



## **416 POLICY – Evidentiary Hearings**

### **416.1 Statement of Policy**

All evidentiary hearings are to be conducted in such a manner as to afford the participating parties appropriate due process. This applies to evidentiary hearings that are conducted pursuant to the Employee Due Process policy, the Reduction in Force policy, and any other policy that provides for such a hearing. Evidentiary hearing procedures are published in the Procedures section of the Policies and Procedures Manual.

Adopted March 1995  
Revised February 2001



## **416 PROCEDURE - Evidentiary Hearings**

### **416.1:1 Notice by Employee to Appeal Decision and Request a Hearing**

The employee may present a written appeal to the department head or equivalent within five (5) working days from the date the adverse action was imposed. The appeal shall contain a clear and concise statement of why the adverse action is inappropriate and must request a hearing.

### **416.1:2 Notice by Employer of Evidentiary Hearing**

Once the Department Head or equivalent receives the notice of appeal and request for hearing from the employee, the President of the College must be immediately notified so that a Due Process Panel and Hearing Officer can be assembled.

The Due Process Panel shall be appointed by the President within three (3) working days of the receipt of the employee's formal request for an evidentiary hearing. The Due Process Panel will consist of three (3) members and one (1) Hearing Officer that shall not have any personal interest or be directly or indirectly involved in the matters under consideration.

1. The Due Process Panel will hear the witnesses and review the exhibits to determine the final decision of the hearing.
2. The Hearing Officer shall rule on all procedural and evidentiary matters which arise in the course of, or in connection with, the hearing. The Hearing Officer shall have no authority to decide the outcome of the hearing.

Within five (5) working days of the President's appointment of the due process panel, the Hearing Officer shall schedule the hearing and give notice of the hearing date to the effected Employee and Department Head or equivalent. The hearing date shall be set no later than fifteen (15) working days from the date of the original hearing request by the employee.

### **416.1:3 Witnesses and Exhibits**

Two (2) business days prior to the hearing, the parties shall exchange a list of the witnesses to be called at the hearing and a list of the exhibits to be used at the hearing. Only the witnesses on the exchanged lists shall be allowed to testify at the hearing, and only the exhibits on the exchanged lists shall be accepted as evidence at the hearing.



Legal counsel is not required to be at the hearing. However, either or both parties may have such representation, provided notice is given to the other party at least two (2) business days prior to the hearing.

#### **416.1:4 Request for Continuance of Hearing**

Any request for continuance/postponement of a hearing must be made in writing at least forty-eight (48) hours in advance of the scheduled hearing. The request shall specify the reasons for the request and shall be submitted to the Hearing Officer with a copy provided to the other party. Continuances shall not be granted except upon a showing of good cause.

#### **416.1:5 Due Process Hearing**

The Due Process Hearing shall be closed to the public.

The hearing shall be audio recorded, and a duplicate of the audio recording shall be made available to the involved parties upon request.

The hearing should be conducted in such a manner to allow complete disclosure of all pertinent matters. However, the Hearing Officer may impose reasonable time constraints and limitations to avoid unnecessary duplication and delay.

#### **416.1:6 Order of Hearing**

- A. Statement of supervisor or administrator.
- B. Statement of employee.
- C. Presentation of witnesses and evidence by supervisor or administrator.
- D. Presentation of witnesses and evidence by employee.
- E. Rebuttal evidence, as allowed by Hearing Officer.
- F. Closing statement/summation of supervisor or administrator. Shall not exceed 15 minutes.
- G. Closing statement/summation of employee. Shall not exceed 15 minutes.
- H. In hearings before the Board of Regents:
  1. Motion to adjourn to executive session.
  2. Executive session.
  3. Deliberation.
  4. Return to open session.
  5. Motion and vote on any action.



- I. In hearings before the Hearing Officer:
  - 1. Motion to adjourn to closed session with the Due Process Panel Only.
  - 2. Closed Session.
  - 3. Deliberation.
  - 4. Return to open session.
  - 5. Announcement of decision on any action.
- J. Adjournment of hearing.

**416.1:7 Final Decision**

The Due Process Panel's decision will be the final decision of the College.

Adopted March 1995  
Revised February 2011  
Revised April 2019