

Article 29: Disciplinary Measures and Dismissal

General

- 29.01 The Employer shall respect due process and fairness in all disciplinary and dismissal cases as well as in all investigation and information gathering procedures initiated by the Employer.
- 29.02 No disciplinary measure or dismissal shall be imposed without just and sufficient cause, of which the burden of proof falls on the Employer.
- 29.03 The grounds for discipline shall include, but are not limited to:
- a) professional misconduct, such as neglect of duty, substantial or serious misuse of the University's proprietary data or property, or misrepresentation of credentials;
 - b) failure to correct substantial or serious deficiencies in the fulfillment of duties appropriate to the appointment following due notification of such deficiencies and sufficient opportunities and time to redress same;
 - c) an immediate threat to the University's employees, students or physical facilities; or malicious damage to University property.
- 29.04 Disciplinary measures shall be reasonable and commensurate with the seriousness of the violation. With the exception of dismissal proceedings under the provisions of Article 29.17, disciplinary measures shall be of a progressive nature with the aim of being corrective in application.
- 29.05 Information and documentation
- a) All information and documentation communicated to the Dean and used in the disciplinary process by the Employer shall be communicated to the member and the Association within twenty (20) days of receipt. If the information and documentation is not forwarded within that period, it shall not be used for any purpose.
 - b) Only information and documentation that form part of the disciplinary process and that have been remitted to the member and to the Association as per Articles 29.05 a) and 29.10 a) may be taken into consideration in the imposition of any disciplinary measure or dismissal.
- 29.06 Any correspondence addressed to a member under the provisions of the present Article shall be sent either by email to the member's Concordia email address or by courier to the residence of the member, with a copy to the Association.
- 29.07 A member or the Association may grieve any disciplinary measure or dismissal on either substantive or procedural grounds, or both. The Parties agree to make every effort to expedite the hearing of the matter.

29.08 All information and documentation concerning a disciplinary measure shall be kept in a temporary segregated disciplinary file not forming part of the personnel file. If the measure is contested by a grievance and if the measure is not confirmed by a court of final resort, the temporary segregated disciplinary file shall be destroyed unless the member requests that its contents be placed in the personnel file. In all other cases the contents of the temporary segregated disciplinary file may be placed in the personnel file.

29.09 Notwithstanding any provisions of this Article, a member who is either receiving or is eligible for and willing to accept sick leave, compassionate leave or long-term disability benefits shall not be subject to dismissal or other disciplinary measure.

29.10 Procedures for investigation

a) When a Dean becomes aware that there may be grounds for disciplinary action, she or he shall write to the member within fifteen (15) days, with a copy to the Association, giving formal notice of the alleged offence and its particulars. The Dean shall thoroughly and properly investigate the alleged offence. In the case of a member holding a joint appointment, the Dean having administrative responsibility for the member's primary unit shall undertake the investigation.

b) As the final step in the investigation, the member shall be invited to a meeting with the Dean where she or he may respond to the allegation.

Notice of this meeting, together with all information and documentation that has not already been sent as per Article 29.05 a), shall be sent to the member and the Association at least five (5) days prior to the meeting. The member may be accompanied by another member of the University Community acting as an advisor. A representative of the Association may also be present at the meeting. The advisor and the Association's representative shall have the right to question the member, to speak to matters of interpretation of this Agreement and to request clarification regarding matters contained in the documentation sent in accordance with Articles 29.05 and 29.10. The investigation shall be concluded within twenty (20) days of the formal notification.

c) If, during the course of the investigation, the Dean decides that there is just and sufficient cause for dismissal of the member, the file shall immediately be transferred to the Vice-President and the provisions of Article 29.15 shall apply.

d) If, during the course of the investigation, the Dean decides that there are no grounds to proceed with the case, she or he shall terminate the process and send a letter to the member. This letter shall not be placed in the personnel file unless the member requests that it be added to the file. The temporary segregated disciplinary file shall be destroyed, unless the member requests that its contents be placed in the personnel file.

e) If, at the conclusion of the investigation, the Dean decides that a disciplinary measure is warranted, this decision, together with a detailed explanation of the reasons, shall be communicated in writing to the member. This decision shall be

made and communicated within ten (10) days of the conclusion of the investigation referred to in Article 29.10 a).

29.11 Disciplinary measures

- a) The only disciplinary measures available to the Employer are the following:
 - i) A letter of concern prepared and sent to the member in accordance with the provisions of Article 29.12;
 - ii) A letter of warning prepared and sent to the member in accordance with the provisions of Article 29.13;
 - iii) Suspension with or without pay, imposed in accordance with the provisions of Article 29.14;
 - iv) Dismissal, imposed in accordance with the provisions of Article 29.15.
- b) All letters of concern and letters of warning shall be identified as such.
- c) A reasonable time shall elapse between successive disciplinary measures related to the same offence.

29.12 Letter of concern

- a) A letter of concern shall result from a minor offence whose nature and degree of severity are such that a repetition of the offence within a period of two (2) years would in itself constitute potential grounds for a letter of warning.
- b) All letters of concern shall also remind the member that a repetition of the offence within two (2) years may result in a letter of warning.
- c) Every letter of concern shall state the particulars of the offence and shall include a statement of any remedial action the member is required to take.

