

ARTICLE 12

CORRECTIVE AND DISCIPLINARY ACTION

Corrective and Disciplinary Actions

- 12.1 The University may administer corrective action or disciplinary action to an employee.
- a. Corrective action includes oral warnings and written reprimands.
 - b. Disciplinary action shall be limited to dismissal, demotion, or suspension without pay.

Reprimands

- 12.2 An employee may receive from an appropriate administrator an oral warning and/or written reprimand. Such a warning or reprimand shall be confidential and given within a reasonable time of event(s) giving rise to the warning or reprimand. As used in this Agreement, the term “reprimand” shall refer to any written communication from an appropriate administrator to an employee that criticizes or otherwise comments negatively upon the personal/professional conduct and/or job performance of the employee if that written communication is placed in the official personnel file, but does not include performance evaluations or notices of performance expectations or rules and regulations.
- 12.3 An employee shall be provided with a copy of a written reprimand at least five (5) days prior to the possible placement of such a reprimand in the employee's personnel file.
- 12.4 An employee may request a conference with the administrator who issued the reprimand to discuss the reprimand. Such a request shall not be unreasonably denied. The employee may be represented at such a conference by another employee or an APC representative. An employee may appeal the decision to place a written reprimand in their personnel file to the President within five (5) days after the conference held pursuant to this provision. The President may hold a meeting with the employee and their representative, if any. Within ten (10) days of receipt of the appeal, the President shall provide a written response to the employee.
- 12.5 Any written reprimand shall be placed in the official personnel file of the affected employee and shall be subject to Article 11, Personnel File. The employee shall be

provided with a copy of a written reprimand. Written reprimands referred to in this provision do not include written communications that are not placed in the official Personnel File.

- 12.6 The employee shall have the right to attach a rebuttal to a written reprimand and/or request correction of the record pursuant to Article 11, Personnel File.
- 12.7 Reprimands shall not be subject to Article 10, Grievance Procedure, except for alleged violations of the procedures described in this Article.
- 12.8 The appropriate administrator may at any time retract a reprimand or modify a reprimand. The appropriate administrator shall notify the employee of such retractions or modifications.

Temporary Suspensions With Pay

- 12.9 The President may temporarily suspend with pay an employee for reasons related to (a) the safety of persons or property, (b) the prevention of the disruption of programs or operations, and/or (c) investigation of allegations which may lead to a notice of disciplinary action.
- 12.10 The President shall notify the employee in writing of the immediate effect of a temporary suspension and the general nature of the allegations being investigated unless, disclosure of the general nature of the allegations would compromise the university's ability to investigate. Such notification shall be placed in the official personnel file of the affected employee and shall be subject to Article 11, Personnel File.
- 12.11 The President may terminate or extend a temporary suspension and shall notify the employee of any such extension and the anticipated completion date of the investigation, in writing, at the beginning of each thirty (30) day period.
- 12.12 Temporary suspensions are not subject to Article 10, Grievance Procedure, of this Agreement, except for alleged violations of the procedures described in this Article.

Notice of Disciplinary Action

- 12.13 Any notice of disciplinary action shall be issued by the President and served in person or by certified mail at the employee's last known address. Disciplinary actions so noticed in accordance with this provision shall not be covered by any other term of this Agreement.
- 12.14 Upon receipt of a notice of disciplinary action, the potentially affected employee and unit 4 employee representative, if any, shall each be provided with reasonable release time for consultation and preparation for the Skelly Review.
- 12.15 An employee in receipt of a notice of disciplinary action pursuant to provision 12.13 may accept the disciplinary action at any time by filing a letter of acceptance with the President. An acceptance of discipline shall result in the imposition of the sanction, but is not an admission by the employee of misconduct.
- 12.16 The employee shall be provided a notice of the disciplinary action proposed to be taken; a copy of the charges and materials upon which the disciplinary action is based, and notice of the right to respond, either orally or in writing.
- 12.17 Within thirty (30) days of receipt of a notice of disciplinary action, an employee may request a hearing before the State Personnel Board pursuant to Education Code Sections 89538 and 89539. Except as provided elsewhere in this Article, such a request is the sole and exclusive procedure that may be utilized by a member of this bargaining unit for appeal from a disciplinary action.
- 12.18 The University retains the right to promulgate procedures to implement employee pre-discipline due process rights that comply with *Skelly v. State Personnel Board*.

Corrective Action and Discipline for Violations of Campus and Systemwide Policies

- 12.19 The University may administer corrective actions for violation of campus and/or systemwide policies. Such corrective action shall not be subject to Article 10, Grievance Procedure, except as provided in provisions 12.20 and 12.21 of this Article.
- 12.20 If an employee subsequently is disciplined and the notice of disciplinary action includes reference to corrective action for violation of a campus and/or systemwide policy, the employee may elect to either:

- a. Appeal the disciplinary action to the State Personnel Board pursuant to Education Code Sections 89538 and 89539, or
- b. Appeal the disciplinary action directly to the Grievance Procedure (Article 10) beginning at Level II.

12.21 Corrective action, notice of performance expectations, notice of rules and regulations, and/or temporary suspension with pay for violation of campus and/or systemwide policies shall be subject to review in arbitration if such action is cited in a notice of disciplinary action and that subsequent disciplinary action is appealed to arbitration pursuant to provision 12.20.B.

12.22 Any appeal of disciplinary action pursuant to Article 12.20.B by a representative of an employee other than APC is permitted only if accompanied by a written authorization of representation, which shall be signed by the employee. An arbitrator's award in any appeal of disciplinary action pursuant to Article 12.20.B by a representative of an employee other than APC shall not be treated as precedent in any appeal of disciplinary action pursuant to 12.20.B by APC.