

### **D.10.2.5 (Procedure) Termination: Tenured Faculty**

Responsible Department: Human Resources

Based on Board Policy: [D.10.2](#) - Separation from Employment

Approved: 4-28-09

Last Amended: 2-10-15

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#### **Termination of Tenured Faculty Members**

A tenured faculty member relinquishes tenure upon separation from employment. Faculty members with tenure appointments may be terminated for the following reasons:

1. Discontinuance of a course of study or financial exigency after at least 12 months' written notice to the faculty member. If tenure appointment is terminated because of financial exigency or discontinuance of a course of study, the released faculty member's place shall not be filled by a replacement within a period of two academic years, unless the released faculty member has been offered reappointment to a college within the College District and has declined it.
2. Progressive discipline shall be practiced when possible for offenses not requiring immediate termination. Adequate cause for the dismissal of a faculty member with tenure shall include professional incompetence, moral turpitude, gross neglect of professional responsibilities, and sexual harassment subject to termination as defined in [H.1.2](#).
3. A tenured faculty member relinquishes tenure upon exceeding the duration of an authorized leave of absence. A tenured faculty member relinquishes tenure where he/she is not reinstated to his or her position, or to an alternate tenured position, at the conclusion of an approved leave of absence. Relinquishment of tenure results in automatic termination of employment.

#### **Termination Procedures**

When reason arises to question the fitness of a faculty member to continue in his/her position, all reasonable effort to effect a negotiated settlement shall be made, subject to legal requirements that require the College District to formally investigate and resolve certain complaints.

Procedures for termination of tenured faculty members are as follows:

1. A written statement of reasons for termination shall be provided to the faculty member by the Associate Vice Chancellor for Human Resources, along with a statement that the faculty member may retain counsel or another representative. This notice shall be provided by registered mail sent to the faculty member's home address of record.
2. A faculty member shall exhaust College District administrative remedies as provided in this policy for appealing termination before filing suit. A faculty member requesting a hearing shall, within ten business days of receiving the statement of reasons for termination, make the request in writing to the Associate Vice Chancellor for Human Resources.
3. Each college shall have a standing nine-member faculty hearing committee pool ("faculty pool"). The tenured and tenure track full-time faculty of each college shall elect nine members from among their number at that college. The faculty senate at each college shall develop procedures for the election of the faculty pool. Members of the faculty pool shall serve staggered three-year terms with elections held in September of each academic year

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for the positions that expired the previous year. To establish the initial staggered terms, in the first year (Year One), three members shall be elected for one-year terms; three members shall be elected for two-year terms; and three members shall be elected for three-year terms. In Year Two, three members shall be elected for three-year terms to replace the original one-year positions, and in Year Three, three members shall be elected for three-year terms to replace the original two-year positions. Thereafter, elections shall be held each year for the positions that expired the previous year. Nothing in this policy precludes members from re-election to the faculty pool for consecutive terms.

Each college shall also have a standing three-member hearing committee pool composed of full-time, non-faculty, non-administrative employees (“staff pool”). The full-time staff employees of each college shall elect two members from among their number, and the President of that college shall appoint one full-time staff employee, to serve on the staff pool. Members of the staff pool shall serve staggered three year terms with elections held, and appointments made, in September of each academic year for the positions that expired the previous year. The staff council of each college shall develop procedures for the election of the two elected members. To establish the initial staggered terms, the first election (Year One) shall result in one member elected for a one-year term, one member elected for a two-year term, and one member appointed for a three-year term. In Year Two, one member shall be elected for a three-year term to replace the original one-year position, and in Year Three, one member shall be elected for a three-year term to replace the original two-year position. Thereafter, elections shall be held, and appointments made, each year for the positions that expired the previous year. Nothing in this policy precludes members from re-election or re-appointment to the staff pool for consecutive terms.

The Chancellor or designee shall appoint a standing three-member hearing committee pool of College District administration employees. Members of the administration pool shall serve staggered three-year terms with appointments made in September of each academic year for the positions that expired the previous year. To establish the initial staggered terms, in the first year (Year One) one member shall be appointed for a one-year term, one member appointed for a two-year term, and one member appointed for a three-year term.

In Year Two, one member shall be appointed for a three-year term to replace the original one-year position, and in Year Three, one member shall be appointed for a three-year term to replace the original two-year position. Thereafter, appointments shall be made each year for the positions that expired the previous year. Nothing in this policy precludes members from re-appointment to the administration pool for consecutive terms.

All hearing committee pool members, faculty, staff, and administration, shall receive mandatory training together at the beginning of each academic year. The Associate Vice Chancellor for Human Resources and the General Counsel shall provide the training. Any pool member who does not complete the annual training shall not be eligible for appointment to a hearing committee during that fiscal year.

