

TRANSMITTAL OF RULES ADOPTED BY INSTITUTION OF HIGHER EDUCATION

FROM: Clark College, Community College District No. 14  
(Name of Institution)

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

The enclosed rules  Permanent rules  Emergency rules, being Order No. 76-3  
relating to (Name of rules or description of subject matter)

Rules of Practice and Procedure for Clark College, Community College District No. 14: Amending chapter 132N-128 WAC to provide for needed changes in Definitions, Selection of Tenure Review Committee, Duties of Tenure Review Committee, Selection of Review Committee - Dismissal for Sufficient Cause, Dismissal for Sufficient Cause, and Reduction in Force Review Committee. These rules are identified as WAC 132N-128-020, 132N-128-030, 132N-128-040, 132N-128-060, 132N-128-070, and 132N-128-110.

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

pursuant to Notice No. 7297 & 7376 <sup>①</sup> filed with the code reviser on 12/6/76 <sup>②</sup> were regularly adopted as permanent rules of this institution at Room AD 011 on 2/15/77 and are herewith filed in the office of the code reviser pursuant to chapter 28B.19 RCW. The effective date of such rules shall be \_\_\_\_\_ <sup>③</sup>

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

pursuant to its finding in the attached administrative order, 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.

The undersigned hereby certifies that the requirements of chapter 28B.19 RCW and of the Open Public Meetings Act of 1971, chapter 42.30 RCW have been fulfilled.

Dated this \_\_\_\_\_ 18th day of February 1977.

STATE OF WASHINGTON  
**FILED**

FEB 18 1977

CODE REVISER'S OFFICE  
DOCKET # 7992 FILE # 7

Clark Community College Dist. 14  
(INSTITUTION)

Richard A. Finnigan  
By RICHARD A. FINNIGAN

Assistant Attorney General  
Title

- 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). Leave this space blank except in such special cases.

ADMINISTRATIVE ORDER 76-3  
Adoption of Rules

A resolution relating to amending permanent rules of Community College District #14 and Clark College, to wit: amending chapter 132N-128 WAC to provide for needed changes in Definitions, Selection of Tenure Review Committee, Duties of Tenure Review Committee, Selection of Review Committee - Dismissal for Sufficient Cause, Dismissal for Sufficient Cause, and Reduction in Force Review Committee.

BE IT RESOLVED by Community College District #14 and Clark College that it adopt Administrative Order No. 76-3 and the amended regulations annexed hereto and made a part hereof by this reference, identified as WAC 132N-128-020, 132N-128-030, 132N-128-040, 132N-128-060, 132N-128-070, and 132N-128-110 as permanent rules after due notice and in meeting open to the public held in Room AD 011 of the Clark College Administration Building, Clark College, Vancouver, Washington, February 15, 1977, as required by Chapters 34.04 and 28B.50 RCW.

This order, after being first recorded in the Order Register of this agency, shall be forwarded to the Code Reviser for filing, pursuant to Chapter 34.04 RCW and Chapter 1-12 WAC.

I certify that the foregoing, together with the attached rules, is a true and accurate copy of a resolution adopted on February 15, 1977, by the Board of Trustees of Clark Community College District No. 14 during the course of a duly called and held public meeting.

*Richard A. Jones by Richard J. [Signature]*  
Secretary, Board of Trustees  
Community College District No. 14

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) "Regular College Year" shall mean any three college quarters of the college year.

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

(4) "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.

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

(6) "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.

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

(8) "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.

(9) "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.

(10) "Temporary Faculty Appointment" shall mean an appointment to the faculty in a position which is non-tenurable either because it is for less than a full regular year or because the position is not a permanent one or because the position is funded through federal monies or special funds as provided in RCW 28B.50.851(2)(b).

