

Rule 6A-14.0411 is amended to read:

6A-14.0411 Issuance of Continuing Contracts. Continuing contracts are to be awarded for service in a full-time faculty capacity as determined by the college consistent with the following rules ~~an instructional capacity only:~~

(1) In order to be eligible for a continuing contract, faculty must meet the following minimum requirements:

~~The board shall provide a continuing contract in a form approved by the Commissioner for each instructional employee in a community college who is classified under the provisions of subsection 6A-14.002(1), FAC., and who meets all of the following requirements:~~

(a) Completion of three (3) years of satisfactory service in the same college during a period not in excess of five (5) years with such service being continuous except for leave duly authorized and granted. ~~Has completed three (3) years of satisfactory service in the same college during a period not in excess of five (5) successive years with such service being continuous except for leave duly authorized and granted, provided that a board may issue a continuing contract to a member of the instructional staff after two (2) years of employment in the college, provided such individual has previously held a continuing contract in a county school system or a public community college within this state. All continuing contracts~~

~~issued shall be based upon satisfactory service performed in an instructional position;~~

~~—(b) Has been reappointed for the fourth year without any reservations or specifications as provided by Rule 6A-14.0412, F.A.C.; and~~

~~(b)(e) Recommendation Has been recommended by the president and approval by the board for continuing contract based on successful performance of duties and demonstration of professional competence.~~

~~(2) Other criteria for a continuing contract colleges may consider including, without limitation, educational qualifications, efficiency, compatibility, character and capacity to meet the educational needs of the community, and the length of time the duties and responsibilities of this position are expected to be needed. Colleges shall provide in writing to faculty a copy of the criteria for a continuing contract.~~

~~(2)(3) The continuing contract shall be effective at the beginning of the annual college contractual periods. which are commensurate with approved year round operation, in which all requirements are completed on or before September 1.~~

~~(3)(4) Each employee ~~to whom~~ issued a continuing contract ~~has been issued as provided herein shall be entitled to continue in a faculty position in at the college at the salary schedule~~~~

~~authorized by the board without the necessity for annual nomination or reappointment until such time as the employee resigns except as otherwise provided in this rule. or his contractual status is changed as prescribed below.~~

~~(4) Any employee who is under continuing contract may be dismissed or may be returned to annual contract status for another three (3) years at the discretion of the board when a recommendation to that effect is submitted in writing to the board on or before April 1 of any college year giving good and sufficient reasons therefor by the president and provided the president's recommendation is approved by a majority of the board. The employee whose contract is under consideration shall be duly notified in writing at least seven (7) days prior to the filing of the written recommendation with the board and such notice shall include a copy of the charges and the recommendation to the board. Should the board determine that it will consider the charges filed against the employee, it shall direct that a petition conforming to the requirements of the model rules of procedure adopted pursuant to Section 120.54(10), Florida Statutes, and including notification to the employee of his or her hearing rights, be filed with it and a copy served upon the employee. If the employee wishes a public hearing, he or she shall notify the board in writing within ten (10) days after the~~

~~date of service of the petition. Upon receiving such a request, the board shall within fifteen (15) days notify the employee of the time and place of the public hearing on the charges which shall not be less than fourteen (14) days from the service of the notice unless a different time is agreed to by all parties. The hearing shall proceed in accordance with the provisions of Chapter 120, Florida Statutes, and should be in substantial compliance with the model rules of procedure, Chapter 28, FAC, unless the parties mutually agree to an alternative hearing procedure. In the event the employee does not request a public hearing the board shall proceed to take appropriate action. Any decision adverse to the employee shall be made by a majority vote of the full membership of the board.~~

(5)(a) The college may dismiss an employee under continuing contract or return the employee to an annual contract upon recommendation by the president and approval by the board. The president shall notify the employee in writing of the recommendation, and upon approval by the board, shall afford the employee the right to a hearing in accordance with the policies and procedures of the college. As an alternative to the hearing rights provided by college polices and procedures, the employee may elect to request an administrative hearing in accordance with the guidelines of Chapter 120, Florida Statutes, by filing a petition with the board within twenty one (21) days of receipt of

