The Florida International University Board of Trustees and
The United Faculty of Florida
Collective Bargaining Agreement 2021-2024

PREAMBLE

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

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

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

Article 1 RECOGNITION

A1.1 Bargaining Unit. The Board has recognized the UFF as the exclusive representative, solely for the purpose of collective bargaining with respect to wages, hours, and other terms and conditions of employment agreed to by the parties for the bargaining unit certified by the Florida Public Employees Relations Commission in Case No. RA-2004-001 (February 4, 2004) and described in Certification No. 1463 issued to the UFF. Attached as Appendix "A," for information purposes only and not made a part of the Agreement, is the listing of titles included in the bargaining unit.

A1.2 Board and Administration Rules and Policies.

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

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

(c) The Board and the administration shall provide to the UFF Chapter an advance copy of any proposed rule or policy changing a term or condition of employment agreed to by the parties. The Board or the administration, as the case may be, shall provide the advance copy of a proposed rule no later than 60 days in advance of its effective date so as to permit the UFF Chapter to seek consultation with respect to it. With respect to a rule adopted pursuant to the emergency provisions of the Administrative Procedure Act, an advance copy shall be provided as far in advance of its effective date as is feasible under the circumstances.

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

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

A1.3 Board of Trustees Meetings - Agenda.

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

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

A1.1 Right to Hear Views. Nothing contained in this Agreement shall be construed to prevent the Board or the administration from meeting with any individual or organization to hear views on any matter, provided, however, that as to any such matter which is a proper subject of collective bargaining and covered by a term agreed to by the parties, any changes or modification shall be made only through negotiation and agreement with the UFF Chapter.

Article 2 CONSULTATION

A2.1 Consultation with President. The President or designee shall meet with the UFF Chapter representatives to discuss matters pertinent to the implementation or administration of this Agreement, University actions affecting terms and conditions of employment or any other mutually agreeable matters. Such meetings shall occur at least once per semester during the academic year and once during the summer term unless the parties agree to meet more frequently. The party requesting consultation shall submit a written list of agenda items no less than one (1) week in advance of the meeting. The other party shall also submit a written list of agenda items in advance of the meeting if it wishes to discuss specific issues. The parties understand and agree that such meetings may be used to resolve problems regarding the implementation and administration of the Agreement; however, such meetings shall not constitute or be used for the purpose of collective bargaining.

A2.2 Location of consultation. The consultation meetings shall be held on a mutually convenient date on the FIU Modesto A. Maidique campus unless the parties agree to another location.

A2.3 Affirmative Action Plan. The University shall provide to the UFF Chapter, without cost, a copy of the University's Affirmative Action Plan or Update.

Article 3 UFF CHAPTER PRIVILEGES

A3.1 Use of Facilities and Services. Subject to the rules and policies of the University, the UFF Chapter shall have the right to use University facilities for meetings and all other services on the same basis as they are generally available to other University-related organizations, which are defined as follows.

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

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

(a) An office conveniently located on the Modesto A. Maidique Campus in or near the PC building or other site mutually agreed to in consultation. Such space will at minimum consist of an office of at least 225 square feet and a locked storage area of at least 150 square feet, which will be furnished with standard faculty furnishings. The office shall be wired for telephone service and computer access to the internet.
(b) A University telephone number and listing in all campus directories. The UFF Chapter shall be responsible for paying the monthly phone bill.

A3.2 Communications

(a) UFF may post bulletins and notices relevant to its position as the collective bargaining agent on a reasonable number of existing bulletin boards on campus where other notices regarding personnel and/or faculty activities are posted but on at least one bulletin board per building where a substantial number of employees have offices. Specific locations shall be mutually selected by the University and the UFF chapter in the course of consultation pursuant to Article 2, Consultation. All materials placed on the designated bulletin boards shall bear the date of posting and may be removed by the University after having been posted for a period of thirty (30) days. In addition, such bulletin boards may not be used for election campaigns for public office or exclusive collective bargaining representation.

(b) FIU will place a link in an appropriate place on the Provost's website to the website of the UFF Chapter and to the current CBA.

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

A3.3 Leave of Absence - Union Activity.

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

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

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

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

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

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

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

A3.4 Released Time.

(a) The University agrees to provide a total of ten (10) units of released time per semester, in both the Fall and Spring semesters, to full-time employees designated by the UFF Chapter to carry out the UFF's Chapter obligations in representing employees and administering the Agreement. Any units of release time not used by UFF Chapter may be carried forward to subsequent semesters until a successor to this agreement is in force. The UFF Chapter may designate employees to receive released time during the academic year, subject to the following conditions:

1. No more than one (1) employee per fifteen (15) employees or fraction thereof per department/unit may be granted released time at any one time, nor may any employee be granted more than a two (2) unit reduction in a single semester.
1. The UFF Chapter shall provide the Provost with a list of requested designees and/or units to be carried forward for the academic year no later than May 1 of the preceding academic year. Upon approval of the designees by the University, the designees shall serve for one (1) academic year. Changes for the spring semester may be made upon written notification submitted by the UFF Chapter to the Provost no later than November 1st.

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

(c) Employees who are on leave of any kind, other than leave pursuant to Section A3.3, shall not be eligible to receive UFF released time.

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

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

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

(g) Released time shall be used for conducting UFF Chapter business at the University or State level and shall not be used for lobbying, other political representation, or for any activities for which the use of released time is prohibited by State law.

A3.5 Summer Released Time.

(a) The University agrees to provide UFF Chapter with six (6) of released time assignments in increments of .25 FTE over thirteen (13) weeks. No more than one (1) employee per fifteen (15) employees or fraction thereof per department/unit may be designated to receive such released time.

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

(c) All other provisions contained in Section A3.4, except A3.4(a) and (b), shall apply to summer released time.

Article 4 RESERVED RIGHTS

A4.1 Policy. The Board retains and reserves to itself or its designee(s) the rights, powers and authority vested in it, including the right to plan, manage, and control FIU and in all respects carry out the ordinary and customary functions of management.

A4.2 Limitations. All such rights, powers and authority are retained by the Board, subject to those limitations agreed to by the parties.

Article 5 ACADEMIC FREEDOM AND RESPONSIBILITY

A5.1 Policy. Florida International University and UFF-FIU affirm the rights and responsibilities of academic freedom, which are rooted in the concept of the University as a community of scholars committed to free inquiry in an atmosphere of tolerance, without fear of censorship or reprisal.

A5.2 Academic Freedom. Academic freedom includes the freedom of an employee to:

(a) Present and discuss all relevant matters, determine pedagogy, and to select instructional materials and determine grades in assigned courses; and

(b) Pursue all avenues of scholarship, research and creative expression, speak freely on all matters of University governance, and speak, write or act as an individual without institutional discipline or restraint.

Nothing in this Article will be understood to grant any right to be included on the agenda of any University meeting, except as otherwise provided in this Agreement or by law or University regulation or policy.

A5.3 Academic Responsibility. Academic freedom is accompanied by the corresponding responsibility:

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

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

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

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

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

A5.4 Administration Responsibilities. On the part of the administration, Academic Responsibility implies a commitment actively to foster a climate favorable to the responsible exercise of freedom.

A5.5 Responsibilities in addition to assigned duties. In addition to their assigned duties, employees have responsibilities arising from the nature of the educational process. Such responsibilities include, but are not limited to, observing and upholding the ethical standards of their discipline; participating, as appropriate, in the shared system of collegial governance, especially at the department/unit level; respecting the confidential nature of the relationship between professor and student; adhering to their proper role as teachers, researchers, intellectual mentors, and counselors; and conducting themselves in a professional manner in all interactions.

Article 6 NONDISCRIMINATION

A6.1 Statement of Intent. The Board and the UFF fully support all laws intended to protect and safeguard the rights and opportunities of each employee to work in an environment free from any form of discrimination or harassment. The parties recognize their obligations under federal and State laws, rules, and regulations prohibiting discrimination, and have made clear their support for the concepts of affirmative action and equal employment opportunity. They desire to assure equal employment opportunities within the University and recognize that the purpose of affirmative action is to provide equal opportunity to women, minorities, and other affected groups to achieve equality within the University. The implementation of affirmative action programs will require positive actions that will affect terms and conditions of employment and to this end the parties have, in this Agreement and elsewhere, undertaken programs to ensure equitable opportunities for employees to receive salary adjustments, tenure, successive fixed multi-year appointments, promotion, sabbaticals, and other benefits. This statement of intent is not intended to be subject to Article 10, Grievance Procedure.

A6.2 Policy.

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

(b) Sexual Harassment.

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

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

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

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

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

A6.3 Access to Documents. No employee shall be refused a request to inspect and copy documents relating to the employee's claim of discrimination, except for records which are exempt from the provisions of the Public Records Act, Chapter 119, Florida Statutes, provided, however, that the University may charge for copies of documents in accordance with law, rule, University procedures, and this Agreement.

A6.4 Consultation. As part of the consultation process described in Article 2, the parties agree to discuss efforts made to appoint and retain women and minority employees.

A6.5 Grievance Procedure. Claims of such discrimination by the University may be presented as grievances pursuant to the Article on Grievance Procedure. It is the intent of the parties that matters which may be presented as grievances under the Article on Grievance Procedure, be so presented and resolved thereunder instead of using other procedures. The UFF agrees not to process cases arising under this Article when alternate procedures to the Article on Grievance Procedure are initiated by the grievant, except as specifically provided for in the Article on Grievance Procedure.

Article 7 MINUTES, RULES, AND BUDGETS

A7.1 Board Documents.

(a) The Board shall ensure that the following documents are made available in an easily accessible location on the University web site:

(1) copies of this Agreement and all supplements to the Agreement, consistent with the provisions of this Agreement.

(2) the University's operating budget, including the previous year's expenditure analysis.

(b) The Board shall also provide the UFF-FIU an annual in-unit faculty salary increase report by July 30.

Article 8 LAYOFF AND RECALL

A8.1 General Statement of Layoff.

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

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

A8.2 Reduction.

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

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

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

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

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

A8.3 Alternative/Equivalent Employment. The University shall make a reasonable effort to locate appropriate alternate or equivalent employment for laid-off employees within the University and to make known the results of the effort to the person affected.

A8.4 Notice. Employees with three or more years of continuous University service shall be provided at least one (1) year's notice prior to being laid off. Those with less than three years' service shall be provided with at least six (6) months' notice. Employees who have received notice of layoff shall be afforded the recall rights granted under the provisions of this Agreement. Formal written notice of layoff is to be sent by certified mail, return receipt requested, or delivered in person to the employee with written documentation of receipt obtained. The notice shall include effective date of layoff; reason for layoff; a statement of recall rights; a statement of appeal/grievance rights and applicable deadlines for filing; a statement that the employee will receive the FIU Vacancy Listing until the recall period ends or re-employment offer is refused; and a statement that the employee is eligible for consideration for retraining under the provisions of this Agreement for a period of two years following layoff.

A8.5 Re-employment/Recall.

(a) For a period of two (2) years following layoff an employee who has been laid off and who is not otherwise employed in an equivalent full-time position shall be offered re-employment in the same or similar position at which previously employed at the time of layoff, should an opportunity for such re- employment arise. All persons on the recall list shall regularly be sent the FIU position vacancy announcements. For this purpose, it shall be the employee's responsibility to keep the Division of Human Resources advised of the employee's current address. Any offer of re-employment pursuant to this section must be accepted within fifteen (15) days after the date of the offer, such acceptance to take effect not later than the beginning of the semester immediately following the date the offer was made. In the event such offer of re-employment is not accepted, the employee shall receive no further consideration pursuant to this Article. Employees appointed to a fixed multi-year appointment who are recalled shall be offered re-employment not to exceed the length of their last appointment. The Board shall notify the UFF Chapter when an offer of re-employment is issued.

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

A8.6 **Employee Assistance Programs**. Consistent with the University's Employee Assistance Program, employees participating in an employee assistance program who receive a notice of layoff may continue to participate in that program for a period of ninety (90) days following the layoff.

A8.7 **Limitations**. The provisions of Sections A8.2 through A8.5 of this agreement shall not apply to the following employees.

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

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

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

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

(d) employees who are appointed to a fixed multi-year appointment, who shall be given no less than one hundred eighty (180) days' notice prior to being laid off; and

(e) employees employed in an auxiliary entity.

Article 9 TENURE

A9.1 **General Statement and Eligibility**.

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

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

A9.2 Tenure Decision.

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

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

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

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

A9.3 Criteria for Tenure.

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

(1) annual assignments, annual performance evaluations, and appraisals of the tenure file;
(2) the needs of the department/unit, college/unit, and University;
(3) the contributions of the employee to the employee's academic unit (program, department/unit, college/unit); and
(1) the contributions the employee is expected to make to the institution.

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

A9.4 Modification of Criteria

(a) Modifying Criteria. The University may modify the criteria for tenure so long as the UFF Chapter President has been notified of the proposed changes and offered an opportunity to discuss such changes in consultation with the Provost or designee.

Changes in criteria shall not become effective until one (1) year following adoption of the changes, unless mutually agreed to in writing by the UFF Chapter President and the Provost or designee. The date of adoption shall be the date on which the changes are approved by the Provost or designee. Any proposal to develop or modify tenure criteria shall be available for discussion and a vote by the members of the affected departments/units before adoption.

