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**Separation from Employment Policy and  
Appeal Procedure for Involuntary  
Separation from Employment**

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# **Separation from Employment Policy and Appeal Procedure for Involuntary Separation from Employment**

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## **I. Philosophy and Purpose**

Separation from employment at Frederick Community College (“FCC” or the “College”) may be voluntary or involuntary. In both cases, the College is committed to fair and equitable policies and procedures in support of the transition and the rights of employees.

## **II. Definitions for the Purpose of this Policy and Procedure**

- A. **“Workdays”** refers to Monday through Friday and does not include weekends, holidays, scheduled breaks, or other days the College is closed.
- B. The **“College Hearing Panel (CHP)”** refers to a panel of at least three (3) full-time FCC employees who have completed training provided by the College attorney. The CHP and Chairperson of CHP is appointed by the Vice President for Finance. In the case of a faculty appellant, full-time faculty and academic administration will be represented on the CHP.
- C. **“College Support Person”** refers to an employee of the College chosen to accompany and assist a **complainant** or respondent during a hearing. The College Support Person cannot be a fact witness or provide statements in the proceedings. The College Support Person is a non-participant who is present to assist an employee by taking notes or providing emotional support and reassurance.

## **III. Voluntary Separation**

### **A. Resignation**

- 1. For faculty and administrators, a letter of resignation should be submitted to the Supervisor with a copy to the Associate Vice President (AVP) for Human Resources and the College President at least thirty (30) days in advance of the contract or letter of assignment expiration date or the date of the proposed separation from employment. Approval of the Senior Leader or Vice President is required to waive the terms of an appointment during a contract or letter of assignment period.
- 2. For support staff, a letter of resignation should be submitted to the Supervisor with a copy to the AVP for Human Resources and the College President at least two (2) weeks in advance of the proposed separation from employment.

### **B. Retirement**

- 1. For faculty and administrators, a letter of retirement should be submitted to the Supervisor with a copy to the AVP for Human Resources and the College President at least thirty (30) days in advance of the contract or letter of assignment expiration date or the date of the proposed retirement. Approval of the Senior Leader or Vice President is required to waive the terms of an appointment during a contract or letter of assignment period.

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2. For support staff, a letter of retirement should be submitted to the Supervisor with a copy to the AVP for Human Resources and the College President at least two (2) weeks in advance of the proposed retirement.

### **IV. Involuntary Separation**

#### **A. Non-Renewal**

Upon recommendation of a supervisor, a Senior Leader may elect to eliminate a non-faculty position and to non-renew the employee's appointment at the end of a contract or letter of assignment period. Notification of non-renewal must be in writing and delivered on or before May 1 of the non-faculty employee's current contract or letter of assignment period. Full-time faculty positions filled by faculty on continuous contract may only be non-renewed for program discontinuance, decreased program viability, or financial exigency.

#### **B. Dismissal**

1. Upon recommendation of a supervisor, a Senior Leader may elect to dismiss an employee, including faculty on continuous contract, based upon performance appraisal or other good cause. Prior to making a decision, the Senior Leader shall meet with the employee and give the employee notice of the cause for dismissal. The employee will have the opportunity to provide any information he/she would deem important prior to the Senior Leader's decision.
2. Upon recommendation of a supervisor, a Senior Leader may elect to dismiss an at-will employee at any time with or without cause.

### **V. Employee Rights**

#### **A. The Right of Appeal/Due Process**

An employee may have the right to appeal an involuntary separation from employment using the Appeal Procedure for Involuntary Separation from Employment.

1. Employees whose position has been non-renewed shall only have the right to appeal for timeliness of notification.
2. Employees who have been dismissed have the right to appeal.
3. Any employee who believes that they have been subjected to discrimination as a member of a protected class shall have the right to file a complaint in accordance with the provisions of the [Non-Discrimination Policy and Procedures](#).

#### **B. Previous Agreements**

##### **1. Annual Leave**

- a. Upon separation from employment for resignation, retirement, or non-renewal, an employee hired prior to July 1, 1987 will be paid at the current salary rate for each day of accumulated annual leave to a maximum of thirty (30) days (210 hours).

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- b. For any employee hired after June 30, 1987, there is no cash payout of unused annual leave upon separation from employment.

### **2. Sick Leave**

- a. Upon separation from employment for retirement or death, an employee hired prior to July 1, 1985 or their beneficiary, will be paid 40% of his/her accumulated sick leave at his/her current salary rate. This benefit shall be limited to a maximum of 40% of 120 days of accumulated sick leave. Payment does not apply if employment terminates for reasons other than retirement or death.
- b. For any employee hired after June 30, 1985, there is no cash payout of unused sick leave upon separation from employment.

