

The Florida International University Board of Trustees

and

The United Faculty of Florida

**Collective Bargaining Agreement
– 2008 - 2011**

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1 PREAMBLE

2
3 The intent of the parties in carrying out their responsibilities to negotiate the
4 terms and conditions of employment of members of the bargaining unit is to promote the
5 quality and effectiveness of education at Florida International University (hereinafter,
6 FIU) and to maintain high standards of academic excellence in all phases of instruction,
7 research, and service. The Board of Trustees (hereinafter, the Board) retains its rights,
8 under law, to manage and direct the University. The United Faculty of Florida
9 (hereinafter, UFF), as the certified bargaining agent, retains the exclusive right to
10 negotiate and reach agreement on terms and conditions of employment for the
11 members of the bargaining unit.
12

13 Both parties recognize the desirability and importance of collegial governance for
14 faculty and professional employees in matters of traditional academic concern. In such
15 a collegial system, academic departments, faculty assemblies, the Faculty Senate, and
16 faculty committees should play an active and responsible role in matters of traditional
17 academic concern. At the University, the most effective collegial governance occurs
18 when peers work critically together to perform their responsibilities in the most
19 professional manner possible.
20

21 This Preamble is a statement of intent and policy and is, therefore, not subject to
22 the provisions of this Agreement concerning the Grievance and Arbitration Procedure.
23
24

25 ARTICLE 1
26 RECOGNITION

27 1.1 Bargaining Unit. The Board has recognized the UFF as the exclusive
28 representative, solely for the purpose of collective bargaining with respect to wages,
29 hours, and other terms and conditions of employment agreed to by the parties for the
30 bargaining unit certified by the Florida Public Employees Relations Commission in Case
31 No. RA-2004-001 (February 4, 2004) and described in Certification No. 1463 issued to
32 the UFF. Attached as Appendix "A," for information purposes only and not made a part
33 of the Agreement, is the listing of titles included in the bargaining unit.

34 1.2 Board and Administration Rules and Policies.

35 (a) If there is an inconsistency between an existing Board or administration
36 rule or policy and an express provision agreed to by the parties, the Board agrees to
37 promptly remedy the inconsistency.

38 (b) No new or amended Board or administration rule, policy, or resolution
39 shall apply to employees if it conflicts with an express term agreed to by the parties.

40 (c) The Board and the administration shall provide to the UFF Chapter an
41 advance copy of any proposed rule or policy changing a term or condition of

42 employment agreed to by the parties. The Board or the administration, as the case may
43 be, shall provide the advance copy of a proposed rule no later than 60 days in advance
44 of its effective date so as to permit the UFF Chapter to seek consultation with respect to
45 it. With respect to a rule adopted pursuant to the emergency provisions of the
46 Administrative Procedure Act, an advance copy shall be provided as far in advance of
47 its effective date as is feasible under the circumstances.

48 (d) If the Board or a committee of the Board has scheduled public hearings on
49 any Board action that would conflict with an express term agreed to by the parties, the
50 UFF Chapter shall be notified at the time the hearing is scheduled and afforded the
51 opportunity to address the matter at the public hearing.

52 (e) If any proposed rule, policy, or resolution would modify an express
53 agreement by the parties, the Board shall notify the UFF Chapter and shall engage in
54 collective bargaining prior to the change.

55 1.3 Board of Trustees Meetings - Agenda.

56 (a) The Board shall furnish to the UFF Chapter a copy of the agenda of each
57 Board meeting or Board committee meeting at the time those agendas are made
58 available to members of the Board, and a copy of the minutes of Board meetings at the
59 time they are made available to the general public.

60
61 (b) The UFF Chapter shall be granted a place on the agenda at each public
62 Board meeting for the purpose of addressing any item on the Board's agenda that
63 affects the wages, hours, or other terms and conditions of employment of employees.

64
65 1.4 Right to Hear Views. Nothing contained in this Agreement shall be construed to
66 prevent the Board or the administration from meeting with any individual or organization
67 to hear views on any matter, provided however, that as to any such matter which is a
68 proper subject of collective bargaining and covered by a term agreed to by the parties,
69 any changes or modification shall be made only through negotiation and agreement with
70 the UFF Chapter.

71

72

73

74

75

ARTICLE 2
CONSULTATION

76 2.1 Consultation with President. The President or designee shall meet with the UFF
77 Chapter representatives to discuss matters pertinent to the implementation or
78 administration of this Agreement, University actions affecting terms and conditions of
79 employment or any other mutually agreeable matters. Such meetings shall occur at
80 least once per semester during the academic year and once during the summer term
81 unless the parties agree to meet more frequently. The party requesting consultation
82 shall submit a written list of agenda items no less than one (1) week in advance of the
83 meeting. The other party shall also submit a written list of agenda items in advance of

84 the meeting if it wishes to discuss specific issues. The parties understand and agree
 85 that such meetings may be used to resolve problems regarding the implementation and
 86 administration of the Agreement; however, such meetings shall not constitute or be
 87 used for the purpose of collective bargaining.

88
 89 2.2 Location of consultation. The consultation meetings shall be held on a mutually
 90 convenient date on the FIU University Park campus unless the parties agree to another
 91 location.

92
 93 2.3 Affirmative Action Plan. The University shall provide to the UFF Chapter, without
 94 cost, a copy of the University's Affirmative Action Plan or Update.

95
 96
 97
 98
 99

ARTICLE 3 UFF CHAPTER PRIVILEGES

100 3.1 Use of Facilities and Services. Subject to the rules and policies of the University,
 101 the UFF Chapter shall have the right to use University facilities for meetings and all
 102 other services on the same basis as they are generally available to other University-
 103 related organizations, which are defined as follows.

104

105 University-Related Groups and Organizations. These groups and organizations may or
 106 may not receive budgetary support. Examples of such groups include student
 107 organizations, honor societies, fraternities, sororities, alumni associations, faculty
 108 committees, University Support Personnel System staff council, direct support
 109 organizations, the United Faculty of Florida, etc.

110

111 At a minimum, University facilities provided to UFF Chapter shall include:

112

113 (a) an office conveniently located on the University Park Campus in or near
 114 the PC building or other site mutually agreed to in consultation. Such space will at
 115 minimum consist of an office of at least 225 square feet and a locked storage area of at
 116 least 150 square feet, which will be furnished with standard faculty furnishings. The
 117 office shall be wired for telephone service and computer access to the internet.

118

119 (b) a University telephone number and listing in all campus directories. The
 120 UFF Chapter shall be responsible for paying the monthly phone bill.

121

122 3.2 Communications.

123

124 (a) UFF may post bulletins and notices relevant to its position as the collective
 125 bargaining agent on a reasonable number of existing bulletin boards on campus where
 126 other notices regarding personnel and/or faculty activities are posted but on at least one
 127 bulletin board per building where a substantial number of employees have offices.
 128 Specific locations shall be mutually selected by the University and the UFF chapter in
 129 the course of consultation pursuant to Article 2, Consultation. All materials placed on

130 the designated bulletin boards shall bear the date of posting and may be removed by
131 the University after having been posted for a period of thirty (30) days. In addition, such
132 bulletin boards may not be used for election campaigns for public office or exclusive
133 collective bargaining representation.

134
135 (b) FIU will place a link in an appropriate place on the University web site to
136 the web site of the UFF Chapter.

137
138 (c) the University will provide the UFF Chapter the email addresses of all
139 bargaining unit members upon request no more than once per semester in electronic
140 form.

141
142 3.3 Leave of Absence - Union Activity.

143
144 (a) At the written request of the UFF Chapter, provided no later than May 1 of
145 the year prior to the beginning of the academic year when such leave is to become
146 effective, a full-time or part-time leave of absence for the academic year shall be
147 granted to up to six (6) employees designated by the UFF Chapter for the purpose of
148 carrying out UFF's Chapter obligations in representing employees and administering
149 this Agreement, including lobbying and other political representation. Such leave may
150 also be granted to up to six (6) employees for the entire summer term, upon written
151 request by the UFF Chapter provided no later than March 30 of the preceding academic
152 year. Upon the failure of the UFF Chapter to provide the University with a list of
153 designees by the specified deadlines, the University may refuse to honor any of the
154 requests which were submitted late.

155
156 (b) No more than one employee per fifteen (15) employees or fraction thereof
157 per department/unit need be granted such leave at any one time.

158
159 (c) The UFF Chapter shall reimburse the University for the employee's salary,
160 fringe benefits, and retirement.

161
162 (d) Employees on leave under this paragraph shall be eligible to receive
163 salary increases (prorated based on the employee's FTE) on the same basis as other
164 employees in accordance with the provisions of this Agreement.

165
166 (e) An employee who has been granted leave under this Article for two (2)
167 consecutive academic years shall not again be eligible for such leave until two (2)
168 consecutive academic years have elapsed following the end of the leave. As an
169 exception, one employee designated by UFF Chapter shall be eligible for a leave of
170 absence for one additional year.

171
172 (f) The University or the Board shall not be liable for the acts or omissions of
173 said employees during the leave and the UFF shall hold the University and Board
174 harmless for any such acts or omissions, including the cost of defending against such
175 claims.

176
177 (g) An employee on such leave shall not be evaluated for this activity nor shall
178 such activity be considered by the University in making personnel decisions.
179

180 3.4 Released Time.

181
182 (a) The University agrees to provide a total of six (6) units of released time
183 per semester, in both the Fall and Spring semesters, to full-time employees designated
184 by the UFF Chapter to carry out the UFF's Chapter obligations in representing
185 employees and administering the Agreement. Any units of release time not used by
186 UFF Chapter may be carried forward to subsequent semesters until a successor to this
187 agreement is in force. The UFF Chapter may designate employees to receive released
188 time during the academic year, subject to the following conditions:
189

190 (1) No more than one (1) employee per fifteen (15) employees or
191 fraction thereof per department/unit may be granted released time at any one time, nor
192 may any employee be granted more than a two (2) unit reduction in a single semester.
193

194 (2) The UFF Chapter shall provide the Provost with a list of requested
195 designees and/or units to be carried forward for the academic year no later than May 1
196 of the preceding academic year. Upon approval of the designees by the University, the
197 designees shall serve for one (1) academic year. Changes for the spring semester may
198 be made upon written notification submitted by the UFF Chapter to the Provost no later
199 than November 1st.
200

201 (b) (1) A "unit" of released time shall consist of a reduction in teaching load
202 of one (1) course per Fall or Spring semester for instructional employees or, for non-
203 teaching employees, a reduction in workload of ten (10) hours per week. Two (2) units
204 shall consist of a reduction in teaching load of two (2) courses per Fall or Spring
205 semester for instructional employees or, for non-teaching employees, a reduction in
206 workload of twenty (20) hours per week.
207

208 (c) Employees who are on leave of any kind, other than leave pursuant to
209 Section 3.3, shall not be eligible to receive UFF released time.
210

211 (d) Upon the failure of the UFF Chapter to provide a list as specified above in
212 3.4 (a)(2) by the specified deadlines, the University may refuse to honor any of the
213 released time requests which were submitted late. Changes for Spring semester
214 submitted after the November deadline shall be allowed at the discretion of the
215 University.
216

217 (e) Employees on released time shall be eligible for salary increases on the
218 same basis as other employees, but their released time activities shall not be evaluated
219 nor taken into consideration in making personnel decisions.
220

221 (f) Employees on released time shall retain all rights and responsibilities as
 222 employees but shall not be considered representatives of the University or Board for
 223 any activities undertaken on behalf of the UFF Chapter. The UFF Chapter agrees to
 224 hold the University and Board harmless for any claims arising from such activities,
 225 including the cost of defending against such claims.

226
 227 (g) Released time shall be used for conducting UFF Chapter business at the
 228 University or State level and shall not be used for lobbying or other political
 229 representation.

230
 231 3.5 Summer Released Time.

232
 233 (a) The University agrees to provide UFF Chapter with three (3) units of
 234 released time assignments in increments of .25 FTE over thirteen (13) weeks. No more
 235 than one (1) employee per fifteen (15) employees or fraction thereof per department/unit
 236 may be designated to receive such released time.

237
 238 (b) The UFF Chapter shall provide the Board with a list of requested
 239 designees no later than April 7th of the academic year proceeding the summer term.

240
 241 (c) All other provisions contained in Section 3.4, except 3.4(a) and (b), shall
 242 apply to summer released time.

243
 244

245 ARTICLE 4 246 RESERVED RIGHTS

247
 248 4.1 Policy. The Board retains and reserves to itself or its designee(s) the rights,
 249 powers and authority vested in it, including the right to plan, manage, and control FIU
 250 and in all respects carry out the ordinary and customary functions of management.

251
 252 4.2 Limitations. All such rights, powers and authority are retained by the Board,
 253 subject to those limitations agreed to by the parties.

254
 255

256 ARTICLE 5 257 ACADEMIC FREEDOM AND RESPONSIBILITY

258
 259 5.1 Policy. Florida International University affirms the principles of academic
 260 freedom and responsibility, which are rooted in the concept of the University as a
 261 community of scholars committed to free inquiry in an atmosphere of tolerance, without
 262 fear of censorship or reprisal.

263
 264 5.2 Academic Freedom. Academic freedom is the freedom of an employee to
 265 present and discuss all relevant matters in the classroom, to select instructional
 266 materials and determine grades, to pursue all avenues of scholarship, research and

267 creative expression, to speak freely on all matters of University governance, and to
 268 speak, write or act as an individual, all without institutional discipline or restraint.
 269 Nothing in this Article will be understood to grant any right to be included on the agenda
 270 of any University meeting, except as otherwise provided in this Agreement or by law or
 271 University rule.

272

273 5.3 Academic Responsibility. Academic freedom is accompanied by the corresponding
 274 responsibility:

275

276 (a) To be forthright and honest in the pursuit and communication of scientific
 277 and scholarly knowledge and in the presentation of their work, including evaluation,
 278 promotion and/or tenure files;

279

280 (b) To respect students, staff, and colleagues as individuals; treat them in a
 281 collegial manner; and avoid any exploitation of such persons for private advantage;

282

283 (c) To respect the integrity of the evaluation process with regard to students,
 284 staff, and colleagues, so that it reflects their true merit;

285

286 (d) Not to represent oneself as an institutional representative unless
 287 specifically authorized as such, with the understanding that mere identification as an
 288 FIU employee or by FIU title or rank shall not be construed as such a representation;
 289 and

290

291 (e) To contribute to the orderly and effective functioning of the employee's
 292 academic unit (program, department, school, and/or college) and/or the University.

293

294 5.4 Administration Responsibilities. On the part of the administration, Academic
 295 Responsibility implies a commitment actively to foster a climate favorable to the
 296 responsible exercise of freedom.

297

298 5.5 Responsibilities in addition to assigned duties. In addition to their assigned
 299 duties, employees have responsibilities arising from the nature of the educational
 300 process. Such responsibilities include, but are not limited to, observing and upholding
 301 the ethical standards of their discipline; participating, as appropriate, in the shared
 302 system of collegial governance, especially at the department/unit level; respecting the
 303 confidential nature of the relationship between professor and student; adhering to their
 304 proper role as teachers, researchers, intellectual mentors, and counselors; and
 305 conducting themselves in a professional manner in all interactions.

306

307

ARTICLE 6 NONDISCRIMINATION

308 6.1 Statement of Intent. The Board and the UFF fully support all laws intended to
 309 protect and safeguard the rights and opportunities of each employee to work in an
 310 environment free from any form of discrimination or harassment. The parties recognize
 311 their obligations under federal and State laws, rules, and regulations prohibiting

312 discrimination, and have made clear their support for the concepts of affirmative action
 313 and equal employment opportunity. They desire to assure equal employment
 314 opportunities within the University and recognize that the purpose of affirmative action is
 315 to provide equal opportunity to women, minorities, and other affected groups to achieve
 316 equality within the University. The implementation of affirmative action programs will
 317 require positive actions that will affect terms and conditions of employment and to this
 318 end the parties have, in this Agreement and elsewhere, undertaken programs to ensure
 319 equitable opportunities for employees to receive salary adjustments, tenure, successive
 320 fixed multi-year appointments, promotion, sabbaticals, and other benefits. This
 321 statement of intent is not intended to be subject to Article 10, Grievance Procedure.

322 6.2 Policy.

323 (a) Neither the Board nor the UFF shall discriminate against any employee
 324 based upon race, color, sex, sexual orientation, religious creed, national origin, age,
 325 veteran status, disability, political affiliation, or marital status, nor shall the Board or the
 326 UFF abridge any rights of employees related to union activity granted under Chapter
 327 447, Florida Statutes, including but not limited to the right to assist or to refrain from
 328 assisting the UFF. Personnel decisions shall be based on job-related criteria and
 329 performance.

330 (b) Sexual Harassment.

331 (1) Sexual harassment is a prohibited form of sex discrimination. In
 332 *Meritor Savings Bank v. Vinson*, 106 S.Ct. 2399 (1986), the United States Supreme
 333 Court defines sexual harassment (29 CFR 1604.11a) in the employment context as
 334 including the following:

335 Unwelcome sexual advances, requests for sexual favors, and
 336 other verbal or physical conduct of a sexual nature constitute
 337 sexual harassment when (1) submission to such conduct is
 338 made either explicitly or implicitly a term or condition of an
 339 individual's employment, (2) submission to or rejection of such
 340 conduct by an individual is used as the basis for employment
 341 decisions affecting such individual, or (3) such conduct has the
 342 purpose or effect of unreasonably interfering with an individual's
 343 work performance or creating an intimidating, hostile, or
 344 offensive working environment.

345 (2) In addition to the parties' concern with respect to sexual
 346 harassment in the employment context, the parties also recognize the potential for this
 347 form of illegal discrimination against students. Relationships between employees and
 348 students, even if consensual, may become exploitative, and especially so when a
 349 student's academic work, residential life, or athletic endeavors are supervised or
 350 evaluated by the employee (see Section 5.3).

351 (c) Investigation of Charges of Discrimination. Charges of discrimination,
352 including those filed by employees against students alleging unwelcome sexual
353 advances, requests for sexual favors, or other verbal or physical conduct of a sexual
354 nature that constitutes sexual harassment, shall be promptly reviewed/investigated
355 according to established University procedures. No employee reviewed/investigated
356 under such procedures shall be disciplined until such review is complete and a finding
357 of discrimination has been issued.

358 If after the completion of the review/investigation, any finding of
359 discrimination is made, a record of the complete findings will be placed in the
360 employee's evaluation file. If no finding of discrimination on any charge or complaint is
361 made, no record of the charge or complaint will be placed in the employee's evaluation
362 file unless the employee requests in writing that a record of the complete
363 review/investigation be placed in the evaluation file.

364 6.3 Access to Documents. No employee shall be refused a request to inspect and
365 copy documents relating to the employee's claim of discrimination, except for records
366 which are exempt from the provisions of the Public Records Act, Chapter 119, Florida
367 Statutes, provided, however, that the University may charge for copies of documents in
368 accordance with law, rule, University procedures, and this Agreement.

369 6.4 Consultation. As part of the consultation process described in Article 2, the
370 parties agree to discuss efforts made to appoint and retain women and minority
371 employees.

372 6.5 Grievance Procedure. Claims of such discrimination by the University may be
373 presented as grievances pursuant to the Article on Grievance Procedure. It is the intent
374 of the parties that matters which may be presented as grievances under the Article on
375 Grievance Procedure, be so presented and resolved thereunder instead of using other
376 procedures. The UFF agrees not to process cases arising under this Article when
377 alternate procedures to the Article on Grievance Procedure are initiated by the grievant,
378 except as specifically provided for in the Article on Grievance Procedure.
379
380

381 ARTICLE 7
382 MINUTES, RULES, AND BUDGETS
383

384 7.1 Board Documents.
385

386 (a) The Board shall provide the UFF Chapter with a copy of the following:
387

- 388 (1) the minutes of the meetings of the Academic Planning Council;
- 389 (2) the minutes of the meetings of the Board;
- 390 (3) Board rules published under the Administrative Procedures Act;

391 and

- 392 (4) copies of this Agreement and all supplements to the Agreement,

393 consistent with the provisions of this Agreement.
 394

395 The Board shall also provide the UFF Chapter a computer account for purposes
 396 of accessing FIU personnel employee records reflecting the annual salary increases
 397 provided to employees.
 398

399 (b) The Board shall ensure that a copy of the following documents is made
 400 available in an easily accessible location in its main library or by links on the University
 401 web site:
 402

403 (1) minutes of the meetings of the Academic Planning Council

404 (2) the minutes of the meetings of the Board;

405 (3) Board and the University's rules published under the Administrative
 406 Procedure Act; and

407 (4) the University's operating budget, including the previous year's
 408 expenditure analysis.
 409
 410

411 ARTICLE 8 412 LAYOFF AND RECALL 413

414 8.1 (a) Layoff. In the event the University determines that the number of
 415 bargaining unit employees must be reduced as a result of adverse financial
 416 circumstances; reallocation of resources; reorganization of degree or curriculum
 417 offerings or requirements; reorganization of academic or administrative structures,
 418 programs, or functions; or curtailment or abolition of one or more programs or functions,
 419 the University shall notify the UFF Chapter no less than thirty (30) days prior to taking
 420 such action and, if UFF so requests, the University President or his designee(s) shall
 421 meet with UFF to discuss the layoff prior to its implementation.
 422

423 (b) Layoff Unit. The layoff unit may be at any organizational level of the
 424 University, such as a campus, division, college/unit, school, department/unit, area,
 425 program, or other level of organization as the University deems appropriate. The sole
 426 instance in which only one (1) employee will constitute a layoff unit is when the
 427 functions that the employee performs constitute an area, program, or other level of
 428 organization at FIU. If a layoff of bargaining unit members is determined to be
 429 necessary, the following procedure shall be controlling.
 430

431 8.2 Reduction.
 432

433 (a) No tenured employee shall be laid off if there are non-tenured employees in
 434 the layoff unit.
 435

436 (b) No employee in a non-tenured position in the layoff unit with more than
 437 five (5) years of continuous University service shall be laid off if there are any such
 438 employees with five (5) years or less service.

439

440 (c) Where employees are equally qualified under (a) or (b), above, those
 441 employees will be retained who, in the judgment of the University, will best contribute to
 442 the mission and purpose of the institution and the academic needs of the program. The
 443 determination of which employees are to be laid off shall be based on the following
 444 factors: length of continuous University service; performance evaluation by students,
 445 peers, and supervisors; academic training; professional reputation; teaching
 446 effectiveness; research record or quality of the creative activity in which the employee
 447 may be engaged; service to the profession, community, and public; qualifications to
 448 teach courses offered in the unit and relevant standards of accrediting agencies.

449

450 (d) No employee shall be laid off solely for the purpose of creating a vacancy
 451 to be filled by an administrator entering the bargaining unit.

452

453 (e) The University shall notify the UFF Chapter in writing in advance regarding
 454 the proposed use of adjunct and other non-unit faculty in those departments/units where
 455 employees have been laid off. Any such use of adjunct or other non-unit faculty in
 456 departments/units where employees have been laid off shall be subject to bargaining.

457

458 8.3 Alternative/Equivalent Employment. The University shall make a reasonable
 459 effort to locate appropriate alternate or equivalent employment for laid-off employees
 460 within the University and to make known the results of the effort to the person affected.

461

462 8.4 Notice. Employees with three or more years of continuous University service
 463 shall be provided at least one (1) year's notice prior to being laid off. Those with less
 464 than three year's service shall be provided with at least six (6) month's notice.
 465 Employees who have received notice of layoff shall be afforded the recall rights granted
 466 under the provisions of this Agreement. Formal written notice of layoff is to be sent by
 467 certified mail, return receipt requested, or delivered in person to the employee with
 468 written documentation of receipt obtained. The notice shall include effective date of
 469 layoff; reason for layoff; a statement of recall rights; a statement of appeal/grievance
 470 rights and applicable deadlines for filing; a statement that the employee will receive the
 471 FIU Vacancy Listing until the recall period ends or re-employment offer is refused; and a
 472 statement that the employee is eligible for consideration for retraining under the
 473 provisions of this Agreement for a period of two years following layoff.

474

475 8.5 Re-employment/Recall.

476

477 (a) For a period of two (2) years following layoff an employee who has been
 478 laid off and who is not otherwise employed in an equivalent full-time position shall be
 479 offered re-employment in the same or similar position at which previously employed at
 480 the time of layoff, should an opportunity for such re-employment arise. All persons on
 481 the recall list shall regularly be sent the FIU position vacancy announcements. For this
 482 purpose, it shall be the employee's responsibility to keep the Division of Human
 483 Resources advised of the employee's current address. Any offer of re-employment
 484 pursuant to this section must be accepted within fifteen (15) days after the date of the

485 offer, such acceptance to take effect not later than the beginning of the semester
 486 immediately following the date the offer was made. In the event such offer of re-
 487 employment is not accepted, the employee shall receive no further consideration
 488 pursuant to this Article. Employees appointed to a fixed multi-year appointment who are
 489 recalled shall be offered re-employment not to exceed the length of their last
 490 employment contract. The Board shall notify the UFF Chapter when an offer of re-
 491 employment is issued.

492

493 (b) Benefit Restoration. All benefits to which a faculty member was entitled at
 494 the time of layoff shall be restored in full upon re-employment if recalled during the two
 495 (2) years following the layoff. An employee who held a tenured status appointment on
 496 the date of termination by reason of layoff shall resume the tenured status appointment
 497 upon recall. The employee shall receive the same credit for years of service for
 498 purposes of layoff as held on the date of layoff.

499

500 8.6 Employee Assistance Programs. Consistent with the University's Employee
 501 Assistance Program, employees participating in an employee assistance program who
 502 receive a notice of layoff may continue to participate in that program for a period of
 503 ninety (90) days following the layoff.

504

505 8.7 Limitations. The provisions of Sections 8.2 through 8.5 of this agreement shall
 506 not apply to the following employees.

507

508 (a) employees who are on "soft money" e.g., contracts and grants, sponsored
 509 research funds, and grants and donations trust funds and have less than five (5) years
 510 of continuous University service.

511

512 (1) employees who are on "soft money" e.g., contracts and grants,
 513 sponsored research funds, and grants and donations trust funds with five (5) or more
 514 years of continuous University service shall have ninety (90) days notice contingent
 515 upon funds being available in the contract or grant;

516

517 (b) employees who are appointed for less than one (1) academic year;

518

519 (c) employees who are appointed to a visiting appointment;

520

521 (d) employees who are appointed to a fixed multi-year appointment; and

522

523 (e) employees employed in an auxiliary entity.

524

525

526

ARTICLE 9

527

TENURE

528

529 9.1 General Statement and Eligibility

530

531 (a) General Statement. The objective of tenure is to build a stronger
532 University through the recognition of the meritorious performance of faculty.

533
534 (b) Eligibility. Assistant Professors, Associate Professors, and Professors
535 (unless appointed with the modifier "Visiting," "Clinical" or "Professional Practice") shall
536 be eligible to apply for tenure. Only Associate Professors or Professors may hold
537 tenure, except for employees who were awarded tenure under a previous agreement.
538 The University may designate other positions as tenure-earning and shall notify the
539 employee of such status at the time of initial appointment or, in the case of existing
540 employees, six (6) years prior to the date by which such employees would be required
541 to apply for tenure. Tenure shall be in a department/unit or other appropriate unit.

542
543 9.2 Tenure Decision:

544
545 (a) An employee shall normally be considered for tenure during the sixth year
546 of continuous service in a tenure-earning position including any prior service credit
547 granted at the time of initial employment. An employee's written request for early tenure
548 consideration is subject to the Provost's written agreement. An employee shall normally
549 be considered for tenure only once.

550
551 (b) By May 15 of the sixth year of service at the University, an employee
552 eligible for tenure shall either be recommended for tenure by the President or given
553 notice that further employment will not be offered. The President's recommendation
554 will be submitted for ratification by the Board at its next scheduled meeting, but not later
555 than July 15. If the Board does not award tenure to the employee, the employee shall
556 be given notice that further employment will not be offered. Notice that further
557 employment will not be offered shall include a statement that the employee has seven
558 (7) days to request a statement of the reasons. The employee shall be notified in
559 writing by the President or designee within five (5) days of the Board's ratification of the
560 President's recommendation.

561
562 (c) Upon written request by an employee within seven (7) days of the
563 employee's receipt of notice that further employment will not be offered, the President or
564 Board, as appropriate, shall provide the employee with a written statement of reasons
565 why tenure was not granted. Should an employee elect not to request such a written
566 statement of reasons, the date of the act or omission giving rise to any grievance
567 concerning denial of tenure shall be deemed to be seven (7) days from the date of the
568 employee's receipt of notice that further employment will not be offered. Should an
569 employee request such a written statement of reasons, the date of the act or omission
570 giving rise to any grievance concerning denial of tenure shall be deemed the date of the
571 employee's receipt of a written statement of reasons why tenure was not granted.

572
573 (d) Should an employee elect to tender his or her resignation at any time
574 during the period that the employee's application for tenure is pending, the application
575 will be deemed withdrawn and no further action will be taken on the application.

576

577 9.3 Criteria for Tenure.

578

579 (a) The decision to award tenure to an employee shall take into account the
580 employee's performance over the entire term of tenure earning service at FIU and shall
581 be based on established criteria specified in writing by the University. The decision
582 shall take into account the following:

583

584 (1) annual assignments, annual performance evaluations, and tenure
585 appraisals;

586 (2) the needs of the department/unit, college/unit, and University;

587 (3) the contributions of the employee to the employee's academic unit
588 (program, department/unit, college/unit); and

589 (4) the contributions the employee is expected to make to the
590 institution.

