[Reviewed with no changes: June 11, 2013]

Angelo State University
Operating Policy and Procedure

OP 52.10: Discipline and Dismissal

DATE: June 11, 2013

PURPOSE: The purpose of this Operating Policy/Procedure (OP) is to establish policy and procedures for disciplining and dismissing employees.

REVIEW: This OP will be reviewed in May of odd-numbered years by the director of human resources with recommended revisions forwarded through the vice president of finance and administration to the president by June 15 of the same year.

POLICY/PROCEDURE

1. Introduction

Employment at Angelo State University is governed by the employment at-will doctrine: the employment relationship is for an indefinite duration and can be terminated at any time, with or without cause, and with or without notice, by either the university or the employee. While the university is an at-will employer, it must still comply with the appropriate federal and state employment laws and regulations in matters related to the dismissal of an employee.

Nothing in this, or any other Angelo State University operating policy and procedure constitutes an employment agreement, either expressed or implied, a contract, a contractual relationship, a guarantee of continued employment, or a property right.

It is the policy of Angelo State University to prohibit discrimination in all aspects of employment actions, including discipline and dismissal, on the basis of race, color, religion, sex, national origin, age, sexual orientation, physical or mental disability, Vietnam-era or special disabled veteran status, or genetic information. The university is committed to comply with all federal and state government regulations and requirements to ensure nondiscrimination.

2. Employment Standards

Although Angelo State University is an at will employer, it seeks to define and exemplify standards of conduct, and requires employees to function in accordance with this policy. Each employee is expected to acquaint himself/herself with performance criteria for his/her particular job and with all rules, procedures, and standards of conduct established by the Board of Regents and the System Office of the Texas Tech University System, Angelo State University, and the employee's department or work unit.

A violation of the work performance and conduct standards established by the university will result in the assessment of a disciplinary action ranging from verbal counseling to separation of employment from Angelo State University.

3. Work Performance Subject To Disciplinary Action

All employees are expected to perform in accordance with job performance standards and expectations as established by the university and the employees' appropriate supervisory personnel. Failure of an employee to meet and maintain satisfactory work performance standards can constitute good cause for disciplinary action including dismissal. Additional provisions of this policy include:

a. The term work performance encompasses all aspects of an employee's work, including, but not limited to, performance of the essential functions of the job; completion of assignments; and work relationships with co-workers, supervisory personnel, and customers.

b. Work performance is to be judged by the supervisor's evaluation of the quality and quantity of work performed by each employee. The supervisor's evaluation includes, but is not limited to, the university's employee performance review process.

c. When, in the opinion of the supervisor, the work performance of an employee is consistently below standard, the supervisor should take appropriate disciplinary action as described in this policy.

4. Work Conduct Subject To Disciplinary Action

All employees are expected to maintain standards of conduct and behavior suitable and acceptable to the work environment. Disciplinary action, including dismissal, may be imposed for unacceptable conduct.

Below is a non-exhaustive list of examples of unacceptable employee conduct:

a. Falsification of time sheets, personnel records, or other institutional records.

b. Wasting time during working hours, neglect of duties or job abandonment (employee's failure to report to work in excess of two work days).

c. Gambling or participating in lotteries or any other games of chance on the premises at any time.

d. Soliciting, collecting money, or circulating petitions on the premises other than within the rules and regulations of the university.

e. Bringing intoxicants or drugs onto the premises of Angelo State University, using intoxicants or drugs, having intoxicants or drugs in one's possession, or being under the influence of intoxicants or drugs on the premises at any time.

f. Abuse or waste of tools, equipment, fixtures, property, supplies, or goods of Angelo State University.

g. Creating or contributing to unhealthy or unsanitary conditions.

h. Violations of safety rules or accepted safety practices.

i. Failure to cooperate with the supervisor or a co-worker, impairment of function of work unit, or disruptive conduct.

j. Disorderly conduct, harassment of other employees (including sexual harassment), or the use of abusive language on the premises.

k. Fighting; encouraging a fight; or threatening, attempting, or causing injury to another person on the premises.

l. Neglect of duty or failure to meet a reasonable and objective measure of efficiency and productivity.

m. Theft, dishonesty, or unauthorized use of university property including records and confidential information.

n. Creating a condition hazardous to another person on the premises.

o. Destroying or defacing university property or records or the property of a student or employee.

p. Refusal of an employee to follow instructions or to perform designated work that may be required of an employee or refusal to comply with established rules and regulations.

q. Repeated tardiness or absence, absence without proper notification to the supervisor, or without satisfactory reason, or unavailability for work.

r. Violation of policies or rules of the Angelo State University or Texas Tech University System.

5. Disciplinary Process

Each supervisor has the authority and responsibility to establish and maintain an effective, efficient, and orderly workforce of employees. Generally, an employee recognizes and observes the established standards without need for corrective action. However, when an employee's performance or conduct is not in keeping with the behavior standards expected of a university employee, the supervisor has the responsibility to investigate and document the situation so that facts are known and to take actions that provide a means of correction.

