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# **EMPLOYEE DISCIPLINE AND DISCHARGE**

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*Training for BYU–Idaho Supervisors*

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# DISCIPLINE AND DISCHARGE OF NON-FACULTY EMPLOYEES

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## **Discipline and Discharge of Non-Faculty Employees (Policy 2-5 C)**

*(Updated and approved November 2004 by the Personnel Advisory Council)*

### I. Philosophy

BYU-Idaho seeks to provide an environment where each person can be successful in fulfilling their employment commitments and responsibilities. Employees voluntarily accept university standards and conditions of employment (Policy 2-2 B-G), and they are responsible for their personal conduct and work performance.

### II. Employment Relationship

The university's employment relationship with non-faculty employees exists at the will of either party and may be terminated at any time and for any cause whatsoever or for no cause other than for reasons prohibited by law. (Policy 2-2 C)

### III. Decision-Making Guideline

When there is a concern regarding conduct or performance, the action taken will depend on the nature of that concern. Actions may range from informal counsel to immediate discharge. Reasons for concern include, but are not limited to, the following:

- *Misconduct* - a violation of BYU-Idaho Honor Code standards or other policies regarding conditions of employment (Policy 2-2 B-G). Employees are to maintain the highest standards of honor, integrity, morality, and consideration for others.
- *Insubordination* - a refusal or a failure to follow a reasonable directive of a superior.
- *Unsatisfactory performance* - unacceptable work, poor attitude, incompetence, or carelessness.
- *Unacceptable behavior* - unexcused absences, excessive tardiness, sleeping or wasting time on the job, leaving without permission, or excessive breaks.

Any action that constitutes a threat to the well-being of others or any violation of university standards and conditions of employment, occurring on or off the job, will generally result in discharge. An exception may be made if the line management determines that circumstances warrant a process of attempted correction. In any case, the university reserves the right to make a decision that best serves the interests of the institution.

Supervisors should routinely provide corrective counsel and direction through verbal or written means for any concerns regarding an employee's conduct or performance. A supervisor should follow a more formal method of corrective counsel and discipline if:

- a minor concern is not corrected through informal verbal or written counsel.
- a minor concern becomes persistent and pervasive.
- a pattern of multiple minor concerns becomes collectively significant.
- a concern or incident is serious in nature.
- a concern that was addressed and corrected in the past re-occurs.

The decision and responsibility to discipline or discharge an employee rests with the line management. A contact should be made with the Director of Human Resources before proceeding with a formal discipline

process or with a discharge from employment. A determination meeting may be held with the employee to evaluate the situation and to allow the employee to provide relevant information. A paid suspension from employment may occur when time is needed for an investigation to determine accuracy of facts and circumstances. Discharge decisions are made after thorough review by the line management and Human Resources; therefore, discharge decisions are final.

#### IV. Formal Disciplinary Guideline

When a formal disciplinary process, rather than discharge, is selected, its purpose is to assist the employee in fully meeting job expectations and conditions of employment. The process should provide clear direction regarding appropriate performance and conduct and the consequences of failure to make corrections. Generally, in correcting a performance concern, a brief period of time may be allowed for progress and improvement. In a situation of misconduct, correction must be immediate. It is not acceptable for an employee to remain in employment and not appropriately meet job expectations or conditions of employment.

When a process of correction is warranted, the following guidelines will generally be followed:

*Formal Written Warning.* Supervisors may initiate disciplinary action with a formal written warning if the issue involved is more serious and requires more immediate and consequential action than verbal counsel or if informal verbal or written counsel has not remedied the situation. The written warning should be clearly labeled so that the nature of the document is fully understood. The contents of the letter should include the following:

1. Description of specific deficiencies, problems, or offenses (identify problem behavior).
2. Description of the specific changes that need to be made (identify appropriate behavior).
3. Description of the consequences if changes are not made (identify discharge as a possible consequence if appropriate).
4. Employee signature (with a date) showing acknowledgment of the warning. A signed copy should be provided to the employee and to the Director of Human Resources.

After a formal written warning is given, two actions may occur in the event of continued poor performance or repeated misconduct. In situations deemed serious or severe, discharge may be determined. In situations that appear to have substantial potential for correction, a second written warning may be given. This warning should contain all of the elements of the first written warning. The possibility of discharge should be clearly and specifically stated so the employee understands the consequences of failure to comply with the conditions of the warning.

#### V. Recently Hired Employees

Individuals who have been recently employed (less than one year) and are unsuited for their position may be discharged during the first year of employment following verbal counsel and a reasonable opportunity to make necessary changes.

#### VI. Previously Discharged Employees

Individuals who have been involuntarily discharged from employment with the university will generally not be considered eligible for rehire. Discharged employees are not prevented from applying for employment, but they cannot be processed for hire without express approval from President's Executive Group. This applies to all full-time, part-time, and temporary employees. Student employees discharged due to serious misconduct are also subject to this policy.

