

GUIDELINES FOR DOCUMENTING AN INCIDENT

In documenting the facts surrounding an incident:

1. Be factual and specific, recording what people actually did, saw or heard. Answer the questions:
 - ± What happened?
 - ± When did it happen?
 - ± Who was involved?
 - ± How did it happen?
2. Be sure the dates, times and places your list are accurate.
3. Do not use subjective thoughts, assumptions, opinions, judgments, or conclusions. They will not stand up to scrutiny by a third party unless objective facts are provided to support them. Instead, describe your direct observations of the employee's behavior or record the direct observation of others. An excellent way to do this is to use words that describe your five senses:
 - ± I saw...
 - ± I heard...
 - ± I touched...
 - ± I smelled...
 - ± I tasted...
4. If there was another observer to an incident, you should attempt to get a signed statement from that person. A sample witness statement is provided in Exhibit 2A. When another person describes an employee's behavior, you should ask questions to help the person use objective observations to describe what they saw, heard, felt, tasted, and touched.
5. Always write for the benefit of a third party. Don't assume the person reading the documentation knows anything about the Service or the duties performed in your work group or crew.
6. In addition to witness statements, you should also collect any other reports or records that exist (e.g., accident reports, police reports, time cards, computer records, etc.) that can help you explain what happened. Also, you should take photographs, videotape, etc. if they will help document the incident.
7. In the case of a performance problem, you will want to keep work samples with your notes to the employee detailing errors, problems, suggestions, resources, etc. A sample performance counseling memo is provided in Exhibit 4A.

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8. Once you have gathered the appropriate information and before you make any decisions on what corrective measures to take, you should talk to employee to get his/her side of the story. If the employee is confronted with behavior known to you, he/she either has to admit it and explain it, deny it, or say nothing. This is important to do whether it is a conduct or performance issue; oftentimes, these discussions will shed light on why performance problems are occurring. When you meet with the employee, you should:
 - ± Tell the employee the general facts related to the case and that you are looking into it. Ask him/her if he/she knows anything about it.
 - ± Avoid being accusatory or confrontational, but do try to get at the facts.
 - ± If the employee asks if he/she is being accused, tell him/her that you are looking into the matter right now and a decision will not be made until all available facts have been reviewed.
 - ± When you close the meeting, ask the employee if there is anything else that you need to know that he/she has not shared with you.
 - ± Make sure you take notes and record the employee's responses.
 - ± If the employee does not give you his/her version, ask him/her to put it in writing to you.
 - ± Tell the employee that they are obligated to respond truthfully to your questions.

Once the facts concerning the performance or conduct problem are known, you need to correct the situation. You do this by explaining expectations, offering assistance, and following through with action if the employee does not meet your expectations.

9. When documenting a threatening incident, focus on:
 - ± The reaction of the individual being threatened (e.g., their apprehension of harm);
 - ± The conditional nature of any statements (e.g., "If you don't give me this., I'll..").
 - ± The attendant circumstances (e.g., Was it a joke? How was victim involved?)
10. You must document that you have told the employee what is expected on the job. Once the facts of misconduct or a performance problem are known, it is your responsibility to explain to the employee how you want his/her behavior to change by clarifying the conduct and/or performance expectations that are in place. In misconduct cases, it is important that conduct related rules are communicated to the employee. In performance cases, it is important that the employee understands his/her critical results and performance indicators and that he/she is given a full and fair opportunity to improve performance. You must be specific when you relate your performance expectations.
11. You must document the assistance you have given to the employee, i.e., resources, techniques, etc. When documenting an employee problem you want to offer solutions to the problem.

12. You should clarify and document the action you are taking now and what action you will take if the employee does not meet your expectations. For example, if you are counseling an employee, tell him/her that you are meeting with him/her to provide counseling and that you will meet with him/her again in two weeks to revisit the issue. If in two weeks the problem is resolved, tell him/her so and let him/her know that you appreciate his/her cooperation. In the area of misconduct, if you take formal disciplinary action, be sure to explain to the employee that further instances of misconduct will result in more severe disciplinary action, up to and including removal. Sample conduct and performance letters are included in the Exhibits in Chapter 3 (conduct) and 4 (performance).
13. Always have an Employee Relations Specialist review your documentation before you sign, date, and release it.

