

## **6Hx19-2.23 DISMISSAL, RETURN TO ANNUAL CONTRACT – CONTINUING CONTRACT PERSONNEL**

The purpose of this Board Rule is to establish the Board's policy regarding the dismissal of personnel on continuing contract and the return of employees on continuing contract to annual contract.

The dismissal of personnel on continuing contract and the return of employees on continuing contract to annual contract shall be conducted subject to the provisions of State Board of Education Rules, as set forth in the Florida Administrative Code, and Florida Statutes and in accordance with the procedures listed below:

1. The following shall constitute the grounds for termination of employment pursuant to State Board of Education Rule 6A-14.0411 (4) and (5).
  - (a) Consolidation, reorganization or reduction of the College program which necessitates a decrease in the number of personnel employed.
  - (b) Immorality: Conduct that is inconsistent with the standards of public conscience and good morals of the district in which the college is located. It is conduct sufficiently notorious to bring the individual concerned or the education profession into public disgrace or disrespect and impair the individual's service in the College.
  - (c) Misconduct in office:
    - (1) Deliberate, persistent, unlawful, or improper conduct by an individual which violates established rules, policies, directives, or guidelines for performing assigned duties;
    - (2) negligent failure of an employee to perform the duties assigned to him/her;
    - (3) showing the effects of abusive or excessive use by an individual of alcohol or other debilitating intoxicants, drugs or narcotics on campus or at any College-affiliated activity;
    - (4) unlawful manufacture, distribution, dispensation, possession or an illegal use of a controlled substance or alcohol on College premises or while attending off-campus college sponsored activities; and/or
    - (5) participation by an individual in disruptive activities which interfere with the normal operation of the College.
  - (d) Incompetency: An inability or lack of fitness to discharge required duties as a result of inefficiency or incapacity.

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- (i) In the determination of what constitutes inefficiency, the District Board of Trustees may consider repeated failure to perform duties; repeated failure on the part of an instructor to communicate with and relate to students in the classroom to such an extent that students are deprived of minimum educational experiences; or repeated failure on the part of an administrator or supervisor to communicate with and relate to teachers and students under his/her supervision to such an extent that the program for which he/she is responsible is seriously impaired.
  - (ii) In the determination of what constitutes incapacity or inability, the District Board of Trustees may consider a lack of emotional stability; a lack of adequate physical ability; a lack of general educational background; or a lack of adequate command of the area of specialization.
    - (e) Gross insubordination: An intentional, constant, or continuing refusal to obey a direct order, reasonable in nature, and given by and with proper authority.
    - (f) Willful neglect of duty: Deliberate failure of an employee to perform the duties assigned to him/her.
    - (g) Drunkenness or Drug Abuse: That condition which exists when an individual publicly is under the influence of alcoholic beverages or drugs to such an extent that normal faculties are impaired, or conviction by a Court of Law, or a finding or legal establishment of guilt on same by a Court regardless of whether adjudication of guilt is withheld, on the charges of drunkenness, driving while intoxicated, or abusive use of drugs or narcotics. Failure to report to the appropriate supervisor any Drug Statute Conviction for a violation occurring at the College within five (5) days of such conviction.
2. Conviction of any crime involving moral turpitude: A crime that is evidenced by an act of baseness, vileness, or depravity in the private, professional, or social duties which a person owes to his fellow man or to society in general, contrary to the accepted and customary rules or right and duty between person and person. 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 therefore by the President and provided the President's recommendation is approved by a majority of the Board.

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3. 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.
4. 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(5), 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.
5. 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.
6. The hearing shall proceed in accordance with provisions of Chapter 120, Florida Statutes, and should be in substantial compliance with the model rules of procedure, Chapter 28, Florida Administrative Code, 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.
7. 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 the Board is required to or does consolidate or reduce its program, the Board may determine on the basis of the foregoing criteria from 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.
8. The Board may utilize the services of a hearing examiner to conduct either formal or informal hearings.

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**President’s Administrative Leadership Team – Non-Substantive/Editorial: 6/11/18**

Legal Authority:

General Authority: Title 34 CCFR 85, Subpart F (1988);  
Public Law 101-226 S. 22 (1989);  
Florida Statutes: 1001.64; 1001.65; 1012

Other References: Florida Administrative Code: 6A-14.0411 (4)(5); 28-106

Law Implemented: Florida Statutes: 1001.64(1)(2)(4)(18)(43)(44)(46);  
1001.65(1)(3)(16); 1012.83

Proposer: Jesse Pisors, President

■President’s Cabinet Approval – Non-Substantive/Editorial