

State of California

MEMORANDUM

To: PERSONNEL MANAGEMENT LIAISONS

Date: March 31, 1994
Reference Code: 94-07

THIS MEMORANDUM SHOULD BE DISTRIBUTED TO:

Personnel Officers
Labor Relations Officers
Chief Counsel


From: Department of Personnel Administration

Subject: "Supervisor's Handbook, A Guide to Employee Conduct and Discipline" and
'Supervisor's Field Guide for Employee Discipline"

Attached for your reference is one copy each of two guides prepared for proper handling of employee discipline problems.

The larger "Handbook" is comprehensive and intended for use by personnel, labor relations, and legal staff. The smaller one is called a "Field Guide" and is a condensed, quick reference for line supervisors and managers.

Additional copies of the Handbook are available from Department of Personnel Administration at a nominal cost. Please use the attached order form if you need more copies. The Field Guide can be duplicated and distributed by departments as is, or can be adapted to meet particular departmental needs. A limited number of them are available at no extra cost. Please refer questions or comments to Richard Leijonflycht at (916) 324-9350 or CALNET 454-9350.


Peter J. Strom, Assistant Chief
Policy Development Office

Attachments

ORDER FORM

TO: Department of Personnel Administration **D-22**
Policy Development Office
1515 S Street, North Building, Suite 400
Sacramento, CA 95814-7243

FROM: _____
(DEPARTMENT) (IMS)

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ATTN : _____
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Item	Number Desired	Cost Each	Total
Supervisors Handbook - A Guide to Employee Conduct and Discipline		\$4.00	\$

Please make checks payable to:

State of California
Department of Personnel Administration

Supervisor's Field Guide
For Employee Discipline

Prepared by the Department of Personnel Administration

This guide summarizes the Department of Personnel Administration's Guidebook on Employee Discipline. Its purpose is to generally acquaint supervisors and managers with the State's discipline process and to serve as a quick reference for basic questions in this area. Those requiring more detailed information should refer to the Guidebook itself, or contact their personnel office.

As a supervisor, it is your responsibility to establish and maintain a climate in your unit that will help your staff be as productive and as satisfied as possible in their work. You will normally do this through good supervisory techniques, including:

- Setting clear and reasonable performance standards.
- Providing adequate training, direction, and tools for meeting performance standards.
- Dealing with your employees in a fair and even-handed fashion.
- Responding to small problems before they become big ones.
- Setting a good example yourself.

There may be cases, however, where these measures aren't enough, and more specific steps, including employee discipline, are needed to get the job done. The following series of questions and answers provide basic guidance in the area of discipline.

Can You Really Discipline a State Employee?

Many say you can't -- but, in fact, you can. While there are specific procedures and appeal rights, the process is used successfully all the time. The key is to do it right.

What's the Authority?

The State Civil Service Act specifies a wide range of reasons for taking disciplinary (adverse) action. In general, they cover insubordination, neglect of duty, inefficiency, insobriety, discourteous treatment of the public and other employees, and various other forms of inappropriate behavior.

How Do I Get Started?

Normally, the initial steps in the adverse action process should flow directly out of your ongoing supervision of the employee. As problems persist that aren't being resolved through routine supervision, you should be having specific discussions with the employee, noting what areas must be improved, and by when. You should also be alert for any work process or system problems that prevent the employee from performing successfully. The emphasis here is to help the employee correct the problem before formal action is needed. When this does not occur, written documentation, instruction, and informal letters of reprimand should normally follow. In this way, if adverse action is eventually needed, the foundation has already been laid by:

- Making sure that the problem is rooted in employee performance, rather than in procedural or organizational factors that are beyond the employee's control.
- Clearly advising the employee of the performance problem and giving advice/direction on how to correct it.
- Giving him/her a reasonable chance to improve.

- Referring to the State's Employee Assistance Program (EAP) where appropriate.
- Having specific written documentation of the problem and of any discussions you may have had with the employee about the problem.
- Advising the employee that formal action may be necessary if the problems are not corrected within a reasonable time.

Who's Around to Help Me?

As you reach the conclusion that adverse action may be needed, you should be discussing the problem with your own supervisors and/or managers. In addition, your personnel office and/or your labor relations office should normally be involved at an early stage. They, in turn, may involve your department's legal staff. By getting the help you need, you can maximize your chances for success by ensuring that any action taken is consistent with existing laws and policies. When the employee is a member of a collective bargaining unit, the current bargaining agreement (MOU) should be reviewed for provisions regarding employee discipline.

How Do You Select the Appropriate Adverse Action?

