

METROPOLITAN COMMUNITY COLLEGE

BOARD POLICY

3.40040 BP

DISMISSAL OF FACULTY

3.40040 BP

I. Preliminary Process

In the exceptional event that cause occurs to dismiss a full-time faculty member from his/her employment and there is no other satisfactory means of bringing the faculty member's performance or behavior within acceptable standards, including conduct governed by Metropolitan Community College (the college) policies and procedures or any guidelines or regulations promulgated by the college, the appropriate dean will cause the matter to be discussed with the faculty member in person. At any time during this process the faculty member will have the option to have a colleague present, consistent with the procedures established by the college. The faculty member will be informed in writing with a detailed statement of charges of the nature of the evidence upon which any charges are based and under which the administration intends to take action. The dean will also advise the faculty member of his/her rights by copy of this policy.

II. Reason for Dismissal

Adequate cause for a dismissal will be related, directly and substantially, to the fitness of faculty members in their professional capacities as teachers and researchers. Dismissal will not be used to restrain faculty members in their exercise of academic freedom or other rights of American citizens. Dismissal of a faculty member who has completed the probationary period or dismissal of a probationary faculty member during the term of his/her contract shall be for cause and in accordance with existing law and college policy.

The following exemplify grounds, as defined by applicable law, by which a faculty member may be dismissed; provided, however, that this list is not exclusive and other conduct may warrant charges calling for dismissal.

- A. Physical or mental condition, which precludes the faculty member from instruction/association with students.
- B. Conduct by which a faculty member takes improper advantage of his/her position to the detriment of a student or an employee or for personal gain.

- C. Insubordination, demonstrated by a willful, chronic and/or neglectful failure to follow reasonable and lawful directive(s).
- D. Violation of, or failure to obey, the published policies, regulations, and procedures of the college and/or federal and state laws applicable to the college and its employees and/or students.
- E. Excessive or unreasonable absence from performance of duties.
- F. Conviction of a felony or a crime involving moral turpitude.
- G. Sexual harassment, as governed by board policy.
- H. Incompetency, including chronic failure to meet the standards of the Board of Trustees, in relation to the learning environment.
- I. Conduct which subjects students or employees to harm or wrongdoing, which materially damages the reputation and/or credibility of the college.

III. Actions by the President

- A. Whenever the campus president shall determine that cause exists for a faculty member to be dismissed, the campus president shall ensure that the faculty member is provided a written statement of the grounds for the dismissal with reasonable particularity.
- B. The faculty member may, if the faculty member so requests, within ten (10) working days of receipt of the charges for dismissal, have a hearing be conducted at a specified time and place to determine whether the faculty member should be removed from the faculty position for the ground(s) stated.
- C. No faculty member shall be dismissed until after a timely hearing, if requested. If a hearing is not requested in a timely fashion, the chancellor shall institute the recommended sanction (dismissal) and report same to the Board of Trustees for official action at its next regular meeting.

IV. Administrative Leave

- A. In order to prevent harm to members of the college or to protect college property or facilities or preserve records or the integrity of an on-going investigation, the appropriate college official may deem it necessary or advisable to place a faculty member on paid administrative leave. Examples of such circumstances might include, but are not limited to, the existence of credible evidence relating to physical harm or sexual misconduct, performance of sensitive job duties, or being under the influence of alcohol or controlled substances.

- B. In each case of administrative leave the faculty member shall be provided a written statement regarding the nature of the allegations and the limitations or restrictions imposed. Paid administrative leave is not a disciplinary sanction, but is undertaken in the best interest of the college and/or faculty member.

V. Hearing

- A. A faculty member may request a hearing on the recommendation of dismissal before a hearing committee. Written notice of the request for a hearing shall be filed by the faculty member with the human resources department within ten (10) working days after notification of the recommendation of dismissal. The hearing committee shall provide opportunity for testimony and evidence by both the faculty member and the campus president or the president's designee, their witnesses, and representatives.
1. Current students and employees of the college shall be subject to subpoena if called by either the faculty member or the president and the Board of Trustees shall reasonably attempt to secure their presence. Failure to appear and/or cooperate at the request of the Board of Trustees shall subject any such student or employee to disciplinary action.
 2. The faculty member and president shall be entitled to have counsel or an employee advisor present. Counsel may advise their respective clients, but shall not be entitled to participate in the proceedings.
 3. The president shall have the burden of proof, which burden shall be preponderance of the evidence and not proof beyond a reasonable doubt.
- B. The hearing committee shall be constituted within five (5) working days of the faculty member filing a request for a hearing and shall consist of a non-probationary faculty member selected by the faculty member who is the subject of the dismissal, a nonprobationary faculty member who is selected by the college academic senate, a nonprobationary member selected by the vice chancellor of academic affairs from a list of no less than three (3) and no more than five (5) non-probationary faculty members provided by the academic senate executive committee, and two (2) administrators, one (1) selected by the vice chancellor of administrative services and student development and the other selected by the vice chancellor of academic affairs. The hearing committee shall elect a chairperson who shall be responsible for the orderly conduct of the hearing.
- C. In setting the date of the hearing, the human resources department shall coordinate with the members of the hearing committee and the faculty member. While the faculty member may request more time to prepare a defense, the hearing shall

ordinarily commence not later than twenty-one (21) working days following the faculty member filing a request for a hearing.

- D. All of the hearing evidence shall be duly recorded and a transcript thereof shall be available at college expense to the faculty member and the president.
- E. The hearing committee shall render a decision and prepare written findings of fact and recommended action. Said decision shall be submitted within ten (10) working days of the conclusion of the hearing to the faculty member and president.
- F. The faculty member or president shall have the right to appeal the decision of the hearing committee to the chancellor. Said appeal shall be in writing, shall state the grounds therefore, and shall be filed with the chancellor within five (5) working days of the receipt of the decision. The chancellor shall review the record of the case consisting of the charge(s) against the faculty member, the transcript of the hearing, and the written decision of the hearing committee and shall render a decision.
- G. If an appeal is not filed in a timely manner, the decision of the hearing committee shall be implemented by the chancellor and shall be communicated to the Board of Trustees at its next regular meeting for official action.
- H. The faculty member shall have the right to appeal the decision of the chancellor to the Board of Trustees. Said appeal shall be in writing, shall state the grounds therefore, and shall be filed with the secretary to the Board of Trustees within five (5) working days of the receipt of the chancellor's decision. The Board of Trustees shall review the record of the case consisting of the charge(s) against the faculty member, the transcript of the hearing, the written decision of the hearing committee, and the decision of the chancellor and shall render its decision, which decision shall be final.
- I. Except for such simple announcements as may be required concerning the time for the hearing and final decision, public statements about the case by the faculty member and personnel of the college shall be avoided, except as may be necessary to comply with the law or a lawfully issued subpoena.

Approved: Board of Trustees
March 13, 1975

Revised: November 17, 1994
Revised: July 14, 2011
Revised: March 31, 2016