

ARTICLE 9

COACHING, DISCIPLINE, AND JOB ABANDONMENT

9.1 ~~Policy. Employees are subject to disciplinary action, up to and including discharge, for just cause, including but not limited to, for violating University procedures, policies, rules, and regulations, contract provisions, personnel directives, and/or general orders. Due process shall be provided prior to any final decisions regarding disciplinary actions (excluding oral reprimands). Employees shall be provided notice and a written statement of any disciplinary action taken (excluding oral reprimands).~~

(a) Employees are subject to disciplinary action, up to and including discharge, for just cause, including but not limited to, for violating University procedures, policies, rules, and regulations, contract provisions, personnel directives, and/or general orders.

(b) Due process shall be provided prior to any final decisions regarding disciplinary actions (excluding oral reprimands).

(c) Employees shall be provided notice and a written statement of any disciplinary action taken (excluding oral reprimands).

9.2 Coaching and Letters of Counseling/Instruction.

(a) Coaching.

(1) Coaching is intended to be an informal and constructive process which seeks to improve employee performance or to discuss issue(s) of concern.

(2) Coaching includes guidance for correction and an opportunity to correct an employees performance.

(3) Coaching is not considered discipline.

(b) Letters of Counseling/Instruction.

(1) If previous verbal discussion or coaching is not effective, or if a supervisor solely determines that written guidance is warranted, Letters of Counseling or Instruction may be given to a faculty member. As a formal communication to the faculty member, such letters will:

a. identify issues of concern;

b. provide guidance for correction, if appropriate, and;

c. provide a meaningful opportunity to correct, if appropriate.

(2) Letters should provide relevant information regarding university policies, regulations, or provisions of the Collective Bargaining Agreement or information about the University’s Employee Assistance Program.

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1 (3) Such letters are not considered discipline, are not grievable, and are not
2 placed in the faculty member’s personnel file unless requested by the faculty
3 member.

4 (4) These letters may be used only as evidence to demonstrate the faculty
5 member’s awareness of University expectations.

6 **9.29.3 Just Cause.** Discipline of bargaining unit employees shall be for just cause. Just cause is
7 defined as including:

8 (a) Incompetence (including but not limited to: significant poor performance;
9 persistent inability to meet published guidelines or schedules; failure to follow
10 established procedures; inability to perform other activities deemed core to faculty
11 performance); or

12 (b) Misconduct (including but not limited to: insubordination; failure comply with
13 normal supervisory directives; dishonesty or misrepresentation), or;

14 ~~(b)~~(c) Neglect of duty.

15 **9.39.4 Progressive Discipline.** ~~Disciplinary actions shall be progressive. Certain actions by their~~
16 ~~nature may be severe enough, however, to justify deviating from progressive disciplinary~~
17 ~~principles, and result in immediate discharge of employment or other disciplinary action.~~
18 ~~Forms of discipline may include, but are not limited to:~~

19 (a) Disciplinary actions shall be typically are progressive. Penalties shall be
20 appropriate to the circumstances and proportionate to the seriousness of the offense.
21 All offenses can have a cumulative effect, and offenses need not be identical to
22 impose a penalty more severe than prescribed for a similar offense. Depending on
23 the nature of the conduct and the facts and circumstances of the situation, discipline
24 may be imposed without prior use of coaching.

25 (b) Certain actions by their nature may be severe enough, however, to justify deviating
26 from progressive disciplinary principles, and result in immediate discharge of
27 employment or other disciplinary action. Progressive discipline does not have to
28 “start” with a written reprimand; if instances warrant, discipline may start with
29 suspension or discharge.

30 (c) Forms of discipline may include, but are not limited to:

31 ~~(a)~~ oral counseling;

32 ~~(b)~~(1) written reprimand;

33 (2) suspension with pay;

34 ~~(c)~~(3) suspension without pay; and

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~~(d)~~(4) discharge of employment.

9.5 Suspension or Termination.

(a) Written Notice of Proposed Disciplinary Action.

(1) When the President or designee has reason to believe that a suspension or termination should possibly be imposed as a disciplinary consequence, the President or designee shall provide the faculty member with a written Notice of Proposed Disciplinary Action proposed disciplinary action and the rationale for such action.

(2) Such Notice shall be sent certified mail, return receipt requested, to the faculty member’s last known address, or delivered to the faculty member in person.

(3) This Notice will include a statement of the faculty member’s rights to a review by a Peer Panel as specified in Section 9.6(c).

(4) The Peer Panel is only required in cases of suspension and/or termination. The University, in its sole discretion, may utilize a Peer Panel review as part of the process for other forms of discipline.

