



## Ohio Administrative Code

### Rule 3339-3-20 Disruptive behavior and the 1219 procedure.

Effective: November 13, 2016

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Ohio House Bill 1219 provides for possible suspension from university employment upon arrest and for termination of university employment upon conviction of any of the criminal offenses enumerated in division (D) of section 3345.23 of the Revised Code.

#### (A) Procedure upon arrest

(1) House Bill 1219 requires that Miami suspend a university employee who is arrested for any of the criminal offenses enumerated in division (D) of section 3345.23 of the Revised Code, when either of the following conditions applies:

(a) The offense is committed on university property or affects university persons or property.

(b) The offense is committed in the immediate vicinity of Miami if an emergency has been declared and is in effect pursuant to section 3345.26 of the Revised Code.

(2) A hearing will be held no more than five days after arrest (continuances may be granted which may not exceed a total of ten days).

(3) The hearing shall be fair and impartial, but the formalities of criminal process are not required. The hearing shall be adversary in nature. The individual whose suspension is being considered has the right, at his or her own expense, to be represented by legal counsel. The person also has the right to cross examine witnesses, to testify, and to present the testimony of witnesses and other evidence. In the absence of a waiver of the right against compulsory self-incrimination, the testimony given at the hearing by the person whose suspension is being considered shall not subsequently be used in any criminal proceeding against the person. The hearing shall be held before a referee appointed by the Ohio department of education.

(4) If the referee finds by a preponderance of the evidence that the person committed any offense



covered by division (D) of section 3345.23 of the Revised Code, the referee shall take one of the following actions:

(a) Order the person suspended immediately.

(b) Permit the person to return to Miami under terms of strict disciplinary probation. The referee shall take this action only if the good order and discipline of Miami will not be prejudiced or compromised thereby. Subsequent violation of the terms of the probation automatically causes a suspension.

(5) The suspension is in effect until the person is acquitted or convicted of the offense. If the individual is convicted, the individual's employment is automatically terminated. Upon acquittal, or upon any final judgment not resulting in a conviction of the offense charged, the following actions occur:

(a) The suspension or probation resulting from the 1219 procedure is automatically terminated.

(b) The individual is reinstated, provided that no other disciplinary action has been taken (see paragraph (C) of rule 3339-3-20 of the Administrative Code.)

(c) The record of the suspension or probation made under the 1219 procedure is expunged from the individual's university record.

(6) Any suspension under this provision shall be without pay (division (C) of section 3345.23 of the Revised Code). An order of the referee may be appealed to the court of common pleas within twenty days after the date of the order.

(B) Procedure upon conviction

(1) According to Ohio law, a university employee is subject to immediate dismissal if the person is convicted of any of the offenses enumerated in division (D) of section 3345.23 of the Revised Code, when either of the following conditions applies:



- (a) The offense is committed on university property or affects university persons or property.
  - (b) The offense is committed in the immediate vicinity of Miami if an emergency has been declared and is in effect pursuant to section 3345.26 of the Revised Code.
- (2) Upon notification of the conviction, the president or presidents designee shall immediately notify the person, in writing, by certified mail delivery, of the dismissal and offer the individual the opportunity to be heard. The hearing shall be limited to the issues of whether the individual was in fact the individual so convicted and whether the conviction is for an offense enumerated in division (D) of section 3345.23 of the Revised Code.
- (3) The contract of a faculty or administrative staff member or other employee so dismissed is terminated upon dismissal. No salary or wages shall be paid or credited to the individual after dismissal.
- (4) A faculty or administrative staff member or other employee dismissed pursuant to this rule may be re-employed at the discretion of the board of trustees but only after the lapse of one calendar year following dismissal.
- (5) If the conviction is reversed on appeal, the individual shall be reinstated, the record of the dismissal shall be expunged from the individual's university record, and the dismissal shall be deemed never to have occurred.
- (6) Sections 3345.22 and 3345.23 of the Revised Code for the full text of the statutes. See the student handbook for a list of criminal offenses which trigger these procedures.
- (C) Effect on other policies and procedures
- (1) An individual suspended, placed on probation, or dismissed under these procedures has no right to any other hearings or procedures provided under the policies, procedures, or rules of Miami university.
  - (2) The university has the right, however, to pursue disciplinary action in accordance with the



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policies, procedures or rules of Miami university, up to and including dismissal, against any faculty or administrative staff member or other employee at the same time that a 1219 procedure is engaged and/or at the same time as criminal proceedings, even if the criminal charges involving the same incident are not complete, have been dismissed or were reduced. (see section 3345.24 of the Revised Code.)