

DISCIPLINARY POLICY & PROCEDURE



WRITTEN BY:

Dr. (h.c.) Jennifer L. Breakey

© JLB INTERNATIONAL | AGORA ACADEMY™

DISCIPLINARY POLICY & PROCEDURE

INTRODUCTION

1. PURPOSE

The purpose of a Disciplinary Policy and Procedure is self-evident. Without rules to define acceptable business operational and behavioral parameters, the systems would be open for abuse. It is thus important that all employees are aware of Company rules and Code of Conduct.

The Company's Disciplinary Policy and Procedure, as allowed by the Codes and Courts, is flexible, and one procedure may not necessarily fit all. Differences in procedure may apply to hourly paid employees (wages), monthly paid employees (salaries), and senior employees. Not all procedures need be formal, nor is the criminal procedure model appropriate for the workplace.

Companies are entitled, by the Dismissal Code, to satisfactory work performance and conduct from employees. They therefore set work performance standards and make rules of acceptable conduct. If not met, they try correcting poor performance through counseling, and misconduct through varying warnings. These usually begin informally (verbal), and then become formal (noted on the employee's file). After failed counseling, warnings may follow, or serious poor performance may be handled as negligent misconduct from the start. Usually warnings become progressively more serious, but a serious case of misconduct may lead to possible dismissal as the first step.

It is important to note that the disciplinary process is corrective and NOT punitive.

DISCIPLINARY POLICY & PROCEDURE

While consistency is important, meaning that employees in exactly the same circumstances should be treated in exactly the same way, we recognize fairness as more important. Fairness means acknowledging that the circumstances of every case are different, and taking action appropriate to these differences. An exhaustive written list of rules and appropriate discipline action to ensure consistency is therefore not required, as employees can reasonably be expected to understand the difference between right and wrong, good performance and bad.

This policy and procedure may change from time to time at the Company's sole discretion.

2. DISCIPLINARY RULES

Employees must familiarize themselves with performance standards and rules, and ask for clarity if unsure on any point. The rules below are general guidelines. Other specific rules, both written and unwritten, also apply in the Company's workplace. Failure to comply with rules may result in dismissal.

Employees must:

1. Attend work punctually.
2. Get prior permission to be absent, late, or leave work early.
3. If late or absent without permission, contact their manager by 09h00 for permission, or to advise of ill health.

DISCIPLINARY POLICY & PROCEDURE

4. Provide written proof, when instructed or as required by law, when late or absent.
5. Comply with their conditions of employment.
6. Carry out all reasonable and lawful instructions.
7. Behave in a lawful, orderly manner.
8. Comply with all rules and regulations.
9. Show due regard for all property on our premises.
10. Comply with safety requirements.

Employees must not:

1. Be dishonest, possess, use, or remove property (other than their own) from the Company's premises without prior permission.
2. Disclose confidential information to unauthorized persons, or act contrary to the Company's interests during and after employment.
3. Use abusive or offensive language, be insolent, show disrespect, or threaten.
4. Assault or carry dangerous weapons on the Company's property.
5. Display or distribute signs or notices without prior permission.
6. Engage in any other business or work without prior permission.
7. Bet or gamble on the Company's premises.

DISCIPLINARY POLICY & PROCEDURE

8. Bring liquor or non-prescribed drugs onto the Company's premises.
9. Appear to be under the influence of above during working hours.

2. DISCIPLINARY PROCEDURE

Commonly misunderstood beliefs about the Dismissal Code are clarified below. Read the Code for further clarification. A careful reading of the Code shows:

Employees should

- Have procedures conducted in a language they understand.
- Understand the complaint.
- Have reasonable time to prepare their explanation.
- Have the opportunity to state their case.
- Be assisted by a fellow employee or shop steward (if applicable) if they wish.
- Be advised of the decision.

Language

- We conduct our business in English.
- An employee wishing to speak another language during a procedure under this policy is responsible for arranging for a fellow employee interpreter to be available.

DISCIPLINARY POLICY & PROCEDURE

- If a fellow employee representative is also required this should also be the same person who interprets.

Complaint

- Is not a criminal “charge” and so should not be formulated legalistically.
- It should state simply what happened and what the employee did (or did not do).
- It should provide details, not just a ‘label’.
- E.g. Instead of ‘Dishonesty’, ‘Dishonesty in that you took XYZ cash without permission on ... (date)’.
- E.g. Instead of ‘Poor work performance’, ‘Poor work performance in that you sold 8 instead of 10 widgets this month.’

Reasonable time

- We have no requirement for “at least 24 hours written notice” of an investigation, counseling, discipline, or possible dismissal meeting.
- Notice may be verbal, face to face, by phone, sms, email, fax, telegram, or similar.
- No prior notice is required for informal and investigation meetings, as their purpose are usually to ask questions to establish the facts about a possible complaint.
- Prior notice that is of reasonable duration for other formal complaint meetings will depend on the nature of the complaint and other relevant factors.

