

Chapter 7 Employee Discipline

Section 1 **Policy Statement:** The purpose of this chapter is to provide supervisors with guidelines to correct job performance problems and inappropriate employee conduct in a consistent, fair, and objective manner.

Section 2 **Work Rules:** The establishment of written work rules is one way in which employees can be informed of required behavior and expectations. When work rules are initially developed or substantially revised, meetings should be conducted to discuss and explain the rules. Communicating in person provides employees an opportunity to ask questions and helps to ensure better understanding. It is suggested that written copies of the work rules be given to all affected employees.

These rules are established so Marathon County Public Library can attain its objectives in an orderly and efficient manner and are not intended to restrict the rights of employees, but rather to advise employees of prohibited conduct. Engaging in one or more of the following forms of prohibited conduct by an employee of Marathon County Public Library may result in disciplinary action ranging from a reprimand to immediate discharge, depending upon the specific form of conduct and/or the number of infractions.

PROHIBITED CONDUCT

I. WORK PERFORMANCE

- A. Insubordination, including disobedience, or failure or refusal to carry out assignments or instructions.
- B. Loafing, loitering, sleeping or engaging in unauthorized personal business.
- C. Unauthorized disclosure of confidential information or records.
- D. Falsifying records, including timesheets, or giving false information to other agencies or to employees responsible for recordkeeping.
- E. Failure to provide accurate and complete information whenever such information is required by an authorized person.
- F. Failure to comply with health, safety and sanitation requirements, rules and regulations.
- G. Negligence in performance of assigned duties and/or failing to do the amount or quality of work that is expected.

II. ATTENDANCE AND PUNCTUALITY

- A. Failure to be at your work station, ready to work, at the starting time of a shift
- B. Quitting work or leaving before the scheduled ending time of a shift without the specific approval of the supervisor.

- C. Unexcused or excessive absenteeism.
- D. Unexcused or excessive tardiness
- E. Failure to observe the time limits and scheduling of lunch or break periods. Failure to remain on the library premises during break periods. Employees are not allowed to accumulate rest breaks and/or use them to extend their lunch period or shorten the work day. Rest breaks not taken are forfeited.
- F. Failure to notify Supervisor or Library Personnel Specialist no later than one-half (½) hour prior to the time which the employee is scheduled to report for work except in cases of emergency of unanticipated absence or tardiness. Notify means talking to the Manager or Personnel Specialist in person, or leaving that person a voice mail and talking to a person in the building.

III. USE OF PROPERTY

- A. Unauthorized or improper use of Library or County property or equipment including vehicles, computers, internet, telephone or mail/delivery service.
- B. Making or receiving personal phone calls or texts during work hours using either library phones or a personal cell phone, except in emergency situations. Preferably, personal calls should be made during breaks/lunch periods.
- C. Sending or receiving personal emails or accessing personal social media during work hours.
- D. Unauthorized possession or removal of Library or County property or another person's private property.
- E. Unauthorized posting or removing of notices or signs from bulletin boards.
- F. Unauthorized use, possession, lending, borrowing or duplicating of Library keys, security cards, identification badges or permits
- G. Unauthorized entry to Library or County property via staff only entrances outside of assigned hours of work.
- H. Allowing family or friends to loiter in staff only areas.
- I. Not taking proper care of, neglecting, or abusing Library or County equipment, tools or property

IV. PERSONAL ACTIONS AND APPEARANCE

- A. Threatening, attempting, or doing bodily harm to another person.
- B. Threatening, intimidating, interfering with, or using abusive/discriminatory language towards others, including sexual harassment.
- C. Possessing firearms or weapons of any kind on library property.
- D. Making false or malicious statements concerning other employees, supervisors, customers or the Library.
- E. Use of alcoholic beverages or illegal drugs during working hours.

- F. Failure to follow the Marathon County Tobacco Free Policy or violating any other fire protection or safety regulation.
- G. Reporting for work under the influence of alcoholic beverages or illegal drugs.
- H. Unauthorized solicitation for any purpose during work time, or using county resources.
- I. Inappropriate dress or lack of personal hygiene which adversely affects proper performance of duties, causes distraction, or constitutes a health or safety hazard.
- J. Failure to exercise good judgment, or being discourteous, in dealing with fellow employees, or customers.
- K. Failure to comply with circulation and other policies regarding the use of library materials and equipment. Keeping library materials in work or personal area without the items being checked out or set to the appropriate status.
- L. Failure to wear the Library-issued identification badge during work shift where it is easily visible to public.
- M. Failure to wear, and be logged into, vocera during work time.

