

Staff Discipline Process

2023

The logo for New Mexico State University, featuring the letters "NM" stacked above "STATE" in a white serif font, enclosed within a white square that has a small notch at the bottom left corner, all set against a dark red background.

NM
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New Mexico State University

Defining Progressive Discipline

- **Progressive discipline** is a tool that uses graduated steps for dealing with problems related to an employee's conduct or performance that doesn't meet clearly **defined** standards and policies.



Purpose for Progressive Discipline

- To provide employees with a reasonable opportunity to correct and improve problems related to their overall job performance, while at the same time providing fair notice of the consequences of not correcting the issue(s).



Due Process

- Affording **due process** means recognizing the **employee's** right to be informed of unsatisfactory performance and to have a chance to defend himself and improve before an adverse **employment** action (especially suspension or termination) is taken.



Reasons for Performance or Behavioral Issues

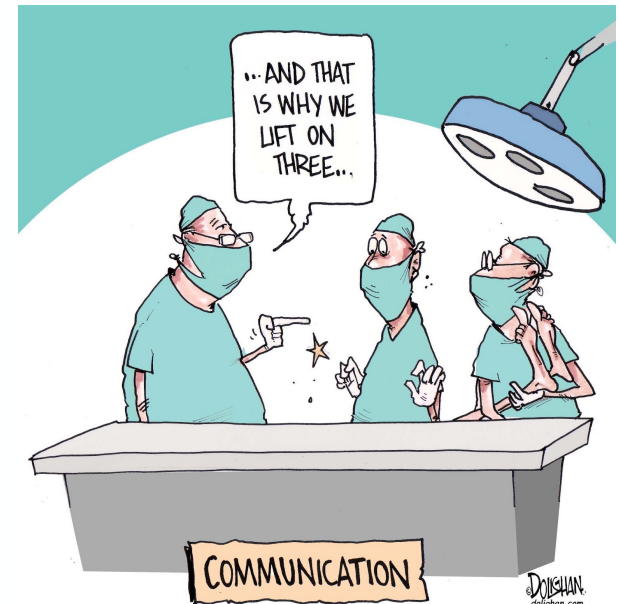
- Lack of training
- Unclear Expectations
- Poorly defined roles
- Lack of feedback (positive and negative)
- Change in work environment
- Lack of communication
- Lack of investment of time by supervisor
- External factors (personal issues)



Managers

Managers contribute to the employee problem by:

- Being disengaged from employees
- Ignoring issues
- Acting too late
 - Recommend acting within 30 days of occurrence or knowledge of
- Failure to follow upon previous counseling/discipline
- Poor communication



Counseling

Counseling – This is informal and is usually the first attempt to affect change. This involves addressing something that has happened in an effort to correct or improve. This is what usually occurs before implementing disciplinary action.

Tips:

- Conduct in a “low-key” manner. Friendly, yet firm
- Should be done in private.
- Have documentation or specific examples to serve as a basis for the discussion
- Seek input from the employee about the cause
- When possible, jointly identify a solution
- Clarify the employee’s understanding of your expectations
- Inform the employee of consequences of failing to make progress
- Document the counseling with a “Memo of Counseling” or notes in your departmental file
- Follow-up!!!!



Essential Elements of Discipline

- Employee is informed of the unacceptable behavior or performance.
- Explain what the impact or consequences have been.
- Explain what is acceptable or what the performance standards are and give a reasonable time to comply.
- Employee is informed of the consequences of failing to comply.



Discipline for Cause

- Should always be for just cause –
 - Repeated tardiness or poor attendance.
 - Misconduct which adversely affects the interest or reputation of the university or its employees.
 - Conduct that interferes with the efficient operation of the university
 - Violation of policies & procedures
 - Negligent, incompetent, inefficient or unacceptable performance of duties

[ARP 10.10, Part 7](#)

[CBA Article 34, Section 1](#)



Discipline steps

1. Verbal Warning
2. Written Reprimand
3. Suspension or Demotion
4. Termination

*Some severe conduct such as stealing, violence, or fraud, do not require prior warning since employees are expected to understand such offences will result in discipline.



