



To partner with local governments so that Texas communities are **STRONGER TOGETHER**

1

Safety Matters. Stay Connected.



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TMLIRP CyberBytes - Hank's Hacks Video #2



3

Our Coverages



**Workers'
Compensation**



Liability



Property



Cyber Liability



Special Risk



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Performance Management and Disciplinary Actions for Supervisors

Note: We are not attorneys and cannot provide legal advice. We strongly encourage you to have discussion related to this topic with your attorney and review your policies, federal, state and local laws, including your charter, ordinances and resolutions.

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Learning Objectives

At the end of this session, participants will be able to:

- Identify their role in the employment life cycle of Acquisition (effective recruitment), Alignment (on-boarding (new hire orientation)), Development (performance management beyond appraisal) and Retention (ROI or (self)deselection)
- Identify personnel issues and know when to partner with HR
- Identify the importance of job descriptions and accurately complete performance evaluations
- Identify effective steps to disciplinary action and understand when to start the disciplinary process
- Identify the importance of **GOOD** documentation

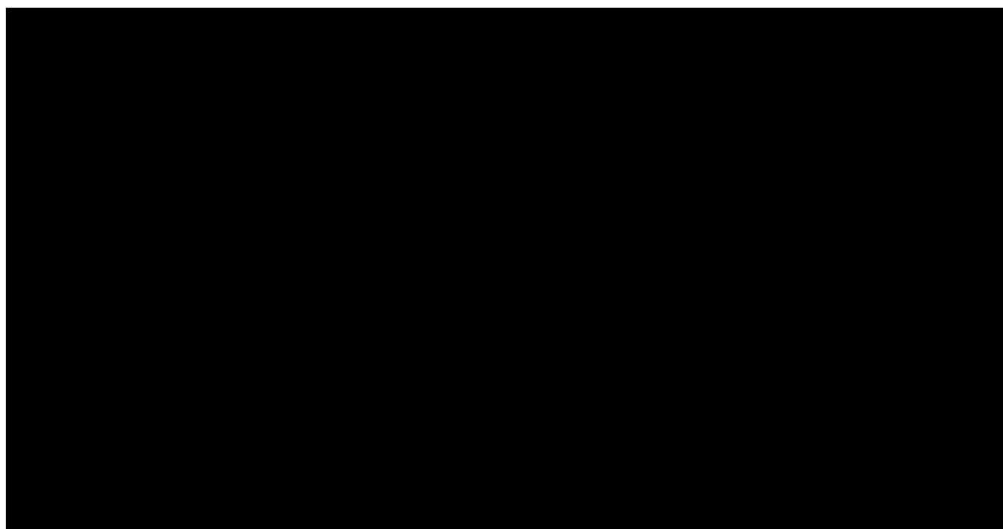


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Symphonic Performance Management*

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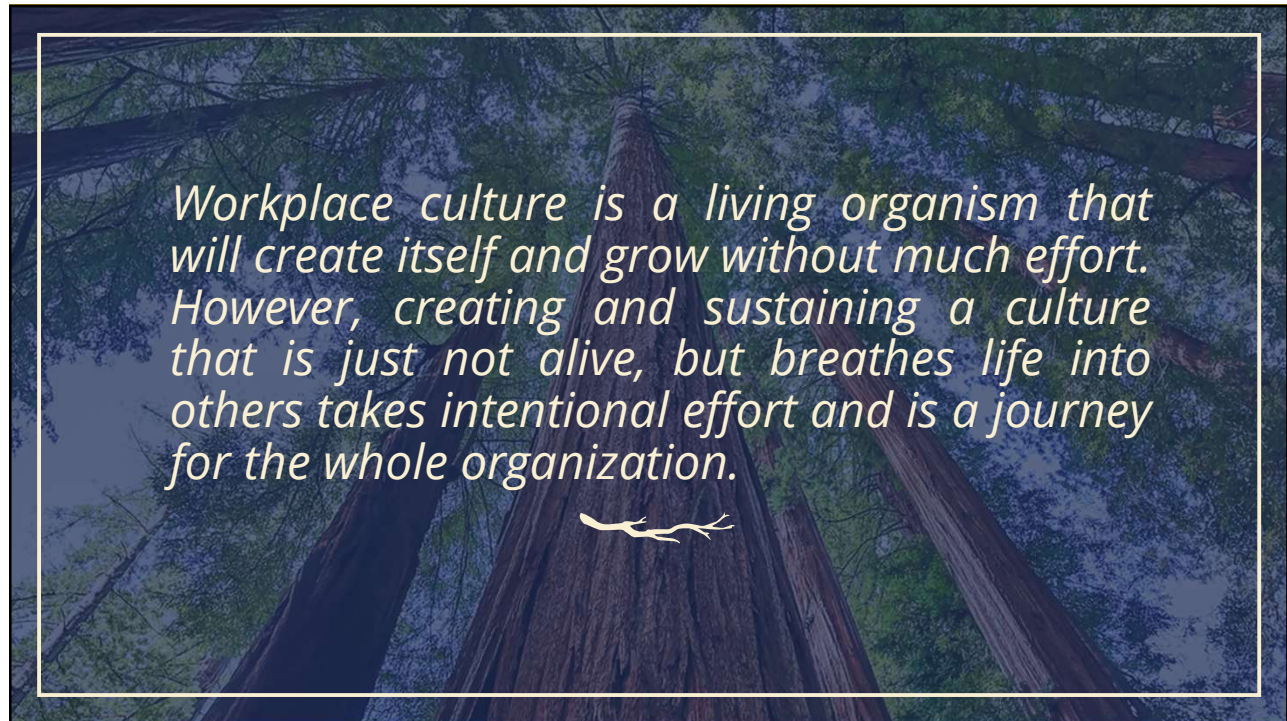


