

# DAVIDSON COUNTY COMMUNITY COLLEGE

## Human Resources

### RIGHT OF APPEAL

#### POLICY 3.3.6

In case of suspension without pay for more than ten (10) days or dismissal pursuant to Policy 3.3.4, or reduction in force pursuant to Policy 3.3.9, an employee has a right to appeal the President's decision and must do so within ten (10) business days of the action taken. Appeals must be submitted in writing to the President who shall forward the appeal to the chair of the Board of Trustees. The employee must articulate the grounds for the appeal in the notice. Further, the employee shall state in the notice whether the employee has or is seeking legal counsel for the appeal.

#### **I. Right of Appeal**

- A.** No later than ten (10) business days from the President's receipt of the employee's written appeal, unless mutually agreed by the parties, the Personnel Committee ("Committee") of the Board of Trustees shall conduct a hearing pursuant to Section II. The employee's failure to inform the President that s/he has retained legal counsel for the appeal at least three (3) business days prior to the hearing shall be automatic grounds for a continuance of the hearing if so desired by the College.
- B.** No later than ten (10) business days from the hearing, the Committee shall provide the employee with its written determination to uphold, reject or modify the President's decision. The determination shall be included in the employee's personnel file. If the employee is reinstated, s/he shall receive all lost wages from the date of the suspension without pay and/or dismissal unless otherwise decided by the Committee.
- C.** At the next regularly scheduled Board of Trustees' meeting, the Committee shall report its determination to the full Board of Trustees.

#### **II. Hearing**

- A.** The hearing shall be conducted with only the members of the Committee, the employee, the President and other appropriate College administrators. The employee, the Committee, and the President may also be represented by legal counsel. If an employee chooses to have counsel present, the employee is responsible for retaining and paying for those services. The Board's legal

counsel shall act as a procedural officer during the hearing and give advice to the Committee regarding necessary rulings and matters of due process. A Committee member who has a significant conflict of interest or bias should disqualify himself/herself or be excused by the Committee's adoption of a motion to disqualify him/her. For purposes of the appeal, a majority of the Committee members must be present. The Committee will make an audio recording of the hearing and a copy of the audio tape will be made available to the employee upon request. If the employee wants a transcription of the proceeding, the employee is responsible for the cost of and to arrange for the transcription.

- B.** The hearing before the Committee should be informal in nature and the strict rules of evidence or procedure do not apply. The Committee may consider any and all evidence that it determines to be fair and reliable. The conduct of the hearing shall be under the Committee Chair's control.
- C.** The burden is on the employee to demonstrate that s/he did not violate the Employee Code of Conduct or engage in the reason(s) underlying the disciplinary action or employment termination or, in appropriate cases, that the President's determination was based on illegal discrimination.
- D.** At least five (5) business days prior to the hearing, the parties shall exchange all documentary evidence that the parties plan on using at the hearing. The President shall be responsible to assemble all the documents and make each Committee member and the parties a packet for the hearing. The packet must contain the following in this order: a) a copy of these Procedures; b) a copy of the President's written determination that is being appealed; c) a copy of the employee's request for appeal to the Committee; d) the President's documents for the hearing, if any; and e) the employee's documents for the hearing, if any. The President shall provide the employee a copy of the packet prior to the hearing.
- E.** The hearing shall begin with the President's presentation of evidence, followed by the employee's presentation of evidence. During the hearing, the President and employee both shall have up to thirty (30) minutes to present any arguments, statements, documents, or other types of evidence to the Committee. If necessary, the time may be extended by the chair of the Committee. The Committee will have an opportunity to ask questions and review the submitted evidence. Both the President and employee shall have the opportunity to ask relevant questions of the other after the Committee has finished asking questions. The Chair may prohibit any questions that are irrelevant, or questions being used to berate or disparage one of the parties.

- F.** At the conclusion of the employee's presentation of evidence, the President will be given five (5) minutes to present a closing statement. Following the President's closing statement, the employee shall be given five (5) minutes to present a closing statement.
- G.** At the conclusion of the hearing, the Committee will deliberate in closed session and will inform the parties, in writing, of its determination to uphold, reverse or modify the President's decision no later than ten (10) business days from the hearing.
- H.** The Chair of the Personnel Committee shall notify the full Board of Trustees of the Committee's decision. The Personnel Committee's decision is final.

Adopted: November, 2019