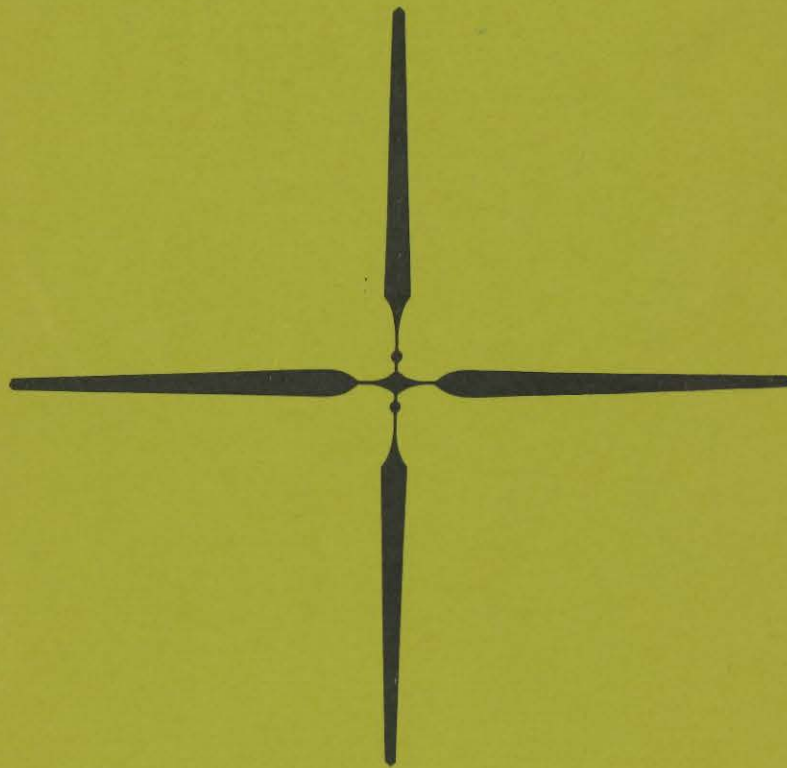


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Guidelines for Handling Disciplinary Actions



State of Iowa

April 1976

Reprinted by the Department of Public Instruction

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INTRODUCTION

A vital ingredient of successful personnel management in state government is the relationship between employees and their immediate supervisors. The supervisor can become the only member of management with whom the employee has direct contact. Management is represented by the supervisor in the eyes of the employee, and the supervisor's decisions represent management's decisions. Thus, the relationship between supervisor and employee cannot be over-emphasized.

The successful supervisor must outline to employees what their jobs consist of and keep them informed of all conditions concerning their jobs. The supervisor must orient an employee in job performance, work rules, and also arrange for training. Once instructions and rules are understood by subordinates, management has the right to expect conformance and observance of them. Without employee discipline, or "orderly behavior", management will not be able to achieve its goals effectively.

Good discipline helps insure that each employee will work for the good of all and will not transgress upon the rights of others. Good discipline also establishes what constitutes acceptable performance, helps to achieve quality work, and spells out probable reactions of managers to unsatisfactory conduct. The supervisor provides constructive leadership to employees and also affords them opportunity to contribute their ideas to improvement of working patterns.

In addition to being able to get along on a person-to-person basis, the supervisor must interpret the rules that apply to employees both individually and collectively and must apply these rules uniformly and impartially at all times. To apply rules otherwise would jeopardize team work and cause ill feeling among employees. Favoritism toward one employee could result in discrimination towards another. The supervisor must be fair at all times.

From time to time, supervisors encounter state employees who are not living up to the required expectations. These situations demand the utmost in supervisory effort to assist the employee in correcting the problem and maintaining high level of dedication to the goals of the organization. Effectiveness requires a variety of supervisory attitudes: firmness, patience, understanding and self-confidence. The crux of the problem is communication; explaining to employees what is expected of them, listening to detect their misunderstandings, learning employees' reactions to work environment, and resolving problems arising from previous breakdowns in communication are positive steps toward good employee-employer relations. The use of firmness when there should be patience and exercising authority when there should be understanding breaks the lines of communication between a supervisor and his employees. Using patience and understanding when there is a need for firmness and action distorts the communication process by condoning unacceptable behavior. Thus knowing the various approaches to solving employees' problems is not sufficient; judgment and timing, when to do what, is critical to applying supervisory skills towards a solution.

