

## 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.