

32.02.02 Discipline and Dismissal of Nonfaculty Employees



Revised [February 10, 2020](#)

Next Scheduled Review: February 10, 2025

Click to view [Revision History](#).

Regulation Summary

In accordance with System Policy 32.02, *Discipline and Dismissal of Employees*, this regulation establishes uniform system procedures for the discipline or dismissal of a nonfaculty employee of The Texas A&M University System (system). However, this regulation does not modify the “at-will” status of any system nonfaculty employee.

Definitions

Click here to view [Definitions](#).

Regulation

1. GENERAL

1.1 Basic Principles

- 1.1.1 As provided in System Policy 32.02, all nonfaculty positions in the system are “at-will,” meaning that any nonfaculty employee may be dismissed from employment with or without cause.¹ This regulation applies to any nonfaculty employees of the system, including graduate assistants and agency employees with faculty titles who are not in tenure track positions. Any such dismissal must be in compliance with federal and state law. Nothing in this regulation will be construed as modifying any nonfaculty employee’s “at-will” status.
- 1.1.2 Although the principle of progressive discipline found in this regulation is not required for any nonfaculty employees, it is encouraged as a good management practice when practicable. In addition, even if progressive discipline is chosen, not every step must be taken in each case. With progressive discipline, an employee faces increasingly stricter disciplinary measures if satisfactory improvement does not occur after the disciplinary process is initiated.

¹ This reference excludes a nonfaculty system employee having a written employment contract entered in accordance with System Policy 25.07, *Contract Administration*.

1.1.3 This regulation is for guidance purposes only and is specifically not intended to create any right to notice and opportunity for a hearing. Failure to follow procedures as outlined in this regulation will not create claims based on failure to meet standards of procedural due process. Failure by the system or a member to follow the procedural steps outlined in this regulation will not form the basis of any employee's appeal of termination.

1.2 Heads of departments or similar administrative units are responsible for informing their employees of the rules and regulations to be followed, the standards of conduct to be met and the job performance to be achieved. Employees are expected to fully acquaint themselves with the rules, procedures and standards of conduct and performance of their departments or units. Employees who do not assume the responsibilities set out by these rules, procedures and standards may be subject to disciplinary actions, up to and including dismissal. Suspected fraud, waste or abuse must be reported in accordance with Regulation 10.02.01, *Fraud, Waste and Abuse*.

2. GROUNDS FOR DISCIPLINARY ACTION OR DISMISSAL

2.1 Acts that may result in disciplinary action or dismissal include, but are not limited to, inadequate job performance, inadequate job knowledge, misconduct, excessive absenteeism or unauthorized leave or absences.

2.2 A member's human resources office should be consulted before taking the disciplinary actions outlined below. If circumstances warrant, the member chief executive officer (CEO) may designate another person to perform the duties of the human resources officer. A supervisor must obtain appropriate higher-level approval, as determined by each member, before taking these actions. Absent exceptional circumstances, the System Office of General Counsel (OGC) must review and approve in advance for legal sufficiency any suspension without pay, transfer, demotion, reduction in salary, dismissal, or designation of Not Eligible for Rehire and its term. When exceptional circumstances prevent OGC review, OGC must be notified as soon as possible after the disciplinary action.

3. TYPES OF DISCIPLINARY ACTION

3.1 In most cases, inappropriate job-related conduct or job performance can be addressed by the supervisor who is counseling the employee and providing guidance on appropriate conduct or performance. If circumstances warrant (i.e., more serious acts or for progressive discipline), the supervisor may issue a formal disciplinary action (listed below).

3.1.1 Written reprimand – This written memorandum may be issued for more serious incidences or if counseling does not achieve the desired result. A reprimand may contain directives and other action items.

3.1.2 Suspension without pay – An employee may be temporarily removed from duties without pay or be temporarily placed in a non-paid status. Any suspension without pay for more than five workdays must be submitted to the CEO or designee for approval.

