



TEXAS TECH UNIVERSITY HEALTH SCIENCES CENTER EL PASO

Operating Policy and Procedure

HSCEP OP: 70.31, Employee Conduct, Coaching, Corrective Action and Termination

PURPOSE: The purpose of this Texas Tech University Health Sciences Center El Paso (TTUHSC El Paso) Operating Policy and Procedure (HSCEP OP) is to establish policy regarding employee conduct, corrective action, and termination.

REVIEW: This HSCEP OP will be reviewed in March of each odd numbered year (ONY) by Human Resources, the Office of General Counsel, and the managing director of Equal Opportunity, with recommendations for revisions submitted to the assistant vice president for Human Resources.

POLICY/PROCEDURE:

I. Definition of Terms

- A. Administrative officer or designee – university leadership, including the president, vice presidents, deans, and department heads.
- B. Employee - refers to a person hired by the university in accordance with federal and state regulations and the university's employment policies.
- C. Involuntary termination – separation from employment that is initiated by the university, but does not include separation from employment due to the expiration of a specific term or appointment.
- D. University – refers to TTUHSC El Paso.
- E. University community – refers to an enrolled student, faculty or staff member, university official, or any other person employed by the university, third party vendor, or campus visitor.
- F. Voluntary termination – separation from employment that is initiated by the employee on his or her own accord, such as, but not limited to, resignation (whether oral or written), retirement, or failing to report to work as scheduled.

II. Employment at Will

- A. Employment at the university is governed by the employment at will doctrine unless otherwise modified by official university operating policy or contract. Employment 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. Nothing in this policy constitutes an employment agreement, either express or implied, a contract, a contractual relationship, or a guarantee of continued employment. Only the Board of Regents acting as a whole, the chancellor, the president, or their designees may execute an employment contract, and any such contract must be within their legal authority and must be in writing.
- B. Although the university is an at will employer, it has policies and standards of conduct in place and requires employees to comply with any such policies and standards.
- C. In the case of employees with contracts or faculty members, the provisions of this policy will

apply unless they are in conflict with the terms of the contract or other university operating policies, including HSCEP OP 60.01 Tenure and Promotion Policy, which specifically apply to those employees.

III. **Employee Conduct**

- A. The university, as a tax-supported institution, must function in accordance with the public trust, and the actions of all employees, whether faculty or staff, must be consistent with the execution of that trust. All employees are expected to acquaint themselves with the performance criteria for their particular job and with all the rules, procedures, and standards of conduct established by the of the Texas Tech University System (TTUS) Board of Regents, TTUS, the university and the employee's department or unit. An employee who does not fulfill the responsibilities set out by such performance criteria, rules, procedures, and standards of conduct, or who violates the standards established in this policy may be subject to corrective or adverse personnel action ranging from verbal counseling to termination from the university. The standards of conduct set forth below apply to all employees of the university regardless of classification, status, or title.
- B. Examples of conduct, performance, and work standards expected of university employees include, but are not limited to:
 - 1. Obeying the law and supporting and adhering to all TTUS and university policies;
 - 2. Behaving in all interpersonal interactions in an ethical, respectful, and considerate manner;
 - 3. Communicating, reporting, and documenting accurately, honestly, and in good faith;
 - 4. Performing work competently and in accordance with expected standards of performance.
 - 5. Efficiently using university resources and assets, including one's work time; and
 - 6. Contributing to a safe and violence free workplace.
- C. Specific examples of employee conduct or work performance that would be inconsistent with conduct, performance, and work standards set by the university and which constitute misconduct and/or breach of trust include, but are not limited to:
 - 1. Failure to meet or maintain acceptable job performance standards, qualifications, or reasonable expectations, including standards of conduct, professionalism, productivity, quality, competency, training, or licensure;
 - 2. Forgery, alteration, falsification, or unauthorized use of university documents, records, timesheets, or identification materials;
 - 3. Providing, whether by commission or omission, false or inaccurate information, claims, or allegations to the university, either verbal or written, including , but not limited to, providing inaccurate information in support of an application for employment, promotion, or transfer; providing inaccurate information regarding time worked; reporting sick leave when not actually sick or injured; or providing inaccurate information when requesting leave or a workplace accommodation;
 - 4. The use of force, violence, threat, conduct, or communication that bullies, harasses, intimidates, humiliates, endangers, retaliates, or otherwise obstructs the

functions or activities of the university or a member of the university community;

