

Employee rights and managing discipline

[Education](#), [Discipline](#)



Employee Rights & Managing Discipline All corporations strive to have strong employee relations, recognizing employee rights and effectively administering discipline are two vital aspects of developing this relationship. These aspects, meticulously executed, generate increased job satisfaction amongst employees and improved performance. Identifying and observing various employee rights is an integral piece of managing discipline. Management must be cognizant of these employee rights, divided into three separate categories: statutory rights, contractual rights, and other rights (Gomez-Mejia, Balkin, and Cardy 441).

Statutory rights, particular rights protected by specific legislation are often regulated by an agency of a state or federal government. A crucial right, developed by the Civil Rights Act of 1964 is the protection from discrimination based on race, sex, religion, national origin, age, or handicap. The Equal Employment Opportunity Commission of the federal government monitors employers to ensure that current and/or potential employees do not suffer from unfair discrimination.

Protection against unsafe or unhealthy working conditions, another vital statutory right, falls under the regulation of Occupational Safety and Health Administration (Gomez-Mejia, Balkin, and Cardy 441). Contractual rights, granted by the law of contracts, derived from a legally binding promise created by two or more competent parties with remedies for non-compliance are another key element. Employment contracts, a classic example, clearly define the terms and conditions of employment for all involved parties.

An advantage of such contracts entitles an employee to compensation if he/she is discharged for reasons other than nonperformance; this particular privilege is usually only available to individually negotiated contracts. Yet, benefits sheltered by union contracts include the right to due process and wrongful discharge remedies. Due process, the impartial investigation of disciplinary actions allow members under a union contract to claim back pay and other job rights if found to have been wrongfully discharged (Gomez-Mejia, Balkin, and Cardy 441-442).

However, these contracts are rare in the work force; most individuals, commonly employed at will, grant employer and/or employee an opportunity to terminate the relationship at any time for any cause. Employee rights, neither statutory nor contractual are other rights, encompassing, the right to ethical treatment, a limited right to privacy, and a limited right to free speech. Fair and ethical treatment by an employer is a reasonable expectation of employees, thus management needs to devise a culture promoting such treatment.

Developing this culture include, but not limited to, techniques, such as, developing trust, acting consistently, demonstrating integrity, and ensuring that employees are treated equitably. Incorporating some of these practices will aid organizations to avoid high turnover rates, which can be damaging to the bottom line. The limited right to privacy, another defined other right, enables employees from unreasonable and unwarranted invasions of their personal affairs. Searches of an employee's personal workspace or listening to their conversations should be limited situations initiated by reasonable cause or acquiring prior consent.

Mark Dupont and Roy Clarke, shareholders of Richards, Watson, & Gershon, outline an effective method in which a corporation can acquire consent from employees: “ Cover everything. Make the policy as broad as possible to cover all types of electronic communications that occur on work equipment, including those that may be developed and implemented in the future [cell phone, e-mail, text messaging, instant messaging, and so forth). The policy should be set up to evolve with the rapid pace of technology. . . Make sure the policy matches practice. . .

Take care that mid-level managers do not undermine the policy with stray comments and assurances that are contrary to the policy. Make sure that the policy matches up with actual practice. If the policy intends a no-personal-use policy, do not undermine that directive with mixed messages. It is also advisable to have employees sign an acknowledgement that they have read and understand the policy, . . . At the same time, make sure the policy is practical if incidental personal use is inevitable, understand the implications of such a policy, and address it (Privacy rights). Another privacy issue arises from the handling of employees’ personnel files, containing sensitive personal information. These essential files ought to be available only to a limited population of the corporation in order to protect an employee’s privacy. Individuals vigorously protect the right to free speech, a cornerstone of the U. S. Constitution; nonetheless, this is limited within the private sector. An employee publicly disagreeing with corporate strategies is to expect discipline. Moreover, inflammatory or abusive language insulting superiors, peers, and/or clients warrant negative consequences (Gomez-Mejia, Balkin, and Cardy 442-445). Successful implementation of discipline while adhering

to the standards and expectations of employee rights does encounter adversity; random drug testing, whistle blowing, and the restriction of office romances consist of a few challenges management must confront (Gomez-Mejia, Balkin, and Cardy 447). Many employees view random drug testing as a direct violation of their right to privacy, claiming the practice is an unreasonable invasion. The intent of random drug testing is to create a safer work environment by the most equitable means, but it continually meets resistance.

Therefore, many private corporations have opted for other avenues to ensure workplace safety. One method utilized by private firms is pre-employment drug testing, a test given to all potential employees, as a step in the hiring process dissipates tension between employee and management concerning the issue, in essence, an applicant's failure of this drug test enables a firm the right not to extend an employment opportunity. Another alternative is probable cause drug testing, occurring when an employee engages in unsafe or suspicious behavior.

Both forms of testing do not arise randomly, but transpire for a predetermined reason, alleviating the issue of invasion of privacy (Gomez-Mejia, Balkin, and Cardy 447-449). The act of whistle blowing, an instance when an employee discloses illegal, immoral, or illegitimate practices of an employer, presents another delicate situation for corporations. A whistle blowing incident requires a tempered response from a firm's management team, compelling them to retain authority without trampling an employee's right to free speech.

