

## **INSUBORDINATION/ANTI-AUTHORITY BEHAVIOR CHECKLIST**

This checklist should be utilized whenever the employee refuses to do a job as assigned, or is abusive or belligerent, unless the reason for the refusal is safety or illness (in which cases the supervisor should utilize the SAFETY RELIEF CHECKLIST). The supervisor should make absolutely sure that the "Big 4" items (the first four on the list) are done on the spot at the time before administering discipline, or the discipline, if severe, is likely to be overturned or modified. The additional items on the checklist should be considered as well.

### **"BIG 4" INSUBORDINATION ITEMS**

- 1) Make sure the instruction is clear and understood. There can be no refusal if there has been no directive. DO NOT ASK OR GIVE A CHOICE. GIVE A DIRECT ORDER and if there appears to be a likelihood of a refusal to work as directed, instruct the employee to repeat back the directions to make sure they are understood.
- 2) Ask the employee why he/she does not want to do the job, or is not able to do so. Ask the employee if there are any other reasons he/she cannot do the job. Determine if the employee is physically able to perform the work from the answers to these questions. Ask the employee if there is something else bothering him/her.
- 3) Warn the employee on the spot at the time that continued refusal can lead to severe discipline, including the possibility of termination of employment. Review the company policy regarding anti-authority and insubordination behavior or, if applicable, the use of abusive language toward supervisors.
- 4) Remind the employee of the "work now, grieve later" procedure and the principle of retroactive adjustment. Remind the employee that the grievance procedure replaces refusal to work as the method of resolving differences.

- \_\_\_ The situation should be dealt with in private, without involving others, and without making a show. (The employee's behavior in the future will adequately demonstrate the supervisor's authority and effectiveness.) "Observer" employees should be returned to their work stations.
- \_\_\_ If the above steps do not result in the employee performing the job, and if the supervisor determines that disciplinary action or relief of duties may be in order, the supervisor should make arrangements for a second supervisor and a steward to be available; and a fact-finding interview, including a brief review of the "Big 4" items above, in the presence of the steward and the additional supervisor should be made before relieving the employee of duties.
- \_\_\_ If, following the supervisor's use of the "Big 4" items, the employee ultimately chooses to carry out the directive, the supervisor may still want to follow up with a formal warning or letter to reduce the likelihood of reoccurrence of the same type of response by the employee.
- \_\_\_ The supervisor should not use any abusive or foul language in dealing with the employee.
- \_\_\_ If applicable, the supervisor should remind the employee that the employee has done the work in the past without incident. Attempt to find out what, if anything is different about this situation (ask).
- \_\_\_ If the employee argues the duty is not a part of his/her job, remind the employee of the employee's responsibility to "perform other work and tasks as assigned by the supervisor." At this point, again remind the employee of the "work now, grieve later" practice and retroactive adjustment.
- \_\_\_ If the employee still refuses to comply for "personal reasons," the supervisor may offer the employee the opportunity to write out briefly and sign the employee's reasons for refusal. State that this is in the employee's own best interest, in order that such reasons can be placed in the employee's file along with a record of the incident to explain the situation in the employee's own words. Explain that the supervisor will have to act with the facts in hand in a responsible and prudent manner, and that the supervisor wants the employee's reasons to be part of the factual record.
- \_\_\_ Is there a refusal? Is the word "no" used? (This is not absolutely necessary. Do not be overly aggressive to obtain the word "no," but note it if it is used in any form.)
- \_\_\_ Consider if the situation is SAFETY CLEAR. If safety or illness is an issue, refer to the SAFETY RELIEF CHECKLIST.

## **INSUBORDINATION/ANTI-AUTHORITY BEHAVIOR CHECKLIST**

Before taking formal disciplinary action for insubordination or anti-authority the supervisor should consider the items on the preceding page and the items below and perform a +/-/? Just-cause analysis. The supervisor should consider:

- \_\_\_ The seriousness of the refusal, violation, or misconduct.
- \_\_\_ The circumstances, including the "heat" of the situation.
- \_\_\_ Any extenuating facts that could have motivated the employee including the supervisor's actions.
- \_\_\_ The employee's overall experience level (especially for the very new employee and the very experienced employee).
- \_\_\_ The employee's past conduct, within a reasonable period of time. (Is the conduct "out of character" for the employee? If so, what is the cause for the unusual behavior?)
- \_\_\_ The employee's status in the union (officer or steward?), and whether or not such conduct occurred while the employee was engaged in conducting activities of his/her union office.
- \_\_\_ Whether safety is a factor in the refusal. (Safety or illness factors generally tend to reduce seriousness or wrongdoing in the refusal act and may mitigate it entirely.)

**NOTE:** The supervisor involved in correcting the misconduct should be the employee's immediate supervisor. If the employee's conduct was toward some supervisor other than his/her immediate supervisor, the employee should be made aware that the supervisor is indeed a supervisor immediately when the confrontation occurs and before formal action is taken to correct the misconduct.

**NOTE:** If the employee is an officer or steward of the union, the supervisor should remind the employee that the office does not accord the employee preferential treatment in performing (or neglecting) regular job duties, as compared with other employees, nor does it give the officer or steward license to use such language or to abuse the position of his/her union office in any way. The supervisor should remind the officer or steward that by virtue of the office, the officer or steward should set a good example. If corrective action is necessitated for such misconduct by a steward or union representative while acting in their business capacity on behalf of the union, the supervisor's action should be taken for the representative's abuse of office, rather than for insubordination. See the CHECKLIST FOR UNION OFFICERS. ABUSE OF OFFICE.

For multiple employee refusals, review the above items with each employee privately and individually in the presence of the steward. Cover all of the above with each employee, and document any information which may indicate the employees are acting in a concerted manner.

**REMEMBER:** The supervisor should do the "Big 4" items ON THE SPOT AT THE TIME in order to make it more likely that the employee will work as directed and in order to assure that any disciplinary action, if applied, will have a high probability of support.

**REMEMBER:** Give a direct order. DO NOT ASK the employee "if" he/she will do the job. Tell the employee to do the job.

**REMEMBER:** Do not "give a choice," such as "either do the job or go home." Do not say this. Merely instruct the employee directly to do the job.

**REMEMBER:** If disciplinary action could result from the discussion/interview, as a result of the refusal or insubordinate action, the supervisor should conduct a fact-finding interview with the steward present; and the "Big 4" items should be briefly reviewed before relieving the employee of duties.

**NOTE:** In utilizing the "just-cause" standard to review disciplinary action arising out of insubordination cases, arbitrators will generally consider the degree of importance of the job assigned when considering the degree of severity of disciplinary action imposed. More severe action will generally be upheld for those types of jobs which if not completed interfere with the ability of other employees to carry out their duties. Similarly, if the job refused is ultimately never done, and if no serious consequences can be identified, the Arbitrator is not likely to support severe forms of disciplinary action.