

**MIRACLE RESTAURANT GROUP'S  
GUIDE TO PROGRESSIVE DISCIPLINE**

# PROGRESSIVE DISCIPLINE

## Attached Guidelines

Attached are important guidelines for administration of Miracle Restaurant Group's ("MRG") Progressive Discipline Policy. What follows is the "Progressive Discipline Matrix Guidelines." These guidelines spell out recommended consequences for virtually all inappropriate actions or behaviors that can occur in the workplace. The purpose of the guidelines is to ensure consistency in application. Certain of the serious violations listed in the Matrix are subject to prosecution and MRG, LLC. will pursue criminal action to the fullest extent of the law.

These guidelines are management tools only and do not replace your individual assessment of appropriate discipline in specific cases. Because these are management tools, they should be made available only to management personnel. As you know, MRG does not have employment contracts with its employees and reserves the right to terminate any employee at any time for any reason not prohibited by law. Consequently, no employee may rely on these guidelines as "promises" or "agreements" by the Company to impose the discipline contained in the guidelines.

Our experience has demonstrated that in most cases, the disciplinary action spelled out in these guidelines provides associates with every opportunity to succeed. It is important that these guidelines be administered consistently.

## Introduction to Progressive Discipline

You just fired Joe for coming in late for the first time in his 5 year tenure with MRG. He was your #1 ranked employee, and a well-respected role model for other employees in your restaurant. Shortly after this decision, some of your other top ranked employees began quitting. Productivity and morale in the restaurant rapidly began declining.

Was firing Joe the right solution or the wrong solution in handling the issue? The wrong solution. Matching the wrong solution to the problem not only doesn't fix things, it can make them worse. And that's where progressive discipline comes in, providing managers with the right tools to create the right solutions in dealing with employee discipline issues.

### **Why do we need a progressive discipline policy?**

Even well-trained and informed employees make mistakes. Correcting them can be simple or difficult. We believe the simplest way is also the best way. With that philosophy in mind, we've put together a guide that helps managers take the guesswork out of the discipline process and make the right decisions – from determining if there really is a problem to choosing and administering appropriate consequences.

### **How it works**

Many problems can be avoided by properly training employees and making them aware of company policies and rules. Inappropriate behavior must be caught and handled as soon as it's detected. Follow-through should be swift and consistent.

MRG's Progressive Discipline approach is designed with these principles in mind. It consists of four basic steps: **oral warning, written warning, suspension and termination**. The guidelines match each infraction with the appropriate step.

Day-to-day performance issues can usually be resolved by coaching and counseling the employee. When that doesn't work, management must move on to the next step. Sometimes, when the problem is extremely serious, a manager may have to skip the first steps entirely. Each situation will be different and care should be taken to correctly match management's response to the level of the problem. In other words, the punishment should fit the crime.

### **Human Resources and This Policy**

This booklet contains guidelines for using this policy, the purpose of which is to assist managers in choosing the appropriate disciplinary action for most situations. Please remember these are management tools and should not be shared with employees or persons outside of MRG without the express approval of Human Resources. MRG reserves the right to terminate any employee at any time for any reason not prohibited by law and to change these guidelines as needed.

In cases where suspension or termination are possibilities, it's always a good idea to consult with your Human Resources Representative. Managers should also ask for help when unsure as to the appropriate degree of discipline to use.

### **Now a few other facts you should know:**

- MRG employees do not have contracts or employment agreements.
- These guidelines are just that – guidelines – and should not be considered a promise or agreement to handle an infraction of the rules in any certain way.
- Have questions? Ask Human Resources. They will be happy to provide guidance and assistance.

## Determining Appropriate Disciplinary Action

Mary has been a role model employee with no prior disciplinary record for the past 3 years. She comes in late today for the first time ever. What do you do?

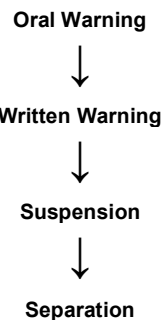
It should be pretty easy to handle this issue with Mary, however, not all performance or behavior issues are that simple. Determining the appropriate disciplinary action is an important factor in maintaining the morale and performance levels of your employees.

