

Memo to: All UH-Downtown/PS Holders

UH-Downtown/PS 02.B.03

Issue No. 7

From: Juan Sánchez Muñoz, President

Effective Date: 02/21/2020

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Subject: Discipline and Dismissal of Regular Staff Employees Policy

## 1. PURPOSE

This policy provides guidelines that describe regulations and procedures to protect the rights of both management and employees in the event that discipline and/or dismissal of a regular staff employee occurs.

## 2. DEFINITIONS

- 2.1 Discipline: Any action or series of actions instituted in an attempt to ensure effective job performance and/or conduct and/or conformance with established work guidelines.
- 2.2 Dismissal: Termination of an employee. Dismissal represents the end of the disciplinary process.
- 2.3 Grievance: A disagreement between an employee and management on the terms or conditions of employment. A grievance may include, but is not limited to, involuntary transfer to a different job classification, denial of promotion, discipline, reprimand, demotion, suspension without pay, working conditions or dismissal. The assignment of duties, performance evaluation, determination of work hours, rate of pay, and other management responsibilities are reserved as management rights and cannot be appealed through the grievance process. Complaints involving allegations of discrimination/harassment are processed through [SAM 01.D.07 Anti-Discrimination Policy](#).
- 2.4 Significant Offenses, Significant Acts of Misconduct, or Significant Rule Violations: Any willful, deliberate, or negligent act or offense/violation or a series of offenses/violations of University policies or regulations of such a degree that continued employment of the offending individual may not be desirable.
- 2.5 Progressive Discipline: A system involving increasingly severe penalties each time an employee is disciplined for the same offense/violation, a similar offense/violation, a series of offenses/violations or one very significant offense/violation. The sequence from least severe to most severe is: verbal counseling, written reprimand, suspension without pay, and dismissal.
- 2.6 Regular Staff Employee: A non-probationary University employee who is employed on a regular basis for a period of at least 4.5 months, excluding students employed in positions for which student status is required as a condition of employment, and who does not hold a teaching and/or research position classified as faculty.

- 2.7 Non-Regular Staff Employee: A University employee working in a position designated as temporary, e.g., one requiring student status as a condition of employment and/or lump sum.
- 2.8 Probationary Period: The initial six months of employment for non-exempt staff employees and one year for exempt employees are probationary. During the probationary period, the supervisor has an opportunity to determine if the employee has the skills and abilities necessary to perform the duties required of the position, and the new employee may assess whether a working relationship should continue.
- 2.9 Demotion: A change in duty assignment(s) to a position of lower rank/grade or a decrease in salary within the same or different position.
- 2.10 Adverse Employment Actions: Adverse employment actions is defined as written reprimand, suspension without pay, demotion, involuntary transfer to a different job classification, denial of promotion, or termination.

### **3. POLICY**

- 3.1 The University of Houston-Downtown (UHD) is committed to fair, efficient, and equitable solutions to problems arising out of the employment relationship. Clear guidelines providing for both informal and formal disciplinary measures have been developed and are provided in this policy to ensure that fair and equitable treatment is provided; that requirements of the laws are met; and that the rights of both management and employees are honored during the discipline and dismissal process.
- 3.2 The University shall formulate, publish, and enforce rules and regulations which are essential to the safe and efficient conduct of institutional operations. Supervisory personnel are responsible for informing employees of rules to be followed, standards of conduct to be met, and work performance to be achieved. Employees are responsible to learn and to abide by the rules, procedures and standards of the University, its departments and its constituents. Employees who fail to abide by such rules, regulations, and standards may be subject to disciplinary action up to and including dismissal.
- 3.3 Nothing in this policy shall be used as the basis for illegal discrimination or retaliation against any individual or group based on race, sex, age, color, religion, national origin, disability, sexual orientation or veteran status.
- 3.4 Nothing in this policy creates a contract or property right to continued employment or changes the employment-at-will relationship between the employee and the employer.
- 3.5 Adherence to the regulations and procedures provided in this policy will ensure the following:

