

Progressive Discipline

Steps to Success

Objectives

At the end of this presentation, you will:

1. Understand that the primary goal of progressive discipline is employee success
2. Know when, how and what to document in a supervisory file
3. Know the steps of a progressive discipline approach
4. Be able to apply progressive discipline to a situation

Best Practices to Apply to All Employees

- Listen, listen..... and then listen some more.... to what your employees have to say - both personal and professional stories of their lives. Get to know them!
- Focus on what your employees are doing right and not just what they're doing wrong
- Address any negativity upfront; don't allow it to fester
- Don't shy away from difficult conversations with your employees
- Keep communicating the vision to your team

Best practices are the practices proven to work!

Best Practices to Apply to All Employees

Conduct performance meetings with your employees that are:

- Regular and routine
- Documented
- Include the following:
 - Status Updates
 - Open ended questions such as:
 - *What can I do to help you succeed?*
 - *What barriers exist to your success?*
 - *Do you know what is expected of you?*
 - *Do you feel your expectations and timelines are reasonable?*
 - *What would make you happy working here?*



Performance Evaluations/Progress Reviews

Probationary Employees (Within 1st year of employment):

- Be sure to complete their probationary progress reviews in Cornerstone on time, and be sure to note any issues you have observed.
- If you later determine that they aren't a good fit, or you want to extend their probation or terminate employment, you are going to want to refer back to the issues documented in the progress reviews.
- If all of the reviews are very positive, that will lead to questions of... what happened?

Performance Evaluations/Progress Reviews

Non- Probationary Employees:

- Optional mid-year reviews are a great opportunity to document performance and still give them time to improve if there are concerns
- Remember, if you have a feeling that you may need to issue someone an overall below-contributor on their end-of-year evaluation, you will need to have supporting documentation from the performance plan year to support it. (i.e. Performance Improvement Plan, Notice of Needs Improvement, Written Counseling/Notices, etc.)
- Be thorough and honest in your feedback. Give praise where deserved, but also note areas where they could learn/grow/improve.

Handling Difficult Conversations



- See the other person as a partner - not an adversary.
- Ensure the goal of the conversation is to help the employee achieve success.
- Take emotion out of it - including your nerves/negative emotions about having to have a conversation.
- Look for root causes.
- Don't put it off!
- Not by text, not by email, only by phone if the situation is urgent. Do it FACE TO FACE!
- Share the positives as well as concerns.

Handling Difficult Conversations

- Plan but don't read from a script.
- Remember your purpose - come back to it.
- Ask questions and listen with an open mind.
- Be compassionate and positive. Assume good intentions.
- Find out the other person's perspective.
- Engage your partner in problem-solving.
- Reflect afterward... what went well? What didn't work?

Supervisory File - One File Per Employee



Include in supervisory file

- Observations about the employee's job performance
- Notes from one on one meetings
- Notes or summary of verbal counseling
- Written counseling memo
- Performance Improvement Plan
- Employee Work Profile, Performance Plan, Probationary Reviews
- Commendations and/or performance improvement documentation
- Performance reviews
- Attendance records and time-off requests

Do not put in supervisory file

- Doctor's notes or any other medical certification
- Workers' compensation claim documents, including the supervisor's report on the injury
- Any formal or informal legal claim by or about the employee
- The employee's Form I-9
- No workplace investigation materials regarding any employee
- Background investigation reports
- Personality or other test results
- Any non-job-related information

What is Progressive Discipline?

Think of progressive discipline as a way to coach employees toward success:

- The employee may choose another path by not following the coaching or decide they need to be employed elsewhere.
- It's like a dual staircase...both leading to success...
- Success may be defined differently by the employer or employee.
- At each step along their chosen path, your job is to coach, provide feedback, listen to their answers to the open ended questions, and document



What is Progressive Discipline?

