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Chapter: Personnel

Modification No. 002

Subject: **Changes in Employee Status**

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- I. Montgomery College values the pursuit of career mobility and encourages employees who express an interest, and have the abilities, to pursue internal opportunities to foster their career development.
- II. The College also recognizes that a variety of personnel actions regarding changes in employee status are required to carry out the day-to-day functions of the College to remain agile and flexible, while being fiscally responsible and respecting the need for equity and inclusion.
- III. It is the policy of the Board of Trustees that the President is authorized to take any and all personnel actions deemed necessary, consistent with Board policy and appropriate law, including but not limited to the right to abolish or eliminate positions, reassign employees, transfer employees, reduce staff, modify salaries and reclassify positions.
- IV. The Board of Trustees retains the right to review and approve the addition of any permanent positions to the College's total personnel complement and retains the right to mandate personnel actions in unusual circumstances where the President does not take personnel actions necessary and appropriate in light of serious fiscal constraints.
- II. The President is authorized to establish procedures to implement this policy.

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Board Approval: September 21, 1987; June 25, 2018.

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I. Matters Related to Administrator Status

A. Academic Rank

1. A faculty member who is appointed to an administrative position from the faculty of the College shall retain academic rank as a member of the faculty of Montgomery College.
2. An administrator may qualify to teach or may offer prior teaching and relevant preparation and experience for appropriate consideration and become eligible for academic rank in accordance with College policies and procedures regarding academic rank.

B. Waiver of Tenure

1. General: Except as stated below, Administrators waive any right to tenure in any position at the College and are not deemed to be granted continuing tenure or similar status.
2. Exception: If a person who qualified for and was granted academic tenure as a member of the faculty of Montgomery College is appointed to an administrative staff position, that person shall continue to retain tenure as a faculty member only. That person shall not be deemed to have been granted continuing tenure or similar status in an administrative position. If that person is subsequently reassigned to a faculty position, he/she will continue to retain the faculty tenure that was previously granted.

II. Changes in Administrator Status

A. Reassignment

1. The President may reassign an Administrator at any time to a position for which the person is qualified. Any reassignment shall be in the sole discretion of the President. In the event of reassignment, the terms and conditions of employment governing the position to which the administrator has been reassigned, including but not limited to salary pay range, shall apply.
2. The reassignment shall not result in a salary reduction during the fiscal year in which the reassignment occurs unless the reassignment is based on lack of funding or economic or financial difficulties.

B. Abolishment of Administrator Positions

1. Lack of Funding and/or Economic or Financial Difficulties
  - a. The President may abolish an Administrator position at any time

based on lack of funding and/or economic difficulties. The employment of an Administrator may be terminated at any time based on economic difficulties, including but not limited to lack of funding. Such abolishment and/or termination shall be in the sole discretion of the President.

- b. In the event that the President deems it necessary to abolish an Administrator position and/or terminate the employment of an Administrator based on lack of funding or economic difficulties, the President will notify the affected employee in writing that the position is being abolished and/or that the Administrator's employment is being terminated, state the effective date of the action(s) and the reason for such termination. In the event of termination under this provision, an Administrator will be given at least a minimum of 60-days notice.
- c. If economic or financial difficulties result in termination of an Administrator, the affected employee will be given consideration for other vacant positions for which the Administrator may be qualified.

2. Reorganization

- a. If the functions of an Administrator position change substantially or if there is no longer a need for an Administrator position as a result of changes in the organization or operation of the College, an Administrator position may be reclassified or abolished by the President. Such abolishment or reclassification shall be in the sole discretion of the President.
- b. If the reorganization results in abolishment of an Administrator position, the incumbent of any such position will be notified in writing that the Administrator position is being abolished and the effective date of the action. The affected Administrator will be given appropriate consideration for other vacant positions for which he/she may be qualified. In such circumstances, the affected administrative staff employee shall be given at least sixty (60) calendar days notice of the effective date of the abolishment.
- c. If the reorganization results in reclassification of an Administrator position, the following procedures will apply.
  - (1) The incumbent of any such position will be notified in writing that the Administrator position is being reclassified and the effective date of the action.
  - (2) If the incumbent is qualified for the reclassified position, the incumbent may be reassigned to that position.
  - (3) If the incumbent is not being reassigned, he/she will be given appropriate consideration for other vacant positions for which the Administrator may be qualified. If

the reclassification results in termination of employment notice will be given at least sixty (60) calendar days before the effective date of such termination.

III. Administrative Associate Assignments

A. General

1. Administrative Associate assignments provide professional development opportunities for full-time faculty, part-time faculty, and regular staff, depending on the availability of appropriate funding sources. These assignments allow full-time faculty and staff members to temporarily perform specific administrative projects that make use of special employee skills and talents on an alternate time basis.
2. Administrative Associate assignments may be full-time or part-time.

