

CHECKLIST FOR HANDLING/DOCUMENTING FIGHTING PROBLEMS

Whenever a fight occurs, the supervisor should follow the items on the checklist to properly handle the situation.

- ___ Obtain security assistance and other supervisory witnesses.
- ___ Attempt to accurately document spontaneous testimony or spontaneous comments made voluntarily by the fighters or by witnesses.
- ___ If the fight is in progress, try to obtain assistance to separate the combatants. Instruct them to "stop fighting." Do not send the fighters back to their jobs.
- ___ Once the fighters are separated, do not let either of them return to work. Make sure a supervisor stays with each of them until further supervisory action is taken, such as temporary relief of duties, exit from the property, etc.
- ___ Do not allow the fighters to go off alone or to "disappear."
- ___ Make accurate notes of times and incidents during and after the fight.
- ___ If there are others sympathetic to either or both combatants, see that they too are separated and prevent them from escalating the fight into a melee. (Give observers something to do. Put them back to work, do not allow the fighters to return to work.)
- ___ Remove the combatants from public view, but do not place them in locked rooms or vehicles and do not restrain them physically once they are separated.
- ___ Tell each combatant in no uncertain terms what you expect them to do at that moment. Inform them that they have already subjected themselves to the likelihood of disciplinary action and that you are instructing or directing them to prevent an already serious situation from further deterioration. Give them a direct order - where to go, what to do, and tell them to quit fighting!
- ___ If either employees or any bystanders are injured, seek immediate professional medical assistance.
- ___ Interview each combatant immediately, or as soon as possible, in the event of injury requiring any combatants to be removed to medical facilities. Provide a steward for the interview and a second supervisory witness. It is appropriate to utilize the same steward for both fighters. Try to determine as many facts as possible about the confrontation. Note the extent of injuries observed. Ask each employee, "Why are you fighting?" Interview each combatant separately.
- ___ The supervisor may decide to contact law enforcement officials if a weapon or instrument was involved on the part of either or both of the combatants, or if an injury is involved. If the supervisor decides not to contact law enforcement officials, the supervisor should ask each employee involved in the altercation if he/she desires to involve law enforcement officials. If either party decides or desires to involve law enforcement officials, the supervisor should comply. The questions and responses of the employees involved should be documented, regardless of the ultimate desires of the employees involved.
- ___ Write down as many personal sensory observations as supervisors can make, including names of witnesses, exact locations, and times.
- ___ Interview observer witnesses privately and individually. It is not necessary to provide union representative during interviews of witnesses, unless there is likelihood of disciplinary action to the witnesses; however, make sure to have a second supervisory witness present.
- ___ Don't ask the union, other employees, the steward, or anyone else to settle the matter.
- ___ Keep the combatants apart.
- ___ Do not side with either employee. The supervisor's intent is to stop the fight and prevent any worsening of the situation.
- ___ If at all possible, determine what, if anything, provoked the fight. (In all aspects of the investigation, attempt to separate opinion and hearsay from facts.)
- ___ If at all possible, determine which of the employees was the aggressor.
- ___ If a dangerous instrument or weapon was used in the fight, confiscate it and place it in a location on company property where security and confidentiality are assured. Do not try to confiscate the weapon if doing so would place the supervisor in danger.
- ___ Ask each employee privately if this is his/her first altercation or if there have been others. Ask each employee to explain the others, if any.
- ___ Determine if cursing or shouting by either party occurred before/during the fight, and document it.
- ___ Determine if either drugs or alcohol played any role in the fight.
- ___ Determine if anyone (combatant, supervisor, or co-workers) had attempted to stop the fight at the start.

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- ___ If the employees are instructed to leave company property, it should be done in such a manner that they exit separately.
- ___ Do not under any circumstances encourage them to go off the company property or "behind the barn" to settle their differences.
- ___ Remember to use the tool of "temporary relief of duties pending investigation" rather than summary termination of employment on the spot. Provide a safe ride for any employee injured or emotionally upset.
- ___ See next page before disciplinary action is invoked.

CHECKLIST BEFORE FORMAL DISCIPLINARY ACTION

BEFORE ADMINISTERING DISCIPLINARY ACTION OF ANY KIND review all of the facts found in the investigation with the department head and the labor relations department.

The following points should receive thorough consideration:

- Employer guidelines on fighting.
- The length of service and the overall work record of each employee.
- Any previous warnings for fighting or warnings about conflicts that a supervisor felt might lead to a fight.
- Whether the fight was one single incident, one single swing, one single blow, or a series of deliberate acts.
- If a dangerous instrument or weapon was used or whether only fists were used.
- How the incident affected the morale, safety, or work habits of the other employees.
- If provocation, discrimination, or failure by management to "nip it in the bud" played any part in the fight.
- If this incident and/or other incidents indicate the employee has tendencies toward this type of behavior on a repetitive basis.
- If the employee being disciplined was the aggressor or if the employee acted in self-defense. (Many disciplinary cases have been overruled where it was shown that an employee merely acted to defend or protect himself/herself. Still, many companies routinely terminate the employment of all active parties in fights. Know and follow the specific company policy in this regard.)
- Were cursing and abusive language used in the course of the fight? If so, by which party (parties)?
- Make sure, if termination of employment is involved, that the supervisor can satisfy the standard of just cause, despite what the company policy might say regarding the penalty for fighting.
- Find out if either employee had attempted to avoid either this fight or other fights in the past.
- Obtain all possible facts and conduct private, personal interviews with witnesses and with the fighters before formal discipline is administered.
- Be able to cite SPECIFIC job performance effects of the fight, such as lost time, damaged materials, lost tools or equipment, interruption of others, safety, etc.
- Supervisors are cautioned against using job transfer of one or both of the employees involved in a fight. Such action deals with the effects of the problems between the employees rather than with the causes. Job transfer action may simply transfer the problems, including the fight. Likewise, the job transfer action may simply send the message that it is not permissible to fight in the old job, but it may be permissible to fight in the new job.

IF THE FIGHT OCCURRED OFF THE COMPANY PROPERTY, it will be particularly important to determine the following before taking any disciplinary action:

- Was it near company property and/or near where other employees were present?
- Did the fight occur during the scheduled work day, before, or after?
- Did the fight relate to activities on company property, relate to work?
- Did other employees become involved? (Could they have?)
- Did the fight have a disruptive effect on production, morale, efficiency, the company's ability to attract customers, to attract suppliers, to attract new employees?
- If the answer to any of the above questions is "yes," disciplinary action is likely to be justified, even though the altercation occurred off company property.