All employees are encouraged to notify their supervisor of co-workers' failure to comply with any of the work rules. Additional work rules may be established by management to meet special requirements of teams or as circumstances require. Questions regarding the above work rules should be directed to the Library Personnel Specialist (715-261-7215).

Employee Signature: _____ Date: _____

Section 3 **Investigating Performance Problems and Alleged Misconduct:** A prompt and thorough investigation is to be conducted when an employee performs below acceptable standards or violates a work rule. This requires that the supervisor:

- A. Obtain the facts of the situation (when and how was the work quality/quantity inadequate, what rule was violated, what exactly occurred, where and when the events happened, who was involved, etc.) Notes should be taken since it is essential to have the facts correct.
- B. Review the employee's personnel file (particularly prior performance evaluations and any disciplinary record) plus other relevant documents (timesheets, labor contract, Library procedures, etc.).
- C. Assess if situation is caused by operational problems (failure to communicate expected standard or work rule, unreasonably high standards, inadequate employee training, insufficient materials or equipment, etc.).
- D. If evidence is identified which seems to point to the possibility that a personal problem may be contributing to the problems on the job, disciplinary action should be combined with a referral to the Employee Assistance Program.

- E. Research how similar incidents in the past were handled in the Library or County wide.
- F. Determine the corrective action to be taken. This action should be fair, equitable, and no more severe than required to correct the performance of the employee.

Section 4 **Weingarten Rights:** Both union and non-union employees have the right to have a coworker/representative present during an interview with a Manager/Supervisor that the employee reasonable believes could result in disciplinary action. The Manager/Supervisor is not required to inform the employee of any right to representation before beginning the interview. However, if the employee invokes the right to representation, the Manager/Supervisor must allow the employee a reasonable opportunity to speak with a coworker prior to the interview.

When an employee has been advised by a Manager/Supervisor that disciplinary action will not be taken prior to the interview/meeting, Weingarten rights will not apply. Likewise, day-to-day, work-related discussions will generally not invoke Weingarten rights, unless an employee has reason to expect disciplinary action will result.

The co-worker/representative may speak during the interview, but the co-worker/representative is not entitled to be hostile or adversarial. The co-worker/representative may not speak for the employee being interviewed. A supervisor is not required to unduly delay an investigatory interview if the employee's chosen representative is unavailable. However, the employee must have a reasonable opportunity to obtain an alternative representative if requested. Full, make-whole remedies, including reinstatement and back pay, can be imposed if an employee's Weingarten rights have been violated.

Predetermination Meeting: When imposing discipline on an employee it is important to provide procedural and due process protections. This requires that the employee be notified of the nature of the alleged offense and be given a formal opportunity to defend her/his behavior. A predetermination meeting conducted by the Library Director or Manager is the recommended procedure for providing due process. During this meeting, the Library Director or Manager should verbally review the allegations with the employee and provide the employee the opportunity to respond to both the allegations and evidence available.

Section 5 **Alternatives to Formal Disciplinary Action:** Depending upon the facts of an investigation and analysis of an employee's inadequate performance or behavior, alternative corrective action might be taken before formal discipline is implemented. This could include:

- A. Support: For short-term problems of a situational nature, like a serious family illness, support from a supervisor is often the most effective corrective action.
- B. Reassignment: The reassignment of an employee with performance or behavior problems is usually not effective corrective action. However, if an employee lacks the ability to perform the present job, reassignment can be appropriate.
- C. Retraining: Additional training can also be effective for resolving some employee problems caused by an inability to perform the required duties rather than the employee not being willing to perform up to established performance standards. Once the specific learning need is identified, it can be addressed through various training methods such as additional on-the-job training with the Manager/Supervisor or fellow employee, formal classroom training, reading manuals or procedures, viewing films or videotapes, etc.
- D. Coaching/Counseling: An informal discussion or counseling/coaching session is held with the employee to:
 1. Identify the problems causing or contributing to inadequate performance or improper conduct on the job;
 2. Assist the employee to search for potential solutions for the identified problems;
 3. Develop a performance plan with the employee to determine what will be done, when, and by whom in order to improve job performance or behavior. If a personal problem is identified or suspected, this plan might include a referral to the Employee Assistance Program;
 4. Set up a series of follow-up conferences to review progress toward improvement.

