

To change employee behavior, the administrator must observe work habits, point out specific inadequacies, and assist in improving performance within a definite timeline.

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# Managing Employees Through Progressive Discipline

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Taking disciplinary action against an employee is perhaps the most perplexing and uncomfortable aspect of the school administrator's job. Administrators have an obligation to the public, however, to ensure that those who are employed by the school system provide the services expected of them. Administrators who neglect to act when an employee's poor performance warrants it, subject themselves to substantial legal and professional consequences.

Unfortunately, the inconvenience of discipline and the amount of time it consumes often deter administrators from acting as frequently and effectively as they should. In addition, public disclosure of disciplinary actions through school board hearings, local news media, and union grievances may intimidate administrators from providing this vital staff development function.

The process of "progressive discipline" is one method of improving employee performance by documenting areas needing improvement. This form of discipline is not punitive in nature (although it may ultimately become so if the employee does not remedy deficiencies). Instead, progressive discipline is a developmental

process by which an employee whose performance is unsatisfactory is notified of this and given assistance in changing behavior.

In order to encourage performance that meets the demands of the job, an internal loop of reinforcement, both positive and negative, must be designed to monitor performance and provide continuous feedback to the employee. In many cases, evaluation designs are specified in collectively-bargained labor agreements between school boards and their employees.

One recurrent and significant phrase found in such labor agreements is "just cause" as a prerequisite to disciplinary action including, but not limited to, discharge, demotion, reprimand, suspension, and nonrenewal. Employee organizations view "just cause" as an assurance that their members will not be dismissed without reasons that are arguable before an arbitrator or court of law.

The astute labor organization will examine every facet of the disciplinary process for loopholes and inconsistencies which may provide evidence of prejudicial or discriminatory treatment of the employee. Thus, the process of evaluation and staff development may quite easily be turned into a weapon against both the administrator and the school system. Employee discipline, therefore, demands sound, well-documented preparation of disciplinary cases by the administrator.

## The Art of Observing

Before any change can be expected in performance, the administrator must observe the work habits of the employees. The artfulness of this observation generally determines the productiveness of the evaluation. Specificity is critical in identifying weaknesses; general comments about an individual's performance will not provide the data essential to bring about change. Examples and anecdotal references support what has been observed and lend substance to suggestions for improvement. Remember that the process is designed to be supportive and constructive.

Write down deficiencies noted during the observation in a concise, clear statement of fact, and meet with the employee to share the contents of this written report. In some instances, your communication with the employee may be oral and informal. For your own protection, upon return to your office, make note of the time, date, and substance of this conversation for future reference. Often, oral warnings in disciplinary matters will alleviate minor problems. In more persistent cases, a formal, long-range procedure is advisable to isolate weaknesses and prescribe techniques and timelines for remediation.

The notification step in progressive discipline is vital. The administrator should define clearly for the employee what is unsatisfactory and stipulate procedures for improvement accompanied by reasonable time limits during which additional evaluations will confirm any progress the employee makes. At the conclusion of the notification stage, the employee should sign a document which specifies the areas needing attention, indicating awareness of the concerns but not necessarily wholesale agreement with them.

In contrast to immediate and summary discipline (automatic suspensions or dismissals for gross violations of policy or contract) progressive discipline is based on the premise that employees want to do a good job, wish to become more effective and efficient, and hope to contribute more productively to the goals of the school or the district. Notification provides immediate feedback which initiates the process and provides insight into job performance for the employee.

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## Union Involvement

Administrators who presently work under collective bargaining agreements are particularly sensitive to the fact that any action of a disciplinary nature taken against members of bargaining units will precipitate investigation and demand for representation by union officials. Most bargaining agreements make provision for union representation at all disciplinary hearings, even in instances where an employee may only *perceive* that a conference with an administrator may be for purposes of oral or written reprimand. Although the demand is legitimate by contract, many administrators feel threatened by the presence of a shop steward or building representative during a conference of this nature. Whatever the intent, the effect is to intimidate and dissuade the administrator from taking action.

