THE DISTRICT BOARD OF TRUSTEES OF THE TALLAHASSEE COMMUNITY COLLEGE STATE OF FLORIDA

TALLAHASSEE COMMUNITY COLLEGE, Petitioner/Employer

vs.

DONNA FRANCIS-CLARK, Respondent/Employee.

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FINAL FINDINGS OF FACT, CONCLUSIONS OF LAW AND RECOMMENDATION, AND RULING ON EXCEPTIONS

APPEARANCES

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BACKGROUND

THIS MATTER was considered by the undersigned Hearing Examiner pursuant to Tallahassee Community College Board of Trustees Policy 05-16.

The Hearing Examiner considered evidence, law and argument presented by Petitioner and Respondent, filed Proposed Findings of Fact, Conclusions or Law and a Recommendation, and considered exceptions filed by Respondent.

Having considered those matters, this Hearing Examiner issues this Final Findings of Fact, Conclusions of Law, Recommendation and Rulings on Respondents exceptions.

**RULINGS ON EXCEPTIONS**

Respondent filed Exceptions to the Hearing Examiner's Proposed Findings of Fact, Conclusions of Law and Recommendation. Petitioner did not file exceptions or a reply to Respondent's exceptions. On Respondent's exceptions to the Hearing Examiner's Proposed Findings of Fact and Conclusions of Law, and Recommendation the Hearing Examiner makes the following rulings.

1. Respondent claims in Exception Number 1, summarized at Page 2, that the Hearing Examiner relied on significant "quantum's of evidence" to support its conclusions that both students and TCC were damaged by the loss of CAHIIM candidacy. The specific exception is that this evidence "was precisely predicated on 'subsequent efforts to regain candidacy." The exception asserts that the Hearing Examiner failed to consider evidence that TCC failed to mitigate the damages to students and TCC by failing to appeal to CHAIIM the loss of candidacy under CAHIIM rules. This exception is denied. The

purpose of the hearing was not to determine whether TCC could have taken actions subsequent to the loss of candidacy that would have restored or reinstated candidacy. Rather, the purpose of the hearing was "to determine whether the charges [against the employee] have been sustained by the evidence." See, TCC Policy 05-16(E)(6). It was not the purpose of the hearing to determine whether there existed an alternative method for TCC to have regained candidacy after candidacy had already been lost.

2. Respondent asserts in Exception Number 2, on page 3, that this Hearing Examiner overlooked or failed to consider that problems with the lack of progress on the application had been repeatedly brought to the attention of Respondent's supervisors and to the provost. Though there was a conflict in the evidence, this Hearing Examiner resolved that conflict based upon the more credible and persuasive evidence

and testimony of Dean Stewart that the dean had never received from Respondent - despite numerous requests - sufficient information that would justify additional help be assigned to the project. This exception is denied.

3. Respondent's Exception Number 3 on page 4, is that the Hearing Examiner mischaracterized the evidence when she failed to accept Respondent's testimony she was "getting ready to schedule a site visit," and that Respondent had never scheduled a site visit for

CAHIIM. According to Respondent's exception, Respondent never told any students she had scheduled a site visit. The parties submitted conflicting evidence on this point, and this Hearing Examiner resolved the conflict in the evidence against Respondent, choosing to base her fact finding on this issue on the more credible evidence that a

CAHIIM site visit had not been scheduled or arranged. The Hearing examiner is charged with resolving conflicts in the evidence, and this Hearing Examiner chose to accept the more credible and more persuasive evidence on the subject, concluding that Respondent had told students, faculty and the advisory board that a CAHIIM site visit had been scheduled. This Hearing Examiner assigned no credibility to Respondent on this conflicting evidence. This exception is therefore denied.

4. Respondent's Exception Number 4 on page 6, claims the "preponderance of the evidence fails to support the finding that Prof[essor] Francis-Clark testified there was a two-year deadline." There was substantial and conflicting evidence on this issue. While Responded certainly testified that there was not a two-year deadline within which to complete the CAHIIM accreditation application, this Hearing Examiner resolved that conflict by assigning little to no weight or credibility to Respondent's testimony and found, from all

the evidence in the case, there was indeed a two-year time limit within

which to have the accreditation application completed. The Hearing

Examiner denies the exception.

