



Original Article

Commentary on Regulations for Handling Labor Discipline in Vietnamese Labor Law

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Received 25th June 2025

Revised 19th January 2026; Accepted 20th March 2026

Abstract: Labor discipline is crucial to establishing order within a workplace and achieving production and business goals. It serves as an effective tool for employers to exercise their managerial authority. Employers establish a framework that includes mandatory requirements and guidelines for employees, which are usually set out in internal labor regulations. For such regulations to be legally valid, they must adhere to established standards, respect the fundamental rights of employees, and not contravene labor law. This article examines and discusses the legal aspects of handling labor discipline. It begins by defining and explaining the concept of labor discipline, the handling of labor discipline, the principles and statutes of limitations, as well as the forms of labor discipline and procedures for enforcing labor discipline. Based on this analysis, the article also highlights several challenges encountered in applying legal regulations regarding handling labor discipline in practice. Additionally, it offers recommendations for improving the legal framework of handling labor discipline laws. This study employs the research methods of normative analysis, commentary, legal interpretation, and legal comparison.

Keywords: Form, procedure, labor discipline; internal labor regulation.

1. Introduction

Employment relations are established through voluntary and lawful agreements between employees and employers. However, a

distinct characteristic of employment relations is that they often occur continuously over a certain period of time¹, during which the employer uses the employee's "labor capacity", and the employee applies this labor capacity to

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<https://doi.org/10.25073/2588-1132/vnumps.4788>

¹ According to Vietnamese labor law, parties in a labor relationship can sign a definite-term labor contract (which must not exceed 36 months) or an indefinite-term labor contract (which specifies only the starting term without defining the ending term).

perform work and create products, goods, and services.

Furthermore, labor activities are not individual and isolated in nature but social and collective [1]. Therefore, to ensure the right to manage and direct employees in performing their work, the law provides for labor discipline and authorizes employers to establish internal labor regulations applicable within their organizations. Accordingly, employees are required to comply with labor discipline. Any violation of labor discipline may give rise to disciplinary legal liability, and employers may impose disciplinary measures on employees who commit such violations. However, it is crucial to recognize that this authority must be exercised within the limits prescribed by labor law to ensure fairness and accountability in the workplace. Depending on the nature and characteristics of the specific job, employers specify in their internal labor regulations the duties that employees must perform, the manner in which such duties must be carried out, and the acts that are prohibited, and at the same time, stipulate disciplinary measures for handling labor discipline if employees violate the labor regulations².

To prevent employers from abusing labor discipline sanctions, the Vietnamese labor law has stipulated four measures of handling labor discipline, including reprimand, prolongation of the wage rise period for no more than 06 months, removal from office, and dismissal. Employer determines which violations of labor discipline committed by employees will be subject to the corresponding forms of labor discipline prescribed in the Labor Code. Among these forms, disciplinary dismissal is the most severe sanction, as it terminates the employment relationship and directly affects the employee's job security and income. Therefore, the labor law determines the types of violations for which the employer may impose dismissal as a disciplinary measure[2]³. However, in practice, employers still encounter many difficulties when applying

provisions on labor discipline due to the following reasons: i) a lack of comprehensive understanding of legal regulations regarding labor discipline; ii) certain regulations on handling labor discipline remain unclear and difficult to apply; iii) relatively complicated procedures for handling labor discipline. Therefore, this article analyses and comments on the legal regulations governing labor discipline in order to clarify their content and identify existing limitations. On that basis, the article proposes several recommendations for improving regulations on handling labor discipline.

2. Legal issues in handling labor discipline

2.1. Concept of handling labor discipline

Labor discipline is the basis for establishing an effective working order within an employing entity and constitutes the foundation for the scientific organization of social labor. At the same time, labor discipline represents an important legal institution within labor law. What is labor discipline? The concept originates from the broader idea of discipline. According to the Vietnamese Dictionary, discipline can be understood in two ways: (i) a set of mandatory regulations governing the activities of members within an organization to ensure its strict adherence, and (ii) a form of sanction imposed on individuals who violate such regulations [3]. From a legal perspective, the Labor Law Textbook of Hanoi Law University defines labor discipline as a system of legal norms that regulates employees' responsibilities and obligations to employers and the measures applied to those who fail to comply with or fully perform those responsibilities and obligations [4].

Labor discipline is a fundamental concept of labor law, closely associated with the provision of the labor force and inherently linked to the quality of labor supplied. Labor discipline not only establishes the standard for appropriate

² The employee does not perform or performs incorrectly or incompletely or performs a prohibited act.

