

Corrective Action



A Supervisor's Guide
to Managing Performance

IUPUI
INDIANA UNIVERSITY-PURDUE UNIVERSITY INDIANAPOLIS

HUMAN RESOURCES ADMINISTRATION
EMPLOYEE RELATIONS

This Supervisor's Guide is a Publication of:

Indiana University Purdue University
Indianapolis

Human Resources Administration

April 2010

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PREFACE

This guide describes the basic elements of a sound corrective action system and is intended as a supervisory guide for determining when corrective action is necessary, what level of corrective action is appropriate, and how to administer corrective action.

The principles of corrective action, equitable treatment, past practice, and just cause are set forth. Each step of corrective action details how to evaluate a situation prior to taking any corrective action, including the investigation process. The guide also outlines the employee's right to appeal corrective actions. A checklist of questions is provided to help guide you through the corrective action process, and a series of sample corrective action letters is also included.

Two important issues need to be emphasized. First, although the bulk of the guide addresses cases which stem from a series of events leading to corrective action, such as poor work performance or poor attendance, there are times when major infractions occur which require moving immediately to a suspension or discharge. There are also times when a step may be repeated or skipped. It is advisable to contact Human Resources Administration when these situations occur. Second, the level of responsibility or type of position within the university is a critical criterion in applying the concepts of corrective action in any given case.

INTRODUCTION

Purpose of Corrective Action

Corrective Action in its literal sense is training that corrects, molds, or improves, and its purpose in the workplace is to correct, mold, or improve job-related performance or behavior. Corrective Action is to be progressive in nature so that it uses the least severe action necessary to correct undesirable behavior and moves to increasingly severe measures only if the problem is not corrected. These steps include an initial written warning, a subsequent written warning, a suspension or final written warning, and a termination. With the exception of the final step, corrective action's primary objective is to correct—not punish—the employee. When properly administered, corrective action benefits management and employees and satisfies the scrutiny of third parties (unions, EEOC, arbitrators).

For management, corrective action maintains order and enforces university rules. It affects employee morale and productivity positively, it helps rehabilitate employees who choose to correct their behavior, and it helps to terminate employees who don't.

For employees, corrective action sets clear standards and warns of consequences for noncompliance; it assures predictable, progressive, and equitable treatment; it promotes fair decisions; and it provides a process to appeal corrective action decisions.

For third parties, properly applied corrective action meets the test of just cause and satisfies the requirements for progressive, nondiscriminatory, fair, corrective, and consistent decisions.

Establishing the Ground Rules

As a supervisor, you have inherent responsibilities to promote positive employee morale and to maintain a productive work force. Vital to meeting these responsibilities is the effective handling of corrective action; however, these responsibilities begin long before any corrective action measures are actually necessary. They begin by establishing the "ground rules" by which employees are expected to conduct themselves.

Not all work environments are identical; therefore, one set of rules will not apply to all work groups. Supervisors must know the rules that apply to their

particular work group, as well as any unwritten practices that have become commonplace. Both existing and newly created work rules should be clear, reasonable, and understandable. Employees are more apt to conform to rules that are understood and that are reasonable than to those that are not. All rules and practices should be reviewed regularly and updated if necessary.

You should not assume employees will learn rules by word of mouth. Initially, work rules may be communicated orally, but it is necessary to reinforce this communication in writing. Announcements in newsletters and notices on bulletin boards are the most common forms of communication and may be followed up by inclusion in policy manuals and employee handbooks. Once published and posted, copies of rules and policies should be accessible to management and employees at all times to encourage an atmosphere of open communication and prevent policies from becoming "sacred documents."

Supervisors who enforce work rules consistently and without discrimination gain the respect and cooperation of their employees; however, this respect can be quickly lost if some employees are allowed to "bend the rules." Being overly lenient or overlooking rules altogether not only invites disrespect; over a period of time, rules become dormant and unenforceable. To enforce a dormant work rule, the rule and the consequence of infraction must be communicated to employees again.

By establishing clear, reasonable, and understandable work rules, communicating the rules to employees, and applying the rules consistently, you are setting the standards for employee performance and behavior. As one might expect, not every employee will measure up to performance standards or comply with established work rules. When this occurs, your responsibility is to take the necessary corrective action.

PRINCIPLES OF CORRECTIVE ACTION

If corrective action is to be effective and accomplish its intended purpose, that is, to correct employee behavior, it has certain fundamental characteristics. Corrective Action must be progressive; it must consider past practice and equitable treatment; and it must meet the test of just cause.

Progressive

The principle of “progressive” corrective action involves informing the employee of the problem and the need to correct it, and then using increasingly severe corrective action measures if the employee fails to correct the problem. In most situations the problem will first be brought to the employee’s attention with a counseling session. This initial counseling is not considered part of the formal corrective action system, and it should impress upon the employee the importance and necessity of correcting the problem. Most employees will correct the problem through such counseling; however, if the problem continues, corrective action is initiated as an initial written warning. For a problem that persists, the next step is a subsequent written warning. If the problem still is not corrected, a stronger warning is imposed as a final written warning which may include a suspension, transfer or demotion. If this sequence of progressive corrective action steps has not brought about the required changes, termination is considered appropriate.

There is an expectation that counseling will precede the formal corrective action process. This formal process includes an initial written warning, a subsequent written warning, a final written warning or suspension, and a termination. For most problems, each step in the complete process is necessary; however, for more serious problems the earlier steps may be eliminated. The degree of corrective action taken must be relative to the seriousness of the offense and the employee's record and should be the minimum level necessary to bring about correction of the problem. If it is not corrected, more severe action will be taken, up to and including termination. In this sense, the employee actually “fires” himself because it is the employee who has control over whether the corrective action process continues or ceases.

