

Practical Progressive Discipline

Purpose, Processes, and Pitfalls

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Roadmap

- Overall Process
- What's the Purpose?
- Why is it important?
- Performance vs Discipline
- Pasco Plan Taking Action Manual (Advanced Plan)
- How can you proactively identify problems?
- Basic Components
- Common Mistakes



The Disciplinary Process

1. Allegation/Accusation
2. Investigation
3. Presentation
4. Refutation
5. Consideration
6. Assignment
7. Appellation
8. Arbitration



Purpose of Progressive Discipline

Common misconception:

“The boxes HR makes me check before they let me fire someone”

What it SHOULD be:

A program of procedures designed to abate unwanted and/or inappropriate behavior through incrementally increasing consequences, supplemented by learning and development opportunities, applied consistently and objectively, and containing an explicit appeals process

Why Progressive Discipline?



- Execute Ethical Obligation
- Limit Employer Liability
- Identify and Retain Staff Appropriately
- Identify and Separate Staff Appropriately
- Informs Critical Professional Development Programs/Needs

Dear Mr. [REDACTED]

Thank you for meeting with me and [REDACTED] on Wednesday September 17, 2020 to discuss concerns regarding your comments with a parent of one of your students. This situation began with a dress code conversation and an attempt of a removal of a cell phone. You had discussed with the student how her outfit was not school appropriate, and you simply asked her to make better choices. You had told me that you were alone with the child when you had this conversation so that the other students in the room were not witness to this conversation. This was a very appropriate and extremely generous way for you to handle the situation as you were looking out for their child's best interests. The student did not receive this information very well and some bad feelings emerged from this initial conflict. The following day, you had asked her to be off her phone and you were met with defiance and disobedience. There was a clear lack of care for your classroom rules when she blatantly ignored your requests. Upon having this interaction, you had called the parent and you were met with a hostile nature from the father as well. You explained to me that you told the father that you give advice to your own daughter concerning dress code by saying "Dress appropriate and don't wear clothes that will make a grown man salivate". You did also tell me that your daughter who you are referring is 18 years old and this was all told to the father. Thinking back on it now, we both discussed how this can be misconstrued and you will make sure to try and use better analogies next time that take the personal effect out of the conversation. After this conversation, you then had another conversation with mom and it apparently was all cleared up so there was no confusion about what you said or the way in which it was intended to sound.

The following day, the student posted a snapchat timeline post that had a picture of you with your mask on and it quoted "Imagine calling 14-15-year-old girls cute and adorable during class. UNCOMFY". You immediately contacted me, and I called the mom with a request for her daughter to take that down. Its intention is to suggest an inappropriate nature of the teacher and that was highly unlikely and very much unwarranted based off of the evidence as it lay. The mom agreed to do that and called me back when it was done. However, she told me she still had concerns with this teacher and wanted a change out of the class. I told her that would be the best option at this time warranted that I can find another place for her. On Monday, when I came to work, I found out that she would not be able to go to a class on campus as all available seats were taken. Instead, I would only be able to offer her an online class if she chose not

Walking through the Steps

Step 1: Determine if the concern should be addressed with the employee

In most cases the report or existence of a concern will create the need for some type of investigation and ultimately a discussion with the employee. There are some cases, however, where the concern will be so small and/or isolated that a simple notation of the concern, paired with a future monitoring plan, will suffice.

Use your best professional judgment in answering this question. If you are unsure, call Employee Relations for assistance.

Step 2: Select and execute data gathering activities

The type of concern that you are dealing with will often dictate the types of data gathering techniques most appropriate in addressing the concern.

Being Proactive... Staying Vigilant

- Think of this like a household chore:
 - Requires regular attention
 - No One wants to do it
 - When it's not addressed, things get very messy and gross
- Systematize the Assignment of the Work
- (Quality) Supervisors know their most troubled Employees
- How are Supervisors improving/addressing/supporting



Components of a Basic Plan

- Intake/Allegation Matrix (Handoff to Central HR/ER?)
- Basic Investigation Principles
 - Including how to conduct an administrative interview and Weingarten
- Explanation of Just Cause
- Description of Due Process
- Identify steps of Progressive Discipline from Informal to Formal
 - Informal Contact (verbal, written), Letter of Counsel/Instruction, Required Training/Provision of Support, Written Reprimand, Suspension (paid or unpaid), Termination
- Examples Matrix
- How to Assign Discipline and Document it Appropriately (Including notifying outside agencies)
- How to run a Disciplinary Meeting
- Training/Communication Materials

Traps, Pitfalls

- Failing to Document
- Inconsistent Application
 - Contract Language
 - Cases/Precedents
- Overreaching/Failure
- Failing to Meet Standard
- Succumbing to Avoidance
- Shift Performance



Know Your Rights! Just Cause: The Seven Tests

1 Notice

Did the Employer give to the employee forewarning of the possible or probable consequences of the employee's disciplinary conduct?

2 Reasonable Rule or Order

Was the Employer's rule or managerial order reasonably related to (a) the orderly, efficient and safe operation of the Employer's business, and (b) the performance that the Employer might rightly expect of the employee?

3 Investigation

Before disciplining the worker, did the employer make an effort to discover whether the worker actually violated or disobeyed a rule / employer directive?

4 Fair Investigation

Did the employer conduct a fair and objective investigation?

5 Proof

During the investigation, did the employer find substantial evidence or proof that the employee actually violated a rule or disobeyed a directive?

6 Equal Proof

Has the employer applied its rules, orders, and penalties even-handedly? Did they apply the rules the same to all employees?

7 Penalty

Did the employer discipline the employee reasonably as it related to (a) the seriousness of the employee's proven offense, and (b) the employee's record and service with the employer?

Clashes

Matrix, Knowledge of

n Leave)

procedural dismissal)