

## 1457.00 FACULTY DISMISSAL FOR CAUSE

I. DEFINITIONS

The following terms, as used in this document, are defined as follows:

- A. "Business day" means any day during the year, including summer, when the college administrative offices are open for business.
- B. "Board" means the Board of Trustees of Northwestern Michigan College.
- C. "Dismissal" means permanent dismissal from employment; non-renewal of a regular, non-probationary faculty member's annual contract; or suspension from employment for more than 10 days.
- D. "Faculty member" means a regular, non-probationary, career plan faculty member of Northwestern Michigan College.
- E. "Gross misconduct" means conduct that is in disregard of:
  - 1. Faculty professional ethics, e.g., intellectual dishonesty; plagiarism; or falsification of teaching methods, data, records, or research data;
  - 2. The rights of others and which exploits others, e.g., use of position or authority to exact personal gain or favor from students, other faculty, or employees of the college;
  - 3. The honesty and integrity of education for which the college strives; or
  - 4. Other conduct deemed to adversely affect a faculty member's ability to function effectively as a faculty member.

II. CAUSE FOR DISMISSAL

The following may be considered cause for dismissal:

- A. Failure to effectively perform faculty duties and responsibilities;
- B. Deficiency in teaching technique or subject matter;
- C. Conflict of interest;
- D. Willful violation of board-approved college policy or procedures;
- E. Falsification of information on employment application or obtained in the interview or employment process;

F. Conviction, plea bargain, or like disposition for criminal conduct; or

G. Gross misconduct, as defined in this document.

### III. DISMISSAL PROCESS

The dismissal process is designed to provide the faculty member with adequate warning and remediation, where appropriate, prior to the implementation of formal dismissal proceedings. Warnings and remediations may not, however, be appropriate for all causes for dismissal. Accordingly, warnings and remediation shall precede dismissal for those causes set forth in paragraphs II.A. through II.D. hereof. All other causes for dismissal may be instituted at Stage Three formal charges as hereinafter set forth in paragraph III.C below.

#### A. **Stage One: Warning**

The Vice President of Educational Services will provide to an affected faculty member a warning, in writing, for those particular deficiencies which may lead to dismissal identified in paragraphs II.A through II.D hereof. The written warning shall set forth the particular facts and circumstances of the deficiency or deficiencies noted and the specific steps that the faculty member should take to bring work or conduct up to the appropriate standards. In the case of warnings related to deficiency in teaching technique or subject matter, the warning shall be given in sufficient time to provide not less than two full regular contract semesters following written notification of remediation as hereinafter set forth.

1. *Opportunity to be heard:* At the time a written warning is given to a faculty member, the faculty member will be provided the opportunity to review the written warning with the Vice President of Educational Services or his/her designee. The affected faculty member may also respond in writing to the warning, and both the warning and the response will be made part of the faculty member's personnel file.
2. *Warning with recommended remediation:* If the nature of the offense is such that remediation is required (as in the case of deficiency in teaching technique or subject matter knowledge) or desired (as the Vice President of Educational Services in his or her sole discretion may determine), the terms and conditions of the remediation and its period and scope shall be set forth in the written warning.

#### B. **Stage Two: Period of Remediation**

1. For teaching or subject matter deficiency, the affected faculty member will be granted a period of not less than two full regular contract semesters to bring his or her work up to acceptable standards. During the remediation period, periodic conferences will be arranged with the affected faculty member, not less than three times during a semester, in order to evaluate progress in remediation of the noted deficiencies. During the remediation period, the division director or department

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head will file progress reports with the Vice President of Educational Services assessing the progress made during the remediation period. These remediation reports will be provided to the faculty member for inspection and written comment.

2. In the event the written warning and remediation are for causes other than alleged deficiency in teaching, conferences to discuss the remediation shall be held not less than three times during the remediation period between the affected faculty member and the division director or department head to monitor progress in the areas of concern, with the report of such conferences to be filed with the Vice President of Educational Services following each conference. These remediation reports will be provided to the faculty member for inspection and written comment.

**C. Stage Three: Formal Charges**

If, in the judgment of the Vice President of Educational Services, the period of remediation has not produced suitable results, or if the alleged cause for dismissal is for reasons set forth in paragraphs II.E through II.F hereof, the Vice President of Educational Services may notify the affected faculty member in writing that the college is initiating dismissal for cause proceedings. Such dismissal may be effective immediately. The notice shall include:

1. The proposed recommendation for dismissal,
2. The reasons for that recommendation,
3. A statement of the charge(s) against the faculty member,
4. A review of the remediation process, if any, and
5. The names and positions of those administrators or officials proposing the dismissal.

**D. Stage Four: Peer Review Committee**

If the faculty member so desires, he or she may ask the NMC Faculty Council to appoint a peer review committee to serve in the case. The request must be made in writing within five business days of the day when formal notification of dismissal for cause is received by the faculty member. The peer review committee shall consist of not less than three nor more than five faculty members, as defined in paragraph I.D. The peer review committee must be appointed and meet within seven business days of the faculty member's request for its service. Within five business days of its meeting, they shall provide both the faculty member and the president of the college with a written report. This report shall include both the recommended action and the reasons for the recommended action.

The peer review committee shall examine the documented record in the case and the efforts at remediation, if any. The purpose of the peer review committee shall be to determine, in a consultative capacity only, whether in the view of the committee, cause does exist to continue to formal hearing.

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The meeting of the peer review committee shall be informal and unrecorded and shall be attended by the faculty member, the relevant administrators, and members of the peer review committee. No oral testimony will be presented at the meeting, except each party may argue their respective position, comment on the documentary evidence, and answer questions of the peer review committee. The report of the peer review committee will be forwarded to the Vice President of Educational Services, who shall be obligated to review the report with the president of the college. In no event is the report of the peer review committee binding upon the college, but the report of the peer review committee shall be filed with the hearing board if the dismissal procedure proceeds to Stage Five.