Here are some important factors to consider when disciplinary action becomes necessary:

- Discipline should be timely
- Focus on the problem or behavior - discipline shouldn't be a personal issue
- Choose the level of discipline with care
- Refer to the Progressive Discipline Matrix and the "[5 Questions To Ask Before Administering Discipline](#)" to help choose the right course of action
- Remember - your Human Resources Representative is there to answer questions and assist you with this process if you need it

### Steps in Progressive Discipline

Always start with **Coaching and Counseling** as part of daily routine supervision. If Coaching and Counseling doesn't help to correct the performance issue or behavior, take the action at the lowest level necessary in the progressive disciplinary process to correct the performance or behavior.



### **5 Questions To Ask Before Administering Discipline**

1. Did the employee know that his/her conduct could result in disciplinary action?
2. Is the level of the disciplinary action appropriate for the employee's violation? Does the punishment fit the crime?
3. Are the consequences consistent with past practice and company policy?
4. Does the disciplinary action follow the Matrix Violation Guideline?
5. Are there any circumstances that you think should increase or lessen the consequences of this violation? If so, partner with your Supervisor and/or HR Representative.

### A Matrix Violations

Number	Serious Violations	1st Offense	2nd Offense	3rd Offense	4th Offense
A-1	Theft of Company, guest or employee property	Suspension Pending Separation	--	--	--
A-2	Intentional manipulation of funds or inventory	Suspension Pending Separation	--	--	--
A-3	Intentional falsification of information	Suspension Pending Separation	--	--	--
A-4	Gross abuse of a guest, employee, or vendor (physical or verbal)	Suspension Pending Separation	--	--	--
A-5	Flagrant violation of Drug and/or Alcohol Policy	Suspension Pending Separation	--	--	--
A-6	Gross misconduct	Suspension Pending Separation	--	--	--
A-7	Serious violation of local, state or federal law	Suspension Pending Separation	--	--	--
A-8	Flagrant violation of Anti-Harassment and Anti-Discrimination Policy	Suspension Pending Separation	--	--	--
A-9	Possession of weapons or firearms on Company property or while on Company business	Suspension Pending Separation	--	--	--
A-10	Violation of policy that results in injury, death, or significant risk to an Employee, guest or vendor	Suspension Pending Separation	--	--	--
A-11	No call / No show for 2 consecutive workdays	Suspension Pending Separation	--	--	--
A-12	Flagrant violation of cash handling policy (e.g. floating deposits, etc.)	Suspension Pending Separation	--	--	--

<p><b>DO NOT DISTRIBUTE</b></p> <p><i>This Guide is to be used by Management only.</i></p> <p><i>This list is not intended to be all-inclusive.</i></p> <p><b>All terminations should be reviewed and approved by your Supervisor and/or Human Resources Representative</b></p>
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### B Matrix Violations

Number	Serious Violations	1st Offense	2nd Offense	3rd Offense	4th Offense
B-1	Non-flagrant violation of Anti-Harassment and Anti-Discrimination Policy	Written*	Suspension Pending Separation	--	--
B-2	Insubordination (intentional refusal to follow lawful instructions of supervisor)	Written*	Suspension Pending Separation	--	--
B-3	Knowingly serving unacceptable product to guest(s)	Written*	Suspension Pending Separation	--	--
B-4	Abusive or offensive language/behavior towards a guest, employee, or vendor	Written*	Suspension Pending Separation	--	--
B-5	Violation of local, state, or federal law	Written*	Suspension Pending Separation	--	--
B-6	Failure to open or close restaurant at designated time unless authorized	Written*	Suspension Pending Separation	--	--
B-7	No Call / No Show	Written*	Suspension Pending Separation	--	--
B-8	Non-flagrant violation of Drug and/or Alcohol Policy	Written*	Suspension Pending Separation	--	--
B-9	Non-flagrant violation of cash handling policy (e.g. writing personal checks, etc.)	Written*	Suspension Pending Separation	--	--
B-10	Violation of Company Policy and/or Procedures which does not cause a loss of funds, injury, death, or significant risk to an Employee, guest, or vendor.	Written*	Suspension Pending Separation	--	--

**\*STEP MAY BE REPEATED DEPENDING ON DEGREE & FREQUENCY BEFORE GOING ON TO NEXT STEP.  
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### C Matrix Violations

