

UNAC Proposal Presented 11/29/21

Proposed language in either font color highlighted in gray have not been rejected or changed by the other team in counter proposals.

Existing language in either highlight color is proposed to be eliminated by either UNAC or UA.

## ARTICLE 11

### *Disciplinary Action*

#### 11.1 Just Cause

Disciplinary action may be taken against a UNAC bargaining unit member only for just cause. Nothing in this article shall be used to infringe upon a bargaining unit member's Academic Freedom or Freedom of Speech.

If discipline of a UNAC bargaining unit member is being considered, an investigation or research inquiry must be conducted and the actions outlined in 11.2 must occur before any disciplinary action is taken. ~~In cases of alleged misconduct in research, scholarly work or creative activity, the University shall initiate a research inquiry as outlined in Regulation 10.07.060 prior to a disciplinary investigation. At the time a research inquiry is initiated, the University will simultaneously notify the unit member and United Academics. Research inquiry findings will not result in disciplinary action unless an investigation is conducted.~~

##### 11.1.1 Seven Tenets of Just Cause

Management and United Academics agree that all disciplinary actions shall adhere to the seven tenets of just cause and the process set forth in this article.

- (1) **Notice:** Management must adequately forewarn the employee of the performance standard, defined as a policy, rule, order, or directive, and the consequences for the employee's conduct.
- (2) **Reasonable Performance Standard:** The performance standard must be reasonably related to efficient and safe operations.
- (3) **Investigation:** Management must conduct an investigation to determine if the employee violated policy.
- (4) **Fair Investigation:** The investigation must be fair and objective.

- (5) **Evidence or Proof:** Management's conclusions require substantial evidence of misconduct, or are clearly supported by the evidence.
- (6) **Equal Treatment:** Management must apply its rules, orders, and penalties evenhandedly and without discrimination to all employees.
- (7) **Penalty:** The discipline must be reasonable and proportional to the offense, i.e., progressive discipline

#### 11.1.2 Required Progressive Discipline Training

Administrators must successfully complete progressive discipline procedures training prior to implementing these procedures. The training will be designed by management but shall include training on the seven tenets of just cause. Documentation showing the completion of the training shall be inserted into the personnel files of those administrators who successfully complete the progressive discipline procedures and termination training. Management shall notify United Academics of the dates of progressive discipline procedures training and confirm administrators' attendance. A bargaining unit member appointed by the bargaining unit President shall be invited to participate in the training.

#### 11.1.3 Steps Prior to Disciplinary Investigation

- (1) Verbal discussion shall be the first step in resolving any concerns with a bargaining unit member's performance or conduct prior to any steps of disciplinary actions.
- (2) If verbal discussion does not resolve the issue, then Management will incorporate verbal counselling as a management strategy to help the bargaining unit member understand expectations and be successful in their position. Verbal counselling is not disciplinary and may be memorialized by the supervisor in writing or presented to the bargaining unit member as a written Letter of Expectations with a contemporaneous copy to United Academics. The Letter of Expectation should include a reasonable timeline for resolving the issue(s). If training is identified as a solution, then the Administration shall provide for such at no cost to the bargaining unit member. However, the parties agree and acknowledge that under just cause discipline, there are situations where verbal counselling would not be effective or prudent.
- (3) While the notification requirements of Article 11.2 must be met before a bargaining unit member is subjected to a disciplinary investigation, those requirements do not preclude Management from taking preliminary actions and due diligence to determine whether an investigation or research inquiry is warranted.
- (4) The above steps are not disciplinary and are not recorded in the personnel file. A disciplinary investigation must precede any disciplinary actions.

## 11.2 Disciplinary Investigation and Research Inquiries

### 11.2.1 Disciplinary Investigation

Prior to an investigation required by Article 11.1, the UNAC bargaining unit member and United Academics shall be provided written notice of the investigation, the allegations being considered, the possibility of disciplinary action and the right to union representation. The UNAC bargaining unit member shall be provided an opportunity to meet with the appropriate administrator to respond to the allegations and may be represented by United Academics representatives. UNAC Bargaining unit members subject to investigation may be placed on investigatory leave with pay during the course of an investigation if their continued presence poses threat of harm to themselves, others, or the University, as determined by the University. Such investigatory leave shall not be considered disciplinary action.

In the investigatory meeting, the UNAC bargaining unit member shall be permitted to respond to questions and to provide information or evidence relevant to the allegations under investigation.

### 11.2.2 Research Inquiry

~~If discipline of a UNAC member is being considered, an investigation or research inquiry must be conducted and the actions outlined in 11.2 must occur before any disciplinary action is taken.~~ Prior to an inquiry required by Article 11.1, the bargaining unit member and United Academics shall be provided written notice of the inquiry, the allegations being considered, the possibility of disciplinary action and the right to union representation. In cases of alleged misconduct in research, scholarly work or creative activity, the University shall initiate a research inquiry as outlined in Regulation 10.07.060 prior to a disciplinary investigation. At the time a research inquiry is initiated, the University will simultaneously notify the UNAC bargaining unit member and United Academics. Research inquiry findings will not result in disciplinary action unless a Disciplinary Investigation is conducted after the Research Inquiry is completed.

