Article 22: Discipline

General
22.1 The University will not dismiss or discipline a Member except for just and reasonable cause, and only in accordance with the provisions of this Article.
22.2 Disciplinary action will be reasonable and commensurate with the seriousness of the misconduct. Except in extreme circumstances, discipline will be of a progressive nature with the aim of being corrective in application.
22.3 In all matters of discipline, a Member will have the right to receive assistance from the Association and to be accompanied by a person appointed for that purpose by the Association.
22.4 Where a Member is incarcerated prior to a criminal trial or upon criminal conviction they will be considered on leave of absence without pay.
22.5 Where judgment in a criminal trial is pending and the Member is not incarcerated, they will be placed on a leave of absence with pay if the nature of the criminal charge(s) is such that the Member cannot reasonably continue to perform their employment duties.
22.6 Disciplinary action will only be contemplated where the subject matter of the criminal charge has resulted from actions that constitute violations of University policy or from actions that affect or could reasonably be expected to affect their suitability for continued employment.
22.x Investigations pursuant to Article 17, including timelines, are governed by the terms of that Article.

Investigation
22.7 The University may investigate any allegation that, if proven, would warrant taking disciplinary proceedings against a Member. An allegation should normally be made in writing and all investigations will be governed by principles of natural justice.
22.8 The University will:
   22.8.1 within 15 working days after an allegation has been received by the Executive Director of Faculty Relations or a longer period as agreed between the Parties,
   22.8.1.1 inform the Member and the Association in writing of the nature and substance of the allegation;
   22.8.1.2 advise the Member of their right to seek advice and representation from the Association;
   22.8.2 invite the Member to respond to the allegation by meeting, or by submission of written materials, or both, as the Member sees fit;
   22.8.3 give due consideration to any information received from the Member which might expedite or simplify the investigation, or render it unnecessary;
   22.8.4 take reasonable steps to maintain the confidentiality of the investigative process and its findings until the imposition of discipline, if any, unless the University has reasonable grounds to believe that such confidentiality may place a person at risk of significant harm.
22.9 Once the investigation is concluded, but no longer than 30 working days after the Member has been informed in writing about the allegation, the University will determine either that discipline will not be imposed, in which case the Member and the Association will be so advised, or that disciplinary action is warranted.
Disciplinary Measures
22.10 In any case where a Dean, the University Archivist, or a Vice President, following an investigation, considers that the conduct or performance of a Member warrants discipline, they may take one of the following disciplinary actions, as appropriate in the circumstances:
  22.10.1 Issue a written reprimand
  22.10.2 Recommend to the President that the Member be suspended with or without pay
  22.10.3 Recommend to the President that the Member be dismissed
22.11 In accordance with the University Act, the President may also initiate disciplinary action culminating in a reprimand, suspension or dismissal.

Letter of Reprimand
22.12 A written reprimand must:
  22.12.1 be clearly identified as a disciplinary measure;
  22.12.2 contain a statement of the reasons for issuing the reprimand;
  22.12.3 contain a statement of the actions the Member should take to correct the conduct.
22.13 A written reprimand will be sent by courier or registered mail to the Member’s home address, and will be copied (in PDF format) to the Member’s email address.

Suspension
22.14 Suspension, with or without pay, is the act of the President in relieving a Member of some or all of a Member’s duties and privileges without the Member’s consent.
22.15 Where the President, acting on information which is then available, concludes that a faculty member constitutes a risk of harm to a member or members of the University community or to the University, the President may impose a summary suspension pending further action by the University or the Member. Any such suspension will be with pay, and will be considered non-disciplinary.
22.16 In all other cases in which the President determines that grounds exist for suspension, the Member will be:
  22.16.1 entitled to a written account of the grounds for suspension;
  22.16.2 except in cases of summary suspension (Article 25.15) entitled to meet with the President and/or to submit a written response, prior to the imposition of the suspension;
  22.16.3 be informed that they may have the assistance of the Association.
22.17 The President will communicate the decision regarding suspension to the Member, in writing, within 15 working days of:
  22.17.1 the meeting with the Member; or
  22.17.2 receiving a written response; or
  22.17.3 receiving notice from the Member declining the opportunity to meet or to make a written submission; or
  22.17.4 not receiving any response from the Member for 20 working days.
22.18 The President’s written decision will be sent by courier or registered mail to the Member’s home address, and will be copied (in PDF format) to the Member’s email address. A copy will be sent to the Association.
Dismissal