Number	Serious Violations	1st Offense** Routine Supervision	2nd Offense	3rd Offense	4th Offense
C-1	Tardiness and/or absenteeism	Coaching & Counseling*	Oral*	Written*	Suspension Pending Separation
C-2	Not calling in expected tardiness	Coaching & Counseling*	Oral*	Written*	Suspension Pending Separation
C-3	Failure to perform job duties successfully	Coaching & Counseling*	Oral*	Written*	Suspension Pending Separation
C-4	Violation of routine Company standards and procedures	Coaching & Counseling*	Oral*	Written*	Suspension Pending Separation
C-5	Inappropriate verbal remark or behavior	Coaching & Counseling*	Oral*	Written*	Suspension Pending Separation
C-6	Failure to provide common courtesy to guest (internal & external)	Coaching & Counseling*	Oral*	Written*	Suspension Pending Separation
C-7	Incomplete/missing company, state or federal administration requirements (e.g. posters, equipment stickers)	Coaching & Counseling*	Oral*	Written*	Suspension Pending Separation

**\*\*Coaching and Counseling is part of daily routine supervision. Employees should always be coached and counseled at least once prior to proceeding to progressive disciplinary steps for all C Matrix violations.**

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## Progressive Discipline

<b>Step One:</b>
<ul style="list-style-type: none"><li>• Notify your immediate Supervisor and Human Resources of the problem</li></ul>
<b>Step Two:</b>
<ul style="list-style-type: none"><li>• Interview the Complainant using <b>Fact Finding Interview Form</b>. Area Director is responsible for filling out form. Complainant signs when completed.</li></ul>
<b>Step Three:</b>
<ul style="list-style-type: none"><li>• Ask Complainant for a written statement (In their own writing)</li></ul>
<b>Step Four:</b>
<ul style="list-style-type: none"><li>• Interview the Defendant. For A-Matrix Violations, Suspend (<b>Fill out Notice of Suspension Form</b> and present employee with copy to sign)</li></ul>
<b>Step Five:</b>
<ul style="list-style-type: none"><li>• Ask the Defendant for a written statement (In their own writing)</li></ul>
<b>Step Six:</b>
<ul style="list-style-type: none"><li>• Interview Witnesses using <b>Fact Finding Interview Form</b>. Area Director is responsible for facilitating the conversation and for filling out the form. Witness signs form at the end.</li></ul>
<b>Step Seven: (At HR Discretion):</b>
<ul style="list-style-type: none"><li>• Interview all employees using <b>Heart Check Investigation Form</b></li></ul>
<b>Step Eight:</b>
<ul style="list-style-type: none"><li>• Fax all information to Human Resources: 603-424-1037</li></ul>
<b>Step Nine:</b>
<ul style="list-style-type: none"><li>• Speak with direct Supervisor and Human Resources prior to determining next steps</li></ul>
<b>Step Ten:</b>
<ul style="list-style-type: none"><li>• Meet with all parties and close investigation</li></ul>





**Heart Scan Document:** The Following Questions are to be asked, by the Area Director, to all employees working at the location. The Area Director is responsible for writing each response. When he/she finishes, the employee is to read over, what the Area Director wrote, and sign the document.

**Begin Interview**

- Thank the employee for sitting down with you
- Tell the employee that you are just trying to get the pulse of the restaurant
- Do not disclose any information regarding any investigation (if any)
- Inform employee that he/she must give you honest answers.
- Do not promise confidentiality. Instead, explain that information will be distributed only on a need-to-know basis.
- Have the employee sign document

Area Director's Initials: \_\_\_\_\_  
 Employee's Signature: \_\_\_\_\_  
 Date: \_\_\_\_\_

**Name:** \_\_\_\_\_  
**Unit:** \_\_\_\_\_

**Position:** \_\_\_\_\_ **Date:** \_\_\_\_\_

1. How satisfied are you with your current position? *(Rate on scale of 1-10—10 highest)*  
 1 2 3 4 5 6 7 8 9 10
2. What roadblocks exist that prevent your satisfaction from being a 10?
3. Do you feel that you are valued here?
4. Do you feel all the employees here feel valued?
5. What do you like about the General Manager here?
6. What don't you like about the General Manager here? Or what do you think he/she could do better?

## Information for Departing Employees

This information should be provided to departing employees and applies to all employees, both salaried and hourly, unless noted otherwise. **For more information on any of these programs, call**

### Health Care Plans:

Your health and dental coverage ends the last day of the same month in which you were terminated. You have 60 days from the date of the COBRA notice to elect COBRA coverage. That coverage would begin when your coverage ended and you are responsible for the premiums. Enrollment information will be sent to you within 30 days of the date you leave MRG employment. If you do not respond within 60 days of the date on the notice, you give up the right to this coverage.

