



Item: V.a.

**Thursday, June 27, 2013**

**SUBJECT:** Ratification of 2012-2015 FAU BOT/UFF Collective Bargaining Agreement

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**PROPOSED BOARD ACTION**

Ratification of 2012-2015 Collective Bargaining Agreement between the Florida Atlantic University Board of Trustees and the United Faculty of Florida at FAU (UFF).

**BACKGROUND INFORMATION**

The current UFF contract expired June 30, 2012. The parties negotiated and met at the bargaining table beginning April 13, 2012 and finally reached tentative agreement on all articles April 26, 2013. The BOT Personnel and Compensation Committee has provided guidance throughout the process. Trustees Feder and Teske served as Chairs of the Committee during the negotiations.

The new Collective Bargaining Agreement will be in effect until June 30, 2015. Material changes were made in articles involving evaluations, limited access records, layoff, discipline, leave, arbitration and benefits. No salary increases beyond regular promotional steps were offered for FAU faculty, and a merit adjustment was offered to FAU Schools ("FAUS") teachers (not from E&G funds).

Among the many components of the new contract, some of the substantive changes from the prior agreement are described herein. Chairs will have additional time to complete annual evaluations and a post-tenure review program will be instituted by the Provost's office (Article 10). Faculty limited access records will not be made available to union representatives unless agreed to by the employee identified (Article 11). Notice of non-reappointment provisions were clarified (Article 12). FAUS employees' layoff criteria must include merit and not simply seniority, in accordance with new state law (Article 13). Faculty may be separated from employment for missing consecutive classes unexcused (Article 16). A new paid parental leave benefit was created in exchange for the phased elimination of sick leave payout (Article 17). A state union official's approval is now necessary to advance a grievance to the arbitration stage (Article 20). No merit, equity, or across-the-board/cost of living salary increases are provided, only recurring promotional increases; FAUS teachers will receive a fixed sum increase from the separate laboratory school funding (Article 23). Faculty may participate in domestic partner benefits when offered to other employees, and phased retirement and leave payout provisions

are clarified (Article 24). Summer pay and post-tenure review program provisions are opened for renewed negotiations along with the wages and two optional other articles (Article 30). The ability to use electronic communications for notification is clarified (Article 32).

This proposed 2012-2015 Collective Bargaining Agreement has been ratified by the membership of the UFF on June 11, 2013 with a 96% approval. The final agreement is being presented to the Board for ratification as the statutory employer.

#### **IMPLEMENTATION PLAN/DATE**

Effective upon Board of Trustees approval.

#### **FISCAL IMPLICATIONS**

UFF employees' promotional increases funded by the FAU E&G Budget; and FAUS employee salary increases funded by its special appropriated budget.

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Supporting Documentation: Proposed Collective Bargaining Agreement

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**\* \* PROPOSED \* \***

FLORIDA ATLANTIC UNIVERSITY  
BOARD OF TRUSTEES/UNITED FACULTY OF FLORIDA  
COLLECTIVE BARGAINING AGREEMENT  
2012-2015

PREAMBLE

The intent of the parties hereto 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 FAU and to maintain high standards of academic excellence in all phases of instruction, research, and service. The parties concur that these objectives are facilitated by amicable adjustment of matters of mutual interest. It is recognized by the parties that mutual benefits are to be derived from continual improvement at FAU, and that participation of faculty and professional employees in the formulation of policies under which they provide their services is educationally sound.

While the United Faculty of Florida (hereinafter UFF), as the certified bargaining agent, retains the exclusive right to negotiate and reach agreement on terms and conditions of employment for the members of the bargaining unit, and the FAU Board of Trustees (hereinafter the Board) retains its rights, under law, to manage and direct the parties, recognize the desirability of a collegial governance system for faculty and professional employees in areas of academic concern. It is desirable that the collegial system of shared governance be maintained and strengthened throughout FAU so that employees will have a mechanism and procedure, independent of the collective bargaining process, for making recommendations to appropriate administrative officials.

Collegiality in academic governance can best be accomplished through senates selected by representatives of the appropriate campus constituencies in accordance with FAU's University Faculty Senate constitution and tradition. Appropriate matters of concern should be brought before the Senate by its members or steering committee, or by the President of the University or designated representatives. Among matters which may be of concern to Senates include: (a) curriculum policy and curricular structure; (b) requirements for degrees and granting of degrees; (c) policies for recruitment, admission, and retention of students; (d) the development, curtailment, discontinuance, or reorganization of academic programs; (e) grading policies; and (f) other matters of traditional concern.

In such a collegial system, departments or other traditional governance structures should play an active and responsible role in academic matters, including significant involvement in the recruitment of new faculty and

professional employees, the development of high quality programs, participation in the development of tenure, promotion, and merit salary increase criteria, participation in the selection of instructional and library materials, and other matters of professional concern. The collegial relationship is most effective when peers work critically together to carry out their duties in the most professional manner possible.

In recognition of the importance of the collegial system of governance described herein, the President or their representatives shall confer regularly with representatives from the FAU Senate or equivalent bodies.

This Preamble is a statement of intent and policy and is, therefore, not subject to Article 20, Grievance Procedure.

## ARTICLE 1 RECOGNITION

1.1 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 as specifically set forth in this Agreement, for all employees in the bargaining unit pursuant to Certification Order Number 04E-010, dated January 9, 2004. Attached as Appendix "A," for information purposes only and not made a part of the Agreement, is the listing of titles included in the General Faculty bargaining unit.

1.2 Board and University Regulations and Policies.

(a) If there is an inconsistency between an existing University regulation or policy or Board regulation or policy and an express provision of this Agreement, the Board agrees to follow the language of the Agreement.

(b) No new, existing or amended Board or University regulation, policy, or resolution shall apply to employees if it conflicts with an express term of the Agreement.

(c) The Board shall provide to the UFF advance copy of any proposed regulation or policy changing a term or condition of employment contained in this Agreement. The Board or the University, as the case may be, shall provide the advance copy of a proposed regulation no later than the notice period under the provisions of the Regulation Development Procedure for State University Boards of Trustees. The advance copy of a policy shall be provided to the UFF, at least two (2) weeks in advance of its effective date so as to permit the UFF to seek consultation with respect to it. With respect to a regulation adopted pursuant to the emergency provisions of the Regulation Development Procedure, 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 of this Agreement, the UFF shall not be denied the opportunity to address the matter.

(e) If any proposed regulation, policy, or resolution would modify an express term of this Agreement, the Board or its designee shall engage in collective bargaining with respect to the change upon the UFF's request.

1.3 Right to Hear Views. Nothing contained in this Agreement shall be construed to prevent the Board or the University 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 of this Agreement, any changes or modification shall be made only through negotiation and agreement with the UFF.

## ARTICLE 2 CONSULTATION

2.1 Consultation with President. The President or the designated representatives 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 unique to the University, or any other mutually agreeable matters. Such meetings shall occur once (1) per semester in the academic year and once (1) 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.

2.2 FAUS Consultation. The Executive Director of the A.D. Henderson University School and the FAU High School (collectively referred to herein) as "Florida Atlantic University Schools" or "FAUS" or his or her representative shall meet with the FAU UFF Chapter representatives to discuss matters pertinent to the implementation or administration of this Agreement, University actions affecting terms and conditions of employment unique to the University or the FAUS, or any other mutually agreeable matters. Such meetings shall occur once (1) per semester in the academic year, 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. This section shall not preclude FAUS issues from being raised at the consultations described in Sections 2.1, above. 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.

### ARTICLE 3 FAU CHAPTER UFF PRIVILEGES

3.1 Use of Facilities and Services. Subject to the regulations of the Board and University policies, the UFF 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.

3.2 Communications.

(a) The University will place a link in an appropriate place on the University web site to the web site of the FAU Chapter of UFF.

(b) Accessing existing University e-mail listservs or establishing a new listserv allowing the UFF electronic communications with employees shall be the subject of consultation pursuant to Article 2, Consultation. UFF agrees to pay a reasonable annual fee to the University if access to a University maintained e-mail listserv is provided. However, such listservs may not be used for election campaigns for public office or for exclusive collective bargaining representation. Employees who are e-mail recipients of the listserv shall have the right to have themselves removed from the listserv upon their written request.

3.3 Leave of Absence -- Union Activity.

(a) At the written request of the UFF, 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 three (3) employees designated by the UFF for the purpose of carrying out UFF's obligations in representing employees and administering this Agreement, including lobbying and other political representation. Such leave may also be granted to up to two (2) employees for the entire summer term, upon written request by the UFF provided no later than March 15 of the preceding academic year. Upon the failure of the UFF to provide the Board with a list of designees by the specified deadlines, the Board may refuse to honor any of the requests which were submitted late.

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

(c) Employees on full-time leave under this paragraph shall be eligible to receive salary increases in accordance with the provisions of Section 17.3. Employees on less than full-time leave under this paragraph shall be eligible to receive salary increases on the same basis as other employees.

(d) 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. Four (4) employees, designated by the UFF, shall be exempt from the provisions of this subsection. Other exceptions may be granted at the discretion of the Board upon prior written request by the UFF.

(e) 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.

(f) 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.

### 3.4 Released Time.

(a) Defined. A "Unit" of released time shall consist of a reduction in teaching load of one course for Fall or Spring semester or a 25% reduction in academic assignment for Fall or Spring semester for instructional employees or, for non-teaching employees, a reduction in workload of ten (10) hours per week. The employee and the Chair/Dean, will decide how to implement the released time.

#### (b) Types.

1. Representation and Contract Administration. The Board agrees to provide a total of two (2) units of released time for both Fall and Spring Semesters and one unit of released time for Summer to full-time employees designated by the UFF for the purpose of carrying out the UFF's obligations in representing employees and administering this Agreement. The UFF may designate employees to receive released time during the academic year, subject to the following conditions: no more than one (1) employee per fifteen (15) employees 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. The UFF shall provide the Board with a list of requested designees for the academic year no later than May 4-15 of the preceding academic year. Upon the failure of the UFF to provide the Board with a list of designees by the specified deadlines, the Board may refuse to honor any of the requests which were submitted late. Upon approval of the designees by the Board, the designees shall serve for one (1) academic year. Substitutions for the spring semester may be made upon written notification submitted by the UFF to the Board no later than October 15.

2. Collective Bargaining Released Time. The Board will provide released time for a bargaining team representing the UFF for the

purposes of engaging in collective bargaining upon the expiration of the contract. Released time will be provided to no more than four (4) members. Collective bargaining released time will be provided during the Spring ~~2012-2015~~ semester. Released time will consist of four (4) units as defined in Section 3.4(a). A designated FAUS employee may be released for collective bargaining negotiation sessions, with at least two days prior administrative approval. The UFF shall provide the Board with a list of team members no later than May 15, 2014. Changes to the collective bargaining team members list may be made upon written notification submitted by the UFF to the Provost no later than September 1, 2014. Upon the failure of the UFF to provide the Board with a list of designees by the specified deadlines, the Board may refuse to honor any of the requests which were submitted late.

(c) Released time shall be used for conducting UFF business and shall not be used for lobbying or other political representation. Leave for lobbying or other political representation may be purchased by the UFF pursuant to Section 3.3.

(d) Eligibility. Except for Section 3.3, Leaves, employees who are on leave of any kind, shall not be eligible to receive released time. Upon the failure of the UFF to provide a list of designees by the specified deadlines, the Board may refuse to honor any of the released time requests which were submitted late. Substitutions submitted after the October 15 deadline shall be allowed at the discretion of the Board. An employee who has been granted released time for either or both semesters during four (4) consecutive academic years shall not again be eligible for released time until two (2) academic years have elapsed following the end of the fourth academic year in which such released time was granted.

(e) Rights and Responsibilities. 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 by the University in making personnel decisions. 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. The UFF agrees to hold the University and Board harmless for any claims arising from such activities, including the cost of defending against such claims.

### 3.6 Board of Trustees Meetings.

(a) The Board shall make available to the UFF 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 the Board meetings at the time they are made available to the general public.

(b) If the Board places an action item on its agenda that implicates collective bargaining, the UFF will be allowed on the agenda subject to the



Board's established protocol for its meetings and the authority of the Chair to conduct the proceedings.

#### ARTICLE 4 RESERVED RIGHTS

4.1 Policy. The Board retains and reserves to itself the rights, powers, and authority vested in it, including the right to plan, manage, and control FAU and in all respects carry out the ordinary and customary functions of management.

4.2 Limitations. All such rights, powers, and authority are retained by the Board, subject to those limitations imposed by this Agreement. Only violations of such limitations shall be subject to Article 20, Grievance Procedure.

#### ARTICLE 5 ACADEMIC FREEDOM AND RESPONSIBILITY

5.1 Policy. The Board, the University, and the UFF are committed to maintaining and encouraging full academic freedom. Academic freedom and academic responsibility are twin guardians of the integrity of institutions of higher learning. This integrity is essential to the preservation of a free society and explains the willingness of society historically to accept the concept of academic freedom and, in addition, to protect it through the institution of academic tenure.

5.2 Academic Freedom. The principal elements of academic freedom include the freedom to:

(a) Present and discuss academic subjects, frankly and forthrightly, without fear of censorship, and to select instructional materials and determine grades in accordance with Board and University policies. The objective and skillful exposition of subject matter, including the acknowledgement of a variety of scholarly opinions, is the duty of every employee.

(b) Engage in scholarly and creative activity, and to publish results in a manner consistent with professional obligations.

(c) Speak freely on, and seek changes in, academic and institutional policies.

(d) Exercise constitutional rights without institutional censorship or discipline.

5.3 Academic Responsibility. Freedom entails responsibilities. The Board of Trustees, the University, and the UFF accept responsibilities to: (1) scholarship, (2) students and colleagues, (3) the University, and (4) the larger community

which the University serves. These responsibilities include:

(a) Scholarly responsibility to be forthright and honest in the creation and communication of scientific and scholarly knowledge and to uphold the ethical standards of their discipline.

(b) Respecting the relationship between professor and student: adhere to the proper role as teacher, researcher, intellectual mentor, and academic advisor; respect students, staff, and colleagues and treat them with behavior free from discrimination; recognize their right to enjoy full academic freedom; and respect the integrity of the evaluation process with regard to students, staff, and colleagues.

(c) Contributing to the orderly and effective functioning of the academic unit (program, department, school, and/or college) and/or the University by adhering to the principles of shared governance. The Board of Trustees and their representatives have responsibilities that include, but are not limited to, promoting intellectual growth, the rights of employees, and academic freedom.

(d) Recognizing that faculty, as members of the community, have rights and duties. When speaking on any matter of public interest, a faculty member shall make clear when comments represent personal opinions and when they represent official University positions.

## ARTICLE 6 NONDISCRIMINATION

6.1 Statement of Intent. The Board and the UFF shall 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 FAU and recognize that the purpose of affirmative action is to provide equal opportunity to women, minorities, and other affected groups to achieve equality within FAU. 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, continuing multi-year appointments, successive fixed multi-year appointments, promotion, sabbaticals, and other benefits. This statement of intent is not subject to Article 20, Grievance Procedure. Nothing in this Article is intended to alter the eligibility requirements for benefits provided by the University.

6.2 Policy.

(a) Discrimination.

(1) Personnel decisions shall be based solely on job-related criteria and performance.

(2) Furthermore, neither the Board nor the UFF shall discriminate against any faculty member based upon race, color, [sexgender](#), religious creed, national origin, age, veteran status, disability, political affiliation, sexual orientation, [gender identity and expression](#), or marital status, nor shall the Board or the UFF abridge any rights of faculty members 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, or the exercise of any rights under this Agreement.

(3) Should state or federal law establish any additional protected category for claims of discrimination during the term of this Agreement, the Board and the UFF agree to modify the Agreement pursuant to Article 31.3. [Disparate treatment on the basis of a class not protected by federal or state law may not be grieved if such disparate treatment is required by federal or state law.](#)

(b) Sexual Harassment.

(1) Sexual harassment is a prohibited form of sex discrimination. Sexual harassment in the employment context is defined 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 determined, supervised or evaluated by the employee and are prohibited (see Section 5.3). These relationships may also involve a conflict of interest (see Article 19).

(c) 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 of

the Office of Equal Opportunity Programs. 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.

6.3 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. An employee may examine such files, upon reasonable advance notice, during regular business hours of the office in which the file is kept, under such conditions as are necessary to insure its integrity and safekeeping. The University may charge for copies of documents in accordance with law, rule, University procedures, and this Agreement.

6.4 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.

## ARTICLE 7 MINUTES, RULES, AND BUDGETS

7.1 Board and University Documents.

(a) The Board shall make available to the UFF with timely written or electronic copy of the following:

- (1) The minutes and agendas of the meetings of the Board and its subcommittees;
- (2) Board regulations published under the Regulation Development Procedure; and
- (3) Copies of the BOT/UFF Agreement and all supplements to the Agreement, consistent with the provisions of Section 28.5.

