

ARTICLE 37 – CONSTRUCTIVE ACTION AND DISCIPLINE

- 37.1 Constructive Action. Constructive action is not discipline and is focused on improving the employee's performance, attendance or conduct. Constructive action involves verbal or written communications from the supervisor to the employee that are designed to assist the employee in correcting the performance, attendance or conduct concern. Non-disciplinary constructive action includes informal discussions, clarification of expectations, performance improvement plans and; coaching and counseling letters. Constructive action does not require compliance with the investigative guidelines. Constructive action may not be challenged through the grievance procedure in Article 40.
- 37.1.1 Informal discussions, clarifications of expectations, and/or performance improvement plans will be documented to the supervisor's working file. Supervisor's documentation may be used for reference in discipline if the performance, attendance or conduct does not improve. Employees will be provided with a copy of the clarification of expectations or performance improvement plans.
- 37.1.2 Changes to expectations and/or coaching and constrictive action letters will be provided to the employee with a copy to the personnel file. Constructive action letters will be removed from their personnel files as described in Article 15.4.
- 37.2 Discipline
- 37.2.1 Just Cause. The University will not discipline any employee who has completed the probationary period without just cause.
- 37.2.2 Types of Discipline. Discipline includes written reprimands, reductions in pay, suspensions, demotions, and discharges.
- 37.3 Employee Privacy. When disciplining an employee, the University will make a reasonable effort to protect the privacy of the employee.
- 37.4 University Investigations of Suspected Misconduct.
- 37.4.1 The University will not discipline employees based on alleged or suspected employee misconduct without first conducting an appropriate investigation. The University will investigate and dispose of reports of suspected employee misconduct in an orderly and timely fashion. Within thirty (30) working days of the time management suspects that misconduct may have occurred, the University will notify the employee that an investigation has been commenced, and the subject matter of that investigation; provided that this timeline will not require disclosure of an investigation being conducted by law enforcement, the attorney general's office, or another agency with investigative authority. If a complaint against an employee forms the basis for an investigation, the employee will be notified during the investigation of the identity of the accuser unless such disclosure is prohibited by law, would compromise the investigation or would endanger the safety of the accuser.

- 37.4.2 Upon request, an employee has the right to a Union representative at an investigatory interview called by the University if the employee reasonably believes discipline could result. An employee may also have a Union representative at a pre-disciplinary meeting. If the requested representative is not reasonably available, the employee will select another representative who is available. Employees seeking representation are responsible for contacting their representative. If no representative is available, the meeting will be rescheduled.
- 37.4.3 The role of the Union representative in regard to University-initiated investigations is to provide assistance and counsel to the employee and not interfere with the University's right to conduct the investigation. Every effort will be made to cooperate in the investigation.
- 37.4.4 Employees placed on an alternate assignment during an investigation will not be prohibited from contacting their Union steward unless there is a conflict of interest, in which case the employee may contact another Union steward. This does not preclude the University from restricting an employee's access to University premises.
- 37.5 Pre-Disciplinary Notice. Prior to imposing discipline involving a loss of pay or termination of employment, the University will inform the employee in writing of the reasons for the contemplated discipline and an explanation of the evidence. The University will provide the Union with a copy. The employee will be provided an opportunity to respond either at a meeting scheduled by the University, or in writing if the employee prefers. A pre-disciplinary meeting with the University will be considered time worked.
- 37.6 Notice of Reduction in Pay or Demotion. The University will provide an employee with fifteen (15) calendar days written notice prior to the effective date of a reduction in pay or demotion.
- 37.7 Grievance of Disciplinary Action. The University has the authority to impose disciplinary action. Employees who have completed probation may challenge disciplinary actions more severe than oral reprimand through the grievance procedure in Article 40.
- 37.8 Job Abandonment. When an employee has been absent without authorized leave and has failed to contact the University for a period of three (3) consecutive days, the employee is presumed to have abandoned their position. The University will make reasonable efforts to contact the employee during this three (3) day period. The University will separate the employee by sending a separation notice by certified mail to the employee's last known address. The employee will have seven (7) days from the date the notice was mailed to petition the University in writing if they wish the University to consider reinstatement. The petition must provide proof that the absence was involuntary or unavoidable. Denial of a request for reinstatement may be challenged through the grievance procedure in Article 40.