

AR 7360 Discipline and Dismissal – Exempt and Non-Exempt Employees

References:

Previous BP 316
BP 7360

Probationary Staff

A. Each new employee shall be placed on a probationary period for six months for non-exempt staff and one year for exempt staff, beginning on the first day of the month after starting work at TBCC.

B. At the second, fourth, and sixth full month of employment for non-exempt staff and fourth, eighth, and twelfth full month of employment for exempt staff, the employee's supervisor will meet with the employee to discuss the employee's performance, with particular emphasis on any areas of deficiency that might prevent satisfactory completion of the trial period. This conference will be documented and shall be signed by both the employee and the supervisor, then forwarded through appropriate administrative channels to the College President. A copy will be provided to the employee and placed in the employee's personnel file. An extension of one (1) month may be granted if the supervisor has determined the additional time will allow the employee to reach the level of ability required to perform the duties of the position. The options at the end of the one-month extension to the probationary period will be either dismissal or permanent status.

If at any time during the probationary period the employee's performance is deemed unsatisfactory, and this has been communicated to the employee, the employee may be terminated without cause and without recourse to the grievance procedure.

Permanent Staff

A permanent exempt or non-exempt staff person (staff that have passed their probationary period and given permanent status) shall be subject to disciplinary action, including, but not limited to, oral reprimand, written reprimand, reduction in pay, demotion, suspension, or dismissal, for any of the following grounds:

- Dishonesty in any aspect of employment, including intentionally falsifying documents, falsifying time records, misrepresenting the reason for leave from work, or providing false or misleading information to secure an appointment or promotion.
- Incompetence, i.e., inability to comply with the minimum standard of an employee's position for a significant period of time as determined by the supervisor.
- Inefficiency or inexcusable neglect of duty, i.e., failure to perform duties required of an employee in the position.
- Disclosure of confidential work-related information (except as protected by law).

- Engaging in discriminatory behavior or harassment of a sexual, racial, ethnic, disability related, or religious nature which the College considers to be repeated or serious. This also includes discriminatory behavior resulting from a consensual sexual or mutually recognized romantic or dating relationship in which one of the parties has the power to directly influence the other person's educational or employment status.
- Willful disobedience and insubordination, a willful failure follow supervisory instructions or to follow established work rules and procedures,, or insulting or demeaning the authority of a supervisor or manager.
- Being impaired by or under the influence of alcohol, marijuana, illegal drugs or narcotics, or even prescription medication that causes impairment while on duty.
- Excessive absenteeism related to the abuse or misuse of leave, including an unexcused absence without leave and a failure to follow established call-in procedures for absences. This does not apply to protected leave or the use of accrued leave.
- Any conviction of either a misdemeanor or a felony involving moral turpitude shall constitute grounds for dismissal of any employee. The record of conviction shall be conclusive evidence only of the fact that the conviction occurred. A plea or verdict of guilty, or a conviction showing a plea of nolo contendere made to charge a felony or any offense involving moral turpitude, is deemed to be a conviction within the meaning of this section.
- Discourteous treatment of the public, students, or other college employees while in the course and scope of College employment.
- Improper or unauthorized use of TBCC property.
- Refusal to subscribe to any oath or affirmation which is required by law in connection with TBCC employment.
- Any willful act of conduct undertaken in bad faith, either during or outside of duty hours which is of such a nature that it causes discredit to TBCC, the employee's department or division that rises to a substantial disruption of the College environment.
- Acceptance from any source of a reward, gift, or other form of remuneration in addition to regular compensation to an employee for the performance of his/her/their official duties except as allowed in ORS Chapter 244 (Government Ethics).
- The refusal of any officer or employee of TBCC to testify under oath before any court, grand jury, or administrative officer having jurisdiction over any then pending cause of inquiry in which TBCC is involved. Violation of this provision may constitute of itself sufficient ground for the immediate discharge of such officer or employee.
- Willful violation of policies, procedures and other rules which may be prescribed by TBCC or departments.
- Working overtime without authorization for non-exempt staff.
- Continued unsatisfactory, careless, inaccurate, unreliable, or otherwise poor work performance or productivity.
- Repeatedly interfering with or impeding an employee's work by excessively creating distractions.

- Performing other than College work during work hours without authorization.

A progressive discipline approach will be used in most cases based on severity of the discipline issue. This typically would include a verbal warning, followed by a written warning, and then dismissal. These steps are listed in more detail below. If dismissal is recommended by the supervisor, it must first be approved by the President prior to implementation.

Disciplinary Actions

Disciplinary action taken by TBCC against a permanent staff may include, but not be limited to the following:

- Reduction in pay or demotion – TBCC may reduce the pay or demote an employee whose performance of the required duties falls below standard, or for misconduct.
- Suspension – An employee may be suspended for disciplinary purposes without pay.
- Dismissal – A permanent staff may be discharged for cause at any time.

Procedure for Disciplinary Action and Appeal

TBCC may, for disciplinary purposes, suspend, demote or dismiss any employee holding a permanent staff position. Demotion shall include reduction in pay from a step within the class to one or more lower steps.

For staff suspended, demoted or dismissed, TBCC shall follow a pre-disciplinary procedure as follows:

Notice of Intent

Whenever TBCC suspends an employee, demotes the employee, or dismisses the employee, the employee shall be given a written notice of the proposed discipline which sets forth the following:

- The disciplinary action intended;
- The specific charges upon which the proposed action is based;
- A factual summary of the grounds upon which the charges are based;
- Notice of the employee's right to respond to the charges orally in a due process meeting;

Final Notice

After the response to the notice of intent, the supervisor will send out the final notice related to the proposed disciplinary action.

Appeal and Request for Hearing

If a staff, having been issued the final notice of disciplinary action, wants to appeal the action, he/she/they shall within 10 calendar days from the date of receipt of the notice, appeal to the President by filing a written answer to the charges and a request for hearing with the President.

Time for Hearing

The President shall, within a reasonable time from the filing of the appeal, commence the hearing. The President may conduct the hearing itself or may secure the services of an experienced hearing officer or Administrative Law Judge, mutually selected by the President and the employee, to conduct a hearing and render a proposed decision for consideration by the President. However, in every case, the decision of the President itself shall be final. The President may affirm, modify or revoke the discipline. Any employee, having filed an appeal with the President and having been notified of the time and place of the hearing, who fails to make an appearance before the President, may be deemed to have abandoned his/her/their appeal. In this event, the President may dismiss the appeal.

Written Findings, Conclusion, and Decision

The President shall render its findings, conclusions and decision as soon after the conclusion of the hearing as possible. A finding must be made by the President on each material issue. The President may sustain or reject any or all of the charges filed against the employee. The President may sustain, reject or modify the disciplinary action invoked against the employee. In those cases where the President has received a proposed decision from a hearing officer or Administrative Law Judge, the President may adopt the proposed decision, modify the proposed decision or render a new decision. If the President recommends reinstatement of the terminated employee, the employee is only entitled to back pay minus the sum the employee has earned during the period of absence.

Emergency Suspension

If an employee's conduct presents an immediate threat to the health and safety of the employee or others, the employee may be suspended without compliance with the provisions this procedure. However, as soon as possible after suspension, the employee shall be given notice as set forth herein.

Record Filed

When final action is taken, the documents shall be placed in the employee's personnel file.

Adopted:

NWCCU Standard Removed 5/20

Approved: 10/23