

Alternative Discipline: Creative Solutions for Agencies to Effectively Address Employee Misconduct

Research
Highlights



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Alternative discipline is an effort, undertaken by an employer, to address employee misconduct using a method other than traditional discipline. Traditional discipline most often takes the form of a reprimand (sometimes called an admonishment), suspension, change to lower grade, or removal, whereas alternative discipline allows more flexible options to address the problem.

What does an agency need to know?

- Policies, or at least guidance, on the use of alternative discipline can help ensure that human resources staff properly advise managers on the issues to consider when determining if alternative discipline is appropriate and, if so, what approaches should be considered.
- Mandating the use of alternative discipline without consideration of unique circumstances hinders the parties' flexibility to make the agreement match the situational needs.
- The more items that agencies insist are non-negotiable, the more supervisors are limited in their ability to reach fair and effective solutions.

What does a manager need to know?

- Each situation should be judged on its own merits. What works for one type of offense or one employee may not be as successful for a different offense or employee.
- Not every situation is appropriate for alternative discipline, and it should not be used if management has reason to believe traditional discipline is likely to be more effective.
- While traditional discipline is unilateral, alternative discipline that is the result of an agreement is a form of contract, meaning that contract law will be used to interpret it.
- Alternative discipline agreements should be drafted in consultation with legal advisors.
- A term of the agreement can be that the employee waives his or her appeal or grievance rights, but if the agreement is reached under the threat of the agency taking an adverse action, for the agreement to be valid, the agency has to believe in good faith that it could take the threatened action.

Elements of alternative discipline agreements to correct underlying problems and permit future traditional disciplinary actions if needed may include one or more of the following:

- Employee performs hours of community service equal to the amount of time that would have been spent on a suspension.
- Employee attends an appropriate program approved by the Employee Assistance Program (EAP).
- Employee serves the suspension on a weekend or other non-duty days to enable the agency to continue to use the employee's services and to prevent a financial impact on the employee.
- Employee serves a suspension in smaller pieces over the course of multiple pay periods to soften the financial impact.
- Employee serves a suspension that exists only on paper – no loss of duties or pay but the agreement states that the paper will be considered equivalent to a suspension of a particular length.
- Employee's suspension is recorded as LWOP so that there will be no permanent record of a disciplinary action.
- Employee's penalty is held in abeyance; if there is another incident in a specified time period, the penalty takes effect, but if there is not an incident during that period, the penalty will not take effect.

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