

Employee Demotion, Dismissal, Probation and Non-Renewal

I. Policy

The purpose of this Policy is to provide an equitable system of due process for employees who have been recommended for a demotion or dismissal during their contract term or a non-renewal of their contract.

II. Definitions

1. *Demotion* means a reduction in salary only. Demotion does not include (a) a reassignment of duties that is not accompanied by a reduction in salary; (b) a suspension without pay for a period of ten (10) days or less; or (c) the elimination or reduction of bonus payments, incentive pay or salary supplements.
2. *Dismissal* means termination of a contract employee during the term of the contract for Just Cause.
3. *Impermissible Grounds* means the use of the employee's race, sex, religion, age, national origin, disability status, military status or protected First Amendment rights, as prohibited by existing law.
4. *Initial Probationary Contract* means the period for which a new full-time employee is placed or current full-time employee is appointed to a new position. The Initial Probationary Contract term for full-time faculty is up to two (2) academic semesters and for full-time staff, up to six (6) months. See Hiring Procedures Policy.
5. *Just Cause* means personal or professional conduct which an employee knows or should have known is unacceptable. Examples of just cause include, but are not limited to:
 - a. Incompetence;
 - b. Neglect of Duty;
 - c. Insubordination;
 - d. Physical or mental inability to perform essential job functions;
 - e. Any other illegal or lascivious conduct that has a direct impact on the employee's ability to perform their essential job functions;
 - f. Unauthorized employment;
 - g. Inadequate job performance;
 - h. Conduct unbecoming of a College employee;
 - i. Breach of confidentiality; and/or
 - j. Failure to follow policies and procedures.
6. *Probation* means a period for which an employee is placed in lieu of demotion or dismissal by the College administration due to misconduct and/or inadequate performance issues.
7. *Non-renewal* means the decision not to offer a new contract at the end of the current contract period for full-time employees.

III. Procedures

1. **Demotion and Dismissal**

When any supervisory personnel believe that it may be necessary to demote or dismiss an employee, the information will be forwarded to the President through the appropriate Vice President. The President will review the recommendation and if necessary place the employee on suspension with or without pay. The employee may, however, use any acquired annual, bonus or compensatory leave.

The President shall determine if the demotion or dismissal is warranted based on the review. The President or designee shall meet with the employee and present the employee with a written Notice. The Notice shall state the grounds for the possible demotion or dismissal. At that meeting, the employee shall have the right to be heard and shall be given an opportunity to address the grounds supporting the Notice.

Within five (5) business days after the employee has been presented with the Notice and given an opportunity to be heard, the President will make the final decision regarding the employee's employment status. The President shall send, via hand-delivery, certified mail and/or campus email, his/her written decision to the employee. The President's decision shall be effective immediately. The employee has the right to appeal the President's decision of demotion or dismissal to the Board of Trustees ("Board"), in accordance with the appeal process outlined in Section IV. An effected employee may request an appeal to the Board within five (5) business days after receiving the President's decision.

2. Probation

In lieu of demotion or dismissal, the President or designee may place an employee during his/her contract or statement of appointment on Probation for a period of time not to exceed two (2) years. The Probation period shall serve as a warning to the employee that any future misconduct and/or performance issues may result in termination. The President may decide to non-renew the contract of an employee placed on Probation.

3. Non-renewal, Full-time and Permanent Part-time

The President or designee will notify, via hand-delivery, certified mail and/or campus email, any employee who will not be offered a new contract. The College may non-renew the employee's contract for any reason that is not based on Impermissible Grounds. An exception to this notification requirement occurs when a program is discontinued or a reduction in a program is necessary or when there is inadequate funding in state or local budgets. See Involuntary Leave without Pay/Reduction in Force Policy.

The failure of the College to provide notice of non-renewal prior to the expiration of any contract does not entitle the employee, whether faculty, instructional paraprofessional or staff, to a new contract. The employee has the right to appeal the President's decision to the Board. An affected employee may request an appeal to the Board within (5) business days after receiving the President's decision. For purposes of a non-renewal, the Board will only consider an employee's appeal if the employee is alleging that the non-renewal is based on Impermissible Grounds.

If an employee continues working beyond the term of any contract and the College and employee have not entered into a new or extended contract, the employee shall become an at-will employee and the College or employee may terminate the employment relationship at any time, subject to any state or federal laws.

IV. Appeal for Demotion, Dismissal or non-renewal

Within five (5) business days after receiving a notice of termination from the President, an affected employee may request an appeal to the Board. For purposes of a non-renewal, the Board will consider an employee's appeal only if the employee is alleging that the non-renewal is based on Impermissible Grounds. Impermissible ground for the purpose of this section and shall be an act allegedly in direct violation of applicable federal or state law or state board policy as it applies to the individual college.

