

# STEWARDS CORNER

Monthly Newsletter for Union Stewards

## Progressive Discipline: What it is and What to Look For

Sarah, a registered nurse who works in the neonatal unit, was recently written up for not wearing the required personal protective equipment (PPE). Specifically, she forgot to put her mask back on before returning to the unit after finishing her lunch in the break room. Her supervisor indicated she would receive a final written warning this time and a one-day suspension in the future if she continues to violate PPE protocol. Sarah contacted her unit steward and asked to file a grievance believing she should have received lesser discipline. She worries she may be suspended if she inadvertently violates uniform or PPE rules. Her steward makes a list of questions that will need to be answered:

1. Does the CBA explicitly omit PPE violations from its progressive discipline policy?
2. Has Sarah been previously disciplined for a PPE violation?
3. Is this write-up being stacked on a previous, unlike infraction?
4. Have other employees who have committed similar PPE violations received less severe discipline?
5. What is Sarah's length of employment, prior disciplinary record, and work performance record?

All these questions are designed to understand whether Sarah was denied progressive discipline or if the employer justifiably skipped it.

### What exactly is "progressive discipline?"

Progressive discipline is the concept that an employee should be given the opportunity to learn from their mistake(s) and subsequently correct their behavior. Many collective bargaining agreements (CBA) provide language requiring the employer to apply the lowest level of discipline possible so that the employee can correct their behavior, follow the rule, and not incur future discipline. If the employee continues to violate the rule, they will receive progressively more severe levels of discipline.

Common progressions of discipline provided in a union contract include oral warnings, write-ups, and suspension prior to an employee's discharge. However, some CBAs may include other stages of discipline, such as formal counseling, reprimands, final written warnings, a range of days of suspension, and last-chance agreements. Even if the contract is silent regarding progressive discipline, most arbitrators will infer it as a tenet of **just cause** (a due process standard applied to unionized workplaces).

### Can management skip steps?

An employer may be justified in skipping progressive discipline steps **if the employee's violation is considered so egregious**

**that the employer can soundly conclude that the worker is no longer trustworthy and/or is incapable of reform.** Such violations may include theft, stealing, drug dealing, other criminal behavior, or an extreme health and safety violation.

Likewise, an employer may justify discharge if an employee has committed more than one serious violation that is not discharge-worthy standing on its own but when committed more than once or stacked upon another equally serious violation. For example, an employer may suspend an employee for fighting at work (skipping an oral and written warning) and then fire the same employee for getting into another fight later that year. Similarly, an employee who is insubordinate and receives a final written warning specifically for acts of insubordination may be fired in subsequent months for lying to the employer, an altogether different violation.

Arbitrators commonly look down on stacking less severe and dissimilar violations (tardiness, absenteeism, smoking, minor PPE violations, etc.) and require each unique violation to have its own progressive discipline track; however, as mentioned before, an employer has more latitude in skipping disciplinary steps and building off unlike violations if the offenses are serious in nature.

Even if an employee's offense is particularly intolerable and perhaps deserving of extreme discipline (extended suspension or discharge), the union may be able to reduce the penalty if mitigating factors exist. Such factors include significant seniority, little prior discipline, exemplary work performance, whether the employer was to a degree responsible for the violation occurring, etc.

Likewise, lack of seniority, a long history of disciplinary violations, and subpar work performance may justify an employer's decision to issue more severe discipline to an employee who commits the same infraction as another employee who received a lesser discipline for breaking the same rule.

Suppose two workers violate the same rule, and one employee receives more severe discipline than the other. In that case, the union may grieve the more severe discipline, assuming both employees are comparable in terms of the above-mentioned mitigating factors. In addition to monitoring for equal treatment, union stewards should make sure the employee(s) were aware of the rule, and it was clear that their actions could result in disciplinary action.

Suppose nurse Sarah has never been orally warned or written up for violating PPE policies, has very little or unrelated prior discipline, and has extensive time on the job. In that case, if the CBA doesn't exclude PPE violations from progression discipline or it is unclear that not wearing a mask is considered a PPE violation, the union may be able to reduce Sarah's final written warning to an oral or first-step written warning.