³ Article 125

conduct of employees but also reflects the achievements of society through mechanisms that ensure compliance with such discipline [5]. From a judicial perspective, labor discipline is one of the fundamental principles governing labor relations. It encompasses a system of norms that regulates employees' behavior throughout their work [6]. When implementing labor relations, employees are required to comply with labor discipline and the employer's internal labor regulations. If employees violate labor discipline, they may be subject to disciplinary measures. It is the legal liability imposed on employees who breach labor discipline, which may involve one of the forms of labor discipline. So, handling labor discipline represents only one aspect of labor discipline. *It is understood as the process by which employers consider and resolve violations of labor discipline by employees by forcing them to undergo one of the forms of labor discipline prescribed by law.* For employers to exercise their authority to handle labor discipline against employees, labor law strictly regulates the issuance and registration of internal labor regulations, the principles, procedures, and statutes of limitation applicable to disciplinary proceedings, the forms of labor discipline corresponding to specific violations, as well as prohibited acts in the process of handling labor discipline.

2.2. Principles and statute of limitations for handling labor discipline

Principles are fundamental rules that must be followed⁴ and serve as guiding ideas governing the entire process of disciplinary proceedings [1]. In the process of handling labor discipline, if the employer fails to comply with the prescribed principles, the disciplinary decision imposed on the employee may be considered legally invalid. Therefore, when handling labor discipline

against employees, the employer must comply with the following principles:

Principle 1: It is prohibited to impose more than one form of labor discipline on a single act of breaching labor discipline [2]⁵. This principle ensures objectivity and fairness in handling labor discipline against employees. The author Valeriy Vyacheslavovich Sereda discussed this principle in his research. He argues that disciplinary liability may only be imposed by individuals or authorities with the appropriate competence and must be exercised within the limits prescribed by labor legislation. The legislation provides a comprehensive list of disciplinary measures, the time limits for imposing such measures, and the procedure for initiating disciplinary actions. Moreover, only one disciplinary penalty may be applied for every guilt. This reflects the principle of justice in handling labor discipline [7].

Principle 2: For the employee who simultaneously commits more than one act of breaching labor discipline, the highest form of discipline corresponding to the most serious violation shall be applied [2]⁶. For example, if an employee violates internal labor regulations in a manner subject to a reprimand and simultaneously commits another violation subject to a deferment of wage increase for a period not exceeding six months, the employee will only be subject to the more severe disciplinary measure, namely the deferment of wage increase. The employee cannot be subject to both a reprimand and a deferment of wage increase for a period not exceeding six months. Maher Ali Mohd Amoush also mentioned in his research the principle that it is not permissible to punish an employee who commits a violation twice with two disciplinary penalties simultaneously, as well as the principle of individual responsibility in disciplinary action, which requires a clear identification of the person being punished [8].

⁴ The Vietnamese Dictionary
http://tratu.soha.vn/dict/vn_vn/Nguy%C3%AAn_t%E1%BA%AFc, accessed 10/6/2025

⁵ Article 122, Clause 2

⁶ Article 122, Clause 3

Principle 3: No discipline measure shall be imposed on the employee who is: a) taking sick leave, convalescence leave, or leave approved by the employer; b) being held in custody or temporary detention; c) Awaiting results of investigation and verification and conclusion of a competent authority regarding his/her violations specified in Clause 1 or 2, Article 125 of the Labor Code 2019⁷; d) Pregnant, on maternity leave, or raising a child under 12 months old [2]⁸. If the employer imposes labor discipline on the employee during the above-mentioned period, the decision to impose labor discipline is invalid. For example, in the labor dispute over disciplinary dismissal between Mr. Le Ky A and Single-Member Limited Liability Company T, Company T issued a decision on labor discipline dismissal against Mr. Le Ky A while Mr. Le Ky A was raising a child under 12 months old. On this basis, the People's Court of District C, Can Tho City, declared that Company T's decision on disciplinary dismissal against Mr. Le Ky A is illegal [9].

Principle 4: No disciplinary measure shall be imposed on the employee who breaches labor discipline while suffering from a mental illness or another disease that deprives him or her of the ability to perceive or control his or her acts [2]⁹. According to the law, in such cases, the employee is deemed not at fault.

In addition to the above principles, the 2019 Labor Code also prohibits employers from engaging in the following acts when handling labor discipline: i) Infringing upon the health, honor, life, reputation, or dignity of employees; ii) Imposing fines or wage deductions as a form of discipline measure; iii) Disciplining employees for acts that are not specified in the

internal working regulations or, the employment contract, or labor law [2]¹⁰.

