

Policy on Disciplinary Action due to Complaints Directed at Instructional Staff

Office of Academic Affairs

Policy Document Number: AA-05.1-2024

Approved by the President: September 2024

Policy Purpose: This policy establishes the correction action taken regarding improper conduct of instructional staff that is determined as inconsistent with New Mexico Tech's policies or its related procedures, or any federal or state laws, regulations, or statutes as they apply to an employment relationship.

POLICY STATEMENT

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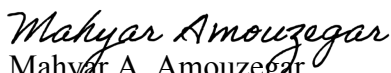
When an employee's performance (e.g., workplace behavior) does not meet New Mexico Tech (NMT) standards, or is determined to be inconsistent with any federal or state laws, regulations, rules, or policies, progressive discipline shall be applied in most cases. This shall not prevent imposition of more serious disciplinary action, including termination, depending on the severity of the action. The four categories of progressive disciplinary action are:


1. Verbal Warning / Counseling,
2. Written Reprimand,
3. Disciplinary Suspension and/or Reassignment of Duties, and
4. Termination.

If the alleged behavior that leads to disciplinary action reasonably falls under academic freedom, the accused faculty member may invoke the *Regulations Governing Academic Freedom and Tenure (RGAFT)* policy, and the appeals process therein. In the event that *RGAFT* is challenged, the matter shall be referred to the Faculty Senate Academic Freedom and Tenure Committee for a recommendation to the Vice President of Academic Affairs (VPAA) who, in turn will render a decision on *RGAFT* applicability. If the employee is unsatisfied with the VPAA's decision, they may appeal to the President. The employee will be provided with a copy of the document placed in the employee's personnel file.

The dignity and privacy of the employee is to be respected. Each employee scheduled to lose pay shall be given a memo stating they have the opportunity to meet with their supervisor or their designated representative and to state why the contemplated action should not go forward. Those scheduled for involuntary termination have the right to appeal. All disciplinary actions should be pursued in a timely fashion.

This policy and its associated procedure is to address the findings and recommendations that arise from the *Policy on Resolution of Complaints Directed at Instructional Staff*.


Mahyar A. Amouzegar
President


Michael Jackson
Provost and VPAA

To preserve the integrity of this document, any revisions to the *Policy on Disciplinary Action due to Complaints Directed at Instructional Staff* including any changes to the procedures and appendices below, must follow the process outlined in the *Policy on Development, Amendment, and Rescindment of Policies*.

Procedures for Disciplinary Action due to Complaints Directed at Instructional Staff

The steps associated with the four categories of progressive disciplinary action are:

1. **Verbal Warning / Counseling**: The first step in disciplinary action is for the supervisor to verbally warn and counsel the employee about the problem. This discussion should be conducted privately and in a pleasant manner. The supervisor's first objective is to determine if the employee understands the rules, standards, and acceptable level of performance to be met. The supervisor must explain fully what is expected of the employee, including citing specific examples of acceptable levels of performance, as well as how the performance will be measured. Dates, times, and examples of unacceptable performance must be provided for the employee. This step gives the employee the opportunity to correct the performance, not to threaten or discipline them. Supervisors should set a schedule for the employee to demonstrate performance corrections; typically, 30 working days is an upper limit.
2. **Written Reprimand**: The supervisor shall contact their supervisor, Vice President, and Human Resources Department to discuss the personnel issue prior to giving the written reprimand. The reprimand includes a formal meeting with the employee and a witness where the supervisor:
 - a. Cites examples of unacceptable performance, including details of the incident.
 - b. Reiterates standards the employee must meet for success on the job, how the employee has not met these standards.
 - c. Sets forth a specified period of time for improving unsatisfactory performance, as well as identifying specific tasks that need improvement.
 - d. The supervisor will indicate that failure to improve the performance to an acceptable level within the time period specified will result in further disciplinary action, which may include suspension or termination. The employee's signature indicates receipt of the plan of action, but does not necessarily indicate agreement with it. A refusal to sign by the employee will be documented, and the written process will proceed.
 - e. A letter confirming the meeting is provided to the employee or mailed to the employee's home within 48 hours of the meeting.
 - f. The original letter with the employee's signature is sent to the Human Resources Department. One copy shall be sent to Academic Affairs, and the supervisor also retains a copy.
 - g. Supervisors should set a schedule for the employee to demonstrate performance corrections; typically, 30 working days is an upper limit.
3. **Disciplinary Suspension and/or Reassignment of Duties**: If the employee's performance still does not meet requirements within the time specified, the supervisor, with the prior concurrence of the Director of Human Resources, proceeds to the next step – disciplinary

suspension. Again, the supervisor meets with the employee to discuss the substandard performance and why they are being placed on suspension. Disciplinary suspension is an administrative leave with pay for a duration to be determined by the VPAA. The suspension process outlined in the *Regulations Governing Academic Freedom and Tenure (RGAF)* policy and its associated procedure will be followed. The suspension letter will indicate that continued failure to correct the substandard performance within a specified time period after the employee returns from suspension will result in termination. Letter distribution is the same as for the written reprimand.

4. Termination: If the employee's performance does not meet the prescribed standards within the time specified in the disciplinary suspension, the employee will be notified they will be terminated on a specific date. Prior to termination the employee will be given:
 - a. The opportunity to prepare a letter of appeal within five working days to respond to the written notice, will be informed they have the opportunity to meet with the employee's division director or the division director's designee. After the scheduled meeting, the division director or their designee may discipline, including terminate, the employee if there are grounds to believe the evidence referred to in the written notice is correct, or they may refer the employee back to their department for alternate action. This exercise of the right of appeal supersedes the grievance procedures within this document.
 - b. As previously mentioned, an employee may face immediate suspension, pending termination, for certain extreme situations.
 - c. In the event an employee is terminated due to actions not covered by the *RGAF* policy and procedure, the employee will not be entitled to any *RGAF* provisions.