University Policy 7310

Non-Classified Employees Due Process and Appeal Procedures

Effective Date

July 1978

Last Revision Date

October 2019

Responsible Party

Vice President and Chief Financial Officer, (208) 426-1200
Provost and Vice President for Academic Affairs, (208) 426-1202
Human Resources, (208) 426-1616

Scope and Audience

This policy applies to all Non-Classified University employees.

Additional Authority

- Idaho State Board of Education Policy, Section II.M.
- Idaho State Board of Education Policy, Section II.L.

1. Policy Purpose

To establish a due process procedure and appeal for non-classified employees including professional staff and faculty employees.
The Due Process Procedure is designed for use only when disciplinary action is being taken by the University against a non-classified employee (professional staff or faculty employee) during the term of an employment contract. “Disciplinary action” includes dismissal for cause, suspensions without pay and demotions. This process generally requires the University to provide the affected employee with a Notice of Contemplated Action and an opportunity to be heard before making any final decision to impose discipline including dismissal for cause.

The Problem-Solving Process is for professional staff only* to address non-disciplinary matters (job related issues not defined as “disciplinary action” or those alleging illegal discrimination or harassment). It generally requires an employee to meet with his or her immediate supervisor to resolve the matter; file for problem solving if the matter is not resolved; meet with upper-level management; and receive a final decision from the Provost, applicable Vice President, or the President.

Neither the Due Process Procedure nor the Problem Solving Process are applicable to non-renewal of appointment or contract renewal situations.

2. Policy Statement

A non-classified employee (including professional staff and faculty employees) is entitled to due process before the University makes any decision to impose dismissal for cause, suspension or demotion during the term of an existing employment contract. Due process that requires the employee receive written notice of the disciplinary action being contemplated and an opportunity to be heard before a decision is made. If a non-classified employee needs assistance with this process, the employee should contact Human Resources for assistance.

3. Responsibilities and Procedures

3.1 Notice

If the University is contemplating disciplinary action, the department must provide notice of the contemplated action to the employee in writing.

3.1.1 Notice of the Contemplated Action

For professional staff, the Dean or Department Director will work with Human Resources to develop the written notice and such notice will be given to the employee with a copy of the notice to Human Resources. In the case of faculty, the Provost will work with Human Resources to develop the written notice.
3.1.2 Notice of Contemplated Action Contents

Contents of the Notice of Contemplated Action must include:

a. Disciplinary action contemplated (i.e., dismissal for cause, suspension without pay or demotion).

b. The basis (reason and corresponding legal or policy citation) for this action or reason for this action.

c. An explanation of the information or evidence pertinent to the contemplated action.

d. The time frames for the response.

3.1.3 Opportunity to Respond

A non-classified employee who receives a Notice of Contemplated Action is entitled to an opportunity to respond verbally or in writing. The employee’s response shall be the opportunity for the employee to respond to the content of the notice and to present reasons why the contemplated action should not be taken. The employee must respond in writing within the time period indicated in the notice, otherwise the opportunity is deemed waived by the employee. The response, if any, shall be provided by the employee to the Provost/Dean or Department Director who issued the notice with a copy to Human Resources.

3.1.3A Time to Respond

The Notice of Contemplated Action shall provide a set time period of no less than five (5) working days within which an employee may respond after the receipt of the notice. The Provost/Dean or Department Director issuing the notice may extend the time period for a response, but in no event may that time period exceed ten (10) working days after the employee has received the notice, unless both the Provost/Dean or Department Director issuing the notice and the employee agree to an extension in writing with a copy to Human Resources.

3.1.3B Right to Representation

The employee has the right to be represented by a person of his or her choosing during this procedure and, if applicable, during the Optional Mediation Process. If the employee chooses to be represented, the employee must notify the Provost/Dean or Department Director who issued the notice with a copy to Human Resources.
3.1.4 University’s Decision

The Provost, Vice-President, or their designee will notify the employee of the decision no later than ten (10) working days after the employee has responded, failed to respond, or otherwise waived his or her right to respond. The University’s decision will be sent or delivered to the employee. Human Resources will coordinate processing of the University’s decision and final action. If a disciplinary action is taken, it may be implemented immediately.

3.1.5 Post Dismissal Appeal Process

3.1.5A Employee Responsibility

If an employee chooses to appeal the University’s decision to dismiss the employee, a signed and dated Notice of Appeal including a current email address must be submitted by the employee to Human Resources within five (5) working days of the date the employee receives the University’s decision to dismiss the employee.

3.1.5B University Responsibility

Upon receipt of the Notice of Appeal, the University will appoint an outside Hearing Officer to consider the appeal. The University will notify the employee of the appointed Hearing Officer at the email address listed on the employee’s Notice of Appeal within seven (7) working days of Human Resources’ receipt of the employee’s Notice of Appeal.

3.1.5C Statement of Appeal

Within ten (10) days of the date Human Resources issues the Notification of Appointment of Hearing Officer, the employee shall file with the Hearing Officer the employee’s written Statement of Appeal, together with any supporting documents which the employee wishes to have the Hearing Officer consider. On the same date it is filed with the Hearing Officer, the employee shall submit to Human Resources by email or hand delivery a copy of the written Statement of Appeal together with any supporting documents provided to the Hearing Officer. The University shall then have then ten (10) days to file with the Hearing Officer the University’s written response to the employee’s Statement of Appeal and any supporting documents which the University wishes for the Hearing Officer to consider in support of its response.

3.1.5D Final Decision

The Hearing Officer shall then issue to the employee and the University a written Final Decision on Appeal no later than fourteen (14) days after receipt of the University’s response.
Process Procedure is completed when the Hearing Officer issues the Final Decision to the parties.

3.1.6 Optional Mediation Process

The Provost/Dean or Department Director and the employee may mutually agree to engage in mediation after notice of contemplated action has been sent during the Due Process Procedure. If both sides agree in writing to mediation, the time limits for the opportunity to respond and the University’s decision will be suspended pending mediation. Mediation is not possible unless both the Provost/Dean, Department Director or supervisor and the employee agree. Human Resources shall assist in identifying a mediator and coordinating this process.

4. Related Information

Faculty may refer to the Faculty Grievance Policy (4480) for more details on how to explore employment-related matters not related to the Due Process Procedure as outlined in this policy.

Revision History

Jun 2002; September 2016; March 2017; October 2019