The statute of limitations for handling labor discipline is the period during which the employer may discipline an employee for violating labor discipline. Once this time frame expires, the employer loses the right to impose disciplinary measure for that violation. According to the 2019 Labor Code, the statute of limitations for handling labor discipline is 06 months from the date of the violation; in cases where the violation is directly related to the finance, property, disclosure of technological secrets, or business secrets of the employer, the statute of limitations for handling labor discipline is 12 months. For employees who committed violations but fall within periods during which disciplinary action may not be taken under the law, the statute of limitations for handling labor discipline shall be determined as follows: once the relevant period expires, if the statute of limitations has expired or has less than 60 days remaining, it may be extended but for no more than 60 days from the date of expiration of the above-mentioned period.

2.3. Ground for handling labor discipline

To handle labor discipline against employees who violate the provisions of labor regulations, employment contracts, or labor law, employers must rely on the following two main grounds:

Firstly, the employee must have committed a violation of labor discipline. This behavior is understood as a violation of labor obligations within a specific employment relationship, infringing provisions stipulated in the employer's internal labor regulations, the employment contract, or the labor laws. The

⁷ Article 125, Clause 1 and 2: The employer may apply dismissal as a form of discipline to the employee in the following cases: 1. The employee commits an act of theft, embezzlement, gambling, intentional infliction of injury or use of drugs at the workplace; 2. The employee commits an act of disclosure of business secrets or technological secrets or infringement of intellectual property rights of the employer, or an act

which causes serious damage or threatens to cause particularly serious damage to the employer's assets, interests, or practices sexual harassment at the workplace as prescribed in internal working regulations;

⁸ Article 122, Clause 4

⁹ Article 122, Clause 5

¹⁰ Article 127

violation must first constitute a breach of labor obligations. However, not all violations of labor obligations are considered violations of labor discipline [4]. For example, when an employee's performance fails to meet the production or business targets and standards set by the employer, this may constitute a breach of labor obligations. Nevertheless, it is not necessarily considered a violation of labor discipline. Therefore, the employer cannot impose disciplinary measures on the employee. However, if the employee consistently fails to meet the required standards, the employer can unilaterally terminate the employment contract [2]¹¹. However, it is not easy to determine the violation of labor discipline in practice because it must be specifically and clearly stipulated in the internal labor regulations issued by the employer or clearly stated in the employment contract (in cases where the employer is not required to issue internal labor regulations) or as prescribed by law. At the same time, the internal labor regulations must specify that such conduct constitutes a disciplinary violation and must also determine the corresponding form of disciplinary sanction. If the internal labor regulations stipulate a prohibited act but do not specify the corresponding disciplinary measure, the employer cannot impose a disciplinary measure on the employee. For example, the internal labor regulations may stipulate that smoking is strictly prohibited in the workplace but fail to specify which disciplinary measure will be applied when such a violation occurs.

Secondly, the employee must be at fault. "Fault" refers to a person's psychological attitude regarding the violation and its consequences. It is a mandatory element of a legal violation in general and of disciplinary violations in particular [10]. Therefore, when imposing disciplinary action, the employer must prove the employee's fault. If the employer fails to prove fault but still proceeds with disciplinary measures, the disciplinary decision will be unlawful.

For example, Single-Member Limited Liability Company T issued a decision to dismiss Mr. Le Ky A for violating labor discipline and the Company's internal labor regulations, specifically by receiving bribes and commissions, falsely declaring sales prices, and causing damage to the Company's assets and interests. However, the company failed to provide documents and evidence proving that Mr. Le Ky A had engaged in such conduct, including receiving bribes, falsifying sales prices for personal gain, or concealing relationships with customers and suppliers. Consequently, the dismissal decision issued by Company T was determined to be unlawful. The People's Court therefore declared the disciplinary dismissal invalid and ordered the company to pay wages, social insurance, health insurance, and compensation to Mr. Le Ky A for the period during which he was not allowed to work [9].

2.4. Form of handling labor discipline

The Vietnam Labor Code 2019 stipulates four (04) forms of labor discipline, including reprimand, deferment of wage increase for no more than six months, demotion, and dismissal [2]¹². However, to ensure the right to initiative in managing, using, and operating labor activities of employers, and at the same time protect the legitimate rights and interests of employees, the 2019 Labor Code only specifies the violations for which employers are entitled to apply the most severe disciplinary measure - dismissal, which results in the termination of the employment relationship [2]¹³. For other disciplinary violations that do not reach the level of dismissal, the law allows employers to specify appropriate disciplinary measures in their internal labor regulations.

