

TRANSMITTAL OF RULES ADOPTED BY INSTRUCTION OF HIGHER EDUCATION
(Instruction for Completion of Back of Page)

FROM: CLARK COMMUNITY COLLEGE
(Name of Institution)

TO: CODE REVISER
LEGISLATIVE BLDG (Southwest Corner, Ground Floor)
Olympia 98504

The enclosed Permanent rules
Emergency rules , being order No. 74-6

relating to (Name of rules or description of subject matter)

Tenure of academic personnel, including but not limited to, definitions of the various faculty employment statuses; selection and duties of review committees; dismissal, nonrenewal and/or reduction in force of faculty members; and the procedures and privileges incident to the foregoing.

(ALTERNATIVE A. Use only for adoption of permanent rules)

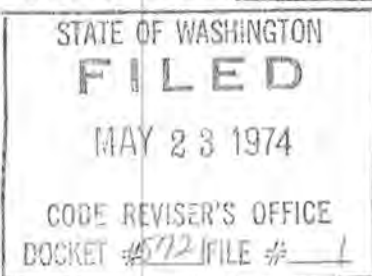
pursuant to Notice No. 4640 ① filed with the code reviser on April 30, '74 ② were regularly adopted as permanent rules of this institution at Vancouver, WA on May 21 and are herewith filed in the office of the code reviser pursuant to chapter 28B.19 RCW (1971 1st ex.s. c 57). The effective date of such rules shall be June 22, 1974 . ③

(ALTERNATIVE B. Use only for adoption of emergency rules)

pursuant to its finding that the immediate adoption of these rules is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to the public interest, were regularly adopted as emergency rules of this institution at _____ on _____ and are herewith filed in the office of the code reviser pursuant to chapter 28B.19 RCW (1971 1st ex.s. c 57).

The undersigned hereby certifies that the requirements of chapter 28B.19 RCW (1971 1st ex.s. ch 57) and of the Open Public Meetings Act of 1971, chapter 42.30 RCW (1971 1st ex.s. ch 250) have been fulfilled.

Dated this twenty-second (22) day of May 1974.



Clark Community College
(INSTITUTION)
Robert E. Patterson
By Robert E. Patterson
Assistant Attorney General
Title

Effective 9/7/71

[Form CR-5]

- ① Notice number as appears on the copy of notice returned to you by reviser's office (if proceedings were continued, use no. of last notice)
- ② Stamped date as appears on the copy of notice returned to you by reviser's office (if proceedings were continued, use date of last notice)
- ③ Unless a later date is specified in this order or is prescribed in another statute, rules are effective 30 days after filing: RCW 28B.19.050(2) (1971 1st ex.s. c 57 §5 (2)). Leave this space blank except in such special cases.

May 21, 1974


Administrative Order No. 74-6

WHEREAS the attached Reduction in Force Policies were heretofore adopted as emergency rules, and

WHEREAS emergency rules are in effect for 90 days or until such time as permanent rules are adopted.

THEREFORE BE IT RESOLVED by the Board of Trustees of Clark Community College District #14 that it adopts WAC 132N-128-010 through 132N-128-110, attached and incorporated herein, as permanent rules of the district and directs that they be filed with the code revisor and thus become effective immediately.

I certify that the foregoing, together with the attached rules, is a true and accurate copy of a resolution adopted on May 21, 1974 by the Board of Trustees of Clark Community College District No. 14 during the course of a duly called and held public meeting.


Secretary, Board of Trustees
Community College District No. 14

NEW

WAC 132N-128-010 PURPOSE. The Board of Trustees of Clark Community College District No. 14 hereby establish the following rules on faculty tenure, the purpose of which is twofold:

(1) To protect faculty employment rights and faculty involvement in the protection of those rights at Clark College and subsequent community colleges hereafter established within Clark Community College District No. 14,

(2) To assure that tenure is granted to faculty members of such character and scholarly ability that the district, so far as its resources permit, can justifiably undertake to employ them for the rest of their academic careers.

NEW

WAC 132N-128-020. DEFINITIONS. As used in this chapter of WAC 132N-128, the following terms and definitions shall mean:

(1) "Appointing Authority" shall mean the Board of Trustees of Clark Community College District No. 14.