Discipline steps

1. Verbal Warning – The first formal disciplinary step that is documented in writing. – Considered a Warning
 - Contains 4 essential elements
 - This is not part of the official personnel file, just the departmental file
 - ELR can provide a template
 - This is an appealable action
 - Recommend that it be reviewed by ELR first to comply with policy and union contract requirements

Discipline steps

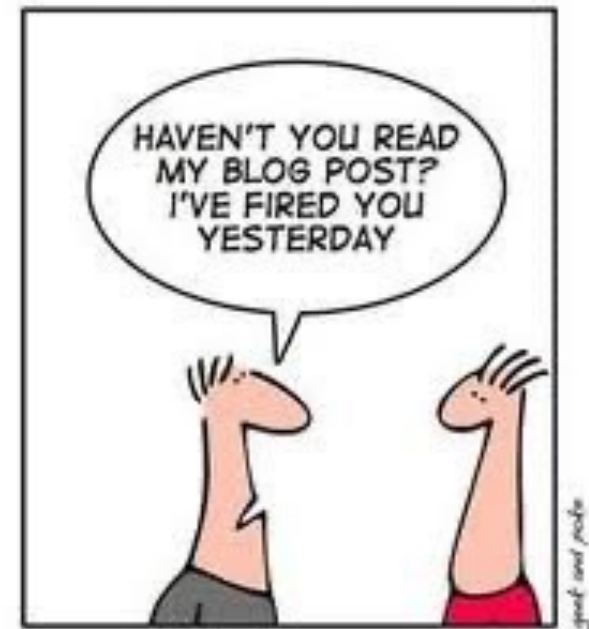
2. Written Reprimand – Formal document issued to the employee.
 - Contains the 4 essential elements (ELR has a template)
 - Reviewed by ELR prior to issuing
 - This is an appealable action and contains language about appeal rights
 - Different language depending on whether the employee is union
 - Signed by the employee to acknowledge receipt
 - Employee gets a copy
 - Copy goes to the employee's official personnel file

Discipline steps

3. Suspension or Demotion – suspension without pay for between 1 and 5 work days.
 - Used only if loss of pay would be incentive enough for the employee to change/improve
 - Must be reviewed by ELR and approved by the AVP of HR Services, prior to implementation
 - Demotion is rarely used but can be approved as an alternative to termination
 - Action is appealable
 - The documentation becomes part of the personnel file

Discipline steps

4. Termination – Occurs when all other efforts to help the employee improve or meet standards have failed.
 - Must be reviewed by ELR and approved by the AVP of HR Services, prior to implementation
 - Requires advance notice
 - 10 days for Exempt
 - 5 days for Non-Exempt
 - Action is appealable and employee must be given written notice of rights and deadlines
 - The documentation becomes part of the personnel file



Disciplinary Action Meetings

- In private
- Meeting with Employee and Supervisor
 - Next level supervisor or HR unit rep can attend
- Review the document
- Allow employee to respond/comment
- Obtain signatures
 - If employee refuses to sign, make a notation on their signature line and supervisor can initial/date
 - The disciplinary action still goes into effect even though employee doesn't sign
- Employee can add comments on document or separate sheet

Temporary and Probationary Employees

- Probationary, temporary, occasional, or emergency hire employees have no entitlement or expectation to continued employment during or beyond the probationary or appointment period and may be terminated without cause.
 - Requires ELR approval
 - 24 hours notice is required
 - without recourse to the grievance procedures, except in cases alleging discrimination.



Investigations

- An **investigation** is a systematic, and thorough attempt to learn the facts about something complex or hidden.
- Can be accomplished at the department level, with ELR assistance.
- The goal is to collect information, not to build a case.
- May take more than 30 days to complete.



Investigations

- An Investigative Summary Report is prepared, with an analysis and recommendation
- Report is reviewed by supervisor/department head and OPR
- Decision is made by OPR and the department on action to be taken, if any.



Final Notes

- Keep supervisor informed of any problems with employees
- See guidance from OPR before taking any action
- Implement action within 30 days of problem or knowledge of the problem
- Keep in mind that the process is designed as a tool to help an employee to improve



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