

## **Procedure 5.4801**

### **Personnel Actions Procedure**

BCCC employees hold positions of public trust, and they serve as role models to students and the community. Employee conduct should reflect positively on the integrity and reputation of the employee and the College. Each employee shall demonstrate the highest standards of honesty, integrity and fairness when engaging in any activity concerning the College, including in relationships with vendors, suppliers, students, parents, the public and other employees. The board will not tolerate deceit or insubordination. Integrity can accommodate the inadvertent error and the honest difference of opinion; it cannot accommodate deceit or subordination of principle.

As permitted by law, this procedure and governing policy applies whenever the employee's conduct might reflect poorly on the College or the employee's ability to be a role model for students. Employees shall perform their jobs in a competent and ethical manner without violating the public trust or applicable policies, regulations or laws. It is not practical or possible to enumerate all of the situations that might fall under the guidelines of this procedure. The absence of a specific policy or procedure, regulation or law covering a particular situation does not relieve an employee from the responsibility to exercise the highest ethical standards at all times.

### **Dismissal for Good Cause**

The President may dismiss any employee of the College prior to the expiration of an annual contract for good cause which shall include but not be limited to the following permissible reasons:

- Failure to perform competently, and/or in keeping with the administrative practices of the College, the duties of the position for which he/she was employed.
- Failure to attend to the safety and welfare of students, including the need to provide appropriate supervision of students.
- Failure to support and encourage positive school-community relations in all interactions with students, parents and members of the community consistent with generally accepted community norms for educational professionals.
- Failure to serve in capacities complimentary to his/her related position, such as student advisor, committee members, etc.
- Conviction of a crime.
- Failure to notify the College President if they are arrested for, charged with or convicted of a criminal offense (including entering a plea of guilty or nolo contendere) other than a minor traffic violation (i.e., speeding, parking or a lesser violation). Notice must be in writing, must include all pertinent facts and must be delivered to the College President no later than the next scheduled business day following the arrest, charge or conviction, unless the employee is hospitalized or

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incarcerated, in which case the employee must report the alleged violation within 24 hours after his or her release. Upon judicial action in the matter, the employee must report the disposition and pertinent facts in writing to the College President no later than the next business day following adjudication. Failure by an employee to provide timely notice as described above may lead to disciplinary action up to, and including, dismissal.

- Moral turpitude or behavior that gravely violates the sentiment of accepted standard of the community.
- Failure to obtain or maintain a current license or certificate required by regulations of an appointing agency or law as a condition for performing the job.
- Failure of an instructor to regularly meet scheduled classes, appointments, and office hours.
- Chronic absenteeism, absence without approved leave, and/or improper use of leave.
- Insubordination or failure to cooperate with other employees to the extent that, in the opinion of the President, dissension interrupts the orderly performance of duties.
- Failure to comply with rules, regulations, and policies of the NC State Board of Community Colleges, the College Board of Trustees, or lawful directives of the President.
- The manufacture or production, the sale, delivery or transfer, or the use or possession, of a controlled substance while on the job or on College premises, including off-campus extension classrooms or work areas.
- Reporting to work or appearing at any time on the properties of the College in a drunken or intoxicated state that would result in loss of driving privileges under NC General Statute 20-138, Persons Under the Influence of Intoxicating Liquor.
- Violation of the [Drug Free Workplace Policy](#), [Alcohol and Substance Abuse Policy](#) and [Sexual and Other Unlawful Harassment Policies](#) of the College or the commission of any act prohibited thereby; or the failure to abide by the terms of any disciplinary action or probationary status imposed pursuant to said policies.

### **Other Reasons for Termination of Employment/Dismissal for Good Cause**

The employment of any College employee may be terminated by the President because of:

- Demonstrable institutional financial exigency.
- Curtailment or elimination of a teaching or public service program.
- Any other provision in the employee's contract of employment which provides for termination.

The determination of whether a condition of financial exigency exists or whether there shall be a curtailment or elimination of a teaching or a public service program shall be made by the President.

### **Disciplinary Actions**

Prior to the dismissal of an employee, the following steps are recommended:

**Step 1** – Documented verbal warning.

**Step 2** – Written warning to be signed by employee and supervisor and placed in the employee's personnel file.

**Step 3** – Written notification of required corrective action following the College's approved template. This step may be combined with Step 2. Adequate time after Step 3 must be given to allow the employee an opportunity to correct actions/performance prior to moving to Step 4.

**Step 4** – Recommendation to the president for dismissal of employee. If approved, the next step would be the pre-dismissal hearing.

The president has the authority to bypass this process based on the severity of the employee issue, and may proceed immediately to the Pre-Dismisssal Hearing procedures as set forth herein.

### **Pre-Dismisssal Hearing**

Before an employee may be dismissed, a pre-dismissal hearing shall occur. The purpose of the pre-dismissal hearing is to inform the employee of the allegations made against him/her and to give the employee the opportunity to respond to the allegations. The president shall schedule and conduct a pre-dismissal hearing with the employee. A second supervising administrator or security personnel may be present at the president's discretion. No attorneys representing either side may attend the hearing. The president, in the hearing, shall give the employee notice of the allegations made, including the specific reason(s) and a summary of the information supporting these allegations. The president shall inform the employee of the possible termination of his/her employment. The employee shall have the opportunity to respond to the proposed dismissal, to refute information supporting the allegations, and to offer information or arguments to support his/her position. Every effort should be made to assure that the employee has a full opportunity to set forth any information in his/her possession in opposition to his/her dismissal prior to the end of the hearing.