Managers must refrain from behaving inappropriately and encouraging dire measures, such as, ostracizing, harassing, or firing the vocal employee. Despite a reasonable response from management, whistle blowing is still a risky endeavor and an individual should accumulate the proper documentation before going forward. Yet, such undertakings have produced valuable legislation; the Sarbanes-Oxley Act of 2002, provides protection to whistle blowers and holds offending parties accountable for their infractions (Gomez-Mejia, Balkin, and Cardy 451-453). Administering restrictions on office romances commands another balancing act from managers.

Management must determine the appropriate measures to limit the firm's liability from sexual harassment litigation, but not infringe upon employees' off-duty relationships and behaviors, invading their privacy. A few corporations elect to establish a no-dating policy even with this policy's drawbacks; namely, the difficulty of enforcing the policy or being compelled to terminate a valuable employee for a violation of this policy despite no illegal activity occurring. Conversely, other firms encourage office romances acknowledging the benefits of a happier and more stable work force.

These two scenarios are the extremes, most companies find comfort with the middle ground of neither condemning nor condoning office romances, rather accepting them as long as they do not involve a supervisor and his/her direct subordinate (Gomez-Mejia, Balkin, and Cardy 453-454). Effectively disciplining employees while respecting their rights may be cumbersome, but two different approaches, commonly used, are a progressive style and a positive style of discipline, both consisting of the manager discussing

questionable behavior with an employee (Gomez-Mejia, Balkin, and Cardy 454).

Progressive discipline, multiple interactions giving employees opportunities to correct deviant behavior before dismissal, typically addressing minor infractions comprise of three to five steps. The initial step, a verbal warning, describes the behavioral miscue and notifies the employee of possible consequences if the undesired behavior persists. An employee committing another infraction of the same policy within a specified period will be subjected to a written warning.

This recorded documentation, entered into the employee's personnel file, reiterates the issue and describes further repercussion if the problem continues. The severity of the situation increases with each successive step of the progressive discipline process, thus not heeding these warnings, an employee may face unpaid suspension and/or eventual discharge from a company (Gomez-Mejia, Balkin, and Cardy 455-456). Another multiple step form of discipline, positive discipline, is similar to the progressive method without the adversarial aspect.

This process encourages cooperation among managers and employees, opening a dialogue to correct deficient behaviors. The first step involves a discussion of the poor performance and a verbal solution to the problem. If this proves ineffective, the subsequent step is another counseling session, but the agreed upon resolution is now documented. Squandering both these opportunities still results with the employee taking time away from the work, as with progressive discipline, however, under the positive method this is paid.

This approach attempts to avoid ill-mannered behavior from the offending employee upon return with hope that the performance is improved, if not, separation of employment is the final action. While the initial implementation is costly and the administering of this method is time-consuming, both, managers and employees prefer this process. The cooperative construct of counseling eliminates apprehensions regarding discipline, creating managers more apt to intervene when an issue arises, fostering better working relationships with their employees (Gomez-Mejia, Balkin, and Cardy 455-457).

Incorporating basic principles within the management of discipline regardless of the severity of the infraction creates uniformity and understanding. Management should communicate the rules, expectations, and performance criteria to all employees clearly, thus creating a workforce knowledgeable of the policies, procedures, and consequences of their violation. All information, properly documented, enables both, management and employees, to present and/or dispute only facts.

Furthermore, discipline administered quickly, consistently, and without discrimination is the most effective. Michael S. Lavenantan, attorney at the law firm of Landegger & Baron, specializing in labor & employment law suggest: “ To avoid liability for harassment, discrimination, or wrongful demotion or termination, every organization should train its supervisors to follow these six non-negotiable rules of discipline. 1. Be fair. 2. Be consistent 3. Be uniform. 4. Be honest. 5. Be objective. 6. Be prepared.

Following these six rules will help you minimize liability when an employee makes a claim. Educating supervisors about these rules will give them the

<https://assignbuster.com/employee-rights-managing-discipline/>

right balance between authority and receptivity. The result will be low turnover and high productivity for your organization” (The Art of Employee Discipline). In conclusion, recognizing employee rights and managing discipline is a complicated task requiring the attention to numerous details, yet, done in an efficient, effective manner will generate a stronger work force prepared to succeed.

Works Cited Gomez-Mejia, Luis R. , David B. Balkin, and Robert L. Cardy. Managing Human Resources. 6th ed. Upper Saddle River, NJ: Pearson/Prentice Hall, 2010. Print. Dupont, Norman, and Roy Clarke. " Privacy rights: employee use of electronic devices in the workplace. " Public Management 92. 10 (2010): 24+. AcademicOneFile. Web. 30 Nov. 2010. Lavenant, M.. " THE ART OF EMPLOYEE DISCIPLINE: How to Retain Control & Increase Production. " Nonprofit World 1 Jul 2010: ABI/INFORM Global, ProQuest. Web. 1 Dec. 2010.