



**THE UNIVERSITY of
NEW ORLEANS**

**ADMINISTERED BY: Office of Vice
President for Business Affairs**

Policy No: AP-BA-47.3
TITLE: Employee Discipline Policy
EFFECTIVE DATE: March 28, 2014*
(*Policy Revised, see below)
CANCELLATION:
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PURPOSE

To ensure the University of New Orleans conducts a fair and equitable disciplinary system that respects the values of the University along with all applicable federal regulations, Louisiana employment laws, Civil Service rules and the policies of both the University of Louisiana System and the University of New Orleans.

AUTHORITY

Louisiana State Civil Service Rules; Part Two Chapter III Sections II and IV of the rules and bylaws of the University of Louisiana System.

GENERAL POLICY

It is the policy of the University of New Orleans (UNO), to conduct a fair and equitable disciplinary system with respect to the conduct of employees. In implementing this policy, UNO seeks to:

- A. Provide the appointing authority, department directors and line supervisors with guidelines for taking disciplinary action according to federal regulations, Louisiana employment laws, Civil Service rules and the policies of UNO.
- B. Foster a better understanding of the progressive disciplinary system, the rules and policies governing adverse actions and employee appeals.
- C. Promote consistent treatment of all UNO employees.
- D. Enforce UNO's commitment to maintaining an efficient and productive workforce.
- E. Stress the importance of documenting employee performance and behavior.
- F. Clarify the responsibility to correct poor performance and misconduct of employees by taking appropriate action in a timely and consistent manner.

APPLICABILITY

This policy is applicable to all UNO employees.

DEFINITIONS

For the purpose of this policy, the following definitions shall apply:

Appointing Authority – At the University of New Orleans, the appointing authority is the President of the University. Some employees are also lawfully authorized as delegated appointing authority to make appointments to positions in the state service

Cause – conduct which impairs the efficient or orderly operation of the public service.

Demotion – a change of a permanent or probationary employee from a position in one job to a position in another job which is assigned to a pay grade with a lower maximum.

Disciplinary Actions – includes suspensions without pay, reductions in pay, involuntary demotions and dismissals.

Dismissal for Cause/Termination for Cause – examples include, but are not limited to, when:

1. An employee who intentionally or negligently violates laws, rules, regulations, policies or operating procedures.
2. An employee whose conduct has been such that the conduct does not meet and/or violates the employee's contribution to UNO, its mission and/or standards.
3. An employee is unwilling or unable to effectively perform assigned duties.
4. Previous efforts to correct an employee's improper conduct have been ineffective.

Employee – an individual who performs activity on behalf of UNO and is considered as engaged in an employment relationship with UNO as determined by applicable law.

Employee Warning Notice – written notification to an employee from a supervisor for the purpose of informing the employee of improper conduct or poor performance, the need for improved performance and the potential consequences of continued or repeated improper conduct or poor performance. This type of letter is not considered a disciplinary action and must not be included in any personnel record accessible by the public. If an employee submits a written response to an improvement letter, the response must be attached to each copy of the improvement letter maintained by the Office of Human Resource Management.

Improper Activity – any act or omission which violates federal, state, or local law, University of Louisiana System or UNO policy, or in any way violates, harms, or impedes the activity, values, or mission of UNO including but not limited to the UNO Code of Employee Conduct.

Reduction in Pay – an action taken for disciplinary reasons whereby an employee's individual pay rate is reduced but, employee remains in the same job.

Supervisor – an employee with responsibility for and authority to make decisions and/or recommendations regarding the appointment, dismissal, performance, pay change, work assignment, scheduling or direction of others, whether the regular supervisor or one designated to act temporarily in the place of the regular supervisor.

Suspension – the temporary exclusion from employment of an employee for disciplinary reasons or while criminal proceedings are pending or while an investigation is being conducted.