### **C. Continuation of Insurance Coverage**

Employees who separate from the College will be permitted to temporarily continue, at their own expense, in the medical, dental and/or vision insurance plans provided by the College as mandated by the Consolidated Omnibus Budget Reconciliation Act (COBRA).

## **VI. Appeal Procedure for Involuntary Separation from Employment**

- A. This procedure outlines the process for appeals related to notices of involuntary separation (dismissal or non-renewal), in accordance with the Separation from Employment Policy.

### **1. Non-Renewal**

An employee who has not been notified in writing of non-renewal on or before May 1 of his or her contract or letter of assignment period shall have the right to appeal the decision. This appeal shall be limited to the untimely notification of the non-renewal.

### **2. Dismissal**

An employee who has been notified in writing that he or she has been dismissed by the College shall have the right to an appeal.

### **B. Appeal to the President**

1. Within five (5) workdays of receiving notice of the involuntary separation (non-renewal or dismissal), the employee may submit an appeal in writing to the President.
2. If an appeal is not submitted within five (5) workdays of the employee receiving the notice of involuntary separation, the notice of separation from employment shall be considered final.
3. Upon request for an appeal, the following shall occur:

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- a. The Vice President for Finance will appoint a College Hearing Panel (CHP) and chairperson.
- b. The CHP chairperson will schedule and conduct a hearing within fifteen (15) workdays from the date of the request for an appeal. Failure of the individual who requested the appeal to appear for the hearing, without prior notification or evidence of extenuating circumstances, waives his/her right for further appeal and the separation from employment will stand.
- c. The CHP chairperson shall have the duty of conducting the hearing. The chairperson shall also have the duty of maintaining order at the hearing and, therefore, shall have the right to exclude any disruptive party or witnesses from the hearing.
- d. Hearings shall be confidential, closed to the public, and will be recorded or transcribed.
- e. Representation by legal counsel is not allowed in the hearing. The employee may have a College Support Person of his or her choice present for the hearing.
- f. The hearing shall be conducted with appropriate regard for timeliness and standards of fairness but is not subject to the formalities of a judicial hearing, including rules of evidence.
- g. The record of the hearing, including the prior decisions made resulting in the recommendation of involuntary separation from employment, the notice of the hearing, and the disposition of the appeal shall be maintained by Human Resources.
- h. Within five (5) workdays after the hearing, the CHP chairperson shall forward to the President its report of the hearing.
- i. After receiving the hearing report, the President will make the determination to either uphold the Senior Leader's decision of involuntary separation from employment, modify it, or dismiss it.
- j. The President shall communicate a decision in writing to the employee and the CHP chairperson within ten (10) workdays of receipt of the report from CHP.
- k. The President's decision shall be final, unless appealed by the employee on the basis of procedural error.

### **C. Procedural Appeal to the Board of Trustees**

1. If in the opinion of the individual, there had been a procedural error, he/she may submit a written request for an appeal of the President's decision to the Board of Trustees for review. The review by the Board of Trustees shall be limited to the issue of adherence to procedural timelines and notifications. The request for Board of Trustees procedural review must be submitted to the Board's liaison, Kari Melvin, at [kmelvin@frederick.edu](mailto:kmelvin@frederick.edu), or 7932 Opossumtown Pike, A200C,

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Frederick, Maryland 21702, and must be received within five (5) workdays of the date of the notification of the President's appeal decision. The individual must specifically include the alleged procedural violation in the written request for an appeal. The Board of Trustees shall not hear verbal testimony from any parties or witnesses to the proceedings and shall not consider any evidence that is not relative to procedural timelines and notifications.

2. The Board shall consider the appeal for procedural review at the next regularly scheduled Board meeting in closed session. Documents pertinent to the specific procedural error being appealed shall be forwarded to the Board of Trustees at least ten (10) workdays before the Board meeting. If there are not ten (10) workdays before the next scheduled Board meeting, the appeal for procedural review shall be considered at the following scheduled Board meeting. At its discretion, the Board may convene a special meeting to consider the appeal for procedural review.
3. The Board will either affirm or reject the appeal of procedural error and shall communicate its decision to the employee and the President no later than ten (10) workdays after the closed session review of the appeal.
4. The decision of the Board of Trustees shall be final.