~~the recommendation of the president. Should the board have to choose from among its personnel who are on continuing contract to which should be retained, among the criteria to be considered shall be educational qualifications, efficiency, compatibility, character and capacity to meet the educational needs of the community. Whenever a board is required to or does consolidate or reduce its program, the board may determine on the basis of the foregoing criteria from its own personnel and any other instructional personnel, which college employees shall be employed for service at the college and any employee no longer needed may be dismissed. The decision of the board shall not be controlled by any previous contractual relationship. In the evaluation of these factors, the decision of the board shall be final.~~

(5)(b) Upon consolidation, reduction, or elimination of a community college program or restriction of the required duties of a position by the board. The board may determine on the basis of the criteria set forth in (1) and (2), which employees should be retained on a continuing or annual contract and which dismissed. The decision of the board shall not be controlled by any previous contractual relationship. In the evaluation of these factors, the decision of the board shall be final.

~~(6) Any employee classified under the provisions of Rule 6A-~~

~~14.002(1)(a)(b), F.A.C., may be suspended, or dismissed by the board upon recommendation of the president at any time during the college year, provided that no such employee may be dismissed during the college year without opportunity to be heard at a public hearing after at least fourteen (14) days notice of the charges against the employee and of the time and place of hearing; and provided further that the charges must be based on immorality, misconduct in office, incompetency, gross insubordination, willful neglect of duty, drunkenness or conviction of any crime involving moral turpitude. A petition conforming to the requirements of the model rules of procedure, Title 28, F.A.C., specifying the charges and notifying the employee of his or her hearing rights shall be filed with the board and copy served upon the employee. Whenever such charges are made against any such employee, the board may suspend such employee without pay, pending a speedy, informal hearing, if requested by the employee. At any such informal hearing the board shall determine the necessity to suspend and withhold pay, and whether probable cause exists to support the charges. If the board determines that probable cause exists to support the charges and there exists a necessity of continuing the suspension without pay then it may do so, but if the charges are not sustained upon final hearing the employee shall be immediately reinstated and back salary shall be paid. If the board~~

~~determines that there is no necessity to suspend without pay, then it shall reinstate the employee with pay and, further, it may dismiss the charges if it determines that probable cause does not exist to support same. In cases where a petition for dismissal of an employee has been filed with the board, the board shall hold a public hearing in accordance with the provisions of Section 120.57, Florida Statutes, and the model rules of procedure, Title 28, FAC, unless the parties mutually agree to an alternative hearing procedure. If a hearing is requested by the employee, after notice as provided above, the board shall determine upon the evidence as submitted whether the charges have been sustained and if the charges are sustained, either to dismiss said employee or fix the terms under which said employee may be reinstated. If such charges are sustained by a majority vote of the full membership of the board and such employee is discharged, the contract of employment shall be thereby canceled. Nothing in this rule shall preclude a board from utilizing the services of a hearing examiner to conduct either formal or informal hearings.~~

~~(7) Any employee who is employed in a cooperative education program in this state may be immediately placed on continuing contract with the board wherein the cooperative education program is produced if, at the time of employment, such person is on a continuing contract in a college which is participating in~~

~~support of the particular cooperative education program in which the person is employed; provided that if at the time of reappointment of personnel, during the first three (3) years, said person is not recommended for continued employment in the cooperative education program, he or she shall automatically revert to continuing contract status in the college of immediate prior employment; and provided further that in meeting the requirements for a continuing contract prescribed herein, prior successive years of service rendered in any college participating in the support of the particular cooperative education program may be counted as years of probationary service for a continuing contract with the board wherein the cooperative education program is produced.~~

~~(6) (7) Any employee holding a continuing contract who accepts an offer of annual employment in a capacity other than that in which the continuing contract was awarded may be granted an administrative leave of absence pursuant to the college-s administrative rules. shall lose continuing contract status, unless said employee has been granted an administrative leave of absence pursuant to board rules that recognize the interim assignment and provide for returning to the original contractual status at the end of the annual appointment.~~

Specific Authority: 1001.02(1), 1001.02(9), 1012.83, 1012.855,
229.053(1) 240.325 240.339 240.335 FS. Law Implemented:

1012.83 ~~240.339~~, FS. History - Formerly 6A-8.33, Repromulgated
12-19-74, Amended 12-9-75, 2-14-77, 12-26-77, 7-16-79, Formerly
6A-14.411, Amended