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The most commonly misunderstood reasons for termination is misconduct.

In this article, we are going to explain how a state may define misconduct and what employers need to document to prove misconduct occurred in the workplace. Case law defines misconduct as a substantial or intentional disregard of the employers interests. The deliberate nature of the act is a critical component of the definition. This is important because the burden of proof is on the employer to show that the actions were intentional or substantial enough to cause harm to the employer.Please note that not all states define misconduct in the exact same manner and may not distinguish between simple and gross misconduct. The states make the determination if misconduct occurred based on documentation that is supplied.Simple MisconductSimple misconduct is defined as work related conduct that is in substantial disregard of the employers interest. A general rule of thumb is that simple misconduct cases are ones that warrant a change in behavior by the employee but usually do not result in immediate termination. Some common examples of simple misconduct include insubordination, chronic tardiness or absenteeism, inappropriate or rude comments to co-workers or customers, or misrepresenting job application data. The burden of proof in these unemployment cases is on the employer to prove two things:The actions of the employee are a deliberate and willful disregard of the employers interests.At least one prior warning was provided to the employee.Warnings Are Important!The reasons for prior warnings are an important part of proving misconduct. States typically require that at least one warning for the specific offense must exist before an employee can be terminated for misconduct. If no written warnings were given, it is more difficult to prove misconduct. However, some states have exceptions to this rule such as those involving safety violations or sexual harassment. In other words, you can win some winning misconduct cases. Ideally, when warnings are issued they should clearly list the unacceptable behaviorsProvide actions or recommendations for improvementsOutline the specific standards that need to be achievedBe in writing and signed by both the employee and the employerIf there is a dispute over warnings, the employees signature on the warning provides the state with clear evidence that they have received the warning and were aware of the actions they needed to take. When the warnings are incomplete or vague in nature, they seldom meet the burden of proof of the state is looking for to prove misconduct.Gross MisconductThere is often a fine line between simple misconduct and gross misconduct. Generally speaking, gross misconduct refers to severe negligence or willful conduct that is violent, unlawful, or has the potential to severely harm your business. These cases can be so harmful to the employer, the state may deny benefits to employees who have not received previous warnings. Some examples of gross misconduct may include:Fighting or making violent threats in the workplaceStealing or vandalizing company propertyFalsifying personal information or work historySexual harassment or creating a hostile workplace for other workersThe same need for written documentation exists in gross misconduct cases. Documentation should include:How you learned of the misconductIf you did not witness the incident, statements from the witnesses including the details of what happenedProof that a reasonable investigation into the incident was conductedProof that the termination was in line with a reasonable response to the incidentsThis Misconduct?Equally important as knowing what is considered misconduct is knowing what types of things will not be considered misconduct. Case law states that inefficiency, unsatisfactory conduct, failure in performance as the result of inability or incapacity, inadvertencies or ordinary negligence in isolated instances, or good faith errors in judgement or discretion are not considered misconduct. Some real-life examples of non-misconduct would include:Poor performance due to lack of training or experienceLack of motivation or initiativeInability to perform duties due to physical limitations or disabilitiesLack of communication skills or poor teamwork abilitiesThese cases, the employee can still be terminated for their actions, but the states will not consider this to be a misconduct case.Did You Know?Employees terminated for gross misconduct are not eligible for COBRA according to the US Department of Labors COBRA guidelines? Provided by our friend, Michele Heckmann, Director of Customer Insights, at Thomas & Company.(Image by @toefotofreepik from Freepik)Workplace misconduct isnt just a set of rules on paper - its about real actions that can impact team morale, productivity, and even a companys reputation. It covers everything from minor policy violations to serious offenses that could lead to immediate termination.Whether youre an HR professional, a manager, or a team leader, knowing what counts as misconduct and how to handle it is key to keeping the workplace fair, respectful, and legally compliant. After all, a strong, positive work culture doesnt happen by accident - its built on awareness, accountability, and the right policies in place.Meaning of Misconduct in the WorkplaceThe definition of misconduct in the workplace refers to any behavior that breaches organizational policies or workplace norms. It can disrupt team dynamics, lower employee morale, and expose the organization to legal risks. Companies must clearly define what constitutes misconduct in their employee handbook to ensure fairness and consistency in addressing infractions.Types of Misconduct in the WorkplaceMisconduct in the workplace can be categorized into two main types:General MisconductThis refers to less severe