Firstly, reprimand. It is the lightest form of labor discipline applied by the employer to the employee when the employee violates labor discipline for the first time, at a mild level as stipulated in the employer's internal labor

¹¹ Article 36, Clause 1, Point a

¹² Article 124

¹³ Article 125

regulations. This measure primarily has a moral and psychological impact on the employee and demonstrates the strict enforcement of labor discipline within the enterprise.

Secondly, deferment of wage increase for no more than six months. This is a more severe disciplinary measure than a reprimand and is applied to employees who violate the employer's internal labor regulations. This measure not only affects the employee's morale but also directly affects their material interests, as the employee's scheduled wage increase is postponed.

Thirdly, removal from office. This disciplinary measure applies to employees holding managerial or supervisory positions who violate labor discipline to the extent that they must be removed from their positions. Such violations are typically related to the performance of managerial duties, for example, failure to perform assigned responsibilities, improper performance of duties, or abuse of position for personal gain or for the benefit of another party, but not to the extent warranting dismissal. Removal from office may significantly affect the employee's reputation, career prospects, and financial benefits.

Fourthly, dismissal. It is the most severe form of disciplinary measure applied by employers to employees who commit serious or extremely serious violations. This measure removes the employee from the enterprise due to the significant negative impact of the violation on the employer or the working environment. Therefore, the measure not only seriously affects employees' spirits but also directly affects their livelihoods and family lives. So, to prevent employers from abusing their power and minimizing the harmful consequences of firing employees, the labor law stipulates that employers may dismiss employees only in the following circumstances:

Case 1: The employee commits an act of theft, embezzlement, gambling, intentional infliction of injury, or the use of drugs at the workplace [2]¹⁴. This regulation is quite clear

about the violation, but when this violation occurs at the workplace, handling labor discipline by firing the employee also encounters many difficulties because there is no regulation citing to explain the above behaviors are understood according to which legal document. In reality, handling labor discipline by "dismissing" employees who commit acts of theft and embezzlement, as above, strongly affects the employee's "reputation". Therefore, there have been cases in which employees who committed such violations requested the employer not to dismiss them but instead to terminate the labor contract through a resignation letter. In some cases, employers have agreed to terminate the employment contract, as this approach may create more favorable conditions for the employee, and the procedure for terminating the employment contract is much easier than the procedure for discipline dismissal [11]. With the approach that handling labor discipline is the "right" of the employer, it is not unlawful for the employer to not impose disciplinary measures on an employee who has violated internal labor regulations and labor law, but agrees to terminate the employment contract with the employee. Today, when resolving labor disputes over this issue, the competent authorities often agree with the employer to implement an agreement to terminate the employee's labor contract rather than disciplinary dismissal, as this approach is more beneficial to the employee [11]. Although not applying disciplinary measures to violations of labor regulations is the "right" of employers, this practice may reduce the strictness and deterrent effect of labor law and may fail to reflect the true nature and purpose of labor discipline. Moreover, if an employer chooses not to impose disciplinary dismissal for violations that warrant dismissal under internal labor regulations and labor law but instead unilaterally terminates the employment contract, such an action would be unlawful. This is because, under the 2019 Labor Code, an employee's violation of labor

¹⁴ Article 125

discipline does not constitute a legal ground for an employer to unilaterally terminate the labor contract [2]¹⁵.

Case 2: The employee discloses business secrets or technological secrets, infringes the employer's intellectual property rights, causes serious damage or threatens to cause particularly serious damage to the employer's assets or interests, or commits acts of sexual harassment at the workplace as prescribed in the internal labor regulations [2]¹⁶. Thus, the labor law allows employers to consider their production and business characteristics when determining the nature, extent, or potential consequences of labor discipline violations. This assessment helps employers determine the appropriate disciplinary dismissal for employees whose actions cause serious harm or pose a significant threat to the employer's property and interests, as outlined in the internal labor regulations.

For instance, smoking at the workplace of employees may be considered a serious violation for certain jobs and positions that require strict compliance with fire safety regulations, such as employees working at gasoline stations, employees working in chemical warehouses, or employees working in warehouses storing flammable or explosive materials. In such circumstances, smoking at the workplace may be identified as an act that threatens to cause serious damage to the employer's property. Therefore, employers may stipulate in their internal labor regulations that employees who smoke at the workplace in such situations may be subject to disciplinary dismissal.

Case 3: Employees who are subject to the disciplinary measure of deferment of wage increase for up to six months or demotion and who re-offend during the period in which the disciplinary sanction has not yet been cleared may be dismissed. Recidivism means that an employee repeats the same violations for which he or she has been disciplined, even though the disciplinary record has not yet been expunged under labor law [2]¹⁷.

