



In this Edition:

- Letters of Expectation vs. Written Warnings **Page 1**
- Awards of Excellence Update **Page 2**
- Letter of Expectation Template **Page 3**
- Affordable Executive Coaching Program **Page 4**
- Ask an HRLR Consultant **Page 4**

LETTERS OF EXPECTATION vs. WRITTEN WARNINGS

By HRLR Services

What's the difference between a non-disciplinary letter of expectation (LOE) and a disciplinary written warning and what role should the union play in the issuance of LOEs? We have received inquiries on this topic and this article will provide some clarity for employers.

Unions sometimes take issue with letters of expectation if they have a disciplinary tone even if the letter clearly states its intention as not disciplinary. The reason for the objection is that a 'non-disciplinary' letter could remain on an employee's personnel file indefinitely, unlike a disciplinary letter which may be removed after 18 months and be referred to for employment matters such as reference checks.

Here are some key distinguishing features between a letter of expectation and a written warning:

Letter of Expectation	Written Warning
Purpose – to counsel and communicate, to identify or clarify expected behaviour in performance of job duties.	Purpose – to correct poor performance or undesirable behaviour; assumes that discipline is needed to achieve correction.
Employer's intention and tone – helpful, supportive (to say the intention is non-disciplinary will not be determinative in altering the character of the letter if other factors point to a disciplinary/corrective intention).	Employer's intention and tone – disciplinary.
Examples are used only as a means to clarify inappropriate or acceptable behaviour.	Examples are used to describe culpable employee conduct – a specific incident of poor performance, or infraction of a rule, policy or standard.
Support is offered by way of training and/or other resources.	Should be clearly stated to be disciplinary.
Develops, with employee's input, mutual goals to encourage employee's commitment to change.	The employee has to grieve the letter to effectively respond to it.
Focus – assumes behaviour will change in the future, when an employee understands what is expected and is supported in an effort to change.	Focus – expected behaviour is identified, but consequences are attached to present and any future failure to meet prescribed standards.
A review period is set to give feedback on progress of change.	May require compliance with provisions of the collective agreement, such as the presence of a union representative when discipline is imposed.
A future disciplinable offence will be treated with no reference to this letter as a foundation for any progressive discipline. This letter may only be used to show that the employee was aware of the employer's requirements.	Negative impact on employee's work record. Part of progressive discipline; further incidents of a similar nature may be followed by further increased discipline.

STAY IN TOUCH

We welcome all suggestions and comments. Feel free to send your feedback to Doris Sun, Manager of Communications, at: dsun@cssea.bc.ca.



Continued from page 1

In a leading BC arbitration case (*Re Hilton Villa Care Centre and BCNU (Denes Grievance) (2003), 115 LAC (4th) 154*), the employer clearly wrote in the letter that it was non-disciplinary, but referred to examples where the employee's conduct was referred to in culpable, accusatory terms, such as: "you did not respond or follow procedures appropriately;" "you left the residents' nutritional needs jeopardized by not prioritizing your duties;" and "you left the dietary staff with anxiety by no staff replacement." As a result, the LOE was characterized as more disciplinary in nature, and thus grievable and subject to removal from the employee's personnel file after 18 months. The letter and behaviour cited within it could not be referred to indefinitely by the employer. As the table above points out, examples should only be used to elaborate in a general way on behaviours that are inappropriate without a personal accusatory tone in relation to specific conduct.

Finally, no agreement is needed from the union on the writing or issuance of letters of expectation. Nor should they be the subject of a successful grievance, if worded correctly. The issuance of LOEs falls squarely within management's right to direct the workforce.

AWARDS OF EXCELLENCE 2016: SELECTION PROCESS NOW UNDERWAY!

The Awards of Excellence selection committee gathered recently for a spirited meeting to discuss the candidates nominated for this year's Awards of Excellence. After a day of deliberations, the committee shortlisted their selections for the Rising Star, Hero, Leader and Legend awards. Up next, an external judging panel made up of representatives from both the public and private sectors, will convene to select one winner per category. We wish the nominees best of luck!



It was a full day of discussion and deliberation for Vicki Kipps (L) and Tammy Khanna (R), who together with Ellen Tarshis, Lilla Tipton and Diane Entwistle, shortlisted this year's nominees.



COMING SOON!

Join us October 18-20 at the Sheraton Vancouver Wall Centre for CSSEA's 2016 AGM and Fall Conference. We have an exciting lineup of speakers and sessions planned.

Online registration is set to open at the end of this month so keep an eye on your email and the CSSEA website for more details.

We look forward to welcoming all delegates back to beautiful Vancouver!

LETTER OF EXPECTATION: A HOW-TO TEMPLATE

<DATE>
<NAME>
<STREET ADDRESS>
<CITY / PROV / POSTAL CODE>

Dear **[NAME]**

Re: **[JOB TITLE]**, Performance Expectations

This letter serves to follow up our meeting of **[DATE]**.

