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## SMALL BUSINESS SERVICES

# Disciplinary Action: Do's and Don'ts

Employee discipline, also known as corrective action, is intended to resolve work-related problems, prevent reoccurrence, and provide employees with the resources to improve. When administered fairly and consistently, disciplinary action can be a positive way to create change in employees' behavior. In this Tip, you will learn about various forms of discipline along with some do's and don'ts for administering disciplinary action.

## DISCIPLINARY ACTION: DO'S AND DON'TS

An effective disciplinary process is essential to resolving work-related problems, creating positive change among employees, and maintaining a productive work environment. Still, many employers cite administering discipline as one of the most difficult aspects of the employment relationship. Employee discipline can take many forms, including but not limited to:

- **Counseling.** Typically the most informal and least severe form of discipline, counseling generally involves a conversation between the supervisor and employee. Counseling discussions should be documented.
- **Verbal warning.** A verbal warning is more severe than counseling because it is generally tied to potential consequences if the behavior or performance issue continues. Verbal warnings should also be documented.
- **Written warning.** A written warning involves more formal documentation of the misconduct or performance problem, steps the employee agrees to follow in order to correct the problem, the timeframe with which the employee is expected to improve, along with consequences for failing to do so. A signed acknowledgment by the employee should also be obtained.

When administering discipline, consider the following guidelines:

### Do's:

- **Be proactive.** There are certain steps employers can take before problems arise, such as clearly communicating workplace rules and procedures so that employees know exactly what is considered

acceptable and unacceptable conduct. It is a best practice to maintain an employee handbook for this purpose. Employees should also be informed of performance expectations through goal setting and regular performance reviews.

- **Enforce policies consistently.** An effective disciplinary process requires that policies be enforced consistently. To that end, it is important to provide supervisors with guidance on how to enforce your company's policies and hold them accountable for consistently applying them.
- **Document all disciplinary actions.** It's a best practice for employers to document all disciplinary actions, including counseling and verbal warnings. When recording disciplinary actions, document the issue, when it occurred, the rule that was violated, the disciplinary action taken (i.e., verbal warning, written warning, etc.), goals and expectations for improvement, and any employee response. The disciplinary record should be made immediately following the incident and kept in the employee's personnel file.
- **Evaluate on a case-by-case basis.** Employers should consider evaluating each offense on a case-by-case basis by assessing the nature of the offense, the number of previous offenses, and how they have handled similar situations in the past.
- **Be specific.** When administering any type of discipline, it is important to be clear about the conduct or performance that is considered unacceptable as well as expectations for improvement. Give the employee concrete examples of the conduct or performance problem.
- **Explain the impact on the company.** Sometimes employees are unclear about how their conduct or performance affects the company and co-workers, so it can be helpful when administering discipline to clearly state the impact of their actions.



## Don'ts:

- **Don't procrastinate.** It is important to take action immediately upon learning of a conduct or performance problem. Once you have determined that an employee has violated company policy and that discipline is appropriate, it is important to meet with the employee as soon as possible.
- **Don't violate nondiscrimination laws.** Employers should implement safeguards to ensure that their disciplinary decisions are made in a nondiscriminatory manner, without regard to an employee's race, color, sex, age, or any other characteristic protected by law. All allegations against an employee should be investigated thoroughly and impartially before taking action.
- **Don't discipline in public.** Handing out discipline in front of co-workers can affect employee morale. It is a best practice to administer discipline in private and outside of the ear shot of co-workers.
- **Don't allow supervisors to take disciplinary action without oversight.** Depending on the type of action, it is a best practice to have more than one individual review disciplinary decisions, such as upper management or legal counsel, if necessary. Before taking more severe disciplinary action, such as termination, an employer should review the employee's personnel file and all relevant documents in order to decide if the action is necessary and appropriate, given the facts and circumstances.
- **Don't lock yourself into one course of action.** While the disciplinary process should allow for rehabilitation and correction whenever possible, it is important for employers to reserve the flexibility to take disciplinary action based on the facts and circumstances of each case. Avoid being locked into taking one course of action (e.g. implying a verbal warning will be given for all first offenses no matter how severe). For this reason, it is a good idea to clearly state in the employee handbook that violating the employer's expectations for conduct and performance may result in disciplinary action, up to and including termination, and that the employer reserves the right to decide what disciplinary action to take in any given situation.

By setting clear expectations and promptly addressing performance and conduct problems, employers can help to correct the issue and prevent reoccurrence.

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