GENERAL GUIDELINES

The following disciplinary guidelines shall be in use at The University of New Orleans:

A. Referring types of Improper Activity.

1. Criminal Abuse: Acts of abuse which constitute a violation of local, state or federal criminal statutes will be referred to the appropriate law enforcement agencies. The University, at its discretion, will pursue whatever legal and University avenues it deems necessary for achieving reparations.
2. Civil Abuse: Acts of abuse which constitute a violation of local, state, or federal codes or statutes will be referred to the appropriate authorities for disciplinary action. The University, at its discretion, will pursue whatever legal and University avenues it deems necessary for achieving reparations.
3. Other Abuse: Acts of abuse which constitute a violation of the University's established policies will be handled in accordance with disciplinary procedures established by the University and its governing bodies.

B. The Office of Human Resource Management is responsible for providing guidance and counsel to University leadership in the development and implementation of disciplinary procedures. Disciplinary actions must not be issued until the action has been approved by the University President or his designee traditionally the Associate Vice President for Human Resource Management. If an incident is determined to involve improper activity by an employee, appropriate disciplinary action will be taken. The resulting disciplinary action will be based on the seriousness of the violation.

C. Employees considered "Classified" under the Louisiana State Civil Service System will be disciplined in accordance with Chapter 12 of the Louisiana State Civil Service Rules.

D. Employees considered "Unclassified" will be disciplined in accordance with the principles established by this policy.

REPORTING IMPROPER ACTIVITY

Each department head or immediate supervisor is responsible for preventing, detecting and reporting fraud and other improper activities. The following reporting procedure is to be used when policy violations or improper conduct are either suspected or discovered:

A. An employee must report any improper activity, known to him or to her, to his or her immediate supervisor. If this is not an appropriate contact, the employee should contact the Office of Human Resource Management.

B. The immediate supervisor will report any improper activity which may warrant disciplinary action to the Office of Human Resource Management.

C. The affected immediate supervisor, in conjunction with the Office of Human Resource Management and/or senior administrative leadership will determine what course of action should be undertaken regarding any reported incidents.

CONDUCT SUBJECT TO DISCIPLINARY ACTION

The following acts are examples of offenses that may warrant disciplinary action:

Unauthorized Absence from Duty - Unauthorized absence from post of duty includes the absence from the work station or area without authorization and prior notice to the employer.

Unauthorized Tardiness -Tardiness includes reporting for duty any time after the beginning of the shift or returning from a scheduled break or lunch periods later than the designated return to duty times. Unauthorized tardiness is tardiness not approved by the supervisor.

Job Abandonment - Job abandonment includes failure to report to work without notifying one's supervisor for three consecutive days.

Committing Fraud - Fraud is defined as any intentional misrepresentation or concealment, by words or conduct, of material fact intended to deceive another for the purpose of self-enrichment or damage to the University or to any third party.

Insubordination or Failure to Follow Direct Orders - The refusal or failure to perform assigned duties or to accept or comply with instructions or directives given by a supervisor can be considered insubordination. Failure may result from either willful disobedience or negligence by the employee. The instructions or directives may have been given to the employee in either verbal or written form, and may consist of specific directives for a single incident or a standing instruction applicable to unit operations.

Improper Performance of Duties - Examples of improper performance of duty include, but are not limited to:

1. negligence or failure to perform or to complete assigned tasks
2. failure to follow instructions or to follow established procedures in performing job duties
3. failure to maintain established standards of work quality or quantity
4. performance of unauthorized duties
5. failure to act in accordance with the values and/or mission of UNO
6. behavior or performance resulting in unnecessary waste or cost to UNO

Sleeping on Duty - Sleeping on duty includes falling asleep during a shift of duty. Normal manifestations of sleep shall be accepted as evidence that the employee is asleep. Manifestations of sleep include, but are not limited to: Closed eyes, relaxed posture, rhythmic breathing, snoring, failure to respond to events happening around the employee, or to being addressed or called without being aroused.

Falsification of Documents or Records - Falsification of documents, records, employment applications and professional, technical and other certifications attesting to an employee's employment

qualifications includes knowingly entering incorrect, erroneous or unauthorized information or data or omission of information or data into UNO fiscal or employee records or reports. Knowingly certifying such incorrect or erroneous information as being correct is considered to be falsification of records.