infractions that, while inappropriate, do not typically result in immediate termination. Examples include:Tardiness or Absenteeism: Repeatedly arriving late or missing work without a valid reason.Insubordination: Refusing to follow instructions, displaying disrespect for authority, or openly defying company policies.Misuse of Company Resources: Using office supplies, equipment, or internet access for personal use.Unprofessional Behavior: Engaging in workplace gossip, rude comments, or inappropriate language towards colleagues.Specific MisconductThese refer to more serious violations that often carry stiffer penalties, sometimes leading to immediate dismissal. Common examples include:Harassment: Creating a hostile work environment through verbal abuse, threats, or unwanted advances.Fraud: Stealing company property, falsifying expense reports, or engaging in deceptive financial practices.Violence or Threats of Violence: Physical altercations, aggressive behavior, or threatening co-workers.Substance Abuse: Consuming drugs or alcohol during working hours, impairing performance and endangering others.Breach of Confidentiality: Sharing trade secrets or confidential information without authorization, violating company policy.Legal Definition of Misconduct in the WorkplaceFrom a legal standpoint, the definition of misconduct in the workplace varies by jurisdiction, but it generally includes any behavior that violates an employment contract, labor laws, or professional ethics.Employers must ensure their disciplinary procedures align with labor laws to avoid legal action or compliance issues when addressing misconduct. Seeking legal advice when handling cases of serious misconduct can help protect the companies reputation.Addressing Workplaces MisconductEffectively handling employee misconduct involves clear policies, consistent enforcement, and a fair disciplinary process.HR professionals and managers can follow these steps:Establish Clear Policies: Define workplace misconduct and gross misconduct in an employee handbook.Train Employees and Managers: Conduct regular training on workplace behavior, disciplinary policies, and reporting mechanisms.Encourage Reporting: Implement whistleblowing mechanisms where employees can safely report misconduct without fear of retaliation.Investigate Thoroughly: Develop an investigation plan to ensure a fair and impartial process when allegations arise.Apply Consistent Discipline: Based on the severity of the misconduct, implement disciplinary procedures such as verbal warnings, written warnings, suspension, or immediate terminationWhy an Effective Whistleblowing Channel Reduces Workplace MisconductImplementing a robust whistleblowing system like FaceUp can significantly deter and address workplace misconduct. FaceUp offers a secure, anonymous platform for employees to report concerns internally, ensuring sensitive information stays within the organization.When employees know an accessible and effective whistleblowing channel exists, they are less likely to engage in misconduct, understanding that their actions can be reported and addressed appropriately.FaceUps features, such as customizable reporting forms, advanced case management, and compliance with global regulations, make it a comprehensive solution for organizations aiming to uphold ethical standards and protect their reputation.By integrating FaceUp into your companys framework, you comply with legal requirements and demonstrate a commitment to maintaining a positive work environment where employees feel empowered to speak up.This, in turn, leads to increased trust, improved morale, and reduced incidents of misconduct.Its Time to Take Workplace Accountability to the Next LevelRecognizing and addressing workplace misconduct is essential for maintaining a fair, respectful, and legally compliant work environment. By understanding the definition of misconduct in the workplace, distinguishing between general and gross misconduct, and implementing effective disciplinary policies, HR professionals and managers can safeguard workplace integrity and employee morale.Implementing these recommendations might seem overwhelming, but modern technology makes it easier than ever. With a powerful whistleblowing system like FaceUp, all it takes is setting it up once - then it works for you. Want to safeguard your workplace from unnecessary risks?Book a demo today and see FaceUp in action!Workplaces are just like any other high-pressure environment: Sometimes people cross a line and do things that violate company policies, industry regulations, and even state or federal laws. Having a disciplinary action policy in place helps you minimize the worst scenarios of employee misconduct and address any issues that do arise. Its also taken a lot of time at the most common types of employee misconduct, as well as what your options are for addressing them in a fair and even-handed way. Employers should take care to understand the legal landscape around disciplining employees, especially when considering suspensions or terminations. Here, we explore some of the most common types of employee misconduct, along with the consequences and best practices for handling them.General MisconductGeneral or simple misconduct refers to situations in which an employees behavior goes against company policy, but isnt grounds for immediate termination. This could include taking a look at the most common types of employee misconduct on company property, but isnt grounds for immediate termination. This could include taking a look at the most common types of employee misconduct on company property. In most cases, general misconduct can be addressed with a verbal or written warning, and doesnt require escalation. But if the employee continues to engage in the same behavior over time, you can consider taking more serious disciplinary action.Gross MisconductGross misconduct refers to employee