591

592 (b) The University shall provide the criteria for tenure online to employees
593 eligible for tenure, and each such employee shall be apprised in writing once each year
594 of the employee's progress toward tenure. The tenure appraisal shall be included as a
595 separate component of the annual evaluation and is intended to provide assistance and
596 counseling to candidates to help them to qualify themselves for tenure. The employee
597 may request, in writing, a meeting with an administrator at the next higher level to
598 discuss concerns regarding the tenure appraisal that were not resolved in previous
599 discussions with the evaluator. Tenure appraisals shall not be the sole basis for a
600 decision concerning tenure for the employee.

601

602 9.4 Modification of Criteria.

603

604 (a) Modifying Criteria. The University may modify the criteria for tenure so
605 long as the UFF Chapter President has been notified of the proposed changes and
606 offered an opportunity to discuss such changes in consultation with the Provost or
607 designee. Changes in criteria shall not become effective until one (1) year following
608 adoption of the changes, unless mutually agreed to in writing by the UFF Chapter
609 President and the Provost or designee. The date of adoption shall be the date on which
610 the changes are approved by the Provost or designee. Any proposal to develop or
611 modify tenure criteria shall be available for discussion and a vote by the members of the
612 affected departments/units before adoption.

613

614 (b) Effect on Employees. If an employee has at least three (3) years of
615 tenure-earning credit as of the date on which the tenure criteria are adopted under
616 Section 9.4(a) above, the employee shall be evaluated for tenure under the criteria as
617 they existed prior to modification unless the employee notified the University at least
618 thirty (30) days prior to commencement of the tenure consideration that he/she chooses
619 to be evaluated under the newly-adopted criteria.

620

621 9.5 Procedures.

622

623 (a) The University shall maintain a set of policies and procedures for the
 624 tenure process. Policies on the tenure process must include a poll by secret ballot of
 625 the tenured members of the employee's department/unit, in accordance with criteria for
 626 voting set out by the employee's department/unit. Prior to the consideration of the
 627 employee's candidacy, the employee shall have the right to review the contents of the
 628 tenure file and may attach a brief and concise response to any materials therein. It shall
 629 be the responsibility of the employee to see that the file is complete.

630

631 (b) If any material is added to the file after the commencement of
 632 consideration, a copy shall be sent to the employee within five (5) days (by personal
 633 delivery or by mail, return receipt requested). The employee may attach a brief
 634 response within five (5) days of his/her receipt of the added material. The file shall not
 635 be forwarded until either the employee submits a response or until the second five (5)
 636 day period expires, whichever occurs first. The only documents that may be considered
 637 in making a tenure recommendation are those contained or referenced in the tenure file.

638

639 9.6 Other Considerations

640

641 (a) During the period of tenure-earning service, the employee may be issued
 642 a notice of non-reappointment.

643

644 (b) Part-time service of an employee employed at least one semester in any
 645 twelve (12) month period shall be accumulated. For example, two (2) semesters of half-
 646 time service shall be considered one-half year of service toward the period of tenure-
 647 earning service.

648

649 (c) Where employees are credited with tenure-earning service at the time of
 650 initial appointment, all or a portion of such credit may be withdrawn once by the
 651 employee prior to formal application for tenure.

652

653 9.7 Transfer of Tenure.

654

655 (a) Tenured FIU employees who transfer within FIU and who are employed in
 656 the same or similar discipline may transfer their tenure if a vacancy exists and they are
 657 offered employment through the normal hiring process. For tenure-earning faculty, the
 658 amount of prior FIU service creditable toward tenure within FIU may, by mutual
 659 agreement, be all or part of such service.

660

661 (b) When a tenured FIU employee is transferred as a result of a
 662 reorganization within the University and is employed in the same or similar discipline in
 663 which tenure was granted, the employee's tenure shall be transferred to the new
 664 department.

665

666 9.8 Tenure upon Appointment.

667

668 Tenure may be granted to an employee at the time of initial appointment, upon

669 recommendation of the President and approval by the Board. The President shall
 670 consider the recommendation of the Provost and of the department or equivalent unit
 671 prior to making his/her final tenure recommendation to the Board.

672
 673 9.9 Leave.

674
 675 Authorized leaves of absence of twenty (20) working days or less shall be
 676 credited toward the period of tenure earning service, except by mutual agreement of the
 677 employee and the President or designee. Authorized leaves of more than twenty (20)
 678 working days may, under the provisions of the BOT-UFF Policy on Leaves, be credited
 679 toward the period of tenure-earning service by mutual agreement of the employee and
 680 the President or designee.

681
 682 9.10 Termination/Layoff.

683
 684 Tenure guarantees annual reappointment for the academic year until voluntary
 685 resignation, retirement, removal for just cause or layoff. For the purposes of this Article
 686 only, just cause is defined as:

687
 688 (1) incompetence, or
 689 (2) misconduct.

690
 691
 692 ARTICLE 10
 693 GRIEVANCE PROCEDURE AND ARBITRATION

694 10.1 Policy/Informal Resolution. The parties agree that all problems should be
 695 resolved, whenever possible, before the filing of a grievance but within the time limits for
 696 filing grievances stated elsewhere in this Article, and encourage open communications
 697 between administrators and employees so that resort to the formal grievance procedure
 698 will not normally be necessary. The parties further encourage the informal resolution of
 699 grievances whenever possible. At each step in the grievance process, participants are
 700 encouraged to pursue appropriate modes of conflict resolution. The purpose of this
 701 Article is to promote a prompt and efficient procedure for the investigation and
 702 resolution of grievances. The procedures hereinafter set forth shall be the sole and
 703 exclusive method for resolving the grievances of employees as defined herein.

704 10.2 Resort to Other Procedures and Election of Remedy.

705 (a) If prior to seeking resolution of a dispute by filing a grievance hereunder or
 706 while the grievance proceeding is in progress, an employee requests, in writing, the
 707 same remedy of the matter in any other forum, whether administrative (including the
 708 Public Employee Relations Commission) or judicial, the University shall have no
 709 obligation to entertain or proceed further with the matter pursuant to this grievance
 710 procedure. As an exception to this provision, a grievant may file an EEOC charge while
 711 the grievance is in progress when such filing becomes necessary to meet federal filing

712 deadlines pursuant to 42 U.S.C. Section 2000e et seq. Further, since the parties do not
 713 intend that this grievance procedure be a device for appellate review, the President's
 714 response to a recommendation of a hearing officer or other individual or group having
 715 appropriate jurisdiction in any other procedure shall not be an act or omission giving rise
 716 to a grievance under this procedure.

717 (b) The filing of a grievance constitutes a waiver of any rights to judicial
 718 review of agency action pursuant to Chapter 120, Florida Statutes, or to the review of
 719 such actions under University procedures that may otherwise be available to address
 720 such matters. For rights or benefits that are provided exclusively by this Agreement,
 721 this grievance procedure shall be the sole review mechanism. Only those acts or
 722 omissions and sections of the Agreement identified at the initial filing may be considered
 723 at subsequent steps.

724 10.3 Definitions and Forms. As used in this Article:

725 (a) The term "grievance" shall mean a dispute concerning the interpretation or
 726 application of a specific term or provision of this Agreement, subject to those exclusions
 727 appearing in other Articles of this Agreement. A grievance shall be filed on a form
 728 attached as Appendix C to this Agreement.

729 (b) The term "grievant" shall mean an employee or group of employees who
 730 has/have filed a grievance in a dispute over a provision of this Agreement which confers
 731 rights upon the employee(s). The UFF may file a grievance in a dispute over a provision
 732 of this Agreement that confers rights upon a group of employees or the UFF. The
 733 parties may agree to consolidate grievances of a similar nature to expedite the review
 734 process. In a consolidated grievance, one appropriate Form may be attached, bearing
 735 the signatures of the grievants.

736 (c) Grievance Forms. Each grievance, request for review, and notice of
 737 arbitration must be submitted in writing on the appropriate form attached as Appendices
 738 C, D and E to this Agreement and shall be signed by the grievant. All grievance forms
 739 shall be dated when the grievance is received. If there is difficulty in meeting any time
 740 limit, the UFF representative may sign such documents for the grievant; however,
 741 grievant's signature shall be provided prior to the Step 2 meeting.

742 (d) The term "days" shall mean calendar days.

743 10.4 Burden of Proof. In all grievances except disciplinary grievances arising from the
 744 terms of this Agreement, the burden of proof shall be on the employee. In disciplinary
 745 grievances arising from the terms of this Agreement, the burden of proof shall be on
 746 the University.

747 10.5 Representation. The UFF shall have the exclusive right to represent any
 748 employee in a grievance filed hereunder, unless an employee elects self-representation
 749 or to be represented by legal counsel. If an employee elects not to be represented by

750 the UFF, the University shall promptly inform the UFF in writing of the grievance. No
 751 resolution of any individually processed grievance shall be inconsistent with the terms of
 752 this Agreement or any BOT-UFF Policy, and for this purpose the UFF shall have the
 753 right to have an observer present at all meetings called for the purpose of discussing
 754 such grievance and shall be sent copies of all decisions at the same time as they are
 755 sent to the other parties.

756 10.6 Grievance Representatives. The UFF shall annually furnish to the University a list
 757 of all persons authorized to act as grievance representatives and shall update the list as
 758 needed. The UFF grievance representative shall have the responsibility to meet all
 759 classes, office hours, and other duties and responsibilities incidental to the assigned
 760 workload. Some of these activities are scheduled to be performed at particular times.
 761 Such representative shall have the right during times outside of those hours scheduled
 762 for these activities to investigate, consult, and prepare grievance presentations and
 763 attend grievance hearings and meetings. However, such investigations and
 764 consultations will not interfere with the normal operations of the University. Should any
 765 grievance hearings or meetings necessitate rescheduling of assigned duties, the
 766 representative may, with the approval of the appropriate administrator, arrange for the
 767 fulfillment of such duties. Such approval shall not be unreasonably withheld.

768 10.7 Appearances.

769 (a) When an employee participates during scheduled hours in an arbitration
 770 proceeding or in a grievance meeting between the grievant, grievant's counsel or UFF
 771 representative and the University, that employee's compensation shall neither be
 772 reduced nor increased for time spent in those activities

773 (b) Prior to participation in any such proceedings, conferences, or meetings,
 774 the employee shall make arrangements acceptable to the appropriate supervisor for the
 775 performance of the employee's duties. Approval of such arrangements shall not be
 776 unreasonably withheld. Time spent in such activities outside scheduled hours shall not
 777 be counted as time worked.

778 10.8 Formal Grievance Procedure.

779

780 A. Filing.

781

782 (1) A grievance shall be filed with the Provost or designee at Step 1
 783 within thirty (30) days following the act or omission giving rise thereto, or the date on
 784 which the employee knew or reasonably should have known of such act or omission if
 785 that date is later. The grievant may amend the Step 1 Form one time prior to the Step 2
 786 meeting. Only those acts or omissions and sections of this Agreement identified at the
 787 Step 1 filing as amended in accordance with this paragraph may be considered at
 788 subsequent steps.
 789

790 (2) The filing of a grievance constitutes a waiver of any rights to judicial
 791 review of agency action pursuant to Chapter 120, Florida Statutes, or to the review of
 792 such actions under University procedures which may otherwise be available to address
 793 such matters.

794
 795 (3) An employee may seek redress of a salary action alleged to be
 796 unsupported by performance or job related criteria by filing a grievance under the
 797 provisions of this Article. An act or omission giving rise to such a grievance may be the
 798 employee's receipt of salary during any pay period, but in no case shall the arbitrator's
 799 award of back salary be retroactive to a date earlier than the date of that act or
 800 omission, or twelve (12) months from the date the grievance is filed, whichever is less.

801
 802 B. Time Limits. All time limits in this Article may be extended by mutual
 803 agreement of the parties in writing. Mutual agreement may be evidenced by e-mail
 804 exchanges. If the University fails to provide a Step 2 decision within the time limits
 805 provided in this Article due to a University-caused delay, the University shall pay all
 806 costs of arbitration should the UFF elect to take the grievance to arbitration. Upon the
 807 failure of the grievant or the UFF, where appropriate, to file an appeal within the time
 808 limits provided in this Article, the grievance shall be deemed to have been resolved at
 809 the prior step. The "end of the day" shall mean 5 PM. The date of receipt shall not be
 810 included in the count of days. Compliance with any time limit under this Article shall be
 811 determined by the date-stamped receipt executed by the office receiving the grievance
 812 or the decision, or by the date of the mailing as indicated by the postmark.

813
 814 C. Step 1. All grievances shall be placed in informal resolution status for
 815 thirty (30) days unless both the University and UFF agree otherwise. During the
 816 informal resolution period, efforts to resolve the grievance informally shall be made.
 817 Upon request of the grievant or grievant's representative, the University representative
 818 shall, during the informal resolution period, arrange an informal meeting between the
 819 appropriate administrator and the grievant. The grievant shall have the right to
 820 representation by the UFF or legal counsel during attempts at informal resolution of the
 821 grievance. Any party bringing legal counsel to the informal meeting shall provide at least
 822 five (5) days advance written notice to all other parties. If the grievance is not
 823 satisfactorily resolved during the informal resolution period, the grievant may give
 824 written notice to the President or designee requesting Step 2 review within thirty (30)
 825 days from the expiration of the Step 1 period. If the grievant does not request a Step 2
 826 review within thirty (30) days from the expiration of the initial informal resolution period
 827 or any extension of that period, the grievance shall be deemed informally resolved to
 828 the grievant's satisfaction and need not be processed further.

829
 830 D. Step 2

831
 832 (1) Meeting. The President or designee and the grievant and/or
 833 grievant's representative shall meet no sooner than ten (10) days and no later than
 834 thirty (30) days following receipt of the grievant's request for a Step 2 meeting. At the
 835 Step 2 meeting, the grievant shall have the right to present any evidence in support of

836 the grievance, and the grievant and/or the grievant's representative and the President or
 837 designee shall discuss the grievance. Any party bringing legal counsel to the Step 2
 838 meeting shall provide at least five (5) days advance written notice to all other parties.
 839

840 (2) Decision. The President or designee shall issue a written decision,
 841 stating the reasons therefore, to grievant's Step 2 representative within fifteen (15) days
 842 following conclusion of the Step 2 meeting. A copy of the decision shall be sent to the
 843 grievant, to the grievant's representative and to UFF if grievant elected self-
 844 representation or representation by legal counsel.
 845

846 (3) Documents. The President or designee shall make available to
 847 the grievant or the grievant's representative all documentation referenced in the Step 2
 848 decision prior to its issuance. All documents referred to in the Step 2 decision and any
 849 additional documents presented by the grievant shall be attached to the decision,
 850 together with a list of these documents. In advance of the Step 2 meeting, the grievant
 851 shall have the right, upon written request, to a copy of any identifiable documents
 852 relevant to the grievance.
 853

854 E. Step 3. Arbitration

855 (1) Filing. If the grievance has not been satisfactorily resolved at Step
 856 2, UFF may, upon the request of the grievant, proceed to arbitration by filing a written
 857 notice to do so. Notice of intent to proceed to arbitration must be filed with the
 858 President or designee within forty-five (45) days after receipt of the Step 2 decision by
 859 the grievant's Step 2 representative and shall be signed by the grievant and UFF
 860 President or designee. The grievance may be withdrawn by the grievant or by the UFF
 861 President or designee at any point prior to issuance of the arbitrator's decision. The
 862 parties shall stipulate to the issue(s) prior to the arbitration. In the event a stipulation is
 863 not reached, the parties shall proceed to a hearing on arbitrability.
 864

865 (2) Selection of Arbitrator.

866 (a) Representatives of the University and the UFF shall meet
 867 within ninety (90) days after the execution of this Agreement for the purpose of selecting
 868 a permanent Arbitration Panel of five (5) members. Each party will propose five (5)
 869 arbitrators. From this list of ten (10) names, the parties will alternately strike names until
 870 a permanent panel of five (5) arbitrators has been selected. The right of the first choice
 871 to strike from the list shall be determined by a flip of a coin. Arbitrators will be asked to
 872 serve on a rotational basis, the sequence to be determined by lot.
 873

874 (b) If at any time the number of arbitrators willing to serve on the
 875 panel falls below five (5), UFF and the University will each submit an additional five
 876 names and the striking procedure described above shall be used to bring the total in the
 877 panel to five (5).

878 (c) The parties may mutually select as an arbitrator an individual
 879 who is not a member of the panel. The hearing by the arbitrator shall be held within
 880 sixty (60) days following the selection of the arbitrator.

881 (3) Authority of the Arbitrator.

882 (a) The arbitrator shall neither add to, subtract from, modify,
 883 ignore, or alter the terms or provisions of this Agreement. Arbitration shall be confined
 884 solely to the application and/or interpretation of this Agreement and the precise issue(s)
 885 submitted for arbitration. The arbitrator shall refrain from issuing any statement of
 886 opinion or conclusions not essential to the determination of the issues submitted.

887 (b) Where an administrator has made a judgment involving the
 888 exercise of discretion, such as decisions regarding tenure, the arbitrator shall not
 889 substitute the arbitrator's judgment for that of the administrator. Nor shall the arbitrator
 890 review such decision except for the purpose of determining whether the decision has
 891 violated this Agreement. If the arbitrator determines that the Agreement has been
 892 violated, the arbitrator shall direct the University to take appropriate action. The
 893 arbitrator may award back salary where the arbitrator determines that the employee is
 894 not receiving the appropriate salary from the University, but the arbitrator may not award
 895 other monetary damages or penalties. If notice that further employment will not be
 896 offered is not given on time, the arbitrator may direct the University to renew the
 897 appointment only upon a finding that no other remedy is adequate and that the notice
 898 was given so late that (a) the employee was deprived of a reasonable opportunity to
 899 seek other employment, or (b) the employee actually rejected an offer of comparable
 900 employment that the employee otherwise would have accepted.

901 (c) An arbitrator's decision awarding employment beyond the
 902 sixth year shall not entitle the employee to tenure. In such cases the employee shall
 903 serve during the seventh year without further right to notice that the employee will not
 904 be offered employment thereafter. If an employee is reappointed at the direction of an
 905 arbitrator, the President or designee may reassign the employee during such
 906 reappointment.

907 (4) Arbitrability. Issues of arbitrability shall be bifurcated from the
 908 substantive issue(s) and, whenever possible, determined by means of a hearing
 909 conducted by conference call. The arbitrator shall have ten (10) days from the hearing
 910 to render a decision on arbitrability. If the issue is judged to be arbitrable, an arbitrator
 911 shall then be selected to hear the substantive issue(s) in accordance with the provisions
 912 of this Agreement.

913 (5) Conduct of Hearing. The arbitrator shall hold the hearing in Miami-
 914 Dade County, unless otherwise agreed by the parties. The hearing shall commence
 915 within twenty-five (25) days of the arbitrator's acceptance of selection, or as soon
 916 thereafter as is practicable, and the arbitrator shall issue the decision within thirty (30)
 917 days of the close of the hearing or the submission of briefs, whichever is later, unless

918 additional time is agreed to by the parties. The decision shall be in writing and shall set
 919 forth findings of fact, reasoning, and conclusions on the issues submitted. Except as
 920 expressly specified in this Article, the provisions of the Florida Arbitration Code, Chapter
 921 682, Florida Statutes, shall not apply. Except as modified by the provisions of this
 922 Agreement, arbitration proceedings shall be conducted in accordance with the Labor
 923 Arbitration Rules and Procedures of the American Arbitration Association and the Code
 924 of Professional Responsibility for Arbitrators of Labor-Management Disputes of the
 925 National Academy of Arbitrators, the American Arbitration Association, and the Federal
 926 Mediation and Conciliation Service.

927 (6) Effect of Decision. The decision or award of the arbitrator shall be
 928 final and binding upon the University, the UFF, and the grievant, provided that either
 929 party may appeal to an appropriate court of law a decision that was rendered by the
 930 arbitrator acting outside of or beyond the arbitrator's jurisdiction, pursuant to Florida law.

931 (7) Venue. For purposes of venue in any judicial review of an
 932 arbitrator's decision issued under this Agreement, the parties agree that such an appeal
 933 shall be filed in the courts in Miami-Dade County, Florida, unless both parties
 934 specifically agree otherwise in a particular instance. In an action commenced in Miami-
 935 Dade County, neither the University nor the UFF will move for a change of venue based
 936 upon the defendant's residence in fact if other than Miami-Dade County

937 (8) Fees and Expenses. All fees and expenses of the arbitration shall
 938 be divided equally between the parties, unless mutually agreed otherwise. Each party
 939 shall bear the cost of preparing and presenting its own case. The party desiring a
 940 transcript of the arbitration proceedings shall provide written notice to the other party of
 941 its intention to have a transcript of the arbitration made at least one week prior to the
 942 date of the arbitration. The party desiring such transcript shall be responsible for
 943 scheduling a stenotype reporter to record the proceedings. The parties shall share
 944 equally the appearance fee of the stenotype reporter and the cost of obtaining an
 945 original transcript and one copy for the party originally requesting a transcript of the
 946 proceedings. The requesting party shall, at its expense, photocopy the transcript
 947 received from the reporter and deliver the photocopy to the other party within five days
 948 after receiving the copy of the transcript from the reporter.

949 (9) Retroactivity. An arbitrator's award may or may not be retroactive
 950 as the equities of each case may demand, but in no case shall an award be retroactive
 951 to a date earlier than the date of the act or omission giving rise to the grievance initially
 952 filed in accordance with this Article.

953 10.9 Filings and Notification. With the exception of Step 2 decisions, all documents
 954 required or permitted to be issued or filed pursuant to this Article may be transmitted by
 955 fax, United States mail, or any other recognized delivery service (note: e-mail is not an
 956 acceptable form of delivery). Step 2 decisions shall be transmitted to the grievant's
 957 representative(s) by personal delivery with written documentation of receipt or by
 958 certified mail, return receipt requested.

959 10.10 Precedent. No complaint informally resolved, or grievance resolved at either Step
960 1 or 2, shall constitute a precedent for any purpose unless agreed to in writing by the
961 University or representative and the UFF acting through its President or designee.

962 10.11 Processing.

963 (a) The filing or pendency of any grievance or arbitration proceedings under
964 this Article shall not operate to impede, preclude, or delay the University from taking the
965 action complained of. Reasonable efforts, including the shortening of time limits when
966 practical, shall be made to conclude the processing of a grievance prior to the expiration
967 of the grievant's employment, whether by termination or failure to reappoint. An
968 employee with a pending grievance will not continue to be compensated beyond the last
969 date of employment.

970 (b) Nothing shall authorize the University or its representative to refuse
971 consideration of a grievance on the assertion that it was not timely filed in accordance
972 with this Article.

973 10.12 Reprisal. No reprisal of any kind will be made by the University or the UFF
974 against any grievant, any witness, any UFF representative, or any other participant in
975 the grievance procedure by reason of such participation.

976 10.13 Records. All written materials pertinent to a grievance shall be filed separately
977 from the evaluation file of the grievant or witnesses, except (a) at the request of the
978 complainant or witness that specific materials be included in his or her own evaluation
979 file, or (b) where the terms of the decision or a settlement direct that a copy of the
980 decision or settlement agreement be placed in the evaluation file of a grievant or
981 witness. All decisions or settlement agreements resulting from grievances processed
982 pursuant to this Article shall specify whether or not a copy of the decision or settlement
983 agreement is to be placed in the evaluation file(s) of any grievant or witness.

984
985
986
987
988

ARTICLE 11
SALARIES

989 **11.1 2007 – 2009 Salary Increases**

990
991 (a) **Lump Sum Payment.** On November 1, 2007, all eligible employees shall
992 receive a one-time lump sum payment of \$1,000 in accordance with the 2007- 2008
993 General Appropriations Act.

994
995 (b) **One-time Departmental Merit Bonus.** In addition to the lump sum
996 payment provided pursuant to 11.1(a), the University shall provide merit increase funds
997 totaling one and one-half percent (1.5%) of the total bargaining unit payroll as of the
998 last full pay period of the 2007 – 2008 Academic Year on a pro rata basis to

999 departments/units based on their payrolls as of the last full pay period of the 2007 –
 1000 2008 Academic Year. These funds shall be distributed as one-time merit bonuses to
 1001 employees within each department or academic unit consistent with the criteria and
 1002 procedures set forth in the BOT-UFF Policy concerning Employee Performance
 1003 Evaluation. If merit criteria apply to the entire college/school, the college/school is the
 1004 unit. All employees are, or upon appointment will be, assigned to an existing
 1005 department/unit. Such bonuses shall be paid on December 28, 2008. To be eligible for
 1006 a one-time merit bonus, the employee must have been employed on or prior to the
 1007 beginning of Spring 2008 semester and must be continuously employed through the
 1008 date on which the merit bonus is paid.

1009
 1010 (c) **Retention Increase.** Effective December 28, 2008, all eligible
 1011 employees who were employed on or prior to the beginning of the Spring 2008
 1012 semester and are continuously employed through the effective date shall receive a two
 1013 percent (2.0%) retention increase to their base salaries as of the last full pay period
 1014 of the 2007 – 2008 Academic Year.

1015
 1016 (d) **2007-2008 Convocation Awards.** At the 2007 Faculty Convocation the FIU
 1017 Board of Trustees or designee may provide to employees one-time awards totaling no
 1018 more than 0.16% of the total employee payroll as of the last full pay period of the 2006-
 1019 2007 Academic Year for special achievements, including awards for teaching, research,
 1020 service, mentorship, librarianship and advising and Distinguished University Professor,
 1021 according to the selection procedures established by the Faculty Senate. No later than
 1022 four weeks after such awards are presented, the University shall provide the local UFF
 1023 chapter a listing of such awards showing the name and department of each employee
 1024 given an award and the amount and nature of the award.

1025
 1026 (e) **2008 – 2009 Convocation Awards.** At the 2008 Faculty
 1027 Convocation, the FIU Board of Trustees or designee may provide to employees one-
 1028 time awards totaling no more than 0.16% of the total employee payroll as of the last full
 1029 pay period of the 2007 – 2008 Academic Year for special achievements, including
 1030 awards for teaching, research, service, mentorship, librarianship and advising and
 1031 Distinguished University Professor, according to the selection procedures established
 1032 by the Faculty Senate. No later than four weeks after such awards are presented, the
 1033 University shall provide the local UFF chapter a listing of such awards showing the
 1034 name and department of each employee given an award and the amount and nature of
 1035 the award.

1036
 1037 (f) **2007 – 2008 Discretionary Awards and Increases.** In addition to the lump
 1038 sum payments, one-time merit bonuses, salary increases, and Convocation Awards
 1039 provided pursuant to 11.1(a),(b), (c), (d), and (e), during the 2007-2008 Academic Year
 1040, the FIU Board of Trustees or designee may provide additional salary increases and/or
 1041 one-time awards totaling no more than one-half of one percent (0.5%) of the total
 1042 employee payroll as of the last full pay period of the 2006-2007 Academic Year. These
 1043 increases may be provided for market equity considerations, including verified
 1044 counteroffers and compression/inversion; increased duties and responsibilities; special

1045 achievements; Summer Faculty Research Awards; litigation/settlements; and similar
 1046 special situations. No later than four weeks after the end of classes each semester,
 1047 the University shall provide a listing of the distribution of these funds to the local
 1048 chapter of UFF. This list will provide the name and department of the employee and the
 1049 date, amount and nature of the award or salary increase.

1050
 1051 (g) **2008 – 2009 Discretionary Awards and Increases.** In addition to the
 1052 lump sum payments, one-time merit bonuses, salary increases and Convocation
 1053 Awards and discretionary awards provided pursuant to 11.1(a), (b), (c), (d), (e), and (f)
 1054 , during the 2008-2009 Academic Year , the FIU Board of Trustees or designee may
 1055 provide additional salary increases and/or one-time awards totaling no more than three-
 1056 quarters of one percent (0.75%) of the total employee payroll as of the last full pay
 1057 period of the 2007-2008 Academic Year. These increases may be provided for market
 1058 equity considerations, including verified counteroffers and compression/inversion;
 1059 increased duties and responsibilities; special achievements; Summer Faculty Research
 1060 Awards; litigation/settlements; and similar special situations. No later than four weeks
 1061 after the end of classes each semester, the University shall provide a listing of the
 1062 distribution of these funds to the local chapter of UFF. This list will provide the name
 1063 and department of the employee and the date, amount and nature of the award or
 1064 salary increase.

1065
 1066 **11.2. Market Equity Study.** The University shall conduct a Market Equity Study
 1067 comparing employees' salaries as of the last full pay period of the 2007 – 2008
 1068 Academic Year to the national median salary for their ranks and disciplines as reported
 1069 in the most recent Oklahoma State University Study, ARL data, or, if these are found
 1070 not to be applicable because they contain no data for a particular field or position, other
 1071 appropriate national salary data to be agreed to by UFF and the University. No later
 1072 than February 1, 2009 the University will provide the local UFF chapter, at no charge
 1073 and in machine readable form, a list showing for each employee name, gender, rank,
 1074 department/discipline and salary, together with the national median salary for that
 1075 employee's rank and department/discipline and the data base from which such
 1076 information was obtained.

1077
 1078 **11.3. Promotion Increases.** Effective at the beginning of the academic year in which
 1079 their promotions are effective, employees shall be awarded promotion increases as
 1080 follows:

1081
 1082 (a) To Assistant University Librarian or Assistant Professor, a nine
 1083 percent (9%) increase;

1084
 1085 (b) To Senior Lecturer, Senior Instructor, Research Associate,
 1086 Associate Scholar/Scientist/Engineer, Associate University Librarian, or Associate
 1087 Professor, a ten percent (10%) increase;

1088

1089 (c) To University Lecturer, University Instructor,
 1090 Scholar/Scientist/Engineer, University Librarian, or Professor, a twelve percent (12%)
 1091 increase.

