

CHECKLIST PRE-INVESTIGATION

1. Is the issue clear? How will I state the issue?
2. What is the remedy - the viable remedy?
3. Do I have all the facts? exhibits? witnesses?
4. What information does the other side have? How will they argue?
5. What do I need to prove my case?
6. How will I get my point, evidence in the record?
7. Have I followed the contract - time limits?
8. Is the Claimant a good worker? What is his/her record?
9. Have I tried to settle this case? What did I learn?
10. What will the referee decide? Will we be better off?

Who has the burden of proof? What is the quantum of proof? The preponderance of evidence? Clear and convincing evidence? Beyond a reasonable doubt? What discipline is appropriate?

The Carrier must have some demonstrable reason for imposing discipline. That reason may involve the employee's ability, work performance, conduct, a violation of rule or regulation, or failure to meet a reasonable work standard. The employee should provide satisfactory work, including prompt and regular attendance, and obedience to reasonable orders and work rules.

The level of discipline depends on the nature and consequences of the offense, the clarity or absence of rules, the length of the employee's work record, and the practice in similar cases. Discipline should bear some relation to the seriousness and frequency of the offense.

The primary object of discipline is to correct rather than punish. Thus, for most offenses, the Carrier should use one or more warnings before suspension and suspension before discharge. Theft, physical attacks, serious safety breaches, gross insubordination, and significant violations of law may lead to immediate discharge.

SEVEN THINGS THAT A REFEREE DOESN'T WANT TO READ OR HEAR

1. disinformation - deception - lying
2. misquoting the Agreement - the rules
3. refusal to work ("work now . . . grieve later")
4. Last Chance Agreement
5. drug test refusal
6. not showing up for work - no excuse
7. Machavelli's First Assumption