

ARTICLE 26
CORRECTIVE ACTION, DISCIPLINE AND DISCHARGE

A. GENERAL PROVISIONS

Corrective Action is an action designed to improve conduct or performance which does not involve an adverse impact on rights, pay, or benefits. Discipline is an action imposed on a non-probationary nurse when corrective action has proven ineffectual or when the nurse's misconduct or failure to perform satisfactorily is serious enough to warrant discipline. The University has the authority to discharge or to take other appropriate disciplinary action against a non-probationary nurse for just cause.

B. TYPE OF ACTIVITY

The University may use an oral reprimand or counseling memorandum as corrective action. Discipline may involve a written warning, suspension without pay for up to five (5) working days for eight (8) hour nurses, four (4) working days for ten (10) hour nurses, or three (3) working days for twelve (12) hour nurses without prior notice; suspension beyond five (5) working days for eight (8) hour nurses, four (4) working days for ten (10) hour nurses, or three (3) working days for twelve (12) hour nurses with notice; demotion for failure to meet performance standards, as defined in §C., below, or discharge. Nurses who are suspended without pay for up to five (5) working days for eight (8) hour nurses, four (4) working days for ten (10) hour nurses, or three (3) working days for twelve (12) hour nurses, and who wish to contest the suspension, must grieve within the time limits established by the grievance procedure of this Agreement. Corrective actions are not subject to the grievance or arbitration procedures of this Agreement.

C. DEMOTION

The University may demote a nurse to a lower classification, with concurrent reassignment to work of lesser duties and responsibilities, based on a demonstrated failure to meet the performance standards of the higher classification. Such action shall take place only after reasonable attempts to correct the deficient performance have failed. Demotion shall be subject to the grievance and arbitration procedures.

D. INVESTIGATORY LEAVE

The University may place a nurse on investigatory leave with pay in order to review or investigate allegations of conduct which, in the University's view, would warrant relieving the nurse immediately from all work duties. An investigatory leave with pay shall not be considered corrective action or discipline as defined in this Article.

E. NOTICE

1. When the University intends to suspend for more than five (5) working days for eight (8) hour nurses, four (4) working days for ten (10) hour nurses, or three (3) working days for twelve (12) hour nurses, demote, or discharge a nurse, written notice of its intent shall be given to the nurse. Such notice shall be made, either by delivery of the notice to the nurse in person, or by placing the notice of intent in the United States mail, first class postage paid, in an envelope addressed to the nurse at the nurse's last known home address. In either case, a copy of the notice of intent shall be sent by United States mail, first class postage paid, to the Association. It shall be the responsibility of the nurse to inform the University in writing of any change of home address. Whether delivery is made in person or by mail, the notice of intent shall contain a proof of service indicating the date on which the notice of intent was personally delivered or mailed. Such date of personal delivery or mailing shall be the "date of issuance" of the notice of intent.

2. The notice shall:
 - a. inform the nurse of the action intended, the reason for the disciplinary action and the effective date of the action;
 - b. include a copy of the charge and material upon which the charge is based; and
 - c. inform the nurse of the right to respond and to whom to respond within the time limit in §F., below, either orally or in writing in accordance with §F., below.

F. NURSE RESPONSE

1. The nurse shall be entitled to respond, orally or in writing, to the notice of intent described in §E., above. If the written notice is delivered in person to the nurse, the nurse's response must be received within ten (10) calendar days from the date of issuance of such notice of intent in accordance with instructions given by the University in the written notice. If the written notice is mailed to the nurse and the Association, the nurse's response must be received within fourteen (14) calendar days from the date of issuance of such notice of intent.
2. After review of the nurse's timely response, if any, the University shall notify the nurse of any action to be taken. Such action to be taken may not include discipline more severe than that described in the notice of intent; however, the University may reduce such discipline without the issuance of a further notice of intent. When such action includes a suspension without pay for five (5) working days for eight (8) hour nurses, four (4) working days for ten (10) hour nurses, or three (3) working days for twelve (12) hour nurses or longer, a copy of the letter of discipline/suspension will be sent concurrently to the Association.

G. PERSONNEL RECORDS

1. A counseling memorandum shall be placed in the nurse's personnel records.
2. A copy of a written warning or notice of any further disciplinary action, given or mailed to a nurse shall be placed in the nurse's personnel records. The University agrees that written warnings and other disciplinary notices shall be accompanied by a proof of service.
3. Counseling memoranda and written warnings shall be destroyed after two (2) consecutive years during which there has been no further written warnings issued to the nurse.
4. There shall be no charge for the first copy of the contents of the nurse's personnel file.

H. REPRESENTATION

1. A non-probationary nurse shall have the right of representation at any scheduled meeting the outcome of which may be a disciplinary act of written warning, suspension without pay, demotion or discharge. The University shall advise a nurse of any scheduled meeting, the outcome of which may be a written warning, suspension without pay, disciplinary demotion or discharge. A nurse may request a representative of the nurse's choice other than a University employee who has been designated as supervisory, managerial, or confidential to be present when there is reason to believe that a meeting may result in disciplinary action as defined above. If the nurse's preferred representative is not available to attend a meeting scheduled by the University, the nurse shall arrange for an alternative representative for the meeting. If no alternative representative can be found for the scheduled meeting, the University may reschedule the meeting within eight (8) calendar days, unless otherwise agreed to by the parties.

2. The term "meeting" does not include the occasion in which the University only presents a nurse with written confirmation of the results of the prior meeting referenced in §H.1., above.