Policies of Colorado State University

University Policy

<table>
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<tr>
<th>Policy Title: Administrative Professionals and Non-Tenured Academic Faculty</th>
<th>Category: Human Resources</th>
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<tr>
<td>Owner: Vice President for University Operations</td>
<td>Policy ID#: 3-6004-003</td>
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| Contact: Human Resources  
Web: [http://www.hrs.colostate.edu/](http://www.hrs.colostate.edu/)  
Email: hr_service_center@mail.colostate.edu  
Phone: (970) 491-6947 |  |
| Also Contact: Office of General Counsel  
Web: [http://www.csusystem.edu/general-counsel](http://www.csusystem.edu/general-counsel)  
Phone: (970) 491-6270 | Original Effective Date: 6/1/2009  
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**PURPOSE OF THIS POLICY**

Colorado State University values the important contributions of the Administrative-Professional staff and non-tenured Academic Faculty. The University seeks to promote an employment environment where all employees are given fair and equal consideration in all matters concerning their employment. It is expected that administrators making personnel recommendations, including those relating to disciplinary measures or termination of employment, will keep those principles in mind.
POLICY STATEMENT

Administrative Professional Staff and non-tenure track Academic Faculty who are not on contracts have appointments that are “at-will.” The term “at-will” refers to a specific type of employment status.

Simply stated, “at-will” employment is subject to termination by either party at any time with or without cause. However, “at-will” employees obviously still enjoy constitutional rights, including due process rights, in appropriate circumstances.

It is the policy of Colorado State University that the Dean or Vice President in charge of an academic department or administrative unit must review and approve any recommendations for termination of “at-will” employees on any grounds, including for disciplinary or budgetary reasons, or any disciplinary action resulting in a reduction in salary. Additionally, University policy generally provides “at-will” employees the opportunity to meet with appropriate supervisors and/or administrators to discuss their terminations, or disciplinary actions resulting in reduction in salary, prior to implementation. Final approval of the President, pursuant to the authority over personnel power delegated by the Board of Governors, must be obtained prior to implementation of any termination or disciplinary action resulting in reduction in salary. Further, the termination of “at-will” employees, or any disciplinary measure, cannot occur for any reason that is contrary to applicable federal, state, or local laws. This policy does not apply to terminations at the end of pre-determined maximum employment periods or terminations due to loss of external grant funding.

Disciplinary Action and Termination of Administrative Professional (At Will) Employees

Under Colorado law and University policy, Administrative Professionals and non-tenured Academic Faculty of the University serve on an “at will” basis. Generally, this means that they can be terminated at any time for any reason or for no reason. However, such terminations cannot be contrary to applicable federal, state or local law. Similarly, while at-will employees may be disciplined for performance or behavior reasons, such discipline cannot be contrary to applicable federal, state, or local law. The following process is intended to insure that disciplinary actions and terminations of at-will employees do not run afoul of such laws. Colorado Revised Statutes §§ 23-5-117 and 23-30-113 empower the Board of Governors with the authority to terminate employees who are “at will,” such as administrative professionals or non-tenured faculty. The Board of Governors has delegated its authority to terminate most “at will” employees to the President. Thus, the President is the only person with the authority to terminate most “at will” employees.

Recommended Steps and Considerations for Disciplinary Action or Termination of (At Will) Employees
In view of the foregoing requirements, the following steps and considerations should be observed by University administrators in proposing disciplinary actions or terminations of at-will employees:

1. Prior to taking any action, the administrator should consult with the Office of the General Counsel concerning the issues that gave rise to the possible disciplinary action or termination to: 1) provide validation counsel to the administrator that regarding the issues support disciplinary action or termination; and 2) to provide the opportunity to dissuade an administrator from recommending avoid disciplinary action or termination in cases that don’t justify such action, or to postpone action while additional information is gathered to better evaluate the proper level of action, if any. The administrator should also coordinate such proposed action with the appropriate Vice President and/or Dean. He/she The administrator should then determine the need for and desirability of giving reasons to the employee for recommending disciplinary action or termination.

