

**UNSAFE-CARELESSNESS/DAMAGE TO PROPERTY**  
**CHECKLIST FOR RESPONDING TO, HANDLING, INVESTIGATING THE**  
**INCIDENT**

The following general topics should be considered during the time the incident is occurring or while the incident is being investigated and prior to any decision to reinstruct or to correctively discipline the employee.

- \_\_\_ Note the exact time and location of the incident or action, including how the Supervisor first learned of the incident. Obtain additional supervisory assistance if possible.
- \_\_\_ Immediately after an incident of damage, ask the employee:
  - ... "Were you injured in any way?"
  - ... "What was the reason for the action?"
  - ... "Is there any other reason for this action/incident?"
- \_\_\_ Obtain medical assistance immediately if injuries are involved.
- \_\_\_ If the employee is likely to be disciplined for the incident or action, it is advisable to have another supervisor and a steward present when the employee is being interviewed.
- \_\_\_ Determine if involvement of security personnel is needed or if law enforcement officials should be notified.
- \_\_\_ If Company policy requires alcohol/drug or fitness-for-duty test following accident, take steps to safely take employee to test facility, as per policy.
- \_\_\_ If the Agreement provides for involvement of the safety committee or accident investigation committee, the supervisor should take steps to comply.
- \_\_\_ Do not reassign the employee until after investigation of the incident and until after interviewing the employee. If appropriate, assign the employee to alternate work until corrective training is instituted.
- \_\_\_ Determine if there were observers and witnesses, and interview observers and witnesses individually and in private. Assign others to specific job assignments in the meantime, while the investigation and interviews are being conducted. It is not necessary to provide a union representative during interview of observers or witnesses where there is not likelihood that they will be disciplined.
- \_\_\_ Proximity of time of incident to start/end of work period, break or rest period, lunch period, etc., should be noted. Accurate chronological time sequence notes should be taken during the entire investigation.
- \_\_\_ The supervisor should make a personal first-hand inspection of the equipment involved and of the area of the incident as soon as possible after the incident. Photographs should be made of the damage and of the area of the incident.
- \_\_\_ Note physical conditions in the area of the incident: ventilation, temperature, moisture, noise level, lighting, housekeeping, etc., by personal on-the-spot supervisory inspection.
- \_\_\_ Determine if fire was in any way involved in the incident.
- \_\_\_ Determine if at the time of the incident the employee was acting independently or according to the direction of a supervisor, another co-worker, or any other person.
- \_\_\_ Determine if at the time of the incident the employee was engaged in any action to in any way prevent a more serious condition or incident.
- \_\_\_ Determine if the location of the incident was well lighted.
- \_\_\_ Determine if the incident occurred in work area, rest area, high traffic area, etc.
- \_\_\_ Determine if at the time of the incident, the employee was involved in routine or emergency work.
- \_\_\_ Determine if at the time of the incident if the employee's attention was given to anything other than the job itself.
- \_\_\_ If it becomes apparent at any time that a conspiracy was involved in the incident or if criminal activities of any nature are suspected, take steps to inform and involve law enforcement officials, as per consensus decision of management.

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**CHECKLIST FOR +/-/? JUST-CAUSE ANALYSIS TO DETERMINE**  
**APPROPRIATE**  
**DISCIPLINARY ACTION, IF ANY**