(b) Effect on Employees. If an employee has at least three (3) years of tenure-earning credit as of the date on which the tenure criteria are adopted under Section A9.4(a) above, the employee shall be evaluated for tenure under the criteria as they existed prior to modification unless the employee notified the University at least thirty (30) days prior to commencement of the tenure consideration that he/she chooses to be evaluated under the newly adopted criteria.

A9.5 Procedures.

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

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

(c) Notwithstanding 9.5 (a) and (b), each department/unit shall decide by a democratic vote of the tenured and tenure-earning employees and according to that department's/unit's procedures, whether the candidates in its area will have access to the external reviewers' letters. A change in the policy by a new vote shall not become effective until one (1) year following the new vote, unless the employee chooses to have the access to the external letters be subject to the newly adopted policy.

A9.6 Other Considerations.

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

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

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

A9.7 Other Considerations.

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

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

A9.8 Transfer of Tenure.

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

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

A9.9 Tenure upon Appointment.

Tenure may be granted to an employee at the time of initial appointment, upon recommendation of the President and approval by the Board. The President shall consider the recommendation of the Provost and of the department or equivalent unit prior to making their final tenure recommendation to the Board.

A9.10 Leave.

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

A9.11 Termination/Layoff.

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

(1) incompetence, or
(2) misconduct.

Article 10 GRIEVANCE PROCEDURE AND ARBITRATION

A10.1 Policy/Informal Resolution. The parties agree that all problems should be resolved, whenever possible, before the filing of a grievance but within the time limits for filing grievances stated elsewhere in this Article and encourage open communications between administrators and employees so that resorting to the formal grievance procedure will not normally be necessary. The parties further encourage the informal resolution of grievances whenever possible. At each step in the grievance process, participants are encouraged to pursue appropriate modes of conflict resolution. The purpose of this Article is to promote a prompt and efficient procedure for the investigation and resolution of grievances. The procedures hereinafter set forth shall be the sole and exclusive method for resolving the grievances of employees as defined herein.

A10.2 Resort to Other Procedures and Election of Remedy.

(a) If prior to seeking resolution of a dispute by filing a grievance hereunder or while the grievance proceeding is in progress, an employee requests, in writing, the same remedy of the matter in any other forum, whether administrative (including the Public Employee Relations Commission) or judicial, the University shall have no obligation to entertain or proceed further with the matter pursuant to this grievance procedure. As an exception to this provision, a grievant may file an EEOC charge while the grievance is in progress when such filing becomes necessary to meet federal filing deadlines pursuant to 42 U.S.C. Section 2000e et seq. Further, since the parties do not intend that this grievance 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 other procedure shall not be an act or omission giving rise to a grievance under this procedure.

(b) The filing of a grievance 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 this Agreement, this grievance procedure shall be the sole review mechanism. Only those acts or omissions and sections of the Agreement identified at the initial filing may be considered at subsequent steps.

A10.3 Definitions and Forms. As used in this Article:

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

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

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

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

A10.4 Burden of Proof. In all grievances except disciplinary grievances arising from the terms of this Agreement, the burden of proof shall be on the employee. In disciplinary grievances arising from the terms of this Agreement, the burden of proof shall be on the University.

A10.5 Representation. The UFF shall have the exclusive right to represent any employee in a grievance 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 grievance. No resolution of any individually processed grievance shall be inconsistent with the terms of this Agreement or any BOT-UFF Policy, 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 grievance and shall be sent copies of all decisions at the same time as they are sent to the other parties.

A10.6 Grievance Representatives. The UFF shall annually furnish to the University a list of all persons authorized to act as grievance representatives and shall update the list as needed. The UFF grievance 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 grievance presentations and attend grievance hearings and meetings. However, such investigations and consultations will not interfere with the normal operations of the University. Should any grievance 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.

A10.7 Appearances.

(a) When an employee participates during scheduled hours in an arbitration proceeding or in a grievance meeting between the grievant, grievant'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.

A10.8 Formal Grievance Procedure.

(a) Filing.

(1) A grievance shall be filed with the Provost or designee at Step 1 within fortyfive (45) 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 grievant may amend the Step 1 Form one time prior to the Step 2 meeting. Only those acts or omissions and sections of this Agreement identified at the Step 1 filing as amended in accordance with this paragraph may be considered at subsequent steps.

(2) The filing of a grievance 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 grievance under the provisions of this Article. An act or omission giving rise to such a grievance may be the employee's receipt of salary during any pay period, but in no case shall the arbitrator's award of back salary be retroactive to a date earlier than the date of that act or omission, or twelve (12) months from the date the grievance is filed, whichever is less.

(b) Time Limits. All time limits in this Article 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 Article due to a University-caused delay, the University shall pay all costs of arbitration should the UFF elect to take the grievance to arbitration. Upon the failure of the grievant or the UFF, where appropriate, to file an appeal within the time limits provided in this Article, the grievance 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 Article shall be determined by the date- stamped receipt executed by the office receiving the grievance or the decision, or by the date of the mailing as indicated by the postmark.

(c) Step 1. All grievances shall be placed in informal resolution status for forty-five (45) days unless both the University and UFF agree otherwise. During the informal resolution period, efforts to resolve the grievance informally shall be made. Upon request of the grievant or grievant's representative, the University representative shall, during the informal resolution period, arrange an informal meeting between the appropriate administrator and the grievant. The grievant shall have the right to representation by the UFF or legal counsel during attempts at informal resolution of the grievance. 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 grievance is not satisfactorily resolved during the informal resolution period, the grievant 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 grievant does not request a Step 2 review within thirty (30) days from the expiration of the initial informal resolution period or any extension of that period, the grievance shall be deemed informally resolved and shall not be processed further.

(d) Step 2

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

(2) Decision. The President or designee shall issue a written decision, stating the reasons therefore, to grievant'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 grievant, to the grievant's representative and to UFF if grievant elected self-representation or representation by legal counsel.

(3) Documents. The President or designee shall make available to the grievant or the grievant'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 grievant shall be attached to the decision, together with a list of these documents. In advance of the Step 2 meeting, the grievant shall have the right, upon written request, to a copy of any identifiable documents relevant to the grievance.

(e) Step 3. Arbitration

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

(2) Selection of Arbitrator.

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

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

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

(3) Authority of the Arbitrator.

a. The arbitrator shall neither add to, subtract from, modify, ignore, nor alter the terms or provisions of this Agreement. Arbitration shall be confined solely to the application and/or interpretation of this Agreement and the precise issue(s) submitted for arbitration. The arbitrator shall refrain from issuing any statement of opinion or conclusions not essential to the determination of the issues submitted.

b. Where an administrator has made a judgment involving the exercise of discretion, such as decisions regarding tenure, the arbitrator shall not substitute the arbitrator's judgment for that of the administrator. Nor shall the arbitrator review such decision except for the purpose of determining whether the decision has violated this Agreement. If the arbitrator determines that the Agreement has been violated, the arbitrator shall direct the University to take appropriate action. The arbitrator may award back salary where the arbitrator determines that the employee is not receiving the appropriate salary from the University, but the arbitrator may not award other monetary damages or penalties. If notice that further employment will not be offered is not given on time, the arbitrator 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 a reasonable opportunity to seek other employment, or (b) the employee actually rejected an offer of comparable employment that the employee otherwise would have accepted.

c. An arbitrator'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 an arbitrator, the President or designee may reassign the employee during such reappointment.

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

(5) Conduct of Hearing. The arbitrator 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 arbitrator's acceptance of selection, or as soon thereafter as is practicable, and the arbitrator 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 Article, the provisions of the Florida Arbitration Code, Chapter 682, Florida Statutes, shall not apply. Except as modified by the provisions of this Agreement, arbitration proceedings shall be conducted in accordance with the Labor Arbitration Rules and Procedures of the American Arbitration Association and 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.

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

(7) Venue. For purposes of venue in any judicial review of an arbitrator's decision issued under this Agreement, 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-FIU 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 arbitration 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 arbitration proceedings shall provide written notice to the other party of its intention to have a transcript of the arbitration made at least one (1) week prior to the date of the arbitration. The party desiring such transcript shall be responsible for scheduling a stenographer to record the proceedings. The parties shall share equally the appearance fee of the stenographer 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 stenographer and deliver the photocopy to the other party within five days after receiving the copy of the transcript from the reporter.

(9) Retroactivity. An arbitrator'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 the date of the act or omission giving rise to the grievance initially filed in accordance with this Article.

A10.9 Filings and Notification. With the exception of Step 2 decisions, all documents required or permitted to be issued or filed pursuant to this Article 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 grievant's representative(s) by personal delivery with written documentation of receipt or by certified mail, return receipt requested.

A10.10 Precedent. No complaint informally resolved, or grievance 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-FIU acting through its President or designee.

A10.11 Processing.

(a) The filing or pendency of any grievance or arbitration proceedings under this Article 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 grievance prior to the expiration of the grievant's employment, whether by termination or failure to reappoint. An employee with a pending grievance 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 grievance on the assertion that it was not timely filed in accordance with this Article.

A10.12 **Reprisal.** No reprisal of any kind will be made by the University or the UFF-FIU against any grievant, any witness, any UFF-FIU representative, or any other participant in the grievance procedure by reason of such participation.

A10.13 **Records.** All written materials pertinent to a grievance shall be filed separately from the evaluation file of the grievant 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 grievant or witness. All decisions or settlement agreements resulting from grievances processed pursuant to this Article shall specify whether or not a copy of the decision or settlement agreement is to be placed in the evaluation file(s) of any grievant or witness.

Article 11 SALARIES

A11.1 Salary Increases

(a) **2021-2022 One-time Non-recurring Payments**. Effective August 12, 2021, for the academic year 2021-2022, all eligible employees who were employed prior to January 1, 2021, and who are continuously employed through August 12, 2021, and are not in receipt of a notice of termination or non-reappointment shall receive a one-time, nonrecurring payment of two percent (2.00%) of their base salaries or $2,000, whichever is greater. This one-time payment does not have any additional related contingencies.

(b) **2022-2023 Salary Increases**. Effective upon the faculty contract date for the 2022-2023 academic year, all eligible employees who were employed prior to January 1, 2022, and who are continuously employed through the contract date and are not in receipt of a notice of termination or non-reappointment shall receive an increase to their base salary of two percent (2.00%) or $2,000.00, whichever is greater. This increase shall be contingent on the availability of sufficient new recurring funding legally expendable for faculty salary increases. In the event that there is insufficient funding for the two percent (2.00%) or $2,000.00, whichever is greater, this provision shall be void, and the parties shall re-open negotiations for 2022-2023 salary increases. The University shall advise the UFF-FIU of the status of the potential funding no later than 10 business days after the Governor approves the fiscal year 2022-2023 budget.

A11.2 2021-2024 Convocation Awards. At the annual Faculty Convocation, the FIU Board of Trustees or designee may provide to employees' one-time awards totaling no more than 0.16% of the total employee payroll as of the end of the prior Academic Year for special achievements, including awards for teaching, research, service, mentorship, librarianship and advising, according to the selection procedures established by the Faculty Senate. No later than July 30 of each year, the University shall provide the local UFF-FIU chapter a listing of such awards showing the name and department of each employee given an award during the previous academic year and the amount and nature of the award.

A11.3 2021-2024 Discretionary Awards and Increases. During the 2021-2022, the 20222023, and the 2023-2024 academic years, the FIU Board of Trustees or designee may provide additional salary increases and/or one-time awards totaling no more than one percent (1.0%) of the total employee payroll as of the last full pay period of the prior academic year. These increases may be provided for market equity considerations, including verified counteroffers and compression/inversion; increased duties and responsibilities; special achievements; Summer Faculty Research Awards; litigation/settlements; and similar special situations. No later than July 30 of each year, the University shall provide a listing of the distribution of these funds to the local chapter of UFF-FIU. This list will provide the name and department of the employee and the date, amount and nature of the award or salary increase during the prior academic year.

A11.4 Promotion Increases. Effective at the beginning of the academic year in which their promotions are effective, employees shall be awarded promotion increases as follows:

(a) To Assistant University Librarian an eleven percent (11%) increase;
(b) To Senior Lecturer, Senior Instructor, Research Associate Professor, Associate University Librarian, Associate Teaching Professor, or Associate Professor, a twelve percent (12%) increase;
(b) To University Lecturer, University Instructor, Research Professor, University Librarian, Teaching Professor, or Professor, a fourteen percent (14%) increase.

A11.5 **Notification to Employees.** All employees shall receive notice of their salary increases on the Salary Increase Notification Form attached as an Appendix to this Agreement not later than two weeks prior to implementation of the salary increases described in this article. Upon request, an employee shall have the opportunity to consult with the person or committee that makes the initial recommendation for salary increases.

A11.6 Contract and Grant-Funded Employees.

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

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

A11.7 **Report to UFF.** Except as otherwise provided in this Article 11, no later than 30 days after any increases or bonuses are implemented, the University shall make available to the local chapter of the UFF-FIU, in machine-readable format, accurately by category, all increases provided pursuant to this Article, showing for each employee the employee's department, rank, gender, the base salary prior to the increase, the amount of the salary increase or merit bonus provided and the base salary after the salary increase.

A11.8 Type of Payment.

