

Corrective Action Quick Guide

When:

- (1) Employee Performance/Behavior OR
- (2) Both Employee Performance/Behavior and Systems/Procedures in Workplace

Who:

Manager usually initiates

What:

5 levels: Level 1 and 2 are not part of the discipline process, excluded from personnel file. Level 3-5 are disciplinary.

Corrective Action does not exclude or supersede the disciplinary process per the KPNAA-SCPMG CBA AND

Corrective Action does not affect the grievance process per the KPNAA-SCPMG CBA.

What to DO to SERVE your MEMBERS...

#1 - KNOW your RIGHTS

The Employer is not required to inform the employee that he or she has a right to Union representation. EDUCATE MEMBERS

Weingarten Rights

Employees have a right to union representation at **investigatory interviews**. According to the NLRB, if the employer calls an employee into the office to announce a warning or other discipline, this NOT an investigatory interview affording the employee a right to union representation because the employer is not questioning the worker. However, if the supervisor **begins to ask questions** to support the decision, then the employee may invoke their Weingarten Rights.

Rule 1: The employee must make a clear request for union representation before or during the interview. The employee cannot be punished for making this request.

Rule 2: After the employee makes the request, the employer must choose from among three options:

(1) grant the request and delay questioning until the union representative arrives and (prior to the interview continuing) the representative has a chance to consult privately with the employee;

(2) deny the request and end the interview immediately; or give employee a clear choice between interviewing without representation, or ending the interview.

Rule 3: If the employer denies the request for union representation, and continues to ask questions, it commits an unfair labor practice and the employee has a right to refuse to answer. The employer may not discipline the employee for such a refusal.

Weingarten Card – may be read or given by employee to management:
*"If this discussion **could in any way lead to my being disciplined or terminated, or affect my personal working conditions**, I respectfully request that my union representative, officer, or steward be present at this meeting. Until my representative arrives, I choose not to participate in this discussion."*

KPNAA Area Representative Rights

Employers may assert that the only function of a KPNAA Area Rep at an investigatory interview is to observe the discussion; to be a silent witness. This is incorrect. The Area Rep must be allowed to advise and assist the employee in presenting the facts. When the Area Rep arrives at the meeting:

- The supervisor or manager must inform the Area Rep of the subject matter of the interview: the type of misconduct being investigated.
- The Area Rep must be allowed to have a private meeting with the employee before questioning begins.
- The Area Rep can speak during the interview, but cannot insist that the interview be ended.
- The Area Rep can object to a confusing question and can request that the question be clarified so that the employee understands what is being asked.
- The Area Rep can advise the employee not to answer questions that are abusive, misleading, badgering, or harassing.

#2 Philosophy of Corrective Action

Emphasizes the future not the past.

Focuses on the problem not the individual.

Concentrates on commitment rather than compliance.

Shifts the burden of resolution from supervisor to employee, supervisor becomes a facilitator who assists employee in resolving issues.

Acknowledges that employees are adults capable of understanding the requirements of the business and respecting their ability to resolve issues and honor commitments.

#3 KPNAA Area Rep skills to utilize when representing the CRNA

Listening and reflecting back.

Take copious notes

Ask clarifying questions.

Determine root cause without blaming.

Determine each party's interests before looking for solutions. Be creative in identifying solutions.

Be patient, don't answer for the other person or CRNA you are representing and give them a chance to think or frame the answer.

Affirm and praise when possible

Describe behavior or problem without negatives.

Avoid threatening behaviors – body language – statements.

Avoid defensive statements.

Always check your assumptions.

Avoid arguing – time out if necessary.

#4 Corrective Action Procedure

The Corrective Action procedure is designed as a method to resolve performance and behavior issues in a non-punitive manner. The goal is to jointly resolve the issues rather than to punish the employee. It replaces existing traditional disciplinary procedures.

Corrective Action includes five levels:

(1) Discovery, (2) Developmental Action Plan, (3) Corrective Action Plan, (4) Day of Decision/Last Chance Agreement, and (5) Termination.

The first two levels (1 and 2) are not considered disciplinary, with no documentation in the Personnel file, but only in a departmental file, which cannot be used in subsequent levels of discipline

Level three (3), Corrective Action Plan, is the first level of formal discipline. This level may be repeated prior to moving to level four (4), based on consideration of factors such as length of service, mitigating circumstances, seriousness of the issue, etc.

There are no warning letters or unpaid suspensions.

An employee may file a grievance at any level of the procedure.

Serious infractions may result in a paid investigatory suspension, after which the employee will be placed in the appropriate level of the procedure.

NOTE: Acts of gross misconduct/gross negligence will subject employee to an accelerated levels in the Corrective Action process. (For example, skipping Levels 1 and 2 and moving to 3, 4 or 5 depending upon infraction).

Documents placed in the Personnel file will be purged after no more than one year.

CORRECTIVE ACTION LEVELS 1 - 5:

Note: At all Level 3, 4, and 5, contact KPNAA Executive Director

Level 1 – Initial Discussion

Supervisor, employee and KPNAA Area Representative (unless employee refuses representation) meet privately to:

Identify the concern.

Try to figure out why something is or isn't happening.

Brainstorm solutions.

Commit to working together to solve problem.

Write up a summary of the meeting, which will not be placed in the personnel file, but will be placed in the departmental file.

Level 2 - Developmental Action Plan

Supervisor, employee and KPNAA Area Representative (unless employee refuses representation) meet privately again to:

Revisit the problem.

Determine what can be done to correct the problem.

Together develop a plan to help employee succeed.

Plan will detail timelines and everyone's roles.

Write up a summary of the meeting, which will not be placed in the personnel file, but will be placed in the departmental file.

Level 3 - Corrective Action Plan: First step of formal discipline

Supervisor, employee and KPNAA Area Representative (unless employee refuses representation) revisit problem if insufficient progress:

Jointly develop corrective action plan (CAP).

Written plan says that employee failure to live up to plan will result in further discipline, which may lead to termination.

All party's sign plan.

Plan placed in personnel file for up to one year.

Corrective Action Plan can be repeated more than once.

Level 4 - Day of Decision

If there is no improvement in a previous CAP, a meeting with supervisor, next level manager, employee, KPNAA Area Representative, and next level union representative to decide whether to invoke day of decision.

This means:

Employee placed on paid Day of Decision to choose to make required changes and return to work or to resign.

If employee decides to change performance or behavior, supervisor, employee and union will write up a Last Chance Agreement and/or CAP.

Everyone will sign agreement.

Agreement placed in personnel file for up to one year.

Level 5 - Termination

If no change in performance/behavior the employee may be terminated.

Final Points

At **any time** during Corrective Action an employee can **choose** not to participate and file a grievance instead.

This covers all employees represented by Kaiser Permanente Partnership unions in the Alliance of Health Care Unions.

Acts of negligence, misconduct, gross misconduct or gross negligence will subject employee to an accelerated level in CA process.

Resignation may be accepted in lieu of termination.

Issue Resolution vs. Corrective Action

Issue Resolution:

When:

Issue or concern arises re: **Systems and/or Procedures in Workplace**

Who: Anyone can initiate

What: Foundation block of partnership model – a voluntary alternative to the grievance process

•Does not change/alter the grievance process per the KPNAA-SCPMG CBA.

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Issue Resolution and Corrective Action System Flowchart

