State of New Hampshire

PERSONNEL APPEALS BOARD
25 Capitol Street
Concord, New Hampshire 03301
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APPEAL OF JOHN C. WALKER

DOCKET #99-T-20

NEW HAMPSHIRE TECHNICAL INSTITUTE

December 20,1999

The New Hampshire Personnel Appeals Board (Wood, Rule and Barry) met on Wednesday, September 29, 1999 and on Wednesday, October 27, 1999, under the authority of RSA 21-I:58, to hear the appeal of John C. Wallter, a former probationary employee of the New Hampshire Technical Institute. Mr. Walker, who was represented at the hearing by Attorney Elizabeth Olcott, was appealing his May 20, 1999, termination from employment as a Professor of Computer Information Systems prior to completion of his probationary period for allegedly failing to meet the work standard. Sara Sawyer, Human Resources Administrator, appeared on behalf of the Technical Institute.

The record of the hearing in this matter consists of pleadings submitted by the parties, notices and orders issued by the Board, the audio-tape recording of the hearing on the merits of the appeal, and documents admitted into evidence as follows:

Avpellant's Exhibits

1. Termination letter dated May 17, 1999 from Dr. William G. Simonton, President, New Hampshire Technical Institute to John Wallter
2. State of New Hampshire Department of Employment Security, Request for Information, dated 05/27/99

3. New Hampshire Technical Institute - Supplemental Job Description for John C. Wallter, signed August 19,1998
4. State of New Hampshire Performance Summary form for Professional/Technical Staff evaluation
5. Supervisor's notes of Ms. Madelyn Foulltes for John C. Wallter
6. Assigned teaching schedules for the full-time Computer Information Systems (CIS) faculty for the Spring term 1999
7. New Hampshire Technical Institute - Supplemental Job Descriptions for Frederick Lance (1/11/98), Deborah Remillard (1/6/98), and Stanley J. Zielinslti (8/21/94)
8. Course Evaluation form used by the Computer Information System (CIS) Department of the New Hampshire Technical Institute
9. Minutes of the CIS Curriculum Advisory Committee Meeting of November 6, 1998
10. Memo dated November 3, 1998 from John Wallter to senior students concerning Web course development and containing an outline of potential course content
11. Memo dated December 7, 1998 from John Walker to Madelyn Foulltes concerning additional hours in IS240
12. Memo from John Wallter dated 2/7/99 to interns and faculty confirming distribution procedure for labs for IS101
13. Letter dated March 4, 1999 from the NHTI Professional Development Team to John Walker
14. Memo from John Wallter dated 4/1/99 to Madelyn Foulltes concerning complaints from students in IS268
15. Memo from John Wallter dated 4/5/99 to Jack Waltelin, Scott Meacum, and Stan Zielinslti concerning lab corrections for IS101
16. Memo from John Walker dated 4/8/99 to Jack Weltelin, Scott Meacurn, and Stan Zielinski concerning remaining three labs for IS101
17. Identification of ten points raised in the termination letter form Dr. Simonton to John Walker
18. Copy of Supervisor's notes of Ms. Madelyn Foulltes with comments by Mr. Wallter
19. Course Evaluation results for Mr. Wallter for questions 1 - 5
20. Summary of Course Evaluation results for Mr. Wallter for questions 6 - 22
21. Student records maintained for each class section taught

22. Response to the ten points raised in the termination letter from Dr. William G. Simonton to Mr. John C. Walker
23. List of Work Standard Accountabilities as found in the Supplemental Job Description for John C. Walker
24. Comparison of teaching horns assigned to CIS faculty during the Spring term 1999
25. Table of CIS courses and the instructors who.teach them
26. *Not admitted*
27. *Not admitted*
28. *Not admitted*
29. *Not admitted*
30. Course materials prepared for IS101 Computer Information Systems
31. Course materials prepared for IS240 Visual Basic
32. Course materials prepared for IS268 Database Management Systems II (a.k.a. Advanced Access)
33. Course materials prepared for IS286 Web Design and Development

