1.0 PURPOSE

1.1 The purpose of this policy is to prescribe the procedures to be followed in the event that discipline or dismissal of a regular staff employee becomes necessary.

1.2 This policy is provided to help management develop good disciplinary procedures to maintain order and enforce university rules. Discipline management is a corrective process to help employees overcome work-related shortcomings, strengthen work performance, and achieve success.

1.3 This policy allows for the termination of employees who will not or cannot change unacceptable behavior or performance.

1.4 This policy is drafted in accordance with University of Houston System Administrative Memorandum ("SAM") 02.A.04 and in compliance with all applicable state and federal laws. Disciplinary actions will be based on job related performance and conduct.

2.0 GENERAL

2.1 The University of Houston—Clear Lake ("UHCL") follows the principle of progressive discipline. With progressive discipline, an employee faces progressively stricter disciplinary measures if satisfactory improvement does not occur after the disciplinary process is initiated.

2.2 This process does not apply to probationary employees (see SAM 02.A.18) or temporary employees. These employees can be dismissed at any time with or without cause.

2.3 This policy does not constitute an employment contract. Nothing in this policy changes the employment at will status of any employee, or creates any additional rights, remedies at law, or expectations of continued employment. In accordance with state statutes, UHCL reserves the right to immediately dismiss an employee without initiating these progressive disciplinary procedures.

2.4 These regulations apply to all regular staff employees including those serving in externally funded positions and working at remote locations.

2.5 These regulations do not apply to employees serving in the following positions:

a. President, Senior Vice President and Provost, Vice Presidents, Associate and Assistant Vice Presidents, Deans, Associate Deans and Assistant Deans (academic);

b. positions for which student status is a prerequisite for employment;

c. positions which are defined as non-regular (temporary or lump sum);

d. positions filled by probationary employees, unless illegal discrimination is alleged as the cause of the disciplinary action and evidence is provided which reasonably supports the allegations;

e. faculty and researchers;

f. independent contractors.
3.0 POLICY

3.1 UHCL encourages fair, efficient, and equitable solutions for problems arising out of the employment relationship and intends to meet the requirements of state and federal law and support the mission of the university.

3.2 Nothing in this policy shall be used to discriminate against any individual or group because of race, color, sex, religion, national origin, disability, age, veteran status, genetic information or sexual orientation. Additionally, the System prohibits discrimination in all aspects of employment on the basis of sexual orientation, gender identity or gender expression.

4.0 DEFINITIONS

4.1 Discipline – any action or series of actions taken to ensure effective job performance and conformance with established work rules.

4.2 Dismissal – discharge from employment at UHCL. This step is taken when positive steps to improve performance have been taken but performance has not changed; or when an employee has committed a major offense that warrants discharge.

4.3 Regular Staff Employee – an employee who is appointed for at least 20 hours per week on a regular basis for a period of at least 4.5 months, excluding students employed in positions which require student status as a condition for employment and employees who hold a teaching or research position classified as faculty.

4.4 Non-regular staff employee – an employee appointed to a position designated as temporary, as one requiring student status as a condition of employment, as lump sum, and/or as non-benefits eligible.

4.5 Probationary employee – A regular non-exempt staff employee is probationary and serves at the pleasure of the hiring department during the first six months of continuous employment at UHCL or during the first six months of reemployment following a break in service for any reasons other than a recall to work after an approved reduction in force. A regular exempt staff employee is probationary and serves at the pleasure of the hiring department for the first twelve months of continuous employment at UHCL, or during the first twelve months of reemployment following a break in service for any reason other than a recall to work after an approved reduction in force.

5.0 RESPONSIBILITY

5.1 Supervisory personnel are required to inform employees of rules to be followed, standards of conduct to be met, and work performance to be achieved. Supervisors are responsible for administering progressive disciplinary action and/or dismissal in accordance with UHCL policies and procedures. Supervisors are also responsible for forwarding records of disciplinary actions to the UHCL Office of Human Resources for inclusion in the employee’s official personnel file. Such documents must be forwarded in a timely manner. These documents are necessary to ensure employees are being advised and monitored because of unsatisfactory job performance.

