



DISCIPLINE AND ABROGATION OF ANNUAL CONTRACT

POLICY

Any full-time or part-time employee, regardless of occupation, position, profession or work performed may be warned, reprimanded, suspended, or dismissed. The degree and kind of action to be taken will be upon the sound and considered judgment of the President and Human Resources in accordance with the provisions of this policy. In the execution of this policy, the President will ensure that the academic freedom of faculty members is protected under the terms of the College's Academic Freedom Policy.

The basis for any disciplinary action taken in accordance with this policy falls into one of two categories:

- Discipline imposed on the basis of job performance
- Discipline imposed on the basis of personal conduct

Employees may be dismissed, demoted, suspended, warned or disciplined on the basis of unacceptable personal and unprofessional conduct.

This policy does not require that progressive warnings take place; however, it is highly recommended that the supervisor and the employee work together to correct unsatisfactory performance. In the event that the employee fails to make the required improvement, this process helps document the supervisor's efforts to work with the employee to improve the unsatisfactory performance.

PROCEDURES

ABROGATION OF ANNUAL CONTRACT

Termination of Program

An employment contract will be abrogated when a program, curriculum, or service is terminated with the result that the services of the affected employee are no longer appropriate to the purposes and objectives of the College. The College may also abrogate an employment contract if an institution or other entity with whom the College contracts or otherwise arranges for an employee to work terminates such contract or arrangement, or requests that the employee no longer work or provide services or assistance there.

Financial Exigency

An employment contract will be abrogated when a significant decline in the financial resources of the College is brought about by a decline in enrollment or by other action or events that compel a reduction in the College's current operations budget.



Dismissal or Suspension

The Board of Trustees has provided the President with the authority and responsibility to dismiss or suspend any employee of the College.

CAUSE FOR DISMISSAL OR SUSPENSION

An employee may be disciplined, up to and including dismissal with cause, either with or without pay, at any time without notice, and for such period of time as the President may deem appropriate, on the basis of any of the following:

- Failure, in the opinion of the President and based on the recommendations of the members of the employee's supervisory chain of command, to perform competently, and/or in keeping with the administrative practices of the College, the duties of the position for which the employee was employed.
- Refusal to perform any legal and properly assigned duty which is consistent with the provisions of the employment agreement.
- Unsatisfactory performance of assigned duties.
- Willful or negligent failure to comply with rules and regulations of the State Board of Community Colleges, the Brunswick community College Board of Trustees, or lawful directions of the President.
- Actions which serve to undermine the authority and effectiveness, or which otherwise adversely affect or disrupt the operations of the institution.
- Failure to serve in capacities complimentary to his related position, such as student advisor, committee member, etc.
- The College conducts instruction and other business in hospitals, prisons, and other locations having their rules, regulations, and expectations. If an employee of Brunswick Community College is for any reason denied access or admittance to the workplace at any time, the employee's employment contract within the College may be terminated immediately and without notice.
- Upon being formally charged with a criminal offense involving the possession, use, or sale of a "controlled substance" as this term is defined In the Drug and Alcohol Abuse Policy.
- Conviction of a crime involving moral turpitude or conviction of a felony.
- When conditions and circumstances are such that the College is unable to provide a reasonably safe workplace.
- Insubordination, harassment, or failure to maintain satisfactory and harmonious working relationships with the public and other employees.
- Failure to obtain or maintain a current license or certificate required by law as a condition for performing the job.
- Chronic absenteeism and/or improper use of sick and vacation leave privileges.
- Physical or mental incapability for performing duties.
- Falsification of official records, expense claims, or any other documents, providing false, inaccurate, or misleading information to any College student, employee or other College official, or, while representing or performing any duties associated with the College, providing false, inaccurate, or misleading information to any other person or entity, or misuse or misapplication of College or State funds.



