

HEALTH SCIENCE CENTER HANDBOOK OF OPERATING PROCEDURES

Chapter 4	General Personnel Policies	Effective:	December 2000
Section 4.9	Performance Administration	Revised:	December 2001
Policy 4.9.4	Procedures for Discipline and Dismissal of Employees	Responsibility:	Vice President for Human Resources

PROCEDURES FOR DISCIPLINE AND DISMISSAL OF EMPLOYEES

Policy

1. It is the policy of the Health Science Center to encourage fair, efficient, and equitable solutions for problems arising out of the employment relationship and to meet the requirements of state and federal law.
2. This policy is applicable to the conduct or job performance of an employee that results in a decision to impose a disciplinary penalty of suspension without pay or dismissal.
3. The policy does not apply to University Police who are subject to other approved discipline or dismissal procedures.
4. The policy does not apply to suspension with pay pending investigation of allegations relating to an employee.
5. The policy does not apply to 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 nonrenewal as provided in the Regents' *Rules and Regulations* or the rules and regulations of the Health Science Center.
6. The policy does not apply to dismissal of employees:
 - a. Who are appointed to positions without fixed terms and under applicable rule or regulation serve at the pleasure of a specific administrative officer.
 - b. Who occupy positions that are dependent upon funding from a specific source and such funding is not received.
 - c. As a result of reorganization.
 - d. Because of financial exigency.
 - e. During the 180 day probationary period.

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- f. Who are appointed for a stated period that is less than 180 days.
 - g. Who are appointed at a per diem or hourly rate and work on an as needed basis.
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Required Standards of Conduct

1. Each employee is expected to acquaint himself/herself with performance criteria for his/her particular job and with all rules, procedures, and standards of conduct established by the Board of Regents of The University of Texas System, the Health Science Center, and the employee's department or unit.
 2. 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.
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Work Performance Conduct Subject to Disciplinary Action

1. The term work performance includes all aspects of an employee's work.
 2. Failure of an employee to maintain satisfactory work performance standards can constitute good cause for disciplinary action including dismissal.
 3. Work performance is to be judged by the supervisor's evaluation of the quality and quantity of work performed by each employee.
 4. When, in the opinion of the supervisor, the work performance of an employee is below standard, the supervisor should take appropriate disciplinary action.
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Misconduct Subject to Disciplinary Action

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:

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1. Falsification of time sheets, personnel records, or other institutional records.
 2. Neglect of duties or wasting time during working hours.
 3. Gambling or participating in lotteries or any other games of chance on the premises at any time.
 4. Soliciting, collecting money, or circulating petitions on the premises other than within the rules and regulations of the Health Science Center.
 5. Bringing intoxicants or drugs onto the premises of the Health Science Center, using intoxicants or drugs, having intoxicants or drugs in one's possession, or being under the influence of intoxicants or drugs on the premises at any time.
 6. Abuse or waste of tools, equipment, fixtures, property, supplies, or goods of the Health Science Center.
 7. Creating or contributing to unhealthy or unsanitary conditions.
 8. Violations of safety rules or accepted safety practices.
 9. Failure to cooperate with the supervisor or a co-worker, impairment of function of work unit, or disruptive conduct.
 10. Disorderly conduct, harassment of other employees (including sexual harassment), or the use of abusive language on the premises.
 11. Fighting; encouraging a fight; or threatening, attempting, or causing injury to another person on the premises.
 12. Neglect of duty or failure to meet a reasonable and objective measure of efficiency and productivity.
 13. Theft, dishonesty, or unauthorized use of Health Science Center property including records and confidential information.
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14. Creating a condition hazardous to another person on the premises.
 15. Destroying or defacing Health Science Center property or records or the property of a student or employee.
 16. Refusal of an employee to follow instructions or to perform designated work that may be required of an employee or refusal to comply with established rules and regulations.
 17. Repeated tardiness or absence, absence without proper notification to the supervisor, or without satisfactory reason or unavailability for work.
 18. Violation of policies or rules of the Health Science Center or The University of Texas System.
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Investigations