*https://youtu.be/PJNp5UKRtbQ?si=N_pBoF4YOGf19LGc



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Leadership is Relational

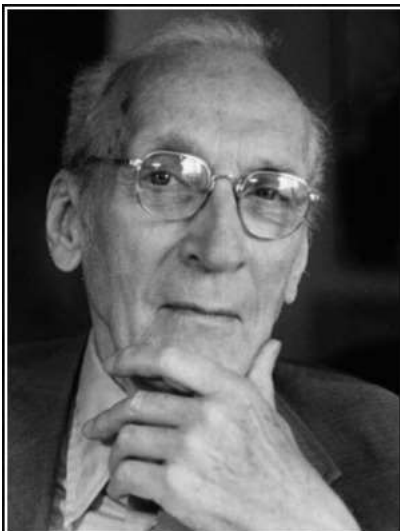
“In Organizations, real power and energy is generated through relationships. The patterns of relationships and the capacities to form them are more important than tasks, functions, roles, and positions.”

Margaret Wheatly



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Servant Leadership



The servant-leader is servant first... It begins with the natural feeling that one wants to serve, to serve first. Then conscious choice brings one to aspire to lead. That person is sharply different from one who is leader first.

— Robert K. Greenleaf —

AZ QUOTES

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Supervisor Characteristics

Take a few minutes to talk amongst yourselves (with the people around you) what are some

- **GOOD supervisor characteristics you have experienced**
- **BAD supervisor characteristics you have experienced**

Please do not use any names



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Does This Resonate?

BOSS vs. LEADER 10 HUGE DIFFERENCES

Infographic by @agrassoblog

BOSS	LEADER
Says "I"	Says "We"
Takes Credit	Gives Credit
Micromanages	Delegates
Criticizes	Encourages
Focuses on Weaknesses	Focuses on Strengths
Blames Others	Takes Responsibility
Directs	Coaches
Speaks More	Listens More
Inspires Fear	Inspires Enthusiasm
Commands	Asks



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Setting the Table

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Possible Performance Response Missteps

- Being unfamiliar with your policies and procedures
- Sloppy documentation
- Dishonest appraisals
- Inconsistent statements
- Not taking complaints seriously
- Poor interviewing techniques
- Changing rationale over time
- Lack of employment law knowledge
- Over documenting
- Failing to work with an employee before termination



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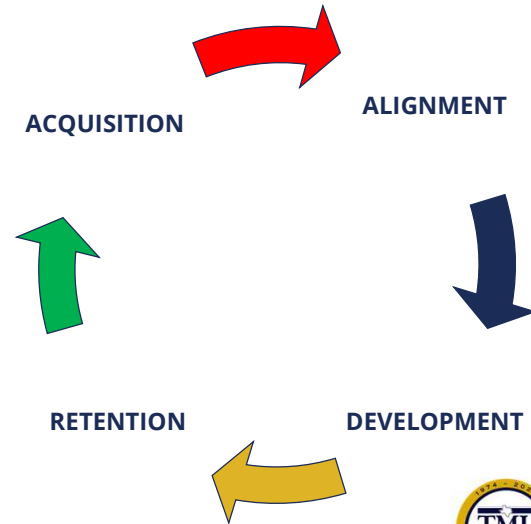
- **Discrimination:** Unfair or unequal treatment based on certain protected characteristics.
- **Equal Employment Opportunity:** The right to employment and advancement without regard to race, color, religion, national origin, sex, sexual harassment, harassment, age, pregnancy, genetic information, equal pay, disability and retaliation.
- **Bona-fide Occupational Qualifications:** Employment criteria justified by the ability to perform the essential functions of a job



