

ARTICLE [x]. PROGRESSIVE DISCIPLINE AND TERMINATION FOR CAUSE

The Association and the Employer affirm their commitment to the fair and equitable treatment of all faculty under the provisions of this Agreement. It is the purpose of this article to establish the conditions under which the Employer may discipline a faculty member for cause.

Section 1. General Provisions.

No bargaining unit faculty member shall be subject to discipline without just cause. Discipline will be administered in a progressive manner. Penalties shall be appropriate to the circumstances and proportionate to the seriousness of the offense. Some conduct, including but not limited to conduct in violation of the Employer's non-discrimination policies, warrants a substantial sanction or dismissal on the first occurrence. A history of discipline, whether identical in nature or not, may have a cumulative effect, resulting in a more severe sanction. The period for considering a previous disciplinary action in determining the level of discipline shall be limited to two years.

A bargaining unit member may be terminated on a first offense, when the conduct involves a violation of Article []: Non-Discrimination and related Oregon Tech policies, actual harm to others or property, or a criminal conviction.

~~Section 2. Definitions.~~

~~As used in this Agreement, "discipline" shall be limited to the following:~~

- ~~● Written record of oral counseling~~
- ~~● Written letters of reprimand~~
- ~~● Loss of or reduction in benefits~~
- ~~● Suspension for the length of an investigation of misconduct, with or without pay~~
- ~~● Loss of perquisites (an incidental payment, benefit, privilege, or advantage over and above regular income, salary, wages or benefits)~~
- ~~● Restitution~~
- ~~● Limitation on access to university owned or controlled property~~
- ~~● Reduction in salary or contract period~~
- ~~● Termination~~

~~In order to be considered disciplinary in nature, an action must be expressly identified as disciplinary by the Employer. Oral counseling, Annual Performance Evaluations (APEs), and promotion and compensation decisions are not discipline.~~

Section ~~3~~2. Discipline for Cause

Disciplinary actions identified above shall be based on a finding of cause. Oregon Tech and the Association agree that, in accordance with former OAR 580-021-0325 that transferred to Oregon Tech as an institutional policy by operation of law on July 1, 2015, cause is defined as:

A. Conviction of a felony or of a crime involving moral turpitude during the period of employment by the University (or prior thereto if the conviction was willfully concealed in applying to the University for employment);

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B. Conduct proscribed by former OAR 580-022-0045, which is identified as:

1. Obstruction or disruption of teaching, research, administration, disciplinary procedures, or other Oregon Tech activities, including Oregon Tech’s public service functions or other authorized activities on Oregon Tech owned or controlled property;
2. Obstruction or disruption that interferes with the freedom of movement, either pedestrian or vehicular, on Oregon Tech owned or controlled property;
3. Possession or use of explosives, dangerous chemicals, or other dangerous weapons or instrumentalities on Oregon Tech owned or controlled property, unless authorized by law, Board, or Oregon Tech rules or policies;
4. Detention or physical abuse of any person or conduct intended to threaten imminent bodily harm or endanger the health of any person on any Oregon Tech owned or controlled property;
5. Malicious damage, misuse or theft of Oregon Tech property, or the property of any other person where such property is located on Oregon Tech owned or controlled property, or, regardless of location, is in the care, custody or control of Oregon Tech;
6. Refusal by any person while on Oregon Tech property to comply with an order of the President or appropriate authorized official to leave such premises because of conduct proscribed by this rule when such conduct constitutes a danger to personal safety, property, educational, or other appropriate Oregon Tech activities on such premises;
7. Unauthorized entry to or use of Oregon Tech facilities, including buildings and grounds;
8. Illegal use, possession, or distribution of drugs on Oregon Tech owned or controlled property;
9. Inciting others to engage in any of the conduct or to perform any of the acts prohibited herein. Inciting means that advocacy of proscribed conduct that calls on the person or persons addressed for imminent action, and is coupled with a reasonable apprehension of imminent danger to the functions and purposes of Oregon Tech, including the safety of persons, and the protection of its property;
10. Violating the Board’s Policy for Intercollegiate Athletics as described in Section 8 of the Internal Management Directives, specifically including the subsection thereof entitled Code of Ethics.

c. Failure to perform the responsibilities of an academic staff member, arising out of a particular assignment, toward students, toward the faculty member's academic discipline, toward colleagues or toward Oregon Tech in its primary educational and scholarly functions and secondary administrative functions of maintaining property, disbursing funds, keeping records, providing living

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93 accommodations and other services, sponsoring activities and protecting the health and safety of
94 persons in the Oregon Tech community.

