

When handing out discipline, make punishment fit the crime

Managers may want to "get tough" on employees who have given them trouble in the past. But, as the following case shows, employees can sue for retaliation if they can prove that supervisors scrutinized their behavior more closely than other employees, or that supervisors doled out more punishment than your discipline policy calls for.

That's why it's important to remind managers not to use heavy-handed discipline tactics for minor incidents. Dish out discipline evenly and in accordance with your progressive discipline policy. Before handing out discipline, supervisors should ask themselves, "Would I treat every employee this same way?"

Recent case: William Parries, an African American, was a litigious thorn in his employer's side, filing several discrimination charges. The company finally fired Parries after a number of disciplinary actions for attendance problems. But he won reinstatement through union arbitration.

Following that, Parries received several oral and written warnings for missteps that he considered trivial, including an oral warning for making "loud noises" at his workstation. After Parries verbally confronted two supervisors, the company fired Parries again.

He sued, claiming race discrimination and retaliation. While a lower court sided with the company, a federal appeals court reversed and ruled for Parries.

Reason: Parries could show a connection between his firing and his previous protected activity (filing lawsuits) because of the company's "excessive scrutiny" of his conduct. Parries showed that he was written up more frequently for trivial matters than his co-workers weren't written up for. That, the court said, amounted to retaliation. (Parries v. Makino Inc., No. 03-4173, 6th Cir., 2004)