



SUB-TOPIC

**DISCIPLINE AND DISMISSAL OF CLASSIFIED EMPLOYEES**

**I. Policy and Purpose**

It is the policy of The University of Texas at Dallas (University) 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 follows shall confer rights to employees that are contrary to the employment-at-will doctrine.

**II. 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:

- A. Institutional police or faculty who are subject to other approved discipline or dismissal procedures;
- B. Suspension with pay pending investigation of allegations relating to an employee;
- C. 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;
- D. Administrative and professional employees who are appointed to positions without fixed term and serve at the pleasure of a specific administrative officer;
- E. Persons who are employed in positions that require student status as a condition of employment; or
- F. Dismissal of employees
  - 1. who occupy positions that are dependent upon funding from a specific source and such funding is not received;
  - 2. as a result of a reduction in force;
  - 3. due to financial exigency;
  - 4. during any probationary period of employment;
  - 5. who are appointed for a stated period that is less than 180 days;
  - 6. who are appointed at a per diem or hourly rate and work on an as needed basis;
  - 7. who have not attained the necessary clearance, certification or licensure for their position; or
  - 8. who have exhausted applicable leave entitlements.



SUB-TOPIC

**DISCIPLINE AND DISMISSAL OF CLASSIFIED EMPLOYEES, CONT.**

**III. Discipline and Dismissal Policy and Procedures**

**A. 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, 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.

**B. Conduct Subject to Disciplinary Action**

**1. 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.

**2. 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:

- a. falsification of time sheets, personnel records, or other institutional records;
- b. neglect of duties;
- c. smoking anywhere except in designated smoking areas;
- d. gambling, participating in lotteries or any other games of chance on the premises at any time;
- e. soliciting, collecting money or circulating petitions on the premises other than within the rules and regulations of the institution;
- f. bringing intoxicants or drugs onto the premises of the institution, 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;
- g. abuses or waste of tools, equipment, fixtures, property, supplies or goods of the institution;
- h. creating or contributing to unhealthy or unsanitary conditions;
- i. violations of safety rules or accepted safety practices;



SUB-TOPIC

**DISCIPLINE AND DISMISSAL OF CLASSIFIED EMPLOYEES, CONT.**

- j. failure to cooperate with supervisor or co-worker, impairment of function of work unit or disruptive conduct;
- k. disorderly conduct, harassment of other employees (including sexual harassment) or use of abusive language on the premises;
- l. fighting, encouraging a fight or threatening, attempting or causing injury to another person on the premises;
- m. theft, dishonesty, or unauthorized use of institutional property including records and confidential information;
- n. creating a condition hazardous to another person on the premises;
- o. destroying or defacing institutional property or records or the property of a student or employee;
- p. 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 rules and regulations; or
- q. repeated tardiness or absence, absence without proper notification to the supervisor or without satisfactory reason, or unavailability for work.

**C. 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.

1. The supervisor will review the evidence and the proposed disciplinary action with the chief human resources officer or his or her designee.
2. 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.
3. The supervisor shall inform the employee either verbally or 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.



ADMINISTRATIVE  
POLICIES AND PROCEDURES MANUAL

SUBJECT

**DISCIPLINE/DISMISSAL**

SUB-TOPIC

**DISCIPLINE AND DISMISSAL OF CLASSIFIED EMPLOYEES, CONT.**

4. 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:
  - a. whether the disciplinary action is a demotion, suspension without pay, or dismissal and its effective date;
  - b. a specific period for a suspension without pay, for not less than one week for FLSA exempt employees and not to exceed one (1) month for any employee;
  - c. the specific incident, conduct, course of conduct, unsatisfactory work performance or other basis for the disciplinary action;
  - d. any previous efforts to make the employee aware of the need to change or improve work performance or conduct; and
  - e. reference to any relevant rule, regulation or policy.

**D. 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 and to be entitled to other employee benefit 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. Employee benefits such as vacation and sick leave shall be credited back to the date of dismissal.

**IV. 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 or 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.



SUB-TOPIC

**DISCIPLINE AND DISMISSAL OF CLASSIFIED EMPLOYEES, CONT.**

- 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 or she can serve with fairness and impartiality. If the challenged vice president or administrative equivalent determines that he or she cannot be fair and impartial in the consideration of the appeal, he or she shall appoint a delegate(s) to hear the appeal. If a challenged delegate(s) determines that he or 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  
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 institution may be represented by an attorney from the institution or the Office of General Counsel of The University of Texas System Administration.
  
- F. Record of the Hearing  
In all appeal hearings the institution 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 institution shall demonstrate by the greater weight of the credible evidence that the disciplinary action should be sustained. The institution will present its case first after which the employee shall present his or her case.



SUB-TOPIC

**DISCIPLINE AND DISMISSAL OF CLASSIFIED EMPLOYEES, CONT.**

- H. Evidence  
The hearing shall consist of testimony by witnesses called by the institution 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 can 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 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 or 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 equivalent has heard the appeal, he or 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.

**V. Records of Disciplinary Actions**

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