You must first insure that you have just cause. The rules that the employee violated must relate to the job standards and requirements and those rules must have been communicated to and understood by the employee. In addition, the corrective action must be reasonable considering the nature and severity of its cause, as well as the prior work record of the employee.

For most situations, a formal action should be preceded by other attempts to correct poor performance or behavior. Similarly, more serious actions, such as dismissal, should usually be preceded by less severe action. However, there are some situations where the infraction is so serious that immediate adverse action, including dismissal, is appropriate even though there have been no previous attempts at correction. The types of adverse actions available are described below. Please also check with your department for any policies it may have for determining which action to take.

Letter of Reprimand

This is often the next step after informal counseling. The Letter of Reprimand serves to carefully document the problem(s) and is often the first step in progressive discipline. The Letter of Reprimand is a formal disciplinary action and is subject to appeal by the employee.

Suspension Without Pay

The employee is prohibited from working for a specified period of time without pay. Suspensions are used when it is desirable to have the employee off the worksite. Their length varies depending on the severity of the offense and the number of previous infractions if any.

Reduction of Pay Within the Class

This type of adverse action is suitable when it is not necessary or desirable to remove the employee from the job. The reduction can be one or more steps in the salary range for one or more pay periods. Often the length of this period is set in relation to the loss of pay which would have resulted from an appropriate suspension.

Demotion to a Lower Class

This is used when an employee is not working at an acceptable level in his/her present class, but can satisfactorily perform at a lower level.

Dismissal from State Service

When the actions described to this point do not correct performance deficiencies and/or continuing offenses can no longer be tolerated, the final option is to dismiss the employee. Dismissal is also appropriate in cases of serious infractions, such as those involving physical violence, embezzlement, discrimination or harassment, theft, or other instances of serious or calculated wrong doing. In these most serious cases, an employee may be dismissed without following this sequence of lesser actions. Should you believe that dismissal from State service should be considered, it is essential that you first obtain early advice from departmental personnel/labor relations representatives to insure that adequate grounds exist to sustain the action.

What About the "Skelly Rights"?

State Personnel Board (SPB) Rule 523 requires management to advise an employee of an adverse action prior to the effective date of the action. This process is known as the "Skelly Rights." The Skelly hearing provides the employee and his or her representative with an opportunity to respond to the charges.

The notification requirements under the Skelly rule may differ depending on collective bargaining rights and/or the type of action being taken. This sensitive area should be discussed with your personnel office before any action is taken.

Can the Employee Be Removed from the Job in Advance of Formal Written Notice?

If physical violence or some other act occurs of such seriousness that the employee's continued presence on the job is inadvisable, a supervisor may immediately place the employee on a paid leave of absence for up to 15 calendar days, pending an investigation. The employee may be instructed to leave the worksite at once and to remain away until informed of the action to be taken; however, it is advisable for you to check the established disciplinary procedures within your department before issuing such an instruction. Do not attempt to indicate the penalty that will be imposed as you may not know the exact penalty finally imposed.

Who Prepares the Action and What's in It?

The personnel or legal office generally serves an adverse action. The Notice of Adverse Action is served on the employee either personally or by certified mail to the employee's last known address. The action will contain:

1. Reasons for action.
2. The charges for adverse action (i.e., incompetency, inefficiency, inexcusable neglect of duty, etc.).
3. The adverse action to be taken and the effective date.
4. A notice of the employee's right to meet with someone designated by the appointing power to consider the employee's response prior to the effective date of the action.
5. A notice of the employee's rights to be represented.
6. A notice of the employee's rights to appeal the action to SPB.
7. A copy of all material upon which the action is based should be attached to the Notice of Adverse Action.

What are the Employee's Appeal Rights?

In addition to the Skelly rights, an employee also has a right to file a written answer to the Notice of Adverse Action with SPB no later than 20 days after service of the Notice. The employee must be advised of this right.

An employee also has the following rights involving adverse action:

1. Representation during a discussion with his/her supervisor when the discussion may lead to adverse action.
2. Representation when being questioned as the subject of an investigation.
3. Have copies of all documents/evidence relevant to the action, which would be admissible at the appeal hearing attached to the Notice.
4. May interview other employees having knowledge of the actions or omissions upon which the adverse action is based.
5. May appeal a SPB decision to the courts.

Please refer to the Guidebook on Employee Discipline for more information. Be sure to contact your department's personnel office in advance, if at all possible, when contemplating an adverse action.

STATE OF CALIFORNIA

SUPERVISOR'S HANDBOOK



A GUIDE TO EMPLOYEE

CONDUCT AND DISCIPLINE
