

ACADEMIC FREEDOM, RESPONSIBILITY AND TENURE

Policies and Procedures: F-III-a

ACADEMIC FREEDOM

Institutions of higher education are conducted for the common good, which depends upon an uninhibited search for truth and its open expression. Essential to this goal is the freedom of each faculty member to pursue scholarly inquiry without undue restriction and to voice and publish individual conclusions concerning the significance of evidence the faculty member considers relevant. Each faculty member must be free from the corrosive fear that others, inside or outside the community of higher education, because their vision may differ, may threaten the faculty member's professional career or the material benefits accruing from it.

Each faculty member is entitled to full freedom in the classroom in discussing the subject taught, but is expected to be judicious in introducing into teaching controversial matters which have little relation to the classroom subject. Each faculty member is a citizen of the nation, state and community; when speaking writing, or acting as such, the faculty member must be free from institutional censorship or discipline.

ACADEMIC RESPONSIBILITY

The concept of academic freedom for faculty must be accompanied by an equally demanding concept of academic responsibility of faculty. A faculty member has a responsibility to the institution, profession, students, and society at large. The rights and privileges of faculty members extended by society and protected by governing boards through written policies and procedures on academic freedom and tenure, and further protected by the courts, require reciprocally the assumption of certain responsibilities by faculty members.

1. The fundamental responsibilities of a faculty member as a teacher and scholar include maintenance of competence in the field of specialization and the exhibition of competence in the classroom, studio, or laboratory by such activities as discussions, lectures, consultations, publications, and participation in professional organizations.
2. The exercise of professional integrity by a faculty member includes recognition that the public will judge the profession and Institution by public statements. Therefore, the faculty member should strive for accuracy and appropriate restraint, respecting different opinions, and making it clear that he/she does not speak or act for the Institution by public statements. Therefore, the faculty member should strive for accuracy and appropriate restraint, respecting different opinions, and making it clear that he/she does not speak or act for the Institution when speaking or acting as a private person.
3. The constitutionally protected right of the faculty member to freedom of expression must be balanced with the Institution's interest of promoting the efficiency of its educational services. A faculty member's comments are protected even though erroneous or highly critical in tone or content, but are not protected free speech if they substantially impede the faculty member's performance of daily duties, or materially interfere with the regular operation of the Institution.

The protection of free speech does not extend to a continuing pattern of expression such as to destroy the regular operation of a division or department. Statements made in knowing disregard of the truth are not entitled to protection, and public statements may be so without foundation as to interfere with the faculty member's competence to perform professional duties.

4. A faculty member should be judicious in the use of controversial material in the classroom and should introduce such material only as it has clear relationship to the subject area.
5. A faculty member should be professional in conduct in the classroom and in relationship with students, maintaining respect for the student and for the student's posture as a learner. The faculty member should be appropriately available to the student for consultation on course work.
6. A faculty member commits to maintain the highest ethical standards through adherence to the College Ethics Policy as adopted by the McLennan Community College Board of Trustees and to adhere to the Code of Professional Ethics as adopted by the Texas Community Colleges Teachers Association.

7. A faculty member has the responsibility of providing timely and adequate notice of intention to interrupt or terminate employment.

TENURE

Definitions

"Non-tenure track faculty" are those whose appointments do not lead to consideration for tenure. They may be appointed on a full-time or part-time basis. At the discretion of the President of the College, a non-tenure track faculty position may be converted to a tenure track faculty position, pending approval of the Board of Trustees.

"Tenure track faculty" are those whose appointments lead to consideration for tenure. They must be appointed on a full-time basis.

"Tenure" means the entitlement of a faculty member to continue in his or her academic position unless good cause for dismissal is demonstrated in a fair hearing following the procedures of due process included in this policy. Tenure is attained only by a positive action of the President of the College. At the conclusion of the five-year probationary period, unless appropriately informed otherwise, the faculty member shall not attain tenure. Prior to the end of the fifth year of the probationary period, the faculty member who has not received notice of a decision relating to attainment of tenure may make a written request for such a decision from the administration, and the administration should respond promptly.

