

IV.11 Discipline

IV.11.1 A member may be disciplined only for just, reasonable, and sufficient cause. Such disciplinary action shall be fair, reasonable, commensurate with the seriousness of the violations, and based on the principle of progressive discipline. Both parties recognize the objective of progressive discipline as being corrective in nature.

IV.11.2 Non-disciplinary situations

(a). A member may not be disciplined for violation of a rule, regulation or instruction unless that rule, regulation or instruction has been promulgated and communicated by the appropriate authority, and does not violate this Agreement.

(b.) Medical disability shall not be cause for discipline. If a member is disciplined for an incident he/she claims is a result of medical disability or illness, he/she shall notify the university. In such cases, the university may require members to provide a medical certificate from a physician of his/her choice.

IV.11.3 Discipline separate from academic performance assessment

(a). Disciplinary processes shall be distinct from academic assessments such as those used in the processes of re-appointment, tenure, promotion and merit.

(b). The fact that a disciplinary action has been imposed under Article IV.11.5 cannot, in itself, be considered in the assessment of a member with regard to reappointment, tenure, promotion and merit.

(c). Where allegations triggering a disciplinary investigation directly involving the integrity of the scholarly record under review, the academic assessment process will be delayed until the completion of the investigation. *[note may need to cross reference with language on timing re tenure decisions]*

IV.11.4 Types of Disciplinary Action

The only disciplinary measures that may be taken by the employer against a member and documented in the member's Personnel file are:

- a. written warning;
- b. written reprimand;
- c. suspension with pay;
- d. suspension without pay; or
- e. dismissal for cause.

The measures above are normally followed in sequence; however, depending on the seriousness of the infraction the disciplinary process may commence at any point.

IV.11.4.1 Written Warning

A written warning shall contain a clear statement of the reasons for taking action and shall be clearly identified as a disciplinary measure.

IV.11.4.2 Written Reprimand

A written reprimand shall state the nature of the offence and shall include a statement of any remedial action the member is required to take. It shall also remind the member that subsequent misconducts of the same order may be grounds for suspension or dismissal.

Where the member disagrees with the substance of the warning or reprimand, he or she may file a reply which will be contained in the member's personnel file.

In order to be deemed a letter of warning or reprimand according to the terms of this article, the letter shall be so identified.

IV.11.4.3 Suspension

Suspension is the act of the employer in relieving, for cause, some or all of a member's duties and privileges without the member's consent.

IV.11.4.4 Dismissal

Dismissal means the termination of appointment without the member's consent. Dismissal shall be carried out in accordance with Article VI.10. Dismissal for Cause.

IV.11.5 Discipline Process

(a) Disciplinary action shall normally be initiated ~~only~~ after completion of a fair and thorough process, and shall not be based on anonymous information. The Employer bears the onus of proving that any disciplinary action taken was for just, reasonable and sufficient cause.

(b) Disciplinary action against a member can only be taken by the President or the Vice-President, Academic or designate.

(c) A member may only be disciplined in accordance with the provisions of this article.

(d) Disciplinary action cannot be taken by a member of the bargaining unit.

(e) If the President or Vice-President Academic or designate believes, based upon a fair and complete review of evidence, that an occurrence has occurred which would give rise to disciplinary action it will notify in writing the member or members involved within thirty (30) days of the date they knew, or ought reasonably to have known, of the occurrence. The notification shall provide pertinent details of the alleged cause for the discipline including all names, places, and dates of the alleged incidents. A copy of the letter will be sent simultaneously to the union.

(f) The President or Vice-President or designate shall meet with the member to discuss the alleged cause for discipline within fifteen (15) days of the notice. The President or Vice-President Academic or designate and the member may each have an advisor present and the Union shall send a representative.

(g) The members may provide a written response to the letter described in IV.11.5 (e). Such written response must be received within 10 days of receipt of the letter.

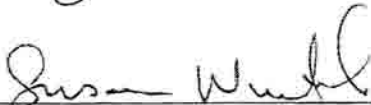
(h) If, after the steps in the disciplinary process as laid out above have been completed, and the President or Vice- President or designate decides that disciplinary action is warranted, the Employer shall notify the member in writing of the disciplinary decision, including the specific details of the incidents, the nature of the offense and a statement of any remedial action the member is required to take including the suspension of duties where applicable. This notice shall be sent within ten (10) days of the meeting provided for in IV.11.5 (f). A copy of this notice shall simultaneously be sent to the Association.


(i) The Employer shall not introduce into evidence at arbitration any notices of discipline of which the member was not aware. Any evidence introduced at an arbitration relating to discipline shall be confined to that which is relevant to the grounds of the notice of discipline referred to in IV.11.5 (h) above.

(j) All records of any alleged misconduct including the investigative report and the member's responses to the response will be destroyed immediately if the allegation is not substantiated.

(k) The record of disciplinary action, the investigative report and the member's response(s) will be kept in the member's Personnel File. The record will be removed from the member's file and destroyed after two (2) years provided that no subsequent allegation of similar misconduct has been confirmed or is under investigation.

Signed on July 16, 2009 in Peterborough, Ontario.


On behalf of the Association


On behalf on the Administration