EMPLOYEE DISMISSAL PROCEDURE

Section 1 - Coverage

This procedure shall be used in dismissing, demoting or reducing to a part-time basis the employment of an employee without his consent.

Section 2 - Investigation by President

The President of Piedmont Community College ("President") has the initial responsibility in the dismissal procedure. When any person makes allegations that constitute a basis for dismissing an employee, the President shall investigate the allegations and review all available information before deciding to recommend dismissal. If he thinks it justified, he shall interview the employee and permit him to raise any defense that he thinks relevant. Before beginning the interview, the President shall inform the employee of the purpose of the interview and the charges against him. If the employee requests that other witnesses be questioned, the President shall interview them if possible.

Section 3 - Suspension With Pay

If the President determines that there is cause for dismissing or demoting an employee, but also believes that additional investigation is necessary and circumstances are such that the employee should be removed immediately from his duties, he may suspend the employee with pay for a reasonable period, not to exceed 90 days. The President must notify the Board of Trustees ("Board") immediately of his action, and if dismissal or demotion proceedings are not begun against the employee within 90 days, the employee shall be reinstated to his duties and, at his request, all record of the suspension shall be removed from his file.

Section 4 - Suspension Without Pay Pending Dismissal

a) Procedure: If the President determines that there is cause for dismissing an employee and that the immediate suspension of the employee is in the best interest of the College, he may ask the Board to suspend the employee immediately and without pay. The Board, on recommendation of the President or entirely on its own motion, may suspend an employee without pay if it believes that cause exists for dismissal and that the suspension is necessary. The suspension must be by Board resolution, and the employee need not be given notice or a hearing before being suspended.

b) General: When an employee is to be suspended, the President need not conduct the investigation described in Section 2. However, within five (5) days after the suspension, he must initiate dismissal or demotion actions in
accordance with this procedure. If such actions are not begun within this time, the
Board shall reinstate the employee and pay him for the period of suspension. If it is
ultimately determined that grounds did not exist for dismissing or demoting the
employee, he shall be reinstated to his position and paid for the period of
suspension.

Section 5 - Notice to Employee of Recommendation to Dismiss

If the President, after investigating, decides that dismissal is justified, he shall notify the
employee in writing, by certified mail and/or hand delivery, that he intends to
recommend dismissal. This notice shall include:

a) a list of the grounds upon which dismissal is to be recommended to the Board;
b) a summary of the evidence and the names and positions of the accusers;
c) an explanation of the employee’s alternatives, which are:
   1. The employee may, within 10 days after receiving the notice, submit a written
      request that the recommendation be reviewed by the Personnel Committee of
      the Board (the "Committee"); or
   2. The employee may do nothing. If he does not request a hearing before the
      Committee within 10 days after receiving the President's recommendation, the
      President may file his recommendation with the Board, which may act on the
      recommendation without a hearing;
d) a copy of this procedure; and

e) a current list of the Committee members.

Section 6 - Committee Hearing Waived

If the employee does not respond within 10 days after receiving the notice provided in
Section 5, it shall be presumed that he has waived his right to a hearing, and the
President may forward his recommendation, together with the evidence on which such
recommendation was made, to the Board. After receiving the President's
recommendation, the Board may by resolution dismiss the employee or reject the
recommendation and reinstate the employee if he has been suspended.
Section 7 - Hearing Requested

If the employee requests a hearing, the Committee shall schedule it at the earliest possible date, but not sooner than seven (7) days nor later than 20 days after the receipt of request for hearing under Section 5. However, if both the employee and the President desire an earlier hearing date and can agree to it in writing, the Committee may set an earlier time. The employee and the President may both request continuances, which the Committee may grant for sufficient cause.

Section 8 - Composition of the Committee

a) The Committee: The Personnel Committee of the Board of Trustees shall act as the Committee. A quorum shall consist of a majority of its total membership. A Committee member who will testify as a witness or who has any other conflict of interest shall disqualify himself or be excused by the Committee by virtue of a resolution to this effect.

b) The Presiding Officer: The chairperson of the Committee shall be the presiding officer, and shall have the following duties and powers:
   1. to schedule the hearing at a specified date, time, and place; and to postpone the date and time or change the place for good cause shown;
   2. to assure the presence of a quorum at the meeting;
   3. to be available before the hearing to answer any questions that the employee or his representative may have about the nature and conduct of the hearing;
   4. to have full charge of the hearing and its proceedings, to control the conduct of all persons present (subject to the general directions of this procedure) and to limit questioning that is unproductively long or irrelevant; and
   5. to write findings of fact and decisions for the Board, subject to his ability to delegate this responsibility to another.

Section 9 - Hearing Procedure

The hearing shall begin with the presentation by the President, or the Board attorney, of the charges and the evidence to support it. The President's witnesses shall be subject to cross examination by the employee. The employee may then present any evidence to refute or explain the charges and evidence already introduced. The employee's witnesses shall also be subject to cross examination. If the Committee desires other witnesses, it may call them on its own authority.