(5) In the event that the University has reason to believe that the faculty member’s actions or presence on the job would adversely affect the orderly conduct and processes of the University, and/or jeopardize the safety or welfare of the faculty member, other faculty and staff, or students, the faculty member may be placed on paid administrative leave pending the outcome of a Peer Panel process. Administrative leave is not discipline.

(b) Within ten (10) days of receipt of the Notice of Proposed Disciplinary Action, the faculty member must submit a written request for review by a Peer Panel to the Office of the President (President@FloridaPoly.edu) or designee.

(1) If the faculty member fails to timely request the Peer Panel, the faculty member shall have twenty (20) days from the date of receipt of the Notice of Proposed Disciplinary Action in which to respond in writing to the President or designee before the proposed action is taken.

(2) After receiving the written response or, if no response is received after twenty (20) days from the date of receipt of the Notice of Proposed Disciplinary Action, the President or designee may issue a Notice of Disciplinary Action under Section 9.6.

9.6 Notice of Disciplinary Action.

(a) All Notices of Disciplinary Action disciplinary action shall include a statement of

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the reasons for the disciplinary action and a statement advising the faculty member that the action is subject to Article 11 - Grievance and Arbitration Procedure.

(b) All such notices shall be sent certified mail, return receipt requested, to the faculty member’s last known address, or delivered in person to the faculty member.

(c) If the President or designee does not issue a Notice of Disciplinary Action disciplinary action within ninety (90) days of the Notice of Proposed Disciplinary Action, no disciplinary action shall be taken and the Notice of Proposed Disciplinary Action shall not be retained in the faculty member’s evaluation file, as permitted by law.

9.7 Peer Panel.

(a) Usage of Peer Panel.

(1) In cases in which the University has under consideration disciplinary action to:

a. suspend without pay, or

b. terminate the appointment of a faculty member prior to the expiration of the faculty member’s current employment contract,

the faculty member shall be provided with the opportunity for a review by an appropriate faculty committee as described in Paragraph (c) below (hereinafter referred to as the “Peer Panel” or the “Panel”) prior to issuance of a final Notice of Discipline, except as described in Section 9.5(b)(1).

(2) The University may, at its sole discretion, utilize the Peer Panel process for any other potential disciplinary action in which neither suspension without pay nor termination are under consideration.

(b) Overview of Peer Panel Process.

(1) The process consists of the opportunity for the faculty member and the University to submit written statements and documentation to the Peer Panel, whose members shall:

a. consider the written statements and documentation, evidence and;

b. submit a single recommendation reflecting the panel’s consensus to the President or designee.

(2) This process shall not preclude the right of a faculty member to file a grievance in accordance with this CBA, or any other adjudicatory due

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process proceeding, following the issuance of a final Notice of Discipline.

a. Grievances that are filed prior to the issuance of a final Notice of Discipline will not be processed by the University until after the Peer Panel process (which may include a recommendation to not administer discipline) has concluded.

b. The use of the Peer Panel process, including the formation of the Panel and any subsequent recommendation [FPU-BOT] made by the Peer Panel, is not grievable.

(3) The faculty member’s failure to timely request the Peer Panel as described in Section 9.5(b)(1) will constitute a waiver by the faculty member as to utilizing this process.

(c) Formation of the Peer Panel.

(1) Upon the timely request for a Peer Panel by the faculty member, the President or designee will assemble a Peer Panel with potential members selected in the following manner:

a. Seven (7) individuals will be randomly selected from the pool of faculty who hold the rank of Associate Professor or Full Professor. Of those seven (7) individuals, the pool must contain a minimum of two (2) faculty who hold the rank of Full Professor.

b. When the University is staffed with ten (10) or more faculty who hold the rank of Full Professor, seven (7) individuals will be randomly selected from the pool of faculty that only hold the rank of Full Professor.

(2) After the pool of potential Peer Panel members is assembled, the President or designee will coordinate a time with the faculty member to select members for the Peer Panel.

a. One of the Vice Provosts will serve as the Chair of the Peer Panel. The faculty member shall have the right to choose which Vice Provost (Academic Affairs, Student Affairs, or Admissions) will serve on the panel.

b. The University and the faculty member will alternate striking names from the list until only three (3) remain. The final Peer Panel must

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contain a minimum of one (1) faculty member who holds the rank of Full Professor.

(3) The Peer Panel will be formally established after the Chair of the Peer Panel and three (3) faculty members have been selected.

(d) Submission of Information.

(1) Upon establishment of the Panel, the President or designee will submit to the Chair of the Panel, with a copy to the faculty member and the UFF Grievance Chair, the Peer Panel procedures outlined in this Article, written materials to be considered by the Panel, including the Notice of Proposed Disciplinary Action and the rationale for such action.

