

TEXAS STATE TECHNICAL COLLEGE SYSTEM
SYSTEM OPERATING STANDARD

No.HR.2.4.2	Page 1 of 9	Effective Date: 012/19/07
DIVISION:	Human and Organization Development	
SUBJECT:	Discipline, Dismissal, and Grievances of Contract and Faculty Employees	
AUTHORITY:	Minute Order #104-89	
PROPOSED BY:	<i>Original Signed by Jonathan Hoekstra</i>	
TITLE:	Vice Chancellor, Human and Organization Development	Date: 12/19/07
RECOMMENDED BY:	<i>Original Signed by Jonathan Hoekstra</i>	
TITLE:	Vice Chancellor, Human and Organization Development	Date: 12/19/07
APPROVED BY:	<i>Original Signed by Bill Segura</i>	
TITLE:	Chancellor	Date:12/19/07

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POLICY

It is the policy of the Texas State Technical College to seek fair, efficient and equitable solutions for problems that arise out of the employment relationship and to establish procedures to achieve solutions which satisfy state and federal statutes and institutional objectives.

PERTINENT INFORMATION

Texas State Technical College has established performance standards for all employees and each employee is expected to acquaint him/herself with the required performance criteria for his or her particular job along with all rules, procedures, and standards of conduct established by the employing unit, division, or department. Any non-compliance with established standards will subject an employee to a range of corrective actions from coaching to dismissal. At the supervisor's discretion, based on the severity of the offense, an employee may be placed at any point in the performance improvement process. The key element is that the employee be made aware of the issue or issues that are not acceptable.

Heads of departments or similar administrative units are responsible for informing their employees of the rules and regulations to be followed, the standards of conduct to be met, and productivity requirements. Those employees who do not assume the responsibilities set out by these rules,

procedures, and standards will be subject to corrective personnel actions.

DELEGATION OF AUTHORITY

Presidents have the authority and responsibility to establish campus operating procedures to maintain disciplinary standards and may modify departmental or unit approval levels in accordance with campus organizational structure. The Office of the General Counsel in concert with System Office of Human Resources will recommend official changes to this system operating standard.

OPERATING REQUIREMENTS

The procedures for disciplinary action, up to and including dismissals, applies to all except:

- a. Probationary employees during the TSTC probationary period;
- b. Professional and administrative staff who serve without contracts or serve under contracts terminable at the pleasure and will of an authorized official and who may be dismissed at any time by such authorized official without any requirement that good cause be shown.
- c. Employees suspended with pay pending investigation of allegations relating to the employee. Oral warnings or corrective counseling and such informal, remedial actions are not to be considered disciplinary.
- d. Termination of employment as a result of:
 - 1) a financial exigency;
 - 2) a funding source withdrawn or disrupted or not realized;
 - 3) a re-organization in or abandonment of programs may be resolved under the provisions of a reduction in force procedure;

A. Grievance Provisions

Grievances pertaining to this operating standard shall be resolved through the procedures provided in HR.2.4.14. No employee will be penalized, disciplined or prejudiced for exercising the right to bring a grievance, or presentation of a grievance.

B. Sexual Harassment Complaints Against First-Line Supervisors

1. Employee complaints concerning sexual harassment by a first line supervisor shall be presented in writing to the appropriate upper level supervisor under whom the employee works or to a person or panel designated by the college campus to receive such complaints.
2. Such complaints will be investigated and resolved either pursuant to special procedures of the college for handling sexual harassment complaints or by the president/chancellor, after investigation. Guidance is established in the System Operating Standard, HR 2.4.3, "Prohibiting Sexual Harassment".

DISCIPLINE AND DISMISSAL POLICY AND PROCEDURE

A. Requisite Standards of Conduct

TSTC has established performance standards for all employees and employees are expected to acquaint themselves with required performance criteria for their particular job along with all rules, procedures, and standards of conduct established by the employing unit, division or department. Those employees failing to satisfy the responsibilities as set forth in such rules, procedures and standards are subject to adverse personnel actions.

B. Denial of Appeal Hearing to Probationary Employees

During the 180 or 365 day probationary period, each employee should be observed and counseled. A probationary employee may be dismissed at any time prior to the end of the probationary period with or without cause and without recourse to the appeal procedures provided for other employees. Counseling is not a prerequisite for dismissal during the probationary period.

C. Conduct Which is Subject to Disciplinary Action

1. Poor Work Performance

- a) The general standard of work performance of employees should exceed the merely satisfactory level, and employees are expected to strive for excellence. The failure of an employee to achieve established standards of productivity and/or other evidence which indicates a failure to maintain work performance standards may constitute good cause for disciplinary action. The term "work performance" shall be all inclusive and shall pertain to every aspect of an employee's work and behavior on the job including the ability to work harmoniously with other employees.
- b) Work Performance is to be judged by the formal supervisory evaluation process which describes the quality and quantity of work performed by each employee. When, in the opinion of the supervisor, the work performance of an employee is unsatisfactory, the supervisor must take appropriate disciplinary action.