5. In short, the bases for Respondent's exceptions is a preference that the Hearing Examiner had assigned greater weight and credibility to Respondent's evidence and testimony in resolving conflicts in the evidence than the Hearing Examiner deemed worthy.

6. Based on the denial of Respondent's exceptions, this Hearing Examiner adopts in its entirety the Proposed Findings of Fact, Conclusions of Law and Recommendation filed on March 2, 2017, and incorporated herein.

**ACCRONYMS AND ABBREVIATIONS**

The following acronyms and abbreviations are used throughout this document.

HIM..............Health Information Management program

AHIMA ........ American Health Infonnation Management

CAHIIM ....... Commission on Accreditation for Health Informatics and

Information Management Education

RHIT............Registered Health Information Technician

**PROCEDURE**

On August 12, 2016, Petitioner, Tallahassee Community College, notified Donna Francis-Clark, Respondent, of its intent to involuntarily dismiss Ms. Francis-Clark from her position as a Health Information Technology Associate Professor, under authority of Florida Statutes, Chapter 1001.64(18), 1001.65(3) and TCC Policy 05-16. The letter advised Ms. Francis-Clark of her right to a hearing.

On August 22, 2016, Respondent requested a hearing in accordance with TCC Policy 05-16 challenging TCC's intent to terminate her employment.

The undersigned was assigned to serve as the Hearing Examiner to determine whether the charges have been sustained by the evidence. The President bears the burden of proving the charges by the greater weight of the evidence. (TCC Policy 05-16E(6) The Hearing Examiner conducted two days of hearings, receiving testimony and evidence from Petitioner and Respondent. The hearings were held on October 31, 2016, and on November 15, 2016. In its letter of August 12, 2016, (P Ex 1) TCC alleged that as TCC faculty Ms.

Francis-Clark demonstrated significant deficiency in her performance during the

2015-16 academic year. The letter identified that, as a TCC faculty member, Ms. Francis-Clark's three core employment functions were: (1) to demonstrate effective instructional effort by (a) maintaining high academic standards, (b) teaching current and relevant curriculum (c) communicating content effectively, and (c) [sic] cultivating an environment best suited to learning; (2) demonstrate active engagement in defining appropriate curriculum content and revision of curriculum as appropriate and (3) demonstrate significant contributions to the college through service and support of college policies and procedures. Ms. Francis-Clark was further advised in the letter that "[A]s a primary faculty (program chair), [she had] the additional responsibility to lead, direct and guide

program decisions that are in the best interest of the current and future students and faculty members."

The termination letter related that information had come to TCC's attention from the Commission on Accreditation for Health Informatics and Information Management Education ("CAHIIM") and from Provost Moore-Davis. The letter explains that CAHIIM sent a letter to TCC on July 12, 2016, notifying TCC of its loss of candidacy for accreditation ofTCC's Health Information Technology program.

TCC seeks to terminate the employment of Respondent for failing to complete tasks necessary for the Health Information Management program to timely achieve or obtain accreditation. In its letter of termination, TCC charged "as primary faculty (program chair) [Ms. Francis-Clark was] tasked with completing tasks necessary for the program to gain accreditation; T hat [Ms. Francis-Clark] was to perform assigned duties and responsibilities to demonstrate [her] ability to meet [her] core essential job functions, provide quality education to [TCC's] students, and exhibit leadership of the program and assigned faculty; but failed to do so."

The termination letter explained TCC's candidacy was lost in May 2015, two years after the letter of intent to seek accreditation was filed. The letter of termination states this is "egregiously unacceptable, and has distressed, disrupted and negatively impacted [TCC'S] student's [sic] ability to seek employment of their choice, as well as the viability of the program."

The letter of termination continues:

"The students in the program expected, and rightfully so, to sit for the Registered Health Information Technician ("RHIT") certification exam and be gainfully employed via an accredited program once graduating. However, the expectations of the program were compromised by your inaction. At no time did you inform Academic Affairs nor did you ask for assistance such that the ramifications could be averted."

The termination letter also alleges that students must now, due to the negligence of Ms. Francis-Clark, delay sitting for their RHIT certification exam "until this issue is rectified."

At the hearing, TCC dropped the allegation that there were no records to substantiate any advisory meetings were held during the 2015-2016 academic year.

