

# **PERFORMANCE MANAGEMENT AND THE PATH TO DISCIPLINE**

**EMPLOYEE RELATIONS**

# THE ROLE OF DISCIPLINE IN MANAGEMENT

- Teaching and correction
- Create and maintain self-sufficient employees that are satisfied
- Guide performance through development and relationships



# BASIS OF DISCIPLINE

- Discipline procedures are determined by:
  - Common sense
  - Departmental rules
  - Applicable labor contracts (NAPE, FOP, SLEBC, SCATA)
  - Nebraska Classified System Personnel Rules and Regulations
- Due process must be followed—The Personnel Rules and labor contracts provide employees with a property interest in his or her job.

# FORMAL DISCIPLINE PREVENTION

- Informal Discussions
- Performance Improvement Plan
- Supervisory Counseling



# IS IT TIME FOR DISCIPLINE?

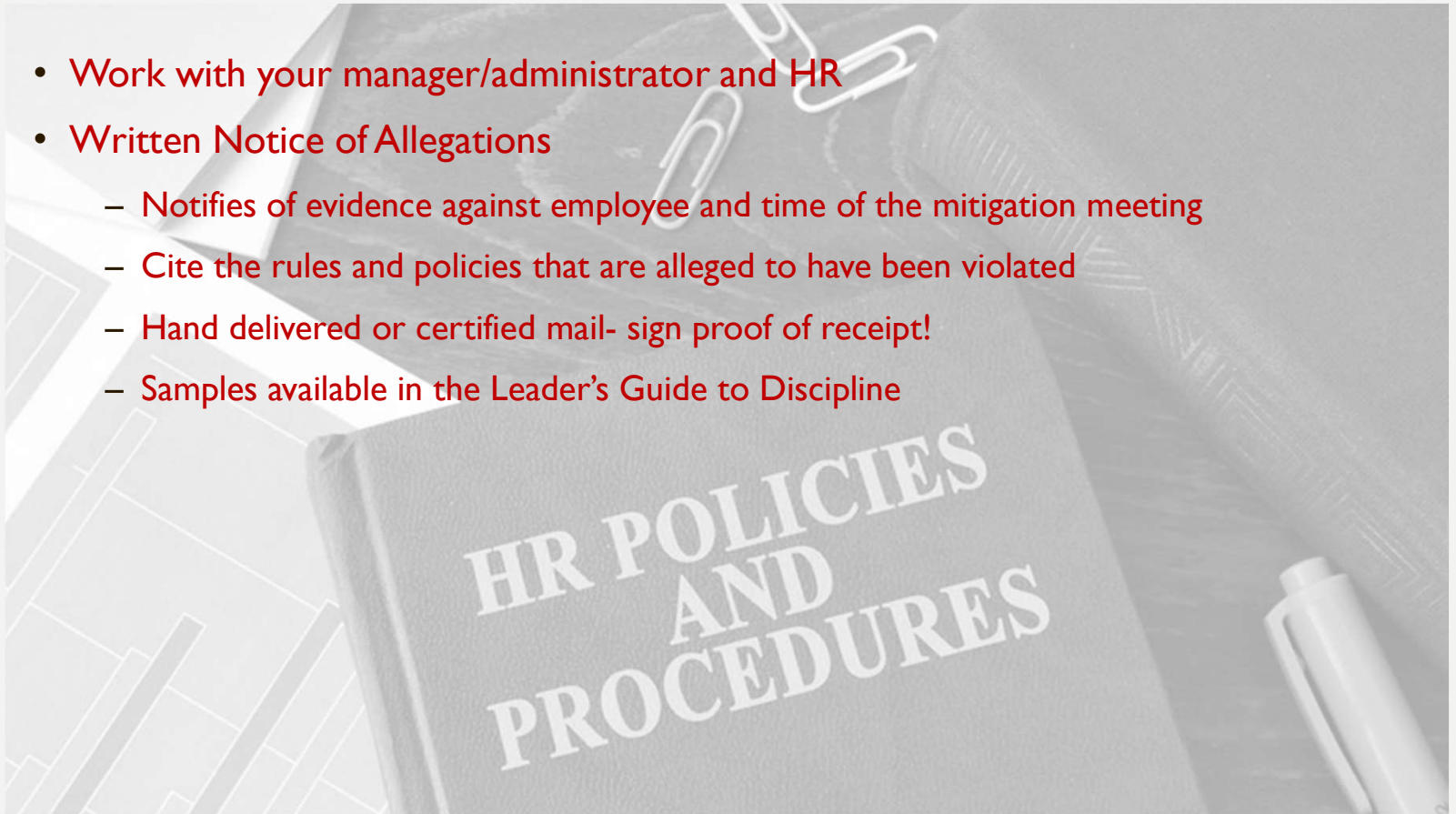
- Investigation:
  - Seriousness of the circumstances- intentional or accidental?
  - Surrounding circumstances
  - Review written records, conduct interviews, reconcile conflicting statements, examine location/equipment if necessary, review record for past incidents
  - Management's possible role due to poor training, preparation, supply
- Investigatory Suspension
  - Criminal activity or threatens safety, health or well-being of another person
  - Follow applicable timelines
- Employee History
  - Past performance
  - Frequency and nature of past problems and/or discipline