1092
 1093 **11.4 Notification to Employees.** All employees shall receive notice of their salary
 1094 increases on the Salary Increase Notification Form attached as an Appendix to this
 1095 Agreement not later than two weeks prior to implementation of the salary increases
 1096 described in this article. Upon request, an employee shall have the opportunity to
 1097 consult with the person or committee that makes the initial recommendation for salary
 1098 increases.

1099
 1100 **11.5 Contract and Grant-Funded Employees.**

1101
 1102 (a) Employees on grants or contracts shall receive salary increases equivalent to
 1103 similar employees on regular funding, provided that such salary increases are permitted
 1104 by the terms of the contract or grant and adequate funds are available for this purpose
 1105 in the grant or contract. In the event such salary increases are not permitted by the
 1106 terms of the contract or grant, or in the event adequate funds are not provided, the
 1107 President or representative shall seek to have the contract or grant modified to permit
 1108 such increases.

1109
 1110 (b) Nothing contained herein shall prevent employees whose salaries are funded
 1111 by grant agencies from being allotted raises higher than those provided in this
 1112 Agreement.

1113
 1114 **11.6 Report to UFF.** Except as otherwise provided in this Article 11, no later than four
 1115 weeks after one-time merit bonuses are given or raises are implemented, the
 1116 University shall make available to the local chapter of the UFF, in machine-readable
 1117 format, accurately by category, all one-time merit bonuses or increases provided
 1118 pursuant to this Article, showing for each employee department and rank and the
 1119 nature, date and amount of the one-time merit bonus or increase.

1120
 1121 **11.7 Type of Payment.**

1122
 1123 (a) For the academic year, duties and responsibilities assigned by the University to
 1124 an employee that do not exceed the available established FTE for the position shall be
 1125 compensated through the payment of Salary, not by OPS.

1126
 1127 (b) For the academic year, duties and responsibilities assigned by the University to
 1128 an employee that are in addition to the available established FTE for the position shall
 1129 be compensated through OPS and not Salary.

1130
 1131 **11.8 Grievability.** The only issues to be addressed in a grievance filed
 1132 pursuant to the Article on Grievance Procedure alleging violation of this Article are
 1133 whether there is unlawful discrimination under Article 6, or whether there is an arbitrary
 1134 and capricious application of the provisions of one or more sections of this Article.

1135
 1136 **11.9 Eligibility.** Except as otherwise specified in this Article, an “eligible employee”
 1137 for the purposes of this Article shall be defined as an employee who has received at
 1138 least a satisfactory rating overall on his or her most recent annual evaluation. Where
 1139 no evaluation was given for assigned responsibilities, performance shall be presumed
 1140 to have been at least satisfactory overall. Employees on paid or unpaid leave who
 1141 have not had assigned responsibilities during all or part of the previous Academic Year
 1142 shall be presumed to have been at least satisfactory overall for purposes of qualifying
 1143 as an “eligible employee” for purposes of this Article.
 1144

1145
 1146 **ARTICLE 12**
 1147 **UFF INSURANCE DEDUCTION**
 1148

1149 The University agrees to provide one payroll deduction per employee per pay
 1150 period for the UFF voluntary economic services programs. It is understood that all such
 1151 programs and deductions will meet requirements of Board rules and regulations and
 1152 applicable law. The UFF shall provide the University with a written report by July 31 of
 1153 each year regarding any program requiring payroll deduction. This report shall include
 1154 the name of the common remitter company, a list of the provider companies that are to
 1155 receive remittances, the appropriate contact people for the common remitter and
 1156 associated provider companies, and addresses and phone numbers.
 1157

1158
 1159 **ARTICLE 13**
 1160 **PAYROLL DEDUCTION**
 1161

1162 Pursuant to the provisions of Section 447.303, Florida Statutes, the Board and the UFF
 1163 hereby agree to the following procedure for the deduction and remittance of the UFF
 1164 membership dues and other UFF deductions.
 1165

1166 **13.1 Deductions.**
 1167

1168 (a) During the term of this Agreement, the Board agrees to deduct the UFF
 1169 membership dues in an amount established by the UFF and certified in writing by the
 1170 UFF State President to the Board, and to make other UFF deductions in an amount
 1171 authorized by an employee, from the pay of those employees in the bargaining unit who
 1172 individually and voluntarily make such request on a written authorization form as
 1173 contained in Appendix “B” to this Agreement.
 1174

1175 (b) Deductions will be made biweekly beginning with the first full-pay period
 1176 commencing at least seven (7) days following receipt of authorization by the University.
 1177 The UFF shall give written notice to the Board of any changes in its dues at least forty-
 1178 five (45) days prior to the effective date of any such changes.
 1179

1180 **13.2 Remittance.**

1181
 1182 The dues and other authorized deductions shall be remitted by the University to
 1183 the UFF State Office on a biweekly basis within thirty (30) days following the end of the
 1184 pay period. Accompanying each remittance shall be a list of the employees from whose
 1185 salaries such deductions were made and the amounts deducted. This list shall be
 1186 provided in machine-readable form.

1187
 1188 13.3 Termination of Deductions.

1189
 1190 The Board's responsibility for deducting dues and other authorized deductions
 1191 from an employee's salary shall terminate automatically upon either: (a) thirty (30) days
 1192 written notice from the employee to FIU's Division of Human Resources, and to the UFF
 1193 revoking that employee's prior deduction authorization; or (b) the transfer of the
 1194 authorizing employee out of the bargaining unit. Consistent with the provisions of this
 1195 Agreement, the University shall notify UFF when it proposes to reclassify an employee
 1196 to a classification which is not contained in the bargaining unit.

1197
 1198 13.4 Reinstatement of Deduction.

1199
 1200 The University shall reinstate dues deductions for employees who have
 1201 previously filed authorization for dues deduction and are subsequently placed in leave
 1202 without pay status, or who participate in the Phased Retirement Program, upon
 1203 commencement of full- or part-time employment at FIU.

1204
 1205 13.5 Indemnification

1206
 1207 The UFF shall indemnify, defend, and hold the Board, FIU, and their officers,
 1208 officials, agents, and employees, harmless against any claim, demand, suit, or liability
 1209 (monetary or otherwise), and for all legal costs arising from any action taken or not
 1210 taken by FIU, or other officials, agents, and employees in compliance with this Article.
 1211 The UFF shall promptly refund to FIU any funds received in accordance with this Article
 1212 which are in excess of the amount of dues and other authorized deductions which FIU
 1213 has agreed to deduct.

1214
 1215 13.6 Exceptions.

1216
 1217 The Board will not deduct any UFF fines, penalties, or special assessments from
 1218 the pay of any employee, nor is the Board obligated to provide more than one payroll
 1219 deduction field for the purpose of making the deductions described in this Article.

1220
 1221 13.7 Termination of Agreement.

1222
 1223 The Board's responsibilities under this Article shall terminate automatically upon
 1224 (1) decertification of the UFF or the suspension or revocation of its certification by the
 1225 Florida Public Employees Relations Commission, or (2) revocation of the UFF's
 1226 deduction privilege by the Florida Public Employees Relations Commission.

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ARTICLE 14
 MAINTENANCE OF BENEFITS

The reorganization of higher education in the State of Florida resulted in the legislative abolition of the Board of Regents and the creation of the Florida International University Board of Trustees as the public employer. Tenure status, rank, earned benefits, years of service, history of assignments and record of evaluations that an employee had at the University prior to the creation of the Florida International University Board of Trustees shall be recognized, credited or used, as applicable, unless a specific term or provision agreed to by the Board and the UFF states otherwise. No employee may be required to waive the benefits provided by terms agreed to by the Board and the UFF. No employee shall, as a result of the establishment of a level of rights or benefits by an agreement of the Board and the UFF, suffer a loss or diminution of any such rights or benefits for which otherwise eligible.

ARTICLE 15
 MISCELLANEOUS PROVISIONS

15.1 No Strike or Lockout. The Board agrees that there will be no lockout at FIU during the term of this Agreement. The UFF agrees that there will be no strike by it or by any employees during the term of this Agreement.

15.2 Effect of Passage of Law. Any provision of this Agreement or BOT-UFF Policies appended which is contrary to law, but becomes legal during the term of this Agreement, shall be reinstated consistent with such legislation.

15.3 Legislative Action. The Board and the UFF agree that neither will attempt to influence or support changes in existing statutes or legislation which would change the terms of this Agreement or BOT-UFF Policies appended.

15.4 Venue. For purposes of venue in any judicial review of an arbitrator's decision, the parties elect to submit themselves to the jurisdiction of the courts in Miami-Dade County, Florida. In an action commenced in Miami-Dade County, neither the Board nor the UFF will move for a change of venue based upon the defendant's residence in-fact if other than Miami-Dade County.

15.5 Copies of the Agreement. The University agrees to provide the UFF with a maximum of 1,500 copies of the ratified Agreement and BOT-UFF Policies appended for distribution to employees, and to provide a copy to each new employee upon hiring. The cost for printing additional copies of these documents shall be borne equally by the parties. If the employee does not receive a copy of the Agreement and appendices from the University as part of the hiring process, the employee may obtain one from the UFF Chapter. The UFF agrees to distribute copies of the Agreement and appendices to

1273 current employees in the unit when the Agreement and BOT-UFF Policies are ratified.
 1274 In addition, the Board shall provide a machine-readable copy of the ratified Agreement,
 1275 appendices and all Supplements to the UFF.
 1276

1277 15.6 Class Titles.
 1278

1279 (a) Whenever the University creates a new class, it shall designate such class
 1280 as being either within or outside the bargaining unit and shall notify the UFF Chapter.
 1281 Further, if the University revises the specifications of an existing class so that its
 1282 bargaining unit designation is changed, it shall notify the UFF Chapter of such new
 1283 designation. Within ten (10) days following such notification, the UFF may request a
 1284 meeting with the University for the purpose of discussing the designation. If, following
 1285 such discussion, the UFF disagrees with the designation, it may request the Florida
 1286 Public Employees Relations Commission to resolve the dispute through unit clarification
 1287 proceedings.
 1288

1289 (b) An employee may request a review of the appropriateness of the
 1290 employee's classification by the appropriate University office. In case of disagreement
 1291 with the results of the review, the matter shall be discussed in accordance with Article 2,
 1292 Consultation, but shall not be subject to the Article on Grievance Procedure.
 1293

1294 15.7 Salary Rate Calculation and Payment. The biweekly salary rate of employees
 1295 serving on twelve (12) month (calendar year) appointments shall be calculated by
 1296 dividing the calendar year salary rate by 26.1 pay periods.
 1297

1298 15.8 Titles and Headings. The titles of Articles and headings which precede text are
 1299 inserted solely for convenience of reference and shall not be deemed to limit or affect
 1300 the meaning, construction, or effect of any provision of this Agreement or BOT-UFF
 1301 Policies appended.
 1302

1303 15.9 References to BOT-UFF Policies in the Agreement. References in this
 1304 Agreement to any or all of the appended BOT-UFF Policies shall not have the effect of
 1305 rendering the Policy (or Policies) subject to Article 10, Grievance Procedure and
 1306 Arbitration.
 1307

1308
 1309 ARTICLE 16
 1310 SEVERABILITY
 1311

1312 In the event that any provision of this Agreement (a) is found to be invalid or
 1313 unenforceable by final decision of a tribunal of competent jurisdiction, or (b) is rendered
 1314 invalid by reason of subsequently enacted legislation, or (c) pursuant to Section
 1315 447.309(3) Florida Statutes, can take effect only upon the amendment of a law, rule, or
 1316 regulation and the governmental body having such amendatory powers fails to take
 1317 appropriate legislative action, then that provision shall be of no force or effect, but the
 1318 remainder of the Agreement shall continue in full force and effect. If a provision of this

1319 Agreement fails for reason (a), (b), or (c), above, the parties shall enter into immediate
 1320 negotiations for the purpose of arriving at a mutually satisfactory replacement for such
 1321 provision.

1322

1323

1324

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1326

ARTICLE 17 AMENDMENT AND DURATION

1327 17.1 Effective Date. The Agreement and BOT-UFF Policies shall become effective on
 1328 the date of ratification by both parties and remain in effect through July 1, 2011. For
 1329 contract years 2009-2010 and 2010-2011, the topics of salaries and insurance and up
 1330 to three additional Articles or BOT-UFF Policies to be chosen by each party will be
 1331 reopened.

1332

1333 (a) Renegotiations for the agreement term July 1, 2011 through July 1, 2014
 1334 shall begin no later than October 1, 2010.

1335

1336 (b) The parties may agree to include other subjects in their renegotiations.

1337

1338 17.2 Amendments. In the event the Board and the UFF negotiate a mutually
 1339 acceptable amendment to this Agreement or BOT-UFF Policies, such amendment shall
 1340 be put in writing and become part of this Agreement or BOT-UFF Policies upon
 1341 ratification by both parties.

1342

1343

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1345

ARTICLE 18 TOTALITY OF AGREEMENT

1346

1347

1348

18.1 Limitation.

1349

1350 The parties acknowledge that during the negotiations which resulted in the
 1351 Agreement, the Board and the UFF had the unlimited right and opportunity to present
 1352 demands and proposals with respect to any and all matters lawfully subject to collective
 1353 bargaining, and that all of the understandings and agreements arrived at thereby are set
 1354 forth in this Agreement, and that it shall constitute the entire and sole Agreement
 1355 between the parties for its duration.

1356

1357

18.2 No Obligation to Bargain.

1358

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1364

The Board and the UFF, during the term of this Agreement, voluntarily and unqualifiedly waive the right, and agree that the other shall not be obligated, to bargain collectively with respect to any subject or matter, whether or not referred to or covered by this Agreement, even though such subject or matter may not have been within the knowledge or contemplation of the parties at the time they negotiated or signed this Agreement.

1365
1366 18.3 Modifications.

1367
1368 Nothing herein shall, however, preclude the parties from mutually agreeing to
1369 alter, amend, supplement, delete, enlarge, or modify any of the provisions of this
1370 Agreement in writing.

1371
1372

1373 ARTICLE 19
1374 DEFINITIONS

1375

1376 As used in this Agreement, the term:

1377

1378 -- "academic year" means a period consisting of a fall and spring semester of
1379 approximately 39 contiguous weeks.

1380

1381 -- "bargaining unit" means those employees, collectively, represented for collective
1382 bargaining purposes by the UFF pursuant to Florida Public Employees Relations
1383 Commission Certification No. 1463 issued in Commission Order Number 03E-305,
1384 dated February 4, 2004, wherein the Commission determined the composition of the
1385 bargaining unit at FIU.

1386

1387 -- "Board, "BOT," or "Board of Trustees" means the body established by Article 9,
1388 Section 7 of the Florida Constitution, acting through the President and staff.

1389

1390 -- "break in service" means those absences following which the employee is treated
1391 as a new employee for purposes of computing seniority and years of service.

1392

1393 -- "college/unit" means a college or a comparable administrative unit generally
1394 equivalent in size and character to a college.

1395

1396 -- "continuous service" means employment uninterrupted by a break in service. For
1397 academic year employees (9 month employees), one year of continuous service is
1398 equivalent to the nine (9) month employment period.

1399

1400 -- "days" means calendar days.

1401

1402 -- "department/unit" means a department or a comparable administrative unit
1403 generally equivalent in size and character to a department, unless provided otherwise in
1404 an express provision of this Agreement.

1405

1406 -- "employee" means a member of the bargaining unit.

1407

1408 -- "equitable" means fair and reasonable under the circumstances.

1409

1410 -- "faculty," "faculty member," or "faculty employee" means a member of the

- 1411 bargaining unit.
 1412
 1413 -- "Merit Increase Unit" means a unit which consists of employees not assigned to
 1414 any existing department/units considered for departmental merit increases.
 1415
 1416 -- "months" means calendar months.
 1417
 1418 -- number: The singular includes the plural.
 1419
 1420 -- "principal place of employment" means the campus location or other University
 1421 site specified in the employee's letter of offer or notice of change in appointment.
 1422
 1423 -- "Same Sex Domestic Partner" means a domestic partner of the same sex who
 1424 shares a committed and mutually dependent relationship with the employee, as defined
 1425 in the FIU Policy on Same-Sex Domestic Partner Health Insurance Stipend, including
 1426 the attestation and documentary requirements contained in said Policy.
 1427
 1428 -- "semester" means one of the two approximately 19.5 week periods which
 1429 together constitute the academic year.
 1430
 1431 -- "supervisor" means an individual identified by the President or designee as
 1432 having immediate administrative authority over bargaining unit employees.
 1433
 1434 -- "UFF" means United Faculty of Florida.
 1435
 1436 -- "UFF Chapter" means the FIU Chapter of UFF.
 1437
 1438 -- "University", "university" or "FIU" means Florida International University, acting
 1439 through the President and staff.
 1440
 1441 -- "year" means a period of twelve (12) consecutive months.
 1442

APPENDIX A
POSITION CLASSIFICATION
IN THE BARGAINING UNIT

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INCLUDED:

All full time and regular part-time employees in the following classifications:

9001 - Professor
9002 - Associate Professor
9003 - Assistant Professor
9xxx - University Instructor
9xxx - Senior Instructor
9004 - Instructor
9xxx - University Lecturer
9xxx - Senior Lecturer
9005 - Lecturer
9006 - Graduate Research Professor
9007 - Distinguished Service Professor
9009 - Eminent Scholar
9053 - University Librarian
9054 - Associate University Librarian
9055 - Assistant University Librarian
9056 - Instructor Librarian
9120 - Associate in
9121 - Assistant in
9126 - Program Director
9160 - Scholar/Scientist/Engineer
9161 - Associate Scholar/Scientist/Engineer
9162 - Assistant Scholar/Scientist/Engineer
9166 - Research Associate
9178 - Instructional Specialist

And employees with the following Administrative Titles: Associate Chair (C2), Assistant Chair (C3).

EXCLUDED:

C1 - chairpersons, deans, associate deans, assistant deans, directors, and all administrators above them, all employees of the school of law, chairman of the faculty senate serving on the board of trustees, managerial and confidential employees, and all other employees of The Board of Trustees of the Florida International University.

APPENDIX B

UNITED FACULTY OF FLORIDA
UFF-FTP-NEA
UFF DUES CHECK-OFF AUTHORIZATION FORM

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I, _____, authorize Florida International University to deduct from my pay, starting with the first full biweekly pay period commencing not earlier than seven days from the date this authorization is received by the University, membership dues of the United Faculty of Florida in such amount as may be established from time to time in accordance with the constitution and bylaws of the UFF and certified in writing to the University by the UFF, and I direct that the sum so deducted be paid over to the UFF.

UFF dues payments are not tax deductible as charitable contributions for federal income tax purposes. However, they may be tax deductible under other provisions of the Internal Revenue Code.

The above deduction authorization shall continue until either (1) revoked by me at any time upon thirty days written notice to the University Human Resources Office, and to UFF, or (2) my transfer or promotion out of this bargaining unit. Unless this Dues Check-off Authorization is revoked in the manner heretofore stated, this authorization shall remain in full force and effect in accordance with the provisions of Section 447.007 Florida Statutes.

Date Employee's Signature

Social Security Number Name (printed)

Department

Effective date if later than above: _____

Please return to your Chapter President or to the UFF State Office, 3036 East Park Avenue, Tallahassee, Florida 32301.

Please PRINT complete information where necessary.

Social Security Number
Check One
Dr. Mr. Ms. Mrs.

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Last Name, First Name

Home Address

Campus Address

Department

City, State, Zip Code

Office Phone

Home Phone

=====

Please enroll me as a member of the United Faculty of Florida (UFF).

All UFF members are also members of the Florida Education Association, National Education Association, American Federation of Teachers and the AFL-CIO.

UFF dues are 1 percent of total salary* for members for which the United Faculty of Florida is the bargaining agent. UFF dues payments are not tax deductible as charitable contributions for Federal income tax purposes. However, they may be tax deductible under other provisions of the Internal Revenue Code.

*Total salary for purposes of dues deductions includes any money received by the employee for in-unit work. If insufficient funds remain after mandatory deductions, the University has no obligation to process dues deductions.

Signature of Member

Date

Return your completed membership form to your Chapter President or UFF State Office, 3036 East Park Avenue, Tallahassee, Florida 32301.

United Faculty of Florida
UFF-PAC Payroll Deduction Authorization Form

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I, _____ authorize Florida International University to deduct from my pay, starting with the first full biweekly pay period commencing not earlier than seven days from the date this authorization is received by the University, contributions to the UFF Political Action Committee in the amount of \$1.00 per pay period, and I direct that the sum so deducted be paid over to the UFF.

Contributions to UFF-PAC are not deductible as charitable contributions for Federal income tax purposes. However, they may be tax deductible under other provisions of the Internal Revenue Code.

The above deduction authorization shall continue until either (1) revoked by me at any time upon thirty days written notice to the University Human Resources Office and to the UFF, or (2) my transfer or promotion out of this bargaining unit.

Date

Signature of Member

Department

Effective date if later than above: _____

Return to your Chapter President or the UFF State Office, 3036 East Park Avenue, Tallahassee, Florida 32301.

Florida International University/United Faculty of Florida

APPENDIX C

GRIEVANCE

Date Received by Provost or Designee: _____

GRIEVANT

STEP 1 GRIEVANCE REPRESENTATIVE

NAME :

NAME:

SCHOOL/COLLEGE:

MAILING ADDRESS:

DEPT :

OFFICE PHONE:

OFFICE PHONE:

GRIEVANCE

Article(s) and section(s) of Agreement allegedly violated:

Statement of grievance (must include date of acts or omissions complained of):

Remedy Sought:

(See page 2 for additional requirements)

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AUTHORIZATION

I will be represented in this grievance by: (check one - representative must sign on appropriate line. If grievant is represented by the UFF or legal counsel, all university communications should go to the grievant's representative.):

<input type="checkbox"/>	UFF	
<input type="checkbox"/>	Legal Counsel	
<input type="checkbox"/>	Myself	

I UNDERSTAND AND AGREE THAT BY FILING THIS GRIEVANCE, I WAIVE WHATEVER RIGHTS I MAY HAVE UNDER CHAPTER 120 OF THE FLORIDA STATUTES WITH REGARD TO THE MATTERS I HAVE RAISED HEREIN AND UNDER ALL OTHER UNIVERSITY PROCEDURES WHICH MAY BE AVAILABLE TO ADDRESS THESE MATTERS.

This grievance was filed with the Provost's or Designee's Office on _____ by (check one) mail (certified or registered, restricted delivery, return receipt requested) _____, personal delivery _____, other (specify) _____.

Signature of Grievant

(Grievant must sign prior to Step 2 Meeting if grievance is to be processed.)

Florida International University/United Faculty of Florida

APPENDIX D

REQUEST FOR STEP 2 REVIEW

Date Received by President or Designee: _____

GRIEVANT

STEP 2 GRIEVANCE REPRESENTATIVE

NAME:
SCHOOL/COLLEGE:

NAME:
MAILING ADDRESS:

DEPT:

OFFICE PHONE:

OFFICE PHONE:

Grievant hereby requests that the President or designee review the Grievance as set forth on the attached Step 1 Grievance Form and issue a decision providing the remedy sought.

Grievant filed this request for review with the President's or designee's Office on _____ by (check one) mail (certified or registered, restricted delivery, return receipt requested) _____, personal delivery _____, other (specify) _____.

Signature of Grievant

I am represented in this grievance by (check one - representative should sign on appropriate line. If grievant is represented by the UFF or legal counsel, all university communications should go to the grievant's representative):

UFF

Legal Counsel

Myself

(See page 2 for additional requirements.)

1717
1718 A copy of the Appendix C Grievance form initially filed with the Provost or designee
1719 must be attached to this Request for Step 2 Review at the time of its filing with the
1720 President or designee.

1721
1722 The Step 2 Decision shall be transmitted to Grievant's Step 2 Representative by
1723 personal delivery with written documentation of receipt or by certified mail, return receipt
1724 requested. Copies of this decision shall be sent to Grievant, to the Provost or designee,
1725 and to the President, UFF-FIU, if grievant elected self-representation or representation
1726 by legal counsel.

1727
1728

Florida International University/United Faculty of Florida

APPENDIX E

NOTICE OF ARBITRATION

Date of receipt by President or Designee: _____

The United Faculty of Florida hereby gives notice of its intent to proceed to arbitration in connection with the decision of the President dated _____ and received by the UFF on _____ in this grievance of:

NAME: _____

The following statement of issue(s) before the Arbitrator is proposed:

This notice was filed with the President's or designee's Office on _____ by (check one): mail (certified or registered, restricted delivery, return receipt requested) _____; personal delivery _____; other (specify) _____.

Signature of UFF President or designee

I hereby authorize UFF to proceed to arbitration with my grievance. I also authorize UFF and the University to use, during the arbitration proceedings, copies of any materials in my evaluation file pertinent to this grievance and to furnish copies of the same to the arbitrator.

Signature of Grievant

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Florida International University/United Faculty of Florida

APPENDIX F

2008-2009 SALARY INCREASE NOTIFICATION

In accordance with the provisions of the 2008-2011 BOT-UFF Agreement, your salary increase, effective academic year 2008-2009, is:

Current (2007-2008) Total Salary:	\$ _____
Current (2007-2008) Biweekly Amount:	\$ _____
Promotion from _____ to _____	\$ _____
(Peoplesoft Code _____) [Section 11.2]	
Department Merit: (Peoplesoft Code _____)	\$ _____
[Section 11.1(b)]	
Other, If Applicable: (Peoplesoft Code _____)	
[Section 11.5]	
Effective Date: _____	
_____	Effective Date \$ _____
_____	Effective Date \$ _____
_____	Effective Date \$ _____
2005-06 Total Salary	\$ _____
2005-06 Biweekly Amount	\$ _____

The recommendation for your salary increase was prepared by:
_____. You may request a meeting to discuss this increase.

1803 Florida International University/United Faculty of Florida

1804
1805 **APPENDIX G**

1806
1807 **BOT-UFF POLICIES**

1808
1809
1810 **PREAMBLE TO APPENDIX**
1811 **ON BOT-UFF POLICIES**

1812
1813 In accordance with the Agreement between the University and the United Faculty of
1814 Florida – FIU Chapter dated July 26, 2005, the parties have converted thirteen articles
1815 appearing in the BOR-UFF Collective Bargaining Agreement into the BOT-UFF Policies
1816 (“Policies”) that are contained in this Appendix through collective bargaining
1817 negotiations. These resulting Policies are binding upon the parties and shall remain
1818 unchanged for a term coextensive with the duration of the BOT-UFF Collective
1819 Bargaining Agreement (“BOT-UFF Agreement”). The Policies shall be enforced through
1820 the Policy on Neutral Internal Resolution of Policy Disputes that is included in this
1821 Appendix.

1822
1823 The Policies in this Appendix are contained herein for information purposes only and
1824 are not made a part of the BOT-UFF Agreement. The parties agree that the inclusion of
1825 these Policies as an Appendix to the Agreement does not subject the Policies, or any
1826 right or benefit contained therein, to the Article on Grievance Procedure and Arbitration,
1827 of the BOT-UFF Agreement.

1828
1829
1830 **BOT-UFF POLICY**
1831 **APPOINTMENT**

1832
1833 Purpose: To establish policy and procedures governing appointment of applicants for
1834 new and vacant positions and employees

1835
1836 Policy:

1837
1838 1. General Statement. The University shall exercise its authority to determine the
1839 standards, qualifications, and criteria so as to fill appointment vacancies in the
1840 bargaining unit with the best possible candidates. In furtherance of this aim, the
1841 University shall: (a) advertise such appointment vacancies; (b) receive applications and
1842 screen candidates for such appointments, and make appointments consistent with such
1843 standards, qualifications, and criteria; and (c) commit to an effort to identify and seek
1844 qualified women and minority candidates for vacancies and new positions.

1845
1846 Procedures:

1847
1848 2. Advertisement of Vacancies. Bargaining unit vacancies shall be advertised

1849 throughout the University and other venues as determined by the dean/director.
 1850 Employees of lower or equivalent ranks, employees who are spouses of employees,
 1851 and employees who are local residents shall not, in the hiring process, be
 1852 disadvantaged for that reason. All candidates for new and vacant positions shall be
 1853 advised of the salaries of employees in the department/unit, or of salaries of University
 1854 employees in the same job classification, as appropriate, prior to the negotiation of the
 1855 candidate's initial salary. Prior to making the decision to hire a candidate to fill a
 1856 bargaining unit vacancy, the appropriate administrator(s) shall consider
 1857 recommendations that have resulted from the review of candidates by employees in the
 1858 department.

1859
 1860 3. Initial Appointment.