Employee Lifecycle Model

Employee Lifecycle Model

- **Acquisition** - An ongoing cycle of processes related to attracting, sourcing, recruiting and hiring members of an organization
- **Alignment** - The process of accommodating, assimilating and accelerating new team members to the organizational culture and their respective jobs
- **Development** - An ongoing focus of the organization to ensure that skills, abilities and knowledge are constantly being enhanced/upgraded
- **Retention** - Strategies geared towards retaining engaged members of the organization who are committed to their and its growth



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**Effective performance
management begins
on/prior to day 1**

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First Things First

Job Descriptions:
- why do they matter?



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Performance Management the Performance Appraisal?



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Too Little too Late?

"I was INTERVIEWING an exiting employee, and here are 5 insights I would like to share with you:

1. *Mental resignation happens long before. The physical resignation is the final act of a loss of hope.*
2. *You can't try to appreciate someone on their way out. It is a little too late.*
3. *Money motivates only to a point. People rarely leave just for money.*
4. *Career progression is one of the biggest factors to retention. Every job plateaus. Create a career path for each employee to ensure they stay motivated.*
5. *Once trust is broken, it's hard to regain."*

Charmanique Hinds on LinkedIn



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Performance Management Cycle



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Common Performance Evaluation Problems



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THE VERY REAL IMPACT OF THE LACK OF TRANSPARENCY

	LOTS OF RUMORS	Without clear and open communication, employees will tend to speculate to fill the information void, leading to rumors that can distort the truth and cause confusion.
	POOR STRATEGY ALIGNMENT	Strategy is dynamic & must be communicated constantly. Without transparency, departments may pursue conflicting objectives, making it hard to move in a unified direction.
	LOW TRUST & MORALE	Transparency is key to building trust. When it's missing, employees may doubt the sincerity and integrity of management, which will rapidly demoralise the workforce.
	CULTURE OF SECRECY	An opaque environment will breed a culture where secrecy, open collaboration and knowledge sharing becomes impossible, reducing the effectiveness of the organisation.
	LOSS OF PURPOSE	Employees need to understand how they contribute to the mission of the organization. Lack of transparency can make it difficult for them to see the value of their work.
	DUPLICATION OF WORK	Without clear communication, teams may inadvertently work on the same tasks, leading to inefficiencies and wasted resources.
	INCREASED TOXICITY	Ultimately, lack of transparency can foster a toxic work environment. Mistrust & politics thrive. Employees may feel anxious, disengaged, or unwilling to take risks.



Jakob Bovin

LEADING RESULTS



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Goal Setting



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Performance Management Tools

COACHING

The ongoing process of both informal and formal feedback that is intended to support employees in skill development as well as to recognize success.



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Performance Management Tools

EFFECTIVE COACHING

Coaching gives the employee an opportunity to hear about aspects of his or her performance in "real time" and to play a role in figuring out how to best adopt or modify their behavior for success.

Coaching conversations should:

- Create a genuinely motivating climate for performance;
- Improve the alignment between an employee's actual and expected performance; and,
- Increase the probability of an employee's success by providing timely feedback, recognition, clarity, and support.



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Performance Management Tools

ROLE OF A COACH

- Provide Direction
- Improve Performance
- Open Possibilities
- Resource



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Performance Management Tools

PERFORMANCE EVALUATIONS

Serve to formalize feedback regarding an employee's achievement of expectations and goals, as well as demonstration of City and departmental values.



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Why Performance Evaluations?

- Provide opportunity for manager and employee to review employee's work-related behavior, and then develop a plan for corrective action
- Provides an opportunity to review the employee's career plans based on his/her strengths and weaknesses
- Provide information that can be used for promotion and salary increase decisions



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SAMPLE – EMPLOYEE SELF-ASSESSMENT FORM

Please complete this form and provide a copy to your supervisor (the person doing the evaluation) prior to doing your evaluation. This document affords you the opportunity to provide input on your performance. It is important that you are as concise as possible, but please feel free to attach additional pages, if desired.