5. Theft of, misuse of, or damage to university property or the property of a member of the university community;
6. Unauthorized entry, use, or possession of university facilities, property, or operating systems;
7. Unauthorized access, use, or release of confidential or protected information including student records, employee records, and protected health information (PHI);
8. Unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance, or any substance the possession or distribution of which is regulated by federal or Texas law; and/or the use, possession, or distribution of unauthorized alcoholic beverages or illegal drugs, including misuse of prescription drugs, while on duty;
9. Being unfit for duty, including reporting for work under the influence of drugs or alcohol;
10. Refusal to submit to an administrative officer's request for an alcohol or drug test;
11. Behaving in a disorderly manner; use of slurs, hostile, abusive, or profane language; or lewd, indecent, or obscene conduct while on duty, while on university property, or while at a university-sponsored or supervised function;
12. Insubordination, including failing to comply with the lawful directives of an administrative officer, failing to follow university or departmental policies and procedures, or showing contempt or disrespect for authority through verbal or written communication or behavior;
13. Use of university funds or assets for any unauthorized purpose, including theft, fraud, waste, misuse or diversion of funds, resources, assets, supplies, materials, or work time;
14. Illegal or unauthorized use or possession of weapons, firearms, ammunition, fireworks, explosives, noxious materials, incendiary devices, or other dangerous substances;
15. Gambling or wagering while on university-owned property or at a university sponsored event;
16. Falsely initiating a fire alarm, emergency call, or a bomb threat, constructing mock explosive devices, or tampering with or removing fire equipment or emergency signs;
17. Failure to meet financial obligations due the university;
18. Unauthorized use of the name, trademarks, or symbols of the university;
19. Unauthorized absence from work or failure to provide a university approved reason for an unscheduled absence or tardiness; excessive tardiness or absence; failure to respond when on call outside regular work schedule; or failure to report sick, vacation, or other time away from work as required by university or other departmental policies;

20. Violation of university safety rules including, but not limited to refusal or failure to wear safety and protective apparel and/or equipment; failure to follow safety guidelines, instructions, or recommendations of the university and its responsible research or safety committees; or unsafe acts which endanger persons or university property;
 21. Academic dishonesty or misconduct such as plagiarism, giving unauthorized aid on an assignment or examination, or unauthorized altering of grades or student records;
 22. Failure to maintain or restriction, suspension, or revocation of job required licensure, certification, or credentials or failure to report same to the university within three (3) business days;
 23. Failure to cooperate with a university investigation including impeding an investigation; withholding, omitting, or concealing information; providing false or inaccurate information; or influencing or intimidating witnesses; and
 24. Violation of university policies and procedures, Board of Regents Rules, TTUS regulations, or federal and state laws or regulations that apply to the university.
- D. Criminal Conviction or Probation – All employees are required to notify Human Resources of any criminal conviction or probation, deferred or suspended sentence, whether from a conviction or deferred adjudication, no later than five (5) calendar days after such conviction, deferred adjudication, suspended sentence, or probation has been rendered. Notification is not required for minor traffic offenses, unless one of the employee's job duties includes or involves use of a university vehicle, in which case these also must be reported. Failure to notify the university in a timely manner will constitute misconduct. Human Resources will consult with the Office of General Counsel and appropriate administrative officers to determine whether continued employment is appropriate given the nature of the criminal offense in relation to the employee's job duties and responsibilities.
- E. Ethical Behavior – All employees are expected to comply with all university and other job-related or professional ethical standards.

IV. **Coaching and Corrective Action**

A. General Policy

Coaching and corrective action is designed to identify performance or conduct that is failing to meet expectations and then allow the employee a reasonable opportunity to improve deficiencies and maintain satisfactory work performance.

