

Consistency in Disciplinary Matters

Derek Jackson

A term that is often heard in the context of the application of discipline in the workplace is the word "consistency" or its opposite, "inconsistency."

It is not always easily understood exactly what this means, and so we are going to examine this requirement - because that really is what it is - a requirement of the employer that he be "consistent" in the application of disciplinary action, and that he avoid "inconsistency."

The dictionary definition does not help us much - it merely defines the word "consistent" as being "a state of consistency."

A better definition would be to say that consistency means "treating like with like", or "applying the same standard to all", or "measuring all by the same standard."

That probably brings us to a closer understanding of what is meant.

In other words and generally speaking, it would be unfair to treat people who have committed similar acts of misconduct differently - it would be unfair to treat people, who have committed similar acts of misconduct, by a different standard, or measure the seriousness of the act of misconduct by a different standard than the standard that was applied to others who have committed the same act of misconduct.

This is where the term "historical inconsistency" comes from. Historical inconsistency means that where you have had a number of employees who have all committed the same act of misconduct and different times, those employees have not been measured by the same standard - the same disciplinary procedure has not been applied.

Thus, the opposite - namely historical consistency - would show that in the past, each time the same act of misconduct was committed by different employees, the employer applied the same standards of measurement and followed exactly the same disciplinary procedure in each case.

There is another type of consistency known as "contemporaneous consistency." It means, very simply, "collective consistency." To break this down even further, it means that in instances of collective misconduct, where a number of employees have committed an act of misconduct at the same time, then each employee involved in that collective act of misconduct must be treated the same and by the same standard, and the same procedure must be applied to all.

Contemporaneous inconsistency would come about where two or more employees have committed the same act of misconduct at the same time, but not all are subjected to disciplinary action, but only some are. Or where some would be subjected to a certain disciplinary procedure, and a different disciplinary procedure would be invoked for others.

Historical inconsistency would come about where, for example, in past instances of a certain act of misconduct, the employer has, for example, imposed only a verbal warning order a written warning, but now in another similar or exactly the same incident, he issued a final written warning or dismisses the employee.

The employer must be careful to note that the "consistency" rules apply in the main to the procedure followed.

"Consistency" does not necessarily mean that the same sanction must be applied in every instance of the same act

of misconduct - it means that the same procedure must be applied in addressing similar instances of the same act of misconduct.

This is because usually, the sanction to be applied is decided according to the circumstances of the matter, and the personal circumstances of the employee, including matters such as service record and previous disciplinary record, plus various other mitigating, aggravating and extenuating circumstances.