**Disciplining and Terminating Staff UPPS 04.04.40**

**Employees Issue No. 13**

 **Revised Date: 10/07/2022**

 **Effective Date: 04/01/2022**

**Next Review Date: 04/01/2026 (E4Y)**

**Sr. Reviewer: Assistant Vice President for Human Resources**

**POLICY STATEMENT**

*Texas State University encourages fair, efficient, and equitable solutions for problems arising out of the employment relationship and is committed to meeting the requirements of state and federal law.*

1. **BACKGROUND INFORMATION**
	1. This document provides policies and procedures for disciplining and terminating staff employees.

01.02 All disciplinary and termination actions will be in compliance with statutory and any other applicable requirements as determined by the university president.

1. **DEFINITIONS**

02.01 Involuntary Termination – an employee is separated from employment at the discretion of management.

02.02 Voluntary Termination – an employee is separated from employment at the discretion of the employee.

1. **GENERAL PROCEDURES**

03.01 Staff employees (except those with written employment contracts) serve without fixed terms and at the pleasure of the university president or The Texas State University System (TSUS) Board of Regents. As employees-at-will, either the university or the staff employee may terminate the employment relationship at any time with or without cause and without liability for failure to continue the employment.

03.02 Only 1) the president, vice presidents, deans, and 2) associate vice presidents, assistant vice presidents, and directors reporting directly to a vice president have the authority to involuntarily terminate staff employees and sign letters of involuntary termination. However, these officials may delegate termination authority to their department heads. This delegation of authority must be in writing.

\*03.03 Prior to any disciplinary action or involuntary termination, the authority taking the action must consult with Human Resources to conduct an objective or appropriate review of the reasons and any available supporting documentation for the action. Human Resources must approve the appropriate disciplinary action or involuntary termination document indicating the acting authority consulted with HR and that a review for EEO compliance was conducted prior to taking action. HR approval of the actions is subject to the university’s record retention requirements.

\*03.04 All disciplinary and involuntary termination notices must be provided in writing to the employee by the appropriate acting official. In extraordinary circumstances when the employee is not available to meet, the appropriate acting official must send the action notice via certified mail to the employee’s last known address.

03.05 The appropriate authorities in all disciplinary and termination actions are responsible for submitting any required Personnel Change Request (PCR), terminating Informational Technology (IT) access, as appropriate, and completing the emergency separation request option located on the [IT Assistance Center (ITAC) website](https://itac.txstate.edu/). In termination cases, the appropriate authorities are responsible for initiating all other actions required in [UPPS No. 04.04.50](http://policies.txstate.edu/university-policies/04-04-50.html), Separation of Employment and Interdepartmental Transfers, including the [Separation Checklist](https://www.hr.txstate.edu/forms.html#separationforms).

03.06 All disciplinary and termination actions described in this policy may be appealed as appropriate through the provisions of [UPPS No. 04.04.41](http://policies.txstate.edu/university-policies/04-04-41.html), Staff Employee Mediation and Grievance Policy.

03.07 Human Resources is available to both supervisors and employees to provide guidance and assistance on the provisions of this policy and related employee relations issues.

1. **DISCIPLINARY REASONS**

04.01 The following is a list of reasons for disciplinary action up to and including termination. The list is not all inclusive, and other acts or omissions contrary to standard work performance or conduct may warrant disciplinary action:

a. failure to comply with state or federal law; the regulations, rules, and procedures of The TSUS, Texas State, or departments and work units of Texas State;

b. performance, conduct, or behavior, whether by action or omission, that interferes with or adversely affects the orderly or efficient operation of Texas State;

c. insubordinate acts toward a supervisor that interfere with or impede efficient operations or the ability of a supervisor to manage or function;

d. unacceptable tardiness or absenteeism, which becomes a performance issue and interferes with the business needs of the university; and

e. any other conduct or behavior that is not in the best interest of the university or that undermines the employee’s ability to continue as a university employee or negatively impacts the employee’s ability to meet the performance requirements of their job.