The purpose of discipline is correcting job behavior problems of employees. Some individuals interpret management actions encompassed by the disciplinary process as punitive in nature. Because of this association, the words discipline and punishment tend to become synonymous in the minds of supervisors.

The supervisor who hesitates to discipline because he hesitates to punish and the supervisor who carries out discipline purely from a punitive standpoint are missing the point of discipline:

. . . It is a well accepted principle in arbitration and industrial relations that the primary purpose of industrial discipline is not to inflict punishment for wrongdoing, but to correct individual faults and behavior and to prevent further infractions.¹

Discipline is a learning process, whereby employee behavior is shaped to result in a cooperative and productive work force; discipline should always be corrective, it should concentrate on rehabilitation.

II DISCIPLINARY PRINCIPLES

Concern over the quality of disciplinary action in State Service has been voiced over the past few years. The effects of poorly handled discipline have been in evidence for some time: higher turnover, lowered productivity, and increased job dissatisfaction. With the advent of collective bargaining among State employees, a new dimension has been added to the situation. Well organized and active unions serve to review management action. If discipline is lax, inconsistent, and unsystematic, management's disciplinary actions will not stand under the review of a third party, whether this review is by an arbitrator, the Merit Commission, or the Courts.

A well organized and effective discipline program will incorporate the following principles:

1. Communicate standards of conduct and performance.

In civil and criminal law, ignorance of the law is not a valid defense. In labor relations, it is a very valid and often used defense. References to rules or practices that are "common knowledge" or that "employee should know better" often are not sufficient; the employer must demonstrate that employees understand the rules and standards. When standards of conduct and performance can be expressed in writing they should be communicated in writing to all employees. It is also helpful if employees are told the reasons for various rules and standards. An atmosphere of blind obedience to authority does not aid in compliance with the spirit of rules or standards, nor does it help the employer's case when disciplinary action is brought before an appeal body.

2. Rules and standards should be reasonable.

Management has the right to make reasonable rules; rules that do not bear a reasonable relation to an employee's job requirements can be challenged.

¹Paul Prassow, and Edward Peters. Arbitration and Collective Bargaining: Conflict Resolution in Labor Relations. McGraw Hill New York 1970, p. 219

3. Rules and standards should be consistently applied.

Requiring one employee to adhere to a standard or procedure and allowing flexibility to another similarly situated employee is discriminatory treatment. Lack of uniform and impartial treatment undermines respect for management and thwarts the disciplinary process.

4. Penalties should be uniform.

Rules and standards should be categorized so employees know the penalties for violation. This also insures consistent treatment under like circumstances.

5. Penalties should match the infraction.

Minor infractions should not receive maximal penalties. The purpose of discipline is rehabilitation. Termination should only be used for serious offenses or in situations where rehabilitation has not produced satisfactory results and no alternative remains.

6. Keep records.

A systematic recording of facts and events relating to problems and attempted corrective action is necessary due to limited human memory. The burden of proof lies with the employer to show just cause for disciplinary action. Every verbal warning and informal disciplinary conference with employees should be recorded.

7. Take necessary action.

Failure to take necessary action when warranted builds a climate which hampers future corrective actions. If discipline is lax or inconsistent, it may be overturned when reviewed. If an employee has been allowed to violate a rule without appropriate corrective action, management is not justified to suddenly impose severe disciplinary action. The same reasoning applies to rules which are not treated consistently within a department. If violations are permitted, employees may feel the supervisor does not consider the rule important and that violations will be condoned. To prevent situations in which the employees are justified in questioning the fairness of discipline, management must be consistent in taking corrective action each time problems arise.

8. Counseling is important.

Many of the principles of discipline inject a degree of formality and impartiality into the system which if carried too far will not serve the corrective and positive ends of such a program. Counseling involves a frank and open discussion with the employee regarding the problem situation. Listening, and permitting the employee to express his side of the story, is vital to the communication process and an essential element to problem solving.