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

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

A11.9 **Grievability.** The only issues to be addressed in a grievance filed pursuant to the Article on Grievance Procedure alleging violation of this Article are whether there is unlawful discrimination under Article 6, or whether there is an arbitrary and capricious application of the provisions of one or more sections of this Article.

A11.10 **Eligibility.** Except as otherwise specified in this Article, an "eligible employee" for the purposes of this Article shall be defined as an employee who has received at least a satisfactory rating overall on his or her most recent annual evaluation. Where no evaluation was given for assigned responsibilities, performance shall be presumed to have been at least satisfactory overall. Employees on paid or unpaid leave who have not had assigned responsibilities during all or part of the previous Academic Year shall be presumed to have been at least satisfactory overall for purposes of qualifying as an "eligible employee" for purposes of this Article.

A11.11 **Distinguished University Professor.** The Provost shall designate up to five Distinguished University Professors each year and the individuals selected will each receive a $5,000 base salary adjustment as part of the annual salary increase process in the academic year following their selection as Distinguished University Professors. The Provost, in accordance with the university governance process and subject to consultation with UFFFIU, shall determine the criteria and procedures.

A11.12 Minimum Salaries

(a) Eligibility for non-visiting faculty: Full-time faculty who are covered by this collective bargaining agreement; who were employed prior to January 1, 2021; who are continuously employed through August 12, 2021; who are not in receipt of a notice of termination or non-reappointment; and who do not carry the designation of "Research" or "Visiting" faculty shall receive a base 9-month equivalent salary not less than the amounts described below:

(1) Year 1: Effective on the faculty contract date for the 2021-2022 academic year, the minimum base 9-month equivalent salary for eligible employees holding a master's degree or equivalent shall be $53,000.00 and the minimum base 9-month equivalent salary for eligible employees holding a doctoral degree or equivalent shall be $58,000.00.

(2) Year 2: Effective on the faculty contract date for the 2022-2023 academic year, the minimum base 9-month equivalent salary for eligible employees holding a master's degree or equivalent shall be $55,000.00 and the minimum base 9-month equivalent salary for eligible employees holding a doctoral degree or equivalent shall be $60,000.00.

(b) Eligibility for visiting faculty: Full-time faculty who carry the designation of "Visiting"; who are covered by this collective bargaining agreement; who were employed prior to January 1, 2021; who are continuously employed through August 12, 2021; who are not in receipt of a notice of termination or non-reappointment; and who do not carry the designation of "Research" faculty shall receive a base 9month equivalent salary not less than the amounts described below:

(1) Year 1: Effective on the faculty contract date for the 2021-2022 academic year, the minimum base 9-month equivalent salary for eligible visiting employees holding a master's degree or equivalent shall be $51,000.00 and the minimum base 9-month equivalent salary for eligible visiting employees holding a doctoral degree or equivalent shall be $56,000.00.

(2) Year 2: Effective on the faculty contract date for the 2022-2023 academic year, the minimum base 9-month equivalent salary for eligible visiting employees holding a master's degree or equivalent shall be $53,000.00 and the minimum base 9-month equivalent salary for eligible visiting employees holding a doctoral degree or equivalent shall be $58,000.00.

(c) No eligible employee shall receive an increase to their base salary in a single year as set forth in this collective bargaining agreement of an amount greater than $5,500.00, except as provided by for processes outside of this section (e.g., promotion, reclassification from non-tenure track to tenure track, administrative increments, discretionary awards and increases, etc.).

(d) In year 2, any retention salary increases if applicable, shall be applied first before any equity adjustment salary increase.

Article 12 UFF INSURANCE DEDUCTION

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

Article 13 PAYROLL DEDUCTION

Pursuant to the provisions of Section 447.303, Florida Statutes, the Board and the UFFFIU hereby agree to the following procedure for the deduction and remittance of the UFFFIU membership dues and other UFF-FIU deductions.

A13.1 Deductions or Assessments.

(a) During the term of this Agreement, the Board agrees to deduct the UFF-FIU membership dues, and uniform assessments, if any, in an amount established and certified in writing by the UFF-FIU to the Board, and when authorized by an employee, from the pay of those employees in the bargaining unit who individually and voluntarily make such request on a written authorization form as contained in Appendix "B" to this Agreement.

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

A13.2 Remittance.

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

A13.3 Termination of Deductions.

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

A13.4 Reinstatement of Deduction.

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

A13.5 Indemnification.

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

A13.6 Exceptions.

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

A13.7 Termination of Agreement.

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

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-FIU states otherwise. No employee may be required to waive the benefits provided by terms agreed to by the Board and the UFF-FIU. 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-FIU, suffer a loss or diminution of any such rights or benefits for which otherwise eligible.

Article 15 MISCELLANEOUS PROVISIONS

A15.1 **No Strike or Lockout.** The Board agrees that there will be no lockout at FIU during the term of this Agreement. The UFF-FIU agrees that there will be no strike by it or by any employees during the term of this Agreement.

A15.2 **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.

A15.3 **Legislative Action.** The Board and the UFF-FIU 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.

A15.4 **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 UFFFIU will move for a change of venue based upon the defendant's residence in-fact if other than Miami-Dade County.

A15.5 **Copies of the Agreement.** The Board shall provide a machine-readable copy of the ratified Agreement, appendices and all Supplements to the UFF-FIU.

A15.6 Class Titles.

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

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

A15.7 Salary Rate Calculation and Payment. The biweekly salary rate of employees serving on twelve (12) month (calendar year) appointments shall be calculated by dividing the calendar year salary rate by 26.1 pay periods.

A15.8 Titles and Headings. The titles of Articles and headings which precede text are inserted solely for convenience of reference and shall not be deemed to limit or affect the meaning, construction, or effect of any provision of this Agreement or BOT-UFF Policies appended.

A15.9 References to BOT-UFF Policies in the Agreement. References in this Agreement to any or all of the appended BOT-UFF Policies shall not have the effect of rendering the Policy (or Policies) subject to Article 10, Grievance Procedure and Arbitration.

Article 16 SEVERABILITY

In the event that any provision of this Agreement (a) is found to be invalid or unenforceable by final decision of a tribunal of competent jurisdiction, or (b) is rendered invalid by reason of subsequently enacted legislation, or (c) pursuant to Section 447.309(3) Florida Statutes, can take effect only upon the amendment of a law, rule, or regulation and the governmental body having such amendatory powers fails to take appropriate legislative action, then that provision shall be of no force or effect, but the remainder of the Agreement shall continue in full force and effect. If a provision of this Agreement fails for reason (a), (b), or (c), above, the parties shall enter into immediate negotiations for the purpose of arriving at a mutually satisfactory replacement for such provision.

Article 17 AMENDMENT AND DURATION

A17.1 **Effective Date.** The Agreement and BOT-UFF Policies shall become effective on the date of ratification by both parties and remain in effect through June 30, 2024. Renegotiations for the agreement term July 1, 2024 through June 30, 2027 shall begin no later than October 1, 2023.

A1.2 **Reopener Negotiations.** For the contract years 2022-2023 and 2023-2024, the parties have the option to reopen a total combination of five (5) additional articles/policies selected by each party between both contract years from 2021-2024. For the contract year 2023-2024, the parties shall reopen and negotiate Article 11."

A17.2 **Amendments.** In the event the Board and the UFF-FIU negotiate a mutually acceptable amendment to this Agreement or BOT-FIU Policies, such amendment shall be put in writing and become part of this Agreement or BOT-UFF Policies upon ratification by both parties.

Article 18 TOTALITY OF AGREEMENT

A18.1 **Limitations.** The parties acknowledge that during the negotiations which resulted in the Agreement, the Board and the UFF-FIU had the unlimited right and opportunity to present demands and proposals with respect to any and all matters lawfully subject to collective bargaining, and that all of the agreements arrived at during those negotiations are set forth in this Agreement.

A18.2 **Modifications.** Nothing herein shall preclude the parties from mutually agreeing to alter, amend, supplement, delete, enlarge, or modify any of the provisions of this Agreement by written Memorandum of Understanding. Any such mutual agreements to alter, amend, supplement, delete, enlarge, or modify any of the provisions of this Agreement shall be in writing.

Article 19 DEFINITIONS

As used in this Agreement, the term:

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

- “Administration” means Florida International University acting through its President and staff.

- “Auxiliary” means any fund code 331 or 335 work activities, i.e., market rate, selfsupporting, and/or other continuing education or study abroad programs or courses.

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

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

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

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

- "Continuous service" means employment uninterrupted by break in service. For academic year employees (9-month employees), one year of continuous service is equivalent to the nine (9) month employment period. For 12-month

employees, one (1) year of continuous service is equivalent to the twelve (12) month employment period.

- "Days" means calendar days.

- “Domestic partner” means a person of same or opposite sex with whom you live, to whom you are emotionally committed, with whom you share a primary residence, and with whom you share joint responsibilities for common welfare and financial obligations. Additional criteria may be found on the Affidavit of Domestic Partnership in the appendix.

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

- “Employee" means a member of the bargaining unit.

- "Equitable" means fair and reasonable under the circumstances.

- "Faculty," "faculty member," or "faculty employee" means a member of the bargaining unit.

- “Merit Increase Unit” means a unit which consists of employees not assigned to any existing department/units considered for departmental merit increases.

- “Months" means calendar months.

- “Number” The singular includes the plural.

- "Principal place of employment" means the campus location or other University site specified in the employee's letter of offer or notice of change in appointment.

- "Semester" means one of the two approximately 19.5 week periods which together constitute the academic year.

- "Supervisor" means an individual identified by the President or designee as having immediate administrative authority over bargaining unit employees.

- "UFF" means United Faculty of Florida.

- “UFFFIU” means the FIU Chapter of UFF.

- "University", "university" or “FIU” means Florida International University, acting through the President and staff.

- "Year" means a period of twelve (12) consecutive months for 12-month faculty or a period of nine (9) consecutive months for 9-month faculty.

APPENDIX A

POSITION CLASSIFICATION IN THE BARGAINING UNIT

INCLUDED:

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

9001 - Professor
9002 - Associate Professor
9003 - Assistant Professor 9024 - Teaching Professor
9014 - Associate Teaching Professor
9004 – Assistant Teaching Professor
9030 - University Instructor
9020 - Senior Instructor
9010 - Instructor
9025 - University Lecturer
9015 - 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 - Research Professor

9161 - Research Associate Professor
9162 - Research Assistant Professor
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, all employees of the College of Medicine, 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-Florida International University
UFF Membership and Dues Deduction Authorization Form

NAME (Last, First MI) _____

Panther ID _____ Department _____

TITLE _____
(ie, Assistant Professor, Professor, Lecturer, Assoc In, University Librarian, Instructor)

CAMPUS LOCATION _____ OFFICE HOURS _____

HOME ADDRESS _____

CITY/STATE _____ ZIP _____

PHONE: Work _____ Home _____

E-MAIL _____

I authorize the University Board of Trustees, through the University, to deduct from my pay, starting with the first full pay period commencing not earlier than seven (7) days from the date this authorization is received by the University, membership dues and uniform assessments 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 Florida International University Board of Trustees by the UFF, and I direct that the sum or sums so deducted be paid over to the UFF.
Dues payments to UFF 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.
This authorization shall continue until either (1) revoked by me at any time upon thirty (30) days written notice to the University Personnel Office, or (2) the discontinuance of my status within this bargaining unit for more than two consecutive semesters (i.e. Fall-Spring, Spring-Summer, or Summer-Fall).

_____ _____
Signature (for payroll deduction authorization) Today's Date_____

Please print, fill out, & give this form to a UFF-FIU Representative or mail to:
United Faculty of Florida-FIU
PC-111
Miami, FL 33199
United Faculty of Florida
UFF-PAC Payroll Deduction Authorization Form

I, authorize Florida International University to deduct from my pay, starting with the first 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 _____ 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.

Signature of Member Date

Department Panther ID

Effective date if later than above: _____

Return to the United Faculty of Florida-FIU Office, PC 111, Miami, FL 33199
Or to the UFF State Office, 115 North Calhoun Street, Suite 6, 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: SCHOOL/COLLEGE:

DEPT : NAME:

MAILING ADDRESS:
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)

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.):

UFF

Legal Counsel

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: NAME:

SCHOOL/COLLEGE: 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.)
A copy of the Appendix C Grievance 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 Grievant'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 Grievant, to the Provost or designee, and to the President, UFF-FIU, if grievant elected self-representation or representation by legal counsel.
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
Florida International University/United Faculty of Florida
APPENDIX F
SALARY INCREASE NOTIFICATION

NAME:
DEPARTMENT:

In accordance with the provisions of the 2021-2024 BOT-UFF Agreement, your salary increase, effective , is:

Salary as of (date) $

Promotion (date) $

Retention Increase effective (date) $

Other (specify), if applicable:

Effective Date: $

Effective Date: $

Effective Date: $

Total Salary effective (date) $

Biweekly Amount effective (date)

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

discuss this increase.
Florida International University/United Faculty of Florida

APPENDIX G

BOT-UFF POLICIES

PREAMBLE TO APPENDIX ON BOT-UFF POLICIES

In accordance with the Agreement between the University and the United Faculty of Florida – FIU Chapter dated July 26, 2005, the parties have converted thirteen articles appearing in the BOT-UFF Collective Bargaining Agreement into the BOT-UFF Policies ("Policies") that are contained in this Appendix through collective bargaining negotiations. These resulting Policies are binding upon the parties and cannot be changed except by collective bargaining for a term coextensive with the duration of the BOT-UFF Collective Bargaining Agreement ("BOT-UFF Agreement"). The Policies shall be enforced through the Policy on Neutral Internal Resolution of Policy Disputes that is included in this Appendix.

