

TERMINATION OF EMPLOYMENT
TENURE

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Introduction

~~A faculty member may be discharged or suspended for the reasons set forth in this policy. This policy only applies to faculty members serving in a faculty member positions as defined in Board Policy DCB. This policy does not apply to non-faculty employees.~~

Consistent with Texas Education Code and applicable Board policies, this policy recognizes that faculty members and non-faculty employees have different roles, responsibilities, performance expectations, and evaluation processes. Accordingly, the policy establishes separate procedures for addressing employment actions involving tenured faculty and tenured employees serving in non-faculty assignments, while ensuring due process and consistent administrative practices.

Definitions
Applicable to
Tenured Faculty

Unsatisfactory performance as agood cause for discharge for tenured faculty members shall be defined as follows:

1. One “unsatisfactory” evaluation rating;
2. Two consecutive “needs improvement” ratings;
3. Three “needs improvement” ratings in a four-year period;
4. Exhibited professional incompetence;
5. Continual or repeated failure to perform duties or meet professional responsibilities of the faculty member’s position;
6. Failure to successfully complete any post-tenure review professional development program; or
7. Violation of laws or College District policies substantially related to the performance of the faculty member’s duties; or

7.8. Serious misconduct.

“Neglect of duty” means continual or repeated substantial neglect of professional responsibilities.

“Serious misconduct” shall be defined in this policy as follows:

1. Engaged in conduct involving moral turpitude that adversely affects the institution or the faculty member’s performance of duties or meeting of responsibilities;
2. Been convicted of a crime affecting the fitness of the faculty member to engage in teaching, research, service, outreach, or administration;

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Period, ~~or Tenured
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Non-Faculty
Employees~~**

3. Engaged in unprofessional conduct that adversely affects the institution or the faculty member's performance of duties or meeting of responsibilities; or
4. Falsified the faculty member's academic credentials.

Any faculty member, ~~tenured faculty member, or~~ tenured employee serving in a non-faculty position may be suspended or dismissed ~~from employment during a contract term~~ or while tenured for one or more of the following reasons, each of which constitutes good cause:

1. Unsatisfactory performance;
2. Neglect of duty;
- ~~3.~~ Serious misconduct;
- ~~4.~~ More than one annual written evaluation in which the employee receives less than an overall meets expectations rating;
- ~~3-5.~~ Failure to meet expectations outlined in an improvement plan;
- ~~4-6.~~ Violation of College District policies;
- ~~5-7.~~ Gross negligence;
- ~~6-8.~~ Insubordination;
- ~~7-9.~~ Habitual tardiness;
- ~~8-10.~~ Unexcused and/or excessive absences;
- ~~9-11.~~ Malingering;
- ~~10-12.~~ Being under the influence of alcoholic beverages and/or illegal controlled substances at work or during the performance of work-related duties; or
13. Physical or mental incapacity, not otherwise protected by law, that prevents the employee from performing the essential functions of the position; ~~or~~
14. Other good cause as defined in College District's ~~poloicies~~ policies.
"Neglect of duty" means continual or repeated substantial neglect of professional responsibilities.

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**Procedures for
Dismissal of Faculty
or Tenured Faculty**

A faculty member may be summarily dismissed during a contract term or while tenured by the College President [for good cause by](#) utilizing the following due process procedures.

The faculty member will be provided with written notice of the allegations against the faculty member together with an explanation of the evidence supporting dismissal. The faculty member is afforded an opportunity to respond to the allegations in a hearing with the College President or a designated administrator. The faculty member must request the hearing by submitting the request in writing to the human resources director within 10 days of the faculty member's receipt of the written notice.

The College President or designated administrator shall consider the faculty member's oral and written response to the allegations provided, which are provided during the hearing, and make a written determination of whether to proceed with the summary dismissal of the faculty member.

The College President or designated administrator shall promptly provide to the faculty member a copy of the written determination that clearly indicates whether the faculty member will be subject to summary dismissal. The written determination will:

1. Include the effective date of the dismissal and information regarding the faculty member's opportunity for a post-dismissal appeal, if the College President's or designated administrator's decision is in favor of summary dismissal; or
2. State that the faculty member is not subject to summary dismissal if the College President or designated administrator's decision is against summary dismissal.

Following the College President's or designated administrator's written determination to summarily dismiss a faculty member, the faculty member has the opportunity for a post-dismissal appeal.

**Post-Dismissal
Appeals of Faculty
or Tenured Faculty**

Faculty members may appeal the College President's or designated administrator's written determination of summary dismissal [directly to the Laredo College Board of Trustees by filing a written request appealing the summary dismissal with the Office of the College President within 10 days of the date the faculty member received the written decision. Upon receipt of a timely request, the College President shall appoint a hearing committee composed of five faculty members, two of which shall be tenured. A committee member may not have participated in the underlying recommendation or have a conflict of interest or demonstrated bias concerning the matter. ~~or to a~~ The committee shall select one member to serve as chair. The College President shall provide the](#)

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faculty member with an explanation of the evidence supporting dismissal and the names of witnesses who may appear against the faculty member during the hearing. designated by the Board of Trustees. The faculty member must first file a written request appealing the summary dismissal with the Office of the College President within 10 days of the date of the decision.

The Board President chair of the committee shall provide notice to all parties of the date and time of the hearing and may establish deadlines for exchanging relevant documents, witness lists and exhibits. The chair may establish the procedures to be adhered to during the hearing appeal, including time limits for the presentation of evidence. This notice and procedures shall be provided to all parties at least 10 days in advance of the hearing. The Board President chair of the committee may reschedule the hearing once at the request of the faculty member. If the faculty member fails to appear, the Board committee may proceed with the hearing.