Other factors to consider are the level of the employee’s position and the type of position; for example, managers and supervisors are held to higher standards of performance and behavior. Termination may result if the employee has been provided a reasonable opportunity to correct the problem and has failed to do so.

Equitable Treatment

Each corrective action problem is unique and may require some flexibility in order to attain the best solution; however, it is important not to overlook the principle of equity or fairness. This principle implies that employees in *similar* circumstances should be treated in a *similar* manner. Equity does not imply you should always give the identical discipline to the same offense. In other words, corrective action does not have to be identical to be “fair.” At times it is necessary to treat employees differently to be fair because different degrees of guilt, employment records, corrective action histories, levels of responsibility or types of positions within the university affect the level of corrective action. Judgment and discretion are critical in applying corrective action fairly. For example, two employees who commit the same offense should not receive the identical corrective action if they are at different steps of the corrective action process.

Past Practice

Closely related to equitable treatment is the principle of past practice. By definition, “past practice” is a reasonably *uniform response to a recurring situation over a substantial period of time which has been recognized*, implicitly or explicitly. A review of these four components will determine if a past practice exists.

Uniform Response. *Are employees in similar circumstances being treated in a similar manner?* If so, then a uniform response exists. Note that the word similar—not identical—is used. There may be differences in employees’ levels of responsibility and types of positions or in their records, e.g., length of employment, performance record, and corrective action record, which justify a different response. If there have been varied responses to similar situations, no past practice exists.

Recurring Situation. *Does a same or similar situation arise repeatedly?* If so, a recurring situation exists. If the situation varies over time, it is not a recurring situation.

Substantial Period of Time. *Has a situation recurred over a considerable length of time?* Once or even twice does not create a past practice; however, there is no well-defined rule as to how many times a situation must repeat itself to become a past practice.

Recognized. *Have your employees come to expect a particular response?* This recognition does not have to exist in writing, but there should be general knowledge and acceptance of a situation.

If all four components are present, a past practice exists; if not, a past practice does not exist. Always consider past practice when doing corrective action with an employee. If it is determined a practice needs to be changed, advance written notice must be given to employees that the practice will no longer continue and will be changed. A “break-in” (adjustment) period may be advisable. Without sufficient warning to employees that new standards will be enforced, a corrective action may very well be overturned.

Just Cause

Perhaps one of the most crucial principles necessary for a sound corrective action system is that of just cause. Corrective actions taken with even one of the elements of just cause missing may lead to questionable corrective action and possible reversal of your decisions.

There does not appear to be a precise definition of just cause; however, a “common law” has developed over the years which consists of a set of guidelines or questions to be applied to each case. The acceptance and use of these guidelines have set the standard of just cause. In general, the lack of any of the following guidelines or a “no” response to any of the test questions should certainly alert you to review the entire situation before proceeding with corrective action.

Adequate Warning. *Did the employee know or should the employee have known that the behavior could result in corrective action?* As mentioned previously, in your role as a supervisor, you must communicate work rules to employees, as well as the consequences for noncompliance. It must be noted, however, that the lack of this explicit communication will not always lead to a “no” response to this question. In some cases it is the employee’s responsibility to know that certain actions are unacceptable and will result in corrective action. Insubordination, fighting on the job, coming to work intoxicated, drinking on the job, and theft of university property are examples of certain offenses we consider—as a society—to be unacceptable and expect severe corrective action to be taken.

Reasonable, Related Rules. *Was the rule or order reasonable, safe, and related to university needs?* Written rules usually pass this test; it is the on-the-spot order that most often creates a problem. Even so, except in cases of immediate danger to one’s health and safety, an employee generally must follow the “work now and grieve later” approach. Disobeying even an unreasonable rule may be cause for corrective action.

Fair Investigation. *Did you conduct a thorough investigation of the facts and circumstances—including the employee’s explanation—prior to administering corrective action?* This requires you to actively seek information in a fair, objective, and nondiscriminatory manner, not just passively wait for people to come forward and volunteer information. In addition, your investigation should be documented in writing.

There may be situations where the employee must be removed immediately from the workplace. In these instances, the employee is suspended pending the results of your investigation. This is done with the understanding that a final decision will be made *after* the investigation; and, if there is no case, the employee may receive pay for the lost time. See the Supervisor’s Checklist (Appendix A) which includes a guide for conducting the investigation.

Substantial Proof. *Is there substantial proof for your case?* Substantial evidence or proof of guilt must exist to clearly establish that the employee did, in fact, violate the work standard or rule. This evidence can be documented or witnessed but cannot be rumor, unsupported accusations, or superficial allegations.

Equitable Treatment and Past Practice. *Have the rules, orders, and penalties been consistently enforced?* Employees in similar situations should be treated in a similar manner. Exceptions to past practice and equitable treatment are justified when employees have different degrees of guilt, different corrective action records, or different levels of responsibility and types of positions.

Appropriateness of Corrective Action. *Was the corrective action related to the seriousness of the offense, to the employee’s record, and to the employee’s level of responsibility within the university?* This question incorporates the principle of progressive corrective action. Generally, minor offenses and first occurrences should result in less severe corrective action; major offenses and repeat occurrences should result in more severe step.

Together, these six elements and test questions constitute the principle of just cause. They also incorporate the other basic principles of a sound corrective action system; namely, progressive steps, equitable treatment, and past practice. While this is certainly not a precise definition, a “yes” response to all six questions will lead you to the inevitable conclusion that just cause for corrective action does exist.