The Board shall create an electronic report and shall provide an electronic report to the UFF which reflects the annual salary increases provided to employees. The cost associated with the UFF's use of such file shall be borne by the UFF consistent with the costs charged others.

(b) The University shall ensure that a dated copy of the following documents is made available in an easily accessible location in its main library or by links on the University Web site as soon as promulgated:

- (1) The minutes of the meetings of the Board;
- (2) Board Regulations and the University's policies; and
- (3) The University's operating budget, including the previous year's expenditure analysis.

7.2 FAUS Documents. A dated copy of the following documents shall be available for employee inspection in an easily accessible location ~~at the FAUS or~~ on the FAUS website and the UFF Chapter shall be notified of such location:

- (a) The minutes of the FAUS Advisory Body;
- (b) The FAUS operating budget, including financial support received by the FAUS from the University, and the allocation of student activity and service fees, and
- (c) A ~~copy of those provisions of~~ link to the Florida Statutes and Board, University, and Education rules applicable to FAUS.

## ARTICLE 8 APPOINTMENT

8.1 Policy. The Board shall exercise its authority to determine standards, qualifications, and criteria in order to fill bargaining unit vacancies with the best possible candidates. ~~The University shall advertise such appointment vacancies, receive applications and screen candidates, and make appointments as it deems appropriate under such standards, qualifications, and criteria. The University also shall try to identify and seek qualified women and minority candidates for vacancies and new positions as well as employees of lower or equivalent ranks, employees who are spouses of employees, and employees who are local residents who shall not, in the hiring process, be disadvantaged for that reason. All employees who are 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 negotiations 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 which have resulted from the review of candidates by employees in the department/unit.

8.2 Offer of Employment. A successful applicant will receive a letter offering employment and providing, among other information, name, starting date, employment unit, salary, tenure or non-tenure status, credit towards tenure, and principal place of employment.

8.3 Notice of Appointment. Prior to the beginning of employment and, subsequently, upon a significant change in status (i.e., items a, e, g, i, m below and any special salary increases), each employee will receive a Notice of

Appointment signed by the President or his/her representative and the employee. The University may enclose informational addenda, except that such addenda may not abridge the employee's rights or benefits provided in this Agreement. The University Notice of Appointment shall contain the following elements:

(a) Professional Classification System title, class code, rank and appointment type;

(b) Employment unit (e.g., department, school, college, institute, center, etc.)

(c) The dates of appointment;

(d) Special conditions of employment;

(e) A statement that the position is (1) tenured, (2) non-tenure earning, ~~or (3) tenure-earning,~~ (4) non-permanent status earning, or (5) permanent status;

(f) A statement that the employee's signature on the Notice of Appointment shall not be deemed a waiver of the right to process a grievance with respect thereto in compliance with Article 20;

(g) A statement about notice provisions.

(h) A statement that the appointment is subject to the Constitution and laws of the State of Florida and the United States, the Regulations of the Board and the University, and this Agreement;

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

(j) Salary rate;

(k) ~~The A statement of non-discrimination conforming with Article 6; "The BOT/UFF Collective Bargaining Agreement (Article 6) prohibits discrimination against any employee based upon race, color, sex, religious creed, national origin, age, veteran status, disability, political affiliation, marital status, or employee rights related to union activity as granted under Chapter 447, Florida Statutes. Claims of discrimination by the Board or the University may be presented as grievances pursuant to Article 20, Grievance Procedure."~~

(l) A statement informing the employee of the obligation to report outside activity and conflict of interest under the provisions of Article 19 and the Agreement; and

(m) Principal place of employment.

#### 8.4 Appointments.

(a) The academic year appointment for faculty shall be for 39 weeks. In cases where the mission of the unit warrants the conversion from an academic year appointment to a calendar year appointment, the salary conversion will be done proportionally. Non-teaching in-unit eNon-teaching employees may be appointed for periods between nine and twelve months by mutual agreement. Such appointments will be eligible for annual leave on a proportional basis.

(b) Supplemental Summer Appointments.

(1) Policy. In recognition of the demonstrated quality and expertise of

the FAU faculty, the University, at its discretion, shall endeavor, within the confines of curricular needs, student demand, and available funding, to maximize faculty teaching assignments. No employee shall be obligated to accept a supplemental summer appointment. An employee must accept an offer of a summer appointment within ten days of the offer or forfeit his/her Preference. Supplemental summer appointments shall be offered, either verbally or in writing, no 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 college and shall apply to all summer appointments in that college. The criteria shall consider:

~~9. The employees' educational qualifications and experience.  
With the exception of instructors with less than three years of service, equality of summer employment opportunities for all bargaining unit employees in the college over time (which could include more than one summer if necessary).~~

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(2) Preference. The University shall offer one available supplemental summer appointment equitably and as appropriate, in the following order:

First Preference: to qualified full-time bargaining unit employees, without an existing summer appointment to teach a class or equivalent assignment, in the following categories: tenured employees, tenure earning employees, employees with multi-year appointments, and instructors who have taught at the University for at least three consecutive years;

Second Preference: to other bargaining unit employees, without an existing summer appointment to teach a class or equivalent assignment, who are qualified.

If all bargaining unit employees qualified to teach a class have already been offered one class to teach or an equivalent assignment, the University may offer the supplemental summer appointment to anyone who is qualified (e.g., adjuncts).

(3) Assignments for supplemental summer appointments shall be made in accordance with Florida Statutes (the "twelve hour law"). Assignments for those receiving a summer appointment will be provided according to Article 9.5, and the workload (i.e., number of credits or classes) assigned will be determined at the College's discretion.

(4) Compensation. An employee who has received a summer appointment to teach a course in accordance with Article 8.4(b) shall be compensated according to the scale below. The following reflects compensation for a summer course or equivalent assignment that would carry a 0.25 FTE

instructional assignment value when teaching the same course, or a course similar in length and content during a semester in the regular academic year, and shall be prorated accordingly. Percentages are based on the regular 9-month base salary.

- a. First assigned course: 12.5%.
- b. Second assigned course: 12.5%.

~~c.~~

~~d.c.~~ Each additional assigned course: At a rate set by the dean of each college ~~based on the class to be taught~~, not to exceed the rate paid for the first course.

(c) FAUS Appointments.

(1) Academic Year Appointments. The academic year appointment period for developmental research school employees consists of a fall and spring semester not exceeding 194 days within approximately 42 contiguous weeks. In scheduling these days, the FAUS shall consider the calendar of the local districts and such scheduling shall be subject to consultation under Article 2.

(2) All FAUS appointments after July 2011 are non-permanent status earning as per Florida statutes.

(23) Review Probationary Period. The initial Notice of Appointment of a FAUS employee shall include a 97-day one school year probationary period during which time the employee's appointment may be terminated without cause or the employee may resign without breach of contract.

(34) Summer Teaching Appointments. The following provisions apply only to those summer teaching appointments funded by the schools through the use of State funds (FEFP) allocated for that purpose.

a. Summer teaching appointments shall be offered equitably and as appropriate to qualified employees in a timely manner. Such appointments shall be made in accordance with written criteria developed with the UFF. The criteria shall be made available in a public place at FAUS.

b. Employees shall receive approximately the same hourly rate for teaching a course during a summer appointment as they received for teaching the same or similar course during the academic year, regardless of the length of the summer appointment.

(d) Additional Compensation Appointments. Additional compensation is defined as compensation for any duties in excess of a full appointment (1.0 FTE). All additional compensation shall be paid through OPS.



(e) Visiting Appointments. A "visiting" appointment is one made to a person—having appropriate professional qualifications, for a limited period. A visiting appointment may not exceed a total of three (3) consecutive years. Persons on visiting appointments will be given a position classification that places them in the bargaining unit, as specified in Appendix "A," Position Classifications.

(f) Adjunct Appointments. The use of adjuncts shall, upon the request of the UFF Chapter representatives, be a subject of consultation under the provisions of Section 2.1.

(g) Fixed Multi-Year Appointments at Florida Atlantic University.

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

- a. Instructors and Lecturers;
- b. Non-tenured or non-tenure earning Assistant Librarians, Associate Librarians, Librarians, and Counselors/Advisors;
- c. Scholars/Scientists, Research Associates, and Associate In/Assistant In \_\_\_\_\_;
- d. Clinical faculty;
- e. Individuals who have officially retired from universities or other organizations and who are at least 55 years of age;
- f. 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; and
- g. Individuals who have held the rank of full professor for at least seven (7) years at an institution of higher education.

(2) Successive fixed multi-year appointments may be offered to eligible employees hired pursuant to Section 8.4(h)(1) as follows:

\_\_\_\_\_ a. 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 put in writing by the department/unit and available to all eligible employees.

\_\_\_\_\_ b. The employee will be advised in the penultimate year of the appointment that to be considered for a successive fixed multi-year appointment, the employee must submit a request and written documentation pursuant to written procedures established by the unit. The University shall notify the employee in writing of its decision to offer or not offer a successive appointment.

8.5 Reclassification of an Employee to a Non-Unit Classification. Employees shall be provided written notice thirty (30) days in advance, where practicable, with a copy to the local UFF Chapter, when the University proposes to reclassify the employee to a classification which is not contained in the General Faculty bargaining unit. The employee may request a review of such action consistent with the provisions of Section 28.6 and UFF may discuss such action pursuant to Article 2, Consultation. If the employee requests a review of such action, no reclassification will become effective until thirty (30) days following the review. No position classification shall be changed to a classification which is not contained in the General Faculty bargaining unit until the UFF has had an opportunity to review and respond.

## ARTICLE 9 ASSIGNMENT OF RESPONSIBILITIES

9.1 Policy. The professional obligation is comprised of both scheduled and non-scheduled activities. The parties recognize that 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, and other duties and responsibilities may be required to be performed at a specific time and place, other non-scheduled activities are more appropriately performed in a manner and place determined by the employee in consultation with his/her supervisor.

9.2 Place of Employment.

(a) Principal. Each employee shall be assigned one principal place of employment, as stated on the Notice of Appointment. Where possible, an employee shall be given at least nine (9) months' notice of 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, including concerns regarding considerations in assignment as described in Section 9.3. Voluntary changes and available new positions within the department shall be considered prior to involuntary changes, if practicable.

(b) 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 the regular full-time appointment, the supervisor will make an appropriate adjustment in the assignment in recognition of time spent traveling to a secondary place of employment. Necessary travel expenses, which may include overnight lodging and meals for all assignments not at the employee's principal place of employment, shall be paid at State rate and in accordance with

the applicable provisions of State law.

### 9.3 Considerations in Assignment.

(a) Assignment will be made with the consideration of the following in no particular order:

(1) the needs of the program or department/unit in the areas of teaching, research and services;

(2) the employee's qualifications and experiences, including professional growth and development;

(3) the character or complexity of the assignment; and

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

(b) The employee shall be granted, upon written request, a conference with the person responsible for making the assignment to express the employee's concerns. 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.

(c) The Board and the UFF recognize that, while the Legislature has described the minimum full academic assignment in terms of twelve (12) contact hours of instruction or equivalent research and service, the professional obligation undertaken by a faculty member will ordinarily be broader than that minimum. In like manner, the professional obligation of other professional employees is not easily susceptible of quantification. The University has the right, in making assignments, 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.

~~(d) Furthermore, the University has the obligation to monitor and review the size and number of classes and other activities, to consolidate inappropriately small offerings, and to reduce inappropriately large classes.~~

~~(e)~~—No employee's assignment 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 Exclusive Assignment Dispute Procedures of this Agreement, which shall be the exclusive method for resolving such disputes.

### 9.4 Annual Assignment.

(a) Communication of Assignment. Employees shall be apprised in writing, at the beginning of their employment and at the beginning of each year of employment thereafter, of the duties assigned in teaching, research and other

creative activities, ~~public~~ service, and of any other specific duties assigned for that year.

Except for an assignment made at the beginning of an employee's employment, the person responsible for making an 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.

(b) 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.

(c) 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 a change and shall specify such change in writing.

(d) Equitable Opportunity. Each employee shall be given assignments which provide equitable opportunities, in relation to other employees in the same department/unit, to meet the required criteria for promotion, tenure, continuing multi-year appointments, 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 the University shall not be less than four years. The employee's annual assignment shall be included in the promotion file.

(2) For the purpose of applying this principle to tenure, assignments shall be considered over the entire probationary period and not solely over the period of a single annual assignment. The employee's annual assignment shall be included in the tenure file.

(3) If an arbitrator determines that the employee was not provided an "equitable opportunity" as described in this section, the arbitrator may award additional employment requiring the University to provide the "equitable opportunity" as described herein. The arbitrator may also retain jurisdiction for purposes of determining whether the ensuing assignment provides such "equitable opportunity."

#### 9.5 Summer Assignment.

(a) The summer instructional assignment, like that for the academic year, includes the normal activities related to such an assignment as defined by the department/unit and the nature of the course, such as course preparation, minor curriculum development, lectures, evaluation of student efforts, consultations and conferences with students, and minor committee activities during the period of assignment. ~~The instructional assignment does not include~~

~~other credit-generating activities such as thesis/dissertation supervision, directed independent studies, supervised research teaching, and supervision of student interns. These activities, as well as Research or Service activities not usually performed commensurate with the instructional assignment, may be assigned during the summer term for additional compensation. Other credit-generating activities such as thesis or dissertation supervision, directed independent studies, supervised teaching or research, or supervision of student interns, as well as research or service activities, may be offered during the summer term for agreed-to compensation for that specific activity separate from the compensation provided for any summer instructional assignment.~~

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

(c) If a faculty member on a nine-month academic year contract accepts an additional summer course appointment that requires all classes to be conducted at a campus location that is different than their principal place of assignment, the University, at its discretion, will either provide access to an office and computer, or travel reimbursement. Similarly, the University, at its discretion, will either provide access to an office and computer or travel reimbursement, if a faculty member on an additional summer course appointment is teaching on more than one campus during separate terms since these are separate supplemental assignments. If, however, a faculty member has supplemental summer course appointments for teaching on more than one campus during the same or overlapping terms, then travel reimbursement will be provided for travel between their principal place of employment and each campus.

(d) FAUS employees employed full-time during the summer shall be provided one planning period during the day. Part-time employees shall be provided a proportional planning period. Compensation for the planning period shall be at the same hourly rate as that for teaching a course during a summer appointment.

9.6 Teaching Schedule. Where possible, a teaching schedule shall be established 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.

9.7 Equipment. The University will provide the essential equipment necessary to carry out the instructional assignments.

~~10.89.8~~ Workweek.

(a) Scheduled hours 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. Supervisors are encouraged to make appropriate

reductions or adjustments in the number of hours scheduled in recognition of evening, night, and weekend assignments, and for periods when an employee is on call. Evenings, nights, and weekends when an employee is on call shall be considered in making other assignments.

(b) Duty-free lunch for FAUS. In the absence of a compelling need, FAUS employees shall have a duty-free continuous lunch period scheduled during the duration of their students' lunch period. It is not the intent of the School to require employees to perform lunchroom duty. If fiscal circumstances change so that such an assignment is necessary, the parties agree to consult or negotiate this assignment.

## ARTICLE 10 EMPLOYEE PERFORMANCE EVALUATIONS

### 10.1 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 in Section 10.4. The performance of employees, other than those who have received notice of non-reappointment under Section 12.2, shall be evaluated at least once annually, and they shall be advised of the academic term during which such evaluation will be made. Personnel decisions shall take such annual evaluations into account, provided that such decisions need not be based solely on written employee performance evaluations.

(b) Post-Tenure Review. The purpose of Post-Tenure Review ("PTR") is to document sustained performance of assigned duties, acknowledge achievements, and to provide the opportunity for a longer range view of performance and accomplishments. It is also intended to enhance public trust in the University by ensuring that the faculty community undertakes regular and rigorous efforts to hold all of its members accountable for high performance standards.

(c) The annual evaluation process and the post-tenure review process, are separate and independent of each other, and may run concurrently.

### 10.2 Sources and Methods of Annual Evaluation.

(a) Each department Chairperson, or comparable administrator in an academic unit who is responsible for an employee's annual assignment, shall also be responsible for evaluating the employee.

(b) 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, including public school officials when an employee has a service assignment to the public schools.

(c) Observation/Visitation. 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 request rescheduling a more appropriate date. Alternatively, if not rescheduled, at least one additional such~~ classroom observation or visitation will be made.<sup>7</sup> ~~The~~ employee shall be notified at least two (2) weeks in advance of the period (for example, a semester) ~~over during~~ which ~~no less than two (2) the additional~~ observations will be made.

### 10.3 Procedures for Annual Evaluations.

(a) Prior to receiving an annual evaluation, employees are required to submit written self-evaluation materials to assist the evaluator for the period under review. The format, contents, and deadline for submission of the materials shall be set by the Dean or evaluator. Failure to submit the materials in a timely manner may adversely affect the annual evaluation and/or result in disciplinary action.

