

SUPERVISORY TRAINING – PERFORMANCE MANAGEMENT AND DISCIPLINE

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Information is intended to be educational in nature and doesn't constitute legal advice.



LEARNING OBJECTIVES

- Understanding the tools you have as supervisors to address and correct poor performance and misconduct
- Concepts to keep in mind when approaching the decision-making process after an investigation is complete
- Understanding common mistakes made in addressing and correcting employee misconduct
- How to avoid discipline being reduced or overturned in arbitration.

PERFORMANCE MANAGEMENT

VS.

DISCIPLINE

- Supervisory Notes
- Coaching and Counseling
- One-on-one Performance Meetings
- Performance Evaluations
- Etc.

- Formal Discipline as Described in the CBA or Policy:
 - Verbal Reprimand
 - Written Reprimand
 - Suspension
 - Demotion
 - Termination

SEVEN STEPS OF JUST CAUSE

Notice

Reasonable Rule or Order

Investigation

Fair Investigation

Proof

Equal Treatment

Penalty

PROGRESSIVE DISCIPLINE

Oral Reprimand

Written Reprimand

Unpaid Suspension

Demotion

Termination

MITIGATING FACTORS

Gravity of offense or rules violated

Circumstances under which misconduct occurred (e.g., past practice)

Extenuating facts (e.g. medical)

Seniority standing

Employee's past record

SETTING REALISTIC GOALS AND EXPECTATIONS

- **Be specific**
- **Be realistic**
- **Include measurable outcomes**
- **Include deadlines**
- **Establish written documentation**



PERFORMANCE EVALUATIONS

Content:

- Accurate, Objectively Verifiable and Factual
- Avoid broad generalizations – “always,” “never”
- Include specific accurate details and examples
- Do not soften criticism with unfounded praise
- Do not give mixed messages
- Include goals and establish deadlines for obtaining goals
- Do not give vague directives

PERFORMANCE EVALUATION RELATED ISSUES RAISED IN DISCIPLINE PROCEEDINGS

- No performance evaluations
- Late performance evaluations
- New supervisor views performance differently
- History of poor evaluations with no follow up
- Record of satisfactory performance evaluations
- Content – must be accurate, objective, and factual
- Failure to use a Performance Improvement Plan

PERFORMANCE EVALUATION EXCERPT (HYPOTHETICAL)

1) Standard: Relationships and Communications:

“Suzie communicates clearly and effectively orally and in writing. Suzie has had difficulty with some of the decisions that have been made in the Department. Recently, Suzie had a negative interaction with a coworker. That issue was unable to be resolved and had to be escalated to the Director of the Department, which resulted in Suzie moving offices. The office move seems to have had a positive impact on both parties and no additional action has had to be taken. Suzie and I have had multiple conversations over the past year about how she is perceived by others, gossip, and conversations that are being overheard by myself and others where she has been asked to take such discussions behind closed doors. Another supervisor has also spoken to Suzie regarding what could be portrayed as negative talk in the hallways/offices with open doors. Suzie has difficulty accepting constructive criticism regarding this matter and therefore the issue has been ongoing. With remarks in this section for the past 3 years on improving relationships with her coworkers, I have identified that Suzie needs improvement in her relationships and communication.”

Rating: Improvement Needed

PERFORMANCE EVALUATION EXCERPT (HYPOTHETICAL)

2) Standard: Punctuality/Timeliness

“Colin is always late to work. I have told Colin he needs to be on time, but he never listens. Colin does meet work deadlines and he shows up to meetings on time as long as they are in the middle of the day.”

Rating: Meets Expectations

PERFORMANCE EVALUATION EXCERPT (HYPOTHETICAL)