DISCIPLINARY POLICY & PROCEDURE

- Employees may be suspended (usually on full pay) for a reasonable time (usually until the investigation of possible dismissal meeting) if their remaining at work poses a risk.

Representative

- Informal meetings, meaning those of which no written record is kept on the employee's file, should usually be held without the need for an employee representative present.
- Before formal meetings begin employees should first be advised they may have a fellow employee (or shop steward, if appropriate) present to assist them during the meeting, and given a short time to arrange a representative if required.
- The employee has no right to a specific fellow employee. If that representative is absent, the meeting need not be delayed. The employee should be given an opportunity to choose another.
- Unless a written agreement between a union and management allows for a shop steward to be represented by an external union official, no union official should be allowed.
- No external representative (e.g. lawyer, consultant) will be allowed at any meeting unless the employee motivates exceptional reasons in writing at least 12 hours before the meeting, and receives consent prior to a possible dismissal meeting only.

Opportunity to state a case

- There are (at least) two sides to every story.

DISCIPLINARY POLICY & PROCEDURE

- Employees who attend must be given a chance to state their case, not just to reply to any questions asked of them.
- They may state their version personally or through their representative.
- They may also choose to remain silent, but the risk of doing so should be explained.
- It is not unfair to continue with the meeting in the absence of an employee who has been notified but who refuses to attend, or who does not attend without reasonable prior contact with a valid reason.
- Absent employees may submit their case in writing, or on speakerphone.
- The probabilities of their version being true must be considered when deciding if there is probably a good reason for finding the complaint against them true.

Proof: Balance of probability vs. beyond reasonable doubt

- We are not a criminal court so need not be satisfied by proof beyond reasonable doubt that a complaint is true.
- Instead, as an employer, we must consider the two versions, the evidence from the employer and the employee's side, and decide, on a balance of probability, simply, whose version is probably true? Doubts as to 100% truth may fairly exist.

DISCIPLINARY POLICY & PROCEDURE

Counseling and Warning

- After considering the facts and the probable truth of the complaint, we should decide if no action, counseling or warning, or both, is appropriate.
- Neither needs to be recorded in writing to be valid, but may be informally (verbally) issued.
- If in writing, it need not be signed by the employee to be valid – the employee should be asked to sign that they have received a copy, not that they agree it is fair.
- Neither will be removed from the employees' personal file, but will remain on file permanently. Any recorded complaint documents may be fairly considered as part of the employee's employment history. The amount of weight attached should depend on factors like the nature and date of the complaint.
- We usually consider 'current' warnings as: 1st = 3 months / 2nd = 6 months / Final = 12 months. This means employees should perform and conduct themselves during this time without further complaints, or face more serious sanction including possible dismissal.
- Warnings need not follow a first, second and final written warning sequence. A final written warning may be fairly given for a first serious complaint. Dismissal may even be fair for a first gross complaint.
- An employee on, for example, a first written warning for complaint A (e.g. late), need not also receive a first written warning for unrelated complaint B (e.g. swearing), but may fairly get a second or even final

DISCIPLINARY POLICY & PROCEDURE

written warning for complaint B, even if the nature of the complaints are unrelated.

- No possible dismissal meeting is required before issuing a formal final written warning. It may be fairly issued by the employee's manager.
- After a final written warning or counseling, the next complaint, no matter how minor, is likely to result in dismissal. Employees should not expect any further corrective action after a final written warning or counseling.

Possible Dismissal Meeting (for misconduct)

This meeting should only be held when dismissal may be the appropriate action.

Chairperson

- The name of the chairperson should be advised to the employee at the time of giving notice of this type of meeting to address possible objection before the meeting starts.
- The chairperson should be trained and experienced in conducting such meetings, and should not be biased, meaning they must not have been involved in the investigation, the formulation of the complaint, and the preparation for the meeting.
- An external chairperson may be used.

Witnesses, evidence and 'cross-examination'

- Witnesses may be called by either side, waiting outside until their evidence.

DISCIPLINARY POLICY & PROCEDURE

- Employees are responsible to arrange their own witnesses.
- Absent witnesses may tell their version on speakerphone.
- While there is no right to cross-examine witnesses, both sides should be given an opportunity to challenge the witness' version.
- Hearsay evidence (meaning something the witness did not personally see or hear, but which they heard from another) is acceptable and must be considered with caution. Weight may be attached if corroborated by other facts.

Appropriate action

- Consideration should be given to the employment history (including service length, counselings and warnings).
- Aggravating factors include willfulness, no remorse, not admitting a blatant breach, dishonesty in the investigation and meeting.
- Mitigating factors include genuine remorse, and no actual serious loss, but personal circumstances should carry little weight.
- The appropriateness of alternative possible actions, as well as consistency, should be considered.