All Levels	Level 1	Level 2	Level 3
Best Practices Through routine, documented meetings - identify and address any performance or behavior changes Document status updates with progress, initiatives and assignments	Verbal Counseling VERBALLY - Describe the situation; ask open ended questions to uncover why the situation occurred; ask the employee how they will correct the situation and how you can help; describe potential consequences	Written Counseling WRITTEN MEMO - Describe the situation; ask open ended questions to uncover why the situation occurred; ask the employee how they will correct the situation and how you can help; describe potential consequences - Including what the potential next steps in the disciplinary process may be AND other consequences of their actions on other employees and/or customers/clients	Group Notice (I, II, III) Standards of Conduct - DHRM Policy 1.60 - Assuming the situation has not changed; the employee has not taken action to correct after verbal and written; detail how the issue has been addressed before; another instance has occurred - use Policy 1.60 to determine appropriate level of Group Notice
MITIGATION - At each stage look and listen for mitigating circumstances (absent due to a family member illness, in need of counseling for a personal reason, did not get information needed to finish a project, etc).			

What is Progressive Discipline?

All Levels	Level 1	Level 2	Level 3 1.40	Level 3 1.60
Best Practices	Verbal Counseling	Written Counseling	Performance Related	Group Notice (I, II, III)
Through routine, documented meetings - identify and address any performance or behavior changes Document status updates with progress, initiatives and assignments	VERBALLY - Describe the situation; ask open ended questions to uncover why the situation occurred; ask the employee how they will correct the situation and how you can help; describe potential consequences	WRITTEN MEMO - Describe the situation; ask open ended questions to uncover why the situation occurred; ask the employee how they will correct the situation and how you can help; describe potential consequences - Including what the potential next steps in the disciplinary process may be AND other consequences of their actions on other employees and/or customers/clients	If the issue is related to a core responsibility, special assignment, an agency or unit objective, or core value or core competency; the recommended action would be to issue a Notice of Improvement Needed/Substandard Performance and a Performance Improvement Plan.	Standards of Conduct - DHRM Policy 1.60 - Assuming the situation has not changed; the employee has not taken action to correct after verbal and written; detail how the issue has been addressed before; another instance has occurred - use Policy 1.60 to determine appropriate level of Group Notice
MITIGATION - At each stage look and listen for mitigating circumstances (absent due to a family member illness, in need of counseling for a personal reason, did not get information needed to finish a project, etc).				
WHEN YOU AS A SUPERVISOR GET TO STEP 3 IN EITHER SITUATION OR NOT SURE WHICH POLICY TO APPLY, SEEK CONSULTATION FROM YOUR AREA HUMAN RESOURCE MANAGER. THIS SESSION IS PRIMARILY FOCUSED ON PROGRESSIVE DISCIPLINE RELATED TO STANDARDS OF CONDUCT BUT PRACTICES CAN BE USED IN PERFORMANCE MANAGEMENT.				

Step 1: Verbal Counseling

- This step assumes you are using best practices in performance management as described in previous slides
- Usually addresses a first time situation or conduct/performance issue that has not improved with previous counseling
- Verbal counseling may involve more than one meeting with the employee
- This step is not REQUIRED before a written counseling can be issued
- Supervisor should be prepared
 - **Research the situation - be sure you have the facts in hand**
 - **Consider drafting talking points for yourself - keep yourself focused and from going into other “rabbit holes” (i.e. discussing another employee’s performance)**
 - **Schedule time with the employee - face to face**

Level 1: Verbal Counseling

First meeting

- Describe the situation
- Describe the impact skill or behavior on performance
- Discuss when this has been addressed before; i.e., policy, meetings
- Ask the employee about underlying causes
- Ask the employee to think about how they can make a change to address the performance or behavior gap and how you can help
- Schedule a follow-up discussion
- Document for your supervisory file

Second meeting

- Ask employee to provide their solution to their performance/behavior
- Ask how you can help them to implement the solution
- Be prepared to offer additional options
- Agree on a timeframe and feedback loop
- Document for your supervisory file
- May send employee an email summary of agreement
- Schedule a monitoring meeting

Level 1: Verbal Counseling

- Be prepared to follow-up on the action plan put in place
- Remember - this is not a formal Performance Improvement Plan (PIP) - just concrete idea or step that you and employee need to take to help them get back on the steps to success
- Your supervisory file is open to employee review - keep your notes professional, with dated entries
- If the employee performance improves - celebrate success
- If the employee performance does not improve and the situation repeats - move to Written Counseling
- Remember your mitigation options - use the tools in your toolkit!