The importance of procedural integrity in observation and documentation is self-evident. The administrator who can present both to the employee and his or her counsel a sound, well-prepared document showing good faith effort to improve the performance of that employee significantly diminishes the ability of the union to show reason to object. Grievances filed in disciplinary matters generally rely upon procedural defects in evaluation or attempt to prove anti-union animus on the part of the administrator. So long as the notification or warning is not capricious or discriminatory and provides *prima facie* evidence that the employee has not met job expectancies, the burden of proof then lies with the union.

## Then What?

Once the employee has been formally made aware of the expected improvements, reasonable time and assistance should be provided to encourage these changes. Periodic dates should be scheduled for interim evaluations to monitor the effects of the assistance. At these checkpoints, the next step in the process will become evident. If the assistance provided brings about the necessary change in behavior, the issue may be resolved and the process discontinued. If, on the other hand, your efforts prove fruitless, disciplinary action leading toward dismissal must be taken.

If the employee's behavior does

not alter significantly throughout the procedure, documentation should be continuously developed until the final decision is reached to discharge the employee. All aspects of due process are addressed in progressive discipline by allowing the employee to respond to evaluative material orally and in writing, by providing the right to representation, and ultimately by ensuring final appeal through a legislative body (in this case, the school board) or through grievance to a neutral third party, the arbitrator.

Once the decision to dismiss an employee has been made, the challenge of the union will begin. Many of the larger unions have grievance committees who assess disciplinary charges for weaknesses of procedure which may allow them to gain reinstatement for the employee. No other element in evaluation and discipline is attacked more frequently by labor organizations than defective procedures in observing and remediating the performance of employees.

Once the union has targeted a defect in a dismissal, suspension, or demotion, their attack can become both vocal and public. In many instances, unions gain visibility by contacting news media to air grievances and discuss how unfair administration has been in disciplining a member of their bargaining unit.

When this happens, the administrator becomes embroiled in a human drama of political opinion relative to labor and management rights. Throughout, the administrator must remain professional, confident that the procedures used in arriving at the decision were sound and well thought out, not gut-level feelings or emotions.

## Dismissing an Employee

Administrators must accept the fact that some employees, teachers and support personnel alike, cannot adequately do the job for which they were hired. The process of progressive discipline provides every opportunity to assist the employee in improving toward a predetermined standard of performance. When the administrator has exhausted the resources available with no significant improvement observed, it is his or her responsibility to replace that employee with someone better suited to the job.

Although many school administra-

tors would prefer to send a form letter of termination or nonrenewal, the employee is entitled to direct contact by the administrator when the dismissal decision has been made. In the process of progressive discipline, this final conference will not be a surprise to the employee. Continuous feedback will have informed the individual of his or her lack of progress toward the ideal.

The final conference may be scheduled by letter or memorandum establishing the time, place, and date, and advising the employee of his or her right to representation. At this final meeting, deliver in written form your decision to recommend termination and briefly discuss your reasons with the employee. Make available to the employee copies of the evaluative materials in his or her personnel file and answer any pertinent questions. Do not consent to make copies of materials available to the union or any other party to the conference. Permission for such duplication then becomes the decision of the employee and does not jeopardize the administrator's responsibility to maintain confidentiality of personnel records.

The termination conference is the final stage of progressive discipline. At this point, the administrator should feel confident that the matter was handled consistently and equitably. In addition, it should be reassuring to note that the administrative role of personnel management was fulfilled through a process which safeguards the administrator's credibility by accurate documentation of substantive fact.

Of all the personnel matters confronting school administrators today, discipline heads the list of most difficult and visible. Too often the decision to suspend, demote, or even discharge is made without a valid data base from which to draw this conclusion. The administrator must deal with each disciplinary case as though he or she would be asked to argue it before an arbitrator or a court of law.

If we assume that evaluation and discipline are positive management tools, we will begin to view employees as people rather than as positions in a system. The result will be a marked change in behavior and performance when employees and their union realize that administrators really do care. ■

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