Written findings

- No recording of the meeting is required or allowed; employees can keep their own notes.
- The chairperson should keep a summary of key points for personal use.

DISCIPLINARY POLICY & PROCEDURE

- Afterwards the employee should get a written copy of the decision taken with reasons.

Appeal

- There is no appeal from informal action.
- There is no right of appeal in labour law - employees, and the employer, may request an appeal from a formal final written warning or final counseling or dismissal.
- This request must be made in writing within 3 working days of the sanction, giving detailed reason/s, and stating the desired outcome.
- There is no automatic meeting. Depending on the reason/s, the appeal may be answered in writing, or a meeting held to reconsider in full or in part.
- The sanction may be reduced, confirmed or increased on appeal.
- If employees are still unhappy with the action taken, they should be reminded of their right to refer a dispute to the appropriate external resolution centers.

DISCIPLINARY POLICY & PROCEDURE

D. CODE OF GOOD PRACTICE: DISMISSAL (LRA)

1. INTRODUCTION

- (1) This code of good practice deals with some of the key aspects of dismissals for reasons related to conduct and capacity. It is intentionally general. Each case is unique, and departures from the norms established by this Code may be justified in proper circumstances. For example, the number of employees employed in an establishment may warrant a different approach.
- (2) This Act emphasizes the primacy of collective agreements. This Code is not intended as a substitute for disciplinary codes and procedures where these are the subject of collective agreements, or the outcome of joint decision-making by an employer and a workplace forum.
- (3) The key principle in this Code is that employers and employees should treat one another with mutual respect. A premium is placed on both employment justice and the efficient operation of business. While employees should be protected from arbitrary action, employers are entitled to satisfactory conduct and work performance from their employees.

2. FAIR REASONS FOR DISMISSAL

- (1) A dismissal is unfair if it is not affected for a fair reason and in accordance with a fair procedure, even if it complies with any notice period in a contract of employment or in legislation governing employment. Whether or not a dismissal is for a fair reason is

DISCIPLINARY POLICY & PROCEDURE

determined by the facts of the case, and the appropriateness of dismissal as a penalty. Whether or not the procedure is fair is determined by referring to the guidelines set out below.

- (2) This Act recognizes three grounds on which a termination of employment might be legitimate. These are: the conduct of the employee, the capacity of the employee, and the operational requirements of the employer's business.
- (3) This Act provides that a dismissal is automatically unfair if the reason for the dismissal is one that amounts to an infringement of the fundamental rights of employees and trade unions, or if the reason is one of those listed in section 187.

The reasons include participation in a lawful strike, intended or actual pregnancy and acts of discrimination.

- (4) In cases where the dismissal is not automatically unfair, the employer must show that the reason for dismissal is a reason related to the employee's conduct or capacity, or is based on the operational requirements of the business. If the employer fails to do that, or fails to prove that the dismissal was effected in accordance with a fair procedure, the dismissal is unfair.

DISCIPLINARY POLICY & PROCEDURE

3. DISCIPLINARY MEASURES SHORT OF DISMISSAL

Disciplinary procedures prior to dismissal

- (1) All employers should adopt disciplinary rules that establish the standard of conduct required of their employees. The form and content of disciplinary rules will obviously vary according to the size and nature of the employer's business.

In general, a larger business will require a more formal approach to discipline. An employer's rules must create certainty and consistency in the application of discipline. This requires that the standards of conduct are clear and made available to employees in a manner that is easily understood. Some rules or standards may be so well established and known that it is not necessary to communicate them.

- (2) The courts have endorsed the concept of corrective or progressive discipline.

This approach regards the purpose of discipline as a means for employees to know and understand what standards are required of them. Efforts should be made to correct employees' behaviour through a system of graduated disciplinary measures such as counseling and warnings.

- (3) Formal procedures do not have to be invoked every time a rule is broken or a standard is not met. Informal advice and correction is the best and most effective way for an employer to deal with minor violations of work discipline. Repeated misconduct will warrant warnings, which themselves may be graded according to degrees of severity. More serious infringements or repeated misconduct may call

DISCIPLINARY POLICY & PROCEDURE

for a final warning, or other action short of dismissal. Dismissal should be reserved for cases of serious misconduct or repeated offences.

Dismissals for misconduct

- (4) Generally, it is not appropriate to dismiss an employee for a first offence, except if the misconduct is serious and of such gravity that it makes a continued employment relationship intolerable. Examples of serious misconduct, subject to the rule that each case should be judged on its merits, are gross dishonesty or willful damage to the property of the employer, willful endangering of the safety of others, physical assault on the employer, a fellow employee, client or customer and gross insubordination. Whatever the merits of the case for dismissal might be, a dismissal will not be fair if it does not meet the requirements of section 188.
- (5) When deciding whether or not to impose the penalty of dismissal, the employer should in addition to the gravity of the misconduct consider factors such as the employee's circumstances (including length of service, previous disciplinary record and personal circumstances), the nature of the job and the circumstances of the infringement itself.
- (6) The employer should apply the penalty of dismissal consistently with the way in which it has been applied to the same and other employees in the past, and consistently as between two or more employees who participate in the misconduct under consideration.