1861
 1862 Upon initial appointment, a bargaining unit employee shall be issued a letter of offer,
 1863 signed by the dean/director, citing specific terms and conditions of employment and his
 1864 or her initial assignment of responsibilities. The University may enclose informational
 1865 addenda, except that such addenda may not abridge the employee's rights or benefits
 1866 provided in the BOT-UFF Agreement or BOT-UFF Policies. All academic year
 1867 appointments for employees at a University shall begin on the same date. Two weeks
 1868 prior to the beginning of classes each semester, the University shall send to the UFF
 1869 Chapter a list of bargaining unit employees hired since the beginning of the previous
 1870 semester, showing name; rank or title; department, college, program or employment
 1871 unit; salary; and principal place of employment (campus). The initial letter of offer shall
 1872 contain the following elements:

- 1873
 1874 (a) Date;
 1875
 1876 (b) Rank and/or Title and bargaining unit appointment status;
 1877
 1878 (c) Employment unit (e.g., department, college, institute, area, center,
 1879 etc.);
 1880
 1881 (d) The length of the appointment and starting date;
 1882
 1883 (e) Special conditions of employment;
 1884
 1885 (f) The duties and responsibilities of the employee;
 1886
 1887 (g) A statement that the position is (1) tenured, (2) non-tenure earning, or
 1888 (3) tenure-earning (specifying prior service in another institution to be credited toward
 1889 tenure);
 1890
 1891 (h) A statement that the employee's acceptance of and/or signature on the
 1892 letter of offer shall not be deemed a waiver of the right to process a grievance with
 1893 respect thereto in compliance with the BOT-UFF Agreement or a complaint in
 1894 compliance with the BOT-UFF Process for Neutral, Internal Resolution of Policy

1895 Disputes, as appropriate.
 1896

1897 (i) The following statement, if the appointment is not subject to the notice
 1898 provisions of the BOT-UFF Policy on Non-reappointment: "Your employment under this
 1899 contract will cease on the date indicated. No further notice of cessation of employment
 1900 is required.";

1901
 1902 (j) A statement that the appointment is subject to the Constitution and laws of
 1903 the State of Florida and the United States, the rules of the Board and the University, and
 1904 the BOT-UFF Agreement and BOT-UFF Policies;

1905
 1906 (k) Percent of full-time effort (FTE) assigned;
 1907

1908 (l) Total Salary rate and administrative salary supplement if appropriate,
 1909 noting the biweekly rate of pay for the employment period;

1910
 1911 (m) The formula by which an annual salary shall be converted to an academic
 1912 year salary, if applicable.

1913
 1914 (n) The statement: "The BOT-UFF Collective Bargaining Agreement prohibits
 1915 discrimination against any employee based upon race, color, sex, religious creed,
 1916 national origin, age, veteran status, disability, political affiliation, marital status, sexual
 1917 orientation, or employee rights related to union activity as granted under Chapter 447,
 1918 Florida Statutes. Claims of such discrimination by the Board or the University may be
 1919 presented as grievances pursuant to the Grievance Procedure set forth in the BOT-
 1920 UFF Collective Bargaining Agreement.";

1921
 1922 (o) A statement informing the employee of the obligation to report outside
 1923 activity and conflict of interest under the provisions of the BOT-UFF Policy on Conflicts
 1924 of Interest and Outside Activities; and

1925
 1926 (p) Principal place of employment.
 1927

1928 4. Annual Notice of Length of Appointment and Salary. No later than two weeks
 1929 prior to the beginning of the employee's subsequent annual appointment and summer
 1930 appointment, each employee shall receive written notice of the beginning and ending
 1931 dates of that appointment and the salary rate at which the employee is to be paid during
 1932 that appointment, including the number of pay periods during the appointment and the
 1933 employee's biweekly rate of pay.

1934
 1935 5. Appointments.
 1936

1937 (a) Change in Appointments
 1938

1939 If at any time during the employee's employment at FIU any change is
 1940 proposed in any term or condition of the initial appointment contained in the letter of

1941 offer, reasonable advance written notice of each such proposed change must be
 1942 provided to the employee. If the proposed change requires notice in accordance with
 1943 the terms set forth in any applicable provision of the BOT-UFF Agreement or any
 1944 applicable BOT-UFF Policy, the period required for reasonable advance notice shall be
 1945 as set forth in the applicable Agreement or Policy.

1946

1947 (b) Summer Appointments.

1948

1949 (1) Available supplemental summer appointments shall be offered
 1950 equitably and as appropriate to qualified employees, not later than five weeks prior to
 1951 the beginning of the appointment, if practicable, in accordance with written criteria. The
 1952 criteria shall be made available in each department/unit.

1953

1954 (2) Supplemental summer appointments shall be made in accordance
 1955 with Section 1012.945, Florida Statutes (the "twelve hour law").

1956

1957 (3) Compensation. Compensation for summer employment shall be
 1958 12.5% of the employee's 9-month base salary for each course assigned, based on three
 1959 (3) credit- hour courses. Compensation for courses of more or fewer than three credit
 1960 hours shall be prorated.

1961

1962 (4) The instructional FTE will ordinarily be that assigned to a course
 1963 offered during the academic year which is the same or similar to that being offered in
 1964 the summer. This academic year instructional assignment may not exceed .25 FTE for
 1965 a 3-contact-hour course, except that contact hour equivalencies may be assigned for
 1966 classroom instructional activities which involve unusual and significant requirements for
 1967 classroom preparation, conduct of classes, student evaluation, etc. The academic year
 1968 FTE will be increased during the supplemental summer appointment proportional to the
 1969 shorter length of the summer terms. Contact hour equivalencies may be assigned in the
 1970 summer for classroom instructional activities which involve unusual and significant
 1971 requirements for class preparation, conduct of classes, student evaluation, etc. These
 1972 assigned FTEs also will be proportionally greater in the summer than in the academic
 1973 year in recognition of the shorter length of the summer terms.

1974

1975 (5) The instructional FTE assignment described in 5(b)(4), above, does
 1976 not include other credit-generating activities such as thesis/dissertation supervision,
 1977 directed individual studies, supervised research/teaching, and supervision of student
 1978 interns. These activities, as well as Research or Service activities, may be assigned by
 1979 the University during the summer term as contact hour equivalents to teaching a course
 1980 or as "Other FTE" but are not a part of the instructional FTE assignment described in
 1981 5(b)(4), need not be assigned in conjunction with the summer instructional assignment,
 1982 and need not be allocated according to the same FTE equivalent as during the
 1983 academic year. Any such reduction in FTE must, however, correspond to an appropriate
 1984 reduction in assigned duties.

1985

1986 (6) The instructional FTE assignment described in 5(b)(4) above shall

1987 include normal activities related to such an instructional assignment as defined by the
 1988 department/unit and the nature of the course, such as office hours, course preparation,
 1989 minor curriculum development, lectures, and grading. In addition, during any summer
 1990 term (A, B or C) in which an employee has a summer instructional appointment, the
 1991 employee may be required to attend no more than two (2) hours of department/unit or
 1992 university meetings required for collegial activities of particular urgency.

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1996 (c) Extra Compensation Appointments.

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Extra compensation is defined as compensation for any duties (including work activities previously designated as overload) in excess of a full appointment (1.0 FTE). Available extra compensation appointments within the University shall be offered equitably and as appropriate to qualified employees in sufficient time to allow voluntary acceptance or rejection and are subject to the applicable provisions of the Salary Article in the BOT-UFF Agreement, except that during the summer term only, duties and responsibilities assigned by the University to an employee for non-credit generating activities that do not exceed the available established FTE for the position may be compensated through OPS, not Salary. Prior approval for extra compensation activity must be obtained from the employee's immediate supervisor. Twelve-month employees who have been approved to perform extra compensation activity during the employee's normal working hours must use accrued vacation leave during the hours of the extra compensation activity.

2011
 2012

(d) Visiting Appointments.

2013
 2014
 2015
 2016
 2017
 2018

A "visiting" appointment is one made to a person having appropriate professional qualifications but not expected to be available for more than a limited period, or to a person in a position which the University does not expect to be available for more than a limited period. A visiting appointment may be offered in single or multi-year contracts not to exceed a total of four (4) consecutive years.

2019
 2020

(e) Adjunct Appointments.

2021
 2022
 2023

The use of adjuncts at a University shall, upon the request of the UFF be a subject of consultation under the provisions of the BOT-UFF Agreement.

2024
 2025

(f) Fixed Multi-Year Appointments

2026
 2027

(1) Two- to five-year multi-year appointments may be offered for the following:

2028
 2029

A. Instructors and Lecturers;

2030
 2031

B. Non-tenured or non-tenure earning Assistant Librarians, Associate Librarians, Librarians, Curators and

2032

Counselors/Advisors;

- 2033 C. Scholars/Scientists, Research Associates, and Associate
- 2034 In/Assistant In _____;
- 2035 D. Clinical Faculty;
- 2036 E. Individuals who have officially retired from FIU and who are at
- 2037 least 55 years of age;
- 2038 F. Tenured employees who decide to give up their tenured status
- 2039 to take advantage of whatever incentives might be offered by a
- 2040 fixed multi-year appointment;
- 2041 G. Individuals who have held the rank of full professor for at least
- 2042 seven (7) years at an institution of higher education; and
- 2043 H. Individuals with substantial, highly specialized professional
- 2044 experience who do not have terminal degrees that would qualify
- 2045 them for tenure-earning positions.
- 2046

2047 (2) Employees holding such fixed multi-year appointments may be

2048 terminated early under the provisions of Article 8 Layoff and Recall and under the BOT-

2049 UFF Policy on Disciplinary Action.

2050

2051 (3) Successive fixed multi-year appointments may be offered to eligible

2052 employees hired pursuant to Section 5(f)(1), above, as follows:

2053

2054 A. Criteria used to determine in which instances to offer

2055 successive appointments include consideration of the basis for the initial fixed multi-year

2056 appointment, evaluation of performance, professional growth, extent and currency of

2057 professional qualifications, contribution to the mission of the department or program,

2058 staffing needs, funding source alternatives, and continuing program considerations.

2059 Such criteria shall be in writing and available to all eligible employees.

2060

2061 B. The employee will be advised in the penultimate year of the

2062 appointment that to be considered for a successive fixed multi-year appointment, the

2063 employee must submit a request and written documentation pursuant to written

2064 procedures established by the University. The University shall notify the employee in

2065 writing of its decision to offer or not offer a successive appointment by the beginning of

2066 the final year of the employee's current appointment.

2067

2068 6. Reclassification of an Employee to a Non-Unit Classification. Employees shall

2069 be provided written notice at least thirty (30) days in advance, where practicable, with a

2070 copy to the UFF Chapter, when the University proposes to reclassify the employee to a

2071 classification which is not contained in the bargaining unit. The employee may request

2072 a review of such action consistent with the provisions of Section 15.6(b) and UFF

2073 Chapter may discuss such action pursuant to Article 2, Consultation.

2074

2075

2076 BOT-UFF POLICY

2077 ASSIGNMENT OF RESPONSIBILITIES

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Purpose: To describe principles and considerations governing assignment of professional responsibilities for employees.

Policy:

1. Professional Obligations. An employee's professional obligation comprises both scheduled and non-scheduled activities. It is a part of the professional responsibility of employees to carry out their duties in an appropriate manner and place. For example, while instructional activities, office hours, student advising, and certain other duties and responsibilities, may be required to be performed at a specific time and place, other non-scheduled activities are more appropriately performed in a manner and place determined by the employee in consultation with his/her supervisor.

2. Annual Assignments. Prior to the beginning of each year of employment, each employee shall be apprised in writing of his/her annual assignment of duties in teaching, research and other creative activities, public service, and of any other specific duties assigned for that year. Except for the initial assignment, the person responsible for making the assignment shall notify the employee prior to making the final written assignment. The assignment shall be communicated to employees no later than six (6) weeks in advance of its starting date, if practicable. Such assignment of responsibilities document shall be signed and dated by both the employee and the person responsible for making the assignment.

3. Considerations in Assignment.

(a) The employee shall be granted, upon written request, a conference with the person responsible for making the assignment to express concerns regarding:

- (1) the needs of the program or department/unit;
- (2) the employee's qualifications and experiences, including professional growth and development and preferences;
- (3) the character of the assignment, including but not limited to the number of hours of instruction, the preparation required, whether the employee has taught the course in the past, the average number of students enrolled in the course in past semesters and the time required by the course, whether travel to another location is required, whether the development of instructional technology, online or electronic courses is required, the number of preparations required, the employee's assignments in other semesters, the terms and conditions of a contract or grant from which the employee is compensated, the use of instructional technology, the availability and adequacy of materials and equipment, secretarial services, student assistants, and other support services needed to perform the assignments, and any changes which have been made in the assignment, including those which may have resulted from previous evaluations of the employee; and

2125 (4) the opportunity to fulfill applicable criteria for tenure, promotion,
2126 successive fixed multi-year appointments, and merit salary increases.

2127
2128 (b) If the conference with the person responsible for making the assignment
2129 does not resolve the employee's concerns, the employee shall be granted, upon written
2130 request, an opportunity to discuss those concerns with an administrator at the next higher
2131 level.

2132
2133 (c) Although the Legislature has described the minimum full academic
2134 assignment in terms of twelve (12) contact hours of instruction or equivalent
2135 research/scholarship and service, the professional obligation undertaken by an
2136 employee will ordinarily be broader than that minimum. In making assignments, the
2137 University has the right to determine the types of duties and responsibilities that
2138 comprise the professional obligation and to determine the mix or relative proportion of
2139 effort an employee may be required to expend on the various components of the
2140 obligation.

2141
2142 (d) The University properly has the obligation constantly to monitor and
2143 review the size and number of classes and other activities, to consolidate
2144 inappropriately small offerings, and to reduce inappropriately large classes.

2145
2146 (e) No employee's assignment shall be imposed arbitrarily or unreasonably. If
2147 an employee believes that the assignment has been so imposed, the employee should
2148 proceed to address the matter through the expedited procedure contained in the Neutral,
2149 Internal Resolution of Policy Disputes process. Other claims of alleged violations of this
2150 Policy with respect to an employee's assignments are subject to the Neutral, Internal
2151 Resolution of Policy Disputes process.

2152
2153 (f) Instructional Assignment. The period of an instructional assignment during
2154 an academic year shall not exceed an average of seventy-five (75) days per semester,
2155 and the period for testing, advisement, and other scheduled assignments shall not
2156 exceed an average of ten (10) days per semester. Within each semester, activities
2157 referred to above shall be scheduled during contiguous weeks with the exception of
2158 spring break, if any.

2159
2160 (g) Change in Assignment. Should it become necessary to make changes in an
2161 employee's assignment, the person responsible for making the change shall notify the
2162 employee prior to making such change and shall specify such change in writing.

2163
2164 4. Equitable Opportunity. Each employee shall be given assignments that provide
2165 equitable opportunities, in relation to other employees in the same department/unit, to
2166 meet the required criteria for tenure, promotion, successive fixed multi-year appointments,
2167 and merit salary increases.

2168
2169 (a) For the purpose of applying this principle to promotion, assignments shall be
2170 considered over the entire period since the original appointment or since the last promotion,
2171 not solely over the period of a single annual assignment. The period under consideration at

2172 this University shall not be less than four years.
2173

2174 (b) For the purpose of applying this principle to tenure, assignments shall be
2175 considered over the entire period of tenure-earning service and not solely over the
2176 period of a single annual assignment.
2177

2178 (c) If it is determined that an employee was not provided an equitable
2179 opportunity for tenure, as described in this section, the employee may be awarded an
2180 additional period of employment requiring the University to provide the equitable
2181 opportunity as described herein. In ensuing assignments, the Provost or designee must
2182 enforce the decision regarding equitable opportunity.
2183

2184 5. Summer Assignment. The summer instructional assignment, like that for the
2185 academic year, includes normal activities related to such an assignment as defined by the
2186 department/unit and the nature of the course, such as office hours, course preparation, minor
2187 curriculum development, lectures, and grading.
2188

2189 When a summer instructional appointment immediately follows the academic
2190 year appointment, the employee may be assigned reasonable and necessary non-
2191 instructional duties related to the summer instructional appointment prior to the
2192 conclusion of the academic year appointment.
2193

2194 6. Place of Employment.
2195

2196 (a) Principal. Each employee shall be assigned one principal place of
2197 employment, as stated in the initial letter of offer. Where possible, an employee shall
2198 be given at least nine (9) months notice of a change in principal place of employment.
2199 The employee shall be granted, upon written request, a conference with the person
2200 responsible for making the change to express concerns regarding such change.
2201 Voluntary changes and available new positions within the department shall be
2202 considered prior to involuntary changes.
2203

2204 (b) Secondary. Each employee, where possible, shall be given at least ninety
2205 (90) days written notice of assignment to a secondary place of employment, more than
2206 fifteen (15) miles from the employee's principal place of employment. The employee
2207 shall be granted, upon written request, a conference with the person responsible for
2208 making the change to express concerns regarding such change. If the assignment to a
2209 secondary place of employment is made within a regular full-time appointment, the
2210 supervisor shall make an appropriate adjustment in the assignment in recognition of
2211 time spent traveling to a secondary place of employment. Necessary travel expenses,
2212 including overnight lodging and meals for all assignments not at the employees'
2213 principal place of employment shall be paid at the State rate and in accordance with the
2214 applicable provisions of State law. In the event the BOT establishes a new campus,
2215 center or similar worksite, either party may request that the provisions of this Policy may
2216 be reopened for further bargaining.
2217

2218 7. Teaching Schedule. Teaching schedules shall be established, if practicable, so
 2219 that the time between the beginning of the first assignment and the end of the last for
 2220 any one day does not exceed eight (8) hours.

2221
 2222 8. Resources, Equipment and Materials. When equipment and materials (e.g.
 2223 photocopies) and/or other resources are reasonably required for classes or to perform
 2224 other assigned responsibilities there shall be sufficient resources, equipment and
 2225 materials to allow the performance of assigned responsibilities and to accommodate
 2226 the students assigned to classes. Employees who prepare course materials for copying
 2227 at least three (3) working days in advance shall be provided a reasonable number of
 2228 photocopies at University expense. The provisions of this paragraph shall not be subject
 2229 to Step 3 of the Neutral, Internal Resolution of Policy Disputes process.

2230
 2231 9. Workweek. Scheduled hours of all assigned duties for all employees shall not
 2232 normally exceed forty (40) hours per week. Time shall be allowed within the normal
 2233 working day for research, teaching, or other activities required of the employee, when a
 2234 part of the assigned duties. The BOT-UFF Policy on Leaves shall govern schedule
 2235 adjustment for holiday assignment.

2236
 2237 10. Instructional Technology.

2238
 2239 Given the potential of continued growth and emphasis on courses utilizing instructional
 2240 technology, it is recognized that special considerations in assignment may be
 2241 necessary, including, but not limited to,

- 2242
 2243 (a) compensation enhancement and/or adjustment of assignment;
 2244 (b) availability of support services;
 2245 (c) training and development; and
 2246 (d) necessary equipment.

2247
 2248 Any new or revised policies on development of Instructional Technology courses shall
 2249 be bargained with UFF prior to implementation.

2250
 2251

2252 **BOT-UFF POLICY**
 2253 **EMPLOYEE PERFORMANCE EVALUATION**

2254
 2255 **Purpose:**

2256
 2257 To provide the policy and procedures for assessing employee performance and
 2258 communicating the results of assessment to the employee and to others using
 2259 assessment information in personnel decisions, and further to express the mutual
 2260 commitment of the parties to the University's values.

2261
 2262 **Policy:**

2263

2264 (A) Annual Evaluations. The purpose of the annual evaluation is to assess and
 2265 communicate the nature and extent of an employee's performance of assigned duties
 2266 consistent with the criteria specified below in this Policy. Except for those employees
 2267 who have received notice of non-reappointment pursuant to the BOT-UFF Policy on
 2268 Non-reappointment, every employee shall be evaluated at least once annually.
 2269 Personnel decisions shall take such annual evaluations into account, provided that such
 2270 decisions need not be based solely on written faculty performance evaluations.
 2271

2272 (B) Sustained Performance Evaluations. Tenured faculty members shall receive a
 2273 sustained performance evaluation once every seven (7) years following the award of tenure
 2274 or their most recent promotion. The purpose of this evaluation is to document sustained
 2275 performance during the previous six years of assigned duties and to evaluate continued
 2276 professional growth and development.
 2277

2278 (C) Third-Year Review. Faculty on tenure-earning status shall be reviewed by their peers
 2279 during their third year of employment, in accordance with review procedures developed by
 2280 each college and approved by the Provost.
 2281

2282 **Procedures:**

2283
 2284 (A) General.

2285
 2286 (1) Sources and Methods of Evaluation. In preparing the annual evaluation, the
 2287 person(s) responsible for evaluating the employee may consider, where appropriate,
 2288 information from the following sources: immediate supervisor, peers, students,
 2289 employee/self, other University officials who have responsibility for supervision of the
 2290 employee, and individuals to whom the employee may be responsible in the course of a
 2291 service assignment.
 2292

2293 (2) Observation/Visitation. The employee, if assigned teaching duties, shall be
 2294 notified at least two (2) weeks in advance of the date, time, and place of any direct classroom
 2295 observation or visitation made in connection with the employee's annual evaluation. If the
 2296 employee determines that this date is not appropriate because of the scheduled class
 2297 activities, the employee may suggest a more appropriate date. Classroom visitation
 2298 without prior notice, for non-evaluative purposes, may be made with permission of the
 2299 employee.

2300 (3) Employee Assistance Programs. Neither the fact of an employee's
 2301 participation in an employee assistance program nor information generated by
 2302 participation in the program, shall be used as evidence of a performance deficiency
 2303 within the evaluation process described in this Policy, except for information relating to
 2304 the employee's failure to participate in an employee assistance program consistent with
 2305 the terms to which the employee and the University have agreed.
 2306

2307 (4) Proficiency in Spoken English. Where applicable, employees must, to be
 2308 involved in classroom instruction, be proficient in the oral use of English. No employee

2309 shall be evaluated as deficient in oral English language skills unless proved deficient in
 2310 accordance with the appropriate procedures and examinations established by Section
 2311 1012.93, Florida Statutes, for testing such deficiency.

2312

2313 (a) No reference to an alleged deficiency shall appear in the annual
 2314 evaluation or in the personnel file of a faculty member who achieves a satisfactory
 2315 examination score determining proficiency in oral English ("50" or above on the Test of
 2316 Spoken English).

2317

2318 (b) Faculty who score at a specified level on an examination
 2319 established by law for testing oral English language skills ("45" on the Test of Spoken
 2320 English), may continue to be involved in classroom instruction up to one (1) semester
 2321 while enrolled in appropriate English language instruction, as described in paragraph (d)
 2322 below, provided the appropriate administrator determines that the quality of instruction
 2323 will not suffer. Only such faculty members who demonstrate, on the basis of
 2324 examinations established by law that they are no longer deficient in oral English
 2325 language skills may be involved in classroom instruction beyond one (1) semester.

2326

2327 (c) Faculty who score below a minimum score on an examination
 2328 established by law for determining proficiency in oral English ("45" on the Test of
 2329 Spoken English) shall be assigned appropriate non-classroom duties for the period of
 2330 oral English language instruction provided by the University under paragraph (d) below,
 2331 unless during the period of instruction the faculty member is found, on the basis of an
 2332 examination specified above, to be no longer deficient in oral English language skills. In
 2333 that instance, the faculty member will again be eligible for assignment to classroom
 2334 instructional duties and shall not be disadvantaged by the fact of having been
 2335 determined to be deficient in oral English language skills.

2336

2337 (d) It is the responsibility of each faculty member who is found, as part
 2338 of the annual evaluation, to be deficient in oral English language skills by virtue of
 2339 scoring below the satisfactory score on an examination established by law for
 2340 determining such proficiency to take appropriate actions to correct these deficiencies.
 2341 To assist the faculty member in this endeavor, the University shall provide appropriate
 2342 oral English language instruction without cost to such faculty members for a period
 2343 consistent with their length of appointment and not to exceed two (2) consecutive
 2344 semesters.

2345

2346 (e) If the University determines, as part of the annual evaluation, that
 2347 one (1) or more administrations of a test to determine proficiency in oral English
 2348 language skills is necessary, in accordance with the law and this section, the University
 2349 shall pay the expenses for the first administration of the test. The faculty member shall
 2350 pay for additional testing that may be necessary.

2351

2352 (B) Annual Evaluation Procedures.

2353

2354 (1) Annually, the department chair or supervisor will prepare a written evaluation
2355 of all employees.

2356
2357 (2) The proposed written annual evaluation, including the employee's annual
2358 assignment furnished pursuant to the BOT-UFF Policy on Assignment of
2359 Responsibilities, shall be provided to the nine-month employee within forty-five (45) days
2360 after the end of the academic year for which such evaluation will be made, or in the case
2361 of 12 month employees within 45 days of the end of the 12 month period for which the
2362 evaluation is made. The employee shall be offered the opportunity (during the thirty day
2363 (30) period following receipt of the proposed annual evaluation) to discuss the evaluation
2364 with the evaluator prior to its being finalized and placed in the employee's evaluation file.
2365 The evaluation shall be signed and dated by the person performing the evaluation, and by the
2366 person being evaluated, who may attach a concise comment to the evaluation. A copy of the
2367 evaluation shall be provided to the employee. The employee may request, in writing a
2368 meeting with the administrator at the next higher level to discuss concerns regarding the
2369 evaluation that were not resolved in previous discussions with the evaluator.

2370
2371 (3) Each University department/unit shall develop and maintain procedures by
2372 which to evaluate each employee according to criteria specified below in this Policy.
2373 These procedures shall include the method for distribution of any merit salary increase funds
2374 provided pursuant to the BOT-UFF Agreement. The employees of each department/unit
2375 who are eligible to vote in department/unit governance shall participate in the development
2376 of these procedures and shall recommend implementation by vote of a majority of at least a
2377 quorum of those employees.

2378
2379 (a) The proposed procedures, or revisions thereof, shall be first reviewed at
2380 the College level by the Dean for consistency with College missions and goals and then
2381 reviewed by the Provost or designee to ensure that they are consistent with the mission and
2382 goals of the University and that they comply with the BOT-UFF Agreement and all
2383 relevant University policies.

2384
2385 (b) If the Provost or designee determines that the recommended
2386 procedures are not consistent with the missions and goals of the University, the BOT-UFF
2387 Agreement, or relevant University policies, the proposal shall be referred to the
2388 department/unit for revision with a written statement of reasons for non-approval. No
2389 merit salary increase funds shall be provided to a department/unit until its procedures
2390 have been approved by the Provost or designee.

2391
2392 (c) All approved procedures, and revisions thereof, shall be kept on file in
2393 the department/unit office and may be placed on the University website for access by
2394 employees and the UFF chapter. Upon request, employees in each department/unit
2395 shall be provided a copy of that department/unit's current procedures for annual
2396 evaluation and distribution of merit salary increase funds.

2397
2398 (4) Upon written request from the employee, the persons responsible for
2399 supervising and evaluating an employee shall endeavor to assist the employee in

2400 correcting any major performance deficiencies reflected in the employee's annual
2401 evaluation.

2402

2403 (C) Sustained Performance Evaluation Procedures.

2404

2405 (1) The Sustained Performance Evaluation (SPE) program shall provide that:

2406

2407 (a) Only elected faculty may participate in the development or
2408 amendment of applicable procedures. Such procedures shall ensure involvement of
2409 both peers and administrators at the department and higher levels in the evaluation and
2410 shall ensure that an employee may attach a concise response to the evaluation;

2411

2412 (b) The University shall provide for an appeals process to
2413 accommodate instances when the employee and the supervisor cannot agree upon the
2414 elements to be included in the performance improvement plan; and

2415

2416 (c) The proposed procedures for the sustained performance evaluation
2417 shall be available to faculty members and to the UFF Chapter for review prior to final
2418 approval.

2419

2420 (2) Employee annual evaluations, including the documents contained in the
2421 evaluation file, shall be the sole basis for the sustained performance evaluation. An
2422 employee who received satisfactory annual evaluations during the previous six (6)
2423 years shall not be rated below satisfactory in the sustained performance evaluation nor
2424 be subject to a Performance Improvement Plan.

2425

2426 (3) A Performance Improvement Plan shall be developed only for those
2427 employees whose performance is identified through the Sustained Performance
2428 Evaluation as being consistently below satisfactory in one or more areas of assigned duties.
2429 The Performance Improvement Plan shall be developed by the employee, in concert with
2430 his/her supervisor, and include specific measurable performance targets and a time period
2431 for achieving the targets. The Performance Improvement Plan shall be approved by the
2432 Dean/Director and the Provost or designee. Specific resources identified in an approved
2433 Performance Improvement Plan shall be provided by the University. The supervisor
2434 shall meet periodically with the employee to review progress toward meeting the
2435 performance targets. It is the responsibility of the employee to attain the performance
2436 targets specified in the Performance Improvement Plan.

2437

2438 (D) Third-Year Review Procedures.

2439

2440 (1) All tenure-earning faculty will be reviewed in their third year of employment.
2441 For faculty hired with two or more years of tenure credit, this review should take place in
2442 the second year of employment.

2443

2444 (2) Each unit/college procedure for third-year review must be approved by a
2445 vote of the majority of tenured and tenure-earning faculty in the department/unit and by
2446 the Provost or designee.
2447

2448 (3) The third-year review will take into consideration the faculty's assignment
2449 and annual evaluations, including student evaluations, and any other information that the
2450 department/unit faculty deem appropriate to be considered and have specified should be
2451 included in department/unit procedures.
2452

2453 (E) Criteria.
2454

2455 (1) Annual Evaluation Criteria. All performance evaluations shall be based
2456 upon assigned duties, and shall carefully consider the nature of the assignment in terms,
2457 where applicable, of:
2458

2459 (a) Teaching effectiveness, including effectiveness in presenting
2460 knowledge, information, and ideas by means or methods such as lecture, discussion,
2461 assignment and recitation, demonstration, laboratory exercise, practical experience,
2462 supervision of interns, theses, professional projects and/or dissertations, and direct
2463 consultation with students. The evaluation shall include consideration of effectiveness in
2464 imparting knowledge and skills, and effectiveness in stimulating students' critical thinking
2465 and/or creative abilities, the development or revision of curriculum and course structure, and
2466 adherence to accepted standards of professional behavior in meeting responsibilities to
2467 students. The evaluator may take into account class notes, syllabi, student exams and
2468 assignments, and any other materials relevant to the employee's teaching assignment. The
2469 teaching evaluation must take into account any relevant materials submitted by the
2470 employee, including the results of peer evaluations of teaching, and may not be based solely
2471 on student evaluations when this additional information has been made available to the
2472 evaluator.
2473

2474 (b) Contribution to the discovery of new knowledge, development of new
2475 educational techniques, and other forms of creative activity. Evidence of research and other
2476 creative activity shall include, but not be limited to, published books; articles and papers in
2477 professional journals; musical compositions, paintings, sculpture; works of performing art;
2478 papers presented at meetings of professional societies; funded grant activities; and research
2479 and creative accomplishments that have not yet resulted in publication, display, or
2480 performance. The evaluation shall include consideration of the employee's productivity,
2481 including the quality and quantity of the employee's research and other creative
2482 programs and contributions during the year, as well as recognition by the academic or
2483 professional community of what has been done.
2484

2485 (c) Public service that extends professional or discipline-related
2486 contributions to the community, the State, public schools, and/or the national and
2487 international community. This public service includes contributions to scholarly and
2488 professional organizations, governmental boards, agencies, and commissions that are
2489 beneficial to such groups and individuals.