**CAHIIM ACCREDITATION PROCESS**

The first step in working toward CAHIIM accreditation is registration with CAHIIM followed by submitting an application for accreditation. (T330-331) After submitting an application, a program must complete a self-assessment of its current program. The self-assessment is to be reviewed by a CAHIIM review panel. (T275) The CAHIIM review panel then provides feedback to the program on its self-assessment. (T275) An accreditation-seeking program is then responsible for responding to the CAHIIM review panel's self-assessment

feedback. (T275) Once the self-assessment review phase is complete, CAHIIM conducts a site visit. Following the site visit, CAHIIM provides information on corrective actions that must be taken before accreditation is granted. (T276)

The final stage of the accreditation process involves a meeting of the CAHIM

board to review a program's response to the site visit. (T276)

**DONNA FRANCIS-CLARK**

1. Donna Francis-Clark was initially hired by TCC in the Summer of 2011. TCC paid her $5,000 to develop a curriculum for a new HIM program. (T224,

227-228; P ex 1). Respondent was hired full time in Fall2011 as Program Chair and Assistant Professor. She was hired to create the HIM program, develop the curriculum and obtain CAHIIM accreditation. (T228, 230, 232) Respondent was aware her responsibilities included creating the HIM program, developing the curriculum, and obtaining accreditation. (T232)

3. As Program Chair, Respondent was the head of the HIM program at TCC.

(T. P230-231) Program Chairs are paid an additional $1,300 stipend to work on

Program Chair duties over the summer.

4. Respondent had previous experience at TCC working on the creation of programs and directing a certification program. (T324-325)

5. Respondent held herself out to be an expert on CAHIIM accreditation. She self-identified on her resume that CAHIIM accreditation was one of her core competencies. Respondent was identified on the CAHIIM application as TCC's expert on CAHIIM accreditation. Ms. Francis-Clark was the only person at TCC qualified to submit the accreditation application, and was so designated. (T74, 237; P ex 58.)

6. Ms. Francis-Clark was also responsible for teaching classes each semester in the applied sciences program. (T130) Respondent acknowledges that as HIM Program Chair, she was required to lead the CAHIIM accreditation process. (T315-316, 335)

7. Beginning in 2012, Respondent and xxxxxxxxx, a professor in the HIM program assigned to assist Respondent with the CAHIIM accreditation project, began to prepare for applying for CAHIIM accreditation. (T234, P32) HIM Advisory Board (a group of professionals who meet to discuss various facets of

the HIM program) meetings were held during which CAHIIM issues were discussed, including accreditation timelines. Respondent attended those meetings and served on the Board at times. (T240-241, P ex 22, 54)

8. Development of CAHIIM accreditation timelines were also discussed at faculty meetings between Respondent and xxxxxxxx. There were at least 11 faculty meetings held between September 2012 and April2013. (T234-235; P Ex34-36, 39, 42-44, 46, and 55 -57)

9. On May 14, 2013, Respondent filed TCC's application for accreditation with

CAHIIM. (T 250; REx 50) TCC paid CAHIIM an $8,000 application fee. (T

63) Respondent and xxxxxx continued to hold faculty meetings (T261, P

ex74-75)

10. On June 4, 2013, TCC was placed in candidacy status by CAHIIM. Respondent notified Dean Stewart of the candidacy and represented that she would work quickly to complete the project. (T250)

11. TCC was given two years from the date of candidacy to obtain accreditation. (T75, P ex 147). As part of the CAHIIM accreditation process TCC was required to submit a self-assessment of its HIM program. Although CAHIIM allowed two years for completion of the accreditation process, CAHIIM was not particular about the timing of the submission of the self­ assessment, allowing TCC to "work at its own pace" to tum in the self­ assessment.

