

Disciplinary practices that really work

by

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The root word for both discipline and disciple is *discipulus*; a disciple learns self-discipline by observing a disciplined teacher. Similarly, employees learn about discipline from their supervisors. However, what the supervisor chooses to teach them is a choice; she can model respect, compassion, and responsibility when imposing disciplinary action or she may behave in an arrogant, demeaning, and insulting manner. Either way, the supervisor is similar to a parent who teaches through example far more than with motivational “pep talks” and platitudes. What Robert Fulghum (2004: iii) said of parents equally applies to supervisors, “Don’t worry that they never listen to you; worry that they are always watching you.”

From a teaching perspective, disciplinary action is one of many tools that supervisors can apply to encourage employees to become more *self-disciplined*. Employees also may develop more discipline through delegation, training, corrective actions, performance feedback, and effective communication. Conversely, an employee can be told by a supervisor that she is a “bad person” who has failed and therefore deserves to be punished, which is what Manzoni and Barsoux (1998) have called *the-set-up-to-fail syndrome* (101) whereby supervisors categorize employees as being within an in or out group:

"Members of the in-group are considered the trusted collaborators and therefore receive more autonomy, feedback, and expressions of confidence from their bosses. The boss-

subordinate relationship for this group is one of mutual trust and reciprocal influence. Members of the out-group, on the other hand, are regarded more as hired hands and are managed in a more formal, less personal way, with more emphasis on rules, policies, and authority."

Rather than labeling employees as having either "horns or halos" the supervisor's role is to coach each employee to learn from "failures" in order to improve performance or correct unacceptable behavior. Indeed, the unwillingness of humans to assume responsibility for personal failures is a major cause of recurring mistakes. In other words, you cannot learn from your mistakes until you first admit failure (Hallinan 2009: 212).

Choosing a philosophy of disciplinary action

Regardless of organizational culture, every supervisor makes a choice regarding the philosophy of disciplinary action she wishes to follow. Keep in mind that disciplinary action occurs within the context of an unequal power relationship that exists between boss and employee. Disciplinary action is an *adverse action* that a supervisor takes against a subordinate, one that counts as formal documentation in the employee's personnel file. As Gregorio Billikopf (2003: 176-177) notes, "The first instinct of most supervisors is to 'tighten the reins' and increase control over those who are perceived as having failed to meet their expectations." This causes under-performers to quickly sense a lack of confidence in their work and in their decisions. The result is that they often become more *defensive*, refusing to make decisions they feel their bosses may overturn anyway and *withdraw* mentally.

Thus, disciplining "subordinates" is a key responsibility of supervisors and they have definite choices about the *purpose* of discipline and their disciplinary *style*.

Understandably, taking disciplinary action is not an activity that most supervisors (or parents) enjoy. W. Edwards Deming, founder of the quality management movement, wrote, "People can face almost any problem except the problems of people.... Faced with problems with people, management...will go into a state of paralysis" (Weiss 1992). As Osigweh and Hutchinson (1991) note, "Coping with disciplinary problems is one of the most difficult and stressful, yet essential parts of any supervisor's job".

The disciplinary process involves more than just managerial intuition regarding how to resolve workplace performance problems. Restrictions on supervisory power to discipline employees is limited by state, federal and local legislation, as well as "just cause" protections within collective bargaining agreements and merit system ordinances. Nonetheless, managers and supervisors still have considerable latitude in selecting a *philosophy of disciplinary action* that they wish to pursue. This disciplinary philosophy includes an underlying *purpose* along with accompanying *policies* that result in disciplinary actions that are either an incentive for employee change or continued resistance to change.

Purposes of disciplinary action

Organizations and management generally endorse one of the following purposes of disciplinary action:

Punishment. One of the least effective goals and yet most common reasons for disciplinary action is to punish the person who makes mistakes or performs poorly. Many managers and supervisors believe that disciplinary action should punish employees who break rules or do not meet expectations. The emphasis is on punishing *symptoms*, i.e. bad behavior or poor performance whenever it occurs, without probing the possible *causes*. This view is typified when an employee asks, "Why do I have to do it that way?"

and the response is “Because I say so, I am the boss!” Yet, there is mounting evidence that a punitive approach to disciplinary action only instills fear and anger, not increased productivity or changed behavior (Redeker 1994; Grote 2006)

As a side note, there also is reason to believe that gender may be a factor in how severely employees are punished. A study by Hartman, Fok, Crow & Payne (1994) found that decision makers--both males and females--will be more likely to enforce discipline upon a culpable woman than a man, in what they refer to as a "Garden of Eden" effect. This effect suggests that women displaying out-of-role behavior warranting discipline may be seen as temptresses who have provoked the punishment.

