

IIT Office of General Counsel Educational Program

Staff Employment Issues Part II: Discipline and Termination



Introduction

Mary Anne Smith

University Expectations

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- IIT expects all its employees to follow its rules and perform their assigned duties.
- Employees who fail to follow the rules or perform their duties should be counseled, disciplined and possibly terminated.
- If problems persist, it is vital that managers and supervisors follow IIT's progressive discipline procedures.

Review of Potential Charges of Discrimination

- Race
- Color
- National Origin
- Religion
- Gender (including marital status, pregnancy)
- Sexual Orientation
- Age
- Veteran Status
- Physical or Mental Disability

Where Discrimination Claims Can Be Made

- IIT Grievance Procedure
- Chicago Commission on Human Relations
- Illinois Department of Human Rights
- United States Equal Employment Opportunity Commission
- United States Office of Federal Contract Compliance Programs
- United States District Court

Follow Procedures Now . . . Or Pay Later

Failing to take appropriate measures to discipline and terminate employees will result in tremendous costs to IIT as well as you personally! These costs include:

Follow Procedures Now . . . Or Pay Later

- Having to justify all of your actions and procedures
- Producing all of your files and records
- Being sued
- Being deposed by hostile attorneys
- Having to testify at a hearing or trial
- Tremendous loss of time and productivity

General Principles

- When employee problems arise, it is vital that you address the issue in a prompt, fair and honest manner.
- Following IIT Policies and Procedures will allow you to take the necessary corrective actions while helping decrease the chances IIT and you will be sued.

Overview of IIT Policies & Procedures

Jose Padilla

- Employee Conduct & Responsibilities
- Performance Appraisal
- Progressive Discipline
- Termination

Employee Conduct & Responsibilities

- Most employees are disciplined or terminated for: (1) major infractions; (2) minor infractions over a sustained period; or (3) unsatisfactory job performance.
- IIT HR Policy No. E. 1.00 lists a number of rules that IIT expects every employee to follow.
- Departments may set more specific or additional rules. These rules should be clearly conveyed to employees.

Reasons for Providing Progressive Discipline

- Assures that your actions are fair and that “the punishment fits the crime.”
- Gives you the opportunity to turn the employee around and make him or her productive.
- Allows you to build a record that you handled the matter fairly and disciplined the employee for just cause.
- Builds a record that may dissuade the employee from filing a charge or a lawsuit.

Potential Steps in Progressive Discipline

- Performance Appraisals
- Informal Meetings and Oral Reprimands
- Written Reprimand
- Suspension
- Termination

Performance Appraisals

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- Performance appraisals are the mechanism by which a supervisor objectively measures if an employee is performing his or her job duties.
- Performance appraisals are also an opportunity for the supervisor to raise and document problems in an employee's performance.

Performance Appraisals

- To support disciplinary action, it is essential that employees be evaluated fairly and honestly at the performance appraisal. It is also important that performance appraisals be completed when due.
- HR Policy No. D. 6.00 provides the time periods in which exempt and non-exempt employees must be reviewed.

Problem No. 1

You recently hired an administrative assistant. Although he is trying very hard, he makes frequent mistakes in completing forms and filing documents. He is now up for his six-month probationary review. Although he isn't performing quite up to your expectations, you think he will improve and want to encourage him. How do you evaluate his performance?

Verbal Warning

- Supervisor should meet with the employee to discuss unsatisfactory performance or failure to comply with university or departmental rules.
- Although no written warning is issued, a written record of the date and content of the discussion should be maintained by the supervisor.

Problem No. 2

You're the Director of Alumni Relations and you supervise an outreach coordinator who interacts well with alumni. Her duties include communicating with alumni by phone and in person. Her cubicle is next to yours.

Problem No. 2 Continued

She also has a real estate broker's license. On four occasions in the last three months, you overheard her on the phone scheduling appointments to show homes after work. On two occasions, you delivered to her confirmations of faxes she sent to real estate customers. On another, you let her leave early to show a house.

Problem No. 2 Continued

You just received an irate call from Mr. Big Bucks Alumni. He claims that in the last week, he's left two voice mail messages for the outreach coordinator and that she has yet to return his call. What do you do?

Written Reprimand

- Written reprimands should be given for continued problems or more serious infractions.
- This notice requires both a meeting with the employee and an official written document.
- The written notice should be issued within 24 hours and include the facts, performance expectations and possible effect if performance or conduct does not improve.

Problem No. 3

Let's return to the outreach coordinator in Alumni Relations. You did talk to her about not being responsive to Mr. Big Bucks Alumni. She was apologetic. Because the coordinator took your criticism well, you didn't raise the issue of her doing real estate work on university time. You also didn't see the need to document your conversation.

Problem No. 3 Continued

A month has passed since. In that month, an employee from Computer & Network Systems waited ten minutes outside the coordinator's cubicle. He was waiting to give her a contract offer for the purchase of a home. Later, you found on the copier three sets of a closing statement for a home purchase. You've concluded that it's time to write her up. Can you. If so, what can you raise in the reprimand?

Suspension

- Suspension may vary from 1-5 days depending upon the severity.
- “Suspension-without-pay” is also used to remove employee from the workplace during investigative period.
- Supervisor should first consult with H.R. or the department head before suspending an employee.

Discharge

- The last step in the disciplinary procedure is termination by letter to the employee.
- The termination letter should refer to the prior disciplinary actions, final date on the payroll and terminal vacation due.
- Discharge should be done by a supervisor or department head with the advance approval of H.R. General Counsel will also review the discharge.

Problem No. 4

One of your employees sometimes acts hostile towards students and other employees. One day, you happen to see this employee physically push a student worker and say, “If you ever do that again, you’ll be very, very sorry.” What can you do?

Problem No. 5

One of your employees, an administrative assistant, has a history of being tardy for work. She also has a habit of calling in sick on Fridays, Mondays and unseasonably warm days. You talked to her about this problem about six months ago. Her attendance has been much better since your talk. Just recently, she failed to mail a time-sensitive grant proposal as you had asked her to. You are furious and want to fire her. What can you do?

Problem No. 6

You recently conducted a performance appraisal for your assistant director and gave her an overall rating of “above expectations.” In your comments, you wrote that she is good employee, but “should work on her attitude.” You recommended her for a 2% merit increase. You learn that the assistant director has told another staff member that she believes that you are discriminating against her based on her race. You later notice that she has downloaded and printed an EEOC complaint form. What should you do?

IIT Staff Grievance Procedure

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- The purpose of the grievance procedure is to provide a system for reviewing employment decisions or other issues questioned by employees.
- Both IIT and the grieving party are more likely to reach a satisfactory resolution by pursuing a dispute through IIT's Grievance Procedure rather than by resolving it through a governmental agency or litigation.

Grievance Procedure Steps

- IIT's Staff Grievance Procedure is provided in Policy No. B. 15.00 of IIT H.R. Policies and Procedures.
- Action must be initiated by the employee within ten working days of the occurrence of the incident or knowledge of the incident. Must be in writing and submitted to H.R.
- H.R. will review the complaint and refer the employee to the next level of supervision for review of the grievance.

Employee's Right to Third Party Representation

- Weingarten Rights
- Union employees have stewards/business representatives.
- Non-union employees have equal rights to representation.

Summary & Conclusion

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