



# REGULATIONS

REG No.: 886

## REPRIMAND, SUSPENSION, AND DISMISSAL OF CONTRACT EMPLOYEES

### I. PURPOSE

Describes policy and procedures for disciplinary action of contract employees.

### II. BACKGROUND and/or LEGAL REFERENCES

TASB Policy Manual, DMAA, Term Contracts: Dismissal, 3-7-94; Termination of Employment: Noncontract employment, 10-1-86.

### III. POLICY

A. Contract employees (faculty members or administrators) are subject to the following types of disciplinary actions:

1. *Reprimand*: an oral or written communication of reproof to the employee.
2. *Suspension*: temporary removal of the employee from contractual responsibilities.
3. *Dismissal*: permanent removal of the employee from contractual responsibilities.

B. Any contractual employee may be reprimanded, suspended, or dismissed at any time for cause as provided by Texas common law or as determined by the Board of Trustees. Adequate cause for disciplinary action must be directly and substantially related to the fitness of the employee in his or her professional capacity. Cause for reprimand, suspension, or dismissal includes, but is not limited to, the following examples:

1. Incompetency or inefficiency in the performance of required or assigned duties; failure to fulfill duties or job responsibilities as reflected in employment agreements, employee handbooks, or other official documents (such as paid professional assignment agreements); unsatisfactory performance of assigned duties based upon written evaluation; failure to perform evaluation categories as specified in the college's evaluation plan (see Reg 872, Evaluation of Faculty; Reg 876, Evaluation of Administrative and Support Staff).
2. Failure to correct deficiencies or unacceptable performance communicated to the employee as part of the appraisal or evaluation process or any other communications from the employee's supervisors.
3. Conduct unbecoming a faculty member or administrator at the college •that is, failure to meet the college's standards of professional conduct as determined by the Board of Trustees or by the Board of Trustees upon recommendation of the President; or any activity, college-connected or otherwise, that, because of publicity given it or knowledge of it among students, employees, and the community, impairs or diminishes the employee's effectiveness as an employee of the college.
4. Conviction or commission of a felony or a misdemeanor related to the employee's job.
5. Conviction or commission of a crime involving moral turpitude. *Moral turpitude* is an

act of baseness, vileness, or depravity in the private or social duties that a person owes another member of society of society in general and that is contrary to the accepted rule of right and duty between persons. Examples but not by way of limitation are theft or attempted theft, swindling, indeceny with a minor, etc.

6. Immorality, which is conduct not in conformity with the accepted principles of right and wrong behavior and is contrary to the moral standards of the community encompassed by the college district, as determined by the Board of Trustees.
7. The possession, use, or being under the influence of alcohol, alcoholic beverages, or drugs and narcotics, as defined by the Texas Controlled Substances Act, while on college property.
8. Assault on a district employee, district officer, or student as defined in Section 22.0(a)(1),(2),(3) of the Texas Penal Code.
9. Failure to comply with reasonable requirements regarding advanced coursework or other professional improvement and growth.
10. Any employee who is required by the college or other relevant authority to hold a license, registry, certificate, or other credential to be qualified for his or her position at the college and allows the license, registry, certification, or other credential to lapse or expire will immediately become ineligible for employment and subject to immediate termination.
11. Falsification, by the employee, of pertinent information regarding the employee's transcript, personnel record, or application for employment, regardless of when the falsification is discovered.
12. Falsification of records or other documents related to the college's activities.
13. Deliberate misrepresentation of facts to a supervisor or other district official in the context of college business.
14. Failure to comply with official directives and requirements communicated to the employee by the employee's supervisor(s), failure to follow policies and procedures of the college district, or insubordination (defined as a demonstration of recalcitrance, resistance, or unwillingness to submit to legitimate college authority).
15. Conducting a personal business during employee's work hours or conducting a personal business on college property.
16. Unauthorized accepting of money from students for any reason or accepting personal gifts of substantial value from students. (The prohibition on accepting money does not apply to employees, such as cashiers, whose job duties include collection of payment from students for college services.)
17. Reasons specified in individual employment contracts reflecting special conditions of employment.
18. Failure to maintain effective working relationships, or maintain professional demeanor,

with students, the community, or other college employees.

- C. Reprimand, suspension, or dismissal may not be used to restrain faculty members in their exercise of academic freedom or to restrain any employees from, or punish any employees for, exercising any rights guaranteed by law.
- D. In the case of suspension or dismissal, the President or the President's designée notifies the employee in writing of the disciplinary action.
- E. Authority:
  - 1. Reprimands may be issued by any direct-line supervisor of an employee.
  - 2. Suspension with pay requires approval of the President, with notification to the Board of Trustees. In such instances, the employee is furnished written cause and thereafter is provided the opportunity to pursue in full the appeal process (see Reg 877, Employee Grievances).
  - 3. Suspension without pay requires approval of the President and of the Board of Trustees. In such instances, due process is afforded the employee prior to the imposition of disciplinary action.
  - 4. In an exceptional case of extreme misdeed relating to professional performance, an employee may be immediately suspended (with or without pay) by the President of the College after consultation with President's Cabinet and with the Executive Committee of the Board of Trustees. As noted in the preceding paragraph, however, suspension without pay requires due process for the employee prior to any loss in pay.
  - 5. Dismissal requires approval of the President and of the Board of Trustees. In cases of dismissal, due process is afforded the employee prior to actual dismissal.
- F. *Due Process.*
  - 1. Suspension without pay and dismissal during an employee's contract term, since these two actions affect an employee's property rights, requires that the employee be afforded due process prior to the disciplinary action being taken. Due process consists of the employee being informed of the reasons for the disciplinary action and being provided an opportunity to give his or her side of the issue.
  - 2. Normally, due process consists of a hearing before the College Grievance Committee and a hearing before the Board of Trustees. If the employee is willing to accept the disciplinary action or does not request a hearing before the College Grievance Committee within five calendar days of notification of the college's intent to take disciplinary action or does not request a hearing before the Board of Trustees within five calendar days after the College Hearing Committee reports its conclusions, the President will present the disciplinary recommendation to the Board of Trustees for approval. (See section V.H, I, J, and K of Regulation 877 for a description of the composition and functioning of the College Grievance Committee.)
  - 3. The proceedings of the CGC hearing are tape recorded.