2490
 2491 (d) Participation in the governance processes of the University through
 2492 significant service on committees, councils, and senates, beyond that associated with
 2493 the expected responsibility to participate in the governance of the University through
 2494 participation in regular departmental or college meetings.
 2495

2496 (e) Other assigned University duties, such as attending University
 2497 events, advising, counseling, and academic administration, or as described in a Position
 2498 Description, if any, of the position held by the employee. Other assigned duties may
 2499 include entrepreneurial activities that contribute to the further development of the
 2500 University with an end result of creating a new venture. Evidence of entrepreneurial
 2501 contributions shall include, but not be limited to, creation of self supporting centers or
 2502 institutes, development of multi-disciplinary research partnerships, and applications of
 2503 research to implementations in society.
 2504
 2505

2506
 2507 BOT-UFF POLICY
 2508 EVALUATION FILE
 2509

2510 **Purpose:**
 2511

2512 To provide guidelines for the establishment, maintenance and use of employee
 2513 evaluation files within the employee's respective academic unit.
 2514

2515 **Policy:**
 2516

2517 1. General statement. There shall be one (1) evaluation file containing a dated copy
 2518 of all documents used in the evaluation process, other than evaluation for tenure,
 2519 promotion, and successive fixed multi-year appointments. When evaluations and other
 2520 personnel decisions are made, other than for tenure, promotion, and successive fixed
 2521 multi-year appointments, the only documents which may be used are those contained in
 2522 that file. Such documents shall be placed in the evaluation file within a reasonable time
 2523 after receipt by the custodian of the file. The location of the evaluation file will be in the
 2524 Dean/ Director's office or in the Department Chairperson's office and employees shall
 2525 be notified, upon written request, of the location. A copy of the annual evaluation will
 2526 be maintained in the Division of Human Resources.
 2527

2528 2. Access. An employee may examine the evaluation file, upon reasonable advance
 2529 notice, during the regular business hours of the office in which the file is kept, normally
 2530 within the same business day as the employee requests to see it, and under such
 2531 conditions as are necessary to insure its integrity and safekeeping. Upon request, an
 2532 employee may paginate with successive whole numbers the materials in the file, and
 2533 may attach a concise statement in response to any item therein. Upon request, an
 2534 employee is entitled to one (1) free copy of any material in the evaluation file. Additional
 2535 copies may be obtained by the employee upon the payment of a reasonable fee for

2536 photocopying. A person designated by the employee may examine that employee's
 2537 evaluation file with the written authorization of the employee concerned, and subject to
 2538 the same limitations on access that are applicable to the employee.
 2539

2540 3. Use of Evaluative Materials.

2541
 2542 (a) In the event a complaint is filed, the University, Board, UFF complaint
 2543 representatives (designated by the faculty member), the Panel designated to hear
 2544 policy disputes under the BOT-UFF Policy on Neutral, Internal Resolution of Policy
 2545 Disputes, and the employee bringing the complaint shall have the right to use copies of
 2546 materials from the employee's evaluation file in the complaint process.
 2547

2548 (b) In the event of a grievance arising from the Collective Bargaining
 2549 Agreement, the University, Board, UFF grievance representatives (designated by the
 2550 faculty member), the arbitrator and the employee bringing the grievance shall have the
 2551 right to use copies of materials from the employee's evaluation file in the grievance.
 2552

2553 4. Anonymous Material. There shall be no anonymous material in the evaluation file
 2554 except for numerical summaries of student evaluations that are part of a regular
 2555 evaluation procedure of classroom instruction and/or written comments from students
 2556 obtained as part of that regular evaluation procedure. If written comments from
 2557 students in a course are included in the evaluation file, all of the comments obtained in
 2558 the same course must be included.
 2559

2560 5. Peer Committee Evaluations. Evaluative materials, or summaries thereof,
 2561 prepared by peer committees as part of a regular evaluation system, may be placed in
 2562 an evaluation file when signed by a representative of the committee.
 2563

2564 6. Removal of Contents. Materials shown to be contrary to fact shall be removed
 2565 from the file. This section shall not authorize the removal of materials from the
 2566 evaluation file when there is a dispute concerning a matter of judgment or opinion rather
 2567 than fact. Materials may also be removed pursuant to the resolution of a grievance
 2568 arising from the Collective Bargaining Agreement or of a complaint arising from a BOT-
 2569 UFF Policy.
 2570

2571 7. Limited Access Information. Information reflecting evaluation of employee
 2572 performance shall be available for inspection only by the employee, his or her
 2573 representative (upon written authorization from the employee), University and Board
 2574 officials who use the information in carrying out their responsibilities, peer committees
 2575 responsible for evaluating employee performance, and others engaged by the parties
 2576 to resolve disputes, or by others by court order. However, such limited access status
 2577 shall not apply to summary data, by course, for the common "core" items contained in
 2578 student course evaluations that have been selected as such by the Board or the
 2579 University and made available by the University to the public on a regular basis.
 2580

2581 8. Privacy of Social Security Numbers. Generally, University personnel records are

2582 public records and under the Sunshine Law are open for public inspection. However,
 2583 employees' social security numbers are not public records. An individual's social
 2584 security number must be removed from any record inspected or released in response to
 2585 a public records request.

2586
 2587

2588
 2589

BOT-UFF POLICY ACCESS TO OFFICIAL PERSONNEL RECORDS

2590
 2591

Purpose:

2592

To establish what constitutes the University's official personnel records and provide
 2594 means for individuals to inspect such records.
 2595

2596

Policy:

2597

The official personnel record of each University employee is maintained in the Division
 2599 of Human Resources and consists of copies of any action pertaining to employment
 2600 (such as changes in salary, disciplinary actions, annual evaluations). However, the only
 2601 file that can be the basis for evaluation of an employee's performance is the
 2602 Department's Evaluation File referred to in the Evaluation File Policy.
 2603

2604

An employee may examine the official personnel records during the regular business
 2605 hours of the Division of Human Resources, upon reasonable advance notice, within a
 2606 reasonable amount of time after said notice and under such conditions as are
 2607 necessary to ensure their integrity and safekeeping.
 2608

2609

An employee may attach a written response to any document existing in his/her
 2610 personnel record. Any document, or portion thereof, found to be contrary to fact shall
 2611 be removed from the official personnel record. This section shall not authorize the
 2612 removal of materials from the personnel record where there is a dispute concerning a
 2613 matter of judgment or opinion rather than fact. Materials may also be removed pursuant
 2614 to the resolution of a grievance arising from the Collective Bargaining Agreement or of a
 2615 complaint arising from a BOT-UFF Policy.
 2616

2617

Generally, University personnel records are public records and under the Sunshine Law
 2618 are open for public inspection.
 2619

2620

All requests for employee information, including both current or former employees,
 2621 should be submitted in writing to the Division of Human Resources for production.
 2622

2623

Upon request, an employee is entitled to one (1) free copy of any materials in the
 2624 personnel record. Additional copies may be obtained by the employee upon the
 2625 payment of a reasonable fee for photocopying.
 2626

2627

2628 Employees' social security numbers are not public records. An individual's social
 2629 security number must be removed from any record inspected or released in response to
 2630 a public records request.

2631
 2632 Information reflecting evaluation of faculty performance are limited access records and
 2633 shall be available for inspection only by the faculty member, his or her representative
 2634 (upon written authorization from the faculty member), University and Board officials who
 2635 use the information in carrying out their responsibilities, peer committees responsible for
 2636 evaluating employee performance, and others engaged by the parties to resolve
 2637 disputes, or by others by court order. However, such limited access status shall not
 2638 apply to summary data, by course, for the common "core" items contained in student
 2639 course evaluations, which have been selected as such by the Board or the University
 2640 and made available by the University to the public on a regular basis.

2641
 2642
 2643 **BOT-UFF POLICY**
 2644 **NON-REAPPOINTMENT**
 2645

2646 (1) No Property Right. No appointment shall create any right, interest, or expectancy
 2647 in any other appointment beyond its specific terms, except as provided in [Section 8.2]
 2648 and Article 9 of the BOT-UFF Collective Bargaining Agreement.

2649
 2650 (2) Notice.

2651
 2652 (a) All employees, except those described in (b)(i) and (c) below are entitled
 2653 to the following written notice that they will not be offered further appointment:

2654
 2655 (i) For employees in their first two (2) years of continuous University
 2656 service, one semester (or its equivalent, 19.5 weeks, for employees appointed for more
 2657 than an academic year);

2658 (ii) For employees with two (2) or more years of continuous University
 2659 service one year; or

2660 (iii) For employees who are on "soft money" e.g., contracts and grants,
 2661 sponsored research funds, and grants and donations trust funds, who had five (5) or
 2662 more years of continuous University service as of June 30, 1991, one year.

2663 (iv) The provision of notice under this section does not provide rights to
 2664 a summer appointment beyond those provided in "Summer Appointments" section of
 2665 the BOT-UFF Policy on Appointments.

2666
 2667 (b) Employees who are on "soft money," e.g., contracts and grants,
 2668 sponsored research funds, and grants and donations trust funds, except those
 2669 described in Section (2)(a)(iii), above, are entitled to the following written notice that
 2670 they will not be offered further appointment:

2671
 2672 (i) For employees in their first five (5) years of continuous University
 2673 service, no notice need be provided and the statement in (d), below, shall be included in

2674 their letter of offer or notice of change in appointment; or

2675

2676 (ii) For employees with five (5) or more years of continuous University
2677 service, ninety (90) days notice shall be provided contingent upon funds being available
2678 in the contract or grant.

2679

2680 (c) Employees who are appointed for less than one (1) academic year, who
2681 are appointed to a visiting appointment, who are appointed to a fixed multi-year
2682 appointment and employees employed in an auxiliary entity, are not entitled to notice
2683 that they will not be offered further appointment, and the statement in (d), below, shall
2684 be included in their letter of offer or notice of change in appointment.

2685

2686 (d) Employees described in (b)(i) and (c), above, shall have the following
2687 statement included in their employment contracts or letter of offer or appointment:

2688

2689 Your employment under this contract/letter of offer or
2690 appointment will cease on the date indicated. No further
2691 notice of cessation of employment is required.

2692

2693 (e) An employee who is entitled to written notice of non-reappointment in
2694 accordance with the provisions of Section (2) who receives written notice that the
2695 employee will not be offered further appointment shall be entitled, upon written request
2696 within twenty (20) days following receipt of such notice, to a written statement of the
2697 basis for the decision not to reappoint. Thereafter, the President or designee shall
2698 provide such statement within twenty (20) days following receipt of such request. All
2699 such notices and statements are to be sent by certified mail, return receipt requested, or
2700 delivered in person to the employee with written documentation of receipt obtained.

2701

2702 (3) Complaints Regarding Non-Reappointment. The decision to not reappoint is not
2703 subject to the BOT-UFF Policy on Neutral, Internal Resolution of Policy Disputes , or the
2704 contractual grievance process except an employee who receives written notice of non-
2705 reappointment may, contest the decision, pursuant to the Neutral, Internal Resolution of
2706 Policy Disputes process because of an alleged violation of a specific term of a BOT-UFF
2707 Policy or pursuant to the contractual grievance process because of an alleged violation
2708 of the BOT-UFF Agreement or because of an alleged violation of the employee's
2709 constitutional rights. Such complaints or grievances must be filed within thirty (30) days
2710 of receipt of the statement of the basis for the decision not to reappoint pursuant to
2711 Section (2)(e) or receipt of the notice of non-reappointment if no statement is requested.

2712

2713 (4) Non-Reappointment Considerations. If the decision not to reappoint was based
2714 solely upon adverse financial circumstances, reallocation of resources, reorganization of
2715 degree or curriculum offerings or requirements, reorganization of academic or
2716 administrative structures, programs, or functions, and/or curtailment or abolition of one
2717 or more programs or functions, the University shall take the following actions:

2718

2719 (a) Make a reasonable effort to locate appropriate alternative or equivalent

2720 employment within the University; and

2721

2722 (b) Offer such employee, who is not otherwise employed in an equivalent full-
 2723 time position, re-employment in the same or similar position at the University for a
 2724 period of two years following the initial notice of non-reappointment, should an
 2725 opportunity for such re-employment arise. All persons on the recall list shall regularly
 2726 be sent the FIU position vacancy announcements. For this purpose, it shall be the
 2727 employee's responsibility to keep the Division of Human Resources advised of the
 2728 employee's current address. Any offer of re-employment pursuant to this section must
 2729 be accepted within fifteen (15) days after the date of the offer, such acceptance to take
 2730 effect not later than the beginning of the semester immediately following the date the
 2731 offer was made. In the event such offer of re-employment is not accepted, the
 2732 employee shall receive no further consideration pursuant to this Policy.

2733

2734 (5) Resignation. An employee who wishes to resign has the professional obligation,
 2735 when possible, to provide the University with at least one semester's notice. Upon
 2736 resignation, all consideration for tenure and reappointment shall cease.

2737

2738 (6) Notice Document. Notice of appointment and non-reappointment shall not be
 2739 contained in the same document.

2740

2741

2742 BOT-UFF POLICY 2743 PROMOTIONS

2744 **Purpose:**

2745

2746 To provide academic units and employees with guidelines to be used in making
 2747 promotion decisions.

2748

2749 **Policy:**

2750

2751 In order to be considered for promotion, an employee shall meet the
 2752 qualifications for initial appointment to the proposed rank and successful performance at
 2753 the level of the qualifications corresponding to that rank.

2754

2755 Promotion decisions are not merely a totaling of an employee's annual
 2756 performance evaluations. Rather, the University, through its faculty, librarians,
 2757 professional employees, and administrators, assesses the employee's potential for
 2758 growth and scholarly contribution as well as past meritorious performance.

2759

2760 **Procedures:**

2761

2762 (1) Eligibility: Employees classified as Instructor, Lecturer, Senior Instructor,
 2763 Senior Lecturer, Instructor Librarian, Assistant University Librarian, Associate University
 2764 Librarian, Assistant Scholar/Scientist/Engineer, Associate Scholar/Scientist/Engineer,
 2765 Assistant Professor, and Associate Professor shall be eligible to apply for promotion.

2766 Employees appointed with the modifiers “Clinical” or “Professional Practice” shall be
 2767 eligible for promotion. Employees appointed with the modifier “Visiting” shall not be
 2768 eligible for promotion.
 2769

2770 (2) Annual Promotion Appraisals. Upon annual written request, beginning
 2771 with the second year of employment, employees eligible for promotion shall be apprised
 2772 of their progress toward promotion. The promotion appraisal shall be included as a
 2773 separate component of the annual evaluation and is intended to provide assistance and
 2774 counseling to candidates to help them to qualify themselves for promotion. The
 2775 employee may request, in writing, a meeting with an administrator at the next highest
 2776 level to discuss concerns regarding the promotion appraisal that were not resolved in
 2777 discussions with the employee's supervisor. The promotion appraisals shall not be the
 2778 sole basis for a decision concerning the employee's application for promotion.
 2779

2780
 2781 (3) Promotion Criteria and Procedures.
 2782

2783 (a) Each college/school and/or department/unit, as its faculty deem appropriate,
 2784 subject to the approval of the Dean/Director and Provost, shall adopt its own promotion
 2785 criteria and procedures, consistent with University-wide criteria and procedures, and
 2786 reflecting the particular mission and disciplinary requirements specific to the academic
 2787 unit. Policies on the promotion process must include a poll by secret ballot of the
 2788 members of the employee's department/unit concerning the employee's promotion
 2789 application, in accordance with criteria for voting set out by the employee's
 2790 department/unit. Such criteria and procedures, as appropriate to the academic unit,
 2791 shall provide for promotion to Senior Lecturer, Senior Instructor, University Lecturer,
 2792 University Instructor, Assistant University Librarian, Associate University Librarian,
 2793 University Librarian, Associate Scholar/Scientist/Engineer, Scholar/Scientist/Engineer,
 2794 Associate Professor, and Professor,
 2795

2796 (b) Any proposal to develop or modify promotion criteria or procedures shall be
 2797 available for discussion and a vote by members of the affected departments/units
 2798 before adoption. Promotion decisions shall be a result of meritorious performance and
 2799 shall be based upon established criteria and procedures specified in writing by the
 2800 University. Promotion criteria and procedures shall be available in the departmental/unit
 2801 office and/or at the college/unit level online. The University may modify promotion
 2802 criteria or procedures so long as the UFF Chapter has been notified of the proposed
 2803 changes and offered an opportunity to discuss such changes in consultation with the
 2804 Provost or designee. Changes in promotion criteria or procedures shall not become
 2805 effective until one (1) year following adoption of the changes, unless mutually agreed to
 2806 in writing by the UFF Chapter President and the Provost. The date of adoption shall be
 2807 the date on which the changes are approved by the Provost.
 2808

2809 (c) In the matter of promotion to Senior Lecturer, Senior Instructor, University Lecturer
 2810 and University Instructor, the Provost, in accordance with the university governance

2811 process and subject to consultation with UFF, shall determine the criteria and
 2812 procedures.

2813
 2814 (d) The Promotion File. Prior to the consideration of the employee's promotion, the
 2815 employee shall have the right to review the contents of the promotion file and may
 2816 attach a brief response to any material therein. It is the responsibility of the employee to
 2817 see that the file is complete and contains no material misrepresentation by the
 2818 employee. If any material is added to the promotion file after the commencement of
 2819 consideration, a copy shall be sent to the employee within five (5) days (by personal
 2820 delivery or by mail, return receipt requested). The employee may attach a brief
 2821 response within five (5) days of his/her receipt of the added material. The file shall not
 2822 be forwarded until the employee either submits a response or the second five (5) day
 2823 period expires, whichever occurs first.

2824
 2825 (e) The promotion file shall include a copy of applicable promotion criteria, the
 2826 employee's annual assignments, annual evaluations, and the employee's promotion
 2827 appraisal(s). The only documents that may be considered in making a promotion
 2828 recommendation are those contained or referenced in the promotion file.

2829

(4) Notice of Award or Denial of Promotion. The University President shall decide whether to award promotion and shall notify the employee in writing of his or her decision within ten (10) days of that decision. Upon written request by an employee within twenty (20) days of the employee's receipt of such decision, the University shall provide the employee with a written statement of the reasons why the promotion was denied. Should an employee elect not to request such a written statement of reasons, the date of the act or omission giving rise to a complaint concerning the denial of promotion shall be deemed to be seven (7) days from the date of the employee's receipt of notice that a promotion shall not be awarded. Should an employee request such a written statement of reasons, the date of the act or omission giving rise to any complaint concerning denial of a promotion shall be deemed the date of the employee's receipt of a written statement of reasons why promotion was not awarded.

BOT-UFF POLICY DISCIPLINARY ACTION AND JOB ABANDONMENT

(1) Just Cause.

(a) The purpose of this Policy is to provide a prompt and equitable procedure for disciplinary action taken with just cause. Just cause shall be defined as:

- (i) incompetence, or
- (ii) misconduct.

(b) An employee's activities which fall outside the scope of employment shall constitute misconduct only if such activities adversely affect the legitimate interests of the University or Board.

(2) Progressive Discipline. Both parties endorse the principle of progressive discipline as applied to professionals.

(3) Notice of Intent for Suspension or Termination. When the President or designee has reason to believe that a suspension or termination should be imposed, the President or designee shall provide the employee with a written notice of the proposed action and the reasons therefor. Such notice shall be sent certified mail, return receipt requested, or delivered in person with written documentation of receipt obtained. The employee shall be given ten (10) days in which to respond in writing to the President or designee before the proposed action is taken. The President or designee then may issue a notice of disciplinary action under Section (4). The employee has a right to union representation during investigatory questioning that may reasonably be expected to result in disciplinary action. If the President or designee does not issue a notice of disciplinary action, the notice of proposed disciplinary action shall not be retained in the employee's evaluation file.

(4) Notice of Discipline. All notices of disciplinary action shall include a statement of the reasons therefor and a statement advising the employee that the action is subject to the BOT-UFF Policy on Neutral, Internal Resolution of Policy Disputes and may, in the event of an allegation of a violation of the BOT-UFF Agreement, be subject to the grievance procedure thereunder. All such notices shall be sent certified mail, return receipt requested, or delivered in person to the employee with written documentation of receipt obtained.

(5) Termination. A tenured appointment or any appointment of definite duration may be terminated during its term for just cause. An employee shall be given written notice of termination at least six (6) months in advance of the effective date of such termination, except that in cases where the President or designee determines that an employee's actions adversely affect the functioning of the University or jeopardize the safety or welfare of the employee, colleagues, or students, the President or designee may give less than six (6) months notice.

(6) Disciplinary Action Other than Termination. The University retains its right to impose disciplinary action other than termination for just cause including, but not limited to, reprimand and suspension with or without pay. Counseling, including recommendations for participation in an Employee Assistance Program, shall not be considered disciplinary action.

(7) Job Abandonment

(a) If an employee is absent without authorized leave for twelve (12) or more consecutive days under the provisions of the BOT-UFF Policy on Leaves, the employee shall be considered to have abandoned the position and voluntarily resigned from the University.

(b) Notwithstanding paragraph (a), above, if the employee's absence is for reasons beyond the control of the employee and the employee notifies the University as soon as practicable, the employee will not be considered to have abandoned the position.

(8) Employee Assistance Program. Neither the fact of an employee's participation in an employee assistance program, nor information generated by participation in the program, shall be used as a reason for discipline under this Policy, except for information relating to an employee's failure to participate in an employee assistance program consistent with the terms to which the employee and the University have agreed.

(9) The procedure for review of any disciplinary action shall be the procedures of the BOT-UFF Policy on Neutral, Internal Resolution of Policy Disputes. This provision does not prohibit the filing of a grievance for an alleged violation of an article in the BOT-UFF Agreement.

UFF-BOT POLICY LEAVES

Purpose: To establish policy and procedures concerning employee leaves.

Policy:

1. Requests for A Leave or Extension of Leave of One (1) Semester or More.

(a) For a leave of one (1) semester or more, an employee shall make a written request not less than 120 days prior to the beginning of the proposed leave, if practicable.

(b) For an extension of a leave of one (1) semester or more, an employee shall make a written request not less than sixty (60) days before the end of the leave, if practicable.

(c) The University shall approve or deny such request in writing not later than thirty (30) days after receipt of the request.

(d) An absence without approved leave or extension of leave shall subject the employee to the provisions of Section 7 of the BOT-UFF Policy on Disciplinary Action and Job Abandonment.

(e) An employee's request for use of leave for an event covered by the provisions of the Family and Medical Leave Act (FMLA) of 1993 (Public Law 103-3) shall be submitted and responded to in accordance with the provisions of Section 6 of this Policy.

2. Return from Leave. An employee who returns from an approved leave of absence with or without pay shall be returned to the same classification, unless the University and the employee agree in writing to other terms and conditions. The return from FMLA leave shall be in accordance with Section 6 of this Policy.

3. Accrual During Leave with Pay. An employee shall accrue normal leave credits while on compensated leave in full-pay status, or while participating in the sabbatical or professional development programs. If an employee is on compensated leave in less than full-pay status for other than sabbaticals or professional development programs, the employee shall accrue leave in proportion to the pay status.

4. Tenure Credit During Periods of Leave. Semester(s) during which an employee is on compensated or uncompensated leave for more than twenty (20) days shall not be creditable for the purpose of determining eligibility for tenure, except by mutual agreement of the employee and the University. In deciding whether to credit such leave toward tenure eligibility, the President or designee shall consider the duration of the leave, the relevance of the employee's activities while on such leave to the employee's professional development and to the employee's field of employment, the benefits, if any, which accrue to the University by virtue of placing the employee on such leave, and other appropriate factors.

5. Holidays.

(a) An employee shall be entitled to observe all official University holidays. No classes shall be scheduled on holidays. Classes not held because of a holiday shall not be rescheduled.

(b) Supervisors are encouraged not to require an employee to perform duties on holidays; however, an employee required to perform duties on holidays shall have the employee's schedule adjusted to provide equivalent time off, up to a maximum of eight (8) hours for each holiday worked.

(c) If an employee who has performed duties on a holiday terminates employment prior to being given time off, the employee shall be paid, upon termination, for the holiday hours worked within the previous twelve (12) month period.

6. Family and Medical Leave Act (FMLA) Entitlements.

(a) The Family and Medical Leave Act of 1993 ("FMLA") is the common name for the Federal law providing eligible employees an entitlement of up to four hundred and eighty (480) hours of leave without pay for qualified family or medical reasons during a one-year period. This Act entitles the employee to take leave without pay; where University policies permit, employees may use accrued leave with pay during any qualifying family or medical leave. The failure to list, define, or specify any particular provision or portion of the FMLA in this Policy shall in no way constitute a waiver of any of the rights or benefits conferred to the employer or the employee through the FMLA.

(b) Implementation of FMLA Leave Entitlements.

(1) An employee, whether salaried or paid from Other Personal Services (OPS), is entitled to four hundred and eighty (480) hours of FMLA leave within a twelve (12) month period for any qualifying family or medical leave.

(2) A salaried employee is entitled to a parental leave for up to six (6) months in accordance with the provisions of Section 7 of this Policy, for a birth or adoption of the employee's child. If an eligible employee elects to take Parental Leave and the employee's parental leave extends beyond the period of paid parental leave provided pursuant to Section 7 of this Policy, up to four hundred and eighty (480) hours of such leave may be counted against that employee's FMLA entitlement.

(c) Accounting for the Use of FMLA Leave in a Twelve-Month Period.

(1) A rolling year (commencing with the first day of leave) shall be the designated twelve (12) month period in which to count the use of up to four hundred and eighty (480) hours of FMLA leave.

(2) An eligible employee's entitlement to leave for a birth or placement for adoption or foster care expires at the end of a twelve (12) month period beginning on the date of the birth or placement of the child.

(d) Use and Approval of FMLA Leave.

(1) The University shall approve FMLA leave for an eligible employee as long as the reasons for absence qualify under the FMLA and the employee has not exhausted the employee's four hundred and eighty (480) hours within the appropriate 12-month period for such leave. The employee may request FMLA leave as accrued leave, leave without pay, or a combination of both.

(2) The University may require that the employee use accrued leave with pay prior to requesting leave without pay for four hundred and eighty (480) hours (12 workweeks) of FMLA leave. Requiring the use of paid leave shall

be applied consistently and may not be used merely to exhaust the employee's leave balance in order to prohibit the use of paid leave while on leave without pay as provided for in this Policy.

(3) After the President or designee has acquired knowledge that the leave is being taken for an FMLA required reason, the President or designee shall within two business days, absent extenuating circumstances, notify the employee of the period of FMLA leave to be granted, including the date of return to employment. If the notice is oral, it shall be confirmed in writing no later than the following payday (unless the payday is less than one week after the oral notice, in which case the notice must be no later than the subsequent payday).

(e) Medical Certification.

(1) The University may require an employee to provide medical certification from a health care provider for FMLA leave without pay when taken for the serious health condition of the employee or the employee's family member.

(2) Medical certification may be required to affirm the employee's ability to return to work and perform one or more of the essential functions of the job within the meaning of the Americans with Disabilities Act (ADA), after being absent on FMLA leave.

(f) Return to Position. Upon return from FMLA leave, the employee shall be returned to the same or equivalent position in the same class and work location, including the same shift or equivalent schedule, unless the University and the employee agree in writing to other conditions and terms under which such leave is to be granted.

(g) Continuation of Benefits. The use of FMLA leave by eligible employees shall neither enhance nor decrease any rights or benefits normally accrued to salaried employees during a leave with pay or any rights or benefits normally accrued during a leave without pay.

(h) If any provision of this Policy is inconsistent with or in contravention of the Family Medical Leave Act of 1993, Public Law 103-3, or the Family and Medical Leave Act Regulations, 29 CFR Part 825, or any subsequently enacted legislation, then such provision shall be superseded by the laws or regulations referenced above, except to the extent that this Policy, the collective bargaining agreement or any employee benefit program or plan provides greater family or medical leave rights to an eligible employee.

7. Parental Leave.

(a) An employee, at the employee's request, shall be granted parental leave when the employee or employee's same-sex domestic partner becomes a biological parent or a child is placed in the employee's home pending adoption. Foster care is not covered under parental leave but is provided through the FMLA provisions in accordance with this Policy.

(b) Once during his or her employment career at FIU, at the employee's discretion, an employee on a 12-month appointment shall be granted parental leave at full pay for a period not to exceed twenty-six (26) consecutive weeks. Such paid parental leave shall begin no earlier than two weeks before the expected date of the child's birth or placement in the employee's home or the actual date of the child's birth or placement in the employee's home, whichever is earlier, and shall end no later than one year from the date of the child's birth or placement in the employee's home.

