

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) Both parties endorse the principle of progressive discipline as applied to professionals.
- (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.

16.2 Types of Discipline.

- (a) Disciplinary actions include, ~~but are not limited to~~, oral or written reprimands; restitution for the intentional damage or destruction of University property; suspension, with or without pay; and termination.
- (b) Employees have a right to union representation during investigatory questioning that may reasonably be expected to result in disciplinary action.

16.3 Notice Requirements.

- (c) For oral and written reprimands, or requirements of restitution, no prior notice or employee response time is required. However, the employee must be provided with a written statement of the reasons for the discipline and advised that the action is subject to the grievance procedure in Article 20.
- (d) For suspension or discharge, the employee shall be given prior written notice of such action and an opportunity to respond in accordance with the provisions of 16.5 below. The appointment of any employee can be suspended, with or without pay, or terminated for just cause during the term of the employee's appointment.

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

16.5 Pre-determination Procedures for Suspension or Discharge

- (a) Prior to suspension or discharge, an employee must be provided 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 or ignored. This notice shall be signed by the president or president's representative and shall include the following:

(1) The action proposed by the University and its 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) Copies of this article, and

(8) Notice that the employee may resign.

(b) Conference. If the employee requests a conference, it shall be conducted by the president or president's representative 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 his or her normal workplace within seven (7) days of making 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 deciding whether the employee will be disciplined and what that discipline will be shall attend the conference.

(2) The employee is entitled to UFF or other ~~personal~~ 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) Deadline for notice of disciplinary action. The president or president's representative shall issue a notice of disciplinary action or a notice that no disciplinary action will be taken

(1) within twenty (20) days after the employee receives notice of the proposed action, when the employee does not respond in writing within ten (10) days;

(2) within ten (10) days of receipt of the employee's written response to the notice proposed action, if provided, unless the written response provides new

information that requires further investigation and the employee is so informed in writing; or

(3) within ten (10) days following the completion of the conference, if one is requested, unless the conference provides new information that requires further investigation and the employee is so informed in writing.

(d) No disciplinary action. 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 and resolved, but the material in that file may not be used in future personnel decisions. There shall be no double jeopardy.

16.6 Notice of Disciplinary Action.

(a) The president or president's representative shall notify the employee in writing of any disciplinary 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.

(b) When disciplinary action is taken, the burden of proof shall be on the president or president's representative.

(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.

16.7 Job Abandonment

(a) If an employee is absent without authorized leave for seven (7) 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) The University shall make reasonable efforts to contact the employee by telephone and email 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.

16.8 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.