The supervisor must go beyond disciplining the symptom to try to overcome the underlying problem. For example, an employee who is frequently late for work may receive a written reprimand indicating the importance of arriving to work on time and a warning that repeated tardiness may result in more severe disciplinary action. Perhaps this is an employee who otherwise is a good worker, has been with the state for several years and knows his job well. Will this reprimand correct the attendance problem? It may, but perhaps not.

What does the supervisor know about the underlying cause of this problem? Possibly the employee rides the bus and the bus schedules have been changed causing him to arrive late. Possibly the employee has been having family problems, morning squabbles at home have caused tardiness. Maybe the employee has assumed more responsibility and had previously been promised a reclassification but it has not come so he is now losing interest in working diligently.

The conclusion of the preceding example is if a supervisor expects to solve job problems, he must first identify the nature and the cause of the problem. The objective of corrective discipline is solving problems and retaining employees. This may appear to be a non-job related area, however, a non-job factor which causes a job problem is a legitimate concern of the supervisor.

Once the problem is identified, the supervisor must decide whether it is within his ability to help correct it. It would be unrealistic to expect the supervisor to serve as a professional family counselor, social worker, physician, or clergyman; but it would be within his responsibilities to attempt to help the employee find outside assistance.

Employee counseling, a sincere attempt to resolve the job problem by dealing with the problem from the employee's viewpoint as well as from management's perspective, is probably the most important element in successful discipline.

III AGENCY CORRECTIVE DISCIPLINE

1. The Merit Commission Endorses the Policy of Corrective Discipline

In general there are three ways to approach discipline:

1. Vengeful Discipline, characterized by the absolute imposition of the most severe penalty available without consideration for rehabilitative or remedial action by the employee.
2. Perfunctory Discipline, characterized by a complete lack of attention to disciplinary matters other than continued verbal reprimands.

3. Corrective Discipline, which is a positive, action-oriented program that blends appropriate attention to discipline and employee development. The primary purpose of any penalty is correcting the employee's wrong doing, rather than wreaking vengeance on the employee or attempting to deter others by making an example of the errant employee.

The first two methods should be quickly dismissed from consideration as they are unacceptable to modern management.

II. A DESCRIPTION OF CORRECTIVE DISCIPLINE

Corrective discipline implies that disciplinary action taken by management results in the employee correcting his deficiency, neglect, or other inappropriate behavior and/or action. Stated another way, the principle of corrective discipline requires that management withhold the most severe penalty that can be imposed on an errant employee until it has been established that the employee is not likely to favorably respond to lesser penalty.

Corrective discipline does not mean that employees must be given a sequence of punishments (e.g., a warning, written reprimand, suspension, discharge) for all offenses. There may be certain offenses which result in immediate dismissal. For the majority of employee wrongdoing, however, there is a variety of disciplinary actions available. Each disciplinary case is different, and it is impossible to describe a specific penalty for a particular offense. Under a corrective discipline concept, penalties of increasing severity are applied to repetition of offenses, but the penalty is directed to positive prevention of repetition, not punishment.

To some, corrective discipline may appear to support withholding the maximum punishment allowable. They believe this is a lax enforcement of discipline from which nothing is gained. Corrective discipline assumes that the employer and the employee, gain more by retention, at least for a period of testing, than by removing him from employment at the earliest possible moment. This point of view is strengthened by both the high cost of turnover and the unknown capabilities and behavior traits of the discharged employee's replacement. Further support for corrective discipline lies in increased employee morale, which results when the employees see that they can be given a second chance and the employer is making an effort to use discipline in a positive rather than a negative way. Corrective discipline is not a device to postpone or defeat discharges. In some cases it may inflict hardship on an employee. For example, an employee who is repeatedly tardy may be given a written reprimand for each offense under a system of a prescribed penalty for a specific offense. Under corrective discipline, however, an employee may receive penalties of increasing severity (including discharge) for continued repetition of this same minor offense.

Corrective discipline does not imply that a penalty, once imposed, completely cancels the previous misconduct. Instead, corrective discipline assumes that management can expect an obedient and cooperative working force and persons who demonstrate, over a period of time, that they cannot bring themselves to adjust to perscribed rules will not be retained.

