This document serves as a guide and Q&A for IAPE members regarding performance warnings and investigatory meetings.

If you receive a disciplinary or investigatory meeting request, or you feel management is calling your performance into question, or that they are asking questions you feel weird answering, request a union rep. Not just on a contractual level, but in the eyes of Federal law, you have the right to have a union rep present under Weingarten Rights.

You can do so by emailing union@iape1096.org, calling 609-275-6020 or speaking to any steward or director you know.

If you’re in a meeting when you make a request for a union rep, and management refuses to have a union rep present, you are not required to continue to respond. In person, you can sit quietly or exit the room. On a Zoom or Google meet call, you can state that you’d like to resume the meeting with a union rep present and leave the call. Call or email IAPE immediately after the meeting to inform us of the situation.

Q: What is progressive discipline?
Progressive discipline means that an employee should be given the opportunity to learn from their mistake(s) and be able to correct their behavior. Many contracts have language requiring the employer to apply the lowest level of discipline possible so that the employee can correct their behavior, follow the rule, and not lead to future discipline. If the employee continues to violate the rule, they will receive progressively more severe levels of discipline.

Basically - you get time to correct your mistakes.

Q: I got an email for a meeting with my manager and HR; am I getting fired?
Probably not. As always there are exceptions, but we’re going to write this document that handles the 99% of cases.

So, no, you’re not being fired. You’re receiving the warning because you’re veering off the course that management wants for you and you’re ignoring the warning signs that management (should be) throwing at you. This is a formal meeting in an attempt to get you back on track.

Q: So this is a “first warning.” Does that mean I get three chances?
Probably, but... Yes, there are exceptions and this time, we’re going to concentrate on those exceptions.

If whatever it is that you’re doing, or not doing, is so extreme or egregious, you may go from a first warning right to a final warning. The company doesn’t have to follow a three-step process if they feel that the behavior is a problem. All warnings should be treated seriously.
Q: I’m a new employee. Do I get the same protections as everyone else?
No, you do not. If you have been with the company for fewer than nine (9) months, you are still in a probationary period. This means the company can end your employment without progressive discipline, and that the union cannot file a grievance.

Q: How much notice does the company give for these meetings?
As per our new (2023-27) contract, two (2) hours. Additionally, the company has agreed in the new contract to inform IAPE of all disciplinary meetings.

Q: Do I still have to ask for a union rep?
Yes. We need to be invited by you to the meeting. Not everyone wants our help, not realizing that going it alone puts them in a bad position. But that’s their choice.

Q: Who attends these meetings?
Typically, your manager, a representative from HR, and a representative from IAPE. HR is there to document the meeting and represent the company. IAPE is there to do the same and represent you. Occasionally, your manager’s manager, or a department head, or additional IAPE reps may attend the meeting.

Q: What should I do or say during the meeting?
In general, you should:
• Attend the meeting. While we can ask to have performance meetings or investigations moved, skipping them makes your situation worse than it needs to be.
• Answer questions directly, succinctly and honestly. When the company asks you a question, they usually have an idea of the answer, so (obviously) don’t lie. Don’t volunteer more information than is needed. Don’t try to fill awkward silence. We understand that there’s a temptation to defend yourself when your work is criticized, but most of the time it’s better to let management do most of the talking.
• Ask clarifying questions, especially in the “steps to improvement area.” If there are references to documentation, policies, training, etc., do you have access to them? Do you have time in your work day to review them? Have you been given training? Do you know who to talk to with follow up questions?
• Take notes. Write down everything you can. Pay attention to what your manager stresses in the meeting from the letter. Also note if your manager says anything that is not in the performance letter.
• Ask IAPE to ask questions for you. Discipline meetings can be stressful and upsetting. If there’s something you want to ask for clarification on, but don’t want to have a bad interaction with your manager or HR, we can ask for you. If you’re in a virtual meeting, drop your question to your union rep with a google chat. If you’re in-person, ask to “caucus,” and then step out of the room for a minute or two to talk with or Google chat your union rep.
• Attend a pre- and post-meeting just with IAPE. If you request an IAPE rep, they will want to meet with you before management and HR to get a sense of what’s going on.
Management is not required to tell us anything beforehand, so IAPE reps sometimes have no idea what they’re walking into. Meeting beforehand helps us prepare and understand what to look and listen for, and what to ask about. Your IAPE rep will also want to meet with you afterward to debrief and discuss next steps.

