

Interim Disciplinary Policy and Procedure for Complaints Directed at Instructional Staff (Faculty, including Instructors)

Approved by President López, December 14, 2023

A. General Purpose of Disciplinary Action

The purpose of disciplinary action is to address and take corrective action regarding improper conduct of instructional staff that is allegedly inconsistent with New Mexico Tech's policies or procedures, or inconsistent with any federal or state laws, regulations, rules, or policies, as they apply to an employment relationship. This policy and procedure is to address the findings and recommendations that arise from the Complaint Resolution Policy and Procedure for Complaints Directed at Instructional Staff (Faculty, including Instructors).

The dignity and privacy of the employee is to be respected throughout the investigative process and any resultant disciplinary action, if applicable. Each employee scheduled to lose pay, including an involuntary termination, shall be given a memo stating they have the right to appeal and the opportunity to meet with their supervisor or their designated representative and to state why the contemplated action should not go forward. All investigations and disciplinary actions should be pursued in a timely fashion.

B. Disciplinary Action for Unsatisfactory Performance or Unacceptable Workplace Behavior

When an employee's performance does not meet New Mexico Tech standards, progressive discipline shall be applied in most cases. This shall not prevent imposition of more serious disciplinary action including termination depending on the severity of the action. Note that if the alleged behavior that leads to disciplinary action reasonably falls under academic freedom, the accused faculty member may invoke "Regulations Governing Academic Freedom and Tenure (RGAFT)", and the appeals processes therein. In the event that the applicability of RGAFT is challenged, the matter shall be referred to the Senate Academic Freedom and Tenure Committee for a recommendation to the VPAA who, in turn will render a decision on RGAFT applicability. If the employee is unsatisfied with the VPAA's decision, they may appeal to the President.

Verbal Warning/Counseling: The first step in disciplinary action is for the supervisor to verbally warn and counsel the employee about the problem. This discussion should be conducted privately and in a pleasant manner. The supervisor's first objective is to determine if the employee understands the rules, standards, and acceptable levels of performance to be met. The supervisor must explain fully what is expected of the employee, including citing specific examples of acceptable levels of performance; as well as how the performance will be measured. Dates, times and examples of unacceptable performance must be provided for the employee. This step is designed to give the employee the opportunity to correct the substandard performance, not to threaten or discipline them. Supervisors should set a schedule for the employee to demonstrate performance corrections, typically 30 working days is an upper limit.

Written Reprimand: The supervisor shall contact their supervisor, Vice President, and

Human Resources to discuss the personnel issue prior to giving the written reprimand. The reprimand includes a formal meeting with the employee and a witness where the supervisor:

- a. Cites example of unacceptable behavior, including details of the incident.
- b. Reiterates standards the employee must meet for success on the job, how the employee has not met these standards.
- c. Sets forth a specified period of time for improving the unsatisfactory performance, as well as identifying specific tasks that need improvement.
- d. The supervisor will indicate that failure to improve the performance to an acceptable level within the time period specified will result in further disciplinary action which may include suspension or termination. The employee's signature indicates receipt of the plan of action, but does not necessarily indicate agreement with it. A refusal to sign by the employee will be documented, and the written warning process will proceed.
- e. A copy of the letter will be given to the employee during the meeting.
- f. The original letter with the employee's signature is sent to the Human Resources Office. One copy shall be sent to Academic Affairs and the supervisor also retains a copy.
- g. Supervisors should set a schedule for the employee to demonstrate performance corrections, typically 30 working days is an upper limit.

Disciplinary Suspension or Reassignment of Duties: If the employee's performance still does not meet requirements within the time specified, the supervisor, with the prior concurrence of the Director of Human Resources, proceeds to the next step – disciplinary suspension. Again, the supervisor meets with the employee to discuss the substandard performance and why they are being placed on suspension. Disciplinary suspension is an administrative leave with pay for a duration to be determined by the VPAA. The suspension process outlined in the Regulations Governing Academic Freedom and Tenure (RGAFT) policy and procedure will be followed. The suspension letter will indicate that continued failure to correct the substandard performance within a specified time period after the employee returns from suspension will result in termination. Letter distribution is the same as for the written reprimand.

Termination: If the employee's performance does not meet the prescribed standards within the time specified in the disciplinary suspension, the employee will be notified they will be terminated on a specific date. Prior to termination the employee will be given:

- a. The opportunity to prepare a letter of appeal within 5 working days to respond to the written notice and will be informed they have the opportunity to meet with the employee's division director or another person designated by the division director. After the scheduled meeting, the division director or their designated person may discipline, including terminate, the employee if there are grounds to believe that evidence referred to in the written notice is correct, or they may refer the employee back to their department for alternate action. This exercise of the right of appeal supersedes the grievance procedures within this document.
- b. As previously mentioned, an employee may face immediate suspension, pending

termination, for certain extreme situations.

- c. In the event an employee is terminated due to actions not covered by the RGAFT policy and procedure, the employee will not be entitled to any of the provisions of the RGAFT.