04.02 Supervisors and employees are encouraged to use mediation where appropriate in lieu of disciplinary measures. Mediation policy and procedures are found in [UPPS No. 04.04.41](http://policies.txstate.edu/university-policies/04-04-41.html), Staff Employee Mediation and Grievance Policy.

1. **DISCIPLINARY ACTIONS**

05.01 The following is a list of possible disciplinary actions at Texas State:

1. Verbal Reprimand – a verbal reprimand can be issued by any supervisor and is the least severe disciplinary action. Verbal reprimands should be confirmed in writing via email or memo to the employee. A copy may be provided to the employee upon request.

 When delivering a verbal reprimand, the supervisor should:

1) inform the employee of the reason for the verbal reprimand;

2) inform the employee of their right to submit a written rebuttal; and

3) retain documentation of the nature of the verbal reprimand in the department’s files for a period of three years following the resolution of the issue, in accordance with the University Records Retention Rule [PER260](https://alkek.library.txstate.edu/scripts/rrs/index.php?tsus=&series=PER260).

b. Written Reprimand – Written reprimands can only be issued by an authority no lower than the department head and are given either when verbal reprimands have failed to achieve the desired improvements or when justified by the nature of the offense.

 The written reprimand must:

1. inform the employee of the reason for the written reprimand;
2. inform the employee of their rights to submit a written rebuttal and appeal; and

3) inform the employee to contact Human Resources regarding any questions about an appeal.

c. Suspension – A suspension can only be issued by an authority no lower than the department head. There are two types of suspension: with pay for investigation and without pay.

1. Suspension with Pay for Investigation – This type of suspension is used when it is necessary to investigate the circumstances surrounding an alleged offense more thoroughly, and the continued presence in the workplace of the employee alleged to have committed the offense is detrimental to operations.

The employee will be suspended from regular duties with pay for this type of suspension. The suspension can be for a specific or indefinite time period. Suspension periods of less than 30 calendar days are handled through time entry and recorded as administrative leave. For any suspension period exceeding 30 calendar days, the department must submit a PCR for the suspension period.

If the employee’s IT access needs to be altered or suspended during the time of the suspension, the department head must contact ITAC.

The suspending authority must notify the employee in writing of the suspension with pay and forward a copy to Human Resources to be placed in the employee’s personnel file. The suspension notice must give the reasons for the suspension and identify the time period covered by the suspension.

1. Suspension without Pay – This type of suspension is for serious or repeated offenses. The employee is suspended from regular duties without pay for this type of suspension. The suspension is for a defined time period; however, any suspension of more than five working days must be approved by the appropriate division vice president.

Suspension periods of less than 30 calendar days are handled through time entry and recorded as leave without pay. For any suspension period exceeding 30 calendar days, the department must submit a leave without pay PCR for the suspension period.

If the employee’s IT access needs to be altered or suspended during the time of the suspension, the department head must contact ITAC.

The suspending authority must notify the employee in writing of the suspension without pay and forward a copy to Human Resources to be placed in the employee’s personnel file. The suspension notice must give the reasons for the suspension, identify the period covered by the suspension, and inform the employee of appeal rights and to contact Human Resources with any questions.

1. Reduction in Pay – Reductions in pay can only be issued by an authority no lower than a department head, must be approved by the division vice president, and are given for serious or repeated offenses.

This action does not change an employee’s title but reduces the employee’s pay to a lower level. Pay may be reduced by any amount even if it causes the employee’s pay to go below the [pay plan](http://www.hr.txstate.edu/compensation/universitypayplan.html) minimum for the employee’s title; however, pay may not be reduced below the federal minimum wage. The pay reduction can be permanent or for a specified time period.

If the employee’s IT access needs to be altered as a result of the reduction in pay, the department head must contact ITAC.

The issuing authority must notify the employee in writing of the reduction in pay, forward a copy to Human Resources to be placed in the employee’s personnel file, and submit a PCR to reflect the reduction. The reduction in pay notice must give the reasons for the reduction, identify the period covered by the reduction, and inform the employee of appeal rights and to contact Human Resources with any questions.

1. Demotion – Demotions can only be issued by an authority no lower than a department head, must be approved by the division vice president, and are given for serious or repeated offenses.