(c) Once during his or her employment career at FIU, at the employee's discretion, an employee on an Academic Year appointment shall be granted a parental leave at full pay during Fall or Spring semester and at .33 FTE during Summer A or Summer B, for a period not to exceed twenty-six consecutive weeks. Such paid parental leave shall begin no earlier than the first day of classes in the semester during which the child's birth or placement in the employee's home is expected or during which the actual date of birth or placement occurs, whichever is earlier, and shall end no later than one year from the date of the child's birth or placement in the employee's home. Where circumstances permit, employees are encouraged to begin parental leave at the beginning of the first week of classes in the semester.

(d) If an employee who takes paid parental leave pursuant to paragraph 7(b) or (c) requests parental leave for a period of more than twenty-six consecutive weeks, the employee may use a combination of paid leave, accrued leave and leave without pay, and such request shall include the specific periods for each type of leave requested. Use of accrued leave during an approved period of leave without pay shall be in accordance with Section 12 of this Policy.

(1) The President or designee shall acknowledge to the employee in writing the period of paid parental leave to be taken and the date of return to employment.

(2) In addition to paid parental leave and at the employee's request, the President or designee shall grant further accrued leave at the employee's request for a period not to exceed the employee's accrued leave, and/or full-time or part-time leave without pay for a period not to exceed one (1) year, unless the President or designee determines that granting such leave would be inconsistent with the best interests of the University.

(3) Any illness caused or contributed to by pregnancy shall be treated as a temporary disability and the employee shall be allowed to use accrued sick leave credits when such temporary disability is certified by a health care provider.

(e) Upon agreement between the employee and the University, intermittent FMLA leave or a reduced work schedule may be approved for the birth of the employee's child or placement of a child with the employee for adoption in accordance with Section 6 of this Policy.

8. Leaves Due to Illness/Injury.

Illness/Injury is defined as any physical or mental impairment of health, including such an impairment proximately resulting from pregnancy, which does not allow an employee to fully and properly perform the duties of the employee's position. When an employee's illness/injury may be covered by the Americans with Disabilities Act, the provisions of Public Law 101-336 shall apply.

(a) Sick Leave.

(1) Accrual of Sick Leave.

a. A full-time employee shall accrue four (4) hours of sick leave for each biweekly pay period, or the number of hours that are directly proportionate to the number of days worked during less than a full-pay period, without limitation as to the total number of hours that may be accrued.

b. A part-time employee shall accrue sick leave at a rate directly proportionate to the percent of time employed.

c. An employee appointed under Other Personal Services (OPS) shall not accrue sick leave.

(2) Uses of Sick Leave.

a. Sick leave shall be accrued before being taken, provided that an employee who participates in a sick leave pool shall not be prohibited from using sick leave otherwise available to the employee through the sick leave pool.

b. Sick leave shall be authorized for the following:

1. The employee's personal illness or exposure to a contagious disease which would endanger others.

2. The employee's personal appointments with a health care provider.

3. The illness or injury of a member of the employee's immediate family, at the discretion of the supervisor. Approval of requests for use of reasonable amounts of sick leave for caring for a member of the employee's immediate family shall not be unreasonably withheld. "Immediate family" means the spouse, same-sex domestic partner, and the grandparents, parents, brothers, sisters, children, and grandchildren of both the employee and the spouse or same-sex domestic partner, and dependents living in the household.

4. The death of a member of the employee's immediate family, at the discretion of the supervisor. Approval of requests for use of reasonable amounts of sick leave, in addition to paid Bereavement Leave otherwise provided by this Policy, for the death of a member of the employee's immediate family shall not be unreasonably withheld.

c. A continuous period of sick leave commences with the first day of absence and includes all subsequent days until the employee returns to work. For this purpose, Saturdays, Sundays, and official holidays observed by the State shall not be counted unless the employee is scheduled to perform services on such days. During any seven (7) day period, the maximum number of days of sick leave charged against any employee shall be five (5).

d. An employee who requires the use of sick leave should notify the supervisor as soon as practicable.

e. An employee who becomes eligible for the use of sick leave while on approved annual leave shall, upon notifying the supervisor, substitute the use of accrued sick leave to cover such circumstances.

(3) Certification. If an employee's request for absence or absence exceeds four (4) consecutive days, or if a pattern of absence is documented, the University may require an employee to furnish certification issued by an attending health care provider of the medical reasons necessitating the absence and/or the employee's ability to return to work. If the medical certification furnished by the employee is not acceptable, the employee may be required to submit to a medical examination by a health care provider who is not a University staff member which shall be paid for by the University. If the medical certification indicates that the employee is unable to perform assigned duties, the President or designee may place the employee on compulsory leave under the conditions set forth in Section 8 (c) of this Policy.

(4) Payment for Unused Sick Leave.

a. An employee with less than ten (10) years of FIU service who separates from FIU shall not be paid for any unused sick leave.

b. An employee who has completed ten (10) or more years of FIU service, has not been found guilty or has not admitted to being guilty of committing, aiding, or abetting any embezzlement, theft, or bribery in connection with State government, or has not been found guilty by a court of competent jurisdiction of having violated any State law against or prohibiting strikes by public employees, and separates from FIU because of retirement for other than disability reasons, termination, or death, shall be compensated at the employee's current regular hourly rate of pay for one-eighth of all unused sick leave accrued prior to October 1, 1973, plus one-fourth of all unused sick leave accrued on or after October 1, 1973; provided that one-fourth of the unused sick leave since 1973 does not exceed 480 hours. The compensation in this paragraph 7(a) (4)b shall not be given to an employee who starts employment at FIU on or after July 1, 2006.

c. Upon layoff, an employee with ten (10) or more years of FIU service shall be paid for unused sick leave as described in paragraph b., above, unless the employee requests in writing that unused sick leave be retained pending re-employment. For an employee who is re-employed by the University within twelve (12) calendar months following layoff, all unused sick leave shall be restored to the employee, provided the employee requests such action in writing and repays the full amount of any lump sum leave payments received at the time of layoff. An employee who is not re-employed within twelve (12) calendar months following layoff shall be paid for sick leave in accordance with this Policy.

d. All payments for unused sick leave shall be made in lump sum and shall not be used in determining the average final compensation of an employee in any State administered retirement system. An employee shall not be carried on the payroll beyond the last official day of employment, except that an employee who is unable to perform duties because of a disability may be continued on the payroll until all sick leave is exhausted.

e. If an employee has received a lump sum payment for accrued sick leave, the employee may elect in writing, upon re-employment within 100 days, to restore the employee's accrued sick leave. Restoration will be effective upon the repayment of the full lump sum leave payment.

f. In the event of the death of an employee, payment for unused sick leave at the time of death shall be made to the employee's beneficiary, estate, or as provided by law.

(b) Job-Related Illness/injury.

(1) An employee who sustains a job-related illness/injury that is compensable under the Workers' Compensation Law shall be carried in full-pay status for a period of medically certified illness/injury not to exceed seven (7) days immediately following the illness/injury, or for a maximum of forty (40) work hours if taken intermittently without being required to use accrued sick or annual leave.

(2) If, as a result of the job-related illness/injury, the employee is unable to resume work at the end of the period provided in paragraph (1), above:

a. The employee may elect to use accrued leave in an amount necessary to receive salary payment that will increase the Workers' Compensation payments to the total salary being received prior to the occurrence of the illness/injury. In no case shall the employee's salary and Workers' Compensation benefits exceed the amount of the employee's regular salary payments; or

b. The employee shall be placed on leave without pay and shall receive normal Workers' Compensation benefits if the employee has exhausted all accrued leave in accordance with paragraph (a.), above, or the employee elects not to use accrued leave.

(3) This period of leave with or without pay shall be in accordance with Chapter 440 (Worker's Compensation), Florida Statutes.

(4) If, at the end of the leave period, the employee is unable to return to work and perform assigned duties, the President or designee should advise the employee, as appropriate, of the Florida Retirement System's disability provisions and application process, and may, based upon a current medical certification by a health care provider prescribed in accordance with Chapter 440 (Worker's Compensation), Florida Statutes, and taking the University's needs into account:

- a. offer the employee part-time employment;
- b. place the employee in leave without pay status or extend such status;
- c. request the employee's resignation; or
- d. release the employee from employment, notwithstanding any other provisions of this Agreement.

(c) Compulsory Leave.

(1) Placing Employee on Compulsory Leave.

a. If an employee is unable to perform assigned duties due to illness/injury the President or designee may require the employee to submit to a medical examination, the results of which shall be released to the University, by a health care provider chosen and paid by the University, or by a health care provider chosen and paid by the employee, who is acceptable to the President or designee. Such health care provider shall submit the appropriate medical certification(s) to the University.

b. If the University agrees to accept the employee's choice of a health care provider the University may not then require another University-paid examination.

c. If the medical examination confirms that the employee is unable to perform assigned duties, the President or designee shall place the employee on compulsory leave.

(2) Conditions of Compulsory Leave.

a. Written notification to the employee placing the employee on compulsory leave shall include the duration of the compulsory leave period and the conditions under which the employee may return to work. These conditions may include the requirement of the successful completion of, or participation in, a program of rehabilitation or treatment, and follow-up medical certification(s) by the health care provider, as appropriate.

b. The compulsory leave period may be leave with pay or leave without pay. If the compulsory leave combines the use of accrued leave with leave without pay, the use of such leave shall be in accordance with Section 12 of this Policy.

c. If the employee fulfills the terms and conditions of the compulsory leave and receives a current medical certification that the employee is able to perform assigned duties, the President or designee shall return the employee to the employee's previous duties, if possible, or to equivalent duties.

(3) Duration. Compulsory leave, with or without pay, shall be for a period not to exceed the duration of the illness/injury or one year, whichever is less.

(4) Failure to Complete Conditions of Compulsory Leave or Inability to Return to Work. If the employee fails to fulfill the terms and conditions of a compulsory leave and/or is unable to return to work and perform assigned duties at the end of a leave period, the President or designee should advise the employee, as appropriate, of the Florida Retirement System's disability provisions and application process, and may, based upon the University's needs:

- a. offer the employee part-time employment;
- b. place the employee in leave without pay status in accordance with Section 12 of this Policy or extend such status;
- c. request the employee's resignation; or
- d. release the employee from employment, notwithstanding any other provisions of any BOT-UFF Policy or the BOT-UFF Agreement.

9. Annual Leave

(a) Accrual of Annual Leave.

(1) Full-time employees appointed for more than nine (9) months, except employees on academic year appointments, shall accrue annual leave at the rate of 6.769 hours biweekly or 14.667 hours per month (or a number of hours that is directly proportionate to the number of days worked during less than a full-pay period for full-time employees), and the hours accrued shall be credited at the conclusion of each pay period or, upon termination, at the effective date of termination. Employees may accrue annual leave in excess of the year end maximum during a calendar year. Employees with accrued annual leave in excess of the year end maximum as of December 31, shall have any excess converted to post October 1, 1973 sick leave on an hour-for-hour basis on January 1 of each year.

(2) Part-time employees appointed for more than nine (9) months, except employees on academic year appointments, shall accrue annual leave at a rate directly proportionate to the percent of time employed.

(3) Academic year employees, employees appointed for less than nine (9) months, and OPS employees shall not accrue annual leave.

(b) Use and Restoration of Annual Leave.

(1) Annual leave shall be accrued before being taken, except in those instances where the President or designee may authorize the advancing of annual leave. When leave has been advanced and employment is terminated prior to the employee accruing sufficient annual leave to credit against the leave that was advanced, the University shall deduct from the employee's warrant the cost of any annual leave advanced under this provision. All requests for annual leave shall be submitted by the employee to the supervisor as far in advance as possible and appropriate. Approval of the dates on which an employee wishes to take annual leave shall be at the discretion of the supervisor and shall be subject to the consideration of departmental/unit and organizational scheduling.

(2) Upon re-employment at FIU within 100 days, except for re-employment after layoff (see (c)(3), below), the employee may elect in writing to restore up to 44 (forty-four) days (352 hours) of his/her former unused annual leave balance. In such cases, the employee's absence shall not constitute a break-in-service. Restoration will be effective upon the repayment of the lump sum leave payment up to forty-four (44) days.

(3) An employee may transfer internally into an annual leave accruing position up to forty-four (44) days of unused leave accrued in the FIU classification and pay plan in which previously employed, provided the employee has not received payment for such leave and no more than thirty-one (31) days have elapsed between jobs.

(c) Payment for Unused Annual Leave.

(1) Upon termination from an annual leave accruing contract, or transfer from an annual leave accruing contract to an academic year contract, the University shall pay the employee for up to forty-four days (352 hours) of unused annual leave at the calendar year rate the employee was accruing as of the employee's last day of work. All unused annual leave in excess of forty-four days (352 hours) shall be forfeited by the employee.

(2) Upon layoff, an employee shall be paid for up to forty-four days (352 hours) of unused annual leave in lump sum, unless the employee requests in writing that annual leave credits be retained pending re-employment. For employees who are re-employed by the University within twelve (12) calendar months following layoff, all unused annual leave shall be restored to the employee, provided the employee requests such action in writing and repays the full amount of any lump sum leave payment received at the time of layoff. Employees who are not re-employed within twelve (12) calendar months following layoff and who elected to retain their annual leave pending re-employment shall be paid for up to forty-four days (352 hours) of unused annual leave at the calendar rate the employee was accruing as of the employee's last day of work.

(3) If an employee has received a lump sum payment from the University for accrued annual leave, the employee may elect in writing, upon re-employment at FIU within 100 days, to restore the employee's accrued annual leave. Restoration will be effective upon the repayment of the full lump sum leave payment.

(4) In the event of the death of an employee, payment for all unused annual leave at the time of death, up to 352 hours, shall be made to the employee's beneficiary, estate, or as provided by law.

10. Administrative Leaves.

(a) Jury Duty and Court Appearances.

(1) An employee who is summoned as a member of a jury panel or subpoenaed as a witness in a matter not involving the employee's personal interests, shall be granted leave with pay and any jury or witness fees shall be retained by the employee; leave granted hereunder shall not affect an employee's annual or sick leave balance.

(2) An appearance as an expert witness for which an employee receives professional compensation falls under the BOT-UFF Policy on Conflict of Interest and Outside Activity and the University's policies and rules relative to outside employment/conflict of interest. Such an appearance may necessitate the employee requesting annual leave or, if a non-annual leave accruing employee, may necessitate the employee seeking an adjustment of the work schedule.

(3) If an employee is required, as a direct result of the employee's employment, to appear as an official witness to testify in the course of any action such duty shall be considered a part of the employee's job assignment, and the employee shall be paid per diem and travel expenses and shall turn over to the University any fees received.

(4) An employee involved in personal litigation during work hours must request annual leave or, if a non-annual leave accruing employee, must seek an adjustment to the work schedule.

(b) Military Leave.

(1) Short-term Military Training. An employee who is a member of the United States Armed Forces Reserve, including the National Guard, upon presentation of a copy of the employee's official orders or appropriate military certification, shall be granted leave with pay during periods in which the employee is engaged in annual field training or other active or inactive duty for training exercises. Such leave with pay shall not exceed seventeen (17) work days in any one (1) federal fiscal year (October 1 - September 30).

(2) National Guard State Service. An employee who is a member of the Florida National Guard shall be granted leave with pay on all days when ordered to active service by the State. Such leave with pay shall not exceed thirty (30) days at any one time.

(3) Other Military Leave.

a. An employee, except an employee who is employed in a temporary position or employed on a temporary basis, who is drafted, who volunteers for active military service, or who is ordered to active duty (not active duty training) shall be granted leave in accordance with Chapter 43 of Title 38,

United States Code. Active military service includes active duty with any branch of the United States Army, Air Force, Navy, Marine Corps, Coast Guard, National Guard of the State of Florida, or other service as provided in Sections 115.08 and 115.09, Florida Statutes.

b. Such leave of absence shall be verified by official orders or appropriate military certification. The first thirty (30) days of such leave shall be with full-pay and shall not affect an employee's annual or sick leave balance. The remainder of military leave shall be without pay unless the employee elects to use accumulated annual leave or appropriate leave as provided in (4) below, or the employer exercises its option under Section 115.14, Florida Statutes, to supplement the employee's military pay. Leave payment for the first thirty (30) days shall be made only upon receipt of evidence from appropriate military authority that thirty (30) days of military service have been completed.

c. Applicable provisions of Federal and State law shall govern the granting of military leave and the employee's re-employment rights.

d. Use of accrued leave is authorized during a military leave without pay in accordance with Section 12 of this Policy.

(c) Leave Pending Investigation. When the President or designee has reason to believe that the employee's presence on the job will adversely affect the operation of the University, the President or designee may immediately place the employee on leave pending investigation of the event(s) leading to that belief. The leave pending investigation shall commence immediately upon the President or designee providing the employee with a written notice of the reasons therefore. The leave shall be with pay, with no reduction of accrued leave.

(d) Other Leaves Provided Not Affecting Accrued Leave Balances. An employee may be granted other leaves not affecting accrued leave balances which are provided as follows:

(1) Florida Disaster Volunteer Leave is provided for an employee who is a certified disaster service volunteer of the American Red Cross. Leave of absence with pay for not more than fifteen (15) working days in the fiscal year may be provided upon request of the American Red Cross and the employee's supervisor's approval. Leave granted under this act shall be only for services related to a disaster occurring within the boundaries of the State of Florida.

(2) Civil disorder or disaster leave is provided for an employee who is member of a volunteer fire department, police auxiliary or reserve, civil defense unit, or other law enforcement type organization to perform duties in time of civil disturbances, riots, and natural disasters, including an employee who is a member of the Civil Air Patrol or Coast Guard Auxiliary, and called upon to assist

in emergency search and rescue missions. Such paid leave not affecting leave balances may be granted upon approval by the President or designee and shall not exceed two days on any one occasion.

(3) Athletic competition leave is provided for an employee who is a group leader, coach, official, or athlete who is a member of the official delegation of the United States team for athletic competition. Such paid leave not affecting leave balances shall be granted for the purpose of preparing for and engaging in the competition for the period of the official training camp and competition, not to exceed 30 days in a calendar year.

(4) Leave for re-examination or treatment with respect to service-connected disability is provided for an employee who has such rating by the United State Department of Veterans Affairs and has been scheduled to be reexamined or treated for the disability. Upon presentation of written confirmation of having been so scheduled, such leave not affecting the employee's leave balances shall be approved and shall not exceed six (6) calendar days in any calendar year.

(e) Official Emergency Closings. The President or President's representative may close the University, or portions of the University, in the event an Executive Order declaring an emergency has been issued. When natural disasters or other sudden and unplanned emergency conditions occur which are not covered by an Executive Order, the President or designee shall determine whether the University, or any portion thereof, is affected by the emergency and is to be closed. Such closings will be only for the period it takes to restore normal working conditions. Leave resulting from such an emergency closing shall not reduce employees' leave balances.

11. Bereavement Leave. An employee shall be granted three (3) days of leave with pay for a death in the employee's immediate family, defined as spouse, same-sex domestic partner, children (including foster or stepchildren), parents (including stepparents), brother or sister (including stepbrother or stepsister), grandparents and grandchildren of either the employee or employee's spouse or same-sex domestic partner. In addition to paid bereavement leave, the employee may request approval to use reasonable amounts of paid sick leave, paid annual leave or unpaid leave in the event of a death in the family.

12. Leave Without Pay.

(a) Granting. Upon request of an employee, the President or designee shall grant a leave without pay for a period not to exceed one year unless the President or designee determines that granting such leave would be inconsistent with the best interests of the University. Such leave may be extended upon mutual agreement.

(b) **Salary Adjustment.** The salary of an employee returning from uncompensated leave shall be adjusted to reflect all non-discretionary increases distributed during the period of leave. While on such leave, an employee shall be eligible to participate in any special salary incentive programs such as the Teaching Incentive Program.

(c) **Retirement Credit.** Retirement credit for such periods of leave without pay shall be governed by the rules and regulations of the Division of Retirement and the provisions of Chapter 121, Florida Statutes.

(d) **Accrual of Leave/Holiday Pay.** While on leave without pay, the employee shall retain accumulated sick leave and annual leave, but shall not accrue sick leave or annual leave nor be entitled to holiday pay.

(e) **Use of Accrued Leave During an Approved Period of Leave Without Pay.**

(1) Use of accrued leave with pay is authorized during a leave of absence without pay for parental, foster care, medical, or military reasons. Such use of leave with pay is provided under the following conditions:

a. Notwithstanding the provisions of Section 8 (a)(2) of this Policy regarding the use of sick leave, an employee may use any type of accrued leave in an amount necessary to cover the employee's contribution to the State insurance program and other expenses incurred by the employee during an approved period of leave without pay for parental, foster care, medical, or military reasons.

b. Normally the use of accrued leave during a period of leave without pay for medical reasons shall be approved for up to six (6) months, but may be approved for up to one year for the serious health condition of the employee or a member of the employee's immediate family.

c. The employer contribution to the State insurance program will continue for the corresponding payroll periods.

(2) An employee's request for the use of accrued leave during a period of leave without pay shall be made at the time of the employee's request for the leave without pay. Such request shall include the amount of accrued leave the employee wishes to use during the approved period of leave without pay. If circumstances arise during the approved leave which cause the employee to reconsider the combination of leave with and without pay, the employee may request approval of revisions to the original approval.

BOT-UFF POLICY

INVENTIONS AND WORKS

Purpose: To encourage, facilitate, promote and reward the creation and dissemination of original works of scholarship and research, effective pedagogy, and other creative endeavors.

Policy:

1. University Authority and Responsibilities. Section 1004.23, Florida Statutes authorizes the University to establish rules and procedures regarding patents, copyrights, and trademarks. Such rules and procedures shall be consistent with the terms of this Policy.

2. Definitions. The following definitions shall apply in this Policy:

(a) A "work" includes any copyrightable material, such as printed material, computer software or databases, audio and visual material, circuit diagrams, architectural and engineering drawings, lectures, musical or dramatic compositions, choreographic works, pictorial or graphic works, and sculptural works. Instructional technology material, as defined in the BOT-UFF Policy on Assignments, is included in this definition.

(b) An "invention" includes any discovery, invention, process, composition of matter, article of manufacture, know-how, design, model, technological development, strain, variety, culture of any organism, or portion, modification, translation, or extension of these items, and any mark used in connection with these items. Instructional technology material, as defined in the BOT-UFF Policy on Assignments, is included in this definition.

(c) "Instructional technology material" is defined in the BOT-UFF Policy on Assignments.

(d) "University support" includes the use of University funds, personnel, facilities, equipment, materials, or technological information, and includes such support provided by other public or private organizations when it is arranged, administered, or controlled by the University.

3. Works.

(a) Independent Efforts. A work made in the course of independent efforts is the property of the employee, who has the right to determine the disposition of such work and the revenue derived from such work. As used in this Policy, the term "independent efforts" means that:

- (1) the ideas came from the employee;
 - (2) the work was not made with the use of University support;
- and
- (3) the University is not held responsible for any opinions expressed in the work.

(b) University-Supported Efforts.

(1) If the work was not made in the course of independent efforts, the work is the property of the University and the employee shall share in the proceeds therefrom.

(2) Exceptions. The University shall not assert rights to the following works:

a. Those works for which the intended purpose is to disseminate the results of academic research or scholarly study, such as books, articles, electronic media; and

b. Works developed without the use of appreciable University support and used solely for the purpose of assisting or enhancing the employee's instructional assignment.

Procedures:

4. (a) Works

Disclosure.

(1) Upon the creation of a work and prior to any publication, the employee shall disclose to the President or representative any work made in the course of University-supported efforts, together with an outline of the project and the conditions under which it was done. Consistent with the provisions of this Policy, employees need not disclose regarding books, articles, and similar works, the intended purpose of which is to disseminate the results of academic research or scholarly work.

(2) The President or designee shall assess the relative equities of the employee and the University in the work.

(3) Within sixty (60) days after such disclosure, the President or designee will inform the employee whether the University seeks an interest in the work, and a written agreement shall thereafter be negotiated to reflect the

interests of both parties, including provisions relating to the equities of the employee and the allocation of proceeds resulting from such work. Creation, use, and revision of such works shall also be the subject of the written agreement between the employee and the University as well as provisions relating to the use or revision of such works by persons other than the creator. The employee shall assist the University in obtaining releases from persons appearing in, or giving financial or creative support to, the development or use of these works in which the University has an interest. All such agreements shall comport with and satisfy any preexisting commitments to outside sponsoring contractors.

(4) The employee and the University shall not commit any act which would tend to defeat the University's or employee's interest in the work and shall take any necessary steps to protect such interests.

(b) Inventions.

(1) Disclosure/University Review.

(A) An employee shall fully and completely disclose to the President or designee all inventions which the employee develops or discovers while an employee of the University, together with an outline of the project and the conditions under which it was done. With respect to inventions made during the course of approved outside employment, the employee may delay such disclosure, when necessary to protect the outside employer's interests, until the decision has been made by the outside employer whether to seek a patent.

(B) If the University wishes to assert its interest in the invention, the President or designee shall inform the employee within 120 days of the employee's disclosure to the President or designee.

(C) The President or designee shall conduct an investigation which shall assess the respective equities of the employee and the University in the invention, and determine its importance and the extent to which the University should be involved in its protection, development, and promotion.

(D) The President or designee shall inform the employee of the University's decision regarding the University's interest in the invention within a reasonable time, not to exceed 135 days from the date of the disclosure to the President or designee.

(E) The division, between the University and the employee, of proceeds generated by the licensing or assignment of an invention shall be negotiated and reflected in a written contract between the University and the employee. All such agreements shall comport with and satisfy any preexisting commitments to outside sponsoring contractors.

(F) The employee shall not commit any act which would tend to defeat the University's interest in the matter, and the University shall take any necessary steps to protect such interest.

(c) Independent Efforts. All inventions made outside the field or discipline in which the employee is employed by the University and for which no University support has been used are the property of the employee, who has the right to determine the disposition of such work and revenue derived from such work. The employee and the President or designee may agree that the patent for such invention be pursued by the University and the proceeds shared.

(d) University-Supported Efforts. An invention which is made in the field or discipline in which the employee is employed by the University, or by using University support, is the property of the University and the employee shall share in the proceeds therefrom.

(e) Release of Rights.

(1) In the event a sponsored research contractor has been offered the option to apply for the patent to an invention or other rights in an invention, the University will use its good offices in an effort to obtain the contractor's decision regarding the exercise of such rights within 120 days.

(2) At any stage of making the patent applications, or in the commercial application of an invention, if it has not otherwise assigned to a third party the right to pursue its interests, the President or designee may elect to withdraw from further involvement in the protection or commercial application of the invention. At the request of the employee in such case, the University shall transfer the invention rights to the employee, in which case the invention shall be the employee's property and none of the costs incurred by the University or on its behalf shall be assessed against the employee.

(3) All assignments or releases of inventions, including patent rights, by the President or designee to the employee shall contain the provision that such invention, if patented by the employee, shall be available royalty-free for governmental purposes of the State of Florida, unless otherwise agreed in writing by the University.

(f) University Policy.

(1) The University shall have a policy addressing the division of proceeds between the employee and the University.

(2) Such policy may be the subject of consultation meetings pursuant to Section 2.2.

(g) Execution of Documents. The University and the employee(s) shall sign an agreement individually recognizing the terms of this Policy.

5. Outside Activity.

(a) Although an employee may, in accordance with BOT-UFF Policy on Conflict of Interest/Outside Activity, engage in outside activity, including employment, pursuant to a consulting agreement, requirements that an employee waive the employee's or University's rights to any work or inventions which arise during the course of such outside activity must be approved by the President or designee.

(b) An employee who proposes to engage in such outside activity shall furnish a copy of this Policy and the University's patents policy to the outside employer prior to or at the time a consulting or other agreement is signed, or if there is no written agreement, before the employment begins.

BOT-UFF POLICY
CONFLICT OF INTEREST/OUTSIDE ACTIVITY

Purpose:

(a) An employee is bound to observe, in all official acts, the highest standards of ethics consistent with the code of ethics of the State of Florida (Chapter 112, Part III, Florida Statutes), the advisory opinions rendered with respect thereto, Board rules, and University rules. Other provisions of State law govern obligations and responsibilities of employees who receive State compensation in addition to their annual salary (see Section 240.283, Florida Statutes).

(b) Nothing in this Policy is intended to discourage an employee from engaging in outside activity in order to increase the employee's professional reputation, service to the community, or income, subject to the conditions stated herein.

Definitions:

(a) "Outside Activity" shall mean any private practice, private consulting, additional teaching or research, or other activity, compensated or uncompensated, which is not part of the employee's assigned duties and for which the University has provided no compensation.

(b) "Conflict of Interest" shall mean

(1) any conflict between the private interests of the employee and the public interests of the University, the Board of Governors, or the State of Florida, including conflicts of interest specified under Florida Statutes; or

(2) any activity which interferes with the full performance of the employee's professional or institutional responsibilities or obligations.

Policy:

1. Conflicts of Interest Prohibited. Conflicts of interest, including those arising from University or outside activities, are prohibited. Employees are responsible for resolving such conflicts of interest, working in conjunction with their supervisors and other University officials.

2. Report of Outside Activity.

(a) An employee who proposes to engage in any outside activity which the employee should reasonably conclude may create a conflict of interest, or in any outside compensated professional activity, shall report to the employee's supervisor, in writing, the details of such proposed activity prior to engaging therein.

(b) The report, as described in paragraph 2(a), shall include where applicable, the name of the employer or other recipient of services; the funding source; the location where such activity shall be performed; the nature and extent of the activity; and any intended use of University facilities, equipment, or services.