1. The employee's supervisor or other designated individual shall investigate all incidents that involve the potential for disciplinary action.
 2. If the investigation results in evidence that establishes with reasonable certainty that the employee engaged in conduct that warrants disciplinary action, the supervisor shall follow the predisciplinary conference procedures before seeking approval for the proposed disciplinary action.
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Predisciplinary Conferences

1. An employee shall be informed of the basis for any proposed disciplinary action resulting in suspension without pay or dismissal and have an opportunity to respond before a final decision is made to take disciplinary action. The conference 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.
 2. There is no prescribed form for this conference. It should be informal. However, before reaching a final decision to impose
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discipline, the supervisor shall:

- a. Inform the employee, either in person or in writing, of the reasons for the proposed disciplinary action, the facts upon which the supervisor relies, the names of any persons who have made statements about the disciplinary incident, and the content of such statements.
- b. Give the employee access to any documentary material that the supervisor has relied upon.
- c. Give the employee an opportunity to respond to the charges either orally or in writing within a reasonable time and to persuade the supervisor that the evidence supporting the charges is not true. If the supervisor is not persuaded that the evidence is untrue, the supervisor will review the evidence and proposed disciplinary action with the Vice President for Human Resources or his/her delegate and will obtain the approval of the appropriate department Chair or Director or administrative equivalent before proceeding to impose the disciplinary penalty.

Imposing a Disciplinary Penalty

- 1. Upon completing the predisciplinary conference procedures and obtaining the approval of the appropriate department Chair or Director or administrative equivalent, the supervisor shall inform the employee of the following:
 - a. Whether the disciplinary penalty is a suspension without pay or dismissal; the effective date of dismissal.
 - b. A specific period for a suspension without pay, not to exceed one (1) month.
 - c. The specific incident, conduct, course of conduct, unsatisfactory work performance, or other basis for the disciplinary action.
 - d. Previous efforts to make the employee aware of the need to change or improve work performance or conduct.
 - e. Reference to any relevant rule, regulation, or policy.

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2. The supervisor shall also inform the employee of the right to appeal the disciplinary action and provide them a copy of the appeal procedure.
 3. An employee who is 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.
 4. If a suspension without pay is appealed and it is determined that there was not good cause for the suspension, the employee shall be entitled to payment for wages lost as a result of the suspension.
 5. If it is determined, upon appeal, that a dismissal was not for good cause, the employee shall be reinstated to the same position and shall be entitled to payment of back wages less any unemployment 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.

**Appealing
Disciplinary
Actions**

Disciplinary actions resulting in dismissal or suspension without pay may be appealed by the affected employee pursuant to the process set out below. The time limits set forth in the appeal procedure must be complied with by both the employee and the appropriate supervisory and administrative personnel unless extended for good cause by the Vice President for Human Resources. The failure of the employee to process the appeal in a timely manner to the next level shall constitute a withdrawal of the appeal. The failure of supervisory or administrative personnel to make a timely response to an appeal shall constitute authorization for the employee to appeal to the next step.

Step One: The employee may present a written appeal to the department Chair or Director within five (5) working days from the date of the disciplinary action. The appeal shall contain a clear and concise statement of why the disciplinary action is inappropriate.

Within ten (10) working days of the date of appeal, a written decision shall be mailed to the employee.

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Step Two: If the employee is not satisfied with the step-one decision, the employee may present a written request for a hearing before the Vice President or Dean for the employee’s department. The request for a hearing must state precisely why the disciplinary action was inappropriate and/or why the decision of the department Chair or Director should be changed. The request must be made within five (5) working days following the date of the appealed decision. The Vice President or Dean 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 pursuant to the procedure set out below.

Step Three: If the employee is not satisfied with the step-two decision, a written appeal may be made to the President of the Health Science Center within five (5) working days of the date of the step-two decision and must state why such decision is incorrect. The review by the President shall be based solely upon the step-two record and shall not include any new issue or evidence. Within a reasonable period of time, not to exceed thirty (30) days following the date of the appeal, a written decision shall be mailed to the employee. The decision of the President is final.