#### Example:

Last date of work: June 10th

Date coverage ends: June 30th (last day of the same month in which you were terminated )

Date by which you must elect to take COBRA coverage: 60 days from termination date

Date you must begin paying premiums: within 45 days of election date

Enrollment information should arrive: within 30 days from date of termination

### Life and Accident Insurance:

This coverage ends on the last day of the month in which you terminate from MRG. You can convert your life insurance to an individual policy within 30 days from that date. The forms necessary to convert your policy can be obtained from Employee Services. Accident Insurance may not be converted upon termination from MRG.

#### Example:

Last date of work: June 10th

Date coverage ends: June 10th (last date of work)

Date by which you must elect to convert life insurance to an individual policy: July 10th (30 days)

### Disability Income Plan (Only applies to AM and above and Office Staff):

Your last day of employment is also the last date of your coverage.

### MRG 401(K):

- Participation ends with your last payroll deduction.
- Company contributions are vested as follows (the vested percentage is the amount of money contributed by the company to your account, of which you receive a percentage. You keep all of the money you contribute on your own):

Years of Service	Percentage Vested
0	0%
1	0%
2	0%
3	100%

You must request distribution by contacting The Hartford at 1800-339-4015. Information will not be sent to you automatically upon your termination.

### Vacation:

You will be paid for earned, unused vacation time if you stop working for MRG and the following conditions are met:

- You worked for MRG continuously for one full year before leaving the company;
- You gave a standard two-week advance notice in writing to your supervisor before leaving;

- You were not terminated due to an "A" matrix violation;

**Unemployment:**

Questions regarding unemployment benefits should be directed to your state unemployment agency. Decisions regarding eligibility are made by the state agency based on state law and are not determined by MRG.

**References:**

When asked to provide a reference, MRG policy is to only verify an employee's position and dates of employment. MRG does not provide recommendations for any employees.

**Final Paychecks:**

Salaried employees: Your final paycheck will not be deposited directly into your account. Instead, it will be mailed to your current home address after your last day worked, or distributed in accordance with specific state and local laws.

Hourly employees: Your final paycheck will be available for you to pick up at the restaurant after your last day worked, or distributed in accordance with specific state and local laws.

## Managing Critical Discussions

### Principles of Critical Discussions

#### Principle One: Respect the Person – Focus on Behavior

- Remember to treat the employee with dignity and respect.
- Hold your conference in a quiet place where you won't be interrupted.
- Explain expected standards of behavior and performance.
- Describe the problem and how it affects restaurant operations, other employees or guests.
- If this isn't a new issue, review past discussions.
- Focus on the facts, not on personal issues and avoid stating opinions that could be taken as a personal attack.

#### Principle Two: Seek Understanding

- Ask why the behavior or performance exists.
- Do not prejudge: Always keep an open mind.
- Summarize what the employee has told you, making sure you have the facts straight.

#### Principle Three: Collaborate - Determine Next Steps

- Ask the employee how he or she believes the problem can be corrected.
- Discuss the action with the employee and agree on a follow-up date to review the matter.
- Explain the action you must take in this case.
- Clearly state the consequences that will occur if the problem is not resolved.
- End the discussion on a positive note – tell the employee you have confidence in his/her ability to correct the problem.

## Fact Finding and Suspension

### Fact Finding

All matters coming up for discipline should be thoroughly examined. Getting both sides of the story is crucial in determining the appropriate disciplinary action to take.

Remember, it's up to you to conduct a timely, objective and thorough examination of the issues. By doing so, you protect both the employees from possible future harm and MRG from potential liability. Listed below are some guidelines:

- **Be proactive.** As a manager, you should know what's going on in your restaurant/department. If you suspect or believe misconduct is taking place, investigate. Don't wait for a formal complaint.
- **Be fair.** Remember that investigations should be fair, impartial and completed with an open mind. Finding the truth in the least disruptive manner should be your goal.
- **Be factual.** Prejudice, rumor and innuendo have no place in an investigation.
- **Be serious.** Treat the investigation seriously. Keep your ears open and really listen to the person filing the complaint, the employees involved and witnesses.
- **Be thorough.** Try to get all complaints in writing. A written complaint isn't necessary in order to start the investigation process, but it's a good idea.
- **Be nonjudgmental.** Explain the investigative process to the complainant without disclosing your opinions.
- **Be aware.** Discuss this matter thoroughly with your Supervisor or Human Resources representative. They can help guide the investigation and interview process, as well as determining what should next be done.
- Be organized. Document your fact finding notes/process and keep them in a separate locked file.

