



The Importance Of Documenting Employee Safety Violations

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The burden is on the employer to prove enforcement of the rules. Simply showing that the employer provided training is not enough.

When an accident or serious injury occurs, an employer can often avoid citation by being able to prove to OSHA's satisfaction that safety rules have been effectively enforced when violations were found. This is known as the Unpreventable Employee Misconduct Defense (UEMD).

Most of our shops have documentation systems to establish that training has occurred. We have training plans, calendars and even employee sign-in sheets to document our training. However, these documents only show that the employees have been trained.

They say nothing about whether or not the company is enforcing the rules.

Supervisor's duty. Giving employees notice of their safety violations is one of the least favored of supervisory tasks. But, it is one of the most critical tasks,

safety rule violations is that it can provide a defense for the employer in the event that an employee rule violation goes terribly wrong.

If an employee fails to follow a rule that results in that person or a co-worker getting hurt, the employer can often avoid being



In This Issue...

- The Importance Of Documenting Employee Safety Violations
- Why Join PMPA? Connect!
- How the PI Helps Vanamatic Develop and Retain the Best Employees
- Economist William Strauss to Look at 2012 Economy at Annual Meeting
- PMPA Calendar

since it provides the opportunity to retrain. It enables the employer to reconnect with employees about their value to the company. It also reminds everyone in the company of the employer's expectation for safe work. (The employee receiving the written notice usually takes care of this reminder by complaining to co-workers.)

Another reason to establish a system for recording discipline for

cited by establishing the following:

1) There were rules in place to prevent safety violations, 2) The rules had been communicated to the employee, 3) The employer had a process for identifying violations, and 4) The rules had been effectively enforced when violations were discovered.

If the employer can establish that the safety program met all four of

(Continued on page 2)



(Continued from page 1)

the above points, chances for a citation for employer misconduct are greatly reduced.

What is enforcement? 1) The employee must receive instruction on the correct procedure when observed to be violating the rule, 2) The employee must receive an oral warning of what consequences will result should he or she violate the rule again (first infraction), and 3) Discipline should escalate with written warnings following the oral warning, and time off following the written warnings.

While there may be other views or interpretations of what constitutes enforcement or discipline, the above three steps served me

well in more than 30 years of laboratory and factory operations management. Teach them. Observe them. Offer appropriate feedback.

Can you put your hands on it? All of us are super-busy today. That makes it critical to have a solid process for filing and retrieving all safety-related documentation—both training and discipline records.



Having copies of the training and discipline records in the employee's personnel file seems simple enough. In the case where an inspector wants to see systematic or enterprise-wide evidence of discipline, having a master file for discipline records will make that discussion short and sweet.

Bottom Line: Employers must have documentary evidence of issuance of rules and conduct of training, as well as records of active observation and documented proof of issuance of discipline for violators. Failure to have documentation of any of these is likely to result in an employer citation.

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