conduct that seriously violates workplace policies, industry regulations, or state or federal law. Examples of gross misconduct include theft, property damage, threats of violence, and sexual harassment.Some cases of workplace misconduct may be grounds for immediate dismissal or legal action, while others may trigger a workplace investigation to find out what happened. A gross misconduct violation may be the result of intentional behavior or negligence, and a formal misconduct investigation can help to determine what really went on.Examples of Employee MisconductThe most common types of employee misconduct can vary from one organization to the next. Some examples of misconduct rise to the level of criminal or illegal behavior in any industry, while others will depend on the guidelines in your code of conduct or employee handbook. Here are six of the most common types of employee misconduct.Offerive BehaviorOfferive behavior includes a wide range of unwanted behaviors, from rude comments and jokes to targeted abuse and harassment. This type of behavior can be physical or verbal, and can even take place online, such as posting an insensitive meme or using vulgar language in group chats. While workplace harassment is now covered under Title VII of the Civil Rights Act of 1964, it can be challenging to prove. Harassment can come in many guises, and victims often face significant barriers to seeking redress, particularly if the perpetrator is a supervisor or someone in power. The U.S. Equal Employment Opportunity Commission defines sexual harassment as unwelcome sexual advances, requests for favors, and other verbal or physical conduct of a sexual nature. Some companies may go so far as to prohibit offensive relationships entirely, while others allow them as long as they dont affect the work environment.InsubordinationInsubordination involves an employees refusal to perform their job responsibilities or follow instructions. In some cases, it may involve direct conflict with their manager or supervisor, while in others, it means doing something behind their back.Minor cases can usually be handled with a verbal warning, but serious cases should be escalated to HR. For example, an employee who uses equipment they arent qualified for could put themselves and their co-workers at risk.Theft or FraudTheft or fraud is another type of employee behavior that can quickly rise to the level of gross misconduct. Cases of fraud, embezzlement, or misuse of customer funds should be reported to authorities, while other situations, such as lying on a job application or using company property for personal use, can often be handled internally.Other types of fraud include FMLA abuse, which is when an employee makes a leave of absence request under the Family and Medical Leave Act that they arent entitled to.Confidentiality BreachConfidentiality breach occurs when an employee intentionally or accidentally exposes confidential information, such as proprietary information or client data. A minor breach may involve posting about an upcoming project launch on social media, while a more serious breach could include unauthorized access to a customer database.Safety ViolationsSafety violations may require disciplinary action if an employee repeatedly fails to follow safety protocols or otherwise threatens workplace safety. This could include wearing the wrong protective gear, operating machinery in an unsafe manner, or showing up to work intoxicated. Some safety incidents may require a formal workplace investigation to determine if the employee violated safety protocols or if the situation required emergency intervention. Public Safety Officers Handbook, published by the Occupational Safety and Health Administration (OSHA), outlines various safety protocols that employers must follow to ensure the safety of their workforce.If an employee has engaged in fraud or theft, or been involved in a physical altercation, consider filing a police report and taking legal action. For safety violations that result in a work injury, youll need to report the injury to the Occupational Safety and Health Administration (OSHA) within 24 hours.Simplify the Employee Misconduct ProcessWith PulpstreamEmployee misconduct can range from minor workplace incidents to serious violations of company policy. Either way, the employee disciplinary process can be complicated. You can streamline it with a clear code of conduct and standardized disciplinary policies.Pulpstream is a cloud-based HR management platform that can handle everything from performance improvement plans to workplace investigations. Use it to standardize and automate HR processes, store your data securely in the cloud, and ensure compliance with HIPAA, OSHA, FMLA, the ADA, and other employment regulations.Plus, our no-code interface means you dont even have to know how to code in order to use it. Request a demo today to learn more!Its difficult to imagine that there are some employees who are willingly creating havoc in their own workplaces. Unfortunately, its true. Each year, companies suffer the consequences of employees who throw caution to the wind and put their employers at risk. Theft, fraud, harassment, crude behavior, and other problems can happen to the best employers. Addressing employee misconduct effectively is essential to building a safe, inclusive workplace and creating an ethical organizational culture. In this article, well examine the types of employee misconduct there are and how you can handle misconduct effectively at your workplace. Youll also find tips for tightening up your current disciplinary process, including when its time to terminate an employee. Find out what steps you need to take if an incident of employee misconduct occurs and how to protect your business from wrongful termination lawsuits. In the simplest definition, what is employee misconduct but an intentional disregard for