

# Tennessee Technological University

## Procedures for Disciplinary Action (HR-38)

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TTU Human Resources Services

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# Procedures for Disciplinary Action

## Purpose and Scope

Tennessee Tech University (TTU) is committed to providing a work environment that embraces the University's core values.

To facilitate a productive and harmonious working environment, TTU employees are expected to follow all established departmental, University and Tennessee Board of Regents' policies and procedures and legal requirements. Employees are also expected to achieve and maintain standards of conduct, behavior, attendance and job performance consistent with the requirements of their position. In the event that disciplinary action must be taken against an employee for misconduct or poor performance, the University provides *Procedures for Disciplinary Action* to ensure prompt, consistent and fair treatment of all employees.

These procedures apply to all regular full-time and part-time administrative/professional and support employees.

While TTU is committed to the principles of progressive discipline, it reserves the right in cases where the offense merits termination or other severe sanction in the first instance, to impose that sanction without following principles of progressive discipline.

Throughout this policy, the terms "manager" and "immediate manager" are used to identify those with supervisory/management authority to hire, fire, and/or discipline employees, or strongly recommend those actions. The term "supervisor" is not used because Supervisor is an official non-exempt title for employees that do not have this authority.

## Authority

The Tennessee Board of Regents has delegated to the President or his/her designee the authority to terminate, demote and transfer all personnel within the scope of the delegation of authority provided for in Section A, under TBR Policy No. 5:01:00:00. Internal complaints, charges, or claims concerning matters of employment shall be handled through these and other established and appropriate TTU procedures, and are subject to approval by the President. The Director of Human Resources has been delegated authority at Tennessee Tech University to suspend, demote or terminate non-exempt (clerical & support) employees. The President's approval is also required for exempt (administrative & professional) personnel. No manager has the authority to suspend, demote or terminate an employee without approval from the Director of Human Resources.

No manager has the authority to place an employee on probation without prior consultation and approval from management chain of command, the respective Vice President, and the Director of Human Resources.

**Managers shall contact the Director of Human Resources during each phase of the counseling and disciplinary process.**

## **Grounds for Disciplinary or Corrective Action**

Cause for disciplinary action shall include, but is not limited to: violation of established departmental, University and Tennessee Board of Regents' policies and procedures; and/or failure to achieve and maintain standards of conduct, behavior, attendance or job performance.

Termination for Gross Misconduct: Gross misconduct may include, but is not necessarily limited to: any act or omission which may seriously disrupt or disturb the normal operation of the university; any work-related conduct which would subject the employee to criminal conviction; theft or dishonesty; gross insubordination; destruction of university property; falsification of records; acts of moral turpitude; reporting for duty under the influence of intoxicants; the illegal use, manufacture, possession, distribution, or dispensing of controlled substances or alcohol; disorderly conduct; provoking a fight; and/or such other similar acts involving intolerable behavior by the employee. In the case of gross misconduct, immediate disciplinary action up to and including termination will be taken.

Termination for Violent or Threatening Behavior: TTU has a zero-tolerance policy against violent or threatening behavior. Acts of violence and threats of violence include, but are not limited to: verbal (such as threats, harassment, abuse or intimidation), nonverbal (such as gestures and intimidation), written communication (such as notes, e-mail), physical (such as hitting, pushing, shoving, kicking, touching and assault), and other (such as arson, sabotage, vandalism and stalking). In the case of violent or threatening behavior, immediate disciplinary action up to and including termination will be taken.

Absence from Duty: An employee who is absent from duty for more than three (3) consecutive business days without giving notice to the immediate manager concerning the reason for such absence and without securing permission to be on leave or who fails to report for duty within two (2) business days after the expiration of any authorized leave of absence, absent unusual circumstances causing the employee's absence or preventing the employee's return, is considered as having resigned not in good standing.

## **Initial Probationary Period**

All newly appointed full-time and part-time regular administrative/professional and support employees are placed under a probationary period of six (6) months of observable performance. During this period, an employee may be terminated without prior notice. A probationary period also applies to an employee who is promoted, transferred or demoted to another position and a new employment contract is required.

Probationary employees will be evaluated during the fifth month of employment. The Office of Human Resources will send the new employee's immediate manager a Probationary Evaluation Form. The evaluation form will be processed as outlined in the TTU Employee Performance Evaluation guidelines.

