

During discipline meeting, ask productive questions

A useful framework for having a disciplinary meeting is to state evidence of the problem and immediately pose a question. It may help uncover the reason for a problem and engage the employee in framing the issues, owning his behavior, and identifying solutions.

Here are some example questions to ask during a discipline meeting:

1. "You seem to lack initiative. Debra had to remind you three weeks in a row to get your sales report in on time."

Question: "Is there a problem we should be addressing?"

2. "We are concerned about your attendance. You've been late for work three times this week."

Question: "Can you explain the recent change in your schedule?"

3. "You seem disorganized. For example, there is a large stack of unfiled folders on your desk right now. You've been warned several times about this problem."

Question: "What are you going to do about it?"

4. "You spend too much time talking to your co-workers. I want you to avoid bothering other employees when they are serving customers."

Question: "How would you suggest we deal with this problem?"

5. "Steve is concerned about the fact that you refused an overtime assignment and walked off the job in clear violation of a direct order. You were warned when you were hired that overtime on short notice was an absolute job requirement."

Question: "Why did you refuse your supervisor's directive?"

Always document why discipline differed

Here's an important reminder for supervisors: Before terminating a worker, make sure you take the time to review previous disciplinary records. If you have not fired another employee for breaking the same rule, call a brief time-out.

Go through both files with a fine-tooth comb. Then prepare a memo explaining why the employee you are about to terminate deserves that punishment while other employees received just a suspension or a warning. That documentation will be valuable in court if the fired employee decides to sue.

Recent case: Venus, a Delta flight attendant, failed a drug test, which came back positive for cocaine and alcohol intoxication. Delta fired her.

Venus sued, alleging sex discrimination. She alleged that six male flight attendants were not fired after they failed the same drug and alcohol screening. Venus said that meant she must have been fired because she is a woman, not because she abused drugs and alcohol.

Significantly, the lawsuit acknowledged that the men had known substance-abuse disabilities.

The airline countered that all six male flight attendants had been fired. However, they were reinstated after completing a drug rehabilitation course. Thus, they could not be compared to Venus, who did not claim to be disabled. The court agreed that she could not compare her situation to the disabled males and tossed out the case. (*Stinnett v. Delta Airlines*, 2nd Cir., 2020)

Final note: You never know which employee may sue you or what type of discrimination they may claim. That's why you should treat every termination as a potential lawsuit waiting to happen.