

Procedure IV.4002.C.a, Termination or Demotion of Non-Contractual Employees

Associated Policy

Policy IV.4002.C, Termination or Demotion of Non-Contractual Employees

Introduction

The purpose of this procedure is to outline the process for termination or demotion of a non-contractual employee. This procedure applies to all non-contractual employees regardless of whether the employee is employed on a full-time or part-time basis.

Procedure

This procedure does not apply to Reduction in Force (RIF) decisions. RIF decisions are subject to Policy IV.4003.F, Reduction in Force.

- A. When an employee engages in misconduct, demonstrates performance deficiencies, or otherwise fails to meet the leader's expectations, the leader may recommend termination or demotion. A non-contractual employee may be terminated or demoted for no reason or any reason, except that if a reason exists, it is not an unlawful reason. Factors to evaluate may include but are not limited to:
 - 1. Whether or not the employee's conduct is part of a pattern.
 - 2. Whether or not the employee has received prior notice of the leader's concern.
 - 3. Whether or not the employee has been given an opportunity to address the area of concern.
 - 4. Whether or not the conduct is of such a nature that remediation is not reasonable or appropriate.
 - 5. Whether or not the College's interests would best be served by immediate termination.
 - 6. The nature and severity of the employee's conduct.

- B. A non-contractual employee may be terminated for violating state or federal law, including:
 - 1. [Section 51.252 of the Texas Education Code](#) (relating to the failure to make a mandatory report of sexual harassment, sexual assault, dating violence, and stalking).
 - 2. [Section 51.3525 of the Texas Education Code](#) (relating to prohibited diversity, equity, and inclusion programs and activities designed or implemented in reference to race, color, ethnicity, gender identity, or sexual orientation). When evaluating an alleged violation of Section 51.3525, the College administration will consider whether the employee's conduct constitutes academic course instruction or falls within another exception established in Section 51.3525 of the Texas Education Code.

- C. A non-contractual employee may be discharged for violating [Section 51.3525 of the Texas Education Code](#), which prohibits certain policies, employment practices, training programs, and other college activities that (i) provide or promote differential treatment, preferences, or special benefits based on race, color, ethnicity, gender identity, or sexual orientation, unless required by law and approved in accordance with Section 51.3525 or (ii) mandate training programs designed or implemented in reference to race, color, ethnicity, gender identity, or sexual orientation, unless required by law and approved in accordance with Section 51.3525.
- D. If the Chancellor, or designee, determines that administrative leave is in the best interest of the College, an employee may be placed on paid administrative leave or reassigned during the course of an investigation or when a recommendation to terminate or demote is pending before the Chancellor. If the College reassigns the employee, the employee's pay may be adjusted accordingly.
- E. The decision to terminate or demote a non-contractual employee will be given thorough consideration prior to taking any action. The following process generally will apply to the proposed termination or demotion of an at-will employee.
1. The immediate leader will notify Human Resources, Employee Relations of the potential termination or demotion and seek guidance. The immediate leader will also inform leadership, including the respective Provost or Vice Chancellor of the reasons for the recommended termination or demotion.
 2. All documentation will be reviewed by leadership including the respective Provost or Vice Chancellor and Employee Relations prior to making a decision.
 3. The immediate leader and/or Employee Relations will determine if additional information or investigation is required.
 4. The Provost, Vice-Chancellor, or designee will notify Employee Relations regarding their support or rejection of the termination or demotion along with supporting reasons and documentation.
 5. Only the Chancellor, or designee, is authorized to approve a termination or demotion for any full-time or part-time employee.
 6. The employee may ask for a review of the decision by following the process in section F.
- F. Review Process: A non-contractual employee is not granted the opportunity for an appeal of a termination or demotion; however, non-contractual employees are able to request a secondary review of their job termination or demotion. The request must be made in writing to the Vice President of Human Resources, or designee, within five (5) working days of the termination.

1. The termination or demotion process will continue even while the review is under consideration.
2. The review will be conducted within ten (10) working days of the request. The review will be conducted by the Vice President of Human Resources, or designee. The employee is able to present information in writing that may not have been considered in the decision to terminate or demote. The recommendation from the Vice President of Human Resources, or designee, will be in writing and sent to the Chancellor, or designee, within ten (10) working days of the review. The Chancellor, or designee, will review the recommendation and make the final decision to uphold or overturn the decision to terminate employment or demote the employee. The final decision will be in writing and sent to the employee within ten (10) working days of the Chancellor's, or designee's, review.
3. If reinstated, the employee will receive back pay for the days they were off the payroll.

Definitions

Non-contractual employees: Are employed at will, an employment relationship in which either party can end the employment relationship at any time, for any reason, with or without cause. Part-time staff, part-time faculty, full-time staff, and some administrators are designated as non-contractual employees.

Demotion: A reduction in position, responsibilities, and pay.

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Secondary Owner of Policy Associated with the Procedure	Vice President, Human Resources