

System-wide Policy: HR0525 - Disciplinary Action	
Version: 10	Effective Date: 10/01/2017

HR0525 – Disciplinary Action

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Objective:

To provide a fair and objective means to correct the unsatisfactory work performance or work-related behavior, including gross misconduct, of regular staff who have completed any required probationary period. To provide fair and uniform procedures including due process if required by law, to correct, discipline, or terminate employees for unsatisfactory work performance or work-related behavior or for gross misconduct.

Policy:

1. Disciplinary action of any kind and for any reason is to be taken with extreme care to assure fairness for all parties involved. Disciplinary action is defined by one of the following actions: corrective action (oral/written); suspension without pay, demotion, and termination. As warranted by circumstances, an employee may be terminated at any point in the disciplinary process.
2. If an employee is to be disciplined or discharged, supervisors must contact the human resources (HR) officer or designee prior to discharging any employee to ensure that such action is appropriate and consistent with university policy. The HR officer must determine university policy has been followed before an employee is disciplined or discharged.

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Unsatisfactory Work Performance or Work-Related Behavior

3. **Description.** Unsatisfactory work performance or work-related behavior is the failure or refusal to carry out job responsibilities, failure to follow department or unit rules, or failure to abide by the University Code of Conduct. Human Resources shall develop a procedure to inform employees of acts or omissions on their part which are symptomatic of unsatisfactory work performance or work-related behavior and to discipline the employees if either is not corrected in accordance with university policies and procedures.
4. Every reasonable effort should be made to secure acceptable work performance and work-related behavior by employees. When disciplining an employee, supervisors should consider the nature of the unsatisfactory work performance or work-related behavior, the past record of the employee, and the appropriate penalties. Therefore, as a general rule, disciplinary action taken for unsatisfactory work performance or work-related behavior should begin with an oral or written warning, and may be followed by additional written warnings. Written warnings should be presented to the employee and should describe the unsatisfactory work performance or work-related behavior and the necessary corrective action to be taken. Should an employee fail to attain a satisfactory level of work performance or work-related behavior despite such warning, disciplinary action up to and including termination of employment may be taken. Copies of all written warnings and other disciplinary actions should be placed in the employee's official personnel file in the HR office.
5. Depending upon the nature of the unsatisfactory work performance or work-related behavior, warnings prior to disciplinary action may be inappropriate. When these actions involve employee error causing or threatening to cause loss of life, serious bodily injury or significant property loss, or when continued employment is otherwise not in the best interest of the university, termination without written warning is appropriate.
6. **Pre-Termination/Suspension Meeting.** Before suspending without pay or discharging an employee for unsatisfactory work performance or work-related behavior, the supervisor or other authorized university official must 1) consult

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with the HR office, 2) advise the employee, orally or in writing, of the unsatisfactory work performance or work-related behavior of the employee, and 3) provide the employee an opportunity to respond.

7. **Appeal Process.** An employee desiring to appeal a disciplinary action, taken for unsatisfactory work performance or work-related behavior, must file a written request with the HR office within fifteen (15) working days following receipt of notification of the disciplinary action. Oral and written warnings cannot be appealed; however, employees may respond in writing to written warnings placed in their personnel file.
8. The appeal process for employees disciplined or discharged for unsatisfactory work performance or work-related behavior is as follows:
 - a. **Staff Non-exempt:** A non-exempt employee may request an administrative review, which shall be in writing through the appropriate chancellor or vice president to the president. The written request should be submitted to the employee's HR officer. Alternatively, a non-exempt employee may choose to go through the grievance procedure described in [HR0640 - Grievances](#). If terminated or suspended without pay, the employee may choose to go directly to the hearing step and request, at the employee's option, either an informal hearing by a panel of unbiased university employees or a formal hearing under the Tennessee Uniform Administrative Procedures Act, Tennessee Code Annotated sections 4-5-301-319 (TUAPA).
 - b. **Staff Exempt:** An exempt employee may request an administrative review, which shall be in writing through the appropriate chancellor or vice president to the president. The written request should be submitted to the employee's HR officer.

Gross Misconduct

9. **Description.** Gross misconduct includes the following: theft or dishonesty; gross insubordination, willful destruction of university property; falsification of records; acts of moral turpitude; reporting for duty under the influence of intoxicants; the

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illegal use, manufacturing, possessing, distributing, purchasing or dispensing of controlled substances or alcohol; disorderly conduct; provoking a fight; and other similar acts involving intolerable behavior by the employee. In a case of gross misconduct, immediate disciplinary action up to and including discharge may be taken. During the investigation of alleged gross misconduct, an employee may be placed on administrative leave with pay.

10. An employee suspected of theft of university property may not resign as an alternative to discharge unless the approval of the Senior Vice President and Chief Financial Officer is obtained in advance.
11. An employee terminated for gross misconduct will not receive payment for accrued unused annual leave and is not eligible for state Consolidated Omnibus Benefits Rights Act (COBRA) benefits. If an employee resigns in lieu of termination for gross misconduct, the employee will retain rights to annual leave accruals and COBRA benefits.
12. **Pre-termination/Suspension Meeting.** Before suspending without pay or discharging an employee for gross misconduct, the supervisor or other authorized university official must: 1) consult with the HR office, 2) advise the employee, orally or in writing, of the charge(s) against the employee; and 3) provide the employee an opportunity to respond.
13. **Appeal Process.** An employee desiring to appeal a disciplinary action for gross misconduct must file a written request with the HR office within fifteen (15) working days following receipt of notification of the disciplinary action taken.
14. The appeal process for employees disciplined or discharged for gross misconduct is as follows:
 - a. **Staff Non-Exempt.** A non-exempt employee may request an administrative review in writing through the appropriate chancellor or vice president to the president. The review process will be coordinated by the HR office. Alternatively, a non-exempt employee may choose to go through the grievance procedure as described in [HR0640 - Grievances](#). If terminated, demoted, or suspended without pay for gross misconduct, the employee may choose to go directly to the hearing step and request, at the employee's option, either an informal hearing by a panel of unbiased

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university employees or a formal hearing under the TUAPA. If any employee chooses to receive an informal hearing, a waiver of the employee's right to proceed under the TUAPA must be signed by the employee.

- b. **Staff Exempt.** An exempt employee may request an administrative review in writing through the appropriate chancellor or vice president to the president. The review process will be coordinated by the HR office. Alternatively, an exempt employee may request an informal hearing before a panel of unbiased university employees or a formal hearing under the TUAPA. If any employee chooses to receive an informal hearing, a waiver of the employee's right to proceed under the TUAPA must be signed by the employee.

PROCEDURES:

Health Science Center:	https://uthsc.policymedical.net/policymed/home/index?ID=de47aa28-16aa-408b-9c96-cb04f232964f&
Space Institute:	http://www.utsi.edu/index.php/utsi-procedures/
Institute of Agriculture:	ag.tennessee.edu/Pages/UTIApolicies.aspx

FORMS:

- [TUAPA Hearing Waiver Form - Rev 5/05](#)

Related Policies: [HR0355 - Leave of Absence](#), [HR0640 - Grievances](#)