- 3.5.1 A progressive system of discipline designed to remedy deficiencies, when possible and practicable, to the mutual advantage of the institution and the employee
  - 3.5.2 An orderly process for fair, consistent, and impartial treatment of disciplinary matters
  - 3.5.3 A mechanism for ensuring that consideration is given to employee and management concerns in disciplinary matters
- 3.6 Exemptions from the Discipline and Dismissal Process
- 3.6.1 Presidential Exemptions: The President may designate specific executive and senior administrative positions as exempt from the general discipline and dismissal policy, subject to the approval of the Board of Regents. Continuous service in positions so designated will be at the pleasure of the President. Individuals in these positions will be informed of the terms of their appointment, and records of these designations will be maintained by Employment Services and Operations (ESO). If a designated position involves a joint faculty appointment, the faculty appointment will be subject to University faculty policies and procedures.
  - 3.6.2 Probationary Period: A regular non-exempt staff employee is probationary and serves at the pleasure of the hiring department during the first six months of continuous employment at the University of Houston-Downtown or during the first six months of re-employment following a break in service for any reason other than a recall to work after an approved reduction in force. All regular exempt staff employees are probationary for the first 12 months of employment or re-employment following a break in service for any reason other than a recall to work after an approved reduction in force. At any time during this initial probationary period, the employee may be terminated without application of the discipline and dismissal policy and procedure. If the probationary period is interrupted by any authorized leave other than earned sick leave, the probationary period will be extended by the amount of time the employee is absent from work.
  - 3.6.3 Reduction In Force (RIF): Terminations due to a formal Reduction In Force are governed by [SAM 02.A.06, Reduction in Force of Regular Staff Employees](#) and are not subject to the discipline and dismissal policy and procedures.
  - 3.6.4 Inability to Perform: An employee who, after all available leave has been exhausted, is unable to return to work to perform job functions for medical reasons other than a Workers' Compensation injury, may be terminated without application of the discipline and dismissal policy and procedures. Such terminations are not considered disciplinary in nature. ESO must review all such terminations before any action is taken.

- 3.6.5 Job abandonment: An employee who fails to report to work and fails to follow departmental guidelines for notification of absence for more than three consecutive work days may be considered to have abandoned his/her job. Job abandonment is a form of resignation, and the employee may be released without application of the discipline and dismissal policy and procedures. An employee contesting the termination by tendering an acceptable reason for failure to report for duty and failure to follow departmental guidelines for notification of absence may be reinstated to the position under certain circumstances. The reason must be presented in writing to the department head within a reasonable period of time prior to the employment of another individual in the vacant position. Typically the employee's explanation should be submitted within five (5) business days from the date of the termination to be considered. The department head will consult with the Vice President for Employment Services and Operations to determine whether the reason provided is sufficient to excuse the failure to report to work. The department head will issue a written response to the employee within five (5) business days of receipt of the employee's submission.
- 3.6.6 This policy does not apply to temporary/contract employees, non-regular staff employees, or student workers. Employees of these types can be terminated without notice and/or cause.
- 3.7 Grounds for Disciplinary Action or Dismissal. The University has the right to discipline or summarily discharge a regular staff employee. The following list of infractions may result in disciplinary action up to and including dismissal. This list is in no way inclusive of all possible infractions that may result in disciplinary action:
- 3.7.1 Repeated or flagrant acts of inefficiency, incompetence, or negligence in the performance of duties
- 3.7.2 Continued tardiness or excessive absenteeism, including absence without approved leave; habitual improper use of sick leave; habitual pattern of failure to report for duty at the assigned time and place
- 3.7.3 Improper use of University property or equipment, including waste of materials, supplies or technology resources, and/or carelessness resulting in damage to University's tools, equipment, supplies or other property
- 3.7.4 Unacceptable use of the Internet, including use of departmental computers, equipment and/or networks to access, display, store, print, copy or transmit any obscene, harassing and/or discriminatory materials (as commonly defined by applicable Federal and/or Texas laws) or use for private business or financial gain
- 3.7.5 Falsification of information to secure a University position or other benefit

