

Florida Community College System-Regulatory Parameters for Handling Faculty Misconduct and/or Termination for Cause

- Florida Statute Chapter 120 (Administrative Procedure Act) and State Board of Education Rule 6A-14.0411 establish legal and regulatory parameters for handling faculty misconduct and/or termination for cause. The pertinent section of SBE Rule 6A-14.0411 is stated below.
- In addition, s. 1001.64(4)(b) F.S. authorizes Community College Board of Trustees to adopt rules, procedures, and policies consistent with law and rules of the State Board of Education related to personnel.
- Section 1001.64(46) F.S. further authorizes that “Each Board of Trustees may consider the past actions of any person applying for employment and may deny employment to a person because of misconduct if determined to be in the best interest of the community college.”
- Section 1001.65(3) F.S. (Community college presidents; powers and duties) adds each community college president shall: “Establish and implement policies and procedures to recruit, appoint, transfer, promote, compensate, evaluate, reward, demote, discipline, and remove personnel within law and rules of the State Board of Education and in accordance with rules or policies approved by the community college board of trustees.”
- Within these parameters, each community college is responsible for developing policies, procedures, and if appropriate, collective bargaining provisions which specify the manner in which faculty misconduct will be addressed. For example, these policies and procedures include:
 - Employee Standards of Conduct (Board of Trustees Policy)
 - Employee Standards of Discipline (Board of Trustees Policy)
 - Employee Discipline Procedure (College Administrative Procedure)
 - Suspension, Termination or Contract Non-Renewal of Administrators and Faculty (Board of Trustees Policy)
 - Termination of Appointment for Cause (Collective Bargaining Agreement)
 - Faculty Grievance Policy (Board of Trustees Policy)
 - Faculty Grievance Procedures (Collective Bargaining Agreement)

6A-14.0411 Issuance of Continuing Contracts

(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) Should the board have to choose from among its personnel who are on continuing contracts as 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.

(6) Any employee classified under the provisions of Rule 6A-14.002(1)(a)(b), FAC., 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, Chapter 28, FAC, specifying the charges and notifying the employee of his or her hearing rights shall be filed with the board and a 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, Chapter 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.