DISCIPLINARY POLICY & PROCEDURE

4. FAIR PROCEDURE

- (1) Normally, the employer should conduct an investigation to determine whether there are grounds for dismissal. This does not need to be a formal enquiry. The employer should notify the employee of the allegations using a form and language that the employee can reasonably understand. The employee should be allowed the opportunity to state a case in response to the allegations. The employee should be entitled to a reasonable time to prepare the response and to the assistance of a trade union representative or fellow employee. After the enquiry, the employer should communicate the decision taken, and preferably furnish the employee with written notification of that decision.
- (2) Discipline against a trade union representative or an employee who is an office-bearer or official of a trade union should not be instituted without first informing and consulting the trade union.
- (3) If the employee is dismissed, the employee should be given the reason for dismissal and reminded of any rights to refer the matter to a council with jurisdiction or to the Commission or to any dispute resolution procedures established in terms of a collective agreement.
- (4) In exceptional circumstances, if the employer cannot reasonably be expected to comply with these guidelines, the employer may dispense with pre-dismissal procedures.

DISCIPLINARY POLICY & PROCEDURE

5. DISCIPLINARY RECORDS

Employers should keep records for each employee specifying the nature of any disciplinary transgressions, the actions taken by the employer and the reasons for the actions.

6. DISMISSALS AND INDUSTRIAL ACTION

(1) Participation in a strike that does not comply with the provisions of Chapter IV is misconduct. However, like any other act of misconduct, it does not always deserve dismissal. The substantive fairness of dismissal in these circumstances must be determined in the light of the facts of the case, including:-

- (a) The seriousness of the contravention of this Act;
- (b) Attempts made to comply with this Act; and
- (c) Whether or not the strike was in response to unjustified conduct by the employer.

(2) Prior to dismissal the employer should, at the earliest opportunity, contact a trade union official to discuss the course of action it intends to adopt. The employer should issue an ultimatum in clear and unambiguous terms that should state what is required of the employees and what sanction will be imposed if they do not comply with the ultimatum. The employees should be allowed sufficient time to reflect on the ultimatum and respond to it, either by complying with it or rejecting it. If the employer cannot reasonably be expected to extend these steps to the employees in question, the employer may dispense with them.

DISCIPLINARY POLICY & PROCEDURE

7. GUIDELINES IN CASES OF DISMISSAL FOR MISCONDUCT

Any person who is determining whether a dismissal for misconduct is unfair should consider:-

- (a) Whether or not the employee contravened a rule or standard regulating conduct in, or of relevance to, the workplace; and
- (b) If a rule or standard was contravened, whether or not:-
 - (i) The rule was a valid or reasonable rule or standard;
 - (ii) The employee was aware, or could reasonably be expected to have been aware, of the rule or standard;
 - (iii) The rule or standard has been consistently applied by the employer; and
 - (iv) Dismissal was an appropriate sanction for the contravention of the rule or standard.

8. INCAPACITY: POOR WORK PERFORMANCE

(1) Probation

- (a) An employer may require a newly-hired employee to serve a period of probation before the appointment of the employee is confirmed.
- (b) The purpose of the probation is to give the employer an opportunity to evaluate the employee's performance before confirming the appointment.

DISCIPLINARY POLICY & PROCEDURE

- (c) Probation should not be used for purposes not contemplated by this Code to deprive employees of the status of permanent employment. For example, a practice of dismissing employees who complete their probation periods and replacing them with newly-hired employees is not consistent with the purpose of probation and constitutes an unfair labour practice.
- (d) The period of probation should be determined in advance and be of reasonable duration. The length of the probationary period should be determined with reference to the nature of the job and the time it takes to determine the employee's suitability for continued employment.
- (e) During the probationary period, the employee's performance should be assessed. An employer should give an employee reasonable evaluation, instruction, training, guidance or counseling in order to allow the employee to render a satisfactory service.
- (f) If the employer determines that the employee's performance is below standard, the employer should advise the employee of any aspects in which the employer considers the employee to be failing to meet the required performance standards. If the employer believes that the employee is incompetent, the employer should advise the employee of the respects in which the employee is not competent. The employer may either extend the probationary period or dismiss the employee after complying with sub items (g) or (h), as the case may be.

