

ARTICLE [x]. PROGRESSIVE DISCIPLINE AND TERMINATION FOR CAUSE

The Association and the Employer affirm their commitment to the fair and equitable treatment of all faculty under the provisions of this Agreement. It is the purpose of this article to establish the conditions under which the Employer may discipline a faculty member for cause.

Section 1. General Provisions.

No bargaining unit faculty member shall be subject to discipline without just cause. Discipline will be administered in a progressive manner. Penalties shall be appropriate to the circumstances and proportionate to the seriousness of the offense. Some conduct, including but not limited to conduct in violation of the Employer's non-discrimination policies, warrants a substantial sanction or dismissal on the first occurrence. A history of discipline, whether identical in nature or not, may have a cumulative effect, resulting in a more severe sanction. The period for considering a previous ~~disciplinary action letter of reprimand~~ in determining the level of discipline shall be limited to two years.

Section 2. Definitions.

As used in this Agreement, "discipline" shall be limited to the following:

- Oral reprimand with note to file
- Written letters of reprimand
- Loss of or reduction in benefits
- Suspension for the length of an investigation of misconduct, with or without pay
- ~~Suspension with or without pay of various lengths~~
- Loss of perquisites (an incidental payment, benefit, privilege, or advantage over and above regular income, salary, wages or benefits)
- Restitution
- Limitation on access to university owned or controlled property
- Reduction in salary or contract period
- ~~Loss of tenure~~
- Termination

In order to be considered disciplinary in nature, an action must be expressly identified as disciplinary by the Employer. Oral counseling, ~~oral reprimands, remediation for a specific period of time,~~ Annual Performance Evaluations (APEs), and promotion and compensation decisions are not discipline.

Section 3. Discipline for Cause

Disciplinary actions identified above shall be based on a finding of cause. Oregon Tech and the Association agree that, in accordance with former OAR 580-021-0325 that transferred to Oregon Tech as an institutional policy by operation of law on July 1, 2015, is defined as:

44 A. Conviction of a felony or of a crime involving moral turpitude during the period of employment
45 by the University (or prior thereto if the conviction was willfully concealed in applying to the
46 University for employment);

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48 B. Conduct proscribed by former OAR 580-022-0045, which is identified as:

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50 1. Obstruction or disruption of teaching, research, administration, disciplinary procedures, or
51 other Oregon Tech activities, including Oregon Tech's public service functions or other
52 authorized activities on Oregon Tech owned or controlled property;

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54 2. Obstruction or disruption that interferes with the freedom of movement, either pedestrian
55 or vehicular, on Oregon Tech owned or controlled property;

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57 3. Possession or use of explosives, dangerous chemicals, or other dangerous weapons or
58 instrumentalities on Oregon Tech owned or controlled property, unless authorized by law,
59 Board, or Oregon Tech rules or policies;

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61 4. Detention or physical abuse of any person or conduct intended to threaten imminent
62 bodily harm or endanger the health of any person on any Oregon Tech owned or controlled
63 property;

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65 5. Malicious damage, misuse or theft of Oregon Tech property, or the property of any other
66 person where such property is located on Oregon Tech owned or controlled property, or,
67 regardless of location, is in the care, custody or control of Oregon Tech;

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69 6. Refusal by any person while on Oregon Tech property to comply with an order of the
70 President or appropriate authorized official to leave such premises because of conduct
71 proscribed by this rule when such conduct constitutes a danger to personal safety, property,
72 educational, or other appropriate Oregon Tech activities on such premises;

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74 7. Unauthorized entry to or use of Oregon Tech facilities, including buildings and grounds;

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76 8. Illegal use, possession, or distribution of drugs on Oregon Tech owned or controlled
77 property;

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79 9. Inciting others to engage in any of the conduct or to perform any of the acts prohibited
80 herein. Inciting means that advocacy of proscribed conduct that calls on the person or
81 persons addressed for imminent action, and is coupled with a reasonable apprehension of
82 imminent danger to the functions and purposes of Oregon Tech, including the safety of
83 persons, and the protection of its property;

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85 10. Violating the Board's Policy for Intercollegiate Athletics as described in Section 8 of the
86 Internal Management Directives, specifically including the subsection thereof entitled Code
87 of Ethics.

