



# Effective Employee Discipline and Terminations

For Managers and Supervisors

# Legal Disclaimer

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# Learning Objectives

During this training, we will discuss:

- Having a Standards of Conduct policy
- Progressive discipline
- The importance of documentation
- Goals for effective progressive discipline including terminations:
  - Protect the company
  - Minimize the pain to the exiting employee
  - Minimize the disturbance to the workplace
- Potential legal issues employers should consider with respect to terminations
- Best practices for conducting terminations

# Standards of Conduct Policy

Having a clear standards of conduct policy in place, is a critical first step in order to effectively use progressive discipline in the workplace.

Each employee has an obligation to observe and follow the company's policies and always maintain proper standards of conduct, or corrective disciplinary measures may be taken.

Refer to your company's handbook for your specific policies. Please contact your HR professional for questions or further discussion.





# Employment-at-Will

The employment-at-will doctrine permits the employer or employee to terminate the employment relationship at any time, for any reason, with or without cause, and with or without notice in the absence of a collective bargaining agreement or other written employment contract or a statutory prohibition.

*Does this mean the employer should terminate at any time, for any reason, without documentation?  
Let's discuss.*

# Progressive Discipline

Progressive discipline involves taking disciplinary steps with employees, where the consequences increase in severity if performance issues or violations continue.



# What may warrant disciplinary action?



- Violation of the company's policies or safety rules
- Insubordination
- Unauthorized or illegal possession of controlled substances
- Unauthorized possession of weapons
- Theft or dishonesty
- Physical harassment
- Sexual harassment
- Unprofessional behavior toward fellow employees OR CUSTOMERS
- Poor attendance
- Poor performance

# Example of Progressive Discipline Steps



Employers should have a progressive discipline procedure or policy outlined for managers and supervisors to use as a management tool and to help ensure consistency within the company.

# Behavior or Performance

Employee-related matters requiring corrective action usually can be identified using two types of classification.

## **Behavior**

Not following company policy, rules, or procedures is generally a behavioral problem.

## **Performance**

Failure to meet specific performance requirements is generally a performance problem.

# Performance Improvement Plans

A Performance Improvement Plan (PIP) is used to help employees whose performance needs improvement, and it can help reduce the risk inherent in any termination

## ***When should a PIP be used?***

Performance improvement plans (PIPs) are best suited for performance issues, such as an employee not hitting their required sales goals or failing to complete projects on time.

## ***What does a PIP look like?***

- ✓ Considered to be a formal action plan
- ✓ Typically, 1-2 pages in length
- ✓ Should include tangible and obtainable objectives & goals
- ✓ Should include timelines of when goals are to be met
- ✓ Should include language that the PIP does not alter employment-at-will relationship or progressive discipline policy

## ***Managing the PIP***

The Manager should at minimum meet bi-weekly to discuss progress or challenges with the employee

Recommend the PIP typically be 60-120 days in length

This should be a collaborative document, with the employee contributing to increase the likelihood of success

# Scenario 1

Sam refuses to follow the company dress code. She has repeatedly worn jeans to work when the dress code clearly states dress pants. Each time she has worn jeans she received a verbal warning.

Is this a behavioral issue, performance problem, or both?

- A. Behavioral
- B. Performance
- C. Both



# Scenario 2

Stephanie is your location's new GSA. For several weeks, you've been getting feedback from her co-workers that she is missing steps to the guest check out process. This is affecting client experience and impacting sales results.

You've already met and discussed the issue with Stephanie and she has not provided a reason for why she is missing the steps, but her performance has still not improved. How would you handle this?

- A. Fire her.
- B. Check in to see if something is wrong.
- C. Apply the progressive discipline process.



A photograph of a middle-aged man with grey hair and glasses, wearing a white button-down shirt, sitting in a wheelchair at a wooden desk. He is looking down at his hands, which are resting on the desk. The background shows a bright window with greenery outside and a blue wall.

# Documenting Disciplinary Action

## Why Documentation is Important

Employers have potential exposure to discrimination, harassment, other employment-related claims and may be forced to defend their disciplinary actions.

# Documentation

Documentation may help:

- serve as a communication tool
- set guidelines
- improve performance by providing objectives
- the company respond to allegations of discrimination, harassment, other employment claims, and
- provide evidence a company took lawful actions



# Documentation

- Clearly state the problem.
- Include the employee's name, and date and time of warning.
- Reference previous conversations about the problem.
- Communicate the next step.
- Indicate when there must be immediate and sustained improvement.
- Warnings should be signed by the employee.



A woman with dark, curly hair is sitting at a desk in a home office. She is wearing a red sweater and has her hand resting on her chin, looking intently at a laptop screen. The background shows a blurred office environment with a desk, a chair, and some papers.

# Progressive Discipline

The Process

# Verbal Warning

A first infraction or performance issue may result in a documented **verbal warning**.

## Progressive Discipline



Employee Name: Jane Doe Employee Number: 2222  
Department: Front Desk Hire Date: 10 / 13 / ####  
Date(s) of Deficiency: 11 / 04 / ####          /    /              /    /      
11 / 19 / ####          /    /              /    /    

Nature of Deficiency: (Specify what, where, when, and how employee's performance and behavior was deficient.)  
Jane has been late to work two times, on 11/04 and 11/19 since she was hired.  
I have spoken to Jane about her tardiness. I also reminded her of the company's Attendance and Punctuality policy, located in her employee handbook.