(b) The proposed written annual evaluation, including the employee's annual assignment which was furnished pursuant to Section 9.34, shall be provided to the employee within ~~sixty-ninety (6090)~~ days after the end of the evaluation period. This ninety day deadline shall not apply if the employee's self-evaluation materials were not submitted by the set deadline. The employee shall be entitled to discuss the evaluation with the evaluator by written request for a meeting prior to its being placed in the employee's evaluation file. The evaluation shall be signed and dated by the person performing the evaluation, and ~~may~~ shall be signed 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 at least ten (10) days during the regular academic year prior to being placed in the employee's evaluation file. Upon the employee's written request, the administrator at the next higher level will meet to discuss concerns regarding the evaluation which were not resolved in previous discussions with the evaluator.

(bc) Each department/unit at FAU shall develop and maintain procedures by which to evaluate each employee according to criteria specified in Section 10.4. These procedures will include the method for the distribution of salary increase funds specified in Article 23 based on said annual evaluation. The employees of each department/unit, who are eligible to vote in department/unit governance, shall participate in the development and revision of these procedures and shall recommend implementation by vote of a majority of at least a quorum of those employees.

1. The procedures and proposed revisions thereof shall be reviewed by the President or representative periodically to ensure that they are



consistent with the mission and goals of the University and that they comply with this agreement.

2. If at any time the President or representative determines that the recommended revisions or existing procedures do not meet the conditions in Section 10.3(b) above, the proposal or procedures 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 President or representative.

3. Approved procedures, and revisions thereof, shall be kept on file in the department/unit office. Employees in each department/unit shall be provided a copy of that department's/unit's current procedures for annual evaluation. Employees will be evaluated based on evaluation criteria that were in effect at the start of the assignment period.

(ed) The University is committed to providing assistance to any faculty member who wants or needs to improve the performance of his/her assignment. If an employee is evaluated as less than satisfactory in any area of the annual evaluation, the employee and the supervisor must develop a written plan to address the employee's performance. This plan will be appended to the annual evaluation.

10.4 Criteria for Annual Evaluation. The annual performance evaluation shall be based on assigned duties. Other non-assigned factors may be considered in the evaluation only if mutually agreed upon by the dean or designee and the employee. Evaluations shall carefully consider the nature of the assignments, including, where applicable:

(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, 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; patents, grants, grant



applications or contracts; musical compositions, paintings, sculpture; works of performing art; papers presented at meetings of professional societies; and research and creative activity that has not yet resulted in publication, display, or performance. The evaluation shall include consideration of the employee's productivity, including the quality and quantity of what has been done during the year, and of the employee's research and other creative programs and contributions; and recognition by the academic or professional community of what is done.

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

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

(e) Other assigned University duties, such as advising, counseling, supervision of interns, and academic administration, or as described in a Position Description, if any, of the position held by the employee.

10.5 Proficiency in Spoken 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 in this Article, for testing such deficiency.

(a) If a supervisor has reason to believe that a faculty member involved in classroom instruction, other than in courses conducted primarily in a foreign language, is deficient in English oral language skills, the supervisor shall make provisions for the faculty member to be tested in accordance with appropriate procedures and examinations for testing such skills. 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. (English As A Foreign Language (TOEFL): 173 computer based, 500 paper based; or the International English Language Testing System (IELTS): 6.0 band score).

(b) Faculty who score below a minimum score on an examination established for determining proficiency in oral English (see paragraph (a) above) shall be assigned appropriate non-classroom duties for the period of oral English language instruction provided by the University under paragraph (c) 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.

(c) It is the responsibility of each faculty member who is found to be deficient in oral English language skills by virtue of scoring below the satisfactory score on an examination established for determining such proficiency (see paragraph (a)), 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. The time the faculty member spends in such instruction shall not be considered part of the individual assignment or time worked, nor shall the faculty member be disadvantaged by the fact of participation in such instruction.

(d) If the University determines, that one (1) or more administrations of a test to determine proficiency in oral English language skills is necessary, in accordance with this section, the University shall pay the expenses for up to two (2) administrations of the test. The faculty member shall pay for additional testing that may be necessary.

10.6 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 Article, 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.

#### 10.7 Post-Tenure Review.

(a) Policy. The parties agree that a post-tenure review policy serves a necessary function at the University to recognize faculty excellence and deficiencies through peer review. Prior to implementation, the Provost or designee shall form a committee including an elected tenured in-unit faculty member from each college and administrators to consult regarding the details and operation of the post-tenure review policy.

(b) Criteria. The post-tenure review shall be based on assigned duties and shall carefully consider the nature of the assignments, including, where applicable, those listed in Article 10.4(a-e) above.

(c) Policy Modifications. The Provost or designee may modify these criteria after notifying the UFF Chapter of the proposed changes and offering an opportunity to discuss them in consultation with the Provost or designee. Changes shall not become effective until one (1) year following adoption of the

changes, unless mutually agreed to in writing. However, faculty undergoing a post-tenure review within the subsequent five (5) years after the policy is modified may choose to be evaluated using the then existing or newly modified policy. Thereafter, only the new criteria will apply.

## ARTICLE 11 EVALUATION FILE

11.1 Policy. There shall be one employee performance evaluation file containing a dated copy of all documents used for evaluation, other than tenure, promotion, continuing multi-year appointments, and successive fixed multi-year appointments. The only documents which may be used for evaluations and other personnel decisions, other than for tenure, promotion, and continuing multi-year appointments, 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. Employees shall be notified of the evaluation file's location and custodian.

11.2 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, under such conditions as are necessary to insure 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.

11.3 Indemnification. The UFF agrees to indemnify and hold the Board, its officials, agents, and representatives harmless from and against any and all liability for any improper, illegal, or unauthorized use by the UFF of information contained in such evaluation files.

11.4 Use of Evaluative Materials. Copies of materials from the grievant's evaluation file may be used in grievance proceedings.

11.5 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.

11.6 Peer ~~Committee~~-Evaluations. Evaluative materials, or summaries thereof, prepared by peer ~~(s) committees~~ as part of a regular evaluation system, may be

placed in an evaluation file when signed by the evaluator or a representative of the a peer committee, with a copy provided to the employee. The employee being evaluated shall have the opportunity to review and sign the evaluation prior to it being placed in the evaluation file.

11.7 Removal of Contents. As permitted by law, 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.

11.8 Limited Access Information. All documents reflecting evaluation of employee performance are limited-access records and shall be available for inspection only by the employee, the employee's representative, University and Board officials who use the information in carrying out their responsibilities, peer committees responsible for evaluating employee performance, or by court order. ~~and a~~ Arbitrators or others engaged by the parties to resolve disputes may view the records upon consent by the employee whose file is requested, 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.

## ARTICLE 12 NON-REAPPOINTMENT

12.1 No Property Right. No appointment shall create any right, interest, or expectancy in any other appointment beyond its specific terms, except as provided in Sections 13.2 and 15.1(f).

12.2 Notice.

(a) A "semester" as used in this Article is defined as either a Fall, Spring, or Summer semester in which a summer assignment is offered and accepted. If a Summer semester constitutes all or part of the notice period, it shall be compensated as a Spring or Fall semester. All employees described below are entitled to written notice that they will not be offered further appointment. The provision of notice under this section does not provide rights to a summer appointment beyond those provided in Section 8.4(b).

- (1) Employees in their first year of University service who are on academic year (9 month) appointments shall receive notice of non-reappointment not later than March 1 of the academic year, if the appointment expires at the end of that academic year. Employees in their first year of continuous University service who are on twelve-month appointments shall receive at least twelve (12) weeks notice.

- (2) Employees in their second year of continuous University service who are on academic year (9 month) appointments shall receive one semester notice of non-reappointment. Employees in their second year of continuous University service who are on twelve-month appointments shall receive at least 19.5 weeks notice.
- (3) Employees with two (2) or more years of continuous University service who are on academic year (9 month) appointments shall receive two semester notice of non-reappointment. Employees with two (2) or more years of continuous University service who are on twelve-month appointments shall receive 39 weeks notice.
- (4) The University may choose to provide compensation in lieu of employing the employee during the notice period.
- (5) Employees who are appointed to multi-year agreements shall receive notice in the penultimate year of their agreement if they will be offered a new appointment.
- (6) Employees who are on "soft money" (e.g., contracts and grants, sponsored research funds, auxiliary funds, and grants and donations trust funds), who had five (5) or more years of continuous University service as of June 30, 1991, shall receive a one year notice, contingent upon funds being available.

(7) FAUS employees will be notified of a subsequent annual appointment offer on or before May 1 prior to the expiration of their appointment.

(b) Employees in the following categories are not entitled to written notice that they will not be offered further appointment; ~~and shall have the following statement included in their employment offer letter or Notice of Appointment: Your employment under this offer will cease on the date indicated. No further notice of cessation of employment is required.~~

- (1) Employees who are on "soft money;" (e.g., contracts and grants, sponsored research funds, auxiliary funds, and grants and donations trust funds), including all FAUS employees, except those described in Section 12.2(a)(6), above.
- (2) Employees who hold acting, OPS, or temporary appointments.
- (3) Employees who are appointed for less than one (1) academic year.
- (4) Employees who are appointed to a visiting appointment, ~~who are appointed to a fixed multi-year appointment.~~

(5) Employees or who are issued with an letter of offer letter or Notice of Appointment which states, in substance, that their employment will cease on the date indicated.

(6) Employees with an offer letter for a specified fixed term appointment.

### 12.3 Terms and Conditions of Non-reappointment

(a) The employee's current rate of pay shall remain unchanged through the end of the current period or the advance notice period, whichever is longer. The employee shall not receive any pay increases during the advance notice period.

(b) The University's right to reassign the employee to other duties and responsibilities remains in effect during the non-reappointment period. The University's right to terminate the employee for just cause remains in effect during the advance notice period.

(c) The University may offer an employee a letter of reappointment of a duration necessary to fulfill any advance notice requirement in this Agreement or other University rule.

(d) The employee will no longer be eligible for tenure or promotion.

(e) The decision to not reappoint is not grievable except, an employee who receives written notice of non-reappointment may, according to Article 20 Grievance Procedure and Arbitration, contest the decision because of an alleged violation of a specific term of the Agreement or because of an alleged violation of the employee's constitutional rights. Such grievances must be filed within thirty (30) days of receipt of the notice of non-reappointment.

12.4 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.

## ARTICLE 13 LAYOFF

13.1 (a) Implementation. A layoff may be implemented by the University at any time 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. Non-reappointment may be utilized as an alternative to layoff for employees pursuant to Article 12. All employees are subject to layoff including, but not limited to, employees in phased

retirement, employees who have received a notice of non-reappointment, and employees on a fixed-term appointment.

(b) Layoff Unit. The layoff unit may be at an organizational level of the University such as a campus, division, college/unit, school, department/area/unit, or program, as the Provost deems appropriate.

(c) Notice to UFF. The University shall provide general notice to UFF in writing that a layoff is to occur no less than thirty (30) days prior to sending layoff notice to employee(s). Such notice shall identify the layoff unit and the reason for the layoff. The University is not obligated to identify the employee(s) to be laid off. UFF may request a consultation with the President or representative pursuant to Sections 2.1 or 2.2 during this period to discuss the layoff. UFF may bargain over the impact of the layoff.

13.2 Layoff Considerations. The selection of employees in the layoff unit to be laid off will be determined as follows:

(a) No tenured/multi-year/permanent status employee shall be laid off if there are non-tenured/non-permanent status employees or phased retirees in the layoff unit.

(b) No employee in a non-tenured/non-permanent status position in the layoff unit with more than five (5) years of continuous University service or a phased retiree shall be laid off if there are any such employees with five (5) years or less of 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. In making such judgment, the University shall carefully consider appropriate factors such as, but not limited to the employees' length of continuous service, performance evaluation by students, peers and supervisors, academic training, professional reputation, teaching effectiveness, record of scholarship and/or creative activity, and service to the profession, community and public.

(d) No tenured/multi-year/permanent status 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 annually in writing regarding the use of adjunct and other non-unit faculty in the layoff unit for a period of two years following the layoff. The use of adjunct and other non-unit faculty in departments/units where employees have been laid off may be the subject of consultation meetings pursuant to Article 2.

13.3 Alternative/Equivalent Employment. The University shall make a

reasonable effort to locate appropriate alternate or equivalent employment within the University for employees who received a notice of layoff before the layoff effective date. The affected employee shall notify his/her supervisor of any available or posted University position that they believe may constitute alternate/equivalent employment. If appropriate alternate/equivalent employment is offered in lieu of layoff and rejected, the employee shall receive no further consideration or benefits pursuant to this article.

13.4 Notice to Employees. Employees should be informed of layoff as soon as practicable and, where circumstances permit, nine-month faculty with three or more years of continuous University service shall be provided notice by September 15 for a termination date no earlier than the conclusion of the following spring semester. Other employees with three or more years of continuous University service shall, where circumstances permit, be provided at least nine (9) months' notice. Formal written notice of layoff is to be sent via certified mail, return receipt requested, or delivered in person to the employee. The notice shall include effective date of layoff; reason for layoff; and if applicable, a statement of recall rights.

#### 13.5 Re-employment/Recall

(a) For a period of two years following the layoff effective date (or for employees appointed to a fixed multi-year appointment, not to exceed the length of their appointment), an individual who has been laid off and who was not otherwise offered alternate/equivalent employment shall be offered re-employment in the same or similar position at the University, should such an opportunity for re-employment arise. Any offer of re-employment pursuant to this section must be accepted within fifteen (15) days after the date of offer. In the event such offer of re-employment is not accepted, the individual shall receive no further consideration pursuant to this Article. The University shall notify the UFF when an offer of re-employment is issued.

(b) An employee who held a tenured/permanent status appointment on the date of termination by reason of layoff shall resume the tenured/permanent status appointment upon recall, [if permitted by law](#).

(c) The employee shall receive the same credit for years of service for purposes of layoff as held on the date of layoff.

(d) 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.

13.6 Limitations. The provisions of Sections 13.2 through 13.5 of this Agreement shall not apply to those employees: on soft money (as defined in Article 12), visiting/temporary appointments, and employees with appointments



of less than one academic year.

13.7 FAUS Employees. Notwithstanding the above, any workforce reduction of FAUS employees shall be conducted in accordance with Florida law.

## ARTICLE 14 PROMOTION PROCEDURE

### 14.1 Policy.

(a) Promotion decisions are not merely a totaling of an employee's annual performance evaluations but rather, the University's assessment through its faculty, professional employees, and administrators, of the employee's potential for growth and scholarly contribution as well as past meritorious performance of assigned duties.

(b) Upon annual written request beginning with the second year of employment, employees eligible for promotion shall receive a non-binding appraisal of their progress toward promotion. The appraisal, which shall be a separate component of the annual evaluation, is intended to help candidates qualify themselves for promotion. Upon written request of the employee an administrator at the next higher level, shall meet with the employee to discuss unresolved appraisal issues.

### 14.2 Criteria.

(a) Promotion decisions shall be a result of the employee's potential for growth and scholarly contribution as well as past meritorious performance of assigned duties and shall be based upon established criteria specified in writing by the Board or the University. Employees shall be given a copy of the promotion criteria which shall also be available in the department/unit or college offices.

(b) The Board and the University may modify these criteria after notifying the UFF Chapter of the proposed changes and offering an opportunity to discuss them in consultation with the President or representative. Changes shall not become effective until one (1) year following adoption of the changes, unless mutually agreed to in writing. The date of adoption shall be the date on which the changes are approved by the administrator at the highest level required under applicable University policies and procedures. Any proposal to develop or modify promotion criteria shall be available for discussion by members of the affected departments/units before adoption. Each college/~~school~~ unit or department/~~unit~~ school shall periodically review its criteria to ensure that they are consistent with the employees' assignments and the mission of the academic unit. When new criteria are adopted and approved, faculty submitting an application for promotion within the subsequent three years may choose to be evaluated using the old or new criteria. Thereafter, only the new criteria will apply.

(c) Limited Access Information. Promotion file records are limited-access records and shall be available for inspection only by the employee, the employee's representative, University and Board officials who use the information in carrying out their responsibilities, peer committees responsible for evaluating employee performance, or by court order. ~~and arbitrators or others engaged by the parties to resolve disputes~~ may view the records upon consent by the employee whose file is requested, ~~or by others by court order,~~ or by court order.

#### 14.3 Procedures.

(a) Recommendations for promotion shall begin with the employee's supervisor and shall be submitted to the appropriate officials for review. 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. It shall be the responsibility of the employee to see that the file is complete. The provisions of Sections 11.2 through 11.8 of this Agreement shall apply to the contents of the promotion file. 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 his/her receipt of the added material. The file shall not be forwarded until either the employee submits a response, indicates there will be no response, or until the second five (5) day period expires, whichever occurs first.

