

Procedure: 4.1.6p **NEW** (separated from policy) Employment Contracts

Revised:

Last Reviewed:

Adopted: April 16, 2019 (separated from policy)



I. PURPOSE:

The purpose of this procedure is to establish provisions for the establishment and termination of employment contracts issued by the technical colleges.

II. RELATED AUTHORITY:

O.C.G.A. § 20-4-11 – Powers of the Board
O.C.G.A. § 20-4-14 – TCSG Powers and Duties
TCSG State Board Policy 4.1.6

III. APPLICABILITY:

All work units and technical colleges associated with the Technical College System of Georgia.

IV. DEFINITIONS: NA

V. ATTACHMENTS:

Attachment: 4.1.6p.a1. Employment Contract
Attachment: 4.1.6p.a2. Standard Non-Renewal Letter

VI. PROCEDURE:

- A. The president has the exclusive authority to issue an employment contract for college employees.
- B. Presidents of colleges who wish to transition to the use of employment contracts will notify TCSG's General Counsel of their intent at least thirty (30) days prior to the intended effective date of the contracts.
- C. Colleges will use the contract templates attached to this procedure; any modifications must be approved by the Office of Legal Services prior to issuance to employees.
- D. Should the transition of a current employee to an employment contract result in a reduction in schedule and/or compensation or a change in category of employment, the procedure regarding Reductions in Force will apply. This provision does not apply when an employee has voluntarily requested in writing such a reduction or change in category. Any such request must be maintained in the personnel file.
- E. The period of an employment contract may not exceed a twelve-month period and should not cross fiscal years unless the college has certified that funds are available.
- F. The performance, attendance or conduct issues of employees who have been issued a contract will be addressed pursuant to the provisions of the Positive Discipline procedure.

- G. Individuals whose contracts are being terminated by the president prior to the end of the contract term must be notified in writing of the reasons and provided an opportunity to respond pursuant to the procedures applicable to the reasons for the termination.
- H. Employees who have been issued a contract are subject to the Positive Discipline Process but cannot be considered probationary employees as that term is described in the procedure.
 - I. The benefits, terms, and conditions of employment for those employees that have been issued a contract will be governed by state and federal laws, rules and regulations as well as State Board policies and TCSG procedures.
 - J. Individuals who have been issued an employment contract are not eligible for full-time employment at another college during the term of that contract without the express, written consent to terminate the contract by the president who issued the contract.
 - K. Employees whose contract will not be renewed shall be notified in writing no later than May 31st of the fiscal year. Contracts that expire on a date other than the end of the fiscal year may specify other notice provisions as long as an employee is given at least two weeks (14 calendar days) written notice. Extending the date of a contract's scheduled expiration in order to give the required notice will satisfy these notice periods.
 - L. Any decision for non-renewal or termination of an employment contract must be based on legitimate non-discriminatory and non-retaliatory business reasons.
- M. Colleges may designate as ineligible for re-hire those employees who terminate a contract prior to the end of the contract term when the early termination negatively affects the colleges' ability to carry out its mission.

VII. RECORD RETENTION:

All employment-related documents and/or employee acknowledgement statements will be maintained in an employee's official personnel file or may be maintained and retained in an electronic format consistent with the State of Georgia Archive's Retention Schedule for State Government Paper and Electronic Records.

Contract of Employment

This agreement is made and entered into this _____ day of _____ by and between the _____ Technical College (hereinafter "Employer" or "College") and _____ (hereinafter "Employee") for employment.

WHEREAS, Employer is responsible for providing high quality postsecondary technical and adult literacy education programs, services and activities which are easily accessible by Georgia citizens;

WHEREAS, the College is a unit of the Technical College System of Georgia (hereinafter the "System Office" or "TCSG") and pursuant to the Technical College System of Georgia State Board policies has the authority to appoint College employees;

NOW THEREFORE, FOR AND IN CONSIDERATION of the mutual promises, covenants and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Employer and Employee agree as follows:

I. Employment: The Employer has offered employment and the Employee has accepted employment for a _____ month period beginning _____ and ending _____ at an annual salary of _____. This salary shall be paid monthly or semi-monthly at a rate of \$_____ for the period _____ through _____. Employee understands and agrees that there is no claim for future employment beyond the term of this contract.