2. Misconduct

- a) All TSTC employees are expected to adhere to such standards of conduct that will result in a productive environment. Disciplinary action must be equitably imposed for unacceptable conduct.
- b) Examples of misconduct include but are not limited to:
 - 1) Falsification of time sheets, personnel records or other records of the college;

- 2) Violation of safety rules or accepted safety or risk management practices;
- 3) Refusal to follow instructions or to perform designated work that may be required or refusal to adhere established rules and regulations;
- 4) Neglect of duties, or failure to meet a reasonable and objective measure of efficiency and productivity;
- 5) Smoking in areas where prohibited;
- 6) Gambling, or participation in other games of chance on the premises at any time;
- 7) Soliciting, collecting money or circulating petitions on the premises other than within the rules and regulations of the college;
- 8) Possessing intoxicants or drugs in the work place or the use of intoxicants or drugs during working hours;
- 9) Abuse of waste of tools, equipment, fixtures, property, supplies, or goods of the college or any item on loan and under the control of the college;
- 10) Creating or contributing to unhealthy or unsanitary conditions;
- 11) Failure to cooperate with supervisor or co-worker, impairment of function of work unit, or disruptive conduct;
- 12) Disorderly conduct, horseplay, harassment of college personnel, including racial and/or sexual harassment, or use of abusive language on the premises;
- 13) Fighting, agitating a fight, threatening or attempting bodily harm or causing injury to another employee of the college;
- 14) Failure to meet a reasonable and objective measure of efficiency and productivity;
- 15) Theft, dishonesty or unauthorized use of college property or equipment, including college records and/or confidential information;
- 16) Creating a condition hazardous to the individual or fellow employee;
- 17) Refusal to follow instructions or to perform designated work in the time prescribed that may be required or refusal to adhere to established rules and regulations;
- 18) Repeated tardiness or absence, absence without proper notification to the supervisor or without satisfactory reason or unavailability for work;

19) Violations of college policies or rules;

20) Other acts or omissions of misconduct determined to be negligent.

D. Investigation of Unsatisfactory Behavior

1. All observed or reported incidents that involve the potential for disciplinary action shall be investigated by the employee's supervisor or other administrative official.
2. The supervisor or other administrator shall obtain convincing evidence that the employee engaged in conduct which warrants disciplinary action prior to instituting a disciplinary action.
3. The investigating supervisor is encouraged to discuss the results of the investigation with a human resources/personnel official, or an appropriate TSTC System executive officer before disciplinary actions are imposed.

E. Disciplinary Actions Relating to Separation or Demotion

These procedures cover action leading to a hearing appeal to the following types of discipline:

1. Temporary suspension without pay;
2. Demotion-a reduction to a lower rank, grade or position; and
3. Dismissal

F. The Formal Initiation and Resolution of Disciplinary Action

Step 1: Disciplinary actions may be initiated by an employee's immediate supervisor or other supervisor or administrator who becomes aware of the need to remedy a situation by appropriate disciplinary action. In the case of employees in the academic area, both in instruction and instructional support positions, the program chairman or a position of supervision will initiate the disciplinary action. In non-academic areas, the immediate supervisor of such employees will normally initiate disciplinary actions.

Step 2: All proposed disciplinary actions shall be reduced to a written report with recommendations which shall:

- a) specify the approved policy at issue and described the conduct of the employee that contravenes that policy;
- b) describe where, and when appropriate, any previous efforts to inform the employee of the need to change work habits pertinent to the situation or circumstance;
- c) list appropriate, further adverse personnel actions the employee can expect through failure to accept satisfactory remedies.

Step 3: In cases involving faculty or instructional support personnel:

- a) forward the proposed written disciplinary report and recommendation to the Vice President of Student Learning or other appropriate administrator;
- b) in the case of other campus or system employees forward the proposed disciplinary report and recommendation to the appropriate supervisor, through administrative channels to be directed to the president or to the chancellor as the circumstances demand.

Step 4: Only those campus/system administrators reporting directly to a president or to the chancellor, may approve or disapprove recommended disciplinary actions, except on those occasions when the administrator is the cause of action and then, the review will be conducted by the president or chancellor.