22.19 Dismissal means the termination of an appointment by the University without the Member’s consent before retirement, resignation or the end of the contract as a disciplinary measure pursuant to this Article. Dismissal does not include non-renewal of a probationary or term appointment, denial of a tenured or continuing appointment, or elimination of a position as provided for elsewhere in this Agreement.

22.20 Where the University President determines that grounds exist to justify dismissal, the Member will:
22.20.1 be entitled to a written account of the grounds for the dismissal;
22.20.2 be entitled to meet with the President and/or to submit a written response, prior to the President transmitting a recommendation to the Board of Governors;
22.20.3 be informed that they may have the assistance of the Association at this meeting.

22.21 The President will communicate the decision regarding dismissal to the Member, in writing, within 15 working days of:
22.21.1 the meeting with the Member; or
22.21.2 receiving a written response; or
22.21.3 receiving notice from the Member declining the opportunity to meet or to make a written submission; or
22.21.4 not receiving any response from the Member for 20 working days.

22.22 The President’s written decision will be sent by courier or registered mail to the Member’s home address, and will be copied (in PDF format) to the Member’s email address. A copy will be sent to the Association.

Records of Disciplinary Action

22.23 If a disciplinary action imposed under this Article is subsequently overturned, all copies of the relevant letter of reprimand, notice of suspension, or recommendation to dismiss will be destroyed and any references to that disciplinary matter in other documents will be removed.

22.24 The record of discipline will be removed from a Member’s file 24 months after the date on which a reprimand was issued, or 24 months after the date on which a suspension ended, unless the Member has been the subject of further disciplinary action and does not successfully grieve the matter.

22.25 One copy of the record of discipline removed from a Member’s file will be placed in a sealed envelope and stored outside of the Member’s file in Faculty Relations. If the Member is subsequently the subject of disciplinary action, this documentation may be unsealed and taken into account for the purposes of progressive discipline.

Grievance of Disciplinary Action

22.26 All types of disciplinary action are grievable by the Association, pursuant to Article 21: Dispute Resolution, Grievance and may be the subject of arbitration under Article 21: Dispute Resolution, Arbitration.

22.27 When a Member has received:
22.27.1 a Letter of Reprimand; or
22.27.2 the President’s written decision on suspension; or
22.27.3 the President’s recommendation to the Board of Governors regarding dismissal; and the Association intends to grieve the discipline imposed, the Association must submit
a grievance within 20 working days of receipt of the notice of the discipline.

22.28 A recommendation for dismissal or suspension by the President will be sent directly to arbitration under Article 21: Dispute Resolution, Arbitration.

22.29 A suspension or termination will not take effect pending the outcome of the arbitration, though a summary suspension may be continued. If no grievance is filed within the time limit specified above, the suspension or termination will take effect immediately following the expiry of the 20 days.

Academic Assessments

22.30 If disciplinary action is in progress at the same time as a Member is being considered for salary review, renewal, tenure, promotion or study leave, there will be a deferral of the consideration until any Grievance contesting such disciplinary action has been finally resolved through Arbitration or until the time for filing a Grievance has lapsed.

22.31 In cases of renewal, tenure or continuing appointment, the Member’s appointment will be extended by the length of deferral to allow for completion of the renewal or tenure process.

22.32 Disciplinary action will not be considered in a performance review. Where discipline results from actions relevant to a performance review, those actions may be taken into account as appropriate.

This article is agreed to by the parties on this 8 day of Oct., 2019.

John O’Neil, for SFU

David Broun, for SFUFA