Despite its prevalence, there is no evidence that a punitive approach actually produces more self-disciplined workers, especially with Generation Y, born after 1980, also called Generation Next, the My Pod Generation, and Millennials. Unlike the Gen-Xers and the Boomers, the Millennials have developed work characteristics and tendencies from doting parents, structured lives, and contact with diverse people. Millennials are used to working in teams, work well with diverse coworkers and want to make friends with people at work (Heathfield 2010). This generation resists rules they consider unreasonable and reacts to an abrasive supervisor's threats of punishment.

Punitive discipline, which stresses intimidation and fear, fails to address the motivational *causes* of misbehavior and poor performance; instead it addresses behavioral *symptoms* (Redeker 1994). For example, under the punitive model, habitually tardy employees may be disciplined without questioning by management, regardless of the reasons for lateness. Yet tardiness is a symptom of an underlying motivational problem that requires attention. A purely punitive disciplinary approach attacks outward

behavior rather than creating incentives or rewards for positive behavior.

The punitive disciplinary model also fails to correct workplace problems that occur in litigious societies wherein employees are increasingly more willing to fight disciplinary actions they believe to be unfairly imposed. One estimate is that in claims for wrongful termination, over one-half of all cases are won by the former employee and in some districts that figure rises to a 70 percent success rate (Personal-Injury.net 2005). Many grievance handling systems and courts are overburdened with grievances and wrongful discharge cases. For example, the Federal Mediation and Conciliation Service reports that 2009 marked a record number of requests for arbitration panels in the United States (Traynham 2010). Rather than passively accepting disciplinary actions by employers, aggrieved employees are much more willing to file grievances, go to arbitration, and litigate.

Finally, the punitive model errs by assuming the boss is always right [never wrong] when disciplining employees. Failures happen and they offer an opportunity to learn and prevent future mistakes. Under punitive discipline, all rule violations deserve to be punished. Yet, in order to learn from mistakes, one must be able to safely admit that they occur. One of the leading causes of errors is an organizational culture that denies the possibility of failure, a phenomenon that accounts for why physicians make significantly more mistakes than pilots (Hallihan 2009: 193).

If bosses want to be respected, they must admit to employees that they also have had failures. Admitting “mistakes” reflects integrity and humility, personality traits often in short supply among those in power. Again, the purpose of disciplinary action is not to make people perfect or punish those who are not. The goal is to reinforce self-discipline

so that employees learn from mistakes and grow into more disciplined individuals.

Progressive Discipline. The progressive discipline model developed in response to the National Labor Relations Act (NLRA) of 1935, which extended job protections to unionized employees. The purpose of progressive discipline was to punish employees who committed wrongdoing by matching the offense with an appropriate punishment. Typically, incrementally more severe penalties are imposed on employees who break the rules or fail to perform adequately. Progressive discipline is a kinder, gentler variety of disciplinary action, but still punitive in practice.

First, an *oral warning* [reprimand] is issued and simply noted in the record. The second step, a *written warning* [reprimand] is more official and summarizes the incident, rule violation, and warns of future consequences. This written feedback is discussed with the employee and then placed in the personnel file (Holley and Jennings 1991). The third step is *suspension without pay*; its purpose is to emphasize the seriousness of the offense by withholding pay. The final step, *discharge* [dismissal] is used only when previous steps have failed to change unacceptable behavior or improve performance (Pulich 1991).

The purpose is to convince the employee by means of punitive consequences that behavior or performance must change to meet the expectations of management. However, there is no inherent effort to *teach* an employee the reasons why his behavior or performance *should* improve. In other words, the punitive approach does not encourage the employee to voluntarily change behavior or performance. In essence, the progressive and punitive approaches to disciplinary action do not consider that the only effective discipline is internal self discipline, rather than externally imposed punishment (Guffey & Helms, 2001).