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96 d. . Some allegations against bargaining members must be investigated in accordance with applicable
97 laws and associated guidelines (e.g. Title VII, Title IX and Mandatory Reporting of Abuse of
98 Minors), and in those cases, the procedures and standards relating to the investigation and
99 disciplinary action, if any, of this Article shall be preempted by those laws and associated guidelines.
100 Some allegations against bargaining members must be investigated in accordance with applicable
101 laws and guidelines, and in those cases, the procedures and standards relating to the investigation
102 and disciplinary action, if any, of this Article shall be preempted by those laws. These include
103 discrimination and harassment as proscribed by Title VII of the Civil Rights Act of 1964, sexual
104 assault, sexual discrimination or harassment as proscribed in Title IX of Education Amendments of
105 1972, and mandatory reporting of abuse of minors (ORS 419 B.010). Failure to follow published
106 procedures and standards regarding allegations investigated under this section shall be grievable
107 under Article [x] on Grievances.

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109 This Article shall apply to all other situations which may require disciplinary action of a bargaining
110 unit member.

111 Section 32. Definitions and Procedures.

112 As used in this Agreement, “discipline” shall be limited to the following:

- 114 ● Written record of oral counseling
- 115 ● Written letters of reprimand
- 116 ● Loss of or reduction in benefits
- 117 ● Suspension for the length of an investigation of misconduct, with or without pay
- 118 ● Loss of perquisites (an incidental payment, benefit, privilege, or advantage over and above
119 regular income, salary, wages or benefits)
- 120 ● Restitution
- 121 ● Limitation on access to university owned or controlled property
- 122 ● Reduction in salary or contract period
- 123 ● Termination

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126 In order to be considered disciplinary in nature, an action must be expressly identified as disciplinary
127 by the Employer. Oral counseling, Annual Performance Evaluations (APEs), and promotion and
128 compensation decisions are not discipline.

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130 a. A written record of oral counseling shall be placed in the member’s personnel file (as noted
131 under Article [x] on Personnel files) within sixty (60) calendar days of oral counseling delivered
132 by an administrative supervisor. Failure by the bargaining unit member to address concerns
133 raised in this written record of oral counseling may form the basis of a disciplinary action.

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135 The bargaining unit member may respond to a written record of oral counseling using the
136 process established in Article [x] on Personnel Files.

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138 b. A written letter of reprimand may be imposed by an administrative supervisor if that
139 individual believes there is just cause to support the action. This action shall be imposed within

140 sixty (60) calendar days of the administrative supervisor’s knowledge of the condition on which
141 the action is based. The written reprimand will outline the disciplinary cause, as defined under
142 Section 2 of this article, expectations for future behavior or performance, any suggested or
143 required remedial activities that the bargaining unit member must undertake, a notation that a
144 failure by the bargaining unit member to address concerns raised by the written reprimand may
145 form the basis of a subsequent disciplinary action, and a notation that this disciplinary action is
146 subject to processes defined under Article [x] on Grievances.

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148 The bargaining unit member may respond to a written letter of reprimand using the process
149 established in Article [x] on Personnel Files.

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151 c. Actions more severe than written reprimand may be proposed if a bargaining member fails to
152 address concerns raised in a written letter of reprimand, or if an appropriate administrative
153 supervisor demonstrates there is just cause to support an action more severe than a written
154 reprimand and the university President concurs. A notice of intent to impose severe disciplinary
155 action shall be served in person or by certified mail (with return receipt requested) to the
156 bargaining unit member’s address of record, with a corresponding email to the bargaining unit
157 member, within sixty (60) calendar days of the administrative supervisor’s knowledge of the
158 conduct that failed to adhere to the expected standards upon which the notice is based. A copy of
159 that notice shall be provided to the Association’s Grievance officer. The notice shall contain a
160 description of the alleged act(s) or omission(s), date(s), time(s), place(s) and proposed sanction,
161 and a notation that this disciplinary action is subject to processes defined under Article [x] on
162 Grievances.

