

D.10.2.2 (Procedure) Termination During Contract Term: Non-Tenured Employees

Responsible Department: Talent, Organization and Strategic Innovation

Based on Board Policy: [D.10.2](#) - Separation from Employment

Approved: 4-28-09

Last Amended: 11-14-16, 9-27-22

Termination During Contract Term

Benefited, regular-status, non-tenured contract employees are subject to termination during the contract term in accordance with the steps outlined in [D.9.1.2](#), (with *Step* escalation limited to one *Step* per repeated violation), or for a serious violation stated to be subject to termination as a defined *Step 4* violation under *Step 4* of [D.9.1.2](#).

Termination procedures and appeals for tenured faculty members are governed by [D.9.1.2](#) and [D.10.2.5](#).

Termination shall not be based on an employee's exercise of rights guaranteed by the Constitution; or, or the employee's opposition to discrimination participation in any complaint process on campus or before a government agency ; or, on an employee's race, color, sex, pregnancy, religion, creed, national origin (including ancestry), citizenship status, physical or mental disability, age, marital status, sexual orientation, gender, transgender status, gender identity, gender expression, veteran or military status (including special disabled veteran, Vietnam-era veteran, or recently separated veteran), predisposing genetic characteristics, domestic violence victim status, or any other protected category under applicable local, state or federal law.

Approval

Terminations must be approved by the Chancellor.

Appeal of Disciplinary Action

Unless specified otherwise in the employment contract, before a benefited term contract employee is terminated during the term of the contract, the employee shall be afforded written notice of the reasons for the termination and an opportunity for an Appeal Hearing prior to any termination decision being implemented and may grieve such termination.

Grievance for Faculty Filed Under Education Code 51.960

Full-time faculty members may present a grievance on an issue related to termination pursuant to Education Code 51.960. This provision does not include employees who hold faculty rank but who spend the majority of their time engaged in managerial or supervisory activities.

The Board designates the Chancellor or designee as the person to whom a faculty member may present a grievance under Education Code 51.960.

Within ten (10) business days after final action on termination, a faculty member wishing to present a grievance under Education Code 51.960 shall file a request with the Chancellor's office to present the grievance. Within five (5) business days, the Chancellor will acknowledge in writing the request to grieve and give the employee the opportunity to have the termination decision reviewed by a peer committee under before the Chancellor hears the grievance. Within three (3) days of the Chancellor's notice, the employee must communicate to the Chancellor whether the employee opts for peer review or opts to be heard by the Chancellor without peer review.

If the faculty member elects peer review, the AVC TOSI (Associate Vice Chancellor TOSI for Talent, Organization and Strategic Innovation) will form the peer review committee comprised of the five (5) college faculty senate presidents, schedule committee interview sessions with the faculty member and the administrator(s) recommending termination. If a faculty senate president has a conflict of interest, the vice president of the faculty senate will serve. The committee will review and consider evidence and statements

of witnesses presented during the interview. The peer review committee will deliberate and render a written recommendation to the Chancellor, within fifteen (15) business days following completion of the party interviews, to sustain the termination or continue the employment. The AVC TOSI will provide a copy of the recommendation to the employee.

Within five (5) business days of receiving the committee's recommendation, a conference for the Chancellor to hear the grievance within ten (10) business days will be scheduled.

The Chancellor or designee shall hear the grievance at the conference and may or may not take action or make a recommendation as a result of the conference. If the Chancellor or designee does not take action or make a recommendation on the grievance within fifteen (15) business days after the conference, the lack of action upholds the employee's termination.

In both cases, the Chancellor shall render a written decision, affirming or overruling the termination decision and adopting, modifying or rejecting the committee's recommendation if there was committee review, in accordance with Level III of D.3.3.1 (Procedure).

The faculty member may grieve the Chancellor's decision to the Board of Trustees under the provisions for a Level 4 Complaint as set forth in [D.3.3.1](#).

Grievance on Termination by Administrator

Administrators may present a grievance on an issue related to termination to the Chancellor or Chancellor's designee. Within ten business days after receiving notice of termination, an administrator wishing to present a file a request with the Chancellor's office to present the grievance.

A conference shall be scheduled within fifteen (15) business days after the request to present a grievance has been filed.

The Chancellor or designee shall hear the grievance at the conference and may or may not take action or make a recommendation as a result of the conference. If the Chancellor or designee does not take action or make a recommendation on the grievance within fifteen (15) business days after the conference, the lack of action upholds the employee's nonrenewal.

The administrator may grieve the Chancellor's decision to the Board of Trustees under the provisions for a Level 4 Complaint as set forth in [D.3.3.1](#).

Nonrenewal Not Affected

Nothing herein shall prevent the Board from deciding, by vote or inaction, not to offer a term contract employee further employment with the College District beyond the current term of the current contract, for any legal reason or no reason.

Legal Reference - TACC Policy Reference Manual

DMAA(LEGAL) - Term Contracts: Termination Mid-Contract