(b) Recommendations for promotion shall include a copy of applicable promotion criteria, the employee's annual assignments and annual evaluations, and, if the employee chooses, the employee's promotion appraisal(s). The reviewers at any stage in the review may request to view the appraisal(s).

14.4 Notice of Denial. Any employee who is denied promotion shall be notified in writing by the appropriate administrative official. The employee has twenty (20) days after notification to submit a written request for a statement of reasons and the University shall provide the employee with a written statement within twenty (20) days thereafter of the reasons why the employee did not meet the promotion criteria.

### ARTICLE 15

#### TENURE

#### ~~AND PERMANENT STATUS~~

#### 15.1 Tenure.

(a) Tenure shall be in a department or other appropriate administrative unit.

(b) Eligibility. Associate Professors, Professors, and other employees that the Board may designate except Assistant Professors, shall be eligible for

tenure. The Board shall notify the employee of the tenure-earning status at the time of initial appointment. Tenure shall not extend to administrative appointments in the General Faculty, FAUS employees, or Administrative, Managerial & Professional (AMP) classification plans.

(c) Criteria.

(1) The performance of an employee during the entire term of tenure earning employment at FAU shall be considered in determining whether to grant tenure. The decision to award tenure to an employee shall be a result of meritorious performance and shall be based on established criteria specified in writing by the Board and the University. The decision shall take into account the annual assignments and annual performance evaluations; the needs of the department/school, college/unit, and University; the contributions of the employee to the employee's academic unit (program, department/school, college/unit); and the contributions the employee is expected to make to the institution.

(2) The University shall provide employees eligible for tenure with a copy of the criteria for tenure and the criteria shall be available in the department/school office and/or at the college/unit level.

(3) Each employee shall be apprised in writing once each year of her or his progress toward tenure. The 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 tenure. The employee may request, in writing, a meeting with an administrator at the next higher level to discuss concerns regarding the tenure appraisal which were not resolved in previous discussions with the evaluator. The appraisals are not binding upon the University.

(4) The Board and the University may modify the University-wide criteria for tenure only after notifying UFF of the proposed changes and offering an opportunity to discuss them in consultation with the University President or representative. Changes in criteria shall not become effective until one (1) year following adoption of the changes, unless mutually agreed to in writing. The date of adoption shall be the date on which the changes are approved by the administrator at the highest level required under applicable University policies and procedures. Any proposal to develop or modify tenure criteria shall be available for discussion by members of the affected departments/units before adoption. The provisions of Section 9.3 are applicable to the modified criteria. Further, an employee with at least three (3) years of tenure-earning credit as of the date on which the tenure criteria are adopted 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.

(d) Procedures.

(1) 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. Part-time service of at least one semester in any twelve month period shall be accumulated so that two semesters of half-time service, for example, shall be considered one-half year of service. Authorized leaves of absence may, under the provisions of Article 17, Leaves, be credited toward the period of tenure-earning service.

(2) An employee credited with tenure-earning service at the time of initial appointment may withdraw once all or a portion of such credit prior to formal application for tenure to the department upon the written request of the employee, recommendation of the supervisor and dean/director, and approval of the ~~appropriate administrator~~Provost or designee.

(3) Stopping the Clock. The tenure clock may be stopped for medical or related reasons for up to two years upon the written request of the employee, recommendation of the supervisor and dean/director, and approval of the ~~appropriate administrator~~Provost or designee.

(4) Early Tenure. The decision to submit a portfolio for tenure earlier than the sixth year must be initiated by the candidate, in consultation with the chair/director and senior faculty (professors and associate professors), and approved by the dean. An employee is eligible for early tenure consideration only if the University provides written agreement to the employee's written request. An employee being considered for tenure prior to the sixth year may withdraw from consideration on or before December 30 without prejudice.

~~(5) Tenure upon Appointment. Tenure may be granted to an employee by the Board at the time of initial appointment, upon recommendation of the appropriate administrator. The administrator shall consider the recommendation of the department or equivalent unit prior to making his/her final tenure recommendation.~~

~~(6)~~ By the end of six (6) years of tenure-earning service at the University (including tenure credit granted upon hire), an employee who has applied for tenure shall either be awarded tenure by the Board or given notice that further employment will not be offered. If an employee fails to apply for tenure before or during the sixth year of tenure-earning service (including tenure credit granted upon hire), the employee's employment will terminate at the end of the seventh year of service. If an employee applies for tenure prior to the sixth year, the year following the second tenure application shall be the terminal year if tenure is not achieved. No employee may be considered for tenure more than twice. An employee has 20 days from receipt of notice that tenure was not achieved to submit a written request for the reasons why tenure was not granted, and the President or representative shall provide the employee with a written statement of the reasons within 20 days of the receipt of the request.

~~(7)~~ Recommendations. The Department Chair/School Director shall submit the names of candidates for tenure to the tenured faculty of the Department/School who shall be polled by secret ballot for their recommendation about each candidate eligible for tenure. The recommendation shall be forwarded to the Department Chair/School Director who shall write a recommendation to the Dean. Recommendations shall include a copy of

applicable tenure criteria; the employee's annual assignments and annual evaluations; the vote of the tenured faculty; and, if the employee chooses, the employee's tenure appraisals. At any stage, reviewers may request to review the appraisals.

(87) File. The employee has the right to review the contents of the tenure file and attach a brief response to any materials in the file prior to consideration of his or her candidacy. It is the employee's responsibility to see that the file is complete. The provisions of Sections 11.2 through 11.8 of this Agreement shall apply to the contents of the tenure file. 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 his/her receipt of the added material. The file shall not be forwarded until either the employee submits a response, indicates there will be no response, or until the second five (5) day period expires, whichever occurs first. The only documents which may be considered in making a tenure recommendation are those contained or referenced in the tenure file.

(58) Tenure upon Appointment. Tenure may be granted to an employee by the Board/President at the time of initial appointment, upon recommendation of the appropriate administrator/by the Provost or designee. The Provost or designee administrator shall consider the recommendation of the department or equivalent unit prior to making his/her final tenure recommendation.

~~(9) Only the President may award tenure. Only the Board or designee may award tenure in accordance with University Regulations. This decision shall normally be made at the May Board Meeting but no later than the following meeting. The employee shall be notified in writing by the President or representative within five (5) days of the decision of the Board.~~

(e) A tenured employee who is transferred as a result of a reorganization or program curtailment within the University, and is employed in the same or similar discipline in which tenure was granted, shall have his or her tenure transferred to the new department. Tenured faculty who assume administrative appointments shall retain tenure in their department/unit.

(f) Termination/Layoff. Tenure status guarantees annual reappointment for the academic year until voluntary resignation, retirement, removal for just cause in accordance with the provisions of Article 16, or layoff in accordance with the provisions of Article 13, but does not extend to administrative appointments.

## 15.2. Permanent Status for FAUS Employees.

Permanent status for FAUS employees will be in accordance with Florida statutes.

~~\_\_\_\_\_ (a) Policy. The criteria for attaining permanent status and promotion shall reflect University goals in teaching, research, and service. The criteria and the process for evaluating employees shall be monitored and reviewed periodically as directed by the Executive Director.~~

~~\_\_\_\_\_ (b) Appointments of the FAUS employees to the ranks of University School Assistant Professor, University School Associate Professor, and University School Professor, are permanent status earning when the appointments do not include the appointment status modifiers "acting," "joint," "provisional," "visiting," "research," "courtesy," "honorary," or "affiliate." The University may make employees appointed to the rank of University School Instructor eligible for permanent status. Appointments which include the appointment status modifiers "joint," "provisional," "visiting," "research," or "affiliate" may or may not earn time toward permanent status, as determined by the University at the time of the permanent-earning status appointment. If an FAUS employee is initially appointed to the rank of University School Instructor or to a rank including the appointment modifiers "joint," "provisional," "visiting," "research," or "affiliate" determined by the University not to earn time toward permanent status, and is subsequently appointed to a permanent status-earning position, all or a portion of the employee's prior service in the non-permanent status-earning position may be counted toward permanent status, provided the University agrees in writing to credit such service at the time of appointment to the permanent status-earning position.~~

~~\_\_\_\_\_ (c) FAUS employees shall be granted permanent status by the President provided that such employees:~~

~~\_\_\_\_\_ (1) meet the required educational qualifications and a Professional Florida Educator Certification in their field of assignment with any necessary endorsement by September 1 of the year of application (applicable only to employees applying for permanent status after September 1, 2007. This provision may be re-opened in 2007 by the UFF in addition to the re-openers permitted in Article 30);~~

~~\_\_\_\_\_ (2) have completed three years of full-time or equivalent part-time service in a permanent status-earning position in the school, such service being continuous except for leave duly authorized and granted;~~

~~\_\_\_\_\_ (3) have been reappointed for the following year;~~

~~\_\_\_\_\_ (4) have submitted a permanent status portfolio and been reviewed by FAUS faculty; and~~

~~\_\_\_\_\_ (5) have been recommended by the Principal and the Executive Director and have been approved by the President for permanent status based on successful performance of duties and demonstration of professional competence.~~

~~\_\_\_\_\_ (d) Each employee shall be apprised in writing once each year of her or his progress toward permanent status. The 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 permanent status. The employee may request, in writing, a meeting with an administrator at the next higher level to discuss concerns regarding the permanent status appraisal which were not resolved in previous discussions with the evaluator. The appraisals are not binding upon the University.~~

~~(e) Prior to March 31 in the third continuous year of full-time service in a permanent status earning position, the University President or designee shall provide notification to the employee of the granting permanent status or termination of employment upon the expiration of the existing appointment. If granted, permanent status shall become effective at the beginning of the next school year.~~

~~(f) An employee with permanent status shall be entitled to continue in the same or similar position in FAUS until the employee resigns, is removed for just cause pursuant to Article 16, or is laid off pursuant to Article 13.~~

~~(g) Permanent status shall not be extended to administrative or supervisory employees. Upon release from an administrative or supervisory position, an employee shall be entitled to reassignment to the same or a similar position in which permanent status was attained as faculty, at the classification level and salary range which would have been earned had the position been held continuously.~~

15.3 Leave. Under the provisions of Article 17.5, authorized leaves of absence shall not be credited for determining eligibility for tenure ~~or permanent status~~ except by mutual agreement of the employee and the University.

15.4 Limited Access Information. Tenure/Permanent Status file materials are limited-access records and shall be available for inspection only by the employee, the employee's representative, University and Board officials who use the information in carrying out their responsibilities, peer committees responsible for evaluating employee performance, or by court order. ~~And arbitrators or others engaged by the parties to resolve disputes, or by others by court order may view the records upon consent by the employee whose file is requested.~~

## ARTICLE 16 DISCIPLINARY ACTION AND JOB ABANDONMENT

### 16.1 Just Cause.

(a) The purpose of this article 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.

16.2 Progressive Discipline. Both parties endorse the principle of progressive discipline as applied to professionals. In all cases, the discipline selected for a particular offense must be appropriate to the nature and circumstances of the case.

16.3 Notice of ~~Intent~~[Proposed Discipline](#). When the President or representative has reason to believe that a suspension or termination should be imposed, the President or representative shall provide the employee with a written notice of the proposed [disciplinary](#) action and the reasons therefore. Such notice shall be sent certified mail, return receipt requested, or delivered in person. The employee shall be given ten (10) days in which to respond in writing to the President or representative before the proposed action is taken. The President or representative then may issue a notice of disciplinary action under Section 16.4. 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 representative does not issue a notice of disciplinary action, the notice of proposed disciplinary action shall not be retained in the employee's evaluation file, as permitted by law.

16.4 Notice of ~~Discipline~~[Disciplinary Action](#). 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 Article 20, Grievance Procedure. All such notices shall be sent certified mail, return receipt requested, or delivered in person to the employee.

16.5 Termination. A tenured or permanent status 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 in advance of the effective date of such termination. If a grievance is timely filed, the effective date of termination shall be deferred pending the completion of the grievance process, except in cases where the President or representative 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.

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

16.7 FAUS. If an FAUS employee is charged with a crime that impacts upon his/her effectiveness as a teacher, he/she will be suspended with pay [for a period](#)



~~not to exceed thirty (30) days or until the conclusion of an internal investigation. At the expiration of the thirty (30) day suspension with pay or the conclusion of the investigation, whichever comes first,~~ the employee will be restored to employment status, suspended without pay, or terminated.

#### 16.8 Job Abandonment.

(a) An employee absent without authorized leave ~~under the provisions of Section 17.1 either i) for seven (7) or more consecutive calendar days; or ii) for five (5) or more consecutive classes over a 5 or more calendar day period,~~ shall be considered to have abandoned the position and voluntarily resigned from the University, unless the absence is for reasons beyond the control of the employee and the employee notifies the University as soon as practicable.

16.9 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 Article, 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.

16.10 Investigation. Notwithstanding the provisions of Article 10, whenever the University receives information that a faculty member is engaging in misconduct or behavior in the classroom which could create potential liability to the University, and in order to protect the interests of both the University and the faculty member, a chair/supervisor or other University representative may conduct unannounced observation/visitation of that faculty member's classroom for the purpose of investigating the allegations.

## ARTICLE 17 LEAVES

#### 17.1 Requests for a Leave or Extension of Leave of One (1) Semester or More.

(a) Upon the request of the employee, the President or his/her representative shall grant a leave without pay, unless the President or his/her representative determines that granting such leave would be inconsistent with the best interests of the University.

(b) 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.

(c) 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.

(d) A request for leave in excess of one academic year will only be granted under special circumstances.

(e) The ~~President or representative~~ Provost or designee shall approve or deny such request in writing not later than thirty (30) days after receipt of the

request.

(f) An absence without approved leave or extension of leave shall subject the employee to the provisions of [Section Article 16.8](#).

~~(g) 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 17.7.~~

#### 17.2 Accrual During Leave Without Pay.

(a) Retirement credit for periods of leave without pay shall be governed by the rules [of the retirement plan, University policy and state law and regulations of the Division of Retirement and the provisions of Chapter 121, Florida Statutes](#).

(b) 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.

~~(c) 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 Sections 17.9(a)(2) 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 with appropriate medical documentation, 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.~~

~~(dc)~~ 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.

#### 17.3 Return from Leave.

(a) 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 17.7.~~

(b) The salary of an employee returning from uncompensated leave shall be adjusted to reflect all non-discretionary increases distributed during the period of leave.

17.4 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 study leave program. If an employee is on compensated leave in less than full-pay status for other than sabbaticals or study leave, the employee shall accrue leave in proportion to the pay status. The employer contribution to the State insurance program will continue for the corresponding payroll periods.

17.5 ~~Tenure/Permanent Status~~ Credit During Periods of Leave. Semester(s) during which an employee is on compensated or uncompensated leave shall not be creditable for the purpose of determining eligibility for tenure ~~or permanent status~~, except by mutual agreement of the employee and the University. In deciding whether to credit such leave toward tenure eligibility ~~or permanent status~~, the ~~President or representative~~ Provost 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.

17.6 Holidays.

(a) An employee shall be entitled to observe all official University holidays ~~designated in accordance with Section 110.117, Florida Statutes~~. No classes shall be scheduled on holidays. Classes not held because of a holiday shall not be rescheduled.

(b) ~~Supervisors are encouraged not to require an employee to perform duties on holidays; however, a~~ 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~~ be entitled to Holiday Compensatory Leave pursuant to University policy.

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

17.7 Family and Medical Leave Act (FMLA) Entitlements. Employees are entitled to use FMLA benefits in accordance with law and University policies.