Corrective discipline imposes upon management a two-fold burden of firmness and patience. It requires front-line supervision to adopt a reasonably firm attitude against minor violations and refuses to overlook minor violations with simple admonition or complete oversight. Where the principle is properly applied, management is obligated to demonstrate that the employee has been put on notice by the use of increasingly severe penalties and his course of conduct is not being condoned. Corrective discipline does not permit supervisors to recall incidents of past misconduct which were not brought to the employee's attention and properly disciplined at the time of occurrence and use them as grounds for present discharge. Corrective discipline requires front line supervisors to be understanding, objective, patient, and calm regardless of how aggravating and provocative the employee might become.

Application of corrective discipline, requires one to accept the adage that "actions speak louder than words". This means that a supervisor's continuous verbal admonition of an employee is less effective in improving the employee's discipline than a properly documented case which results in a mild, moderate or severe penalty. Verbal warnings frequently repeated but unsupported by more severe penalties seldom command the attention which is needed for respectful observance of the rules.

IV. DISCIPLINARY ACTIONS AVAILABLE UNDER CIVIL SERVICE

When counseling fails to lead to the solution of an employee problem, disciplinary action may have to be taken. Supervisors have full authority to initiate verbal and written reprimands. More severe actions may be taken with the approval of the appointing authority or his authorized representative. Under the Iowa Merit System, an appointing authority or his authorized representative is the designated individual in charge of divisions of state government including, but not limited to, boards, bureaus, commissions, and departments.

The following penalties are available as disciplinary actions:

1. Verbal warning
2. Written reprimand
3. Suspension without pay up to 30 days
4. Reduction in pay
5. Reduction in position, and
6. Discharge

The last four of these penalties are perscribed under 19A.14, Iowa Stats. under the section dealing with the employee's right to appeal discipline to the Merit Commission. There is general understandings of penalties 1, 2, 3, and 6,

but many people in state service are not aware of the reduction in pay or reduction in position options.

Reduction in pay refers to an agency's authority to reduce an employee to the Permanent Status in Class Minimum salary rate of his current classification as disciplinary action. Although there is little experience in utilizing this option as a disciplinary measure; it should be considered as a possible alternative to discharge.

Reduction in position is also available to the appointing officer. This penalty can be accomplished in two ways: 1) if there is a vacancy in a class that the employee is qualified for, the appointing officer can move the employee to that position and reduce his pay to the Permanent Status in Class Minimum for the lower class. 2) if no vacancy exists, the appointing officer may withdraw certain duties, reconstruct the position to warrant a lesser classification, which upon review and action by the Director of the Merit Employment, results in a downward reclassification. This alternative also has been infrequently utilized. A demotion would seem an appropriate disciplinary action in situations where an unsatisfactory employee could be expected to perform satisfactorily in a job of lesser responsibility.

V. PROCEDURES FOR DISCIPLINARY ACTION

Role of Immediate Supervisor

1. Whenever an alleged infraction of a rule occurs or when an employee is not adhering to performance standards, an immediate review is necessary to establish the facts of the situation:

- (a) What rule or standard was violated?
- (b) Who was involved?
- (c) When did it occur?
- (d) Where did it happen?
- (e) Who were the witnesses?
- (f) Were there any extenuating circumstances?

The answers to the above questions should be systematically documented and recorded.

2. If a verbal reprimand is given, a record of this reprimand should be made, clearly stating the reasons for the reprimand, and a copy filed in departmental records.
3. If a written reprimand is given, the letter should be addressed to the employee involved and three copies made: (1) departmental records, (2) personnel office, and (3) immediate supervisor.

NOTE: Letters of reprimand should clearly state the rules violated or the lack in performance. A brief recounting of history of this problem should be included. Such letters should indicate what actions the employee must take to correct the

problem. Finally, the letter should indicate what type of actions management will take if the problem reoccurs or is not corrected. The general spirit of the letter and of the discussion with the employee should reflect a corrective approach.

