

TOP 10 MISTAKES OF PROGRESSIVE DISCIPLINE

California Department
of Human Resources



DISCLAIMER

This training and the course materials are for information and educational purposes only and not for the purpose of providing legal advice. You should always contact your Human Resources or Legal Division with respect to any particular disciplinary or legal issues.



CLASS OBJECTIVES

- Overview of the 10 most common mistakes supervisors make during the progressive discipline process.
- Case examples that illustrate these common mistakes.
- Best practices in handling these mistakes

1. FAILURE TO TAKE PROGRESSIVE DISCIPLINE AT ALL

Example: New supervisor inherited an employee with a decade long history of performance issues and there was no documentation on file.



1. FAILURE TO TAKE PROGRESSIVE DISCIPLINE AT ALL

What are Best Practices?

- Define the Problem - Misconduct or Poor Performance?
- Expectations Memo
- Verbal Feedback – Email to File
- Training
- Counseling Memo
- Formal Discipline

2. FAILURE TO PROVIDE ACCURATE PERFORMANCE EVALUATIONS/IDP'S

Example: Supervisor preparing for hearing against an employee with a history of prior performance issues discovers glowing performance evaluations from the prior supervisor in the Official Personnel File.




2. FAILURE TO PROVIDE ACCURATE PERFORMANCE EVALUATIONS/IDP'S (2)

- Performance appraisals should always accurately reflect the employee's performance. Do not inflate a poor performer's evaluation to avoid conflict!
- Identify training in IDP that correlates to deficiencies or areas for development.

3. GRANTING MERIT SALARY ADJUSTMENTS (MSA) AND RANGE CHANGES FOR EMPLOYEES WITH PERFORMANCE PROBLEMS

Example: When preparing an adverse action for performance issues, HR staff member realizes that the employee was recently granted his MSA.



3. GRANTING MERIT SALARY ADJUSTMENTS (MSA) AND RANGE CHANGES FOR EMPLOYEES WITH PERFORMANCE PROBLEMS (2)

- MSAs and range changes should never be granted when you are in the process of documenting performance issues.
- Employees receive MSAs by default. You must take action to deny and must have documentation to support denial.



4. FAILURE TO SET EXPECTATIONS OR ISSUE EXPECTATIONS MEMO

Example: Supervisor trying to document employee who disappears from office with out notice. Employee informs supervisor she didn't think she needed to obtain approval to be out of the office for 4 hours during the work day for personal reasons.

4. FAILURE TO SET EXPECTATIONS OR ISSUE EXPECTATIONS MEMO (2)

- Provide clear written communication of expectations to all employees. (Different expectations for hourly versus FLSA exempt employees.)
- Unit vs. Individual – You can issue to an individual.
- Distribute departmental policies.
- Consider timing – better to do at onset, or before problems arise.



5. FAILURE TO PROVIDE POSITIVE AND NEGATIVE FEEDBACK

Example: Supervisor presenting an annual IDP to an employee which details the employee is not performing at an acceptable level. Employee becomes very angry claiming this is the first time he has been told about any performance problems.



5. FAILURE TO PROVIDE POSITIVE AND NEGATIVE FEEDBACK

- All employees need feedback – this is how they learn.
- Be proactive, not reactive, don't wait until you have a problem.
- Address accomplishments.
- Clearly identify areas for improvement.
- Be factual and specific, provide examples.
- Afterwards document discussions – names, dates, facts.
- Keep documentation in supervisory “drop” file- Check MOU's.

6. FAILURE TO KEEP DOCUMENTATION FACTUAL

Example: Supervisor prepares a counseling memo explaining that the employees find him scary and threatening. The memo contains no facts, dates or examples of what was scary.



6. FAILURE TO KEEP DOCUMENTATION FACTUAL (2)

- Documentation must be factual and specific, not based on feelings – has to provide actual notice.
- Document should describe actual behaviors: loud raised voice, pounded fists on table, physically grabbed arm, specific verbal threat – “I promise I will hurt you.”
- No conclusions or opinions – “scary” “threatening” “bullying.”

7. FAILURE TO APPROPRIATELY DOCUMENT TIMESHEET

Example: Supervisor documented an employee's attendance problems for months and is ready to take disciplinary action. A review of the timesheets shows that the unapproved absences were recorded as approved vacation and sick leave on the timesheets.

7. FAILURE TO APPROPRIATELY DOCUMENT TIMESHEET (2)

- Time sheet is a legal document.
- Supervisor's signature validates accuracy.
- Maintain a record of attendance/absences.
- Absences must be recorded appropriately to support formal action.
- AWOL versus Dock.

8. FAILURE TO USE BAZEMORE LANGUAGE

“Your conduct on this occasion was unacceptable and will not be tolerated by this department. If you engage in similar conduct in the future, the department will take adverse action against you based on the incidents cited in this memorandum, as well as any future incidents.”

8. FAILURE TO USE BAZEMORE LANGUAGE

Example: Supervisor thinks Bazemore language is too “harsh” so she decides to revise it just a bit to “tone it down.”



8. Modifying Bazemore Language

Your repeated failure to review documents in a case that was critical to the department created many problems as detailed above.

If you are unable to improve your job performance in this area, the Department may have no other choice but to take adverse action against you based on your future failures to review documents.

8. FAILURE TO USE BAZEMORE LANGUAGE (2)

- Provides notice that in the event of future misconduct or continuing performance deficits, the counseling memo is not the final action the employer may take regarding the matters covered in the memo.
- Do not change the wording!

9. FORCING EMPLOYEES TO SIGN CORRECTIVE MEMOS

Example: Supervisor hands employee counseling memo and insists that employee sign to prove receipt. The employee refuses. The supervisor directs the employee to sign and advises if she does not sign, it will be grounds to be further disciplined for willful disobedience.

9. FORCING EMPLOYEES TO SIGN CORRECTIVE MEMOS (2)

- Pick your Battles.
- Forcing the issue causes unnecessary conflict.
- You can prove receipt without the signature.
- If you are going to follow this approach – simply document “employee refused to sign”.
- Check bargaining unit contracts.

10. FAILING TO USE EXISTING RESOURCES

- Your Supervisor
- Human Resources
- Labor Relations
- EEO Office
- Legal Office
- Health and Safety Officer
- Employee Assistance Program
- House Counsel
- On-line training resources : Supervisor's Guide to Managing Poor Performance: <http://www.calhr.ca.gov/Training>

THANK YOU!!