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

~~(b) Implementation of FMLA Leave Entitlements.~~

~~(1) A covered employee, whether salaried or paid from Other Personal Services (OPS)/Temporary funds, is entitled to four hundred and eighty~~

~~(480) hours of FMLA leave within a twelve (12) month period for any qualifying family or medical leave. A covered employee is one who has worked at least 12 months (these need not have been consecutive) and who has worked at least 1250 hours in the 12 months prior to the leave.~~

~~—————(2)———— A salaried employee is entitled to a parental leave for up to six (6) months in accordance with the provisions of Section 17.8, for a birth, adoption of the employee's child, or foster care. If an eligible employee elects to take Parental Leave, the first four hundred and eighty (480) hours of such leave will be counted against that employee's FMLA entitlement.~~

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

~~—————(1)———— The 12 month period for purposes of FMLA will be based on an individual rolling 12-month period measured backward from the date any Family and Medical Leave is used.~~

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

~~—————(d)———— Use and Approval of FMLA Leave.~~

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

~~—————(2)———— The University may require that the employee use accrued leave with pay prior to requesting leave without pay for four hundred and eighty (480) hours (12 workweeks) of FMLA leave. Requiring the use of paid leave shall be applied consistently and may not be used merely to exhaust the employee's leave balance in order to prohibit the use of paid leave while on leave without pay as provided for in Section 17.2(c).~~

~~—————(3)———— Employees on approved FMLA may not be employed elsewhere without the written approval of the University.~~

~~—————(e)———— Medical Certification.~~

~~—————(1)———— The University may require an employee to provide medical certification from a health care provider for FMLA leave when taken for the serious health condition of the employee or the employee's family member.~~

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

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

~~—————(g)———— Continuation of Benefits. The use of FMLA leave by eligible~~

~~employees shall neither enhance nor decrease any rights or benefits normally accrued to salaried employees during a leave with pay or any rights or benefits normally accrued during a leave without pay.~~

~~(h) If any provision of Section 17.7 (FMLA) is inconsistent with or in contravention of the Family Medical Leave Act of 1993, Public Law 103-3, or the Family and Medical Leave Act Regulations, 29 CFR Part 825, or any subsequently enacted legislation, then such provision shall be superseded by the laws or regulations referenced above, except to the extent that the collective bargaining agreement or any employee benefit program or plan provides greater family or medical leave rights to an eligible employee.~~

#### 17.8 Unpaid Parental Leave.

(a) If a faculty member is ineligible or chooses not to utilize paid parental leave, the faculty member will~~An employee shall~~ be granted a parental leave not to exceed six (6) months when the employee becomes a biological parent or a child is placed in the employee's home pending adoption. ~~;~~ f Foster care is not covered under parental leave but ~~is~~ may be provided through the ~~FMLA provisions in accordance with Section 17.7.~~

(b) Employees on parental leave may use up to six weeks of paid sick leave for the period of leave immediately following the birth of a child. Parental leave beyond the six week period may be covered by other accrued paid leave or remain a period of unpaid leave. Use of accrued leave during an approved period of leave without pay shall be in accordance with Section 17.2.

(c) The period of parental leave shall begin no more than two (2) weeks before the expected date of the child's arrival.

(1) ~~The President or his/her representative~~Provost or designee shall acknowledge to the employee in writing the period of leave to be granted, ~~that such leave counts against the employee's unused FMLA entitlements in accordance with Section 17.7 of this Agreement,~~ and the date of return to employment.

(2) At the end of the approved parental leave and at the employee's request, the ~~President or representative~~Provost or designee shall grant part-time leave without pay for a period not to exceed one (1) year, unless the ~~President or representative~~Provost or designee determines that granting such leave would be inconsistent with the best interests of the University.

(3) Any illness caused or contributed to by pregnancy shall be treated as a temporary disability ~~and the employee shall be allowed to use accrued sick leave credits when such temporary disability is certified by a health care provider~~if requested, and in accordance with the STD and LTD plan provisions.

(d) ~~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 17.7~~as permitted by law.

#### 17.9 Paid Parental Leave. A faculty member may utilize paid parental leave for

a period of one regular (Fall or Spring) semester no more than once every three years during his or her employment with the University. Such paid parental leave will be taken no later than a year from the point when the faculty member becomes a biological parent or a child is placed in the faculty member's home for purposes of adoption by the faculty member.

(a) Commitment to return. The faculty member must agree in writing to return to University employment for at least one (1) academic year following utilization of paid parental leave. A faculty member who fails to fulfill this commitment will be responsible for repayment of the portion of the parental leave utilized.

(b) Extent of paid parental leave. Paid parental leave will not be granted for more than one semester on a three year rolling basis. Paid parental leave may not be granted to two faculty members for the same birth or adoption.

(c) Notice and use with other leave(s). The faculty member will request the use of paid parental leave in writing no later than three (3) months prior to the beginning the leave. A shorter notice period may be permitted for good cause and/or special circumstances at the discretion of the faculty member's dean. Parental leave is separate from, but may run concurrent with, medical leave or FMLA leave.

(d) Signed agreement. The faculty member will sign a written agreement detailing the terms of the paid parental leave. Participation in paid parental leave is contingent upon execution of the signed agreement.

(e) Repayment. Repayment of salary received during the paid parental leave will be required if salary is paid in the absence of a written agreement signed by the faculty member or when the faculty member fails to comply with the terms of the signed agreement.

(f) Faculty on paid parental leave cannot engage in outside employment unless approved in advance by the Provost or designee.

17.910 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.~~ In the event of an illness/injury, a documented medical absence may be approved. Normally a documented medical absence may be approved for up to six (6) months with appropriate medical documentation, 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. The term of a medical absence shall be paid using any type of accrued leave, or unpaid if no accrued leave is available.

(a) Sick Leave.

(1) Accrual of Sick Leave.

a. A full-time employee shall accrue four (4) hours of sick leave for each biweekly pay period, or the number of hours that are directly



proportionate to the number of days worked during less than a full-pay period, without limitation as to the total number of hours that may be accrued.

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

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

(2) Uses of Accrued 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. Nine-month faculty must use sick leave in 4 hour increments.

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, in consultation with 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 and the grandparents, parents, brothers, sisters, children, and grandchildren of both the employee and the spouse, and dependents living in the household.~~

4. The death of a member of the employee's immediate family ~~(as defined in 17.9(a)(2)(3) above)~~, in consultation with the supervisor. Approval of requests for use of reasonable amounts of sick leave for the death of a member of the employee's family shall not be unreasonably withheld consistent with the FMLA.

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.

~~(1) f. Notwithstanding the provisions of Sections 17.9(a)(2) regarding the use of sick leave, a~~An employee may use any type of accrued leave (sick or annual) 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.

(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 representative~~Provost or designee may place the employee on compulsory leave under the conditions set forth in Section 17.9(c).

(4) An employee on an approved sick leave may not be employed elsewhere without express permission of the Provost or designee.

(5) Transfer of Credits. Sick leave accrual will be based on continuous service to FAU only. Employees hired at FAU with no break in service from another Florida public University, may bring accrued sick leave to FAU, up to a maximum of 40 hours. Service at another public University will not count as years served for accrual or payout purposes. If the transfer of leave is a recruitment issue, the maximum amount of hours may be waived by the President.

(6) Payment for Unused Sick Leave. No payment for unused sick leave will be made for any type of separation from employment for any employee hired after June 1, 2010. For other employees, the following shall apply:

a. An employee with less than ten (10) years of service who separates from FAU shall not be paid for any unused sick leave. An employee who has been found guilty of, or admitted to, committing, aiding, or abetting any embezzlement, theft, or bribery in connection with State government or the University shall not be paid for any unused sick leave. An employee who has been found guilty by a court of having violated any State labor law regarding strikes by public employees shall not be paid for any unused sick leave. An employee who separates from FAU because of termination for cause, resignation in lieu of termination, or job abandonment shall not be paid for any unused sick leave.

b. Unless not eligible for payout as specified above, aAn employee who has completed ten (10) or more years of service and separates from the University 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, 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 FAU 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.~~

c. Upon layoff, an employee with ten (10) or more years of FAU service shall be paid for unused sick leave as described in paragraph b., above, unless the employee requests in writing that unused sick leave be retained pending re-employment. For an employee who is re-employed by the University within twelve (12) calendar months following layoff, all unused sick leave shall be restored to the employee, provided the employee requests such action in writing and repays the full amount of any lump sum leave payments received at the time of layoff. An employee who is not re-employed within twelve (12) calendar months following layoff shall be paid for sick leave in accordance with [this Section 110.122, Florida Statutes](#).

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

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

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

(b) Job-Related Illness/injury.

~~(1) [Workers' Compensation benefits shall apply to An](#) employee who sustains a job-related illness/injury [that is compensable under their accordance with Workers' Compensation Lstate law and University policy 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.~~

~~(42) If, at the end of the leave period, the employee is unable to return to work and perform assigned duties, the President or representative Provost or designee should advise the an employee unable to return to work due to a job-related illness/injury, as appropriate, of the Florida Retirement System's disability provisions and application process, ~~and may, based upon a current medical certification by a health care provider prescribed in accordance with Chapter 440 (Worker's Compensation), Florida Statutes, and taking the University's needs into account:~~~~

~~a. offer the employee part-time employment;~~

~~b. place the employee in leave without pay status or extend such status;~~

~~c. request the employee's resignation; or~~

~~d. release the employee from employment, notwithstanding any other provisions of this Agreement.~~

(c) Compulsory Leave.

(1) Placing Employee on Compulsory Leave.

a. If an employee is unable to perform assigned duties due to illness/injury or poses a health risk, the President or representative Provost or designee may require the employee to submit to a medical examination, 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 representative Provost or designee. Such health care provider shall submit the appropriate medical certification(s) to the University, indicating whether the employee is able to work, is unable to work, or is able to work with restrictions.

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 representative Provost 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 17.2.

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 representative~~ Provost 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 representative~~ Provost or designee should advise the employee, as appropriate, of the Florida Retirement System's disability provisions and application process, and may, based upon the University's needs:

- a. offer the employee part-time employment;
- b. place the employee in leave without pay status in accordance with Section 17.2 or extend such status;
- c. request the employee's resignation; or
- d. release the employee from employment, notwithstanding any other provisions of this Agreement.

#### 17.4011 Annual Leave

##### (a) Accrual of Annual Leave.

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

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

(3) Academic year employees, FAUS employees, employees appointed for less than nine (9) months, employees on 12-month non-annual leave accruing contracts, Temporary and OPS funded employees shall not accrue annual leave.

##### (b) Use and Transfer of Annual Leave.

(1) Annual leave shall be accrued before being taken, except in those instances where the ~~President or representative~~ Provost or designee may authorize the advancing of annual leave. When leave has been advanced and

employment is terminated prior to the employee accruing sufficient annual leave to credit against the leave that was advanced, the University shall deduct from the employee's warrant the cost of any annual leave advanced under this provision. All requests for annual leave shall be submitted by the employee to the supervisor as far in advance as possible and appropriate. Approval of the dates on which an employee wishes to take annual leave shall be at the discretion of the supervisor and shall be subject to the consideration of departmental/unit and organizational scheduling.

(2) Annual leave accrual will be based on continuous service to FAU only. Employees hired at FAU with no break in service from another Florida public University, may bring accrued annual leave, up to a maximum of 40 hours. Service at another public University will not count as years served for accrual or payout purposes. If the transfer of leave is a recruitment issue, the maximum amount of hours can be waived by the President.

(c) Payment for Unused Annual Leave.

(1) Upon termination from an annual leave accruing ~~contract~~appointment, or transfer from an annual leave accruing ~~contract~~appointment to an academic year or FAUS appointment, and unless the employee requests the option in (2) below, the University shall pay ~~the an eligible~~ 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, provided that a determination has been made by the ~~President or representative~~Provost or designee that the employee was unable to reduce the unused annual leave balance prior to termination or reassignment to an academic year or FAUS appointment. All unused annual leave in excess of forty-four days (352 hours) shall be forfeited by the employee.

(2) Upon transfer from an annual leave accruing contract to an academic year or FAUS appointment, the employee may elect to retain all unused annual leave until such time, not to exceed two (2) years, as the employee transfers back to an annual leave accruing contract or terminates employment. Upon such termination or at the end of two (2) years, whichever comes first, the unused leave balance shall be paid in lump sum for up to forty-four days (352 hours) at the annual rate the employee was accruing as of the employee's last day of work on an annual leave accruing contract.

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

(4) If an employee has received a lump sum payment for accrued annual leave, the employee may elect in writing, upon re-employment 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.

(5) 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.

(6) An employee who has been found guilty of, or admitted to, committing, aiding, or abetting any embezzlement, theft, or bribery in connection with State government or the University shall not be paid for any unused annual leave. An employee who has been found guilty by a court of having violated any State labor law regarding strikes by public employees shall not be paid for any unused annual leave. An employee who separates from FAU because of termination for cause, resignation in lieu of termination, or job abandonment shall not be paid for any unused annual leave.

#### 17.4412 Administrative Leaves and Other Leaves Not Affecting Accrued Leave Balances.

(a) Jury Duty and Court Appearances. Jury duty and court appearance leave shall be granted in accordance with state and federal law and University policy.

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

~~(2) An appearance as an expert witness for which an employee receives professional compensation falls under Article 19 and the University's policies and rules relative to outside employment/conflict of interest. Such an appearance may necessitate the employee requesting annual leave or, if a non-annual leave accruing employee, may necessitate the employee seeking an adjustment of the work schedule.~~

~~(3) If an employee is required, as a direct result of the employee's employment, to appear as an official witness to testify in the course of any action as defined in Section 92.142(2), Florida Statutes, such duty shall be considered a part of the employee's job assignment, and the employee shall be paid per diem and travel expenses and shall turn over to the University any fees received.~~

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

(b) Military Leave. Leave for military service shall be granted in accordance with state and federal law and University policy.

~~(1) Short-term Military Training. An employee who is a member of the United States Armed Forces Reserve, including the National~~

~~Guard, upon presentation of a copy of the employee's official orders or appropriate military certification, shall be granted leave with pay during periods in which the employee is engaged in annual field training or other active or inactive duty for training exercises. Such leave with pay shall not exceed seventeen (17) work days in any one (1) federal fiscal year (October 1–September 30).~~

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

~~(3) Other Military Leave.~~

~~a. An employee, except an employee who is employed in a temporary position or employed on a temporary basis, who is drafted, who volunteers for active military service, or who is ordered to active duty (not active duty training) shall be granted leave in accordance with Chapter 43 of Title 38, United States Code. Active military service includes active duty with any branch of the United States Army, Air Force, Navy, Marine Corps, Coast Guard, National Guard of the State of Florida, or other service as provided in Sections 115.08 and 115.09, Florida Statutes.~~

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

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

~~d. Use of accrued leave is authorized during a military leave without pay in accordance with Section 17.2.~~

~~(c) Leave Pending Investigation. When the President or representative Provost 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 representative Provost 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 representative Provost or designee providing the employee with a written notice of the reasons therefore. The leave shall be with pay, with no reduction of accrued leave.~~

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



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

~~\_\_\_\_\_ (2) Civil disorder or disaster leave is provided for an employee who is a 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 leave shall not affect leave balances. They may be granted upon approval by the President or designee and shall not exceed two days on any one occasion.~~

~~\_\_\_\_\_ (3) Athletic competition leave, and other types of leave in accordance with state and federal law and University policy, is provided by Section 110.118, Florida Statutes, for an employee who is a group leader, coach, official, or athlete who is a member of the official delegation of the United States team for athletic competition. Such paid leave not affecting leave balances shall be granted for the purpose of preparing for and engaging in the competition for the period of the official training camp and competition, not to exceed 30 days in a calendar year.~~

~~\_\_\_\_\_ (4) Leave for re-examination or treatment with respect to service-connected disability is provided by Section 110.119, Florida Statutes, for an employee who has such rating by the United State Department of Veterans Affairs and has been scheduled to be reexamined or treated for the disability. Upon presentation of written confirmation of having been so scheduled, such leave not affecting the employee's leave balances shall be approved and shall not exceed six (6) calendar days in any calendar year.~~

~~(e) Official Emergency Closings. The President or President's representative designee 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 representative 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.~~

17.4213 FAUS Personal Leave Days. An FAUS employee may be granted four (4) days (non-cumulative) of leave per year for emergencies or for other personal reasons. The four days shall be taken from sick leave. The employee may be granted a fifth day of leave per year for emergencies or for other personal reasons and the fifth day will not be charged to any of the employee's leave balances. Except in the case of emergency, the employee shall provide at

least two days notice of the intended leave. Such leave shall not be used on the day immediately preceding or following a holiday. Employees shall not be required to give reasons for personal leave, except that the leave is for personal reasons.

17.14 For the purposes of this Article, "immediate family" means the spouse and the certified domestic partner, grandparents, parents, brothers, sisters, children, and grandchildren (including step- and foster-) of both the employee and the spouse/domestic partner, and dependents living in the household.

## ARTICLE 18 INTELLECTUAL PROPERTY

18.1 Policy. Section 1004.23, Florida Statutes, authorizes the University to establish regulations and policies regarding intellectual property. To the extent such regulations or policies affect employee as defined in this collective bargaining agreement, they shall be consistent with the terms of this Collective Bargaining Agreement.

### 18.2 Definitions.

(a) Works. A Work is any copyrightable material that is fixed in any tangible medium such as printed material, computer software, code or databases, audio and visual material, circuit diagrams, architectural and engineering drawings, lectures, musical or dramatic compositions, choreographic works, pictorial works, graphic works, sculptural works, instructional works, traditional works of scholarship, or institutional works.

(1) Instructional Works are handbooks, syllabi, and study guides, whose primary use is related to an employee's instructional assignment.

(2) Traditional Works of Scholarship are Works such as scholarly publications, journal articles, research bulletins, monographs, textbooks, plays, poems, and works of art, whose primary use is evidence of professional activity including research and/or creativity.