The employee's appeal must be in writing and delivered to the Director of Human Resources who will forward the appeal to the Chair of the Board ("Chair") and copy the President. The written appeal must state the employee's grounds for the appeal. With regard to the President's determination to demote or dismiss the employee, the employee must state, with specificity, why the President does not have Just Cause for his/her action. As to a contract non-renewal, the employee's appeal must state, with specificity, the Impermissible Grounds, as stated in this Policy or law, in which the President's decision is based.

The Board delegates the power to hear all appeals and final decision-making authority to its Personnel Committee ("Committee"). At any time during the hearing process, if a majority of the Committee members believe that it is in the College's best interest that the appeal be reviewed by the full Board, the Committee may transfer the matter to the full Board for its review. Both the Committee and Board shall follow the procedures established hereunder.

The appeal shall be held within ten (10) business days after the request is received by the Chair. The employee will receive notice of the date, time and location for the appeal. During the pendency of any appeal, the employee shall not be entitled to any benefits; however, the employee shall be allowed to continue his/her health care insurance using COBRA.

The appeal hearing shall be conducted with only the members of the Committee/Board, the employee, the President and other appropriate College administrators and relevant witnesses. The employee, the Committee/Board, and the President may also be represented by legal counsel. If an employee chooses to have counsel present, the employee is responsible for retaining and paying for those services. The Board's legal counsel shall act as a procedural officer during the hearing and give advice to the Committee/Board regarding necessary rulings and matters of due process. A Committee member who has a significant conflict of interest or bias should disqualify himself/herself or be excused by the Committee's adoption of a motion to disqualify him/her. For purposes of the appeal, at least five Committee members must be present. If a member(s) of the Committee cannot attend, the Board Chair shall appoint an alternate(s) to the Committee to reach the necessary five members. If the employee asks for a transcript of the proceeding, the transcript shall be made and given to the employee with a bill for the cost of preparing it.

Strict rules of evidence or procedure do not apply to appeal hearings before the Committee/Board. The Committee/Board may consider any and all evidence that it determines to be fair and reliable. All witnesses may be questioned and cross-examined by the Committee/Board members, the employee and the President. The Committee/Board will be the sole judge of the weight given to specific evidence and the credibility of all witnesses. The conduct of the hearing shall be under the Committee's chair's

control for the Committee hearings and under the Board's Chair's control for the Board hearings.

The hearing shall begin with the employee's presentation of contentions, limited to those grounds specified in the request for the appeal and supported by such proof the employee desires to offer. The employee has the right to present evidence and examine witnesses, and the President and/or designee may cross-examine any witnesses. At the conclusion of the employees presentation, the President and/or designee will present testimony which may or may not be his/her own, documentary evidence, and/or witnesses in general support of the decision to demote, dismiss or non-renew and/or in rebuttal of the employee's contentions. The employee may cross-examine any witnesses.

The burden is on the employee to demonstrate that there is no Just Cause to dismiss or demote the employee, or in the case of non-renewal, that the President's decision was based on Impermissible Grounds as stated in this policy or in law.

After the President completes his/her presentation, the Committee/Board shall decide whether the President's decision regarding dismissal or demotion is supported by the evidence and was based on Just Cause. With regard to the President's decision considering non-renewal, the Committee/Board shall decide whether the President's decision was based upon Impermissible Grounds.

In all cases, the Committee's/Board's decision is final. The employee has no right to appeal the Committee's decision to the Board. Within ten (10) business days after the hearing, the Committee chair in cases of Committee hearings or Board Chair in cases of the Board hearings shall notify the employee, in writing, of its decision. A copy of the written decision shall be placed in the employee's personnel file.

If the Committee/Board overturns the President's decision, the employee shall be reinstated and shall be entitled to any lost or back pay as a result of the demotion, dismissal or non-renewal.

V. Other Polices

This Policy does not apply to dismissals or non-renewals brought about because of financial exigency or program change. See [Involuntary Leave without Pay/Reduction in Force Policy](#). Furthermore, this Policy shall not preclude the President from invoking other disciplinary measures, including but not limited to written reprimands, probation or disciplinary suspensions without pay for no more than ten (10) business days.

Policy Number: 301-02-00BP

Cross-reference:

- [Orientation of New Employees](#)

Adopted: May 22, 1991

Amended: February 14, 2007; November 16, 2010; May 24, 2011, February 28, 2012; September 11, 2012; February 24, 2020

Download a PDF of this policy