

LOUISIANA COMMUNITY & TECHNICAL COLLEGE SYSTEM
Policy # 6.021

Title: LTC – TENURE RIGHTS/REMOVAL POLICY

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LTC Policy for Removal of Employees Who Transferred to The LCTCS from BESE, With Tenured Status

The following policy, adopted in accordance with the provisions of La. R.S. 17:542, shall only apply to employees of the Louisiana Technical College (“LTC”) who were engaged in the performance of the postsecondary vocational-technical school functions of the State Board of Elementary and Secondary Education (“BESE”) and the State Department of Education (“Department of Education”), prior to July 1, 1999, and who acquired tenure status, prior to July 1, 1999. The Board adopts the following policy to ensure that the referenced employees retain all property interests and due process interests acquired by them prior to their transfer to the jurisdiction of the Louisiana Community and Technical College System (“LCTCS”).

Definitions

As used in this policy, the below listed words and phrases shall have the following meaning:

The Board shall refer to the Board of Supervisors of the Louisiana Community and Technical College System.

Permanent employee or *employee* shall refer to former employees of BESE and/or the Department of Education who acquired tenure under the laws of the State of Louisiana and the policies of BESE, prior to July 1, 1999.

Cause for Removal

A permanent employee shall not be removed from a position of employment except upon a Determination, by the personnel committee of the Board, that the employee is guilty of the following:

1. Willful neglect of his/her duties;
2. Incompetency in the performance of his/her duties;
3. Dishonesty in the performance of his/her duties; or

4. Being a member of or having contributed to any group, organization, movement or corporation that is by law or injunction prohibited from operating in the State of Louisiana.

To meet the obligation placed upon it herein, the personnel committee is hereby authorized to establish a standing "LTC Tenure Hearing Subcommittee" for the purpose of conducting hearings on charges of removal and for the purpose of making recommendations, in writing, to the personnel committee for its final Determination. The Chair of the personnel committee shall be the presiding officer of the LTC Tenure Hearing Subcommittee. A final Determination that an employee is guilty of any of the above listed charges must receive the vote of a majority of the members of the full personnel committee.

Procedure for Removal

To effect the removal of a permanent employee, the Chancellor of the LTC shall, initially, furnish the employee with written and signed charges for removal from employment, in person or at the employees last known address. The written and signed charges shall state the cause(s) for removal and shall provide notice of the Chancellor's intent to recommend to the Board that the employee be removed from employment with the LTC. The notice shall additionally provide the bases of the charges against the employee with sufficient specificity to permit him/her to present a defense against the claims; shall inform the employee of his right to appear at a hearing before the personnel committee of the Board, or a subcommittee thereof, to defend against the charges, with witnesses in his behalf and with counsel of his/her selection; shall inform the employee of his/her right to designate whether the hearing is to be private or public; and shall, when possible, inform the employee of the date, time and place of the hearing. An updated copy of this Board policy should be attached to all written and signed charges for removal and notice of recommendations for removal issued hereunder.

In no event shall an employee be subject to a hearing on charges of removal without prior notice, nor shall an employee be provided with written and signed charges and notice of recommendation for removal in less than thirty (30) days in advance of the scheduled hearing.

If the Chancellor determines that the best interest of the LTC is served by removing the employee from his/her employment duties following notice of the charge of removal, he may, after receiving the approval of the President of the Louisiana Community and Technical College System ("the President") and notification to the Board, place the employee on leave, with or without pay, pending the resolution of the matter by the personnel committee.

At least thirty (30) days in advance of the date of the hearing, the Chancellor shall furnish the President and the Chairman of the Board with the following:

1. A copy of the written charges.
2. A list of the names and last known addresses of all witnesses the personnel committee may or will use at the hearing.
3. A copy of all documents the personnel committee will or may introduce during the course of the hearing.

The Chairman of the Board shall immediately forward the information provided in accordance with this Paragraph to the Chair of the personnel committee for action thereon. All information provided for use in the hearing shall be maintained as confidential documents, throughout the chain of custody, to insure the integrity of the hearing process; provided that, nothing contained herein shall be used to deny the employee access to information customarily available through discovery under the rules applicable to civil matters in the courts of this State.

At least fifteen (15) days in advance of the date of the hearing, the employee shall furnish to the Chancellor the following:

1. A list of the names and addresses of all witnesses the employee may or will use at the hearing.
2. A copy of all documents the employee will or may introduce during the course of the hearing.

The Chancellor shall immediately forward the information provided in accordance with this Paragraph to the Chair of the personnel committee for action thereon. All information provided for use in the hearing shall be maintained as confidential documents, throughout the chain of custody, to insure the integrity of the hearing process; provided that, nothing contained herein shall be used to deny the employee access to information customarily available through discovery under the rules applicable to civil matters in the courts of this State.

For the purpose of conducting the hearings authorized under this policy, the personnel committee, or a subcommittee thereof, shall have the power to administer oaths and affirmations and the power to issue subpoenas in the name of the State of Louisiana to compel the attendance of witnesses and the production of documentary evidence. All subpoenas issued in accordance with this policy shall be served by the sheriff or any deputy of the parish to which the same is directed; and such sheriff or deputy shall not be entitled to a fee for serving such subpoenas.

In the event that any person fails to obey a subpoena issued under this policy, any district court of this state within the jurisdiction of which the hearing is held or within the jurisdiction of which the said person is found or resides, upon application by the Board or its representatives, shall have the power to compel such person to appear before the committee and to give testimony or produce evidence as ordered. Any failure to obey such an order of the court may be punished by the court issuing the same as a contempt thereof.

The LTC Tenure Hearing Subcommittee may admit and give probative effect to evidence which possesses probative value commonly accepted by reasonably prudent men in the conduct of their affairs. The subcommittee may exclude incompetent, irrelevant, immaterial, and unduly repetitious evidence. Objections to evidentiary offers may be made and shall be noted in the record. All evidence, including records and documents in the possession of the LTC of which it desires to avail itself, shall be offered and made a part of the record, and all such documentary evidence may be received in the form of copies or excerpts.

In order to insure that an employee who is the subject of a tenure removal hearing has a fair opportunity to present all evidence and witnesses in his defense, the LTC Tenure Hearing

Subcommittee is authorized to schedule hearings in the location of the employee's primary work station.

Removal

If a permanent employee is found guilty by the personnel committee, after a due and legal hearing as provided herein, on charges, as directed herein, the employee shall be ordered removed from employment with the LTC or otherwise disciplined by the personnel committee, effective the date of the determination. The personnel committee shall submit its determination and order to the Board for ratification at its next regularly scheduled meeting. The Board shall ratify or reject the final determination of the personnel committee. In no event shall the employee be entitled to a full rehearing before the Board.

Appeal of Determination

The employee may, not more than one year from the date of the personnel committee's Determination, petition a court of competent jurisdiction for a full hearing to review the action of the personnel committee, and the court shall have jurisdiction to affirm or reverse the action of the personnel committee in the matter. If the Determination of the personnel committee is reversed by the court and the employee is ordered reinstated and restored to duty, the employee shall be entitled to full pay for any loss of time or salary he may have sustained by reason of the action of the personnel committee.