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DISCIPLINE AND TERMINATION BEST PRACTICES

HOW WELL DO YOU UNDERSTAND EMPLOYMENT LAW?

If you are an employer or HR professional, then you are familiar with “at-will” employment law. The law is defined as follows: either party to the employment relationship—the employer or the employee—can end the employment relationship with or without cause, and with or without notice.

NOW, WHAT IF WE WERE TO TELL YOU THAT, AS A PRACTICAL MATTER, “AT-WILL” EMPLOYMENT DOES NOT EXIST?

If the above question confounded you, then the complete version of this guide is for you. If you feel it is little more than rhetorical hyperbole, then the complete version of this guide is **definitely** for you.

Learn not only the best practices to follow when disciplining and terminating an employee, learn why they are crucial to understand. Using natural language, we present you with detailed information and plans of action in an easy-to-understand, step-by-step format. Following sound best practices helps you foster employee morale, engender trust, improve retention and productivity and, most importantly, avoid legal liability.

As an MEA Member, should you still have questions about how to proceed after reading our complete guide, we would encourage you to call our [Employers' Hotline](#). This exclusive service—available at no additional charge—is staffed by HR experts and backed by our in-house attorneys.

We have prepared this free resource to demonstrate the depth and quality to which we publish our Member Guides. Its primary purpose, however, is to help you decide whether MEA Membership—and assets like our complete guides—will add value to your organization’s HR efforts.

Please read on to learn what topics we cover in the complete MEA Member Guide.

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Disclaimer: We offer this abridged MEA Guide as a free resource for those interested in learning about the benefits of MEA Membership. It is neither a substitute for the full MEA Member’s Guide nor thorough knowledge and understanding of the applicable law and its application to the particular facts and circumstances of each case, including application of relevant case law which may apply. Every effort has been made to ensure that the information provided is complete, accurate and up-to-date as of the time of publication, and any revisions thereof. This resource is offered for informational purposes only, does not constitute legal advice and should not be relied upon as a substitute for legal advice.

DISCIPLINE BEST PRACTICES

1. IDENTIFY THE RELEVANT RULE, POLICY OR PERFORMANCE STANDARD YOU SEEK TO ENFORCE.

Before you can impose effective discipline, it is imperative you first identify the relevant rule, policy or performance standard, the source of which can be any one of the following:

- Written Policy
- Past Practice
- Employment Contract
- Offer Letter
- Collective Bargaining Agreement (CBA)

The complete guide expands upon each bullet with clear explanations and suggestions for their application.

2. DETERMINE THE NATURE AND SEVERITY OF DISCIPLINE TO IMPOSE.

After you have identified the relevant rule, policy or performance standard, you should then determine the nature of the discipline to impose. In some cases, informal verbal counseling may be sufficient. In others, immediate termination may be your wisest course of action.

The sources of the relevant rules, policies or performance standards may dictate the nature and/or severity of the imposed discipline, for example:

- Progressive Discipline Policies
- Policies Which Specifically Identify the Nature of Discipline to Impose
- Employment Contracts, Offer Letters and/or CBAs
- Past Practice

Again, the complete guide expands upon each bullet with clear explanations in addition to important notes that will guide your actions.



QUICK TIP

At this point in the guide, we present you with a progression of clear and detailed steps to follow before, during and after disciplining an employee. The following text in this free resource includes a sampling of those steps, along with the various methods by which they may be executed. In the complete guide, you would also find thorough overviews, definitions and compliance recommendations.



CONSISTENT AND OBJECTIVE APPLICATION OF RULES AND THE ISSUING OF DISCIPLINE IS KEY TO AVOIDING CLAIMS FOR DISCRIMINATION AND HARASSMENT.

The law recognizes that employees will almost never be able to prove discrimination or other unlawful conduct through direct evidence.

This is why employment laws permit employees to prove unlawful conduct based largely or solely on circumstantial evidence.

As you might surmise, to avoid legal liability, it is critical that employers apply the rules and issue discipline consistently. Even the smallest inconsistencies can lead to liability for discrimination.

QUICK TIP

The above (abridged) excerpt has been taken from the complete Member's Guide.



3. DETERMINE WHETHER THE DISCIPLINE IS UNLAWFUL, OR IF IT COULD EVEN *APPEAR* UNLAWFUL.

In this section of the complete guide, as a MEA Member you are presented with several of the most common ways employers may inadvertently break employment laws. Additionally, we help you understand how disciplinary actions may appear to be retaliation for legally protected conduct. Following step three is critical.

4. ISSUE THE DISCIPLINE.

Here, as an MEA Member, you will find the essential guidelines to follow when issuing discipline. Moreover, because we design our guides to make your HR efforts easier and more effective, we include links to download the following three forms.

- Sample Warning Letter
- Performance Improvement Plan
- Corrective Action Notice Form

WHAT ELSE WILL YOU LEARN IN THE COMPLETE MEMBER GUIDE?

MEA MEMBER GUIDES ARE PUBLISHED NOT ONLY TO EDUCATE, BUT ALSO ACT AS AT-A-GLANCE REFERENCES

In addition to a detailed section dedicated to **Termination Best Practices**, the complete guide expands on each practice related to disciplinary action. So, you can steer clear of liabilities that arise from unlawful harassment, discrimination, retaliation and other violations.

The next time discipline or termination is required, do you want to feel secure and confident you have followed best practices to protect yourself and your organization from legal vulnerability? Then find protection through better understandings of the risks inherent in enforcing your organization's rules and policies. Read the complete MEA Member's guide and keep it close at hand.



ONE OF MANY BENEFITS AVAILABLE TO MEA MEMBERS

The complete "Discipline and Termination Best Practices" guide is just one of several practical reference materials available to MEA Members. Moreover, the guides we publish make up only a small portion of the full suite of services we bring our members. From talent acquisition and behavioral assessments to legal services, management training workshops and more, the benefits of MEA Membership are numerous and profound.

[To learn more about MEA Membership and schedule a free consultation, please contact us today.](#)