THE STEPS OF CORRECTIVE ACTION

There are no formulas or set rules that will apply to all situations and give you the answer to the proper corrective action step to take. Each action will depend upon the nature of the offense and the related circumstances. Regardless of the action you take, at each step you must identify: 1) the problem that needs to be corrected, 2) your expectations for correction of the problem, and 3) the consequences for not correcting the problem. The employee has the right to be informed of these three components. To avoid any misunderstanding of which step of corrective action is being taken, all steps (except for counseling) should be documented and a copy provided to the employee.

Importance of the Probationary Period

The university has established a probationary period for all newly-appointed employees. This probationary period is an important element in any successful employer/employee relationship.

The purpose of the probationary period is to assure you that the employee can satisfactorily fulfill the demands of the position. The employee's work performance should be monitored throughout this "trial period" and measured against the department's policies, procedures, work rules, and performance standards. If you see or anticipate a problem developing, deal with it immediately. Inform the employee there is a problem, give the employee reasonable time to correct the problem, and tell the employee the consequences of not correcting the problem.

If, after this, the employee still is not "measuring up," you may elect to extend the probationary period or terminate the employee. For a probationary employee, it is not necessary to take the full sequence of corrective action steps before making either of these decisions; however, you must notify the employee *in writing* of your decision. The written notification should contain the same basic elements as described in the section titled "Documenting the Corrective Action." If the probationary period has been extended, it is recommended that a specific date be identified. If the termination will occur, a one-week notice is recommended. The termination letter may include specific details of this notice period. If the probationary period is satisfactorily completed, notify the employee. You may want to use this as an opportunity to provide feedback. **Once the probationary period is**

completed, the employee cannot be placed on probation again as a corrective action.

The importance of the probationary period is readily apparent. It is a trial period, and doing any corrective action with an employee during this period is a shortened process. Conversely, doing any corrective action with an employee who has completed the probationary period is a much longer and more complex process.

Counseling

If an employee has completed the probationary period and a problem develops, you should counsel the employee by meeting to discuss the problem. This counseling session is usually informal and is not considered part of the formal corrective action process. The discussion should impress upon the employee the importance and necessity of correcting the problem. Unlike the formal corrective action process, counseling does not include a warning or consequences for not correcting the problem. This discussion does not need to be documented; however, if you wish, you may want to make a few anecdotal notes for *your* file.

Initial Written Warning

This is the initial step of corrective action, and it is used when the problem persists after you have brought it to the employee's attention through counseling. Whenever the situation permits, it is best to prepare and document all employee actions. This preparation should include a review of your anecdotal notes, any other documentation related to the problem, and applicable university policy. You may also want to review the situation with your supervisor or Human Resources Administration. It will be helpful to know the answers to the following questions:

- What are your expectations?
- What commitment will you accept?
- What are your timeframes?
- What reaction do you expect from the employee?
- How will you respond to the anticipated reaction?
- What are the next steps?

Notes made should also include the employee's explanation of his/her performance or conduct. This warning can also help you plan the meeting and can serve as an outline to guide your discussion and keep it focused on your objective.

Setting the climate for the meeting is an important factor in the success of your discussion. What is your frame of mind? If you are angry or frustrated, it is best to delay your discussion. It is important for you to maintain a problem-solving attitude and strive to be as objective as possible. Whether "spur-of-the-moment" or "after-the-fact," the initial written warning is given in a private setting, without interruptions. Foster a feeling of mutual respect by giving the employee your undivided time and attention. The discussion is conducted in a friendly but firm, formal but non-threatening, "low-key" manner. You may want to refer to your notes, but try not to be mechanical or read from a piece of paper.

Begin the meeting by being direct and straight to the point—state the purpose of the discussion. Identify the performance that needs to be corrected by outlining specific, work-related problems. Avoid statements as such, "You're always late" or "Your performance is getting worse"; instead use facts and examples of specific incidents. If this is not the first time the problem has been addressed, review the history and remind the employee of previous discussions and action taken. Explain why you are concerned about the problem and the effect it has on productivity, morale, patient care, or customer service.

After you have identified the problem, provide the employee with an opportunity to explain, to respond, to ask questions, and/or to give information about what you have just said. Be prepared for a reaction which can range from acceptance to anger, silence, blame, denial, rationalizing, tears, or excuses. This step is important to uncover any new and additional information; and by considering the employee's viewpoint, it promotes a sense of fairness. Fairness is reinforced by actively listening and responding with empathy and understanding, but this does not mean you are in agreement with the response. Be aware of hidden agendas by listening with a "third ear," i.e., what wasn't said?

Once the problem is recognized and an explanation provided, identify your expectations for correcting the problem. Emphasize that change is necessary. It is the employee's responsibility to solve the problem (not yours), although you may work together to find a solution. Agree on a list of actions and encourage the employee to make a commitment.

The most difficult part of the discussion is to identify the consequences if the problem continues. It is important for the employee to know the seriousness of the situation and the possible corrective action that may follow if the problem is not corrected. This message may be softened by emphasizing that consequences will occur only if there is not enough improvement—the employee determines the outcome. Finally, conclude the meeting on a positive note by expressing confidence in the employee to achieve the necessary changes. Acknowledge the difficulty of the situation and offer your support in any way you can. Set a future date to review the situation and, in the meantime, provide feedback on the employee's progress toward fulfilling the commitment.

The purposes of this discussion are to alleviate any misunderstanding and to clarify the direction for necessary and successful correction. Most problems are resolved at this stage. If the problem continues, you may want to repeat this step before proceeding to a subsequent written warning.