State's Exhibits

1. Per 601.07, Probationary Appointments, the Administrative Rules of the NH Division of Personnel
2. Per 102.42, Definition of Probationary Period, of the Administrative Rules of the NH Division of Personnel
3. Per 1001.02, Dismissal During,Initial Probationary Period, of the Administrative Rules of the NH Division of Personnel
4. Copy of application, college transcripts and resume as submitted by Mr. John C. Walker for the position of TI/C Professor of Computer Information Systems, position #13523, at New Hampshire Technical Institute
5. Copy of compensation, benefits, and probationary period review checklist as authorized by Mr. John C. Walker on August 18,1999

6. Copy of letter to Mr. John C. Wallter from Dr. Charles Annal, Vice-President of Academic Affairs, inviting Mr. Walker to attend an orientation session for new faculty at the NH Technical Institute
7. Copy of the material presented to new faculty at the orientation session held on Monday, August 17, 1998 at the New Hampshire Technical Institute
8. Copy of the fall, 1998 full-time teaching schedule for Mr. John C. Wallter and a copy of evening adjunct faculty contract(s) for which Mr. Wallter volunteered and received additional compensation
9. Copy of the Fall, 1998 teaching schedules for full-time Computer Information Systems faculty (Mr. Stanley Zielinslti, TIIC Professor; Ms. Debbie Remillard, TIIC Assistant Professor; and Ms. Madelyn Foulltes, TIIC Professor and Department Chair) at the New Hampshire Technical Institute
10. Copy of the Spring, 1999 full-time teaching schedule for Mr. John C. Wallter and a copy of evening adjunct faculty contract(s) for which Mr. Walker volunteered and received additional compensation
11. Copy of the Spring, 1999 teaching schedules for full-time Computer Information Systems faculty (Mr. Stanley Zielinski, TIIC Professor; Ms. Debbie Remillard, TI/C Assistant Professor; Mr. Fred Lance, TIIC Professor; and Ms. Madelyn Foulltes, TIIC Professor and Department Chair) at the New Hampshire Technical Institute
12. Copy of the course descriptions for the Computer Information Systems program offerings at the New Hampshire Technical Institute
13. Copy of an e-mail correspondence form Mr. Brad Asltins, a former student, to Mr. John C. Walker in response to Mr. Wallter's original e-mail regarding the Web Exam and Report
14. Copy of the May 17, 1999 dismissal letter as issued to Mr. John C. Wallter
15. Documentation as submitted on July 13, 1999 including: 1) Copy of the appellant's job description as Professor of Computer Information Systems, position #13523, and a copy of the state approved class specification for TIIC Professor; 2) Copies of course evaluations of Mr. John Walker as completed by students for courses taught during the Fall, 1998 and Spring 1999 Semesters; 3) Copy of the New Hampshire Technical Institute's mission, values and vision statement and a copy of the mission statement, five essential elements, and core

values of the NH Community Technical College System (Department of Regional Community Technical Colleges)

16. Documentation as submitted on July 28, 1999 (a copy of the supervisory file as maintained by Ms. Madelyn Foullces, Department Chair of Computer Information Systems, at the New Hampshire Technical Institute)

At the hearing, the following persons gave sworn testimony:

Karen A. Noonan	Jolm C. Wallcer
Lee Ann Morin Weiss	William Shurbert
George Humphrey	Stanley Zielinsli
Frederick Lance	Charles Annal
Madelyn Foulkes	Virginia A. Lamberton
Deborah Remillard	

In order to establish a framework within which to consider the evidence and argument offered by the parties, the Board made preliminary findings as follows:

1. At all relevant times, the appellant was a probationary employee serving his initial probationary period.
2. Probationary period is defined by the Rules of the Division of Personnel as, "...a period of full-time work during which a full-time employee is required to demonstrate satisfactory performance of the duties and responsibilities of the employees position as listed on the supplemental job description for the position." [Per 102.42)]
3. Per 601.07 (a) of the Rules of the Division of Personnel provides that, "The probationary period shall be considered an integral part of the process of appointment for all full-time employees and shall provide the appointing authority with the opportunity to: (1) Observe the new employee's work; (2) Train and aid the new employee in adjustment to the position; and (3) Remove an employee if the employee's work performance failed to meet required work standards."

