Faculty Dismissal

GENERAL
Faculty, unlike most university employees, work under a contract of employment that details the terms and conditions of appointment, tenure status, and rank. Like a contract, academic tenure provides a measure of professional security from arbitrary and capricious termination of employment.

Decisions of non-retention of tenure-track faculty, non-renewal of term faculty, including adjuncts, or reductions in force, including layoff, do not constitute dismissal.

PURPOSE
This policy has been enacted to establish and define the process for dismissal of faculty for cause and to establish due process protocols.

SCOPE
This policy is applicable to all faculty, both full and part-time, who are either tenured and/or working under a current appointment contract.

POLICY
It is the policy of Concord University to not summarily dismiss a faculty member without cause and to assure the individual’s due process rights are protected.

CONDUCT
All who work at Concord University contribute in vital ways to the mission of the University and are expected to conduct their work with professionalism, personal integrity and respect for the rights, differences and dignity of others. Employees are expected to act professionally during working hours, (including but not limited to lunch hours), when conducting University business, when performing their job duties, and/or when representing the University in their official capacity as a University employee.

Employees are expected to perform their job duties effectively and to maintain satisfactory levels of job performance. Employees are also expected to comply with all University rules, regulations and policies, all West Virginia Higher Education Policy Commission rules regulations and policies and to comply with all state, local and federal laws.
Employees may be disciplined for failure to perform the duties of their position, for unacceptable job performance, for unprofessional conduct and/or for failure to adhere to the standards of conduct set forth in this or any other University rule, regulation or policy.

Off duty conduct may also be the source of disciplinary action if the conduct adversely affects the employee’s ability to perform his/her job duties and/or bears a rational nexus to the employee’s job.

The University reserves the right to terminate any employee whose overall work habits, attitude, conduct or job performance is unsatisfactory. Conduct that is determined by the University to be inappropriate, unacceptable and/or in violation of the standards of conduct set forth in this or any other University rule regulation or policy, may be subject to disciplinary action up to and including unpaid suspension or termination of employment.

**CAUSES for DISMISSAL**
The dismissal of a faculty member during the appointment period shall be affected only for cause, which causes include but are not limited to those identified in Board of Governors’ (BOG) Policy #49, Disciplinary Action, and those below:

- Conduct which directly and substantially impairs the individual's fulfillment of institutional responsibilities, including but not limited to abuse of power, sexual harassment, or of racial, gender-related, or other discriminatory practices;
- Patterns of ongoing or intentional obstruction or disruption of teaching, research, or operations of the university;
- Demonstrated incompetence;
- Dishonesty, particularly in the performance of professional duties, including but not limited to professional misconduct and ethics violations;
- Insubordination by refusal to abide by legitimate reasonable directions of the Board or an administrator in the member’s chain of command;
- Inability to perform the essential functions of the job, even with reasonable accommodations;
- Substantial and manifest and/or a pattern of neglect of duty;
- Failure to return at the end of an approved leave of absence.

**INVESTIGATION**
Conduct that violates the University’s policies, rules and regulations including but not limited to this rule, may also violate state, federal local or other laws. The administrative investigation is different from a law enforcement investigation. The technical rules of evidence and procedure do not apply and the standard used to determine responsibility is not the same as the standard used to determine guilt in a trial court.

A law enforcement investigation will not take the place of an investigation or disposition of employee conduct that may violate the University’s rules, regulations and policies and the
results of a law enforcement investigation or adjudication are not determinative of whether an individual is responsible for violating this policy or any other University rule or regulation.

An investigation and/or disposition of conduct that violates the Universities rules, regulations or policies may be carried out prior to, simultaneously with, or following civil or criminal proceedings.

The University will cooperate fully with law enforcement and other agencies in the enforcement of criminal law on campus or that affects the campus community and such cooperation may require the institution to temporarily suspend the fact-finding aspect of the its administrative investigation while the law enforcement agency is in the process of gathering information. Suspensions of investigations typically last from three to ten days but may be extended depending upon the circumstances of each case. The University will promptly resume its administrative investigation as soon as notified by the law enforcement agency that it has completed the evidence gathering process.

DUE PROCESS
Faculty, as well as classified staff, are subject to the Board of Governor’s Policy # 49, Disciplinary Action, which affords progressive discipline for all but the most egregious offences that may result in immediate suspension and / or termination.

When the university determines that dismissal of a faculty member is required, the institution shall notify the faculty member of the intent to terminate, the reasons for the dismissal, and the effective date of the dismissal. Said intent to terminate notice shall be sent by certified mail, return receipt requested.

Within 24 hours of receipt of the notice, the faculty member may make written request to the Office of Human Resources for a pre-termination conference with the university’s designee to refute the charges and present any information that could influence the decision to terminate. If so requested, the conference will be held prior to the date of intended termination and typically within three working days of receipt of the request. The faculty member may bring a representative to assist during the conference.

The information obtained at the conference will be presented to the President (or designee) for a final written decision to uphold, modify, or rescind the intent to terminate.

In the event the written decision is to uphold the intent to terminate, the faculty member will be provided a written dismissal notice by certified mail, return receipt requested, which dismissal notice shall contain a statement of the charge or charges relied upon and a description of the grievance appeal process available to the faculty member.

Grievance procedures at Concord University are governed by West Virginia State Code 6C-2-1 and the Procedural Rules at 156 CSR 1. A complete copy of this portion of the State Code, the
Procedural Rules and grievance forms may be obtained from the Office of Human Resources or online from:

**WV Public Employees Grievance Board**
1596 Kanawha Blvd. E
Charleston, WV 25311

Phone: (304) 558-3361
Toll Free: (866) 747-6743
Fax: (304) 558-1106

[https://pegb.wv.gov/Pages/default.aspx](https://pegb.wv.gov/Pages/default.aspx)

**Failure to Accept Appointment or Report**
Faculty who refuse to sign or execute an offered annual contract or notice of appointment or reappointment by the date indicated by the President or Provost for its execution, or who fail to undertake the duties under such document at a reasonable time, shall be deemed to have abandoned their employment with the institution and any rights to tenure or future appointment. Faculty objecting to terms of such document do not waive their objections to such terms by signing or executing the document provided such objections are declared in writing before or concurrently with execution.

**RESPONSIBILITY FOR IMPLEMENTATION**
The Provost shall have primary responsibility for assuring notification and due process.

**AUTHORITY FOR INTERPRETATION**
The final authority for interpretation of this policy rests with the President.

**REFERENCE / AUTHORITY**
Higher Education Policy Commission (HEPC) Title 133, Series 9 (Section 12), WV Code 18B-7-3

- Preempts HEPC Series 9, Section 12; Preempts Section 5.2.m of BOG policy # 49, Disciplinary Action, but complements and supplements the balance of policy # 49 dated 5/10/2012, and supersedes Concord University Faculty Handbook section(s) on faculty dismissal for cause.

**APPROVAL**
Effective: May 04, 2018