3.1.3 Transfer, demotion and/or reduction in salary – These actions include the realignment of an employee’s assigned duties, title and/or salary for disciplinary reasons.

3.1.4 Dismissal – An employee may be dismissed from system employment in accordance with Section 5 of this regulation. The expiration of a wage position, for reasons other than disciplinary action, is not a dismissal for purposes of this regulation.

3.2 All notifications to employees regarding formal disciplinary actions, including the term of any designation of Not Eligible for Rehire, must be in writing and include notification of the appeal procedure as described in Section 8. Copies of these written notifications must be maintained in the employee’s official personnel file.

4. EXTENDED SUSPENSION WITH PAY

An employee may be suspended with pay by the CEO or designee upon a finding that the suspension is in the best interests of the member or to investigate allegations against the employee. Any delegation of authority under this section must be established in writing by the CEO. (See System Regulation *31.03.03, Leave of Absence with Pay*, and Texas Government Code, Section 661.923.)

5. DISMISSAL

5.1 An employee may be dismissed immediately after all approvals stated in Section 2.2 of this regulation are granted. The employee must be notified of the dismissal in writing. The prescribed personnel action form confirming the dismissal must be processed through administrative channels.

5.2 When practicable, a minimum of two weeks' notice should be given to an employee unless the employee is in a wage position. The employee will be placed on suspension with pay until the effective date of the dismissal. Severance pay for time not worked or earned will not be authorized.

6. NOT ELIGIBLE FOR REHIRE

6.1 An employee who is dismissed or resigns in lieu of dismissal as a result of a finding of serious misconduct that has been substantiated by an investigation conducted in accordance with system policy will be designated as Not Eligible for Rehire in Workday for a specified term of not less than five years. The member who designates a former employee as Not Eligible for Rehire is responsible for removing the designation in Workday at the end of the specified term. Serious misconduct includes, but is not limited to, sexual harassment, research misconduct, fraud, and violations of law such as theft, violence or threat of violence in the workplace.

6.2 A designation of Not Eligible for Rehire will disqualify a former employee from being (a) employed by a member, (b) retained by a member as an independent contractor, consultant or volunteer, or (c) assigned to perform work for a member while an employee of a business entity for the duration of the specified term. Any former employee acting as an independent contractor, consultant or volunteer must disclose their designation of Not Eligible for Rehire to the member for whom they are proposing to perform work. A

business entity employing a former member employee designated as Not Eligible for Rehire is responsible for ensuring that their employee is not involved in any work for the system. Members must include a clause to this effect in all solicitations and agreements. (See the *Contract Management Handbook*.)

7. RESTITUTION

In addition to any other action taken pursuant to Regulation *10.02.01*, the employee being disciplined or dismissed may be required to make restitution for damages to property or equipment, for theft, for unauthorized purchases or payment of wages, for unauthorized travel expenses or for other illegal or improper actions. If restitution is not made under the terms and conditions mandated, the employee may be subject to legal action and/or further discipline or dismissal.

8. APPEAL OF DISCIPLINARY ACTION OR DISMISSAL

If an employee wishes to appeal any disciplinary action or dismissal from employment, the appeal must be made in accordance with the provisions of System Regulation *32.01.02, Complaint and Appeal Process for Nonfaculty Employees*. However, an appeal alleging discrimination, sexual harassment and/or related retaliation must be filed in accordance with System Regulation *08.01.01, Civil Rights Compliance*.

Related Statutes, Policies, or Requirements

[System Regulation 08.01.01, Civil Rights Compliance](#)

[System Regulation 10.02.01, Fraud, Waste and Abuse](#)

[System Regulation 32.01.02, Complaint and Appeal Process for Nonfaculty Employees](#)

[System Policy 32.02, Discipline and Dismissal of Employees](#)

[Contract Management Handbook](#)

Member Rule Requirements

A rule is not required to supplement this regulation.

Contact Office

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