

Article 16

Disciplinary Action and Job Abandonment

16.1 Just Cause.

A. The purpose of this article is to provide a prompt and equitable procedure for disciplinary action taken with just cause. Just cause shall be defined as:

- (1). incompetence, or
- (2). misconduct.

B. An employee's activities which fall outside the scope of employment shall constitute misconduct only if such activities adversely affect the legitimate interests of the University.

16.2 Progressive Discipline. Both parties endorse the principle of progressive discipline as applied to professionals. The principle of progressive discipline shall be applied to employees.

16.3 Notice of Intent. When the President or representative has reason to believe that a suspension or termination should be imposed, the President or representative shall provide the employee with a written notice of the proposed action and the reasons therefor. Such notice shall be sent certified mail, return receipt requested, or delivered in person with written documentation of receipt obtained. The employee shall be given ten (10) days in which to respond in writing to the President or representative before the proposed action is taken. The President or representative then may issue a notice of disciplinary action under Article 16.4. below. The employee has a right to union representation during investigatory questioning that may reasonably be expected to result in disciplinary action. If the President or representative does not issue a notice of disciplinary action, the notice of proposed disciplinary action shall not be retained in the employee's evaluation file.

16.4 Notice of Discipline. All notices of disciplinary action shall include a statement of the reasons therefor and a statement advising the employee that the action is subject to Article 20, Grievance Procedure and Arbitration. All such notices shall be sent certified mail, return receipt requested, or delivered in person to the employee with written documentation of receipt obtained.

16.5 Termination. A tenured appointment or any appointment of definite duration may be terminated during its term for just cause. An employee shall be given written notice of termination at least six (6) months in advance of the effective date of such termination, except that in cases where the President or representative determines that an employee's actions adversely affect the functioning of the University or jeopardize the safety or welfare of the employee,

colleagues, or students, the President or representative may give less than six (6) months notice.

16.6 Disciplinary Action Other than Termination. The University retains its right to impose disciplinary action other than termination for just cause including, but not limited to, suspension with or without pay. Counseling and Letters of Counsel of any form, including recommendations for participation in an Employee Assistance Program, shall not be considered disciplinary action and shall not be part of an employee's personnel file. If a Letter of Counsel is issued, it shall be followed by a counseling session with the designated employee and the employee's immediate supervisor. The counseling session shall describe the alleged problem behavior and outline the proposed corrective actions and the proposed future behavioral expectations. The Employee has the right to union representation during all counseling sessions.

16.7 Job Abandonment

A. If an employee is absent without authorized leave for twelve (12) or more consecutive days or a period of time that constitutes more than 15% of a term-length teaching assignment during a summer term, under the provisions of Article 17.1, the employee shall be considered to have abandoned the position and voluntarily resigned from the University. Under the provisions of Article 16.7 A, the employee who returns from an unauthorized leave and engages in another unauthorized leave of 3 days or more within a calendar year shall be subject to discipline, up to and including termination.

B. Notwithstanding Article 16.7(A), above, if the employee's absence is for reasons beyond the control of the employee and the employee notifies the University as soon as practicable, the employee will not be considered to have abandoned the position.

16.8 Employee Assistance Program. Neither the fact of an employee's participation in an employee assistance program, nor information generated by participation in the program, shall be used as a reason for discipline under this Article, except for information relating to an employee's failure to participate in an employee assistance program consistent with the terms to which the employee and the University have agreed.