(2) "Tenure Review Committee" shall mean a committee of faculty peers and administrative staff appointed for purposes of evaluating probationary faculty and for recommending tenure.

(3) "Review Committee" shall mean a committee of faculty peers and administrative staff.

(4) "Regular College Year" shall mean a faculty appointment of three quarters of the year. These quarters do not necessarily have to come in sequence, i.e., Fall - Winter - Summer, Fall - Spring - Summer.

(5) "President" shall mean the President of Clark College, or in such President's absence, the acting president.

(6) "Part-time" shall mean an appointment for which the appointee's presence at the college for the entire professional day during the entire regular college year is not required.

(7) "College" shall mean Clark College and any subsequent community college hereafter established within Clark Community College District No. 14.

(8) "Full-time" shall mean an appointment which requires the appointee's presence at the college for a professional day during the regular college year, as designated in the appointee's employment contract.

(9) "Tenure" shall mean a faculty appointment for an indefinite period of time which may be revoked only for adequate cause and by due process.

(10) "Faculty Appointment" shall mean full-time employment as a teacher, counselor, librarian or other position for which the training, experience, and responsibilities are comparable as determined by the appointing authority, except administrative appointments.

(11) "Probationary Faculty Appointment" shall mean a faculty appointment to a tenurable position for a designated period of time which may be terminated without cause but with due process upon expiration of the probationer's term of employment.

(12) "Temporary Faculty Appointment" shall mean an appointment to the faculty in a position which is non-tenurable either because it has less than a full regular year or because the position is not a permanent one.

(13) "Probationer" shall mean any individual holding a probationary faculty appointment.

(14) "Administrative Appointment" shall mean employment in a specific administrative position as determined by the appointing authority. The following positions are deemed by the appointing authority to constitute administrative appointments, which positions are deemed non-tenurable. (Individuals may retain tenure as instructors while serving appointments to the following positions:)

- (i) President
- (ii) Dean of Instruction
- (iii) Dean of Students
- (iiii) Dean of Administrative Services
- (iiiii) Campus Administrative Assistant
- (iiiii) Assistant Registrar
- (iiiii) All positions titled Associate Dean, Director, Coordinator, or Chairman.

NEW

WAC 132N-128-030. SELECTION OF THE TENURE REVIEW COMMITTEE. (1) A Tenure Review Committee shall be established for each probationer. The committee shall be responsible for the probationer until he is either granted tenure or is no longer employed at Clark College.

(2) The president of the negotiating body shall be responsible for the establishment of each Tenure Review Committee which shall begin evaluating no later than four weeks after the day that the probationer has begun his faculty duties exclusive of summer quarter.

(3) Each Tenure Review Committee shall be composed of five members. There shall be automatic nomination of the coordinator or, in the absence of a division, of the department chairman. This position shall be designated position number 1. In the case when a division coordinator or department chairman is being reviewed, position number 1 shall be filled by an election of the faculty. Two tenured faculty members shall be nominated by the president of the faculty negotiating body for positions number 2 and 3. Two tenured faculty members shall be nominated by the probationer to position number 4, one of whom shall be elected by a faculty vote. The president of the college shall appoint an administrator to position number 5. After these nominations are made, the president of the faculty negotiating body shall call an all-faculty meeting at which tenured faculty members may be nominated for positions numbers 1 through 3. A vote shall be taken and the nominee receiving a majority vote for each position (1 through 4) shall be elected. If no candidate for a particular position received a majority vote, a runoff election shall be held within five days between the two candidates receiving the largest number of votes. Each review committee will choose its own chairman and shall meet at least once each quarter at the call of the chairman.

(4) If a position becomes vacant on the tenure review committee prior to the conclusion of the committee's duties, an administrator or faculty member, as appropriate, shall be chosen pursuant to the regulations in this section to fill the vacated position.

WAC 132N-128-040 DUTIES OF TENURE REVIEW COMMITTEE.

