

I. EMPLOYEE DISCIPLINE

The purposes of discipline are:

1. To maintain orderly internal procedures and compliance with rules of employee conduct.
2. To assure predictability of individual and/or unit productivity.

Discipline programs should focus on the correction of unacceptable behavior or productivity, rather than on punishment as an end in itself.

“Progressive discipline” is a sequence of increasingly formalized and serious penalties levied upon an individual in response to a repeated infraction. This principle incorporates “just cause” – fitting the punishment to the infraction, “due process”, and fair employment practice concepts. Factors usually considered in defining a progressive discipline policy are the seriousness of the infraction, the employee’s past disciplinary record, length of service to the organization, the individual’s total performance record, and unusual mitigating circumstances. Guided by these principles, penalties may vary from an informal, verbal reprimand/instruction to termination, the most serious discipline penalty, reserved for responding to the most serious offenses. Discipline is an inappropriate action if the problem is performance that the employee is truly not capable of delivering. In these cases, other personnel action alternatives should be evaluated.

Formal discipline policies and guidelines are jointly determined by managers, supervisors, and the Human Resources staff. However, the manager/supervisor is the key person in the interpretation and implementation of those guidelines. The supervisor, who is close to the immediate work environment, has the day-to-day responsibility for achieving and maintaining discipline.

The ultimate goal, of course is to minimize the need for discipline. A great majority of employees want to be part of a well-organized, productive group, and will not object to reasonable orders, rules, and standards that are supported by positive leadership.

II. SEVEN TESTS FOR JUST CAUSE

1. Was the worker given advance warning of the probable consequences of his conduct?
2. Was the controlling rule or order reasonable related to efficient and safe operations?
3. Was the alleged violation of the rule or order fully investigated before discipline?
4. Was the investigation fair and objective?
5. Did the investigation uncover substantial proof of guilt?
6. Was the employer's treatment even-handed and non-discriminatory?
7. Was the disciplinary action reasonable related to the worker's records and the gravity of his offense?

Note: As used by Arbiter Carroll Daugherty – Enterprise Wire Company and Enterprise Independent Union, 46 LA 359

III. DISCIPLINE CHECKLIST

Prior to taking disciplinary action against an employee, you might run through this checklist. If you get too many "no's," your own house as a supervisor is not clean. Remember, inconsistent discipline endangers an employer's security.

1. Is the rule that has been violated published?
2. Is it posted on Department bulletin boards?
3. Did this employee ever receive a personal copy of the rule violated?
4. Is the rule stated in easy to understand wording?
5. Is the violated rule or order reasonably related to the orderly, efficient and safe operation of the business?
6. If other employees have violated the rule or order, did they receive the same disciplinary action as this employee?
7. Does the Department maintain factual records on all employees, covering all violations of this rule or order?
8. Does this employee have the worst record of all employees on violation of this rule?
9. Has this employee been warned previously for violation of this rule?
10. Has this employee ever received a previous written warning of this rule or order?
11. Has this employee ever received a final warning for the violation of this or any other published rule or order?
12. Was the incident, which triggered the final warning or discharge carefully investigated prior to taking serious or final disciplinary action?
13. Is there a factual, written record showing the steps taken by the Department to correct this employee's improper conduct prior to serious disciplinary action?
14. Have similar written records been kept and similar steps taken by the Department to correct the improper actions of all employees?
15. Does the Department evidence include names of witnesses, dates, times and other pertinent facts of all past violations including the last one?
16. Was the degree of discipline imposed on this employee related to:
 - A. Seriousness of the proven offense,
 - B. The Employee's past records; and,
 - C. His length of service?

IV. DISCIPLINE PROCESS

ORAL WARNING

1. An oral warning may be issued to any employee for failure to perform to an acceptable standard, misconduct or omission.
2. Documentation shall be made of all oral warnings.
3. Documentation shall be in writing and shall consist of:
 - A. Statement of the specific material facts involved in the alleged misconduct such as date, time, place, witnesses and actions of the individuals involved.
 - B. Date that oral warning was issued.
 - C. Signed by person giving oral warning.
 - D. An oral Warning shall serve as:
 1. Notice to the employee that the behavior in question is not acceptable.
 2. That the employee is expected to correct the behavior.
 3. That failure to correct the behavior will lead to future disciplinary action.
4. The documentation of the oral warning shall be placed in the employee's personnel file and a copy of this documentation shall be given to the subject employee.
5. If upon being informed that the employee is to receive an oral warning, the employee requests a union representative, the oral warning shall not be given until a union representative is present. (Unless your contract specifies otherwise, the employee must make a request for a union representative. Management has no duty to inform the employee of this right).

