800 General Personnel

Approved by President _________________________________

Sidney A. McPhee, President

Effective Date: June 5, 2017, 2021

Responsible Division: Business and Finance

Responsible Office: Human Resource Services

Responsible Officer: Assistant Vice President, Human Resource Services

I. Purpose

This policy defines authority and delegation of authority for appointment, change in status, compensation, and termination of all categories of employees at Middle Tennessee State University (MTSU or University).

II. Definitions

A. Promotion. An increase in position or rank brought about by means of assuming the duties of a vacant position of higher classification or assuming duties which warrant a reclassification of the present position to one at a higher level.

B. Demotion. A decrease in position or rank brought about by means of assuming the duties of a vacant position of lower classification, the realignment of duties presently performed which warrant a reclassification of the present position to one at a lower level, or the assignment of a position at a lower classification subsequent to the disciplinary procedure or disqualification from present position based on inability to perform essential duties of the position.

C. Reclassification. When an employee’s duties and responsibilities change, which may include an appropriate salary adjustment.

D. Lateral Transfer. The assumption of duties of another position at the same level.

E. Immediate Family. Any of the following members of the employee's household at the time he/she reports for duty at his/her new official station: spouse, children (including stepchildren, adopted children, or foster children) unmarried and under twenty-one (21) years of age or physically or mentally incapable of supporting themselves regardless of age, or dependent parents of the employee and the employee's spouse.
III. Scope of Delegation

A. Appointments and terminations which require the prior approval of the President and the Board of Trustees (Board) include:

1. All Vice Presidents or other executives reporting directly to the President (academic, business, student affairs, etc.) including all interim appointments;

2. Chairs of Excellence, including interim appointments;

3. Any other positions which may be designated by the Board.

B. President

The Board delegates to the President the authority to appoint, determine the compensation and change of status of, and terminate employees at MTSU subject to the provisions of this and other relevant MTSU policies and the Board approved compensation plan.

The President may delegate the foregoing authority to a designated person(s) at MTSU provided that all appointments and compensation of faculty and administrative personnel shall be subject to the approval of the President. Subsequent references to the President include the President or designee.

The following delegation of authority has been made by the President:

The Vice Presidents and Provost shall have the authority to appoint, change the status of, and compensate employees within their divisions. Further, the Provost has designated the Vice Provost for Research and Dean of the College of Graduate Studies as the authority for the appointment, change of status, and compensation of Graduate Assistants within the division of Academic Affairs.

Notwithstanding any other policy or agreement, in the event of a severe state budget shortfall or state impoundment, the Board may give specific written authorization to the President upon his/her request, to reduce compensation across the board for the remainder of the fiscal year, to mandate furloughs without pay, and/or to reduce the amount of time to be worked. Such request may only be presented after the President has formed a committee composed of representatives of the various constituent groups on campus to provide advice in this situation. Any request submitted by the President shall include a description of the constituent groups represented on the President’s committee advising on the budget reduction process.
IV. Appointments

A. The President is authorized to appoint and employ personnel within the scope of delegation provided in Section III for positions which have been approved by the Board in an operating budget (work program).

B. New administrative positions shall not be established in MTSU’s administrative organization and no major change in the administrative organization of MTSU shall be made, unless approved by the Board.

C. The minimum qualifications for the appointment of faculty shall be the Minimum Rank Criteria for Professional Personnel in Instruction, Public Service, and Research set forth in Policy 205 Promotion of Tenured and Tenable Faculty, which is incorporated herein by reference. All part-time or temporary faculty must be appointed according to the provisions of MTSU Policy.

D. The minimum qualifications for the appointment of all personnel, other than faculty, shall be determined by the President based upon the duties and responsibilities of the position and shall be recorded and maintained by MTSU.

V. Nature of Appointments

A. Faculty shall be employed pursuant to the types of appointments specified in Policy 202 Faculty Definition, Roles, Responsibilities, and Appointment Types which are incorporated herein by reference.

B. Personnel other than tenured faculty shall be appointed to serve at the pleasure of the President.

C. All full-time personnel, including faculty, shall be required to devote a minimum of 37.5 hours per week to MTSU, and shall maintain appropriate office hours as determined by the President. The President is authorized to use flexibility, as appropriate, in determining the structure of the workweek for faculty to recognize variations from traditional instructional formats such as is afforded by online instruction, distance education, or other unique methods of instructional delivery. Calculation of the 37.5-hour week shall follow such standards as put in place by the President.