4. The Personnel Rules define the term "supplemental job description" as meaning, "...a document identifying the scope of work, duties, and accountabilities of an agency-level position falling within a specific class."
5. Per 801.02 (a) of the Rules of the Division of Personnel states: "Each evaluation shall measure the employee's performance in relation to the performance expectations of the position. At a minimum, these expectations shall include each accountability listed in the employee's supplemental job description required by Per 301.03(d)(8)." (Emphasis added.)
6. According to Per 801.04 of the Rules of the Division of Personnel, the work standards against which a professional/technical employee's performance is judged include satisfactory attendance, quantity of work, quality of work, job knowledge, communications, dependability, cooperation, initiative, safety, leadership, and any specialized performance criteria specified in the employee's supplemental job description. [Per 801.041
7. Per 801.06 (a) of the Rules of the Division of Personnel states: "Each appointing authority shall be responsible for conducting at least one evaluation per year for each full-time classified employee pursuant to RSA 21-I:42, XIII."
8. Per 801.06 (b) of the Rules of the Division of Personnel states: "An appointing authority shall be responsible to conduct more frequent evaluations for reasons including, but not limited to, the following: .. (2) Evaluating the performance of probationary employees under 801.07..."
9. Per 801.07 (a) of the Rules of the Division of Personnel states, "An appointing authority shall evaluate the performance of any probationary employee at least one month prior to the expiration of the probationary period."
10. Mr. Walker's supplemental job description (Appellant's Exhibit 3) states, in part, "THIS POSITION CARRIES A ONE YEAR PROBATIONARY PEFUOD."
11. Mr. Walker had been employed as a full-time faculty member for a period of approximately nine months on the date of termination.

Standard of Review

"At any time during the initial probationary period, an appointing authority may dismiss an employee who fails to meet the work standard provided the dismissal is not: (1) Arbitrary; (2) Illegal; (3) Capricious; or (4) Made in bad faith."

At the appellant's request, the witnesses were sequestered and instructed by the Chairman not to discuss their testimony with one another until after the hearing had been completed and the Board had issued its decision. At the close of the second day of hearing, the appellant submitted a "Request for Findings of Fact and Rulings of Law" and a "Petition for Reinstatement, Back Pay and Relief."

The Board is mindful of its obligation to respond to proposed findings of fact and rulings of law and finds them helpful in focusing the Board's review on the material facts in dispute. However, detailed, compound proposals that require the Board to infer certain facts or circumstances from information not admitted into the record or noticed officially are not helpful in the decision-making process. Accordingly, the Board will make its own findings of fact and rulings of law. To the extent that the Appellant's "Proposed Findings of Fact and Rulings of Law" are consistent with the Board's decision below, they are granted. Otherwise, they are denied.

Findings of Fact

1. In his application for the full-time vacancy as a Professor of Computer Information Systems at the NH Technical Institute, Mr. Walker indicated that he had approximately two years of experience as an Information Services Director for The Timberland Company; twelve and a half years of experience as the Information Systems Manager for Teradyne, Inc. (including responsibilities developing and supervising the curriculum for employee computer training); one year as the temporary General Manager for an advertising firm owned by his wife; three years of experience teaching PC Applications and MS Office 97 at NHTI Concord, Community Education Division, PC Technology; and MS Office 3.1 at the Transformations Program (jointly sponsored by NHCTC/Laconia and Department of Corrections), and a graduate course in Information Systems Management for MBA candidates at UNH.
2. Mr. Walker was hired on August 17, 1998 as a full-time Professor of Computer Information Systems at the New Hampshire Technical Institute. On August 19, 1998, Mr. Walker received and signed a Supplemental Job Description for his full-time position that listed the

position's Scope of Work, ten specific Accountabilities, Minimum Qualifications, and Special Qualifications.

