

SECTION XV

EMPLOYEE DISCIPLINE AND PROTECTION

1. PURPOSE

The purpose of this section is to explain the discipline system within the College. It further explains the protection measures available to the employees.

2. EMPLOYEE DISCIPLINE

a. Responsibility

The President is delegated the authority and responsibility to suspend, dismiss, demote or reassign on a fair and equitable basis an employee whose conduct or capacity is such that the removal, demotion or reassignment will promote the efficiency of service to the College.

b. Immediate Responsibility

Immediate supervisors are delegated the responsibility for administration of day to day discipline to include such actions as oral admonitions, letters of reprimand, and initiation of suspension actions consistent with the immediate supervisor's ability to effectively carry out such disciplinary action.

c. Reasons for Disciplinary Action

An employee may be subject to suspension, demotion, dismissal or reassignment or other appropriate disciplinary action. **Reasons for disciplinary action include, but are not limited to:**

- i. Fraud in securing appointment
- ii. Incompetence
- iii. Inefficiency
- iv. Unexcusable neglect of duty**
- v. Insubordination
- vi. Dishonesty
- vii. Use of or being under the influence of alcohol or other banned or illegal substances on duty**
- viii. Use and trafficking of illegal substances/drugs**
- ix. Unexcused absence without leave**
- x. Conviction of a felony or misdemeanor involving moral turpitude
- xi. Discourteous treatment of the public or other employees
- xii. Misuse of College property

- xiii. Acts of assaultive behavior, whether or not such acts occur on campus property, and whether or not criminal charges are filed, or conviction obtained.
- xiv. Racial, religious, or otherwise discriminatory remarks, defamations, or inferences.
- xv. **Theft**
- xvi. **Failure to properly account for College property in your possession, including money**
- xvii. **Untruthful statements before any College board or committee**
- xviii. **Failure to comply with College policies**
- xix. **Unsatisfactory performance**
- xx. **Unsatisfactory attendance or tardiness**

d. Limitation

No employee of the College shall be subjected to disciplinary action which affects continued employment except for such cause as will promote efficiency of service to the College and for reasons given in writing. Except for extenuating circumstances, the disciplinary action shall not take effect until three days after the date of notification.

- i Administrative leave may be granted to employees pending the decision on the disciplinary action.

3. EMPLOYEE PROTECTION

a. Purpose

This rule is established to guarantee the protection of the employee's individual rights in matters which may lead to disciplinary proceedings such as suspension, dismissal, demotion, or reassignment of the employee.

b. Shared-Responsibility

All levels of supervision and management share the responsibility for adherence to employee's job protection rights and consideration including:

- i Informal counseling at first indication that on-the-job or personal problem is affecting the employee's job performance;
- ii A reasonable opportunity for the employee to correct inadequate performance including providing specific training to the employee to improve the level of his job performance or to correct unacceptable habits or practices such as tardiness or lack of attention to work requirements;
- iii The right to reply to the notice of a proposed adverse action such as suspension, dismissal, demotion or reassignment;
- iv The responsibility of the supervisor to give careful and serious consideration to the employee's reply; and

- v The right of the employee to appeal adverse actions taken against him through the grievance procedure established in the College rules.

c. Formal Procedure

In the event that adverse action is to be initiated against an employee, such employee must be provided by hand or by certified mail a written notice specifying the following information:

- i The charges preferred against employee;
 - ii A description of the action to be taken;
 - iii Documentation supporting the action contemplated;
 - iv A written statement of all previous steps taken by the supervisor to resolve the problem, **if applicable**;
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- v Notification of the employees right to respond within three days notification of receipt of the charges;
 - vi The right of the supervisor to respond within three days and make a final decision unless the supervisor informs the employee that she/he needs additional time to make a final decision; and
 - vii Failure of the employee to respond to the charge within three days will immediately initiate the action described in Section XV.3.b.iii above.