Intoxication or Drinking on the Job - Intoxication, drinking on the job or being under the influence of alcohol includes, but is not limited to:

1. reporting to work in a state of intoxication or under the influence of alcohol
2. using and/or possessing alcoholic beverages while on duty.

Refusal to submit to a mandatory drug and/or alcohol test may result in disciplinary action.

Misuse or Possession of Drugs or Being Under the Influence of Drugs - This offense includes the possession or use on UNO premises of controlled or illegal drugs defined as narcotics, hallucinogens, depressants, stimulants, look-alike drugs or other substances which can affect or hamper the senses, emotions, reflexes, judgment or other physical and mental activities. Included are controlled medications or substances not prescribed for current personal treatment by a licensed health practitioner in a medical setting to address a specific physical, emotional or mental condition. Refusal to submit to a mandatory drug and/or alcohol test may result in disciplinary action.

Theft or Misuse of UNO Property - Theft of UNO property or property intended for use by UNO includes the unauthorized removal or attempted removal from UNO premises of any item regardless of value. This offense also includes the use or consumption of property, material or equipment, services or food items belonging to UNO or intended for use by UNO for personal purposes which are not related to official state or UNO business. Damage of UNO property through neglect or deliberate misuse is also an offense.

Theft or Misuse of Personal Property - Theft or misuse of personal property includes the unauthorized possession, use, removal or attempted removal of property belonging to another (except for the purpose of accountability, safe guarding or security) regardless of value.

Fighting or Creating a Disturbance on UNO Premises - The following shall serve as a guide in determining the appropriate administrative action to be taken against employees in cases of violent and/or other inappropriate behavior:

1. any employee who **initiates** an incident of verbal assault and/or intimidation shall be subject to disciplinary action up to and including termination.
2. any employee who **initiates** a violent incident involving physical assault shall face disciplinary action.
3. any employee who **encounters** an incident of physical assault and does not walk away but engages in a continuation of the act shall face disciplinary action. Latitude may be extended to an individual acting in self-defense. The extent of the latitude shall be determined on a case by case basis.
4. the use of profanity or other unprofessional speech.

Misuse of a UNO State Vehicle - Misuse of an UNO state vehicle includes, but is not limited to:

1. transporting unauthorized passengers defined as any person not listed on the request **and** approved as an authorized passenger on the written request
2. use of a UNO state vehicle without permission
3. use of a UNO state vehicle for purposes which are unrelated to official UNO or state business
4. negligence in the use of a UNO state vehicle which results in an accident or unnecessary damage to the vehicle
5. operating a UNO state vehicle without a valid driver's license or permitting another person to knowingly do so
6. operating a UNO state vehicle while intoxicated or under the influence of drugs
7. failure to obey state and local traffic laws while operating a UNO state vehicle
8. operating a UNO state vehicle without using safety restraints, if available
9. not reporting accidents, major and minor, involving a UNO state vehicle to the local police department or appropriate law enforcement agency and the appropriate UNO entity
10. not completing an Accident Report Louisiana State Driver Safety Program form timely

Carrying Unauthorized Weapons onto UNO Premises - Possession of unauthorized weapons includes carrying, displaying or otherwise having under one's control on UNO premises a firearm or other instrumentality customarily considered a dangerous weapon. UNO Police officers may carry a firearm as part of their job duties, and thus not subject to this provision.

Failure to Comply with UNO Organizational-Wide Policies and Departmental Policies, Rules and/or Regulations - Failure to comply with UNO organizational-wide policies or departmental policies, rules and regulations may be seen as an offense under this policy. Any employee who knowingly fails to obey written policies, rules, regulations and verbal orders shall be guilty of this offense.

Conviction of a Felony under Federal Regulations and/or State Law - An employee who is convicted of a felony under federal regulations or state law may be dismissed from state service.

Failure to Report for Overtime Shift - An employee may be required to work overtime. Failure to work overtime as requested may result in disciplinary action.

Interfering with or Refusing to Cooperate with an Investigation - Employees are obligated to cooperate fully with lawful investigations conducted by UNO in an effort to uncover pertinent details regarding incidents and/or occurrences, which if proven, would reasonably be expected to impair the mission of the University.