Section 6 **Progressive Discipline**

- A. Purpose: Progressive discipline allows an employee the opportunity to improve job performance and comply to established rules of conduct in order to avoid further consequences. In most cases, discipline is applied progressively, moving from a light penalty to a more severe one. Where progressive disciplinary action does not result in satisfactory job performance or acceptable employee conduct, discharge may be necessitated.
- B. Four-Step Procedure: Progressive discipline will usually involve the following four-step procedure:

1. A verbal reprimand to the employee involves identifying and discussing problem areas and the actions that must be taken to improve job performance and/or employee behavior within a specific period of time. Written documentation of the verbal warning should be given to the employee and a copy to be placed in the employee's official personnel file.
 2. A written reprimand to the employee is implemented if the employee fails to take action to resolve the problem previously discussed or fails to correct it within the specified time. The written reprimand should again clearly identify the problem, relate what standards need to be met or rules observed within a specific period of time, and include a written statement such as "future problems of a similar nature will result in more serious disciplinary action". A copy should be provided to the employee, and also placed in the employee's personnel file.
 3. A disciplinary suspension of the employee is issued for a repeated breach of rules or job performance standards or serious misconduct. A suspension without pay should be discussed with the Library Director before such action is taken. In the event it is required to immediately release the employee of her/his duties and the Library Director cannot be reached, authorization may be sought from the Library Board Personnel Chairman. The employee may be suspended with pay pending the completion of an investigation. It is essential that the written suspension notice include a provision such as "future problems of a similar nature will result in more serious disciplinary action including discharge". A copy of the written suspension notice should be provided to the employee, and also placed in the employee's personnel file.
 4. A discharge of the employee would usually occur for the fourth breach of rules or job performance standards or such serious misconduct that termination must occur. The Library Director will discuss dismissal with the County Employee Resources Director before such action is taken in order to insure that adequate documentation and grounds exist. A full and complete investigation of the matter or incident must be completed before a final decision to discharge is made. A written copy of the discharge should be provided to the employee and also placed in the employee's personnel file.
- C. Serious Offenses: The principles of progressive discipline may not apply to serious offenses such as endangering other employees or the public, damaging Library property due to gross negligence, theft, insubordination, etc. In cases of serious offenses, immediate suspension or discharge may be the appropriate action.

D. Documentation of Progressive Discipline: Written documentation of the progressive discipline process is essential. An important element of disciplinary documentation is factually describing what happened and why it matters (see Sections 3 and 4). Letters of deficiency/discipline should contain:

1. What the discipline is (i.e., written reprimand, suspension, etc.)
2. Reasons for discipline, rules, or standards violated.
3. Factual events and time frame. Explain who, what, when, where, and why. Be factual and specific in describing the incident/situation.
4. Any previous efforts to make the employee aware of the need to change or improve work performance or conduct.
5. Corrective action required.
6. Referral to EAP if appropriate.
7. Consequence of lack of improvement.

Effective disciplinary documentation typically has these elements: History, facts, expectations, consequences. See Appendix B of this chapter for a sample disciplinary letter.

E. Central factors to consider as part of the investigation and discipline determination process:

1. Employees length of employment.
2. Employee's personnel file. The arbitrator will most likely assume that if there is no previous negative records of performance, the employee has performed satisfactory in the past. If significant time has passed since the last negative record of performance, the arbitrator will most likely assume the behavior has been corrected.
3. The seriousness of the offense.
4. Other factors relating to "just cause" (see Appendix A).

Section 7 Appeal Procedures

A. Grievance Arbitration: Bargaining Unit employees can appeal a disciplinary action through the grievance procedures in the labor agreement. The last step in the grievance procedure will involve a third party neutral acting as an arbitrator (usually an employee of the WI Employment Relations Commission). During the arbitration hearing, the burden of proof is on the Library to prove that the disciplinary action was with "just cause". The decision of the arbitrator to uphold, amend, or overturn the disciplinary action is final in almost all circumstances. (An explanation of "just cause" is provided in Appendix A of this chapter.)

- B. Non-Represented Employee Appeals: The Employee Complaint Procedure described in the Marathon County Public Library Personnel Policies and Procedures Manual, Chapter 9, Section 1 specifies the appeal procedure to be utilized by Library employees who are not members of the bargaining unit.

Section 8 **Minimizing The Need For Discipline**

Setting a good example, reasonable and fair rules, and good communication with subordinates promotes employee self discipline, and minimizes the need for management discipline. Another key factor in preventing some situations that lead to discipline is the ability of the supervisor to develop trusting superior/subordinate relationships. The following guidelines can help build more trustful relationships with subordinates:

1. Solicit and provide honest feedback on a regular basis.
2. Accept subordinates as human beings who will make and can learn from their mistakes.
3. Praise subordinates when appropriate to reinforce positive performance and promote motivation.