Case 4: The employee is absent from work without permission for five cumulative days within a period of 30 days, or twenty cumulative days within a period of 365 days, calculated from the first day of absence without a legitimate reason. Circumstances regarded as legitimate reasons include natural disasters, fire, illness of the employee or his/her relative as certified by a competent health establishment, and other cases prescribed in internal working regulations [2]¹⁸.

It should be noted that the establishment of labor discipline and the handling of disciplinary violations are generally considered to fall within the employer's managerial prerogative. Accordingly, some enterprises only regulate 03 forms of labor discipline: reprimand, removal from office, and dismissal in the internal working regulations [12]; some enterprises only prescribe the following forms of labor discipline: level-1 reprimand, level-2 reprimand, removal from office, and dismissal in their internal labor regulations [13]; some enterprises only prescribe 03 forms of labor discipline: reprimand, deferment of wage increase for up to six months, and dismissal in their internal labor regulations [14]. However, if employers only stipulate 03 forms of labor discipline in the internal labor regulations, they will also encounter the following difficulties when implementing them:

- First, if the internal labor regulations that do not stipulate the measure "deferment of wage increase for up to six months", employees who have been disciplined with a reprimand and subsequently commit a repeated violation may not be subject to removal from office or dismissal.

- Second, if the internal labor regulations do not stipulate the measure "removal from office," violations committed by employees holding managerial or supervisory positions will be treated in the same manner as violations committed by ordinary employees who breach labor discipline.

¹⁵ Article 36.

¹⁶ Article 125, Clause 2.

¹⁷ Article 125, Clause 3.

¹⁸ Article 125, Clause 4.

2.5. Procedures for handling labor discipline

To handle labor discipline against employees who have committed discipline violations, employers must fully comply with legal regulations governing this matter. This includes determining that a violation of labor discipline has occurred, confirming that such violation is regulated by labor law and the employer's internal labor regulations with a corresponding form of disciplinary sanction, establishing that the employee is at fault, ensuring that the statute of limitations for disciplinary action has not expired, and confirming that the employee does not fall within any circumstance in which labor discipline may not be imposed as prescribed by law. In addition, handling labor discipline must comply with the order and procedures prescribed by labor law [15]¹⁹.

Step 1, detection of violation: When discovering that an employee has violated labor discipline at the time the violation occurs, the employer shall draw up a record of the violation and notify the grassroots-level employee representative organizations of which the employee is a member, as well as the legal representative of the employee if the employee is under 15 years of age. In cases where the employer discovers the violation after it has occurred, the employer must collect evidence to prove the employee's fault.

Step 2, Notification: At least 05 working days before the date of the labor disciplinary meeting, the employer shall notify (i) the employee who has violated labor discipline (in the case of employees under 15 years old, the notice must be sent to the employee's legal representative), (ii) the grassroots-level employee representative organizations of which the employee is a member. The notice must specify the content, time, and location of the disciplinary meeting, the full name of the employee subject to disciplinary action, and the violation being considered. The employer must also ensure that the relevant parties receive the notice before the

meeting takes place. Upon receiving the notice from the employer, the parties required to attend the meeting mentioned above must confirm their attendance with the employer. In case one of the required participants cannot attend the meeting at the notified time and place, the employee and the employer may agree to change the time or location of the meeting. If no agreement can be reached, the employer has the authority to determine the time and location of the meeting. This regulation aims to ensure the employee's right to defense when facing disciplinary action. It is consistent with the International Labour Organization (ILO) standard that no employee may be terminated for conduct or performance-related reasons without being allowed to respond to the allegations against them [16]²⁰.

In addition to the participation of employees subject to labor discipline, the labor law also stipulates that grassroots-level employee representative organizations must participate [2]²¹. Today, the grassroots-level employees' representative organizations are trade unions. However, not all enterprises have established grassroots-level trade unions, and many enterprises still operate without such organizations. According to statistics, in 2023, only approximately 35% of non-state enterprises had a grassroots-level trade union [17]. Therefore, not all disciplinary meetings involve the participation of employees' representative organizations.

Step 3, organization of the labor discipline meeting: The employer convenes the disciplinary meeting at the scheduled time and location. It is imperative that employees, as well as any representative organizations they belong to, confirm their attendance. However, if these parties fail to confirm their attendance or are absent from the meeting, the meeting may still proceed as scheduled. This approach ensures that important issues are addressed and that the process remains fair and transparent for all involved [15]²².

¹⁹ Article 70.

²⁰ Article 7.

²¹ Article 122, Clause 1, Point c.

²² Article 70, Clause 2, Point c.