II. Salary: The annual salary specified in Section I above shall be subject to adjustment pursuant to State Board policies applicable to the classification and type of service to which the Employee has been assigned without obligation by the Employer to make up any deficit beyond such sum as shall be uniformly applicable to all employees in the same category, classification, type, and length of service, as determined by any state or federal law or rule or regulations now or thereafter in operation regarding the financing of public technical or adult education. Said salary shall be subject to adjustment on a pro rata basis for the number of scheduled work hour(s)/day(s) the Employee does not work during the contract period when: the Employee is absent and his/her leave balance(s) is/are exhausted; the Employee is absent and has not sought permission to use accrued leave or permission was sought and denied; or, the Employee requests placement on leave without pay during the contract period. Said salary shall be subject to adjustment on a pro-rata basis for the number of scheduled hour(s)/day(s) the Employee does not work due to his/her resignation prior to the end of the contract period or in the event the Employee is released from employment during the contract period pursuant to applicable State Board policies and TCSG procedures.

III. Scope of Contract: This contract covers professional and instructional staff work assignments, the latter of which also includes teaching wherever and whenever assigned. During the term of this contract, the College President may determine that it is in the best interest of the College to change the Employee's work location, work hours, job title and/or

job description. Employee understands and agrees that any such change that does not result in a change in compensation shall be permissible under the terms of this contract.

IV. Employee Obligations and Responsibilities:

A. If employed as instructional staff, Employee agrees to observe the curriculum and standards promulgated by the State Board. Employee further agrees to abide by all state and federal laws. Employee agrees to obey such standards, policies, procedures, rules and regulations as may be put in force, from time to time, by appropriate lawful actions of the College, TCSG or the State Board. Employee acknowledges that he or she has read the policies and procedures of the Technical College System of Georgia at tcsq.edu (and employee handbook if applicable) and that he/she understands such policies, and that he/she agrees to be bound by the terms of such policies and procedures. Employee further agrees to execute and subscribe to such oath or affirmation of allegiance to the Constitutions of the United States and the State of Georgia as may be required or permitted by law. Employee further acknowledges that he or she is aware that Employer is a Drug-Free Workplace and Drug-Free Campus.

B. Employee agrees to furnish to the Employer in writing and under oath such information (including medical information) as the Employer may reasonably and legally request from time to time pertaining to the Employee's competence and fitness to perform his or her assigned duties. If Employer requests specific medical information, then Employee shall have the option to be examined by a health care professional of his or her own choice, approved in advance by Employer, or by a health care professional selected by Employer. In the event that the health care professional selected by Employee is not approved by Employer, then Employer shall select a health care professional. In this event, Employer shall pay the costs of such medical examination if such costs have been approved by Employer prior to their being incurred.

V. Termination of Contract

A. Termination Due to Lack of Funds: Notwithstanding any other provision of this contract, in the event any of the sources of funding for this contract (including, but not limited to, federal and/or state appropriations or grants) is reduced or discontinued, Employer shall have the option, in its sole discretion, to terminate its obligations under this contract in whole or in part, such termination to be effective as of the date specified in written notice to the Employee.

B. Termination by Employer: This contract shall not be modified or terminated by Employer except as provided for by the policies and procedures of the State Board and TCSG, as amended from time to time, which are incorporated by reference into this contract as if fully written herein.

C. Termination by Employee: This contract shall not be terminated by Employee without the written consent of Employer. In the event Employee does terminate this contract, whether by formal notice or by willful failure or refusal to continue duties without written consent, the Employer may pursue all legal and equitable remedies for breach of contract including but not limited to actual damages for failure to perform. Actual damages include, but are not limited to, cost of hiring replacement employee(s), advertising costs, court costs, and

attorney's fees. In addition, Employer may bar Employee's eligibility for future employment at another technical college or the System Office.

VI. Employee Certification: Employee hereby certifies that he or she is not under contract to any local board of education, technical college, college or university of this or any other state. Employee further certifies that he or she is not under contract to the System Office nor will he or she be employed by any other state agency during this contract period. Employee further certifies that he or she is not employed privately in any capacity that conflicts with his or her duties to the College. Exceptions to this provision may be approved by the College President in accordance with authority delegated by the Commissioner and as provided by Georgia law, O.C.G.A. Section 45-10-25 (a)(8).

