

# Document details to show why discipline differed

If you hand out different discipline for two employees who commit similar violations, make sure you document exactly why. That way, if you are later sued, you can explain the difference.

**Recent case:** Kelly was fired from her job with a medical examiner's office for insubordination and other rule violations. She sued for sex discrimination, arguing that other employees who committed similar acts were not punished the same.

As evidence, she cited an incident for which she was disciplined but a male co-worker was not. When Kelly punched a hole in a wall, her male co-worker wrote a message next to the hole. He was ordered to remove the graffiti but wasn't formally disciplined. She said that was evidence of sex discrimination. The court disagreed, reasoning that the employer was free to punish destruction of property and graffiti differently. (*Vay v. Huston et al.*, 3rd Cir., 2018)