The content of the meeting on handling labor discipline must be recorded in minutes, approved before the end of the meeting, and signed by the participants as prescribed by law. If any participant refuses to sign the minutes, the person responsible for recording the minutes must clearly state the participant's full name and the reason for the refusal to sign (if any) in the minutes [15]²³.

Step 4, Issuance of the disciplinary decision: Within the statute of limitations for disciplinary action, the person authorized to impose labor discipline must issue a disciplinary decision and send it to the employee subject to discipline. In cases where the employee is under 15 years of age, the disciplinary decision must be sent to the employee's legal representative. The decision must also be sent to the grassroots-level employees' representative organization to which the employee belongs.

The procedures for handling labor discipline described above (consisting of four steps) apply to all forms of disciplinary measures, including reprimand, deferment of wage increase for up to six months, removal from office, and dismissal. In practice, however, this requirement may present certain difficulties for employers. For many minor disciplinary violations, employers often prefer to apply simplified and more flexible procedures in order to ensure that the production and business activities of the enterprise, as well as the employees' work processes, are not disrupted. For example, an enterprise's internal labor regulations may stipulate that employees who arrive at work more than fifteen minutes late will be subject to a reprimand. If the employer strictly follows all

four procedural steps for handling labor discipline, the process may become time-consuming and may negatively affect the enterprise's operational efficiency.

With respect to sexual harassment in the workplace, employers are required to establish internal procedures for handling such cases. These procedures must specify responsibilities, time limits, procedures for submitting complaints or denunciations, procedures for resolving such complaints or denunciations, and other related regulations [15]²⁴. According to the author's survey of 50 internal labor regulations, approximately 35.4% of these regulations merely reproduce the legal provisions on the prevention and handling of sexual harassment in the workplace and have not yet developed a separate internal procedure for handling such cases.

Regarding the legal consequences of handling labor discipline, under the current labor law, handling labor discipline in accordance with regulations will result in adverse consequences (the extent of which depends on the form of labor discipline) for the employee subject to labor discipline. In cases where labor discipline is not covered by the content or procedure, the employer's disciplinary decision may become invalid and lead to disputes, especially when applying labor discipline measures such as demotion or dismissal.

If an employee commits a violation that warrants dismissal but the employer fails to comply with the legally required procedures for handling labor discipline, the legal consequences will be the same as those arising from an unlawful unilateral termination of the employment contract.²⁵ Empirical research on

²³ Article 70, Clause 3.

²⁴ Article 85, Clause 1, Point c.

²⁵ Article 41. Obligations of the employer when unilaterally terminating a labor contract illegally.

1. To reinstate the employee by the signed labor contract; to pay the wage and social insurance, health insurance, and employment insurance premiums for the days the employee does not work, plus an amount at least equal to 2 months' wage stated in the labor contract.

After being reinstated, the employee shall reimburse the employer the severance allowance or job loss allowance, if any.

In case the position or job agreed upon in the labor contract is no longer vacant and the employee still wishes to work, the two parties shall agree to modify the contract.

If violating the provision on the period of prior notification in Clause 2, Article 36 of this Code, the employer shall pay the employee an amount equivalent

court practice indicates that employees prevail in most disputes concerning disciplinary dismissal. The primary reason employers lose such cases is their failure to comply with the procedural and formal requirements prescribed by law when imposing labor discipline [18]. Thus, when addressing disciplinary actions against employees who violate internal working regulations, employers must possess a comprehensive understanding of the legal provisions governing labor discipline in order to ensure that disciplinary measures are imposed lawfully and effectively.

3. Some recommendations for improving the law on labor discipline

Firstly, it is essential to provide specific guidelines regarding labor discipline violations that could lead to employee dismissal, as outlined in Clauses 1 and 2 of Article 125 of the 2019 Labor Code.

For certain violations of labor discipline that require disciplinary dismissal, it is only necessary to consider the seriousness of the employee's behavior and fault, without considering the consequences or the extent of the damage caused by the violation. For example:

- The act of theft at the workplace (regardless of the value of the stolen property or the ownership of such property, provided that the act occurs at the workplace);
- The act of intentional infliction of injury at the workplace (an act whereby a person intentionally or deliberately causes harm or injury to another person, regardless of the severity of the injury);
- The act of embezzlement (regardless of the value of the embezzled property);

to the latter's wage stated in the labor contract for the days the employee does not work without.

2. In case the employee does not wish to return to work, in addition to the amount prescribed in Clause 1 of this Article, the employer shall pay a severance allowance by Article 46 of this Code to terminate the labor contract.

- The act of disclosure of business secrets, technological secrets, or infringement of intellectual property rights of the employer (regardless of whether the act has caused actual damage to the employer).