WRITTEN WARNING

1. A written warning may be issued subsequent to any oral warnings for misconduct, omission or failure to perform to an acceptable level or may serve as first notice to the employee that he has failed to perform to an acceptable level, misconduct or omission.
2. The written warning shall consist of:
 - A. A statement that this letter constitutes a written warning.
 - B. A statement of the facts involved in the misconduct, omission or failure to perform to an acceptable level. Such statement shall include:
 1. The date of the incident
 2. Time of the incident
 3. Place of the incident
 4. Witnesses to the incident
 5. Actions of the individuals involved
 - C. A quotation of the rule or regulation breached. However, if the action of the employee did not breach a rule or regulation, but fell below an acceptable standard of behavior, then the supervisor should state the standard of behavior the employee will be expected to maintain in the future.
 - D. An outline of any previous discipline issued for comparable or related offenses, which are documented.
 - E. A statement if the employee does not improve, s/he will be subject to further disciplinary action, up to and including discharge.
 - F. A statement of a reasonable period of time within which it is expected that the misconduct, omission or the failure to perform to an acceptable level will be corrected.
 - G. A statement that the employee is being given another opportunity to improve his/her conduct, and an expression of hope that s/he will do so.
 - H. A statement outline how the administration will help correct the employee's behavior.
3. A letter of written warning shall be personally delivered to the employee and the employee shall acknowledge receipt.
4. A copy of the written warning shall be placed in the employee's personnel file as a permanent records of misconduct, omission or of the alleged failure to perform to an acceptable level.

5. If upon being informed that the employee is to receive a written warning, the employee requests a union representative, the written warning shall not be given until a union representative is present. (Unless your contract specifies otherwise, the employee must make a request for a union representative. Management has no duty to inform the employee of this right).

WRITTEN REPRIMAND

1. A written reprimand may be issued subsequent to any oral warnings for misconduct, omission or failure to perform to an acceptable level or may serve as first notice to the employee that he has failed to perform to an acceptable level, misconduct or omission.
2. The written reprimand shall consist of:
 - A. A statement that this letter constitutes a written reprimand.
 - B. A statement of the facts involved in the misconduct, omission or failure to perform to an acceptable level. Such statement shall include:
 1. The date of the incident
 2. Time of the incident
 3. Place of the incident
 4. Witnesses to the incident
 5. Actions of the individuals involved
 - C. A quotation of the rule or regulation breached. However, if the behavior of the employee did not breach a rule or regulation, but fell below an acceptable standard of behavior, then the supervisor should state the standard of behavior the employee will be expected to maintain in the future.
 - D. An outline of any previous discipline issued for comparable or related offenses, which are documented.
 - E. A statement if the employee does not improve, s/he will be subject to further disciplinary action, up to and including discharge.
 - F. A statement of a reasonable period of time within which it is expected that the misconduct, omission or the failure to perform to an acceptable level will be corrected.
 - G. A statement that the employee is being given another opportunity to improve his/her conduct, and an expression of hope that s/he will do so.
 - H. A statement outline how the administration will help correct the employee's behavior.
3. A letter of written reprimand shall be personally delivered to the employee and the employee shall acknowledge receipt.
4. A copy of the written reprimand shall be placed in the employee's personnel file as a permanent record of misconduct, omission or of the alleged failure to perform to an acceptable level.
5. If upon being informed that the employee is to receive a written warning, the employee requests a union representative, the written warning shall not be given until a union representative is present. (Unless your contract specifies otherwise, the employee must make a request for a union representative. Management has no duty to inform the employee of this right).

SUSPENSION WITHOUT PAY

1. Before suspending an employee without pay, be sure that the following procedural and substantive steps have been observed.
 - a. An employee has the right to be confronted with the charges or allegations before final discipline.
 - b. An employee has a right to rebut or controvert any charges or allegations before final discipline.
 - c. The employee has the right upon request for union representation in a disciplinary interview.
 - d. The employer must have given prior notice as to the standard of behavior the employer is seeking to maintain and the penalties for deviation from that behavior.
 - e. The employer's rules or regulations must be reasonably related to the ordered, efficient, and safe operation of the employer.
 - f. There must be substantial evidence of the employee's guilt and a correlation between the severity of the offense and the severity of the punishment.
2. An employee may be suspended without pay if any previous disciplinary actions fail to cause correction of the employee's misconduct or if the seriousness of the misconduct warrants immediate action initiated at this level.
3. The written notice of suspension without pay shall consist of;
 - a. A statement that this letter constitutes suspension without pay.
 - b. A statement of the facts involved in the misconduct, omission or failure to perform to an acceptable level. Such statement shall include:
 1. The date of the incident
 2. Time of the incident
 3. Place of the incident
 4. Witnesses to the incident
 5. Actions of the individuals involved
 - c. A quotation of the rule or regulation breached. However, if the behavior of the employee did not breach a rule or regulation, but fell below an acceptable standard of behavior, then the supervisor should state the standard of behavior the employee will be expected to maintain in the future.
 - d. An outline of any previous discipline issued for comparable or related offenses, which are documented.
 - e. A statement if the employee does not improve, s/he will be subject to further disciplinary action, up to and including discharge of employee.