NAME: _____ DATE: _____
POSITION: _____ SUPERVISOR: _____
Performance Period: From _____ to _____

1) Goals and objectives completed during the 12-month appraisal period:

2) List your abilities and strengths in performing your job:

3) List any special projects you've completed or participated in, any accomplishments, and/or any situations you encountered and dealt with exceeding your job responsibilities:

SAMPLE – EMPLOYEE SELF-ASSESSMENT FORM

4) List any condition or situation which may have hindered your job performance:

5) List any area(s) that you believe that you can improve in:

6) List the things you would like to see happen in your area of responsibility:

7) List any goals you would like to reach during your next 12-month appraisal period:

Signed: _____ Date: _____
Received by: _____ Date: _____

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Performance Management Tools

MEMO OF EXPECTATIONS

Used to clarify expectations for performance or conduct



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Effective Discipline and Documentation



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Motivation gets you going, but
discipline keeps you growing.

John C. Maxwell



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Discipline to Disciple

"We cannot control all of people's choices or actions, but we can positively affect decision-making factors and help people develop clearer perceptions of risk." – **Tom Harvey** - *Reducing the Frequency & Severity of Human Error: Optimizing Performance – ASSP*

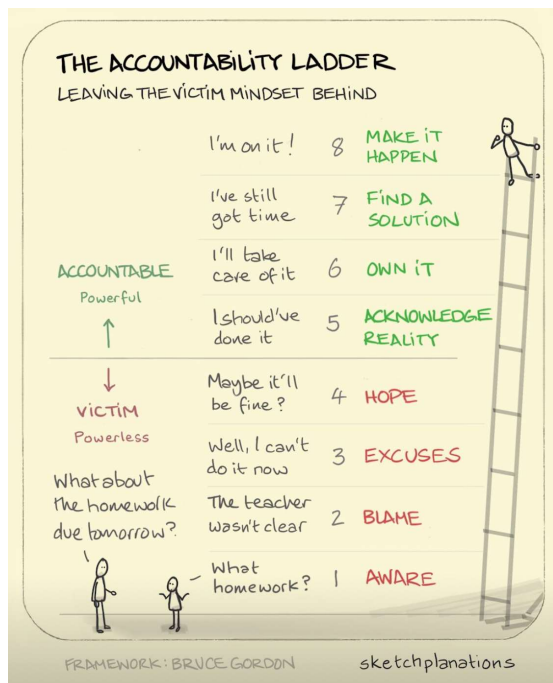
"If you hire people just because they can do a job, they'll work for your money. But if you hire people who believe what you believe, they'll work for you with blood and sweat and tears." – **Simon Sinek**



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"Leaders must set crystal-clear expectations, give consistent feedback, and cultivate a culture where accountability is the norm. Without strong leadership, accountability will always be out of reach."

Accountability starts with clear expectations; it's about owning your actions and their consequences. It's not just about admitting mistakes but also about learning and growing from them."

Pepper Wilson post on LinkedIn



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Effective Discipline Approach

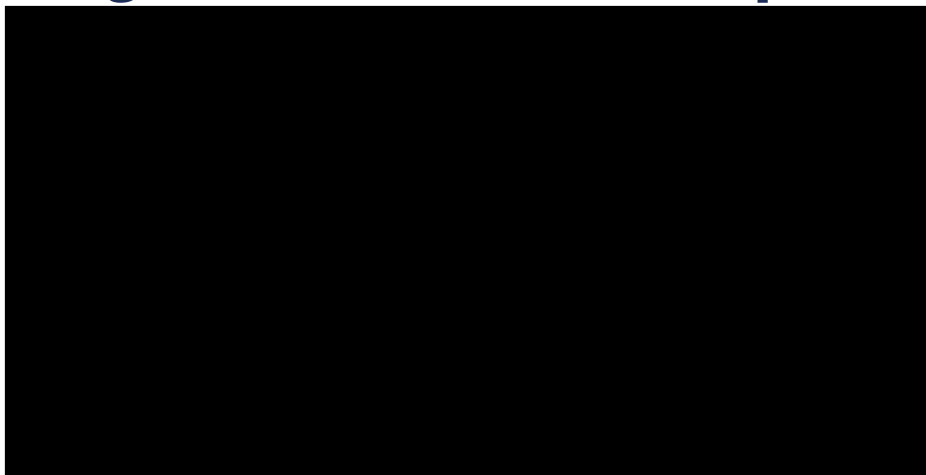
- Protect the Organization
- Grow the employee



