

Discipline and Dismissal of Staff Employees

Section: V: Human Resources

Chapter: 6

Date Updated: August 28, 2015

6.1 Policy and Purpose.

It is the policy of The University of Texas at El Paso to encourage fair and efficient processes to resolve disputes arising out of the employment relationship and to meet the requirements of State and federal law.

The purpose of this policy is to provide a procedure for the discipline and dismissal of classified employees who are subject to its provisions. Classified employees are at-will employees who serve without tenure. No provision of the policy and procedures that follow shall confer rights to employees that are contrary to the employment-at-will doctrine.

6.2 Applicability.

These policies and procedures are applicable to conduct or job performance of a classified employee that results in a decision to impose a disciplinary penalty of demotion, suspension without pay, or dismissal. It does not apply to:

6.2.1 Institutional police or faculty who are subject to other approved discipline or dismissal procedures;

6.2.2 Suspension with pay pending investigation of allegations relating to an employee;

6.2.3 Decisions not to offer reappointment to persons whose appointment for a stated period of one year or less expires at the end of such period without the necessity of notice of non-renewal as provided in the Regents' Rules and Regulations or the policies of The University of Texas at El Paso;

6.2.4 Administrative and professional employees who are appointed to positions without fixed term and serve at the pleasure of a specific administrative officer;

6.2.5 Persons who are employed in positions that require student status as a condition of employment; or

6.2.6 Dismissal of employees:

- a. who occupy positions that are dependent upon funding from a specific source and such funding is not received,
- b. as a result of a reduction in force,
- c. due to financial exigency,
- d. during any probationary period of employment,
- e. who are appointed for a stated period that is less than 180 days,
- f. who are appointed at a per diem or hourly rate and work on an as needed basis, or
- g. who have not attained or maintained the necessary clearance, certification, licensure, proper visa authorization, or suitability (this includes but is not limited to maintaining a satisfactory criminal background and sex offender registration check under the University's criminal background check policy for their position, or
- h. who have exhausted applicable leave entitlements.

6.3 Discipline and Dismissal Policy and Procedures.

6.3.1 Employee Standard of Conduct.

Each employee is expected to become familiar with the performance criteria for his or her particular job and with all rules, procedures, and standards of conduct established by the Board of Regents, The University of Texas at El Paso, and the employee's department or unit. An employee who does not fulfill the responsibilities set out by such performance criteria, rules, procedures, and standards of conduct may be subject to adverse personnel action.

6.3.2 Conduct Subject to Disciplinary Action.

- a. Work Performance.

Work performance is to be judged by the supervisor(s) evaluation of the quality and quantity of work performed by each employee. Failure of an employee to maintain satisfactory work performance standards or to meet a reasonable and objective measure of efficiency and productivity may constitute grounds for disciplinary action including dismissal.

- b. Unacceptable Conduct.

All employees are expected to maintain standards of conduct suitable and acceptable to the work environment, including professional conduct and behavior. Disciplinary action, including dismissal, may be imposed for unacceptable conduct. Examples of unacceptable conduct include, but are not limited to:

1. falsification of time sheets, personnel records, parking decals or other institutional records;
2. neglect of duties;

3. smoking anywhere except in designated smoking areas off campus;
4. gambling or participating in lotteries or any other games of chance on the premises at any time;
5. soliciting or collecting money or circulating petitions on the premises other than within the rules and regulations of the institution;
6. bringing intoxicants, alcohol or drugs onto the premises of the institution, using intoxicants, alcohol or drugs on the premises at any time, having intoxicants, alcohol or drugs in one's possession on the premises at any time, or being under the influence of intoxicants, alcohol or drugs on the premises at any time;
7. abuse or waste of tools, equipment, fixtures, property, supplies, or goods or financial resources of the institution;
8. creating or contributing to unhealthy or unsanitary conditions;
9. violation of safety rules or accepted safety practices;
10. failure to cooperate with supervisor or co-worker (including insubordination), impairment of function of work unit, or disruptive conduct, including engaging in unacceptable or unprofessional behavior;
11. disorderly conduct, harassment of other employees (including sexual harassment), threats toward other employees or use of abusive language on the premises;
12. fighting, encouraging a fight, or threatening, unwelcome or inappropriate touching or attempting or causing injury to another person on the premises;
13. theft, dishonesty, or unauthorized use of institutional property, including written and electronic records and confidential information;
14. creating a condition hazardous to another person on the premises;
15. destroying or defacing institutional property or records or the property of a student or employee;
16. refusal of an employee to follow instructions or to perform designated work that may be required of an employee, or refusal to adhere to established University or specific departmental rules and regulations;
17. repeated tardiness or absence, absence without proper notification to the supervisor, or absence without satisfactory reason or unavailability for work;
18. unacceptable, inappropriate or improper use of computing devices, mobile devices, or social media on behalf of the University; or
19. violation of policies or rules of The University of Texas at El Paso or The University of Texas System.

