Suspension or dismissal of faculty members on either annual or continuing contract shall be conducted subject to the provisions of Florida law.

A faculty member on annual contract shall have the right to a public hearing only if the contract is terminated before its expiration date.

A faculty member on continuing contract shall have the right to a public hearing if dismissed at any time or if returned to annual contract. As an alternative, the faculty member may request an administrative hearing in accordance with Chapter 120, Fla. Stat.

A. Suspension

A faculty member may be suspended for a serious offense or for investigation of an alleged serious offense upon recommendation by the President for up to ten (10) days. Faculty may use the grievance and appeal policy (05-17) to challenge a suspension.

B. Dismissal or Return to Annual Contract

In accordance with Florida Administrative Code (FAC) 6A-14.0411a faculty member may be dismissed or returned to annual contract status for failure to meet post-award performance criteria or for cause upon a recommendation, in writing, from the President and approval by the Board of Trustees. The President shall include in his/her recommendation to the Board, the basis for the recommendation.
Before recommending that a faculty member be dismissed or returned to annual contract because of unsatisfactory performance of assigned duties and responsibilities, the President shall have evidence that the faculty member has been informed of the deficiencies by the immediate supervisor or the Provost and Vice President for Academic Affairs and has been given an opportunity to correct them.

Before recommending that a faculty member be dismissed or returned to annual contract for causes other than unsatisfactory performance of assigned duties and responsibilities, the President shall consider the gravity of the matter and, if not of a serious nature, shall inform the faculty member of the deficiencies and allow an opportunity to correct them.

If a faculty member is notified in writing of a decision to dismiss or return to annual contract for failure to meet post-award performance criteria or for cause, the employee has the right to formally challenge the action in accordance with the policies and procedures described below. As an alternative to the hearing rights provided by this policy, the employee may request an administrative hearing in accordance with Chapter 120, Florida Statutes, by filing a petition with the board within twenty-one (21) days of receipt of the recommendation of the President.

Consistent with the criteria in FAC 6A-14.0411(7)(b) and Policy 04-23, a faculty member may be dismissed or returned to annual contract status upon consolidation, reduction, or elimination of a community college program or restriction of the required duties of a position by the Board. The decision of the board shall not be controlled by any previous contractual relationship. In the evaluation of factors in FAC 6A-14.0411(7)(b) and Policy 04-23, the decision of the board shall be final.

### C. Grounds for Termination At Any Time During The Year

If it has been determined that a faculty member has engaged in serious misconduct, habitual neglect of duty, incompetence or conduct incompatible with his/her duties, or prejudicial to TCC’s mission, or if he/she has been found to be willfully disobedient to his/her supervisor’s directions, or found guilty of a crime of moral turpitude, the law recognizes TCC’s right to terminate the employee’s relationship with TCC.

### D. Notice of Dismissal, Suspension, or Return to Annual Contract

The President shall furnish written notice to the faculty member of the recommendation to the Board of the suspension or dismissal or return to annual contract of said faculty member.

The notice of suspension, dismissal, or return to annual contract shall specify the charges made against the faculty member in terms sufficiently specific both to inform and to enable the faculty member to make a determination whether to request a hearing on said charges. The notice shall
advise the faculty member of the opportunity to request a hearing on said charges and that said request must be made in writing to the President within ten (10) work days of the receipt of the notice. A copy of these procedures for dismissal shall accompany the notice.
If the faculty member requests a hearing, the President shall notify the Board in writing.

E. Request for Hearing

Within ten (10) work days of receipt of a request for hearing, the Board shall determine who shall hear the charges and shall schedule a public hearing to be held at least fifteen (15) work days after the employee's receipt of the hearing notice.

The Board may appoint one of its members as hearing examiner, or may appoint an outside hearing examiner. The hearing examiner shall be impartial and qualified by reason of training and experience to conduct the hearing. The Board member or hearing examiner shall be bound by the same procedures as the Board.

The Board shall send a notification to the faculty member and the hearing examiner stating who shall hear the charges advanced by the President.

The Board shall send to the faculty member a notice specifying the date, time, and place of the hearing to be conducted upon the charges advanced by the President. The notice shall contain the specific charges against the faculty member and shall inform the faculty member of the right to be heard in his/her own defense, to produce and cross-examine witnesses, to present other relevant evidence, and to be represented by legal counsel of his/her own choice at his/her own expense. Not later than ten (10) work days before the hearing, the President and the faculty member shall exchange in affidavit form a list of the names and addresses of witnesses to be called, together with a brief and accurate statement as to the proposed testimony of each witness, and a like statement as to any other proposed evidence, together with the evidence itself. Each party shall have the right to examine and copy the evidence of the other. The affidavit shall be signed under oath by the parties and their counsel. Any rebuttal witnesses need not be listed.

