

Utah Tech University Policy

372: Corrective and Disciplinary Action



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I. Purpose

- 1.1 To remedy performance if a Utah Tech University (“the University”) employee’s attitude, conduct or performance on the job is less than satisfactory. Some actions taken by the employee while not at work may also result in disciplinary action.
- 1.2 Corrective and disciplinary actions are expected to be handled in a manner to achieve the least adverse effect upon the University and the employee. Throughout the entire disciplinary process, all parties shall maintain confidentiality to protect the rights of the employee and the University, as well as maintain compliance with the law. As part of the disciplinary process, employees will be advised on what information must be restricted and the extent of that restriction.
- 1.3 Non-punitive measures such as guidance, leave of absence, voluntary resignation, or early retirement should be considered and taken in lieu of corrective and disciplinary action when 1) it is available; 2) it will provide reasonable assurance that the employee will not repeat their actions; 3) substantial University interests are not undermined; and 4) the employee consents thereto. By opting for resignation or retirement, the employee loses the right to any grievance process that would have otherwise been available to them.
- 1.4 Reasons for corrective and disciplinary action include, but are not limited to: negligence; incompetence; insubordination; disorderly conduct; discourteous or abusive treatment of others; excessive absence or unauthorized absence, including failure to report to work and leaving work without proper approval; unsuitability to job requirements; unsatisfactory compliance with terms of probationary conditions; non-renewal,

suspension or termination of a license or employment authorization necessary to perform the essential functions of the job; expired employment authorization under IRCA (Immigration Reform and Control Act); unjustified interference with the work of others; misuse of University property and funds; fraud; use of alcohol or drugs or being under the influence while working; violation of statutory requirements or University policies related to employment practices, including but not limited to regulations prohibiting discrimination or harassment of a protected class; and violation of other generally accepted standards of conduct and performance where such violation creates substantial inefficiency and/or significantly disrupts the work atmosphere at the University.

II. Scope

- 2.1 This policy applies to all employees of the University, though certain elements of this policy do not apply to at-will or probationary employees. See Policies 301 and 325. It does not preclude a supervisor from using this policy in remedying performance-related issues for at-will employees, however, should a supervisor deem it most appropriate.
- 2.2 In general, an unintentional or accidental policy violation should be treated more leniently than an intentional violation. However, in the case of serious misconduct, even an unintentional or accidental violation may be grounds for dismissal. Apparent failures to comply with standards of conduct and policy should be approached by positive attempts to improve performance such as sustained attempts to inform, persuade, and improve. If appropriate, positive efforts to improve performance shall accompany corrective and disciplinary actions.

III. Definitions

- 3.1 ***Negligence***: a failure to behave with the level of care that someone of ordinary good sense would have exercised under the same circumstances.
- 3.2 ***Incompetence***: the inability or lack of qualifications to perform an assigned task or job function.
- 3.3 ***Insubordination***: a willful or intentional failure to obey a lawful and reasonable request of a supervisor or University administrator acting in their official capacity; an action which constitutes lack of respect or harassment directed toward a supervisor.
- 3.4 ***Disorderly conduct***: knowingly creating a hazardous or physically offensive condition by any act that doesn't serve a legitimate purpose; engaging in an activity that causes significant public or University

inconvenience, annoyance, alarm, or recklessness such as fighting, threatening behavior, unreasonable noise, etc.

- 3.5 ***Fraud:*** deliberately deceiving someone else with the intent of causing damage, be it physical, mental, financial, etc. Includes falsification of application or employee records created by the applicant/employee.
- 3.6 ***Lewd:*** the act of being very sexual or lustful in an offensive way, in the presence of another person, not amounting to rape or sexual abuse.
- 3.7 ***Protected class:*** race/ethnicity, color, national origin, age, religion, gender, sexual orientation, gender identity/expression, pregnancy, disability, or protected veteran status, or otherwise as identified by local, state, or federal law.

IV. Policy

- 4.1 Whenever appropriate, employees should be given an opportunity to improve their performance before corrective action is imposed. Resources such as the OMBUDS office, SafeColleges trainings, and the Employee Assistance Program can be utilized by employees and supervisors to mediate, train, and provide assistance. If informal discussions and reprimands do not correct the attitude, conduct, or performance, a First Level Corrective Discussion is recommended.
- 4.2 First Level Corrective Discussion: the immediate supervisor will hold a private discussion with the employee. The object of the discussion is to notify the employee of the unacceptable behavior and instruct him/her of the necessary corrective action that would bring the employee's attitude, performance or conduct up to acceptable standards.
 - 4.2.1 The employee will be informed that this is the initial corrective action discussion and will be told of the consequences that follow if the conduct or performance does not improve within the time frame set by the supervisor.
 - 4.2.2 The discussion will be documented by the supervisor and a written notice provided to the employee, upon request. Such notices need not be turned into Human Resources, though supervisors may choose to do this. If a copy is given to Human Resources, the employee is required to also be provided a copy at that time. Human Resources will be notified if this corrective discussion is part of an employee performance plan so it may be included with such paperwork already within an employee's personnel file.