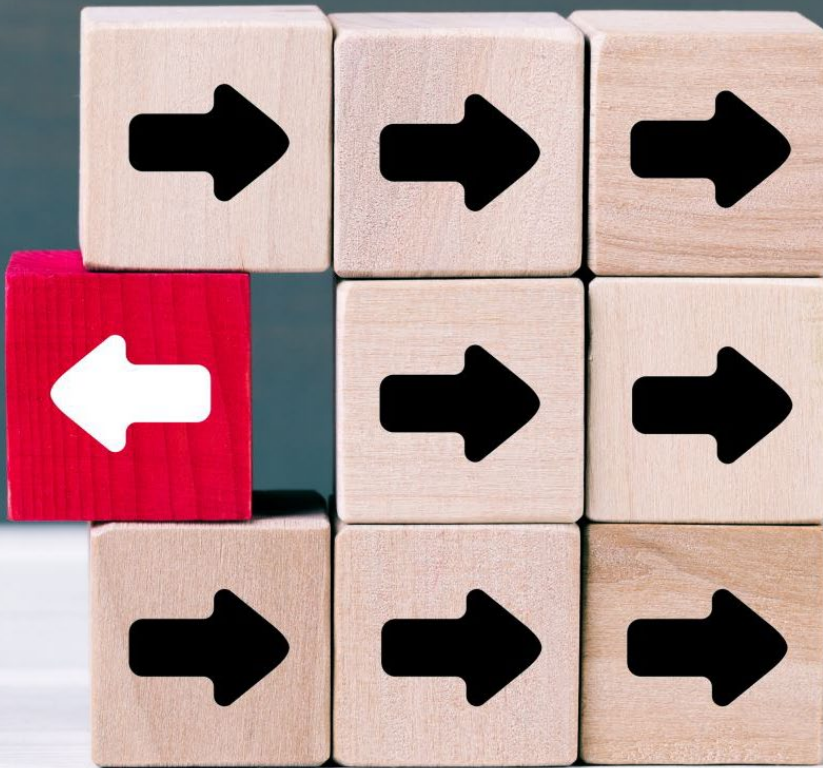
3) Standard: Work Quality

“Kate is a new employee and she has many ongoing projects. Kate needs to be more proactive about reaching out to her partners and community contacts to make sure she gets the feedback she needs prior to completing a project. Kate should be more assertive in her decision making. Kate will continue to learn about the community and gain confidence in her position. With that, some of these issues will resolve themselves. Being proactive, assertive, and consistent with decision making will help her build a good reputation in the organization and community.”

Rating: Meets Expectations

DIFFICULT PERFORMANCE OR BEHAVIORAL PROBLEMS

- Ignoring or failing to follow directives
- Not accepting constructive criticism
- Allowing problem to fester with gunnysack effect
- Refusal or inability to cooperate with other employees
- Nice employee who tries hard but is not cutting it
- Shuffling employees to new supervisor
- Change of expectations
- Technically competent employee who doesn't get along



PERFORMANCE MANAGEMENT/DISCIPLINE (HYPOTHETICAL)

One of your direct reports, Sam, has two months left in his probationary period. Sam is not getting his work done on time, and the quality of work is not at the standard you would expect. Additionally, you walked past Sam's cubicle a couple of days ago and you noticed that he appeared to be shopping online during work hours on his work computer. What steps will you take to address these issues?

PERFORMANCE MANAGEMENT/DISCIPLINE (HYPOTHETICAL)

Two members of your team, Tom and Jane, had a falling out outside of work. While they used to work closely together to meet program goals, they now refuse to work with each other and it is impacting the team. They are also starting to speak to their coworkers about their falling out and you have noticed that other members of your team are starting to take sides. What steps will you take to address these issues

PERFORMANCE MANAGEMENT/DISCIPLINE (HYPOTHETICAL)

You were recently promoted to a supervisory position. One of your direct reports—John—is a 20-year employee who has been working in the same position for a long time. You start to notice some significant performance concerns with John. When you review his prior performance evaluations and personnel file, however, you see that John has always been rated well in his performance evaluations and does not have any prior discipline or coaching. John has told you he is going to retire in a couple of years, but nothing is set in stone. What should you do?

THE CORRECTIVE PERFORMANCE MEETING

Arrange for privacy

Plan in advance

Keep meeting impersonal

Do not make accusations

State the problem specifically

Avoid “softening up” praise

Listen

Share blame gracefully if you are also at fault

Set a deadline

Prepare a written summary

Follow up



DUE PROCESS

- **Weingarten**– right to union representation
- **Tennesen advisory** – Data Practices
- **Garrity warning** – privilege against self-incrimination
- **Peace Officer Discipline Procedures Act**

WHY IS DISCIPLINE
NOT UPHELD IN
ARBITRATION?

Insufficient Evidence in the Investigation

Procedural Errors

Disproportionate Punishment

Mitigating Factors (Past Practice,
Positive Performance Evaluations, etc.)

THANK YOU

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