5.2 Employees are responsible to learn and to abide by the rules, procedures, and standards of UHCL and its departments, and are responsible for accomplishing the specific duties and responsibilities expected of their positions of employment and the consequences of failure to perform according to expectations.
5.3 Except during probationary employment, the employing department is responsible for showing adequate cause why an employee should be disciplined or dismissed. Since the purpose of the disciplinary process is to provide remedial action whenever possible, no disciplinary measures will be undertaken without the employee's knowledge. Furthermore, employees will be given an opportunity to respond to any intended disciplinary action prior to the final action on the part of the supervisor. Any disciplinary measure will, at a minimum:

a. clearly identify the problem to be corrected or the standard to be met;
b. identify the remedial action expected;
c. state the results of failure to take the specified remedial action;
d. allow the employee an opportunity to respond either orally or in writing prior to the final action on the part of the supervisor (an employee who has difficulty communicating in the English language will be allowed the opportunity to respond through a representative); and
e. provide a record of the disciplinary action.

Any written reprimand or letter of suspension will be signed by the supervisory authority and the employee. The employee's signature will acknowledge receipt of the document but may not necessarily indicate agreement with the action. If the employee refuses to sign, the supervisor may note on the document that the employee refused to sign. Or the supervisor may have an impartial witness sign the document indicating that the employee refused to sign. At each stage in the formal disciplinary process, the employee will be allowed an opportunity to register a response to the supervisory authority in writing. The content of the response will be noted in the written record. A copy of any written reprimand, letter of suspension, or notice of termination will be placed in the employee's official personnel file in the Office of Human Resources.

5.4 Authorization and prior approval of department heads, or designees serving in their absence, may recommend suspension or dismissal action. Approval to suspend or terminate an employee must be received from the appropriate President, Provost, Vice President or Dean and the Executive Director of Human Resources and Affirmative Action. Suspensions without pay may not exceed ten (10) working days.

6.0 NO FAULT DISMISSAL

6.1 Probationary period: An employee may be dismissed at any time during the probationary period without application of the discipline and dismissal policy and procedures except that any such dismissal may not be based on illegal discrimination or retaliation. If the probationary period is interrupted by any authorized leave of absence other than earned sick leave, the probationary period will be extended by the amount of time the employee is absent from work.

6.2 Reduction in force: Terminations due to a formal reduction in force are covered in a separate policy and are not subject to the discipline and dismissal policy and procedures.

6.3 Inability to perform: An employee who, after all available leave has been exhausted, is unable to return to work to perform job functions because of medical reasons, may be dismissed without application of the discipline and dismissal policy and procedures. Terminations under this provision are not disciplinary in nature, but constitute removal from a position for inability to perform for medical reasons. The Executive Director of Human Resources and Affirmative Action must approve all such dismissals before any action is taken.

7.0 JOB ABANDONMENT

7.1 An employee who fails to report to work and/or fails to follow departmental rules for notification of absence for three consecutive workdays or more may be considered to have abandoned the job. Job
abandonment is a form of resignation, and the employee may be released without application of the discipline and dismissal policy and procedures. An employee contesting the dismissal by tendering an acceptable reason for failure to report for duty and failure to follow departmental rules for notification of absence may be reinstated to the position if such reason is presented in writing to the department head within a reasonable amount of time (not to exceed 5 working days) and prior to the employment of another individual in the vacant position, and if such statement is considered sufficient to excuse the failure.

8.0 GROUNDS FOR DISCIPLINARY ACTION OR DISMISSAL

8.1 UHCL has the right to discipline or summarily dismiss a regular staff employee for adequate cause. The following list of infractions may result in disciplinary action, up to and including dismissal. This list is in no way inclusive; other acts or omissions by a regular staff employee, contrary to standard work performance or employee conduct, may also warrant corrective action:

