

## **ARTICLE 25 – DISCIPLINE AND DISMISSAL**

### **A. Right to Discipline and Dismissal**

The University shall have the right to discipline or discharge any non-probationary career employee for just cause. For purposes of illustration but not limitation, such actions may be taken for misconduct or failure to perform satisfactorily.

### **B. Types of Discipline**

1. The University may discipline an employee by written warning, suspension without pay, demotion, or dismissal.
  - a. A dismissal is the termination of the employment of a non-probationary regular status employee initiated by the University for any of the reasons set forth in this article.
  - b. A demotion is the assignment of an employee from his or her current position to a position in a class having a lower salary maximum, or to a position at a lower rate of pay, when such assignment is made for disciplinary reasons.
2. At least one written warning shall precede any other corrective action except when corrective action is the result of performance or conduct that an employee knows or reasonably should have known, was unsatisfactory. Such performance or conduct may include but is not limited to dishonesty, theft, misappropriation of University property, fighting on the job, insubordination, acts endangering others, or other serious misconduct.
3. A counseling memorandum does not constitute discipline for the purposes of this Article.

### **C. Investigatory Interviews**

If an employee is asked to meet with the University during any investigatory interview that could result in the imposition of discipline on the employee, the employee shall be entitled, when he or she requests it, to have a representative present during such meeting. The right to representation shall not unduly delay the meeting.

### **D. Investigatory Leave**

In order to review or investigate allegations of conduct which, in the University's view, would warrant relieving the employee immediately from all work duties, the University may place an employee on investigatory leave without prior notice. Investigatory leave periods shall be limited to thirty (30) working days, unless the Union and the University mutually agree to extend the investigatory leave period.

If, upon conclusion of an investigation, neither suspension without pay nor discharge is determined by the University to be appropriate, the employee shall be paid for the time on investigatory leave. Investigatory leave may exceed thirty (30) working days. If a suspension without pay is determined to be the appropriate discipline, a maximum of thirty (30) working days of the investigatory leave period may be applied to such suspension.

## **E. Notice of Intent**

1. The University shall provide written notice of the intent to impose a disciplinary suspension without pay for more than five (5) working days, disciplinary demotion and/or dismissal. The written notice shall be given to the employee either by delivery of the notice to the employee in person or by placing the notice of intent in the United States Mail, certified with return receipt requested, addressed to the employee at the employee's address of record as defined in Article 3 - Definitions, Section B. The notice of intent shall be accompanied by "proof of service" indicating the date which the notice of intent was personally delivered or mailed, and this date shall constitute the "date of issuance" of the notice of intent. A certified copy of the notice shall be sent to SETC-United at its Main Office in Orange, California.
2. The notice of intent shall:
  - a. Inform the employee of the disciplinary action(s) intended, the reason(s) for such action(s), and the effective date of the action(s) and where the notice of intent shall be for dismissal following a period of investigatory leave, inform the employee of the University's intention that a maximum of thirty (30) working days shall be without pay;
  - b. Include illustrative materials relied upon to support the disciplinary action, if any;
  - c. Inform the employee of the right to respond, either in writing or orally at a meeting with the appropriate University officials, of the employee's right to representation at any such meeting, the person to whom any response must be directed, and the fact that such response must be received within fourteen (14) calendar days from the date the notice was issued.; and,
  - d. Notices of intent shall be issued no later than thirty (30) calendar days from the date(s) of the conclusion of all University investigations.

## **F. Response to Notice**

1. After review of an employee's timely response to a notice of intent, if any, the University shall notify the employee of any action(s) to be taken. Such action(s) may not constitute discipline more severe than that described in the notice of intent.
2. The holding of a Disciplinary Review Conference pursuant to Section F below will constitute the employee's response to the University's notice of intent.
3. Nothing in this Article shall be construed as preventing the University from imposing any discipline it deems less severe than that set forth in the notice of intent without issuing a new notice of intent.

## **G. Disciplinary Review Conference**

Within fourteen (14) calendar days of the date the notice of intent was issued, the Union may request a Disciplinary Review Conference. Such request shall be directed to the Campus Labor Relations Director's Office.

Within seven (7) calendar days of the request, Campus Labor Relations Director or designee shall convene a Disciplinary Review Conference. At the conference, the Union shall be entitled to give a response, orally or in writing, including any facts or arguments which the employee and/or the Union wishes to convey to the University before the University reaches a final decision on the action(s) to be taken.

Within five (5) calendar days after the conclusion of the conference, the University will notify the employee and the Union of any action(s) to be taken in accordance with Section D above.

Within twenty (20) calendar days of the receipt of the University's decision, the Union may file for arbitration in accordance with Article 27 - Arbitration Procedure.

If the Union utilizes the Disciplinary Review Conference, neither the Union nor the employee can utilize the grievance procedure.

No new known additional facts or arguments may be introduced by the parties in an arbitration hearing that have not been made known to the other party prior to the arbitration.

The time limits set forth in this section may be extended only by prior written mutual agreement of the Campus Labor Relations Director or designee and the Union Business Representative.

#### **H. Removal of Written Warnings**

A written warning shall be destroyed eighteen (18) months after the date of issuance if during that time there has been no further disciplinary action taken against the employee. A written warning cannot be used to support subsequent discipline if there has been no further disciplinary action within eighteen (18) months following the issuance of the written warning.

#### **I. Written Warnings**

Written warnings, unless used as a basis for subsequent disciplinary suspension or discharge, or unless the warning involves allegations of dishonesty, e.g., fraud or theft, or moral turpitude, e.g., violation of the University's Policy Against Sexual Harassment, are not subject to Arbitration.