**AFTER THE MERGER: D-BART INDUSTRIES**

**Scenario C**

**Graduate Team Handout**

Michael McDonald returned from FMLA leave the following Monday morning, as expected. He was warmly welcomed back by his co-workers but not by his supervisor, Dale Cunningham. “You're back, huh,” Dale scowled as Michael settled into his work station. “We all miss Linda,” he muttered as he turned away from Michael and walked away. Linda Hayes, the temporary employee who had replaced Michael during his leave, had been transferred to another department to fill in for an employee who was away on military duty. Michael was surprised by Dale’s attitude; he thought he’d had a good relationship with Dale before his leave. He was uncertain where Dale’s hostility was coming from, but as he watched it escalate over the next several weeks, Michael became convinced Dale wanted him out. Concerned about his job, Michael called Wendy Wright, the HR director, to discuss the situation.

“Hi, Michael,” Wendy said warmly when she answered Michael’s call. “Welcome back. How are things going?”

“Not good, Wendy,” Michael said and described a number of concerns he had with Dale’s behavior.

Michael said Dale had established production quotas for him that were far higher than those required of similar employees. When Michael asked Dale what triggered the increased numbers, Dale replied, “Don’t be asking questions, Michael. It doesn’t matter if there’s a trigger at all. It’s important to keep the numbers up.” When Michael asked for clarification on Dale’s expectations of his performance, Dale just said, “You know what I mean.”

Besides the numbers, Michael claimed that Dale was highly critical of the quality of his work. He said Dale had set higher quality standards for his work than what was previously accepted, even though there has been no notification to other employees that D-Bart’s quality standards had increased. “What was perfectly acceptable before I took leave is not good enough anymore,” Michael complained to Wendy.

Michael also indicated that Dale monitored Michael’s time cards and not those of other employees. Even though Michael’s time cards showed that he had not been late since returning from leave, the one morning he clocked in right at start time, Dale called him on it loud enough for everyone on the production floor to hear: “New daddy having a hard time getting to work on time, Michael?”

Michael claimed that none of this was happening before his leave and that he believed Dale was retaliating against him for taking FMLA leave. “Wendy, I know we’ve had issues with lousy supervisors before—everybody talks about it—but I think Dale’s trying to make me quit. You should know that I won’t sit quietly and let him run me out of my job,” Michael said as he ended the conversation.

Wendy was concerned about Michael’s allegation of retaliation for his FMLA leave, but his comment about lousy supervisors really hit home. She had received numerous complaints of poor supervisors from other D-Bart employees. She was worried that there was inconsistent discipline among divisions and among departments in the same divisions. Wendy thought D-Bart’s supervisors were taking the notion of employment at will too far, assuming they could terminate employees as they wished without consulting HR.

Wendy decided it was time to get D-Bart’s supervisors under control, and she called your team of HR consultants for help. She has asked your team to design an appropriate discipline system for D-Bart and to identify methods to ensure that supervisors are consistent in the implementation of the system and accountable for their actions.

You’ll present your findings to Wendy later today. You must address the following issues and questions:

1. What should supervisors know about employment at will and their responsibilities toward the organization?
2. Establish a companywide employee discipline policy.
3. How will you implement the new discipline process with D-Bart’s supervisors at the various divisions?
4. How will you improve supervisors’ management skills and make them accountable for their actions?

**AFTER THE MERGER: D-BART INDUSTRIES DEBRIEF  
Scenario C  
Graduate Teams**

**PLEASE NOTE: This page and the pages that follow must not be given to the graduate teams. This information is for judging purposes only.**

Wendy has received complaints about employee discipline from multiple D-Bart divisions, and it appears that since the merger, each division still manages employee discipline independently with no coordination across the company. Inconsistent discipline creates perceptions of inequity among employees and leads to lower morale and loss of productivity. When complaints are not addressed, the organization risks litigation from employees based on discrimination and claims of wrongful discharge.