TENURE APPOINTMENT PROCESS

During the period the faculty member is being evaluated for recommendation for tenure, an evaluation process to validate the tenure recommendation will be implemented. The evaluation process will be designed to ensure the faculty member functions competently and meets the required duties. The immediate supervisor (program director or division director) is charged with the responsibility for evaluation of the faculty member. At the point the supervisor becomes concerned about the faculty member's performance, the dean will become involved in the evaluation process. If the faculty member's performance becomes questionable, the faculty member or the supervisor may seek intervention from the next level supervisor.

1. Evaluation Conference Process

A variety of evaluation instruments performed by students, supervisors, and the faculty member will be implemented to evaluate performance. Results of these instruments will be discussed in an evaluation conference between the supervisor and the faculty member. In addition, the faculty member will be expected to adhere to the Academic Responsibility section of this policy. Specific evaluation tools include, but are not limited to, the following:

- Student Evaluations— Student evaluations will occur for all sections taught during the long semesters for the first three years, and then once per year for the next two years with the semester to be determined by the Vice President of Instruction to coincide with tenured faculty when possible.
- Classroom Observation— The supervisor will observe the faculty member yearly for the first five years, and then once every three years and discuss the observation during the Evaluation Conference.
- Professional Development Plan— The faculty member will develop an annual professional development plan.
- Portfolio— The faculty member will prepare a portfolio on an on-going basis and submit to the supervisor prior to the Evaluation Conference. (A description of the portfolio is contained in the *Personnel Handbook*. Required components of the portfolio may be revised on a periodic basis.)
- Evaluation Conference— The supervisor will meet with the faculty member on an annual basis to discuss grade distribution data/retention data, collegiality, professional development plan status report, portfolio review, and any other aspects of the evaluation of the faculty member which will lead to appointment to tenure.

2. Enhancement of Collegiality as Part of Tenure Recommendation

In addition to the Evaluation Conference, the faculty member will be evaluated based upon the enhancement of collegiality as a part of the tenure recommendation. First and foremost, collegiality refers to the faculty member's ability to function as a cooperative member within the department and the college. The following list suggests other indicators of collegiality:

- Committee Work— The faculty member must serve on committees for the college and/or for the department.
- Volunteer to represent the college – The faculty member must demonstrate involvement in college activities such as participating with college clubs, working at the fair, assisting with career days, etc.
- Adhere to college procedures as designated in the Personnel Manual – The faculty member must adhere to college policies and procedures. Part of this responsibility is to complete and verify certified rolls, grade rolls, attendance guidelines, classroom responsibilities and to observe office hours.

POST-TENURE EVALUATION PROCESS

During the post-tenure process, an evaluation process is implemented to ensure the faculty member functions competently and meets the required duties. The immediate supervisor (program director or division director) is charged with the responsibility for evaluation of the faculty member. At the point the supervisor becomes concerned about the faculty member's performance, the dean will become involved in the evaluation process. If the faculty member's performance becomes questionable, the faculty member or the supervisor may seek intervention from the next level supervisor.

1. Evaluation Conference Process

A variety of evaluation instruments performed by students, supervisors, and the faculty member will be implemented to evaluate performance. Results of these instruments will be discussed in an evaluation conference with the supervisor. In addition, the faculty member will be expected to adhere to the Academic Responsibility section of this policy. Specific evaluation tools include the following:

- Student evaluations— Student evaluations will occur for all sections taught during one long semester every two years.
- Classroom Observation— The supervisor will observe the faculty member once every three years and discuss the observation during the Evaluation Conference.
- Professional Development Plan— The faculty member will develop an annual professional development plan.
- Portfolio— The faculty member will prepare a portfolio on an on-going basis and submit to the supervisor prior to the Evaluation Conference. (A description of the portfolio is contained in the *Personnel Handbook*. Required components of the portfolio may be revised on a periodic basis.)
- Evaluation Conference— The supervisor will meet with the faculty member on an annual basis to discuss student evaluations, grade distribution data/retention data, collegiality, professional development plan status report, and portfolio review.

