

TA

For UC  
~~Madame Justice~~  
11/17/15

For AFT  
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**ARTICLE 30  
DISCIPLINE AND DISMISSAL**

17 November 2015

**A. GENERAL PROVISIONS**

1. Discipline is a written censure, suspension without pay, or reduction in pay for misconduct and/or dereliction of academic duty.
2. Dismissal is the termination of employment, initiated by the University, prior to the stated ending date of appointment (if applicable), for serious misconduct, serious dereliction of academic duty, or the failure to maintain the academic standards for Continuing Appointees established in Article 7b, Sections D. and E., demonstrated by a significant decline in performance.
3. Any discipline or dismissal of an NSF pursuant to this Article shall be for just cause.

**B. PROCESS FOR DISMISSAL BASED ON ACADEMIC PERFORMANCE**

1. If the department chair, unit head, or program director (hereinafter "unit head") determines that there has been a significant decline in the quality of the Continuing Appointee's performance, the unit head shall discuss the matter with the Continuing Appointee. The unit head's determination may occur during the normal review process or at any other time.
2. Following the discussion, the unit head shall provide the Continuing Appointee with a written remediation plan that sets forth the required areas of improvement and a reasonable time period within which the improvement shall be accomplished.
3. If the unit head determines that the NSF meets the requirements set forth in the written remediation plan, no review for potential dismissal will be conducted and the NSF and the union will be notified in writing of that decision.
4. If the unit head determines that the Continuing Appointee fails to meet the requirements set forth in the written remediation plan, the University may conduct a review for potential dismissal, and the NSF and the union will be notified in writing.

5. If a review for potential dismissal is conducted, a committee shall review and make recommendations about such a potential dismissal.
  - a. The committee shall be at the departmental level, or as close to the departmental level as practicable. Such committee will be comprised of academic appointees with sufficient knowledge of the NSF's field of expertise.
  - b. The University shall make reasonable efforts to ensure that a qualified NSF will participate on such review committees, although no individual shall be required to serve on the committee. Unless the NSF on the committee is a standing appointee, the NSF being reviewed for potential dismissal shall be consulted about the NSF appointment on the committee.
  - c. Care shall be taken to ensure that the committee is composed of faculty who can offer a neutral assessment of the NSF's performance. The NSF on the review committee shall be under the same obligation as any other member of the review committee with respect to the confidentiality of the review process.
  - d. The NSF being reviewed shall be afforded an opportunity to raise concerns about possible bias on the part of individuals involved in her/his review for potential dismissal. Any such statement provided by the NSF shall be included in the review file.
  
6. An evaluation of an NSF shall be based on a review file. The review file shall contain only material relevant to consideration of the potential dismissal.
  - a. The file will contain material that demonstrates:
    - 1) the NSF's command of the subject matter and continued growth in mastering new topics;
    - 2) the NSF's ability to organize and present course materials;
    - 3) whether or not the NSF has met the requirements identified in the remediation plan created by the unit head.

- b. An NSF may provide a self-statement or self-evaluation of her or his teaching performance and her or his ability to satisfy the requirements set forth in the remediation plan.
  - c. An NSF being evaluated may provide letters of assessment from individuals with expertise in her/his field, and/or other relevant materials to the review file for potential dismissal. Those from whom letters may be provided include but are not limited to:
    - 1) Department NSFs;
    - 2) departmental Academic Senate faculty;
    - 3) other academic appointees;
    - 4) students; and/or
    - 5) others external to the University of California.
  - d. The NSF being reviewed may provide a written list of suggested peers from whom input may be solicited and/or the NSF can identify qualified persons from whom input may be solicited.
7. Due attention should be paid to the variety of demands placed on instructors by the types of teaching called for at various levels and the total performance of NSF should be judged with proper reference to assigned teaching responsibilities.
8. The department shall provide the NSF with a copy of its recommendation and the evaluative documents on which the recommendation was based.
9. The NSF may submit a written response to her/his departmental committee's recommendation, which shall be added to her/his review file.
10. Following the departmental review and recommendation, the NSF's review file shall be forwarded to a UC academic official outside the department, and at a higher level than the unit head.
11. The designated academic official shall provide the NSF and the union with a written notice of the final decision.
12. If the outcome of the review results in a recommendation for dismissal, the University will take action in accordance with Section C., below.

**C. WRITTEN NOTICE OF INTENT TO DISCIPLINE OR DISMISS**

The University shall provide Written Notice of Intent, as described in this Section C., for the following actions: suspension without pay, reduction in pay, or dismissal.

