

Discipline Checklist



This checklist provides a general overview of the disciplinary process in a unionized environment. Your particular situation may be more or less involved depending on the requirements of your collective agreement.

Investigate the Incident

- If you are not the direct supervisor, meet with direct supervisor to gather the facts
- Schedule an interview with the accused employee and all potential witnesses
- Before the interview:
 - ▶ Review the collective agreement to determine any substantive or procedural rights during a disciplinary investigation (*e.g.*, union representation, requirements to provide notice of disciplinary interviews, etc.)
 - ▶ Review the policies, procedures and regulations alleged to have been violated
 - ▶ Prepare a draft script of questions that you want to ask
 - ▶ Arrange for another management representative to attend the interview with you as a witness and note taker
 - ▶ Remind the witness that his or her notes may be admissible in a subsequent arbitration
- At the interview:
 - ▶ Advise the person being interviewed of the purpose of the interview
 - ▶ Remind the employee of his or her rights under the collective agreement (*e.g.*, union representation, etc.) and offer them a chance to exercise those rights
 - ▶ Ask the questions on your draft script to gather the who, what, where, when, why and how of what happened
 - ▶ Listen carefully
 - ▶ Do not interrupt
 - ▶ Ask follow up and clarifying questions as necessary
 - ▶ Take notes
 - ▶ Thank the employee for meeting with you and inform them of the next step in the process for them, if any
- Immediately after the interview, while your memory is fresh and before you talk to anyone, make detailed notes about what happened during the meeting, including what you said and what the employee said to you. Ask your witness to do the same.

Determine if Discipline is Appropriate

- Review all the facts that you have gathered. Identify any inconsistencies or loose ends that warrant further investigation
- Consider the possibility of a discrimination claim or the employee's need for accommodation
- Review the employee's file
- Determine if you have just cause to impose discipline
- If so, identify the appropriate disciplinary response:
 - ▶ Verbal warning
 - ▶ Written warning
 - ▶ Suspension (one day, three days, five days, etc.)
 - ▶ Demotion
 - ▶ Termination
 - ▶ Other penalties mandated by the collective agreement

- Consider the mitigating factors that are present, including:
 - ▶ Seriousness of the offence(s)
 - ▶ Employee's record of discipline or good performance
 - ▶ Employee's state of mind
 - ▶ Seniority
 - ▶ Status of the employee (*e.g.*, shop steward, other union official, etc.)
 - ▶ Condonation
 - ▶ Apology
 - ▶ Isolated incident
 - ▶ Spur of the moment actions
 - ▶ Any delay in action by the employer
 - ▶ Economic hardship
 - ▶ Inadequate instructions
 - ▶ Failure to warn
 - ▶ Personal or emotional problems
 - ▶ Provocation
 - ▶ Reasonable excuses
 - ▶ Rehabilitative potential
 - ▶ Mental illness, addiction or other disability
- Be sure the decision to discipline is made in a timely manner
- Be sure that the particular discipline to be imposed is fair and consistent with past practice

Communicate the Decision to Discipline

- Review the collective agreement to determine if there are any substantive or procedural requirements for a disciplinary letter (*e.g.*, timelines for imposition of discipline)
- Write a disciplinary letter. A disciplinary letter should:
 - ▶ Be dated
 - ▶ Be written on company letterhead
 - ▶ Have a detailed subject line
 - ▶ Be addressed to the employee's home address
 - ▶ Be clear and concise
 - ▶ Be formal in tone (*e.g.*, use surnames)
 - ▶ Set out the facts of what happened as revealed by the investigation
 - ▶ Set out what happened at the disciplinary meeting, including who was present
 - ▶ Set out the employee's explanation, if any was provided
 - ▶ Identify the company rule, regulation or policy that was violated
 - ▶ Explain why that violation justifies discipline
 - ▶ Set out the relevant provisions of the collective agreement
 - ▶ Review the employee's disciplinary record if relevant
 - ▶ Identify the discipline that is being imposed. If a lesser penalty is being imposed due to a mitigating factor(s), identify the penalty that would have been imposed, the mitigating factor, and the penalty that will be imposed
 - ▶ Identify any appeal or grievance rights available to the employee
 - ▶ Be signed and identify your full name and title
- Communicate the decision to the employee either by mailing the letter or meeting with the employee and presenting the letter in person
- Communicate the decision to other appropriate parties (*e.g.*, union, human resources, payroll, etc.)