

Staff Employee Disciplinary Action: When and How to Take It

These guidelines are designed to assist supervisors who experience behavior and performance problems with a staff employee. Please read these guidelines carefully as some portions of them have been revised.

- [An Overview](#)
- [Progressive Discipline](#)
- [Additional Considerations](#)

An Overview

Because employee discipline is a difficult experience that managers and supervisors sometimes face, these guidelines are intended to review the most effective approach to managing performance and/or behavioral issues. Behavioral issues generally result in disruption to the work environment, for example, workplace misconduct and/or rules violations; performance issues result in a failure to meet goals and/or properly perform tasks, such as when an individual lacks the knowledge, skills or ability to perform the job, or where the work is consistently unacceptable in terms of quality or productivity.

Discipline should not generally come as a surprise to the employee. Occasionally employees are unaware of their supervisors' dissatisfaction until they suddenly received a formal written reprimand or a letter of termination. Try to avoid this situation if possible and attempt to regularly communicate issues to employees rather than wait until the performance problems can no longer be tolerated or until annual performance reviews are conducted.

When it becomes necessary to discipline an employee, two principles apply:

- first, the employee must be clearly informed by the supervisor as to the source of dissatisfaction;
- second, except in limited circumstances, the employee should be given the opportunity to correct the problem.

In most cases, the purpose of discipline is to instruct and correct rather than to punish. It is your responsibility as a supervisor to explain to the employee those areas in which he/she is expected to improve, to make suggestions about how to improve, and to allow time for the employee to make improvements. It is usually only in instances such as theft, physical violence or other serious misconduct that immediate termination may be the proper action. If you believe that you are confronted by such a case, please seek assistance from the [Office of Labor Relations](#).

Progressive Discipline

In most instances of behavioral problems, Rutgers' supervisors are encouraged to take a progressive

approach to discipline as follows:

1. When you become aware of a problem, promptly speak to the employee, taking particular care to specify the deficiencies you wish to see corrected and how corrective action is to be undertaken. Have as many additional discussions with the employee as seems appropriate under the particular circumstances. Usually, at this early stage, the employee should be given advice and guidance rather than a reprimand. It is important to maintain, at a minimum, a log of all discussions of this nature with employees. If the employee seems uncertain of the advice being given, then a confirmation of the discussion(s) in writing would be advisable.
2. If, after a reasonable period of time, there is no improvement, or insufficient improvement, write formally to the employee explaining the reasons for your dissatisfaction with his/her performance. Often it is helpful if such a letter makes reference to your earlier discussions with the employee. Ultimately it may be necessary to write to the employee to indicate that he/she will be suspended without pay or terminated if there is insufficient improvement.
3. If there continues to be insufficient improvement, suspend the employee for a short period of time, making very certain that you state specifically that the employee will be subject to further suspensions without pay or termination if there continues to be insufficient improvement. Please note that because of Fair Labor Standards Act regulations, a suspension for an NL employee generally must be for a full workweek; if you believe the offense does not warrant a full week of suspension without pay, please contact the Office of Labor Relations to discuss possible alternatives.
4. When it is apparent that a progressive disciplinary approach has failed and that the necessary change in behavior has not been achieved, you may decide to terminate the employee. Before terminating, however, you must give the employee written notification that you are scheduling him/her to attend a Pre-Termination Conference, and attach a draft copy of a letter specifying the reasons for termination. During the Pre-Termination Conference, give the employee an opportunity to respond to the reasons for termination, and consider what he/she says. After the meeting, you may investigate further if you so choose. Nonetheless, at the conclusion of the process, decide whether or not you will terminate or impose some lesser discipline. If you decide to terminate, simply finalize the initial draft letter and issue it to the employee.

The sequence outlined in 1, 2, and 3 above will not be appropriate in every circumstance. The appropriate number of discussions, letters, formal reprimands, and/or suspensions before termination, the repetition or exclusion of one or another of the steps, and the length of time between the steps taken may depend on many factors such as the length of service of the employee; the level, nature and responsibilities of the particular position concerned; the previous disciplinary record of the employee; the nature and seriousness of the problem; and any improvement made by the employee throughout this process.

Such a progressive disciplinary approach may not be necessary with performance-based issues (i.e., if an

employee's deficiencies in performing the functions of the position or meeting goals are such that they can not be corrected by coaching, training or disciplinary action, such as when an employee lacks a particular skill, aptitude or ability). In these instances, acknowledge the employee's lack of ability as soon as possible and provide consistent and regular performance assistance, evaluation, coaching and/or training. Then, after a reasonable period of time, if you conclude that the employee's performance still has not reached and will not reach a satisfactory level, termination may be appropriate.

Additional Considerations

It can be very difficult to advise an employee that you have concerns with his/her behavior or performance, but honesty, frankness, and precision about the sources of your dissatisfaction and about your future expectations for the employee are very important to the employee's understanding of the problem and his/her ability to improve. Vagueness and generalities or glossing over the situation are likely to leave the employee uneasy and feeling that something is wrong; however, without information and direction, the employee is unlikely to be able to improve. Keep your criticisms free of non-work related matters and be as unemotional as possible, even though the situation is often stressful to you as a supervisor as well as to the employee.

There are also some procedural items to keep in mind. First, ask the employee to sign the disciplinary letter in order to acknowledge that he/she has read it. Second, provide a copy of the disciplinary letter to the employee; you may also wish to send a copy to University Human Resources for placement into the official university personnel file. Third, if the employee is union-eligible, send a copy of the disciplinary letter (and a copy of the pre-termination conference notification, where applicable) to the relevant union. Both union and non-union staff employees may grieve discipline or termination in accordance with the procedures applicable to them, but that fact should not deter you as a supervisor from taking appropriate action when necessary.

Always feel free to contact University Human Resources (732-932-3020, ext. 4040) with any questions that you may have about the progressive disciplinary process or your particular situation. Our HR Consultants and Labor Relations staff members are always ready to assist you in the implementation of these guidelines. In addition, Labor Relations staff members are available to provide training regarding these guidelines and disciplinary measures.

Resources To Help You

Office of Labor Relations	732-932-3020, ext. 4040
HR Consultants	732-932-3020, ext. 4040
<u>Employee Development Workshops</u>	
Camden Human Resources	856-225-6475
Newark Human Resources	973-225-6475

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