All Other Offenses - This list and the definitions of the offenses detailed within this policy are not all inclusive. Failure to list a specific offense does not preclude the imposition of disciplinary action if the act impairs the efficient or orderly operation of the public service.

DISCIPLINE OF CLASSIFIED EMPLOYEES

The discipline of classified employees includes **only**: suspension without pay, reduction in pay, involuntary demotion, and dismissal. The following guidelines will apply to such action in accordance with Chapter 12 of the Louisiana State Civil Service rules:

- A. Supervisors generally **do not** have the authority to issue an official disciplinary action against a classified employee. Only the appointing authority of the University, who is the President, has the authority to issue official disciplinary actions unless such authority is delegated in accordance with Civil Service rules. The Assistant Vice President for Human Resource Management is traditionally a Delegated Appointing Authority for UNO.
- B. The use of progressive discipline is encouraged when appropriate. Progressive discipline is a series of steps whereby the severity of the action increases as the employee's behavior fails to improve or as the employee continues to engage in behavior that impairs the efficiency or orderly operation of the public service. Major incidents of misconduct or poor performance could warrant disciplinary action, including dismissal, for the first incident. For minor incidents of misconduct or poor performance, the following steps are generally taken:
 1. informal meetings and conversations with the employee
 2. documented counseling sessions using the Employee Warning Notice
 3. improvement letters or plans using the Employee Warning Notice
 4. initiation of formal disciplinary action.
- C. To monitor the job performance of the employees, supervisors are encouraged to maintain a Performance Documentation File/Supervisory File for each employee under their supervision. Critical incidents, both good and bad, should be documented with the date as they occur to maintain accurate records of performance and counseling history. The documentation should consist of the facts of the event with as much detail as possible concentrating on measurable conduct. The documentation must be complete, clear and correct. **Good documentation practices will assist to substantiate future disciplinary action when necessary.** Examples of good documentation include:
 1. use of the Employee Warning Notice including all specific details of the improper conduct.
 2. statements from witnesses concerning the incident or event. Always include the date, time, location where the incident occurred and the signature of each witness.
 3. written documentation by the supervisor accounting for counseling sessions and subsequent outcomes.
 4. time and attendance documents reflecting excessive absences or tardiness.
 5. any other evidence of an employee's failure to follow policy or procedure after warnings.

D. An essential part of any pre-disciplinary action is a thorough review of evidence to determine if an event or behavior occurred, and/or to investigate suspected misconduct. If necessary, staff from the Office of Human Resource Management may assist in this task. If the investigation confirms suspicions, appropriate disciplinary action may proceed.

E. PREPARING AND ISSUING DISCIPLINARY ACTIONS – When it appears necessary to initiate disciplinary action, the supervisor should contact the Office of Human Resource Management to discuss the situation and obtain guidance. Generally, the following steps will apply:

1. Investigation and/or Review of the Evidence

Alleged employee misconduct should be investigated by the department as soon as possible following the occurrence. The supervisor is expected to maintain good documentation of all evidence which may substantiate disciplinary action. The Office of Human Resource Management will provide guidance as to what action is appropriate based upon the circumstances and the quality of the evidence and documentation supporting disciplinary action.

2. Notice of Proposed Disciplinary Action

A classified employee with permanent status must be given notice prior to UNO taking disciplinary action against him/her. Civil Service rule 12.7 requires that a permanent employee be given notice of a proposed action, the reasons for the action, a description of the evidence supporting the proposed action, and a reasonable opportunity to respond to the proposed action. This notice will be prepared by the Office of Human Resource Management after consultation with the appropriate department.

3. Employee's Response and Pre-Disciplinary Conferences

In the event the employee wishes to respond verbally, a conference may be conducted by the Office of Human Resource Management and attended by an appropriate departmental representative. Attorneys for either party are not permitted at a pre-disciplinary conference. Following the conference, a determination will be made whether to proceed with the action, modify the action, or not take any action at all. If a written response is provided by the employee, that response will be preserved with the record.