The initial written warning is considered the first step in corrective action, and it is used to bring a problem to the attention of the employee before it becomes so serious that it has to become part of the employee's permanent record.

Subsequent Written Warning (s)

When the employee has not satisfactorily corrected the problem as outlined during the initial written warning and when more corrective action is considered necessary, proceed to the next step: a subsequent written warning. This may also be the initial corrective action step in cases of a more serious nature.

The process is essentially the same as in the initial written warning step, and a similar discussion should take place. Make every effort to ensure that the employee has a complete understanding of the expectations and the consequences if the problem is not corrected.

After this discussion, compose the written warning letter to document the discussion. The written warning includes a review of any prior related corrective action taken, a thorough statement of the circumstances causing the current corrective action, and a clear picture of future expectations. See the section titled “Documenting the Corrective Action” for more detailed information. Sample letters are provided in the back of this guide.

Final Written Warning or Suspension

A final written warning or suspension is the last remedial step in the corrective action process and is normally preceded by an initial written warning and a subsequent written warning. In a few extremely serious cases, a final written or suspension may be warranted as the initial step in the corrective action process and may include a transfer or demotion within the unit. You must always contact Human Resources Administration if you are considering a final written warning or suspension prior to taking this step.

A suspension involves the temporary removal of the employee from the workplace—without pay—for a specified period of time. The employee does not accrue vacation and sick leave benefits during this nonworking, non-paid period of time. Again, the purpose of this corrective action step is to correct the identified problem. A final written warning or suspension is the strongest warning to the employee that the problem is, indeed, extremely serious, and it is the “last chance” the employee has to correct the problem.

The length of the suspension is determined by the department and may range from one to five working days. Most suspensions average three working days. A suspension longer than five working days may be imposed, but review the relevant facts with Human Resources Administration first. It is important to note that the *length* of the suspension is not as critical as the *step* of suspension.

As in the previous steps, hold a private discussion, review the situation, and seek the employee's input. Then summarize the discussion in writing. See the section titled “Documenting the Corrective Action” for more detailed information.

The suspension letter includes the specific days of the suspension as well as the date and time the employee is expected to return to work. Sample letters are provided in the back of this guide.

Note: Due to their exempt status, salaried employees (PAE) cannot be suspended without pay except for workplace conduct violations which do not include performance or attendance issues. In lieu of suspension, salaried employees should be given a final written warning. Like the suspension, the final written warning is the last corrective step in the process, and the employee must be informed that it is the final step prior to termination.

Suspension Subject to Termination

There are incidents that are so serious that the employee may be terminated without going through the full sequence of corrective action steps.

Some examples of such incidents include absences of five consecutive work days without proper notice to the supervisor, willful destruction of university property, theft, and falsification of time sheets or other university records. When these types of incidents occur, the employee is suspended without pay for five working days, pending an investigation and subject to termination.

This suspension allows for a “cool down” period to conduct a thorough investigation and carefully consider whether termination is appropriate. It is critical during this suspension period to give the employee an opportunity to hear the charges, understand the evidence, and offer an explanation. If the employee fails to take advantage of this opportunity, you may proceed with the case. At the end of the investigation, inform the employee of your decision either through a meeting or via certified mail. If you determine the case does not warrant termination, the employee may be paid for all or some of the time off depending upon the circumstances.

Note: Due to their exempt status, salaried employees (PAE/PB) cannot be suspended without pay except for workplace conduct violations. If the severity of the situation is such that a salaried employee must be removed from the workplace, contact Human Resources Administration.

Termination

If all of the previous steps have been fruitless, the employee may be terminated from employment. Termination is the final step in the corrective action process and obviously is not corrective.

Thoroughly investigating the situation and allowing the employee an opportunity to explain is particularly critical at this step. Review the results of your investigation and a drafted letter of termination with Human Resources Administration and obtain approval to proceed with the termination. The termination letter is brief and to the point; it should include the reasons for termination, the effective date of the termination, and details regarding the notice period, if any.

Next, determine a date and time to inform the employee of your decision. As a general rule, a termination meeting should be held in the early part of the week and early part of the day. Notifying an employee of termination at the end of the day or prior to a weekend or holiday does not allow the employee an opportunity to seek guidance from other university offices regarding the situation. It is a good idea to have another member of management present during termination meetings. In the meeting, explain the decision to terminate briefly and clearly; then state the specific reasons for the termination. Don't be tempted to soften the message by offering compliments or commenting on good performance. This sends a mixed message and may confuse the employee. It may also be the only thing the employee hears and will give cause to question and challenge your reasons for termination. Provide the employee with the letter of termination and review the remaining items on the Termination Checklist (<http://www.hra.iupui.edu/hra/mgmtresources/resource/shiring.asp>).

You are not required to give a two-week notice of termination (or any other amount of notice time); however, if you do, it is recommended that you review performance expectations during the notice period with the employee. If expectations are not met, or problems develop, the notice period can be withdrawn.

In some situations, it may be appropriate to offer the employee an opportunity to resign in lieu of termination. Discuss this option with Human Resources Administration prior to meeting with the employee.

After the meeting, complete your notes by documenting what was said and done in the meeting.

Time Frames

The concept of time occurs at three points within the corrective action process: timeliness of the corrective action, time between corrective actions, and the time given to the employee to correct the problem.

Timeliness of the Corrective Action. There is no universally accepted rule on this point; however, there is an expectation that you will administer corrective action as soon as possible after the problem occurs. As a rule of thumb, it should not take more than ten days to complete the investigation and administer any appropriate corrective action after the incident or after you learn about the incident. If more time is needed, you should inform the employee that an investigation is still underway and provide a date by which a decision will be made.