29.13 Letter of warning

- a) A letter of warning shall result from a serious offence whose nature and degree of severity are such that a repetition of the offence within a period of two (2) years would in itself constitute potential grounds for suspension.
- b) Except in the case of an offence repeated within the two (2) year period specified in Article 29.12, the fact that a letter of concern has previously been issued shall not in itself provide sufficient grounds to issue a letter of warning.
- c) Every letter of warning shall specify that a repetition of the offence within two (2) years may result in suspension.

- d) Every letter of warning shall state the particulars of the offence and shall include a statement of any remedial action the member is required to take.

29.14 Suspension

- a) A suspension may be imposed only by the Vice-President, who shall first discuss the issues with the Association.
- b) Suspension potentially leading to dismissal in extraordinary circumstances shall be governed by the provisions of Article 29.17.
- c) A suspension may be imposed with or without pay.
- d) A suspension shall result either from the repetition of an offence previously identified in a letter of warning as potentially leading to suspension or from a very serious offence whose nature and degree of severity are such that a repetition of the offence within a period of two (2) years would in itself constitute potential grounds for dismissal.
- e) Except in the case of an offence repeated within the two (2) year period specified in Article 29.13, the fact that a letter of warning has previously been issued shall not in itself provide sufficient grounds to impose a suspension.
- f) Every notice of suspension shall specify that a subsequent very serious offence within two (2) years may result in a further suspension or in dismissal.
- g) A suspension may be imposed for a stated period not to exceed twenty (20) days, the dates of which shall be recorded in the letter of warning.
- h) In the case of a member holding a joint appointment, the Dean having administrative responsibility for the member's primary unit shall oversee the investigation.

Dismissal

29.15 The dismissal of a member shall follow one (1) of two (2) possible procedures:

- a) Dismissal after suspension as set out in Article 29.16; or
- b) Dismissal in extraordinary circumstances as set out in Article 29.17.

29.16 Dismissal after suspension

- a) A member may be dismissed after one (1) or more suspensions and following the commission of an offence which in itself would be grounds for suspension.
- b) If the Dean, during the course of the investigation, and where at least one (1) suspension has previously been imposed in accordance with Article 29.14 a), concludes that just and sufficient cause for dismissal of a member exists after the

commission of a subsequent offence pursuant to Article 29.14 f), she or he shall make a formal written recommendation for dismissal to the Vice-President, with a copy to the member and the Association. The recommendation shall give particulars of the alleged grounds for dismissal.

- c) The Vice-President shall write to the member with a copy to the Association stating that she or he intends to initiate dismissal proceedings, and shall invite the member and an advisor, if the member so desires, and the Association's representative to meet with the Vice-President and the Dean.
- d) The meeting shall be held not less than ten (10) days and not more than twenty (20) days after sending the letter from the Vice-President referred to in Article 29.16 c). The meeting may take place in the absence of the member if the latter fails to attend, after proof that she or he received the letter. A bailiff's notice shall constitute such proof.
- e) Within fifteen (15) days following the meeting envisioned in Article 29.16 d), the Vice-President shall render a recommendation or decision in writing, choosing one (1) of the following options:
 - i) Recommend to the President that the member be dismissed, with a copy to the member, the Association, and to all who were present at the meeting.
 - ii) Send a letter of concern or warning to the member with a copy to the Association or issue a suspension with or without pay.
 - iii) Terminate dismissal proceedings with no further action, and so inform the member, with copies to the Association and all who were present at the meeting. In this case, the temporary segregated disciplinary file shall be destroyed, and no reference to the proceedings shall be included in the personnel file, unless the member requests that the contents be placed in the personnel file.
- f) When the President receives a recommendation from the Vice-President to dismiss a member, the President's decision shall be communicated to the member within fifteen (15) days of the date of the recommendation, in writing. If the President rejects the recommendation to dismiss, the President shall terminate dismissal proceedings in accordance with Article 29.16 e) iii). If the President accepts the recommendation to dismiss, the member is then relieved of her or his duties, but retains full salary and benefits, for fifteen (15) days.
- g) If the member or the Association does not file a grievance within the fifteen (15) days, the member's employment shall be terminated at the end of that period.
- h) If a grievance is filed, the matter shall be immediately referred to arbitration as per Article 22.04 d) and following. The member remains suspended, with salary and benefits continuing, until the decision of the arbitrator. If the grievance is not upheld the member's employment is terminated.

29.17 Dismissal in Extraordinary Circumstances

- a) In extraordinary circumstances, the President may suspend a member, with or without salary, for a period of fifteen (15) days, for a stated cause involving gross misconduct, which shall arise from serious threats or physical acts to person(s) or property at the University, or actions that seriously undermine the reputation of the University.
- b) The President shall immediately inform the member in writing that such an action has taken place and provide the reasons for her or his decision.
 - i) If no grievance is filed within fifteen (15) days from the date of suspension, the suspension shall become a dismissal.
 - ii) If a grievance is filed, the member's suspension shall continue, and the President may reinstate, continue, reduce or withhold salary until an arbitrator's decision is rendered. The President's decision shall be reasoned and shall be communicated to the member in writing. The grievance shall be immediately referred to an arbitrator as per Article 22.04 d) and following.
- c) A member suspended without salary and benefits shall have the right to maintain all or a portion of the benefits at her or his expense. The member who grieves such a suspension shall retain the right to reclaim the amounts so disbursed if the grievance is upheld.

Agreed June 27, 2012