(2) Within ten (10) calendar days after the establishment of the Panel, the faculty member may provide to the Chair of the Panel, with a copy to the President or designee and the UFF Grievance Chair, a written statement or response to the President or designee’s Notice of Proposed Disciplinary Action, and any additional written documentation to be considered by the Panel.

a. Failure of the faculty member to submit a timely written statement and/or documents to the Peer Panel will constitute a waiver of the opportunity to submit the same.

b. In that event, the Panel will offer its opinions based on the written statement and documents submitted by the President or designee.

(3) The Chair of the Panel will transmit copies of the foregoing information and/or documentation to the Panel immediately upon receipt.

(4) The Peer Panel may seek additional information from either the University or faculty member as it deems necessary or appropriate. The UFF Grievance Chair shall be provided with copies of any such additional information obtained by the Peer Panel.

(e) Peer Panel Recommendation.

(1) The members of the Panel will evaluate and consider the Notice of Proposed Disciplinary Action, the written justification for such action, and any additional documentation submitted by the President or designee and the faculty member.

(2) Within ten (10) calendar days of the deadline for submissions specified in 9.7(d) above, the Panel will submit to the President or designee a single

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written report containing the Peer Panel’s consensus (including a minority opinion if necessary) as to the proposed disciplinary action, with copies provided to the faculty member and the UFF Grievance Chair.

(3) The recommendation shall express the collective opinion:

a. whether disciplinary action is warranted for the alleged conduct, and;

b. if so, whether the penalty deemed appropriate under the circumstances.

(f) Consideration of Peer Panel Recommendation.

(1) The President or designee will review the Panel recommendation and take it into consideration in deciding whether the University should initiate discipline and issue the Notice of Discipline pursuant to Section 9.6(a).

(2) Pursuant to Section 9.6(c), if the President or designee does not issue a Notice of Disciplinary Action, the faculty member will be informed of such decision in writing and the Notice of Proposed Disciplinary Action shall not be retained in the faculty member’s personnel file.

(g) Access to Limited-Access Records. Upon the written invocation of the Peer Panel process, the faculty member will have consented to the disclosure to the Panel, for purposes of conducting this process, any relevant limited-access records as described in Florida Polytechnic University Rule 6C13-6.008(3)(c).

9.4.9.8 Review of Personnel Files. ~~Employees-Faculty members~~ shall have the right to review their official personnel file upon request. The ~~employee-faculty member~~ shall have the opportunity to submit a written statement responding to any written reprimand issues. The ~~employees’-faculty member’s~~ responding statement will be entered in the personnel file ~~included along~~ with the written reprimand.

9.5.9.9 Investigations.

(a) When an ~~employee~~a faculty member is questioned by management as part of an investigation, and the ~~employee-faculty member~~ reasonably believes that the questioning may lead to disciplinary action, the ~~employee-faculty member~~ has the right to request that a union representative be present at the meeting.

(b) When an ~~employee~~ faculty member requests union representation pursuant to this section, and no union representative is immediately available, the University shall postpone the meeting until a representative is available, cancel the meeting, or at the ~~employee~~faculty member’s option, continue the meeting without a

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1 representative.

2 (c) A faculty member does not have the right to a union representative to be present at
3 a meeting with management if the purpose of the meeting is not investigatory in
4 nature or no discipline will result from the meeting or discussion.

5 **9.69.10UFF Representation.** UFF determines representation per its governing documents. The
6 UFF does not represent bargaining unit employees who are not members in good standing
7 at the time of an alleged incident.

8 **9.11 Job Abandonment.**

9 (a) If an employee is absent without authorized leave for either:

10 (1) three (3) or more consecutive calendar days (excluding weekends, officially
11 observed University holidays, or days when the University is officially
12 closed by the directive of the University President or the President’s
13 designee), or

14 (2) three (3) or more consecutive classes across a minimum of three (3) days,

15 (3) the employee shall be considered to have abandoned the position and
16 voluntarily resigned from the University.

17 (b) Notwithstanding paragraph (a) above, if the employee’s absence is justified for
18 reasons beyond the control of the employee and the employee notifies the
19 University as soon as practicable, the employee will not be considered to have
20 abandoned the position.

21 **9.79.12Employee Assistance Program.** Neither the fact of a faculty member’s participation in an
22 employee assistance program, nor information generated by participation in the program,
23 shall be used as a reason for imposing or withholding discipline under this Article, except
24 for information relating to a faculty member’s failure to participate in an employee
25 assistance program consistent with the terms to which the faculty member and the
26 University have agreed.

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