

# **Employee Discipline A Guide for Church Employment**

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One of the duties of a good manager is to create a safe and productive work environment for his or her team. Generally speaking, creating such an environment entails positive efforts to build personal and team skills. However, from time to time an employee will require correction, performance improvement efforts, or discipline because of job performance that falls below expectations or even misconduct. Employee discipline can consume time and effort that could better be used to do the work of the kingdom. So, when the need arises, employee discipline should be efficient and effective. Our first goal should be to help the employee correct performance or conduct and once again become a good performer and contributor. It is also necessary to conduct employee discipline in a way that will protect the Church and its interests. This training module presents policies and practices that will achieve these goals.

All managers at Church employment would be well advised to take seriously their role in conducting employee discipline and learn the policies, practices and skills available to help them.

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## **The Principles**

Employee discipline at the Church is founded upon principles found in the scriptures. Doctrine & Covenants 121:41-43 states:

41 No power or influence can or ought to be maintained by virtue of the priesthood, only by persuasion, by long-suffering, by gentleness and meekness, and by love unfeigned;

42 By kindness, and pure knowledge, which shall greatly enlarge the soul without hypocrisy, and without guile—

43 Reproving betimes with sharpness, when moved upon by the Holy Ghost; and then showing forth afterwards an increase of love toward him whom thou hast reproved, lest he esteem thee to be his enemy;

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The reproof that employee discipline is surely will be most effective if given with love, patience and kindness. Pure knowledge in this context means to act on facts, nor rumor or conjecture, and to ensure the employee has a clear understanding of expectations and the reasons for discipline. Most employees, when dealt with using these principles, will respond positively and work hard to correct their performance or behavior.

Internal policy states, “Managers and supervisors should treat every employee with dignity and respect, even if corrective action is necessary. Corrective action should be handled in an orderly

but direct and honest way, thereby allowing the employee the opportunity, if applicable, to improve unsatisfactory performance or behavior.”

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## **Fairness**

In addition to these scriptural principles, employee actions, especially disciplinary actions, should be founded on sound reasons and conducted with fairness. Employee should always be able to expect to be treated fairly. To begin with, fair treatment means following the law, approved policies, and established practices. Good communication also contributes to a sense of fairness. Importantly, courts look to whether an employer treated an employee fairly as it seeks to determine whether the employer acted within the law, especially in at-will jurisdictions.

It is particularly important to base every employee action on proper reasons. A U.S. federal judge once wrote about discrimination claims:

“Having presided at numerous employment discrimination trials, I can say that the issue of whether the employer’s actions were improperly discriminatory is usually subsumed in the jury’s concern for whether the employer treated the employee properly and fairly. If the jurors do not agree with the employer’s action (and they often do not, since most jurors have been employees), they often find that the employer’s actions resulted from whatever form of discrimination is claimed.”

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## **Church Policies**

The policies and practices regarding employee discipline are set forth in section 5.2 of Our Standards of Conduct and Other HR Policies, found on Policy Point. You are encouraged to read and understand these policies. If you have questions, please talk to your HR representative or HR Legal.

Generally speaking, we follow a path of progressive discipline, always doing no more than is necessary to achieve the desired results. It is not required, but corrective action may follow a progressive path including coaching, verbal warning, written warning, probation, suspension and termination. The level of corrective action to be applied will depend on many factors, including the nature of the offense, past violations by the employee, if any and length of service.

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## **The Purpose of Employee Discipline**

The goals of discipline are 1) to allow the employee an early opportunity, if appropriate, to modify performance or behavior so as to avoid more serious disciplinary action, 2) to create a

safe and product work environment, and 3) to protect the Church and its resources, officers, and Church workers.

We should approach every disciplinary action with the hope of helping the employee become more productive and better able to grow in talents and contribution to the work of the kingdom.

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### **At-Will Employment**

In many jurisdictions, particularly in the U.S., either the employee or employer may terminate the employee's employment, with or without notice and with or without cause. There are limitations and exceptions to this legal doctrine.

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For example, no job action, including terminating an employee's employment, can be based on a protected class such as gender, race, national origin, disability, etc.

Nor does employment-at-will apply if there is an employment contract between the employee and the employer (whether it is an actual or implied contract) that governs termination.

The safest way to terminate employment begins with checking with HR Legal – it's also required by policy. Don't risk a wrongful termination action against the Church – check with Legal to ensure you're following policy and the law.

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### **Documentation**

Aside from following the law and policy, the most important element of employee discipline is creating and maintaining proper documentation. Good documentation clearly informs an employee:

- 1) that there is a problem with their actions or performance,
- 2) what corrections or improvements are necessary, and
- 3) of the consequences for failure to correct or improve.