3. The Supplemental Job Description also bore the following disclaimer: "The supplemental job description lists typical examples of work and is not intended to include every job duty and responsibility specific to a position. An employee may be required to perform other related duties not listed on the supplemental job description provided that such duties are characteristic of that classification."
4. Mr. Wallter's first specific duty or "Accountability" was, "Teaches computer related courses and, if applicable, other courses as assigned at NHTI."
5. During the Fall 1998 semester, Mr. Wallter was assigned to teach IS 101 (Computer Information Systems), IS 221 (Computer Programming II) and IS 240 (Visual Basic). He was also required to complete course preparations for IS 101 (Computer Information Systems) and IS 240 (Visual Basic), and teach one Computer Programming II lab prepared and completed by his supervisor, Madelyn Foulkes.
6. Early in the Fall semester, Madelyn Foulltes, CIS Department Chair, received complaints from Mr. Wallter's IS 101 students that his lectures were confusing, that the lectures were not well prepared, that the appellant jumped from topic to topic, and that he was easily "sidetraclted," discussing issues not directly related to the class.
7. Ms. Foulkes spoke with Mr. Wallter about how his classes were progressing, and suggested to the students that they take their complaints directly to Mr. Wallter.
8. On or about October 7, 1998, Ms. Foulkes called Mr. Wallter out of class to tell him that management at the Institute had received a complaint from a female student that the appellant was giving academic warnings to female students only. Mr. Wallter denied the allegation and reviewed his records with Ms. Foulltes to demonstrate that academic warnings were being sent to male and female students.
9. Ms. Foulkes suggested that the appellant inform the class fi-om which the complaint had arisen of the number of men and the number of women in that class who would be receiving academic warnings. Ms. Foulltes also sat through a few of the appellant's classes to observe his interraction with students.
10. The appellant insisted that he was entitled to an investigation to prove that the original allegation was false.
11. In the absence of a formal grievance or any evidence of gender bias or sexual discrimination on the appellant's part, the Institute did not open an investigation.
12. By the end of the Fall term, Ms. Foulkes was comfortable with the appellant's progress and made teaching assignments for him for the Spring term.

13. During both the Fa11 '98 and Spring '99 terms, Mr. Walker's contact hours, labs and course preparation associated with his full-time position were similar to those of Stanley Zielinski and Deborah Remillard.
14. Before the start of the Spring semester, Ms. Foulltes asked Mr. Wallter to relocate his office to the space shared by the other CIS faculty. Mr. Wallter declined the request to move to shared office space, remaining in his own office away from the rest of the CIS faculty, remarking to a co-worker that such a move would be reason to "go postal."
15. For the Spring 1999 semester, Mr. Wallter was assigned to teach IS 101 (Computer Information Systems), IS 268 (Database Management Systems II) and IS 286 (Web Design and Development). He also was responsible for preparing labs for IS 101 (Computer Information Systems), IS 268 Database Management Systems II and IS 286 (Web Design and Development).
16. The coursework that the appellant was expected to teach was considered "high end" and included the courses that he was originally hired to teach.
17. In the spring, there were renewed complaints from students that the appellant was not well-prepared, that he tended to wander off the topic, that his expectations for computer lab exercises were unclear, and that he wasn't devoting his teaching to the work he expected students to complete in the lab.
18. Ms. Foulkes discussed these issues with the appellant, who was again surprised that the students had not come directly to him. Ms. Foulltes informed the appellant that she had told the students to put their complaints to him directly.
19. In April, Ms. Foulkes advised the appellant that other instructors were complaining about not receiving the appellant's prepared lab exercises on time. Again, Mr. Walker expressed surprise that the faculty had not come to him directly.
20. Mr. Walker and Ms. Foulkes discussed problems reported in the classes that he taught, and Ms. Foulkes offered to sit in on one or more of the appellant's classes during the Spring semester to assist him in correcting some of the problems that had been identified.
21. Mr. Walker declined Ms. Foulltes' offer, saying he didn't believe it would be helpful.
22. Department chairs generally do not sit in on or observe classes taught by other instructors without first receiving permission fi-om the instructor because such observations can be disruptive.
23. Mr. Walker never refused Ms. Foulltes access to his classes.
24. Mr. Walker received no formal evaluation of his work performance prior to termination from employment.