Time Between Corrective Actions. Under university policy, corrective action is considered successful if no further action is necessary for at least 12 months. The corrective action record is not destroyed after a year, and it may be considered if further corrective action becomes necessary at a later time. However, the last step taken may have to be repeated if more than a year has passed. In some cases when several years have passed, it may be appropriate to go back to the initial written warning step of corrective action and begin again.

There is no minimum time between corrective action steps. You need to allow enough time for the employee to correct the problem. This may be immediately, a week, a month, or several months, depending upon the nature of the problem.

Time to Correct The Problem—Use of Target

Dates. In situations in which the employee can solve the problem promptly, such as attendance problems or sloppy work, communicate your expectations that the employee must immediately achieve and *maintain* acceptable performance standards to avoid further corrective action.

If you should set a target date, you may inadvertently hamper your flexibility and commit yourself to start over or repeat a step if the problem recurs after the target date. For example, if you tell an employee that one more absence occurrence in the next month will lead to discharge, you are restricted from carrying through if that day occurs five weeks from now.

In situations in which the employee needs to develop a skill or learn a procedure, it may be appropriate to set a date when the situation will be *reviewed*. But even here, once the skill has been learned, it is appropriate to communicate the expectation that acceptable performance levels must be maintained.

ADMINISTERING THE CORRECTIVE ACTION

The Investigation

A most critical element in each corrective action step is your investigation before administering corrective action, and it is also one of the tests of just cause listed on Page 5. It makes sense to provide the employee an opportunity to hear the charges, understand the evidence, and offer an explanation before the termination occurs. In other words, the employee should be given an opportunity to present “the other side of the story.” It is a good management practice to extend this opportunity at all levels of discipline.

Representation. When you schedule a meeting to discuss the case, tell the employee it is part of your investigation and may lead to corrective action. This allows the employee to make arrangements to have a representative present, if desired. It is not necessary to inform or remind the employee of the right to representation, but if it is requested, it is required that you give the employee an opportunity to obtain representation. Should a representative not be available, you may proceed. The representative’s role is to assist the employee in understanding the basis for the corrective action and to assist in presenting the employee’s response. Since this is not a full or formal hearing, the representative’s role does not include questioning witnesses. If the employee rejects the opportunity for a meeting, note this in the record at the end of your investigation.

The Investigatory Meeting. Whether it involves a general job performance problem or a specific policy violation, the structure of the investigatory meeting is the same. Inform the employee of the problem and the evidence that currently exists and ask the employee for an explanation or response. At the conclusion of the meeting, inform the employee of the range of steps you may take if your complete investigation shows discipline is warranted.

It is recommended that a final decision not be announced in the meeting. At this point, you are ready to continue your investigation. As you gather facts, question witnesses, and review the evidence, document the investigation, including dates, times, and persons questioned. Take time to reflect on all available information and to discuss the matter with departmental management and Human Resources

Administration. You are now ready to make a sound corrective action decision.

Documenting the Corrective Action

Once beyond the counseling step, confirm all corrective action steps in writing. This written documentation officially recognizes that a problem exists and is written *after* discussion. If the corrective action letter is written prior to meeting with the employee, the discussion may be slanted to fit the letter. In addition, a letter prepared in advance does not allow for unknown circumstances or explanations presented by the employee.

What should a corrective action letter include? The letter has three parts: the past, the present, and the future. Depending on the flow of the letter, the order of the first two parts may be reversed, but it is important all three parts be present.

The Past. This section reviews the employee’s work record, gives the history of related offenses (if any), and reminds the employee of previous corrective action taken. This summary of past events demonstrates the progressiveness of the corrective action applied.

The Present. This section states the purpose of the letter and cites the specific incident or nature of the problem. In recounting the incident or problem, include what occurred and when, how it affected the work activity, the results of your investigation, and the employee’s explanation. State only the facts that can be proven. This section also cites the specific rule, policy, or standard violated, and the corrective action being taken as a result of the employee’s actions. Stress the significance of the offense and the reason for the corrective action.

The Future. Finally, the employee must have a clear understanding of the expected standard of behavior or performance, how this standard can be achieved, and the consequences of continued failure to meet these expected standards.

Write in easily understood language, emphasize the “do” rather than the “don’t,” and focus on the future rather than the past. In other words, use a tone of correction not punishment. You may also advise the employee of the right to appeal the corrective action through the university’s Problem-Grievance Procedure.

Sample letters are provided in the back of this guide.

Informing the Employee

Inform the employee of the discipline, both orally and in writing, as soon as possible after the corrective action decision has been reached. The purpose of this discussion is to outline what is wrong, what is expected in the future, and what corrective action is being taken.

This may be the most crucial element of the entire corrective action process. As a supervisor, you need to keep close control of your emotions, avoid sarcasm, threats, nagging, getting into an argument with the employee, or losing your temper. With the obvious exception of a termination, the purpose of the steps is to correct a problem. The employee needs to leave this meeting knowing that better conduct is expected.

Ask the employee to sign the corrective action letter to acknowledge receipt and understanding—not necessarily agreement. If the employee chooses not to sign the letter, note this on the letter. Give a copy to the employee, and inform the employee that a copy will also be sent to Human Resources Administration for inclusion in the official personnel file.

THE EMPLOYEE'S RIGHT TO APPEAL CORRECTIVE ACTION

The Problem-Grievance Procedure

The university has established a Problem-Grievance Procedure through which the employee may appeal corrective actions. Do not be deterred from taking a corrective action because of a threat or fear of a grievance. The filing of a grievance over a corrective action you have taken does not mean that your decision was wrong—it simply means the employee disagrees. The grievance procedure allows for the employee's views to be considered in an orderly way without interrupting work operations.