1. Issuance

- a. The University shall give a Written Notice of Intent to the affected NSF, either by delivery in person, or by placing the Written Notice of Intent in the United States Mail, first-class, postage-paid, in an envelope addressed to the NSF at her or his last known home address. The NSF shall be responsible for informing the designated University office in writing of his or her current home address and of any change in such address. The information so provided shall constitute "the employee's last known home address." The University will also send a copy of the Notice to the NSF through campus mail to her/his campus office address.
- b. The University will send a copy of the notice to the Union.
- c. Whether the University delivers the Written Notice of Intent in person or by mail, the Notice of Intent shall contain a statement of delivery or mailing indicating the date on which the University personally delivered or deposited the Notice of Intent in the U.S. Mail. Such date of delivery or mailing shall constitute the date of issuance of the Written Notice of Intent.

2. Content

The Written Notice of Intent shall:

- a. inform the NSF of the disciplinary or dismissal action intended, and the effective date of the action;
- b. provide an explanation of the reason for the action, including, where appropriate, illustrative materials;

- c. inform the NSF of the right to respond, to whom to respond, and the applicable time frame for responding in accordance with Section D; and
- d. inform the NSF of the right to representation by a representative of her/his choice, including the union.

**D. RESPONSE TO WRITTEN NOTICE OF INTENT**

The NSF or her/his designated representative shall be entitled to respond, either orally or in writing, to the Notice of Intent described above. If the University delivers the written Notice of Intent to the NSF in person, the University must receive the response within fourteen (14) calendar days from the date on which it delivered/issued the written Notice of Intent. If the University mails the written notice to the NSF, the University must receive the response within thirty (30) calendar days from the date on which the written Notice of Intent was mailed. The University shall establish the date on which it mailed the Notice of Intent by sending the Notice via registered mail.

**E. WRITTEN NOTICE OF ACTION**

1. A Written Notice of disciplinary or dismissal action must specify the action the University intends to take and the effective date of the action.
2. The University's action may not include discipline more severe than that described in the written Notice of Intent; however, the University may reduce such discipline without the issuance of a further written Notice of Intent.
3. The University shall provide the NSF and (if applicable) her/his designated representative a written Notice of Dismissal, or Notice of Disciplinary Action, within thirty (30) calendar days after the issuance of the written Notice of Intent, unless the NSF has elected an Academic Senate review of the Intent to Dismiss in accordance with Section G., below. This notice must consider any response that the NSF has provided to the Notice of Intent described in Section D., above.

**F. ALTERNATIVES FOR REVIEW OF DISCIPLINE AND DISMISSAL**

1. Discipline

Any NSF may grieve and arbitrate discipline actions taken pursuant to this Article. Grievances must be filed in accordance with the provisions of Article 32 Grievance and Article 33 Arbitration.

2. Dismissal

NSF in faculty titles may request a Senate review of a dismissal action in accordance with the Academic Senate regulations in effect at the time of

the action at the NSF's campus, or may elect review of the same action in accordance with the provisions of the Grievance and Arbitration articles. NSF in non-faculty titles identified in Article 5, Section B., may only seek a review of dismissal actions in accordance with the provisions of Article 32 Grievance and Article 33 Arbitration.

#### **G. PROCEDURE FOR REVIEW OF PROPOSED DISMISSAL**

1. Senate Review - Within the Senate Review procedures, the scope of the review shall be limited to determining whether there was procedural irregularity, and/or whether the action taken was for good cause.
  - a. A faculty NSF who has received a Notice of Intent to Dismiss may elect to have the proposed dismissal considered for advisory review under the applicable Senate Review Procedures in effect at the time. An NSF who chooses to use the Senate Review Procedures must provide written notification to the designated University official within fourteen (14) calendar days from the date of the University's Notice of Intent to Dismiss.
  - b. The Senate may choose, in accordance with its procedures, to review a proposed dismissal action through the applicable procedures in effect at the time, if any, for hearings before the Academic Senate. The Senate may also decline to review a proposed dismissal action.
  - c. When the Academic Senate Review option has been selected, the University shall not initiate a final dismissal action until the earliest of the following has occurred.
    - 1) The Senate has elected not to review the action, or
    - 2) The Senate has elected to review the proposed dismissal and
      - a) the review process is complete or
      - b) twelve (12) months have lapsed following the issuance of the Notice of Intent to Dismiss.
  - d. When the Senate accepts the review, the University shall consider the Senate recommendations in making its decision. The University decision shall be final, and is not subject to grievance

and arbitration.

- e. If the Senate declines to review the proposed dismissal, the University shall provide a Written Notice of Action to the NSF and her/his designated representative, if any.
2. Grievance and Arbitration - An NSF who has received a Written Notice of Action, including dismissal action, may file a grievance in accordance with the procedures of Article 32 Grievance Procedure, unless the NSF has pursued a Notice of Intent through the Academic Senate Review, and the Academic Senate has agreed to review the proposed dismissal action.
    - a. The imposition of disciplinary or dismissal action shall not extend the time limits for the filing of a grievance on any other matter under Article 32 - Grievance Procedure.
    - b. In any arbitration, the arbitrator shall have the authority to determine whether the discipline or dismissal was for just cause and if so, to determine the remedy, but s/he may not reevaluate the academic performance or qualifications of the NSF.