a. Repeated or flagrant acts of inefficiency, incompetence, or negligence in performance of duties.
b. Continued lateness or excessive absenteeism, including absence without approved leave, improper use of sick leave, or repeated failure to report to duty at the assigned time and place. Excessive absences resulting in unpaid leave.
c. Improper use of UHCL or University of Houston System ("UHS") property or equipment, including waste of materials, supplies, or technology resources and/or carelessness resulting in damage to the university’s tools, equipment, or property.
d. Dishonest actions, theft, misappropriation or unauthorized use of UHCL or UHS funds or property, or failure to report knowledge thereof. ("knowledge" in this context means witnessing the dishonest act or receiving direct information from the perpetrator of this act.)
e. Falsification of information to secure a UHCL position or falsification of any other UHCL or UHS records.
f. Failure to obtain or properly maintain a current license or certificate required by law or policy as a condition of performing the job.
g. Possession of illegal and/or unauthorized drugs on the UHCL campus or while on UHCL business; the abuse of other drugs and/or alcohol while on university business; or reporting for duty under the influence of alcohol, or illegal drugs or unauthorized drugs. The same applies to any habit forming or disabling substance not prescribed for the employee by a physician.
h. Possession of unauthorized firearms or other dangerous weapons on UHCL premises.
i. Insubordination, willful disobedience, and/or refusal to, or failure to follow directives or perform work properly as assigned by a supervisor.
j. Unauthorized release of confidential information from UHCL records.
k. Engaging in incompatible employment or in employment that represents a conflict of interest.
l. Accepting/soliciting gifts, monies, or other things of value intended as an inducement to perform or refrain from performing an official act.
m. Criminal conduct other than a minor traffic violation (a traffic violation classified as a Class C misdemeanor), or employee’s failure to report his/her criminal conduct, if such would adversely affect an employee’s work performance, impact the work environment, or cause major discredit or embarrassment to UHCL.
n. Commission of an act of moral turpitude, including sexual harassment or sexual assault of another employee, faculty member, student, or visitor.
o. Failure to pay monies owed or satisfy other personal financial indebtedness to the UHCL or UHS.
p. Failure to abide by the laws of the United States, the State of Texas, municipal authorities, or the rules and regulations of UHCL and/or UHS, including commission of any criminal act when UHCL is the victim, or any criminal act against another party on UHCL premises.
q. Commission of a willful act, while on duty, that endangers the personal well being and safety of others.
r. Participation in any action that would in any way disrupt or disturb the safe and efficient operation of UHCL or UHS any of its other components.
s. Violations of UHCL’s sexual harassment policy or anti-discrimination policies.

9.0 SUSPENSION WITH PAY

9.1 An employee may be suspended from employment with pay pending further investigation of a matter, including possible official actions by outside legal agencies. Suspension with pay requires the approval of the Executive Director of Human Resources and Affirmative Action or designee. There is no time limit for suspension with pay.

9.2 During the period of suspension with pay, an employee is considered on active assignment and may be required to be available for university business during normal working hours.

William A. Staples
Title: President
Approval Date: November 9, 2000
Sunset Date: November 9, 2020
DISCIPLINE AND DISMISSAL OF REGULAR STAFF EMPLOYEES

PROCEDURES

NOTE: Please contact the Executive Director of Human Resources/Affirmative Action for sample format of progressive discipline documentation.

1.0 PROGRESSIVE DISCIPLINE

1.1 When possible and practical, disciplinary action will follow a progressive sequence. The normal sequence of action is:
Step 1. Oral Counseling
Step 2. Written Reprimand
Step 3. Suspension without Pay
Step 4. Dismissal from employment

1.2 The purpose of progressive discipline is to ensure that the employee is fully aware of any performance deficiencies that exist and to provide the employee with a reasonable opportunity to correct such deficiencies. Employees will be given an opportunity to respond to any intended disciplinary action on the part of the supervisor either orally or in writing.

1.3 Supervisory and management personnel may omit any stage of the above process if, in their opinion and with concurrence of the Executive Director of Human Resources and Affirmative Action ("Executive Director"), the problem cannot be corrected by a less severe form of disciplinary action.

2.0 ORAL COUNSELING

2.1 An oral counseling between the immediate supervisor and the employee is the appropriate disciplinary action in the following circumstances: occurrences of unacceptable deviations from established rules or regulations;

A. establishment of an apparent pattern of behavior or performance which is contrary to the work goals of the employee’s work group or department;
b. Decline or deterioration in previously acceptable conduct or work quality to levels below acceptable standards; and/or other
C. Instances of poor performance or conduct which interfere with the operation of the work unit or its personnel, but which, by themselves, are not sufficiently serious to warrant a written reprimand.

2.2 The oral counseling will be documented by the supervisor, to provide a written record for the counseling and to provide the employee with a reminder of the work standards expected. Documentation of an oral counseling will not be placed in the employee’s official personnel file in the Office of Human Resources. In addition, an oral counseling cannot be appealed through the grievance process.