- f. A statement of a reasonable period of time within which it is expected that the misconduct, omission or the failure to perform to an acceptable level will be corrected.
 - g. A statement that the employee is being given another opportunity to improve his/her conduct, and an expression of hope that s/he will do so.
 - h. A statement outline how the administration will help correct the employee's behavior.
- 4. A letter of written suspension without pay shall be personally delivered to the employee and the employee shall acknowledge receipt.
- 5. A copy of the written suspension without pay shall be placed in the employee's personnel file as a permanent record of misconduct, omission or of the alleged failure to perform to an acceptable level.
- 6. If upon being informed that the employee is to receive a written warning, the employee requests a union representative, the written warning shall not be given until a union representative is present. (Unless your contract specifies otherwise, the employee must make a request for a union representative. Management has not duty to inform the employee of this right).

DISCHARGE

1. Before discharge of an employee, be sure that the following procedural and substantive steps have been observed.
 - A. An employee has the right to be confronted with the charges or allegations before final discipline.
 - B. An employee has a right to rebut or controvert any charges or allegations before final discipline.
 - C. The employee has the right upon request for union representation in a disciplinary interview.
 - D. The employer must have given prior notice as to the standard of behavior the employer is seeking to maintain and the penalties for deviation from that behavior.
 - E. The employer's rules or regulations must be reasonably related to the ordered, efficient, and safe operation of the employer.
 - F. There must be substantial evidence of the employee's guilt and a correlation between the severity of the offense and the severity of the punishment.
2. Discharge may be imposed upon an employee as the final step in corrective discipline process or as discipline in the first instance for serious misconduct.
3. The written notice of discharge shall consist of:
 - A. A statement that this letter constitutes discharge.
 - B. A statement of the facts involved in the misconduct, omission or failure to perform to an acceptable level. Such statement shall include:
 1. The date of the incident
 2. Time of the incident
 3. Place of the incident
 4. Witnesses to the incident
 5. Actions of the individuals involved

A quotation of the rule or regulation breached. However, if the behavior of the employee did not breach a rule or regulation, but fell below an acceptable standard of behavior, then the supervisor should state the standard of behavior the employee will be expected to maintain in the future.

LETTER OF REPRIMAND

To be placed on College Letterhead

Name

Address

City, State, Zip

RE: Insubordination-Refusal to Perform Assigned Work

Dear _____

I am giving you this Written Reprimand, as disciplinary action, for your insubordinate and improper conduct on (date of occurrence) in refusing to perform work that I had assigned to you.

On that day, I instructed you to make a list of uniform sizes and patterns for the uniforms we now have in stock. You objected to undertaking such work claiming it " was not part of your job" and that your job did not require you to take inventory.

I told you then that the duties of your job included knowledge of the stock in your Department and that your responsibilities required you to perform the tasks I assign to you in line with your job duties. I reminded you that your refusal to follow my order violated _____* rules, a copy of which you had received, that state "direct verbal orders must be obeyed cooperatively and promptly."

I further told you to proceed to do the work as I directed, and if you felt the duties of your job did not require you to do that kind of work, you could file a grievance later in accordance with the agreed-upon grievance procedure the labor agreement between the college and the Union. In this way, any question you had concerning your duties and the propriety of my order given you during working hours could be resolved in an orderly way without interrupting work upon which your job and the jobs of the other employees in your institution depend.

I am by this Written Reprimand, given you as disciplinary action, affording you an opportunity to correct your improper conduct and in the future undertake the work assigned to you and meet fully the duties and responsibilities required of you in your job. If you fail to do so, you will subject yourself to further disciplinary action, up to and including discharge.

Very truly yours,

Supervisor

Mailed to the Union's place of business

Given to the Union Steward or Committee Chairman

Note: The example used here is just that; an example of format:
American Arbitration Association.