



## Effective Handling of Employee Discipline Remains Distributor Number One Concern

In reviewing the records of contacts made between distributors and your Human Resource Consultant, one fact remains clear. Managers' primary concern from an employee relations standpoint is: when can I discipline and how do I implement disciplinary action without the fear of legal action? Unfortunately, following all the rules is no guarantee that a lawsuit won't be filed when taking disciplinary action even when obviously

warranted. Still, a manager cannot avoid the action which must be taken when an employee's job performance, attendance pattern or work conduct is unsatisfactory. To do so only creates significant morale problems with those employees who try to meet work standards. The following points provide practical guidance on how to carry out disciplinary action fairly and hopefully without outside legal intervention.

1. Develop and communicate to employees a disciplinary policy such as in the following example. Incorporate this policy as a key section of the employee handbook. Also, have employees verify, through personal signature, that he/she has received a copy of the Worker Conduct and Discipline Policy. By doing this, the employee cannot plead ignorance as to knowing key work rules and penalties for violating them.

### Sample Worker Conduct and Discipline Policy

In any organization, it is necessary to have guidelines covering a number of subjects, including on the job conduct. It would be impossible to write rules to cover every situation. However, acceptable conduct is expected of all employees. Improper or illegal conduct such as that listed in the following may result in disciplinary action up to and including discharge.

- 1) Theft, vandalism, or careless destruction of company or customer property or property belonging to a fellow employee.
- 2) Drinking, using, possessing, transporting or selling intoxicants or narcotics on company premises or while in company vehicles. In addition, reporting to work under the influence of intoxicants or narcotics.
- 3) Use or possession of firearms while on company premises.
- 4) Making fraudulent statements on employment applications or job records.
- 5) Performing work of a personal nature while on company time.
- 6) Solicitation or distribution in violation of Company policy.
- 7) Gambling during working time or on company property.
- 8) Insubordination or willful disregard of a supervisor's instructions.
- 9) Fighting on company property.
- 10) Excessive absenteeism. Failure to observe work schedules in regards to starting times, lunch and break periods and quitting times.
- 11) Violations of safe work practices.

The above list of work rules is not all-inclusive and may be amended at any time without notice. XYZ Company reserves the right to terminate an employee immediately for any reason it considers sufficient. The severity of the incident will determine whether a verbal warning, written warning, suspension or termination is appropriate. A final decision is rendered only after the incident is thoroughly reviewed.

Note: Distributor management must also insure that its disciplinary policy has been carefully reviewed with workers, preferably during a new employee's orientation or introductory period of employment.

2. Use of a progressive discipline policy has two main objectives:
  - to make sure that employees are not disciplined unfairly or too harshly; and
  - to insure the discipline imposed is sufficient to discourage such behavior in the future.

Progressive discipline is defined as a multi-step process of repeated sanctions and warnings coupled with opportunities for the employee to correct the unacceptable behavior. The process usually involves the following steps:

- Verbal Warning
- Written Warning
- Final Warning (may be accompanied by a suspension)
- Termination

Note: Never issue more than one "final" warning to an employee. Courts have reinstated employees who were terminated after receiving several "final" warnings.

3. While it is prudent practice to follow steps outlined in the progressive discipline policy,

sometimes immediate termination is necessary for serious infractions such as stealing, fighting, driving under the influence of drugs/alcohol, or gross insubordination. Make sure the discipline policy reserves management's right to bypass any or all progressive discipline steps in extreme circumstances.

4. Adequate preparation for any disciplinary meeting is key in preventing other unexpected problems for the manager and company. The disciplinary interview should be a well prepared session based on what the supervisor has learned from direct observation, on-going prepared documentation and any previous disciplinary action taken.

The following points must be considered in arriving at the appropriate disciplinary action:

- A. **Background.** Exactly what happened and why? It could be a specific performance incident (failure to follow written specifications) or the breaking of a rule (not reporting absences according to policy). Research should also include statements from witnesses or other managers who observed the behavior. Performance records should also be reviewed here as well as any other problems relevant to the situation.
- B. **Previous discipline.** Has the employee ever been disciplined before, for this or any other offense? Is this an isolated incident or simply another incident in a string of previous problems? Was the employee on probation at the time of the last offense? Has he/she violated a written rehabilitation agreement while seeking help for a drug or alcohol problem?

- C. **Past precedent.** What have you done to other employees for the same substandard performance or rule violation? If the proposed punishment is more severe than what other employees have suffered, do you have justifiable reasons and the documentation to explain why?
- D. **Proposed penalty.** Exactly what do you propose as a penalty for the infraction?
- E. **Goal.** How do you propose to motivate the employee to improve substandard performance or to stop violating rules? Establish an improvement goal. Work out a plan or guidelines for future behavior. These should be specific as to when and how they will be carried out. For example, in cases where productivity or work quality is the concern, will the employee get additional training? Will the output be monitored in some fashion? How will it be measured? How often? In the case of a rule violation, try to offer some changes that might help the employee, e.g., getting into a different car pool if that is the reason for poor attendance.
5. For a disciplinary interview to be effective, the manager must be in complete control, from beginning to end. While allowing the employee an opportunity to respond, the manager should do most of the talking. The employee must know at the beginning that this is a serious meeting with possible serious consequences. At the conclusion of the interview, the employee must be told what discipline can be expected for further violations. Still, the supervisor must behave in a way which exhibits punishment of the behavior and not the employee personally. An attitude should be portrayed of: "the past is over; what counts is the present and future."

Remember, that in the end, the goal of discipline is not to punish the employee, but to change unacceptable behavior. Through effective leadership and impartial and well communicated discipline policies, disciplinary action can be a force which does change employee behavior towards acceptable company standards.

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## **Discipline Interview Checklist**

- ✓ Have you reviewed the employee's record and notes of previous disciplinary interviews?
- ✓ Have you arranged to hold the interview in a private place away from interruptions?
- ✓ Have you checked company policy to insure consistency and fairness?
- ✓ Are you prepared to listen to the employee's side of the problem and offer flexibility if warranted?
- ✓ Do you have complete and accurate information to support your disciplinary action?
- ✓ Is the discipline consistent with what other employees have received in the past?
- ✓ Was the employee aware of the rule?
- ✓ Does the discipline follow your progressive discipline system? (unless a major infraction has occurred.)
- ✓ Have you considered the employee's past disciplinary record in selecting the penalty?
- ✓ How long has the employee been with the company?
- ✓ Could the employee have been harmed by obeying the rule?
- ✓ Does the rule serve a useful purpose or is it frivolous?
- ✓ Are there extenuating circumstances that should be taken into account?