3.0 WRITTEN REPRIMAND

3.1 A written reprimand is the appropriate disciplinary action in the following circumstances:

A. failure of the employee to carry out agreed upon corrective actions to establish acceptable work or conduct standards after oral counseling;
b. minor damage to or loss of UHCL property because of the employee’s negligence; and/or
c. other deficiencies in performance or conduct which are serious enough to warrant
more stringent action than a personal conference.

3.2 The written reprimand will be prepared by the employee’s immediate supervisor, and, prior to being
delivered to the employee, must be approved as to form by the Executive Director. A copy of the prior,
documented oral counseling, if any, will be attached to the written reprimand. A copy of the written
reprimand signed by the immediate supervisor and the employee (or witness) will be placed in the
employee’s official personnel file in the Office of Human Resources.

3.3 If the employee disagrees with the cause or content of the written reprimand, the employee may grieve this
disciplinary action in accordance with UHCL’s POLICY ON GRIEVANCE AND APPEAL FOR NON-
FACULTY EMPLOYEES.

4.0 SUSPENSION WITHOUT PAY

4.1 Temporary suspension without pay, not to exceed ten (10) working days, is the appropriate
disciplinary action in the following circumstances:

a. repetition of actions for which a written reprimand has been previously issued;
b. use of alcoholic beverages or misuse of drugs during work, or reporting to work under the influence of
   alcohol or drugs;
c. major damage to or loss of UHCL property through negligence or willful misuse by the employee;
   and/or
d. performance or conduct which is severe in nature and interferes with UHCL or UHS operations or with
   performance of duties by other personnel.

4.2 Heads of departments may authorize suspension without pay after receiving approval of the
appropriate President, Vice President, or Dean and the Executive Director, or their designees. The
employee will be given written notice of suspension without pay. In addition to the standard requirements
for all disciplinary actions, such notice will clearly state the following:

The reason(s) for the suspension;
a. the duration of the suspension, including beginning and ending dates and times;
b. notice of the employee’s right to appeal the suspension with an outline of procedures to be followed if
   an appeal is desired; and

c. notice that if the employee fails to return to work as expected following the suspension and fails to
   notify the supervisor of an acceptable reason for the failure to return to work, the employee will be
   considered to have terminated employment voluntarily.

4.3 If the employee disagrees with the suspension without pay, the employee may grieve this disciplinary
action in accordance with UHCL’s POLICY ON GRIEVANCE AND APPEAL FOR NON-FACULTY
EMPLOYEES.

5.0 DISMISSAL FROM EMPLOYMENT

5.1 Each potential case for dismissal from employment will be considered on its individual merits.
Generally, however, dismissal from employment may be the appropriate action in any of the following
circumstances:

a. incompetence (including lacking the requisite skills or abilities to perform the assigned job);
b. theft;
c. physical assault against employees, students, or visitors;
d. violation of law, either on or off the UHCL campus, resulting in a felony conviction;  
e. commission of an act of moral turpitude, including sexual harassment of students, visitors, or other employees;  
f. gross neglect of assigned duties;  
g. insubordination, willful disobedience, and/or refusal or failure to follow directives or perform work properly assigned by a supervisor;  
h. dishonest actions, including falsification of information to secure a UHCL position or falsification or intentional destruction of any other UHCL or UHS records;  
i. gross or repeated failure to abide by rules and regulations of UHCL or UHS, or of federal, state, or local laws;  
j. substandard performance or conduct which continues despite attempts at correction through discipline or counseling.  

5.2 Heads of departments may authorize dismissal after obtaining approval from the appropriate President or Vice President and the Executive Director, or their designees.  

5.3 The supervisor is responsible for providing accurate information indicating that the dismissal is not sought because of the employee’s race, sex, age, religion, sexual orientation, disability, national origin, or as retaliation for a protected act by the employee.  

5.4 Pre-dismissal Procedures  
The department head will give written notice to the employee of the intent to dismiss the employee from employment consisting of the following information:  

a. the effective date and time of the dismissal  
b. the reason for the dismissal in sufficient detail to enable the employee to respond;  
c. a description of previous attempts to correct the problem(s) which constitute the reasons for the dismissal; and  
d. a statement of the employee’s right to an opportunity to respond to the asserted reason(s) to the department head before the dismissal becomes effective (normally 2 working days).  

If the employee submits a response either orally or in writing, the department head will take into consideration any information submitted in the final decision. The department head will respond to the employee in writing. An employee is not required to respond and does not waive any rights under this policy by not responding prior to dismissal.