There are three principles basic to any effective grievance procedure.

Settlement on a Merit Basis. The employee must feel the grievance procedure will permit a fair hearing.

Settlement at the Point of Origin. The procedure's effectiveness depends largely upon the success of resolving complaints at the lowest level possible. Grievances become more difficult to settle as they progress through the appeal steps because attitudes tend to become fixed, and fear of loss of prestige prevents settlement. However, to assure fair consideration, there is a definite route of appeal, without fear of prejudice, to higher levels of authority.

Promptness of Action at Each Step. Handling complaints promptly increases the employee's confidence that you are dealing in good faith. Stay within the time frame provided in the grievance procedure for input, gathering the facts, and reflection.

In recognition of these principles, the university's grievance procedure has four steps, with time limits stated for each step. The complaint is first presented, in writing, to the immediate supervisor. It may be appealed in writing to Stage II to the dean or director of the department. If not resolved, the grievance may then be appealed in writing to Human Resources Administration at Stage III. For Service and Maintenance (SM) employees, there is an additional Stage 3 ½ step. If Human Resources Administration is unable to mediate a resolution to the grievance, the employee may appeal to Stage IV. Stage IV is limited to cases of terminations and policy violations.

The university's problem-grievance procedure is summarized in the following chart. The full procedure is contained in each of the university personnel policy manuals.

IUPUI Problem-Grievance Procedure

Stage	Time Limits to File or Appeal	Person Who Hears the Appeal	Time Limits to Respond to Employee
I	10 Working Days (from knowledge of the incident causing grievance)	Immediate Supervisor	5 Working Days
II	5 Working Days	Dean or Director of Department	5 Working Days
III	5 Working Days	Human Resources	10 Working Days
IV	10 working days	Faculty Member, Hearing Panel, or Arbitrator	15 Working Days (if possible)

*This is a general outline of the time limits in the university procedure. See Human Resources Policies on the Problem-Grievance Procedure for complete information. An additional step 3 ½ is not shown here which is available only for SM employees.

Management's Burden of Proof

Management has the primary responsibility to prove the corrective action was warranted *and* the level of action was appropriate. Obviously, the employee does not remain passive in this process but will be trying to persuade whoever is hearing the appeal that the corrective action was not warranted or was too severe.

The formal rules of evidence of the legal system are not strictly applied in the grievance process. For example, while testimony of a witness to an incident carries more weight than a written statement and original documents better than copies, hearsay evidence (information provided by someone other than the primary source) and circumstantial evidence

(information which causes one to deduce a certain fact) are both permitted in reviewing grievances. Neither may receive much weight unless they are corroborated by direct evidence. In summary, the quality of evidence is judged by four criteria:

Relevance. Is the information related to the issue?

Materiality. If relevant, how relevant is it? Does it alone constitute proof?

Competence. Is the information believable and is the person testifying in a position to know?

Best Evidence. Is the best available evidence used and if not, why?

Handling a Grievance

The following are some of the do's and don'ts for you to observe in handling grievances.

DO

1. *Do* investigate and handle each case as though it may eventually result in a Stage IV hearing.
2. *Do* talk to the employee about the grievance, permitting a good, full discussion.
3. *Do* enforce the grievance procedure's time limits and comply with them yourself.
4. *Do* visit the work area of the grievant.
5. *Do* determine if there were any witnesses.
6. *Do* examine relevant university policies and departmental procedures.
7. *Do* determine if there has been equitable treatment of employees.
8. *Do* determine how similar cases have been handled in the past.
9. *Do* examine the employee's personnel record.
10. *Do* fully examine similar grievances.
11. *Do* produce all available evidence.
12. *Do* identify the resolution the employee is seeking.
13. *Do* permit the employee to have representation, if requested.
14. *Do* hold your grievance discussions privately.
15. *Do* recognize your burden of proof in corrective action cases.
16. *Do* use the grievance meeting as another avenue of communication.
17. *Do* control your emotions, your remarks, and your behavior.

18. *Do* maintain records relevant to corrective actions.
19. *Do* admit your errors and take corrective actions.
20. *Do* fully inform and discuss grievance matters with your superior.
21. *Do* discuss discharge cases with Human Resources Administration.
22. *Do* advise the grievant of your decision in writing.
23. *Do* advise the grievant of the next appeal step.

DON'T

1. *Don't* settle a grievance while in doubt; get a time extension.
2. *Don't* give long written grievance responses; get to the point.

Above all else, *don't* be afraid of the grievance procedure. *Do* use it as another management tool to work for you.

SUPERVISOR'S CHECKLIST

This checklist should be helpful in analyzing an employee problem and determining what corrective action might be appropriate. It is intended to help you remain objective in analyzing and administering corrective action. "No" answers may indicate that more information, further analysis, or non-disciplinary action may be required before you move to the next progressive step. You should answer all of the questions before you decide on a plan of action. Then consult your supervisor and/or Human Resources Administration.

I. Work Performance Problem

Yes No

- ___ ___ 1. Is the employee adequately performing the work assigned?
- ___ ___ 2. Does the employee understand your expectations:
- A. What to do?
- B. How to do it?
- C. Why to do it?
- D. When to do it?
- ___ ___ 3. Does the employee have access to and know where to find written instructions/procedures?
- ___ ___ 4. Has the employee ever demonstrated the skill?
- ___ ___ 5. Is it a skill the employee can be taught?
- ___ ___ 6. Based on experience/education, is it a skill the employee should possess?
- ___ ___ 7. Could the employee perform the skill if he or she wanted to?
- ___ ___ 8. Is the work expected reasonable?
- ___ ___ 9. Has the job changed?

