

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

BOT Approved:	6/17/2015
Revised:	4/21/2016
Revised:	7/7/2016
Revised:	3/21/2017
Revised:	7/1/2017
Revised:	7/2/2018
Revised:	7/1/2019
Revised:	7/1/2020

Table of Contents

I.	Philosophy and Purpose.....	1
II.	Definitions for the Purpose of this Policy and Procedure.....	1
III.	Voluntary Separation.....	1
IV.	Involuntary Separation.....	2
V.	Employee Rights.....	3
VI.	Appeal Procedure for Involuntary Separation from Employment.....	3

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

I. Philosophy and Scope

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. 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 are appointed by the VP for Human Resources. In the case of a faculty complainant, full-time faculty and academic administration will be represented on the CHP.
- B. **“College Support Person”** refers to an employee of the College chosen to accompany and assist a complainant during a hearing. The College Support Person is a non-participant who is present to assist an employee by taking notes or providing emotional support and reassurance. The College Support Person cannot be a fact witness or provide statements in the proceedings.
- C. **“Non-Working Notice”** refers to the period of time between notification of a position elimination and the last day of the current contract or letter of assignment period during which the employee remains in regular active status, but is not required to report to work.
- D. **“Pre-Disciplinary Conference (PDC)”** refers to basic due process protections (Loudermill rights) an employee shall have whereby the supervisor shall provide the employee with (1) notice of the alleged offense, (2) an explanation of the evidence available at the time, and (3) an opportunity to respond to the allegations. These due process rights will be provided in a meeting or, when a meeting is not possible, in writing.
- E. **“Workdays”** refers to Monday through Friday and does not include weekends, holidays, scheduled breaks, or other days the College is closed.
- F. **“Working Notice”** refers to the period of time between notification of a position elimination and the last day of the current contract or letter of assignment period during which the employee continues to report to work.

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 Vice President (VP) for Human Resources and the College President at least thirty (30) calendar 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 is required to waive the terms of an appointment during a contract or letter of assignment period.

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

2. For support staff, a letter of resignation should be submitted to the Supervisor with a copy to the VP for Human Resources and the College President at least fourteen (14) calendar days in advance of the proposed separation from employment.

B. Retirement

Employees planning to retire must submit a letter of retirement to the Supervisor with a copy to the VP for Human Resources and the College President at least thirty (30) calendar days in advance of the proposed retirement date. Approval of the Senior Leader is required to waive the terms of an appointment during a contract or letter of assignment period.

IV. Involuntary Separation

A. Position Elimination

1. Upon recommendation of a supervisor, a Senior Leader may elect to eliminate a non-faculty position and involuntarily separate the employee who held that position at the end of their contract or letter of assignment period. Notification of position elimination must be in writing and delivered on or before May 1 of the non-faculty employee's current contract or letter of assignment period. Upon notification, the employee will serve either a working or non-working notice period through the end of the current contract or letter of assignment period as determined by their supervisor. Employees serving a non-working notice will continue to receive compensation and benefits through the end of their current contract or letter of assignment period.
2. Full-time faculty positions filled by faculty on continuous contract may only be eliminated 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 probationary or continuous contract, based upon performance or other cause. Full-time probationary faculty who are not recommended for a continuous contract may also be dismissed.

Prior to the issuance of any disciplinary action, including dismissal, the employee shall first be provided with due process protections via a PDC.

2. Upon recommendation of a supervisor, a Senior Leader may elect to dismiss an at-will employee at any time with or without cause. A PDC is not required for at-will employees separated without cause.

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

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 outlined in Section VI.

B. Previous Agreements

1. Annual Leave

- a. Upon separation from employment for resignation, retirement, or position elimination, 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).
- 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 their accumulated sick leave at their 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 position elimination).

1. Any employee who believes 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](#).
2. Position Elimination

A regular employee who has not been notified in writing of their position elimination on or before May 1 of their contract or letter of assignment period

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

shall have the right to appeal the decision. This appeal shall be limited to the untimely notification of the position elimination decision.

3. Dismissal

A non-probationary regular employee who has been notified in writing that they have 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 (position elimination 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:
 - a. The VP for Human Resources will appoint a 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 their 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 by an independent transcriptionist at the expense of the College. Transcripts will be maintained by the VP for Human Resources.
 - e. Representation by legal counsel is not allowed in the hearing. The employee may have a College Support Person of their 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 the CHP's report of the hearing.

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

- i. After receiving the hearing report, the President will make the determination to either uphold, modify, or dismiss the Senior Leader's decision of involuntary separation from employment.
- 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 employee, there has been a procedural error in the separation process, the employee 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, or 7932 Opossumtown Pike, A200C, 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 its 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.