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# FACULTY DISCIPLINE AND TERMINATION

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## **Faculty Discipline and Termination (Policy 5-6)**

*(Approved April 2006 by President's Council)*

### I. Philosophy

Brigham Young University-Idaho promotes a learning environment where faculty and students may pursue knowledge in the light of the restored gospel. High quality teaching, scholarship, professional service, and citizenship are all integral parts of that mission. Employees voluntarily accept all university standards, policies, procedures, and conditions of employment, and they are responsible for their personal conduct and work performance.

### II. Employment Relationship

The university's employment relationship with faculty is on a yearly contract basis. Violations of university policy may result in disciplinary action, non-renewal of the yearly contract (for those without CFS), or involuntary termination, whether or not the faculty member has continuing faculty status (CFS). The Academic Vice President, or an authorized designee, gives final approval on decisions involving the involuntary termination of a faculty member.

### III. Progressive Discipline Guidelines

Department chairs and college deans should routinely provide corrective counsel and direction through verbal or written means for any concerns regarding a faculty member's conduct or performance. The purpose of progressive discipline is to correct problems in a faculty member's performance or comportment. If progressive discipline does not result in alleviation of the problem, or if the faculty member refuses to take the counsel provided or comply with the requirements specified, the next step may be non-renewal of the yearly contract or involuntary termination.

The department chair should move from an informal to a more formal method of corrective counsel and discipline if:

- a minor concern is not corrected through informal verbal or written counsel.
- a minor concern becomes persistent or pervasive.
- a pattern of multiple minor concern becomes collectively significant.
- a concern or incident is serious in nature.
- a concern that was addressed or corrected in the past recurs.

### IV. Progressive Disciplinary Steps

These disciplinary steps are suggested as possible interventions useful in resolving disciplinary matters. However, it is not required that these guidelines be implemented in any particular order or at all. Generally, the nature and severity of alleged misconduct, or failure to meet acceptable performance standards, along with the circumstances surrounding the issue, determine the level of intervention and the nature of the process employed.

A. *Verbal Counseling*: Unless a situation requires more serious and immediate action, an administrative officer (department chair, college dean, or academic vice president) may respond to inappropriate activities, unacceptable behavior, or unsatisfactory performance by verbal counseling. Following verbal counseling, if the situation still is not sufficiently remedied, the leader may accelerate the disciplinary process. In some instances, termination following failure to respond to verbal counseling may be appropriate.

B. *Written Warning(s)*: A written warning may be issued by a department chair or other administrative officer to a faculty member when it is deemed appropriate, based generally on whether the issue requires more serious and immediate action than verbal counseling, or if verbal counseling has not remedied the situation. A written warning may be discussed in person with the faculty member in a confidential setting. In cases where the problems are not entirely resolved, but in which there appears to be substantial potential for resolution, (an) additional written warning(s) may be appropriate.

A written warning should be clearly labeled so the nature of the document is fully understood. A warning letter generally describes:

- Deficiencies, problems, or offenses.
- Changes expected.
- Immediate consequences, if applicable.
- Future consequences if expected changes are not made and sustained.
- An evaluation date that allows the faculty member a reasonable amount of time to demonstrate an acceptable level of substantial change for performance concerns. Immediate correction is expected for misconduct.

Specifics concerning complaints from any source will be addressed only insofar as they are helpful in bringing about a change, and will be balanced against the confidences and expectations of other persons.

The faculty member should sign and date the warning letter, signifying receipt of the warning. If no signature is provided, a note from the one delivering the letter with the time and date should be placed on the letter. A copy should be provided to the faculty member and the college dean. The original should be sent to the Associate Academic Vice President for Instruction.

C. *Suspension*: Generally, suspension is appropriate during a period of investigation in a situation where a faculty member should not return to work until the investigation is concluded. The Academic Vice President makes suspension decisions. The length of suspension should be commensurate with the nature of the alleged offense, the length of the investigation, and the faculty member's past record.

A faculty member is generally suspended with pay, depending on the nature and severity of the alleged problem, and the possible consequences of his or her continuing to work. Examples of problems which might merit suspension include, but are not limited to, allegations such as theft, inappropriate gender based behavior, threats, or conduct of a violent or disruptive nature. Suspension without pay is within the discretion of the Academic Vice President in those situations which are deemed severe.

D. *Termination*: Termination decisions are made after thorough review by the department chair, college dean, and Academic Vice President. The Associate Academic Vice President for Instruction and/or a representative from Human Resources may provide assistance during the review process as requested by the Academic Vice President.

## V. Invoking the Faculty Grievance Policy

For disciplinary actions involving verbal counseling, written warning(s), suspension or other actions short of termination, a faculty member may submit a letter of rebuttal to be included in his or her file to address any concerns with any warning letters or other written documents. If any management action is taken which directly limits any term or condition of employment, the faculty member may grieve that action under the Faculty Grievance Policy.