The parties recognize that during the term of the collective bargaining agreement, circumstances may require the amendment or clarification of one or more of the policies found in Appendix G. Under such circumstances the union is authorized to negotiate and enter into memoranda of agreement to amend or clarify a policy or policies contained in Appendix G without having the memorandum or memoranda ratified by the bargaining unit members.

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

BOT-UFF Policy 1 APPOINTMENT

P1.1 Purpose: To establish policy and procedures governing appointment of applicants for new and vacant positions and employees

P1.2 Policy:

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

P1.3 Procedures:

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

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

(1) Date;

(2) Rank and/or Title and bargaining unit appointment status;

(3) Employment unit (e.g., department, college, institute, area, center, etc.);

(4) The length of the appointment and starting date;

(5) Special conditions of employment;

(6) The duties and responsibilities of the employee;

(7) A statement that the position is (1) tenured, (2) non-tenure earning, or (3) tenure-earning (specifying prior service in another institution to be credited toward tenure), or (4) a fixed multi-year appointment;

(8) A statement that the employee's acceptance of and/or signature on the letter of offer shall not be deemed a waiver of the right to process a grievance with respect thereto in compliance with the BOT-UFF Agreement or a complaint in compliance with the BOT-UFF Process for Neutral, Internal Resolution of Policy Disputes, as appropriate.

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

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

(11) Percent of full-time effort (FTE) assigned;

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

(13) The formula by which an annual salary shall be converted to an academic year salary, if applicable.

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

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

(16) Principal place of employment.

(c) **Annual Notice of Length of Appointment and Salary.** No later than the receipt date of the first paycheck of the employee's subsequent annual appointment and summer appointment, each employee shall receive written notice of the beginning and ending dates of that appointment and the salary rate at which the employee is to be paid during that appointment, including the number of pay periods during the appointment and the employee's biweekly rate of pay.

(d) **Appointments.**

(1) Change in Appointments.
If at any time during the employee's employment at FIU any change is proposed in any term or condition of the initial appointment contained in the letter of offer, reasonable advance written notice of each such proposed change must be provided to the employee. If the proposed change requires notice in accordance with the terms set forth in any applicable provision of the BOT-UFF Agreement or any applicable BOT-UFF Policy, the period required for reasonable advance notice shall be as set forth in the applicable Agreement or Policy.

(2) Summer Appointments.

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

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

c) Compensation for supplemental summer instructional appointments shall be as follows:

1) Course sections assigned as part of supplemental summer appointments that are not offered through auxiliary academic programs shall be compensated at 12.5% of the employee's nine-month base salary for each course assigned based on three (3) credit hours courses. Compensation for courses of more or fewer than three (3) credit hours shall be prorated.
2) Course sections assigned as part of a supplemental summer appointment that are offered through auxiliary academic programs shall be compensated at rates established by the respective program.
   a. These rates shall be set at no less than the fall/spring overload course equivalent for the individual program.
   b. On a yearly basis, the University will provide the UFF-FIU the complete auxiliary academic course rate schedule by the beginning of Fall semester for current fiscal year.

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

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

f) The instructional FTE assignment described in 5(b)(4) above shall include normal activities related to such an instructional assignment as defined by the department/unit and the nature of the course, such as office hours, course preparation, minor curriculum development, lectures, and grading. In addition, during any summer term (A, B or C) in which an employee has a summer instructional appointment, the employee may be required to attend no more than two (2) hours of department/unit or university meetings required for collegial activities of particular urgency.

(3) Extra Compensation Appointments.
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.

(4) Visiting Appointments.
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 appointments not to exceed a total of four (4) consecutive years.

(5) Adjunct Appointments.
The use of adjuncts at a University shall, upon the request of the UFF-FIU be a subject of consultation under the provisions of the BOT-UFF Agreement.

(6) Fixed Multi-Year Appointments

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

1) Instructors, Senior Instructors, University Instructors, Lecturers, Senior Lecturers, and University Lecturers;
2) Assistant Teaching Professors, Associate Teaching Professors, and Teaching Professors;
3) Non-tenured or non-tenure earning Assistant Librarians, Associate Librarians, Librarians, Curators and Counselors/Advisors;
4) Scholars/Scientists, Research Associates, and Associate In/Assistant In ;
5) Clinical Faculty;
6) Individuals who have officially retired from FIU and who are at least 55 years of age;

7) Tenured employees who decide to give up their tenured status to take advantage of whatever incentives might be offered by a fixed multi-year appointment;
8) Individuals who have held the rank of full professor for at least seven (7) years at an institution of higher education; and
9) Individuals with substantial, highly specialized professional experience who do not have terminal degrees that would qualify them for tenure-earning positions.

b) Employees holding such fixed multi-year appointments may be terminated early under the provisions of Article 8 Layoff and Recall and under the BOT-UFF Policy on Disciplinary Action.

c) Successive fixed multi-year appointments may be offered to eligible employees hired pursuant to Section (d)(6)a), above, as follows:

1) Criteria used to determine in which instances to offer successive appointments include consideration of the basis for the initial fixed multi-year appointment, evaluation of performance, professional growth, extent and currency of professional qualifications, contribution to the mission of the department or program, staffing needs, funding source alternatives, and continuing program considerations. Such criteria shall be in writing and available to all eligible employees.

2) The employee will be advised in the penultimate year of the appointment that to be considered for a successive fixed multiyear appointment, the employee must submit a request and written documentation pursuant to written procedures established by the University. The University shall notify the employee in writing of its decision to offer or not offer a successive appointment by the beginning of the final year of the employee's current appointment.

(7) Reclassification of an Employee to a Non-Unit Classification. Employees shall be provided written notice at least thirty (30) days in advance, where practicable, with a copy to the UFF-FIU Chapter, when the University proposes to reclassify the employee to a classification which is not contained in the bargaining unit. The employee may request a review of such action consistent with the provisions of (d)(6)a)15.6(b) and UFF-FIU Chapter may discuss such action pursuant to Article 2, Consultation.

BOT-UFF Policy 2 ASSIGNMENT OF RESPONSIBILITIES

P2.1 **Purpose:** To describe principles and considerations governing assignment of professional responsibilities for employees.

P2.2 Policy:

(a) **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 their supervisor.

(b) **Annual Assignments.** Prior to the beginning of each year of employment, each employee shall be apprised in writing of their 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.

(c) **Considerations in Assignment.**

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

a) the needs of the program or department/unit;

b) the employee's qualifications and experiences, including professional growth and development and preferences;

c) 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

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

e) the assignment in the event that it includes the development of an online course, the time required to prepare the materials, the aptitude of the employee to deliver the online course and the support to be provided.

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

(3) Although the Legislature has described the minimum full academic assignment in terms of twelve (12) contact hours of instruction or equivalent research/scholarship and service, the professional obligation undertaken by an employee will ordinarily be broader than that minimum. In making assignments, the University has the right to determine the types of duties and responsibilities that comprise the professional obligation and to determine the mix or relative proportion of effort an employee may be required to expend on the various components of the obligation. These assignments, including platform of delivery, shall accord with the written policies and/or procedures developed by each department/unit and approved by the university ("Differential Assignment Policies") The employees of each department/unit who are eligible to vote in department/unit governance shall participate in the development of these policies and shall recommend implementation by vote of a majority of at least a quorum of those employees.

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

b) If the Provost or designee determines that the recommended policies are not consistent with the missions and goals of the University, the BOT-UFF Agreement, or relevant University policies, the proposal shall be referred to the department/unit for revision with a written statement of reasons for non-approval. Upon final approval of the Provost or designee, the policies will become effective at the beginning of the next evaluation period unless otherwise agreed.

c) All approved policies, and revisions thereof, shall be kept on file in the department/unit office and may be placed on the University website for access by employees and the UFF-FIU chapter. Upon request, employees in each department/unit shall be provided a copy of that department/unit's current policies for differential assignment.

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

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

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

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

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

(1) For the purpose of applying this principle to promotion, assignments shall be considered over the entire period since the original appointment or since the last promotion, not solely over the period of a single annual assignment. The period under consideration at this University shall not be less than four years.

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

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

(e) **Summer Assignment.** The summer instructional assignment, like that for the academic year, includes normal activities related to such an assignment as defined by the department/unit and the nature of the course, such as office hours, course preparation, minor curriculum development, lectures, and grading.

(f) When a summer instructional appointment immediately follows the academic year appointment, the employee may be assigned reasonable and necessary noninstructional duties related to the summer instructional appointment prior to the conclusion of the academic year appointment.

(g) **Place of Employment.**

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

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

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

(i) Resources.

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

(2) Research Space. Employees who require research space for performance of their assigned responsibilities shall be allocated suitable research space as determined by the University. Every new employee who is promised research space under the terms of his or her letter of offer shall be provided space within the time designated in his or her letter of offer. If occupation of the space is not available within the agreed upon time, the University will provide monthly progress reports to the employee, department chair and Dean with expected availability dates. Employees will be provided at least six (6) months' notice of the need to vacate assigned research space. Tenure-earning employees will retain allocated research space for the first three (3) years of tenure eligibility unless another location is mutually agreed upon.

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

(k) Instructional Technology.

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

a) compensation enhancement and/or adjustment of assignment;
b) availability of support services, including instructional design support;
c) training and development; and
d) necessary equipment.

(2) Online Courses.

a) Definition of an Online Course. For purposes of this Policy, a course is considered online when at least 80% of the class meetings that would be held for a standard classroom course are replaced by online activities. The parties recognize that employee effort spent in the development of online course materials and in providing online instruction may be greater than that associated with similar face-to-face courses and should be taken into consideration, as appropriate, in determining compensation and assignment.

b) Faculty who are assigned an online course shall receive University support in creating and facilitating that course. For the purpose of this subsection only, "University support" shall mean:

1) Access to and use of readily available technology (i.e., laptops, video/audio recording) and information technology support
2) FIU Online instructional design services (i.e., Course design and pedagogical consultation, best practice recommendations, capacity building, course formatting and maintenance support)
3) Access to FIU Online training and development opportunities
4) Any support related to structural course requirements as determined by the Board of Governors, Board of Trustees, or relevant accrediting agencies

c) For purposes of this subsection only, the term “appreciable University support” shall mean the use of special services such as the FIU online instructional design services, equipment, or facilities provided by the University beyond those outlined in P2.2(k)(2)b). for the preparation of online course materials. No faculty member shall be compelled to use appreciable University support in their online instruction, and all faculty must positively affirm their use of appreciable support

1) <u>Online Course Rights and Releases Without Extra Compensation or Course Release.</u> Employees who develop or substantially revise instructional materials for an online course without extra compensation, course release or without appreciable University support maintain full ownership of those online courses. Employees who develop or substantially revise instructional materials for an online course without extra compensation or course release, but with appreciable University maintain full ownership of those online courses, but grants FIU a limited three-year non-exclusive license to allow others to use such course materials to teach an online section of the same course.

2) Online Course Rights and Releases With Extra Compensation or Course Release
Employees who develop or substantially revise instructional materials for an online course with extra compensation, either a three-credit-hour course release or compensation of $500 per credit hour at the discretion of the Supervisor, maintain ownership of the instructional content of the online course, but FIU maintains ownership of the technical design of the online course and has a limited non-exclusive license to allow others the use of some or all of such course materials to teach an online section of the same course for a period of three (3) years.

3) Use of Online Instructional Materials
Except for the use permitted in paragraph 10 of the BOT-UFF Policy on the Assignment of Responsibilities, no employee teaching an online course shall be required as a condition of teaching that course to allow the copying, distribution, public performance or display of the employee's instructional materials or the creation of derivative works based on the employee's instructional materials. FIU shall use reasonable efforts to prevent the unauthorized copying, distribution, performance or display of the employee's instructional materials or the creation of derivative works based on the employee's instructional materials through such means as password protection of access to online courses and technologies that prevent downloading or the retransmission of instructional materials without authorization under this Article or the employee's express consent.

4) Compensation for Online Course Development
Employees who develop or substantially revise instructional materials for an online course without extra compensation, course release, or without appreciable University support and has another individual use substantially all of such materials in a course, will be paid $500 for each time a section of the course is offered up to a maximum of $5,000 per course during the three year limited non-exclusive license period.

d) Assignment percentages and compensation set forth in this paragraph are based on a three-credit-hour course. Assignment percentages and compensation for courses of fewer or more than three credit hours shall be prorated.

e) The parties recognize the need in certain limited circumstances to video capture lectures for the educational benefit of students. Reasonable efforts will be made at the time of annual/semester assignment to accommodate employees who do not wish to have lectures or discussions recorded. If an employee teaches courses in a room equipped for recording of class lectures and discussions, the University will make reasonable efforts to ensure that the recording of the lecture or discussion does not interfere with classroom instruction. Such efforts will include insuring that equipment used for recording is unobtrusive and maintained in good working order and that students in the classroom are informed in advance by the University that lectures and discussions will be recorded and distributed online. No one who is not enrolled in the section(s) being recorded will be granted access to recorded lectures and discussions in that class except as approved by the employee. The University shall make reasonable efforts to insure that recorded lectures cannot be downloaded for further distribution. Following the final examination date published by the University for that Class Section, all student access to recorded lectures and discussions will be blocked and all recordings will be erased unless the employee requests a copy for his or her own use. Such recordings shall not be used to evaluate an employee's teaching unless the employee elects to submit such recordings as part of the annual evaluation process. Notwithstanding the recording or distribution of class lectures or discussion pursuant to this paragraph, the copyright in such instructional material shall remain the property of the employee. Whether or not lectures and discussions are recorded and made available to students online, the employee shall have academic freedom to determine grades, including whether attendance and participation will be a factor in students' grades.

