



FAIRNESS/DIGNITY FACTORS CHECKLIST FOR DISCIPLINE/DISCHARGE

The more of these questions that are answered Ayes, the greater the likelihood that the employee will not assert a claim.

A. NOTICE/DOCUMENTATION

Has this employee been given clear, unambiguous and written notice on several occasions of the performance deficiency/problem?

Has the employee been give several real opportunities over a period of time to cure the problem?

Does the written notice accurately and neutrally state the problem, the action needed to correct the problem and the likely consequences of a failure to correct the problem?

B. RELATIONSHIP WITH SUPERVISOR/KEY DECISION-MAKER

Does the employee enjoy a good or at least neutral relationship with the supervisor/key decision-maker?

Does the employee perceive the supervisor/key decision-maker as fair? Within the organization, is the supervisor/key decision-maker perceived as fair? If not, is anyone involved in the decision whom the employee will consider to be fair?

Has the tone of all discipline and counseling been thoughtful, objective and without anger?

C. PROCESS

7. If the employer has made some mistakes in its prior handling or treatment of this employee, has an explanation and/or a sincere apology been given?

8. Will the employee be given the real and truthful reasons for the disciplinary action?

1. Will the employee be given an opportunity to be heard in meetings involving discipline or discharge?

2. Is there an internal process or appeal procedure available to which the employee can go to appeal or questions the decision?

D. DIGNITY AND COMMUNICATION

3. Will the termination be handled in a dignified, humane and private manner?

4. Will the termination avoid events that will likely embarrass the employee (e.g., being escorted from the premises by a security guard, being required to clean out one's desk during the workday)?
5. Will the termination meeting avoid personal criticisms and attacks and stigmatizing terms such as Ainsubordination,≡ Atheft,≡ Aincompetence,≡ and Agross misconduct?≡
6. Will the employer ensure that the reasons for discipline and/or termination are kept as confidential as is reasonable?
7. Will the employer counsel managers and employees to avoid discussions about the terminated employee and take action to stop gossip, rumor-mongering and negative comments?

E. JUSTICE

8. Viewed objectively, are the reasons for the discipline or termination fair to the individual, to other employees and to the organization?
9. Is the disciplinary action necessary for the good of the employees and the organization?

F. HARDSHIP

10. Has the employer fully considered lesser alternatives to the discipline/discharge or means of limiting the personal hardship? Can the employee be given an opportunity to resign?

G. THE GOLDEN RULE

11. If you or a family member were being terminated, would you be satisfied with the manner in which the employer intends to handle the termination?

This checklist has been adapted from a checklist created by Joan Morrow, Neutral Mediator, for the Minnesota Employment Law CLE, May 1996.