

Questions Concerning Possible Disciplinary Action

A. In what JOB-RELATED behaviors did the employee engage which would cause someone to believe that the person is a problem employee?

1. Describe the behaviors using language which is concrete. For example, use words like "he routinely arrives late for work," rather than "he has a bad attendance record".

2. Why is this a job-related behavior?

3. When did the behaviors first occur?

4. How often have they occurred?

5. When was the last time they occurred?

6. Does this constitute a Major or Minor violation based on agency Disciplinary Policy and Procedure?

B. What rule did the employee violate when engaging in the behaviors noted above?

1. Is the rule written? If so, where is it published?

2. How was the rule -- whether written or not -- communicated to the employee?

3. Can you prove that the rule was communicated to the employee? How?

4. To what extent has the rule be enforced? Have other individuals exhibiting similar behaviors been held accountable? In your unit? In the agency as a whole?

5. Has your behavior been consistent with the rule you are seeking to enforce?

C. What have you done to help the employee understand and succeed in performing consistent with the rule?

1. When the rule was communicated was the employee given the opportunity to discuss the rule? Ask questions about the rule?

2. If the rule requires special training, did the employee receive that training? When? What record exists of attendance at that training?

3. Did the training require any test to determine the employee's knowledge/skill level? If so, what were the results of such a test[s]?

4. When the employee first exhibited inadequate performance, did you speak with the employee about the behaviors? When? What documentary evidence did you keep about the date and subject of that discussion?

5. If you spoke with the employee, did you speak consistent with the guidelines attached to this document as Attachment "A"?

6. If the problem persisted, did you conduct additional followed by a memo? When?

7. If you wrote a memo, did you write it consistent with the guidelines attached to this document as Attachment "B"?

D. Is the imposition of discipline appropriate?

1. During the last meeting with the employee did you tell the employee that continued unacceptable performance would result in discipline? When did that meeting occur?

2. What specific incident triggered your decision to implement discipline? [Again, write your answer in concrete terms.]

3. How do you know the employee is guilty of that incident?

- a. What investigative procedures did you use in collecting evidence about the incident?

b. What evidence did you collect?

c. Does the case against the employee meet an appropriate burden of proof, usually expressed as "guilty by a preponderance of the evidence"?

E. Is the penalty you are imposing an appropriate one?

1. Did you choose a smaller penalty rather than a larger penalty for less serious infractions? If the infractions continued did you impose progressively larger penalties?

2. In cases of more serious infractions -- e.g. stealing, fighting, many types of client abuse -- did you impose a more severe penalty at the outset, even the possible use of termination?

3. In determining penalties, did you consider the following questions?
(Include detail about the circumstances that apply to this employee – e.g.,
the actual length of employment, etc.)

a. How long has the employee been employed?

b. What is the quality of the employee's work record?

c. Has the employee shown that he or she is sorry for the behavior?
Has he or she made a commitment to improve?

d. How have other people been treated in similar circumstances?

Attachment A

Conducting a Counseling Session

Occasionally a supervisor will have to conduct a counseling session, that is, speak with someone about an apparent performance problem. The manner in which this discussion takes place will be important. Conducted properly, the discussion becomes a productive problem-solving session; conducted improperly, it can result in an extraordinarily painful experience for both.

A counseling session may be broken into four parts:

- A statement by the supervisor of the reason for the meeting;
- An opportunity for the employee to give his or her version of the event or problem;
- A discussion about ways in which the problem might be resolved (The supervisor should ask, "What can you do to resolve this problem?"; and,
- The scheduling of a follow-up meeting to review the employee's progress.

It is important that a supervisor:

1. Never schedule the meeting when in a hurry.
2. Conduct the meeting in private surroundings.
3. Be direct. Do not "beat around the bush" when talking to an employee.
4. Keep an open mind. If after speaking with the employee you determine that your concern was misplaced, say so.
5. Focus on the employee's behavior, not his or her character or morality.
6. Do not speak in a punitive, sarcastic or derogatory manner. Never characterize the session as "discipline".
7. Inform the employee before he or she leaves the office if you intend to send a counseling memo. If you are not going to send a counseling memo, make a note about your meeting on a calendar or similar device.

Attachment B

Writing a Counseling Memo

Every time a supervisor conducts a counseling session he or she should make a record of that encounter, a note on a calendar or similar device, indicating that a meeting was held, its time and place and its general purpose.

However, where conducting a counseling session has not resulted in improved performance, a supervisor should document that session by sending a counseling memo to summarize the session, to more fully document its content and to formalize the message in writing, and helping to focus the employee's attention on his or her need to improve..

Following are some rules for writing a counseling memo.

1. It should be addressed to the employee.
2. It should be written in the first and second person ("I said", "you said").
3. It should contain
 - A summary of the reason for the meeting including reference to the times and/or dates of any occurrences which are the subject of the counseling session,
 - A summary of the employee's response,
 - A summary of the way in which the employee will seek to improve, and,
 - Provisions for a follow-up meeting.
4. The person writing the memo should avoid characterizing the memo and/or counseling session as disciplinary.
5. The writer should also avoid content that is derogatory, or punitive or sarcastic.
6. A copy will be maintained in the Director's file.