4. INTENT OF EMPLOYEE DISCIPLINE & PROTECTION

It is the basic intent that discipline shall be a method of controlling employees in such a way as to produce high levels of work performance. The use of discipline as a punitive matter is contrary to the College's concept of discipline as an opportunity to provide constructive correction.

5. AUTHORITY FOR DISCIPLINARY ACTION

The President is the authority vested with the final decision on all adverse actions taken against employees within the College. The employee's supervisor initiates recommendation for such actions. Final authority for the disposition of disciplinary actions processed through the grievance procedure rests with the Board.

a. Removal of an Employee

The President retains the right to remove an employee when it is deemed that the employee poses a danger to people or property. This action in no way negates the employee's right stated in Section XVI.

6. RESPONSIBILITIES OF THE COLLEGE WITH RESPECT TO CRIMINAL ACTIVITY

a. Criminal Activity on College Property

When non-frivolous allegations are made that an act constituting a felony, or a misdemeanor involving an act of moral turpitude or assaultive behavior has occurred on College property, it is the obligation of the President to:

- i Formally report the allegations to the appropriate law enforcement officials;
- ii Assist such law enforcement officials in the investigation of the crime, including convincing students and staff to cooperate with any resulting investigation; and
- iii Provide such law enforcement officials with any internal reports or investigations conducted by the College.

b. Criminal Activity Not on College Property

When an employee has been alleged to have engaged in an act constituting a felony, or a misdemeanor involving moral turpitude or assaultive behavior, and the alleged act did not occur on the property of the College, the employee may be subject to the disciplinary procedures provided for in this section prior to the resolution of such charges by a court of competent jurisdiction, if credible evidence exists that such act occurred, and if such discipline is needed to promote the educational goals of the College.

c. Relationship of Disciplinary Action and Criminal Investigations

The disciplinary actions authorized by this Manual are not procedures to be used in lieu of reporting the matter to law enforcement officials. The duty to report allegations of criminal activity is a mandatory one. The same allegations, however, may be subject to discipline under this section, in the discretion of the College administration.

d. Public Dissemination of Criminal Investigations and Incidents

No employee of the College is authorized to release to the public information with respect to allegations of criminal activities on campus. Any such request for information should be referred to the law enforcement officials to whom the incident was reported.

e. In-applicability of Certain Disciplinary Procedures with Respect to Allegations of Criminal Activity

If employee discipline is undertaken with respect to allegations of criminal misconduct either on college property or off (Section XV.6.a or b), the provisions of section XV.3.b.i and ii are inapplicable.

7. SEXUAL HARASSMENT POLICY

COM-FSM Policy prohibits sexual harassment including unwelcomed and repeated

sexual advances, requests for sexual favors, physical contact, written or verbal communication of a sexual nature made by someone directed at or to another in the work or educational setting.

a. Purpose

This policy provides guidelines to assure that the Sexual Harassment Policy is applied fairly and equitably.

b. Application

This policy applies to all COM-FSM employees.

c. Responsibilities

The President has the overall authority for implementing this policy. Supervisors are responsible for the day to day implementation. Employees are responsible for understanding and complying with this policy. **Human Resources Office** is responsible for maintaining employee records.

d. Procedure

Any individual that believes he or she has been a victim of sexual harassment is to follow the current College grievance procedures in the case of harassment by faculty or staff. In special circumstances grievances will be allowed to be filed outside the 30-day limit. In the case of harassment by a student, the procedure is through the Student Conduct Board.

- i To retain confidentiality, the entire process must be kept in total confidence by all concerned. Appropriate sanctions will be applied administratively to anyone who goes outside the system during this grievance procedure period.
- ii Non-retaliation: The employee who files a Sexual Harassment Complaint shall not be retaliated against for filing the complaint. Retaliation against the complainant will not be tolerated. Appropriate sanctions may be applied. The record of the complaint shall not be placed in any personnel file or student file.
- iii In a situation where evidence is found that an allegation of sexual harassment is brought solely for the purpose of vexation, the appropriate disciplinary action will be taken.