

Progressive Discipline Policies: What Fast Food Employers Need to Know

By law, fast food employers in NYC must have a written progressive discipline policy. Employers must give a written copy of the policy to fast food employees:

- when they start work;
- within 14 days of any changes to the policy; and
- upon employee request.

Employers must keep records of the progressive discipline policy. Records include:

- copies of the policy;
- time period (effective dates) of the policy;
- date employees received the policy; and
- proof that employees received the policy.

Progressive Discipline Policy Best Practices

An employer should make sure employees know about the progressive discipline policy and employer responsibilities, including but not limited to:

- Employer can only fire or reduce hours* of fast food employees who completed their probationary period for just cause or lay off employees for a bona fide economic reason, and employees fired for just cause have a right to go through progressive discipline first.
- Employer must provide relevant and adequate training to employees.
- Employer will conduct fair and reasonable investigations into employees' job performance or misconduct.
- Employer will apply policy reasonably and consistently across all covered employees.
- Employer will give employees a written progressive discipline policy that states its effective date and whether it replaces any previously distributed policies.
- Employer will provide a form so employees can sign and date that they received the written progressive discipline policy.

* Includes a reduction of more than 15% in the total number of work hours.

The written progressive discipline policy should clearly explain key terms, rights, roles, and responsibilities, including but not limited to:

- Probation period for new employees, which cannot exceed 30 days from the date of hire.
- Description of progressive discipline system, including its sequential steps, strikes, or other graduated responses.
- Description of employee conduct or behavior, including specific examples, that would trigger progressive discipline and the type of discipline associated with each type of infraction.
- Description of employee conduct or behavior, including specific examples, considered egregious (blatant) misconduct or egregious failure to perform job duties.
- Employees must know why and when they are disciplined and have the opportunity to respond.
- Employer must put disciplinary actions in writing for employees.
- Employers may not count discipline from more than a year ago toward future disciplinary action.

A progressive discipline policy does not meet the requirements of the law when:

- It does not give employees reasonable notice of what conduct will lead to discipline under the policy.
- It does not give employees reasonable notice of how the employer applies the graduated steps or strikes to different types of conduct.
- It is not given to employees in writing.