

## **DISCIPLINE, SUSPENSION, AND DISCHARGE**

Temple College supports a problem solving approach to performance problems but the College recognizes that misconduct and continued performance problems or a combination may require a remedy in the form of a disciplinary proceeding, suspension, or discharge. It is the employee's responsibility to follow established College policies, procedures, regulations, job duties, supervisory instructions, and departmental standards.

Temple College desires to use progressive discipline in the disciplinary and discharge process. Progressive discipline is designed to allow an employee a reasonable opportunity to meet the requirements of the job, comply with College policies, procedures, practices, and regulations, and allow the employee an opportunity to improve performance.

Progressive discipline will include the use of a documented conference, written warning, suspension, and discharge but it must be noted that any one of these procedures may be used independently based upon the nature of the type of misconduct or performance problem.

There may be situations, however, that some violations of policies and procedures, continued negative behavior or performance, or any combination may be of such serious nature that immediate suspension or discharge may be appropriate. The College reserves the right to administer an immediate suspension or discharge should the situation warrant. Some example situations could include when a person's health and safety are at risk, a crime has been committed, etc. If this occurs, the College is not obligated to follow any specific procedure. Consistent with contractual obligations, the College may discipline or discharge any employee at any time without prior notice.

### **Proper Cause**

Proper cause for discipline or discharge is any behavior relating to the employee's work that is inconsistent with the employee's obligation to the College, i.e., assigned job duties, assigned duty time, violation of College policies, etc. A list of examples that constitute proper cause is shown below for guidance only. **This list is not considered an inclusive list.**

- Assault or battery on another person
- Conviction of a felony
- Creation of a hostile, harassing, or intimidating work/learning environment
- Falsification or omission of information on employment applications or resumes, time cards/records, or any other College record

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- Impairment (mental, physical, or functional) due to substance abuse, subject to ADA guidelines, caused by:
  - Alcohol
  - Legal, illegal, illicit, and/or designer drugs
  - Any other substance that may be inhaled, injected, or taken by mouth
- Possession or use of illegal drugs or alcohol on campus
- Insubordination-disobeying or disregarding duties or directives assigned by supervisor
- Unauthorized release of employee and student records, proprietary information, and FERPA violations
- Viewing, browsing, or downloading sexually explicit material on the internet or any other College electronic medium
  - Viewing or writing to non-work related blogs or similar content websites during regular work hours
- Misappropriation or personal use of College funds, property, possessions, or resources
- Negligence of duties
- Performance that continues to be inadequate after disciplinary action has occurred
- Recurring student complaints and/or recurring adverse student evaluations
- Sexual harassment offence
- Theft or fraud
- Chronic absenteeism
- Unauthorized possession of a firearm or other weapon on campus grounds
- Moral turpitude
- Because of the potential for abuse or the appearance of abuse and the inherent differential in authority, the College prohibits any member of the College community from engaging in a romantic and/or sexual relationship or in romantic and/or sexual conduct with any employee/student with whom that person supervises or evaluates
- Possession of child pornography, including images on assigned college computer or any other assigned college electronic medium (Violation of this line item subjects employee to immediate dismissal and possible criminal charges.)
- Involvement in an accident as the driver in a Temple College vehicle in which a personal electronic device was in use at the time of the accident
- Anyone other than the employee changing the employee's work time on a time sheet
- Failure to report annual or sick time used.

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## **Procedure for All Employees**

### **Level I-Documented Conference**

The goal of a documented conference is to advise the employee that there is a potential performance/behavior problem relative to proper cause and to advise the employee what he or she can do to correct it. It is expected that this type of conference will result in improved performance. The employee will be notified by the appropriate supervisor of:

- The policies or rules violated
- The adverse performance/behavior

Additionally, the employee will be given notice of the following:

- Collaborative plan of action and time frames
- Copies of the action
- Signature of both parties involved
- That further disciplinary action including suspension or discharge will occur if performance/behavior does not meet plan of action or time frame

The employee will be given the opportunity to explain any mitigating circumstances. If the employee's performance/behavior fails to improve within the agreed time frame, the process may continue to Level II-Written Warning. The Level I - Documented Conference may be skipped entirely, dependent upon the severity of the infraction or behavior. The supervisor will document the conference in the departmental employee file. The documentation will remain in the departmental file unless a Level II-Written Warning is implemented. In this case, the documentation of this conference will accompany documentation of a Level II-Written Warning when it is sent to Human Resources. It is recommended that a copy of the departmental documentation be shared with the involved employee.

### **Level II-Written Warning**

If the supervisor determines that an employee has failed to improve the performance/behavior documented in the Level I-Documented Conference, the supervisor must consult with the appropriate Division Director, Vice President, and the Associate Vice President, Resource Management to determine what course of action should be taken. The Division Director, the Vice President, and the Associate Vice President, Resource Management must review written warnings in advance.

