Client Training HQ

Understanding Gross Misconduct

What is Gross Misconduct?

Each state has different definitions and/or criteria that must be met in order for a discharge separation to be considered for Gross Misconduct. Gross Misconduct can be ruled when an employee's separation is due to conduct constituting as unethical, unprofessional, willful, wanton reckless, extreme negligence, or with intent to harm an employer's interests. Another way states may define Gross Misconduct is when the final incident results in emergency personnel or police involvement.

Examples of Potential Gross Misconduct

- Harassment
- Discrimination
- Theft
- Fraud
- Violent Acts
- Threatening to Commit Violent Acts
- Damage to Company Property
- Gross Negligence
- Insubordination
- Bullying
- Breach of Health / Safety Regulations
- Substance Abuse
- Bribery
- Blackmail
- Confidentiality Breach

Difference Between Gross Misconduct versus Misconduct

While the above list of examples is not exhaustive, incidents of Gross Misconduct can result in immediate termination. Separations for Gross Misconduct are typically outlined in company policies with progressive disciplinary steps, leading up and including termination. While misconduct incidents may have consequences for employees, the employee's employment is likely to not be severed.

How to Prove Gross Misconduct

Per **UI Integrity** regulations, employers are ***required*** to provide all details and documentation surrounding the separation of an employee's employment. When an employee is discharged, the employer has the Burden of Proof responsibility to show they have a reasonable policy of which the employee was aware of and they demonstrated a willful and wanton disregard of that policy or expectation as an employee.

Examples of Supportive Documentation

- Dates of Employment
- Detailed Description of Final Incident
- Violated Company Policy
- Signed Company Policy Acknowledgement
- Witness Statements
- Police Reports
- Prior Warnings for Similar Behavior
- Investigation Report
- CCTV Images / Video
- Promissory Note

More Training Available!

Check out additional training regarding separations with our UC Separations Support Guide.

The information provided is intended as general guidance and is not intended to convey any tax, benefits, or legal advice. For information pertaining to your company and its specific facts and needs, please consult your own tax advisor or legal counsel.