Following the conference, the president shall review and consider the information presented by the employee and confer with the employee's supervisor or other administrative staff. If it is determined that dismissal is justified, a dismissal letter shall be prepared, delivered in person and sent via certified mail, containing the specific reason(s) for the dismissal, effective date, and employee's appeal rights.

### **Appeal of Dismisssal**

Employees of the College have the right to appeal dismissals for good cause. Appeals are taken as follows:

The Personnel Committee of the Board of Trustees has original jurisdiction over employee appeals.

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1. The employee shall file written notice of appeal with the Chairman of the Personnel Committee of the Board of Trustees no later than ten business days after his/her notice of dismissal from the President.
2. The Notice of Appeal shall contain a concise statement of the reasons the employee feels that the dismissal was wrongful or in error. It shall name all persons known to the employee who participated in such action or determination and shall contain written evidence of the employee's contentions.
3. Upon receipt of the employee's notice of appeal, the Chair of the Personnel Committee shall set a meeting of the Personnel Committee at a time as soon as practicable but not more than thirty (30) working days from receipt of the notice of appeal to consider the appeal.
4. If the Personnel Committee determines that the appeal will not be heard, the employee will be notified in writing within seven (7) days following the meeting that the decision of the President stands.
5. If the Personnel Committee agrees to hear the employee's appeal, the hearing shall take place before the Personnel Committee meeting in executive session.
6. A tape or stenographic record of the hearing shall be made by and the Chair of the Personnel Committee shall appoint a reporter who shall have the duty of preparing a summary of the evidence presented to the Personnel Committee. It shall not be necessary to prepare a verbatim transcript of the proceeding before the Personnel Committee. The proceedings shall be recorded and the recordings preserved in accordance with state and federal law.
7. Each party's presentation shall be subject to time limits and policies as established at the discretion of the Personnel Committee Chair.
8. The employee shall be permitted to present witnesses and evidence and to cross examine witnesses. The employee shall have the right to be represented by counsel at the hearing. The employee shall have the burden of persuading the Personnel Committee that the dismissal was not for good cause as set out above.
9. Following the presentation of evidence by the employee, the College administration shall present such relevant evidence as it chooses to establish that the dismissal was for good cause as set out above. The College has the right to be represented by counsel at the hearing.
10. At the conclusion of the presentation of evidence by the administration, the employee shall be given the opportunity to present relevant rebuttal evidence.
11. Within seven (7) working days of the conclusion of the hearing, the Personnel Committee shall make its written recommendation to the President whether the decision to dismiss the employee was for good cause.
12. Once the president receives the written recommendation of the Personnel Committee, the president, after reviewing said recommendation shall decide whether to re-instate the employee or uphold the dismissal.

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13. The decision of the president shall be final, and the employee's extrajudicial remedies shall have been exhausted.

### **Non-Renewal**

Not later than 30 calendar days prior to the expiration of the employee's contract of employment, he/she will be notified by certified letter, delivered to his/her residence address on record at the College of the intent of the president not to tender a new contract of employment for the subsequent employment period.

Failure to give notice within 30 days does not result in automatic renewal of the contract or prejudice to the College. The 30 day time period is merely a guideline, and may be a shorter period based upon the circumstances surrounding the non-renewal, for instance, in those situations in which there is a discontinuation or reduction in a program due to lack of adequate funding or students served.

Non-renewal of employment contracts is within the sole discretion of the College officials, and all non-renewal determinations will be based on the best interest of the College and shall be made in accordance with applicable law and College policies and procedures. Factors to be considered in non-renewal of a contract of employment include, but are not limited to, program changes, financial exigency, reduced enrollment, and any other factors deemed relevant to total institutional interests. The decision to non-renew an employee's contract at the conclusion of a contract period is at the discretion of the authorized College officials. The decision to non-renew an employee at the conclusion of a contract period may not be appealed through the Appeal of Dismissal Procedure above.

The College employment contract itself constitutes the sole agreement of employment as well as representing the entire period of employment. In no instance is automatic continuation or renewal of the contract specified or implied anywhere in any of its provisions.

### **Suspension**

Suspension with or without pay is left to the discretion of the president.

When, in the opinion of the president, an infraction of the stated reasons for dismissal as outlined under "Dismissal" has occurred but is not sufficient magnitude to warrant dismissal, an employee may be suspended with or without pay for a specified length of time.

### **References**

**Legal References:** 1C SBCCC 200.94, G.S. 115C-47, -307, -308

**SACSCOC References:** *Enter SACSCOC references here*

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**Cross References:** Personnel Files Policy, [Employee Conduct and Professionalism Policy](#)

**History**

**Senior Staff Review/Approval Dates:** 4/1/14, 04/24/2017

**Board of Trustees Review/Approval Dates:** 4/1/14 (*changed from Policy to Procedure on 04/24/2017*)

**Implementation Dates:** *Enter date(s) here*

