



Handbook of Operating Procedures

Section: 7.7.2
Originally Approved: 10/05/1990
Last Amended: 06/06/2011
Last Reviewed: 06/06/2011
Page: 1 of 9

DISCIPLINE AND DISMISSAL OF CLASSIFIED STAFF EMPLOYEES

A. Purpose

The purpose of this policy is to provide a procedure for the discipline and dismissal of classified staff employees who are subject to its provisions.

B. Persons Affected

This policy applies to all classified staff employees.

C. Policy

It is the policy of The University of Texas-Pan American 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. Classified staff employees are at-will employees who serve without tenure. No provision of this policy and the procedures that follow shall confer rights to employees that are contrary to the employment-at-will doctrine.

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

1. University police or faculty who are subject to other approved discipline or dismissal procedures;
2. Suspension with pay pending investigation of allegations relating to an employee;
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 *Rules and Regulations* of The University of Texas System Board of Regents or the *Handbook of Operating Procedures* of The University of Texas-Pan American;
4. Administrative and professional employees who are appointed to positions without fixed term and serve at the pleasure of a specific administrative officer;
5. Persons who are employed in positions that require student status as a condition of employment; or
6. Dismissal of employees:



Handbook of Operating Procedures

Section: 7.7.2
Originally Approved: 10/05/1990
Last Amended: 06/06/2011
Last Reviewed: 06/06/2011
Page: 2 of 9

DISCIPLINE AND DISMISSAL OF CLASSIFIED STAFF 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 reorganization or 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,
- g. who have not attained or maintained the necessary certification, licensure, clearance or suitability (this includes but is not limited to maintaining a satisfactory criminal background as determined by the appropriate Vice president or his/her designee in accordance with [Handbook of Operating Procedures Section 4.1.2](#)) for their position, or
- h. who have exhausted applicable leave entitlements.

D. Definitions

1. *Classified Staff Employee.* Staff employees appointed to positions in the classified service under one of the official titles identified in the Classified Employees Institutional Pay Plan. Classified staff employees may be FLSA-exempt or FLSA nonexempt.
2. *At-will Employees.* Employees who serve without tenure. University classified and administrative and professional employees are at-will employees.
3. *Work Performance.* All aspects of an employee's work including the performance of job duties and adherence to work conduct standards.

E. Responsibilities

1. Each employee is responsible for:
 - a. familiarizing himself/herself with performance criteria for his/her particular job and with all rules; procedures and standards of conduct established by the University, UT System Board of Regents, UT System Administration, and his/her department or unit;



Handbook of Operating Procedures

Section: 7.7.2
Originally Approved: 10/05/1990
Last Amended: 06/06/2011
Last Reviewed: 06/06/2011
Page: 3 of 9

DISCIPLINE AND DISMISSAL OF CLASSIFIED STAFF EMPLOYEES

- b. maintaining satisfactory work performance standards and standards of conduct suitable and acceptable to the work environment; and
 - c. complying with the appeal procedures set forth in this policy.
2. Each supervisor is responsible for:
- a. taking appropriate disciplinary action when the work performance of an employee is below standard or for unacceptable conduct of an employee;
 - b. investigating incidents that involve the potential for disciplinary action;
 - c. communicating with Human Resources regarding proposed disciplinary actions; and
 - d. complying with the procedures set forth in this policy.
3. Each vice president or administrative equivalent is responsible for:
- a. hearing disciplinary appeals or appointing a delegate to hear the appeal; and
 - b. providing a written decision to the employee after the close of a hearing.

F. Procedures

1. Employee Standard of Conduct

Each employee is expected to become familiar with the performance criteria for his/her particular job and with all rules, procedures and standards of conduct established by the Board of Regents, UT System Administration, The University of Texas-Pan American, 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.

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.



