

ARTICLE 16
DISCIPLINARY ACTION AND JOB ABANDONMENT

16.1 The purpose of this Article is to provide a prompt and equitable procedure for disciplinary action, which shall only be taken for just cause.

- (a) Just cause shall be defined as:
 - (1) incompetence, or
 - (2) misconduct.

(b) University discipline, as distinguished from other forms of reproof or administrative action, shall be reserved for employee misconduct that is either serious in itself or is made serious through its repetition or its consequences.

(c) An employee’s activities that fall outside the scope of employment shall constitute misconduct only if such activities adversely affect the legitimate interests of the University.

(d) No provision in this Article shall be interpreted in a manner that may abridge or violate an employee’s academic freedom as defined in Article 5, nor shall an employee be disciplined for exercising such freedom.

(e) During questioning in a formal investigation that may reasonably be expected to lead to suspension or termination, employees have the right for the UFF to be present during the questioning.

(f) When disciplinary action is taken, the burden of proof shall be on the University.

16.2 Due Process. The Board shall impose no disciplinary action except in accordance with the processes set forth in this Article.

16.3 Progressive Discipline

(a) If an employee becomes the subject of disciplinary action, the Board shall follow the principle of progressive discipline as applied to professional employees.

(b) The type and severity of discipline selected for a particular offense ~~should shall~~ be appropriately related to the nature and circumstances of the offense.

(c) The only disciplinary actions that may be imposed on an employee are, in order of increasing severity, oral reprimand, written reprimand, suspension with or without pay for a specified time of not more than ~~six months~~two semesters, and termination.

(d) If an employee is found to have intentionally damaged or destroyed University property, the employee may be required to reimburse the University for the fair cost of repair or replacement of that property in addition to any other disciplinary action that may be imposed.

16.4 Notice of Intent

(a) Oral or Written Reprimand. No notice of intent or employee response time is required when an employee receives an oral reprimand or written reprimand.

(b) Suspension or Termination. When the president or president’s representative has reason to believe that a suspension or termination should be imposed.

~~16.5 — Pre-determination Procedures for Suspension or Discharge~~

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~~_____ (a) If the University intends to impose disciplinary action more severe than a written reprimand, the president or president’s representative shall provide the employee with a written notice of the proposed action. If possible, this notice shall be hand-delivered to the employee and the employee shall acknowledge receipt in writing. Otherwise, the notice shall be mailed to the employee by certified mail, return receipt requested. The notice shall be considered received by the employee even if refused. This notice shall be signed by the president or president’s representative and shall contain~~include the following:

- ~~(1) The action proposed by the University and its proposed effective date.~~
- ~~(2) A statement of the reasons for the proposed action.~~
- ~~(3) A list of all documents on which the University has based its proposed decision and a statement that copies of these documents will be provided to the employee upon written request.~~

~~_____ (4) A statement that the employee may, within ten (10) days of receipt of notice, or receipt of requested documents, whichever is later, submit a written response, and the name, address, and telephone number of the person to whom such a response should be sent.~~

~~(5) A statement that the University shall consider the employee’s written response, if provided.~~

~~_____ (6) A statement that the employee may, within ten (10) days of the receipt of the notice or receipt of the requested documents, whichever is later, make a written request for a conference with the president or president’s representative.~~

~~_____ (7) A copy of this article, and~~

~~_____ (8) Notice that the employee may resign.~~

~~_____ (b) Conference. If the employee requests a conference, it shall be conducted as follows: _____~~

~~(1) The person(s) conducting the conference shall convene it at a time and place of mutual convenience. The person(s) conducting the conference shall not be the person(s) responsible for handling Step 2 grievances for the University. Barring circumstances beyond the employee’s control, the employee must be available to meet at the main campus or his or her normally assigned campus within seven (7) days of receipt of the written request for the conference. The purpose of the conference is to hear the employee’s response to the proposed action and the reasons given for it. The person(s) responsible for recommending whether the employee will be disciplined and what that discipline will be shall conduct the conference.~~

~~_____ (2) The employee is entitled to UFF or other representation at the conference.~~

~~_____ (3) The conference shall be informal and shall not be in the nature of an evidentiary hearing; therefore discovery, cross-examination, and similar legal procedures are not permitted.~~

~~_____ (4) The employee shall be permitted to submit relevant information, orally and in writing, and shall be permitted to bring witnesses.~~

~~_____ (c) After the conference is conducted, the president or president’s representative shall, as soon as practicable, notify the employee in writing of his or her decision. If no disciplinary action is taken, no mention of the proposed disciplinary action shall be retained in the employee’s evaluation file. A separate file may be maintained by the University to show that the matter was investigated.~~

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~~(d) — 16.5~~ Notice of Suspension or Termination. The president or president’s representative shall notify the employee in writing of a suspension or termination ~~action~~. The notice shall contain the heading “Notice of Disciplinary Action.” ~~The notice~~ shall include a statement of the reasons for the action and a statement advising the employee that the action is subject to the Grievance Procedures in Article 20. The notice, which shall be effective upon receipt by the employee, shall be issued as follows:

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(a) Within thirty (30) days after the employee receives notice of the proposed action, if the employee does not respond in writing within ten (10) days.

(b) Within thirty (30) days after receipt of the employee’s written response to the proposed action, unless the written response provides new information that requires further investigation and the employee is so advised in writing.

(c) Notices of disciplinary action shall be delivered in person to the employee with written documentation of receipt obtained or be sent certified mail, return receipt requested.

(d) If no disciplinary action is taken, no mention of the proposed disciplinary action shall be retained in the employee’s evaluation file. A separate file may be maintained by the University to show that the matter was investigated.

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~~(e) — In cases where the president or the president’s representative determines that an employee may continue to perform his or her assignment without adversely affecting the functioning of the University or jeopardizing the safety or welfare of the employee, colleagues, or students, the president or president’s representative may allow said employee to continue employment for up to six months after notice of termination.~~

16.6 Job Abandonment

(a) If an employee is absent without authorized leave for twelve (12) or more consecutive days ~~(or seven (7) consecutive days for a nine (9) month employee employed under a supplemental summer contract)~~, the employee shall be considered to have abandoned the position and voluntarily resigned from the University.

(b) The University shall make reasonable efforts to contact the employee by telephone and e-mail before concluding that the employee has abandoned his or her position.

(c) Notwithstanding paragraph (a) above, if the employee’s absence is for reasons beyond the control of the employee and the employee notifies the University as soon as practicable, the employee will not be considered to have abandoned the position.

16.7 Employee Assistance Program. Neither the fact of an employee’s participation in an employee assistance program, nor information generated by participation in the program, shall be used as a reason for discipline under this Article, except for information relating to an employee’s failure to participate in an employee assistance program consistent with the terms to which the employee and the University have agreed.