

ARTICLE X
DISCIPLINARY ACTION

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X.1 Policy The purpose of this Article is to provide a prompt and equitable procedure for disciplinary action.

(a) Just Cause. No academic professional shall be subject to disciplinary action in the absence of just cause. Just cause shall be defined here as incompetence, or misconduct that meets the standards of the seven tests for just cause: adequate warning, reasonableness, completeness of investigation, objectivity of investigation, proof of infraction, equal treatment, and reasonableness of discipline.

(b) An employee’s activities which fall outside the scope of employment shall constitute misconduct only if such activities adversely affect the legitimate and compelling interests of the University.

(c) Disciplinary Action Other than Termination. The University retains the right to impose disciplinary action other than termination including, but not limited to, suspension with or without pay, provided that the punishment is appropriate to the degree of misconduct. The degree of discipline may be related to behavior or actions subject to discipline. Admonitions, oral reprimands, letters of counseling (including recommended or mandatory participation in an Employee Assistance Program), and similar criticism shall not be considered disciplinary action and shall not be subject to the grievance procedure.

(d) Due Process.

(1) Disciplinary action shall be imposed by the University in accordance with the principles of due process as outlined in this Article and in Article XX(Investigation of Formal Complaints of Discrimination or Harassment).

(2) No academic professional shall be deprived of pay or benefits resulting from a disciplinary action until after the grievance process ends with an outcome that allows the discipline.

(e) No provisions in this Article shall be interpreted in a manner that violates an academic professional’s rights conferred by this Agreement or by law, nor shall an academic professional be punished for exercising such rights in the performance of University duties.

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39 X.2 Progressive Discipline. Both parties endorse the principle of progressive discipline
40 as applied to professionals. In all cases, the discipline selected for a particular offense
41 must be appropriate to the nature and circumstances of the case.

42 Outlined below are the steps for academic professional progressive discipline.

43 (a) The University may combine or skip steps depending upon the facts of the situation,
44 the nature of the conduct, and any documented past incidents.

45 (b) The sanctions for disciplinary actions that may be imposed on an academic
46 professional may include but are not limited to the following:

47 (1) Written reprimand containing a description of the just cause.

48 a. Written reprimand is distinguished from an informal written or spoken warning.

49 b. A written reprimand shall be delivered to the recipient and maintained in the
50 academic professional's designated personnel file.

51 (2) Suspension with or without pay for a period of time specified in writing.

52 a. The written statement of suspension shall include the precise terms of the suspension.

53 Those terms may include some or all of the following: loss of normal academic
54 professional privileges such as access to University property, participation in
55 departmental government, voting rights, administration of grants, supervision of
56 graduate students, loss of parking or library privileges, and use of University
57 administrative staff.

58 b. Suspension as a disciplinary action is to be distinguished from administrative leave,
59 which is a precautionary action.

60 (3) Demotion to the next lower rank or step with corresponding reduction in salary.

61 (4) Termination.

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63 X.3 Investigation. The investigation of alleged misconduct shall be conducted in as
64 confidential a manner as possible, and in the process of the investigation the alleged
65 misconduct shall be considered in the context of the circumstances.

66 (a) The investigation shall include interviewing the complainant, the accused, any
67 pertinent witnesses, and reviewing any relevant documentation. The accused academic
68 professional must be informed that they have a right to union representation during
69 investigatory questioning that may reasonably be expected to result in disciplinary
70 action. A failure to provide such notice shall not constitute grounds to reverse a
71 disciplinary action; however, it may be used as a factor that the arbitrator may consider
72 when determining whether the disciplinary action imposed is appropriate. The accused
73 shall (1) be informed of the complaint, the complainant, and the time frame of the
74 alleged incident or actions; (2) be provided any documents under review in the

75 investigation and redacted as required by law; (3) be informed within seven (7) days of
76 any expansion of the complaint under review; and (4) have the right to respond to any
77 report of the investigation.

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79 (b) Administrative Leave. In the event that the University has reason to believe that the
80 academic professional's actions or presence on the job would adversely affect the
81 orderly conduct and processes of the university, and/or jeopardize the safety or welfare
82 of the academic professional, colleagues, other employees, or students, the academic
83 professional may be reassigned or relieved of duties with pay during the investigation.
84 Administrative leave is not discipline.

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86 X.4 Notice of Intent. When the University has reason to believe that a suspension or
87 termination should be imposed, the University shall provide the accused academic
88 professional with written notice of the proposed action and the specific reasons for it.

89 (a) Such notice of intent shall be sent by certified mail, return receipt requested, or
90 delivered in person with written documentation of receipt obtained.

91 (b) The academic professional shall be given fifteen (15) days from delivery of the
92 notice in which to respond in writing to the University before the proposed action is
93 taken. The

94 University then may issue a notice of disciplinary action under Section X.5 (Notice of
95 Discipline).

96 (c) If the University does not issue a notice of disciplinary action, no record of the
97 allegation or the investigation shall be retained in the academic professional's personnel
98 file. If an applicable law requires the university to keep for a specified period the record
99 of a complaint that does not result in disciplinary action, once the end of that period is
100 reached the University shall destroy the record of the complaint.

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102 X.5 Notice of Discipline. If after the investigation and notice of intent process, the
103 University believes that a suspension or termination should be imposed, University shall
104 provide the academic professional with a written notice of disciplinary action.

105 (a) All such notices shall be sent certified mail, return receipt requested, or delivered in
106 person to the academic professional with written documentation of receipt obtained.

107 (b) All notices of disciplinary action shall include a statement of the reasons for the
108 disciplinary action and a statement advising the academic professional that the action is
109 subject to

110 Article XX, Grievance and Arbitration Procedure.

111 (1) The Notice of Discipline shall:

- 112 a. Provide notice to the academic professional of the discipline imposed;
113 b. Include the date on which the discipline will become effective, provided that in the
114 case of suspension or termination without pay, such pay and benefits shall not be denied
115 until the period for filing a grievance has elapsed and the academic professional has not
116 filed a grievance; and
117 c. Contain a statement that if the academic professional wishes to contest the discipline,
118 the academic professional must file a grievance within thirty (30) days after receipt of
119 the notice.
120 (2) A copy of the Notice of Discipline and attachments shall be simultaneously provided
121 to UFF.
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124 X.6 Employee Assistance Program. Neither the fact of an employee’s participation in an
125 Employee Assistance Program (EAP), nor information generated by participation in the
126 program, shall be used as a reason for discipline under this Article. However, an
127 academic professional’s failure to cooperate in a mandatory EAP may serve as grounds
128 for disciplinary action.