D. Within the requirement of a minimum of 37.5 hours per week, faculty shall be required to carry a full teaching load, which shall be fifteen (15) workload units (WU) credit hours per term or two hundred twenty-five (225) non-credit contact hours, or the equivalent per term, for undergraduate courses, twelve (12) credit hours, or the equivalent, per term for graduate courses, two hundred twenty-five (225) non-credit contact hours, or the equivalent per term. All equivalent teaching load activities shall be subject to prior review and approval by the President Provost.
E. In addition to the requirement of Section V.C. above, full-time exempt administrative personnel shall be required to devote sufficient time to complete their assigned duties and responsibilities. When administrative personnel are appointed on an academic year basis, such personnel shall be required to devote sufficient time to fully perform the administrative responsibilities for the academic year, including periods preceding or following the academic year.

F. Personnel who are appointed on an academic year basis shall be on duty for not less than nine (9) months, which shall commence from the time designated by the President prior to the University's first (1st) day of class for the fall term of each year through the time designated by the President at the end of the spring term, and shall be subject to call for duty during that period, regardless of whether classes are in session.

The President has designated the date of the general faculty meeting in the fall as the beginning of the duty period for faculty and the date of spring commencement as the ending of the duty period each year.

G. All employees, regardless of employment category, will be required to agree as a condition of employment to abide by the regulations of the Drug-Free Workplace Act as set forth in Policy 760 Drug-Free Workplace.

H. All candidates for regular part-time employment, full-time employment, and other designated positions are subject to a criminal background check as a condition of employment.

I. Pursuant to the federal Immigration Control and Reform Act of 1986, MTSU is required to verify that all newly hired employees present valid documentation verifying the employee’s identity and legal authorization to accept employment in the U.S. The Employment Eligibility Verification Form (I-9) is provided by the federal government for that purpose. All employees, regardless of employment category, are required to complete an I-9 at the time of hire.

J. All employees are required to abide by the provisions in Policy 816 Nepotism regarding direct supervisory line relationships.

VI. Compensation

A. The President is responsible for compliance with all federal and state laws and regulations and all MTSU policies and directives concerning compensation for employees. Compensation for employees shall be subject to limitations imposed by MTSU or the General Assembly.
B. All regular full-time salaried personnel, whether on an academic or fiscal year appointment, shall be paid twelve (12) monthly installments each year, provided that exceptions may be made upon termination or as approved by the President.

C. All full-time and part-time employees are required to participate in the automatic deposit program for direct deposit of their salaries. Direct deposit is also required for student workers on campus, as long as there is no charge to the student or unless exempted by Federal Work Study Guidelines.

D. Part-time instructional personnel shall be paid on the basis of the credit or non-credit hours taught pursuant to such guidelines and/or schedules as may be established by MTSU.

E. The President shall insure that all employees shall be paid equal wages or salaries for equal work in positions where the performance of which requires equal skill, effort, and responsibility and which are performed under similar working conditions, except where pay differentials are based upon: (a) market factors, (b) a merit or evaluation system, (c) length of service, or (d) any other proper, non-discriminatory basis. When any of the foregoing bases are relied upon to justify pay differentials for employees in similar positions as described above, the basis and the attendant circumstances shall be substantiated in writing and maintained by MTSU.

F. Overtime payments are available to employees not exempt from the Fair Labor Standards Act. The President is authorized to issue guidelines relative to payment of overtime and the rates.

G. Faculty members may be asked to temporarily assume administrative responsibilities which entail moving from an academic year to a fiscal year contract with the assignment of additional duties. This temporary appointment may be on a long-term or short-term basis but is still considered a temporary appointment subject to this policy. This does not apply when a faculty member is hired into a permanent administrative position such as a deanship, which requires a twelve (12)-month contract.

