

ROCKY MOUNTAIN COLLEGE

FACULTY POLICY

SECTION: Faculty

NUMBER: F-001-01-0011

SUBJECT: Dismissal, Termination, and Sanctions of Faculty

DATE: 4/2009

A. DEFINITION

- A. Dismissal—The faculty member's contract will be broken by the College during the period of a current contract, preventing the completion of the current teaching assignment and discontinuing the payment of remuneration after a specific date. During dismissal proceedings, the faculty member may be suspended, e.g., the suspension of all or part of the individual's College responsibilities, including teaching responsibilities; and/or a ban from the campus. Remuneration will be paid until the dismissal proceedings have been completed.
- B. Termination— Termination applies only to tenured faculty members. The tenured faculty member will be required to finish the current contract but will not be offered another contract for the next year or contract period. For non-renewal of non-tenured faculty, see F-001-01-0006.
- C. Sanctions—The faculty member is suspended or reprimanded; see section II-D.

II. POLICY

- A. A faculty member may be dismissed or terminated for cause. Any faculty member, including tenured faculty members, can be dismissed or terminated from his or her position at the College for any of the following reasons:
 - 1. Clear and convincing evidence unrelated to the faculty member's medical condition that the faculty member is not competent to teach.
 - 2. Clear and convincing evidence of moral turpitude as described in the "1970 Interpretive Comments" to the "1940 Statement of Principles on Academic Freedom and Tenure" from *Policy Documents & Reports*, AAUP, 2006 edition.
 - 3. Genuine financial exigency of the College.
 - 4. Bona fide discontinuance of a program of instruction.
 - 5. Clear and convincing evidence of a medical condition that has significantly reduced the teaching competence of the faculty member or otherwise has prevented the faculty member from adequately fulfilling the conditions of employment.
- B. Special Considerations in Regard to Termination Because of Discontinuance of a Program Due to Financial Exigency
 - 1. The College must show convincingly the genuineness of the financial exigency and/or the bona fide character of the planned discontinuance of program before notifying the faculty member of the intent to terminate a contract in such a case.
 - 2. If a tenured faculty member's contract is terminated because of program discontinuance, and if the program is reinstated within a period of three years, the

faculty member must be offered reappointment and given thirty calendar days in which to accept or decline reappointment before the position is offered to other candidates.

C. Procedures for Dismissal or Termination of Faculty

1. Preliminary Proceedings

- a. When reason arises for the College to begin dismissal or termination proceedings against a faculty member, the president and/or academic vice president of the College should first discuss the matter with the individual in a personal conference. The matter may be concluded by mutual consent at this point. If a personal conference is not possible, the president and/or the academic vice president should proceed to (b) below.
- b. If a personal conference is not possible or if an agreement does not result, a written statement setting forth, with reasonable particularity, the grounds for dismissal or termination will be sent by the president and/or the academic vice president to the faculty member and formal proceedings will commence. If no conference is possible, the statement will be sent within ten class days of the request for a conference. If a conference occurs, but an agreement does not result, the statement will be sent within ten class days of the conference.
- c. Once the preliminary proceedings have been completed, the faculty member may be suspended if the president and the academic vice president judge it necessary. Suspension (see I.A.) is justified, however, only if immediate harm to the faculty member or others is threatened. Such suspension is with pay.

2. Commencement of Formal Proceedings

- a. Formal proceedings are commenced by a written statement addressed to the faculty member from the president and the academic vice president informing the faculty member that a hearing will be conducted by a hearing committee at a specified time and place to determine whether dismissal or termination is warranted. In no instance may the initial hearing be set more than twenty class days or less than ten class days from the time notice is given.
- b. The faculty member will be informed of his or her procedural rights by reference to this policy manual.
- c. The hearing committee consists of six faculty members: two appointed by the president; two chosen by the faculty member in the case; and two faculty members of the judicial council chosen by the council in consultation with its chair. The hearing committee elects its own chair.
- d. The faculty member will present to the president his or her two choices of faculty for the hearing committee within three class days of receiving the president's communication.
- e. The faculty member will respond in writing to the charges in the written statement indicating the grounds for his or her dismissal or termination (see C.1.b.) not less than five class days before the date set for the

hearing. If the faculty member fails to respond within this period of time, the matter is concluded in favor of the administration's position.

