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**Charging Forward: *Drafting  
Disciplinary Charges That  
Win Before the Hearing Starts***

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1

**LEARNING OBJECTIVES**

- Understand the basic due-process framework for discipline.
- Understand the purpose — and the legal job — of the disciplinary notice.
- Learn the three legal-sufficiency rules that make a charge survive challenge.
- Learn drafting skills for charges that are clear, specific, and persuasive.

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2

2

## Basic Due-Process Requirements

- Notice of the reasons for the proposed discipline and the penalty.
- Access to the information relied upon in proposing the discipline.
- Right to a pre-disciplinary (Skelly) hearing before a reasonably neutral and impartial management employee.
- Notice of the post-Skelly recommendation for discipline.
- Opportunity to appeal.



3

## The Purpose of the Notice

- First job: satisfy the legal notice function — fair notice of the causes and supporting facts.
- Then: persuade every audience who will read it.
- Audiences: employee • union • ALJ • hearing officer • arbitrator • judge.



4

## The Three Legal-Sufficiency Rules

- Rule 1 — Be specific. State the acts or omissions in plain, concise language so the employee can prepare a defense. Do not just recite the policy.
- Rule 2 — Charge it or lose it. You cannot discipline on a ground you did not charge, and you generally cannot add charges after the fact.
- Rule 3 — Connect facts to a charged cause. Every set of facts must map to a specific, named cause for discipline or policy rule.



5

## How to Write Persuasive Charges

- Tell a compelling story — start at the beginning.
- Make the respondent's conduct the focus.
- Get to the point; use active voice.
- Don't bury the lede in the evidence.
- Don't let the respondent's narrative frame the charge.



6

## Where to Begin — Don't Start at the End

- **WEAK — starts at the end**

- 1. On January 15, 2020, you were hired as a Benefits Coordinator. Your responsibilities include administering employee benefits programs, assisting employees with benefits questions, and coordinating enrollment, eligibility, and records.
- 2. On May 8, 2025, you were placed on paid administrative leave pending an investigation initiated by a complaint from Alex Alvarez about your sleeping at work.
- 3. During the investigation, Alvarez told the investigator he saw you asleep at your desk on May 5, 2025.

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7

## Where to Begin — Start With the Misconduct

- **STRONG — earliest misconduct first**

- 1. On January 15, 2020, you were hired as a Benefits Coordinator, responsible for administering employee benefits programs, assisting employees with benefits questions, and coordinating enrollment, eligibility, and records.
- 2. On February 3, 2024, at approximately 11:00 a.m., you fell asleep at your desk while on duty.
- 3. On June 15, 2024, your supervisor observed you asleep at your desk for approximately one hour between 2:00 p.m. and 3:00 p.m. and had to wake you and direct you back to work.
- 4. On May 5, 2025, Alex Alvarez came to your office for help with his benefits and found you asleep. He left without assistance and filed a complaint.

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8

## Turn Conclusions Into Facts

- **WEAK → STRONG**

- WEAK: On February 6, 2026, you treated a coworker unprofessionally.
- STRONG: On February 6, 2026, in an angry tone, you yelled at a coworker across the office, stating, "if you care about your job, you better not leave work without responding to my email." This conduct was discourteous and unprofessional in violation of [Policy X].



9

## We Discipline for Misconduct, Not Emails

- **WEAK — the email is the subject**

- 8. On February 5, 2024, your supervisor sent you an email about the importance of not sleeping on duty because you had been observed sleeping on February 3, 2024.
- 9. On June 20, 2024, your supervisor sent you another email because you had fallen asleep again on June 15, 2024.



10

## Lead With Misconduct; Use Warnings as the Escalator

- **STRONG**

- 10. On February 3, 2024, you fell asleep at your desk while on duty. This was observed by multiple employees.
- 11. On February 5, 2024, your supervisor emailed you directing you not to sleep on duty and providing guidance on staying alert.
- 12. You disregarded that direction and again fell asleep on duty on June 15, 2024.
- 13. Because of your continued misconduct, on June 20, 2024, your supervisor again directed you in writing to remain alert and warned that continued sleeping on duty could result in discipline.

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11

## Explaining v. Citing the Evidence

- Make the respondent and the misconduct the focus of the charge.
- Don't let witness statements or documents become the story.
- Use strategy in deciding how much evidence to narrate.
- Do cite the evidence that supports the misconduct.
- Remember: disclosure of supporting materials is a separate Skelly obligation.