II. Behavior Problem

Yes No

- ___ ___ 1. Is the employee's behavior appropriate/acceptable?
- ___ ___ 2. Does the employee understand acceptable behavior?
- ___ ___ 3. Has the behavior been acceptable in the past?

III. The Investigation

Yes No

- ___ ___ 1. Have you discussed this problem with the employee to get an explanation?
- ___ ___ 2. Do you understand the employee's explanation?
- ___ ___ 3. Have you conducted an objective investigation by approaching the problem from all angles?
- ___ ___ 4. Have you questioned the people involved including those mentioned by the employee?
- ___ ___ 5. Have you examined the physical evidence (e.g. time cards, vouchers, daily logs, equipment location)?
- ___ ___ 6. Do you know the basic facts (e.g. dates, times, places, people involved)?
- ___ ___ 7. Have you separated the disputed facts from the undisputed facts?
- ___ ___ 8. Have you checked university and departmental policy?
- ___ ___ 9. Have you consulted HRA?
- ___ ___ 10. Is there a past history of enforcing corrective action for the same/similar offense?
- ___ ___ 11. Is the rule that has been violated a reasonable one?
- ___ ___ 12. Did the inappropriate performance/behavior result in cost to others?
- ___ ___ 13. Did the inappropriate performance/behavior result in danger to others?
- ___ ___ 14. Above all, have you documented your investigation in writing?

IV. Supervisor's Responsibility

The university depends on supervisors to communicate university policies and practices. Since you determine job tasks/duties, you must communicate job performance expectations and departmental work rules.

Yes No

- 1. Have you provided adequate training?
- 2. Can the employee function within the work group without using the deficient skill?
- 3. Do you reinforce acceptable behavior?
- 4. Has acceptable behavior been communicated with understanding to the employee?
- 5. Have you conducted a full and fair investigation as outlined in Section III?

V. The Employee

Before administering corrective action steps, be familiar with the answers to the following questions.

Yes No

- 1. Has the employee been employed a long time?
- 2. Is the employee's work record below the rest of the work group?
- 3. Did the employee know or should have known the rule or policy?
- 4. Should the employee have known your work expectations?
- 5. Is the employee personally guilty?
- 6. Has the employee been warned previously for violation of this rule?
- 7. If previously warned, did you communicate the consequences if the employee did not correct the problem?
- 8. Has it been less than a year since the most recent corrective action?

VI. Appropriate Corrective Action

Yes No

- 1. Have you defined the objective of the corrective action?
- 2. Have you checked university and departmental policy?
- 3. Have you imposed corrective action to fit the employee's past record?
- 4. Have you imposed corrective action that is progressive in nature and that fits the incident?
- 5. Have you considered any mitigating or aggravating circumstances which may affect the level of corrective action?
- 6. Have you set a date to follow up with the employee?

APPENDIX B
Initial Written Warning

MEMORANDUM

TO: Mary Jones

FROM: Tom Doe
Supervisor

DATE: January 9, 20__

SUBJECT: Initial Written Warning for Poor Work Performance

On Wednesday, January 8, at 2:30 pm., we met to discuss your failure to follow the instructions and departmental procedures described below.

1. You did not process a travel request on a timely basis and scheduled an important meeting on this travel day which had to be rescheduled. Also, another travel request was prepared that was incomplete in numerous aspects, including the registration form.
2. Filing in all areas is to be done on a daily basis. Filing in some areas accumulates for more than a week before receiving your attention. You were given oral instructions that nothing was to be stacked on top of the file cabinets. A second reminder was issued two weeks later to clean off the top of the file cabinets, and it included specific instructions as to where the materials should be placed. Both of these directives have been ignored.

Mary, I urge you to direct your attention to these areas of your performance before further corrective action becomes necessary.

cc: departmental file

APPENDIX B-1
Initial Written Warning

MEMORANDUM

TO: Ed Smith

FROM: Marian Blake
Supervisor

DATE: January 9, 20__

SUBJECT: Initial Written Warning for Poor Attendance

On January 2, in our one-on-one staff meeting I counseled you about your absences and late arrivals to work. Since then you have been absent four Tuesdays in a row. This pattern of attendance is unacceptable and I expect to improve your attendance immediately or else further corrective action may become necessary.

cc: departmental file

APPENDIX C
Subsequent Written Warning

MEMORANDUM

TO: Mary Jones

FROM: Tom Doe

DATE: February 1, 20__

SUBJECT: Subsequent Written Warning for Poor Work Performance

Since the time of your initial written warning last month, I have not seen sufficient improvement in any of the areas that were cited as needing improvement. Your work performance continues at an unsatisfactory level. The following problems have been noted within the past two weeks:

1. A memorandum given to you as a “high priority item” was not transcribed for over one week. When it was transcribed, the first and second drafts contained numerous errors, many of which were of a totally unacceptable nature given your experience and job level.
2. In looking through your “to do” file, there were numerous items which I had given to you to send to other people that were more than one week old and not yet processed.
3. You either double scheduled or failed to indicate that you had scheduled meetings for me upon three occasions causing me to miss meetings.
4. You have been noted to have spent an excessive amount of time on personal phone calls.