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89 c. Failure to perform the responsibilities of an academic staff member, arising out of a particular
90 assignment, toward students, toward the faculty member's academic discipline, toward colleagues or
91 toward Oregon Tech in its primary educational and scholarly functions and secondary administrative

92 functions of maintaining property, disbursing funds, keeping records, providing living
 93 accommodations and other services, sponsoring activities and protecting the health and safety of
 94 persons in the Oregon Tech community.

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 96 d. Some allegations against bargaining members must be investigated in accordance with applicable
 97 laws and guidelines, and in those cases, the procedures and standards relating to the investigation
 98 and disciplinary action, if any, of this Article shall be preempted by those laws. These include
 99 discrimination and harassment as proscribed by Title VII of the Civil Rights Act of 1964, sexual
 100 assault, sexual discrimination or harassment as proscribed in Title IX of Education Amendments of
 101 1972, and mandatory reporting of abuse of minors (ORS 419 B.010). This Article shall apply to all
 102 other situations which may require disciplinary action of a bargaining unit member.

103 104 **Section 34. Termination without Cause**

105 Termination of a bargaining unit faculty member prior to the expiration of his or her appointment,
 106 termination of a tenured bargaining unit member, or other action, taken for financial, programmatic
 107 or other administrative considerations shall not be covered by this Article.
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109 **Section 54. Union Representation.**

110 A bargaining unit faculty member has the right to have an OT-AAUP representative present, to
 111 represent or accompany the member, in any meeting regarding discipline.
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113 **Section 65. Grievance Article Applies.**

114 All disciplinary actions covered by this Article are grievable under Article [x], Grievances.
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116 **Section 76. Written Notice.**

117 Prior to imposing discipline involving the loss of pay or benefits or terminating a bargaining unit
 118 faculty member, the Employer shall provide the bargaining unit faculty member with written notice
 119 and at least five business days to respond.
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121 The notice shall contain a description of the alleged act(s) or omission(s), date(s), time(s), place(s)
 122 and proposed sanction. In addition, the notice must inform the individual of the right to file a
 123 grievance under Article [x] on Grievances, within (14) calendar days of the date the notice is
 124 received. The Association shall concurrently receive notice of intent to impose a disciplinary action
 125 on a member.
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127 **Section 87. Administrative Leave during Investigations of Misconduct.**

128 The Employer may place a bargaining unit faculty member on administrative leave with pay and
 129 impose other conditions on a bargaining unit faculty member that do not involve the loss of
 130 compensation while the Employer conducts an investigation or considers the imposition of
 131 discipline. Administrative leave and any additional conditions imposed pursuant to this section shall
 132 generally be limited to 75 days; however, the 75 day period may be extended for good cause,
 133 including but not limited to situations where the complexity of the investigation, the number of
 134 witnesses identified, or the volume of information which needs to be gathered and reviewed
 135 necessitates more time. The Employer shall provide written notification indicating how much
 136 additional time is necessary and reasons for the extension of the investigation to the faculty member
 137 in advance of implementing any such extension. Any additional extension of the leave beyond the

138 time frame described in the notice to the faculty member shall only be made by mutual agreement
139 between the Employer and OT-AAUP.

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141 **Section 98. Employer Action.**

142 Action by the Employer under this Article is not stayed by the filing of a grievance or by arbitration,
143 except by mutual agreement.

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145 **Section 109. Absence without Leave.**

146 If a bargaining unit faculty member is absent without leave authorized under this Agreement for 21
147 consecutive days during any academic or fiscal year, the bargaining unit faculty member may be
148 considered to have abandoned his or her position and voluntarily resigned from employment with
149 Oregon Tech. Before terminating the bargaining unit faculty member's employment, the Employer
150 shall attempt to contact the bargaining unit faculty member by phone, at his or her work email
151 address, at his or her personal email address if on file with the Office of Human Resources (OHR),
152 and by letter mailed to the last address on file with OHR, and shall provide the bargaining unit
153 member with at least seven days to respond. The Employer's attempt to contact the bargaining unit
154 faculty member may occur during the 21-day absence, or after. The Employer shall provide OT-
155 AAUP with written notice of the termination of a bargaining unit faculty member under this
156 provision.

157 Nothing in this Article shall prohibit Oregon Tech from reinstating a bargaining unit faculty
158 member to his or her position.