DISCIPLINARY POLICY & PROCEDURE

- (g) The period of probation may only be extended for a reason that relates to the purpose of probation. The period of extension should not be disproportionate to the legitimate purpose that the employer seeks to achieve.
 - (h) An employer may only decide to dismiss an employee or extend the probationary period after the employer has invited the employee to make representations and has considered any representations made. A trade union representative or fellow employee may make the representations on behalf of the employee.
 - (i) If the employer decides to dismiss the employee or to extend the probationary period, the employer should advise the employee of his or her rights to refer the matter to a council having jurisdiction, or to the Commission.
 - (j) Any person making a decision about the fairness of a dismissal of an employee for poor work performance during or on expiry of the probationary period ought to accept reason for dismissal that may be less compelling than would be the case in dismissals effected after the completion of the probationary period.
- (2) After probation, an employee should not be dismissed for unsatisfactory performance unless the employer has:-
- (a) Given the employee appropriate evaluation, instruction, training, guidance or counseling; and
 - (b) After a reasonable period of time for improvement, the employee continues to perform unsatisfactorily.

DISCIPLINARY POLICY & PROCEDURE

- (3) The procedure leading to dismissal should include an investigation to establish the reasons for the unsatisfactory performance and the employer should consider other ways, short of dismissal, to remedy the matter.
- (4) In the process, the employee should have the right to be heard and to be assisted by a trade union representative or a fellow employee.

9. GUIDELINES IN CASES OF DISMISSAL FOR POOR WORK PERFORMANCE

Any person determining whether a dismissal for poor work performance is unfair should consider:

- (a) Whether or not the employee failed to meet a performance standard; and
- (b) If the employee did not meet a required performance standard whether or not:-
 - (i) The employee was aware, or could reasonably be expected to have been aware, of the required performance standard;
 - (ii) The employee was given a fair opportunity to meet the required performance standard; and
 - (iii) Dismissal was an appropriate sanction for not meeting the required performance standard.

10. INCAPACITY DUE TO ILL HEALTH

- (1) Incapacity on the grounds of ill health or injury may be temporary or permanent. If an employee is temporarily unable to work in these circumstances, the employer should investigate the extent of the

DISCIPLINARY POLICY & PROCEDURE

incapacity or the injury. If the employee is likely to be absent for a time that is unreasonably long in the circumstances, the employer should investigate all the possible alternatives short of dismissal. When alternatives are considered, relevant factors might include the nature of the job, the period of absence, the seriousness of the illness or injury and the possibility of securing a temporary replacement for the ill or injured employee. In cases of permanent incapacity, the employer should ascertain the possibility of securing alternative employment, or adapting the duties or work circumstances of the employee to accommodate the employee's disability.

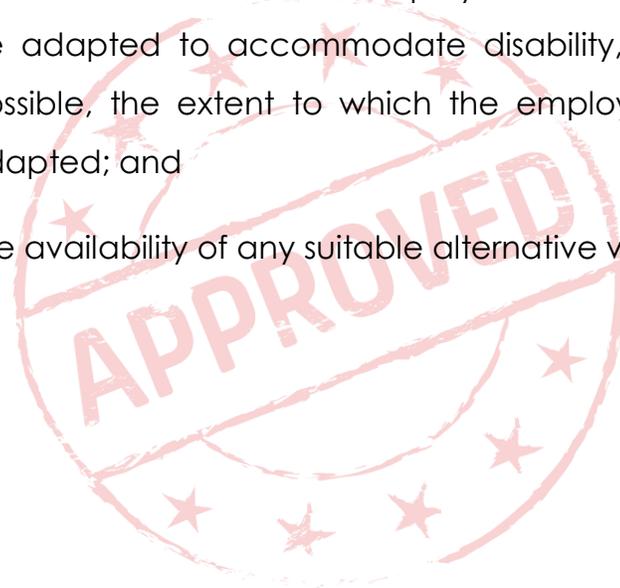
- (2) In the process of the investigation referred to in subsection (1) the employee should be allowed the opportunity to state a case in response and to be assisted by a trade union representative or fellow employee.
- (3) The degree of incapacity is relevant to the fairness of any dismissal. The cause of the incapacity may also be relevant. In the case of certain kinds of incapacity, for example alcoholism or drug abuse, counseling and rehabilitation may be appropriate steps for an employer to consider.
- (4) Particular consideration should be given to employees who are injured at work or who are incapacitated by work-related illness. The courts have indicated that the duty on the employer to accommodate the incapacity of the employee is more onerous in these circumstances.

DISCIPLINARY POLICY & PROCEDURE

11. GUIDELINES IN CASES OF DISMISSAL ARISING FROM ILL HEALTH OR INJURY

Any person determining whether a dismissal arising from ill health or injury is unfair should consider:

- (a) Whether or not the employee is capable of performing the work; and
- (b) If the employee is not capable:-
 - (i) The extent to which the employee is able to perform the work;
 - (ii) The extent to which the employee's work circumstances might be adapted to accommodate disability, or, where this is not possible, the extent to which the employee's duties might be adapted; and
 - (iii) The availability of any suitable alternative work.



