

**FAM, AAUP-AFT Counter to Miami University**

**March 6, 2024**

**DISCIPLINE AND DISCHARGE**

- A. Any disciplinary action against a bargaining unit member must be in accordance with the provisions of this article, and must be predicated on a violation of applicable University policy. The University has and retains the right to discipline bargaining unit faculty members in accordance with applicable University, divisional and departmental policies, rules, regulations, directives, orders, or expectations not expressly addressed in this Agreement, up to and including termination of the employment relationship prior to the expiration date of the employment contract.
- B. The University shall not discipline or discharge any bargaining unit faculty member without just cause, nor for any reason whatsoever which is not directly and substantially related to the professional fitness of the faculty member.
- C. The University shall follow the principles of due process and progressive discipline. Any disciplinary action must be proportional to the nature and severity of the offense. Disciplinary actions include oral or written warnings (not placed in the personnel file), written reprimands, suspension with pay, suspension without pay, and termination. Steps in this progression may be skipped only when doing so is necessary to avoid immediate harm to a member or members of the university community. Other disciplinary sanctions may be imposed only by mutual consent in lieu of suspension without pay or termination, and only after following the process described in section N.
- D. The burden of proof shall be on the University by clear and convincing evidence for suspension without pay or termination, and by a preponderance of evidence for all lower levels of discipline.
- E. Disciplinary action or proceedings may not be initiated more than twenty (20) calendar days after the University first knew, or should have known through reasonable diligence, of the allegations forming the basis of the charges. However, if the bargaining unit member is suspended with pay pending an investigation as in section O, this time limit applies only to the initiation of the suspension.
- F. A bargaining unit faculty member may not be disciplined or discharged on the basis of anonymous or confidential allegations.
- G. A bargaining unit faculty member may not be disciplined or discharged for exercising their First Amendment rights, or for exercising their academic freedom as described in Article [Academic Freedom].
- H. Disciplinary action against a bargaining unit faculty member may be proposed, initiated, or imposed only by the bargaining unit faculty member's department chair or dean, or by the Provost.
- I. Any suspension shall include continuation of benefits paid by the University.
- J. Suspension without pay may not exceed one semester.

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The Union reserves the right to add to, delete from, alter or amend this proposal. This proposal is made without precedent or prejudice to existing rights and entitlements, regardless of the character or source of same. Any tentative agreements reached between the parties on any proposals shall not become final until (1) the parties have reached final agreement on a full collective bargaining agreement, and (2) the Union membership has ratified the full collective bargaining agreement.

~~K.~~ No record of a disciplinary procedure shall be placed in a bargaining unit faculty member's personnel file unless and until discipline is imposed and the grievance process is exhausted or waived.

~~B.L.~~ In the event that evidence absolves an accused bargaining unit faculty member, the University shall make a written record of that determination, or, at the option of the bargaining unit faculty member, shall remove the pertinent record of discipline.

~~C.M.~~ Bargaining unit faculty members are required to cooperate and provide truthful information in the University's investigation of any allegations of misconduct.

~~D.N.~~ Prior to implementation of any suspension without pay or termination, bargaining unit faculty members will be provided with a predisciplinary meeting attended by the Provost.

1. The purpose of the predisciplinary meeting is to provide the bargaining unit faculty member an opportunity to respond to the allegations against them and receive a fair hearing in accordance with principles of due process. ~~The predisciplinary meeting is not an evidentiary hearing.~~
2. ~~Notice~~ Written notice signed by the Provost of the allegations against the bargaining unit faculty member, including the specific charges, the basis for those charges, and who brought the charges, will be provided to the bargaining unit faculty member no later than five (5) calendar days prior to the predisciplinary meeting. The faculty member or the Union may request, and shall be granted upon such request, a postponement of the predisciplinary meeting of up to twenty (20) calendar days to prepare a response to the charges.
3. Bargaining unit faculty members have the right, upon request, to be accompanied by a Union representative during the predisciplinary meeting. The notice of allegations shall inform the faculty member of this right, ~~provided that the~~ Unavailability of a the faculty member's chosen Union representative shall not delay the predisciplinary meeting; however, the meeting shall not proceed unless and until some representative of the faculty member is present. If the faculty member chooses to be represented by their own attorney instead of a Union representative, the University must obtain the faculty member's signed waiver of representation before proceeding with the meeting, and must provide the Union with a copy of the waiver.
4. ~~Following~~ No more than four (4) calendar days following the predisciplinary meeting, the bargaining unit faculty member and the Union will be given written notice, signed by the Provost, of any disciplinary action to be imposed. ~~A copy of the discipline shall be provided to the Union within seven (7) calendar days of the issuance of the discipline.~~

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5. After consulting with a representative of the Union, bargaining unit faculty members may agree to waive this predisciplinary meeting and such waiver must be in writing.

O. During the pendency of an investigation, based on reasonable suspicion, into misconduct by a bargaining unit faculty member, the University may suspend the bargaining unit faculty member and place them on administrative leave with pay, or relieve them of a portion of their responsibilities, or exclude them from campus or contact with students, only if necessary to avoid immediate harm to a member or members of the University community, in its discretion. When such action is taken, the Employer will hold the predisciplinary meeting referenced in Section ~~N~~ as expeditiously as possible following the suspension, no later than necessary to secure evidence, and in any case no more than twenty (20) days following the suspension unless an extension is requested by the faculty member. The University will provide notice to the Union within 48 hours of a bargaining unit faculty member's suspension pursuant to this Section.

P. In the case of a grievance relating to disciplinary action, the Union may choose to initiate the grievance procedure of Article [Grievance and Arbitration] at Step One, Step Two, or Step Three as it deems appropriate.

E-Q. In the case of a grievance relating to suspension without pay or termination, before submitting the matter to arbitration and before any discipline is imposed, the bargaining unit faculty member (in consultation with the Union) may choose, and the University shall agree, to enter into mediation. Unless the parties otherwise agree, this mediation shall be conducted by a Mediation Committee formed by the Faculty Rights and Responsibilities Committee according to its established procedures. The Mediation Committee shall meet multiple times if necessary, as determined by its Chair, to allow the parties sufficient opportunity to gather and present relevant information.

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