- 3.7.6 Failure to obtain or properly maintain a current license or certificate required by law as a condition for performing the job
- 3.7.7 Unprofessional conduct, including but not limited to, use of offensive or obscene language, offensive behavior, misconduct, etc.
- 3.7.8 Possession of illegal and/or unauthorized drugs on University premises or while on University business; the abuse of drugs and/or alcohol and/or illegal or unauthorized drugs, including any habit-forming or disabling substance not prescribed for the employee by a physician
- 3.7.9 Possession of unauthorized and unlawful firearms or other dangerous weapons on University premises
- 3.7.10 Commission of an act which could constitute a violation of federal, state, or local criminal laws
- 3.7.11 Unauthorized release of confidential information from University records
- 3.7.12 Engaging in employment or discharging duties which present a conflict of interest
- 3.7.13 Accepting of gifts, monies, or other items of value intended as an inducement to perform or refrain from performing any official act
- 3.7.14 Commission of any act of moral turpitude, including sexual harassment or sexual assault of another employee, student, or visitor
- 3.7.15 Participation in any action that would disturb the safe and efficient operation of UHD
- 3.7.16 Participation in or knowledge of dishonest actions, including, but not limited to, theft, misappropriation or unauthorized use of University funds or property or failure to report knowledge thereof (knowledge includes, but is not limited to, witnessing the dishonest act or receiving direct information from the perpetrator of the act)
- 3.7.17 Insubordination, refusal or failure to follow directives or perform work properly assigned by a supervisor; and/or willful disobedience
- 3.7.18 Criminal conduct, or employee's failure to report his/her criminal conduct, that would adversely affect an employee's work performance, impact the work environment, or cause major discredit or embarrassment to the University, including commission of any criminal act when the University is the victim or any criminal act against another party on the University's premises

- 3.7.19 Failure to pay monies owed or satisfy other personal financial indebtedness to any component of the University of Houston System
  - 3.7.20 Repeated and/or serious violations of the University [Sexual Misconduct Policy SAM 01.D.08](#), [Anti-Discrimination Policy \(SAM 01.D.07\)](#), [Affirmative Action Policy \(PS 02.A.20\)](#) and [Equal Opportunity Policy \(PS 02.A.21\)](#); and/or any other discrimination/harassment policy
  - 3.7.21 Failure to report an incident of sexual assault, sexual harassment, stalking or intimate partner violence as required by the Sexual Misconduct Policy ([SAM 01.D.08](#)).
  - 3.7.22 Failure to comply with the [Consensual Relationship Policy \(SAM 01.D.10\)](#), which prohibits any consensual dating, intimate romantic, and/or sexual relationship between employees and individuals that the employee has purview over.
  - 3.7.23 Disorderly conduct or abusive language on University premises
  - 3.7.24 Falsification of time sheets, personnel records or other institutional records
  - 3.7.25 Fighting, encouraging a fight or threatening, attempting or causing injury to another person on University premises
  - 3.7.26 Participation in or threats of retaliatory behavior against an employee who, in good faith, filed a complaint of misconduct or unlawful activity (Complainant); participated in the investigation of a complaint (Witness); and/or is a relative of a Complainant or Witness who is a University employee or student. Retaliatory behavior includes, but is not limited to: intimidation; unlawful discrimination; adverse employment action(s); unfavorable work assignments; salary reduction; denial of paid leave, and other undesirable action(s)
  - 3.7.27 Knowingly and intentionally making a false report of misconduct or unlawful activity
  - 3.7.28 Failure to cooperate in an internal investigation of misconduct or unlawful activity
- 3.8 Progressive Discipline. The University is responsible for explaining why an employee should be disciplined. Since the purpose of the disciplinary process is to provide remedial action whenever possible, no disciplinary measures will be undertaken without the employee's knowledge. Employees will be given an opportunity to respond, in writing, to any disciplinary action taken against them.
- 3.8.1 When possible and practical, disciplinary action will follow a progressive sequence. The normal sequence of disciplinary action is:

1. Verbal counseling
  2. Written reprimand
  3. Suspension without pay
  4. Dismissal from employment
- 3.8.2 Supervisors and management may omit any stage of the process if, in their opinion and following review/approval by the Vice President for Employment Services and Operations (VPESO), the problem cannot be corrected by a less severe form of disciplinary action.
- 3.8.3 Employees on suspension without pay shall not be eligible for promotion or merit pay increases within one year of the conclusion of such suspension without pay.
- 3.8.4 Immediate suspension with or without pay may be ordered when circumstances make attendance at work dangerous to the employee or to others, when an investigation is needed, or when circumstances seriously impair the employee's effectiveness on the job.
- 3.8.5 An employee who is suspended with or without pay will retain status as a state employee for purposes of leave accrual, group insurance coverage, holiday pay and other benefit entitlements during the suspension period.
- 3.8.6 Employees on suspension without pay shall not be permitted to use vacation, sick or holiday leave nor unused compensatory time during the suspension period.
- 3.8.7 If an employee chooses to file a grievance regarding the suspension without pay and it is subsequently determined that suspension was imposed in violation of UHD policy, the employee will receive back pay for the suspension period. The employee's department is responsible for taking all necessary steps to provide the back pay as soon as possible.
- 3.9 Suspension with Pay. An employee may be suspended from employment with pay pending investigation of the basis for the suspension, including possible investigation or review by outside agencies.

## **4. PROCEDURES**

### 4.1. Verbal Counseling

- 4.1.1 Verbal counseling between the immediate supervisor and the employee is the first step in the progressive discipline process. This involves a discussion between the supervisor and employee regarding unsatisfactory work performance, misconduct or any other infraction(s) listed under section 3.7. Continuation

of unsatisfactory work performance or misconduct may subject an employee to further disciplinary action(s).

4.1.2 The verbal counseling shall be documented by the supervisor to provide written record of the counseling and to provide the employee with a reminder of the course of action to correct the performance problem or behavior. Copies of the [Notice of Verbal Counseling](#) shall be maintained by the supervisor and shall not be filed in the employee's official personnel file in Employment Services and Operations (ESO).

4.1.3 Since verbal counseling does not become part of the employee's official personnel record it cannot be appealed through the [PS 02.B.01, Staff Grievance Policy](#).

4.1.4 A verbal counseling is considered a warning and is active for six (6) months from the date the reprimand is signed by the supervisor and will become inactive at the end of the 6-month period unless specifically documented otherwise.

## 4.2 Written Reprimand

4.2.1 When a supervisor determines that an employee has failed to respond to verbal counseling or has committed an infraction of sufficient severity a written reprimand is warranted. The [Employee Written Reprimand](#) may be prepared and forwarded to the head of the department and the VPESO for review and approval. Upon approval of the department head and the VPESO, the written reprimand will be issued to the employee. The written reprimand shall include, at a minimum, all of the following information:

- a. Identification of the problem to be corrected; the standard to be met; or the rule, policy or procedure that has been violated
- b. Recommendation of a course of action to correct the problem or conduct
- c. If appropriate, documentation of past work records that include verbal counseling or disciplinary measures taken should be attached to the written reprimand
- d. A statement of the consequences in the absence of improvement
- e. Notice that further disciplinary action, including suspension without pay or immediate discharge may occur if immediate improvement in the employee's work performance or noted deficiencies do not occur and/or new performance deficiencies surface

4.2.2 A copy of the written reprimand shall be signed by the supervisor and the employee and placed in the employee's official personnel file in ESO. The



employee's signature will acknowledge receipt of the document but may not necessarily indicate agreement with the action. If the employee refuses to sign the written reprimand, that fact should be noted on the document.

