

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.

- (a) Disciplinary action shall be taken only for just cause, which shall be defined as:
 - (1) incompetence, or
 - (2) misconduct.

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

(c) 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 or constitutional rights, nor shall an employee be disciplined for exercising such freedom or rights.

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

(e) The employee has a right to union representation during investigatory questioning that may reasonably be expected to result in disciplinary action.

16.2 Progressive Discipline. Both parties endorse the principle of progressive discipline.

16.3 Notice of Intent.

(a) Oral Reprimand and 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. If the University intends to impose a suspension or termination, the president or president's representative shall provide the employee with a written notice of the proposed action. This notice shall be delivered in person to the employee with written documentation of receipt obtained or be sent certified mail, return receipt requested; and shall be considered received by the employee even if refused. This notice shall contain the following:

- (1) The action proposed by the University;
- (2) A brief statement of the reasons for the proposed action;
- (3) A statement that the employee may, within ten (10) days of receipt of the notice, submit a written response; and
- (4) A copy of this article.

16.4 Suspension or Termination.

(a) A tenured appointment or any appointment of definite duration may be terminated during its term for just cause.

(b) The president or president's representative shall notify an employee in writing of a suspension or termination. The notice shall be delivered in person to the employee with written documentation of receipt obtained or be sent certified mail, return receipt requested. The notice shall include the effective date of the action, a brief statement of the reasons for the action, a statement advising the employee that the action is subject to the grievance procedures in Article 20, and a copy of Article 20.

(c) No disciplinary action. If the president or president's representative decides that a proposed suspension or termination should not be 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. The employee shall not later be suspended or terminated for the conduct that led to the proposed notice of discipline. However, if similar conduct is repeated, the prior matter may be considered in determining whether a pattern or practice of behavior exists.

16.5 Other Disciplinary Action. The University retains its right to impose other disciplinary action for just cause. Counseling, including letters of instruction or recommendations for participation in an Employee Assistance Program, shall not be considered disciplinary action.

16.6 Job Abandonment.

(a) If an employee is absent without authorization for twelve (12) or more consecutive days (or seven (7) or more consecutive days for a 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, e-mail, and overnight 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 possible, 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.