11.2.3 The University shall conduct and complete all investigations and inquiries as soon as practicable. During the course of an inquiry or investigation, the University shall provide the UNAC bargaining unit member and United Academics substantive updates on the process of the investigation upon request. The University shall provide the UNAC bargaining unit member and United Academics written notice of the outcome of an investigation.

## 11.3 Disciplinary Action

11.3.1 Disciplinary action shall proceed according to the process set forth herein in cases of misconduct, including refusal to perform a legitimate assignment, dishonesty, harassment, assault, substance abuse, theft, or grounds that constitute violations of law.

- a. The University shall provide the UNAC bargaining unit member and United Academics written notice of disciplinary action in advance of a meeting with the UNAC bargaining unit member. The notice shall include a statement of the disciplinary action and notice that the UNAC bargaining unit member may have the right to challenge the disciplinary action as provided in Article 7. The findings of the investigation will be enclosed with the notice of disciplinary action. If the UNAC bargaining unit member does not attend the meeting, the notice shall be mailed to the UNAC bargaining unit member's last known address, with a copy to United Academics.
- b. Disciplinary action up to termination may take effect immediately upon notice to the UNAC bargaining unit member. Termination may take effect five days after notice to the UNAC bargaining unit member and United Academics, during which time the UNAC bargaining unit member may be suspended without pay, at the discretion of the University.

### 11.3.2 Disciplinary Action for Academic Incompetence

Disciplinary action shall proceed according to the process set forth herein in cases of academic incompetence involving demonstrated inability to perform assigned professional responsibilities in an adequate manner.

- a. The University shall provide the written findings of the investigation and the proposed disciplinary action to the UNAC bargaining unit member, United Academics, and the MAU disciplinary committee, a standing committee composed of three UNAC bargaining unit members appointed by United Academics.
- b. Within ten days of receipt of the findings, the MAU disciplinary committee shall conduct a due process hearing on the record at which the UNAC bargaining unit member, with assistance from designated United Academics representatives, shall be provided the opportunity to respond to the findings and a University representative may respond. The hearing shall be closed to all except the parties (i.e., the committee, the UNAC bargaining unit member, United Academics representatives, and administration representatives), unless otherwise agreed to by the parties.
- c. Within ten days of the conclusion of the hearing, the MAU disciplinary committee shall provide its recommendation and the reasons therefore on the proposed disciplinary action to the dean or director, the UNAC bargaining unit member and United Academics. Normally the dean or director will accept the recommendation and proceed accordingly except in compelling circumstances wherein the dean or director believes that the best interests of the University would not be served in accepting the recommendation. If the dean or director intends to take an action other than that recommended by the committee, the dean or director shall specify the reasons in writing, which will be provided by the University to the UNAC bargaining

unit member and United Academics, and a meeting of the dean or director and the committee shall be convened prior to step d. below to discuss the matter.

- d. The University shall provide the UNAC bargaining unit member and United Academics written notice of disciplinary action. The notice shall be provided in advance of a meeting with the unit member. The UNAC bargaining unit member may request the presence of designated United Academics representatives. The notice shall include notice that the UNAC bargaining unit member may have the right to challenge the disciplinary action as provided in Article 7. If the UNAC bargaining unit member does not attend the meeting, the notice shall be mailed to the UNAC bargaining unit member's last known address, with a copy to United Academics.
  - e. Disciplinary actions taken pursuant to Article 11.3.2 shall be considered substantive academic judgments and shall not be subject to the grievance or arbitration process. However, an allegation that the disciplinary action has resulted from an error of procedure shall be subject to the grievance or arbitration process.
  - f. Disciplinary action up to and including termination may take effect immediately upon notice to the UNAC bargaining unit member. Termination may take effect five days after notice to the UNAC bargaining unit member and United Academics, during which time the UNAC bargaining unit member may be suspended without pay, at the discretion of the University.
- 11.3.3 Notice of disciplinary action shall be placed in the UNAC bargaining unit member's academic record file, and a copy thereof simultaneously given to the UNAC bargaining unit member and to United Academics in accordance with Article 12.5.
- 11.3.4 By mutual written agreement of the parties on a case by case basis, all timelines in this ~~A~~ article may be modified.
- 11.3.5 By mutual agreement of the parties, all meetings referred to in this ~~A~~ article may be conducted by teleconference or through an alternate virtual platform.

~~11.3.6 The University shall conduct and complete all investigations as soon as practicable. During the course of an inquiry or investigation, the University shall provide the UNAC bargaining unit member and United Academics substantive updates on the process of the investigation upon request. The University shall provide the UNAC bargaining unit member and United Academics written notice of the outcome of an investigation.~~