4. Notice of Disciplinary Action

The main body of the Notice of Disciplinary Action (the detailed reasons) should be generally identical to the Notice of Proposed Disciplinary Action. If the employee responded to the proposed action, this fact should be noted in the final notice. Similarly, if the employee declines to respond, this fact should also be noted in the final notice.

The notice of disciplinary action must include a statement of the employee's appeal rights pursuant to Chapter 12 and 13 of the Civil Service rules. The Notice of Disciplinary

Action may be hand delivered or mailed via certified mail to the employee by the Office of Human Resource Management.

F. Non-disciplinary Removals – according to Civil Service rule 12.6, a classified employee may be non-disciplinarily removed under the following circumstances:

1. When, on the date the notice required by Rule 12.7 is mailed, hand delivered, or orally given, the employee is unable to perform the essential functions of his job due to illness or medical disability and has fewer than eight hours of sick leave. An employee removed under this provision shall be paid for all remaining sick leave.
2. When, after the employee has been given written notice that his attendance requires improvement and copy of this rule, an employee has seven or more unscheduled absences during any consecutive twenty-six week period. The employee shall also be given written notice each time he incurs a sixth unscheduled absence during a consecutive twenty-six week period. An unscheduled absence occurs when an employee is absent from work without having obtained approved leave prior to the absence. Approval of leave, after the fact, to cover an unscheduled absence shall not prevent the absence from being considered unscheduled. A continuous absence for the same reason is one unscheduled absence, regardless of its duration.
3. When, as a result of conduct that was not work related, the employee fails to obtain or loses a license, commission, certificate or other accreditation that is legally required for the job.
4. When the employee holds more than one position in the state service and the multiple employment causes an employing agency to be liable for overtime payments under the Fair Labor Standards Act and, after having been provided the opportunity to do so, the employee has refused to resign from one of the positions.
5. When there is cause for dismissal, but the cause is not the employee's fault.

DISCIPLINE OF UNCLASSIFIED EMPLOYEES

- A. Unclassified employees of UNO are considered all those University employees not considered 'classified' under the State Civil Service rules. Unclassified employees may include staff, faculty, and administrators.
- B. Some unclassified employees such as faculty will enjoy unique rights to their employment such as tenure. Accordingly, nothing in this policy shall be interpreted as limiting the rights of an employee when such rights are expressly provided for in other University policy or by law.
- C. Unclassified employees generally enjoy no property right to their positions and serve at the pleasure of the University of Louisiana System Board of Supervisors. As such, the employment relationship may be ended by either party without prior notice and without a showing of cause.
- D. Actual discipline of unclassified employees will be managed on a case by case basis and in consultation with the Office of Human Resource Management. Supervisors are encouraged

to use the Employee Warning Notice as a means for improvement and documentation. However, when circumstances suggest the employment relationship does not foster the best interests of the department or University, the supervisor should contact HRM for immediate assistance. Before termination of any employee occurs, supervisors below the level of Vice President are required to contact Human Resource Management to review the potential termination to ensure compliance of university and/or state legal policies. Human Resource Management will then seek approval of the termination from the respective Vice President and President. Final approval from the President must be obtained before any termination occurs.

E. In determining appropriate disciplinary action, the conduct of unclassified employees will be considered in light of the following principles:

1. The severity of discipline will be in reasonable accordance with the infraction i.e. the punishment must fit the crime.
2. The use of progressive discipline and/or prior warnings is encouraged before terminating employment. However, nothing shall prohibit the termination of an employee when such has been determined to be appropriate and in the best interests of the department and/or the University based on the circumstances.
3. The disciplinary proceedings of employees shall be managed with respect for the employee, fairness, and confidentiality to the extent possible.
4. The goal of disciplinary action is to correct improper behavior in order to improve the services, environment, and mission of UNO as furthered by UNO employees. In determining what disciplinary action is appropriate, the best interests of the University shall be the primary consideration.
5. The discipline of unclassified employees may include any reasonable and legal action taken by the University to correct improper conduct including, but not limited to: suspension without pay, demotion, reduction in pay, and termination.



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** Policy Updates: 12/09/2021*