2. Enhancement of Collegiality

During the Evaluation Conference the tenured faculty member's enhancement of collegiality will be discussed. First and foremost, collegiality refers to the faculty member's ability to function as a cooperative member within the department and the college. The following list suggests other indicators of collegiality:

- Committee Work – The faculty member must serve on committees for the college and/or for the department.
- Volunteer to represent the college – The faculty member should demonstrate involvement in college activities such as participating with college clubs, working at the fair, assisting with career days, etc.
- Professional Development Plan – The faculty member must maintain current professional development plan.
- Adhere to college procedures as designated in the Personnel Manual – The faculty member must adhere to college policies and procedures. Part of this responsibility is to complete and verify certified rolls, grade rolls, attendance guidelines, classroom responsibilities and to observe office hours.

Failure to Comply with Evaluation Process

If the faculty member fails to comply with faculty evaluation requirements, he/she is subject to disciplinary action. The disciplinary action will include, but is not limited to, withholding the annual salary schedule credit (i.e., board approved increases) and any step credit increases based on experience. Such penalties will remain in effect until such time as the faculty member has satisfied the evaluation requirements. Failure to satisfy the evaluation requirements within one year from the time of notification of lack of compliance will lead to dismissal in accordance with relevant personnel policies. There will be no retroactive credit for steps lost during the time the faculty member is out of compliance with the policy.

FACULTY DISMISSALS

The Institution is not required to give a non-tenured faculty member (either tenure track or non-tenure track) a reason for a decision not to make a reappointment for another contract term, nor to provide a hearing. Each faculty member is entitled to see all of his or her personnel files and to obtain a copy of the information in these files at the expense of the person requesting it.

Notice of non-reappointment, or of intention not to reappoint a faculty member, shall be given in writing in accordance with the following schedule:

- a. For tenure track faculty in each of their first four years of probationary service and non-tenure track faculty, notice of non-reappointment will be given no later than April 1 of each year.
- b. For tenure track faculty in their fifth year of probationary service and for tenured faculty, notice of non-reappointment will be given no later than August 15 of the year preceding the non-reappointment.

Tenured faculty members may be dismissed only for good cause. Good cause for dismissal of a faculty member with tenure may include any of the following:

1. Professional incompetence adversely affecting the performance of duties or the meeting of responsibilities to the Institution, students or associates.
2. Continuing or repeated substantial neglect of professional responsibilities adversely affecting the performance of duties or the meeting of responsibilities to the Institution, students or associates.
3. Moral turpitude adversely affecting to a material and substantial degree the performance of duties or the meeting of responsibilities to the Institution, students or associates.
4. Mental or physical disablement of a continuing nature adversely affecting to a material and substantial degree the performance of duties or the meeting of responsibilities to the Institution, students or associates subject to federal law.
5. Unprofessional conduct, as defined by the Texas Community College Teachers Association's Code of Professional Ethics (See Appendix), adversely affecting to a material and substantial degree the performance of duties or the meeting of responsibilities to the Institution, students or associates.
6. Bona fide financial exigency or the phasing out of institutional programs requiring reduction of faculty.

FINANCIAL EXIGENCY

Cases of bona fide financial exigency or the phasing out of institutional programs requiring the reduction of faculty permit exceptions to tenure regulations. When faculty dismissals or load reductions are anticipated, there should be careful, and meaningful sharing of information and views with the appropriate administrators, and with department, division, or program chairmen or directors of the area(s) affected.