12. In January 2014, Respondent completed a draft evaluation plan, part of the overall self-assessment. (T269-272, P ex 78)

13. On February 19, 2014, Respondent notified the HIM Advisory Board the self-assessment was due soon, and that CAHIIM's first site visit would be scheduled prior to summer graduation. (T 264; P ex 119)

14. On March 7, 2014, Respondent acknowledged she was "at crunch time" in the CAHIIM accreditation process. **(P** ex 94)

15. On April10, 2014, Respondent advised Dean Stewart the self-assessment would be finished no later than early May 2014. **(P** ex 99)

16. In June 2014, Respondent acknowledged the CAHIIM accreditation process was "off track," and the self-assessment was still incomplete. (T266-267)

17. On March 18, 2015, Respondent notified CAHIIM via email that she had not yet completed the self-assessment, acknowledging that the two-year candidacy window was soon closing. **(P** ex 147)

18. On April20, 2015, in response to a student's inquiry about the CAHIIM accreditation process, Respondent wrote that the CAHIIM would be conducting a site visit and that TCC was nearing the end of the accreditation process. (Rex

54) Respondent testified at the hearing that when she sent that email there was no site visit planned or scheduled. (T 274)

19. On May 20, 2015, Respondent submitted the self-assessment to CAHIIM. (T295)

20. On June 23, 2015, CAHIIM notified Respondent it needed clarification and further documentation regarding the self-assessment, and that the self­ assessment needed to be resubmitted. (T299-300; Rex 11)

21. On July 16, 2015, Respondent requested TCC budget information purportedly for use in the CAHIIM accreditation process. Dean Stewart provided the requested information four days later. (T464-466; Rex 55; **P** ex

157)

22. Between August 8, 2015 and November 18, 2015, Respondent uploaded no information to the CAHIIM portal.

23. On November 19,2015, Respondent uploaded TCC's Program Evaluation Plan to the CAHIIM portal. (Rex 42.) This was the last time Respondent uploaded anything to CAHIIM's portal. (T129-130; Rex 42)

24. As of the date of the termination letter from TCC, Respondent still had not responded to CAHIIM's June 23, 2015, questions concerning TCC's self­ assessment. The site visit had still not been scheduled or conducted. (T134.)

25. In a letter dated July 12,2016, CAHIIM advised TCC that its candidacy and application and status for the Health Information Technology associate degree program was terminated pursuant to the CAHIIM policy that candidacy status would terminate if the requirements for candidacy were not maintained at any time or the maximum 2-year period has elapsed. (P ex 27a) The termination

was effective July 15, 2015.

**IMPACT ON STUDENTS**

26. Students began enrolling in TCC's HIM program in June 2013, working toward their HIM degrees. (T254-292) The HIM program is designed to be a

2.5 year program, though it could be completed in two years. (T126, 254, 268,

290-292) To graduate from the program, a student must complete 70 credit hours. (T290-291)

27. A graduate would be eligible to sit for the Registered Health Information Technician (RHIT) exam only if the program he or she completed is accredited by CAHIIM. (T232-233)

28. When students began enrolling in the TCC HIM program in 2013, they were told that by the time they graduated in 2015 or beyond, TCC's HIM program would be accredited and they would thus be eligible to sit for the RHIT exam. (T206-207,212,215,216)

29. As ofFall2014, students had been enrolled in and completed a full year in the HIM degree program. (T268) By 2015, students who enrolled in the program in 2013, were nearing graduation and began inquiring about sitting for the RHIT exam.

30. xxxxxxxx was a HIM student who was anticipating graduation from the HIM program. In Summer 2016, xxxxxxxxxxxx had completed all courses necessary to obtain her degree. (T 487-488) In July 2016, xxxxxxx attempted to locate information on the American Health Information Management Association (AHIMA) website about the RHIT exam. (T204-205) She was unable to locate TCC on the list of accredited schools. Upon further inquiry by telephone calls to AHIMA and to CAHIIM, xxxxxxx learned that TCC's HIM program was not accredited, and that she was therefore not eligible to sit for the exam.

31. On July 8, 2016, Respondent was told by a student that the student was unable to sign up for the RHIT exam because TCC's program was not an accredited program. (P ex 192) On that same day, Dean Stewart received an email about a student complaining of not being able to sit for the RHIT exam because the TCC program was not accredited. (P ex 192) Dean Stewart copied Respondent with the email.

32. Other students learned of the lapse in candidacy and the consequent ineligibility to sit for the RHIT certification exam. As a result of loss of candidacy and exam ineligibility, four students requested to delay or retract their TCC graduation until TCC could obtain accreditation. They requested the delay because graduation from an unaccredited program would render them ineligible to sit for the RHIT certification exam. (T61-62)

33. Some of the students had taken out substantial loans to pay for and complete their education at TCC, including one student who took out student loans

totalling nearly $30,000. (T63) As of the date of the Final Hearing, TCC's HIM program had still not obtained accreditation; nor had TCC's candidacy been restored.