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Progressive (Positive) Discipline*



*<https://youtu.be/AArbFDqtSQM?si=Uq9DRfVPZVJTvhaU>



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Progressive Discipline

***Progressive discipline** refers to a process by which an employee with disciplinary problems progresses through a series of disciplinary stages until the problem is corrected.*



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Positive Discipline

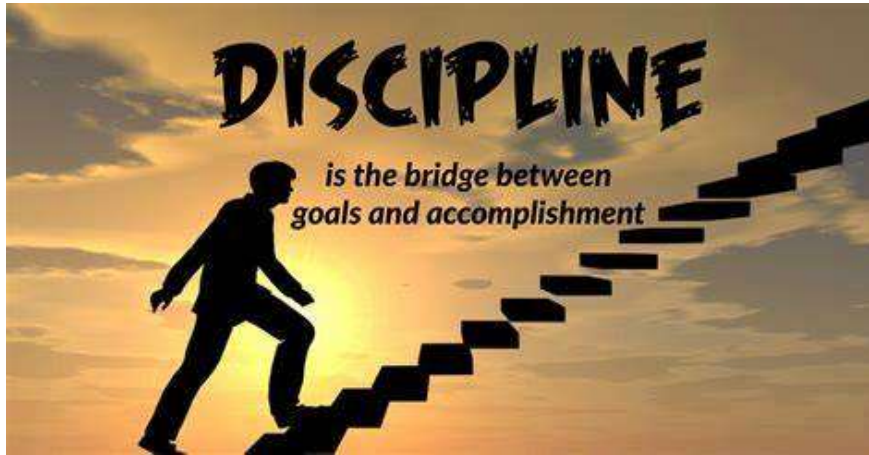
*With **positive discipline**, the disciplinary process is not punitive; rather, it focuses on constructive feedback and encourages employees to take responsibility.*



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Progressive (Positive) Discipline



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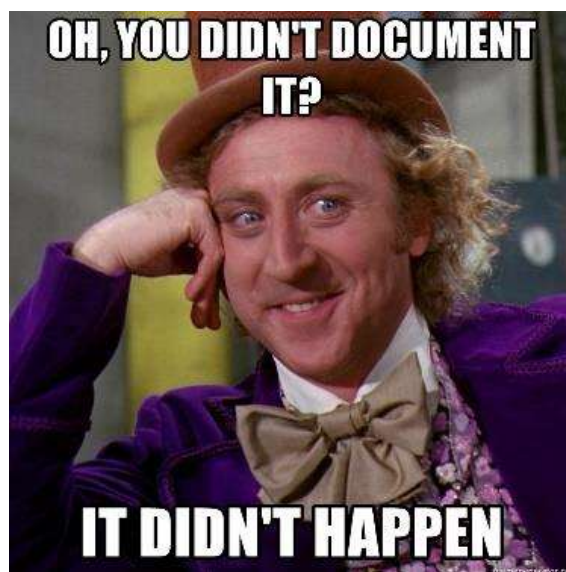
Object of Disciplinary Action



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Gather Facts



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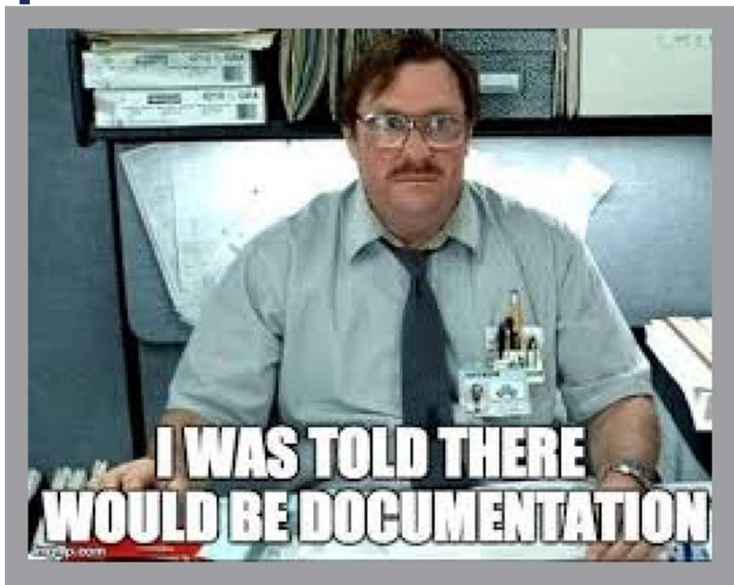
What's the COMPLETE Story?