The hearing shall be conducted fairly and efficiently but will not be governed by formal rules of evidence or civil procedure. Each party at the hearing may be represented by counsel. Any procedural disputes arising during the hearing shall be settled by the Board President or hearing chair. The Administration faculty member requesting the hearing shall present its written evidence and witnesses first. The administration faculty member shall present its written evidence and witnesses second. Each side shall have an opportunity to question all witnesses, and each side shall then be given an opportunity to sum up its position after the presentation of all evidence. It should be remembered that this is not a court of law but a due process proceeding. The burden of proof is on the College District Administration to establish that good cause supports the proposed termination. The standard of proof is preponderance of the evidence.

Following the hearing, the committee shall issue written findings and a recommendation based solely on the hearing record. The recommendation shall be determined by majority vote and is advisory and nonbinding. The findings and recommendation shall be provided to the faculty member, the College President, and the Board.

The Board shall consider the hearing record, the committee's findings and recommendation, and the College President's recommendation. The Board may affirm, reject, or modify the committee's recommendation. The Board shall provide the faculty member written notice of its final decision.

The Board of Trustees or designated committee will determine after the hearing whether to uphold the summary dismissal.

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Before appealing the College President's or designated administrator's written determination of summary dismissal to the Laredo College Board of Trustees, a faculty member, as defined by Education Code 51.960, may first present a grievance under Section 51.960 to the executive director of human resources on an issue related to the faculty member's dismissal. The faculty member must file a request to present the grievance within 10 5 business days after receiving the written determination of summary dismissal final action on the dismissal proceeding. Once a request to present a grievance has been filed, the conference shall be scheduled within seven business days.

The faculty member may appeal the decision of the eExecutive dDirector of hHuman rResources directly to the Laredo College Board of Trustees or to a committee designated by the Board of Trustees in accordance with the Post-Dismissal Appeal process described above within 5 days of receiving the Executive Director of Human Resources' written decision.

**Procedures for
Dismissal for
Tenured Employees
Serving in Non-
Faculty Positions
and Post-Dismissal
Appeal**

Employees who are tenured and serving in non-faculty positions covered under this section of this policy retain only those tenure rights previously conferred by Board action. Because these employees do not serve in faculty positions, they are not subject to the dismissal procedures applicable to faculty members outlined above under this policy.

The employment, discipline, and dismissal of employees covered by this policy shall be governed exclusively by this policy unless otherwise required by law or expressly provided by Board policy.

Dismissal Procedure

Before an tenured employee serving in a non-faculty position employee covered by this policy may be dismissed, the following procedures shall apply:

- 1. Written Notice.** The College President shall provide written notice of the proposed dismissal, including the evidence and reasons supporting the proposed action and the Board policies or standards alleged to have been violated, if applicable.
- 2. Supporting Information.** The employee shall be provided with access to the documents and information upon which the proposed dismissal is based, to the extent permitted by law.

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3. **Opportunity to Respond.** The employee shall have a reasonable opportunity to submit a written response and, upon request, to meet with the College President or the College President's designee for a hearing before a final recommendation is made. Witnesses are not allowed to testify at this hearing.
4. **Recommendation.** Following consideration of the employee's response, the President shall issue a written decision ~~recommendation~~ setting forth the basis for the proposed action.
5. **Board Review.** The employee may appeal the President's decision to the Board of Trustees by providing written notice within 10 days of the date when the employee received the written decision. ~~the time prescribed by Board policy.~~

Upon receipt of a timely request, the College President shall appoint a hearing committee composed of five employees. A committee member may not have participated in the underlying recommendation or have a conflict of interest or demonstrated bias concerning the matter. The committee shall select one member to serve as chair. The College President shall provide the tenured employee with an explanation of the evidence supporting dismissal and the names of witnesses who may appear against the faculty member during the hearing.

6. The chair of the committee shall provide notice to all parties of the date and time of the hearing and may establish deadlines for exchanging relevant documents, witness lists and exhibits. The chair may establish the procedures to be adhered to during the appeal hearing, including time limits for the presentation of evidence. This notice and procedures shall be provided to all parties at least 10 days in advance of the hearing. The chair of the committee may reschedule the hearing once at the request of the employee. If the employee fails to appear, the committee may proceed with the hearing.

The hearing shall be conducted fairly and efficiently but will not be governed by formal rules of evidence or civil procedure. Each party at the hearing may be represented by counsel. Any procedural disputes arising during the hearing shall be settled by the chair. The Administration shall present its written evidence and witnesses first. The employee shall present its written evidence and witnesses second. Each side shall have an opportunity to question all witnesses, and each side shall then be given an opportunity

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to sum up its position after the presentation of all evidence. It should be re-membered that this is not a court of law but a due process proceeding. The burden of proof is on the College District Administration to establish that good cause supports the proposed termination. The standard of proof is preponderance of the evidence.

Following the hearing, the committee shall issue written findings and a recommendation based solely on the hearing record. The recommendation shall be determined by majority vote and is advisory and nonbinding. The findings and recommendation shall be provided to the employee, the College President, and the Board.

7. The Board shall consider the hearing record, the committee's findings and recommendation, and the College President's recommendation. The Board may affirm, reject, or modify the committee's recommendation. The Board shall provide the employee written notice of its final decision.

The Board shall review the record, receive such additional information as it determines appropriate, and issue a final decision. The Board's decision shall be final.

Standard of Review

In determining whether dismissal is warranted, the President and the Board shall evaluate the employee's performance and conduct based upon the duties and responsibilities of the employee's current non-faculty position. Faculty evaluation standards, instructional responsibilities, and other criteria applicable solely to faculty members shall not apply unless expressly incorporated into the employee's current position description.