25. Some of the appellant's student evaluations are highly complimentary of his enthusiasm, subject knowledge and teaching style. Others are highly critical of his organization, preparedness for class, and ability to communicate information effectively to the class.
26. Student evaluations of the appellant's classes were substantially poorer than evaluations of his peers in the department. Approximately 50% of Mr. Walker's students said that they. would not take another course with him.
27. Mr. Wallter met with Charles Annal on May 20, 1999 to review the contents of the notice of termination from employment that had been prepared and was dated May 17, 1999.
28. Mr. Walker was dismissed from his position on May 20, 1999 for failure to meet the work standard as a probationary employee.

Rulings of Law

A. "'Accountability' means a specific work assignment performed 10 percent or more of the total working time with a stated end result against which the employee's performance will be evaluated." [Per 102.011

B. "'Probationary period' means a period of full-time work during which a full-time employee is required to demonstrate satisfactory performance of the duties and responsibilities of the employee's position as listed on the supplemental job description for the position." [Per 102.42]

C. "'Supplemental job description' means a document identifying the scope of work, duties, and accountabilities of an agency-level position falling within a specific class." [Per 102.591

D. "The probationary period shall be considered an integral part of the process of appointment for full-time employees and shall provide the appointing authority with the opportunity to: (1) Observe the new employee's work; (2) Train and aid the new employee in adjustment to tlie position; and (3) Remove an employee if the employee's work performance fails to meet required work standards." [Per 601.07(a)]

E. "At any time during the probationary period, pursuant to Per 1001, an appointing authority may: (1) Dismiss an employee serving an initial probationary period pursuant to Per

1001.02; or (2) Dismiss an employee serving a promotional probationary period pursuant to Per 1001.03 to 1001.08." [Per 601.07(e) (1) and (2)]

F. "Prior to the end of the probationary period, the appointing authority shall notify the employee in writing whether the employee shall receive a permanent appointment." [Per 601.07(f)]

G. "Each evaluation shall measure the employee's performance in relation to the performance expectations of the position. At a minimum, these expectations shall include each accountability listed in the employee's supplemental job description required by Per 301.03(d)(8)." [Per 801.02 (a)]

H. "(a) An appointing authority shall evaluate the performance of any probationary employee at least one month prior to the expiration of the probationary period. (b) If an appointing authority dismisses a probationary employee, the appointing authority shall do so in accordance with Per 1001.02. [Per 801.071

I. "(a) At any time during the initial probationary period an appointing authority may dismiss an employee who fails to meet the work standard provided the dismissal is not: (1) Arbitrary; (2) Illegal; (3) Capricious; or (4) Made in bad faith. (b) No appointing authority shall dismiss a probationary employee under this rule until the appointing authority meets with the employee, prior to issuing the notice of dismissal, to discuss the appointing authority's reason(s) supporting the decision to dismiss the employee. [Per Per 1001.021

J. "If an appointing authority determines that there are sufficient grounds to dismiss the probationary employee, the appointing authority shall: (1) Prepare a written notice of dismissal to be given to the probationary employee specifying the reason(s) for dismissal; and (2) Notify the employee in writing that the employee may appeal the dismissal within 15 calendar days of the notice of dismissal to the board if the employee can allege facts

sufficient on their face to support an allegation that the dismissal was: a. Arbitrary; b. Illegal; c. Capricious; or d. Made in bad faith." [Per 1001.02(c)]

Decision 'and Order

There is no dispute that Mr. Wallter was at all relevant times a probationary employee of the Technical Institute working within an initial. probationary period. As such; Mr. Walker was subject to dismissal without prior warning for failure to meet the work standard.

