

## POLICIES AND PROCEDURES

Subject: Non-Faculty Investigation Procedures Reference: F-V-c

Source: President Eff. Date: August 28, 2018

Approval Auth.: President Approved: \_\_\_\_\_

Remarks: Replaces previous policy dated October 21, 2014

Date: August 28, 2018

The *General Conduct Policy* outlines employee conduct standards.

Inquiries regarding discrimination should be directed to the Title IX Coordinator or the Section 504/ADA Title II Coordinator. Complaints related to discrimination claims shall be administered using the Discrimination Resolution Process (F-V-s).

The investigation and possible dismissal of a regular contractual faculty member shall be in accordance with procedures prescribed in the faculty policy on Academic Freedom, Responsibility and Tenure.

### **Contractual Personnel:**

Dismissal of all non-faculty contractual personnel shall be by recommendation through appropriate administrative channels to the President, whose approval of all dismissals shall be required in advance.

Employees may be terminated during the term of a contract for good cause. An employee may be suspended with pay by the President pending an investigation of an incident. Good cause during the term of a contract shall include, but are not limited to, the following:

1. Physical or mental incapacity that prohibits the employee from performing his/her contracted job function;
2. Conviction of a felony, or crime involving moral turpitude, or a misdemeanor related to the employee's job. Moral turpitude is an act of baseness, vileness, or depravity in the private and social duties which a person owes another member of society or society in general and which is contrary to the accepted rule of right and duty between persons. Examples but not by way of limitation

are theft or attempted theft, swindling, indecency with a minor, etc;

3. Immorality, which is conduct not in conformity with the accepted principles of right and wrong behavior and is contrary to the moral standards of the community encompassed by the college;
4. Habitual or excessive use of addictive drugs, hallucinogens or alcoholic beverages;
5. Assault;
6. Unsatisfactory performance of assigned duties based upon written evaluation (the employee shall be given 30-days notice in writing stating specifically the cause which, if not remedied, may result in dismissal or other disciplinary action);
7. Falsification of pertinent information regarding the employee's transcript and application for employment, regardless of when the falsification is discovered;
8. Failure to comply with directives and requirements of the employee's supervisor, failure to follow established policies and procedures of the college as outlined by the Board of Trustees, or repeated and continuing neglect of duties and responsibilities, or insubordination;
9. Necessary reduction of personnel resulting from bona fide case of financial exigency;
10. Any employee who is required to hold a state license, registry or certificate in order to be qualified as an employee, and lets the license, registry or certificate lapse or expire, or has the license, registry, or certificate removed, will immediately become ineligible for employment and subject to immediate termination; and
11. For other good cause.

If it is proposed that a contractual employee be terminated during the term of his/her contract, the applicable hearing procedures shall apply.

#### **Hearing Procedures:**

If it is proposed that a contractual employee (except faculty appointments who shall follow the Academic Freedom, Responsibility and Tenure policy) be terminated during the term of a contract, the procedural steps listed below will be followed. (These procedural steps are not applicable to the non-renewal of a term contract or the decision of the administration or Board not to offer the contracted employee further employment with the college.)

- A. Discussions with the Employee

The Vice President or his/her designee shall discuss any possible termination with the contractual employee prior to giving notice of any proposed action to terminate.

B. Approval by the College President

Any proposed termination must be approved by the President. If the President approves the proposed action, the Vice President or his/her designee shall notify the contractual employee in writing of the proposed action, the grounds for the action, and of the right to a hearing before the Hearing Committee.

C. Request for a Hearing

If the contractual employee wishes to contest the proposed action, he/she may request a hearing before the Hearing Committee. Requests for a hearing must be made in writing to the President within 10 days of receipt of the notice of proposed termination. If no request for a hearing is made within 10 days of receipt of the notice, the President will timely notify the Board of Trustees that the contractual employee was terminated.

D. The Hearing Committee

The purpose of the Hearing Committee is to afford a fair hearing on the merits of each proposal for dismissal and to make a recommendation for disposition to the President.

E. Appointment of the Hearing Committee

The Hearing Committee shall be comprised of five contractual employees to be designated by the President. The chair of each hearing committee shall be elected by a majority of the committee. The committee shall be appointed once the request for a hearing has been initiated.

F. Impartiality of Hearing Committee Members

If any contractual employee appointed to serve on any hearing committee has had prior contact with the persons or circumstances involved in the proposed dismissal of the member feels that he/she cannot hear the evidence and make a fair and impartial recommendation, the member shall so advise the committee. If the committee member or the remaining members of the committee determine that this prior contact would prevent the member from impartially considering the facts and making a recommendation, the member shall be disqualified from serving on the committee. Upon such disqualifications, the President shall appoint a member to serve.

G. Procedures for Hearings

The administration has the burden of proof in a proposed termination during the term of a contract. The employee shall have the opportunity to be represented by counsel and shall have the right to present witnesses and documentary evidence, cross-examine adverse witnesses, and make argument. The President shall promulgate additional procedures for the conduct of hearings by the Hearing Committee as long as they do not conflict with this policy.

H. Recommendations of the Hearing Committee

The Hearing Committee shall hear each matter assigned and formulate a recommendation for disposition to the President within 10 days of the close of the hearing and the preparation of a written transcript. The recommendation shall be based on the policies and applicable rules, regulations, and administrative directives of the college. The committee's written recommendation shall contain certain findings of what occurred and specific statements of what action is recommended and why. The transcript of the hearing, together with all documents received into evidence, shall also be transmitted to the President.

I. Action of the President

The President shall review the committee's recommendation. Within 10 days of the receipt of the recommendation, the President shall accept, reject, or modify the committee's recommendation and advise the parties in writing of his/her decision.

J. Action by the Board of Trustees

If the employee is dissatisfied with the President's decision, he/she may appeal to the Board of Trustees by giving written notice to the President within 10 days of receiving the President's decision. If the employee does not appeal within 10 days, the President's decision shall become final and nonappealable to the Board of Trustees.

The Board of Trustees shall, within 10 days of receiving the record (the transcript of the hearing before the Hearing Committee and any supporting documentation), set the appeal for a hearing at the next regularly scheduled or any specially called meeting. Notice of the time, date, and place for the hearing, together with a copy of the hearing record, shall be given in writing to the employee, the President, and other applicable administrators, if applicable, prior to the date of the meeting.

The hearing before the Board of Trustees shall be based on the record developed before the Hearing Committee, together with the decision of the President and

correspondence generated in the appeal. No new evidence will be received by the Board of Trustees. The contractual employee and the administration shall be entitled to make oral arguments based upon the record developed before the Hearing Committee, within time restrictions set by the Board of Trustees. The Board of Trustees shall render a written decision by the next regularly scheduled Board Meeting or within 30 days of the hearing, with copies to be sent to the contractual employee, the President, and other administrators involved.

**Non-contractual Personnel:**

All non-contractual employees are employees at will. A non-contractual employee has no property right in his/her job and may be terminated for no reason or any reason, except that if a reason exists, it may not be an unlawful reason.

If it is proposed that a non-contractual campus employee be terminated, the immediate supervisor making such proposal shall meet with the appropriate Vice President. The appropriate vice president or designee will meet with the employee to discuss the proposed recommendation for termination and to receive any relevant information from the employee. Thereafter, the appropriate Vice President shall immediately notify the Director of Human Resources, who in consultation with the EEO Officer and the Vice President, Finance & Administration, will review all documentation. The Director of Human Resources will notify the appropriate Vice President of the recommended action. The appropriate Vice President will submit a recommendation to the President. If the President approves the recommended action, then the appropriate Vice President will decide who will meet with the employee to implement the recommended action.