However, today, these violations have not been clearly defined in the 2019 Labor Code and its implementing guides, so there are still many difficulties in applying them in practice. In the author's opinion, the 2019 Labor Code guidance document should provide more specific explanations of these violations. For example:

- Theft may be defined as the act of secretly appropriating property that is being managed by someone else at work.

- Intentional infliction of injury may be understood as an act whereby a person intentionally or deliberately causes injury or harm to another person at the workplace. Such acts may take various forms, including the use of weapons, physical assault, or other acts causing harm, such as beating or attacking another person.

- Embezzlement may be defined as an act whereby an employee takes advantage of his or her position or authority to appropriate property that he or she is responsible for managing at the workplace.

For violations by employees that cause significant damage or threaten to cause extremely vital damage to the property or interests of the employer, as stipulated in the internal working regulations to the extent of dismissal, the employer needs to clearly define what constitutes "serious damage" and what constitutes a "threat of particularly serious damage" in their internal labor regulations. This clarification is necessary because if an employer dismisses an employee for such violations

3. In case the employer does not wish to reinstate the employee and the employee so agrees, in addition to the amount prescribed in Clause 1 of this Article and the severance allowance mentioned in Article 46 of this Code, the two parties shall reach an agreement on an additional compensation amount for the employee which must be at least equal to 2 months' wage of the employee by the labor contract to terminate the contract.

without sufficient legal grounds, the court may declare the dismissal decision unlawful.

Secondly, regarding labor discipline procedures, labor law should allow employers to adopt simplified and streamlined procedures for minor disciplinary measures, such as reprimands. This approach would be more appropriate for addressing practical labor-management situations faced by employers.

For example, the internal working regulations of the employer stipulate that the person who has the authority to handle the form of reprimand is the direct manager of the employee, so the procedures for handling labor discipline should be regulated and shortened as follows:

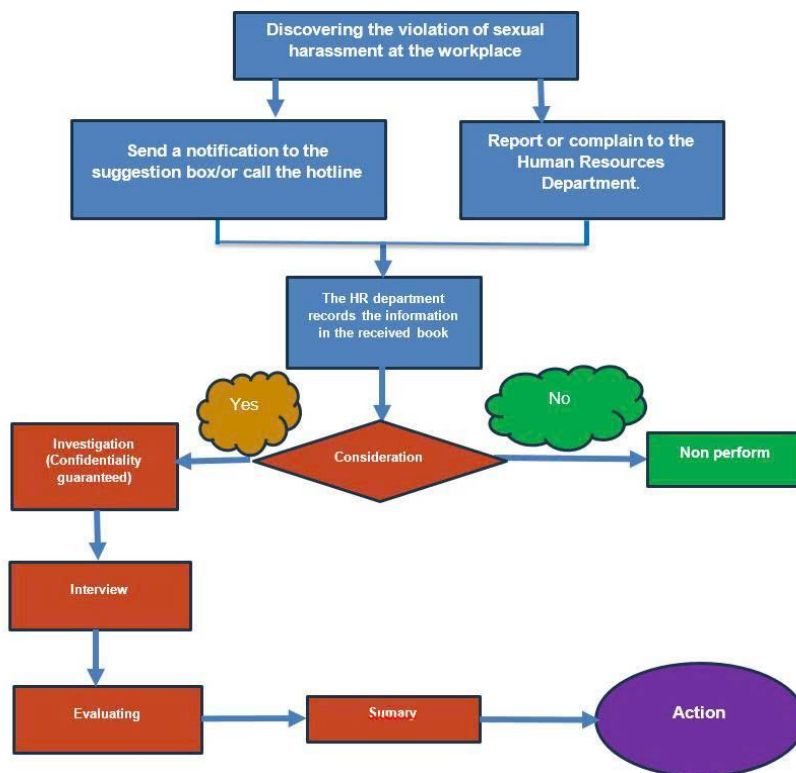
Step one, the employee's direct manager (for example, the Team Leader or Department Head) must send a notice, along with evidence of the

disciplinary violation, to both the employee and the Union Leader at the same level (if a grassroots-level Trade Union exists). The employee is then required to acknowledge receipt of the notice and provide explanation, and the Union Leader at the same level will provide comments. If the parties agree that the employee has committed a breach of labor discipline, the supervisor may proceed to the next step.

Step two, the employee's direct manager issues a disciplinary decision of reprimand.

Step three, the employee's direct manager reports to the Department of Human Resources.