Level 2: Written Counseling

- This step *MAY* follow a verbal counseling when the situation repeats
- It *MAY* be the first step if the employee action was severe enough in nature to require more formal documentation and/or a performance improvement plan
- Do not use the Written Notice form (this is not a Group Notice)
- Like verbal counseling - it may involve more than one meeting with the employee and should be conducted face to face
- Supervisor should be prepared
 - **Research the situation - be sure you have the facts in hand**
 - **Consider drafting talking points for yourself - keep yourself focused and from going into other “rabbit holes” (i.e. discussing another employee’s performance)**
 - **Schedule time with the employee - face to face**

Level 2: Written Counseling

First meeting

- Describe the situation
- Discuss when this has been addressed before; i.e., policy, meetings AND previous action if a repeated issue
- Describe the impact skill or behavior on performance
- Review or Ask about underlying causes
- Review or Ask employee to identify how the situation can be changed and how you can help
- Schedule a follow-up discussion
- Document for your supervisory file

Second meeting

- Ask employee to provide their solution(s)
- Ask how you can help them to implement the solution
- Be prepared to offer additional options
- Consider documenting the suggestions and timelines in a performance improvement plan - especially if this is the 2nd or more occurrence of the same situation
- Document - copy for the employee and a copy in supervisory file
- Establish a monitoring plan and schedule follow-up

Level 2: Written Counseling

While very similar in approach to a verbal counseling - this step is more formal in both approach and documentation

Written Counseling Memo

- There is no form
- This is a simple memo - but should state a summary of all the elements from description, to repetition of situation or severity of situation, a performance improvement plan (if developed)
- When in doubt - consult Human Resources and your supervisor

Level 3: Written Group Notices

Due Process

- Advance notice of discipline (*this includes a written group notice*)
- Like a written counseling, the supervisor provides the employee a summary of the situation....describing issue, attempts to correct, outcomes and asking for feedback that might show a mitigating circumstance BEFORE saying and here is your Group II notice
- The supervisor should provide an explanation of supporting evidence (*example - if the issue is time, a summary of their leave of absences OR it could be the summary stated above*)
- Reasonable opportunity to respond (*normally 24 hours but could be more - depends on the nature of the offense*)
- During this time employees may be placed on pre-disciplinary leave status (*if disrupting the work place is an issue or depending on the nature of the offense*). This requires approval.

Level 3: Written Group Notices

- This step is implemented if the employee has not taken action to correct the situation after verbal and written counseling and after advance notice of discipline is provided to the employee.
- DHRM Standards of Conduct Policy 1.60
- Categorized as
 - Group I offenses
 - Group II offenses
 - Group III offenses

Level 3: Written Group Notices

- Group 1 Notice:
 - Offenses in this category include acts of minor misconduct that require formal disciplinary action. This level is appropriate for repeated acts of minor misconduct or for first offenses that have a relatively minor impact on business operations but still require formal intervention.
 - Active Life of Notice: Two years from its date of issuance to the employee.
 - Accumulation of four active Group I Offenses normally should result in termination unless there are mitigating circumstances.
 - Absent mitigating circumstances, a repeat of the same, active Group I Offense should result in the issuance of a Group II Offense notice.

Level 3: Written Group Notices

- Group 2 Notice:
 - Offenses in this category include acts of misconduct of a more serious and/or repeat nature that require formal disciplinary action. This level is appropriate for offenses that significantly impact business operations and/or constitute neglect of duty, insubordination, the abuse of state resources, violations of policies, procedures, or laws.
 - Active Life of Notice: Three years from its date of issuance to the employee.
 - Normally resulting in termination:
 - A 2nd active Group II Notice
 - A Group II Notice in addition to three active Group I Notices
 - However, when mitigating circumstances exist, there may be options for suspension and/or demotion or transfer with reduced responsibilities and a disciplinary salary action; or transfer to an equivalent position in a different work area

Level 3: Written Group Notices

- Group 3 Notice:
 - Offenses in this category include acts of misconduct of such a severe nature that a first occurrence normally should warrant termination. This level is appropriate for offenses that, for example, endanger others in the workplace, constitute illegal or unethical conduct; neglect of duty; disruption of the workplace; or other serious violations of policies, procedures, or laws.
 - Active Life of Notice: Four years from its date of issuance to the employee
 - One Group III Offense normally should result in termination unless there are mitigating circumstances.