- What happened and why is it a problem?
- Did the employee KNOW what was expected? How?
- Has this happened before? How has it been addressed in the past?
- How has this been addressed before with other employees?



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Importance of Documentation



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10 Steps to Effective Disciplinary Action

1. Address the problem as soon as possible
2. Set a specific time and place
3. Sit...don't stand
4. Private location
5. Focus on the issue NOT the person
6. Be specific about the concern
7. Be collaborative on a solution
8. Avoid negative tone in your statements
9. Encourage the employee
10. Document the meeting



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Keys to Remember

For discipline to be effective, there are some key concepts to keep in mind:

- Don't find fault to just find fault
- Keep good records
- Timeliness
- Don't ignore problems



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Termination



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Why Terminate?

- A bad fit – good person in the wrong job
- The underperformer – disengaged employee, not delivering
- The bad actor – unacceptable behavior, no longer tolerated
- The lifer – long-term employee who may be stuck in the “good old days”
- The friend-coworker turned office pal becomes your direct report and now may be taking advantage of you



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Review Documentation Prior to Termination

- Job Description
- Policies
- Performance Appraisals
- Disciplinary Actions

TIP: *You must document everything, and it must be objective and non-discriminatory*

TIP: *Before you terminate, you must ask some questions*



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Possible Termination Questions

- Do you feel comfortable that you will be able to prove, with evidence, that the employee violated the rule or policy or the standard of performance was not met, and that you have treated other similar situations with the same level of discipline in similar circumstances?
- Are there any prior written commitments (agreements or promises) in the employee's personnel file regarding a specific term of employment, continued employment, or is there a policy that requires termination of employment "for cause"?



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Possible Termination Questions

- Are there any complaints or claims (formal or informal) that the employee has made against the organization, co-worker, vendor, citizen?
 - **TIP:** *For public safety be aware of the requirements of Chapter 614 of the Local Government Code (LGC) regarding complaints against a public safety officer as defined (and may not apply to organizations covered by meet and confer or collective bargaining under LGC Chapter 143 or 174)...**ASK YOUR CITY ATTORNEY!***



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Possible Termination Questions

- Does the employee fall into a “protected category” (race, color, religion, sex, national origin, age, disability, pregnancy, family status, etc.)?
- Has the employee taken any protected leave over the past year?
- Have you disciplined other employees for this same general rule violation or performance issue? If not, why?



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Possible Termination Questions

- Has the level of discipline imposed been substantially the same for the same violation or performance deficiency for other employees? If not, why?
- Have you failed to discipline for the same general rule violation or performance deficiency, even though some other employees may have been disciplined for it? **If so, why?**
 - ***TIP:*** Always be prepared to treat your “opportunity” employee the same as you do your “best” employee. In other words, if you’d do something for your best employee, you need to be prepared to do it for your worst



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Can I Fire?

- **“Employment at Will”** means either the employee or the employer may terminate the employment relationship at any time, for any reason or no reason...as long as the reason is not illegal
- Employers cannot fire an employee to discourage or punish him/her from making a claim under the law
- Employers may not fire or discipline employees if the reason is discriminatory
- The burden of proof to show the reason for termination was not for illegal reasons is on the employer not the employee
- Utilize TMLIRP’s **Call Before You Fire** line at **1-800-537-6655** ask for legal



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Steps of Progressive Discipline

- Even if you are an “*At Will Employer*”, following a progressive disciplinary process can help in the event of litigation.
 - Oral Warning (Counseling Session)
 - Written Warning and possible Performance Improvement Plan (PIP), signed by employee
 - Suspension Without Pay (as appropriate), signed by employee
 - Termination, signed by employee

It goes without saying there are some instances when immediate termination is warranted and it is not necessary to follow progressive discipline. You want your HR representative (and your legal counsel) involved in all disciplinary actions and terminations.



