



## **Disciplinary Procedures (Non-Faculty) (6.12)**

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### **PURPOSE**

The purpose of this policy is to establish a disciplinary process which will provide consistency in application and equitable treatment of all non-faculty employees.

### **POLICY**

Whenever disciplinary action is taken against an employee, the immediate supervisor is responsible for advising the offending employee of his/her right to the University's Complaint/Grievance Procedures (No.6.10), if applicable.

### **PROCEDURE**

Upon hire, new employees are given a six (6) month probation period. If during this period there is cause for disciplinary action, it may result in dismissal.

The reason for taking disciplinary action is to communicate and correct an individual's misconduct and to express that repetition of similar behavior can result in discharge.

No disciplinary action involving demotion, suspension or dismissal is to be taken against any regular, fulltime employee until such disciplinary action has been discussed with the Director of Human Resources or a designated representative, except when, in the judgment of the employee's supervisor, immediate suspension is necessary to protect the safety of persons or property or for similar grave reasons. In addition, dismissal requires the concurrence of the appropriate Vice President and the President or a designee.

Conditions leading to the need for discipline at Tennessee State University include but are not limited to the following:

- Performing below job standards in terms of work quantity, quality, method, timeliness or cost. These should be performance measurements upon which all employees are evaluated for overall effectiveness, and they should be measured in precise terms
- Violation of prescribed rules of conduct, behavior or general performance

- Interfering with the performance of others or engages in a behavior that is damaging to the reputation or welfare of the University, other employees, and students or to the employee's own credibility.

Disciplinary action is the result of performance related conditions or conduct on the job or on university property. The cause of discipline must be directly (and reasonably) related to the employee's job, the effect upon students or other employees or the reputation and welfare of the employee.

Tennessee State University adheres to the philosophy that most problems can and should be resolved at the lowest institutional level if they are addressed promptly and fairly.

Although involuntary separation is an option under the procedures set forth, Tennessee State University believes that when problems occur requiring disciplinary action it is preferable to salvage the relationship with the employee, except in instances of gross misconduct when such conduct is determined to constitute a danger to the students, staff or to the employee.

Tennessee State University encourages the principle of progressive discipline if discipline is to bear a reasonable relationship to the offense and to serve as an appropriate modifier of behavior. Progressive discipline means:

- The single occurrence of a minor or moderate infraction might incur minor discipline (counseling, verbal warning, written warning).
- A repeat or continuation of the same minor or moderate infraction or the single occurrence of a more serious infraction might incur more formal discipline (written reprimand, suspension without pay).
- The single occurrence of a very serious infraction or the repeat of the same moderately serious infraction might incur the most formal discipline that is reasonably related to the offense (demotion, pay reduction, discharge).

Whenever there is doubt as to the applicability of a disciplinary procedure or to the appropriateness of a disciplinary procedure, the Office of Human Resources should be consulted. Each disciplinary situation is considered on a case-by-case basis, and disciplinary remedies may or may not be applied in the order in which they appear in these procedures.

### **Supervisory Responsibility**

The supervisor is responsible for maintaining proper conduct and discipline of university employees under his/her supervision. When disciplinary action appears to be necessary, the supervisor will meet with the subject employee:

- To set clear goals and expectations for performance and/or behavior

- To discuss the requirements that have not been met or why conduct has been unacceptable
- To give the employee an opportunity to account for his/her performance
- To take disciplinary action if the situation warrants. All disciplinary discussions should take place in a climate conducive to mutual understanding and reasonable discussion.

There are circumstances and instances of misconduct requiring disciplinary action which may result in immediate discharge. Some *examples* are:

- Possession or use of liquor on University property
- Buying, selling, using, possessing or being under the influence of any illegal narcotic
- Theft (including removal of discarded items)
- Fighting on University property
- Possession of unauthorized weapons on university property
- Falsification of records or fraud
- Willful violation of safety rules
- Willful damage to university property
- Gross insubordination or willful disregard of instructions

There are many instances of misconduct which normally do not warrant immediate discharge for the first offense but which should result in disciplinary action being taken. While not all inclusive, some *examples* are:

- Ineffective use of university time
- Improper use of equipment
- Carelessness resulting in damaged equipment
- Repeated or unreported absenteeism or tardiness
- Disregard for general university rules
- Failure to report an accident to a person or damage to equipment

## **Forms of Disciplinary Action**

**Oral Warning:** If the problem was caused by inattention or neglect of minor significance and the employee has not been reprimanded for a similar offense during the previous six months, an oral warning is suggested. The basic cause of the incident should be clearly pointed out, suggestions made for its correction and the employee told what consequences to expect should similar incidents continue to occur. The supervisor may administer an oral warning without prior approval and record the date and other pertinent information for future reference.

