

STATE BOARD FOR COMMUNITY COLLEGES AND OCCUPATIONAL EDUCATION

Due Process for Faculty

BP 3-20

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REFERENCE(S): C.R.S. § 23-5-117, Governing Boards Delegation of Personnel Power; Board Policy (BP) 3-05, Delegation of Personnel Authority; Board Policy (BP) 3-10, Administration of Personnel

APPROVED:

Landon Mascareñaz, Chair

Policy Statement

The State Board for Community Colleges and Occupational Education (SBCCOE or Board) prescribes this policy to:

- Promote excellence within the Colorado Community College System.
- Protect academic freedom and intellectual inquiry.
- Recognize the responsibility of the College Presidents to provide leadership and sound fiscal management of their institutions.
- Provide a fair and orderly process for the involuntary termination of employment of faculty members within the Colorado Community College System.

Scope

This policy applies to all regular faculty as that term is defined in BP 3-10 (“Faculty” or “Faculty Member”), in the Colorado Community College System, including its Colleges (CCCS or System).

Precedence

This policy shall have precedence over all other policies of the Board which are in conflict or are inconsistent with this policy.

Definitions

“Academic Freedom”: The absence of constraint or coercion of choosing what one will teach (within the constraints of official course descriptions and official course syllabi), investigate, study, or present in all fields of learning.

“Dismissal”: The involuntary termination of a contract of employment during the term or upon the expiration of the contract, based on one or more grounds outlined in this policy.

“Evaluation”: The established process used to review and record a Faculty Member’s performance of their assigned duties.

“Fiscal Emergency”: An emergency caused by a reduction in the sum total of general fund revenues appropriated to the Board; a reduction in cash funds received by the Board; and/or a reduction in the Board’s allocation to a college, which threatens the ability of the College to maintain its previous level of operations or previous standards in the fulfillment of its role and mission; as determined by an affirmative vote of the Board.

“Non-Renewal”: Failure or refusal to offer a Faculty Member a new contract of employment for the subsequent year.

“Program Area”: Units within a College which may provide the basis for determining which Faculty will be reduced when a reduction in force is necessary.

“Reduction in Force”: Termination of the contract of employment due to a decrease in the number of Faculty, based on grounds outlined in this policy.

“State Funds”: Funds appropriated to the Board by the General Assembly and allocated by the Board to a College, and/or funds received from a school district for purposes of providing secondary vocational education.

Faculty Contracts

Colleges shall issue Faculty contracts annually.

Reassignment

At the discretion of the President, a Faculty Member may be reassigned by changing job title, job description, and/or assignment. If the reassignment occurs during the term of an employment contract, there will be no reduction in compensation during that contract term. The President will communicate the change to the Faculty. The President’s decision is final and is not subject to review.

Provisional Faculty

Faculty shall be subject to a provisional period from the date of first contract as a Faculty Member at the College until the completion of employment under three consecutive full-year, regular contracts. The provisional period may be extended for one additional year, not to exceed four years, if the President determines that additional time should be allowed. The President will communicate the extension of the provisional period to the Faculty.

A provisional Faculty Member shall be non-renewed at the end of the provisional period unless the President approves removal from provisional status.

Non-Renewal

A provisional Faculty Member's contract may be non-renewed without cause at the end of any contract. There shall be no peer review of non-renewal of a provisional Faculty Member's contract.

A non-provisional Faculty Member's contract may be non-renewed only once there are Needs Improvement evaluations for two consecutive years. A non-provisional Faculty Member whose contract is non-renewed shall have the right to request, within ten (10) calendar days of service of notice, a peer review.

Notice of non-renewal shall be given by the President no later than sixty (60) calendar days preceding the end of the contract term. The effective date shall be no sooner than the end of the current contract.

Dismissal, Suspension, or Other Disciplinary Action for Cause

The following shall constitute grounds for dismissal, suspension, and other disciplinary action:

- Intentional or willful refusal to follow a directive given by someone with proper authority (insubordination).
- Neglect of duty.
- Conviction of a felony, or acceptance of a guilty plea or a plea of nolo contendere to a felony.
- Unethical conduct as defined in BP 3-70, Ethics.
- Incompetence after notice and opportunity to improve.
- Mental or physical disability which, even with reasonable accommodation, substantially interferes with the person's ability to perform the essential functions of the job in question. Termination under this ground shall be in compliance with Federal law, which prohibits discrimination against persons with disabilities.
- Failure to fulfill provisions of an employment contract.
- Other good and just cause as determined by failure to meet reasonable written and published standards.

Notice of dismissal, suspension, or other disciplinary action may be given by the President at any time and shall state the grounds and effective date.

A Faculty Member who is dismissed or suspended under this policy in excess of fifteen (15) working days, shall have the right to request, within ten (10) calendar days of service of notice, a peer review.

A Faculty Member who is suspended for fifteen (15) or fewer working days, or otherwise disciplined, shall have the opportunity to provide a written response to the charges which shall be placed in the Faculty Member's personnel file, and shall have the opportunity to

request a review of the decision by the Chancellor, as outlined in applicable procedures.

Reduction in Force

College Presidents shall have the authority to implement a reduction in force impacting Faculty. The grounds for reduction in force shall be:

- Justifiable lack of work;
- Justifiable reduction in a Program Area;
- A reduction or elimination of funds received from a school district for purposes of providing secondary vocational education, as determined by the President; and/or
- A Board declaration of a fiscal emergency, as defined in this policy.

Prior to the effective date of a reduction in force, the President shall work in accordance with their College's shared governance framework and follow applicable procedures to determine which Program Areas and Faculty will be impacted. At least sixty (60) calendar days prior to the effective date of the reduction in force, the College shall provide written notice to the impacted Program Area(s) of the planned reduction, including the rationale, proposed effective date, and plan for implementation.

The President shall give a minimum of sixty (60) calendar days written notice to a Faculty Member prior to termination due to a reduction in force. Colleges are encouraged to provide more than 60 days' notice when practical. There shall be no right to peer review of a reduction in force.

Peer Review

Faculty who are entitled to a peer review, have a right to a hearing on the matter, presided over by a committee of their peer Faculty. The committee must be selected from the College's peer review panel elected by Faculty. The peer review hearing shall follow applicable procedures, which must include, at minimum:

- A process for both the President and Faculty Member to strike names from the peer review panel, to arrive at the peer review committee.
- A timely hearing where parties each have the right to present relevant evidence and question relevant witnesses.
- The requirements for a written recommendation from the committee and a written decision from the President.
- A process for petitioning to the Board for review of the hearing record and President's decision.

Revisions

No revisions of this policy shall be adopted except after consultation with the State Faculty Advisory Council.

Procedure

The Chancellor shall promulgate such procedures as may be needed to implement this policy.