

## How to Do it Right

Description: This is a course for supervisors or managers. The instruction seeks to ensure that personnel actions are taken in a fair and timely way and in a way that minimizes mistakes and that supervisors and managers provide convincing rationales for their determinations in third party proceedings. Covered topics include: preparing for and taking discipline and adverse actions; the importance of counseling; the importance of documentation; specific adverse actions and discipline; determining the penalty (i.e., the *Douglas* factors); the EEO process (e.g., the process itself, what is covered in the process, etc.); understanding and avoiding mistakes in EEO; supervisor and management liability; and, preparation for mediation, inquiries, investigations, and hearings.

Length: 4 hours or 1 day.

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### Table of Contents

- I. Introduction
- II. Avoiding, Preparing For And Taking Discipline And Adverse Actions
  - A. The range of options
  - B. Adverse Actions v. Disciplinary Actions

- C. Burden and standard of proof
- D. Preliminaries
  - 1. The importance of counseling
  - 2. The importance of documentation
- E. The proposal letter and deciding on charge(s)
- F. The replies by the employee
- G. The decision letter
- H. Specific adverse actions and discipline
  - 1. Attendance related offenses
  - 2. Falsification
  - 3. Threatening conduct
  - 4. Theft
  - 5. Sexual Harassment
  - 6. Insubordination
  - 7. Physical inability to perform a job
  - 8. Drug and alcohol violations
- I. Nexus

- J. Determining the penalty
    - 1. The importance of serious and conscientious consideration
    - 2. The *Douglas* factors
  - K. The process for employee challenges to discipline or adverse actions (e.g., MSPB, EEOC, arbitration, etc.)
  - L. Mistakes made by supervisors and managers in imposing discipline or adverse actions
- III. A Closer Look At The EEO Process
- A. The process itself
  - B. What is covered in the process
  - C. The Most Frequent Issues and bases: Reprisal, Non selection, and harassment
    - 1. Reducing reprisal complaints
    - 2. Mistakes made in non selection decisions
    - 3. Harassment
- IV. Supervisor and Management Liability: Considerable Protection
- V. Preparation For Inquiries, Investigations,

## And Hearings

### A. Inquiries and Investigations

1. EEO and other investigations
2. Tips for giving statements

### B. Hearings

1. Depositions
2. Tips for Witnesses

## VI. Mediation and Settlement

### A. Mediation

### B. Settlement

## VII. Conclusion

## VIII. Exercises

### Attachment A: Settlement Options