Level 3: Written Group Notices

Involve Office of Human Resources

- Their knowledge of agency wide disciplinary responses to a variety of situations can help you determine the best action to take

There is no formula - the same behavior can result in different disciplinary actions

- Use your judgement
- Consider ALL aspects of the situation include mitigating circumstances
- Consider the impact of the employee's behavior/performance
- Consider the impact of the disciplinary action

Mitigation

Because mitigation crosses all steps in Progressive Discipline. Know your options!

- **Employee lacks the required skill set (i.e. Excel, interviewing client)**
 - Is there a training program available?
 - Is there an employee who is successful in this area that could mentor/coach?
- **Employee has a personal issue that is at the root of the situation**
 - Should they use the Employee Assistance Program?
 - You can recommend the EAP and suggest the resources they might consider
 - Contact Human Resources before requiring an employee to use the EAP services
- **Personality conflict among staff**
 - Is mediation needed? Available?
 - Consult with Human Resources for options.
- **At any step in progressive discipline, a mitigating circumstance may reduce the level of correction action**

Terminations

For both probationary and non-probationary employees, if you reach a point where you believe it is best to terminate employment:

- Work with your assigned HR Analyst and SBS HR Manager to put together the termination recommendation and supporting documents
- Terminations must be approved by SBS HR, OHR, and for districts, CHS.

Performance Improvement Plan (PIP)

A PIP should be implemented when the employee's current performance requires improvement after prior discussions were held and expectations communicated.

It should be used to aid in correcting performance challenges associated with developing the skill set and knowledge base of the employee

PIPs should not be used to address conduct issues (e.g., insubordination)



Performance Improvement Plan (PIP)

Required elements

- Employee name and dates of performance issues
- A thorough description of the expected performance, the actual performance issues observed and any discrepancy between the two
- Use SMART goals (specific, measurable, achievable, relevant and time-bound) to address improvements required
- Specific action plan for the employee to meet the goals
- Dates by which any goals should be completed
- Consequences should the goals not be met
- Employee and manager signatures to acknowledge the plan has been discussed

Performance Improvement Plan (PIP)

Be sure to

- Consult with Human Resources
- Document the process - all meetings, samples of performance
- Provide the employee with tools - Is training needed? A software needed? What is needed for the employee to realistically SUCCEED at improving performance
- Schedule regular meetings to assess progress
- Conclude the process - either celebrate success or follow through with the consequence as stated in the plan.

A performance improvement plan is time limited - not ongoing.
Stick to the plan

Summary

Apply best practices in performance management daily!

If there are issues during the year and/or across performance management cycles, DOCUMENT it in the annual performance review.

- An employee can be contributor in one area but below contributor in another
- If an employee has been counseled in any way, it should be documented (*employee was counseled for x and has greatly improved by y*)
- An employee can meet their goals but does so in a manner that alienates colleagues - HOW we get our job done is as important as GETTING the job done!

Summary

- Know the Standards of Conduct and agency policy
 - *Understand the levels of severity in the policy*
- Use disciplinary action appropriate to the offense
- Be consistent and fair
- Consult with Human Resources
- Communicate and explain the policy to employees
 - *Not just “sign here” or “attached is a copy of policy x”...do they understand the policy?*
- Consider ALL aspects of the situation
 - *Are there mitigating circumstances that should be considered?*

Helpful Policies & Resources

- DHRM 1.40 - Performance Planning and Evaluation
- DHRM 1.45 - Probationary Period
- DHRM 1.60 - Standards of Conduct
- VDH 1.60 - Standards of Conduct
- VDH 1.60 - Standards of Conduct Procedures
- VHD Intranet - Supervisor Resources (found in HR)

Handling Pay Actions

- Best Practices
- Temp Pay Agreements and Extensions
- Exceptional Recruitment Incentives
- Inband Adjustments
- OHR Salary Review Spreadsheets