**DR. FELECIA MOORE-DAVIS**

34. Dr. Felecia Moore-Davis was appointed Provost and Vice President of Academic Affairs at TCC in August 2015. (T49-58; P ex 196) Upon her arrival at TCC, Dr. Moore-Davis invited faculty to meet with her to discuss their challenges and plans at TCC. Respondent did not accept the invitation to meet with Provost Moore-Davis.

35. In July 2016, Dr. Moore-Davis learned that CAHIIM had terminated TCC's candidacy. The students had complained to TCC President James Murdaugh that they discovered TCC's program was not accredited. Dr. Murdaugh told the Provost to find out what the problems were. That was the first Provost Moore­ Davis learned ofthe failed candidacy. (T50 -51; P ex 194)

36. On July 25, 2016, Dean Stewart provided Dr. Moore-Davis with the CAHIIM letter advising of termination ofTCC's candidacy. (P ex 195)37. On July 25, 2016, Dr. Moore-Davis contacted Respondent and Anne Winston via email requesting a response as to why candidacy had lapsed and been terminated. (T54, P ex 194)

37. On July 25, 2016, Dr. Moore-Davis contacted Respondent and Anne Winston via email requesting answer as to why CAHIIM candidacy had lapsed and been terminated.

38. The following day, on July 26, 2016, Respondent emailed the Provost an explanation about the accreditation problem. The email, in part, explained why Respondent had not previously met with the Provost at the Provost's earlier invitation. It read in part:

I don't mean any disrespect. However, from my viewpoint, Initiative Directives have continuously come down from past administration for the Deans to deliver in the last several semesters which created significant amounts of work with no regard to its impact unless it disrupts their day. You come to us and want to "meet" but it's seemingly to tell us what you decided we are going to do with no real interest in our story or what's really going on with us. It comes off as pretense to me. So, I did not bother taking you up on anymore meeting invitations. From my perspective, you show up to our campus and start making significant changes without really knowing who we are nor do you communicate your intentions very well.

39. Respondent expressed to Dr. Moore-Davis her intent to have completed the self-assessment feedback during the summer of 2016. (T318-319; P ex 196)

40. On August 1, 2016, Respondent met with Dr. Moore-Davis to discuss the termination ofTCC's candidacy. Respondent advised Dr. Moore-Davis in that meeting that she (Respondent) had become overwhelmed during the accreditation process, had experienced personal challenges, and had stopped working on the accreditation process. (T55, 116; P ex 197)

41. There had been ample opportunity for Respondent to have communicated to Dr. Moore-Davis and Dean Stewart problems she was encountering working on the CAHIIM accreditation. Dean Stewart had inquired numerous times how the accreditation process was going. Dean Stewart made attempts to get more clerical help for the accreditation project at Respondent's request but was never given sufficient information by Respondent to justify additional personnel, so the requests were denied.

42. Respondent had never advised the Provost nor her supervising deans that there were any problems with the accreditation process. Dr. Moore-Davis had not previously been told by Respondent or anyone else that crucial deadlines had passed, or that Respondent needed additional resources to complete the accreditation process, that the CAHIIM accreditation process was otherwise in

jeopardy, or that students matriculating from the HIM program would be ineligible to take the RHIT certification exam. (T 64, 66, 59)

43. On August 12,2016, the letter of termination was delivered to Respondent.

44. Also, on August 12, 2016, TCC submitted to CAHIIM a new application for candidacy. The subsequent efforts to regain candidacy are not relevant to the issues before this Hearing Examiner.

**CONCLUSIONS OF LAW**

45. TCC Policy 05-16, Suspension, Dismissal, or Non-Renewal of Contracts, provides authority for disciplining faculty members. Donna Francis-Clark is a TCC faulty member.

46. TCC Policy 05-16C sets forth grounds for termination, and provides in pertinent part, "[I]f it has been determined that a faculty member has engaged in serious misconduct, habitual neglect of duty, incompetence of conduct incompatible with his/her duties, or prejudicial to TCC's mission ... the law recognizes TCC's right to terminate the employee's relationship with TCC."