I have, on this date, spoken to the employee stating that the above conduct is not acceptable, and if repeated, will become the basis for further disciplinary action, up to and including discharge.  
 I have also informed said employee that the imposition of disciplinary action, up to and including termination, is not pre-conditioned upon receipt of verbal or written notice of unacceptable conduct.

Authorized Signature: Jonathan Diamond Date: 11 / 20 / ####  
Title: Manager, Front Office Operations

# Written Warning

When a verbal warning fails to correct the performance or behavioral problem, or if the infraction was severe enough, the next step may be to issue a **written warning**.

Progressive Discipline



Employee Name: Jane Doe Department: Front Desk  
 Date(s) of Deficiency: 12/27/#### Hire Date: 10 / 13 / ####

Details of Incident (Specifically what, where, when, an show employee's performance and behavior):  
Jane called in absent on 11/29/####. Her absence occurred the day after a  
violation of company policy. Jane was reminded of the company's Attendance  
was absent on 12/27/####. Her absence occurred the day after a comp all in.

Nature of performance or behavioral issue

Describe extenuating circumstance, if any: \_\_\_\_\_

Plan for improvement: Jane will arrive to work each day at her scheduled start time. If she is going to  
be late or absent, she must contact her supervisor at least one hour before her scheduled start time, in  
accordance with our company policy.

Previous 12-month history of deficiencies:

Date	Deficiency	Disciplinary Action Taken
<u>11 / 04 / ####</u>	<u>Late for work 35 minutes</u>	<u>Verbal warning</u>
<u>11 / 19 / ####</u>	<u>Late for work 35 minutes</u>	<u>Verbal warning</u>
<u>11 / 29 / ####</u>	<u>Called in absent</u>	<u>Verbal warning</u>

Prior warnings

Further Action (for example, final written warning): Continued poor attendance  
company's attendance policy will result in additional disciplinary action up to and including  
termination.

Possible consequences

Supervisor Signature: Jonathan Diamond Supervisor's signature Date: 12 / 28 / ####  
 2<sup>nd</sup> Level Management: Andrea Michaels Date: 12 / 28 / ####  
 3<sup>rd</sup> Level Management/HR Department: Martin Black Date: 12 / 28 / ####

Employee comments:  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Employee's comments and signature

I have read and understand the nature of this deficiency and understand that if this persists, further disciplinary action, up to and including termination of my employment, may occur. I also understand that the imposition of disciplinary action, up to and including termination, is not preconditioned upon receipt of verbal or written notice of unacceptable conduct.

Employee Signature: \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_

# Written Warning – Activity

- Has anyone provided a written warning to one of your employees?
- What led up to the written warning?
- Was there an initial verbal warning?
- What was the outcome?
- Did you have the employee sign the written warning?



# Tools & Resources

Employee Name: Jane Doe Employee Number: 2222  
 Department: Front Desk Hire Date: 10 / 13 / ####

Date of Incident	Details of Incident
11/04/####	Jane was 35 minutes late arriving to work. She said she overslept.
11/19/####	Jane was 25 minutes late arriving to work. She said she forgot her purse and had to turn around.
11/29/####	Jane called in absent; she didn't have a ride. This absence occurred the day after a company holiday. I spoke to Jane about this <u>incident</u> and reminded her of our company's Attendance and Punctuality policy, located in her employee handbook.
12/13/####	Jane requested a vacation day for the day after Christmas. The request was denied because she has not accrued vacation time yet. According to company policy, we do not grant vacation before the time has accrued. I referred her to the vacation accrual policy, located in her employee handbook.
12/27/####	Jane did not call or come into work after being notified previously that her request for the day off had been denied. I called her and left a message to return my call as soon as possible. Jane never returned my call. This absence occurred the day after a company holiday.
12/28/####	I spoke to Jane about her absence on 12/27. She said she was stuck in a snow storm and couldn't remember the office number to call in. She said she didn't get home until after 9 p.m. last night, which is why she didn't return my call.  I reminded Jane of the company's attendance and punctuality policy and that her tardiness and absence since her hire date were becoming excessive. I reminded Jane of the importance of being at work on time, when scheduled, and that continued problems would result in additional disciplinary action, up to and including discharge.

Employee Name: \_\_\_\_\_ Department: \_\_\_\_\_  
 Date(s) of Deficiency: \_\_\_\_\_ Hire Date: \_\_\_\_/\_\_\_\_/\_\_\_\_  
 Details of Incident (Specifically what, where, when, and how employee's performance and behavior was unacceptable)  
 \_\_\_\_\_  
 Describe extenuating circumstance, if any: \_\_\_\_\_  
 Plan for improvement: \_\_\_\_\_  
 Previous 12-month history of deficiencies:

Date	Deficiency	Disciplinary Action Taken
____/____/____	_____	_____
____/____/____	_____	_____
____/____/____	_____	_____

Further Action (for example, final written warning): \_\_\_\_\_  
 \_\_\_\_\_  
 Supervisor Signature: \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_  
 2<sup>nd</sup> Level Management: \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_  
 3<sup>rd</sup> Level Management/HR Department: \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_  
 Employee comments: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 I have read and understand the nature of this deficiency and understand that if this persists, further disciplinary action, up to and including termination of my employment, may occur. I also understand that the imposition of disciplinary action, up to and including termination, is not preconditioned upon receipt of verbal or written notice of unacceptable conduct.  
 Employee Signature: \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_