Each administrative officer has the authority and responsibility to establish and maintain an effective, efficient, and orderly workplace. However, when an employee's performance or conduct is not in compliance with the standards expected of an employee, the employee's immediate supervisor has the responsibility to determine the facts and to take appropriate corrective action. Guidance is available through Human Resources to assist all administrative officers and other supervisory personnel in the exercise of this responsibility.

While the university encourages the use of coaching and corrective action, it is not required, nor is it necessary, to progress through each of the options in sequence. The use of coaching and corrective action should be based on the facts of the individual situation. It

may be appropriate in some situations to repeat certain options while in others to advance directly to more significant corrective action. Nothing in this policy relating to corrective action gives any employee a property or other right to any option in the corrective action process, nor does it in any way modify employment at will.

Receiving and acknowledging by signature performance evaluations, written coachings, performance improvement plans, and corrective action documents is a condition of employment for all employees. Therefore, refusing to sign such documents may result in corrective action up to and including termination of employment.

B. Coaching and Corrective Action Options

Coaching and corrective actions are used to encourage the correction of performance deficiencies by providing the employee with knowledge of the deficiencies, recommended actions that will correct the deficiencies, and an opportunity to take the actions recommended.

Forms and process instructions may be found at the Human Resources Employee Relations site at the WebRaider portal, HSC HR El Paso Tab.

Coaching and Corrective Action may include:

1. Verbal or written Coaching

If an employee is exhibiting minor deficiencies, verbal and/or written coaching may be used to establish an understanding of the work and/or behavioral standards expected by the university. In the event the job performance or behavior does not improve, a summary of the verbal and/or written coaching, along with any employee's response to same, may be used to support further corrective action. All supervisors should document and maintain records relating to verbal and/or written coaching.

2. Written Corrective Action

If it is determined that an employee has failed to respond to the verbal and/or written coaching, or if the infraction is more severe, a written corrective action may be given to the employee. The written corrective action should include specific details of the unacceptable performance or conduct, list any relevant previous discussions or actions, and state expectations with time frames for correction. The supervisor shall promptly forward any written corrective action and responses to Human Resources to be placed in the employee's personnel file. The recipient of a written corrective action will not be eligible for transfer or promotion for a period of six months from the date the corrective action was presented.

3. Suspension without Pay

If misconduct or adverse behavior has continued after verbal coaching, written coaching, and/or a written corrective action, a suspension without pay may be imposed. For offenses that violate major rules of conduct, suspension without pay may be justified without prior corrective action. The suspension without pay may range from the balance of a shift up to one week.

Written documentation supporting an employee's immediate supervisor's recommendation for suspension without pay must be submitted to and reviewed by Human Resources and approved by the appropriate administrative officer prior to the suspension. Additionally, if the suspended employee is a member of a

protected class under state or federal anti-discrimination laws, prior review by the managing director of the Equal Opportunity Office is required.

4. **Demotion or Reassignment**

An employee's immediate supervisor may request a demotion or reassignment of an employee in order to assign the employee to a position where the needs of the department may be met. This may or may not be for corrective reasons.

Written documentation supporting the supervisor's recommendation for demotion or reassignment must be submitted to and reviewed by Human Resources and approved by the appropriate administrative officer prior to implementation of the demotion or reassignment.

5. **Final Notice of Corrective Actions**

For repeated minor offenses or a serious infraction, an employee may be issued a written final notice or corrective action. A final notice of corrective action is not, however, required prior to termination.

C. **Employee Responses to Corrective Actions**

Employees may submit a written response to written coachings, performance improvement plans and corrective action documents within ten (10) business days to the employee's immediate supervisor who will promptly forward any response to Human Resources to be placed in the employee's personnel file.

V. **Administrative Leave**

If an employee's immediate supervisor deems it necessary to remove an employee from the workplace pending an investigation or other employment decision, the employee may be placed on administrative leave, with or without pay, for no more than 88 work hours at a time. Any employee on administrative leave with pay will remain subject to return to duty or may be required to perform duties at any time during the administrative leave. Written documentation supporting the supervisor's recommendation for administrative leave must be submitted to and reviewed by Human Resources and approved by the appropriate administrative officer prior to placing an employee on administrative leave.