#### 4.3 Suspension Without Pay

4.3.1 Any recommendation for suspension without pay must be approved by the department head, respective vice president and VPESO.

4.3.2 For disciplinary purposes, the duration of suspension without pay will be appropriate to the gravity of the offense, but in any event may not exceed ten (10) working days.

4.3.3 If circumstances warrant suspension without pay, employees will receive a [Notice of Suspension Without Pay](#) outlining the following:

- a. The reason(s) for the suspension, including prior verbal counseling, and written reprimands, if appropriate
- b. The duration of the suspension, including the beginning and ending dates and times
- c. Notification of the employee's right to appeal the suspension in accordance with [PS 02.B.01, Staff Grievance Policy](#).
- d. Notification that if the employee fails to return to work as scheduled following the suspension and fails to provide notice to the supervisor of an acceptable reason for the absence, the employee will be considered to have terminated employment voluntarily

#### 4.4 Dismissal

4.4.1 A supervisor may recommend dismissal of a regular staff employee after progressive disciplinary measures have proven unsuccessful. Any recommendation for dismissal must be approved by the department head, appropriate vice president and VPESO prior to taking any action. Discharge without prior warnings or suspension may be justified for certain significant rule violations or significant acts of misconduct.

4.4.2 The supervisor and department head will give written notice to the employee of the dismissal from employment. The Notice of Dismissal from Employment shall contain the following information:

- a. The effective date and time of the dismissal
- b. The reason for the dismissal in sufficient detail to enable the employee to respond

- c. A description of previous attempts, if any, to correct the problem(s) which constitute the reasons for the dismissal
  - d. A statement of the employee's right to appeal the termination in accordance with [PS 02.B.01, Staff Grievance Policy](#).
- 4.4.3 Clearance. The dismissed employee is required to meet the requirements of all clearance procedures, including return of University keys, identification cards, uniforms, parking gate cards, library books, etc.

#### 4.5 Suspension with Pay

- 4.5.1 Suspension with pay is not considered a disciplinary action, rather it is action that may be taken in order to conduct an internal investigation where it has been determined that the continued presence of the employee being investigated would or could be detrimental to any aspect of the investigation. Suspension with pay attempts to provide an environment that allows for an expedited resolution.
- 4.5.2 Any recommendation for suspension with pay must be approved by the department head, respective vice president and VPESO.
- 4.5.3 The Notice of Suspension with Pay is obtained from and approved by the VPESO before the employee is notified of the suspension. The supervisor and department head then give the notice to the employee. The written notice shall include the following:
  - a. The reason(s) for the suspension
  - b. Expected duration of the suspension, including beginning and targeted ending dates and times
  - c. Notification that the employee is considered on active assignment and may be required to be available for University business during the period of the suspension, during normal work hours
  - d. Notification that if the employee fails to return to work as scheduled following the suspension with pay and fails to provide notice to the supervisor of an acceptable reason for the absence, the employee will be considered to have terminated employment voluntarily

### **5. REVIEW AND RESPONSIBILITIES**

Responsible Party (Reviewer): Vice President for Employment Services and Operations

Review: Every three years on or before September 1<sup>st</sup>.

Signed original on file in Employment Services and Operations.

## 6. POLICY HISTORY

Issue #1: 05/12/89

Issue #2: 06/08/07

Issue #3: 11/05/10

Issue #4: 04/20/15

Issue #5: 05/15/19

Issue #6: 01/10/20

## 7. REFERENCES

[SAM 01.D.07](#)

[SAM 01.D.08](#)

[SAM 01.D.10](#)

[PS 02.A.20](#)

[PS 02.A.21](#)

[PS 02.B.01](#)

[Notice of Dismissal from Employment](#)

[Notice of Suspension Without Pay](#)

[Employee Written Reprimand](#)

[Notice of Verbal Counseling](#)