- Possession of unauthorized firearms or lethal weapons on the job or on College property.
- Use, manufacture, distribution, and/or possession of controlled substances during work hours or appearing at any time on the properties of Brunswick Community College under the influence of any controlled substance as defined under the heading Drug & Alcohol Use.
- Appearing at any time on the properties of Brunswick Community College obviously under the influence of intoxicating substances such as liquor or drugs.
- Refusal to accept a reasonable and proper assignment from an authorized supervisor or failing to report for duty at the assigned time and place.
- Participating in any illegal, unethical, or immoral activity, which impairs, impedes, or disrupts the legal mission, process, or functions of the College, or which casts dispersion on the College.
- Counseling, encouraging, instigating, or inciting others to unlawfully impair, impede, or disrupt the educational and other lawful operation(s) of the College.
- Submission of materially false or misleading information on the employee's application for employment or in any other document submitted to the College.
- Actual or attempted identity theft from any student or employee of the College, or actual or attempted accessing of documents, information, or data retained by the College that is either legally protected or that contains personal or private information relating to any of the College's students or employees.
- Failing to take reasonable and prudent measures to protect the confidentiality of documents, information, or data relating to students, employees, or personnel matters of the College that are legally protected, that contain personal or private information, or where the disclosure of such information might expose the College to additional civil liability or compromise or jeopardize a legal claim or defense the College might have in any actual or potential civil or administrative proceeding. Nothing contained in this subdivision shall be deemed to prevent or prohibit an employee from lawfully releasing documents, data, or other information pursuant to a lawfully issued subpoena, or from cooperating with an investigation or prosecution conducted by official, authorized, law enforcement authorities.
- Engaging in gossip about or making any negative statement(s), other than the communication of bona fide grievances or properly submitted suggestions or complaints, about the employee's supervisor, one or more of the employee's co-workers, or other College employees or officials.
- Displaying a bad or negative attitude while at work.
- Creating a hostile work environment.
- Insufficient funds to continue the position.
- Any violation of the College's policies or procedures.

DISCIPLINE PROCESS

Before an employee is dismissed, suspended or demoted, the following documented process is recommended to be followed in a timely manner. However, in the event the President feels that it is necessary, an employee may be dismissed or suspended immediately to avoid undue disruption of work (including disruptive, nonproductive behavior) or to protect the safety of persons or property.



First Written Warning:

The supervisor may give the first warning with prior approval of his or her supervisor. The supervisor will talk with the employee and do the following:

- Clearly inform the employee that this is a warning so that the employee will not mistake this process for counseling, performance evaluation or any other non-disciplinary process.
- Inform the employee of the specific performance deficiencies that are the basis for the warning.
- Tell the employee what specific improvements must be made to correct the unsatisfactory performance.
- Let the employee know what time (probationary period) is being allowed to make the required improvements.
- Record the date of the meeting for any future reference.
- The supervisor informs his/her supervisor of the warning.

Second Written Warning

- The supervisor should document in writing the performance problems being addressed and detailed steps for corrective action.
- The second written warning documentation, following the same steps outlined for the first warning, should be reviewed with the employee by the supervisor. A timeline for improvement is detailed.
- The employee is required to sign the warning document to show acknowledgement of the discussion and receipt of the document. The employee's signature does not necessarily indicate agreement with the contents of the written warning.
- The supervisor informs his/her supervisor of the warning.
- A signed copy of the 2nd written warning is sent to Human Resources to be included in the employee's personnel file.
- Human Resources will notify the President of this disciplinary action if necessary.

Final Written Warning

- The supervisor and his/her manager with guidance from Human Resources will prepare the Final Corrective Action Memo indicating that it is the final written warning.



- The appropriate Vice President/Dean, Human Resources and the President (if necessary) reviews the contents of the warning and provide insight if necessary.
- A disciplinary conference is conducted with the employee, including Human Resources, to discuss the reason for the action, the necessary improvements, and the time allowed to make the necessary improvements.
- The employee is presented with the final corrective action report at the end of the conference and he/she is informed that failure to correct the unsatisfactory performance may result in dismissal, suspension or demotion.
- A copy of the final written warning will be included in the employee's personnel file.

Demotion

Any employee may be demoted as a disciplinary measure. Demotion may be made on the basis of either unsatisfactory job performance or unacceptable personal and professional conduct.

- Job Performance – An employee may be demoted for unsatisfactory job performance after the employee has received at least two prior warnings on his/her performance. At least one of the warnings prior to demotion must be in writing.
- Personal and/or Unprofessional Conduct – An employee may be demoted for unacceptable conduct without any prior warnings. Cause for demotion on the basis of personal or unprofessional conduct does not have to be as serious as cause for dismissal.
- Notice – An employee who is demoted must receive written notice of the specific reasons for the demotion as well as notice of his/her appeal rights.
- Disciplinary demotions may be accomplished in several ways. The employee may be demoted to a lower classification with or without a loss in pay.

