



# Congratulations, You've Been Promoted! Now What?

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## **Congratulations, You've Been Promoted! Now What? How We Can Support Our Supervisors to Make Sure They Are Successful and Create a Fair and Effective Workplace**

### **I. Why it is So Important**

1. The Problem. Anyone with significant experience in HR will tell you that their ability to ensure that a Tribal employer complies with the Tribe's laws, rules, and policies depends on effective supervisors. The problem? Anyone with significant experience in HR will also tell you that supervisors and directors often do not sufficiently help ensure compliance or work to ensure that the Tribe's rules are followed.

It is also true that, in many respects, supervisors are the face of the employer. Employees look to supervisors to explain management decisions. Supervisors impact almost every aspect of employee's daily lives and they depend upon their supervisors to ensure a safe, respectful and fair work place.

2. The Solution.
  - a. Help the Tribe Choose Good Supervisors
  - b. Help Train Supervisors.

### **II. Choosing Good Supervisors**

1. Expectations/Job Description. In order to hire/choose the best supervisors, the employer must first decide what its expectations are for that position. Do not mail in these job descriptions or job postings. What makes a good supervisor?
2. Keys to Being a Good Supervisor:
  - a. Know the standards, expectations, and rules for employee performance and conduct
  - b. Prioritize those expectations
  - c. Communicate prioritized expectations to employees.
  - d. Model expectations
  - e. Consistently and fairly measure employee performance of expectations
  - f. Promptly, proportionately, and consistently address conduct violations/failures.
  - g. Promptly, proportionately, and consistently address good conduct and success.
  - h. Be real.

## 3. Examples of Effective and Ineffective Supervision

<u>Ineffective Supervisors</u>	<u>Effective Supervisors</u>
<ul style="list-style-type: none"> <li>• Inconsistent application of standards</li> <li>• Inconsistent temperament</li> <li>• Poor communication – expectations</li> <li>• Tone deaf</li> <li>• Poor listener</li> <li>• Poor in spotting issues</li> <li>• Too nice – not truthful</li> <li>• Prejudge – doesn't get to the truth</li> <li>• Play favorites</li> <li>• Fails to establish and maintain effective workplace boundaries</li> <li>• Allow workplace issues to fester</li> <li>• Passive</li> <li>• Tyrant</li> </ul>	<ul style="list-style-type: none"> <li>• Consistent application of standards</li> <li>• Even-keeled temperament</li> <li>• Set clear expectations</li> <li>• Lead by example – models good behavior</li> <li>• Great communicators (clear, concise)</li> <li>• Self-aware</li> <li>• Active listeners</li> <li>• Great at spotting issues</li> <li>• Honest, but kind</li> <li>• Fair, but firm</li> <li>• Don't prejudge – get to the truth</li> <li>• Proactive – address workplace problems</li> <li>• Offer constructive feedback</li> <li>• Provide recognition for a job well done</li> <li>• Establish and maintain effective workplace boundaries</li> <li>• Engaged</li> </ul>

## 4. Hiring Supervisors – internal or external candidates.

- a. Advantage of external candidates.
  - i. People from away always seem fresh/better
  - ii. They don't know any of us
  - iii. They will learn from the ground up – no bad habits
- b. Disadvantage of external candidates.
  - i. People from away are NOT always better
  - ii. They don't know any of us
  - iii. They have to learn from the ground up
- c. Internal Candidates.
  - i. We know them
  - ii. They know us

- iii. Workplace history can make their transition complicated
    - iv. Role of preference
  - d. Interviewing Potential Supervisors.
    - i. Ask what you really need to know
    - ii. Try scenarios
    - iii. Write out your questions
    - iv. Ask about difficult employment situations
    - v. Have them write something

### III. Training Supervisors – What do They Really Need to Know?

#### 1. Applicable laws:

##### A. Tribal Law

- a. Tribal Constitution
- b. Tribal Laws/Ordinances
- c. Consider whether there are any Tribal court decisions interpreting or analyzing the Tribal laws/ordinances.
- d. Tribal Policies/Practices, Including Employee Handbook

##### B. Federal Law

- a. Federal Employment Laws
 

Consider whether there are any federal court decisions or federal agency regulations/enforcement positions interpreting or analyzing the federal employment laws.