Managers should make effective use of the initial probationary period with employees. This period is an important time when employees demonstrate abilities to satisfactorily perform assigned duties and responsibilities. Managers are encouraged to provide appropriate training, coaching and mentoring

for their employees during the probationary period. Employees should receive a written job description and should understand the position requirements and the standards of conduct expected.

#### Dismissal During the Initial Probationary Period:

At any time during an initial probationary period, an employee may be terminated without cause or right of appeal. However, managers must provide sufficient documentation to justify dismissal for review/approval through their signatory chain, the appropriate vice president, and the Director of Human Resources. No regular employee shall be terminated without final approval from the Director of Human Resources. Managers are encouraged to contact the Director of Human Resources to discuss employee performance issues during the probationary period.

### **Guide to the Progressive Disciplinary Procedures**

TTU practices progressive discipline beginning with management counseling. The management counseling tools of Informal Discussion sessions and Verbal Warnings are tools to problem-solve and improve performance, and are not used to punish the employee.

When performance does not improve or a severe problem occurs, the manager must make a determination as to whether or not the employee's action is a cause for discipline. Several methods of employee discipline are available to managers including: written warnings, probation, suspension with/without pay, demotion, or termination from employment. TTU reserves the right to allow managers to skip stages of this disciplinary process up to termination, subject to the nature and severity of the employee's infraction.

If appropriate to the situation, managers should contact the Director of Human Resources to discuss an employee's rights under the Family Medical Leave Act (FMLA) and the Americans with Disabilities Act Amendments Act (ADAAA).

#### Management Counseling

1. Informal Discussions: Managers are encouraged to resolve discipline matters informally with their employees. In cases of minor misconduct or performance issues, managers should verbally discuss the misconduct or performance problem(s) with the employee and develop solutions. Documentation concerning these discussions shall be maintained by the manager at the department level. Contact the Director of Human Resources, to discuss counseling, coaching and training options.

If the problem still persists following the informal discussions, or the nature and severity of the problem warrants more stringent action, then the manager shall proceed to another form of counseling or discipline.

2. Formal Verbal Warning: If informal discussions with the employee have not solved the problem, or the nature and severity of the problem warrants more stringent action, the employee shall be given a formal Verbal Warning that his/her conduct or performance does not meet acceptable standards. The verbal warning should be specific as to the reason for the action and should include a description of corrective action the employee should take. The manager should clearly state that this is a verbal warning and that future incidents or failure to improve job performance, conduct, or attendance may result in further disciplinary action, up to and including termination. A record of the time and date of the warning, the reason it was given, corrective action to be taken, and the date of the incident being

addressed should be kept in the manager's files at the department level. The manager is responsible for keeping other levels of management informed of actions taken.

A Verbal Warning is a tool to problem-solve and improve performance, not to punish the employee. An employee may receive more than one verbal warning before more stringent disciplinary action is taken. The following are examples of behavior that would normally warrant a verbal warning: chronic absenteeism or tardiness; absence from work without authorization; leaving a job without permission; poor level of performance; problems with behavior toward co-workers and/or manager; obscene language, etc.

### Methods of Employee Discipline

1. Written Warning: Written Warnings are issued when a problem continues, or when the nature and severity of the problem warrants more stringent action. The immediate manager will be responsible for consulting with his/her management chain to ensure that agreement has been reached as to whether a written warning is warranted. Before issuing a written warning, the manager shall contact the Director of Human Resources to ensure that the progressive discipline is being taken in accordance with the policies and practices of the university. Before a written warning is issued, previous verbal or written warnings, and management counseling session notes should be thoroughly reviewed.

A written letter of warning will contain the details and history of the problem, including any prior counseling, discipline or training; the rules or standards violated; the improvement required; and the time table for improvement. It will warn that further disciplinary action, up to and including termination may occur if the problem is not corrected. A written warning will be signed by the manager. The employee's signature is requested to acknowledge receipt of the warning. The memorandum shall be processed through the department's signatory channels and the appropriate vice president, to the Director of Human Resources. A copy of the memorandum shall be placed in the employee's official personnel file in Human Resources.

Examples: Written Warning Letters, [P/P 47](#).