This letter is to notify you that, unless your work performance improves to an acceptable level immediately, further corrective action will follow. If you achieve an acceptable level of work performance, you are expected to maintain that level of performance on a continuous basis. Your performance will be reviewed on a weekly basis, and problems will be brought to your attention immediately. Any questions regarding this memorandum should be addressed to me.

cc: Human Resources Administration

Employee's Signature
Acknowledges Receipt Only

APPENDIX C-1
Subsequent Written Warning

MEMORANDUM

TO: Ed Smith

FROM: Marian Blake

DATE: March 21, 20__

SUBJECT: Subsequent Written Warning for Poor Attendance

On February 12, we discussed your poor attendance, and you were informed that if this problem persisted, you could be subject to further corrective action.

Since our discussion, you were late to work on February 20 and absent on February 28 and March 18. I must emphasize the seriousness of this situation. This attendance record is unacceptable and continued difficulties in this area could lead to more severe corrective action, including suspension without pay and ultimately termination.

If you have any questions regarding this matter, I urge you to discuss these concerns with me as soon as possible.

cc: Human Resources Administration

Employee's Signature

This letter has been reviewed with me, and I have received a copy.

APPENDIX D
Letter of Suspension

MEMORANDUM

TO: Mary Jones

FROM: Tom Doe
Supervisor

DATE: April 21, 20__

SUBJECT: Suspension for Poor Work Performance

On January 8 you received an initial written warning and on February 1 you received a second written warning which pointed out several serious deficiencies in your work performance. I have been monitoring your work, and you have not made sufficient improvement in the areas we discussed. Immediate and sustained improvement is necessary in the following areas:

1. You have been making frequent typing errors involving the spelling of common, nonmedical terms. Revisions have often been returned with additional typing errors which were not present on the original letters.
2. In typing dictations, you are not using the dictionary and other sources of reference to check the spelling of words. As a result, your error rate on some dictations has been as high as 30 words per page. Again, corrected versions still come back with serious errors.
3. As I pointed out, you seem to have a problem in concentrating on your work which has been compounded by too many incoming and outgoing personal phone calls. Such calls should be limited to emergency situations in the future.

You have been employed in our department for over a year, and during this time your work performance has continued to decline. Because of this unacceptable level of performance, you are being suspended for three days, April 22, 23, and 24. You are expected to return to work at 8:00 a.m. on Friday, April 25. I wish to make clear that unless your performance improves immediately and remains positive, I will have no alternative but to terminate your employment.

cc: Human Resources Administration

Employee's Signature
Acknowledges Receipt

APPENDIX D-1
Letter of Suspension

MEMORANDUM

TO: Ed Smith
FROM: Marian Blake
DATE: May 15, 20__
SUBJECT: Suspension for Poor Attendance

This letter is intended to serve as a notice of suspension in the matter of your attendance and to outline, once again, the guidelines for your continued employment with Indiana University.

In early February of this year you were given an initial written warning that your attendance was unacceptable; one month later, when your attendance had not improved, you were given a second written warning.

Since that time, there have been three instances in which you were absent for all or part of a day. This is an unacceptable situation, and you are now placed on a three-day suspension effective tomorrow through Thursday.

Further absences can lead to termination. I hope that you understand the gravity of this situation. While I have no wish to see you terminated, it is important that you are present and willing to work. Your signature below is evidence that you have read this document and understand its contents.

cc: Human Resources Administration

Employee's Signature

APPENDIX E
Letter of Termination

MEMORANDUM

TO: Mary Jones

FROM: Tom Doe

DATE: June 4, 20__

SUBJECT: Notice of Termination - Poor Work Performance

At the time of your suspension for poor work performance, I expected an immediate and sustained improvement of your performance or you would be subject to termination.

I did note some initial improvement; however, it did not last. Within the past three weeks, most of the problems cited in the written warning and suspension letters have recurred. Since you offered no acceptable explanation when I presented these latest deficiencies to you, I am notifying you of your termination of employment from Indiana University effective two weeks from today on June 18.

You are entitled to follow the university's grievance procedure if you wish to do so. To indicate your understanding and receipt of this letter—not agreement—please sign below.

cc: Human Resources Administration

Employee's Signature

APPENDIX E-1
Letter of Termination

MEMORANDUM

TO: Ed Smith

FROM: Marian Blake

DATE: June 30, 20__

SUBJECT: Notice of Termination for Poor Attendance

During the past year you have been counseled numerous times regarding your attendance record. It was stressed that you could not effectively perform your responsibilities with such a poor record.

You were given an initial written warning on February 12 explaining the necessity of improving your attendance record, and on March 21 you received a second written warning for failure to improve your attendance. On May 15 you received a three-day suspension, and you were advised that further attendance problems could result in termination.

Since that time, your attendance has remained unacceptable with several occasions of tardiness and absences.

As we discussed in our meeting this morning, this adversely affects the department. I have no alternative but to terminate your employment effective two weeks from today. Your last day will be July 14.

cc: Human Resources Administration

Employee's Signature

Acknowledges receipt and understanding—not agreement

APPENDIX F
Letter of Suspension Subject to Termination

MEMORANDUM

TO: Ed Smith

FROM: Marian Blake

DATE: June 1, 20__

SUBJECT: Suspension Pending Termination

This is to notify you that effective immediately you are being placed on a five-day suspension pending an investigation and subject to discharge.

This action is being taken due to your participation in a fight at work with another employee. When questioned earlier today, you denied starting the fight, but you did admit to striking the other employee. Instigating a fight and/or retaliating with physical violence are totally unacceptable actions in the work place, and they result in severe corrective action.

An investigation of your involvement in this incident will be conducted during the ensuing five days at which point you will have the opportunity to again explain what happened. You will be notified of your employment status at the end of this five-day suspension period.

cc: Human Resources Administration

Employee's Signature
Acknowledges Receipt Only