

LEGAL RIGHTS AND RESPONSIBILITIES

THE SEVEN TESTS OF JUST CAUSE FOR DISCIPLINE

If the answer to these seven questions is YES, management has a just cause for discipline:

1. FAIR NOTICE

Did management make the worker aware of the rule or policy which they are being accused of violating?

2. PRIOR ENFORCEMENT

Has management recently enforced the rule or policy or penalized other workers for violating the same rule or policy?

3. DUE PROCESS

Did management conduct an interview or hearing before issuing the discipline, take action promptly and list charges precisely?

4. SUBSTANTIAL PROOF

Was management's decision to accord discipline based on credible and substantial evidence?

5. EQUAL TREATMENT

Is the punishment management is proposing consistent with the punishment other workers received for the same or substantially similar offense?

6. PROGRESSIVE DISCIPLINE

During the disciplinary process, did management issue at least one level of discipline that allowed the employee an opportunity to improve?

7. MITIGATING AND EXTENUATING CIRCUMSTANCES

Was the discipline proportional to the gravity of the offense, taking into account any mitigating, extenuating or aggravating circumstances?