



# Discipline Checklist

## 1. Was the employee aware of the rules governing employee conduct?

- **Examples of employee awareness regarding the rules:**
  - a) signed acknowledgement of the rules
  - b) written documentation indicated that the employee received notice of the rules
  - c) employee statement confirming knowledge of the rule

## 2. Are the rules that the employee allegedly violated reasonable?

- **The higher the authority for the rule, the greater likelihood of meeting the reasonable rule test, e.g.:**
  - a) City Charter
  - b) Administrative Code
  - c) Civil Service Rules
  - d) Employee Handbook
- **Other rules should be carefully assessed for reasonableness, such as:**
  - a) Rules at the Division or unit level
  - b) Rules promulgated by someone other than the Appointing Authority

## 3. Was the employee warned of possible discipline for rule violations?

- **Identify the documentation(s) of the warning:**
  - a) Written warning
    - Warnings signed by or acknowledged by the employee have greater weight
  - b) Verbal warning
    - Contemporaneous notes (if available)
    - Evidence that the employee was warned of the consequences

## 4. Did the employer conduct a full and fair investigation?

- **Conduct Interviews:**
  - a) The employee(s) alleged
  - b) The accuser (if applicable)
  - c) Any witness or witnesses to the alleged misconduct or performance deficiencies
- Production of documents supporting the allegation of rule violations or performance deficiencies is important evidence that a full investigation was conducted
- **Review the process used:**
  - a) Does it appear the investigator steering the investigation toward a predetermined outcome by selective uncovering or citation of evidence, indicating bias?
- **Timeliness of the investigation:**
  - a) Identify (if any) the legitimate business reasons for the failure to produce timely findings



## 5. Did the investigation produce evidence that the employee violated the rules or engaged in the misconduct?

- Evidence is the basis for the findings
- Each specific piece of evidence should be considered and provided relative weight, irrespective of whether it supports or negates, in part or in whole, the overall conclusion

## 6. Have the principles of progressive discipline been applied?

- **Levels of progressive discipline:**
  - a) Verbal Warning
  - b) Written Warning
  - c) Suspension 1-30 days
  - d) Termination
- **Prerequisites for progressive discipline:**
  - a) Employee is notified of potential consequences of misconduct, rule violations or performance deficiencies
  - b) Employee is afforded opportunities to make course corrections to avoid further consequences
  - c) Employee is disciplined at the lowest reasonable level unless it is a repeated offense
- **Exceptions to progressive discipline:**
  - a) Nature and gravity of the alleged offense are substantial enough to justify greater discipline beyond the lowest level
    - the commission of a crime
    - violence in the workplace
- **Evaluation of the discipline:**
  - a) Is the level of discipline is reasonable for the offense or conduct?
  - b) If the discipline is beyond what would apply under the doctrine of progressive discipline due to the nature or gravity of the offense, address the exception and the reasons in the charges

## 7. Is the City applying equal treatment for similar conduct by similarly-situated employees?

- Before reaching a conclusion, based on the totality of circumstances, the Department must consider whether the level of discipline is similar or the same as discipline imposed on other employees for the same or similar rule violations, misconduct or performance deficiencies
- Minor variances are reasonable based on the totality of circumstances in each case
- Major variations should be carefully vetted for possible inconsistencies or bias