# IS IT TIME FOR DISCIPLINE?

- What informal, preventative measures were taken? Were they successful in any capacity?
- Does the situation call for disciplinary action? Is it the best way to correct the behavior?
- Is this situation similar to other offenses that received disciplinary action?
- Was notice provided and the employee aware?
- Was an investigation completed and was substantial evidence obtained?

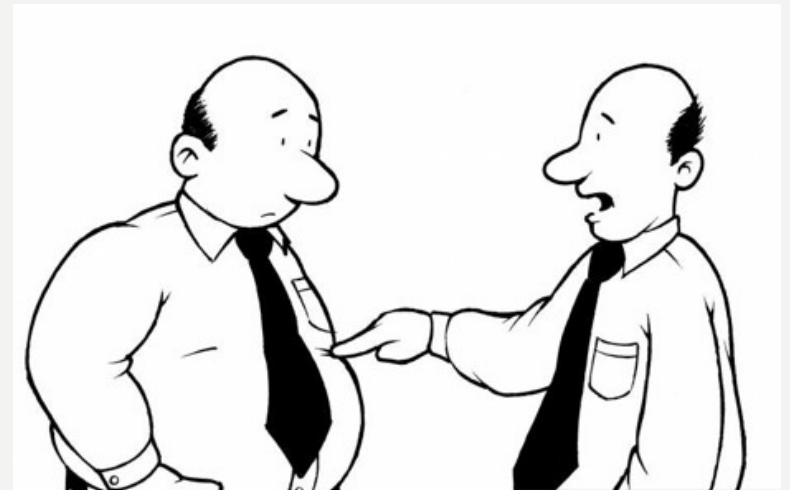
# FORMAL DISCIPLINE STEPS

- Work with your manager/administrator and HR
- Written Notice of Allegations
  - Notifies of evidence against employee and time of the mitigation meeting
  - Cite the rules and policies that are alleged to have been violated
  - Hand delivered or certified mail- sign proof of receipt!
  - Samples available in the Leader's Guide to Discipline



# FORMAL DISCIPLINE STEPS

- **Mitigation Meeting/Pre-Disciplinary Meeting**
  - Employee's opportunity to present their side
  - Not a debate or an argument—You are gathering more facts and information.
  - Have an HR Manager or Officer present to observe and take notes
  - Discontinue and call security if the employee becomes threatening
- **Written Notice of Discipline**
  - Advises of the type of discipline, timeline for improvement, and statement of consequences if not met
  - Notice provided at a meeting meant to review expectations. Employee will sign receipt.
  - Place a copy in the employee's personnel file
  - Samples available in the Leader's Guide to Discipline



*"...and make sure you never do it again!  
Now, I want you to go sit in your corner office,  
and think about what you've done!"*



# DETERMINING APPROPRIATE DISCIPLINE

- Progressive Discipline
  - Steadily increasing discipline for lack of improvement
  - Meant to bring employee back in line with expectations
  - To the benefit of employer and employee
- Aspects to Consider:
  - Past performance and disciplinary action
  - Disciplinary action levied for similar offenses
  - Any management liability for the situation



# DISCIPLINARY OPTIONS

- Written Warning
  - Violations of employee work rules
- Disciplinary Probation
  - Poor work performance
  - Up to six months in length with potential extension to 1 year
  - In conjunction with Performance Improvement Plan
- Suspension
  - Lower level discipline was not effective or is not adequate
  - Suspended employment without pay for a defined period of time
- Demotion or Salary Reduction
- Termination
  - Two week notice if no exceptions



“I’ve been suspended without pay for three days.”

# SCENARIOS

- Luke is a longtime employee with your agency. In his job Luke interacts with the public and with clients, and in the last year or so he has begun communicating and working poorly with both. There are recordings showing that he has provided incorrect advice on multiple occasions that puts the agency in a bad light and the clients in a precarious compliance position. In addition, Luke has been argumentative and intimidating to coworkers and clients. Luke has been given verbal counseling on one occasion and has a record of written warning from two years ago. What steps should be taken?

