



FACULTY DISMISSAL FOR CAUSE

Policy Number: CU-HR-63

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 ensure the individual's due process rights are protected.

IMPLEMENTATION

The Provost and/or Chief Human Resources Officer (CHRO) may develop administrative processes, procedures, or forms for administering this policy.

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. Faculty 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.

Faculty are expected to perform their job duties effectively and to maintain satisfactory levels of job performance. Faculty are also expected to comply with all University rules, regulations and policies, all West Virginia Higher Education Policy Commission rules and regulations, to comply with all state, local and federal laws.

Faculty may be progressively 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. Such ongoing performance or conduct may result in suspension and/or discharge.

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

CAUSES for DISMISSAL

A faculty member may be dismissed during the appointment only for cause, which includes, but is not limited to, those examples identified in Board of Governors' (BOG) Policy #49, Disciplinary Action, and those stated 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 administrators
- Inability to perform the essential functions of the job, with or without 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 or a sexual harassment 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, which offenses 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. The individual will have an opportunity 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>

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.

AMENDMENTS

This Policy may be amended to change names, links to information and contact information without

resorting to the rulemaking process.

Federal and State laws, rules and regulations change. Any portion of this policy may be modified in practice to ensure the due process rights of the individuals involved are provided and to conform with any current Federal and State law, rules and regulations. Subject to the institution's rulemaking policy, the institution will change this policy to conform to the most current laws and regulations within a reasonable time of discovering the change.

AUTHORITY FOR INTERPRETATION

The final authority for interpretation of this policy rests with the President.

REFERENCE / AUTHORITY

Adapts Higher Education Policy Commission (HEPC) Title 133, 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

Supersedes Concord University Faculty Handbook section(s) on faculty dismissal for cause.

APPROVAL

Intent to Plan/ Revise Approved by the Board of Governors: April 20, 2021

Approved by the Board of Governors: June 15, 2021

Effective Date: June 15, 2021