The hearing shall be conducted in the following manner.

1. The hearing shall be fully and accurately recorded by stenographic or mechanical device and all testimony exhibits shall be preserved.

2. Formal hearings shall in general use the rules of evidence recognized by law in this State, but said rules shall not be strictly applied and shall be adapted to College circumstances when justice may require. No oral or written communications shall be received from anyone other than through the real parties in interest or through their witnesses.

3. The hearing examiner, upon the hearing of the cause, shall inform the parties of the following rights and privileges and to afford same unto them to assure due process.

a. Each party shall have the opportunity to make an opening statement.
b. Each party shall have the opportunity to present his case or defense by oral and documentary evidence.

c. Each party shall be afforded the opportunity to confront and cross-examine adverse witnesses.

d. Each party shall be afforded the opportunity to be accompanied, represented and advised by counsel or to represent himself/herself.

e. All witnesses shall be sworn or required to affirm to tell the truth prior to testifying.

f. Each party shall be afforded the opportunity to make a final argument and to present findings of fact within a prescribed time.

4. All rulings as to the admissibility of evidence shall be made by hearing examiner.

5. No public statements to news gathering agencies or otherwise as to cases pending before or concluded by the Board or hearing examiner shall be made by any member thereof or by any party to the hearing.

6. The hearing is to determine whether the charges have been sustained by the evidence. The President must bear the burden of proving his charges by the greater weight of the evidence.

7. The attorney for the Board shall serve as legal advisor to the or hearing examiner assigned to hear the charge. The attorney’s role is that of a procedural and technical advisor. The attorney shall not vote nor participate in the actual deliberations of the hearing body. Upon request, the attorney may assist in preparation of the written findings, conclusions, and recommendations or determination. The Board may appoint an attorney to assist the President in the preparation and presentation of the charges against the faculty member.

The hearing examiner shall effect a thorough and prompt hearing. The Board shall provide the hearing examiner with the time and resources necessary to conduct a fair and impartial hearing. At the conclusion of the hearing, the hearing examiner shall make proposed findings of fact, conclusions of law, and recommendations as to the disposition to be made of the matter involved. The hearing examiner shall make his determination solely upon the evidence adduced at the hearing.

Within ten (10) work days after receipt of such information, the parties shall have the right to submit written objections thereto, which objections shall be delivered to the Board chair for consideration by the hearing examiner. The opposing party may file a reply to the written objection within the time prescribed by the Board chair. After consideration by the hearing examiner of any objections to the proposed findings of fact, conclusion of law, and recommendations, the hearing examiner shall determine the final findings, conclusions, and recommendations. The findings, conclusions, and recommendations, together with all evidence received, and the transcript of the proceedings shall be delivered to the chair of the Board as soon
as possible after determination is made, and a copy of the findings, conclusions, and recommendations shall be delivered to each party.

The Board shall receive and review the findings, conclusions, and recommendations. The Board may affirm the findings of the hearing officer and shall accept the hearing officer’s conclusions of fact as long as the conclusions are supported by competent substantial evidence. The Board may make its own determination upon the findings and conclusions of the hearing examiner if its findings and conclusions are supported by competent substantial evidence. The chair of the Board shall see that a final determination is rendered at the earliest possible date, but in no event should action be deferred more than thirty (30) work days from the time of receipt of the information from the hearing examiner. The Board shall make final findings, conclusions, and a determination.

Action by the Board shall be final and becomes effective immediately unless otherwise decided by the Board. In the event dismissal charges are sustained by a majority vote of the full membership of the Board, the faculty member shall be discharged, pay shall cease, and the contract of employment shall be canceled and shall be effective with the date of the dismissal. In the event of suspension, pay shall be withheld as of the effective date of suspension. If the faculty member is exonerated, salary payments shall be retroactive to the date of the suspension.

The Board decision is Final Agency Action and if the recommended action of suspension or dismissal or return to annual contract is sustained by the Board, the faculty member may appeal to the Florida First District Cour of Appeal pursuant to Chapter 120.68, Fla. Stat.