



Beyond Roads and Bridges

The Highway Superintendent's Guide to Managing People

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Superintendents of Highways, Inc.

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Goals for Today

Participants will Learn:

- The basic rights of municipal employees
- How New York State Civil Service Law and collective bargaining agreements affect supervision
- How to counsel and discipline employees effectively
- How to document employee performance
- Common mistakes that get employers into trouble
- Leadership tips for new supervisors



Transitioning from Co-Worker to Supervisor



Supervising Friends and Former Peers

Friendships can continue but the relationship has changed. You now have control over your friends' pay, assignments, evaluations and discipline. Pretending nothing has changed is the most common mistake new supervisors make.



Earning Respect

A title gives you authority, but respect comes from consistent behavior over time.



Avoiding Favoritism

Supervisors who manage friends are at an especially high risk of being perceived as playing favorites, even when they aren't. Perception matters almost as much as reality because it affects morale, engagement and legal risk.



Setting Expectations

Most performance problems start as expectation problems. Former peers may assume the old rules still apply. Reset expectations early, clearly and for everyone.



Understanding Your Employees' Rights

Public sector employees in NYS have rights under:

New York State Civil Service Law Sections 75

Depending on job classification and tenure, Employer must demonstrate misconduct or incompetence to discipline or discharge. Employee must have notice and right to be heard.

The Taylor Law (Article 14 of the NYS Civil Service Law)

The right to bargain collectively for terms and conditions of employment (unionize), protection from retaliation for union activities. require "just cause" to terminate and access grievance and arbitration procedure.

Collective Bargaining Agreement

CBA's tend to limit the rights of management with respect to things like promotions, assigning overtime, require employers to have "Just Cause" to discipline or discharge, and contain a grievance and arbitration provision.

State and Federal Anti-Discrimination Laws

Protect employees from discrimination on the basis of a variety of factors (i.e. gender, race, religion, disability, etc.) and prohibit retaliation against employees who engage in protected activities under those laws.

Laws Providing Job Protected Leave and Accommodations

NYS Civil Service Law Section 71, 72 and 73, the Family and Medical Leave Act and the Americans with Disabilities Act.

Managing Employee Performance

The most important tool you have is clear communication.

EMPLOYEES NEED TO KNOW:

- ✓ What is expected
- ✓ What went wrong/was not acceptable
- ✓ What changes they need to make going forward
- ✓ What happens if they don't make the necessary changes

Coaching/Counseling Discussions



The Expectation

The work-day begins at 7:00 a.m. and ends at 3:30 p.m. Crews are given work orders at 7:00 a.m. and proceed to the job site.



What Went Wrong

Jeff routinely is pulling into the parking lot at 7:00 a.m. He punches in between 7:05 a.m. and 7:10 a.m. at least three days each week. He misses the pre-shift meeting and distribution of work orders. His Crew often waits for him to leave for the job.



What Needs to Change

Jeff needs to arrive and be punched in and ready to work by 7:00 a.m. He needs to be present for the pre-shift meeting. He needs to help his crew prepare the vehicles and work equipment for the day's job.



The Consequences of Not Changing

Failure to make the changes required will result in the imposition of formal disciplinary action, up to and including the termination of employment.

Coaching/Counseling Discussions

The prelude to formal disciplinary action

DO NOT:

- Conduct in public
- Raise your voice
- Offer opinions/conclusions – stick to the facts
- Make it personal – no name calling/labels/insults

DO

- Have private conversation
- Have a Union representative present
- Have a management witness present
- Use a respectful tone
- State the facts
- Be clear about your expectations
- **Document the conversation** for inclusion in the employee's personnel file
- Provide the employee with a written copy of the Summary of Coaching/Counseling Discussion with
 - Include a notation that this document was placed in your personnel file on [INSERT DATE]



Coaching/Counseling Discussion Documentation

What should it include?