The appellant asks the Board to find that the work standard is narrowly defined as the Accountabilities listed on the appellant's supplemental job description. In fact, Per 801.02 (a) of the Rules of the Division of Personnel defines the standard more broadly than that, stating, "Each evaluation shall measure the employee's performance in relation to the performance expectations of the position. At a minimum, these expectations shall include each accountability listed in the employee's supplemental iob description required by Per 301.03(d)(8)." (Emphasis added.)

The first accountability appearing in Mr. Walker's supplemental job description is to "teach." Teach is defined in part as follows: "1. To impart the knowledge of; to give intelligence concerning; to impart, as knowledge before unknown, or rules for practice; to inculcate as true or important; to exhibit impressively; as, to teach arithmetic, dancing, music, or the lilte; to teach morals." (ARTFL Project: Webster Dictionary, 1913, Page 1478) Ms. Foulkes testified that "teach" in the context of the Technical Institute means, "...to take your skills and communicate that to the students. To teach you have to be able to communicate to students." The fact that Mr. Walker appeared regularly for classes and provided instruction is undisputed. Whether or not Mr. Walker "taught" to a standard acceptable to the Technical Institute in the Computer Information Systems program was the question the appointing authority had to answer.

Mr. Annal and Ms. Foulkes both testified that the appellant's course load and class schedule were similar to those of other instructors and professors in the Department. The fact that Mr. Walker was hired as a full professor to teach the "high end" computer courses gives an indication

of the level of expectation associated with his position. Mr. Annal and Ms. Foulkes also testified that student evaluations of Mr. Walker's classroom performance were substantially worse than those of his peers. Although the appellant received a number of very favorable student evaluations, the fact remains that lie received sufficient numbers of negative evaluations and complaints that it caused concern about his ability to communicate his lmowledge to the students in his class. The evidence that he was unable to do so for the majority of his students is persuasive.

The appellant argues that his tennination was done in bad faith because: 1) it failed to include in his permanent personnel file "the customary letter offering full-time employment," 2) it viewed the appellant as a contract worker, 3.) it failed to conduct a sexual harassment investigation when there were allegations of gender bias, 4) the agency either did not inform the appellant of student complaints or waited until the end of the semester to make them known to the appellant, 5) the agency failed to advise the appellant that his job was in jeopardy because of the complaints; and 6) the agency failed to give him a written evaluation and a verbal or a written warning prior to his dismissal.

First, there was no evidence of a "customary letter offering full-time employment." Instead, the agency offered evidence from Mr. Walker's file of the standard form used by the agency to track paperwork for employment and benefits information whenever a new employee is hired into a full-time position. Similarly, there is no evidence that the agency viewed the appellant as a "contract worker" or that the appellant's termination was a "foregone conclusion."

The appellant offered no evidence of an actual complaint of harassment filed against him that would have dictated the completion of a sexual harassment investigation. Similarly, the appellant offered virtually no evidence that his personal or professional reputation was harmed in any way by the original complaint that he had demonstrated gender bias. Ms. Foulkes discussed the issue with Mr. Walker and assured herself that students were not being treated differently because of their gender. She also visited Mr. Walker's class and observed him interacting with students, particularly with regard to the question of student grade warnings that had given rise to

the original complaint. Having found that there was no basis for a complaint, and in the absence of a complaint being filed, there was nothing to investigate.

Ms. Foulkes did apprise the appellant of student complaints and suggested how those complaints should be handled. Ms. Foulkes would not have had student evaluations prior to the end of the semester, and therefore would have been unable to provide them to the appellant until the semester was coming to a close. The agency also had no requirement to give Mr. Walker a specific warning prior to termination under the provisions of Per 1001.02 of the Rules of the Division of Personnel.

