

Effective: 10/27/16

- I. Separation Procedures: The appropriate department representatives indicate what is needed and when it has to be completed, as outlined on the "Employee Check-out" form.
- II. Discipline Procedures: Supervisors are responsible for recommending disciplinary action for employees under their supervision. When disciplinary action is necessary, the supervisor will meet with the employee and:
  1. Explain the reason for the action taken
  2. Give the employee an opportunity to explain their side of the situation
  3. Counsel the employee on how they can improve job performance or correct improper conduct
  4. Discuss disciplinary issues in a climate conducive to reach an understanding by both supervisor and employee.

The documents listed below are designed to provide progressive disciplinary steps. The supervisor is to provide Human Resources with the original verbal and written counseling documents within one (1) week of each counseling session. The course of discipline is based upon the nature and/or severity of the offense. Disciplinary action steps may begin at a more advanced level up to, and including, immediate dismissal.

1. Verbal Discussion: A verbal discussion may be issued to address minor performance situations. This discussion is recorded on the "Employee Discipline Notice".
2. Written Warning: A written warning may be issued for repetition of conduct previously discussed or first occurrence of a more severe offense. Written warnings should be documented on an "Employee Discipline Notice".
3. Suspension: An employee whose presence is not considered to be in the best interest of the College may be suspended with or without pay. The minimum period of unpaid suspension is one (1) day. Before an employee may be suspended without pay, the supervisor must provide a written statement to the employee detailing the specific performance and/or conduct issues that are the basis for the proposed disciplinary action and meet with their appropriate Vice President and Director of Human Resources.
  - a. The College is committed to and sponsors an Employee Assistance Program (EAP). Employees may be referred to the EAP for performance issues as part of the disciplinary process.
4. Performance Improvement Plan: Occasionally, an employee's actions (or failure to take appropriate action) may be of such a serious nature that more action is necessary. In these situations, the supervisor may initiate a "Performance Improvement Plan" (PIP). This status will last for a predetermined amount of time. Within this time period, the employee must

demonstrate a willingness and ability to meet and maintain the conduct and/or work requirements as specified by the supervisor and the College.

*All performance improvement plans are facilitated through the Human Resources office. At the end of the performance improvement period, if established goals are not met, further discipline action may be considered. Copies of all "Performance Improvement Plans" are to be distributed as follows: one (1) copy to the employee, the original to Human Resources for the employee's file, and one (1) copy for the Supervisor to follow the progress of the Plan.*

- III. Dispute Resolutions: It is the policy of the College to provide a procedure for work-related dispute resolution to employees who believe they are affected adversely by the application of a policy, procedure, or practice of the College or a College representative. Employees have the right to have prompt consideration of the matter by appropriate administrators. Refer to MCC Employee Grievance and Due Process Policy HR 05.15 for complete details.
- IV. Dismissal Procedures: The President shall send the employee a written statement of intention to discharge the employee. The statement shall include notice of the employee's rights, upon request, to both written specification of the reasons for the intended discharge and a hearing committee appointed by the President. The Hearing Committee shall be made up of no less than three (3) and no more than five (5) faculty or staff of the College.
  1. If the employee makes no written request for a written specifications of the reasons for the intended discharge, nor a written request for a hearing within five (5) workdays of the date of the President's statement of intention to discharge, then the employee shall be considered discharged without recourse to any other grievance or appellant procedure at the College.
  2. If the employee makes a timely written request for a written specifications of the reasons for the intended discharge, the President or designee shall provide such written specifications as soon as reasonably possible, but no more than three (3) workdays from receipt of the request. Such response may be sent by email or facsimile if delivery is confirmed.
  3. If the employee makes a timely written request for a hearing, the President or designee shall set a date and time for the hearing. Said date shall be no sooner than seven (7) workdays from receipt of the employee's request, but no later than fifteen (15) workdays from the date of receipt. The President or designee shall arrange for a transcript of the hearing to be made; a copy of the transcript may be provided to the employee upon request. The following parameters apply to the conduct of the hearing.
    - a. The hearing shall be closed to the public. Persons present during the hearing shall be limited to the members of the Hearing Committee, the employee and his/her counsel,