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12

## Don't Bury the Lede in the Evidence

- **WEAK — the evidence is the focus**
- During the investigation, Employee X told the investigator that he came to your office at 9:15 a.m. on February 3, 2024, and “you appeared to be sleeping at your desk.” Employee Y told the investigator she called your office phone at 11:30 a.m. and you did not answer, then walked to your office and saw your head on your keyboard, and had to say your name three times before you jerked upright and said “what?”



13

## Focus on the Misconduct; Use Active Voice

- **STRONG — conduct first, evidence supports it**
- On February 3, 2024, you fell asleep at your desk at approximately 9:15 a.m. and failed to assist Employee X, who had come to you for help with his benefits.
- Later that morning, at approximately 11:30 a.m., you again fell asleep; after you failed to answer Employee Y's calls, she came to your office and had to say your name three times before you woke.



14

## Progressive Discipline & Prior Discipline

- Use prior discipline to tell the story — but keep the focus on the current misconduct.
- Don't merely list prior discipline; show the pattern and the failure to correct.
- Prior discipline helps carry the burden on the appropriateness of the penalty.



15

## Progressive Discipline – Don't Make the Discipline the Story

- **WEAK – prior discipline becomes the focus**
  - **14.** On April 21, 2025, your supervisor issued a reprimand to you because you had been observed falling asleep at your desk multiple times from December 1, 2024, through April 1, 2025.
  - **15.** On April 30, 2025, your supervisor sent you an email about not sleeping at work and provided guidance on how to stay awake when you begin to feel sleepy because you had fallen asleep again on April 29, 2025.



16

## Progressive Discipline — Show the Pattern; Keep the Misconduct the Focus

- **STRONG example — Reyes**

- 14. Between December 2, 2024 and March 31, 2025, you repeatedly fell asleep on duty on eight documented dates: Dec. 2; Dec. 17; Jan. 8; Feb. 2; Feb. 27; Mar. 11; Mar. 17; and Mar. 31.
- 15. Because of your repeated, uncorrected misconduct, on April 21, 2025, your supervisor issued you a written reprimand directing you to remain awake and alert on duty.
- 16. Despite that reprimand, on April 29, 2025, at approximately 3:10 p.m., you again fell asleep on duty.
- 17. Because you disregarded your supervisor's directions and the reprimand, on April 30, 2025, your supervisor directed you in writing not to sleep while on duty.

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17

## Handling the Respondent's Side of the Story

- **WEAK — avoid framing the charge with the defense**

- When interviewed, you claimed you have a medical condition that makes you sleepy and denied sleeping at your desk. However, other witnesses said this was not true. You also claimed you had permission from your supervisor to take naps.

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18

## Charge the Dishonesty; Don't Narrate the Defense

- **STRONG**

- You were dishonest during the investigation. You told the investigator that a medical condition makes you sleepy, but two coworkers stated that you told them you invented that condition to avoid discipline.
- You also told the investigator that your supervisor approved your napping; to the contrary, your supervisor had directed you in writing not to sleep on duty and provided guidance on staying alert.



19

## Two Threshold Traps: Timeliness & Peace Officers

- Timeliness — a stale charge can be dismissed before the merits. Confirm the deadline before you draft.
  - Depends on classified (merit v. nonmerit) v. academic
  - Check CBA
- Peace officers (POBRA): additional procedural rules apply, including a one-year investigation clock.



20

## The Charge Is Won at the Desk

- Be specific — state acts, dates, and times.
- Charge every cause you intend to prove — you cannot add it later.
- Connect every fact to a named cause or policy.
- Lead with the misconduct; use warnings as the escalator.
- Check your deadline before you draft.



21

## Group Exercise

- For each scenario:
  - What was wrong with the original draft?
  - How did your group rewrite it?
  - What drafting lesson does the scenario illustrate?
  - What cause(s) for discipline and policy would you identify?



22

## Scenario 1 — Original Draft

- WEAK — discuss how you would improve it
  1. On May 12, 2026, you were placed on paid administrative leave after the District received a complaint concerning your handling of student registration documents.
  2. During the investigation, the District learned that several registration forms assigned to you had not been processed.
  3. The investigation revealed that on February 3, March 10, and April 7, 2026, you received completed registration forms from students but failed to enter them into the student information system.
  4. As an Admissions Specialist, you are responsible for timely processing student registration documents.