This action changes the employee to a new title with a lower [pay plan](http://www.hr.txstate.edu/compensation/universitypayplan.html) minimum rate than the title previously held and must result in a pay decrease for the employee at the issuing authority’s discretion.

 Any pay decrease cannot put the employee’s pay lower than the [pay plan](http://www.hr.txstate.edu/compensation/universitypayplan.html) minimum rate for the employee’s new title. If the employee is classified, the employee’s rate cannot exceed the maximum [pay plan](http://www.hr.txstate.edu/compensation/universitypayplan.html) rate for the employee’s new title.

 If the employee’s IT access needs to be altered as a result of the demotion, the department head must contact ITAC.

 The issuing authority must notify the employee in writing of the demotion, forward a copy to Human Resources to be placed in the employee’s personnel file, and submit a PCR to reflect the demotion. The demotion notice must give the reasons for the demotion and inform the employee of appeal rights and to contact Human Resources with any questions.

1. Termination – Only 1) the president, vice presidents, deans, athletic director and 2) associate vice presidents, assistant vice presidents, and directors that report directly to a vice president have authority to involuntarily terminate staff employees and sign letters of involuntary termination. Involuntary terminations may be issued for serious or repeated offenses or when determined to be in the best interests of the university.

 The employee’s IT access needs to be revoked as a result of an involuntary termination. The department head must contact ITAC and complete the emergency separation request option located on the [ITAC website](https://itac.txstate.edu/).

 The terminating authority must notify the employee in writing of the termination, forward a copy to Human Resources to be placed in the employee’s personnel file, have a PCR submitted to reflect the termination and complete the requirements of [UPPS No. 04.04.50](http://policies.txstate.edu/university-policies/04-04-50.html), Separation of Employment and Interdepartmental Transfers. The termination notice must give the reasons for the termination (except for at-will terminations) and inform the employee of appeal rights and to contact Human Resources with any questions.

NOTE: A supervisor and an employee may consider a resignation in lieu of an involuntary disciplinary termination. In such instances, supervisors and employees should contact Human Resources for guidance.

 NOTE: As an at-will employer the university does not follow progressive discipline when addressing disciplinary issues.

1. **INVOLUNTARY TERMINATION**

06.01 Disciplinary – See Section 05.

06.02 Non-Disciplinary – The university may determine it is in the best interest to involuntarily terminate an employee for non-disciplinary reasons. Such reasons may include, but are not limited to, lack of funding, no longer a need for a position, completion of assigned project, expiration of project time, end of “interim” status, or an employee’s inability to perform the duties of a position due to illness or injury, or a reduction in force (RIF).

 The employee’s IT access needs to be revoked as a result of the termination. The department head must contact ITAC and complete the emergency separation request option located on the [ITAC website](https://itac.txstate.edu/).

 The terminating authority must notify the employee in writing of the non-disciplinary termination, forward a copy to Human Resources to be placed in the employee’s personnel file, have a PCR submitted to reflect the termination, and complete the requirements of [UPPS No. 04.04.50](http://policies.txstate.edu/university-policies/04-04-50.html), Separation of Employment and Interdepartmental Transfers.

06.03 RIF – RIF terminations are under the provisions of [UPPS No. 04.04.14](http://policies.txstate.edu/university-policies/04-04-14.html), Staff Reduction in Force.

06.04 At-Will Terminations – On occasion, the university may determine it is in its best interest to involuntarily terminate an employee at-will. In such instances, the employee will receive written notice of the termination, listing the reason as ‘at-will’.

1. **VOLUNTARY TERMINATIONS**

07.01 Resignation – occurs when an employee provides management with a notice of verbal or written resignation from their position. The resignation notice should include the effective date of the resignation. The supervisor should confirm the acceptance of the resignation in writing and attach the resignation notice and the supervisor’s acceptance to the separation PCR.

