

Employee's Signature: [REDACTED] Date: [REDACTED]

Employee's Signature: [REDACTED] Date: [REDACTED]

Continue to page 616 of document.

Lesson

- The best "performance coaching" documentation in the world is oftentimes rendered useless if the person who received the coaching does not acknowledge it. Documentation has a signature line for a reason.

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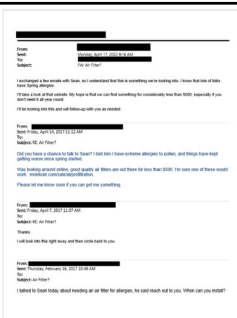
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Scenario Two

Responsiveness and Messaging Matter

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Lesson

- Timely, "clean" communications are key.

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Scenario Three

When The Employee "Doesn't Want Anything Done" About Allegedly Problematic Workplace Behavior

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May 9, 2018

Dear [REDACTED],

This letter documents our conversation on May 8, 2018. You had submitted a statement as part of your 2017 Title IX complaint on May 8, 2018 that you had experienced instances of retaliatory behavior from [REDACTED]. Your statement reflects the behavior and the individual responsible for the behavior was identified. Our conversation was to set up a time to meet so that we could discuss the allegations on this Title IX case. I would like to thank you for your statement and for your willingness to share information with me. At this time you should note the following:

- you have already been represented before you to not talk to anyone about your grievance;
- your faculty union representation advised you to not meet with me as an administrator;
- you contacted me on 5/8/2018 and stated you to be contacted before deciding upon any further steps you wish;
- you wanted the retaliatory behavior to end.

The school that you did not want to make a formal complaint, and did not want to participate further in the formal resolution process. The school has been notified of retaliatory behavior. I appreciate that you will not know what the retaliation behavior is and who is responsible for the behavior. [REDACTED] advised that you cannot file a case to end the behavior.

Although at this time you have written to advise not to participate in a formal resolution, you may contact the Title IX office at any time to discuss your concerns. [REDACTED] advised that you cannot file a case to end the behavior.

As provided in the school's policy, [REDACTED] has been notified of the complaint and the school's policy. [REDACTED] advised that you cannot file a case to end the behavior.

Originals have been submitted to the Title IX office. I understand that you have not received any response from me to date with the time limits and that we could be in the process of reviewing your case if the time limits have passed. You are encouraged to meet with me at any time to discuss your concerns.

I have included a copy of [REDACTED] procedure as well as the grievance procedure found within [REDACTED].

If you have any questions or wish to seek any type of support, please don't hesitate to contact my office immediately.

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Lesson

- Documentation around "I don't want to make a report" situations is especially important.

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Scenario Four

When the Employee Submits Inadequate Documentation

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December 05, 2020

[REDACTED]

To Whom It May Concern:

This patient was seen today at an [REDACTED].
Please excuse from work for the following dates: 12/5 through 12/6.
Please allow patient to use the restroom every hour for 5 minutes.
Thanks for your understanding.

[REDACTED]

[REDACTED] MD

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Lesson

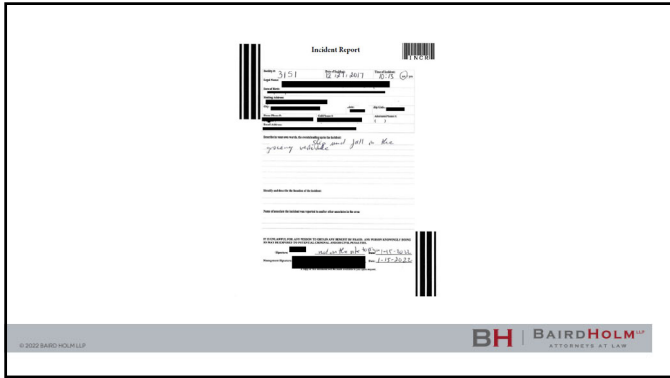
- Lesson: Push back, reasonably and appropriately, on inadequate employee documentation.

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Scenario Five

Ask Yourself What the Document Is
Designed to Record

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Lesson

- Lesson: Documentation has to serve the purpose for which it is created.

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Scenario Six

The Sequence of Events Matters

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07/28/2020
[REDACTED]

Kelly called. Ciera is upset, probably because Kelly coached her yesterday for constantly being late (shows up at least 10 min late every single day, including today). I've also discovered Ciera is telling co-workers she's upset and hired a lawyer due to "mistreatment." Clear she's not a team player. Kelly wants to move forward with termination.

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02/22/2021
[REDACTED]

Kelly called me on July 28, 2020, to let me know he had made the decision to end Ciera's employment, because of Ciera's attendance problems. He made his decision to terminate that same morning, and first learned about Ciera's intention to file a lawsuit approximately three months later, when [REDACTED] got a copy of the complaint. I am providing this clarification for [REDACTED] even though I do not work there anymore because I do not want my notes to be misconstrued—Kelly was unaware of Ciera's plan to sue when he fired her.

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Lesson

- In a retaliation case, the sequence of events is extremely important, particularly in regards to when the employee engaged in a protected activity, and when the employer imposed discipline

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Scenario Seven

Be Careful What You Write On Legally
Mandated Documents

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Nebraska Workers' Compensation Court
First Report of Alleged Occupational Injury or Illness

I am a 2013 grad - this was not a work related injury - Taylor

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Lesson

- Lesson: Take extra care when filling out a document that could end up in front of a judge.

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Questions?

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