DISCIPLINARY POLICY & PROCEDURE

E. FORMS

1. Job Performance Counseling
2. Discipline Warning
3. Notice of Possible Dismissal Meeting
4. Possible Dismissal Meeting Decision
5. Appeal Request



DISCIPLINARY POLICY & PROCEDURE

COMPANY NAME

FORM 1

COUNSELING FORM

TO: _____ Employee Number: _____

FOR:

EMPLOYEE'S CASE:

STANDARDS/ACTION EXPECTED IN FUTURE (from employee):



DISCIPLINARY POLICY & PROCEDURE

This counseling record remains permanently on your file. You must familiarize yourself with and meet our standards. Any further sub-standard performance could, despite improvement, and after you have had a chance to state your case, lead to your dismissal.

ISSUED BY: Signature (immediate manager) _____
Name _____
Department _____
Date _____



(OPTIONAL) RECEIVED BY:

I have read, understood and acknowledge receipt of this performance caution.

Signature (employee) _____
Date _____

OR WRITE: 'Refused to Sign'

Copy Personnel File

DISCIPLINARY POLICY & PROCEDURE

COMPANY NAME

FORM 2

DISCIPLINARY WARNING

TO: _____ Employee Number: _____

WARNING LEVEL:

FIRST

SECOND

FINAL

Verbal

Written

Final Written

CURRENT FOR:

3 MONTHS

6 MONTHS

12 MONTHS

FOR:

STANDARDS EXPECTED IN FUTURE:

DISCIPLINARY POLICY & PROCEDURE

EMPLOYEE'S CASE:

This warning remains permanently on your file. You must familiarize yourself with and obey our rules. Any further breach of rules could, after you have had a chance to state your case, lead to your summary dismissal.

ISSUED BY: Signature (Immediate manager) _____
Name _____
Department _____
Date _____

(OPTIONAL) RECEIVED BY:

I have read, understood and acknowledge receipt of this performance caution.

Signature (employee) _____
Date _____

OR WRITE: 'Refused to Sign'

Copy Personnel File

DISCIPLINARY POLICY & PROCEDURE

COMPANY NAME _____

FORM 3

NOTICE OF POSSIBLE DISMISSAL MEETING

ISSUED TO:

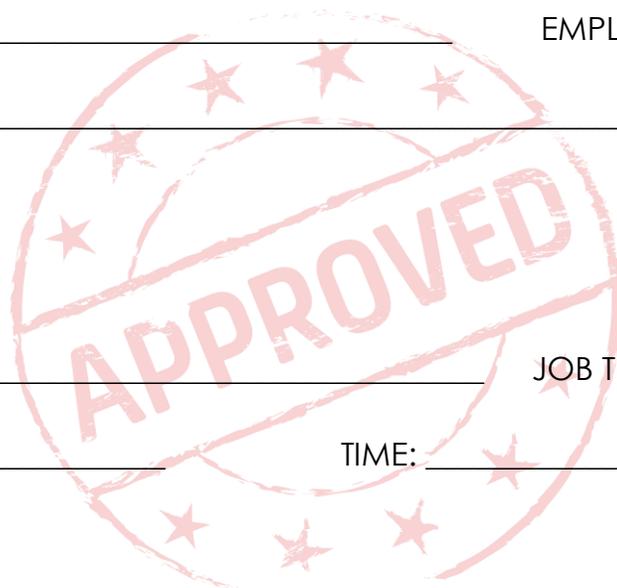
NAME: _____ EMPLOYEE NO. _____

DEPARTMENT: _____

ISSUED BY:

NAME: _____ JOB TITLE: _____

DATE: _____ TIME: _____



1. Please attend a possible dismissal meeting concerning your alleged misconduct.

DATE: _____ **TIME:** _____

PLACE: _____ **CHAIRPERSON:** _____

DISCIPLINARY POLICY & PROCEDURE

2. The complaint/s against you:

3. You are / are not suspended on full pay until the meeting. Note, if suspended, that you are not allowed on our premises until the meeting or to have contact with our staff, suppliers or customers without our prior consent.

4. Advise if you want a fellow employee representative (no outsiders) and have employee witness/es so we can, if necessary, make arrangements for them to meet with you in advance and attend.

5. Depending on the evidence at the meeting, you may be summarily dismissed, so it is important you attend, or be available by phone or submit your case in writing.

6. If you fail to arrive punctually without good reason (supported by written proof) being given reasonably in advance, the hearing will usually be held without you, and you may still be dismissed.

DISCIPLINARY POLICY & PROCEDURE

7. A fair meeting means you should:
- be told and understand the complaint/s
 - have reasonable time to prepare
 - be assisted by a willing fellow employee representative/ interpreter if you wish
 - be allowed the opportunity to state your case
 - be allowed the opportunity to question our witnesses and call your witnesses
 - be told the finding on each complaint (is it probably true or not?) and the reason/s
 - have mitigating factors, including your employment history, considered
 - be told of the sanction and the reason/s

Manager's Signature: _____

I have received, and understand the importance of this notice and the seriousness of the meeting.