(3) Institutional Works are specifically created at the direction of and for use by the University.

(b) Inventions. An Invention is a discovery, way of doing or making things, or any new and useful improvement thereof. An Invention includes but is not limited to a machine, method of manufacture, composition of matter, a device or process, a system, circuit, chemical compound, mixture, method of doing business, know-how, design, model, or technological development. An Invention can also be a variety of plant, biological material, strain, culture of any organism, or portion, modification, translation, or extension of these items.



(1) Computer software and/or code, which can be either patented as an Invention or copyrighted as a Work, will be treated as an Invention for purposes of assignment of rights and ownership.

(2) Institutional Inventions are specifically created at the direction of and for use by the University.

(c) University Support includes funds, personnel, facilities, equipment, materials, or technological information provided by the University, and such support provided by other public or private organizations when it is arranged, administered, or controlled by or through the University or any University Direct Support Organization.

(d) Field of Employment is broadly defined to reflect the fact that employees often work outside their academic disciplines.

(e) A Creator is an employee as defined in this collective bargaining agreement who creates a Work or creates or discovers an Invention.

### 18.3 Disclosure.

(a) Inventions. Upon creation or discovery, and prior to public disclosure, a Creator shall provide full and complete written disclosure to the University Office of Technology Transfer of any (1) Invention in his/her field of employment; (2) Invention using University Support; or (3) Invention governed by the terms and conditions of a grant or contract administered by the University or a University Direct Support Organization. Within 120 days after the University's receipt of the Creator's written disclosure, the University shall provide the Creator notification if the University seeks an interest in the Invention.

(b) Works. Upon creation and prior to publication, a Creator shall provide full and complete written disclosure to the University Office of Technology Transfer of any Work made with University Support, Institutional Work, or Work governed by the terms and conditions of a grant or contract administered by the University or a University Direct Support Organization. Creators do not have to disclose Traditional Works of Scholarship or Instructional Works. Within sixty (60) days after the University's receipt of the Creator's written disclosure, the University shall provide the Creator notification whether the University seeks an interest in the Work.

(c) Employees shall assist the University in obtaining releases or assignments from persons with rights to Works or Inventions in which the University has an interest. Employees and the University shall not act to defeat the University's or the Employees' interests.

### 18.4 Ownership, Distribution of Proceeds and Assignment of Rights.

(a) Inventions. Inventions made within the Creator's Field of Employment, Institutional Inventions, or Inventions made with University Support are the property of the University. Inventions made outside the Creator's Field of Employment, non-Institutional Inventions, and inventions made without University Support are the property of the Creator.

(b) Works. Institutional Works or Works that express opinions for which the University is held responsible are the property of the University. Works created with University Support are the property of the University, unless they are Traditional Works of Scholarship or Instructional Works. Traditional Works of Scholarship and Instructional Works are the property of the Creator, but such works must be made available to, and maintained by the University for administrative purposes. The University shall compensate the employee for any costs incurred.

(c) Consistent with law and the legitimate interests of the University, Employees shall control their personal correspondence and notes. Employees shall serve as the University's agent for purposes of maintaining and controlling laboratory notebooks, raw data, and other working papers, all of which are the property of the University. Employees who leave the University shall be permitted to copy laboratory notebooks and take copies with them, although they may be required to maintain confidentiality of the data contained within the notebook when appropriate. The original notebooks will remain at the University.

(d) The University shall have a policy regarding the division of proceeds between Employees and the University for University owned Inventions and Works

(e) The terms and conditions of a grant or contract administered by the University may supersede this Article with the written agreement of the affected initial Principal Investigator.

#### 18.5 Release of Rights.

(a) Unless prohibited by law or contract, the University may withdraw from involvement in the protection or commercial application of an Invention or Work at any stage and relinquish its interests to a third party. If the University assigns its interests to a Creator, costs incurred by the University or on its behalf shall not be assessed against the Creator, unless otherwise agreed upon in writing by the Creator and the University.

(b) All assignments or releases of Inventions or Works by the University to employees shall contain a provision that such Invention or Work, if patented or copyrighted by the employee, shall be available royalty-free for educational or

research purposes by the University, or consistent with law, by the United States Government or the State of Florida.

## ARTICLE 19 CONFLICT OF INTEREST/OUTSIDE ACTIVITY

### 19.1 Policy.

In all official acts, an employee is bound to observe the highest standards of ethics consistent with the code of ethics of the State of Florida (Chapter 112, Part III, Florida Statutes and related advisory opinions) and Board and University regulations.

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

### 19.2 Definitions.

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

(b) "Conflict of Interest" shall mean

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

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

(3) any outside teaching employment with any other educational institution during a period in which the employee has an appointment with Florida Atlantic University, except with written approval of the Dean.

19.3 Conflicts of Interest Prohibited. Conflicts of interest are prohibited and employees are responsible for resolving them by working with their supervisors and other University officials.

### 19.4 Reportable Outside Activity.

An employee who proposes to engage in outside activity shall provide his or her supervisor a detailed written description of the proposed activity. The report shall include where applicable, the name of the employer or other recipient of services; the funding source; the location where such activity shall be performed; the nature and extent of the activity; and any intended use of University facilities, equipment, or services. A new report shall be submitted for outside activity previously reported at the beginning of each academic year for outside activity of a continuing nature and whenever there is a significant change

in an activity (nature, extent, funding, etc.) The reporting provisions of this section shall not apply to activities performed wholly during a period in which the employee has no appointment with the University. Any outside activity which falls under the provisions of this Article and in which the employee is currently engaged but has not previously reported, shall be reported within sixty (60) days of the execution of this Agreement and shall conform to the provisions of this Article.

19.5 Expedited Grievance 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 grievance under the expedited grievance procedure contained in Article 20, Section 20.15.

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

19.7 No University Affiliation. As specified in Article 5.3(d), an employee engaging in outside activity shall indicate that he/she is not an institutional representative unless specifically authorized as such. The employee will 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.

## ARTICLE 20 GRIEVANCE AND ARBITRATION PROCEDURE

20.1 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 including the use of mediation. 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 in this Article.

20.2 Resort to Other Procedures. It is the intent of the parties to first provide a reasonable opportunity for resolution of a dispute through the grievance procedure and arbitration process. Except as noted below, if prior to seeking resolution of a dispute by filing an Article 20 grievance or while the grievance

proceeding is in progress, an employee requests, in writing, resolution of the matter in any other forum, whether administrative or judicial, the Board or 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. § 2000e et seq. Further, since the parties do not intend that this grievance procedure be a device for appellate review, the President's or designee'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.

### 20.3 Definitions and Forms. As used in this Article:

(a) The term "grievance" shall mean a dispute filed on a form referenced in Section 20.3(c) 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.

(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). In accordance with state law, the UFF may file a chapter grievance. In order to process a chapter grievance submitted on behalf of a group of employees, the grievance must identify the group with sufficient specificity to allow the University to identify the individual members. A chapter grievance shall identify the specific remedy sought for the members.

(c) A chapter grievance or a grievance of a decision made by the President or Provost may be initiated at Step 2. The parties may agree to consolidate grievances of a similar nature to expedite the review process.

(d) Grievance Forms. Each grievance, request for review, and notice of arbitration must be submitted in writing on the appropriate form attached to this Agreement as Appendix "C", "D", or "E", respectively, and shall be signed by the grievant. All grievance forms shall be dated and assigned an identifying number by the Provost's office 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 1 meeting or Step 2 review if filed directly at Step 2. All grievance forms may be filed by means of fax, United States mail, or any other recognized means of delivery, and must contain the identifying grievance number once assigned.

20.4 Burden of Proof. The burden of proof shall be on the University only in disciplinary grievances in accordance with Article 16, and grievances limited to the issue of the length or lack of notice identified in Article 13.4 based on the "where circumstances permit" clause. In all other grievances, the burden of proof shall be on the employee.

20.5 Representation. UFF shall have the exclusive right to represent any

employee in an Article 20 grievance unless an employee elects self-representation or to be represented by legal counsel. If an employee elects not to be represented by UFF, the University shall promptly inform UFF in writing of the grievance. No resolution of any individually processed grievance shall be inconsistent with the terms of this Agreement and for this purpose 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.

20.6 Grievance Representatives. 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. Should any hearings or meetings with the Unit Head, [President Provost](#), or their [representatives-designees](#) necessitate rescheduling of assigned duties, the representative may, with the approval of the appropriate administrator, arrange for the rescheduling of such duties or their coverage by colleagues. Such approval shall not be unreasonably withheld.

#### 20.7 Appearances.

(a) When an employee participates during working hours in an arbitration proceeding or in a grievance meeting between the grievant or 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 regular working hours shall not be counted as time worked.

#### 20.8 Formal Grievance Procedure.

##### (a) Filing.

(1) A grievance shall be filed (Appendix "C") with the Unit Head, defined as Dean, ~~Director of Libraries, Executive Principal/~~Director of FAUS, -and Dean of Students for this article, or his/her representative at Step 1. ~~O,~~ or in the case of a grievance initiated at Step 2, it shall be filed with the ~~President Provost or designee.~~ In all cases, a grievance must be filed ~~or his/her representative,~~ within thirty (30) days following the act or omission being grieved, or the date on which the employee knew or reasonably should have known of such act or omission if that date is later. Thirty days shall be determined by a receipt executed by the office receiving the grievance, or by the date of mailing as determined by the postmark. The grievant may amend the filed grievance one

time within the thirty day filing time period, either prior to the Step 1 meeting for all grievances filed at Step 1, or prior to the Step 2 review for all grievances filed directly at Step 2.

(2) If an employee files a grievance alleging salary discrimination, the act or omission giving rise to such a grievance may be the employee's receipt of the employee's salary warrant for the first full-pay period in which the annual salary increases referenced in Article 23 are reflected.

(3) The filing of a grievance constitutes a waiver of any rights to judicial review of agency action pursuant to Florida Statutes, or to the review of such actions under University procedures which may otherwise be available to address such matters. This grievance procedure shall be the sole review mechanism for resolving disputes regarding rights or benefits which are provided exclusively by this Agreement. Only those acts or omissions and sections of the Agreement identified at the initial filing may be considered at subsequent steps.

(b) Time Limits. All time limits contained in this Article may be extended by mutual agreement of the parties, except that the time limits for the initial filing of a grievance may be extended only by agreement between the University and the UFF. Upon failure of the University to provide a decision within the time limits provided in this Article, the grievant or the UFF, where appropriate, may appeal to the next step. 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 by the decision at the prior step.

(c) Postponement.

(1) The grievant may, in the written grievance at Step 1, request the postponement of any action in processing the grievance formally for a period of up to thirty (30) days, during which period efforts to resolve the grievance informally shall be made. The initial such request shall be granted. Upon the grievant's written request, additional extensions should be granted unless to do so would impede resolution of the grievance. Upon request, the Unit Head or his/her representative shall, during the postponement period(s), arrange an informal meeting between the appropriate administrator and the grievant. The grievant shall have the right to representation by the UFF during attempts at informal resolution of the grievance. The grievant may, at any time, terminate the postponement period by giving written notice to the Unit Head or his/her representative that the grievant wishes to proceed with the Step 1 meeting. If the postponement period, or any extension thereof, expires without such written notice, the grievance shall be deemed informally resolved to the grievant's satisfaction and need not be processed further.

(2) In the case of a grievance filed pursuant to the Expedited Grievance Procedure referenced in Section 20.15, the postponement period shall be no more than seven (7) days unless the employee and the University agree otherwise.

(d) Step 1.

(1) Meeting. The Unit Head or his/her representative and the grievant and the grievant's representative shall meet within ten (10) days

following (a) receipt of the grievance if no postponement is requested, or (b) receipt of written notice that the grievant wishes to proceed with a Step 1 meeting. At the Step 1 meeting, the grievant shall have the right to present any evidence in support of the grievance, and the grievant and/or the UFF representative or the grievant's legal counsel (if selected pursuant to Section 20.5), and the Unit Head or his/her representative, shall discuss the grievance.

(2) Decision. The Unit Head or his/her representative shall issue a written decision, stating the reasons therefore, to grievant's Step 1 representative within seven (7) days following the conclusion of the meeting. Seven days shall be determined by a receipt executed by the office receiving the grievance, or by the date of mailing as determined by the postmark. In the absence of an agreement to extend the period for issuing the Step 1 decision, the grievant may proceed to Step 2 if the grievant's Step 1 representative has not received the written decision by the end of the 10th day following the conclusion of the Step 1 meeting. A copy of the decision shall be sent to the grievant and to the UFF grievance representative if the grievant elected self-representation or representation by legal counsel.

(3) Documents. Where practicable, the Step 1 reviewer shall make available to the grievant, or grievance representative, documentation referenced in the Step 1 decision prior to its issuance. All documents referred to in the 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 1 meeting, the grievant shall have the right, upon written request, to a copy of any identifiable documents relevant to the grievance.

(e) Step 2.

(1) Review. If the grievance is not satisfactorily resolved at Step 1, the grievant may file a written request for review (Appendix "D") with the ~~President or his/her representative~~Provost or designee within twenty (20) days following receipt of the Step 1 decision by grievant's Step 1 representative. Twenty days shall be determined by a receipt executed by the office receiving the grievance, or by the date of mailing as determined by the postmark.

(2) Meeting. The ~~President or his/her representative~~Provost or designee and the grievant and the grievant's representative shall meet no later than seven (7) days following receipt of written notice of request for a Step 2 review. 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 UFF representative or the grievant's legal counsel (if selected pursuant to section 20.5), and the ~~President or his/her representative~~Provost or designee shall discuss the grievance

(3) Decision. The ~~President or his/her representative~~Provost or designee shall issue a written decision, stating the reasons for the decision to grievant's Step 2 representative within five (5) days following the conclusion of the review meeting. Five days shall be determined by a receipt executed by the office receiving the grievance, or by the date of mailing as determined by the postmark. In the absence of an agreement to extend the period for issuing the Step 2 decision, UFF may proceed to Step 3 if the grievant's Step 2



representative has not received the written decision by the end of the 10th day following the conclusion of the Step 2 meeting. A copy of the decision shall be sent to the grievant and to UFF if the grievant elected self-representation or representation by legal counsel.

(f) Step 3 Arbitration.

(1) Filing. If the grievance has not been satisfactorily resolved at Step 2, UFF may, upon the request of the grievant, proceed to arbitration by filing a written notice of the intent to do so (Appendix "E"). Notice of intent to proceed to arbitration must be filed ~~with the FAU Board of Trustees at the Provost's office~~ within ~~twenty-fivethirty~~ (2530) days after receipt of the Step 2 decision by grievant's Step 2 representative, and must be signed by both i) the grievant; and ii) the State UFF President or his or her representative or State UFF Director of Arbitrations. ~~Twenty-fiveThirty~~ (2530) days shall be determined by a receipt executed by the ~~Provost's office receiving the grievance~~, or by the date of mailing as determined by the postmark. The grievance may be withdrawn at any time by the grievant or by the UFF President or Director of Arbitrations at any point during Step 3. 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 pursuant to Section 20.8(f)(4).

(2) Selection of Arbitrator.

a. Representatives of the Board and UFF shall meet within ninety (90) days after the execution of this Agreement for the purpose of selecting an Arbitration Panel of ten (10) members. Each party will propose ten (10) potential arbitrators. From this list of twenty (20) names, the parties will alternately strike names until a permanent Panel of ten (10) arbitrators has been selected. The right of the first choice to strike from the list shall be determined by a flip of a coin. If at least half of the permanent Panel of 10 arbitrators do not agree in writing to accept Expedited Grievances (Article 20.15) from the parties when necessary, the parties will start over to select a new permanent Panel.

b. Within fourteen (14) days after receipt of a notice of intent to arbitrate, representatives of the Board and the UFF shall meet for the purpose of selecting an arbitrator from the permanent Arbitration Panel. Selection shall be by mutual agreement or by alternately striking names from the Panel until one name remains. The right of the first choice to strike from the list shall be determined by the flip of a coin. The parties may mutually select as the arbitrator an individual who is not a member of the Arbitration Panel. The arbitration 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, or 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 statements 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 or promotion, 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. An 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 reasonable opportunity to seek other employment, or (b) the employee actually rejected an offer of comparable employment which 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 representative~~ Provost 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 Section 20.8(f)(2).

(5) Conduct of Hearing. The arbitrator shall hold the hearing in the city where the grievant is employed, 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 forty-five (45) 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 current Labor Arbitration Rules of the American Arbitration Association.

(6) Effect of Decision. The decision or award of the arbitrator shall be final and binding upon the Board, the University, the UFF, and the grievant, provided that either party 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 ~~Section 682.13, Florida Statutes~~ the Florida

Arbitration Code as defined by 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 Palm Beach County, Florida, unless both parties specifically agree otherwise in a particular instance. In an action commenced in Palm Beach County, neither the Board nor the UFF will move for a change of venue based upon the defendant's residence in fact if other than Palm Beach County.