(1) This review committee shall establish its method of evaluating the performance of each probationer. The evaluation shall be directed toward improving the quality of the respective professional program. Therefore, the total evaluation shall emphasize procedures which would help the probationer improve the instructional program.

(2) For probationers appointed prior to fall term the evaluation shall include at least one formal meeting before the start of classes in the probationer's first regular college year. This meeting shall clarify the criteria and procedures to be used in the evaluation. The probationer shall submit to the chairman of the committee a written statement that he understands these criteria and procedures.

When the probationer's first term of employment is other than fall term, this meeting shall be held no later than the first day of classes of the quarter following his initial appointment.

(3) The committee's recommendation to award or not award tenure shall be based solely on the following criteria:

(a) Each Tenure Review Committee will solicit opinions from members of the probationer's division or administrative unit, including his Dean, regarding the probationer's effectiveness in his appointment. The committee shall also consider:

- (i) self-evaluation by the probationer
- (ii) evaluation based on first-hand observations of the probationer carrying out his duties
- (iii) evaluations by the probationer's students in the case of instructors

(4) The Tenure Review Committee shall meet with the probationer at least once each quarter to evaluate his progress and performance.

(5) In a meeting with the probationer present, a summary, which shall include deficiencies and suggestions to correct them, will be written each quarter. Any disagreements by probationer shall be included in written summaries. All summaries will be initialed by probationer, chairman of tenure review committee, and copies given to all the above plus appropriate Dean.

(a) A written evaluation will be made of each full-time probationary faculty appointee's performance and subsequently submitted to the said probationer and appropriate Dean on or before December 20th and March 1st of each regular college year that said probationer is not a tenured faculty appointee. The review committee which renders such written evaluation of the appointee's performance shall obtain such appointee's written acknowledgement of receipt of the written performance evaluation each time such evaluation is rendered.

(b) A written recommendation concerning the employment or non-employment of each full-time probationary faculty appointee for the ensuing regular college year shall be directed to the appointing authority through the president prior to March 1 of each regular college year. Copies of the recommendations will be sent to the probationer and coordinator or department chairman.

(c) A written recommendation shall be directed through the president, to the appointing authority with copies to the probationer and the Department Chairman or coordinator,

recommending the appointing authority award or non-award tenure; such written recommendations to be submitted at times deemed appropriate by the review committee: PROVIDED, that during such full-time probationary faculty appointee's third regular college year of appointment, the review committee shall prior to February 15th of such regular college year make such a recommendation as to the award or non-award of tenure. The failure of the review committee to make the written recommendation as to the award or non-award of tenure by February 15th of the regular college year for each full-time probationary faculty appointee who is then serving his or her third consecutive year of full-time appointment shall be deemed a recommendation that tenure not be awarded to such appointee.

(d) The probationer may resign at any time. The evaluation procedure will terminate upon receipt of the probationer's written resignation.

(6) The appointing authority shall give reasonable consideration to an award of tenure recommendation of the review committee and the appointing authority shall prepare and present to the committee justification for not accepting their recommendation.

NEW WAC 132N-128-050 DISMISSAL FOR CAUSE. Dismissal for sufficient cause during the regular college year shall, in addition to the enumerated grounds contained in Section 40, Chapter 283, Laws of 1969, Extraordinary Session, include but not be limited to:

- (1) Any unlawful act of violence;
- (2) Any unlawful act resulting in destruction of community college property;
- (3) Interruption of the orderly conduct of the educational process;
- (4) Incompetency;
- (5) Significant failure to perform a professional assignment;
- (6) Any other act specified by the Dean and/or the President which the review committee determines constitutes unprofessional conduct of a faculty member.

NEW WAC 132N-128-060 SELECTION OF REVIEW COMMITTEE - DISMISSAL - NONRENEWAL. (1) A separate review committee shall be established for each action taken by the college in the dismissal or non-renewal of a tenured faculty member or members. Each committee shall serve until such time as final determination is made regarding the matter.

(2) Each review committee shall be composed of five members. The President shall appoint an administrator to position number one. The faculty shall nominate two administrators, one of which shall be chosen by the President for position number two. Position 3 shall be elected by the faculty in a body from two nominees named by the reviewee; positions 4 and 5 shall be chosen by the faculty acting in a body.

