Constructive Discipline - Corrective Action & Documentation

The ideal is that all employees are productive, contributing members of the organization. However, when performance begins to deteriorate, or a serious, inappropriate incident occurs, it is imperative that the supervisor communicate his or her concerns with the employee. The severity of the issue will determine the appropriate corrective action. Feedback needs to be immediate and ongoing.

In order to be effective and correct employee behavior, corrective action must have certain fundamental characteristics; it must be progressive, consider past practice and equitable treatment; and meet the test of just cause. The principle of "progressive and constructive" action involves informing the employee of the problem and the need to correct it, and then using increasingly stronger disciplinary measures if the employee fails to correct the problem.

The formal constructive discipline process may include a verbal reprimand, a written reprimand, suspension, and termination of employment. The degree of action taken must correlate to the seriousness of the offense and the employee's record. Corrective action should be taken at the minimum level necessary to bring about correction of the problem. If the problem is not corrected, more severe action will be taken, up to and including termination of employment.

A. The Importance of the Introductory Period

The University has established a six-month introductory period for all newly-appointed employees. Its purpose is to assure the supervisor that the employee can satisfactorily fulfill the requirements of the position. The employee's work performance should be monitored throughout this “trial” period and measured against the department's policies, procedures, work rules, and performance standards. If the supervisor sees or anticipates a problem developing, it should be dealt with immediately. Inform the employee verbally and in writing that there is a problem, give the employee reasonable time to correct the problem, and explain to him/her the consequences of not correcting the problem.

Disciplining an employee during this period is a shortened process. Conversely, disciplining an employee who has completed the introductory period is a longer and more complex process.

For PAT staff the introductory period may be extended for up to an additional six months (max of one year from hire date), if additional time is needed to gauge suitability for the position. There are no provisions within USNH policy for extending the introductory period for Operating Staff. Contact HR to request the extension of an introductory period or to terminate employment within the introductory period. This must be done prior to the end of the introductory period. The employee must be notified in writing that the introductory period has been extended.
A written performance evaluation is required by the end of the six-month introductory period.

**B. Corrective Action Steps (not necessarily in this order)**

- Counseling
- Verbal Warning
- Written Reprimand
- Suspension Without Pay
- Probation
- Termination of Employment

1. **Counseling Session**

   In most situations, the problem will first be brought to the employee's attention with a counseling session. This initial counseling is not considered part of the formal disciplinary system. During counseling, the supervisor should make sure the employee is aware of the problem and impress upon him/her the importance and necessity of correcting the problem. If the problem continues, corrective action may be initiated. Although counseling is not recognized as a formal disciplinary step, it is strongly recommended to retain a written record of counseling including dates.

2. **Verbal Warning**

   This is the initial step of progressive discipline. Oral or written warnings are given to inform the staff member of unacceptable behavior or unsatisfactory job performance and actions necessary to improve performance or behavior. If the problem continues, the supervisor may want to repeat this step before proceeding to a written reprimand.

3. **Written Reprimand**

   A reprimand is a written description of an unacceptable behavior or unsatisfactory job performance. The written reprimand includes a review of any prior related corrective action taken, a thorough statement of the circumstances causing the current corrective action, and a clear picture of future expectations. It is placed in the official personnel file for the purpose of documentation. The reprimand may include a limit on the length of time that the document is in the file, or it may become part of the next performance evaluation as appropriate.

4. **Suspension Without Pay**

   Suspension is an involuntary unpaid leave of absence ranging from one to five days depending on the severity of the offense. Written notification of suspension shall include the reasons for the action. Benefits for the employee will continue during suspension.
5. Suspension Pending Investigation with Pay

There are situations where the employee must be removed from the work place immediately before an investigation can be conducted. Examples of these situations might be suspected theft, potential sabotage, disorderly conduct, or where the employee presents a threat to other employees. In these instances, the employee can be suspended with pay pending the results of the investigation. The supervisor must contact Human Resources immediately. This should be done before sending the employee home, unless there is a need to remove the employee immediately because the employee presents a clear and imminent danger if left in the work place. The suspension pending investigation is imposed with the understanding that a final decision, relative to the appropriate disciplinary action, will be made after the investigation. If there is no cause for disciplinary action, the employee will receive pay for regular earnings lost during the suspension.

6. Probation

The probationary period is for use when the introductory period has ended and an employee’s performance or behavior has fallen below acceptable standards. Its purpose is to provide a structured environment for constructive criticism and change. Probationary status shall include a good faith effort to correct the performance deficiencies. A written description of expectations and necessary corrective actions will be provided to the staff member.

The probationary period is normally 30 to 60 days, but may vary in length depending on the number of years of satisfactory prior service and the severity of the problem. Supervisors are responsible for determining and communicating the probationary status in writing. They shall consult with HR prior to any communication of probationary status to the staff member.

During this period regular feedback must be given to the employee. At the end of the probationary period, the employee is returned to regular status if the problem is resolved. The employee must continue to meet the expectations required or termination may result (depending upon the amount of time since probation ended). If the problem is not resolved, the trial may be extended or employment may be terminated.

7. Termination of Employment

If all the previous steps have not been successful, the employee may be terminated from employment. As in the previous steps, it is critical that the employee be given an opportunity to hear the concerns and expectations, understand the consequences, and offer an explanation.