B. Requests

1. Each College administrative office may request the assistance of an Administrative Associate, within the parameters of the College planning and budgeting process, by submitting a memorandum through appropriate channels. The memorandum will outline the following:
  - a. Description and objectives of the project;
  - b. Justification for using faculty/staff expertise and skills required;
  - c. The position number and supervisor for the position;
  - d. The coverage plan for the individual if that individual is leaving an existing position at the College to serve as the Administrative Associate; and
  - e. Estimated time support required.
2. The office making the request will include the project within its unit plan.

C. Applications

Each employee interested in an advertised administrative associate assignment will submit in writing to the appropriate administrator a request to be considered for the assignment. The request will include:

1. Qualifications for the specific assignment.
2. Specific reasons for desiring the administrative associate assignment.
3. Approval of current supervisor.

D. Selection

The responsible administrator will interview all qualified applicants. The administrator shall select an associate keeping in mind the objectives to be accomplished; qualifications of the applicants; and specialized past experience that may be of benefit in meeting the specific objectives within a time limit important to a particular assignment. It is also important to recognize that the

selection of qualified employees from underrepresented groups may assist the College in meeting its affirmative action goals. The selection of employees for administrative associate assignments must be made well in advance of an academic semester to allow for selection of qualified replacements.

E. Evaluation

At the beginning of each assignment the administrator and the associate will establish specific goals and objectives. Within one month after termination of the assignment, the associate will submit a self-evaluation and an evaluation of the assignment to the responsible administrator with a copy to the appropriate Senior Vice President. A performance evaluation of the employee will be forwarded by the responsible administrator to the appropriate provost/supervisor upon request.

IV. Changes in Staff Employee Status

A. Employee Transfers and Reassignment

The College values professional development, and encourages staff and faculty to identify and pursue other positions within the College that will add to their potential growth. Moreover, as the needs of the College evolve, the College may need to reallocate or reassign staff to other positions, departments or locations to address those changing needs. Reassignment to a different campus or location is not considered a change in status and is not appealable. The College's ability to quickly respond to our students' rapidly changing needs is crucial to our students' success. The College is committed to a level of agility that is responsive to our students, and College employees understand that duties and locations of their jobs may change according to these needs.

1. Staff Transfer

- a. Employees who have successfully completed a probationary period, if applicable, may apply to any vacant position. Any such vacant position will need to have appropriate funding prior to finalizing any transfer.
- b. An employee or supervisor may identify an opportunity for a lateral move, where an employee transfers from one position to another in the same compensation grade. This type of lateral transfer may be made if the current and receiving supervisors and the employee agree, the employee meets the requirements of the position, and the transfer is approved by the chief human resource officer or designee. In cases where transfers are approved for a position with an ongoing recruitment effort, the hiring supervisor will notify the relevant human resources staff.

2. Staff Reassignment

- a. Upon recommendation of the employee's supervisor and in consultation with the receiving supervisor and the Office of Human Resources, the College may transfer an employee between similar positions without the employee's consent when

such transfer is deemed to be in the best interest of the College.

- b. Notification of a reassignment shall be made in writing by the employee/labor relations administrator, or designee, to the affected employee at least two weeks prior to the effective date of transfer. The notification shall contain (i) the reasons for the transfer, (ii) whether there will be any material change in the employee's status, including but not limited to a change in shift, wages, location, etc., and (iii) any appeal rights.
  - c. An employee having been notified of a pending reassignment may appeal such reassignment to the chief human resources officer within five (5) working days of receipt of such notification. The appeal should state the reason(s) why such reassignment would not be in the best interest of the College. The chief human resources officer, or designee, may uphold, modify, or rescind the reassignment. The decision of the chief human resources officer, or designee, shall be final.
  - d. An employee who remains in the same position but is reassigned to a different campus or location is not considered to have a change in status, and thus the reassignment is not appealable.
  - e. Temporary Reassignments. An employee may be temporarily reassigned to another position, if qualified, or another College location, on a temporary basis, in the best interest of the College. Such a reassignment must last fewer than six months, and shall be subject to an additional one-time renewal of no more than five months. Temporary reassignments shall be approved by the chief human resource officer or designee. An employee shall receive written notice at least two weeks in advance of the effective date of the temporary reassignment. Temporary reassignments are not appealable.
3. Retention of Service Credit. An employee in good standing who is transferred pursuant to this procedure shall retain the service time from the employee's former position for credit toward the award of an annual salary adjustment.
  4. Rights of Transferred Employee. If a staff employee fails to perform satisfactorily the duties and responsibilities of the position to which he or she was transferred (except for reasons that warrant disciplinary action), an effort will be made to place the employee in a comparable vacant position if possible pursuant to College Policy and Procedure 34003- Probationary and Regular Status for Staff Employees.
  5. A temporary assignment or reassignment of duties does not constitute a transfer of any kind and is not appealable.
- B. Promotion of Staff Employees
1. Promotion of staff employees is defined as:

- a. an appointment to a position that has a higher grade; or
- b. the assignment of higher level duties and responsibilities.

The reallocation of an existing job class to a higher grade is not considered a promotion. See 35001/35001CP Compensation Programs.