(l) When an employee is assigned to teach a face-to-face, a hybrid course, or an online as an overload assignment, being a course for credit in addition to their full regular assignment, the compensation for the overload assignment will be a minimum of $1,000.00 per credit hour for the course.

BOT-UFF Policy 3 EMPLOYEE PERFORMANCE EVALUATION

P3.1 Purpose:

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

P3.2 Policy

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

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

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

P3.3 Procedures:

(a) General.

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

(2) Observation/Visitation.

a) Supervisory Observation of Classes in all modalities
The employee, if assigned teaching duties, shall be notified at least two (2) weeks in advance of the date, time, and place of any direct classroom observation or visitation made in connection with the employee's annual evaluation. If the employee determines that this date is not appropriate because of the scheduled class activities, the employee may suggest a more appropriate date. Classroom visitation without prior notice, for nonevaluative purposes, may be made with permission of the employee.

b) Supervisory Access to Canvas Course Shells: Requests to access Canvas shells of faculty assigned teaching duties must be approved by the faculty. Such requests and the reason for the requested access must be made in writing at least 2 weeks in advance.

(3) Employee Assistance Programs. 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 evidence of a performance deficiency within the evaluation process described in this Policy, except for information relating to the employee's failure to participate in an employee assistance program consistent with the terms to which the employee and the University have agreed.

(4) Proficiency in Spoken English. Where applicable, employees must, to be involved in classroom instruction, be proficient in the oral use of English. No employee shall be evaluated as deficient in oral English language skills unless proved deficient in accordance with the appropriate procedures and examinations established by Section 1012.93, Florida Statutes, for testing such deficiency.

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

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

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

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

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

(b) Annual Evaluation Procedures.

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

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

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

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

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

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

(4) Upon written request from the employee, the persons responsible for supervising and evaluating an employee shall endeavor to assist the employee in correcting any major performance deficiencies reflected in the employee's annual evaluation.

(c) Sustained Performance Evaluation Procedures.

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

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

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

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

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

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

(a) Third-Year Review Procedures.

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

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

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

(d) Criteria.

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

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

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

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

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

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

BOT-UFF Policy 4 EVALUATION FILE

P4.1 Purpose:

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

P4.2 Policy:

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

(b) Access. An employee may examine the evaluation file, upon reasonable advance notice, during the regular business hours of the office in which the file is kept, normally within the same business day as the employee requests to see it, and under such conditions as are necessary to ensure its integrity and safekeeping. Upon request, an employee may paginate with successive whole numbers the materials in the file and may attach a concise statement in response to any item therein. Upon request, an employee is entitled to one (1) free copy of any material in the evaluation file. Additional copies may be obtained by the employee upon the payment of a reasonable fee for photocopying. A person designated by the employee may examine that employee's evaluation file with the written authorization of the employee concerned, and subject to the same limitations on access that are applicable to the employee.

(c) Use of Evaluative Materials.

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

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

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

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

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

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

(h) Privacy of Social Security Numbers. Generally, University personnel records are public records and under the Sunshine Law are open for public inspection. However, employees' social security numbers are not public records. An individual's social security number must be removed from any record inspected or released in response to a public records request.

BOT-UFF Policy 5 ACCESS TO OFFICIAL PERSONNEL RECORDS

P5.1 Purpose:

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

P5.2 Policy:

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

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

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

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

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

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

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

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

BOT-UFF Policy 6 POLICY NON-REAPPOINTMENT

P6.1 No Property Right. No appointment shall create any right, interest, or expectancy in any other appointment beyond its specific terms, except as provided in Article 8.2 and Article 9 of the BOT-UFF Collective Bargaining Agreement.

P6.2 Notice.

(a) All employees, except those described in Sections (b)(1) and (c) below are entitled to the following written notice that they will not be offered further appointment:

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

(2) For non-tenure track faculty members who are not on a fixed multi-year or visiting appointment the non-reappointment process will be the following.

a) Probation. If a non-tenure track faculty member receives an “Unsatisfactory” overall rating on their Annual Evaluation, they will be placed on a Continued Employment Probation. A Performance Improvement Plan (PIP) shall be required during the Continued Employment Probation period.

1) The PIP will be developed by the faculty member’s supervisor in concert with the faculty member and will be communicated in writing.
2) The PIP will address deficiency that caused the overall "Unsatisfactory" rating and identify specific performance goals for the following year that, if met, will result in at least a “Satisfactory” overall rating on the faculty member’s subsequent Annual Evaluation.
3) The PIP will provide specific performance goals agreed to by the faculty member, the chair and the dean.
4) The PIP must be developed and agreed to in writing by both the faculty member and department chair no later than 30 days prior to the start of the contract period in which the Continued Employment Probation will occur.
5) The PIP will require at least two periodic meetings between the faculty member and the department chair to review the faculty member’s progress. Written appraisals of the progress will be produced by the department chair and shared with the faculty member and dean.

b) In the first Annual Performance Evaluation under the Continued Employment Probation period, the department chair will review the faculty member’s progress in meeting the performance goals agreed to in the PIP. If the performance goals have been met, the Probation will be lifted and the faculty member restored to a normal faculty contract. No additional penalties will attach to the faculty member’s appointment as a result of the probationary term.

c) Non-Reappointment. Notice of non-reappointment may be given to nontenure track faculty members in accordance with (2)(a)(i) and (ii) above only after: 1) the faculty member has been placed on Continued Employment Probation for a year; and 2) over the course of a year of evaluation and consultation, the faculty member on Continued Employment Probation has not met the agreed upon goals of the Performance Improvement Plan; and 3) the faculty member has received a second consecutive “Unsatisfactory” overall rating on their Annual Evaluation or three “Unsatisfactory” overall ratings on their Annual Evaluations over a consecutive five-year period.

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

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

(5) The provision of notice under this section does not provide rights to a summer appointment beyond those provided in “Summer Appointments” section of the BOT-UFF Policy on Appointments.

(b) Employees who are on "soft money," e.g., contracts and grants, sponsored research funds, and grants and donations trust funds, except those described in Section P6.2(a)(4), above, are entitled to the following written notice that they will not be offered further appointment:

(1) For employees in their first five (5) years of continuous University service, no notice need be provided and the statement in (d), below, shall be included in their letter of offer or notice of change in appointment; or

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

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

(d) Employees described in Sections (b)(1) and (c), above, shall have the following statement included in their letter of offer or appointment:

> Your employment under this letter of offer or appointment will cease on the date indicated. No further notice of cessation of employment is required.

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

P6.3 Complaints Regarding Non-Reappointment. The decision to not reappoint is not subject to the BOT-UFF Policy on Neutral, Internal Resolution of Policy Disputes, or the contractual grievance process except that an employee who receives written notice of non-reappointment may contest the decision, pursuant to the Neutral, Internal Resolution of Policy Disputes process because of an alleged violation of a specific term of a BOT-UFF Policy or pursuant to the contractual grievance process because of an alleged violation of the BOT-UFF Agreement or because of an alleged violation of the employee's constitutional rights. Such complaints or grievances must be filed within thirty (30) days of receipt of the statement of the basis for the decision not to reappoint pursuant to Section (2)(e) or receipt of the notice of non-reappointment if no statement is requested.

P6.4 Non-Reappointment Considerations. If the decision not to reappoint was based solely upon adverse financial circumstances, reallocation of resources, reorganization of degree or curriculum offerings or requirements, reorganization of academic or administrative structures, programs, or functions, and/or curtailment or abolition of one or more programs or functions, the University shall take the following actions:

(a) Make a reasonable effort to locate appropriate alternative or equivalent employment within the University; and

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

P6.5 Resignation. An employee who wishes to resign has the professional obligation, when possible, to provide the University with at least one semester's notice. Upon resignation, all consideration for tenure and reappointment shall cease.

P6.6 Notice Document. Notice of appointment and non-reappointment shall not be contained in the same document.

BOT-UFF Policy 7 PROMOTIONS

P7.1 Purpose:

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

P7.2 Policy:

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

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

P7.3 Procedures:

(a) Eligibility: Employees classified as Instructor, Lecturer, Senior Instructor, Senior Lecturer, Instructor Librarian, Assistant University Librarian, Associate University Librarian, Assistant Teaching Professor, Associate Teaching Professor, Assistant Scholar/Scientist/Engineer (Research Assistant Professor), Scholar/Scientist/Engineer (Research Associate Professor), Assistant Professor, Associate Professor, Research Associate, Senior Research Associate, Instructional Specialist, and Senior Instructional Specialist shall be eligible to apply for promotion. Employees appointed with the modifiers "Clinical" or "Professional Practice" shall be eligible for promotion. Employees appointed with the modifier "Visiting" shall not be eligible for promotion.

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

(c) Promotion Criteria and Procedures.

(1) Each college/school and/or department/unit, as its faculty deem appropriate, subject to the approval of the Dean/Director and Provost, shall adopt its own promotion criteria and procedures, consistent with University-wide criteria and procedures, and reflecting the particular mission and disciplinary requirements specific to the academic unit. Policies on the promotion process must include a poll by secret ballot of the members of the employee's department/unit concerning the employee's promotion application, in accordance with criteria for voting set out by the employee's department/unit. Such criteria and procedures, as appropriate to the academic unit, shall provide for promotion to Senior Lecturer, Senior Instructor, University Lecturer, University Instructor, Associate Teaching Professor, Teaching Professor, Assistant University Librarian, Associate University Librarian, University Librarian, Associate Scholar/Scientist/Engineer (Research Associate Professor), Scholar/Scientist/Engineer (Research Professor), Associate Professor, Professor, Research Associate, Senior Research Associate, Instructional Specialist, and Senior Instructional Specialist. In the event that through the University's Strategic Planning process there is a recommendation different than the process defined in this policy, the parties agree to renegotiate this policy without the use of a reopener.

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

(3) In the matter of promotion to Senior Lecturer, Senior Instructor, University Lecturer and University Instructor, Associate Teaching Professor, and Teaching Professor, the Provost, in accordance with the university governance process and subject to consultation with UFF-FIU, shall determine the criteria and procedures. All faculty in the instructor ranks before September 2020 shall be laterally reclassified to an equivalent teaching professor rank. When a lateral reclassification occurs and there is no break in service, time in the Instructor rank shall count towards promotion. In no case will a faculty member be reclassified to an equivalently higher rank without going through the promotion process.

(4) The Promotion File. Prior to the consideration of the employee's promotion, the employee shall have the right to review the contents of the promotion file and may attach a brief response to any material therein. However, each department/unit shall decide by a democratic vote of the tenured and tenure-earning employees and according to that department's/unit's procedures, whether the candidates in its area will have access to the external reviewers' letters. A change in the policy by a new vote shall not become effective until one (1) year following the new vote, unless the employee chooses to have the access to the external letters be subject to the newly adopted policy. It is the responsibility of the employee to see that the file is complete and contains no material misrepresentation by the employee. If any material is added to the promotion file after the commencement of consideration, a copy shall be sent to the employee within five (5) days (by personal delivery or by mail, return receipt requested). The employee may attach a brief response within five (5) days of their receipt of the added material. The file shall not be forwarded until the employee either submits a response or the second five (5) day period expires, whichever occurs first.

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

(d) 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 8 DISCIPLINARY ACTION AND JOB ABANDONMENT

P8.1 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:

(1) incompetence, or

(2) 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.

P8.2 Progressive Discipline. Both parties endorse the principle of progressive discipline as applied to professionals.

P8.3 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 therefore. 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.

P8.4 Notice of Discipline. All notices of disciplinary action shall include a statement of the reasons therefore 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.

P8.5 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.

P8.6 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.

P8.7 Job Abandonment

(a) If an employee is absent without authorized leave for twelve (12) or more consecutive days, excluding officially observed University Holidays or days when the University is officially closed by the directive of the University President or President's designee, 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.

P8.8 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.

P8.9 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.

BOT-UFF Policy 9 LEAVES

P9.1 **Purpose:** To establish policy and procedures concerning employee leaves.

P9.2 **Policy:**

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

(1) 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.

(2) 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.

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

(4) 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.

(5) 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.

(b) 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.

(c) 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.

(d) 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.

(e) Holidays.

(1) 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.

(2) 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.

(3) 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.

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

(1) 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 twelve (12) weeks of leave (or twenty-six (26) weeks of military caregiver 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.

Under FMLA, the University is responsible in all circumstances for designating leaves as FMLA-qualifying when appropriate and providing the designation to the employee within five (5) business days, absent extenuating circumstances, after the University has had sufficient information to determine whether the leave is FMLA-qualifying. FMLA does not allow the University to delay the designation of a FMLA-qualifying leave or designate more than the twelve (12) weeks of leave (or twenty-six (26) weeks of military caregiver leave) as FMLA leave.