(8) Fees and Expenses. All fees and expenses of the arbitrator shall be divided equally between the parties. Fees and expenses charged by an arbitrator for cancelation after withdrawal is the responsibility of the withdrawing party. Each party shall bear the cost of preparing and presenting its own case including payment of expenses and compensation for its own representatives, attorneys, and witnesses. 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 week prior to the date of the arbitration. The party desiring such transcript shall be responsible for scheduling a stenotype reporter to record the proceedings. The party originally requesting a transcript of the proceedings shall pay for any appearance fee of the stenotype 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 thirty (30) days prior to the date the grievance was initially filed in accordance with this Article.

20.9 Filings and Notification. With the exception of Step 1 and 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 1 and 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. In the event that any action falls due on a Saturday, Sunday, or holiday (as referred to in Section 17.6), the action will be considered timely if it is accomplished by 5:00 P.M. on the following business day.

20.10 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 Board of Trustees or representatives and the UFF acting through its President or representative.

20.11 Processing.

(a) The filing or pendency of any grievance or arbitration proceedings under this Article shall not operate to impede, preclude, or delay the Board 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) The Unit Head, the PresidentProvost, or their representativesdesignee, may refuse to process or ~~consideration of~~ a grievance not filed or processed in accordance with this Article.

20.12 Reprisal. No reprisal of any kind will be made by the Board, the University, or the UFF against any grievant, any witness, any UFF representative, or any other participant in the grievance procedure for such participation.

20.13 Records. All written materials pertinent to a grievance shall be filed separately from the evaluation file of the grievant or witnesses, except decisions resulting from arbitration or settlement.

20.14 Inactive Grievances. A grievance which has been filed at Step 2 or Step 3 and on which no action has been taken by the grievant or the UFF for forty-five (45) days shall be deemed withdrawn and resolved in accordance with the decision issued at the prior Step.

20.15 Expedited Grievance Procedure for Conflict of Interest

(a) A grievance filed under Article 19.5 shall be heard at Step 1 by the President or representativeProvost or designee no more than seven (7) days after it has been filed. The President or representativeProvost or designee shall issue a Step 1 decision no more than 7 days after the Step 1 meeting.

(b) A request for review of the Step 1 decision shall be filed using Appendix "D," no more than seven (7) days following the receipt of the Step 1 decision. The Step 2 meeting shall be held no more than 7 days after the receipt of Appendix "D," and the Step 2 decision shall be issued no more than 7 days after the meeting.

(c) A request for arbitration using Appendix "E" shall be filed within fourteen (14) days after receipt of the Step 2 decision. An arbitrator shall be selected by the parties no more than fourteen (14) days following the receipt of the Appendix "E." The arbitrator shall issue a memorandum of decision within 7 days following the conclusion of the arbitration, to be followed by a written opinion and award in accordance with Section 20.8(f)(5).

(d) All other provisions of Article 20 shall apply to these grievances, except as noted above.

## ARTICLE 21 OTHER EMPLOYEE RIGHTS

21.1 Professional Activities. Employees shall be encouraged to attend professional meetings, conferences, and activities with the approval of their supervisor. The University shall reimburse an employee for expenses related to

such activities subject to the availability of funds and the approval of the supervisor, in accordance with the applicable provisions of State law and rules and regulations having the force and effect of law.

21.2 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.

21.3 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.

21.4 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 University 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.

21.5 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.

21.6 Protection for Whistleblowers. Employees are notified that Section 112.3187, Florida Statutes, provides protection to certain employees who are covered by the act and delineates their rights and responsibilities.

## ARTICLE 22 STUDY LEAVE AND SABBATICALS

### 22.1 Study Leave.

(a) Job-Required. An employee required to take academic course work as part of assigned duties shall not be required to charge time spent attending classes during the work day to accrued leave.

(b) Job-Related. An employee may, at the discretion of the supervisor, be permitted to attend up to six (6) credits of course work per semester during work as part of the Employee Educational Scholarship Program, provided that:

(1) The course work is directly related to the employee's professional responsibilities;

(2) The supervisor determines that the absence will not interfere with the proper operation of the work unit;

(3) The supervisor believes that completion of the course work would improve the productivity of the department or function of which the employee is a part; and

(4) The employee's work schedule can be adjusted to accommodate such job-related study without reduction in the total number of work hours required per pay period.

(c) Employees may, in accordance with this Article, use accrued annual leave for job-related study.

### 22.2 Sabbaticals.

(a) Policy. Sabbaticals for professional development are to be made available to employees who meet the requirements set forth below. Such sabbaticals are granted to increase an employee's value to the University through enhanced opportunities for professional renewal, planned travel, study, formal education, research, writing, or other experience of professional value, not as a reward for service.

#### (b) Types of Sabbaticals.

(1) The University will make available to each employee whose application has been reviewed by the University, a sabbatical for two (2) semesters (i.e., one (1) academic year) at half-pay, subject to the conditions set forth below.

(2) Each year, the University will make available at least one (1) sabbatical at full-pay for one (1) semester for each twenty-six (26) eligible employees, subject to the conditions set forth below.

(c) Eligibility for Sabbaticals.

(1) Initial Sabbatical at FAU. Full-time employees who at the time of application are tenured and serving as Associate Professor, Professor, Associate University Librarian or University Librarian, and who will have completed at least six (6) years of continuous full-time service within the University before beginning the sabbatical, shall be eligible to apply for initial sabbaticals. An employee who is compensated through a contract or grant may receive a sabbatical only if the contract or grant allows a sabbatical and the employee meets all other eligibility requirements.

(2) Subsequent Sabbaticals at FAU. Employees shall not normally be eligible for a second sabbatical until six (6) years of continuous full-time service are completed following the prior sabbatical. Employees may apply during the sixth year.

(d) Application and Selection.

(1) Applications for sabbaticals shall be submitted in accordance with University procedures established through the consultation process (Article 2). 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 22.2(e).

(2) Sabbaticals at half-pay shall be granted unless the University has determined that the conditions set forth in this Article have not been met or that departmental/unit staffing considerations preclude such sabbatical from being granted. In this latter instance, the employee shall be provided the sabbatical 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.

(3) If there are more applicants for one (1) semester sabbaticals at full-pay than available sabbaticals, the Research Committee of the University Faculty Senate shall rank the applicants. 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, the library, 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 activities; and length of service since previous sabbatical or initial appointment. The committee shall submit a ranked list of recommended employees to the President or representative. The President or representative shall make appointments from the list and consult with the committee prior to an appointment that does not follow the committee's ranking.

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



(e) Terms of Sabbatical Program.

(1) While on sabbatical, the employee's salary shall be one half-pay for two (2) semesters (one (1) academic year), or full-pay for one semester.

(2) The employee must return to the University for at least one (1) academic year following participation in the program. Agreements to the contrary must be reduced to writing prior to participation. Return to the University of salary received during the program will be required in those instances where neither of the above is satisfied.

(3) The employee must, within sixty (60) days of completion of the sabbatical, provide a concise written report of the employee's accomplishments during the sabbatical to the President or representative. This report shall include information regarding the activities undertaken during the sabbatical, the results accomplished during the sabbatical as they affect the employee and the University, and research or other scholarly work produced or expected to be produced as a result of the sabbatical.

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

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

(6) 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 reduction of the employee's University salary. 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 income of the sabbatical period to a level comparable to 125% of the employee's current year salary rate. Employment unrelated to the purpose of the sabbatical leave is governed by the provisions of Article 19, Conflict of Interest And Outside Activity.

(7) If plans include providing technical information to persons who are not United States citizens, an employee must consult with the Office of General Counsel prior to departure. The provision of technical knowledge outside the United States is considered an export and is regulated by the U.S. Commerce Department or the State Department depending upon the type of knowledge being exported. Those agencies require a license before the knowledge may be communicated.

22.3 Retraining. The University may, at its discretion, provide opportunities for retraining of employees when it is in the University's best interests. 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.

#### 22.4 FAUS Sabbaticals.

(a) Policy. Sabbaticals for research or scholarly work are to be made available to employees who meet the requirements set forth below. Such sabbaticals are granted to increase an employee's value to the FAUS through enhanced opportunities for research, writing, or other experience of professional value, not as a reward for service.

(b) Type of Sabbatical. Once every two (2) years, the FAUS will make available at least one (1) sabbatical at half-pay for one (1) FAUS academic year for eligible employees, subject to the conditions set forth below. FAUS may provide sabbaticals that are equivalent to the one (1) year, half-pay sabbatical upon consultation with the UFF Chapter representative.

(c) Eligibility for Sabbatical. Full-time ~~permanent status~~ employees ranked as University School Associate Professor or ~~full~~ University School Professors with at least six (6) years of full-time service at the FAUS shall be eligible for sabbaticals. Eligible employees shall be notified annually regarding eligibility requirements and application deadlines.

(d) Application and Selection.

(1) Applications for sabbaticals shall be submitted in accordance with procedures established through the FAUS consultation process (Article 2). At a minimum, 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 FAUS and his/her 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 22.4(e).

(2) A joint College of Education/FAUS Research Committee shall rank the applicants for the purpose of making a recommendation to the ~~FAUS Executive Director~~dean or designee regarding the awarding of the sabbatical. The committee shall be comprised of ~~permanent status~~ employees chosen by the dean or designee ~~FAUS Executive Director~~ in consultation with UFF. The committee chairperson shall be selected by majority vote of the committee. The committee, in ranking the applicants, shall consider the benefits of the proposed program to the employee, the FAUS, and the profession; the needs of the FAUS; and the length of time since the employee was last provided an opportunity for professional renewal. The committee shall submit a ranked list of recommended employees to the dean or designee ~~FAUS Executive Director or representative~~ who shall make the final decision regarding the awarding of the sabbatical.

(e) Terms of Sabbatical Program.

(1) The employee must return to the FAUS for at least one (1) academic year immediately following the sabbatical. Agreements to the contrary must be reduced to writing prior to participation. Return to the FAUS of salary received during the program may be required in those instances where neither of the above is satisfied.

(2) The employee must, within sixty (60) days of returning from the sabbatical, provide a concise written report of the employee's accomplishments during the sabbatical to the ~~dean or designee~~FAUS Executive Director or representative. This report shall include information regarding the activities undertaken during the sabbatical, the results accomplished during the sabbatical as they affect the employee and the FAUS and research or other scholarly work produced or expected to be produced as a result of the sabbatical.

(3) Employees shall not normally be eligible for a second sabbatical until six (6) years of continuous service are completed following the first.

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

(5) Employees shall continue to accrue sick leave on a full-time basis during the sabbatical.

## ARTICLE 23 SALARIES

23.1 University Compensation Increases for Faculty. The Florida Atlantic University Board of Trustees has approved funds for performance based increases, to be distributed in the following categories as follows:

(1) ~~PP~~Promotion Increases. Promotion increases shall be granted to employees pursuant to the status quo currently in Article 14 of the 2006-2009 FAU BOT/UFF Collective Bargaining Agreement, effective August 10, 2009 for those promoted in 2009, and August 11, 2010 for those promoted in 2010 promoted in 2011-12 effective upon the start of their 2012-13 academic year appointment. These increases shall be granted in an amount as follows:

a) in recognition of promotion to Associate Professor, Associate in \_\_\_\_\_, Associate Scholar/Scientist, Associate Engineer, Associate Research Professor, and Associate University Librarian, an increase equal to 9.0% of the employee's previous year's base salary in recognition of promotion to Associate Professor, Associate in \_\_\_\_\_, Associate Scholar/Scientist, Associate Engineer, Associate Research Professor, and Associate University Librarian; and or

b) in recognition of promotion to Professor, Scholar/Scientist, Engineer,

Research Professor and University Librarian, an increase equal to 12% of the employee's previous year's base salary in recognition of promotion to Professor, Scholar/Scientist, Engineer, Research Professor and University Librarian.

c) upon the start of the 2013-14 academic year appointment in recognition of promotion to Senior Instructor/Senior Lecturer in accordance with the Provost's Memorandum on Appointment and Promotion of Instructors and Lecturers, an increase of 9.0% of the employee's previous year's base salary, but the increase may not exceed 9.0% more than the employee's September 2008 salary, if in the same position; or

a)d) in recognition of promotion to University Instructor/University Lecturer in accordance with the Provost's Memorandum on Appointment and Promotion of Instructors and Lecturers, an increase of 12.0% of the employee's previous year's base salary, but the increase may not exceed 12.0% more than the employee's September 2008 salary, if in the same position.

~~b) — Performance Based Merit Increases.~~

~~1) — All permanent bargaining unit employees under appointment as of May 1, 2010 and who have continued employment through August 11, 2010, who have at least Above Satisfactory overall annual evaluation for the 2009-2010 academic year or the 2009 calendar year will be eligible. Permanent faculty include instructors, lecturers, multi-year appointees, tenured or tenure-earning faculty, and faculty and librarians enrolled in DROP. Employees on contracts or grants 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 contract or grant.~~

~~2) — The University shall provide merit increases to each college/unit equal to approximately 1.0% of the total base salary rate of employees in the unit on May 1, 2010. The Dean/Director/Unit Head shall distribute these funds in a proportionate, fair and equitable manner to the department/unit.~~

~~3) — Merit increases shall be provided to eligible employees consistent with criteria specified in Section 10.4 and procedures developed pursuant to Section 10.3(b).~~

~~4) — The merit increase, expressed as a percentage of an employee's base salary, shall be equal for employees with equal evaluations.~~

~~5) — The increases shall be effective August 11, 2010.~~

~~c) — Market Equity Increase.~~

~~1) — All permanent bargaining unit employees who have three or more academic years of consecutive assignment at FAU as of May 1, 2010 will be eligible. Permanent faculty includes instructors, multi-year appointees, tenured or tenure-earning employees, and faculty and librarians enrolled in DROP. Employees on contracts or grants 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 contract or grant.

~~2) The employee's three year average overall evaluation must be Satisfactory or higher.~~

~~3) The employee's May 1, 2010 salary must be below 80% of the mean salary for comparable departments and comparable ranks in the most recent Oklahoma State University Salary survey (or equivalent) for employees whose three year overall annual evaluations are Satisfactory, below 100% of the mean salary for comparable departments and comparable ranks in the most recent Oklahoma State University Salary survey (or equivalent) for employees whose three year overall evaluations are Above Satisfactory, and below 120% of the mean salary for comparable departments and comparable ranks for employees whose three year overall annual evaluations are Excellent.~~

~~4) The University shall provide market equity funds equal to approximately 1.0% of the total base salary rate of employees on May 1, 2010. This amount is defined as the Available Market Equity for the unit.~~

~~5) The Available Market Equity shall be distributed by an elected faculty committee within each college unit consistent with Section 23.1(c). The members of the Market Equity Committee shall be eligible for market equity funds. The criteria the Committees use to distribute funds shall be made available to faculty before the funds are distributed.~~

~~6) These increases shall be effective August 11, 2010.~~

~~d) Retention Increase. All bargaining unit employees (except FAUS and AMP) under appointment as of May 1, 2010 and who have continued employment through August 11, 2010 shall receive a retention increase equal to 1.0% of the employee's previous year's base salary effective August 11, 2010. Employees on contracts or grants 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 contract or grant.~~

## 23.2 Florida Atlantic University School Employees.

a) FAUS Employee ~~Permanent Status and~~ Promotion Increases.

1) Promotion increases shall be granted to FAUS employees pursuant to procedures and criteria for ~~achieving Permanent Status and/or~~ promotion to each rank for those promoted in ~~2009~~2011-12, effective upon the start of the 2012-13 academic year appointment, ~~and August 16, 2010 for those promoted in 2010.~~ Permanent status employees may be promoted, but may not receive any promotion/merit salary increase.