4. Hearing before the Board
  - a. If a hearing is granted, the hearing is posted as an item on the Board's agenda and occurs no later than the next regular meeting of the Board, so long as proper posting can occur.
  - b. If the complaint involves the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of the employee, it is heard in executive session unless the employee who lodged the complaint requests it to be public. If the grievance involves complaints or charges about another employee, it is heard in executive session unless the employee against whom the complaint has been lodged requests it be heard in public.
  - c. The Board hearing is an evidentiary hearing conducted on the basis of the existing record and does not involve calling witnesses or conducting cross-examinations as may be done during the due-process hearing CGC. Prior to the Board meeting, Board members are provided copies of the tape recording of the CGC hearing and any other evidence pertaining to the case.
  - d. Principals on each side of the issue are granted a maximum of fifteen minutes before the Board to state their case. Employees who are the subject of disciplinary action may have an advisor or legal counsel present at the Board hearing.
  - e. The Board may make and communicate its decision either at the conclusion of the hearing or no later than the next regularly scheduled meeting of the Board. The decision of the Board is final.
  
- G. The college may decide not to renew a person's contract or not to offer further employment at the expiration of the term of the contract period for any reason or no reason so long as the reason is not illegal (see Reg 887, Nonrenewal, Termination, and Dismissal, section II.A; Reg 892, Contract and Noncontract Employment, section II.B.1.a). Such nonrenewal is mentioned here for informational purposes since nonrenewal does not necessarily constitute a disciplinary action.
  
- H. Non-disciplinary dismissal or reductions in force may also occur for reasons of financial exigency (see Reg 887, section II.E) or for physical or mental incapacity or disability, not otherwise protected by law, that prohibits the employee from performing his or her job functions.

(POLICY APPROVAL: 9-18-96, Board of Trustees)

#### **IV. PROCEDURES**

- A. *Reprimand*
  1. If a supervisor believes that the conduct of an employee justifies issuance of a reprimand, the supervisor may issue that reprimand on his or her own authority but must provide an opportunity for the employee to show cause why the reprimand should not be issued.
  2. An employee who believes that a reprimand has been improperly, unjustly, or unjustifiably

issued and who is unable to resolve the matter in consultation with the appropriate supervisor(s) may file a grievance according to Regulation 877, Employee Grievances.

*B. Suspension*

1. If an administrative supervisor believes that the conduct of an employee is sufficiently grave to justify imposition of suspension from service for a stated period, the supervisor may institute proceedings to impose such a sanction. Procedures for suspension are the same as those outlined for dismissal (see section IV.C and Regulation 887, Nonrenewal, Termination, and Dismissal).
2. If suspension of an employee is being considered, the appropriate member of President's Cabinet consults with the President and with other Cabinet members at a meeting of that body concerning length, propriety, and other conditions of suspension. (Suspension that is intended to be final is a dismissal and must be treated as such.)
3. Moreover, according to Board policy dated July 2, 1990 (see Regulation 887), "The Board reserves the right to suspend from duties immediately, and until the charges are proven, any contract employee charged with moral turpitude or nonperformance of duties. Salary will continue until the charges are upheld or rejected by the Board, or until the charges are dropped. In the event the charges are upheld by the Board, the contract employee's contract will be terminated immediately. If the charges are not upheld by the Board the contract employee is reinstated."
4. If suspension is to be without pay, the employee is afforded due process prior to the any loss in pay.

*C. Dismissal*

1. Normally, dismissal of an employee before the end of the specified contract term is preceded by (a) discussions between the employee and appropriate administrative officers looking toward a mutual settlement; (b) informal consultation by the President with members of President's Cabinet, who may recommend whether in their opinion proceedings should be undertaken, without that opinion being binding on the President of the College.
2. Dismissal is preceded by a written statement of charges, framed with reasonable particularity by the President or the President's designée.
3. Dismissal as described in this regulation is preceded by a statement of charges in writing, and the subject employee has the right to due process prior to dismissal.
4. College Regulation 887 contains policies dated July 24, 1989, that relate to dismissal of contract employees. The provisions of Regulation 886 relating to dismissal supersede and replace Regulation 887, which has been revised to reference Regulation 886.

BAM/FRV/FRV  
9-18-96