



Questions Your Investigation Should Answer

What is the seniority date of the employee?

- This is relevant since the degree of discipline administered will be looked at in relation to the (a) seriousness of the proven offense and (b) the past performance/documentated record of the employee).

What is/are the reason(s) for discipline/discharge which will be stated if a grievance or litigation arises?

- It must be the true reason – not a reason that changes over time. It must be consistent with MCO's written policies and other reasonable expectations. The evidence must prove the charge made at the time of discipline or discharge. Tie their inappropriate behavior to a violation of MCO and/or Departmental policy(ies) and/or articles in the contract.

How does that "articulated reason" square with MCO's policies/procedures/contract language?

- Did the employee have forewarning of the possible or probably disciplinary consequences of their conduct (i.e., informal coachings, comments on a performance evaluation and/or probationary review, etc.)? Is the rule/procedure reasonably related to the orderly, efficient and safe operation of MCO's business?

How strong is the evidence of the event which triggers the discipline/discharge?

- Is it documented? (staff meeting minutes, documented informal coaching sessions, formal warnings, etc.)

How strong is the documentation of progressive discipline?

- It is absolutely key that we can show evidence of clear communication with the employee regarding expectations and consequential discipline.
- What do the employee's performance evaluations say?
- Has the decision maker looked at the employees entire HR record?

Are there compelling explanations or sympathies in favor of the employee?

- Any mitigating circumstances? (example: wasn't adequately trained, inadequate supervision, etc.)

How have similar situations been handled?

- Did MCO, before administering discipline, make an effort to discover whether the employee did in fact violate a rule or order?
- Was MCO's investigation conducted fairly and objectively and professionally?
- Has MCO applied its rules and penalties evenhandedly and without discrimination?

Has the employee's explanation of the "triggering event" been obtained before making the discipline/discharge decision (i.e., did they have their "day in court" before you made your decision?)

Should there be a "last chance" period? Why or why not?