

DISCIPLINING AND DISCHARGING

INTRODUCTION

Managers and leaders face many responsibilities while overseeing an organization, some enjoyable and some less so. One task that many find challenging is correcting or disciplining employees. Rules, procedures, and standards are essential to ensure an organization operates safely and efficiently. Corrective or disciplinary action becomes necessary when employees fail to meet expectations or standards. Actions may range from simple counseling on how to perform a task correctly to termination.

Managers and leaders must understand how to handle this full range of responses effectively while avoiding liability for the municipality. It is vital to ensure that employees receive fair treatment and due process at all times. Engaging with a labor attorney specializing in employment matters is highly advisable when confronting difficult disciplinary issues, as they can offer valuable expertise and guidance to ensure legal compliance and minimize legal risks.

Claims related to employee discipline and discharge significantly contribute to the losses of the Michigan Municipal League Liability & Property Pool.

This Risk Control Solution aims to provide an overview of essential considerations and best practices for effectively navigating this nuanced and multifaceted process.

ESTABLISHING STANDARDS

Organizations must establish rules, procedures, performance expectations, and standards that are clear and documented, most commonly in employee handbooks, job descriptions, and written policies and procedures. These documents must be kept current, as they can become key elements should a matter escalate to legal dispute.

COMMUNICATING STANDARDS

Employees must be informed of the standards they are expected to uphold. An organizations' written standards have limited value unless they are communicated to employees and reinforced via a robust training program. Employees must receive copies of any employee handbook, job description, and policies and procedures relevant to their role with the organization. They must also receive training to instruct on and support compliance with those standards. Finally, it is vital to document in writing all materials and trainings provided to each employee.

TRAININGS FOR SUPERVISORS AND MANAGERS

Provide training for all supervisors and managers responsible for enforcing discipline. The training should cover the organization's policies on discipline and discharge, anti-discrimination, relevant employment laws, record-keeping requirements, and effective employee feedback techniques.

FAIR AND UNBIASED TREATMENT

Enforce discipline consistently and uniformly across similar violations. Disciplinary actions must not be influenced by sex, race, religion, union affiliation, or other discriminatory factors. Administer discipline in accordance with the organization's policies, procedures, union contracts, or civil service rules and regulations, and in compliance with any applicable federal and state laws or regulations regarding reasonable accommodations for persons with disabilities.

Establish a "Just Cause" policy which identifies behaviors, actions, or situations that support dismissing an employee for just cause, such as misconduct or failure to fulfill job responsibilities. Ensure that employees receive fair hearings and due process when terminated for just cause. Always follow the procedures outlined in any contracts and consult your attorney regarding hearing rights.

In certain circumstances, it's important to consider offering accommodations. When feasible, employers should extend a compassionate hand to employees facing challenges such as substance abuse or other personal issues that may not be directly related to their job performance. Implementing an Employee Assistance Plan (EAP) can provide these individuals with the support they need for recovery and personal growth. By taking this proactive step, employers help their employees and demonstrate a sincere commitment to fostering a caring and supportive workplace environment.

PERFORMANCE REVIEWS

Conduct performance reviews that accurately and objectively evaluate employees' performance. A poorly conducted evaluation or one that appears to be biased may become a liability for the employer in a termination case.

INVESTIGATION OF ALLEGED RULE OR POLICY VIOLATIONS

A thorough investigation should be conducted before action is taken on any alleged violation of rules or policies. The investigation should include reviewing all relevant materials, speaking with witnesses, and examining the employee's personnel file. Consideration must be given to how the employer has disciplined other employees for the same or similar offenses.

When documenting incidents involving employees who violate rules and regulations, it is essential to maintain an objective tone and provide specific details about the behavior in question. The documentation should clearly describe the nature of the violation, including dates, times, locations, and any witnesses present while avoiding any language that could be perceived as biased or discriminatory. Additionally, the organization's Human Resources professional must ensure that all communications related to these incidents are accurately recorded and securely filed to maintain confidentiality and facilitate future

reference. This systematic approach not only upholds fairness but also supports the organization in effectively managing employee conduct.

EXIT INTERVIEWS

Ensure that documented exit interviews are conducted for all employees, whether terminated or voluntarily resigned.

CONCLUSION

Handling employee discipline can be challenging and uncomfortable. Establishing clear expectations, educating employees, and addressing their questions and concerns are crucial to minimize the need for disciplinary action. If issues arise, adhering to established employment practices and following the company's policies and procedures can make the process more manageable and help reduce the risk of wrongful discharge claims.

If you have any questions at any point in a disciplinary process, it is best to consult an attorney well-versed in employment law issues.

If you need more help with discharges related to employment, discipline practices, or other employment-related areas, contact MML Risk Management Services or the League's Loss Control Services.

**Contact MML Risk Management Services Staff
or your Loss Control Consultant for more information.**



Important Phone Numbers

MML Risk Management Services	734.662.3246 or 800.653.2483
Loss Control Services	800.482.0626
Michigan Department of Civil Rights	313.456-3700 or michigan.gov/mdcr
Equal Employment Opportunity Commission	800.669-4000

Note:

***This document is not intended to be legal advice.
It only identifies some of the issues surrounding this topic.
Public agencies are encouraged to review their procedures with an expert
or a competent attorney who is knowledgeable about the subject.***