Section 10 - Evidence

Witnesses shall testify in person. The Committee shall consider only such evidence as it deems to be fair and reliable. The legal rules of evidence shall not apply to the hearing.
Section 11 - Employee's Statement

The employee may testify in his own defense and may be questioned on his testimony. If he chooses not to testify, his refusal shall not be considered as evidence in determining the validity of the allegations, and he shall not be punished later for refusal to testify.

Section 12 - Questioning Witnesses

Members of the Committee, the employee and his representative, the President and the Board attorney may question all witnesses who will testify before the Board, including the President and the employee. Witnesses shall testify under oath or affirmation administered by the presiding officer. The presiding officer may limit unproductively long or irrelevant questioning.

Section 13 - Private Hearing

a) The hearing shall be private. Only the members of the Committee, the President, the Board attorney, the employee, and his representative may attend it. However, the presiding officer may allow attendance by impartial observers or members of the employee's family, if requested. Witnesses may be present only when they are giving information to the Committee.

b) Only members of the Committee and persons whom they request may be present during Committee deliberations.

c) The presiding officer may direct any person who willfully interrupts, disturbs, or disrupts the hearing to leave.

Section 14 - Transcript of the Hearing

The Committee shall record any information presented orally at the hearing. A transcript of the hearing shall be prepared in the event of an appeal to the Board.

Section 15 - Custodian of Evidence

The presiding officer shall be responsible for the safekeeping of all written and recorded matter or other physical evidence presented at the hearing.
Section 16 - Employee's Counsel

Legal counsel or another person at the hearing may accompany the employee at his own personal expense. This person may act as counsel in the employee's defense, with the right to present witnesses, question witnesses, make a statement on the nature of the evidence and the proper disposition of the case, and otherwise assist the employee.

Section 17 - Board Attorney

The Board attorney may assist the President in preparing the evidence against the employee, but at the hearing he shall either (a) assist the President in presenting the case against the employee; or (b) serve as the law officer who advises the Board and the other parties on questions of law, such as the admissibility of evidence and the law with regard to employee dismissal. He shall not perform both functions at the hearing.

Section 18 - Proposed Decision

The presiding officer may request that each side submit a proposed decision, including a brief summary of the proceedings, findings of fact and conclusions of law, with a copy to the other party. The proposed decision shall be filed within three (3) days after the conclusion of the hearing, and the Committee may refuse to consider a proposed decision not filed within that time.

Section 19 - Disposition of the Case

The Committee shall decide by a majority vote whether, based upon substantial evidence, the grounds for the recommendation are true and substantiated. If it finds that the grounds are true and substantiated it shall determine by majority vote whether dismissal is warranted.

The decision of the Committee shall rest solely on the evidence properly presented at the hearing. The Committee shall, in a written report, briefly summarize the proceedings, state its findings of fact, make conclusions of law and set forth its decision. The presiding officer or his designee shall write the report and order of the Committee. A copy shall be delivered to the employee and the President. If the Committee determines that the grounds are not supported by substantial evidence, the matter shall be terminated and no further action may be taken against the employee on the basis of the charges unless new evidence becomes available.

Section 20 - Review by Board of Trustees
a. Right to Review: Within five (5) days after receipt of the decision of the Committee, the employee may request that the Board review the decision. The request shall be in writing and shall be delivered to the President and the Chairperson of the Board.

b. Record for Review: Within five (5) days after receiving a request for review of a decision by the Board, the President shall deliver the decision of the Committee, the record of its proceedings, and all other written materials relating to the decision to the Chairperson of the Board.

c. Review by Board: The Board shall review the request at a time and place specified by its Chairperson. The review may be conducted in executive session and shall be limited to one or more of the following grounds:
   1. that the decision was arbitrary or capricious; or
   2. that the decision is not supported by substantial evidence; or
   3. that a fair hearing was not afforded to the employee.

On the basis of the review, the Board may affirm, modify, or reverse the decision of the Committee and require such remedial action as it deems necessary. Its decision shall be final and shall be communicated in writing to the employee and the President within 10 days of receipt of the request for review.

Section 21 - Allegation of Discrimination

Where an employee contends that adverse action taken against him under Policy 5.20 involves discrimination in violation of the Rehabilitation Act, Title VI of the Civil Rights Act of 1964 or the Job Training Partnership Act, there is no further hearing procedure within the College, and the employee may request State or Federal review as set forth in RSDA Issuance No. 87-05 or its subsequent equivalent.

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Section 22 - Omnibus

a) Time: The term "days" as used throughout this procedure shall mean days on which the College is open for business, not merely days on which classes are held. In computing any period of time, the day on which notice is received is not counted, but the last day of the period so computed is to be counted. Saturdays, Sundays and scheduled College holidays shall not be included in the computation.
b) Service of Notice: Any notice of hearing, decision or other communication required or permitted hereunder shall be sent registered or certified mail to the last known address of the party entitled thereto.

HISTORY NOTE: Effective October 12, 1988