Handbook of Operating Procedures

Section: 7.7.2
Originally Approved: 10/05/1990
Last Amended: 06/06/2011
Last Reviewed: 06/06/2011
Page: 4 of 9

DISCIPLINE AND DISMISSAL OF CLASSIFIED STAFF EMPLOYEES

b. Unacceptable Conduct

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

- i. falsification of time sheets, personnel records, or other University records;
- ii. neglect of duties;
- iii. smoking anywhere except in designated smoking areas;
- iv. gambling or participating in lotteries or any other games of chance on premises at any time;
- v. soliciting or collecting money or circulating petitions on the premises other than within the rules and regulations of the University;
- vi. bringing intoxicants or drugs onto the premises of the University, using intoxicants or drugs on the premises at any time, having intoxicants or drugs in one's possession on the premises at any time, or being under the influence of intoxicants or drugs on the premises at any time;
- vii. abuse or waste of tools, equipment, fixtures, property, supplies, or goods of the University;
- viii. creating or contributing to unhealthy or unsanitary conditions;
- ix. violation of safety rules or accepted safety practices;
- x. failure to cooperate with supervisor or co-worker, impairment of function of work unit, or disruptive conduct;
- xi. disorderly conduct, harassment of other employees (including sexual harassment), or use of abusive language on the premises;
- xii. fighting, encouraging a fight or threatening, attempting or causing injury to another person on the premises;
- xiii. theft, dishonesty, or unauthorized use of University property, including records and confidential information;



Handbook of Operating Procedures

Section: 7.7.2
Originally Approved: 10/05/1990
Last Amended: 06/06/2011
Last Reviewed: 06/06/2011
Page: 5 of 9

DISCIPLINE AND DISMISSAL OF CLASSIFIED STAFF EMPLOYEES

- xiv. creating a condition hazardous to another person on the premises;
- xv. destroying or defacing University property or records or the property of a student or employee;
- xvi. refusal of an employee to follow instructions or to perform designated work that may be required for an employee, or refusal to adhere to established rules and regulations; or
- xvii. repeated tardiness or absence, absence without proper notification to the supervisor, or absence without satisfactory reason or unavailability for work.

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 Assistant Vice President for Business Affairs/Director of Human Resources or his/her designee.
- b. Once the supervisor has sought and obtained the concurrence of the Assistant Vice President for Business Affairs/Director of Human Resources or his/her designee, he/she must then obtain the concurrence of the department head or administrative equivalent to whom he/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 either verbally or in writing within a reasonable time not to exceed two (2) 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 response that the decision to take disciplinary action is incorrect or mistaken, the supervisor will proceed to impose the disciplinary action. The supervisor shall inform the employee in writing of the following:



Handbook of Operating Procedures

Section: 7.7.2
Originally Approved: 10/05/1990
Last Amended: 06/06/2011
Last Reviewed: 06/06/2011
Page: 6 of 9

DISCIPLINE AND DISMISSAL OF CLASSIFIED STAFF EMPLOYEES

- i. whether the disciplinary action is a demotion, suspension without pay, or dismissal, and its effective date;
- ii. a specific period for a suspension without pay, not to exceed one (1) month;
- iii. the specific incident, conduct, course of conduct, unsatisfactory work performance, or other basis for the disciplinary action;
- iv. any previous efforts to make the employee aware of the need to change or improve work performance or conduct; and
- v. reference to any relevant rule, regulation, or policy.

4. Upon Employee Benefits

- a. An employee who is demoted or suspended without pay continues to accrue vacation and sick leave, to be covered by group insurance and to be entitled to other employee benefit programs.
- b. 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.
- c. 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. Employee benefits such as vacation and sick leave shall be credited back to the date of dismissal.

5. Procedure for Appeal

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 request for a hearing to the vice president or administrative equivalent for the employee's department. The request must be made within ten (10) working days following the date of the disciplinary action. The failure of the employee to submit the appeal in a timely manner shall constitute a withdrawal of the appeal. The vice president or administrative equivalent shall, at his/her discretion, either hear the appeal in person or appoint a delegate(s) to hear the appeal. The hearing shall be conducted as soon as practical pursuant to the following procedures.