1. As a professional courtesy it is expected, but not required, that the resigning employee provide the university with at least 14 calendar days’ notice of intent to resign from their position.
2. Management reserves the right to accept the resignation date effective immediately or for an earlier date than given by the employee.
3. If an employee requests to withdraw, rescind, or alter their resignation notice before the designated effective date, the employee must make such request to their supervisor in writing. Acceptance of such request is at the sole discretion of university management and such request will not be effective unless and until university management sends written confirmation of its acceptance to the employee.

07.02 Resignation in Lieu of Involuntary Termination – On occasion, management and an employee may consider a resignation in lieu of an involuntary disciplinary termination. In such instances, Human Resources must be consulted in advance.

07.03 Job Abandonment – The university considers any employee who abandons their job as having voluntarily resigned from employment and will remove the employee from the university payroll. Job abandonment occurs in either of the following situations:

1. an employee fails to report for duty on the first regular workday after a leave without pay (LWOP). The effective date of termination is the day following the last day of the approved leave of absence period; or

b. an employee that is not approved for LWOP is absent for three consecutive workdays without notifying their supervisor. The effective date of termination is the last day the employee was in a work status as determined by management.

In job abandonment situations, the supervisor will make a good faith effort to establish contact with or ascertain the whereabouts of the employee before separating the employee. If termination is deemed necessary, the department head will send a certified letter, return receipt requested, notifying the employee of the effective date of termination for job abandonment and the employee’s ineligibility for rehire.

The department head will process a separation PCR indicating “job abandonment” in the explanation section, attach a copy of the certified letter with return receipt requested, and include documentation of the department’s efforts to contact the employee or ascertain the employee’s location.

Since job abandonment is considered a voluntary resignation, it is not processed as a disciplinary action. Employees may not appeal job abandonment terminations through the grievance procedure in [UPPS No. 04.04.41](http://policies.txstate.edu/university-policies/04-04-41.html), Staff Employee Mediation and Grievance Policy; however, they may appeal the determination of ineligibility for rehire.

1. **PROCEDURES FOR IMPOSING DISCIPLINARY SANCTIONS AND INVOLUNTARY TERMINATIONS**
	1. Orderly administration of disciplinary sanctions and involuntary terminations enhances good human resources management and diminishes risk to the university. To assist supervisors in achieving this goal, the supervisor shall:
2. Prior To Taking Action:

1) consult with their supervisor and Human Resources;

2) fairly and thoroughly investigate each case; and

3) use and retain the [Staff Grievance checklist](https://www.hr.txstate.edu/forms.html#grievanceforms).

1. Action After Decision Is Made:

1) prepare the appropriate notice using the sample notifications found on the [Human Resources website](https://www.hr.txstate.edu/);

2) secure the proper authority signature on the notice;

3) secure Human Resources’ acknowledgement on the notice;

4) prepare and submit any appropriate related actions such as PCR, IT revocation, and separation documents;

5) meet promptly with the employee and give them written notification of the action taken; and

6) respond within required time limits to any grievances filed by the employee to appeal the action.

* 1. Procedural Defects – If an employee appeals a disciplinary or termination action, a supervisor’s failure to follow the university’s procedures for imposing the termination does not provide sufficient justification for overturning the disciplinary or termination action.

1. **PROCEDURES FOR DISCIPLINING AND TERMINATING ADMINISTRATIVE OFFICERS**

09.01 The policies and procedures in previous sections of this policy apply to the disciplining of administrative officers. However, the termination of administrative officers will be in accordance with [Chapter V, Section 3.2 of The TSUS Rules and Regulations](http://gato-docs.its.txstate.edu/jcr%3Acadb6c26-5fbc-4e8d-87df-da945380ffdd/Rules%20Regs%20May%202017.pdf). Administrative officers at Texas State are the president, vice presidents, deans, and the director of Athletics.

1. **REVIEWERS OF THIS UPPS**

10.01 Reviewers of this UPPS include the following:

Position Date

Assistant Vice President for April 1 E4Y

Human Resources

Chair, Staff Council April 1 E4Y

1. **CERTIFICATION STATEMENT**

This UPPS has been approved by the following individuals in their official capacities and represents Texas State policy and procedure from the date of this document until superseded.

Assistant Vice President for Human Resources; senior reviewer of this UPPS

Vice President for Finance and Support Services

President