(2) Implementation of FMLA Leave Entitlements.

a) An employee, whether salaried or paid from Other Personal Services (OPS), is entitled to twelve (12) weeks of FMLA leave or twenty-six (26) weeks of military caregiver leave within a twelve (12) month period for any qualifying family or medical leave.

b) A salaried employee is entitled to a parental leave for up to twenty-six weeks in accordance with the provisions of Section 7 of this Policy for a birth or adoption of the employee's child. The first twelve (12) weeks of the paid parental leave shall be designated as a FMLA leave if FMLA conditions apply.

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

a) 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 twelve (12) weeks of FMLA leave or twenty-six (26) weeks of military caregiver leave.

b) 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.

(4) Use and Approval of FMLA Leave.

a) 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 twelve (12) weeks of leave (or twenty-six weeks of military caregiver leave) 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.

b) The University may require that the employee use accrued leave with pay prior to requesting leave without pay for the twelve (12) weeks of FMLA leave or the twenty-six (26) weeks of military caregiver 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.

c) 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).

(g) Parental Leave.

(1) An employee, at the employee's request, shall be granted parental leave when the employee 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.

(2) Except as indicated in 7(f), 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 (2) 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 (1) year from the date of the child's birth or placement in the employee's home.

(3) Except as indicated in 7(f), 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 (26) 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 (1) 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.

(4) 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 (26) 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 (o) of this Policy.

a) 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.

b) 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 and/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.

c) 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.

(5) 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.

(6) Once during his or her employment at FIU, at the employee's discretion, the twenty-six (26) consecutive weeks of parental leave may be split and used in two (2) consecutive week intervals. This would allow an employee to use parental leave for the birth or adoption of a child and another parental leave for a subsequent birth or adoption of a child. In no instance can the parental leave be utilized in more than two (2) semesters during the employee's career at FIU.

(7) Subsequent to the use of parental leave, the employee who is on a nine (9) month contract may be required, at the discretion of the University, to return to employment at FIU for two (2) semesters. In the event that the employees fails or refuses to return to employment at FIU, the University may recoup the value of the parental leave that was granted. If the employee is on a twelve (12) month contract, the employee may be required, at the discretion of the University, return to employment for six (6) months or the University may recoup the value of the parental leave that was granted. The recoupment will not apply in circumstances where the employee is not allowed to return to employment by FIU.

(h) 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.

(i) 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 fullpay 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, domestic partner, the grandparents, parents, brothers, sisters, children, and grandchildren of the employee, the employee’s spouse, domestic partner, or other dependents of the employee, employee’s spouse or domestic partner, 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 8(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 reemployed 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.

(j) 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.

(k) 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 (o) 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 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.

(l) Annual Leave

(1) Accrual of Annual Leave.

a) 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.

b) 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.

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

(2) Use and Restoration of Annual Leave.

a) 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.

b) 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 their 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.

c) 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.

(3) Payment for Unused Annual Leave.

a) Upon termination from an annual leave accruing appointment, or transfer from an annual leave accruing appointment to an academic year appointment, 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.

b) 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 fortyfour days (352 hours) of unused annual leave at the calendar rate the employee was accruing as of the employee's last day of work.

c) 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.

d) 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.

(m) Administrative Leaves.

(1) Jury Duty and Court Appearances.

a) 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.

b) 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.

c) 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.

d) 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.

(2) Military Leave.

a) 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) workdays in any one (1) federal fiscal year (October 1 - September 30).

b) 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.

c) Other Military Leave.

1) 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.

2) 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.

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

e) Use of accrued leave is authorized during a military leave without pay in accordance with Section (o) of this Policy.

(3) 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.

(4) 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:

a) 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.

b) 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.

c) 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.

d) Leave for re-examination or treatment with respect to serviceconnected 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.

(5) 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.

(n) Bereavement Leave.

An employee shall be granted up to seven (7) days of leave with pay for a death in the employee's family, defined as spouse, 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 domestic partner, or other comparable significant relationships. 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.

(o) Leave Without Pay.

(1) 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.

(2) 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.

(3) 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.

(4) 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.

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

a) 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:

1) Notwithstanding the provisions of Section 8(i) (1)(b) 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.

2) 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.

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

b) 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 10 WORKS

P10.1 Purpose: To encourage, facilitate, promote and reward the creation and dissemination of original works of scholarship and research, effective pedagogy, and other creative endeavors.

P10.2 Policy:

(a) 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.

(b) Definitions. The following definitions shall apply in this Policy:

(1) 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.

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

(3) "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.

(c) Works.

(1) 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:

a) the ideas came from the employee;
b) the work was not made with the use of University support; and
c) the University is not held responsible for any opinions expressed in the work.

(2) University-Supported Efforts.

a) 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.

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

1) 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

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

P10.3 Procedures:

(a) Works

(1) Works Disclosure.

a) 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.

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

c) 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.

d) 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.

e) Outside Activity.
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 which arise during the course of such outside activity must be approved by the President or designee.

BOT-UFF Policy 11 INVENTIONS

P11.1 Purpose: Central to the mission of Florida International University is the promotion of teaching and research that enhances public service, leads to the discovery of new knowledge and fosters creativity and innovation. Inventions and marketable forms of intellectual property may result from research conducted by personnel and students at the University. It is generally in the best interest of the University and the public to ensure that such intellectual property be appropriately developed. This policy sets forth the circumstances and procedures under which inventions are to be disclosed to the University, and the procedures that the University will employ to review and process such inventions.

P11.2 Policy:

(a) University Authority and Responsibilities. This policy is promulgated pursuant to Florida Statute Sections 1004.22 and 1004.23, the Bayh-Dole Amendments Public Law 96517 entitled “The Patent and Trademark Amendments Act of 1980,” and the Act’s rule revisions having document citation of 83 FR 15954.

(b) Definitions. The following definitions shall apply in this Policy:

(1) An Assignment is a written contract that transfers title to and interest in an Invention, patent or patent application.

(2) Independent Efforts refers to Inventions made using no University Support and made outside the field or discipline in which the employee is employed by the University.

(3) Invention(s) shall have the meaning assigned by the U.S. Patent and Trademark Office; i.e., any art or process (way of doing or making things), machine, manufacture, design, or composition of matter, or any new and useful improvement thereof, or any variety of plant, which is or may be patentable under the patent laws of the United States. (37 CFR 501.3(d)). See http://www.uspto.gov/patent. "Invention" also includes both patentable and non-patentable innovations; any discovery; process; composition of matter; article of manufacture; know-how; design; model; software; database; technological development; biological material, strain, variety, or culture of any organism, or portion, modification, translation, or extension of these items which is or may be patentable, and/or any directly related know how used in connection with these items. An invention is deemed to be "made" when it is conceived or first actually reduced to practice.

(4) Inventor is a person who contributes to the conception of an invention. (A project supervisor is not entitled to Inventor status simply because of his/her/their supervisory role; an inventive contribution is the singular criterion. The determination of who has made an inventive contribution may be difficult when several researchers and students have been involved in a project. If there is doubt concerning a person's inventor status, it is best to grant tentative inventor status at the time of disclosure and such status will be clarified, if and when, a patent application is filed. The term "Inventor" or "Inventors" shall be deemed to each refer to the singular or plural, as appropriate, or interchangeably.

(5) A License is an agreement granting another party the right to make, use and/or sell a patented invention without the transfer of title to the patent.

(6) Royalty is a payment to the owner of an invention for the use of that invention, frequently in the form of a stated percentage of sales.

(7) Royalty-Free is a license wherein the licensee is not required to pay royalties to the owner of an invention under specified conditions.

(8) University Support is any use of University funds, personnel, facilities, confidential information, trade secrets, 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.

(c) Inventions

(1) This Policy and its procedures will not affect any agreements entered into prior to the effective date of this Policy.

(2) University Ownership. As a condition of the University's provision of employment, funds, services, facilities, equipment or materials to the Inventor, the University acquires and retains title to all Inventions made within the scope of University employment or research, or created with University Support or made in the field or discipline in which the Inventor is employed by the University (i.e., the field or discipline in which the Inventor conducts research, teaches, and/or provides service activities for the University). Such Inventions and related rights shall be the property of the University and are hereby assigned to the University by those covered under the scope of this Policy.

(3) Independent Efforts. All Inventions made with Independent Efforts are the property of the Inventor, who has the right to determine the disposition of such Inventions and revenue derived from such Inventions. Nonetheless, the Inventor and the Vice President for the Office of Research and Economic Development (ORED) (or designee) may agree that the patent for such Invention be pursued by the University and the proceeds shared between the University and the Inventor as per the below License Revenue Allocation section.

(4) Inventions Arising from Sponsored Research. Inventions resulting from research funded wholly or in part by an outside sponsor are subject to this policy as modified by the provisions of the research agreement covering such work with the sponsor. Employees engaged in sponsored research are bound by the provisions of the agreement(s) between the University and the sponsor.

Title to any Inventions conceived or first reduced to practice in the course of research supported by federal agencies, industry, or other sponsors generally vest in the University. With respect to federally funded subject Inventions, the Inventor shall hereby assign all right, title and interest in and to each subject Invention made under a federal grant to the University.

If an Inventor is unsure whether an Invention would be University-owned (i.e., an Invention arising out of Independent Efforts), the Inventor should nonetheless disclose the Invention to the Vice President for ORED (or designee), providing all relevant facts necessary to make the determination of whether the invention is University-owned or not. The Vice President for ORED (or designee) shall advise the Inventor in writing whether it appears that the Invention should be regarded as University-owned.

Upon the University's request, the Inventor(s) shall assign his/her/their right in a University-owned Invention to a third-party designee such as an invention management agency designated by the University, or to a sponsor if required by an agreement governing the research. Inventors shall execute documents of assignment and do everything reasonably required to assist the assignee(s) in obtaining, protecting, and maintaining patent or other proprietary rights. At no time, shall the Inventor(s) commit any act that would tend to reduce or defeat the University's interest in the Invention. The Inventor(s) shall take all necessary and reasonable steps to protect the University's interest in the Invention.

(5) Outside Activity and Invention Rights and Obligations. Before engaging in an outside activity, the employee must get approval of any potential conflicts of interest following the University's Conflict of Interest (COI) policy (https://policies.fiu.edu/policy/106). Any requirement that a University employee waive his/her/their or the University's rights to Inventions which may arise during the course of such outside activity must be approved in accordance with the COI Policy prior to the employee engaging in the outside activity. Invention (and other) clauses in consulting agreements must be consistent with both the COI policy and this Policy and with University commitments under sponsored research agreements. An employee who proposes to engage in such outside activity shall furnish a copy of this Policy to the outside employer prior to engaging in the outside activity.

(6) License Revenue Allocation. The University and the Inventor are entitled to income from licensed Inventions; the University on the basis of employment, facilities and other support for the Inventor and the cost of intellectual property administration and protection; and the Inventor on the basis of creative activity, documenting the Invention, and assisting, as necessary, with patent protection process and commercialization.

The Vice President for ORED shall share with Inventor(s) any licensing revenue (without deducting for any patenting, patent maintenance or marketing expenses) received from the licensing of an Invention, the license revenue will be distributed as follows: forty percent (40%) to the Inventor(s), ten percent (10%) to the Inventor(s)'s College, and fifty percent (50%) to the University. The fifty percent (50%) retained by the University shall be used for research purposes and for recovery of expenses related to the patenting and marketing of an Invention.

The University shall make distributions annually. No adjustments of prior distributions will be made.

If there are multiple Inventors, the percentage allocable to each of the Inventors shall be determined amongst the Inventors. If, however, the Inventors cannot reach an agreement on how the forty percent (40%) that the Inventors are allocated will be apportioned amongst the Inventors within ninety (90) days of the Invention being licensed, then the Inventors will automatically receive an equal share. If there are multiple Inventors and Inventors are not in the same College, the sharing amongst the different Colleges of the ten percent (10%) will follow the percentage split the Inventors decide amongst themselves, or if there is no agreement will be equally shared, as the case may be. An Inventor may prospectively waive in writing the receipt of a portion or all of his/her/their share of revenue received by the University under a license. The following conditions apply:

a) The Inventor, at the time of the waiver, may designate his/ her/their laboratory or research program, department, or other University unit as the recipient of the waived amount. The waived funds will be regarded as regular University funds subject to all of the usual and customary legal and administrative requirements of the University.

b) To ensure that the use of the funds is consistent with the broad mission of the University, or to avoid financial imbalances or hardships within or among University units, the Office of the Provost, in consultation with the Vice President for ORED, dean or deans of the involved units must approve a plan for the designation of funds submitted by the Inventor, and, thereafter, may review the use of the funds at any time. It is expected that the waiver plan will be approved only with the concurrence of the dean of the receiving unit.

c) The waiver must be irrevocable during the period proscribed by the Inventor and executed prior to the end of the fiscal year in which the revenue is generated.

d) Funds directed to the Inventor's research laboratory or program may only be used to support research and educational expenses associated with the Inventor's research laboratory or program. The funds must be deposited in a designated account of the Inventor's laboratory for use only for research. Such research expenses must be made conforming to the same rules applicable to direct costs on federally sponsored research grants. Only such direct costs that are customary, allowable and appropriate in supported or organized research may be made from those accounts.