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

(12) "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 previously granted tenure at the College retain tenure as faculty members while serving appointments to the following positions:

- (i) President
- (ii) Vice President
- (iii) Executive Dean
- (iv) Dean of Faculty
- (v) Dean of Instruction
- (vi) Dean of Students
- (vii) Dean of Administrative Services
- (viii) Campus Administrative Assistant
- (ix) All positions titled Associate Dean, Assistant Dean, Director, Coordinator, Chairperson, or Confidential Secretary.

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 College shall appoint an administrator to assume the ongoing overall responsibility for coordinating the activities of the tenure review process and assuring that tenure review committees are formed and that they fulfill their duties. Each Tenure Review Committee shall have its first organizational meeting no later than six weeks after the day that the probationer has begun his/her faculty duties, providing, however, that if he/she begins his/her duties in the summer quarter, this process is to begin no later than six weeks after the beginning of the fall quarter.

(3) Each Tenure Review Committee shall be composed of five members. There shall be automatic appointment by the College president of the probationer's Division Chairperson or, in the absence of a division, of the department chairperson. This position will be designated Position #1, and will constitute the administrative staff's representation on the committee. Positions #2, #3, and #4 shall consist of tenured faculty members. The faculty members selected for Positions #2 and #3 shall be the same for all Tenure Review Committees initiated that year, and they will serve on those committees for the full period, up to three years, necessary for each committee to discharge its duties. One shall be an "academic" instructor; the other shall be from the vocational area. Each year the president of the faculty negotiating body shall nominate a candidate for each position, then call an all-faculty meeting at which additional candidates may be nominated. A vote shall be taken at that meeting and the nominee receiving a majority vote for each position shall be elected. If no candidate for a particular position receives a majority vote, a run-off election shall be held within ten calendar days between the two candidates receiving the largest number of votes. Position #4 shall be filled with a tenured faculty member elected by the faculty acting in a body after the Association has solicited and considered the probationer's counsel relative to the candidate or candidates for that position. Position #5 shall be filled by a full-time student selected by the Council of Representatives of the Associated Students of Clark College. Each review committee shall choose its own chairperson, adopt bylaws for its operation, and shall meet at least once each quarter at the call of the chairperson.

(4) If a vacancy exists upon the Review Committee, as determined by the Committee's bylaws, prior to the expiration of any such appointment, an administrative member, a faculty member, or student member, as appropriate, will be chosen pursuant to Subsection 3 above to fill the unexpired term of the absent member of such review committee.

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 shall help the probationer improve the instructional program.

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

(a) Self-evaluation by the probationer;

(b) Evaluation based on observations of the probationer carrying out his/her duties;

(c) Evaluations by the probationer's students in the case of instructors;

(d) Opinions from members of the probationer's division or administrative unit, including his/her dean, regarding the probationer's effectiveness in his/her appointment.

(3) The Tenure Review Committee for the probationer shall begin its review process no later than six weeks after the beginning of the probationer's contracted faculty duties, exclusive of summer quarter, and shall reach agreement regarding the criteria and procedures to be used in the evaluation to enable them to notify the probationer in writing and discuss their proposed criteria and procedures with him/her by the end of the eighth week of the quarter. The probationer shall acknowledge in writing to the committee chairperson, within a week of its receipt, his/her understanding of these criteria and procedures.

(4) The committee shall meet at least once each quarter with the probationer starting with the second quarter of the evaluation process and continuing until the committee is discharged. This meeting shall be for the purpose of evaluating the probationer's progress and performance, and shall be held no later than the seventh week of the quarter. The committee shall provide a written summary of this evaluation, noting the probationer's strengths and weaknesses, plus written recommendations as to suggested procedures to be used by the probationer to correct such weaknesses. A copy of each summary shall be provided to the probationer, to his/her committee, and to the appropriate dean.

(5) At least once each year the Tenure Review Committee has the responsibility of making a written recommendation to the appointing authority, through the college president, regarding the employability of the probationer for the following year.