Employee's Signature: _____

Received on: _____

Time: _____

OR WRITE: 'Refused to Sign'

DISCIPLINARY POLICY & PROCEDURE

COMPANY NAME _____

FORM 4

POSSIBLE DISMISSAL MEETING DECISION

DATE/S _____

PLACE: _____

START: _____ ADJOURN: _____

RECONVENE: _____ END: _____

Present: Chairperson _____

(Management's side): Presenter _____

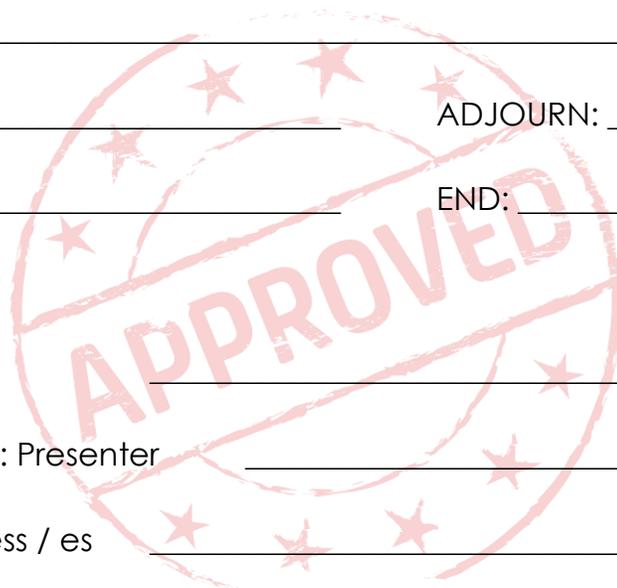
Management's witness / es _____

(Employee's side): Employee _____

Employee's Witness / es _____

Language: _____ Interpreter? _____

Representative: _____



DISCIPLINARY POLICY & PROCEDURE

Read, understood complaint/s? _____

Reasonable time to prepare? _____

Understand 'balance of probability' (whose version probably true?) _____

The complaint /s:

Pleading: True / Not true



Summary of management's case:

DISCIPLINARY POLICY & PROCEDURE

Summary of Employee's Case:

Finding: Complaint / s probably true or not true?

Reasons



(See separate written findings for more details if insufficient space)

Factors considered regarding appropriate action:

Aggravating:

Mitigating:

DISCIPLINARY POLICY & PROCEDURE

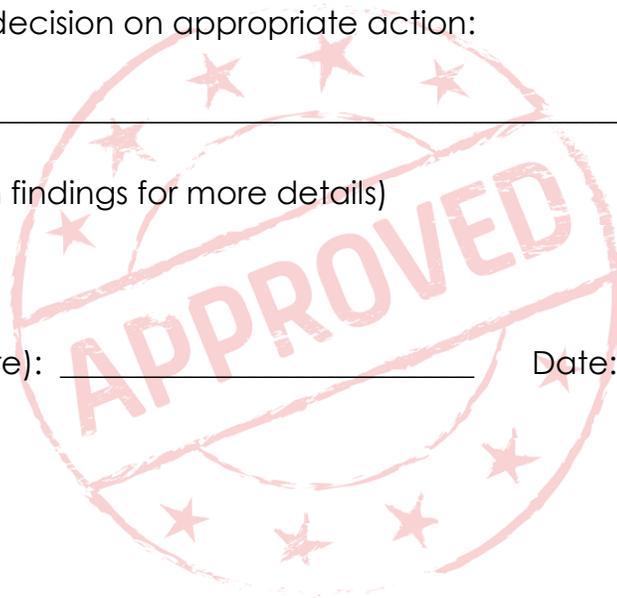
(See separate written findings for more details if insufficient space)

Is dismissal appropriate? _____..If so, why?

Recommendation / decision on appropriate action:

(See separate written findings for more details)

Chairperson (signature): _____ Date: _____



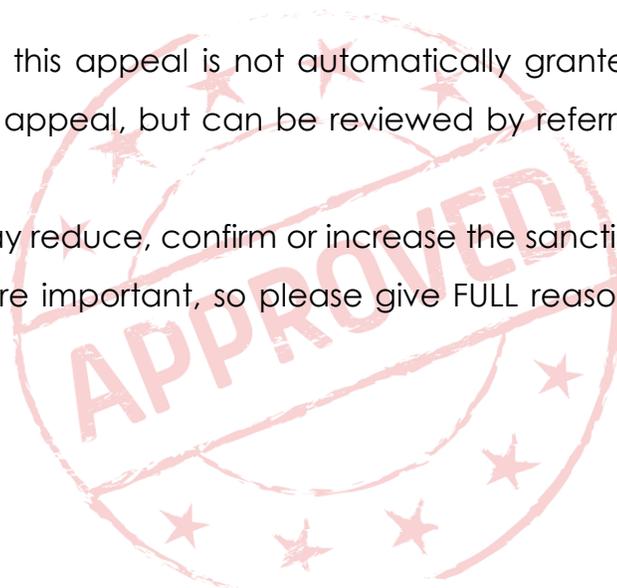
DISCIPLINARY POLICY & PROCEDURE

COMPANY NAME

FORM 5

APPEAL REQUEST

1. To be submitted within 36 working hours of final counseling, warning, or dismissal.
2. As with Courts, this appeal is not automatically granted. If granted, it need not be a 'live' appeal, but can be reviewed by referring to documentation only.
3. The appeal may reduce, confirm or increase the sanction.
4. Your reasons are important, so please give FULL reasons. (Use extra paper if necessary.)