23

## Scenario 1 — Model Rewrite

- STRONG example
  1. At all relevant times you were employed as an Admissions Specialist, responsible for timely processing student registration documents, including entering completed registration forms into the student information system.
  2. On February 3, March 10, and April 7, 2026, you received completed registration forms from students and failed to enter them into the student information system.
  3. As a result, multiple student registration forms assigned to you were left unprocessed.
  4. On May 12, 2026, following a complaint about your handling of student registration documents, you were placed on paid administrative leave pending investigation.

**Teaching point:** Where to begin: lead with the job duty and the misconduct, not the administrative leave.

**Cause(s) / policy:** Inexcusable neglect of duty; violation of District policy requiring timely processing of student registration documents.



24

## Scenario 2 — Original Draft

### **WEAK — discuss how you would improve it**

#### • **Draft allegations**

1. On March 18, 2026, you acted in an inappropriate, disrespectful, and unprofessional manner toward your supervisor during a staff meeting.
2. Your conduct was discourteous and failed to meet the District's standards for professional behavior.

#### • **Facts Available to the Drafter**

- During the March 18 staff meeting, your supervisor asked why you had not completed an assigned report.
- You raised your voice and stated, "Maybe if you knew how to manage this department, you wouldn't have to ask me stupid questions."
- You then pushed your chair away from the table, stood up, and left the meeting while your supervisor was speaking to you.



25

## Scenario 2 — Model Rewrite

### **STRONG example**

1. On March 18, 2026, during a staff meeting, when your supervisor asked why you had not completed an assigned report, you raised your voice and stated, "Maybe if you knew how to manage this department, you wouldn't have to ask me stupid questions."
2. You then pushed your chair away from the table, stood up, and left the meeting while your supervisor was still speaking to you.

**Teaching point:** Turn conclusory labels into specific words and actions.

**Cause(s) / policy:** Discourteous or unprofessional treatment of a supervisor; failure of good behavior; insubordination.



26

## Scenario 3 — Original Draft

### **WEAK — discuss how you would improve it**

#### **Draft allegations**

1. On January 9, 2026, your supervisor sent you an email reminding you that purchase orders exceeding \$10,000 require prior approval.
2. On February 12, 2026, your supervisor sent you another email regarding the purchasing approval requirements.
3. On March 6, 2026, your supervisor sent you a third email advising you that failure to comply with purchasing procedures could result in discipline.



#### **Facts available to the drafter**

- On January 8, 2026, you issued a \$14,500 purchase order without obtaining required approval.
- On February 11, 2026, you issued a \$19,200 purchase order without obtaining required approval.
- On March 5, 2026, you issued a \$27,600 purchase order without obtaining required approval.
- Each supervisor email followed one of those unauthorized purchases.

27

## Scenario 3 — Model Rewrite

### **STRONG example**

1. District policy requires prior approval for any purchase order exceeding \$10,000.
2. On January 8, 2026, you issued a \$14,500 purchase order without obtaining the required approval. The next day, your supervisor reminded you in writing of the prior-approval requirement.
3. On February 11, 2026, you again issued a purchase order without approval, this time for \$19,200. Your supervisor again wrote to you about the purchasing-approval requirements.
4. On March 5, 2026, you issued a third unauthorized purchase order, for \$27,600. On March 6, 2026, your supervisor advised you in writing that continued failure to comply with purchasing procedures could result in discipline.

**Teaching point:** We discipline for misconduct, not for emails; make the conduct the focus and use the emails as the escalator.

**Cause(s) / policy:** Insubordination / failure to follow the District purchasing-approval policy; neglect of duty.



28

## Scenario 4 — Original Draft

### **WEAK — discuss how you would improve it**

1. During the investigation, Employee A told the investigator that at approximately 2:15 p.m. on April 6, 2026, she walked into the warehouse and observed you sitting in a District vehicle.
2. Employee B told the investigator that he walked through the warehouse approximately 30 minutes later and observed that you were still sitting in the vehicle.
3. Employee A stated that when she returned at approximately 3:10 p.m., you were still inside the vehicle and appeared to be watching something on your cellular telephone.
4. GPS records reviewed by the investigator showed that the vehicle did not move between approximately 2:05 p.m. and 3:18 p.m.



29

## Scenario 4 — Model Rewrite

### **STRONG example**

1. On April 6, 2026, you sat in a District vehicle in the warehouse for more than an hour — from approximately 2:15 p.m. until at least 3:10 p.m. — without performing your assigned duties.
2. During that time you appeared to be watching something on your cellular telephone.
3. GPS records confirm the vehicle did not move between approximately 2:05 p.m. and 3:18 p.m., and two coworkers observed you in the vehicle during that period.