**RECOMMENDATIONS**

1. **What should supervisors know about employment at will and their responsibilities toward the organization?**

The employment-at-will doctrine assumes there is an unwritten contract created when an employee agrees to work for an employer, but there is no agreement as to the duration of that employment. The employment is ongoing, or “at the will” of both parties. The legal system generally presumes the employment of at-will employees can be terminated at the employer’s discretion, and conversely, employees have the right to discontinue their employment at any time they choose, with or without prior notice. Interpretations of employment at will vary from state to state, but only Montana has effectively ended employment at will with the passage of its Wrongful Discharge from Employment Act in 1987.

Based on the employment-at-will doctrine, D-Bart supervisors may believe they have unlimited discretion to terminate employees. However, there are exceptions to an employer’s right to terminate even under employment at will, and Wendy must ensure D-Bart’s supervisors understand these exceptions.

The following are exceptions to employment at will that can generate a claim of wrongful discharge.

**Contract/implied contract**: An employee with a contract for a specified period of time is not considered an at-will employee. This is most commonly found in unionized organizations. In some circumstances, courts have allowed employees to bring claims based on representations made in employee handbooks, with the assumption that employee handbooks are implied contracts. This can be avoided by clearly stating in handbooks that employees are at-will employees and that there is no implied contract of employment.

**Public policy**: Court decisions have protected employees’ rights to fulfill their legal obligations or to exercise their legal rights. Employees cannot be terminated for serving on jury duty or in the military, exercising legal rights such as filing workers’ compensation claims or taking legally authorized leave such as FMLA leave.

**Implied covenant of good faith and fair dealing**: Employers and employees are obligated to maintain honesty and respect in their relationships. If employees are treated arbitrarily or capriciously or are recipients of harm inflicted without justification by the employer, the covenant of good faith and fair dealing may be violated. Dale’s inappropriate behavior toward Michael places D-Bart at risk for a wrongful discharge claim if Michael is terminated or effectively forced out of his job by Dale.

1. **Establish a companywide employee discipline policy.**

D-Bart may want to implement a progressive discipline system with a series of warnings that could lead to employee suspension or termination. The system should be a multistep process and must be easy for supervisors to understand and use. It should include specific checkpoints at which supervisors must notify HR before moving to higher discipline levels.

In addition to a progressive discipline system, D-Bart should establish a discipline-without-punishment process for employees who have repeat discipline issues. This eliminates a lengthy multistep process found in progressive discipline systems and is appropriate for dealing with employees who have habitual behavior problems.

1. **How will you implement the new discipline process with D-Bart’s supervisors at the various divisions?**

* Ask supervisors to participate in designing the discipline system. This will ensure that the system meets their needs and addresses their issues during the design process instead of trying to correct the system after it is established. HR must work in cooperation with supervisors on this process because they are the ones who will implement the system. People generally are more likely to support a new system when they have input into designing it.
* Conduct training on using the new system for supervisors. Ensure they understand their authority levels when administering employee discipline. They need to know what discipline levels they can administer on their own and in what circumstances they must contact HR for approval before moving to a higher discipline level.
* Provide support for supervisors and managers throughout the discipline process.

1. **How will you improve supervisors’ management skills and make them accountable for their actions?**

Provide training for all supervisors. It is common for good employees to be promoted into supervisory roles without receiving training in basic supervision skills. This was probably the case in the organizations that merged to become D-Bart. The company cannot afford to ignore employee complaints of “lousy supervisors” because untrained supervisors make mistakes that place D-Bart at risk for employee problems and litigation.

In addition to training on how to administer discipline, supervisor training should include the following:

* 1. Understanding and implementing organizational policies.
  2. The employment-at-will doctrine and exceptions.
  3. Leadership skills.
  4. Coaching and mentoring employees for improved performance.
  5. Effective delegation.
  6. Communication.
  7. Providing employee feedback.
  8. Conflict management and dealing with difficult employees.
  9. Effective documentation.

Assessment of supervisory skills should be included as part of a supervisor’s performance appraisal. Supervisors must understand that their success depends on the success of their teams. It is important to appraise more than attainment of production goals. Supervisors should be accountable for developing the skills of those they supervise. D-Bart should establish goals and reward supervisors for improving their teams in the areas of professional development, staff mentoring, cross-training and job rotation.

**REFERENCES**

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