

Seven Steps of Just Cause

Whether a proposed disciplinary action is fairly grounded. It is fair to assume that this test will be applied by arbitrators in the event that disciplinary actions are challenged, and it is therefore good practice to apply them when management is considering the imposition of progressive discipline.

- 1. Notice**
- 2. Reasonable rules and orders**
- 3. Investigation**
- 4. Fair investigation**
- 5. Proof**
- 6. Equal treatment**
- 7. Penalty**

1) Notice

Prior to imposition of discipline, employee must have notice of rules and expectations. This is established through:
New employee orientation Orientation checklists
Receipts for departmental handbooks Periodic reinforcement and coaching

2) Reasonable rules and orders

Cannot be inconsistent with collective bargaining agreements Cannot be arbitrary or capricious
Must be reasonably related to business necessity

3) Investigation

Must be thorough; consider all evidence, pro and con Must be timely
Occurs before discipline imposed
Give accused opportunity to respond (Loudermill Hearing)
Allow union representation (Weingarten Rights)

4) Fair investigation

Result must not be foregone conclusion Test assumptions and biases

5) Proof

Level of proof is normally substantial evidence Greater proof required for more serious allegations

6) Equal Treatment

Equal treatment must be balanced against just application:
Rules must be applied evenhandedly and without discrimination
Rules must be applied justly
I. E. Don't blindly apply same rule to all situations. Managers supervisors are expected to exercise judgment.

7) Penalty

Must be fair, not arbitrary or capricious, or based on emotional response
Factor in length of service, prior performance history and previous progressive discipline