### **Grounds for Termination**

Grounds for termination include, but are not limited to, the following:

- *Misconduct* - a violation of any BYU-Idaho Honor Code standard, a breach of any policy or procedure regarding conditions of employment, or any act of moral turpitude, conviction of a criminal offense, conduct or expression that displays a lack of fitness to hold a faculty position at the university, material breach of the employment contract, etc. Faculty are to maintain the highest standards of honor, integrity, morality, and consideration for others.
- *Insubordination* - a refusal or a failure to follow a reasonable directive of a superior, or to participate in good faith in any investigation.
- *Institutional mission* - conduct or expression found to be seriously contrary to or which may adversely affect the mission of the university or The Church of Jesus Christ of Latter-day Saints.
- *Ecclesiastical clearance* - a change in membership status in The Church of Jesus Christ of Latter-day Saints including excommunication, disfellowshipment, removal of one's name from the records of the Church, or failure to meet standards of conduct consistent with qualifying for temple privileges.
- *Unsatisfactory performance* - failure to maintain acceptable standards of performance in teaching responsibilities, or a material violation of professional standards or ethics.
- *Unsatisfactory progress through progressive discipline* - discipline which has not resulted in satisfactory resolution of the issues leading to the disciplinary action.
- *Bona fide financial need* (e.g. consolidation, reorganization, downsizing, cost efficiency, etc.) - discontinuance of a university program, department, or college.

## VI. Appeal of a Termination

The faculty member should make a good faith attempt to resolve questions related to termination with the department chair, college dean, or Academic Vice President. If a terminated faculty member believes that the decision to terminate is not reasonable in light of all of the circumstances, the faculty member may request an appeal of the termination decision in writing to the university President.

The appeal process may include, but is not limited to, the following steps:

A. The faculty member must provide a written appeal letter to the university president within 30 days of the termination decision to initiate an appeal of that decision. The letter should include all claims upon which the appeal is based.

B. The President or his designee will determine, after review of the appeal letter and any other information he chooses to gather, what action he feels is appropriate. Actions range from upholding the termination decision, appointing an appeal hearing to fully review the matter, setting aside the termination, or imposing some other discipline, or probation in lieu of termination.

C. If the President determines to set up an appeal hearing, he will appoint an ad hoc committee to conduct the hearing. The President, in consultation with the Associate Academic Vice President for Instruction and/or a representative from Human Resources, will establish the procedures to be followed during the hearing process. The purpose of an appeal hearing is to gather relevant information from the faculty member's perspective and his or her line management. The ad hoc committee chair will give the president a written summary of their findings and the committee's recommendations which the president may or may not choose to follow.

D. The President will make the final decision to uphold the termination decision or take whatever other action he feels would be appropriate.

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# TIPS FOR EFFECTIVE EMPLOYEE DISCIPLINE

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## When Discipline is Required

- Be prepared.
- Be sure rules and consequences are clearly understood by each employee.
- Be consistent and fair when applying rules.
- Keep up-to-date documentation on performance and disciplinary actions on file.
- Thoroughly investigate the situation. Seek out actual witnesses. Don't rely on hearsay.
- Be aware of your motivation.
- The discipline should match the offense.

## The Oral Reprimand

- Be sure of the facts in advance.
- Speak in a direct manner.
- Outline the problem, and explain why you are concerned.
- When you have completed your points, give the employee time to react.
- Listen, keeping your emotions out of the conversation.
- Get an agreement from the employee that there is a problem and then develop a plan together.
- Restate what you have discussed and agreed upon.
- Set a future date for review and at that time reinforce expected progress.

## The Written Reprimand

- As the step following an oral reprimand or when an offense warrants a more serious approach, put the reprimand in writing.
- Clearly state the problem and outline expectations for the future.

## Termination

- When bringing an employee's job performance up to an acceptable level is not possible, termination may be the best course of action for the group or company.
- Severe situations such as theft usually require immediate termination.

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# TIPS FOR TERMINATING AN EMPLOYEE

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## Before Termination

Before considering termination, make sure you have taken these steps:

- Warn the employee of the need for improvement.
- Set goals for improvement.
- Document your discussions.

## Once You Decide to Terminate

- Make sure you're familiar with the details of the case.
- Be familiar with administrative matters such as:
  - ✓ final pay
  - ✓ employee benefits
  - ✓ references
  - ✓ turning in company property

## The Termination Interview

- Use appropriate timing. Avoid terminating right before special occasions.
- Give the news in private, in your office, with you behind the desk.
- Briefly summarize the history leading to the termination and its reasons. (Point out that the termination has been reviewed and agreed upon by others.)
- Be as compassionate and considerate as possible. (An employee who leaves in anger can cause harm in many ways.)

## After Termination

- Write a detailed summary of the termination discussion.