Positive [non-punitive] disciplinary action

The only legitimate purpose of disciplinary action is the same for parents, pet owners, and supervisors---to change unacceptable behavior and encourage inner discipline.

Punishment as discipline may achieve short term effects at best, based on fear and intimidation. Hopefully, unacceptable behavior or poor performance can be addressed through a series of corrective, but non-punitive measures, i.e. performance feedback, counseling and retraining. If these efforts are unsuccessful, the manager/supervisor is well advised to consider positive [non-punitive] disciplinary actions to correct unacceptable behavior or performance.

The following positive disciplinary techniques offer a proven alternative to traditional or punitive discipline:

Decision making leave. This approach was first popularized by Dick Grote, in his seminal work, *Discipline without Punishment* (2006). Grote was formerly the director of Training and Development at Frito-Lay when a startling event occurred (1):

“Out of the blue, we found ourselves ensnared in a public relations nightmare. Day after day, we started receiving mailbags at Frito Lay’s corporate headquarters filled with angry letters from angry customers. Each letter reported the same bizarre problem: The customer had discovered an obscene message written on a potato chip. All the chips in question had been produced at the same plant---a plant that in the previous nine months had fired 58 of its 210 employees for various breaches of discipline. The atmosphere at the plant was toxic. Supervisors were using the traditional “progressive-discipline” system for all violations, serious or trivial. They eagerly wrote up troublemakers in an attempt to run off malcontents. Every employee who received any disciplinary contact was considered a “troublemaker”; his performance was attentively watched with the goal of finding sufficient misbehavior to whisk him through the disciplinary system and out the door.”

Grote and his colleagues concluded that the punitive disciplinary system not only failed to correct behavior, it turned employees into industrial saboteurs. Based on this experience, Dick Grote developed and implemented his simple and highly successful Discipline without Punishment System® based on the concept of Decision Making Leave (DML).

The first step of in DML is an *oral reminder* wherein the supervisor discusses the problem with the employee informally and reminds him that he must meet performance standards or alter behavior. Rather than threatening the employee with harsher penalties if the problem continues, the supervisor focuses on getting the employee's agreement to make the necessary changes. No handwritten memos are placed in the employee's personnel file, thus hopefully serving as an incentive to improve performance. If the performance or behavior problem persists, the next step is a *written reminder*. Another meeting is held with the employee and a written memo memorializing the meeting is placed in the employee's personnel file.

If the first two steps fail, the final step of positive discipline is to place the employee on *paid* Decision Making Leave (DML) for a day. The purpose is to give the employee time to reflect on his future---whether to make a performance turnaround or to resign. Upon returning to the office the next work day, the employee informs the manager of her decision. If positive, manager and employee jointly identify changes to occur. If the DML is unsuccessful, the employee is terminated without grievance appeal.

Discipline held in abeyance. An employee receives a disciplinary action, usually a suspension but it is not imposed until a future date, and only if there is a repeated infraction. For example, an employee is given a ten (10) day suspension without pay,

held in abeyance for six (6) months. If no further infraction occurs within that time period, the suspension will not be imposed and no notation will appear in the personnel record as well.

Discipline held in abeyance has been commonly used in two situations:

- 1) At management's discretion in a drug or alcohol treatment, or domestic violence referral, pending the outcome of an EAP evaluation and treatment. The appropriate discipline for the offense is decided, and management decides to set aside disciplinary action until the employee successfully completes a treatment program for drug or alcohol addiction. The discipline is then erased by a successful outcome and subsequent return to the job. This approach is particularly appropriate in mental and physical impairments covered by the Americans with Disabilities Act.
http://das.hre.iowa.gov/html_documents/ms_manual/09-25.htm
<http://www.afscme3090.org/dom-violence/index.html>
- 2) In situations where the supervisor believes that not imposing punitive discipline and holding it in abeyance will motivate an employee to correct her misbehavior or unacceptable performance. Perhaps the employee can be encouraged to behave like an adult rather than acting out or engaging in passive-aggressive behavior. The employee might realize that management chose to not hurt her in the pocket book in hopes that things might change. Amazingly, although commonly used, little or nothing has been written about the effectiveness of this technique.

Working suspension (with pay). This disciplinary action is not to be confused with Administrative Leave or Investigatory Leave, which is non-disciplinary in nature. Rather than being suspended from work and losing pay, which wreaks a hardship on the worker's family, the employee reports to work and a working suspension is entered into the personnel file for progressive disciplinary purposes. The working suspension is considered at the same level for progressive disciplinary purposes as a suspension without pay.