Q: What does a union rep do during a meeting?
If you ask a union rep to attend a meeting with you, they will take notes, review documents and ask questions. If you don’t feel like speaking, you can ask the union rep to ask something for you. IAPE reps will also want to meet with you before and after the meeting.

Q: What’s the difference between a verbal, written and final warning?
There is none. A warning is a warning, and all warnings are serious. Managers may use phrases like “verbal” warning for the initial performance meeting, or “final” warning for further meetings, but a “verbal” warning is no less serious than any other and it’s possible to receive several “final” warnings.

“A warning is a warning is a warning. All warnings are serious.” - Tim Martell, Exec Dir of IAPE 1096

Q: What can the company get me in trouble for?
The big ticket issues IAPE sees discipline for are, generally:

- **Not meeting department or company goals.** This is pretty self-explanatory. If your manager determines you aren’t doing your job as well as you should be, that leads to discipline.
- **Violating Dow Jones employment agreements.** This can be any company policy, from social media posts to smoking in the office to not declaring stock you might own in companies you cover for work.
- **Harassment or otherwise creating an unsafe workplace.** Again, pretty self-explanatory. Making disparaging comments about coworkers or managers, sexual harassment or violence. On this, note that Dow Jones **takes harassment very seriously.** This is a good thing.
- **Using too much sick time.** We are on an “honor system” for sick time, meaning that it is not officially tracked and you do not “run out” of sick days. That said, taking more than 3 sick days in a row, or more than six sick days in a calendar year, may lead to discipline. If you need a block of time off for any reason, discuss with your manager and HR first to avoid being disciplined. And once you come up with a plan to take the time off you need, **get it in writing from your manager and HR.**

Q: What can’t the company get me in trouble for?
Dow Jones should* not discipline you for:

- **Your identity.** This includes your race, religion, sexual orientation and gender expression. The company cannot use progressive discipline because a manager doesn’t like some aspect of your person. You are expected to dress and behave professionally in
the office and when appearing in front of sources or customers. Similarly, the company would frown upon openly discussing your religion or political views at the office, as these are divisive topics and can make other employees uncomfortable or feel unwelcome.

- **Your disability.** If you are disabled, or become disabled over the course of your career, Dow Jones can’t hold that against you – in fact, that’s illegal.
- **Union activities.** Dow Jones cannot reprimand you for participating in legally-protected union activities. These include things from coordinated coffee breaks and lunches, asking for a union rep at a meeting, all the way to a full strike. IAPE will never ask a member to put their job in danger for a union activity.
- **Retaliation.** Managers cannot use discipline in response to something you’ve done that is within company policy. For example, if a coworker says something that makes you uncomfortable, and you go to HR, and that coworker is friends with your manager, that manager cannot discipline you for reporting it. Note that “no retaliation” goes both ways: if an employee reports you to HR for something, you should not do anything. Don’t confront them and try to solve the problem yourself. This can be construed as retaliation.