(a) Prior to March 1 of the probationer's first and second years of tenure review, the committee has the responsibility of providing a written recommendation concerning the employment or non-employment of their probationer for the ensuing college year. Copies of the recommendation will be sent to the probationer.

(b) No later than the probationer's third year of tenure review, the Tenure Review Committee must make a written recommendation for the granting or denying of tenure. This recommendation must be made prior to February 15 and shall be directed to the appointing authority, through the college president, with a copy to the probationer.

(c) 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 the tenure recommendation of the Review Committee, and the appointing authority will prepare and present justification to the committee for not accepting its recommendation.

(7) The foregoing procedure will not apply in cases involving Reduction-in-Force Procedures or Dismissal-for-Cause Procedures.

WAC 132N-128-060 SELECTION OF REVIEW COMMITTEE -  
DISMISSAL FOR SUFFICIENT CAUSE. (1) When the college seeks to dismiss for sufficient cause a tenured faculty member or members, a separate review committee for each faculty member shall be established, which committee shall adopt a set of bylaws for its internal operations. Any such bylaws shall meet with the expressed approval of the Hearing Officer.

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 #1. The Council of Representatives of the Associated Students shall select a student for position #2. Position #3 shall be filled with a tenured faculty member elected by the faculty acting in a body after the Association has solicited and considered the counsel of the faculty member being reviewed, relative to the candidate or candidates for that position; positions #4 and #5 shall be tenured faculty members chosen by the faculty acting in a body.

(3) If a vacancy exists upon the review committee, as determined by the committee's adopted bylaws, prior to the expiration of any such appointment, an administrative member, a faculty member, or student member, as appropriate, shall be chosen pursuant to Subsection 2 above to fill the unexpired term of the absent member of such review committee.

WAC 132N-182-070 DISMISSAL FOR SUFFICIENT CAUSE. In all instances which involve dismissal for sufficient cause, i.e., by reason of personal shortcomings of an individual, such as insubordination or incompetency (as distinguished from non-renewal for sufficient cause as specified in WAC 132N-128-080):

(1) The Dean of Faculty or the Dean of Students, as appropriate, shall investigate all matters regarding dismissal for cause. If the Dean of Faculty or the Dean of Students has cause to believe that a faculty member should be dismissed for cause, the Dean shall so advise the President; and, if the President deems a sufficient cause exists, within ten (10) working days from receiving notification from the Dean, the President shall begin dismissal proceedings. The President and the Dean shall discuss the matter with the faculty member no later than the beginning of the dismissal proceeding.

(2) The President begins the dismissal proceedings by presenting to the faculty member written charges of the specific conduct or conditions which is alleged to constitute sufficient cause for dismissal. Following presentation of written charges to the faculty member, the President shall initiate the process for the selection of a review committee (see Section 2 above) and then transmit copies of the written charges to the committee members.

(3) Upon initiation of the dismissal proceedings, the President shall appoint an independent Hearing Examiner, not connected with the College, who shall be responsible for facilitating and coordinating the activities of the Dismissal Review Committee.

(4) The Hearing Examiner shall establish a date for the hearing, giving the faculty member, the President, and the Dismissal Review Committee no less than ten (10) days' written notice of the hearing, including the time, the date, and the place of hearing. It shall also be the responsibility of the Hearing Examiner to:

(a) Preside over the hearing.

(b) Conduct the hearing with all due speed until the hearing is terminated.

(c) Appoint a reporter who shall function at the direction of the Hearing Examiner and shall record all testimony, receive all documents and other evidence introduced during the course of the hearing, and record any other matters related to

the hearing as directed by the Hearing Examiner.

(d) Hear testimony from all individuals called by the President or his/her representative, the faculty member charged or his/her representative, the Dismissal Review Committee, or the Hearing Examiner, and receive any evidence offered by same.

(e) Afford the faculty member charged the right of cross-examination, the opportunity to defend himself/herself, and the right to be represented by legal counsel and/or the faculty association.

(f) Allow the College administration to be represented by legal counsel.