Temporary administrative responsibilities may necessitate the awarding of an administrative stipend in addition to the previously established salary. The stipend amount or any other understanding concerning compensation must be set out in a newly-executed contract. The contract (1) should include a statement that the stipend is awarded as compensation for the additional administrative responsibilities and will be removed at the time the administrative responsibilities end; or (2) should otherwise address how compensation would be affected at the end of an administrative appointment.

The awarding of an administrative stipend is an issue separate from that of conversion from an academic year to a fiscal year basis. When the conversion is to take place, the
salary will be converted from the academic year contract by adding twenty-five (25) percent and then adding any stipend amount determined necessary.

The following illustrates the procedure defined above. A faculty member making $20,000.00 on an academic contract is converted to a fiscal year contract at a salary of $25,000.00. In addition, a $1,500.00 administrative stipend is added and so indicated because of additional duties. The total amount of salary is then $26,500.00. At the time the faculty member serving as administrator returns to a faculty position on an academic year basis, the administrative stipend will end. The base faculty salary is then reduced to an academic year contract at a rate no less than eighty (80) percent of the fiscal year contract. MTSU may choose to exceed the eighty (80) percent number on the basis of comparable faculty salaries, including rank, merit, length of service, experience, degrees, and yearly percentage increase in salary.

In the case where the faculty member was already appointed to a permanent administrative position before filling an interim position and is returning to a teaching position, the above calculations shall be based on the permanent administrative position and not the interim salary.

VII. Changes of Status and Terminations

A. The President is authorized to approve changes of status (i.e., transfers, promotions, demotions, or other changes in duties or responsibilities) of personnel within the scope of the delegation provided for in Section III, provided that when a change of status would cause the employee to be within the scope of positions subject to approval of the Board, the change of status will be subject to the Board’s approval.

B. Promotion of Faculty. The promotion of faculty shall be subject to Policy 205 Promotion of Tenured and Tenurable Faculty.

C. Promotion of Non-Faculty. Promotion of personnel other than faculty shall be subject to Policy 812 Promotions of Classified, Executive, and Administrative Employees.

Promotions and transfers are an acceptable means of filling vacancies. However, such promotions and transfers must be achieved within the parameters of University affirmative action plans. In addition, any vacant position created by that promotion must be filled within the provisions of this policy and applicable standards.

D. Terminations and Transfers. The President is authorized to terminate and/or transfer all personnel within the scope of the delegation of authority provided for in Section III, provided that terminations of tenured faculty shall be pursuant to the provisions of Policy 204 Tenure.
E. Termination for Gross Misconduct. Gross misconduct may include, but is not necessarily limited to: any act or omission which may seriously disrupt or disturb the normal operation of the University; any work-related conduct which would subject the employee to criminal conviction; theft or dishonesty; gross insubordination or willful disregard of instructions; willful destruction of MTSU property; fraud or falsification of University records, including timesheets or other payroll documents; reporting for duty under the influence of intoxicants or ingesting or imbibing such during work hours; the illegal use, manufacture, possession, distribution, or dispensing of controlled substances or alcohol; disorderly conduct; fighting on University property; possession of weapons on University property in violation of Policy 705 Weapons on Campus; willful violation of safety rules; and/or such other similar acts involving intolerable behavior by the employee. In determining eligibility for unemployment compensation benefits, the definition of gross misconduct utilized by the Tennessee Department of Employment Security is not affected by the definition outlined in this paragraph.

In the case of gross misconduct, immediate disciplinary action, up to and including termination, should be taken. An employee suspected of theft of University property may not resign as an alternative to discharge after the investigation has been completed. Any exceptions to this requirement must be made by the President. If the employee resigns during the investigation, the employment records must reflect the situation at the date of resignation and the outcome of the investigation.

Refer to Policy 825 Leave Policies regarding the loss of unused leave if termination of employment is due to gross misconduct. Refer to T.C.A. §§ 8-35-124 and 8-50-807(d) for the loss of retirement benefits related to gross misconduct termination.

F. Absence from Duty. Any employee who is absent from duty for more than three (3) consecutive business days without giving prior written or electronic notice to the appointing authority or appropriate manager that specifies the reason for such absence and without securing permission to be on leave, or who fails to report for duty or to the immediate supervisor or the appointing authority within two (2) business days after the expiration of any authorized leave of absence, absent unusual circumstances beyond the control of the employee causing the employee’s absence or preventing the employee’s return, is considered as having resigned not in good standing.