3. Proceedings of the Hearing Committee

- a. The hearing committee will consider the written statement of grounds for dismissal or termination and the faculty member's written response before the time set for the hearing.
- b. The president and academic vice president will have the option of counsel in developing the case for dismissal or termination. The president and/or academic vice president, with optional counsel, will be in attendance during the hearing.
- c. The faculty member will have the option of counsel before and during the hearing; will be in attendance at the hearing; and will have the opportunity to be heard in his or her own defense.
- d. If facts are in dispute, the testimony of witnesses and other evidence concerning the matters set forth in the president's written statement of grounds for dismissal or termination to the faculty member will be heard. The administration will speak first at the hearing, since the administration bears the burden of establishing a basis for dismissal or termination. The hearing committee will conduct the questioning of witnesses and, if necessary, will secure the presentation of evidence it deems important to the case.
- e. Evidence will be duly recorded and a full stenographic record of the hearing will be available to all concerned parties. The stenographer must supply this transcript to the hearing committee within five class days of the completion of the hearing. If the hearing involves charges of incompetence, testimony will be included from educators and/or other scholars. The faculty member, the faculty member's counsel, the president, the academic vice president, and the administration's counsel retain the option, within reasonable limits, to question witnesses who testify in person. The chair of the hearing committee will have sole discretion to determine reasonable limits. If witnesses cannot appear, the identity of the witness, as well as the witness's written or otherwise recorded statements, will be disclosed to the faculty member. Unless special circumstances apply, it is not necessary to follow formal court procedures.
- f. The hearing committee will grant adjournments to enable either party to investigate evidence as to which a valid claim of surprise is made (see *Policy Documents & Reports*, AAUP, 2006 edition, page 27).
- g. The hearing committee will reach its recommendation in conference on the basis of the evidence presented during the hearing. Before doing so, it will provide an opportunity to the faculty member, the faculty member's counsel, the president, the academic vice president, and the administration's counsel to argue orally before it. The hearing committee may request written briefs. The hearing committee may reach its recommendation without a written transcription of the hearing if it concludes that a recommendation can be reached by this means; or it may await the availability of a transcript of the hearing if a recommendation would be aided thereby. The hearing committee will make explicit findings with respect to each of the grounds of dismissal or

termination presented, and a reasoned opinion will be given. The president, the academic vice president, and the faculty member will be notified of the recommendation in writing within ten class days of the completion of the hearing and will be provided a copy of the record of the hearing. If the hearing committee must await the availability of a transcript, an extension of five class days will be granted.

- h. If the president and/or academic vice president disagree with the recommendation of the hearing committee, the president and/or academic vice president will state their reasons in writing to the hearing committee and to the faculty member within five class days, providing them with an opportunity for response before transmitting that recommendation to the board of trustees. Responses to these disagreements will be submitted in writing within five class days to the president and/or academic vice president, with copies provided to the hearing committee and to the faculty member. After this process, when transmitting a recommendation to the board of trustees, the president will submit a written response to any additional responses received from the hearing committee and/or the faculty member.

4. Consideration by the Board of Trustees

- a. Within five class days, the president will transmit to the board of trustees, or appropriate committees of the board of trustees, the recommendation of the hearing committee, along with the president's written statement agreeing or disagreeing with the hearing committee's decision, any additional responses of the committee and/or faculty member, and any additional administrative response as provided in section II.C.3.h. The board of trustees, or appropriate committees of the board of trustees, will accept the hearing committee's recommendation or will conduct another hearing of its own. In the event that another hearing is conducted, such a hearing should be based on the record of the previous hearing, accompanied by opportunity for argument, oral or written or both, by the principals at the hearing or their representatives. The recommendation of the hearing committee is either adopted, or the proceedings are returned to the hearing committee with objections specified. In such a case, the hearing committee reconsiders, taking into account the stated objections and receiving new evidence if necessary. The hearing committee will frame its recommendation and communications in the same manner as referenced in II.C.3.g. Only after study of the hearing committee's reconsideration should the board of trustees make a final decision overruling the hearing committee.

D. Procedures for Sanctions Other than Dismissal or Termination

1. If the conduct of a faculty member does not constitute adequate cause for dismissal but justifies imposition of a severe sanction such as suspension of service for a stated period, the procedures outlined in C. above will be followed. Such conduct includes, but is not limited to insubordination (see "A Statement of the Association's Council: Freedom and Responsibility" from *Policy Documents & Reports*, AAUP, 2006 edition, pages 173-174), failure to adhere to accepted College policies, and/or failure to fulfill contractual obligations.

2. If the conduct of a faculty member justifies the imposition of a minor sanction, such as a reprimand, the faculty member will be notified in writing of the basis for the proposed sanction. The faculty member will have ten class days to respond in writing to make his or her case against the sanction.
3. A faculty member who believes a minor sanction has been unjustly imposed may file a grievance; see F-001-01-0012.

E. Public statements about the case by either the faculty member or administrative officers should be avoided until the proceedings have been completed.

III. REVIEW AND RESPONSIBILITIES

Responsible Parties: Faculty

Review: Bi-annually on or before May 31st

IV. APPROVALS

Approved:

Faculty Chair _____
Date: _____

Approved:

Chair, Board of Trustees _____
Date: _____