(g) Make all rulings regarding the evidentiary and procedural issues presented during the course of the Dismissal Review Committee hearings.

(h) Meet and confer with the members of the Dismissal Review Committee and advise them in regard to procedural and evidentiary issues considered during the course of the committee's deliberations.

(i) Prepare a record which shall include:

(i) All pleadings, motions and rulings;

(ii) All evidence received or considered;

(iii) A statement of any matters officially noticed;

(iv) All questions and offers of proof, objections and rulings thereon;

(v) Recommended findings and exceptions;

(vi) A copy of the recommendations of the Dismissal Review Committee.

(j) Prepare a separate recommended findings of fact and disposition for review by the appointing authority, if appropriate.

(5) A copy of the reports described in 4(i)(j) above shall be transcribed and furnished upon request to the faculty member whose case is being reviewed.

(6) The hearing shall be closed. However, interested parties, including but not limited to College faculty, staff, and students, will be given an opportunity to present evidence.

(7) Within ten (10) college calendar days of the conclusion of the hearing, the Dismissal Review Committee shall arrive at its recommendations in conference on the basis of the hearing. It should give the counsel of either party (employee or employer) the opportunity to argue orally before it. If written briefs would be helpful, the Dismissal Review Committee may request them. If the Dismissal Review Committee determines that the availability of the transcript would aid in the making of a fair recommendation, the ten (10) college calendar day limitation will begin with the receipt of the transcript. Within five (5) college calendar days of the committee's developing its recommendation, the President of the College, the faculty member, and the Board of Trustees shall be presented with copies of the following:

(a) The recommendation of the Dismissal Review Committee;

(b) The recommendation of the Hearing Examiner (in the event the Examiner elects to file an independent statement);

(c) A record of the hearing.

(8) The Board of Trustees shall meet within a reasonable time, subsequent to its receipt of the Dismissal Review Committee recommendations, to consider those recommendations. The Board of Trustees shall afford the parties the right to present oral and written argument with respect to whether the faculty member involved should be dismissed. The Board of Trustees may hold such other proceedings as they deem advisable before reaching their decision. A record of the

proceedings at the Board level shall be made and the final decision shall be based only upon the record made before the Board and the Dismissal Review Committee, including the briefs and oral arguments. The decision to dismiss or not to dismiss shall rest, with respect to both the facts and the decision, with the Board of Trustees after giving reasonable consideration to the recommendations of the Dismissal Review committee. The Dismissal Review Committee's recommendations shall be advisory only and in no respect binding in fact or law upon the decision maker--the Board of Trustees. The Board of Trustees shall, within the fifteen (15) days following the conclusion of its review, notify the charged faculty member in writing of its final decision.

(9) Suspension of the faculty member by the President during the administrative proceedings involving the faculty member (prior to the final decision of the Board of Trustees) is justified if immediate harm to the faculty, others or college property or programs is threatened by the faculty member continuing his/her employment. The decision to suspend is at the discretion of the president; any such suspension shall be with pay.

(10) Except for such simple announcements as may be required covering the time of the hearing and similar matters, no public statements about the case shall be made by the faculty member involved, the Dismissal Review Committee, the administrative officers, or the Board of Trustees until all administrative proceedings and appeals have been completed.

(11) Any dismissed faculty member shall have the right to appeal the final decision of the Board of Trustees to the superior court within thirty (30) days of the receipt of the notice of dismissal. The filing of an appeal shall not stay enforcement of the decision of the Board of Trustees.

WAC 132N-128-110 REDUCTION IN FORCE REVIEW COMMITTEE (1) Before final action by the appointing authority in not renewing a faculty contract for reason of reduction in force, each case must be reviewed by a review committee consisting of one administrator appointed by the President, one student selected by the Council of Representatives of the Associated Students of Clark College, three faculty members elected by the faculty acting in a body. One Board member may serve as ex-officio if desired. 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.