2. Probation: Disciplinary probation may be an effective and appropriate form of discipline. Through one-on-one counseling, managers monitor performance during a specified period of time and encourage employees to improve performance related problems. Disciplinary probation may be imposed for a period of up to six months. This is a designated time period when an employee must improve those identified deficiencies in their performance. Improvement standards and time frames are established by the manager. The use of disciplinary probation period requires that a manager make a concerted effort to meet regularly with the employee during the probationary period to assist them in improving performance. During the probationary period, the manager should provide regular feedback to the employee in writing.

A written request to place an employee on a disciplinary probation will contain the details and history of the problem, including prior counseling, discipline and training; the rules or standards violated; the improvement required; and the requested length of the probationary period. Supporting documentation should be attached. The manager shall process the request through the department's signatory channels and the appropriate vice president, to the Director of Human Resources. Human Resources will review all documentation and give the manager written approval/disapproval to

initiate the probation. A copy of the probationary memorandum shall be placed in the employee's official personnel file.

Before requesting a disciplinary probation, the manager shall contact the Director of Human Resources to ensure that the progressive discipline is being taken in accordance with the policies and practices of the university.

Example: Probation Request Memorandum, See [P/P 48](#).

3. Suspension Without Pay: Under TBR Guideline P-020, *Procedures for Implementation of the 37.5 hour Work Week*, suspensions must be for **serious conduct violations only**, and not for performance issues. Pursuant to 29 C.F.R. Sec. 541.602 (b) (5), deductions for full day disciplinary suspensions for violation of workplace conduct rules are permissible if: the employee does not work for a full day; deductions are in full day increments; such deductions are carried out pursuant to a written policy that is applied uniformly to all employees; and, the suspension is imposed in good faith. For instance, an employee may be placed on an unpaid suspension for violation of the sexual harassment or workplace violence policy. If the employee performs any work during the suspension period, such as responds to phone calls from the office regarding work, or reads and responds to work-related emails, etc., no deductions may be taken for those days.

A written request to place an employee on a suspension will contain the details and history of the serious conduct violations, including prior counseling, discipline and training (if applicable); the rules or standards violated; the improvement required; and the requested length of the suspension. Supporting documentation should be attached. The manager shall process the request through the department's signatory channels and the appropriate vice president, to the Director of Human Resources. The Director of Human Resources has been delegated authority at Tennessee Tech University to suspend non-exempt (clerical & support) employees. The President's approval is also required for administrative personnel. The formal suspension letter to the employee shall be written and signed by the Director of Human Resources. The manager shall inform the employee of the suspension both verbally and in written form. A copy of the suspension letter shall be placed in the employee's official personnel file.

Before requesting a suspension without pay, the manager shall contact the Director of Human Resources to ensure that the discipline is being taken in accordance with the policies and practices of the university.

Any employee suspended without pay is entitled to the opportunity for an institutional hearing in accordance with the [Tennessee Board Of Regents Employee Grievance/Complaint Guideline, P-110](#) or the [Tennessee Board of Regents Support Staff Grievance Procedure, P-111](#).

Example: Request to Suspend Without Pay Memorandum, see [P/P 49](#).

4. Suspension With Pay: An employee may be placed on suspension with pay (or administrative leave) pending the completion of a formal disciplinary investigation. Employees suspended with pay are not entitled to a grievance hearing.

The Director of Human Resources is authorized to place employees on suspensions with pay following discussions with the immediate manager.

Example: Request to Suspend With Pay Memorandum, see [P/P 50](#).

5. **Demotion:** Under TBR Policy 5:01:00:00, *General Personnel Policy*, a demotion is defined as a decrease in position or rank brought about by means of assuming the duties of a vacant position of lower classification, the realignment of duties presently performed which warrant a reclassification of present position to one at a lower level, or the assignment of a position at a lower classification subsequent to the disciplinary procedure, or disqualification from present duties as a result of mental or physical incapacity to perform the required work.

Support staff employees who are demoted are entitled to the opportunity for an institutional hearing in accordance with the [Tennessee Board of Regents Support Staff Grievance Procedure, P-111](#).

Before requesting a demotion for disciplinary reasons, the manager shall contact the Director of Human Resources to ensure that the discipline is being taken in accordance with the policies and practices of the university. The Director of Human Resources has been delegated authority at Tennessee Tech University to demote non-exempt (clerical & support) employees. The President's approval is also required for exempt (administrative & professional) personnel.