This goes to the fairness principle. Unless a poorly performing or misbehaving employee knows clearly that there is a problem, it will not be corrected and any action the manager takes will be viewed as unfair. They need to understand that there is a problem, how it can be corrected, and what happens if it isn't corrected.

Furthermore, judges and juries like to have something tangible to hang their hat on (i.e. something in writing) when making a decision. Good documentation will provide that. The absence of documentation is more likely than not to give them an excuse to help out the employee.

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## **Two Types of Discipline**

Employee discipline in Church employment can generally be described by two categories: discipline for poor performance and discipline for misconduct. When a manager is contemplating a disciplinary action for an employee, it is essential that both the manager and the employee understand clearly which it is. Clear and honest communication is particularly important at this stage of the process.

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## **Discipline for Substandard Performance**

Discipline for poor performance is a progressive process for addressing job-related performance that does not meet expected and communicated performance standards. It should be tied directly to performance expectations that are documented in the job description and in ATI.

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The primary purposes of discipline for substandard performance are to assist the employee to understand that a performance problem or opportunity for improvement exists and guide improvement until satisfactory results are achieved. If satisfactory results are not achieved, this process enables the organization to fairly, and with appropriate documentation, terminate the employment of an employee who is ineffective and unable or unwilling to improve.

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In this model, you begin with one or more performance discussions or verbal coachings with the employee, which you document. The best way to do that is to send an email to the employee immediately following the discussion describing the discussion including the specifics of the performance issues and what you asked the employee to do to address the issues. If performance does not thereafter improve to satisfactory levels, you may then want to move to a written performance improvement plan (PIP).

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## **Performance Improvement Plan (PIP)**

The purpose of a PIP is to provide a specific plan for improvement in the areas where performance is deficient. It is not punitive, but should be constructive and encouraging. The plan should be detailed and specific. It should list the deficiencies and provide specific steps to address them. The desired performance levels should be described in sufficient detail that there is no doubt in the employee's mind what must be achieved to return to expected performance. PIPs may be as short as a month or as long as three or more months. The length of the PIP should be tailored to the effort required to improve performance. The manager and employee

should meet often and regularly during the PIP to monitor progress and for further coaching. At the end of the PIP, there should be a written summary of the progress made during the PIP and a clear statement describing whether the employee has made the needed improvement. There should be a definitive end to the PIP and the employee should know where he or she stands in relation to performance expectations. If the required improvement is made, the employee should be returned to good standing.

At the end of the PIP, if inadequate improvement has been made, the manager can either extend the PIP if he or she is confident further progress is likely, or move to the next step in progressive discipline: a written warning, a final written warning or probation.

### **Written Warning/Final Written Warning**

If efforts to improve performance have not been successful, the manager can issue a written warning or final written warning. The purpose of the final written warning is to inform the employee that if performance improvements are not immediate and sustained, the employment relationship may be terminated. The warning should specifically identify the performance deficiencies and expected responses. And it should state that “immediate and sustained improvement is required and failure to achieve immediate and sustained improvement will lead to further discipline up to and including termination of employment.” Templates are available in the HR document library.

Because the manager has made clear that immediate improvement is required, further action may be taken at any time the employee exhibits further substandard performance. There is no waiting period required. And because the manager made clear that improvement must be sustained, further action may be taken at any later date if performance slips back to substandard.

### **Probation**

In cases judged by the manager to involve serious performance issues or failure to improve performance after prior corrective action, an employee may be placed on formal probation. Disciplinary probation may be imposed for a period of up to 90 days. The difference between probation and a PIP is that a PIP is a more positive, constructive effort to improve performance while probation is disciplinary and corrective.

Employees should be given written notice of the conditions of the probation, the specified standard of performance or behavior to be attained by the employee, and the length of the probationary period. The employee should be asked to sign the probation letter indicating that he or she has read and understands the letter and has received a copy. The employee's signature does not necessarily indicate that the employee agrees with the contents of the letter.

Normally, a probationary period will not extend more than 90 days. In certain positions, especially exempt positions, a longer period may be necessary to establish that a change in performance has occurred. During the probationary period, the supervisor should meet regularly with the employee to discuss progress toward the expected standard of behavior or performance.

If progress is not being made, the employee may be terminated at any time during the probationary period.

At the end of the probationary period, the supervisor and the HR representative should meet with the employee. If the employee has not satisfied the terms of the probation or has not made satisfactory progress toward meeting the terms of the probation, the employee may be terminated. If satisfactory progress has been made but the terms of the probationary period have not been fully met, the probationary period may be extended for a period, usually no more than 45 days.