Tenured faculty members involving actions resulting in the reduction of faculty should be given opportunities for appointment in related areas, provided they are qualified professionally to teach in such areas and such positions are available. If not qualified, tenured employees should be given the opportunity to retrain. All retraining must be completed within one calendar year. Exceptions to this timeline must be approved by the President. Any tenured faculty member involved in such readjustment process has the right to reappointment to the previous position if it is re-established within two calendar years. In cases where a tenured faculty member is dismissed, that faculty member shall be furnished with a written statement of basis for the

decision to dismiss. Such statement shall represent a courtesy to which the faculty member is entitled, not a legal justification of the dismissal.

Any faculty member who can present prima facie evidence of discriminatory treatment or infringement of academic freedom in such emergencies has the right to a fair hearing before an elected faculty committee. In such cases, the burden of proof is on the faculty member.

The decision regarding the particular faculty member(s) to be retained in the reduction of faculty shall be based upon the following criteria:

1. **Competence**

The highest priority in determining which instructor(s) should be retained should be given to the most competent and qualified teacher(s). Competence shall be determined by these criteria in the following order of priority:

- a. Student, peer (department chairmen, etc.), and administrative evaluation
- b. Teaching and/or professional/vocational experience
- c. Academic background

2. **Versatility**

The second highest priority should be given to the instructor(s) who can make the greatest variety of contributions to the instructional program. Versatility shall be determined by these criteria in the following order of priority:

- a. The number of preparations that are being taught or have been taught by the instructor.
- b. The ability and qualifications of the instructor to teach anticipated courses.

3. **Extraordinary Contributions**

The third highest priority should be given to the instructor(s) who has been consistently willing to contribute to the success of the instructional program beyond the normal expectations of employment. Extraordinary contributions shall include the following in the order of priority:

- a. Professional recognition and activities
- b. Non-classroom activities at the Institution
- c. Community related activities

Whenever the decision to terminate involves a tenured faculty member and a non-tenured faculty member, the tenured faculty member should be given preference unless, based upon the above criteria, the non-tenured faculty member is demonstrably the better teacher.

Whenever the decision to terminate involves one or more tenured faculty members, the tenured member with seniority should be given preference unless the tenured faculty member with less seniority, based upon the above criteria, is demonstrably the better teacher.

DUE PROCESS PROCEEDINGS

Due process as set forth in this statement embodies a course of professional proceedings in line with rules and principles generally recognized in the academic community. Proper dismissal procedures, established in anticipation of their being needed, are essential to an effective tenure system. In this Institution, these procedures include the following components:

1. These dismissal procedures apply to a faculty member who has tenure, or whose term appointment has not expired, or who alleges a prima facie case of violation of academic freedom in the non-renewal of his or her contract. If the faculty member has tenure or an unexpired appointment extending beyond the period of the proposed dismissal, the burden of proof is upon the College to show good cause why he or she should be dismissed. If the faculty member does not have tenure, but contends that the non-renewal of his or her contract constitutes a violation of his or her academic freedom, the burden of proof is upon the faculty member.
2. Due process carries with it the right of a tenured faculty member, or a faculty member with an unexpired term contract, or a faculty member who alleges a prima facie case of a violation of academic freedom in the non-renewal of his contract to a fair hearing before an elected committee of his peers. The following procedure shall be observed in this Institution:

Personal Conference: When a reason arises to question the fitness of a faculty member, the appropriate administrative officers should discuss the matter with him or her

in a personal conference. The matter may be terminated by mutual consent at this point; but, if an adjustment does not result, the matter should be taken up by the Advisory Committee, if the faculty member makes such a request.

Advisory Committee: The Advisory Committee shall be a standing committee of three members. The members shall be appointed by the President of the College from a panel of six elected by the faculty. Of the three persons initially appointed, one shall serve three years, one shall serve two years, and one shall serve one year.