(7) Roles and Responsibilities. The President has designated the Vice President for Research and Economic Development as the officer of the University to administer, apply and interpret the provisions of this policy. The Office of the Vice President for Research and Economic Development shall coordinate the efforts regarding the evaluation and pursuit of legal protection and commercialization of Inventions.

The University and/or the FIU Research Foundation, Inc., as appropriate, shall have the sole authority to determine whether, and if so, the manner in which Inventions shall be commercialized, including but not limited to, negotiating all contracts related to commercialization of the Inventions, such negotiation to be conducted by the Office of the Vice President for Research (or its designee) and Economic Development and the FIU Office of the General Counsel.

(d) Procedures for Inventions

(1) Disclosing an Invention. Inventors shall fully and completely disclose to the Vice President for the Office of Research and Economic Development (ORED) or designee all Inventions which the Inventor(s) develops or discovers:

a) while an employee of the University; or
b) within the employee's field or discipline; or
c) resulting from any work performed by the employee for the University; or
d) by using University Support; or
e) while working on a University supported research project.

Invention Disclosures are to be submitted electronically at http://research.fiu.edu/disclosure/. This link also provides detailed information regarding how to submit the disclosure and the subsequent steps in the process after submission.

The Inventors shall cooperate with ORED during the Invention review and analysis process, and the patent application and commercialization process, if applicable. A complete disclosure is essential for accurate technical evaluation of the Invention, assessment of its commercial feasibility, and determination of its patentability. Moreover, it may be used in preparing a patent application, if it is determined that patent protection will be pursued. Additionally, where dated and witnessed laboratory notebooks are not available, the disclosure serves as proof of the Invention's conception and may help to determine, in any controversy, who conceived the Invention.

(2) University Evaluation and Disposition of Disclosed Invention. After receipt of a full and complete Invention disclosure form, the Vice President for ORED (or designee) shall conduct an invention evaluation process of the technical, legal, and marketing strengths and weaknesses of the Invention. Such evaluation will be done within one-hundred twenty (120) days of the receipt of a full and complete Invention disclosure form being received. This evaluation may be done in consultation with the Inventor(s), the FIU General Counsel's Office, outside counsel, prospective licensees, third-party evaluators or consultants and/or the appointment of such a committee as advisable to assist in the review of the Invention disclosure and to advise on, and recommend, the manner of disposition of the Invention. At the conclusion of such evaluation, the Vice President for ORED (or designee) shall make a determination about the disposition of the Invention. The Vice President for ORED (or designee) shall inform the Inventor of the

University's decision regarding the University's interest in the Invention and the disposition of the same.

The University, at the discretion of the Vice President for ORED (or designee) may dispose of an Invention in some of the following ways:

a) the University may pursue patenting and commercialization of the Invention. The University shall have the sole discretion and right as to all matters concerning the legal protection and commercialization of the Invention including, but not limited to, where and when a patent application shall be filed, what attorney shall be used for the same and negotiating and entering into or modifying an option, a license or other agreement covering the manufacture, importation, use and/or sale of University-owned Inventions;

b) if the University utilized third-party evaluators or consultants to review the Invention disclosure, and a third-party evaluator or consultant exercised an option to seek commercialization of the Invention on a royalty-sharing basis, the University shall, as required by an agreement with the third party-evaluator or consultant, work with the third-party evaluator or consultant on the commercialization of the Invention and share in the royalties derived there from with that third-party evaluator or consultant;

c) if the sponsored research agreement for the project from which the Invention emanated offered the sponsor an option to obtain a license or other rights in an Invention, the University will endeavor to obtain the sponsor's decision regarding the exercise of such rights within the time specified in the sponsored research agreement, or if no time is specified, within a reasonable time;

d) the formation of a commercial enterprise to pursue patenting and/or commercialization of the Invention such as a “start-up” company described below;

e) notwithstanding the manner of disposition of the Invention by the University, the Invention shall at all times be available royalty-free for use by the University and the State of Florida;

f) such other disposition as may be agreed to in writing between the University and the Inventor(s).

(3) Effect of Non-Confidential Invention Disclosures on Patent Protection. Invention disclosures to ORED are made on a confidential basis. As a public institution, the University should undertake sponsored research only when the results can be freely published. However, public disclosure of patentable material may affect some patent rights depending on the timing of those disclosures. A public disclosure may result from the publication of a journal article, the placement of a graduate student thesis in the library, a presentation at a conference, a poster presentation, or the release of technical information to a person not bound by a nondisclosure/ confidentiality agreement. The public disclosure of an Invention prior to filing a patent application may bar obtaining a valid patent. In the U.S. a patent application must be filed within one (1) year of a public disclosure. Most foreign patent rights will be forfeited upon public disclosure of the Invention if a patent application was not previously filed. The best procedure is to file a patent application before public disclosure takes place. The University understands the Inventors' desire for public disclosure of their work and does not wish to impede that dissemination. The University's review of Invention disclosures will be done as expeditiously as possible. In order that such review may be done prior to public disclosure, Inventors are cautioned to submit the Invention disclosure with sufficient lead time prior to anticipated public disclosure so as to allow the University sufficient time to properly review the Invention, decide if a patent application should be filed, and process the application prior to the public disclosure. Once a disclosure is timely made, the Office of the Vice President for Research and Economic Development (or designee) will work as diligently as possible so that faculty may continue with scholarly publication.

There are some reasonable procedures that can address the tension between the desire for public disclosure and preserving patent rights. For example, a thesis that has been catalogued and made accessible may constitute a public disclosure. In order to gain time for patenting consideration, the Inventor or Vice President for ORED (or designee) may petition the Dean of the Graduate School to temporarily withhold public access of the thesis until patenting considerations are evaluated.

Another example is that the University normally will not agree to sponsored research agreements that contain limits on the University researchers' right to publication. However, where patent protection issues are involved, the University may agree that publication may be deferred for a reasonable time during which the University and the sponsor can review the feasibility of patent coverage or other protection on an invention described in the publication. The University may also agree that, when publication of research involving

proprietary data is contemplated by University researchers, the researchers may provide the sponsor with an advance copy of the manuscript prior to publication to allow the sponsor an opportunity to identify any inadvertent disclosure of proprietary or confidential data.

(4) Laboratory Notebooks. Inventors are asked to maintain accurate, timely and witnessed laboratory notebooks as they are helpful in preparing an invention disclosure. It is an expectation that all faculty and staff engaged in original research and inquiry create and maintain contemporaneous accurate records that are witnessed and dated in a routine and systematic matter according to their respective disciplines. These documents should be kept in a manner that allows verification by audit of the timing and content of the information contained therein. Although the United States has moved to a first-to-file system, it is still helpful to keep accurate records in order to document the Invention and establish who the true Inventors of the Invention may be.

(5) Equity in Start-Up Companies. The University may determine that the best course of action with reference to an Invention disposition is to take an equity position in a company that will pursue the patent protection and/or commercialization of the Invention. This equity position may be maintained by the University or by the FIU Research Foundation, Inc. and reference to "University" in this section shall also be deemed to refer to FIU Research Foundation, Inc. Ownership of such equity interests shall be at the sole discretion of the University and in accordance with all applicable securities laws, University policies and procedures, and other applicable laws and regulations. The University shall have the sole and exclusive authority to manage such equity interest including, without limitation, to make all decisions pertaining to liquidations, sales, distributions, and early distributions, including their timing, manner, and method.

One example of this type of situation is where the University receives equity in a start-up or developing business venture as part of a licensing agreement with that start-up for an Invention. Another example might occur when an employee of the University utilizes the expertise and/or technology he/she/their has developed in the course of University employment and assists a business venture in the commercialization of the Invention. (A "start-up" or developing business venture includes corporations, partnerships, or other commercial enterprises.)

There may be situations in which both the University and its employees separately own equity interests in a business venture. In such circumstances, the employee's equity interest is considered to be independent of the University's equity interest and is not held, managed, disposed of, or distributed by the University. The Inventor's equity interest may render the employee ineligible to receive a distribution of a portion of the University-owned equity interest or the proceeds from sale of such.

(6) Release of University Interest in Inventions. At any stage of evaluating a disclosure, applying for a patent, or in the commercialization process of an Invention, if the University has not otherwise assigned to a third party the right to pursue the same, the Vice President for ORED (or designee) may elect to withdraw from further involvement in the patent protection or commercialization of the Invention. At the request of the Inventor in such case, and upon terms mutually agreed upon between the Inventor(s) and the University (i.e., University receiving ten (10%) percent of any commercialization revenue for its support in developing the Invention), the University shall transfer its rights in the Invention to the Inventor(s). In such cases, the Inventor will indemnify and hold harmless the University for any actions, claims or damages resulting from the Invention. If outside funds supported the project leading to the Invention, this transfer is subject to any provisions of a sponsoring agreement. In addition, the transfer shall not affect the right of the University or the State of Florida to royalty-free use of the Invention, nor shall such transfer be granted until all pre-existing commitments to a sponsor, if applicable, with regard to the Invention are fulfilled. After transfer to an employee, the Invention shall be the employee's property and any costs already incurred by the University or on its behalf shall not be assessed against the employee. Note that if the Invention was funded by a federal agency, a release of the invention by the University will be to the federal sponsoring agency as per federal law; the Inventor(s) may then seek title to the invention from the sponsoring federal agency.

BOT-UFF Policy 12 CONFLICT OF INTEREST/OUTSIDE ACTIVITY

P12.1 Purpose:

The University encourages employees to engage in activities supporting their professional development and innovation and furthering the University's mission of high-quality teaching, stateof-the-art research and creative activity, and collaborative engagement with our local and global communities. An employee's primary duty is to the University and to maintain the highest ethical and professional standards. An employee is bound to observe, in all official acts, all applicable federal and state laws, including the State Code of Ethics (Chapter 112, Part III, Florida Statutes), and Board regulations. An employee's Outside Activity (defined below) must not conflict, or appear to conflict, with the employee's obligations to the University.

P12.2 Definitions:

(a) "Outside Activity" shall mean anything a University employee does for an organization or an individual other than the University that is related to the employee's expertise (i.e., not part of the assigned duties or faculty annual assignment). Such activities include those where no compensation has been provided or the third party provides anything of monetary value, other than that provided directly by the University, whether or not the value is readily ascertainable. Such activities include any private practice, private consulting, additional teaching or research, affiliations, activities, interests or collaborative projects with any foreign university, entity, or government, and any involvement in any talent programs (e.g., programs in which the employee has been recruited by a foreign university, entity or government). Reporting an Outside Activity is a requirement; see examples listed in the Policy.

(b) "Conflict of Interest" shall mean an Outside Activity that: (1) constitutes any conflict between the private interests of the employee and the public interests of the University, the Board of Governors, and/or the State of Florida; (2) interferes with the full performance of the employee's professional or institutional responsibilities or obligations; and/or (3) affects the integrity of the University. Conflicts of Interest can also arise when there is either a real or perceived disclosure of intellectual property with entities in which the employee, who may be a creator of the intellectual property, has a personal or financial interest or where the entities may be adverse to the University's interest.

(c) "Conflict of Commitment" shall mean when an employee engages in an Outside Activity that the University determines interferes with the employee's assigned duties or assignment (e.g., involves frequent or prolonged absences from the University on non-University business or activities that engage a substantial portion of the time an employee is expected to spend on assigned duties or University-related activities). A full-time employee should not engage in more than an average of eight (8) hours per work week on an Outside Activity; however, there can still be a conflict of commitment with a lesser time commitment depending on the activity.

(d) "Monitoring Plan" shall mean a written plan to manage a Conflict of Interest/Commitment that provides oversight to the employee's Outside Activity so that the Outside Activity can fall within the manageable Conflict of Interest/Commitment.

P12.3 Policy:

(a) An Outside Activity must be reported so that the University may determine whether an actual or perceived Conflict of Interest/Commitment exists. An Outside Activity does not have to be reported if it is unrelated to the employee's expertise or is not part of the employee's assignment provided that the Outside Activity does not constitute a Conflict of Interest, Conflict of Commitment or involve a Foreign Activity. When in doubt, report the Outside Activity. Below are illustrative examples of some Outside Activities that must be reported and some that generally do not have to be reported.

OUTSIDE ACTIVITY THAT DOES NOT NEED TO BE REPORTED UNLESS THERE IS A CONFLICT OF COMMITMENT OR THE ACTIVITY INVOLVES A FOREIGN ENTITY/PERSON	**OUTSIDE ACTIVITY THAT MUST BE REPORTED**
Volunteering or engaging in community	Compensated or uncompensated

service activities (e.g., coaching youth sports programs, volunteering at church, participating in community clubs/service organizations)	employment, consulting, or other professional services related to the employee's expertise
Engaging in hobbies such as beer brewing	Compensated or uncompensated business leadership roles related to the employee's expertise
Employment outside of the employee's normal working hours (or while taking leave) which is unrelated to the employee's expertise (e.g., selling crafts as a community event)	Management positions or financial interests in outside entities that have or are in the process of having contracts with FIU or that engage in activities that may conflict with FIU activities (e.g., research)
Managing rental properties or other real estate interests	Research to be conducted that is not coordinated with FIU
Participating in scientific or educational conferences or other events while representing FIU	Any Outside Activity including an employment or contractual relationship with a third-party entity which sponsors the employee's research or licenses intellectual property/technology from or to FIU
Reviewing proposals for a federal or state government sponsor or a domestic non-profit organization	Serving as an expert witness or legal consultant
Membership in an academic or professional society that is not serving on the entity's board or performing a fiduciary role	Teaching, research, or other service appointment at another institution
Receiving honors, academic awards, or an honorary degree from a non-profit entity	Writing or editing a publication unless such activity could be considered part of the employee's assignment
Serving as an external member of a thesis or dissertation committee	Receiving from an outside entity any royalties, licensing fees, or other income from patents, copyrights, or other intellectual property related to the employee's expertise
	Receiving income from copyrighted works (e.g., textbooks) that the employee assigns to students in his/her course/program
	Running for public office or holding elected office

(b) A review of the Outside Activity will determine one of the following:

(1) Not a Conflict of Interest/Commitment. When this determination is made, the employee is permitted to engage in the Outside Activity.