2. Conditions for Promotion

- a. All promotions should be made in consultation with human resources staff and/or the appropriate administrator(s) for the unit.
- b. Promotions in the College may occur in a variety of ways, including but not limited to:
  - 1) Promotional vacancies
  - 2) Internal searches
  - 3) External searches
  - 4) Managerial discretion
  - 5) Completion of advanced degrees
  - 6) Substantial service and contribution to the College
- c. The above list of factors may give rise to the opportunity for a promotion, but do not guarantee such promotion will be available or offered. Other factors, such as budgetary constraints, must also be considered in offering a promotion.
- d. Every effort shall be made to ensure that an adequate pool of individuals is identified and considered for promotion at any level.
- e. Before a promotion may take effect, the job description for the position must be reviewed and approved by appropriate staff in the Office of Human Resources, and the promoted employee must qualify for the position.

C. Demotion of Staff Employees

- 1. Demotion is the movement of an employee from one position to another position at a lower grade, and may be voluntary or involuntary. Demotions resulting from disciplinary action are addressed in 34002CP-Disciplinary Action and Suspension. Reductions in grade as a result of the maintenance of the classification system are not demotions.
- 2. Voluntary Demotion – A voluntary demotion to a lower level position will be accompanied by a commensurate salary reduction. However, no employee may receive a salary that is above the maximum for the employee's new grade unless special circumstances clearly indicate such reduction is not in the College's best interest. The decision in this matter shall be made by the chief human resources officer, or designee. The chief human resources officer shall notify the employee in writing of the effects of the demotion on the employee's status.

3. Demotion Due to Elimination of Position – A demotion due to the elimination of a position is an involuntary demotion that is non-disciplinary. The College may involuntarily demote an employee to a vacant position if the College has decided to eliminate the employee’s incumbent position. The salary of an employee, who is demoted due to a position elimination may be reduced when the employee is assigned to a lower grade should his or her salary be above the maximum of the pay grade for the new position.

3. Appeals from Demotion

- a. Except as stated in subparagraph (c) below, a probationary-status employee cannot appeal a demotion.
- b. A regular status employee who has been demoted may appeal such demotion to the chief human resources officer within five (5) working days of the receipt of the notification of the action.
- c. A staff employee who is in a probationary-status due to a promotion shall have the same appeal rights outlined in subparagraph (b) above.

V. Reduction-In- Force for Non-Bargaining Staff Employees

- A. A reduction-in-force (RIF) occurs when the College decides, as part of a single decision-making process, to eliminate at least two positions and terminate, demote, transfer, promote, or reassign the employment of the incumbents in those positions, because of financial exigency, decline in student enrollment, program change(s), or other reasons which will necessitate a reduction in staff.
- B. The chief human resources officer, after consultation with appropriate administrators, shall recommend a reduction-in- force and indicate the reasons therefore to the President, or designee. The recommendation should include the names and job titles of those employees whose positions are recommended for elimination.
- C. The President, or designee, may approve or disapprove the recommendation. If the President, or designee, approves the recommendation, the chief human resources officer, or designee, shall notify the appropriate administrators and supervisors of the recommendation.

Before recommending layoffs, the chief human resources officer will consider whether the transfer of employees to other positions is in the best interest of the College. If the chief human resources officer determines layoffs are necessary and the President approves, seniority shall be among the determining factors between employees deemed to be of the same relative competence. To determine whether employees are of the same relative competence, performance evaluations will be consulted. If evaluations are not available for all employees in the job title and affected group, the supervisor must complete the evaluation as soon as is practicable. Length of service shall be among the factors between employees of the same relative competence. In no event shall an employee with regular status be terminated and an employee with temporary or



probationary status be retained in the same job title.

- D. The chief human resources officer shall notify the employee(s) in writing of the reasons for the reduction-in-force and whether there are opportunities for reemployment or continued employment, and appeal procedures. Each employee shall be given at least ninety (90) calendar days, or the applicable period required by law, between notification and implementation of the RIF. Human resources representatives shall also meet with the affected employees to discuss the recommendation and options for continued employment (e.g., transfer, demotion, or promotion) and reemployment.

E. Appeals

1. Determinations made in the course of a reduction-in-force proceeding are not subject to the grievance procedure. Employment decisions made as part of a RIF, as described in this procedure, are not generally appealable. However, an employee whose employment status changes due to a reduction-in-force is permitted to submit an appeal solely regarding the RIF procedures set forth above. The appeal must show a clear and significant deviation from the procedures that likely would have resulted in a different outcome.
2. The appeal must be made in writing to the chief human resources officer, or designee, within five (5) working days after receiving the written notification of change in employment status. The appeal must state the clear and significant deviation(s) from this procedure, and how the different outcome(s) were likely had the procedure been followed.
3. The chief human resources officer, or designee, shall within ten (10) working days review the procedure followed in the RIF that is subject to the appeal. The chief human resources officer, or designee, shall provide the appealing employee a written response containing the findings.
4. If the appeal is resolved in favor of the employee, the chief human resources officer, or designee, shall fashion an appropriate remedy. If the appeal is resolved against the employee, the change in employment status shall be effective no less than two weeks from the date of written notification of final appeal decision.

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