

SMC Management Academy

Progressive Intervention Series for Classified Employees

“Progressive Intervention I: An Introduction”

Dr. Tre’Shawn Hall-Baker and Michael Hudson

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Elements of Performance Management

- Establishing Goals and Expectations
- Acknowledging and Guiding Employees
- Performance Appraisals
- Progressive Intervention, including Discipline

What is Progressive Intervention?

Progressive intervention is the series of steps taken to correct performance or conduct when an employee is not meeting communicated standards.

When is Progressive Intervention Used?

Progressive Intervention is used when an employee is not meeting communicated standards.

Available Steps in Progressive Intervention

- **Oral/written reminders**
- **Oral counseling**
- **Written counseling**
- **Conference memos**
- **Letters of Reprimand**
- **Suspension**
- **Demotion**
- **Dismissal**
- **Reassignment**

Available Steps in Progressive Intervention: Discipline

- Oral/written reminders
- Oral counseling
- Written counseling
- Conference memos
- Letters of Reprimand
- **Suspension**
- **Demotion**
- **Dismissal**
- **Reassignment**

Discipline

- **Associated with loss of income or current position**
- **Due Process Rights protected by the Personnel Commission**

Discipline

- EC§88001 (e) **disciplinary action Classified:**
- “(e) “Disciplinary action” includes any action whereby an employee is deprived of any classification or any incident of any classification in which he or she has permanence, including dismissal, suspension, demotion, or any reassignment, without his or her voluntary consent, except a layoff for lack of work or lack of funds.”

Why is Discipline Used?

- To correct conduct or performance as a consequence of failing to meet clearly communicated expectations after proper intervention measures have been utilized.

Progressive Intervention for Classified Employees at SMC (CSEA Employees)

- **Article XIII of the SMC-CSEA Contract.**
- **Chapter 14 of the Personnel Commission Merit Rules**



PERSONNEL COMMISSION
SANTA MONICA COMMUNITY COLLEGE DISTRICT

RULES AND REGULATIONS

Progressive Intervention for Classified Employees at SMC (Non-CSEA Employees)

- **Chapter 14 of the Personnel Commission Merit Rules**

PERSONNEL COMMISSION
SANTA MONICA COMMUNITY COLLEGE DISTRICT
RULES AND REGULATIONS

Probationary Classified

- Classified Employee
 - 130 day probationary period
- Executive or Administrative Classified
 - 260 day probationary period
 - Personnel Commission Rule 701
- Probationary Period
 - Extension of the Selection Process
 - Time for on-the-job evaluation

Disqualification of Probation Employee (Classified)

- Not a disciplinary action
- Complete scheduled evaluations per CBA
- Counsel the employee on deficiencies
- The employee may have retreat rights.
 - Personnel Commission Merit Rule 9.3.3

Probation vs. Permanency

- Probationary period – Engagement
- Permanency – Marriage



A Positive Experience?



A Positive Experience

- **In most cases, discipline should be viewed as a positive experience, used to modify behavior, rather than penalize an employee.**
- **Discipline should normally follow other progressive intervention steps. The employee should be informed of the work standards required and warned of the offenses prior to the imposition of discipline.**

What is Due Process?

- Important safeguards that are to take place before disciplinary action becomes effective.
- It's a Constitutional Guarantee to prevent arbitrary action against employees.

Discipline of Permanent Employees

- Cause for Discipline is required
- Classified Employees
 - Causes: CSEA Contract Article 13

Employee Discipline and Just Cause

- A District regular classified or academic employee may be disciplined or terminated only for just cause.
- Just cause means that the District cannot exercise its power to discipline and/or terminate an employee for capricious, arbitrary or discriminatory reasons.
- **Permanent Employees:** Have a “**Property Right**” to their job – 14th amendment to U.S. Constitution – states in relevant part: “(N)or shall any State deprive any person of life, liberty or “property,” without due process of law...” This right is also provided by the California State Constitution.

Elements of Discipline

Just Cause

- **Just Cause** – Discipline should be taken for sound, work-related reasons; should not be arbitrary, capricious or discriminatory. Rules should be enforced *consistently* and *uniformly*.

Elements of Discipline

Just Cause

- **Merit Rules Causes and Collective Bargaining Agreement**
- **As prescribed by Law**
- **Examples: Insubordination or willful disobedience, loss of license**

Elements of Discipline

Fair Play

- **Fair play** – Discipline should not be a surprise; warnings are required (except in cases of serious misconduct)

Elements of Discipline

Fair Play

- **Requires progressive intervention (except serious cases)**
- **Requires communication of expectations and standards**
- **Example: Performance**

Elements of Discipline

Due Process

- **Due Process** –

Requires that the accused be provided:

- specific information regarding charges, including copies of relevant material.
- representation, upon request.
- opportunity to state his/her side before action is taken.
- the right of appeal.

Elements of Discipline

Due Process

- **Investigative Conference (Optional)**
- **Notice of Unsatisfactory Service**
- **Administrative “Skelly” Review**
- **Board of Trustees action**
- **Appeal to Personnel Commission**
- **Representation - “Weingarten Rights”**

Checklist for Due Process

- **Evidence** – Has the District developed substantial, verifiable evidence that a violation has occurred? Will the District be able to prove, through the introduction of evidence and credible testimony, that a violation occurred?
- **Equal Treatment** – Has the employee in question been treated in a manner similar to other similarly situated employees? Will the proposed discipline be applied in a *non-discriminatory* manner?
- **Appropriateness** – Is the level of proposed discipline commensurate with the seriousness of the violation and does it take into account the employee's prior performance record and other mitigating factors? Have the appropriate steps of progressive discipline been properly applied?

Checklist for Due Process

- Operationally, the following checklist defines just cause:
 - **Forewarning and Notice** – Was the employee informed, warned or put on notice, either orally or in writing, of the probable disciplinary consequences of his or her less than satisfactory behavior or performance?
 - **Reasonableness** – Was the rule, regulation or policy or procedure that was allegedly violated by the employee reasonably related to the orderly, efficient and safe conduct of the District's business?
 - **Investigation** – Did the District undertake a fair and objective investigation in such detail as to be able to reasonably conclude that the employee did, in fact, violate the specific rule, regulation, policy or procedure that was cited? Usually, a part of a complete investigation would include an investigative interview with that employee.