**Teaching point:** Don't bury the lead in the evidence; make the employee the actor and use active voice; cite the evidence as support.

**Cause(s) / policy:** Inexcusable neglect of duty; misuse of District time and property.



30

## Scenario 5 — Original Draft

### WEAK — discuss how you would improve it

#### Draft allegations

1. On September 15, 2025, you received written counseling concerning your failure to timely respond to assigned maintenance requests.
2. On December 8, 2025, you received a written reprimand concerning your continued failure to timely respond to maintenance requests.
3. The December 8 reprimand warned you that continued performance deficiencies could result in further discipline.
4. On February 20, 2026, you received additional counseling regarding your performance.

#### Facts available to the drafter

- Before the September counseling, you failed to respond to four assigned maintenance requests for periods ranging from three to seven workdays.
- After the counseling, you failed to respond to three additional requests on October 6, November 3, and November 19.
- After the December reprimand, you failed to respond to an urgent plumbing request assigned to you on February 18.
- You did not respond to the February 18 request for two workdays, during which the leak continued and damaged flooring in the building.



31

## Scenario 5 — Model Rewrite

### STRONG example

1. Before September 2025, you failed to respond to four assigned maintenance requests for periods ranging from three to seven workdays. On September 15, 2025, you received written counseling about your failure to timely respond to maintenance requests.
2. After that counseling, you again failed to respond to assigned requests on October 6, November 3, and November 19, 2025. On December 8, 2025, you received a written reprimand warning that continued deficiencies could result in further discipline.
3. Despite the reprimand, you failed to respond to an urgent plumbing request assigned to you on February 18, 2026. You did not respond for two workdays, during which the leak continued and damaged flooring in the building.
4. On February 20, 2026, you received additional counseling regarding your performance.

**Teaching point:** Show the pattern and the failure to correct; lead with the underlying failures and use each counseling/reprimand as the escalator.

**Cause(s) / policy:** Inexcusable neglect of duty; inefficiency / unsatisfactory performance; failure to follow directives.



32

## Scenario 6 — Original Draft

### **WEAK — discuss how you would improve it**

#### **Draft allegations**

1. During your investigative interview, you stated that your supervisor gave you permission to work from home on April 10, 2026.
2. You explained that you therefore believed you were authorized to leave the office at approximately 10:00 a.m. and perform the remainder of your workday from home.
3. Your supervisor denied giving you permission to work from home.
4. The investigator also reviewed text messages between you and your supervisor and did not find any message authorizing you to work remotely.
5. Accordingly, your explanation that you had permission to work from home was not substantiated.

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#### **Facts available to the drafter**

- The supervisor expressly denied giving permission.
- During the investigation, you showed the investigator a purported text message from the supervisor stating, "That's fine. Work from home tomorrow."
- The investigator obtained the actual text-message exchange from the supervisor's District-issued phone. That message did not exist.
- When confronted with the discrepancy, you admitted creating the screenshot after being placed on administrative leave.

33

## Scenario 6 — Model Rewrite

### **STRONG example**

1. On April 10, 2026, you left the office at approximately 10:00 a.m. and did not perform the remainder of your workday at your assigned location. Your supervisor had not authorized you to work from home.
2. During the investigation, you claimed your supervisor had given you permission to work from home and showed the investigator a purported text message from your supervisor stating, "That's fine. Work from home tomorrow."
3. The investigator obtained the actual text-message exchange from your supervisor's District-issued phone; no such message existed.
4. When confronted with the discrepancy, you admitted that you created the screenshot after being placed on administrative leave.

**Teaching point:** Charge the dishonesty directly; don't narrate the employee's explanation and conclude it was "not substantiated."

**Cause(s) / policy:** Dishonesty and falsification of evidence during an investigation; the underlying unauthorized absence / neglect of duty.

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34

## The Drafting Lessons

- Start with the misconduct.
- Turn conclusions into facts.
- Discipline the misconduct — not the email or document.
- Don't bury the lede in the evidence; make the respondent the actor.
- Use prior discipline to show the pattern and failure to correct.
- Charge dishonesty directly; don't let the respondent's defense frame the charge.
- Connect the facts to a named cause and policy.



35

## Q&A



Do you have any questions?



36

# THANK YOU!

For questions or comments, please contact:

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37

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38

38