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164 The notice shall propose a date, time, and place for a meeting to occur between the appropriate
165 administrative supervisor, bargaining unit member, and that member’s Union representative (as
166 noted under Section 6, below), within fourteen (14) calendar days from the date of the notice, in
167 which the bargaining unit member may present evidence that rebuts or mitigates the conduct
168 upon which the notice is based.

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170 Within fourteen (14) calendar days following the meeting, the appropriate administrative
171 supervisor shall issue a written response that either withdraws, modifies, or adheres to the
172 disciplinary action proposed in the notice. If modified or adhered to, the disciplinary action shall
173 include the effective date of the disciplinary action, proposed expectations for future behavior or
174 performance, any suggested or required remedial activities that the bargaining unit member must
175 undertake, and a notation that a failure by the bargaining unit member to address concerns raised
176 by the notice may form the basis of a subsequent disciplinary action.

177 178 179 **Section 4. Termination without Cause**

180 Termination of a bargaining unit faculty member prior to the expiration of his or her appointment,
181 termination of a tenured bargaining unit member, or other action, taken for financial, programmatic
182 or other administrative considerations shall not be covered by this Article.

186 **Section 5. Union Representation.**

187 A bargaining unit faculty member has the right to have an OT-AAUP representative present, to
188 represent or accompany the member, in any meeting regarding discipline.

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190 **Section 6. Grievance Article Applies.**

191 All disciplinary actions covered by this Article are grievable under Article [x], Grievances.

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193 ~~**Section 7. Written Notice.**~~

194 ~~Prior to imposing discipline involving the loss of pay or benefits or terminating a bargaining unit~~
195 ~~faculty member, the Employer shall provide the bargaining unit faculty member with written notice~~
196 ~~and at least five business days to respond.~~

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198 ~~The notice shall contain a description of the alleged act(s) or omission(s), date(s), time(s), place(s)~~
199 ~~and proposed sanction. In addition, the notice must inform the individual of the right to file a~~
200 ~~grievance under Article [x] on Grievances, within (14) calendar days of the date the notice is~~
201 ~~received. The Association shall concurrently receive notice of intent to impose a disciplinary action~~
202 ~~on a member.~~

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204 **Section 87. Administrative Leave during Investigations of Misconduct.**

205 The Employer may place a bargaining unit faculty member on administrative leave with pay and
206 impose other conditions on a bargaining unit faculty member that do not involve the loss of
207 compensation while the Employer conducts an investigation or considers the imposition of
208 discipline. Administrative leave and any additional conditions imposed pursuant to this section shall
209 generally be limited to 75 days; however, the 75 day period may be extended for good cause,
210 including but not limited to situations where the complexity of the investigation, the number of
211 witnesses identified, or the volume of information which needs to be gathered and reviewed
212 necessitates more time. The Employer shall provide written notification indicating how much
213 additional time is necessary and reasons for the extension of the investigation to the faculty member
214 in advance of implementing any such extension. Any additional extension of the leave beyond the
215 time frame described in the notice to the faculty member shall only be made by mutual agreement
216 between the Employer and OT-AAUP.

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218 **Section 89. Employer Action.**

219 Action by the Employer under this Article is not stayed by the filing of a grievance or by arbitration,
220 except by mutual agreement.

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222 ~~**Section 109. Absence without Leave.**~~

223 If a bargaining unit faculty member is absent without leave authorized under this Agreement for 21
224 consecutive days during any academic or fiscal year, the bargaining unit faculty member may be
225 considered to have abandoned his or her position and voluntarily resigned from employment with
226 Oregon Tech. Before terminating the bargaining unit faculty member's employment, the Employer
227 shall attempt to contact the bargaining unit faculty member by phone, at his or her work email
228 address, at his or her personal email address if on file with the Office of Human Resources (OHR),
229 and by letter mailed to the last address on file with OHR, and shall provide the bargaining unit
230 member with at least seven days to respond. The Employer's attempt to contact the bargaining unit
231 faculty member may occur during the 21-day absence, or after. The Employer shall provide OT-

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232 AAUP with written notice of the termination of a bargaining unit faculty member under this
233 provision.
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235 Nothing in this Article shall prohibit Oregon Tech from reinstating a bargaining unit faculty
236 member to his or her position.