G. Specific Practices for Disciplinary Actions

1. Temporary Suspension Without Pay - An employee may be suspended without pay for any period of time not exceeding five days as a disciplinary measure. This action may be taken with the chancellor/president's approval when the employee's conduct requires more severe action than a written reprimand and dismissal may be adjudged as too severe.
 - a. If approved, the requisite personnel action and supporting documentary material shall be included in the employee's personnel file.
 - b. When an employee is suspended without pay he or she will retain his or her status as a state employee under the terms established in the state statutes. Should an employee fail to report for work at the end of the suspension period without good cause, that employee will be deemed to have abandoned the position.
 - c. The employee may formally appeal a suspension without pay under the provisions of a formal hearing procedure as provided further in this document.
 - d. If, after appeal has been completed as provided below, and it is determined that the employee was suspended without pay unjustly, the employee shall receive back pay for the suspension period and his personnel record will be amended to reflect the correction.
2. Demotion for Cause - An employee may be demoted for disciplinary reasons when the remedy implies benefit for both the college and employee.
 - a. A supervisor shall determine when an employee has engaged in conduct warranting demotion and prepare a report and recommendation containing the information specified above.
 - b. The report defining the problem in terms of established policies and/or

procedures along with a recommendation for resolving the problem shall be forwarded to the appropriate administrator, who reports directly to a president or the chancellor, for review and approval or disapproval.

- c. If disapproved, the matter ends at that level.
 - d. If approved, the required personnel action and the supporting documentary material shall be placed in the employee's personnel file.
 - e. Should the demotion be appealed and evidence determines that the employee was demoted without adequate cause, the employee shall be restored to his original position; receive any lost back pay during the period the demotion was in effect; and his personnel record will be amended to reflect the correction.
3. Dismissal - In some circumstances, an employee's conduct and/or work performance may warrant termination of employment.
- a. When in the judgment of a supervisor an employee has engaged in conduct warranting termination, the supervisor shall prepare a report defining the conduct or performance in terms of established policies and/or practice and shall forward this to the appropriate supervisor along with a recommendation to resolve the problem.
 - b. The report and recommendation shall be forwarded to the appropriate administrator for review and approval or disapproval.
 - c. If the recommendation for termination is initially approved by the reviewing administrator, the administrator will schedule a predisciplinary hearing, the parameters of such hearing being set in section "H" below. Following the predisciplinary hearing, should the decision to terminate remain unchanged, the employee shall be presented with a letter specifying the reasons for dismissal and referred to the available appeal rights.
 - d. Employees, may be suspended with pay during the investigation period until the president or the chancellor reaches a decision in the case. Such suspension will be described in the termination letter to the employee.
 - e. When circumstances warrant, the reviewing administrator may terminate the employee without pay following the predisciplinary hearing. In such cases, the payroll and personnel offices shall be notified of the termination and respond in the manner customary for severance.
 - f. If, after an appeal, it is determined that the dismissal was without adequate cause, the employee shall be reinstated in the same position held at the time of dismissal and shall receive back pay, less any unemployment benefits paid, to the date of dismissal. Benefits, such as vacation and sick leave, accruing to the employee shall be reinstated to the date of dismissal, except when prohibited by state statutes.

H. Predisciplinary Hearings

1. An employee shall be informed of the basis for any proposed disciplinary action resulting in suspension, demotion or dismissal and have an opportunity to respond in the presence of his/her supervisor and another in a management position before a final decision is made to take disciplinary action. The purpose of the hearing is to assure that the right parties are addressed. This hearing is not intended to replace the due process hearing as provided for in the appellate procedures outlined below. This hearing may be waived by the employee.
2. There is no prescribed form for this predisciplinary hearing. It should be informal; however, before reaching a final decision to impose discipline, the reviewing 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 initiating the action relies. The names of any persons who have made statements about the disciplinary incident and the content of such statements may be included;
 - b. Give the employee access to any documentary material that has been relied upon to support the proposed disciplinary action; and
 - c. Give the employee, within a reasonable time, not to exceed five (5) working days, an opportunity to respond to the charges either orally or in writing, and to demonstrate to the reviewing supervisor that the charges are not true.
 - d. The reviewing supervisor may approve such recommended action, or consider other options. Copies of the reviewing supervisor's report should be made available to the president and/or the System staff.

Appealing Disciplinary Actions

As stated above, provisions for the appeal of disciplinary actions resulting in suspension without pay, demotion or dismissal are provided in HR.2.4.14.

PERFORMANCE STANDARDS

1. A campus operating procedure exists implementing this operating procedure.
2. All suspension, demotion, and termination matters are handled in accordance with due process standards and this system operating standard.

COLLEGE OPERATING PROCEDURE

COLLEGE		Page 1 of
OFFICE OF RESPONSIBILITY:		
APPROVED BY:		
TITLE:		Date
FORWARDED TO SYSTEM OFFICE ON		