In any situation serious enough to justify termination of employment, University policy requires the supervisor to contact Human Resources prior to taking any action. HR will
review the case to verify that there is just cause for termination of employment and that the employee has been afforded due process.

8. Documentation

All documentation of corrective action should be included in the employee's personnel file at Human Resources and the department. The record has three parts: the present, the past, and the future.

- **The Present.** This section states the purpose of the corrective action and cites the specific incident or nature of the problem. In recounting the incident or problem, include what occurred and when, how it affected the work activity, the results of the investigation, and the employee's explanation. State only the facts that can be proven and/or have been observed. This section also cites the specific rule, policy, or standard violated, and disciplinary action being taken as a result of the employee's actions. Stress the significance of the problem and the reason for the corrective action.

- **The Past.** This section reviews the employee's work record, gives the history of related offenses (if any), and reminds the employee of previous disciplinary actions taken. This summary of past events demonstrates the progressiveness of the corrective action.

- **The Future.** Finally, the employee must have a clear understanding of the expected standard of behavior or performance, how this standard can be achieved, and the consequences of continued failure to meet these expected standards.

Write in easily understood language, emphasize the "do" rather than the "don't", and focus on the future rather than the past. In other words, use a tone of correction not punishment.

It is strongly recommended that you keep a record of any relevant situations that occur once you have initiated the progressive disciplinary process. These notes should give all the necessary pertinent information (including when it was brought to the employee’s attention). The notes should be dated and signed and kept in the supervisor's file.

9. Informing the Employee

Inform the employee of the corrective action, both verbally and in writing, as soon as possible after the disciplinary decision has been reached. The purpose is to outline what is wrong, what corrective action is being taken, and what is expected in the future.

As a supervisor, keep close control of your emotions, avoid sarcasm, threats, nagging, getting into an argument with the employee, or loss of temper. With the obvious exception of a termination of employment, the purpose of the disciplinary action is to
correct a problem. The employee needs to leave this meeting knowing better conduct is expected.

C. **Supervisor Tips for Corrective Action**

These tips should be helpful in analyzing an employee problem and determining what corrective action might be appropriate. It is intended to help the supervisor remain objective in analyzing and administering progressive and constructive and corrective disciplinary action. "No" answers may indicate that more information, further analysis, or non-corrective action may be required. You should answer all of the questions before deciding on a plan of action. Then consult your supervisor and/or Human Resources.

**Work Performance Problem** - If the employee is not adequately performing the work assigned:

1. Does the employee understand your expectations?
   - What to do?  How to do it?  Why to do it?  When to do it?
2. Does the employee have access to and know where to find written instructions or procedures, or how to receive proper training?
3. Has the employee ever demonstrated the skill?
4. Is it a skill the employee can be taught?
5. Based on experience/education, is it a skill the employee should possess?
6. Could the employee perform the skill if he/she wanted to?
7. Is the work expected reasonable?
8. Has the job changed?

**Behavior Problem**  -- If the employee's behavior is inappropriate/unacceptable:

1. Does the employee understand acceptable behavior?
2. Has the behavior been acceptable in the past?

**Supervisor's Responsibility**  -- The University depends on supervisors to communicate University policies and practices. Since the supervisor determines job tasks/duties, job performance expectations and departmental work rules must be communicated.

1. Has the supervisor provided adequate training?
2. Can the employee function within the work group without using the deficient skill?
3. Does the supervisor reinforce acceptable behavior?
4. Has acceptable behavior been clearly communicated to the employee?
5. Has the supervisor discussed this problem with the employee to get an explanation?
6. Does the supervisor understand the employee's explanation?
7. Has the supervisor conducted an objective investigation by approaching the problem from all the angles?
8. Has the supervisor questioned the people involved including those mentioned by the employee?
9. Has the supervisor examined the physical evidence (e.g., time cards, vouchers, daily logs, equipment, location)?
10. Does the supervisor know the basic facts (e.g., dates, times, places, people involved)?
11. Has the supervisor separated the disputed facts from the undisputed facts?
12. Has the supervisor considered any mitigating or aggravating circumstances which may affect the level of disciplinary action?
13. Has the supervisor checked University and Departmental policy?
14. Is there a past history of enforcing disciplinary action for the same/similar offense?
15. Has the employee been employed a long time?
16. Is the employee's work record below the rest of the work group?
17. Did the employee know or should he/she have known the rule or policy?
18. Is the rule that has been violated a reasonable one?
19. Did the inappropriate performance/behavior result in cost to others?
20. Did the inappropriate performance/behavior result in danger to other?
21. Has the supervisor set a date to follow up with the employee?
22. Has the supervisor determined the appropriate disciplinary action?
23. Has the supervisor consulted Human Resources?
24. Above all, has the supervisor documented your investigation in writing?

**Before administering disciplinary steps, make sure the following have occurred:**

Furthermore, they are the proactive steps that managers should take to prevent the need for corrective actions.

1. The employee received adequate training
2. The employee received adequate supervision and has suitable equipment
3. The employee’s performance was judged against reasonable job standards
4. The employee was made aware of these standards
5. The employee was warned of his or her sub-standard performance before more serious disciplinary action was administered
6. If management discharges or demotes, the employee was warned specifically that such actions would result unless performance improves
7. Other employees with the same or similar work records were treated in a consistent manner