Suspension

Investigatory or disciplinary suspension may be used by the administration in appropriate circumstances. However, the following provisions should control its use:

- a. An employee who has been suspended for either investigatory or disciplinary reasons must be placed on compulsory leave of absence without pay.
- b. Investigatory suspension without pay may be used to provide time to investigate, establish facts, and reach a decision concerning an employee's status in those cases where it is determined the employee should not continue to work pending a decision. Investigatory suspension without pay may be used to provide time to schedule and hold a disciplinary conference. Also,



administration may elect to use investigatory suspension in order to avoid undue disruption of work or to protect the safety of persons or property. An investigatory suspension without pay shall normally not exceed **45** calendar days.

However, the College may, in the exercise of its discretion, extend the period of investigatory suspension without pay beyond the 45-day limit. The employee must be informed in writing of the extension, the length of the extension, the specific reasons for the extension, and his or her right of appeal. A copy of the above communication shall be sent to the Board of Trustees. If no action has been taken by administration by the end of the 45 calendar days and no extension has been made, one of the following must occur: reinstatement of the employee with full back pay; appropriate disciplinary action based on the results of the investigation; or reinstatement of the employee with up to three days' pay deducted from the back pay.

c. Investigatory suspension of an employee shall not be used for the purpose of delaying an administrative decision on an employee's work status pending the resolution of a civil or criminal court matter involving the employee.

d. An employee who has been suspended for investigatory reasons may be reinstated with up to three (3) days' pay deducted from his/her salary. Such determination is to be based upon management's determination of the degree to which the employee was responsible for or contributed to the reasons for the suspension. This period constitutes a disciplinary suspension without pay and must be effected in accordance with e and f below.

e. An employee may be suspended without pay for disciplinary purposes for causes relating to any form of personal conduct or in conjunction with a final written warning for performance of duties. However, a disciplinary suspension without pay must be for at least one full working day, but not more than three work days.

f. An employee who has been suspended without pay must be furnished a statement in writing setting forth the specific acts or omissions that are the reasons for the suspension and the employee's appeal rights. Where suspension is for disciplinary reasons, a copy of the statement shall be forwarded, through administrative channels to the President for the purpose of monitoring the policy use.

Dismissal

Before an employee is dismissed, the following shall occur:

A written summary of the case will be prepared by the supervisor and his/her manager, reviewed by the appropriate Vice President and submitted to the President and Director, Human Resources for review.

Human Resources will create a formal dismissal letter addressed to the employee that will state the effective date of termination and the termination reason including any employee policies that



were not followed. The dismissal letter will indicate the appeal process and procedures and any other pertinent information needed by the employee in regard to their dismissal.

A disciplinary conference may be held between the President, Human Resources and the employee. Attorneys or such representatives shall not be present at this conference. A witness or security personnel may be present if the President deems it necessary. The employee shall be presented with his/her formal dismissal letter that will be a written summary of the information which supports the proposed dismissal. The employee shall have a right to respond to the proposed dismissal.

The President may wish to defer the dismissal based on information presented by the employee and reconsider the proposed dismissal. The President shall notify the employee, in writing, of his/her decision within ten days from the date of the conference.

If, following reconsideration, or if at the end of the disciplinary conference, the President determines that dismissal is justified, he/she may dismiss the employee. The Board of Trustees will be informed of such dismissals no later than the next Board meeting.

The employee will be entitled to a hearing by the Board of Trustees on the dismissal at the time and place of the Board's meeting, unless continued by the Board for cause. The Chair may reschedule a hearing if a quorum is not present. All hearings shall be conducted according to procedures established by the Board of Trustees.

Should the written request not be made by the employee within the specified time period, rights to have such a hearing are thereby lost.

The decision of the Board of Trustees is final though subject to court review.

Right to Appeal

An employee who has been demoted, suspended or disciplined shall have the right to appeal such action in accordance with the College's Grievance Procedure.

Approved by the Brunswick Community College Board of Trustees
June 19, 1991; Effective July 1, 1991; Updated October 19, 2017