Thereafter, one member shall be appointed annually by the President of the College from a panel of three elected by the faculty, and shall serve for three years. Should a place on the committee become vacant prior to the expiration of a normal term, a replacement shall be appointed by the President of the College from a panel of three elected by the faculty and shall serve for the remainder of the unexpired term. The Advisory Committee proceedings may be informal and flexible. The Committee shall make such inquiries as it deems necessary, offer confidential advice to the faculty member and the administration, and the committee may recommend to the President a hearing by the Hearing Committee. If a hearing is to be held, the President shall formulate a reasonably detailed statement of the grounds for dismissal, giving due regard to the Advisory Committee's report.

Hearing Committee: The Hearing Committee shall be an ad hoc committee of five members. These five members shall be chosen by lot from a panel of eight elected by the faculty. The Hearing Committee shall not include members of the Tenure Advisory Committee. In cases involving tenured faculty, the Hearing Committee shall include only faculty members of tenured status. Each member shall be subject to challenge for cause.

If a hearing is recommended, the President of the College shall send a letter to the faculty member informing him/her of the grounds for dismissal proceedings, and informing him/her that, should he/she so request, a hearing to determine whether he/she should be removed from his/her faculty position will be conducted by the Hearing Committee at a specified time and place. The President's letter shall inform the faculty member of the procedural rights which will be accorded to him/her in the hearing. These shall include an advisor of his/her own choosing to act as counsel; a full stenographic record of proceedings; a transcript, which is to be made available to him/her and to the President; the right to question witnesses; the opportunity to be confronted by all witnesses adverse to him/her; and, if a witness cannot appear, the right to the name and statement of the witness.

If the faculty member desires a hearing, he/she must notify the President of the College by registered mail or telegram within two weeks after receiving the President's statement of grounds of dismissal.

Suspension of a faculty member from his/her usual duties during the proceedings involving his/her dismissal is justified only if his/her welfare or that of the Institution or its students is threatened by his/her continuance. Any such suspension should be with pay and with provisions for appropriate duties whenever possible. The President of the College is the official with authority to suspend with pay.

In deliberating, the Committee shall allow oral arguments or written briefs by the President of the College or his/her representative, and by the faculty member or his/her representative. The hearing shall be closed unless the affected faculty member requests it to be open. The Committee shall make explicit findings with respect to each of the grounds for removal presented and shall recommend whether or not there is good cause for dismissal. The Committee's recommendation shall be conveyed in writing to the President of the College and to the faculty member.

Governing Board: If the faculty member's appointment is proposed to be terminated by the President, he or she should transmit the full report of the Hearing Committee and his or her recommendation to the Board of Trustees. If the recommendation of the President for termination conflicts with the recommendation of the Hearing Committee, at the request of the faculty member, the Board of Trustees should review the case based on the record of the hearing, with opportunity for argument by the principals or their representatives. If the recommendations of the President and the Hearing Committee are in accord, the Board may choose to limit such review as it may make to a review of

the record of the hearing. The decision of the Hearing Committee should either be sustained or the proceedings be returned to the President and to the Committee with objection specified. In the latter case, the Committee should promptly reconsider, taking into account the stated objections and receiving new evidence if directed to do so by the Board. It should frame its reconsidered recommendation and communicate it in the same manner as before. After review of the Hearing Committee's reconsideration, the Board of Trustees should render its own final written decision with a copy provided to each of the principals.

WRITTEN TERMS OF EMPLOYMENT

The Institution shall provide each faculty member with a statement in writing of the terms of his or her employment. These terms shall include but not be limited to special conditions, duties, and any special prerequisites. The document shall also include, but not exclusively, such items as rank, salary, tenure provisions; whether the position is full-time, part-time, or temporary; and the inclusive dates of the term of service.

PROFESSIONAL DEVELOPMENT

As previously stated under Academic Responsibility #1, the fundamental responsibilities of a faculty member as a teacher and scholar include maintenance of competence in the field of specialization and the exhibition of competence in the classroom, studio, or laboratory by such activities as discussions, lectures, consultations, publications, and participation in professional organizations. Thus, the institution requires that all full-time faculty members must complete three semester hours or approved equivalent activity every four years.