A Level II-Written Warning is conducted if a Level I-Documented Conference fails to produce the desired results agreed upon. The appropriate supervisor must make it clear that this is a "Written Warning" and if the employee does not improve

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performance/behavior, more serious disciplinary action up to and including suspension or discharge will take place. Subsequent evaluations should reflect the improved performance. The Level II-Written Warning will be kept in the employee's HR personnel file and will include:

- The policies or rules violated
- The adverse performance/behavior
- Collaborative plan of action and time frames
- Copies of the action
- Signature of both parties involved
- That further disciplinary action including suspension or discharge will occur if performance/behavior does not meet plan of action or time frame

The employee will be given the opportunity to explain any mitigating circumstances. If the employee's performance/behavior fails to improve within the agreed time frame, the process may continue to Level III-Suspension. The Level II-Written Warning step may be skipped entirely, dependent upon the severity of the infraction or behavior.

### **Level III-Suspension**

A suspension is a temporary involuntary removal from active employment, with or without pay, for performance/behavior not satisfactorily corrected through the use of a documented conference and/or written warning or pending the outcome of an investigation in which the employee has allegedly committed a serious violation of policy. Suspensions may range from a period of one (1) day or up to thirty (30) days. Suspension of any member requires prior approval of the College President unless there is a workplace issue requiring immediate attention. The department chair or supervisor administering the suspension must make it clear to the employee being suspended that this is a "suspension." The employee must be notified that the suspension is a disciplinary action and that discharge could occur.

The Suspension Notice will be kept in the faculty member's HR personnel file and will include:

- The policies or rules violated
- The adverse performance/behavior
- Collaborative plan of action and time frames
- A summary of previous action taken
- Copies of the action
- Signature of both parties involved
- That discharge will occur if performance/behavior does not meet plan of action or time frame

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- The amount of time the faculty member will be on work suspension and if the suspension is paid or unpaid

If the employee is suspended for workplace issues that required the immediate removal of the employee, an investigation will be conducted. Pending the outcome of the investigation, copies of the Suspension Notice will be kept in the faculty member's official HR personnel file. If it is determined during the investigation that the employee did not act improperly or did not violate any policies or procedures:

- The notice will be removed
- No further action will be taken
- The employee will be fully reinstated

### **Level IV-Discharge**

A discharge is a permanent involuntary separation of employment from the College for disciplinary reasons, serious violation of policy, non-fulfillment of contractual obligations or any combination. Contract employees can be discharged for cause before the completion of the term stated in their contract. Employees without a contract, including part-time faculty, can be discharged at any time with or without cause. Discharge of any employee requires prior approval of the College President. Discharge notices will remain in the member's official HR personnel file.

### **Notification**

All Level II-Written Warnings, Level III-Suspensions, and Level IV-Discharge notices are to be in writing and must first be reviewed by the appropriate Vice President, and the Associate Vice President, Resource Management. Level III-Suspensions, and Level IV-Discharge notices require authorization/approval to issue the notice from the President of the College.

Level II-Written Warnings, Level III-Suspensions, and Level IV-Discharge notices will be served in person, if possible, by the supervisor with a representative from Human Resources acting as witness. At the time of service, the employee will be asked to sign an acknowledgment of receipt. If the employee declines, the supervisor issuing the notice will note the declination, will then sign and date the notice, the witness will sign and date the notice, and the notice will be given to the faculty member with any copy noted in like fashion. If the notice cannot be properly served in person, the notice may be sent by certified mail with a return receipt requested. Service of the notice will be considered complete when the notice is hand delivered or if that is not possible, deposited at the U.S. postal service by certified mail with a return receipt.

### **Response to Notice of Contemplated Action and Disciplinary Appeals**

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The College reserves the right to make any written warning, suspension, or discharge effective immediately. Workplace issues may require immediate removal of an employee but the employee will be allowed due process under these procedures and a determination as to the type of notice that will be issued. Notwithstanding this right, the College allows the employee the opportunity to respond as set forth below.

The employee may respond in writing to any level warning, suspension, or discharge notice. The employee must respond within five (5) working days to the department chair or supervisor that served the notice. Any extension of time must be submitted in writing to the department chair or supervisor and agreed upon by both parties. The five (5) days the member has to respond starts on the day after the notice has been served. If the fifth day ends on a recognized College holiday, the employee must respond on the next work day following the holiday.

If the employee does not respond within the stated time frame the action will stand and be placed in the employee's official HR personnel file.

If the employee does respond to the notice, the department chair or supervisor will have (10) working days after receipt of the appeal to evaluate the response, issue a written determination, send the determination to the Human Resource Office, and notify the employee of the determination. If the employee feels the action has not been evaluated correctly by the department chair or supervisor, the employee may appeal the action in writing to the next level of supervision, but must do so in the (5) day time frame listed in the preceding paragraphs. After the second level appeal, the employee may appeal in writing to the President of the College in accordance with the same (5) day time frame. The President of the College is the final administrative authority in the appeal process for written notices.

Full-time faculty may appeal suspensions or discharges in accordance with The Hearing Committee for Suspension/Discharge Appeals policy. Depending on the circumstance(s), this response may take place either before or after the suspension or discharge notice is effective.

### **Non-Disciplinary Discharges**

Reduction in Force - See Reduction in Force Policy

Inability to perform duties due to medically certified physical or mental disability.

1. A tenured faculty member will be entitled to one full year of salary from the date of discharge.
2. Non-tenured, probationary faculty members, and non-faculty employees with an employment contract will be entitled to compensation for the unexpired portion of his/her contract, not to exceed one year from the date of dismissal.

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