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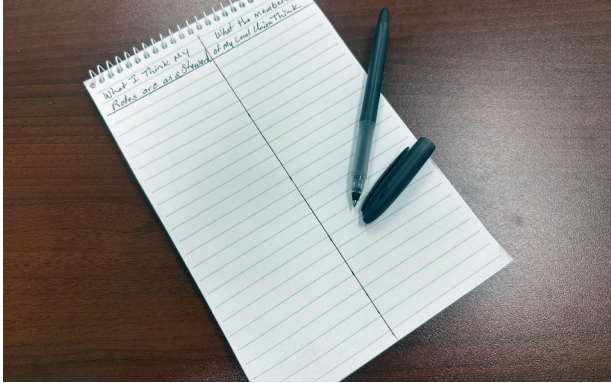
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## Education and Expectations

Here's an activity for you to try this month: take a piece of paper and fold it down the middle. At the top of the left side, please write down this heading: *What I think my roles as a steward are.* At the top of the right side, write: *What the members of my Local Union think my roles as a Steward are.* Then quickly brainstorm a list in each column.

Reflect on the moments when members came to you with an issue; think about all the times you heard members talk about the union. Are the columns different, or do they match up? Is the space between them big enough to drive a bulldozer through, or is it airtight?



In any organization, there's usually a difference between the perspectives of those who hold a leadership position and the rank and file. But here's the catch: the more significant the difference, the weaker the organization's foundation. This is why, during negotiations, regular back-and-forth communication between the bargaining committee and the membership is so important. Management has a nose for division; like sharks, they smell blood in the water.

Stewards are in a particularly tough position. Imagine that a coworker you've worked alongside for several years and are good friends with comes to you about an issue, and it turns out that it isn't a grievance. You're wasting time and burning credibility with management if you grieve it; but, if you don't, your friend might become angry. How do you deal with the personal dynamics of this situation?

Honest answers are always the best course. Your coworker might be salty for a while, but they will come to respect your response and come back to you for advice because they trust you'll give them an honest answer.

### What can fill the gap between you and the membership?

The answer to the question above can be summarized as “e and e”: education and expectations. Daily, workers have a right to expect their steward to listen to and investigate their concerns, communicate information about the CBA, relay their concerns to the union leadership, enforce the CBA, and, most importantly, follow up.

Union members who report dissatisfaction with their unions often cite problems stemming from inactive or nonexistent stewards. For most union members, stewards are the face of the Union. This is why your roles as [educator](#), [communicator](#) and [organizer](#) are so central.

Each time you talk to a member, you have a chance to educate them. It can happen in brief conversations. As educators, you teach members about the CBA; you can help introduce new hires to the job and the union; you answer questions about local union meetings and much more.

Education also influences members' expectations. In our example above, if you have educated those you represent about what a grievance is...and isn't...the conversation with your co-worker can go more smoothly. So, when possible, be proactive in your education. If that isn't possible, always take time to explain to others why something is or isn't a grievance. That five minutes can make a world of difference in how people view the union.

The more they understand your role as a steward, the easier it will be for you to effectively do your job, and the more they will come to you with issues and concerns you can handle. They will see you as a problem solver but also understand that not everything is a grievance.

### Effective representation begins with relationship building.

Still, trying to figure out where to start? Remember the Santa Clause Principle – make a list and check it twice. Make a list of the workers in your department, on your shift, etc. If you don't already know them, learn their names and faces. Check-in with them often, even if to say, “Hey, I'm your steward and just checking in. How's everything going?” In many cases, just checking in on coworkers and asking *how they are* goes a long way in building that relationship.

**TEACHING TUESDAYS** <http://usw.to/teachingtuesdays>



▶ **Legal Rights and Responsibilities of Union Stewards**, February 7th ([11 AM](#) — [8 PM](#))

▶ **Freedom House Ambulance-The First Responders**, February 21st, [8:00 PM Only](#)

Founded in Pittsburgh's Hill District, Freedom House Ambulance Service was the nation's first training service for emergency medical technicians. This documentary tells the story of the community's needs and the local, predominantly Black residents, that stepped up to meet them. We will be joined by John Moon, a pioneering African-American EMT that made this work happen, one of our own union activists in healthcare who will discuss the current challenges of the job (USW has over 50,000 workers in the healthcare sector), and the Emmy-winning filmmaker, Annette Banks.