

Unequal discipline for same offense? Be prepared to explain exactly why

When more than one employee is implicated in a rule violation, make sure all employees are disciplined equally. That's especially true if they have the same supervisors and similar disciplinary histories.

If you feel the need to discipline one individual more severely than others, document exactly why. You may need to justify the difference later.

Recent case: Mary, who is white, worked as a family resource specialist for a preschool for over 15 years. She was fired after she allegedly got into a heated discussion about a student's need for swapping almond milk for regular milk during cafeteria meals. The argument took place between Mary and another family resource specialist, who is black and happens to be the grandmother of the child in question. Only Mary was fired.

She sued, alleging that she was the victim of reverse discrimination.

The court said the case could go to trial because both women discussed the same child and had the same supervisor as well as similar disciplinary histories. A jury will decide whether Mary was discharged because she is white while the grandmother was not fired. (*Callaway v. Region 10 Education Service Center*, No. 4:14-CV-00719, ED TX, 2016)

Final note: Before approving a disciplinary action, check to see how similarly situated employees have been treated in the past.

If the violation involved a specific rule, note which one. If the rule is new and could explain why someone wasn't punished earlier, document that too.