In addition to giving the employee a "break" by not deducting money from his

paycheck, the working suspension may complement management staffing needs. For example, managers in the City of Albuquerque's Transit Department need every available Motor Coach Operator during the high-volume State Fair and International Balloon Fiesta. To suspend a driver during these critical times would mean paying replacement employee overtime, often to drive an unfamiliar route. It is a win-win situation in certain situations where the employee receives encouragement to change and management meets its own needs.

Expunging personnel files. Rather than leaving disciplinary actions in an employee's personnel file forever, they are removed after a period of time. In effect, the "slate has been wiped clean" (Elkouri and Elkouri, 2003: 986). This may occur automatically during performance evaluation or supervisors may be granted authority to remove minor disciplinary actions from the file following a 1-2 year period of positive performance and behavior.

The theory is that years of positive performance should not be discarded by "leapfrogging" over them in order to build a case for progressive disciplinary action. The employee knows that his past disciplinary record and he can be "forgiven".

Employee proposed discipline. Prior to a final decision by management, the employee, usually through a union representative proposes an appropriate disciplinary action for management consideration, in a matter less severe than discharge. There is evidence to suggest that employees frequently propose even more stringent disciplinary actions than what management was considering (King and Wilcox, 2003). Management can either accept or reject the employee's proposal.

Last chance agreement (LCA): An LCA is a negotiated, written agreement in

lieu of discharge that is “intended to benefit the employee by allowing a final opportunity to correct conduct and to benefit the employer by allowing it to avoid the trouble and expense of discharging and replacing the employee” (Elkouri and Elkouri 2003: 968). Frequently, the LCA is proposed by the union on behalf of an employee and the union is a co-signer of the LCA. Often an employee is guilty of clear-cut rule violations and progressive disciplinary actions have been unsuccessful. Many times, the impact of an LCA “will have sufficient shock value to rehabilitate an errant employee” (Reid 1997:1). An LCA allows the employee to continue employment by setting strict conditions, i.e. agreeing to give up certain employment rights, such as the right to appeal any future disciplinary action within a specified time period.

Obviously, an LCA would only be considered when the employer believes that prospects for employee behavioral reform and rehabilitation are worth risking. If an LCA is given too frequently, the threat of discharge would become meaningless and employees who were not offered an LCA could rightfully claim disparate treatment. In a limited number of instances, an employee is deemed worth the risk of a “last chance”, not a “second chance.”

Performance Improvement Plan (PIP). In the Federal sector, employees whose performance has been below expected standards in critical job elements as recorded on performance evaluations may be permitted to a “reasonable chance” to “demonstrate acceptable performance” in critical element(s) at issue” (5 CFR Ch.1, § 432.103(d)). This generally means being placed on an intensive performance-monitoring program for a period of time, usually about three months. Goals for improvement are agreed to and the employee and supervisor typically meet on a weekly basis to chart

performance progress. If performance fails to sufficiently improve, the employee will be automatically terminated. A particularly succinct PIP system has been developed at Indiana University (Indiana University, July 26, 2002) (<http://www.indiana.edu/%7Euhrs/training/ca/performance.html>).

Positive and punitive discipline

Punitive disciplinary techniques have been the mainstay of disciplinary purpose and policies in many organizations for decades. For the short term, punitive discipline can change behavior, much like spanking or beating may achieve similar results for parents or guards. However, punitive discipline also may produce negative results similar to those encountered by the managers at Frito Lay. Certainly an employee, whose actions are a threat to the health and safety of others, i.e. shooting a gun in the workplace or assaulting another employee must be summarily dismissed. However, positive techniques represent additional options available to managers who may want to try an incentive other than punishment to motivate an employee to voluntarily improve performance or change unacceptable behavior.

Interestingly, use of positive disciplinary techniques rather than punitive ones generally are favorably viewed by arbitrators as an indication that management is genuinely trying to help change employee behavior and improve performance rather than taking the opportunity to simply punish a “bad employee.” Positive disciplinary action also discredits the disciplined employee who claims that management is out to get him by administering discipline without just cause. In sum, positive disciplinary actions have everything to recommend them and no discernible down side.

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