47. The purpose of this hearing was to "determine whether the charges have been sustained by the evidence." TCC has the burden to prove its charges by the greater weight of the evidence.

48. TCC is not constrained by law or policy, or otherwise obligated to adhere to a progressive discipline system and may terminate an employee immediately if sufficient grounds exist.

49. Respondent was hired for the purpose of obtaining accreditation from CAHIIM for TCC's HIM program. She held the position of Program Chair since 2011 and was charged with leading the HIM program and obtaining CAHIIM accreditation.

50. Respondent was TCC's expert in CAHIIM accreditation. She identified herself as being proficient with the CAHIIM accreditation process and standards.

51. Respondent engaged in preparatory work toward filing the CAHIIM application, holding faculty meetings, gathering information and holding Advisory Board meetings. At many of these meetings Respondent discussed applicable time frames and processes.

52. Although others had access to the CAHIIM portal, Respondent was the only person designated to work on the application.

53. Once Respondent filed the initial accreditation application with CAHIIM on

May 14, 2013, TCC had two years to complete the accreditation process.

54. Ms. Francis-Clark was aware of the two-year deadline. Ms. Francis-Clark's knowledge of the two-year time frame is supported by:

A. Her statements to incoming students in 2013 that the program would be accredited by the time they graduated.

B. Her knowledge that it would take 2- 2112 years for the enrolled students to complete the course work.

C. Respondent's numerous meetings with faculty, the Advisory Board, deans and her colleagues about the accreditation process, including discussions about deadlines and time-frames.

D. Respondent had worked on certification and accreditation issues in the past at TCC and would know from experience that CAHIIM's accreditation process would be time-limited, and not indefinitely open-ended.

E. Respondent's acknowledgement in March 18, 2015, email to CAHIIM acknowledging that TCC's program "is closing in on the two years that we're allowed for candidacy."

55. Respondent failed to effectively communicate with the dean or with the

Provost, demonstrating a failure to exhibit leadership of the program.

56. Respondent failed to complete the CAHIIM accreditation process in a timely manner, resulting in the termination ofTCC's candidacy and accreditation application. Respondent failed to complete tasks necessary to secure accreditation.

57. Respondent's failure to secure or even make substantial progress toward accreditation negatively impacted students who were enrolled in TCC's HIM program, rendering them ineligible to sit for the RHIT certification exam. This inaction demonstrates Respondent's failure to provide a quality education to TCC students. A HIM degree from an unaccredited program put these students at a disadvantage in the work force because they lack the necessary certification to be gainfully employed.

58. Even without specific knowledge of a two-year time frame within which TCC had to complete the process, Respondent's experience and knowledge would militate against an assumption that the accreditation process would be allowed to linger indefinitely.

59. The personal and financial impact to students of the loss of candidacy and failure to obtain accreditation was immediate and significant. The students who had completed their extensive and expensive course work were not able to graduate from a CAHIIM-accredited program, thus were not eligible sit for the RHIT certificate exam and were not able to obtain certificates in their chosen field.

59. Respondent failed to keep her supervisors, the Provost or the TCC president apprised of the problems with the progress- or lack thereof- of the application progress. She misled students, the Advisory Board and colleagues about the status of the accreditation process, telling them that site visits had been

scheduled when they had not been scheduled. Respondent misled them about the possibility of achieving accreditation, when she knew accreditation was likely not forthcoming, because of the missed deadlines.

60. Neither CAHIIM's failure to immediately notify TCC of the lapse in candidacy and termination of the accreditation process nor its failure to warn TCC about an upcoming but anticipated lapse does not provide a defense to Respondent for failing to keep up with the process. Two years is two years. A two-year deadline does not extend beyond two years by virtue of the accreditation agency failing to provide notice of expiration. CAHIIM's apparent failure to provide a warning that the two-year time-limit was about to expire is of no consequence to a finding of that TCC proved its case against Respondent by the greater weight of the evidence.

61. The total collapse of the CAHIIM accreditation process can be attributed directly to Ms. Francis-Clark's failure to follow through with the process. Her professional lapses allowed the candidacy to lapse and the anticipated accreditation to terminate.