corporate rules and expectations? An employee misbehaves or makes a bad decision. This negative behavior jeopardizes any trust the employer may have in the employee. Employee misconduct is a deliberate violation of a written or implied disciplinary action to suspension and employment termination (and possibly legal action depending on the severity). No employer wants to face this kind of scenario, but it happens too often when employees go unchecked and become disgraced from their employer over time. Read on to learn about how to handle employee misconduct in more detail. There are two types of misconduct: general and gross. One is not as serious as the other, but both require managers to take action when it comes to negative employee behavior. The first type, general (or simple) misconduct, involves behavior that doesnt intend to harm others or the company. It usually does not require immediate termination of any employee. But it does mean that the employees immediate supervisor and HR need to document and carry out any disciplinary action to correct it. An example of general employee misconduct may be an employee who is chronically late to work or one who has made an off-color remark to a co-worker. Their actions are undesirable but not intentionally out to sabotage the company. Additional examples of general misconduct may include: Inaccurately reporting information on a job application discovered after the employee has been hired Not following the orders of a direct supervisor Getting caught smoking in a non-smoking area of the property. These are offenses, but they can be corrected and do not require termination on the spot. First-time issues may require nothing more than a written warning for employee misconduct and monitoring of the employee for a period of time. Or it may require more decisive action such as suspension. In the case of gross employee misconduct, an employee has acted in a way that warrants immediate termination the legal term being summarily dismissed. This kind of behavior is egregious in nature, meant to cause the company and other co-workers harm. Usually, the actions of the employee are enough to cause the company to have no choice but to terminate their employment and escort them off-premises immediately. This includes a variety of behaviors, ranging from intentional acts of aggression and destruction to negligent acts resulting in property damage or injury to coworkers. Examples of gross misconduct include: Intentional acts of aggression or destruction Property damage or negligence caused intentionally by an employee Failure to follow safety protocols that put the employee and co-workers at risk Serious insubordination. Other employee misconduct examples are highly offensive behaviors, like making verbal and physical threats of violence, bullying, sexual harassment, and stalking. These all warrant immediate dismissal from employment. Organizations in many industries consider intentional breaches of confidentiality gross misconduct. In workplaces with drug and alcohol policies, being under the influence of these substances on the job can be grounds for immediate termination. Its important to note that employee misconduct can occur both on a brick-and-mortar location as well as virtually on a remote team. An example of this could be an employee who leaves their camera and microphone up while talking badly about the company CEO during a virtual team meeting. Or an employee who sends an offensive group email like the GoHealth employee terminated for sending a racially offensive image. Consider also that an employee may be intentionally violating the terms of their employment by maintaining a side-job with a competing firm or running a business that directly conflicts with their main employer. You should never ignore employee misconduct. Handling incidents of employee misconduct ineffectively can lead not only to decreased employee morale but also to costly lawsuits. For instance, a 2019 wrongful termination lawsuit cost one company more than \$1.1 million when it failed to provide enough evidence that it had fired an employee for misconduct. Instead, the court ruled in favor of the employee, finding that the company had not followed proper procedure. So, its crucial to have a solid process in place for investigating and documenting employee misconduct. If you want to prevent future incidents, its important to have a clear policy on acceptable behavior and consequences for violations. This policy should be communicated to all employees and reinforced regularly. Its also important to have a consistent process for investigating and documenting incidents. This process should be fair and unbiased, and it should be applied consistently to all employees. Its important to remember that employee misconduct is not always obvious. Sometimes, its subtle, like an employee who constantly complains about the company or spreads rumors. Its important to have a process in place for investigating and documenting these types of behavior as well. Its also important to have a process in place for preventing employee misconduct. This can be done through a combination of measures, such as providing training, setting clear expectations, and having a supportive work environment. Its important to remember that employee misconduct is not always intentional. Sometimes, its a result of a misunderstanding or a momentary lapse in judgment. Its important to have a process in place for investigating and documenting these types of behavior as well. Its also important to have a process in place for preventing employee misconduct. This can be done through a combination



**What is employee misconduct. What is considered workplace misconduct. Misconduct at work. Misconduct of employee definition. What is employer misconduct. Misconduct meaning at work. What is considered employee misconduct. What is considered misconduct at work.**