**E. Stage Five: Hearing Board**

1. *Membership, meetings and decisions:* The hearing board shall be composed of one person chosen by the Vice President of Educational Services, one person chosen by the faculty member subject to dismissal for cause, and three persons chosen by mutual agreement by the two appointed members. Hearing board members shall be chosen from faculty members as defined in paragraph I.D and full-time administrators who are available to serve within the time limits specified herein. The president will resolve any dispute regarding appointments to the hearing board. The hearing board shall choose its own chair.

The hearing board may recommend:

- a. That the charges be dropped,
- b. That the process of remediation continue for a stated period,
- c. That the faculty member be suspended for a specific term, or
- d. That the faculty member be dismissed.

No faculty member may be dismissed without a hearing by the hearing board. Should the faculty member choose to resign prior to the hearing by the hearing board, no meeting need be held.

2. *Procedures:* If the faculty member waives the services of the peer review committee, the hearing board shall meet not less than 20 business days, nor more than 30 business days after the Vice President of Educational Services has formally recommended dismissal of the faculty member. If the faculty member uses the peer review committee, upon receipt of the committee's report, the Vice President of Educational Services shall immediately call a meeting of the hearing board. The hearing board shall meet within five business days of the time when the peer review committee files its report. It shall complete its deliberations and produce its report within 10 business days of the time it begins to meet. It shall communicate its recommended action to both the faculty member and the president of the college. The time limits for hearing and production of the report may be extended for good cause by the hearing board at the mutual request of both parties or by the hearing board on its own initiative; however, efforts shall be made to ensure an expeditious

and timely process. The hearing board may appoint a hearing officer to conduct the hearing and rule on evidentiary matters.

3. *Rights and procedures governing the meeting of the hearing board:*

- a. The case for dismissal must clearly be demonstrated. Recommendations of the board shall be based upon the evidence presented in the hearing.
- b. As required by paragraphs III.C.1 through III.C.5 herein:
  - (1) the faculty member will receive a written statement of the charges, and
  - (2) the faculty member will be informed in writing of those administrators and officers proposing the dismissal.
- c. The faculty member has the right to examine the documentary evidence which may serve as the basis for the charges against him or her.
- d. Both parties have the right to call witnesses.
- e. Both parties have the right to cross-examine witnesses.
- f. Both parties have the right to ask for and receive (at no cost) non-privileged college records they consider relevant. Disputes about relevance shall be determined by the hearing board chair, or hearing officer if a hearing officer is appointed by the hearing board.
- g. The faculty member shall have the right to an expeditious hearing according to the time schedule in this document.
- h. The hearing will be closed to the public.
- i. An official recording of the hearing will be made by the college and the parties will receive, upon reasonable request, a copy of the recorded tape. No other recordings or transcripts of the hearing will be made or authorized.
- j. The faculty member will receive a copy of the report of the hearing board. The recommendation shall be made by the majority vote of the hearing board and shall include findings of facts, conclusions, recommended action, and the reasons therefor. The decision shall be based upon competent material and relevant evidence on the whole record of the hearing.
- k. Testimony shall be taken on oath or affirmation.

**F. Stage Six: Review by President**

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As soon as the hearing board publishes its report, the Vice President of Educational Services shall forward to the president his or her recommendation, the report of the peer review committee, and the report of the hearing board. The faculty member may file with the president a written response to the report of the hearing board within five business days of receipt of same.

Within 10 business days of receiving the reports of the peer review committee and hearing board, the president shall make a final recommendation to the board of trustees for action. The president's review shall be limited to whether the due process guidelines have been observed in the dismissal process and whether the recommendation of the hearing board is justified by the evidence presented. In the event the president believes that due process has not been provided, or that the decision is not supported by the evidence, he or she may reverse or modify the decision, or refer the matter back to the hearing board for further evaluation.

The president will immediately communicate his or her written recommendation to the faculty member and chair of the board of trustees. The president's report shall include both his or her decision and the reasons for that decision. The faculty member may request the board of trustees to review the record, which review shall include the report of the peer review committee, the report of the hearing board, the president's report, and, in the discretion of the board of trustees, the record of the hearing. The board of trustees reserves to itself the power to affirm, modify, or reverse the report of the president, or to order further hearing or reconsideration of the decision.

**IV. SUSPENSION**

- A. If a faculty member is charged with a crime or is alleged to have committed an act of gross misconduct, upon recommendation of the Vice President of Educational Services and the concurrence of the president, the faculty member may be suspended from duty by the board of trustees during the dismissal process.
- B.
- B. A faculty member who is charged with committing an act identified in paragraphs II.E through II.G herein may be suspended with pay during the investigation process.

**V. SEVERABILITY**

If for any reason any part or parts of these procedures and policy are finally determined by a court of competent jurisdiction to be invalid or unenforceable, all other provisions shall be deemed valid, lawful, and enforceable.

**VI. RIGHT TO PROCESS/WAIVER**

Unless a faculty member resigns or waives formal hearing, the faculty member shall not be dismissed or suspended without pay without benefit of the process provided herein, except as may be provided in this document or, if this document is not applicable, in any other applicable document or policy.

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VII. TIME LIMITS

Time limits for submitting and responding to documents and convening hearings or meetings may be altered by mutual agreement of the affected parties or if exigent circumstances warrant extension.

**AUTHORIZATION OF ADMINISTRATIVE POLICY**

President's authorization: \_\_\_\_\_

Date authorized: \_\_\_\_\_ Effective Date: \_\_\_\_\_