

## 32.02.02 Discipline and Dismissal of Nonfaculty Employees

Approved November 4, 1997  
Revised September 18, 2000  
Revised September 28, 2007  
Revised September 24, 2010  
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### Regulation Statement

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This regulation establishes the basis and procedure 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.

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### Reason for Regulation

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This regulation establishes uniform system discipline and dismissal procedures in accordance with System Policy 32.02, *Discipline and Dismissal of Employees*.

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### Procedures and Responsibilities

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#### 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.<sup>1</sup> 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 shall 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

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

employee faces increasingly stricter disciplinary measures if satisfactory improvement does not occur after the disciplinary process is initiated.

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 shall be reported in accordance with Regulation *21.04.01, Control of Fraud, Waste, and Abuse*.

## 2. GROUNDS FOR DISCIPLINARY ACTION OR DISMISSAL

2.1 Nothing in Section 2 shall be construed as modifying any nonfaculty employee's "at-will" status.

2.2 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.

## 3. TYPES OF DISCIPLINARY ACTION

3.1 A member's human resources office should be consulted before taking the disciplinary actions outlined below. If circumstances warrant, the 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 Office of General Counsel (OGC) must review and approve in advance for legal sufficiency any suspension without pay, transfer, demotion, reduction in salary or dismissal. When exceptional circumstances prevent OGC review, OGC must be notified as soon as possible after the disciplinary action.

3.2 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. For more serious incidences or if counseling does not achieve the desired results, the supervisor may issue a written reprimand.

3.2.1 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 (5) work days must be submitted to the CEO or designee for approval.

3.2.2 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.

3.2.3 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.

3.3 All notifications to the employee regarding disciplinary actions should be made in writing. An employee should also be informed in the written notification of the appeal procedure as described in Section 7. Copies of all documents pertaining to disciplinary action or dismissal will be filed in the employee's official personnel file.

#### 4. EXTENDED SUSPENSION WITH PAY

An employee may be suspended with pay by the CEO or designee for up to 30 work days 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. Additional time for the suspension beyond 30 days may be granted only by the CEO.

#### 5. DISMISSAL

5.1 An employee may be dismissed immediately after all approvals stated in Section 3.1 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 shall 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. RESTITUTION

In addition to any other action taken pursuant to Regulation 21.04.01, 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.

#### 7. 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*.

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## **Related Statutes, Policies, or Requirements**

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

[System Regulation 10.02.01, Control of 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](#)

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## **Definitions**

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Wage Position – a temporary position funded from a lump-sum budget category. Such a position will fit within one of two categories: a) a student wage position which requires student status as a condition of employment; or b) a wage position created to accommodate temporary labor needs, such as work of an intermittent nature or having a brief, fixed duration.

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## **Member Rule Requirements**

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A rule is not required to supplement this regulation.

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## **Contact Office**

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System Human Resources Office  
(979) 458-6169