The appellant argues that his termination was arbitrary because the agency terminated him on the basis of student evaluations and complaints, and on the basis of his failure to achieve an acceptable percentage of "student satisfaction." Further, the appellant argues that the agency's failure to complete a formal evaluation of his performance is further evidence of arbitrariness.

The Board disagrees. Per 801.07 (a) requires an appointing authority to, "...evaluate the performance of any probationary employee at least one month prior to the expiration of the probationary period." In this case, Mi. Walker had been employed by the Technical Institute for nine months, and the agency had two more months within which to have completed the evaluation in strict compliance with Per 801.07 (a). Instead, however, the agency found that the appellant failed to meet the work standard, and as required by Per 801.07 (b), dismissed the appellant in accordance with Per 1001.02. The Board does not believe that "student satisfaction" is measurable in percentage terms, or that job performance can be rated in terms of how many good or bad student evaluations an employee might have received. Those are factors, however, that must be taken into consideration in determining whether or not a probationary academic employee should attain permanent status.

The appellant argues that the termination was ,capriciousin that the appointing authority did not base it on a full and complete assessment of his performance as an employee, relied only on an

assertion of student complaints, and gave insufficient consideration to the available information concerning the appellant's performance. Again, the Board does not agree.

The appellant refers repeatedly to extra duties and responsibilities assigned to Mr. Walker, and to tlie confidence that the agency must have had in him if it intended to permit him to teach courses during the summer session. On the contrary, the evidence reflects that the appellant's teaching schedule, assignments for development of lab exercises and office hours were very similar to that of his peers. Further, tlie evidence reflects that Mr. Walker was hired specifically for his expertise in the areas of the coursework that he was assigned. Finally, the evidence reflects that contracts were developed before a determination liad been made by Ms. Foulkes and Mr. Annal tliat the appellant would not attain permanent status, and before the agency knew there were insufficient enrollments in the summer courses to support the appellant's contracts for adjunct faculty work during the summer months following the date of termination. The Board did not find that the agency's decision to terminate Mr. Walker's employment under those circumstances was capricious.

On the evidence, arguments and offers of proof, the Board found that the appellant failed to meet the work standard as described by his supplemental job description and class specification. Per 1001.02 of the Rules of the Division of Personnel clearly provides for termination of an employee at any time during the initial probationary period if the employee fails to meet the work standard. Ms. Foulkes discussed performance issues with tlie appellant throughout his tenure as a professor and informed him that she had received complaints from students and other faculty about his level of preparation, instruction, and ability to communicate his lcnowledge to tlie students in his classes. Mr. Walker was informed when he was liired that he was a probationary employee subject to tlie Rules of tlie Division of Personnel and, as such, was subject to termination at any time during his initial probationary period for failure to meet the work standard.

The agency complied with the requirements of Per 1001.02 (b) by meeting with the employee prior to issuing the notice of dismissal and discussing with him the employer's reason(s)

supporting the decision to terminate his employment. When given the opportunity to meet with Mr. Annal to discuss these issues on the date of termination, Mr. Walker indicated that he still believed he had something to offer the institute. He did not, however, provide a sufficient reason for the appointing authority to determine that he had been meeting the work standard and should be allowed to attain permanent status as a full-time member of the faculty.

On the facts in evidence, the Board voted unanimously to DENY Mr. Walker's appeal.

THE PERSONNEL APPEALS BOARD

-Patrick H. Wood, Chairman

Lisa A. Rule, commissioner

James J. Barry, Commissioner

cc: Thomas Manning, Director of Personnel, 25 Capitol St., Concord, NH 03301
Sara Sawyer, Human Resources Administrator, NH Community Technical College System, 5 Institute Drive, Concord, NH 03301
Atty. Elizabeth Olcott, 28 Centre Street, Concord, NH 03301