VIII. Reduction in Force (RIF)

A. MTSU shall develop a consistent and equitable method of notifying and terminating faculty and non-faculty employees in the event that a reduction in force, reorganization, or elimination of any occupational classification within a unit becomes necessary.

B. The method should include a written rationale for the reduction, review of MTSU’s operations, identification of the functional area(s) affected, a review of the budgetary implications involved, and development of the specific written criteria to be used in
identifying the duties that will be reassigned and/or eliminated in the event of a reduction.

C. Only after specified functions/duties have been identified by unit heads and approved by the President does the review of individual personnel begin.

D. Unit heads, in consultation with Human Resource Services, will assess the specified areas and the employees in those areas in order to make recommendations to the President relative to the specific personnel changes to be made.

E. In making personnel recommendations to the President, the factors used in reaching the recommended decisions may include, but are not limited to:

1. Length of service in the position and/or length of service at MTSU;
2. Past written performance appraisals;
3. Functional needs of the unit; and
4. Qualifications needed to perform remaining duties of the affected units.

F. Prior to final decision by the President and notification to the employees and in consultation with the staff of University Counsel, the impact of the recommendations shall be considered in light of non-discriminatory requirements listed in Section IX of this policy.

In the event of one of the above actions, it is permissible to transfer qualified individuals to vacancies in other department/divisions.

G. Written notification to the affected employees must be given as far in advance of the effective date as possible.

H. Employees affected by the RIF must receive notification when vacancies occur for like positions at MTSU within twelve (12) months of the RIF.

IX. Non-Discrimination Requirements

The President shall insure that all appointments, changes of status, compensation, and terminations are in compliance with Policy 25 Equal Opportunity, Affirmative Action, and Nondiscrimination, which is incorporated herein by reference, and that no person is discriminated against on the basis of race, sex, religion, creed, age (as applicable), disability, sexual orientation, gender identity/expression, status as a covered veteran, genetic information, color, ethnic or national origin, or any other category protected by federal or state law in any area of employment.
X. Employment Practice Complaints

Upon receipt of any charge or claim alleging violation of state or federal laws or regulations in any area of employment by any state or federal agency, a copy of the notice of the charge or claim shall immediately be transmitted to the Office of the University Counsel. The Office of the University Counsel will coordinate and approve an investigation into the charge and all responses to the appropriate agency. All interactions with the state or federal agency shall be coordinated through the Office of the University Counsel.

Internal complaints, charges, or claims concerning matters related to discrimination in employment practices shall be referred to the Office of Institutional Equity and Compliance. Internal complaints, charges, or claims concerning employment practice or working conditions not related to discrimination shall be handled through the grievance procedures established in Policy 852 Administrative, Professional, and Faculty Grievance or Complaint or Policy 853 Classified Grievance and Complaint Policy. In any case where the President makes a decision which is adverse to the charge or claim of the person, the President shall advise the person of any right of appeal provided by policy.

XI. Academic Credentials

Pursuant to T.C.A. § 49-7-133, it is a Class A misdemeanor to misrepresent academic credentials. A person commits the offense of misrepresentation of academic credentials who, knowing that the statement is false and with the intent to secure employment at or admission to MTSU, represents orally or in writing that such person:

A. Has successfully completed the required course work for and has been awarded one (1) or more degrees or diplomas from an accredited institution of higher education;

B. Has successfully completed the required course work for and has been awarded one (1) or more degrees or diplomas in a particular institution of higher education; or

C. Has successfully completed the required course work for and has been awarded one (1) or more degrees or diplomas in a particular field or specialty from an accredited institution of higher education.

XII. Records and Reporting Requirements

The University shall maintain full and complete records on all personnel, including all appointments, compensation, change of status, and termination as specified in Policy 129 Records Management and Disposal of Records and Policy 811 Personnel Records.

XIII. Moving Allowance
Newly hired full-time employees who relocate from their former residence to a new residence may be issued a one (1)-time moving allowance, if deemed appropriate by the President. The contract for moving allowances should be executed at the time of employment. If MTSU recruits and hires more than one person from the same family, only one moving allowance is permitted.