* "Should" does a lot of the heavy lifting here. We have, unfortunately, seen a few instances of managers behaving badly. If you believe your manager is out of line, **report it to IAPE.** If you are in a meeting with your manager and feel you are being disciplined, or that it could lead to discipline, **ask for an IAPE rep.**

**Q: I feel like I’m being targeted. What should I do?**

If you feel like management is gunning for you, there are some steps to protect yourself:

- **Contact IAPE ASAP.** Let us know what’s happening. We (the board of directors and IAPE staff) often don’t know what your day-to-day is like, particularly if we do not have directors or stewards in your department. **We’ll only know something fishy is underway if you tell us.**

- **Document everything, creating a work journal.** Save all communications between yourself and your management. If your manager tells you something verbally with no documentation, send them an email repeating everything they said and ask them, “Is anything I’ve stated here incorrect?” If you feel that you’re in danger of being fired, keep documentation on your personal devices and accounts, as DJ is quick to cut off your system access. Keep a journal, not on your work devices, that accounts for major highlights of your work day. It is better to update it daily or every other day than attempt to write it up a week down the road.

- **Note changes to your working conditions.** Keep track of changes in your day-to-day. Have you been assigned a new manager or editor? Is someone else being brought in for disciplinary meetings? Are you being assigned work that you are unfamiliar with and not being trained to do it? Just as it’s our responsibility as workers to do the best job we can, it’s management’s responsibility to use our skills and talents most effectively. If the latter isn’t happening, make note of it.

- **Talk to your coworkers about what is expected of them vs. what’s expected of you.** Management’s go-to when targeting an employee is to set a completely unrealistic standard that you will certainly not meet. If you feel this has happened, ask people in
similar jobs what’s expected of them. Explain what is expected of you. If there’s a disconnect there, that’s a problem.

○ **EXAMPLE:** You are a reporter on a team of multiple people covering the same beat. Your team as a whole publishes 2-3 exclusive stories per month. If you are given the expectation of producing that many exclusives per month, and nobody else on your team is, that is an unrealistic expectation.

Q: How long does a performance improvement plan (PIP) last? When am I off the hook?

There is no set, standard time frame. Managers will usually tell you in the meeting and in writing in what time frame they’re looking for improvement. Some standard answers are between 30 and 60 days, depending on the nature of your job. If this is not spelled out in writing during the meeting, ask for it and get it in writing. If your manager tells you, say, two weeks after the meeting that you haven’t met an expectation, yet you were given 30 days to improve, you will need it in writing to defend yourself.

Remember, when it’s just your word against theirs, their word wins.

Q: Can I refuse to have a union rep at the meeting?

Yes, but we don’t recommend it. While HR will be involved in the meeting, it is important to remember that HR represents Dow Jones, not you. **HR is not there to protect you or your job.** HR is there to ensure that you meet company expectations and are as productive as possible.

Q: What’s the difference between disciplinary and investigatory meetings?

Investigatory meetings do not, by themselves, end with your receiving any warnings or being placed on a PIP. These meetings are more for your manager and HR to find facts. Investigatory meetings may lead to discipline depending on those facts.

Investigatory meetings can also be about someone else entirely and have nothing to do with you, other than you are a witness. You’re allowed to have a union rep there, under the terms of the DJ/IAPE contract, because there is always a risk that the meeting could lead to disciplinary action against yourself.

Q: I’m on a PIP. Do I still get contractual raises negotiated by Dow Jones and IAPE?

Yes. While there are exclusions as to who gets what when it comes to contractual raises, these are independent of your performance.

Q: I’m on a PIP. Do I still qualify for merit raises?

**Probably not.** Your performance is one of the factors management takes into account when determining if you can get a merit raise.
Q: I’m in a regularly scheduled meeting with my manager, and they mentioned my performance. Can I ask for union representation?

**Probably.** This is provided for by Weingarten Rights. Keep in mind the company can hold 1:1 meetings to discuss their expectations of you in your role and provide constructive criticism. If their comments move toward an ultimatum involving disciplinary action (“if you don’t raise X metric by X date, we will issue disciplinary action”), you can request a union rep.

Q: My manager started asking me questions about another employee. Can I ask for union representation?

**Yes.** You are entitled to representation during investigations as well.

Q: During a disciplinary meeting, my manager said I’m already on a PIP, but this is my first meeting. What gives?