- **Date** *On September 30, 2026,*
- **Time** *at 10:00 a.m.,*
- **Facts** *On Friday, September 25, 2026, Jeff punched in for his shift at 7:09 a.m. On Monday, September 28, 2026, Jeff punched in for his shift at 7:10 a.m. On Tuesday, September 29, 2026, Jeff punched in for his shift at 7:06 a.m. I met with Jeff to review the Town's expectations for reporting to work on time. I advised Jeff that his workday begins at 7:00 a.m. and that he must be at the workplace and ready to begin work at 7:00 a.m. each scheduled workday. I told Jeff that attendance at the pre-shift meeting is mandatory. Jeff is also expected to work with his crew to prepare the vehicles and equipment needed for the day's assignment.*
- *When Jeff arrives late he misses information shared at the pre-shift meeting, may delay the crew's departure for the job site, and leaves other crew members with an unfair share of the preparation work. I advised Jeff that he is expected to meet these requirements immediately and consistently going forward. I advised Jeff that if he does not immediately and regularly meet these expectations he will be subject to formal disciplinary action, up to and including the termination of his employment with the Town.*
- **Witnesses** *Deputy Highway Superintendent Patrick Evans and Union Representative Tim Thompson were present as witnesses at this meeting.*
- **Employee Explanation** *Jeff said his sleep has been interrupted by his new baby crying at night. He said he will be on time going forward.*
- **Personnel File Notation** *Jeff was provided with a copy of this document, and a copy was placed in Jeff's official personnel file on September 30, 2026.*



Coaching/Counseling vs. Formal Discipline

Which is should I use?

Counseling:

- Informal – Generally not considered disciplinary action by the Union
- Provides employee with notice and clarity about expectations
 - Remind employee of formal rules
 - Set expectation where no formal rule exists
 - Establishes “notice” to support future discipline
- Intended to give a fair opportunity to improve
- Appropriate for performance issues, attendance, safety reminders.

Discipline:

- Formal discipline – Subject to grievance/arbitration or Civil Service Law Section 75 protections.
 - Be prepared to demonstrate you have “Just Cause” to issue
- Appropriate if employee has been counseled on the issue previously and has not made the changes necessary to meet the expectations identified.
- Appropriate in the first instance in cases of more serious conduct and misconduct, including insubordination, dishonesty, violence.



Discipline that Will be Upheld by a Third Party

What is required to demonstrate “just Cause” for discipline?

01 Notice

Did the employee know about the rule? Did the employee know that violating the rule would have the consequence of being disciplined or having employment terminated?

02 Reasonableness

Was the employer’s rule or order reasonably related to the safe, orderly or efficient operation of the employer’s business?

03 Investigation

Did Management investigate before imposing the discipline?

04 Fairness

Was the investigation conducted in an objective, fair and thorough manner?



Discipline that Will be Upheld by a Third Party

What is required to demonstrate “just Cause” for discipline?

05 **Proof**

Did the investigation produce substantial, credible evidence or proof that the employee is guilty of the offense?

06 **Equal Treatment**

Has the employer applied the rules, orders, and penalties evenhandedly? Have other similarly situated employees engaging in the same conduct been treated the same?

07 **Appropriateness of Discipline**

Is the penalty reasonably related to the seriousness of the offense and the employee’s past service record? Does the penalty fit the crime?

08 **Mitigating or Aggravating Circumstances**

Are there any special circumstances present that warrant leniency? Are there any special circumstances present that warrant a stiffer penalty?



Check List for Issuing Discipline – Ask Yourself:



What happened?

Why am I issuing the discipline?



How do I know?

What facts do I have to prove it?



What Rule was Violated ?

Did the employee have knowledge of the rule?
How will I prove the employee knew about the rule?



Have I treated others similarly?

How will I demonstrate how I have treated other similarly situated employees?



What evidence do I have?

Counseling memo, prior discipline, employee handbook, audio/video?



Have I discussed with HR or Legal Counsel?

Have I considered everything? Am I in the best position possible to defend the decision to discipline/terminate?



The Five Biggest Mistakes

When it comes to disciplining employees don't make these mistakes.

DON'T MAKE THESE MISTAKES:

- ✓ Waiting too long to counsel/discipline
- ✓ Ignoring small problems
- ✓ Playing favorites
- ✓ Failing to document - Failing to document early
- ✓ Not taking advantage of the Probationary Period



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