SAMPLE DOCUMENTATION

A. Documenting in an Objective, Factual Manner

The following are some examples that will help you understand the value of documenting employee behavior in an objective, factual manner:

Subjective Evaluation	Objective Observation
“You were late.”	“I saw you report to your desk at 8:35 a.m.”
“You are a thief.”	“I heard you tell Fred that you took the money.”
“You did not adequately clean up the spilt oil.”	“When I ran my hands over the floor, I could feel the oil.”
“You are drinking on the job.”	“I saw you drink from the glass on your desk and smelled the liquid in it. It smelled like gin.”
“You are hostile.”	“On November 22, November 24, and December 4, you said, ‘I hate you, you pig’ and ‘kiss off’ to other employees in front of customers. When I discussed this with you on December 5, you told me that it was none of my business and that I had no right to tell you what words to use. Your hostility toward customers and management is not acceptable behavior.” [The last sentence is a subjective evaluation, however, it has been defined by the previous objective observations.]
“You were drunk.”	“You had slurred speech, your eyes were bloodshot, and your breath smelled strongly of alcohol. You were unsteady and disoriented.”
“Your performance is unacceptable.”	“You are not performing at the successful level in Critical Result 2, Quality of Expertise. During the month of August, 2000, you were given a brand new relay rack to wire. When the rack arrived in Morgantown in September, it was found to have 20 butt splices. It took two weeks to rewire the relay rack, at a staff cost of approximately \$3,700.” [The first sentence is a subjective evaluation that has been defined by the subsequent objective observations.]

B. Sample Daily Calendar Kept by a Supervisor

The following are examples of documentation which may eventually be used to take corrective action. NOTE: Be sure to keep copies of all documentation.

Supervisor's Calendar for Week of June 5, 2000

Monday - June 5	Tuesday - June 6	Wednesday - June 7	Thursday - June 8	Friday - June 9
Counseled Jim about requirement to use safety goggles at all times in lab. Told him I would discipline him next time.	Told Alice that Grizzly NWR called to compliment her work on their problem. Passed that on to Alice and thanked her.	Discussed training needs for Jim. I will get back to him on approval by 6/21.	Discussed CR#2-Workload Mgmt. w/Amy. Told her I would meet w/her for 4-weeks so she will understand priorities.	Provided copy of 5 CFR 2635 to Joe.

(Note that some supervisors prefer to record these type of events in the personal file that they keep on each of their employees or in a daily log on their computer. The point is to be sure to record the events somewhere.

C. Sample Witness Statement

April 3, 2000
Memorandum
To: Joe Friday
From: Lucy Linus
Subject: Incident on April 2, 2000
<p>On Thursday, April 2, 2000, I went to get Rick Racoon's time and attendance sheet (T&A) from his supervisor, Joe Friday. Joe said he hadn't seen it yet so I went to see Rick. When I got to Rick's office I found the T&A on his desk. I took it and left him a note saying that I had to get these (T&A's) input and I noted that Joe had already signed it. A few minutes later Rick came to my desk. He wanted to know what happened to his T&A. I told him I had left him a note and that input it just a minute ago. He asked if there was any way to make a change and I said we could do a correction if there was a problem. He interrupted me and said, "I made a terrible mistake. I'm gonna be in so much trouble with Joe." Then he ran out the door. I went into Joe's office and asked him what was going on. I told him that I found Rick's T&A and he had in fact signed it and now Rick was trying to track it down. Joe asked if I had a copy of it. I told him I did and he asked me to get it for him which I did.</p>

D. Documentation of Interview with an Observer

February 5, 2000

Memorandum

To: File
From: Joe Friday, Supervisor, Grizzly Bear NWR
Subject: Documentation of Interview on February 5, 2000

On Monday, February 5, 2000, at about 10:00 a.m., I asked Lucy Linus if I could talk to her in my office. We went to my office and I shut the door.

I told Lucy that I understood that she was present during an incident that occurred on Friday, February 2, 2000, in the lunchroom. I told her that I would like her to tell me what she knew about it. She was reluctant. I explained to her that while supervisors have the responsibility for ensuring that every employee conducts him/herself in an appropriate manner in the workplace, every employee has a responsibility to report inappropriate workplace conduct to their supervisors. Supervisors cannot do their jobs if employees do not fulfill this responsibility.

Lucy told me that she went into the lunchroom to turn off the coffee pot since it was time to go home for the day. While in the lunchroom she saw Mike and Sally facing each other. Suddenly, Sally struck Mike in the face. Mike just looked at Sally in disbelief for a second and then walked away. Sally stood there for a minute and then she left the lunchroom, too.

I asked Lucy some clarifying questions:

Q: You said it was time to go home, what time was it then?

A: About 4:00 p.m.

Q: Did you hear either of them say anything?

A: No, they didn't say anything.

Q: How did the two of them look?

A: Mike looked like he was angry. His hands were clenched in fists and the veins were popping out of his forehead. Sally looked normal, straight faced, and she had a relaxed stance. Her arms were folded in front of her.

Q: Can you elaborate on Sally's striking Mike?

A: It just came out of the blue. Mike was just standing there with his fists clenched and she just hauled off and hit him with an open hand across the face.

Q: Where was Mike holding his hands?

A: At his side the whole time.

[Note: Answers do not have to be verbatim, but must be accurate.]

I told Lucy that I might have to ask her some more questions later. She did not want to provide a statement, but agreed to review this memo and sign to show that it is accurate.

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