Example: Request to Demote Memorandum, see [P/P 51](#).

6. **Termination:** Employees may be terminated if, during disciplinary proceedings, positive action has not been taken by the employee to correct their disciplinary problem; or when the severity of the problem warrants immediate dismissal.

Support staff employees who are terminated are entitled to the opportunity for an institutional hearing in accordance with the [Tennessee Board of Regents Support Staff Grievance Procedure, P-111](#).

Administrative employees who are terminated for cause and not given a 30-day notice are entitled to the opportunity for an institutional hearing in accordance with the [Tennessee Board of Regents Employee Grievance/Complaint Procedure, P-110](#).

A written request to terminate an employee will contain the details and history of the serious conduct violations or performance problems, including prior counseling, discipline and training (if applicable); and the rules or standards violated. Supporting documentation should be attached. The manager shall process the request through the department's signatory channels and the appropriate vice president, to the Director of Human Resources. The Director of Human Resources has been delegated authority at Tennessee Tech University to terminate non-exempt (clerical & support) employees. The President's approval is also required for administrative personnel. The formal termination letter to the employee shall be written and signed by the Director of Human Resources. The manager and/or the Director of Human Resources shall inform the employee of the termination both verbally and in written form. In some cases (such as job abandonment) where an employee is not available to meet with the manager or Director of Human Resources, the formal termination letter may be mailed to the employee. A copy of the termination letter shall be placed in the employee's official personnel file.

Before requesting a termination, the manager shall contact the Director of Human Resources to ensure that the progressive discipline is being taken in accordance with the policies and practices of the university.

Example: Request to Terminate Memorandum, See [P/P 52](#).

## **Investigations and Documentation**

Managers must thoroughly investigate a disciplinary problem or incident before determining what management counseling or disciplinary procedures are warranted. The manager must investigate the facts and circumstances surrounding the problem and discover whether a rule was broken, a work practice not followed, a work request disobeyed, or whether there was good reason for the rule to be disobeyed, etc. Investigations can include interviewing other employees who were witnesses, reviewing work product, directly observing the problem/violation, etc. All investigations should be documented in writing with all supporting documentation attached, i.e., witness statements, examples of work product, timesheets, etc., by the manager and reviewed with the next level manager and the Director of Human Resources before determining the proper disciplinary action or counseling required.

Allegations of Fraud, Waste, and Abuse should be investigated by the Office of Internal Audit. Allegations of Discrimination or Harassment should be investigated by the Office of Diversity & Legal Affairs.

## **Employee's Written Rebuttal**

Employees are permitted to submit a written rebuttal to their manager during each phase of the disciplinary process. Written rebuttals must be forwarded through the appropriate signatory chain and vice president to the Director of Human Resources. The documents will be reviewed and shall be placed in the employee's official personnel file.

## **Employee's Personnel File**

Documentation placed in the employee's official personnel file regarding disciplinary procedures remains a permanent part of the file. A manager's and/or employee's request to remove documentation from an official personnel file shall be made to the Director of Human Resources for review and consultation with legal counsel.

## **Tips for Managers in preparing and meeting with an employee:**

- a. Gather examples of the employee's poor work product or other information concerning poor performance.
- b. Observe firsthand the problem situation or misconduct, if possible.
- c. Discover whether a rule was actually broken, a work practice not followed, a work request disobeyed, or whether there was good reason for the rule to be disobeyed.
- d. Plan a private meeting with the employee to deliver a Verbal Warning or Written Warning. If a witness is appropriate, have an additional management/administrative employee meet with you and the employee as an observer.
- e. Write a list of what you want to discuss during your meeting including, a statement of the problem and dates of occurrence, the corrected behavior that you are expecting, and your time table for correcting the problem.
- f. Develop a list of training opportunities the employee will be required to attend, if applicable.

- g. Offer the employee the help of the university's Employee Assistance Program, to assist them if they are experiencing problems that may be affecting their work performance and/or attendance.
- h. Ask for the employee's perception of the problem and their ideas for solution. Incorporate their ideas with yours into any performance plan of action.
- i. Explain to the employee that further disciplinary action up to and including termination may occur if the problem is not corrected.

*Source: Approved by President's Cabinet, August 30, 2011*

## **Exhibits**

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