In the event an administrative officer deems it necessary for an employee to remain on administrative leave for a period of time in excess of 88 work hours, the administrative officer shall provide a written justification to Human Resources for the extended leave.

The administrative officer of any employee who is the subject of an investigation who has been granted administrative leave of 168 work hours or more in any fiscal quarter, shall provide a written statement to Human Resources setting forth the reason the employee was on such leave. Human Resources shall provide a report to the State Auditor's Office and the Legislative Budget Board at the end of each fiscal quarter of all such employees.

VI. **Involuntary Termination**

It is recommended that verbal coaching, written coaching, written corrective action, and/or suspension normally precede termination from employment for job performance reasons. However, when the employee's immediate supervisor believes that the employee's behavior will not improve, that the employee will not ultimately be a productive employee that the conduct involved constitutes a significant violation of university standards of conduct, or when continuation of

employment would be detrimental to normal departmental operations, termination without prior corrective action may be warranted.

Supervisors must consult with Human Resources prior to initiating an involuntary termination.

Employees who are terminated are not entitled to wages in lieu of notice, may not be paid wages in lieu of notice, or paid any sort of severance payment without prior approval of the appropriate administrative officer and the Office of General Counsel.

Before an employee is terminated, a written explanation of the action recommended and the letter of termination to the employee must be submitted to, reviewed and approved by Human Resources. Human Resources will consult with the Office of General Counsel and the managing director of the Equal Opportunity Office before any termination is finalized.

The determination on non-eligibility for re-hire will be reviewed and approved by Human Resources.

VII. **Complaints, Grievances, or Appeals**

For complaints, grievances, or appeals, other than for termination, please see the following policies:

HSCEP OP 70.10 – Non-Faculty Employee Complaint Procedure

HSCEP OP 60.10 – Faculty Grievance Procedure

HSCEP OP 51.02 – Non-Discrimination and Anti-Harassment Policy and Complaint Procedure for Violations of Employment and Other Laws

HSCEP OP 51.03 – Sexual Harassment, Sexual Assault, Sexual Misconduct, and Title IX Policy and Complaint Procedure

Terminations may not be grieved or appealed unless specifically provided for in the above-referenced policies.

VIII. **Reduction In Force**

A reduction in force will be processed pursuant to the provisions in HSCEP OP 70.23 and is to be used only when a termination is based on reorganization, anticipated decrease in funding, reductions in services, or other reasons approved by the appropriate administrative officer.

A reduction in force is not to be used in lieu of a corrective action or to dismiss an employee if the sole cause of dismissal is either misconduct or lack of satisfactory performance.

IX. **Resignation**

Employees voluntarily resigning from employment are asked to provide as much written notice as possible to their immediate supervisor to minimize the impact of their departure on the university. Non-exempt employees are asked to provide at least two weeks written notice. Professional or exempt employees are asked to provide at least thirty (30) calendar days of notice. Upon receipt of notice of resignation, the immediate supervisor should acknowledge such and confirm the date of separation.

Employees are required to continue performing their assigned duties and work their assigned schedule until their last day of employment unless approved leave is taken.

If, during the notice period, it is determined by the university that an employee's continued presence in the workplace poses a risk to the university or the employee's performance does not meet expectations of his/her immediate supervisor, the university may initiate corrective action, including termination.

If an employee resigns after the decision to terminate the employee has been made and communicated to the employee, the resignation will be designated as a resignation in-lieu of termination. A resignation submitted in-lieu of termination will be effective immediately upon receipt of the verbal or written notification from the employee.

X. **Review and Acknowledgement of Policy**

Upon employment and as requested thereafter, each employee will acknowledge receipt and review of this policy and other important information by signing an Employee Acknowledgement form.

XI. **Right to Change Policy**

The university reserves the right to interpret, change, modify, amend, or rescind this policy, in whole or in part, at any time without the consent of employees.

XII. **Forms**

All related forms are available at the Human Resources Employee Relations site at the WebRaider portal, HSC HR El Paso Tab.

XIII. **Authoritative Reference**

Authoritative references include, but are not limited to the following:

Texas Government Code Section 661.923

Section 03.02, *Regents' Rules*

Section 07.12.2.c, *Regents' Rules*