The first four years of a person's employment at the College shall constitute the first four-year period. Upon completion of the three semester hours or equivalent, the next four year cycle shall commence the fall of the following academic year. Additional hours accrued during an academic year cannot be applied to subsequent four-year cycles.

FAILURE TO COMPLY WITH PROFESSIONAL DEVELOPMENT

If the faculty member fails to comply with the professional development requirement, he/she is subject to disciplinary action. The disciplinary action will include, but is not limited to, withholding the annual salary schedule credit (i.e. board-approved increases) and any step/increment increase based on experience. Such penalties will remain in effect until such time as the faculty member has satisfied the education requirement. Failure to satisfy the education requirement within two years from the time of notification of lack of compliance will lead to dismissal in accordance with relevant personnel policies. There will be no retroactive credit for steps lost during the time the faculty member is out of compliance with the policy.

TEXAS COMMUNITY COLLEGE TEACHERS ASSOCIATION CODE OF PROFESSIONAL ETHICS (Revised February 20, 1997)

The McLennan Community College Board of Trustees endorses the Code of Professional Ethics adopted by the Texas Community College Teachers Association as described below:

- The Professional Educator shall treat all persons with respect, dignity, and justice discriminating against no one on any arbitrary basis such as ethnicity, creed, gender, disability, or age.
- The Professional Educator shall strive to help each student realize his or her full potential as a learner and as a human being.
- The Professional Educator shall by example and action encourage and defend the unfettered pursuit of truth by both colleagues* and students, supporting the free exchange of ideas, observing the highest standards of academic honesty and integrity, and seeking always an attitude of scholarly objectivity and tolerance of other viewpoints.
- The Professional Educator shall work to enhance cooperation and collegiality among students, faculty, administrators, and other personnel.
- The Professional Educator shall recognize and preserve the confidential nature of professional relationships, neither disclosing nor encouraging the disclosure of

information or rumor which might damage or embarrass or violate the privacy of any other person.

-The Professional Educator shall maintain competence through continued professional development, shall demonstrate that competence through consistently adequate preparation and performance, and shall seek to enhance that competence by accepting and appropriating constructive criticism and evaluation.

-The Professional Educator shall make the most judicious and effective use of the college's time and resources.

-The Professional Educator shall fulfill the employment agreement both in spirit and in fact, shall give reasonable notice upon resignation, and shall neither accept tasks for which he or she is not qualified nor assign tasks to unqualified persons.

-The Professional Educator shall support the goals and ideals of the college and shall act in public and private affairs in such a manner as to bring credit to the college.

-The Professional Educator shall not engage in sexual harassment of students or colleagues and shall adhere to the college's policy on sexual conduct.

-The Professional Educator shall observe the stated policies and procedures of the college, reserving the right to seek revision in a judicious and appropriate manner.

-The Professional Educator shall participate in the governance of the college by accepting a fair share of committee and institutional responsibilities.

-The Professional Educator shall support the right of all colleagues to academic freedom and due process and defend and assist a professional colleague accused of wrongdoing, incompetence, or other serious offense so long as the colleague's innocence may reasonably be maintained.

-The Professional Educator shall not support a colleague whose persistently unethical conduct or professional incompetence has been demonstrated through due process.

-The Professional Educator shall accept all rights and responsibilities of citizenship, always avoiding use of the privileges of his or her public position for private or partisan advantage.

**In this Code the term "colleague" refers to all persons employed by colleges in the educational enterprise.*

ACADEMIC FREEDOM ENDORSEMENT

Institutions of higher education have long maintained a tradition of support for academic freedom and opposition to censorship. From the beginning, McLennan Community College's Board of Trustees and administration have strongly supported these concepts essential to a viable and credible institution. The faculty supports this tradition and recognizes the responsibility of communicating these basic principles to the institution's multicultural student body in a holistic and objective manner. McLennan Community College must provide the academic atmosphere whereby new and diverse ideas can be expressed.

(Adopted by the Faculty Council, January 22, 1992.)