- Review the facts obtained from the investigation.
- Did the employee fail to report the incident?
- Did the employee attempt to conceal or cover up the damage, or deny the action in the face of clear evidence? **Note:** If the employee admitted and reported the incident in a timely manner, such usually constitutes a degree of mitigation.
- Had this employee been previously warned or disciplined for the same or similar actions?
- Did the employee's action create a potential or actual dangerous situation? Was there any actual or potential danger to this employee or other employees as a result of the action?
- Were there injuries to this employee or others?
- Did the incident have a direct negative or interruptive effect upon the job performance of the employee involved or upon the job performance of other employees?
- Were there posted rules, procedures, etc., regarding the equipment or areas or procedures involved in the incident?
- Did the employee violate any specific safety rules, laws, Agreement provisions, policies, procedures, etc.?
- Were safety or operational procedures known to the employee violated by the employee?
- Did employee realize actions that caused the incident were improper? (facts to prove this - not opinion)
- Were the employee's actions/duties inconsistent with those stated in job description?
- Had the employee been properly trained to do the job involved?
- Was there a large amount of damage or waste or an interruption of service to a customer or a loss of efficiency to the employer? (Do not "over-emphasize" dollar-loss amounts.)
- Was the employee acting solely at his or her own will?
- Was employee acting contrary to a supervisor's direct order, written work order, written assignment? **NOTE:** If employee at time of incident was acting according to direct orders of the supervisor or according to the direction of any other person under whose direction the employee routinely acted, the employee's action is likely to be mitigated to a great degree.
- Had procedures involved in the incident been unchanged by supervision as compared to earlier methods or procedures? **NOTE:** Disciplinary action is likely to be non-justifiable if for any reason it appears that the supervisors of the employee had not properly trained the employee, or if the employee had been told precisely by a supervisor to do the job in the manner which caused the problem. Likewise, performance of the same job by a supervisor, in the same manner, would mitigate the employee's wrongdoing or poor performance.
- Was the employee out of the area where he/she was supposed to be regarding current job assignment and work area?
- Did the employee have anything personal to gain, or did the employee escape any personal job performance obligation as a result of the action causing the incident?
- Had the involved employee performed the subject job safely in the past? (If so, attempt to determine what had changed.)
- Did the employee ignore, bypass, or thwart any safety or operating controls, rules, or precautions while engaged in the action which resulted in the property damage?
- Were records falsified or were there omissions from log sheets, reports, etc., intended to hide or conceal the incident?
- Was the equipment properly labeled or marked?
- Was fire in any way involved in the incident?
- Did alcohol or drugs play any role in the incident?
- Was an equipment inspection required to be performed before the operation of the equipment or before the action involved in the property damage? If so, did the employee fail to perform it or perform it improperly?
- Did the employee involved take any steps to involve other co-workers:
  - ... in the actions that led to the problem?
  - ... in the actions that resulted from the problem?
- Was a conspiracy involved in any way to cause the problem?

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- \_\_\_ Had the employee previously complained about conditions or equipment which led to or were involved in the incident?
- \_\_\_ Consider the following questions, some of which may offer information which may mitigate the employee's wrongdoing:

Consider current pending work orders on equipment involved.

Consider the length of experience by the employee involved. (Either an especially short period of service or a very long incident-free period is likely to, in some degree, mitigate any wrongdoing.)

Consider if there had been similar previous incidents with other employees, and the degree of disciplinary action, if any, involved with others. (Consider if there have been earlier known similar incidents with this employee or with other employees for which no action was taken. If so, it may be necessary to take some form of "reaffirmation" action before administering disciplinary action in this or similar future incidents.)

Consider the effect of other facts learned during the investigation (see results of "Response Checklist") in so far as they may be aggravating or mitigating in regards to any disciplinary decision.

- \_\_\_ **NOTE:** Except in cases where damage has been exorbitant, or where there was severe injury to the employee involved or to others, or where the employee's conduct has been extremely egregious, Arbitrators have been reluctant to support deprivation forms of disciplinary action (lengthy suspensions, demotion or termination of employment) unless there have been previous steps of formal disciplinary action to the employee for repeated instances of same or similar misconduct.
- \_\_\_ **NOTE:** Some Arbitrators have supported and responded to union request in arbitration for payment-in-kind (dollars) restitution from the employee involved in lieu of or rather than to support disciplinary action. Such remedy has been deemed appropriate by some arbitrators for initial incidents or when the amount of dollars involved has been small (less than a few hours of the employee's wages). For repeated incidents or for incidents resulting in large economic consequences, some Arbitrators have questioned the corrective effect of such a remedy. For incidents involving large amounts of dollar damages some Arbitrators have ruled that restitution would place an undue and unfair financial burden upon the employee, making restitution an inappropriate remedy.
- \_\_\_ **NOTE:** In some cases involving serious damage (and where repeated instances for the same employee were involved with earlier ineffective discipline) some employers have successfully defended a termination of employment decision based upon their belief that return to the job would not be in the best interest of the safety of the employee involved.