

ARTICLE XX. DISCIPLINE & DISMISSAL
HAW-UAW Counter Proposal December 16, 2024

ARTICLE XX
DISCIPLINE AND DISMISSAL

Section A. The ~~Employer~~ **Employer University** shall not discipline or dismiss an Employee except for just cause. Discipline ~~shall~~ **shall consist of** ~~may include but not be limited to verbal warnings,~~ written warnings, ~~reduction in duties, reduction in pay,~~ suspension with or without pay, ~~non-reappointment~~ **non-reappointment**, and dismissal taken by the ~~Employer~~ **Employer University** based on an Employee's misconduct or poor/non-performance.

~~Reduction in duties and reduction in pay are not appropriate forms of discipline and may not be taken by the Employer based on an Employee's misconduct or poor/non-performance.~~

~~Discipline shall not be used to restrain Employees in the exercise of academic freedom.~~

~~Dismissal for purposes of this Agreement shall mean the termination of an employee's appointment prior to the expiration of that appointment.~~

~~Dismissal does not include the non-reappointment of an employee, a reduction in the employee's FTE or the failure to offer an appointment to an employee.~~ Dismissal as used in this Article **also** does not include layoff of an employee or termination of an appointment due to lack of funding or institutional need. ~~Such nonreappointments are subject to the provisions in Article XX (Appointments and Reappointments) or course/section cancellation.~~ **Such non-appointments are subject to the provisions in Article XX (Appointments and Reappointments).**

Discipline for purposes of this Article shall not include performance reviews. A performance review that indicates performance deficiencies shall not be considered a disciplinary action by the ~~University~~ **Employer**.

Section B. ~~Prior to the issuance of discipline, the Employer shall conduct an investigation that includes an opportunity for the Employee to respond to the alleged job misconduct or performance issue. The Employer shall notify any Employee facing disciplinary action of the right to Union representation. The Employer shall notify any Employee facing disciplinary action of the right to Union representation.~~ **Prior to scheduling any disciplinary or investigatory meeting, the Employer shall notify any Employee facing disciplinary action of the right to Union representation.** An Employee may request that a Union representative be present at **any disciplinary meeting or at** any investigatory meeting that the ~~e~~Employee reasonably believes may lead to discipline.

Section C. The ~~Employer~~ **Employer University** ~~Employer~~ shall notify the ~~Employee and the Employer and~~ Union in writing, **with a copy to the Employee**, within ~~three (3)~~ **two (2)** business days ~~one (1) day~~ of the issuance of discipline to the Employee. This notification must include a

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description of the alleged ~~job-related~~ misconduct or job performance issue; ~~a summary of the evidence;~~ and the level of disciplinary action.

Section D. Employees who are disciplined or dismissed shall be entitled to have the Union file a grievance in response to the disciplinary action. Grievances over disciplinary suspensions without pay or dismissal actions ~~Employees who are dismissed or suspended~~ shall be ~~permitted to file~~ ~~their grievance~~ at the ~~Step 2~~ last step of the grievance procedure prior to arbitration as established in Article XX (Grievance and Arbitration) under the same time limits for filing other initial grievances.

Section E. Discipline which is rescinded through the grievance procedure shall be removed from the Employee's file and shall not be the basis for further disciplinary action.

Section F. Any person against whom charges have been made may, at any time during the pendency of the charges, be placed on paid administrative leave while the ~~Employer~~ ~~EmployerUniversity~~ investigates ~~investigating~~ potential or alleged misconduct that may result in discipline or considers ~~ing~~ what actions to take in a given case. The manner of any investigation shall be at the ~~University's-Employer's~~ discretion. ~~Being placed on~~ Paid administrative leave is not itself a disciplinary action.

~~Section G. Harvard shall maintain the confidentiality of an Employee's disciplinary actions imposed and shall not share an Employee's disciplinary actions except with appropriate Harvard personnel as necessary to perform their duties or as required by law.~~