(c) A new report shall be submitted for outside activity previously reported at:

(1) the beginning of each academic year for outside activity of a continuing nature; and

(2) such time as there is a significant change in an activity (nature, extent, funding, etc.)

(d) The reporting provisions of this section shall not apply to activities performed wholly during a period in which the employee has no appointment with FIU.

(e) Any outside activity which falls under the provisions of this Policy and in which the employee is currently engaged but has not previously reported, shall be reported within sixty (60) days of the execution of the BOT-UFF Agreement and shall conform to the provisions of this Policy.

3. Expedited Dispute Resolution Procedure.

(a) In the event the proposed outside activity is determined to constitute a conflict of interest, and the employee disagrees with that determination, the employee may file a complaint under the Expedited Dispute Resolution procedure contained in the BOT-UFF Policy for Neutral, Internal Resolution of Policy Disputes.

(b) The employee may engage in such outside activity pending a resolution of the matter pursuant to the BOT-UFF Policy for Neutral, Internal Resolution of Policy Disputes.

(c) If the resolution of the matter is that there is a conflict of interest, the employee shall cease such activity immediately and may be required to turn over to the University all or part of compensation earned therefrom.

4. Use of University Resources. An employee engaging in any outside activity shall not use the facilities, equipment, or services of the University in connection with such outside activity without prior approval of the President or designee. Approval for the use of University facilities, equipment, or services may be conditioned upon reimbursement for the use thereof.

5. No University Affiliation. An employee engaging in outside activity shall take reasonable precautions to ensure that the outside employer or other recipient of services understands that the employee is engaging in such outside activity as a private citizen and not as an employee, agent, or spokesperson of the University.

BOT-UFF POLICY OTHER EMPLOYEE RIGHTS

(1) Professional Meetings. Employees should be encouraged to and may, with the approval of the supervisor, attend professional meetings, conferences, and activities. Subject to the availability of funds, the employee's expenses in connection with such meetings, conferences, or activities shall be reimbursed in accordance with the applicable provisions of State law and rules and regulations having the force and effect of law.

(2) Office Space. Each employee shall be provided with office space which may be on a shared basis. The parties recognize the desirability of providing each employee with enclosed office space with a door lock, office equipment commensurate with assigned responsibilities, and ready access to a telephone. Each employee shall, consistent with building security, have reasonable access to the employee's office space and laboratories, studios, music rooms, and the like used in connection with assigned responsibilities; this provision may require

that campus security provide access on an individual basis. Before an employee's office location is changed, or before there is a substantial alteration to an employee's office to a degree that impedes the employee's work effectiveness, the affected employee shall be notified, if practicable, at least one (1) month prior to such change.

(3) **Safe Conditions.** Whenever an employee reports a condition which the employee feels represents a violation of safety or health rules and regulations or which is an unreasonable hazard to persons or property, such conditions shall be promptly investigated. The appropriate administrator shall reply to the concern, in writing, if the employee's concern is communicated in writing.

(4) **Limitation on Personal Liability.**

(a) In the event an employee is sued for an act, event, or omission which may fall within the scope of Section 768.28, Florida Statutes, the employee should notify the President's office as soon as possible after receipt of the summons commencing the action in order that the Board may fulfill its obligation. Failure to notify the employer promptly may affect the rights of the parties.

(b) For information purposes, the following pertinent language of Section 768.28(9), Florida Statutes, is reproduced herein.

No officer, employee, or agent of the State or its sub-divisions shall be held personally liable in tort for any injuries or damages suffered as a result of any act, event or omission of action in the scope of his employment or function unless such officer, employee or agent acted in bad faith or with malicious purpose or in a manner exhibiting wanton or willful disregard of human rights, safety or property.

(5) **Travel Advances.** The University will, to the extent permitted by State law and rule, provide travel advances, upon request, of up to eighty (80) percent of budgeted expenses for authorized travel of longer than five (5) consecutive days.

(6) **Working Papers Rights.** Consistent with law, the provisions of this Policy and the legitimate interests of the University, employees shall have the right to control of their personal correspondence, notes, raw data, and other working papers.

(7) **Protection for Whistleblowers.** Employees are notified that Section 112.3187, Florida Statutes, provides protection to whistleblowers and delineates their rights and responsibilities.

BOT-UFF POLICY

PROFESSIONAL DEVELOPMENT LEAVE AND SABBATICALS

Purpose of Professional Development Leave:

To provide employees who are not eligible for Sabbatical Leaves with leave opportunities to increase the employee's value to the University through enhanced opportunities for professional renewal, educational travel, formal education, research, writing or other experience of professional value, not as a reward for service.

Policy:

1. Professional Development Leave. Each year, the University shall make available at least one (1) professional development leave at full pay for one (1) semester or its equivalent, for example leave at half pay for two (2) semesters for each twenty (20) eligible non-tenure earning employees, subject to the conditions set forth below.

2. Eligibility. All employees with three (3) or more years of full-time continuous service at FIU, except those who are serving in tenure-earning or tenured positions, shall be eligible for professional development leaves. An employee who is compensated through a contract or grant may receive a professional development leave only if the contract or grant allows for such leaves and the employee meets all other eligibility requirements.

3. Terms of Professional Development Leave.

(A) The employee must return to the University for at least one (1) academic year following conclusion of the leave, unless other arrangements are agreed to in writing by the Provost or designee before the leave is taken. If neither of these conditions is satisfied, the employee shall be required to return to the University the salary paid the employee by the University during the leave.

(B) Employees will not be eligible for a second professional development leave until they complete three (3) additional years of continuous service.

(C) An employee who fails to spend the time as stated in the application shall reimburse the University for the salary received during such leave.

(D) The University shall continue normal contributions to retirement and Social Security programs on a basis proportional to the salary paid the employee during the professional development leave. University contributions normally made to employee insurance programs and other employee benefit programs shall be continued during the professional development leave.

(E) Eligible employees shall accrue vacation leave, if applicable, and sick leave on a full-time basis during the professional development leave.

(F) The employee must provide a brief written report of the employee's accomplishments during the professional development leave to the President or designee upon return to the University.

(G) While on leave, an employee shall be permitted to receive funds for travel and living expenses, and other professional development leave-related expenses, from sources other than the University, such as fellowships, grants-in-aid, and contracts and grants, to assist in accomplishing the purposes of the professional development leave. Receipt of non salary funds for such purposes shall not result in reduction of the employee's University salary, but must be reported to the University in advance of the professional development leave, if practicable. Grants for such financial assistance from other sources may, but need not, be administered through the University. If financial assistance is received in the form of salary, the University salary shall normally be reduced by the amount necessary to bring the total salary of the professional development leave period to a level comparable to the employee's current year salary rate. Employment unrelated to the purpose of the professional development leave is governed by the provisions of the BOT-UFF Policy on Conflict of Interest/Outside Activity.

Procedures

1. Application and Selection.

(A) Application for professional development leave shall be submitted on the FIU Professional Development Leave Application Form found on the Academic Affairs website (http://academic.fiu.edu/docs/budget_personnel_sabbatical.htm). No professional development leave will be awarded without a completed application form. Each application shall contain an appropriate description of the project or work to be accomplished during the leave; an indication why the applicant believes the product or work to be undertaken will improve the productivity of the department or improve his/her professional contribution to the department/unit of which the applicant is a part; any anticipated supplementary income, and a statement that the applicant agrees to comply with the conditions of the professional development leave. Thereafter, the applicant's supervisor may submit a letter of endorsement supporting their request and noting expected benefits to the unit.

(B) The University shall select applicants on the basis of whether completion of the project or work would enhance the employee's contributions to the employee's department/academic unit. Completed application forms must be received by the Provost or designee by the announced deadline for consideration

for the following academic year. The application deadline dates shall be in January/February prior to the academic year beginning in August.

(C) The Provost will appoint a committee that will evaluate and rank order the applications. No member of the committee shall also be an applicant for a professional development leave. The chairperson of the committee will be elected by a vote of a majority of at least a quorum of the members of the committee. The committee will develop its ranking based on the specific criteria that completion of the project would improve the productivity of the department of which the employee is a part. The committee, in ranking the applicants, shall also consider the benefits of the proposed program to the employee, the University and the profession; an equitable distribution of professional development leaves among colleges, divisions, schools, departments and disciplines within the University; the length of time since the employee was relieved of other assigned duties for the purpose of professional development; and the length of service since the previous professional development leave or initial appointment. The committee shall submit a ranked list of recommended employees to the Provost or designee. The Provost or designee shall make appointments from the list and shall notify the committee chairperson. In the event the Provost does not follow the committee's ranking, the committee chair may request to consult with the Provost or his designee prior to making the appointment.

(D) No more than one (1) employee in each department/unit need be granted leave at the same time.

2. Notification of employees. Eligible employees shall be notified annually by January 15 regarding eligibility requirements and application deadlines. Applicants shall be notified as to whether or not their proposed leaves have been granted no later than March 15.

Purpose of Sabbatical Leaves

Sabbaticals are granted to increase tenured faculty members' value to the University through enhanced opportunities for planned travel, research, writing, professional renewal, study, formal education or other experiences of professional value. Sabbaticals are not granted as a reward for service.

Policy:

1. Types of Sabbaticals:

(A) **Competitive Sabbaticals** Each year, the University shall make available at least one (1) sabbatical, at full pay for one (1) semester and one (1) sabbatical at two-thirds pay for two semesters for each forty (40) tenured employees.

(B) **Non-Competitive Sabbaticals** - The University shall make available to each tenured employee whose application has been received and reviewed by the University, a sabbatical for two (2) semesters (i.e., one (1) academic year) at half-pay or its equivalent, subject to the conditions set forth in this Policy.

2. Eligibility for Sabbaticals.

Full-time tenured employees with at least six (6) years of full-time, continuous service with FIU shall be eligible for competitive full-pay sabbatical leave, and non-competitive sabbaticals. Full-time tenured employees with at least nine (9) years of full-time continuous service with FIU shall be eligible for two-thirds pay sabbatical leave. A tenured employee who is compensated through a contract or grant may receive a sabbatical leave only if the contract or grant allows a sabbatical and the employee meets all other eligibility requirements.

3. Terms of Sabbatical Program:

(A) No more than one (1) faculty in a department/unit need be awarded a sabbatical at the same time.

(B) The employee must return to the University for at least one academic year following participation in the program unless other arrangements are agreed to in writing and approved by the Provost prior to participation. If neither of these conditions is satisfied, the employee must return to the University any salary received from the University during his/her participation during the sabbatical.

(C) Within thirty (30) days after returning from a sabbatical, the employee must provide a brief written report to the Provost of the employee's accomplishments during the sabbatical. This report shall include information regarding the activities undertaken during the sabbatical, the results accomplished as they affect the employee and the University, and the research or other scholarly work produced or expected to be produced as a result of the sabbatical.

(D) Employees who have received a competitive full pay/one semester sabbatical shall not normally be eligible for another sabbatical until six (6) years of continuous service at FIU following the completion of the previous sabbatical. Employees who have received a two-thirds pay/two semester sabbatical shall not normally be eligible for another sabbatical until nine (9) years of continuous service at FIU following the completion of the previous sabbatical.

(E) Employees who have received a non-competitive sabbatical shall be eligible for another sabbatical after six (6) years of continuous service at FIU following the completion of the previous sabbatical.

(F) University contributions normally made to retirement and Social Security programs shall be continued during the sabbatical leave on a basis proportional to the salary received. University contributions normally made to employee insurance programs and any other employee benefit programs shall be continued during the sabbatical.

(G) Eligible employees shall continue to accrue vacation and sick leave on a full-time basis during the sabbatical leave.

(H) While on leave, an employee shall be permitted to receive funds for travel and living expenses, and other sabbatical-related expenses, from sources other than the University, such as fellowships, grants-in-aid, and contracts and grants, to assist in accomplishing the purposes of the sabbatical. Receipt of funds for such purposes shall not result in a reduction of the employee's University salary, but shall be reported to the employee's supervisor in advance, if practicable, of the sabbatical. If financial assistance in the form of salary is received during the sabbatical, the University salary shall normally be reduced by the amount necessary to bring the total salary of the sabbatical period to a level comparable to the employee's current year salary rate.

Employment unrelated to the purpose of the sabbatical leave is governed by the BOT-UFF Policy on Conflict of Interest/Outside Activity.

Procedures:

1. Applications

(A) Applications for sabbaticals must be submitted on the FIU Sabbatical Application Form found on the Academic Affairs website (http://academic.fiu.edu/docs/budget_personnel_sabbatical.htm). No sabbatical will be awarded without a completed application form. Each application shall include a statement describing the program and activities to be followed while on sabbatical, the expected increase in value of the employee to the University and the employee's academic discipline, specific results anticipated from the leave, any anticipated supplementary income, and a statement that the applicant agrees to comply with the conditions of the sabbatical program as described in this Policy.

(B) Applications shall be submitted to the Office of the Provost with a copy filed with the appropriate dean/director who will in turn, provide evaluative comments and a recommendation to the Office of the Provost.

(C) Completed application forms must be received by the Office of the Provost by the announced deadline for consideration for the following academic year. The application deadline dates are generally in January/February prior to the academic year beginning in August.

2. Selection

(A) Sabbaticals at half-pay shall be granted unless the University has determined that the conditions set forth in this Policy have not been met or that departmental/staffing considerations preclude such sabbatical from being granted. In this latter instance, the employee shall be provided the sabbatical in the following year, or at a later time as agreed to by the employee and the University. The period of postponement shall be credited for eligibility for a subsequent sabbatical.

(B) If there are more applications for competitive sabbaticals than available competitive sabbaticals, a University Sabbatical Committee elected annually by and from the tenured faculty shall rank the applicants. The committee shall include at least one representative from each of the various colleges and schools. No member of the committee shall also be an applicant for a sabbatical. The chairperson of the University Sabbatical Committee shall be elected by members of the committee. The committee, in ranking the applicants, shall consider the benefits of the proposed program to the employee, the University and the profession; an equitable distribution of sabbaticals among colleges, divisions, schools, departments and disciplines within the University; the length of time since the employee was relieved of teaching duties for the purpose of research and other scholarly/creative/professional activities; and length of service since previous sabbatical or initial appointment. The Committee shall submit a ranked list of recommended employees to the Provost or representative. The Provost or designee shall make appointments from the list and shall notify the committee chairperson. In the event the Provost does not follow the committee's ranking, the committee chair may request to consult with the Provost or his designee prior to making the appointment.

(C) If there are fewer applications for competitive sabbaticals than available competitive sabbaticals, the University sabbatical committee shall make a recommendation to the Provost or representative how many sabbaticals should be awarded based on the quality of the applications.

(D) The Provost or designee will review the non-competitive sabbatical applications (half pay/two semesters) for compliance with the eligibility requirements set forth in this Policy.

3. Notification of Employees. Eligible employees shall be notified annually by January 15 regarding eligibility requirements and application deadlines for sabbatical leaves. Applicants shall be notified as to whether or not their proposed

leaves have been granted no later than March 15. Applicants shall notify the Provost of their acceptance of their awards within two weeks of receiving notification.

Purpose of Other Study Leave and Retraining:

Other study leave and retraining may be provided when it is in the University's best interests to make such opportunities available.

Policy:

1. Job-required. An employee required to take academic course work or participate in professional development activities as part of assigned duties shall not be required to charge time spent attending classes during the workday to accrued leave.

2. Job-Related. An employee may, at the discretion of the supervisor, be permitted to attend up to six (6) credit hours of course work per semester or participate in an equivalent number of hours of professional development during the workday, provided that the course work or professional development is directly related to the employee's assigned responsibilities and the supervisor determines that attending classes or professional development activities will not interfere with the proper operation of the employee's department/academic unit. Employees may, in accordance with this Policy and the BOT-UFF Policy on Leaves, use accrued annual leave for job-related study.

3. Retraining. The University may, at its discretion, provide opportunities for retraining of employees. Such opportunities may be provided to employees who are laid off, to those who are reassigned, or in other appropriate circumstances. These retraining opportunities may include enrollment in tuition-free courses under the provisions of the BOT-UFF Policy on Benefits and/or Sabbaticals or Professional Development Leave.

**BOT-UFF POLICY
BENEFITS**

1. Benefits Improvements. The Board and UFF support legislation to provide adequate and affordable health insurance to all employees.

2 Part-Time Employees. Part-time employees, except those in positions funded from Other Personal Services funds, are entitled to employer-funded benefits under the provisions of applicable law and rules. Part-time employees should contact the FIU personnel office to determine the nature and extent of the benefits for which they are eligible.

3 Retirement Credit. Retirement credit for employees who are authorized to

take uncompensated or partially compensated leaves of absence shall be granted in accordance with applicable law and rules as they may exist at the time leave is granted. The current Florida Retirement System rules also require that to receive full retirement credit, the employee on uncompensated or partially compensated leave must make payment of the retirement contribution that would otherwise be made by the University, plus interest, if applicable. Employees who are to take such a leave of absence should contact the FIU personnel office for complete information prior to taking the leave.

4. Benefits for Retired Employees.

(a) Employees retired from FIU shall be eligible, upon request, and, except where otherwise specified in this Policy, on the same basis as other employees, subject to University policies, to receive the following benefits at FIU.

- (1) Retired employee identification card;
- (2) Use of the University library (i.e., public rooms, lending and research service);
- (3) Listing in the University directory;
- (4) Placement on designated University mailing lists;
- (5) A University faculty-staff parking decal without charge;
- (6) Use of University recreational facilities (retired employees may be charged fees different from those charged to other employees for the use of such facilities);
- (7) The right to enroll in courses without payment of fees, on a space available basis in accordance with the provisions of Section 1009.26(4) Florida Statutes;
- (8) A mailbox in the department/unit from which the employee retired, subject to space availability; and
- (9) A University e-mail address.

(b) In accordance with University policy, and on a space available basis, a University is encouraged to grant a retired employee's request for office or laboratory space.

(c) With the exception of retirees who participated in the Optional Retirement Program and for whom provisions have been made, as stipulated in Section 5(a) of this Policy, retired employees of any State-administered retirement system are entitled to health insurance subsidy payments in accordance with Section 112.363, Florida Statutes.

5. Optional Retirement Program.

(a) An Optional Retirement Program is provided for employees in accordance with Florida Statutes and applicable rules of the Division of Retirement including the following provisions:

(1) Faculty and A&P employees who are in the collective bargaining unit and otherwise eligible for membership in the Florida Retirement System.

(2) Any employee whose Optional Retirement Program eligibility results from initial employment will be enrolled as a member of the Optional Retirement Program. If the employee does not execute an annuity contract with an Optional Retirement Program approved provider and notify the Division of Retirement in writing within 90 days, the employee will be enrolled as a member of the Florida Retirement System.

(3) No accrued service credit or vested retirement benefits will be lost if an employee participates in the Optional Retirement Program;

(4) Benefits under the Optional Retirement Program shall be fully and immediately vested in the participating employees;

(5) The employer shall contribute to the Optional Retirement Program, on behalf of each employee participating in the program, an amount equal to the normal cost portion of the employer's contribution to the Florida Retirement System, as well as an amount equal to the employer's contribution to the Retiree Health Insurance Subsidy program on behalf of non-Optional Retirement participants (see Section 112.363(8), Florida Statutes), less a reasonable and necessary amount, as determined by the Legislature, which shall be provided to the Division of Retirement for administering the program; and

(6) A participating employee may contribute to the Optional Retirement Program, by salary reduction or deduction, a percentage amount of the employee's gross compensation not to exceed the percentage amount contributed by the employer to the Optional Retirement Program, but in no case may such contribution exceed federal limitations.

(b) The parties agree to inform eligible employees regarding the existence and impact of the Optional Retirement Program upon their retirement benefits.

(c) If the UFF is concerned with the performance of any aspect of the Optional Retirement Program, whether administered by the Board or another State agency, the UFF has a right to consult with the Board regarding such concern. As a result of such consultation, the parties may agree to an approach to address the concern if it lies outside the Board's statutory authority.

6. Phased Retirement Program.

(a) Eligibility.

(1) Employees who have accrued at least six (6) years of creditable service in the Florida or Teachers Retirement System (FRS, TRS) or Optional Retirement Program (ORP), except those employees referenced in 6(a)(2), are eligible to participate in the Phased Retirement Program. Such eligibility shall expire on the employee's 63rd birthday. Employees who decide to participate must provide written notice to the University of such decision prior to the expiration of their eligibility, or thereafter forfeit such eligibility. Employees who choose to participate must retire with an effective date not later than 180 days, nor less than ninety (90) days, after they submit such written notice, except that when the end of this 180 day period falls within a semester, the period may be extended to no later than the beginning of the subsequent term (semester or summer, as appropriate).

(2) Employees not eligible to participate in the Phased Retirement Program include those who have received notice of non-reappointment, layoff, or termination, and those who participate in the State's Deferred Retirement Option Program (DROP).

(b) Program Provisions.

(1) All participants must retire and thereby relinquish all rights to tenure/permanent status as described in the BOT-UFF Agreement, except as stated otherwise in this Policy. Participants' retirement benefits shall be determined as provided under Florida Statutes and the rules of the Division of Retirement.

(2) Payment for Unused Leave. Participants shall, upon retirement, receive payment for any unused annual leave and sick leave to which they are entitled.

(3) Re-employment.

a. Prior to re-employment, participants in the Phased Retirement Program must remain off the FIU payroll for one (1) calendar month following the effective date of retirement in order to validate their retirement, as required by the Florida Division of Retirement. Participants must comply with the re-employment limitations that apply to the second through twelfth month of retirement, pursuant to the provisions of either the Florida Retirement System (which includes ORP) or the Teachers Retirement System, as appropriate.

b. Participants shall be offered re-employment, in writing, by the University under an Other Personal Services (OPS) contract for one-half of the academic year; however, the University and employee may agree to less than one-half of the academic year. The written re-employment offer shall contain the text of Section 6(b)(3)d. below.

c. Compensation during the period of re-employment shall be at a salary proportional to the participant's salary prior to retirement, including an amount comparable to the pre-retirement employer contribution for health and life insurance and an allowance for any taxes associated with this amount. The assignment shall be scheduled within one (1) semester unless the participant and the University agree otherwise, beginning with the academic year next following the date of retirement and subject to the condition outlined in (3)a.

d. Participants shall notify the University in writing regarding acceptance or rejection of an offer of re-employment not later than thirty (30) days after the employee's receipt of the written re-employment offer. Failure to notify the University regarding re-employment may result in the employee's forfeiting re-employment for that academic year.

(4) Leave for Illness/Injury.

a. Each participant shall be credited with five (5) days of leave with pay at the beginning of each full-time semester appointment. For less than full-time appointments, the leave shall be credited on a pro-rata basis with the assigned FTE. This leave is to be used in increments of not less than four (4) hours ($\frac{1}{2}$ day) when the participant is unable to perform assigned duties as a result of illness or injury of the participant or a member of the participant's immediate family. For the purposes of this Section, immediate family shall include the participant's spouse, mother, father, brother, sister, natural, adopted, or step child, or other relative living in the participant's household.

b. Such leave may be accumulated; however, upon termination of the post-retirement re-employment period, the participant shall not be reimbursed for unused leave.

(5) Personal Non-Medical Leave.

Each participant who was on a twelve (12) month appointment upon entering the Phased Retirement Program and whose assignment during the period of re-employment is the same as that during the twelve(12) month appointment shall be credited with five (5) days of leave with pay at the beginning of each full-time semester appointment. This leave is to be used in increments of not less than four (4) hours ($\frac{1}{2}$ day) for personal reasons unrelated to illness or injury. Except in the case of emergency, the employee shall provide at least two (2) days notice of the intended leave. Approval of the dates on which the employee wishes to take such leave shall be at the discretion of the supervisor and shall be subject to the consideration of departmental and organizational scheduling. Such leave shall not be accumulated, nor shall the participant be reimbursed for unused leave upon termination of the post-retirement period.

(6) Re-employment Period.

a. The period of re-employment obligation shall extend over five (5) consecutive academic years, beginning with the academic year next following the date of retirement. No further notice of cessation of employment is required.

b. The period of re-employment obligation shall not be shortened by the University, except under the provisions of BOT-UFF Policy on Disciplinary Action and Job Abandonment. During the period of re-employment, participants are to be treated, based on status at point of retirement, as tenured status employees or non-tenure-earning status employees with five (5) or more years of continuous service, as appropriate, for purposes of the Layoff and Recall provisions of the BOT-UFF Agreement

(7) Declining Re-employment. A participant may decline an offer of re-employment during any academic year. Such a decision shall not extend the period of re-employment beyond the period described in this Policy. At the conclusion of the re-employment period, the University may, at its option, continue to re-employ participants in this program on a year-to-year basis.

(8) Salary Increases. Participants shall receive all increases guaranteed to employees in established positions, in an amount proportional to their part-time appointment, and shall be eligible for non-guaranteed salary increases on the same basis as other employees.

(9) Preservation of Rights. Participants shall retain all rights, privileges, and benefits of employment, as provided in laws, rules, the BOT-UFF Agreement, and BOT-UFF Policies and other University policies, subject to the conditions contained in this Policy.

(10) Payroll Deductions. The UFF payroll deductions, as specified in the BOT-UFF Agreement, if applicable, shall be continued for a program participant during each re-employment period.

(11) Contracts and Grants. Nothing shall prevent the employer or the participant, consistent with law and rule, from supplementing the participant's employment with contracts or grants.

(12) The decision to participate in the Phased Retirement Program is irrevocable after the required approval document has been executed by all parties.

7. Free University Courses for Employees. Full-time employees, including employees on sabbaticals or on professional development or grants-in-aid leave,

their spouses and dependent children under the age of twenty-five (25) may enroll for a combined maximum of up to six (6) credit hours of FIU instruction per term (Fall, Spring, or Summer) without payment of tuition and fees on the same terms as such courses are available to out-of-unit employees.

8. Employee Assistance Programs. The University, as part of its Employee Assistance Program (EAP), will provide assessment, referral, follow-up consultation, short-term counseling, and other services for employees with personal, family, job stress, or substance abuse problems. Any policies created or revised by the University in the development or operation of its EAP shall be bargained with the UFF Chapter.

9. Pre-tax Benefits Program. The Board shall continue to provide a pre-tax benefits program for salaried FIU employees, which include the opportunity to: (1) pay for their State insurance premiums on a pre-tax basis and, (2) utilize flexible spending accounts for medical and dependent care expenses.

10. Same-Sex Domestic Partnership Health Insurance Stipend. The University will provide employees same-sex domestic partnership health insurance stipends under the same terms and conditions as such stipends are provided to the domestic partners of out-of-unit FIU employees.

BOT-UFF POLICY NEUTRAL, INTERNAL RESOLUTION OF POLICY DISPUTES

Purpose:

To establish and maintain a process for resolving disputes concerning BOT-UFF Policies.

Policy:

1. Policy/Informal Resolution.

The parties agree that all problems should be resolved, whenever possible, before the filing of a complaint but within the time limits for filing complaints stated elsewhere in this Policy, and encourage open communications between administrators and employees so that resort to the formal neutral, internal policy dispute resolution will not normally be necessary. The parties further encourage the informal resolution of complaints whenever possible. At each step in the neutral, internal policy dispute resolution process, participants are encouraged to pursue appropriate modes of conflict resolution. The purpose of this Policy is to promote a prompt and efficient procedure for the investigation and resolution of complaints. The procedures hereinafter set forth shall be the sole and exclusive method for resolving the complaints of employees as defined herein.

2. Resort to Other Procedures and Election of Remedy.

(a) The filing of a complaint constitutes a waiver of any rights to judicial review of agency action pursuant to Chapter 120, Florida Statutes, or to the review of such actions under University procedures that may otherwise be available to address such matters. For rights or benefits that are provided exclusively by a BOT-UFF Policy this neutral, internal dispute resolution procedure shall be the sole review mechanism. Only those acts or omissions and sections of the BOT-UFF Policies identified at the initial filing may be considered at subsequent steps.

(b) Except where an employee files a grievance alleging violations of the BOT-UFF Agreement in connection with the same act or omission pursuant to the Grievance and Arbitration provisions of the BOT-UFF Agreement, if prior to seeking resolution of a dispute by filing a complaint hereunder, or while the Policy Dispute Resolution process is in progress, an employee requests, in writing, the same remedy of the matter in any other forum, whether administrative (including the Public Employees Relations Commission) or judicial, the University shall have no obligation to entertain or proceed further with the complaint pursuant to this Policy. As an exception to this provision, a complainant may file an EEOC charge while a complaint is in progress when such filing becomes necessary to meet federal filing guidelines pursuant to 42 U.S.C. §2000e et. seq. Further, since the parties do not intend that this Neutral, Internal Resolution of Policy Disputes procedure be a device for appellate review, the President's response to a recommendation of a hearing officer or other individual or group having appropriate jurisdiction in any procedure other than the Neutral, Internal Resolution of Policy Disputes procedure shall not be an act or omission giving rise to a complaint under this Policy.

3. Definitions and Forms. As used in this Policy:

(a) **Complaint.** The term "complaint" shall mean a dispute concerning the interpretation or application of a specific term or provision of a BOT-UFF Policy appended to the BOT-UFF Agreement, subject to those exclusions appearing in the Policy. A complaint shall be filed on a Complaint Form, attached to this Policy.

(b) **Complainant.** The term "complainant" shall mean an employee or group of employees who has/have filed a complaint in a dispute over a provision of a BOT-UFF Policy that confers rights upon the employee(s). The UFF may file a complaint in a dispute over a provision of a BOT-UFF Policy that confers rights upon a group of employees or upon the UFF. The parties may agree to consolidate complaints of a similar nature to expedite the review process. In a consolidated complaint, one appropriate Form may be attached, bearing the signatures of the complainants.