The fundamental goal of every supervisor should be building a work group that functions effectively with minimum supervision. To achieve this goal, employee performance must be based on self discipline (the desire to perform). To develop self discipline, the supervisor must be able to understand her/his employees' motivation to work, link department goals to their personal goals, and provide a working environment that facilitates the attainment of these goals.

Section 9 **Off-duty conduct**: In most instances, the County will not be involved in employees' off duty conduct. The County will take appropriate action if the targeted off-duty conduct interferes or compromises the employee's ability to perform on the job, or that such conduct affects public confidence in the County's ability to perform its mission.

APPENDIX A CRITERIA FOR JUST CAUSE

The Management Rights Article of the Library's labor agreement states that the Library may "suspend, demote, discharge, or take other disciplinary action against employees for just cause". Many supervisors have difficulty understanding what the term "just cause" means. The following seven key criteria are used by arbitrators to determine if the Library had "just cause" for the disciplinary action taken.

- 1. Did the Library give the employee forewarning or foreknowledge of the possible or probable disciplinary consequences of the employee's conduct?**
The Library must be able to prove that the employee was notified that her/his misconduct or performance was unacceptable and what kind of discipline could result.
- 2. Was the Library's rule or order reasonably related to the orderly, efficient, and safe operation of the employee's work program?**
The Library must be able to show why the rule is necessary and that it was reasonably applied for the specific circumstances involved. Absent a question of personal safety or health, the employee should comply with the rule or order and file a grievance later.
- 3. Did the Library, before administering discipline to an employee make an effort to discover whether the employee did in fact violate or disobey a rule or order?**
The Library's investigation should usually be conducted before the disciplinary decision is made. During the investigation, the employee has the right to be informed of the charges being made and to defend her/his behavior. Therefore, an essential element in the investigatory process is the pre-determination meeting. For offenses where immediate removal from the Library premises is warranted, it may be proper to suspend the employee with pay, pending an investigation.
- 4. Was the Library's investigation conducted fairly and objectively?**
The Library must be prepared to demonstrate that the investigation of the employee's misconduct avoided any appearance of bias or having prejudiced the employee's guilt.
- 5. During the investigation, did the Library obtain substantial evidence or proof that the employee was guilty as charged?**
The standard applied by arbitrators is usually "preponderance of evidence" whereby management is able to produce evidence that its side of the case is more likely to be true than the union's. In discipline matters, the burden of proof is on the Library.
- 6. Has the Library applied its rules, orders, and penalties evenhandedly and without discrimination to all employees?**
Consistency requires that other similarly-situated employees have not been treated more favorably. An employer who has been lax in enforcing a rule can decide to now apply it rigorously. However, to avoid a finding of discrimination, the employer, must notify all employees of the intent to enforce the rule by a certain date and that violations occurring thereafter will result in appropriate disciplinary action.

7. Was the degree of discipline administered by the Library reasonably related to: (a) the seriousness of the employee's proven offense, and (b) the record of the employee in her/his service with the Library?

An arbitrator will separately examine the appropriateness of the penalty in light of both the seriousness of the offense plus the record of the employee (length of service and/or prior disciplinary record).

**APPENDIX B
SAMPLE DISCIPLINARY LETTER**

M E M O R A N D U M

TO: Dora Disagreeable

FROM: Sandy Manager

RE: February 2, 200-

As you know, I have talked to you several times about the importance of getting along with your co-workers. I am writing this written reprimand now because you were involved in another disagreement with one of your co-workers yesterday.

Yesterday, you had a disagreement with Bonnie Bystander after she told you that you needed to obtain the Library Director's signature on expense forms. You reacted angrily, became upset with Bonnie (although her comment was correct), and then came into my office and asked for the rest of the day off. When I asked you what was wrong, you explained what had happened. You also said:

- You don't have respect for anyone here;
- You don't want to ever speak to "that woman" (Bonnie) again;
- You won't accept anything "that woman" says, even if it's correct; and
- You want and will take direction only from your manager/supervisor.

These comments and your interaction with Bonnie are unacceptable. This is a small office, with only two office support staff assisting 10 other employees. It is imperative that everyone in the office maintain a professional and cooperative working relationship. This includes accepting constructive suggestions and comments from co-workers, communicating with co-workers, and treating co-workers professionally and respectfully. Continued problems in this area, or any other performance or discipline issues, will result in further discipline, up to and including termination.

c: Personnel file