(3) If a vacancy exists upon the review committee prior to the expiration of any such appointment, an administrative

or faculty member, as appropriate, shall be chosen pursuant to WAC 132N-128-060, Section (2) to fill the unexpired term of the absent member of such review committee.

NEW

WAC 132N-128-070 DISMISSAL FOR SUFFICIENT CAUSE. In all instances which involve dismissal for sufficient cause (as distinguished from non-renewal for sufficient cause as specified in WAC 132N-128-080):

(1) The Dean of Instruction or the Dean of Students, as appropriate shall investigate all matters regarding dismissal for cause as set forth in WAC 132N-128-050. If the Dean of Instruction or the Dean of Students has cause to believe that a faculty member should be dismissed for cause, he shall so advise the President; and if the President deems a sufficient cause exists, within ten working days they shall discuss the matter with the individual faculty member involved and present in writing the charges. If a Dean and/or the President deems that circumstances and facts warrant dismissal, the President shall begin dismissal proceedings.

(2) The President shall begin dismissal proceedings by specifying the conduct or condition which constitutes sufficient cause for dismissal and refer the charge to the review committee.

(3) The review committee shall, after receiving the written charge from the President, establish a date, within ten working days, for a hearing giving the faculty member so charged reasonable notice of such hearing, and inform in writing the faculty member so charged of the time, date, and place of such hearing.

(4) The review committee hearing shall:

(a) Include testimony from all interested parties, including but not limited to other faculty members and students; and

(b) The faculty member whose case is being reviewed shall be afforded the right of cross examination and the opportunity to present evidence on his behalf; and

(c) Include a record of all proceedings before such committee.

(5) The review committee following the expiration of such dismissal proceedings shall, within ten working days, prepare recommendations as to the appropriate action to be taken by the appointing authority.

(6) Review committee after the hearing may recommend suspension with pay as a preliminary to dismissal by the appointing authority.

NEW WAC 132N-128-080 PROCEDURES. Reduction-in-force means nonrenewal of contract of probationary or tenured faculty by reason of sufficient cause for the reduction of one or more employment positions and is to be distinguished from non-renewal solely by reason of personal shortcomings of an individual, such as insubordination or incompetency. For purposes of a reduction-in-force, a sufficient cause shall include, but not be limited to, a lack of sufficient funding and/or a lack of sufficient enrollment and/or a revision of program offerings.

NEW WAC 132N-128-090 THE NEED FOR REDUCTION-IN-FORCE.

(1) If the President anticipates the need for a reduction-in-force, he shall begin a thorough process of discussions and consultations with the Deans of Instruction, Student Services, and Administrative Services, and with three faculty members designated by the Executive Council of the Association as early as possible but no later than seven weeks before the end of winter quarter. The Association will then have the right to meet as often as is necessary to offer full consultation to the President. At least one of these discussions and consultations shall include all these persons together in a joint session. The Dean of Instruction shall keep the Instructional Advisory Council informed and solicit views from its members. Other relevant campus committees shall be available for consultation by the President.

(2) The president shall provide for use in these discussions and consultations the following information:

(a) Enrollment and budget data for the preceding three years, shown by divisions and departments

(b) The number and duties of each faculty member by division and department, enrollment projections, if possible

(c) Lists of forthcoming faculty vacancies due to retirement, resignation, or leave

(d) Other data requested by those he is consulting

(e) Brief written statement of his reasons in support of his tentative assumption of a need for reduction-in-force

(3) The President after such discussion and consultation will, no later than four weeks before the end of winter quarter, issue a written report giving his conclusions as to whether or not there is a need for reduction-in-force, and including a summary of his supporting evidence. If the President decides that a reduction in spending is necessary, he will, if possible, propose that the dollar cutback be achieved by granting up to three years leave (without pay) in lieu of non-renewal.

NEW WAC 132N-128-100 SPECIFIC IMPLEMENTATION. (1) If the President then decides to initiate reduction-in-force, he will, after discussion with the Deans and the Instructional Advisory Council, decide which faculty member's contract will not be renewed for the following year. Layoff shall be accomplished on the basis of seniority as set forth herein: PROVIDED, that affirmative action employment related practices required by law or federal contract shall prevail and be complied with

concurrently.