**Written Warning:** If the problem was caused by a disregard of instructions, written warning or other disciplinary measures including discharge may be necessary. When it is the employee's first offense of this degree of seriousness and the supervisor has reason to believe the action was impulsive or occurred under mitigating circumstances, as opposed to premeditation, the written warning may be appropriate. A written warning shall also be given if it becomes necessary to

reprimand an employee orally more than once within a six month period. If a written warning is decided upon, a record of the facts shall be made by the supervisor. The supervisor must have the concurrence of the department head before issuing the written warning. The written warning will be issued to the employee by his/her supervisor and a copy should be sent to the Office of Human Resources to be placed in the employee's personnel file.

**Suspension (without pay):** This action may be taken to impress upon the employee the serious nature of his/her act or offense. This should be considered as a notice that the employee is facing possible termination if the performance or behavior does not improve. The supervisor will consult the department head and the Director of Human Resources and, if time off without pay is decided upon, the duration of the time off period will be determined through such consultation. In addition to the time off without pay, a letter of warning will be issued to the employee and a copy placed in the employees personnel file. When it becomes necessary to suspend an employee without pay, a probationary period may be warranted upon the employees return.

**Termination:** When an employee is recommended for termination for disciplinary reasons, the following occurs:

1. The employee's supervisor will discuss the facts and records of the case with his/her department head or director and a written summary will be prepared, including a written recommendation.
2. The department head or director will review the case with the Personnel Director or his/her designated representative.
3. The Director of Human Resources will review the case, and the department head's recommendation with, the appropriate Vice President.
4. When a decision has been reached as to whether the employee shall be terminated and whether with or without further notice or pay, the supervisor will notify the employee of the decision.

When, in the judgment of the supervisor, immediate suspension of an employee is necessary to protect the safety of persons or property or for similarly grave reasons:

1. The supervisor will direct the employee to leave the university premises at once and either (a) to report back to the supervisor the following day or (b) to remain away until further notice
2. The procedures in D, 1 - 4 above will then be promptly followed.

## **Gross Misconduct**

Termination for gross misconduct, under Tennessee Board of Regents policies specifies that the terminated employee will forfeit vacation accruals. In order to insure clarity and consistency in applying gross misconduct to a terminated employee the following procedure applies: In instances when gross misconduct is alleged the Personnel Director, in consultation with the President, must make the final determination.

Gross misconduct may include, but is not necessarily limited to:

- Any act or omission which may seriously disrupt or disturb the normal operation of the University
- Any work related conduct which would subject the employee to criminal conviction
- Theft or dishonesty
- Gross insubordination
- Destruction of University property
- Falsification of records
- Acts of moral turpitude
- Reporting for duty under the influence of intoxicants
- The illegal use, manufacture, possession, distribution, or dispensing of controlled substances or alcohol
- Disorderly conduct
- Provoking a fight
- Other similar acts involving intolerable behavior by the employee

In determining eligibility for unemployment compensation benefits, the definition of gross misconduct utilized by Tennessee Employment Security is not affected by the definition outlined in this paragraph.

Whenever an employee is terminated under the terms and conditions of a contract, the employee will be given a 14 day notice if possible. Even with a 14-day notice, circumstances may dictate that the employee not return to the work place. In such instances, the Director of Human Resources should be consulted.

Under ideal circumstances, the following employee categories shall be afforded the listed amount of notice:

- Nonexempt employees, e.g., 1300 category shall be provided a fourteen (14) day notice of separation
- Exempt employees, e.g., 1100 category, shall be provided a thirty (30) day notice of separation

### **Resignation in Lieu of Termination**

At times it might be in the best interest of the University and the affected employee if the affected employee is offered an opportunity to resign in lieu of termination. In such instances the following shall apply.

1. The Vice President or Director will consult with the Director of Human Resources to insure the appropriateness of the action
2. Upon agreement by the Vice President and the Director of Human Resources, the affected employee may be orally advised of the option to resign or be terminated

3. If the affected employee offers to resign the employee must submit her/her resignation in writing within 24 hours. If the employee fails to submit a resignation after indicating he/she would, immediate termination is warranted
4. The employee's written resignation must include an effective date that is acceptable to the appropriate Vice President.

Voluntary resignations in these instances are not subject to the University's Complaint and Grievance Procedures for Employees, No. 6.10.

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## **REFERENCE**

TBR Policy 5:01:00:00 defines Gross Misconduct.

Updated 4/2014