If the terms of the probation have been accomplished, the probation should be ended, with a reminder to the employee that he or she must continue to work or behave at a satisfactory level in order to avoid further corrective action or termination.

### **Termination for Poor Performance**

Termination may be imposed when an employee who has received prior corrective action fails to make satisfactory progress toward meeting the expected levels of performance or behavior.

Involuntary terminations are approved by the department's human resource director or manager and the department's line manager, division director, or department managing director.

Involuntary terminations, including those on temple worthiness grounds, should be reviewed in advance with the Director, Human Resource Legal Services.

The process of discipline for poor performance may take several months or it may take only a few weeks depending on the seriousness of the performance deficiencies. Because progressive discipline for poor performance is intended to help the employee improve performance, once it becomes clear to the manager that the employee is unable or unwilling to make the required improvement, the steps can be quickened. Please consult with your HR representative, Director Employee Relations, or Director HR Legal Services with questions.

Remember, all steps taken in disciplinary actions should be fair, clearly communicated to the employee, and within policy.

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### **Discipline for Misconduct**

Discipline for misconduct is to respond to violations of policy and may be immediate (for severe violations) or a progressive process (for less severe violations.)

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For serious violations of policy, we move straight to discipline: verbal coaching, verbal warning, written warning, suspension, final warning and/or probation if applicable (with no performance

improvement plan.) How quickly you move through those steps or how many steps you use depends on the severity of the misconduct.

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## **Probation**

Disciplinary probation may be imposed for a period of up to 90 days. Employees should be given a letter or memo containing 1) the conditions of the probation, 2) the specified standard of performance or behavior to be attained by the employee, 3) the length of the probation period, and 4) potential consequences if conditions are not met. The employee should be asked to sign the original probation letter, indicating that he or she has read and understands the letter and has received a copy.

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During probation, the supervisor should meet regularly with the employee to discuss progress toward the expected standard of behavior or performance. All such meetings should be documented. If progress is not being made, or is not sustained, the employee may be terminated at any time during the probationary period.

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## **Suspension**

In cases of serious misconduct (not including poor performance), the probation may be accompanied by a defined period of suspension without pay. Suspension may be appropriate if the manager believes more than probation will be required to convince the employee of the seriousness of the misconduct but the manager is not yet ready to terminate employment. Always work with your HR representative before imposing suspension.

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## **Severe Misconduct**

Severe misconduct may involve only a Final Written Warning, then termination if the misconduct is repeated. And the most severe conduct may involve immediate termination.

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Misconduct that could justify immediate termination may include:

- Theft, defalcation
- Substance Abuse
- Viewing Pornography
- Violent or threatening actions
- Insubordination
- Sexual harassment

- Creating a hostile work environment
- Falsification of records
- Willfully damaging Church property
- Possession of unauthorized weapons
- Excessive absenteeism
- Unauthorized disclosure of confidential information
- Other serious violations

Work closely with your HR representative and with the Director HR Legal Services before terminating any employee for cause.

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### **Termination of Employment**

Involuntary terminations must be approved by the department's HR director or manager and the employee's manager, director, or managing director. Involuntary terminations, including those on temple worthiness grounds, should also be reviewed in advance with HR Legal.

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### **Clear Communication is Critical**

It is essential that the manager communicate clearly and honestly when conducting discipline actions whether for poor performance or misconduct. It is only fair that the employee know exactly what is expected to correct the performance or behavior.

When communicating the need for improvement, use words that clearly communicate the urgency of the situation, such as:

“Immediate and sustained improvement is required.”

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“The consequences of failing to make immediate and sustained improvement or correction may leader to further discipline up to and including termination of employment.”

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Some misconduct is egregious enough that immediate termination may result. Employees need to understand what that conduct is. It is described in policy as “One Strike” and includes such conduct as theft, defalcation, viewing pornography, violent behavior.

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Other misconduct that is very severe, but may not require immediate termination is described as “Zero Tolerance” meaning that type of conduct is not tolerated and some immediate disciplinary response is warranted, but it may be less than termination.

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## **ATI**

Managers run into big problems when a Final Written Warning says, “We’ve been talking about this problem for two years,” but performance evaluations are glowing or silent. Be honest and thorough in ATI evaluations. If there are performance issues or misconduct issues, use ATI to work on them. Discipline and ATI go hand in hand.

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## **A Final Message on Employee Discipline**

Consult HR in all disciplinary actions. They are the experts. Involve them early for maximum benefit.

Document, document, document. It ordinarily takes at least three documented disciplinary events to safely support a performance-related termination.