Handbook of Operating Procedures

Section: 7.7.2
Originally Approved: 10/05/1990
Last Amended: 06/06/2011
Last Reviewed: 06/06/2011
Page: 7 of 9

DISCIPLINE AND DISMISSAL OF CLASSIFIED STAFF EMPLOYEES

a. Naming of Delegate

If the vice president or administrative equivalent elects to appoint a delegate(s) to hear the appeal, the name or names will be furnished to the employee as soon as practical after the selection is made. If more than one person is appointed, one of them shall be designated in the notice to the employee to serve as chair.

b. Challenges as to Fairness

An employee may challenge the fairness and impartiality of the vice president or administrative equivalent or an appointed delegate(s). The challenge must be in writing and must clearly state the factual basis for the challenge. A challenge of the vice president or administrative equivalent must be made within five (5) days of the date of the request for a hearing, and a challenge of a delegate(s) must be made within five (5) days after the date of the notice appointing the delegate(s). It shall be up to the person challenged to determine whether he/she can serve with fairness and impartiality. If the challenged vice president or administrative equivalent determines that he/she cannot be fair and impartial in the consideration of the appeal, he/she shall appoint a delegate(s) to hear the appeal. If a challenged delegate(s) determines that he/she cannot be fair and impartial in the consideration of the appeal, the vice president or administrative equivalent shall appoint another delegate(s).

c. Exchange of Information

At least five (5) working days prior to the time set for the hearing, the institutional representative for the appeal and the employee shall furnish each other with the names of the witnesses to be called, a summary of their expected testimony, and a copy of each document, record, or exhibit to be introduced at the hearing.

d. Chair

The vice president or administrative equivalent or the delegate designated as chair shall preside at the hearing and ensure the order of presentation as well as decide on questions of relevancy. The chair shall also have the discretion to determine the length of the hearing and the form and scope of cross-examination allowed during the hearing. Upon request, the chair may consult with and be advised by counsel during the hearing.

e. Right to Representation



Handbook of Operating Procedures

Section: 7.7.2
Originally Approved: 10/05/1990
Last Amended: 06/06/2011
Last Reviewed: 06/06/2011
Page: 8 of 9

DISCIPLINE AND DISMISSAL OF CLASSIFIED STAFF EMPLOYEES

The employee has the right to be represented at the hearing by an attorney or other individual representative. If the employee is represented by an attorney or an individual from an employee organization, the University may be represented by an attorney from the Office of General Counsel of The University of Texas System.

f. Record of the Hearing

In all appeal hearings, the University shall make a tape recording of the hearing and make a copy of the tape available to the employee on request. The tape recording of the proceedings shall be the official record of the hearing.

g. Burden of Proof

The University shall demonstrate by the greater weight of the credible evidence that the disciplinary action should be sustained. The University shall present its case first after which the employee shall present his/her case.

h. Evidence

The hearing shall consist of testimony by witnesses called by the University and the employee, with both parties having the right to cross-examine witnesses. Relevant exhibits may be introduced by either party, and the chair shall take notice of the employee's personnel record.

i. Witnesses

Any employee may be asked to appear as a witness for either party. It shall be the duty of an employee requested to testify to do so as to any facts which may be relevant to the appeal. It is the responsibility of each party to assure attendance by its witnesses.

j. Notification to the Vice President

The delegate(s) shall deliberate, prepare, and forward written findings and recommendations to the vice president or administrative equivalent within ten (10) working days after the close of the hearing.

k. Employee Notification

The vice president or administrative equivalent shall mail his/her decision to the employee within ten (10) working days following the receipt of the findings and recommendations from the delegate(s). If the vice president or administrative



Handbook of Operating Procedures

Section: 7.7.2
Originally Approved: 10/05/1990
Last Amended: 06/06/2011
Last Reviewed: 06/06/2011
Page: 9 of 9

DISCIPLINE AND DISMISSAL OF CLASSIFIED STAFF EMPLOYEES

equivalent has heard the appeal, he/she shall mail a written decision to the employee within ten (10) working days after the close of the hearing. The decision of the vice president or administrative equivalent is final.

1. Records of Disciplinary Actions

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

m. Authority/Related Policies

- i. [Regents' Rules and Regulations, Series 30601](#)
- ii. [Regents' Rules and Regulations, Series 30103](#)

G. Review

The Divisional Head for this policy is the Vice President for Business Affairs, and this policy shall be reviewed every five years or sooner, if necessary, by the following Stakeholders:

1. Assistant Vice President for Business Affairs/Director of Human Resources – Senior Reviewer
2. Staff Senate Chair