

## ARTICLE 16

### DISCIPLINARY ACTION AND JOB ABANDONMENT

#### 16.1 Just Cause.

(a) The purpose of this article is to provide a prompt and equitable procedure for disciplinary action taken with just cause. Just cause 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.

**16.2 Progressive Discipline.** Both parties endorse the principle of progressive discipline as applied to professionals.

#### 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. When the president or president's representative has reason to believe that a suspension or termination should be imposed, the president or president's representative shall provide the employee with a written notice of the proposed action and the reasons therefore. Such notice shall be sent via certified mail, return receipt requested, or delivered in person with written documentation of receipt obtained. The employee shall be given ten (10) days to respond in writing to the president or president's representative before the proposed action is taken. The president or president's representative then may issue a notice of disciplinary action under Section 16.4.

The employee has a right to union representation during investigatory questioning that may reasonably be expected to result in disciplinary action. No notice of disciplinary action shall be retained in the employee's evaluation file if no disciplinary action is taken.

**16.4 Notice of Disciplinary Action.** Any notice of disciplinary action shall include a statement of the reasons therefore and a statement advising the employee that the action is subject to the Grievance Procedure in Article 20. All such notices shall be sent via certified mail, return receipt requested, or delivered in person to the employee with written documentation of receipt obtained.

**16.5 Disciplinary Action Other than Termination.** The University retains its right to impose disciplinary action other than termination for just cause including, but not limited to, suspension with or without pay. Counseling, including recommendations for participation in an Employee Assistance Program, shall not be considered disciplinary action. Counseling also shall not be used as evidence in cases of disciplinary action except that written counseling may be used to show an employee was aware of a university rule or policy.

**16.6 Termination.** A tenured appointment or any appointment of definite duration may be terminated during its term for just cause. An employee shall be given written notice of termination at least six months in advance of the effective date of such termination, except that in cases where the president or representative determines that an employee's actions adversely affect the functioning of the University or jeopardize the safety or welfare of the employee, colleagues, or students, the president or representative may give less than six months' notice.

**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.

**16.8 Job Abandonment.**

(a) If an employee is absent without authorized leave for twelve (12) or more consecutive days under the provisions of Section 17.1, the employee shall be considered to have abandoned the position and voluntarily resigned from the University.

(b) 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.