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When a terminated tenured faculty member (“appellant”) requests a hearing, and the cause for termination does not involve an offense against a staff employee, an eleven-member hearing committee shall be selected, with ten members from among the college faculty pools and one member from the administration pool. Gender, ethnic, and academic discipline diversity shall be a consideration in the selection of all hearing committee members. The college Presidents and the faculty senate presidents of each college shall jointly select two hearing committee members and one alternate from that college’s faculty pool. The Chancellor or designee shall appoint the administration member and one alternate from the administration pool. Alternates shall receive the same training as hearing committee members, and shall attend all hearing committee sessions and meetings so that they will be prepared to serve on the committee should the need arise. The President of the appellant’s home college shall select one of the hearing committee members from the appellant’s home college to be chair of the hearing committee.

If the cause for termination involves an offense against a staff employee, the eleven-member hearing committee shall be composed of seven members from faculty pools, three members from staff pools, and one member from the administration pool. The college President and the faculty senate president of the appellant’s home college shall jointly select two hearing committee members and one alternate from that college’s faculty pool. The appointed member of the appellant’s home college staff pool shall also serve on the hearing committee, and one alternate shall be selected by that college’s staff council president. Of the other four colleges, two shall provide two faculty members and one alternate each, one college shall provide one elected staff member and one alternate, and one college shall provide (1) one faculty member and one alternate, and (2) one elected staff member and one alternate. The Presidents of the colleges shall decide among themselves which two colleges shall provide two faculty members each, which college shall provide one elected staff member, and which college shall provide both a faculty member and an elected staff member to the hearing committee. The faculty members and alternates shall be selected jointly by the college President and the faculty senate president of their respective colleges, and the elected staff members and alternates shall be selected by the staff council presidents. The Chancellor or designee shall select one hearing committee member and one alternate from the administration pool. Alternates shall receive the same training as hearing committee members, and shall attend all hearing committee sessions and meetings so that they will be prepared to serve on the committee should the need arise. The President of the appellant’s home college shall select one of the faculty hearing committee members from the appellant’s home college to be chair of the hearing committee.

Unless one or more of the hearing committee members is disqualified based upon a conflict of interest, these eleven members shall constitute the hearing committee to review the termination decision by making findings of fact and applying College District policies and other source documents relevant to the matters before the committee. If a hearing committee member is unable to serve for any reason, the faculty, staff, or administration

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alternate from that member's pool shall be appointed to the hearing committee to replace the member who is unable to serve.

The standard by which the College District, through its Chancellor or designee as advised by the Associate Vice Chancellor for Human Resources and General Counsel, shall determine whether or not a particular set of circumstances calls for the disqualification of a nominee, is whether a reasonable person would entrust a significant matter, e.g., termination of employment, to a person situated similarly to the committee member. Each member of the hearing committee and each alternate shall sign before a Notary Public a statement on a form to be provided by the College District, attesting to his/her ability and willingness to be objective without bias or prejudice toward either the appellant or the College District. This statement shall be posted on the College District's and the colleges' websites to affirm the impartiality of the hearing committee.

No fewer than thirty calendar days before the hearing, the Chancellor or designee shall notify the appellant in writing of the hearing date and place.

4. At the first meeting of the hearing committee, the General Counsel, the Associate Vice Chancellor for Human Resources, and the District Ethics and Compliance Officer will provide any additional training and information necessary, and they will remain available to the committee for consultation and other support throughout the hearing process. The committee may also request the College District to provide it with independent legal counsel at the College District's expense.
5. The College District shall prepare a full stenographic record of the hearing thereafter made available to the appellant and to the College District.
6. No later than thirty calendar days after the last day of the hearing, the hearing committee shall issue a written report of its findings of fact and conclusions of appropriate sanction(s). The hearing committee may affirm the termination or recommend disciplinary action based upon the progressive discipline principles set forth in College District policy and procedures. If the committee's decision is not unanimous, the dissenting members may issue a report stating the minority opinion and conclusions no later than the issuance date of the hearing committee's report.
7. Within one business day of the completion of the report(s), the Chair of the hearing committee shall provide a copy of the report(s) to the Chancellor or designee by hand delivery, and a copy to the appellant by registered mail sent to the appellant's home address of record. The Chancellor shall review the report(s) and submit the hearing committee's report(s) and decision to the Board along with the Chancellor's recommendation for sustaining or overruling the committee's decision.
8. As soon as practicable after the committee chair provides a copy of the report(s) to the Chancellor or designee and a stenographic transcript is prepared, the Board shall review the report(s) and a transcript of the stenographic record of the hearing, and shall hear oral argument on behalf of the appellant and the College District. The Board shall either render a final decision sustaining or overruling the hearing committee in whole or in part, or

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return the case to the hearing committee for further consideration, stating in writing the additional matters the Board desires to be considered. If the case is returned to the hearing committee for further consideration, the hearing committee shall then receive any additional evidence under the rules for a hearing provided in this procedure and shall report its further findings to the appellant and to the Chancellor or designee for transmission to the Board.

9. The Board shall then render a final decision sustaining or overruling the recommendation of the hearing committee.