### Suspension

Sometimes it may be in the best interest of everyone involved to suspend one or more employees while conducting a fact finding investigation. This allows Supervisors to conduct a timely, objective, and thorough investigation on serious offenses. **Suspension should only take place for potentially dischargeable issues and should NEVER be used for disciplinary purposes.**

#### **If Suspension is Necessary:**

- Complete a Notice of Suspension and Investigation Form and give a copy to the employee.
- Inform the employee why they are being suspended.
- Inform the employee about the fact finding investigation process and the timeframe to complete it.
- Inform the employee of possible outcomes or consequences if the allegations are found to be either invalid or valid.
- Collect keys from supervisory employees in restaurants.
- Remind the employee that they are not to:
  1. Come to the workplace for any purpose.
  2. Contact or talk to any MRG Employees.
  3. Remove or dispose of any Company property, including any files, reports, or business records.

#### **If Progressive Disciplinary Action is Necessary:**

- Sign and date the warning form.
- Check that you've put the information in the right place on the form.
- Have a witness present during the discussion. The witness should be another employee in a supervisory position.
- Remind the employee that retaliation against any parties involved in the investigation will not be tolerated and may result in disciplinary action up to and including termination.
- Make sure you haven't stated your personal opinions on the warning form.
- Make sure you haven't forced or coerced the employee to sign it. It's still valid without his or her signature.
- Write "Refused to Sign" on the employee signature line if the employee refuses to sign and have the witness sign the witness signature line.

#### **If Separation is Necessary:**

- Refer to The Separation Discussion in the next section.

**If Reinstatement is Necessary:**

- Reinstatement the employee with all due compensation and no loss in tenure. (example: hourly employees will be eligible for back pay based on scheduled hours they would have worked if they had not been suspended.)
- Remind the employee that retaliation against any parties involved in the investigation will not be tolerated and may result in disciplinary action up to and including termination.

## **Progressive Discipline Q&A**

### **Progressive Discipline Q&A**

**Here are some commonly asked questions and situations.**

**Q:** Can I share this with my key hourly employees?

**Here are some commonly asked questions and situations about Separation:**

A: Yes. You should contact your Supervisor (AD for operations) before you make the termination. This keeps the line of communication open and the appropriate level of accountability.

**Notice of Progressive Discipline**  
**(Use This Form or Electronic CIS FORM)**

**Employee Information:**

Employee Name: \_\_\_\_\_

Social Security Number: \_\_\_\_\_

Restaurant Unit and Number: \_\_\_\_\_

Employee Position: \_\_\_\_\_

**Coach and Counsel:**

Explanation of Violation: \_\_\_\_\_

Action to Resolve:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Time Frame: \_\_\_\_\_

Consequences of Further Violations:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Employees Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Manager Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**Oral or Written Warning:**

Explanation of Violation: \_\_\_\_\_

Action to Resolve:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Time Frame: \_\_\_\_\_

Consequences of Further Violations:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Employees Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Manager Signature: \_\_\_\_\_ Date: \_\_\_\_\_

- Employee must sign this form and/or the Electronic CIS Form
- Employer may write on the back of form
- Please make two copies: One for the Employee and one for the File Folder



**To:**

**CC:**

**From:**

**Date:**

**Re:** Notice of Suspension and Investigation

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This is to inform you that effective immediately, you are suspended from your duties as an employee of Miracle Restaurant Group (Arby's/Dunkin Donuts), due to the following Progressive Discipline Matrix violation(s):


**The terms of your suspension are as follows:**

1. You are not to come to your restaurant for any purpose.
2. You are not to contact or talk to any Miracle Restaurant Group employees.
3. You are not to remove or dispose of any Company property, including files, reports or business records.

If you violate any of the terms of this letter, you face immediate termination and possible prosecution. These terms are to protect you, our employees and the property of Miracle. We want to ensure that a proper and thorough investigation or review of the facts takes place. We encourage you to give us a statement on your thoughts in regards to the issues stated above. All information will be reviewed by your Area Director (may also be reviewed by your Director of Operations, Vice President of Operations and Human Resources) prior to any final decisions regarding your employment with the company.

If our investigation finds these charges invalid, you will be reinstated with all due compensation and no loss in tenure. If these charges are verified as a result of the investigation, further disciplinary action may result **including separation**. If you are



separated from the organization, Miracle Restaurant Group will comply with the laws of the State in which you are employed, regarding your final pay-check (wages owed).