To be eligible to receive a moving allowance and to comply with the current guidelines published by the Internal Revenue Service (IRS), the move must meet the minimum IRS distance test of fifty (50) miles from the location of the former residence. For example, if the location of the former workplace was three (3) miles from the employee’s former home, the location of the employee’s new workplace must be at least fifty-three (53) miles from the employee’s former home. If the employee did not have a former workplace, the new workplace must be at least fifty (50) miles from the employee’s former home. The distance between the two points is the shortest of the more commonly traveled routes between them.

A. Arranging for Moving and Payment. The moving allowance is paid directly to the employee, reported as taxable income, and is subject to all tax liability at the time of payment. All allowances require approval of the President. For persons hired that require Board approval, approval of the moving allowance will be included in the hiring approval.

B. Other Provisions

1. Moving allowances will be paid only after a contract is executed between the employee and MTSU.

2. All payments must be made within twelve (12) months of the date employment begins for new employees or relocation occurs for relocated employees.

3. The agreement on the amount of moving allowances to be paid should be clearly understood in writing between the employee and MTSU.

4. MTSU shall assume no liability whatsoever for personal injuries, property damages, or other losses which may be sustained in connection with any moves undertaken pursuant to this policy.

5. In consideration for MTSU paying a moving allowance, the employee agrees to remain employed by MTSU for a period of at least one (1) year. For faculty appointed on an academic basis, one (1) year is defined as one (1) regular academic session (Fall and Spring Semesters, nine [9] months). For all other annual faculty and employees, one (1) year is defined as twelve (12) months. Should the employee voluntarily leave employment prior to completion of that one (1) year, the employee will be liable to MTSU for the moving allowances. If the employee is terminated for cause during the first year, MTSU may seek reimbursement of the moving allowances.

XIV. Immigration Expense Allowance
New employees may receive reimbursement for immigration expenses when considered to be in the interest of MTSU and when such payment is a part of the employment negotiation. Reimbursement/fee allowance for immigration fees must be approved in advance by the President.

This provision applies only to candidates who are required to pay immigration fees to work and live in the U.S. No MTSU employee may receive reimbursement more than once.

No payment shall be made unless the employee agrees in writing to remain in the service of MTSU for a period of twenty-four (24) months following the effective date of his/her employment agreement, unless separated for reasons beyond his/her control and acceptable to MTSU. The service agreement statement should be maintained in the employee’s personnel file. In case of a violation of such an agreement, any funds expended by MTSU for such allowance shall be recoverable from the employee as a debt due MTSU in the same manner as educational allowance payments.

Reimbursement shall be in the maximum amount of four-thousand five hundred dollars ($4,500.00) and shall not exceed the employee’s actual, documented expenses. The allowance cannot be used to defray non-immigration-related costs or any costs not associated with the individual employee’s immigration expenses.

Reimbursable fees include fees charged by a licensed immigration attorney retained in connection with the application, filing fee, permanent residence fee, fee for any application to enter the U.S., fee for application to remain in the U.S., and associated fees required in the application process, such as medical examination, fingerprinting, photo identification, postal/courier fees, and costs of evaluating foreign academic credentials or translations of foreign documents.

The employee is responsible for making arrangements for representation, completion of paperwork, assistance in the immigration process, and submission of all bills and/or invoices for which reimbursement is sought. Faculty may submit a claim for reimbursement by sending a request with original receipts to the Provost.

Forms:

Immigration Expense Allowance Agreement

Moving Allowance Agreement

Revisions: none June 5, 2017 (original); ___________, 2021.

Last Reviewed: July 2019. ___________ 2021
References: T.C.A. §§ 8-35-124; 8-50-807(d); 49-7-133; Policies 25 Equal Opportunity, Affirmative Action, and Nondiscrimination; 129 Records Management and Disposal of Records; 202 Faculty Definition, Roles, and Responsibilities; 204 Tenure; 205 Promotion of Tenured and Tenurable Faculty; 705 Weapons on Campus; 760 Drug-Free Workplace; 811 Personnel Records; 812 Promotions of Classified, Executive, and Administrative Employees; 816 Nepotism; 825 Leave Policies; 852 Administrative, Professional and Faculty Grievance or Complaint; 853 Classified Grievance and Complaint Policy.