

## ARTICLE 16

### *LETTERS OF COUNSEL, DISCIPLINARY ACTION AND JOB ABANDONMENT*

#### **16.1 Letters of Counseling/Instruction.**

Letters of Counseling or Instruction may be given to employees **for just cause** to provide information regarding university policies, ~~rules~~regulations, or provisions of the Collective Bargaining Agreement. Such letters, ~~that~~which may include recommendations for participation in an Employee Assistance Program, are not considered discipline and are not placed in the employee's Evaluation File unless requested by the employee. Letters of Counseling or Instruction~~They~~ may be used only as evidence to demonstrate the employee's awareness of University expectations. ~~Since Letters of Counseling or Instruction do not constitute discipline, they are not subject to the grievance procedures of Article 20.~~

~~Letters of Counseling or Instruction may be provided to employees to provide guidance for bringing conduct or performance into compliance with university policies, rules, or provisions of the Collective Bargaining Agreement. Such letters, which may include recommendations for participation in an Employee Assistance Program, are not considered discipline and may be used only as evidence to demonstrate the employee's awareness of University expectations.~~

**16.2 Discipline.** Discipline shall be defined as the process of correcting and improving behavior found to be violation of policies, regulations, or the Collective Bargaining Agreement. All discipline shall be progressive with the goal of preventing future violations and discipline.

#### **16.3 Just Cause.**

(a) The purpose of this ~~article~~section is to provide a prompt and equitable procedure for disciplinary action taken with just cause. Just cause shall be defined as legally sufficient reason to take action concerning alleged:

- (1) incompetence, or
- (2) misconduct.

~~(b) An employee's activities which fall outside the scope of employment shall constitute misconduct only if such activities adversely affect the legitimate interests of the University.~~(b) Demonstrating just cause requires satisfying seven tests:

(1) The university regulation, policy, or provision of the Collective Bargaining Agreement must be stated in straightforward language that is easy to understand, and the university must be consistent and unbiased in applying such regulation, policy, or provision of the Collective Bargaining Agreement.

(2) The university regulation, policy or provision of the Collective Bargaining Agreement must be published in a conspicuous location and the employee must be aware of or informed of such regulation, policy, or provision of the Collective Bargaining Agreement.

(3) The university must conduct a fair and thorough investigation of the alleged offense, including compiling written documentation, interviewing all witnesses, clarifying inconsistencies, reconciling conflicting information, and allowing the employee to explain their actions.

(4) Those conducting the investigation must be impartial; they cannot be the employee's immediate supervisor or dean, or have any other conflicts of interest. Being the relative, spouse, business associate, or subordinate of the employee's immediate supervisor or dean shall constitute a conflict of interest.

46 (5) The results of the investigation must yield clear and convincing evidence that  
47 the alleged violation occurred, and that the employee was aware of and understood the university  
48 regulation, policy, or provision of the Collective Bargaining Agreement.

49 (6) The regulation, policy, or provision of the Collective Bargaining Agreement  
50 must be applied consistently, employees must be held accountable, and similar employees must  
51 have received the same discipline for similar violations.

52 (7) The discipline must be appropriate for the violation.

53 (c) Any investigation of an employee shall be completed within forty-five days of the  
54 receipt of notice. This timeline may be extended under exceptional circumstances, by agreement  
55 with the UCF Chapter of the United Faculty of Florida.

56 (d) An employee's activities that fall outside the scope of employment shall constitute  
57 misconduct only if such activities have a foreseeable adverse effect on the legitimate interests of  
58 the University.

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61 ~~**16.2 Letters of Counseling/Instruction.** Letters of Counseling or Instruction may be~~  
62 ~~provided to employees to provide guidance for bringing conduct or performance into compliance~~  
63 ~~with university policies, rules, or provisions of the Collective Bargaining Agreement. Such~~  
64 ~~letters, that may include recommendations for participation in an Employee Assistance Program,~~  
65 ~~are not considered discipline and may be used only as evidence to demonstrate the employee's~~  
66 ~~awareness of University expectations.~~

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68 **16.3.4 Progressive Discipline.** Both parties endorse the principle of progressive discipline as  
69 applied to professionals. The purpose of progressive discipline is to correct a particular and  
70 specific behavior. In order, the four steps of progressive discipline are a documented oral  
71 reprimand, a written reprimand, suspension, and termination. Progressive discipline must be for  
72 failure to correct the same specific behavior.

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74 **16.4.5 Notice of Intent.**

75 (a) Oral Reprimand and Written Reprimand. No notice of intent or employee response  
76 time is required when an employee receives an oral reprimand or written reprimand. The UCF  
77 Chapter of the United Faculty of Florida shall receive written notice of any oral reprimand or  
78 written reprimand on the same day it is given to the employee.

79 (b) Suspension or Termination. When the ~~president or president's-University's~~  
80 representative has reason to believe that suspension or termination should be imposed, the  
81 ~~president or president's-University's~~ representative shall provide the employee with a written  
82 notice of the proposed action and the reasons therefore. Such notice shall be sent via certified  
83 mail, return receipt requested, or delivered in person with written documentation of receipt  
84 obtained. The employee shall be given ten ~~(10)~~-days to respond in writing to ~~the president or~~  
85 ~~president's-University's~~ representative before the proposed action is taken. The ~~president or~~  
86 ~~president's-University's~~ representative then may issue a notice of disciplinary action under  
87 Section 16.5.

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89 **16.5.6 Notice of Disciplinary Action.** Any notice of disciplinary action shall include a  
90 statement of the reasons therefore and a statement advising the employee that the action is  
91 subject to the Grievance Procedure in Article 20. All such notices shall be sent via certified mail,

92 return receipt requested, or delivered in person to [both](#) the employee [and the UCF Chapter of the](#)  
93 [United Faculty of Florida](#), with written documentation of receipts obtained.

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95 **16.6-7 Disciplinary Action Other than Termination.** The University retains its right to impose  
96 disciplinary action other than termination for just cause including, but not limited to, suspension  
97 with or without pay. Should the university require, as part of the disciplinary process,  
98 participation in training, failure to provide evidence of completion of that training would be  
99 considered just cause for further discipline.

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101 **16.7-8 Termination.** A tenured appointment or any appointment of definite duration may be  
102 terminated during its term for just cause. An employee shall be given written notice of  
103 termination at least six months in advance of the effective date of such termination, except that in  
104 cases where the president or representative determines that an employee's actions adversely  
105 affect the functioning of the University or jeopardize the safety or welfare of the employee,  
106 colleagues, or students, the president or representative may give less than six months' notice.

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108 **16.8-9 Employee Assistance Program.** Neither the fact of an employee's participation in an  
109 Employee Assistance Program, nor information generated by participation in the program, shall  
110 be used as a reason for discipline under this Article, except for information relating to an  
111 employee's failure to participate in an Employee Assistance Program consistent with the terms to  
112 which the employee and the University have agreed.

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114 **16.9-10 Job Abandonment.**

115 (a) If an employee is absent without authorized leave for twelve ~~(12)~~ or more consecutive  
116 days under the provisions of Section 17.1, the employee shall be considered to have abandoned  
117 the position and voluntarily resigned from the University.

118 (b) Notwithstanding paragraph (a), above, if the employee's absence is for reasons  
119 beyond the control of the employee and the employee or a representative notifies the University  
120 as soon as practicable, the employee will not be considered to have abandoned the position.

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122 **16.110 Notice of Investigation.**

123 The UCF Chapter of the United Faculty of Florida will be notified at the onset of any  
124 investigation of employees.