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Before Making A Final Employment Decision

- A good practice is giving an employee the opportunity to respond to any proposed disciplinary action prior to making your final decision on any disciplinary action that affects pay (generally suspension, demotion or termination).
- If at all possible, it is best not to demote or terminate an employee on a Friday. Unpaid suspensions should not be an "extended weekend."
- If at all possible, it is best not to demote or terminate an employee right before a holiday; especially during the Thanksgiving/Christmas holiday season.

Consult with your HR rep and/or legal counsel for your process.



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For Cause Termination Suggestions

- Ensure the employee is not a danger to themselves or other employees, contact law enforcement for assistance or to report illegal acts
- Include the employee's supervisor and a Human Resources Representative, or the supervisor's manager (*check your policy and always have a neutral witness*)
- Remain polite and respectful
- Do not allow the employee to argue or debate the circumstances around the termination
- Obtain all property and/or equipment issued
- Discuss exit processes including final pay, insurance, COBRA, retirement, etc.
- Escort the employee out of the building with the understanding that if they return to the work area they will be trespassing
- Don't gossip

Consult with your HR Department and Legal Counsel for your organization's process



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Non-Performance Termination Suggestions

- Include the employee's supervisor and either a Human Resources representative or the supervisor's manager (*check your policy and always have a neutral witness*)
- Be straight forward, civil, concise and compassionate
- Provide termination paperwork
- Respect the person's dignity, allow them to speak or ask questions
- Don't become angry or argue with the employee (stay on script)
- Collect all property/equipment issued or determine its location or a time to return
- Give the employee a choice about who among the meeting attendees will walk them out of the building. Give the employee a choice about whether he or she wants to remove personal items from their workstation either now or after hours. They may ask you to box up their belongings and make arrangements to get it later
- Consult with your HR Department and Legal Counsel for your organization's process



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Documentation...It Can Help You or Hurt You!

- **Good**, consistent and precise documentation provides the employer with the information needed to make any discipline or termination process effective
- **Bad** documentation can cause huge problems for the employer when a disciplinary action or termination takes place, and may include any or all of the following: internal appeal/grievance hearings, unemployment hearings and appeals, EEOC mediation, lawsuit



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Think Abouts

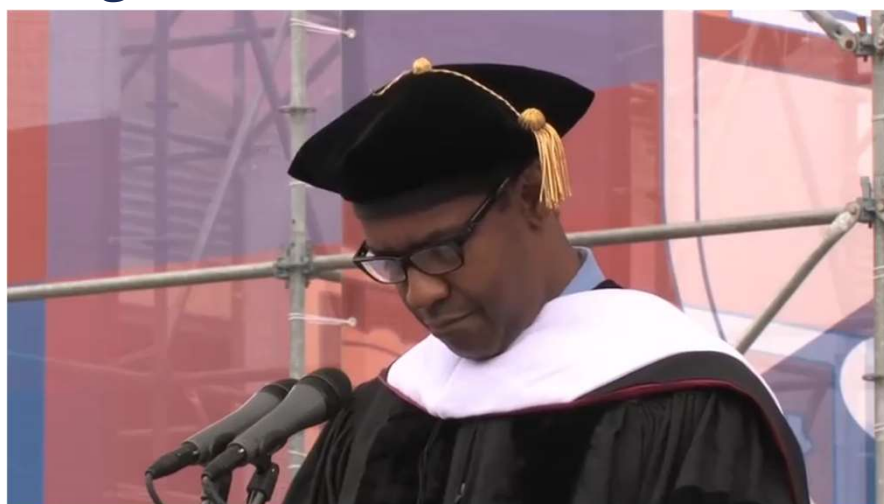
- Be alert – always consider your actions and the actions of your employees
- Follow your organizations policies
- Document
- Use common sense
- Build consensus and consult with your HR representative and your legal counsel
- Remember the two things we GET to do as supervisors
 - Protect the Organization
 - Grow the Employee



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Falling Forward*



*<https://youtu.be/2sHc581qEQc?si=bYGafxar7zvPuxtt>



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*"Act as if what you do makes
a difference. It does."*
William James



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Sources

- www.kpaonline.com
- KPA Newsletters
- SHRM, Paul Falcone (www.PaulFalconeHR.com) is vice president of HR at the Motion Picture & Television Fund in Woodland Hills, Calif.
- HR Specialist Newsletters
- Texas Workforce Commission
- Resourceful Manager
- Texas Employment Law, January 2012



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Is the decision I am about to make the RIGHT decision, at the RIGHT time, for the RIGHT reasons, the RIGHT way?