

Greater experience is a legitimate reason to punish one employee more harshly than another

Employees who have worked for their employer for a long time can be expected to know the rules and abide by them, while a new employee may not be as aware. That's a legitimate reason to punish one employee more harshly than another.

Just be sure you document the reason for differing punishments.

Recent case: Joe had worked as a university police officer for several years when he showed a security guard how to disassemble and reassemble the weapon she was using. He also showed the guard how to search a national stolen weapons database—where the two discovered that her weapon had been stolen. She stopped using the weapon.

Later, at a training academy she attended because she was a recent hire, she learned that she should have reported the discovery to the database administrators. She received a reprimand, while Joe was terminated for violating the university's rules.

Joe sued, alleging he was the victim of sex discrimination since the security guard retained her job. The court dismissed his lawsuit, reasoning that their differing knowledge and experience justified the differing punishments. (*Collier v. University of Mississippi Medical Center*, 5th Cir., 2018)

Final note: Employers have discretion when punishing workers, as long as they can clearly explain why they acted as they did. Document your rationale at the time you make the decision, even if you don't share the reasoning with the affected workers. It's a good "just in case of litigation" practice.