# SCENARIOS

- Martha, a nurse at your facility, has been late to work about 1-2 times per week for the last few months. Initially she would apologize and report to her work station, but now she just proceeds to her work station without comment. There is tension with the other staff due to the attitude and work burden. You know that Martha has been having a rough time in her personal life and has always been a good employee so you have hesitated to act beyond a verbal counseling session that made things better for a short while. However, the other employees are now resentful and the counseling has not solved the issue. What steps should be taken?

# SCENARIOS

- Veronica has been with the State for 6 years and has never had any performance or disciplinary issues. However, Veronica's new supervisor Sara stated that she has been having issues with Veronica's performance in the two months she has been in her position. It appears that there is no performance review from the last 3 years, and no supervisory file to reference. How would you advise Sara? What steps should be taken to address the performance issues?

# SCENARIOS

- Peter has always been a high maintenance employee who complains a lot and does not like being asked to help with things outside of his direct responsibilities and duties. That being said he has been a punctual employee who does his work very well. Andrew was a coworker of Peter's, but three months ago took over as the unit supervisor. Since that time Peter has been argumentative, questions Andrew's authority, and insists on doing things his way rather than using the new guidelines for the unit. Last week Peter showed up half an hour late for work and was counseled by Andrew causing him to make a scene and march out of the office and not return for the rest of the day. When Peter returns the next day in a foul mood, Andrew requests to terminate Peter on the spot. Andrew's supervisory notes are average at best. What guidance do you provide Andrew?

# RECORDS AND DOCUMENTATION

- Document promptly while your memory is fresh.
- Indicate date, time, and location of incidents.
- Record action taken as well as behavior exhibited.
- Indicate all persons and work products involved.
- List specific performance standards violated.

- List specific rules or regulations violated.
- Record the consequences of the action or behavior on work performance and the work unit as a whole.
- Objectivity! Record observations and not impressions. No guesswork.
- Document your response to the action and/or behavior.
- Indicate the employee's response to your attempts to modify the behavior.

# COMMON MISSTEPS



- Failure to Specify the Charges
- Failure to Transmit Disciplinary Letters by Certified Mail or in Person in a Timely Manner
- Failure to Document Charges
- Inconsistent Documentation of Performance
- Supervisory Coercion and Harassment
- Failure to Allow an Employee Due Process and to Inform of Possible Disciplinary Action
- Failure to Exercise Consistent Disciplinary Action



# THE GRIEVANCE

- NAPE & FOP
  - 2 Step Process → Agency Head or Designee followed by voluntary binding arbitration or State Personnel Board
  - Specific and stringent timelines
  - Mini Hearing between Step 1 and Step 2
- Personnel Rules
  - 3 Step Process → Immediate Supervisor/Decision Maker, Agency Head or Designee, then State Personnel Board
- SLEBC
  - 3 Step Process → Immediate Supervisor/Decision Maker, Agency Head or Designee, then arbitration
- SCATA
  - 3 Step Process that mirrors the Personnel Rules

# RESOURCES

- DAS Website
  - Contracts and interpretations
  - Leader’s Guide to Discipline
  - Grievance Forms and Information
  - Training Slides
- Contacts:
  - Employee Relations
    - 402-471-4106
    - 402-471-8292

Administrative Services  
**EMPLOYEE RELATIONS**



**Employee Relations**

Home  
About & Staff Contact

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**DISCIPLINE & GRIEVANCE INFORMATION**

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**LABOR CONTRACT INFORMATION**

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**LEAVE & WORKPLACE INFORMATION**

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**TRAINING**

**QUICK LINKS:**  
 Frequently Asked Questions  
 Job Descriptions  
 Pay Plans  
 Publications  
 State Personnel Board Meeting  
 Nebraska Revised Statutes

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**LEGAL DISCLAIMER**



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**Labor Contract Information:**

- 2019-2021 NAPE Contract Changes
- 2019-2021 FOP Contract Changes
- Contract Interpretations
- Furlough Guide
- HR Implications-Natural Disasters
- Publications (Includes Labor Contracts)
- NAPE Reduction In Force Packet
- FOP Reduction In Force Packet
- Re-Employment Program

**Discipline and Grievance Information:**

- The Leader's Guide to Discipline
- Grievance Appeal Decisions
- Grievance Information and Forms
- State Personnel Board Meeting

**Leave and Workplace Information:**

- Catastrophic Illness Leave
- Family Medical Leave
- Family Military Leave (Nebraska Statute)
- Maternity Leave Donation Program
- Governor's Policies

**Training:**

- Training Sessions/Powerpoints

**LINK**

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**OTHER LINKS:**  
 AS Home  
 Governor  
 Nebraska.gov

ADMINISTRATIVE SERVICES

Director | Accounting | Budget | Building | Capitol Commission | Chief Information Officer | DAS HR | Employee Relations | Materiel | Personnel | Risk Management | 309 Task Force | Transportation Services