Regarding the procedures for handling disciplinary actions against sexual harassment at the workplace, employers can establish the following process:

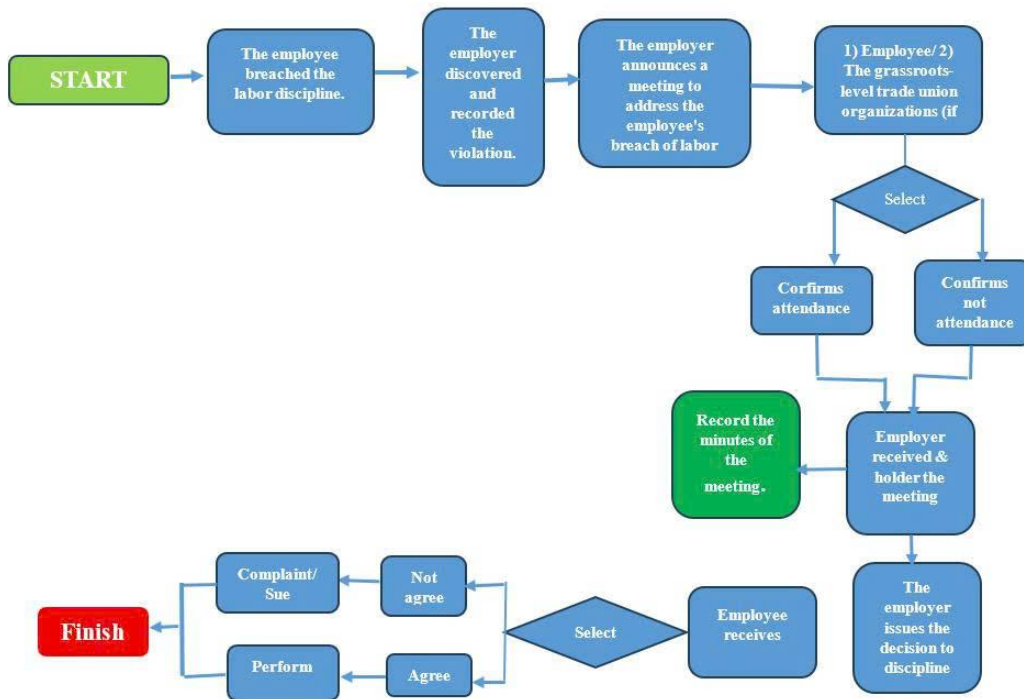


Regarding the procedures for labor discipline as prescribed in the 2019 Labor Code, these procedures should primarily apply to disciplinary measures such as deferment of wage increase for up to six months, removal from office, and dismissal. However, not all

enterprises have grassroots-level employee representative organizations. Therefore, the regulations on the procedure for notifying the content, time, and location of the labor discipline meeting, the full name of the employee subject to labor discipline, and the violation subject to

labor discipline to grassroots-level employees' representative organizations need to regulate if any grassroots-level employees' representative

organizations. Employers can refer to the following labor disciplinary procedure:



Finally, although labor law does not mandate that employers regulate the four forms of labor discipline in their internal regulations, employers should do so. Specifying these forms of discipline in the internal working regulations can help facilitate the handling of labor violations by employees. Additionally, internal labor regulations should explicitly link specific violations to the corresponding disciplinary measures. In particular, regarding sexual harassment in the workplace, the 2019 Labor Code stipulates that employers can dismiss employees. However, employers should consider the nature and severity of the violation when determining appropriate disciplinary actions within their labor regulations. Additionally, addressing sexual harassment cases is sensitive and can have negative effects on both the accuser and the accused. Therefore, employers should establish a process for

handling these situations that ensures confidentiality and privacy.

4. Conclusion

The handling of labor discipline for employees who violate internal labor regulations or labor law has been specifically regulated in the 2019 Labor Code and its implementing regulations. However, in practice, certain difficulties remain in the application and enforcement of these provisions due to shortcomings in the existing legal framework. Therefore, legal obstacles relating to the handling of labor discipline should be reviewed and amended in order to facilitate effective implementation by employers. This article has analyzed and commented on the content of legal regulations on handling labor discipline, including the concept of labor discipline, the definition of disciplinary

measures, the principles of handling labor discipline, the statute of limitations for disciplinary action, the forms of disciplinary measures, and the procedures for handling labor discipline. For each aspect, the article includes an assessment of implementation practices to clarify the comments. On that basis, the article proposes a few recommendations for improving the legal framework on handling labor discipline, including providing more detailed guidance on the provisions of Article 125 of the 2019 Labor Code, simplifying disciplinary procedures for minor measures such as reprimands, and recommending the regulation of handling labor discipline forms in the internal labor regulations of enterprises.

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