(c) Complaint Forms. Each Complaint, Request for Step 2 Review, and Notice of Demand for Internal Policy Dispute Resolution by a Panel must be submitted in writing on the appropriate forms attached to this Policy and shall be signed by the complainant(s). All complaint forms shall be dated when the complaint is received. If there is difficulty in meeting any time limit, the UFF representative may sign such documents for the complainant; however, complainant's signature shall be provided prior to the Step 2 meeting.

(d) Days. The term "days" shall mean calendar days.

4. Burden of Proof. In all complaints, except disciplinary complaints in accordance with the BOT-UFF Policy on Disciplinary Actions, the burden of proof shall be on the complainant. In disciplinary complaints, the burden of proof shall be on the University.

5. Representation. The UFF shall have the exclusive right to represent any employee in a complaint filed hereunder, unless an employee elects self-representation or to be represented by legal counsel. If an employee elects not to be represented by the UFF, the University shall promptly inform the UFF in writing of the complaint. No resolution of any individually processed complaint shall be inconsistent with the terms of any applicable BOT-UFF Policy or the BOT-UFF Agreement, and for this purpose the UFF shall have the right to have an observer present at all meetings called for the purpose of discussing such complaint and shall be sent copies of all decisions at the same time as they are sent to the other parties.

6. Complaint Representatives. The UFF shall annually furnish to the University a list of all persons authorized to act as complaint representatives and shall update the list as needed. The UFF complaint representative shall have the responsibility to meet all classes, office hours, and other duties and responsibilities incidental to the assigned workload. Some of these activities are scheduled to be performed at particular times. Such representative shall have the right during times outside of those hours scheduled for these activities to investigate, consult, and prepare complaint presentations and attend complaint hearings and meetings. However, such investigations and consultations will not interfere with the normal operations of the University. Should any complaint hearings or meetings necessitate rescheduling of assigned duties, the representative may, with the approval of the appropriate administrator, arrange for the fulfillment of such duties. Such approval shall not be unreasonably withheld.

7. Appearances.

(a) When an employee participates during scheduled hours in a neutral policy dispute resolution proceeding or in a meeting between the complainant, complainant's counsel or UFF representative and the University, that employee's

compensation shall neither be reduced nor increased for time spent in those activities

(b) Prior to participation in any such proceedings, conferences, or meetings, the employee shall make arrangements acceptable to the appropriate supervisor for the performance of the employee's duties. Approval of such arrangements shall not be unreasonably withheld. Time spent in such activities outside scheduled hours shall not be counted as time worked.

Procedures:

A. Filing.

(1) A complaint shall be filed with the Provost or designee at Step 1 within thirty 30 days following the act or omission giving rise thereto, or the date on which the employee knew or reasonably should have known of such act or omission if that date is later. The complainant may amend the Step 1 Form one time prior to the Step 2 meeting. Only those acts or omissions and sections of BOT-UFF Policy identified at the Step 1 filing as amended in accordance with this paragraph may be considered at subsequent Steps.

(2) The filing of a complaint constitutes a waiver of any rights to judicial review of agency action pursuant to Chapter 120, Florida Statutes, or to the review of such actions under University procedures which may otherwise be available to address such matters.

(3) An employee may seek redress of a salary action alleged to be unsupported by performance or job related criteria by filing a complaint under the provisions of the Policy. An act or omission giving rise to such a complaint may be the employee's receipt of salary during any pay period, but in no case shall the Panel's award of back salary be retroactive to a date earlier than the date of that act or omission, or twelve months from the date the complaint is filed, whichever is less.

B. Time Limits. All time limits in this Policy may be extended by mutual agreement of the parties in writing. Mutual agreement may be evidenced by e-mail exchanges. If the University fails to provide a Step 2 decision within the time limits provided in this Policy due to a University-caused delay, the University shall pay all costs of the Neutral, Internal Resolution of Policy Disputes by a Panel ("Step 3") should the UFF elect to take the complaint to neutral, internal policy dispute resolution by a Panel. Upon the failure of the complainant or the UFF, where appropriate, to file an appeal within the time limits provided in this article, the complaint shall be deemed to have been resolved at the prior step. The "end of the day" shall mean 5 PM. The date of receipt shall not be included in the count of days. Compliance with any time limit under this Policy shall be determined by the date-stamped receipt executed by the office receiving the

complaint or the decision, or by the date of the mailing as indicated by the postmark.

C. Step 1.

All complaints shall be placed in Step 1 informal resolution status for thirty 30 days unless both the University and UFF agree otherwise. During the Step 1 informal resolution period, efforts to resolve the complaint informally shall be made. Upon request of the complainant or complainant's representative, the University representative shall, during the Step 1 informal resolution period, arrange an informal meeting between the appropriate administrator and the complainant. The complainant shall have the right to representation by the UFF or legal counsel during attempts at informal resolution of the complaint. Any party bringing legal counsel to the informal meeting shall provide at least five (5) days advance written notice to all other parties. If the complaint is not satisfactorily resolved during the Step 1 informal resolution period, the complainant may give written notice to the President or designee requesting Step 2 review within thirty (30) days from the expiration of the Step 1 period. If the complainant does not request a Step 2 review within thirty (30) days from the expiration of the Step 1 informal resolution period or any extension of that period, the complaint shall be deemed informally resolved to the complainant's satisfaction and need not be processed further.

D. Step 2.

(1) Meeting. The President or designee and the complainant and/or the complainant's representative shall meet no sooner than ten (10) days and no later than thirty (30) days following receipt of the complainant's request for a Step 2 meeting. At the Step 2 meeting, the complainant shall have the right to present any evidence in support of the complaint, and the complainant and/or the complainant's representative or the complainant's legal counsel and the President or designee shall discuss the complaint. Any party bringing legal counsel to the Step 2 meeting shall provide at least five (5) days advance written notice to all other parties.

(a) Decision. The President or designee shall issue a written decision, stating the reasons therefore, to complainant's Step 2 representative within fifteen (15) days following conclusion of the Step 2 meeting. A copy of the decision shall be sent to the complainant, to the complainant's representative and to UFF if complainant elected self-representation or representation by legal counsel.

(b) Documents. The President or designee shall make available to the complainant or the complainant's representative all documentation referenced in the Step 2 decision prior to its issuance. All documents referred to in the Step 2 decision and any additional documents

presented by the complainant shall be attached to the decision, together with a list of these documents. In advance of the Step 2 meeting, the complainant shall have the right, upon written request, to a copy of any identifiable documents relevant to the complaint.

E. Step 3. Neutral, Internal Resolution of Policy Disputes by a Panel

(1) Filing.

(a) If the complaint has not been satisfactorily resolved at Step 2, UFF may, upon the request of the complainant, proceed to Neutral, Internal Resolution of Policy Disputes by a Panel by filing a written notice of the intent to do so. Notice of intent to proceed to Neutral, Internal Resolution of Policy Disputes by a Panel must be filed with the President or designee within forty-five (45) days after receipt of the Step 2 decision by the complainant's Step 2 representative and shall be signed by the complainant and UFF President or designee. The complaint may be withdrawn by the complainant or by the UFF President or designee at any point prior to issuance of the Panel's decision.

(b) Issues of Applicability. The parties shall stipulate to the issue(s) prior to the hearing before the Panel. If the parties are unable to stipulate to the issue(s) prior to such hearing, the parties shall proceed to a hearing on applicability of this procedure based on either procedural or substantive concerns ("applicability"). Issues of applicability shall be bifurcated from the substantive issues and, whenever possible, determined by means of a hearing conducted by conference call. The Panel shall have ten (10) days from the hearing to render a decision on applicability. If the process is judged to be applicable to the complaint, the Panel shall then proceed to hear the substantive issue(s) in accordance with the provisions of this Policy.

(2) Creation of Pools for Selecting Panel Members.

(a) Representatives of the University and the UFF shall meet within ninety (90) days after the execution of the BOT-UFF Agreement for the purpose of creating two pools.

(b) One pool shall consist of University employees, defined as any University employee, whether in a bargaining unit or not ("Employee Pool"). The Employee Pool shall consist of ten (10) members, five of whom shall be appointed by the President or designee and the remaining five shall be appointed by the UFF President.

(c) A second pool shall consist of FIU internal community members, defined as former employees or alumni ("Neutral Pool"). The Neutral Pool shall consist of six (6) members appointed by mutual agreement of the President or designee and the UFF President. If the University and the UFF are

unable to reach mutual agreement on six (6) Neutral Pool members, selection shall be made from striking names from lists of six (6) names each submitted by the University and the UFF until six (6) panel members are selected. The order of striking shall be determined by the flip of a coin.

(d) The University and the UFF are encouraged to seek eligible Neutral Pool members who are educators at other educational institutions, fully retired FIU faculty or administrators, or professional mediators or arbitrators. Any member of the Neutral Pool who is not a professional labor arbitrator shall complete training to qualify as a professional labor arbitrator prior to being selected to serve in a dispute resolution. The costs of such training will be shared equally by the University and the UFF. No person involved in any business, employment or other relationship with the University that could reasonably be presumed to create a conflict of interest with that person's obligations as a neutral arbiter of disputes involving the University shall be eligible for inclusion in the Neutral Pool.

(e) Members of the pools shall be able to serve on short notice and willing to serve for at least one calendar year. In addition, the University and the UFF shall jointly provide all pool members with orientation and training in BOT-UFF Policies including this Neutral, Internal Resolution of Policy Disputes procedure. The costs of such training will be shared equally by the University and the UFF.

(f) If at any time the number of members of the Neutral Pool drops below six (6), the University and the UFF shall meet to select one or more additional Neutral Pool members through the process outlined above. A new panel may be selected annually, at the initiation of the University or the UFF, on written notice no later than November 30th.

(g) If at any time the number of members of the Employee Pool drops below ten (10), the departing member's vacancy shall be filled by the President (or designee) or the UFF President, as appropriate.

(3) Selection of a Panel.

(a) Within fourteen (14) days after receipt of a notice of intent to proceed to neutral, internal policy dispute resolution, representatives of the University and the UFF shall meet for the purpose of selecting a Panel.

(b) The President or designee shall appoint one member of the Employee Pool to serve on the Panel.

(c) The UFF President shall appoint one member of the Employee Pool to serve on the Panel.

(d) The appointees to the Panel pursuant to (b) and (c) above, shall select the third member of the Panel, who shall be selected from the Neutral Pool. Selection from among Neutral Pool members shall be by mutual agreement or by alternately striking names from the eligible members of the Neutral Pool list. Each side shall have two strikes. The right of the first choice to strike from the list shall be determined by the flip of a coin. Unless the parties mutually agree to one of the remaining two panelists, a flip of the coin will determine which of the remaining two Neutral Pool members shall hear the complaint. The parties may mutually select as the third panel member an individual who is not a member of the Neutral Pool.

(e) The appointee from the Neutral Pool shall serve as the Chair of the Panel and shall be governed by the Code of Professional Responsibility for Arbitrators of Labor-Management Disputes of the National Academy of Arbitrators, the American Arbitration Association, and the Federal Mediation and Conciliation Service.

(f) The hearing by the Panel shall be held within sixty (60) days following the selection of the Panel.

(4) Authority of the Panel.

(a) The Panel shall not add to, subtract from, modify, ignore, or alter the terms or provisions of any BOT-UFF Policy or the BOT-UFF Agreement. Neutral, Internal Resolution of Policy Disputes by a Panel shall be confined solely to the application and/or interpretation of BOT-UFF Policies and the precise issue(s) submitted for Neutral, Internal Resolution of Disputes. In rendering its decision, the Panel shall refrain from issuing any statements of opinion or conclusions not essential to the determination of whether the act or event giving rise to the complaint violated applicable University regulation or policy.

(b) Where an administrator has made a judgment involving the exercise of discretion, such as decisions regarding promotion under the BOT-UFF Promotion Policy, the Panel shall not substitute its judgment for that of the administrator. Nor shall the Panel review such decision except for the purpose of determining whether the decision has violated BOT-UFF Policy.

(c) The Panel shall not have the power to award promotion or tenure.

(d) If the Panel determines that a BOT-UFF Policy has been violated, the Panel shall direct the University to take appropriate action. The Panel may award back salary where the Panel determines that the employee is not receiving the appropriate salary from the University, but the Panel may not award other monetary damages or penalties. If notice that further employment will not be offered is not given on time, the Panel may direct the University to

renew the appointment only upon a finding that no other remedy is adequate, and that the notice was given so late that (a) the employee was deprived of reasonable opportunity to seek other employment, or (b) the employee actually rejected an offer of comparable employment which the employee otherwise would have accepted.

(e) A Panel's decision awarding employment beyond the sixth year shall not entitle the employee to tenure. In such cases the employee shall serve during the seventh year without further right to notice that the employee will not be offered employment thereafter. If an employee is reappointed at the direction of a Panel, the President or designee may reassign the employee during such reappointment.

(5) Conduct of Hearing.

The Panel shall hold the hearing in Miami-Dade County, unless otherwise agreed by the parties. The hearing shall commence within twenty-five (25) days of the all Panel members' acceptance of selection, or as soon thereafter as is practicable, and the Panel shall issue the decision within thirty (30) days of the close of the hearing or the submission of briefs, whichever is later, unless additional time is agreed to by the parties. The decision shall be in writing and shall set forth findings of fact, reasoning, and conclusions on the issues submitted. Except as expressly specified in this Policy, the provisions of the Florida Arbitration Code, Chapter 682, Florida Statutes, shall not apply. Except as modified by the provisions of this Policy, Neutral, Internal Resolution of Policy Disputes by a Panel proceedings shall be conducted in accordance with the Labor Arbitration Rules and Procedures of the American Arbitration Association.

(6) Effect of Decision. The decision or award of the Panel shall be final and binding upon the University, the UFF, and the complainant, provided that either party may appeal to an appropriate court of law a decision that was rendered by a Panel acting outside of or beyond the Panel's jurisdiction pursuant to Florida law concerning the right of appeal of a similar decision rendered in an arbitration.

(7) Venue. For purposes of venue in any judicial review of a Panel's decision issued under this Policy, the parties agree that such an appeal shall be filed in the courts in Miami-Dade County, Florida, unless both parties specifically agree otherwise in a particular instance. In an action commenced in Miami-Dade County, neither the University nor the UFF will move for a change of venue based upon the defendant's residence in-fact if other than Miami-Dade County.

(8) Fees and Expenses. All fees and expenses of the Neutral, Internal Resolution of Policy Disputes by a Panel shall be divided equally between the parties, unless mutually agreed otherwise. Each party shall bear the cost of

preparing and presenting its own case. The party desiring a transcript of the Panel hearing shall provide written notice to the other party of its intention to have a transcript of the Panel hearing made at least one week prior to the date of the hearing. The party desiring such transcript shall be responsible for scheduling a stenotype reporter to record the proceedings. The parties shall share equally the appearance fee of the stenotype reporter and the cost of obtaining an original transcript and one copy for the party originally requesting a transcript of the proceedings. The requesting party shall, at its expense, photocopy the transcript received from the reporter and deliver the photocopy to the other party within five days after receiving the copy of the transcript from the reporter.

(9) Retroactivity. A Panel's award may or may not be retroactive as the equities of each case may demand, but in no case shall an award be retroactive to a date earlier than thirty (30) days prior to the date the complaint was initially filed in accordance with this Policy.

8. Filings and Notification. With the exception of Step 2 decisions, all documents required or permitted to be issued or filed pursuant to this Policy may be transmitted by fax, United States mail, or any other recognized delivery service (note: e-mail is not an acceptable form of delivery). Step 2 decisions shall be transmitted to the complainant's representative(s) by personal delivery with written documentation of receipt or by certified mail, return receipt requested.

9. Precedent. No complaint informally resolved, or complaint resolved at either Step 1 or 2, shall constitute a precedent for any purpose unless agreed to in writing by the University or representative and the UFF acting through its President or designee.

10. Processing.

(a) The filing or pendency of any complaint or request for Neutral, Internal Resolution of Policy Disputes by a Panel under this Policy shall not operate to impede, preclude, or delay the University from taking the action complained of. Reasonable efforts, including the shortening of time limits when practical, shall be made to conclude the processing of a complaint prior to the expiration of the complainant's employment, whether by termination or failure to reappoint. An employee with a pending complaint will not continue to be compensated beyond the last date of employment.

(b) Nothing shall authorize the University or its representative to refuse consideration of a complaint on the assertion that it was not timely filed or processed in accordance with this Policy.

11. Reprisal. No reprisal of any kind will be made by the University or the UFF against any complainant, any witness, any UFF representative, or any other

participant in the Neutral, Internal Resolution of Policy Disputes procedure by reason of such participation.

12. Records. All written materials pertinent to a complaint shall be filed separately from the evaluation file of the complainant or witnesses, except (a) at the request of the complainant or witness that specific materials be included in his or her own evaluation file, or (b) where the terms of the decision or a settlement direct that a copy of the decision or settlement agreement be placed in the evaluation file of a complainant or witness. All decisions or settlement agreements resulting from complaints processed pursuant to this Policy shall specify whether or not a copy of the decision or settlement agreement is to be placed in the evaluation file(s) of any complainant or witness.

13. Expedited Dispute Resolution Procedure for Conflict of Interest/Outside Activity.

(a) The period for informal resolution of a dispute alleging a violation of the provisions of the BOT-UFF Policy on Conflict of Interest and Outside Activity shall be five (5) days from the date the complaint is filed. Such a dispute shall be heard at Step 2 by the President or designee no more than seven (7) days after a request for a Step 2 review has been filed. The President or designee shall issue a Step 2 decision no more than three (3) days after the Step 2 meeting.

(b) A request for resolution by a Neutral Panelist shall be filed within fourteen (14) days after receipt of the Step 2 decision. A Neutral Panelist shall be selected by the parties from the Neutral Pool, or by mutual agreement from outside the neutral pool, no more than fourteen (14) days after a request for a resolution by a Neutral Panelist is received. Selection shall be by mutual agreement or by striking names from the Neutral Pool. Each side shall have two strikes. Unless the parties mutually agree to one of the remaining two panelists, a flip of the coin will determine which of the two panelists shall hear the complaint. The order of striking shall be determined by the flip of a coin. The Neutral Panelist shall issue a memorandum of decision within seven (7) days following the conclusion of the Neutral Panelist hearing, to be followed by a written opinion and award in accordance with the provisions of this Policy.

(c) All other provisions of this Policy shall apply to these complaints, except as noted above.

14. Expedited Dispute Resolution Procedure for Complaint over Assignment.

An employee who complains that his or her assignment has been imposed arbitrarily or unreasonably shall be entitled to Expedited Assignment Dispute Resolution ("ADR") as set forth below. If the employee's assignment begins prior to final resolution of the dispute, the employee shall perform the assignment pending final resolution under this procedure.

(a) If an employee believes that the assignment has been imposed arbitrarily or unreasonably, the employee or employee's representative shall, within thirty (30) days after receipt of the assignment, file Part 1 of the ADR Form (attached hereto as ADR Form 1) with the individual responsible for making the assignment. The filing of the ADR Form shall be accompanied by a brief and concise statement of the employee's arguments, and any relevant documentation supporting the employee's position. This documentation shall be placed in a file entitled "Employee's Assignment Dispute Resolution File," which shall be kept separate from the employee's personnel evaluation file. Additional documentation shall not be considered in the ADR process except by agreement of the President's representative unless it is documentation that the employee requested from the University prior to the conference held pursuant to (b) below, but did not receive before such conference.

(b) Within four (4) days of receipt of the ADR Form, the individual responsible for making the assignment shall meet with the employee and employee's representative and discuss the dispute. Within twenty-four (24) hours after this conference, such individual shall complete Part 1 of the ADR Form and deliver it to the employee or representative.

(c) If the employee continues to be aggrieved following the initial conference, the employee or representative shall file the ADR Form, with Part 1 completed, with the Dean or other appropriate administrator no later than four (4) days after the initial conference.

(d) The employee or employee's representative shall schedule a meeting with the Dean or other appropriate administrator to be held no later than four (4) days after filing the ADR Form with the Dean or other appropriate administrator. At this meeting, the employee, the UFF representative, and the Dean or appropriate administrator shall discuss the dispute and attempt to resolve it. Within twenty-four (24) hours after the conclusion of this meeting, the Dean or appropriate administrator shall complete Part 2 of the ADR Form and deliver it to the employee or employee's representative.

(e) If consultation with the Dean or appropriate administrator does not resolve the matter, the employee or employee's representative may file, within four (4) days of that meeting, Part 3 of the ADR Form (with supporting documentation) with the President's representative, indicating an intention to submit the dispute to a Neutral Panelist.

(f) Within seven (7) days of receipt of the completed ADR Form and other documentation, the President's representative may place a written explanation, brief statement of the University's position, a list of expected witnesses, and other relevant documentation in the employee's ADR File. As soon as practicable thereafter, a copy of all documents placed in the employee's

ADR File shall be presented to the employee or employee's representative, who shall place a list of the employee's expected witnesses into the file.

(g) At the time that the completed ADR Form is submitted to the President's representative, the employee or employee's representative shall schedule a meeting with the President's representative for the purpose of selecting a Neutral Panelist from among the members of the Neutral Pool or by mutual agreement from outside the neutral pool. Selection of the Neutral Panelist shall be by mutual agreement or by striking names from the Neutral Pool. The order of striking shall be determined by the flip of a coin. Each side shall have two strikes. Unless the parties mutually agree to one of the remaining two panelists, a flip of the coin will determine which of the two panelist shall hear the complaint. This meeting shall be scheduled for no later than seven (7) days after filing of the completed ADR Form.

(h) The President's representative shall contact the selected Neutral Panelist no later than three (3) days following the selection. Should the Neutral Panelist selected be unable to serve, the President's representative shall contact the UFF representative as soon as practicable and schedule another selection meeting.

(i) Upon the agreement of the Neutral Panelist to serve, the President's representative shall provide the Neutral Panelist with the employee's ADR File.

(j) The ADR hearing shall be scheduled as soon as practicable after the Neutral Panelist has received the employee's ADR File. The President's representative shall notify the UFF representative of the time and place of the ADR hearing no later than forty-eight (48) hours prior to it being convened.

(k) The ADR hearing shall be conducted as follows:

(1) The employee, or employee's representative, and a representative of the President shall be the sole representatives of the parties. Each representative may present documentary evidence from the employee's ADR File, interrogate witnesses, offer arguments, cross-examine witnesses, and have present at the meeting one individual to assist in the presentation of the representative's case.

(2) The Neutral Panelist will conduct and have total authority at the ADR hearing. The Neutral Panelist may conduct the ADR hearing in whatever fashion consistent with this Policy that will aid in arriving at a just decision.

(3) The Neutral Panelist shall submit to all parties on Part 4 of the ADR Form within forty-eight (48) hours after the close of the ADR hearing

a written, binding decision as to whether the assignment was imposed arbitrarily or unreasonably. The decision shall include the reasons for the Neutral Panelist's determination.

(4) If the Neutral Panelist decides that the employee's assignment was imposed arbitrarily or unreasonably, the Neutral Panelist may also order the appropriate remedy, which shall be binding on the University.

(l) All other provisions of this Policy shall apply to these complaints, except as noted above.

Florida International University/United Faculty of Florida

Neutral, Internal Resolution of Policy Disputes

Complaint Form

Date Received by Provost or Designee: _____

COMPLAINANT

**STEP 1 COMPLAINANT
REPRESENTATIVE**

NAME:

NAME:

SCHOOL/COLLEGE:

MAILING ADDRESS:

DEPT:

OFFICE PHONE:

OFFICE PHONE:

COMPLAINANT BOT-UFF Policy(ies) and section(s) of Policy(ies) allegedly violated:

Statement of Complaint (must include date of acts or omissions complained of):

Remedy Sought:

(See page 2 for additional requirements)

AUTHORIZATION

I will be represented in this complaint by: (check one - representative must sign on appropriate line. If complainant is represented by the UFF or legal counsel, all University communications should go to the complainant's representative.):

_____ UFF _____

_____ Legal Counsel _____

_____ Myself _____

I UNDERSTAND AND AGREE THAT BY FILING THIS COMPLAINT, I WAIVE WHATEVER RIGHTS I MAY HAVE UNDER CHAPTER 120 OF THE FLORIDA STATUTES WITH REGARD TO THE MATTERS I HAVE RAISED HEREIN AND UNDER ALL OTHER UNIVERSITY PROCEDURES WHICH MAY BE AVAILABLE TO ADDRESS THESE MATTERS.

This complaint was filed with the Provost's or Designee's Office on _____ by (check one) mail (certified or registered, restricted delivery, return receipt requested) _____; personal delivery _____; other (specify) _____.

Signature of Complainant

(Complainant must sign prior to Step 2 Meeting if complaint is to be processed.)

Attachment 2

Florida International University/United Faculty of Florida

Neutral, Internal Resolution of Policy Disputes

Request for Step 2 Review

Date Received by President or Designee: _____

COMPLAINANT

STEP 2 COMPLAINT REPRESENTATIVE

NAME:

NAME:

SCHOOL/COLLEGE:

MAILING ADDRESS:

DEPT:

OFFICE PHONE:

OFFICE PHONE:

Complainant hereby requests that the President or designee review the complaint as set forth on the attached Step 1 Complaint Form and issue a decision providing the remedy sought.

Complainant filed this request for review with the President's or designee's Office on _____, by (check one): mail (certified or registered, restricted delivery, return receipt requested) _____; personal delivery _____; other (specify) _____.

Signature of Complainant:

I am represented in this complaint by (check one - representative should sign on appropriate line. If complainant is represented by the UFF or legal counsel, all University communications should go to the complainant's representative):

_____ UFF _____

_____ Legal Counsel _____

_____ Myself _____

(See page 2 for additional requirements.)

A copy of the Complaint Form initially filed with the Provost or designee must be attached to this Request for Step 2 Review at the time of its filing with the President or designee.

The Step 2 Decision shall be transmitted to Complainant's Step 2 Representative by personal delivery with written documentation of receipt or by certified mail, return receipt requested. Copies of this decision shall be sent to Complainant, to the Provost or designee, and to the President, UFF-FIU, if Complainant elected self-representation or representation by legal counsel.

Florida International University/United Faculty of Florida

Neutral, Internal Resolution of Policy Disputes

Notice of Intent to Proceed to Neutral, Internal Resolution of Policy Disputes by a Panel

Date of receipt by President or Designee: _____

The United Faculty of Florida hereby gives notice of its intent to proceed to Neutral, Internal Resolution of Policy Disputes by a Panel in connection with the decision of the President dated _____ and received by the UFF on _____ in this complaint of:

NAME: _____

The following statement of issue(s) before the Panel is proposed:

This notice was filed with the President's or designee's Office on _____ by (check one) mail (certified or registered, restricted delivery, return receipt requested) _____; personal delivery _____; other (specify) _____.

Signature of UFF President or designee

I hereby authorize UFF to proceed to Neutral, Internal Resolution of Policy Disputes by a Panel with my complaint. I also authorize UFF and the University to use, during the arbitration proceedings, copies of any materials in my evaluation file pertinent to this complaint and to furnish copies of the same to the arbitrator.

Signature of Complainant

Florida International University/United Faculty of Florida

Neutral, Internal Resolution of Policy Disputes

Assignment Dispute Resolution Form

PART 1: STATEMENT OF DISPUTE

Employee's Name

Department

Employee's Address

Person Making Assignment

Date Assignment Made

Beginning Date of Assignment

I believe the assignment was arbitrarily or unreasonably imposed because:

Employee's Signature

UFF Representative's Signature

Date Filed

Date of Meeting

_____ The assignment was not arbitrarily or unreasonably imposed.

_____ The disputed assignment has been resolved in the following manner:

Person making the assignment: _____ Date of Decision: _____

THIS FORM MUST BE ACCOMPANIED BY ALL DOCUMENTATION WHICH THE EMPLOYEE WANTS TO HAVE REVIEWED, EXCEPT FOR DOCUMENTATION THE EMPLOYEE HAS REQUESTED BUT NOT RECEIVED (SEE BOT-UFF POLICY ON NETURAL, INTERNAL RESOLUTION OF POLICY DISPUTES, SECTION 16(a)).

I UNDERSTAND AND AGREE THAT BY FILING THIS COMPLAINT, I WAIVE WHATEVER RIGHTS I MAY HAVE UNDER CHAPTER 120 OF THE FLORIDA STATUTES WITH REGARD TO THE MATTERS I HAVE RAISED HEREIN AND UNDER ALL OTHER UNIVERSITY PROCEDURES WHICH MAY BE AVAILABLE TO ADDRESS THESE MATTERS.

PART 2: DECISION OF DEAN OR APPROPRIATE ADMINISTRATOR

Date Filed with Dean/Administrator:

Date of Conference:

_____ The assignment was not arbitrarily or unreasonably imposed.

_____ The disputed assignment has been resolved in the following manner:

Dean or appropriate administrator

Date of Decision

PART 3: UFF NOTICE OF INTENT TO REFER DISPUTE TO NEUTRAL PANELIST

The decision of the Dean or other appropriate administrator is not satisfactory and the UFF hereby gives notice of its intent to refer the dispute to a Neutral Panelist.

Employee's Name

Date of Receipt by
President's Representative

UFF Representative

Receipt Acknowledged by
President's Representative

PART 4: NEUTRAL PANELIST'S DECISION

The disputed assignment was _____/was not _____ arbitrarily or unreasonably imposed.

Reasons for the determination that the assignment was arbitrarily or unreasonably imposed are:

Remedy:

Neutral Panelist's Name

Employee's Name

Neutral Panelist's Signature

Date Decision Issued