APPEAL REASON(S):

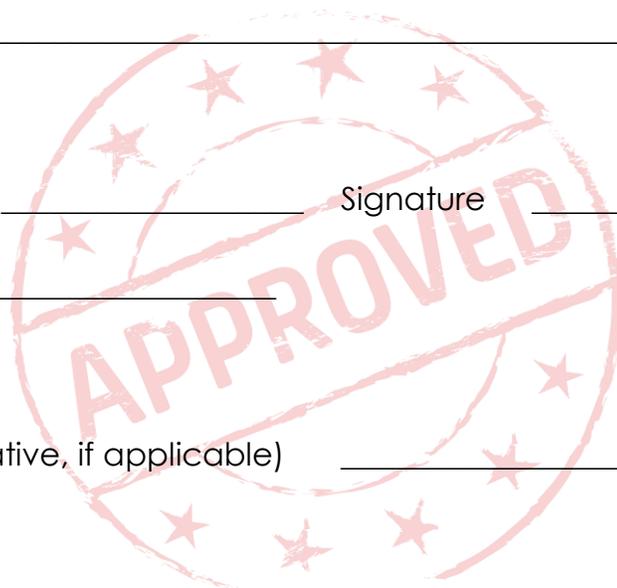
DISCIPLINARY POLICY & PROCEDURE

OUTCOME DESIRED: I feel it would be fair that:

Employee/er names: _____ Signature _____

Date: _____

Signature (representative, if applicable) _____



(This section and extra paper if needed, is to be completed by the senior person considering the Appeal Request and returned to the employee/er within 7 working days of the request being received by the employer.)

FINAL DECISION:

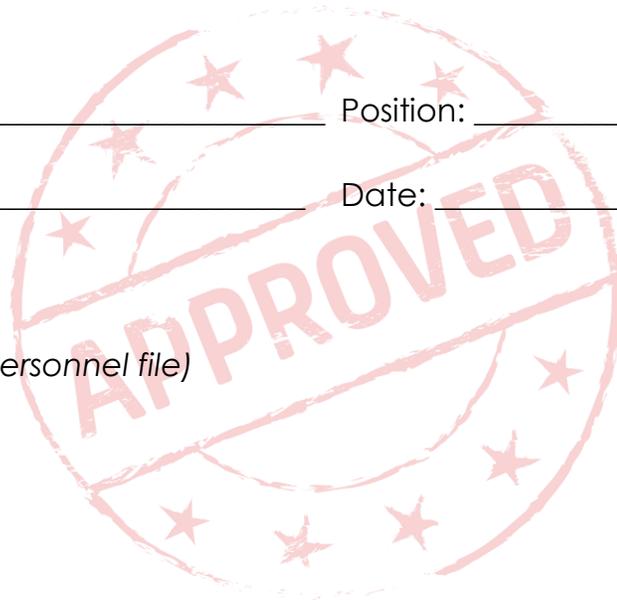
DISCIPLINARY POLICY & PROCEDURE



Appeal manager: _____ Position: _____

Signature: _____ Date: _____

(Copies: Employee, Personnel file)



DISCIPLINARY POLICY & PROCEDURE

GENERAL NOTES

Writer's notes

The South African labor legislation was used as a backdrop to this Disciplinary Policy and Procedure, as South Africa has an outstanding Labor Relations Act, 1985, and it has a Code of Good Practice for Dismissal (Schedule 8, LRA SA).

Companies in South Africa also have an external dispute resolution center known as the CCMA (Commission for Conciliation, Mediation and Arbitration). Each country has its own dispute resolution mechanisms in place, and you should comply with their rules and codes of good practice.

The CCMA was established in terms of the Labour Relations Act, 1995 as amended. The CCMA arbitrates certain categories of disputes that remain unresolved after conciliation, and establishes picketing rules, facilitates the establishment of workplace forums and statutory councils, and much more. Whilst the process might appear cumbersome, it fairly and equitably resolves issues without having to go through the expenses of private litigation. This is excellent news for employees who simply do not have the finances to battle large corporations in the court room. Basically, this levels the playing field.

The CCMA has a guideline for Misconduct Arbitrations, which further assists employers and employees in knowing how disputes will be managed.