This happens. Managers sometimes use weekly one-on-ones, or other pre-scheduled meetings, to talk to you about performance. If this happens, **stop the meeting, and ask for a union rep.**

You have the legal right to do so. Additionally, Weingarten Rights specify that you cannot be the target of retaliation for asking for union representation.

Q: What happens after a disciplinary meeting?

Your managers should provide you (and IAPE) with a document outlining the reason for the discipline and, critically, how you should improve your performance. There are two options from there:

- **Write a rebuttal.** A rebuttal is a document that is, in essence, your side of the story that led to your discipline. IAPE staff frequently assists with disciplinary meetings and rebuttal letters. We recommend sending a rough draft of your letter to union@iapere1096.org to work on edits before sending the letter to HR. After a final draft is ready, you can submit your rebuttal letter to HR – usually the HR rep who attended your meeting – and CC IAPE. The rebuttal letter is an opportunity to provide context and to correct any errors your manager might have made. Rebuttals rarely lead to disciplinary actions being revoked, but are attached to your file and are taken into account if there are further concerns. You should not expect a response to your rebuttal letter from the company.
  
  *Note that while IAPE can help you write the rebuttal, you must ultimately be the one who submits it.*

- **IAPE could file a grievance.** If the warning contains mistakes, or the grievance committee agrees that there are issues with the warning, the union can file a grievance on your behalf. The basic demands of the grievance will be “The union demands any references to the written warning be removed from files maintained by Dow Jones, and that the employee be made whole.” Being made whole simply means that you are not under the shadow of a warning. IAPE will not file a grievance without talking with you first.

Q: I want to submit a rebuttal. Is there a time limit on doing so?
Technically, no, but the sooner the better. As a rule of thumb, IAPE suggests you submit one within 30 days of the meeting. If you submit a rebuttal letter beyond the 30 days, sometimes you remind the company of the disciplinary action taken, which may prompt them to check in on your progress.

**Q: My manager said some awful things about me! How do I get these off my record?**

Honestly, you don’t, but... know that no one outside the manager that put that in the letter and HR, and the union if you’ve shared the letter, know that the manager wrote that. In the future, if you should change jobs at DJ or you get a new manager, we’ve been told that HR does not share the letters with the new manager. They’ll acknowledge that they’re there and the date, but that’s it.

**Q: I’ve just been terminated – what happens now?**

If you are fired, the first thing Dow Jones will do is shut off your system and badge access. This usually happens a few hours after the termination meeting, but it can be immediate. This means you will not be able to access the physical office, your email, or tools like UltiPro and Workday. If you need documentation or pay stubs, you will need to contact HR.

This is why it has been repeated throughout this document to keep important records on a non-company device, so you can preserve your access to them.

Dow Jones will email you an information packet. The most important thing in it will be instructions on how to transfer your health benefits to COBRA. DJ will also send you pre-paid shipping boxes to return any company equipment you might have for working from home, such as laptops and screens.

IAPE will want to contact you – this is why we need your personal email and phone number – to discuss any potential issues with your firing. If there are, we can file a grievance over it.

**And now some best practices for working at Dow Jones (or anywhere for that matter).**

Provide IAPE with a current personal email and personal phone number. We do a lot of communications on company platforms, but there are things we’d rather keep to ourselves. Remember that your manager can potentially access anything you put on a company platform: emails, Slack messages, and so on. If you’re discussing something your manager said in a disciplinary meeting, it’s always better to make sure there’s no chance your manager could see it.

Secondly, if you’re fired or laid off, IAPE will want to contact you. Because you lose your system access, we can only do so if you provide us personal contact info.
Keep records of everything. We don’t really know what our managers’ jobs are, or what they talk about with HR, other managers or their own supervisors. Something that might seem inconsequential to you might be the crux of a manager’s decision to start a disciplinary meeting, an investigation, or to place you on a PIP.

Secondly, we (IAPE) have no real way of holding individual managers accountable for anything. We can make recommendations to HR, but we lack any means of enforcement. Keeping good records of your interactions with management, recording their statements and critically having a manager on record stating a fact or a sequence of events is accurate is the best way to protect yourself. The worst position to be in as an employee is “your word against theirs.” Theirs will always win unless you have evidence to back yours up.