62. Ms. Francis-Clark's repeated and continuous failures to keep current with the information required by CAHIIM and to keep TCC apprised of problems with candidacy and accreditation demonstrate a significant deficiency in her performance.

63. Respondent's protestations that she did not have sufficient time or resources to complete the accreditation process are not credible. Even though Respondent was full-time Program Chair and Assistant Professor with primary

responsibility for pursing the CAHIIM accreditation, she spent much time pursuing other personal interests during the time she was purportedly working on accreditation, including preparing for and teaching on-line courses at DeVry University and University of Phoenix.

64. The result of Respondent's failure to timely complete the accreditation process caused significant damage to TCC, its students and the HIM program. Numerous students spent years and thousands of dollars each to complete the HIM program in hopes of becoming gainfully employed in their chosen field. The students had reasonable expectations based on representations made by Donna Francis-Clark that if they graduated from the soon-to-be accredited program, they would be eligible to sit for the RHIT certification exam and be prepared to be gainfully employed. Upon learning of the lapse in candidacy and termination of the accreditation program, the students' hopes were dashed -

their time and money wasted. Faced with this non-accreditation, the students' best choice was to defer or delay their graduation in hopes that they would one day graduate from an accredited program and be eligible to sit for the RHIT certification exam.

65. Respondent's failure to complete tasks necessary to obtain accreditation constitutes serious misconduct and conduct incompatible with her duties. Respondent was hired and retained for the purpose of obtaining accreditation. She continuously failed to take steps necessary to do her job.

66. Respondent's many disingenuous statements to her colleagues, students and TCC administration about the status of the accreditation application and upcoming site visits demonstrates a knowing failure to perform assigned duties and responsibilities necessary to meet her core essential job functions. Respondent had advised students, Advisory Board members, her supervisors and colleagues that the accreditation process was much further along than it actually had been.

67. These deficiencies amount to serious misconduct and conduct incompatible with Respondent's duty to obtain CAHIIM accreditation.

68. Respondent's overall conduct in failing to obtain accreditation, causing the candidacy to lapse and devaluing a TCC HIM degree is prejudicial to the mission of TCC to provide a quality education to students.

69. Respondent's lackadaisical attitude toward her responsibilities to students and to TCC demonstrates a disregard for her position as Program Chair and demonstrates a failure to meet her employer's expectations.

70. It is unacceptable for Respondent to have distressed, degraded, disrupted and negatively impacted TCC's students' ability to graduate and to seek gainful employment. It is egregiously unacceptable that Respondent negatively impacted the viability of the program.

71. The conduct of failing to maintain candidacy and timely pursuit of accreditation constitutes serious misconduct. Respondent's primary duty was to obtain CAHIIM accreditation. She continuously neglected her duty and failed woefully at the endeavor.

72. Ms. Francis-Clark has no right to be progressively disciplined. Her conduct is inexcusable and has had a detrimental effect on students and on the school. Because TCC is not constrained to a progressive discipline system, TCC may terminate an employee immediately if sufficient grounds exist. Respondent's egregious failures to complete necessary tasks, her failure to truthfully communicate the events and deadlines associated with the accreditation process to her supervisor and to the Provost and her disingenuous and evasive statements about site visits and completion of necessary steps constitute serious misconduct.

73. TCC has met its burden to show that Donna Francis-Clark engaged in serious misconduct, has engaged in habitual neglect of her duties, has engaged in conduct incompatible with her duties and has engaged in conduct prejudicial to TCC's mission. TCC has proven by the greater weight of the evidence that

Respondent was seriously deficient in the performance of her duties relative to the CAHIIM accreditation of TCC's HIM program.

74. The charges made by TCC against Respondent Donna Francis-Clark have been sustained by the greater weight of the evidence.

75. TCC has a right to terminate Respondent's employment.

**RECOMMENDATION**

Based on the foregoing, the Hearing Examiner recommends the District Board of Trustees of Tallahassee Community College involuntarily terminate Respondent's employment. Petitioner has proven by the greater weight of the evidence that Respondent's conduct warrants termination.

DONE AND ORDERED on this 3 day of April, 2017.

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Hearing Examiner

Copies furnished to:

Robert Sniffen, Esq.

L. Sidney Matthew, Esq. Craig Knox, Esq.