##### C. State Law

- a. State Employment Laws
 

It is potentially relevant whether there is a compact or treaty applying the state law to the Tribal Nation.

##### D. Policies

- a. Employee Handbook
- b. Procedures

#### 2. Performance Expectations

- a. For the Supervisor –
  - i. Make timely and accurate evaluations part of the supervisor's performance expectations.
  - ii. Make the consistent enforcement of Tribe policies and rules part of the supervisor's expectations
- b. For those they supervise
  - i. Who is training the rank and file?

- i. Does the supervisor have buy in?
- ii. Is the supervisor there when the training happens?
- iii. What role does the supervisor have in setting standards?

### 3. Progressive Discipline

We have all heard the term “progressive discipline,” but few, including new supervisors, truly understand its importance. The following section explains what progressive discipline is and how you can use it to turn around employee performance.

Progressive discipline is a system of graduated responses to employee performance or conduct problems. The employer’s response starts small and generally escalates with successive problems until the employee either turns their behavior/performance around or is discharged. The premise of the underlying the system is that the employer’s response to the employee’s behavior or performance should be measured, proportionate to the conduct or performance problem, and designed to encourage the employee to improve their performance.

There are a variety of benefits of using a progressive discipline system, including: greater communication between managers and employees, ensuring consistency and fairness in employment decisions, affording employees the opportunity to understand what the issue is and a fair chance to correct the issue, and requiring employees to play a role in addressing the problem. Using a progressive system serves another purpose as well. Most people (including, potentially, members of a grievance panel or similar body), as a matter of fundamental fairness, expect employers to afford an employee ample opportunities to correct their performance before losing their job. By doing so, supervisors are increasing the likelihood that an employment decision will be upheld if later challenged by the employee.

In deciding what response is justified by the employee’s conduct or performance problem, you should consider the following:

- How serious the performance issue is;
- How many times the behavior has occurred;
- Whether the employee has taken ownership of the problem or behavior and whether you believe that he/she will take steps to address the problem;
- The employee’s employment history; and
- What effect the conduct or performance issue has had on both the employee’s effectiveness and the organization.

## 4. Disciplinary Decisions and Seven Steps for Determining Whether Just Cause Exists for Discipline

When determining whether there is sufficient cause to impose discipline, consider the following seven steps, which are based on the labor law concept of "just cause." Although "just cause" is not generally required for at-will employees, it is helpful to consider these steps in all cases to ensure that the disciplinary action is "fair" to the employee.

- Notice
  - Did the employee have notice of the rule or policy alleged to have been violated?
  - Did the employee have notice of the consequences of violating the rule or policy of the employer?
  - Was the rule or policy consistently enforced?
- Reasonable Rules and Orders
  - Was the rule or policy of the company reasonable?
- Investigation
  - Did the employer conduct an investigation into the infraction?
  - Did the employer give the employee an opportunity to respond to the alleged infraction?
  - Did the employer use good investigative techniques?
  - Was the investigator trained in doing investigations?
- Fair Investigation
  - Was the investigation conducted fairly?
  - Was the investigator biased?
  - Did the investigator keep an open mind during the investigation?
  - Did the investigator follow up on the witnesses and documentation provided by the employee and witnesses?
- Proof
  - Did the employer have a good-faith, reasonable basis for believing that the employee violated the rule or policy of the employer?
  - What evidence exists to support the discipline of the employee?
- Equal Treatment
  - Has the rule or policy been enforced against other employees?
  - Have other employees been disciplined for the same or a similar infraction?
  - Is the employee being singled out because the employee is a member of a union or is in a protected classification under state or federal law?

## NOTES

- Penalty
  - Does the punishment fit the infraction?
  - Have other employees been disciplined in the same manner for the same or a similar offense?
  - Has the employee previously been disciplined for a violation of a rule or policy of the employer?

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