

# How to prepare for a disciplinary meeting

Whether you're giving an oral warning to a probationary worker or issuing a final warning to a veteran employee who is on thin ice, the concept of due process applies. The best way to meet this requirement is through proper planning before the disciplinary meeting.

## Prepare with facts and critical thinking

Start by collecting performance appraisals, prior disciplinary procedures and any other pertinent documentation.

Look for any clues that might explain the reason for the disciplinary problem.

Read between the lines for underlying factors such as: inadequate training, underqualified for position, inability to get along with other employees, monotonous or uninteresting work, etc.

## Questions to ask yourself before a disciplinary meeting

The following questions will help you prepare a step-by-step discipline interview guide:

What is the major subject of the interview? Is it a single incident or is it part of a larger problem?

If it's related to behavior or attitude, what immediate steps can you take to change it?

If it's related to ability, knowledge or skill, would additional training resolve it?

What does company policy state about the subject? Is the employee aware that the behavior violates company policy?

Do you have the proper documentation to sustain a disciplinary action?

Have you reviewed the employee's record and any previous disciplinary interviews?

How have you dealt with similar problems in the past?

How does your previous discipline compare to what you have in mind now?

If the proposed discipline is more severe, are you prepared to explain why?

If the proposed discipline is less severe, are there extenuating circumstances to justify it?

## Real-life lesson: Make sure you've documented problems that justify disciplinary meeting

Some employees are more difficult to manage than others. Be sure to document exactly what errors the employee makes and the rules he breaks. Then discipline strictly by the rules.

**Recent case:** Robert, who is black, worked as a hospital operating room aide for about seven years. The hospital had progressive discipline rules that covered attendance and work performance. The rules recommended punishments for specific violations, as well as a progressive point system.

Robert claimed he was passed over for promotions because of his race. He said one supervisor in particular was responsible for treating him poorly.

Then he received a written warning for allegedly failing to respond to a radio page from that supervisor and leaving his department during work hours to socialize. He was warned that any further infractions might mean termination.

Robert was fired 10 months later when he refused another supervisor's work assignment to a particular area. During the incident, yet another supervisor told Robert to return to his usual station. Robert then got into an argument, clenching his fists and telling that supervisor, "You're gonna get it. You've got something coming." That's when a nursing director brought the two into her office and ordered Robert to follow directions.

The police were called, and they cited Robert for assault and then escorted him off the premises. Then he was fired.

Robert sued, alleging he had been set up for termination in retaliation for his earlier complaints about missed promotions.

The court reviewed the employer's policies and heard from numerous witnesses, who described the last incident in detail. It concluded the hospital had followed its own rules and justifiably fired Robert for insubordination. (*Collier v. Dallas County Hospital District*, ND TX, 2019)

### **Same broken rule, different discipline: Show why you punished one more harshly**

Courts like to see employers equally treat workers who break the same rules. That doesn't mean employers have no wiggle room.

The key is to document why one worker deserves a different punishment than another for breaking the same rule.

**Recent case:** Cherise, a black female, was an HR administrator. Her employer had a policy against deleting documents from the shared drive without permission.

Cherise was fired after the information technology department discovered that two spreadsheets Cherise used to evaluate and track employees were missing from the company shared drive. Further investigation showed that the files had been forwarded to Cherise's personal email account, deleted from the shared drive and deleted from the sent emails from her company account. She was terminated for violating the deletion policy.

Cherise sued, alleging that someone outside her protected class who had deleted a document had not been fired. However, the employer told the court that that employee hadn't deleted a shared document—only one she drafted for herself. No one else ever used it. Plus, she didn't cover up her actions, as Cherise had done. The court tossed out Cherise's lawsuit. (*Fletcher v. ABM*, 2nd Cir., 2019)