If you are in the discipline process, part of an investigation or have a generally bad interaction with management, it’s best to keep records on a personal device as well. DJ is very fast to cut off system access, so keep important records somewhere off of their systems.

Talk to your coworkers. We (IAPE) often say that you, membership, are our eyes and ears, and that we will only get a clear picture of what day-to-day work is like if you tell us.

Likewise, your best resource is each other. If you feel like a manager is targeting you, ask your coworkers about that manager’s behavior versus their performance. Managers are expected to treat all employees equally. It is a major problem if a manager lets one employee get away with something that another one does not. It is a major problem if your manager is belligerent and confrontational with you and not the person next to you.

Do your job. I know, I know, this sounds counterintuitive in a document talking about how best to defend yourself from management. Let’s get some things out of the way: the talking points “Unions are there to let lazy employees keep being lazy” or “Unions keep bad workers in their jobs so they get the best pay” are, frankly, bullshit. The single best way to avoid getting on management’s bad side is to do your job to the best of your ability, and to listen to your manager’s feedback when they criticize your work. If you aren’t doing your job, there is not a whole lot we can do for you.

Managers are not your friends. Employees should put effort into cultivating a good relationship with management, and we believe everyone should at least try to do so. But remember that you and your manager are not on the same side. Your manager will not protect you because you have a good relationship; that is not their job. Management will always put two things before you: company profits, and orders from their managers.

HR is not your friend. Dow Jones’s People Department is there to represent Dow Jones, period. HR’s job is to make sure the humans (ie, the resources) generate money, and to remove them if they aren’t doing so. That’s it. That is all they do. HR can be a useful resource if you need information or accommodation that the company is legally required to provide, but in no universe does HR represent you.
Bias exists, and it hurts us more than it hurts the company. A union only works when we (the membership, the stewards and directors) trust each other and feel comfortable and welcome with each other. While sexism, racism, queerphobia and religious intolerance are unfortunate realities in the world, we should all do our level best to not put them into practice at work. It’s only when we stand as a united front that we can actually address these issues when they are top-down – when management does it to a member. This is an actual example of what we’re talking about (identifying info removed).

X was an employee of Dow Jones on a small, specialized team. Morale was very bad: there’d been a wave of layoffs, an increase of work for each individual, and a management turnover. X spoke up about the bad morale and brought it to management’s attention.

X was then disciplined, and included in the performance complaints was that X “made their coworkers uncomfortable and in general hurt morale.” This is obviously unfair – X only mentioned that work felt worse since their team had seen a few beloved co-workers lose their jobs and was working under managers they didn’t know.

Here’s where we’ll mention that X’s team, and all of X’s managers, were white, and X was an out gay Black person. Management disciplined X again and repeated the “uncomfortable” claim. During the meeting, IAPE asked management point blank if the team really felt that way, or if there was a chance they were singling X out because they were the outlier in the group. After all, it is a stated goal of Dow Jones and everyone’s responsibility to create an inclusive workplace. Management balked at the idea.

X was eventually fired over separate performance issues. Let’s take a minute to imagine this scenario differently. Had X been supported by their team, rather than singled out, they might have had the motivation to work better and actually improve, and would still work at DJ today.

We like to think of “union” as a verb. It isn’t just a thing we are: it’s a thing we must do. If we’re distrustful of each other, we aren’t a union. If we’re comfortable creating cliques and not showing up for people different than us, we aren’t a union.

In addition to contractual protections regarding progressive discipline, some situations may rise above the limitations of the contract but may prompt legal exploration. IAPE does not file claims on behalf of members, but if you retain a lawyer and they reach out, we will do our best to cooperate with their requests.

Some helpful links:
Equal Employment Opportunity Commission (EEOC)
Job Accommodation Network (JAN)