(2) The following order of layoff will be used provided there are qualified faculty members to replace and perform all the needed duties of the faculty members to be laid off: first, part-time faculty members; second, probationary appointees with the least seniority; third, full-time tenured faculty members with the least seniority.

(3) Seniority shall be determined by establishing the date of the signing of the first full-time contract for the most recent period of continuous professional service for Clark College, which shall include leaves of absence, sabbatical leaves and periods of layoffs. (This shall include professional services for the Vancouver School District No. 37 prior to 1967). In instances where faculty members have the same beginning date for full-time professional employment, seniority shall be determined in the following order:

(a) First date of the signature evidencing acceptance of employment

(b) First date of application for employment

(4) Clark College shall be one employment unit and an employee must meet minimum qualifications, as determined by the Dean of Instruction, appropriate Division Coordinators and Department Chairmen to instruct in other departments. This determination, as to whether faculty members to be laid off meet the minimum qualifications to instruct in another department, shall be made by the Dean of Instruction with the counsel of the respective Division or Department where the individual wishes to be considered for professional employment.

NEW
WAC 132N-128-110 REVIEW COMMITTEE. (1) Before final action by the appointing authority in not renewing a faculty contract, each case must be reviewed by the President, one administrator appointed by the President from two nominees of the Association, three faculty members elected by the faculty acting in a body. One Board member may serve as ex-officio if desired as required and described by state law (RCW 28B.50.863 and .869). Such reduction-in-force cases may be consolidated for hearing purposes before the same review committee.

(2) The Reduction-in-Force Review Committee, to which the matter is referred, shall then conduct proceedings to determine if cause exists and at the conclusion of such proceedings shall develop and make detailed recommended findings of fact and make an appropriate recommendation through the President to the appointing authority regarding the nonrenewal of contract.

(3) If the Review Committee, to which a proceeding is referred, fails to make a recommendation through the President to the appointing authority prior to the last day of winter quarter the matter shall be submitted to the appointing authority and it is assumed the Reduction-in-force Committee supports the President's recommendation.

(4) The only exception to the last day of winter quarter deadline permitted would be legislative exigency in which case the appointing authority would have the authority to suspend the deadline date.

NEW
WAC 132N-128-120 RE-EMPLOYMENT AND OTHER CONSIDERATIONS.

(1) The College President shall use his best efforts in attempting to procure similar employment for any faculty member reduced under the provisions of this article in another community college district within the States of Washington and Oregon. Recall shall be accomplished on the basis of reverse seniority as set forth herein: PROVIDED, that affirmative action employment related practices required by law or federal contract shall prevail and be complied with concurrently.

(2) Faculty members nonrenewed under this section shall be considered as being "on-layoff."

(a) A full-time tenured faculty member whose contract was not renewed as a result of this faculty staff reduction procedure has a right to recall to any teaching position, either a newly created one or a vacancy, providing he is qualified as determined by the Dean of Instruction following the procedure above in WAC 132N-128-100, Section (4). The recall shall be reversed seniority, the most senior first. The right of recall shall extend three years from the date of layoff.

(b) While a layoff continues no new faculty will be hired except in the unique circumstances where:

(i) There are no employees on layoff qualified by retraining to fill a vacant position, or

(ii) All qualified faculty members on layoff decline the offer to fill the vacancy.

(c) Faculty members on layoff shall receive written notice at least twenty (20) days in advance of the deadline for determining whether to exercise their recall rights. The notices sent to the employees must also be submitted to the Association.

(d) Once an individual on layoff status declines an offer to fill a vacancy for which he is qualified, he will be removed from layoff status and will no longer have any priority.

(e) Any individual on layoff will be given first consideration for any part-time position he/she is qualified for.

(3) Full-time tenured faculty members who have been laid off will retain all accrued benefits, including but not limited to sick leave and seniority. Upon recall they shall be placed at least at the next higher increment on the salary schedule than at the time of layoff and will retain their tenured status.