As discussed at the meeting, our agency is responsible for the health and well-being of the clients and, therefore, the employees of our agency must conduct themselves in such a way as to command a high degree of care, trust, confidence and respect.

In order to ensure that you are clear about our performance expectations of a **[JOB TITLE]**, we have enclosed copies of the relevant policies and procedures for your review. For your reference, we have also included a copy of your job description. It is expected that you will refer to these documents for additional detailed information and standards, as required.

The agency requires all staff to adhere to the following policies and procedures when at work:

- Conduct yourself in a professional manner that promotes a comfortable, professional, respectful work atmosphere, positive communication, cooperation and a positive team environment. It is expected that you will be positive, pleasant, helpful, courteous, respectful and compassionate in your dealings with other staff, clients, the general public, ministry representatives and other contacts you may encounter.
- Act as a positive role model to clients by demonstrating behaviours that are beneficial for clients to adopt, including demonstrating respect for others and utilizing appropriate language.
- Complete your job duties and responsibilities in adherence with agency standards, rules, regulations and policies and as directed by your house supervisor.

We are confident that you are able to meet these requirements and are committed to working with you and supporting you in your role as a **[JOB TITLE]**. If there is any way we can better assist you, please discuss your ideas with **[MANAGER]**.

This letter is a non-disciplinary document and will not be used during any subsequent proceedings, other than for the sole purpose of establishing that you have been advised of the expectations described in this letter.

If you have any questions or would like to discuss this further, please do not hesitate to contact me at **[PHONE NUMBER]**.

Yours truly,

[NAME]
[TITLE]

This will confirm that I have read, understood and agree to adhere to the standards of performance expected of me in the position of **[JOB TITLE]**, as outlined above.

Name

Signature

Date

OPPORTUNITY KNOCKS: AFFORDABLE EXECUTIVE COACHING PROGRAM

If you are a senior leader and have always wanted to sharpen up your management skills, CSSEA's Executive Coaching Program is a flexible and cost-effective option.

For \$175 per participant, you will receive up to 8 hours of private, completely customized coaching over a 4-6 month period.

Expect to pick up a range of important skills, including:

- Developing confidence in your leadership abilities.
- Being strategic, setting boundaries and managing collaboratively.
- Reflecting on your own work and progress.
- Strategies for positive thinking.
- Finding solutions to challenges in work life so you can be better equipped to help and support others.
- Addressing issues at work.
- Improving focus on achieving results.

This program is open only to individuals in leadership positions at non-for-profit agencies.

If you are interested, complete the Executive Coaching Program application form on our website and return it to Bela Barros by email: bbarros@cssea.bc.ca or by fax: 604.687.7266.

Deadline for application is **October 31, 2016**.

ASK AN HRLR CONSULTANT: MARK SLOBIN, ADVOCATE



alternative duties are not available.

However, what if an employee does provide the authorization but has also reported a new charge or conviction? As long as the employee has provided the authorization, the *Act* does not prohibit such employees from working with vulnerable individuals. Nevertheless, you may still have reservations about allowing the employee to work with vulnerable individuals in his/her position while the charge or conviction is being investigated by the Ministry of Justice or processed by the courts. In these situations, you are encouraged to conduct your own investigation as best you can to determine the severity of the risk (eg. discuss the details with the employee, Ministry, crown prosecutor, etc.). If the investigation does not support termination but you still conclude that the risk to vulnerable individuals is too high, you should consider re-assigning the employee to other work duties pending the outcome of the external proceeding. If there is no alternative work available, the employee may be placed on an unpaid LOA pending the outcome of the external proceeding. If you do not conduct your own investigation and simply place the employee on an unpaid LOA pending the Ministry's investigation and/or court proceeding, you are essentially deferring to those processes. If those processes conclude that there was no risk to vulnerable individuals, then the employee should have been continuously and actively employed and, as a result, you may face significant retroactive wage payments for time spent on the unpaid LOA.

These are some general rules. If you are faced with this situation, please review the details and course of action with your HRLR Consultant.

Q: *Many of our employees are now undergoing 5 year criminal record re-checks and we are discovering that some have new convictions or outstanding charges. What should we do?*

As you know, existing employees who work with vulnerable individuals are mandated by the *Criminal Records Review Act* to authorize a criminal record check every five years or when a new charge or conviction occurs. Employees who fail to submit an authorization in these circumstances are not permitted to work with vulnerable individuals until such time as they provide authorization. Generally speaking and where practical, the employees would be re-assigned to alternative duties until the authorization is provided or placed on an unpaid leave if

Do you have a question for our HRLR team?

Email us at: dsun@cssea.bc.ca and we may feature your question in this column.