The university encourages the use of a positive and progressive disciplinary process designed to give the employee a reasonable opportunity to improve deficiencies and maintain satisfactory work performance. **It is not necessary to progress through each of the disciplinary actions in sequence. Some situations may necessitate repetition of certain actions while other situations may call for skipping actions**. Each employee situation should be considered based on the facts particular to the incident at hand. If an investigation results in evidence that establishes with reasonable certainty that the employee engaged in conduct that warrants disciplinary action, the supervisor shall proceed with the appropriate disciplinary action from the list below.

a. Verbal counseling

b. Written warning

c. Written reprimand

d. Written performance improvement plan

e. Suspension without pay

f. Dismissal or termination of employment

6. Disciplinary Actions

The disciplinary actions referred to in this policy are defined below:

a. **Verbal counseling** – Verbal counseling is warranted when it appears that an employee understands the work and/or behavioral standards and still fails to perform work or to display conduct in accordance with acceptable standards. The employee's immediate supervisor should counsel with the employee to find out whether the employee understands the rules involved or the standards of work expected. The counseling session should communicate an expectation of change and improvement rather than an expectation of future problems. The supervisor is encouraged to maintain a record of such counseling, including date and substance.

b. **Written warning** – If the problem continues after counseling, the supervisor is encouraged to have a more formal discussion confirmed by a letter to the employee, which details how performance or conduct has failed to meet standards and how work performance can be changed to meet acceptable standards.

c. **Written reprimand** – Like the written warning, the reprimand is a formal expression of disapproval written after repeated attempts to correct the employee's performance or conduct. If a reprimand letter is used, a copy should be sent to the Office of Human Resources for the official files. The employee may also file a letter of comment in the official personnel file.

d. **Written performance improvement plan** – The performance plan is written as a means of corrective action to give the employee a time period to bring job performance up to acceptable standards. The time period can be anywhere from 30 to 90 days depending on the complexity of the job. Periodic work performance reviews can be conducted during and after the performance period to evaluate the employee's progress. A copy of the performance plan should be sent to the Office of Human Resources for the employee's official files. A performance plan is written to address performance issues and not conduct issues.

e. **Suspension without pay** – This is an ordered absence from duty without pay for a prescribed period of time. If misconduct has continued after disciplinary counseling or letters of unsatisfactory work performance, a suspension without pay may be imposed. Generally, a suspension without pay may range from one to three days, except for exempt employees. The minimum disciplinary leave without pay period for an employee who is

exempt from the recordkeeping and overtime provisions of the Fair Labor Standards Act must be one workweek.

Upon the concurrence of the director of human resources, vice presidents, the provost, and/or the president, administrative leave with pay may be imposed in certain situations to allow a supervisor time to respond immediately to a suspected but not fully substantiated offense while facts are gathered and corrective actions identified. It may also be used in cases where the offense is severe enough or when the continuation of employment would be detrimental to normal departmental or university operations.

7. Dismissal And Termination Of Employment

A supervisor may recommend dismissal of an employee for failure to meet and maintain satisfactory work performance standards or for failure to maintain suitable and acceptable standards of conduct. Concurrence of the director of human resources and the appropriate vice president, the provost, and/or the president must be obtained prior to dismissing a classified, professional, or administrative employee. The vice presidents, the provost, and the president have the power and duty to approve the dismissal of employment of university personnel within their respective administrative areas of responsibility, in accordance with all applicable policies, rules, and regulations of the Board of Regents and the university, and applicable state statutes, rules, and regulations.

It is recommended that dismissal normally be preceded by verbal counseling, written letters of unsatisfactory work performance, and written reprimands, however, dismissal without prior warning may be justified for offenses that are severe enough or when the continuation of employment would be detrimental to normal departmental or university operations.

8. Dismissal Procedure

After initial consultation with the director of human resources and the employee's department head or director, the supervisor must provide a letter to the employee to advise that termination of employment is recommended. The letter must specify the reason(s) for the recommended termination. The reasons given should be specific and well-documented. It should also include previous actions taken by the supervisor to correct the employee's work performance or conduct if applicable.

For each employee dismissal, the supervisor is required to complete the *Employee Counseling Report* form. A packet, including the *Employee Counseling Report* and a copy of the letter given to the employee, should be forwarded to the appropriate administrators for signatures. All appropriate signatures and approvals must be obtained before the employee is terminated.

9. Effective Dates Of Separation

The effective date of an employee's separation will normally be the last day the employee actually works. If the employee has unused FLSA (Fair Labor Standards Act) compensatory time to which they are entitled, the effective date of separation may, with the approval of the university, be extended by the amount of the unused compensatory time, or the employee may be paid for the unused compensatory time in one lump-sum payment.

If the employee has completed six months or more of state employment, unused vacation entitlement will be paid by lump sum payment. In the event of a reduction in force action or

voluntary termination, the exiting employee may, with the approval of the university, remain on the payroll after separation to use accrued vacation leave rather than receive a lump-sum payment. The employee will not accrue any further sick leave or vacation leave while exhausting his/her vacation leave balance.

10. **Forms and Procedures**

All related forms and procedures are available on the Office of Human Resources website at: http://www.angelo.edu/dept/human_resources/