(2) A Manageable Conflict of Interest/Commitment. When this determination is made, the University may:

a) require that the employee limit the Outside Activity;

b) require that the employee reduce his/her/their effort for either the Outside Activity or with the University;

c) require that the employee take a leave of absence for the duration of the Outside Activity;

d) permit the activity conditioned on the employee's adherence to the terms of a Monitoring Plan developed by the University to manage the conflict; or

e) implement other measures that the University deems reasonable to eliminate or manage the potential or actual Conflict of Interest/Commitment.

(3) Prohibited Conflict of Interest/Commitment. There are no changes that can be implemented to eliminate or reduce the conflict to a manageable level. In that case, the employee cannot engage in such Outside Activity.

(c) Disclosure of an Outside Activity.

Regardless of whether the Outside Activity occurs during a University assignment or appointment, an employee must disclose the Outside Activity through the Outside Activity/Conflict of Interest form located in the FIU Employee Portal and receive approval from all approvers before engaging in the Outside Activity. The employee is required to disclose under the following circumstances:

(1) After accepting an offer of hire or within thirty (30) days from the date of hire by the University unless the date of hire coincides with the annual disclosure period;

(2) During the annual disclosure period (typically during the fall) even if the employee has no Outside Activity;

(3) Before engaging in or committing to engage in a new Outside Activity which occurs after the annual disclosure period; or

(4) When there has been a significant change in a previously reported Outside Activity.

(d) Failure to Disclose

Employees are not permitted to engage in any Outside Activity without prior approval. Failure to disclose may lead to appropriate discipline. Any employee who is participating in an externally funded sponsored research project is required to disclose or be suspended without pay pending the outcome of an investigation which shall not exceed sixty (60) days. Upon the conclusion of the investigation, FIU may terminate the employee as required by Florida law.

(e) Expedited Dispute Resolution Procedure.

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.

(f) Use of University Resources.

An employee engaging in any Outside Activity shall not use FIU employees, students, facilities, equipment, or services (University resources) in connection with such Outside Activity without prior approval of the President or designee. Approval for the use of University resources may be conditioned upon reimbursement for the use thereof.

(g) 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. Such precautions include, but are not limited to, first obtaining a written license agreement to use any FIU trademarks from FIU External Relations, Strategic Communications and Marketing prior to any FIU trademark being used.

BOT-UFF Policy 13 OTHER EMPLOYEE RIGHTS

P13.1 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.

P13.2 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.

P13.3 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.

P13.4 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.

P13.5 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.

P13.6 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.

P13.7 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 14 PROFESSIONAL DEVELOPMENT LEAVE AND SABBATICALS

P14.1 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.

P14.2 Policy:

(a) 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 nontenure earning employees, subject to the conditions set forth below.

(b) 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 during fiscal years 2011-2012 and 2012-2013. After July 1, 2013, all employees with at least six (6) 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.

(c) Terms of Professional Development Leave.

(1) 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.

(2) Employees will not be eligible for another professional development leave until they complete six (6) additional years of continuous service.

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

(4) 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.

(5) Eligible employees shall accrue vacation leave, if applicable, and sick leave on a fulltime basis during the professional development leave.

(6) 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.

(7) 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.

P14.3 Procedures

(a) Application and Selection.

(1) 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/faculty_resources.html). 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 their 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.

(2) 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 are generally in October/November prior to the academic year beginning in August.

(3) 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.

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

(b) 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.

P14.4 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.

P14.5 Policy:

(a) Types of Sabbaticals:

(1) 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.

(2) 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.

(b) 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, non-competitive sabbaticals, and 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.

(c) Terms of Sabbatical Program:

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

(2) 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 their participation during the sabbatical.

(3) 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.

(4) Employees who have received a 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.

(5) 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.

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

(7) 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.

P14.6 Procedures:

(a) Applications

(1) Applications for sabbaticals must be submitted on the FIU Sabbatical Application Form found on the Academic Affairs website (http://academic.fiu.edu/faculty_resources.html). 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.

(2) 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.

(3) 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 October/November prior to the following academic year beginning in August.

(b) Selection

(1) 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.

(2) If there are more applications for competitive sabbaticals than available competitive sabbaticals, a University Sabbatical Committee elected every two (2) years by and from the tenured employees 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.

(3) 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.

(4) 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.

(c) 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.

P14.7 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.

P14.8 Policy:

(a) 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.

(b) 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 BOTUFF Policy on Leaves, use accrued annual leave for job-related study.

(c) 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 15 BENEFITS

P15.1 Benefits Improvements. The Board and UFF support legislation to provide adequate and affordable health insurance to all employees.

P15.2 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.

P15.3 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.

P15.4 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;

(9) A University e-mail address; and

(10) Emeritus status normally shall be reserved for those employees who retire after a minimum of five years of employment at FIU. An award of emeritus status shall be based on the employee's past contributions to the University and the profession demonstrated through a record of outstanding teaching, research, or service, and to have consistently upheld the principles of academic responsibility as outlined in Article 5 subsection 3. The decision to grant emeritus status shall be made upon the employee's request to his or her chair or supervisor and pursuant to a vote by the faculty within the employee's department/unit according to criteria and procedures developed by employee's college, school or other appropriate academic unit, and subject to the approval of the Dean of the appropriate academic unit and the Provost, which approvals shall not unreasonably be withheld. The University shall act upon the employee's request within sixty (60) days of the beginning of the Fall or Spring semester following the employee's request or within sixty (60) days of the beginning of the Fall or Spring semester following the employee's retirement, whichever is later.

(b) In accordance with University policy, and on a space available basis, the 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.

P15.5 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.

P15.6 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 birthday at which the employee becomes eligible to receive full social security benefits. 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 at least six (6) months 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 of the Florida Retirement System (which includes ORP).

b) Participants shall be offered re-employment, in writing, by the University under an Other Personal Services (OPS) contract for onehalf of the academic year; however, the University and employee may agree to less than one-half of the academic year. The written reemployment 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 (½ 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" means the spouse, domestic partner, and the grandparents, parents, brothers, sisters, children, and grandchildren of the participant, and/or the participant's spouse, domestic partner, or other dependents of the participant, participant's spouse or domestic partner living in the 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 (½ 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 first day of classes of the Fall or Spring semester next following the effective date of retirement and the fulfillment of the six (6) months retirement validation period described in Paragraph 6(B)(iii), above. 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 reemployment, 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 reemployment 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 yearto-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 BOTUFF 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.

P15.7 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 ten (10) credit hours of FIU instruction per term (Fall, Spring, or Summer), with employees enrolling in no more than six (6) credit hours of the total 10 (ten) credit hours per term, without payment of the in-state portion of tuition, tuition differential, or the following fees: financial aid fees, capital improvement trust fund fees, building fees, athletic fees, activity and service fees. Free university courses provided pursuant to this paragraph will be subject to the following conditions:

(a) Dependent children under the age of twenty-five (25) must be admitted to FIU as degree seeking undergraduate or graduate students.

(b) Employees and spouses may enroll either as degree-seeking students or as special students on a space available basis.

(c) An application on the form attached as Appendix G, Attachment 5 (for employee) or as Appendix G, Attachment 6 (for spouse or dependent child under the age of 25) must be provided before the first week of classes to Human Resources, who will verify eligibility for the waiver of tuition and fees.

(d) Employees should discuss with their supervisors their intent to take classes and should schedule classes during non-working hours to ensure there is no conflict with assigned responsibilities. When a desired class cannot be scheduled during non-working hours, the supervisor may allow the employee to use annual leave or modify his or her assignment based on departmental needs.

(e) Enrollment must be in regular lecture or laboratory courses, thesis or dissertation, directed individual studies, directed research courses or internships. College of Law, College of Medicine, and continuing education courses are excluded. The tuition and fee waiver shall not apply to tuition and fees for courses restricted to students who are admitted as majors in the following limited access degree programs that have limited enrollments: Bachelor of Science in Hospitality Management, Bachelor of Science in Nursing, Bachelor of Arts/Fine Arts in Theater, and Bachelor of Science in Dietetics and Nutrition.

(f) A maximum of thirty (30) credits will be covered for dissertation courses (79807989).

(g) A maximum of nine (9) credits will be covered for thesis courses (6970-6979),

(h) The employee will be responsible for paying the tuition and fees for any courses dropped (except for courses dropped on an emergency basis) by the employee, his or her spouse or dependent child under the age of twenty-five (25) after the official Drop/Add period during the first week of classes. If the individual withdraws from the university before the end of the last day to withdraw from the University with a 25% refund of tuition, the employee will be responsible for paying that portion of tuition and fees that is not subject to refund.

(i) A student enrolled in an “A-F” graded course must receive a grade of “C” or better in any undergraduate level course or a grade of “B” or better in any graduate level course. A student enrolled in a “P-F” graded course must receive a “P”. Receipt of a lower grade will result in the employee’s being charged for the course.

P15.8 Tuition Reimbursement

(a) Purpose of Tuition Reimbursement:

To provide employees who do not have the terminal degree the opportunity to increase the employee's value to the University, not as a reward for service.

(b) Policy:

(1) Tuition Reimbursement. The University will reimburse eligible employees who lack a terminal degree reimbursement for tuition expenses incurred while earning a terminal degree at another fully accredited university, subject to the conditions set forth below. The University is not required to accept more than seven (7) employees for this program in any academic year.

(2) The reimbursement shall not exceed the equivalent tuition cost of up to six (6) credits per semester at FIU.

(3) Eligibility. All employees with two (2) or more years of full-time continuous service at FIU and who do not hold a terminal degree in their discipline shall be eligible to apply for tuition reimbursement under this program.

(4) Terms of Tuition Reimbursement. The employee must return to the University for at least one (1) academic year following the reimbursement, if requested by the University. If this condition is not met the employee may be required to return to the University the full amount reimbursed under this program.

P15.9 Procedures

(a) Application and Selection.

(1) Application for tuition reimbursement shall be submitted on the Application Form found on the Academic Affairs website provost.fiu.edu. Each application shall contain a vita showing educational background and documentation of acceptance into the terminal degree program and a statement that the applicant agrees to comply with the conditions of the tuition reimbursement program. The applicant's supervisor may submit a letter of endorsement supporting the request and noting expected benefits to the unit.

(2) 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 date shall be April 1.

(3) If there are more qualified applicants than the University will fund in a given year, the Provost will appoint a committee that will evaluate and rank order the applications. This may be the same committee as appointed to evaluate and recommend Professional Development leave applications. 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. The committee shall submit a ranked list of recommended employees to the Provost or designee. The Provost or designee shall make selections 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 selection.

(b) Notification of employees. Eligible employees shall be notified annually by November 1 regarding eligibility requirements and application deadlines.

(c) At the completion of each semester while enrolled in the terminal degree program, the employee must present documentation to the Provost or designee showing the successful completion of the course(s), progress toward the degree, and the tuition cost incurred. The University will reimburse the employee for the documented tuition expense for those courses, subject to the conditions set forth in this article. The reimbursement will be paid to the employee within 60 days of receipt of this documentation.

P15.10 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.

P15.11 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.

BOT-UFF Policy 16 NEUTRAL, INTERNAL RESOLUTION OF POLICY DISPUTES

P16.1 Purpose:

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

P16.2 Policy:

(a) 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.

(b) Resort to Other Procedures and Election of Remedy.

(1) 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.

(2) 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.

(c) Definitions and Forms. As used in this Policy:

(1) 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.

(2) 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 BOTUFF 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.

(3) 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.

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

(d) **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.

(e) **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.

(f) **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.

(g) Appearances.

(1) 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.

(2) 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.

P16.3 Procedures:

(a) Filing.

(1) A complaint shall be filed with the Provost or designee at Step 1 within fortyfive (45) 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 forty-five (45) 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 and shall 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 BOTUFF 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.

(f) 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.

(g) 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.

(h) Processing.

(1) 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.

(2) 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.

(i) 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.

(j) 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.

(k) Expedited Dispute Resolution Procedure for Conflict of Interest/Outside Activity.

(1) 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.

(2) 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.

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

(l) 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.

(1) 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.

(2) 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.

(3) 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.

(4) 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.

(5) 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.

(6) 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.

(7) 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 panelists shall hear the complaint. This meeting shall be scheduled for no later than seven (7) days after filing of the completed ADR Form.

(8) 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.

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

(10) 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.

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

a) 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.

b) 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.

c) 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.

d) 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.

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