2. To assure fairness to the employee before any disciplinary action or recommendation of termination occurs, the administrator should then do the following:

   (a) Provide the employee with written notice that a recommendation of disciplinary action or termination may occur. This notice should state that the administrator is considering making a recommendation that the employee be disciplined or terminated, including the reasons, if any, for such proposed actions and a brief description of the factors supporting those reasons. The notice should also advise the employee that he/she the employee will be given an opportunity to explain his/her their position by scheduling a “face-to-face” meeting with the appropriate Dean or Vice President and/or department or unit head. The employee should also be advised that he/she the employee may be accompanied by his/her an attorney if he/she the employee chooses. The notice should also include a request that the employee advise the administrator at least forty-eight hours before the meeting if he/she the employee plans to bring an attorney to the meeting. This will enable the administrator to make arrangements for representation from the Office of the General Counsel at the meeting. The meeting should be postponed to a future date if the employee is accompanied by a lawyer but has failed to notify the administrator of the anticipated presence of such person this in advance.

   (b) The meeting should then be held at the stated time or at a time mutually agreed upon by the employee and the administrator. The administrator should allow the employee an opportunity to respond to the specific allegations contained in the notice (discussed in paragraph (a), above). It is recommended that another person in a position of authority (e.g., a department head, associate dean, etc.) be present to avoid disputes over what was said at the meeting. The meeting should be postponed to a future date if the employee is accompanied by a lawyer but has failed to notify the administrator of the anticipated presence of such person.

Following the meeting, the administrator should prepare a memorandum documenting the issues and observations discussed at the meeting. It is important not to conduct the
meeting as a prelude to implementing a decision that already has been made, but to remain open to consider the employee’s information and postpone a decision until after such consideration.

(c) After the meeting, the administrator should decide whether to recommend that the employee be disciplined or terminated.

(i) If the administrator determines that discipline resulting in a reduction in salary, or termination, is warranted, the recommendation should be forwarded to the highest ranking administrator in the employee’s chain of command (i.e., the appropriate Vice President, Dean or Associate Provost) if the highest ranking administrator in the employee’s chain of command was not involved in the meeting with the employee.

(ii) If the administrator determines that less severe disciplinary action is warranted, such as a reprimand, minor change in duties, or additional training, the administrator may take such action and does not need to send a recommendation for such action through the chain of administrators.

(d) If all prior administrators have approved a recommendation to reduce salary or terminate employment, the Vice President, Dean, or Associate Provost should make certain that all of the foregoing steps have been followed and prepare a written recommendation to be sent to the Provost, which should include a representation that all steps set forth above have been followed and that the responsible administrators obtained such legal advice from the Office of the General Counsel as deemed necessary or appropriate. If the Provost concurs with the recommendation, the Provost shall forward the recommendation to the President.

(e) Once a recommendation for termination or salary reduction has reached the President, the President should decide whether the employee should be disciplined or terminated in accordance with the personnel powers that have been delegated to him/her by the Board of Governors. The President should then advise the appropriate Vice President, Dean, or Associate Provost of such decision, who in turn can arrange for appropriate notifications of the result to be given to the employee. Pay should not be reduced or terminated until presidential approval is obtained.

(f) For purposes of filing a grievance, no action will be deemed to have occurred until the time the highest ranking administrator in the employee’s chain of command makes a recommendation to the President. Once the highest ranking administrator in the employee’s chain of command has made a recommendation, the employee will be notified in writing within five working days. (For complete information on grievance procedures, please see Section K of the Faculty/Staff Manual.)

REFERENCES

- University Grievance Officer website
- Summary of Employee Appointment Terms and Rights

POLICIES OF COLORADO STATE UNIVERSITY
Administrative Professionals and Non-Tenured Academic Faculty