- the President and counsel for the College, the witnesses under examination, the facilitator and the transcriptionist.
- b. The Human Resources Director shall facilitate the hearing. If the Human Resources Director is a witness, a designee shall be appointed to facilitate the hearing.
  - c. The employee and the College shall have the right to have counsel present.
  - d. The employee and the College may offer testimony of witnesses and submit evidence provided such testimony and evidence pertain to the specific reason for discharge. All testimony shall be made under oath or affirmation. The employee and the College (or their respective counsel) may cross-examine witnesses, provided the scope of the cross-examination remains within the scope of the witness testimony.
  - e. The employee and the College (or their respective counsel) may make opening and/or closing statements. Each statement shall be limited to five (5) minutes for each party.
  - f. Members of the Hearing Committee may ask questions of the witnesses, the President, and/or the employee.
  - g. The Hearing Committee shall render a decision considering only the evidence presented at the hearing.
  - h. The Hearing Committee shall deliberate in private immediately following the hearing. The parties shall remain immediately available but outside the deliberation until dismissed by the Hearing Committee. Additional evidence may be requested by the Hearing Committee until the parties have been dismissed.
  - i. The Hearing Committee shall provide its written recommendation to the Human Resources Director within five (5) workdays after the hearing concludes. The recommendation shall include one of the following: uphold the President's decision to discharge the employee, reverse the decision of the President, reverse or uphold with recommendations. The recommendation shall include the basis for the decision of the Hearing Committee. The Human Resources Director shall transmit a copy to the President. The President may either accept or deny the recommendation of the Hearing Committee, and such determination shall be mailed to the employee.
4. Within five (5) workdays after receiving the determination from the President, the employee may request a review of the decision by the Personnel Committee of the Board of Trustees. The request for review shall be in writing, transmitted through the President, and addressed to the Chairman of the Personnel Committee of the Board of Trustees. The following are to be the sole criteria by which the Personnel Committee considers the request for review:

## **Employee Separation, Discipline and Dismissal**

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- a. Proof by the employee that the decision to dismiss was based solely upon the employee's lawful exercise of rights guaranteed by the First Amendment to the United States Constitution or by Article I of the North Carolina Constitution;
- b. Proof by the employee that the decision to dismiss was based upon discrimination on the basis of race, color, religion, gender, genetic information, age, disability, national origin; or sexual orientation

The Personnel Committee shall consider the request and may grant a review based on the documentation provided by the employee and the above criteria. A denial of the request for a review shall constitute final confirmation of dismissal.

If the written request for a review is granted, the review shall be held at the next regularly scheduled meeting of the Personnel Committee, but no more than thirty calendar days after the request is received; the employee shall be given notice of at least seven (7) workdays in advance of the review.

The review shall be conducted in closed session. Only the members of the Personnel Committee, the employee, the President, and counsel for any party may attend. A copy of the recorded transcript of the Hearing Committee shall be provided to the Personnel Committee. Testimony may be heard at the discretion of the Personnel Committee; any new testimony shall be made under oath or affirmation. The Personnel Committee may consider only the evidence that is presented at the review (including the transcript of the Hearing Committee proceeding.) and need consider only the evidence offered that it considers fair and reliable. The employee, the President or their designee and the Personnel Committee may question all witnesses.

The conduct of the review is under the control of the Chairperson of the Personnel Committee. At the time of deliberation, the Chairperson shall excuse all persons from the closed session. Counsel for the College may remain at the request of the Chairperson. The Chairperson may request individuals return during its deliberation in the event additional information is requested. The review may be recorded.

Within five (5) workdays after the review, the Personnel Committee will provide written notification of its decision to the President and the employee. The notification shall include one of the following: uphold the President's decision to discharge the employee, reverse the decision of the President, reverse or uphold with recommendations. Action by the Personnel Committee as stated in the Mitchell Community College Board of Trustee's By-Laws is subject to review by the full Board; however, such review shall be at the discretion of the Board and/or the President and is not intended to provide an additional appeal opportunity to the employee.

### **Forms**

Employee Discipline Notice



## **Employee Separation, Discipline and Dismissal**

## **Procedure HR 05.21**

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Performance Improvement Plan  
Full-Time Employee Check-Out Form  
Part-Time Staff Check-Out Form  
Adjunct Check-Out Form

*While on campus this policy can be viewed by accessing Human Resources on SharePoint.*