



WORDS ON WISE MANAGEMENT

Staying out of trouble: the importance of progressive discipline

by Cassandra Lewis
F&H Solutions Group

Progressive discipline is an essential tool for management, particularly when it's combined with good documentation and communication practices. Progressive discipline systems are designed to help employers apply fair, consistent disciplinary decisions. Proper documentation and communication strengthen the legal defensibility of those decisions and protect the company from false accusations.

Mutually beneficial

A structured system understood by both managers and employees takes some of the guesswork out of the relationship. Employees aren't wondering what penalties could come next, and managers can be confident in their disciplinary decisions.

The ultimate goal of correcting undesirable conduct requires communication and collaboration, particularly in the early steps of the process. Because each step is progressively more serious, the system starts with mild "penalties" such as coaching or supplemental training. The employer and the employee can focus on what will work best for the employee to improve his conduct and avoid more serious discipline down the road. Employees are often invited to participate in the problem-solving process and can work with the employer to develop a performance improvement plan (PIP). Involving the employee in the process will increase her engagement and likelihood of success.

Typical steps, essential elements

Generally, progressive discipline systems follow five steps: (1) coaching or reviewing expectations; (2) oral counseling; (3) written warning; (4) suspension; and (5) termination. Throughout all steps, there are certain elements managers must maintain. First, the employee must be informed explicitly of the unacceptable behavior and understand the specific actions that constitute the unacceptable behavior. Likewise, the employee must be made aware of what desirable behavior looks like. Perhaps most important, the employee must be informed of the manager's expectations moving forward and the consequences of a failure to comply.

While most progressive discipline systems loosely follow the structure above, the specifics can vary. In

a unionized environment, the system is usually subject to negotiation. A collective bargaining agreement (CBA) often contains detailed provisions addressing progressive discipline. Therefore, if you have unionized employees, your managers need to be acutely aware of the disciplinary provisions in the CBA. A violation of a contract provision will be taken very seriously by the union and could escalate to arbitration or litigation.

Proper documentation is key

The safety net provided by a progressive discipline system is inextricably dependent on proper documentation by management. With proper documentation, the system can successfully establish the employer's effort to correct misconduct before considering more damaging disciplinary action. Then, if an employee is ultimately discharged, management can be confident in its decision. (For additional advice on the right time to terminate an employee, see Jerry Glass' "Words on Wise Management" column "Are you really documenting performance" on pg. 5 of our March 2014 issue.)

Effective documentation before, during, and after the process serves as a solid record when facts are called into question, demonstrating that the company acted in accordance with its policies and procedures, and encouraging cooperative behavior.

All documentation not created equal

Illegible shorthand notes cannot be considered proper documentation. For your documentation to be effective, you should use your own words, write chronologically, be specific when possible, date and time stamp all documentation, provide the information to all parties involved, and always file a copy.

Documentation should not be tedious or overwhelming. If you make it a habit to maintain simple records and follow the above guidelines, it will become second nature. Just ask around—most managers who properly document the disciplinary process have thanked themselves for it later.



Cassandra Lewis is a labor analyst for F&H Solutions Group. She can be reached at clewis@fhsolutionsgroup.com or 202-719-2024. ❖