

ARTICLE 16

LETTERS OF COUNSEL, 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 Letters of Counseling/Instruction. Letters of Counseling or Instruction may be ~~provided given~~ to employees to provide information regarding university policies, rules, or provisions of the Collective Bargaining Agreement, guidance for bringing conduct or performance into compliance with university policies, rules, or provisions of the Collective Bargaining Agreement. Such letters, that may include recommendations for participation in an Employee Assistance Program, are not considered discipline and are not placed in the employee's Evaluation File unless requested by the employee. They may be used only as evidence to demonstrate the employee's awareness of University expectations. Since Letters of Counseling or Instruction do not constitute discipline, they are not subject to the grievance procedures of Article 20.

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~~**16.3 Progressive Discipline.** Both parties endorse the principle of progressive discipline as applied to professionals. Penalties will be imposed dependent upon the seriousness of the offense and any aggravating or mitigating circumstances.~~

16.43 **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~~University's representative has reason to believe that suspension or termination should be imposed, the ~~president or president~~University'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~~ seven days to respond in writing to ~~president or president~~University's representative before the proposed action is taken. The ~~president or president~~University's representative then may issue a notice of disciplinary action under Section 16.5.

16.54 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.

50 **16.65 Disciplinary Action Other than Termination.** The University retains its right to impose
51 disciplinary action other than termination for just cause including, but not limited to, suspension with or
52 without pay. Should the university require, as part of the disciplinary process, participation in training,
53 failure to provide evidence of completion of that training would be considered just cause for further
54 discipline.

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56 **16.76 Termination.** A tenured appointment or any appointment of definite duration may be
57 terminated during its term for just cause. ~~An employee shall be given written notice of termination at least~~
58 ~~six months in advance of the effective date of such termination, except that in cases where the president~~
59 ~~or representative determines that an employee's actions adversely affect the functioning of the University~~
60 ~~or jeopardize the safety or welfare of the employee, colleagues, or students, the president or representative~~
61 ~~may give less than six months' notice.~~

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63 **16.87 Employee Assistance Program.** Neither the fact of an employee's participation in an Employee
64 Assistance Program, nor information generated by participation in the program, shall be used as a reason
65 for discipline under this Article, except for information relating to an employee's failure to participate in
66 an Employee Assistance Program consistent with the terms to which the employee and the University
67 have agreed.

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69 **16.98 Job Abandonment.**

70 (a) If an employee is absent without authorized leave for ~~twelve (12)~~five or more
71 ~~consecutive days~~days under the provisions of Section 17.1, or, if one area of assignment, the employee
72 shall be considered to have abandoned the position and voluntarily resigned from the University. If part of
73 an area of assignment, such as an online course, has been abandoned for more than five days, the
74 employee may be subject to discipline, including suspension and alteration of assignment.

75 (b) Notwithstanding paragraph (a), above, if the employee's absence is for reasons beyond
76 the control of the employee and the employee or a representative notifies the University as soon as
77 practicable with a reasonable and supportable explanation, the employee will not be considered to have
78 abandoned the position.