- 4.2.3 Where appropriate, the University may provide an opportunity for counseling or training to aid the employee in correcting the deficiency or problem, which is the reason for the written notice. Often, such training is within the scope of normal job training. The University is not expected to train the employee to perform basic skills expected of employees in similar positions without special training. It is primarily the employee's responsibility to fit the job.
- 4.2.4 The supervisor may judge the problem to be of a serious enough nature to forgo the First Level Discussion and initiate the discussion at the Second Level or at the Disciplinary Action Level, after consulting with Human Resources and the next-level supervisor. For second level corrective action and above, employees will be notified of their right to the grievance process (see section 4.6).
- 4.3 Second Level Corrective Discussion: if the employee fails to take the necessary corrective action after the First Level Discussion or commits an offense deemed serious enough to forgo the First Level Discussion, the immediate supervisor will set up a meeting with the employee to discuss their lack of improvement.
 - 4.3.1 A written warning of the Second Level Discussion will be placed in the employee's personnel file and a copy given to the employee. A written warning template is available on the Human Resources webpage. This template may be used at the discretion of the supervisor and is strongly encouraged.
 - 4.3.2 Within the written warning, the employee will be told of the consequences of continued failure to meet the standards set and can be placed on probation.
 - 4.3.2.1 The discipline-related probation period may last up to one year.
 - 4.3.2.2 If the employee repeats their misconduct, continues to perform poorly, or commits additional misconduct during the discipline-related probation period, the supervisor can move to Disciplinary Action.
 - 4.3.3 Upon non-recurrence of problems associated with the second level corrective action during the subsequent one year period, or if satisfactory performance occurs during the established discipline-related probation period, the written warning (and any connected First Level Corrective Discussion documentation turned into Human Resources) may be removed from the personnel file upon written

request by the employee and/or determination by the supervisor and the Human Resources Director that there is no longer a problem and that it is appropriate to remove the record.

4.4 Disciplinary Action: if an employee fails to respond satisfactorily, commits another related offense, or commits an offense deemed serious enough to forgo corrective discussions, disciplinary action will be recommended by the supervisor to the next level of supervision and/or to the appropriate vice president.

4.4.1 The next level supervisor or vice president, in consideration of the supervisor's recommendation, will determine the appropriate disciplinary action.

4.4.2 Disciplinary action may include, but is not limited to: suspension without pay for a period up to 10 working days, and/or a written reprimand, and/or dismissal.

4.4.3 Employees found working under the influence of drugs or alcohol will at least be suspended, without pay, for five working days, as outlined in Policy 324.

4.4.4 If an investigation is necessary and that supervisor and/or Vice President deems it is not in the best interests of the University for the employee to remain at work, the employee may be suspended, with pay, until the investigation is terminated, and the situation is appropriately resolved.

4.5 Dismissal: if an employee fails to respond satisfactorily or commits another offense after disciplinary action has been imposed, an employee may be recommended for dismissal.

4.5.1 Dismissal may also occur for serious misconduct, without the above preceding First and Second Level Discussions, including but not limited to the following job-related reasons:

4.5.1.1 Suspension or termination of a license or employment authorization necessary to perform the essential functions of the job or expired employment authorization under IRCA where continued employment is not allowable under federal/state law provisions;

4.5.1.2 Fraud;

4.5.1.3 Misuse of University property and/or funds;

- 4.5.1.4 Violation of statutory requirements of University regulations and policies, such as regulations related to discrimination or harassment. See Policy 154.
- 4.5.1.5 Conviction of a felony crime by a court of competent jurisdiction;
- 4.5.1.6 Lewd, threatening, abusive or violent treatment of the public, students, or other employees.
- 4.5.2 A written record of all proceedings related to disciplinary action and dismissal will be placed in the employee's personnel file and a copy of the record will be given to the employee.
- 4.6 Staff Employees receiving formal disciplinary action that is at least a Second Level Corrective Discussion will be informed by their supervisor or the Human Resources Director of their right to use the grievance process. See Policy 151.
 - 4.6.1 Faculty facing second level corrective and/or disciplinary action not resulting in dismissal may use Policy 151 as a guide for the grievance process.
 - 4.6.2 Faculty facing dismissal follow guidelines outlined in Policy 371.

V. References

- 5.1 University Policy 151: Staff Grievances
- 5.2 University Policy 154: Title IX, Harassment and Nondiscrimination
- 5.3 University Policy 157: Personal Conduct/Conflict of Interest
- 5.4 University Policy 301: Personnel Definitions
- 5.5 University Policy 304: Personnel Files
- 5.6 University Policy 324: Drug-Free Workplace
- 5.7 University Policy 325: Probation
- 5.8 University Policy 371: Faculty Termination
- 5.9 University Policy 373: Termination and Reduction of Workforce

VI. Procedures

- 6.1 Department heads wishing to utilize the various levels of corrective and disciplinary action with employees should consult their division head, Human Resources, and/or General Counsel to ensure documentation is in place and in compliance with this policy.
- 6.2 Written warnings and disciplinary actions issued will be documented within the employee's personnel file as outlined by this policy, as will the result of any related grievances per Policy 151.

VII. Addenda

- 7.1 Human Resources webpage: <https://humanresources.utahtech.edu/>.
Written Warning Form templates are listed under the "Forms" section.

Policy Owner: Executive Director of Human Resources
Policy Steward: Human Resources, General Counsel

History:

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