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

Step Two Pre-Hearing Rules and Procedures

1. Naming the Delegate(s): If the Vice President or Dean elects to appoint a delegate(s) to hear the appeal, the name(s) will be furnished to the employee as soon as practical after the selection is made. If more than one person is appointed, one of such persons shall be designated to serve as Chair in the notice to the employee.
2. Challenges to Impartiality: An employee may challenge the fairness or impartiality of the Vice President or Dean or appointed delegate(s). The challenges must be in writing and must clearly state the factual basis for the challenge. A challenge of the Vice President or Dean 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 notice appointing the delegate(s). It shall be up to the person challenged to determine whether he/she can serve

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with fairness and impartiality. If the challenged Vice President or Dean 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 Dean shall appoint another delegate(s).

3. Time Limits: The hearing shall be conducted as soon as practical, but not later than twenty (20) working days following the date of the appeal or the appointment of delegate(s).
4. Discovery Rights and Document Exchange: The employee may request Health Science Center documents, records, or exhibits. Such requests must accompany the step-two written appeal. The requested records will be furnished if, in the opinion of the Vice President or Dean or the designated Chair, as the case may be, they are relevant to the appeal and are not made confidential by law. At least five (5) days prior to the time set for the hearing, the Health Science Center 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 testimonies, and a copy of each document, record, or exhibit to be introduced at the hearing.

Step Two Hearing Rules and Procedures

1. Role of the Hearing Chair: The Vice President or Dean 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 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.
2. 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 that does not claim the right to strike, the Health Science Center may be represented by an attorney from the Office of General Counsel of The University of Texas System.

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3. Hearing Record: In all appeal hearings where the employee is represented by an attorney or an individual from an employee organization, a court reporter shall be furnished by the Health Science Center to transcribe the hearing and swear in witnesses. The party requesting a copy of the transcript of the proceedings shall be responsible for its cost. In all other appeal hearings the Health Science Center shall tape the hearing and make a copy of the tape available to the employee on request. The transcript of the court reporter or the tape of the proceedings shall be the official record of the hearing.
 4. Burden of Proof: The Health Science Center has the burden of proving by a preponderance of credible evidence that good cause exists for the disciplinary action and therefore shall have the right to open and close the proceedings.
 5. Order of Presentation and Right to Cross Examination: The hearing shall consist of opening statements on behalf of the Health Science Center and the employee and testimony by witnesses called by the Health Science Center and the employee, with both parties having the right to cross-examine witnesses and make closing statements. Relevant exhibits may be introduced by either party and the Chair shall take notice of the employee's personnel record.
 6. Health Science Center Employees as 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.

Step Two Post-Hearing Rules and Procedures

1. The delegate(s) shall deliberate, prepare, and forward written findings and recommendations to the Vice President or Dean within ten (10) working days after the close of the hearing.
2. The Vice President or Dean 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).

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3. If the Vice President or Dean 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.

Summary of Appeals Steps

<u>EMPLOYEE APPEAL PROCESS STEPS</u>	<u>EMPLOYEE TIMEFRAME</u>	<u>MANAGEMENT TIMEFRAME</u>
STEP ONE		
Employee may appeal disciplinary action to department Chair/Director	Five (5) working days from date of action (<i>in writing</i>)	Ten (10) working days from date of appeal (<i>in writing</i>)
STEP TWO		
Employee may request an administrative hearing before the Dean/Vice President	Five (5) working days from date of decision in step one (<i>in writing</i>)	Administrative hearing held within twenty (20) days appeal to Dean/Vice President
ADMINISTRATIVE HEARING		
1. Dean/Vice President may name delegates		
2. Employee may challenge impartiality of Dean/Vice President or delegate(s)	Five (5) working days from date of request for hearing or naming of delegates	
3. Health Science Center and employee will exchange names of witnesses, documents, etc.	Five (5) days prior to date of hearing	
4. Decision of Dean/Vice President or delegates		Ten (10) working days following hearing
STEP THREE		
Employee may appeal to the President	Five (5) working days from the date of hearing decision	Thirty (30) days from receipt of employee appeal