VII. Work for Hire Acknowledgement Without limiting in any way the effect of the work for hire provisions of the United States Copyright Act, 17 U.S.C. §§ 101, et seq., the parties to this Agreement hereby acknowledge that all works prepared by or contributed to by Employee by reason of or in connection with this Agreement, whether or not such works are provided by Employee to Employer, and all copies and versions thereof (hereinafter "Works"), will be prepared by or contributed to by Employee for, at the instigation and under the direction of Employer, and as an "employee" of "employer" within the "scope of employment" of Employee, and are to be considered by both parties as "works for hire." As used in this acknowledgement, all quoted terms are used as they are in the United States Copyright Act, 17 U.S.C. §§ 101, et seq., and as they have been interpreted by the courts of the United States. As a result, Employer, as the author of all such works, owns full and exclusive rights to the works in all media now in existence and all media now known or hereinafter created.

VIII. Assignment Without curtailing or limiting the aforesaid acknowledgment, Employee hereby assigns, grants and delivers (and agrees further to assign, grant and deliver) exclusively unto Employer all rights, titles and interests of every kind and nature whatsoever in and to all Works, including, but not limited to, all copyrights therein and thereto and all renewals thereof. Employee further agrees to execute and deliver to Employer, its successors and assigns, such other and further instruments and documents as Employer reasonably may request for the purpose of establishing, evidencing and enforcing or defending its complete, exclusive, perpetual and worldwide ownership of all rights, titles and interests of every kind and nature whatsoever, including all copyrights, in and to the Works, and Employee hereby constitutes and appoints Employer, as Employee's agent and attorney-in-fact, with full power of substitution, to execute and deliver such documents or instruments as Employee may fail or refuse to execute and deliver, this power and agency being coupled with an interest and being irrevocable.

IX. Miscellaneous:

- A. Entire Agreement: This Contract, together with any documents incorporated herein, constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior negotiations, representations or contracts.
- B. Severability: Any section, subsection, paragraph, term, condition or provision or other part of this Contract which is judged, held, found or declared to be voidable, void, invalid, illegal

or otherwise not fully enforceable shall not affect any other part of this Contract, and the remainder of this Contract shall continue to be of full force and effect as set out herein.

C. Waiver: The waiver by Employer of any breach of any provision contained in this Contract shall not be deemed to be a waiver of such provision on any subsequent breach of the same or of any other provision contained in this Contract, and shall not establish a course of performance between the parties contradictory to the terms hereof.

D. Amendments: No amendment of this Contract, or any of the terms or provisions hereof, shall be binding upon either party except by a writing executed by both parties.

E. Governing Law: This contract shall be governed by the laws of the State of Georgia.

IN WITNESS WHEREOF, the parties have executed this Contract of Employment in duplicate as of the day and year written above.

Employee's name (printed): _____

Employee's signature: _____

Employee's home address _____

_____ TECHNICAL COLLEGE

By: _____
College President

*Attachment 4.1.6p.a1.
Template revised April 16, 2019*

Standard Non-Renewal Letter

(Date)

CERTIFIED MAIL, RETURN RECEIPT REQUESTED,
OR HAND DELIVERY BEFORE MAY 31st.

(Name of Employee)
(Home Address
of Employee)

Dear (Name of Employee):

As you are aware from our recent conversation, _____ Technical College will not be issuing you a contract for next fiscal year that begins [DATE]. Your employment at the college will accordingly end on [DATE].

Coverage for your health insurance will expire on [DATE]. The state health benefit office will contact you about continuing your health insurance under COBRA. Coverage for other insurance that you may have, such as dental, life, accidental death and dismemberment (AD&D) or dependent life, will also expire on [DATE]. Please call the Flexible Benefit Plan at 404-656-6405 if you are interested in COBRA for your dental insurance. If you are interested in converting your life or AD & D insurance, you may call UNUM Insurance Company directly at 1-800-313-5406.

If you are eligible to withdraw your retirement contributions and would like to do so, please complete and return the enclosed Refund of Retirement Contributions form to _____. If you have any questions regarding this refund or other retirement issues, you may call the Employees Retirement System at 404-352-6400 or the Teachers Retirement System at 404-352-6500.

(The last paragraph should say something nice about the employee's contribution at the college. An example is given.) Thank you for the contributions you have made to the college and to our students in the _____ program. If I can ever be of any assistance to you, please do not hesitate to contact me.

Sincerely,

(Name of President)
President

Enclosure: Refund of Retirement Contributions form