6.3.3 Discipline Procedures.

The following procedures will be followed when an employee who is subject to this policy is demoted for disciplinary reasons, suspended without pay, or dismissed.

- a. The supervisor will review the evidence and the proposed disciplinary action with the Chief Human Resources Officer or his or her designee.
- b. Once the supervisor has sought and obtained the concurrence of the Chief Human Resources Officer or his or her designee, he or she must then obtain the concurrence of the department head or administrative equivalent to whom he or she reports before proceeding with the proposed disciplinary action.
- c. The supervisor shall inform the employee in writing of the reasons for the proposed disciplinary action and the facts upon which the supervisor relies. The employee shall be provided with an opportunity to respond to the charges in writing within a reasonable time not to exceed three (3) working days and to persuade the supervisor that the grounds for the disciplinary action are mistaken or incorrect before a final decision is made to take disciplinary action. This pre-disciplinary notification serves as an opportunity to avoid mistaken decisions to impose discipline and is not intended to definitively resolve the propriety of the disciplinary action being considered.
- d. If the supervisor is not persuaded by the employee's written response that the decision to take disciplinary is incorrect or mistaken, the supervisor will proceed to impose the disciplinary action. The supervisor shall inform the employee in writing of the following:
 1. whether the disciplinary action is a demotion, suspension without pay or dismissal and its effective date;
 2. a specific period for a suspension without pay, not to exceed one (1) month, to be determined in consultation with and approval of the Chief Human Resources Officer;
 3. the specific incident, conduct, course of conduct, unsatisfactory work performance, or other basis for the disciplinary action;
 4. any previous efforts to make the employee aware of the need to change or improve work performance or conduct; and
 5. reference to any relevant rule, regulation, or policy violated.

6.3.4 Effect Upon Employee Benefits.

An employee who is demoted or suspended without pay continues to accrue vacation and sick leave, to be covered by group insurance if enrolled, and to be entitled to other employee benefit or university support programs. If a demotion or suspension without pay is appealed and the appeal of the demotion or suspension is successful, the employee shall be entitled to payment for wages lost as a result of the demotion or suspension. If an appeal of dismissal is successful, the employee shall be reinstated to the same or similar position and shall be entitled to payment of back wages less any unemployment compensation insurance benefits received by the employee after the date of dismissal. A reinstatement letter will be placed in the employees personnel file within the Office of Human Resources. Employee benefits such as vacation and sick leave shall be credited back to the date of dismissal upon reinstatement.

6.4 Procedure for Written Appeal.

a. Disciplinary actions resulting in dismissal, suspension without pay, or demotion may be appealed by the affected employee pursuant to the process set out below by submitting a written appeal to the Vice President or administrative equivalent for the employee's department. The written appeal must be made within ten (10) working days following the date of the disciplinary action. The written appeal must be delivered to the supervisor who signed the disciplinary action. Once the written appeal is submitted, no additional changes or additions may be made unless granted by the Vice President or administrative equivalent. The failure of the employee to submit the appeal in a timely manner shall constitute a withdrawal of the appeal.

b. A written appeal shall contain:

- (1) A clear and concise statement of the reasons the employee believes the disciplinary action to be inappropriate;
- (2) The reason(s) the employee believes the disciplinary action decision should be changed;
- (3) The name(s) and contact information of any witness that may have information relevant to the employee's disciplinary action;
- (4) The specific remedy sought by the employee;
- (5) Any additional relevant information to be considered in support of the employee's written appeal; and
- (6) The name and contact information of the employee's representative, if any.

c. Within five (5) working days following the receipt of the written appeal, the employee's supervisor shall submit the employee's written appeal, his or her written response and all documentation relevant to the disciplinary action to the Vice President or administrative

equivalent. A copy of the employee's personnel file may also be submitted by the supervisor to the Vice President or administrative equivalent, if requested from the Office of Human Resources.

d. Within ten (10) working days following receipt of the information from the supervisor, the Vice President or administrative equivalent will render a written decision. The written decision will be sent electronically to the employees university account and sent by certified mail to the employee's last known home address that is maintained by The University of Texas at El Paso's Office of Human Resources. The employee is responsible for keeping the Office of Human Resources notified of his or her current mailing address. The decision of the Vice President or administrative equivalent is final and will be placed in the employees personnel file within the Office of Human Resources.

6.5 Records of Disciplinary Actions.

Copies of all documents pertaining to disciplinary actions shall be filed in the employee's personnel file.