4. When, in the judgement of the supervisor, disciplinary action beyond a reprimand is warranted, the supervisor should summarize the background of the situation and make a recommendation for disciplinary action to his supervisor.
5. If the problem situation warrants immediate action and his superior is not available for consultation, the supervisor has two alternatives: (1) contact the Personnel Director, or (2) relieve the employee of his duties and send him home. In the latter case, the employee should be specifically directed to return to work the next scheduled day. He should be informed he is being sent home while disciplinary action is being considered. This action is a suspension pending investigation and is taken in situations where time is needed to consult his superior and the employee's continued presence on the job would be detrimental to the interests of the state.

VI. POLICY AND PROCEDURE FOR PROBATIONARY DISMISSALS

Although probationary dismissals are not usually considered disciplinary actions, it would seem worthwhile to include procedural information on this process as it does involve concepts similar to those described earlier. The important distinction to bear in mind here in contrast to disciplining a permanent employee is the emphasis on evaluation and assessment of fitness for permanent status.

Policy

The probationary period is an extension of the selection process of an employee. During this period an appointee's work, attitude and work habits should be carefully observed and evaluated by the supervisor to determine whether the individual will be able to effectively perform the assigned duties and responsibilities. Counseling and other appropriate action which will enhance development of an employee should be indicated by the supervisor whenever necessary.

The State Merit Director supports a formal evaluation after the first three months as well as after six months and at least annually thereafter.

An appointee may be dismissed by the appointing officer at any time during a probationary period when his conduct or competency does not merit his continuance in the position. When a dismissal is to be effected, the appointing officer shall immediately notify in writing the person to be dismissed of the reasons for dismissal and the date on which the dismissal is to occur.

Procedure

No later than 15 days prior to the expiration of the probationary period, the supervisor shall decide if the employee's performance has been satisfactory

and if he will grant the employee a permanent appointment. The supervisor should evaluate the employee and discuss this evaluation with the employee. Employees should be evaluated periodically during the probationary period.

If the employee will be terminated, the reason for the termination should be communicated to the employer and the Probationary Service Report should be completed. Copies of the probationary report should be attached to the termination recommendation.

March 15, 1975

Mr. John Doe
629 Summit Street
Des Moines, Iowa 50319

Dear Mr. Doe:

You are herewith notified that pursuant to authority vested in me by the Department, you are herewith (suspended, demoted, discharged, removed, etc.) (If applicable) for a period of _____.

Pursuant to the provisions of Section 19A.14, Iowa Stats., you are hereby notified that the reasons for this action are:

1. On March 8, 1975, you struck one Jimmy Smith contrary to the rules (If the rule is in writing-specify which rule) of the Department of Social Services.
2. On March 10, 1975, you failed to turn in your field report, contrary to a specific order given you by Sam Johnson, your immediate superior.
3. On March 12, 1975, at approximately 10:15 a.m. you struck Lacy Johnson, a boy in your third hour class, contrary to the rules (specifying them) of the Department.

You were aware of the rules of this Department covering the violations mentioned above because you were told about them on August 1, 1974. (If appropriate) (And given a copy of them on or about _____ (Date) _____, 1975.

In addition, you know such conduct violated the rules because you were (warned) (counseled) about it in the past, specifically on _____ (Date) _____, 1975, by (Name of person who did counseling or warning) at (Place of counseling or warning).

Pursuant to the provisions of Section 19A.14, Iowa Stats., you are entitled to appeal this action to the State Merit Commission, Grimes State Office Building, Des Moines, Iowa, provided your written request is postmarked within thirty (30) days of the effective date of this action, or within thirty (30) days of the postmark date of this letter, whichever is later.

Very truly yours,

John M. Superintendent
Appointing Authority

CONSIDERATIONS PRIOR TO DISCIPLINARY ACTIONS

1. Was the worker warned of the consequences of his conduct?
2. Was the rule related to efficient, safe operations?
3. Did management investigate before administering discipline?
4. Was the investigation objective and did it prove substantial evidence or proof of guilt?
5. Were the rules and penalties applied consistently?
6. Was the penalty reasonably related to the seriousness of the offense?
7. Have those responsible for maintaining discipline been advised of their authority?
8. Who retains authority on discipline within their employing unit or department?

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