

PROGRESSIVE DISCIPLINE

PRESENTED BY THE OFFICE OF HUMAN RESOURCES

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Theory: The Abstract Stuff

Preferred definition: “The process of using increasingly severe steps to address failure to perform in an effort to get the performance to improve, **OR** to provide grounds for termination.

Goal, Relationship, Demeanor, Result

- a) Goal: Improvement of the performance, for the good of both employer and employee
- b) Relationship: Coach to player
- c) Demeanor: Professional and detached; NEVER personal
- d) Result: Hoped for result is successful performance; but possible result is termination.

Universals

The following rules apply to all items of progressive discipline:

- a. Timely (means ASAP – some actions have 5 day deadlines)
- b. Objective
- c. Supported by provable facts
- d. Substantive not petty
- e. It's the Supervisor's job

The Detached but Committed Supervisor

To promote improved performance we need to address supervisory demeanor and attitude.

- a. Purpose of progressive discipline is primarily to improve performance and only secondarily to terminate the employee.
- b. Progressive discipline needs to be seen as just another part of the management job. If you are a supervisor, getting supervisor pay and perks, this is part of your job.
- c. The biggest impediments to progressive discipline of all sorts are not with the analysis of the problem by the supervisor - - you always know what's wrong.

The biggest impediments to improving performance are:

- a) the unwillingness of the supervisor to take action, and
- b) the reaction of the employee to the discipline.

Coaching vs. Nagging

Again: biggest impediments to taking disciplinary action are the unwillingness of the supervisor to act and the negative reaction of the employee when action is taken.

Both are rooted in fear:

1. The supervisor is afraid of confrontation, or being seen as mean, or being wrong.
2. The employee is afraid of losing their job, or being perceived as incompetent.

The result can be inaction by the supervisor or inappropriate resistance by the employee

So how do we beat the fear?

By turning it into a coaching session.

1. Reassure the employee that the effort is to improve performance, NOT to criticize or punish.
2. Message must be clear: “This is what needs to happen.”
3. In writing (I like the writing after the conversation, but some differ).
4. Make sure that the demeanor is professional, never personal.
5. You should be encouraging but you MUST be direct about what is required AND the consequences of failure:

If the employee fails to improve there may be disappointment but there should be no surprise at the consequences.

The Step by Step Process

1. Verbal:

Notes should be taken, email follow up recommended

2. Written counseling letter

- a. May or may not go in personnel file
- b. Should be kept by supervisor
- c. Not grievable

3. Written reprimand (Must be within 30 days)

- a. Goes in personnel file
- b. Should be the result of some level of investigation
- c. Should reference the verbal warning and counseling letter
- d. Reprimand is grievable (Which is no reason not to write it)
- e. May be done a second time

4. Suspension without pay (Must be within 5 days)

- a. One to five days
- b. Is grievable
- c. Should reference the earlier disciplinary steps
- d. Number of days can be escalated if there is a second or third suspension

5. Termination



There are various rules for various types of employee.

If it gets that far HR will be involved and walk you through it.

Notes on the five Steps

Sometimes a person's conduct allows termination without any of the progressive steps.

In anything you write, always reference the level of discipline in the subject line.

For contingent employees at both levels, all contracts allow for termination with 10 days notice, without cause. This rule can save much trouble.

Non-renewal of a contract need not be for cause.

In the AFSCME contract demotion is specifically listed as a possible disciplinary option, but rarely used.

Pre-Discipline Analysis

This list is a useful guide for analyzing any contemplated disciplinary action. They are based on “Daugherty’s Seven Tests”, (you only need 6) developed by a famous arbitrator. It’s not necessary that it be done in writing, but if you intend to initiate disciplinary action, you need to be able to answer all of them in the affirmative if challenged.

1. Did the employee have knowledge of the rule and the consequences for violation?
2. Is the rule reasonable?
3. Did the investigation demonstrate that the rule was actually violated?
4. Was the investigation objective/fair?
5. Is there proof that the employee committed a violation?
6. And was it applied evenhandedly in the past?

NOTE: Most of the time, 1 through 5 are almost instantaneous. No. 6 is the only one that requires judgment.

A Note on Grievances.

It goes without saying we don't go looking for grievances.

But never, ever, **EVER**, fail to take appropriate action out of fear of a grievance. Never.

Failure to act guarantees the problem remains unresolved, and probably guarantees it will get worse.

If the steps above have been followed, there will be nothing to fear.

TYPICAL INFRACTIONS REQUIRING ATTENTION

1. Performance: incorrect, incomplete, late
2. Time: chronic absence, tardiness, “disappearing”, sleeping (as distinguished from the occasional “doze at desk”)
3. Demeanor: disrespectful, rude behavior with co-workers or students
4. Substance abuse: alcohol or drug use; even off the job if it impairs performance (may raise EAP issues)
5. Crime: Any sort of criminal activity; violence, theft, threatening behavior.

These are the classics, but have no fear that someone won't come up with a new one.

The Role of the PMP

NOTE: The PMP review is an integral part of the overall progressive discipline process.

PMPs need to reference any progressive discipline, whether the PMP is positive or negative, in order to avoid inconsistency. It is crucial that the PMP not conflict with any disciplinary action that has occurred.

A positive post-discipline PMP needs to explain the improvement. It shows that the employee was responsive and the supervisor was effective.

A negative post-discipline PMP needs to note that the progressive discipline has occurred. This explains the negative PMP and helps build a record if improvement does not occur.

RIGHT MAKES MIGHT

BUT

WRITE

MAKES IT MIGHTIER

“If you didn’t write it down, it never happened.”

WRITE IT DOWN

EVERY TIME

Progressive Discipline: One Tool, with Multiple Purposes

If the employee has a positive response, progressive discipline will:

- a. Let you train and mentor the employee;
- b. Set clear expectations for the employees; and
- c. Improve your team's performance.

If the employee fails to respond, progressive discipline:

- a. Creates a clear record for termination; and
- b. Protects you and the University

Either way, it lets your whole team know that there is a consistent, rational, and fair approach to any performance issues that they might have. You will earn your team's respect, your team perform better, and the University will be the better for your effort.