2) These increases shall be granted to non-permanent status employees in an amount equal to a specified percentage of the employee's previous years' base salary at the time of promotion to one of the ranks described below:

3% For To achieving Permanent Status University School Accomplished Instructor;

- 7% To University School Assistant Professor;
- 8% To University School Associate Professor; and
- 9% To University School Professor

~~b) Retention and Merit Compensation Increases for FAUS Faculty.~~

~~The Florida Atlantic University Board of Trustees has approved funds for performance based increases for eligible employees. The increases are to be distributed in the following categories:~~

~~1) Retention Increase. All eligible permanent bargaining unit employees who were employed as of May 1, 2010 and have continued employment through August 16, 2010, shall receive a 1.0% base salary increase. This increase will be effective August 16, 2010.~~

~~2) Merit Based Increases. The University shall provide a combined merit salary increase pool to eligible FAUS employees equal to 2.0% of the total base salary rate of FAUS employees in the unit on May 1, 2010. All eligible permanent FAUS employees who were employed as of May 1, 2010, and have continued employment through August 16, 2010, shall receive a merit base salary increase. These increases will be effective August 16, 2010.~~

~~c) Equity Increases for FAUS Faculty.~~

~~1) The University shall develop a FAUS Equity Survey taking into consideration pay plans from public school districts throughout the FAUS service area. The FAUS Equity Survey shall serve as a baseline for equity comparison only.~~

~~2) The FAUS employee's May 1, 2010 salary must be below 100% of the mean salary for comparable teachers in the most recent FAUS Equity Survey for employees whose 2009-10 overall annual evaluations are Satisfactory, and below 120% of the mean salary for comparable teachers in the most recent FAUS Equity Survey for employees whose 2009-10 overall evaluations are Outstanding.~~

~~3) The University shall provide \$21,500 as the 2010-11 FAUS Available Market Equity for the eligible FAUS unit.~~

~~4) The FAUS Available Market Equity shall be distributed by an elected faculty committee of FAUS employees consistent with Section 23.2(c). The members of the FAUS Market Equity Committee shall be eligible for market equity increases subject to 23.2(d). The criteria the FAUS Committee uses to distribute funds shall be made available to FAUS faculty before the funds are distributed.~~

~~5) The FAUS Market Equity Committee must notify the Dean or Assistant Dean of the distribution of the 2010-11 FAUS Available Market Equity funds on or before October 15, 2010, or the Dean or designee shall determine the distribution of these funds in his/her sole discretion. These equity increases shall be effective August 16, 2010.~~

~~d) Eligibility.~~

~~1) Each eligible part-time employee shall receive any applicable increase pro-rated based on the full-time equivalency of the position.~~

~~2) Employees on contracts or grants shall receive the applicable salary increase 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 contract or grant.~~

~~3) Eligibility for any wage increase requires at least a Satisfactory overall annual evaluation for the 2009-2010 academic year.~~

~~4) Merit Based Increases, 23.2(b)(2) above, shall be distributed based on FAUS merit criteria as last approved by both the faculty and administration.~~

~~5) Eligibility for Equity Increases, 23.2(c) above, requires one or more academic years of consecutive assignment at FAUS as of August 1, 2010.~~

eb) FAUS Base Salary and Lump Sum Increase.

1) All FAUS employees shall receive a base salary increase of \$1,430.37 effective August 12, 2013.

2) In addition, all FAUS employees shall receive a one-time lump-sum payment of \$1,430.37 effective August 12, 2013.

3) Payments shall be disbursed in accordance with regular pay practices on a regular pay day subject to all required payroll tax deductions. Employees must be employed at FAUS on both June 1, 2013 and August 15, 2013 to be eligible.

fc) Joint Appointments.

FAUS employees holding joint appointments with a department or unit in the University shall be eligible for any salary increases available to other part-time members of the bargaining unit in such department/unit of the University, with such increases appropriately pro-rated.

gd) FAUS Supplements.

FAUS employees shall receive salary supplements for approved extracurricular activities assigned by the Director under the following conditions:

1) The activity must involve duties that extend beyond the normal workday;

2) Employees shall receive a separate salary supplement for each assigned activity;

3) The amount of the salary supplement shall be determined after consultation with the FAUS UFF representative.

4) Salary supplements are not to be included in the base salary rate upon which future salary increases are calculated.

23.3 Administrative, Managerial and Professional Pay Plan.

~~1) The FAU Board of Trustees shall provide eligible AMP bargaining unit employees with a 1.0% across-the-board and a merit salary increase from funds equal to 2.0% of the May 1, 2010 salary base of eligible bargaining unit employees.~~

~~2) These increases shall be distributed according to the AMP criteria for the University.~~

~~3) These increases shall be effective August 11, 2010.~~

~~23.4~~ Report to Employees. All employees shall receive notice of their salary increase, if applicable. Upon request, an employee shall have the opportunity to consult with the person or committee which makes the initial recommendation for salary increases.

~~23.5~~ ~~4~~ Nothing contained herein shall prevent the University from providing salary increases beyond the increases specified above. These increases are provided for market equity considerations, including verified counteroffers; documented compression/inversion; increased duties and responsibilities; special achievements; litigation/settlements; and similar situations. In the event the University or college develops procedures for distributing increases under this section, a copy will be provided to the UFF. The UFF shall have the opportunity to discuss the procedures in consultation with the President or his/her representative prior to their implementation.

~~23.6~~ Grievability. The only issues to be addressed in a grievance filed pursuant to Article 20 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.

~~23.6~~ Type of Payment for Assigned Duties

a) Duties and responsibilities assigned by the University to an employee which do not exceed the available established FTE for the position shall be compensated through the payment of Salary, not Temporary Employment, unless stated otherwise in this Agreement.

b) Duties and responsibilities assigned by the University to an employee which are in addition to the available established FTE for the position shall be compensated through Temporary Employment, not Salary.

#### ARTICLE 24 BENEFITS

24.1 Benefits. FAU employees are offered a variety of benefit and retirement options. These are explained at orientation sessions at the time of hire and information is available from the staff or website of [the Department of Human Resources](#).

[Employees shall be eligible to participate in the domestic partner benefit stipend program. This domestic partner benefit stipend program shall be launched and offered prior to August 15, 2013.](#)

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



24.3 Part-Time Employees. Part-time employees, except those in positions classified as Temporary or funded from Other Personal Services (OPS) funds, are entitled to employer-funded benefits under the provisions of State law and the rules of the Department of Management Services and the Division of Retirement. Part-time employees should contact the Department of Human Resources at the University to determine the nature and extent of the benefits for which they are eligible.

24.4 Retirement Credit. Retirement credit for employees who are authorized to take uncompensated or partially compensated leaves of absence shall be granted in accordance with State law and the rules of the Division of Retirement 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 Department of Human Resources for complete information prior to taking the leave.

24.5 Benefits for Retired Employees.

(a) Employees retired from the University shall be eligible, upon request, and on the same basis as other employees, subject to University policies, to receive the following benefits at the University:

- (1) FAU Owl card;
- (2) Use of the University library (i.e., public rooms, lending and research service);
- (3) Placement on designated University mailing lists;
- (4) A University parking decal at adjunct rates;
- (5) Use of University recreational facilities (retired employees may be charged fees different from those charged to other employees for the use of such facilities);
- (6) 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;
- (7) A mailbox in the department/unit from which the employee retired, subject to space availability and
- (8) University e-mail address.

(b) ~~In accordance with University policy, and o~~On a space available basis and with Provost's or designee's approval, the University ~~is encouraged to~~may grant a retired employee's request ~~for to use~~ office or laboratory space.

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



Statutes as provided by Florida law.

#### 24.6 Phased Retirement Program.

##### (a) Eligibility.

(1) Employees who have ~~accrued~~ been employed at least six (6) years of creditable service ~~– (not including leaves of absence), in the Florida or Teachers Retirement System (FRS, TRS) or Optional Retirement Program (ORP), except those employees referenced in 24.6(a)(2) and are eligible to retire according to his/her state retirement program rules, are eligible to~~ may participate in the Phased Retirement Program ~~(except those employees referenced in 24.6(a)(2) below)~~. Such eligibility shall expire on the employee's 70th birthday. Employees who decide to participate must provide written notice to the University of such decision prior to the expiration of their eligibility, or thereafter forfeit such eligibility. Employees who choose to participate must retire with an effective date not later than 180 days, nor less than ninety (90) days, after they submit such written notice, except that when the end of this 180 day period falls within a semester, the period may be extended to no later than the beginning of the subsequent term (semester or summer, as appropriate).

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

##### (b) Program Provisions.

(1) All participants must retire and thereby relinquish all rights to tenure/permanent status as described in Article 15, except as stated otherwise in this Article. 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 pursuant to Article 17.

##### (3) Re-employment.

a. Prior to re-employment, participants in the Phased Retirement Program must remain off the University payroll for the time required by state law and the Florida Division of Retirement in order to validate their retirement. Participants must comply with any re-employment limitations that apply pursuant to the provisions of state law and either the Florida Retirement System (which includes ORP) or the Teachers Retirement System, as appropriate.

b. Participants shall be offered re-employment, in writing, by the University under OPS/Temporary funding for one-half of the academic year as an adjunct instructor but may retain their pre-retirement working title. Participants will be identified in University directories and other university publications by their pre-retirement rank. The University and employee may agree to less than one-half of the academic year. The written re-employment offer shall contain the text of Section 24.6(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, subject to the conditions outlined in (3)a.

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

(4) Leave for Illness/Injury.

a. Each participant shall be credited with five (5) days of leave with pay at the beginning of each full-time semester appointment. For less than full-time appointments, the leave shall be credited on a pro-rata basis with the assigned FTE. This leave is to be used in increments of not less than four (4) hours ( $\frac{1}{2}$  day) when the participant is unable to perform assigned duties as a result of illness or injury of the participant or a member of the participant's immediate family. ~~For the purposes of this Section, immediate family shall include the participant's spouse, mother, father, brother, sister, natural, adopted, or step child, or other relative living in the participant's household. (as defined in Article 17).~~

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

a. Each participant who was on a twelve (12) month appointment upon entering the Phased Retirement Program and whose assignment during the period of re-employment is the same as that during the twelve(12) month appointment shall be credited with five (5) days of leave with pay at the beginning of each full-time semester appointment. This leave is to be used in increments of not less than four (4) hours ( $\frac{1}{2}$  day) for personal reasons unrelated to illness or injury. Except in the case of emergency, the employee shall provide at least two (2) days notice of the intended leave. Approval of the dates on which the employee wishes to take such leave shall be at the discretion of the supervisor and shall be subject to the consideration of departmental and organizational scheduling.

b. Such leave shall not be accumulated, nor shall the participant be reimbursed for unused leave upon termination of the post-retirement period.

(6) Re-employment Period.

a. The period of re-employment obligation shall extend over five (5) consecutive academic years, beginning with the academic year of the first assignment. 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 Article 13 or 16 of the Agreement.

(7) Declining Re-employment. A participant may decline an offer of re-employment during any academic year. Such a decision shall not extend the period of re-employment beyond the period described in Section 24.6(5)b. At the conclusion of the re-employment period, the University may, at its option, continue to re-employ participants in this program on a year-to-year basis.

(8) Salary Increases. Participants shall receive all increases guaranteed to employees in established positions, in an amount proportional to their part-time appointment.

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

(10) Payroll Deductions. The UFF payroll deductions, as specified in Article 26, 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.

24.7 Free University Courses for Employees. Full-time employees, including employees on sabbaticals or on professional development or grants-in-aid leave, may enroll for up to six (6) credit hours of instruction per term (Fall, Spring, or Summer) under the Employee Educational Scholarship Program (EESP). Information on this program is available on the Human Resources webpage.

24.8 Employee Assistance Programs. Employees shall be entitled to participate in the existing Employee Assistance Program (EAP) available to other FAU employees. Any policies created or revised by the University in the development or operation of its EAP shall be discussed in consultation with the local UFF Chapter.

24.9 Pre-tax Benefits Program. The Board shall continue to provide a pre-tax benefits program for salaried employees in the State University System which includes 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.

## ARTICLE 25

REPEALED 10/2009

ARTICLE 26  
PAYROLL DEDUCTION

Pursuant to ~~the provisions of Section 447.303, Florida Statutes~~state law, the University and the UFF hereby agree to the following procedure for the deduction and remittance of the UFF membership dues and other UFF deductions.

26.1 Deductions.

(a) During the term of this Agreement, the University agrees to deduct the UFF membership dues in an amount established by the UFF and certified in writing by the FAU-UFF Chapter President to the University, and to make other UFF deductions in an amount 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~~to the Payroll Department.

(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 shall give written notice to the University of any changes in its dues at least forty-five (45) days prior to the effective date of any such changes.

26.2 Remittance. The dues and other authorized deductions shall be remitted by the University to the UFF 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.

26.3 Termination of Deduction. The University's responsibility for deducting dues and other authorized deductions from an employee's salary shall terminate automatically ~~upon no later than~~ after receiving written notice from the employee to the ~~Human Resources Office~~Payroll Department. The University will notify the UFF of the written notice of the termination of deduction authorization.

26.4 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 in the University.

26.5 Indemnification. UFF assumes responsibility for (1) all claims against the Board and the University, including the cost of defending such actions, arising from their compliance with this Article, and for (2) all monies deducted under this

Article and remitted to the UFF. The UFF shall promptly refund to the University excess monies received under this Article.

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

## ARTICLE 27 MAINTENANCE OF BENEFITS

No employee may be required to waive the benefits provided by the terms of this Agreement. No employee shall, as a result of the establishment of a level of rights or benefits in this Agreement, suffer a loss or diminution of any such rights or benefits for which otherwise eligible.

## ARTICLE 28 MISCELLANEOUS PROVISIONS

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

28.2 Effect of Passage of Law. Any provision of this Agreement which is contrary to law, but becomes legal during the term of this Agreement, shall be reinstated consistent with such legislation.

28.3 Legislative Action. The Board and the UFF agree not to seek a change in State statute with the intent to alter a term of this Agreement.

28.4 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 Palm Beach County, Florida. In an action commenced in Palm Beach County, neither the Board nor UFF will move for a change of venue based upon the defendant's residence in fact if other than Palm Beach County, Florida.

28.5 Copies of the Agreement. The Board agrees to maintain a copy of the ratified Agreement on the University's website in a prominent and readily accessible location that is mutually agreed upon by the parties.

28.6 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 UFF. Further, if the University revises the specifications of an existing class so that its bargaining unit designation is changed, it shall notify UFF of such new designation. Within ten (10) days following such notification, UFF may request a

meeting with the President or representative for the purpose of discussing the designation. If, following such discussion, UFF 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 Article 20, Grievance Procedure.

28.7 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.

28.8 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.

28.9 If an FAUS employee is designated to transport students consistent with the requirements of the Laws of Florida (Florida Uniform Classified Commercial Driver's License Act), FAUS shall pay the costs associated with the employee's licensure and endorsement.

28.10 Delivery of Notice. For the purposes of this Agreement, delivery of notice in person is completed upon personal delivery. Any notice sent by any overnight service, certified or registered mail is completed upon proof of attempted or completed delivery, or actual receipt, whichever is sooner. Any notice sent by regular mail, email or fax is completed upon delivery.

## ARTICLE 29 SEVERABILITY

29.1 Failure of a Provision. If any provision of this Agreement (a) is found to be invalid or unenforceable by final decision of a tribunal of competent jurisdiction, (b) is rendered invalid by reason of subsequently enacted legislation, or (c) shall have the effect of a loss to the State of Florida or to FAU of funds, property, or services made available through federal law, or (d) pursuant to Florida Statutes Section 447.309(3), can take effect only upon the amendment of a law, rule, or regulation and the government body having such amendatory authority fails to take the 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. The Board and the UFF shall enter into immediate negotiations to replace a provision of the Agreement that fails for reason (a), (b), or (c) above.

The Board and UFF retain the right to bargain provisions that fail for reason (d) above.

## ARTICLE 30 DURATION

30.1 Term of Agreement. The term of this agreement shall be from July 1, ~~2009~~ 2012 until June 30, ~~2012~~2015.

### 30.2 Reopeners.

~~A. 30.2 Reopeners. Either 30.2 Reopeners. Upon proper notice, either party may reopen negotiations on Article 8.4(b) (Summer Supplemental Appointments), Article 10.7 (Post Tenure Review) and up to two (2) additional articles for contract year July 1, 2010-2013 through June 30, 2011-2014.~~

~~B. Upon proper notice, either party may reopen negotiations on Article 8.4(b) (Summer Supplemental Appointments), Article 10.7 (Post Tenure Review) and up to two (2) additional articles for contract year July 1, 2011-2014 through June 30, 2012-2015.~~

~~C. by providing written notice to the other party. Article 23 on Salaries is resolved and may not be reopened for 2010-2011. Article 23 may be a subject of bargaining for contract year 2011-2012 in addition to any reopened articles. Notice to reopen any article(s) as permitted above must be given in writing and no later than either February 1<sup>st</sup> before the applicable contract year or within 15 days following a BOT ratification, whichever is later.~~

~~D. Article 23 shall be reopened for negotiations for contract year 2013-2014 and 2014-2015.~~

30.3 Retroactive Application of Benefits. Except where retroactivity is allowed by express contract language, any change in terms or benefits of employment will be effective upon ratification.

## ARTICLE 31 TOTALITY OF AGREEMENT

31.1 Limitation. The parties acknowledge that during the negotiations which resulted in the Agreement, the Board and UFF 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 understandings and agreements arrived at thereby are set forth in this



Agreement, and that it shall constitute the entire and sole Agreement between the parties for its duration.

31.2 No Obligation to Bargain. The Board and UFF, during the term of this Agreement, voluntarily and unqualifiedly waive the right, and agree that the other shall not be obligated, to bargain collectively with respect to any subject or matter, whether or not referred to or covered by this Agreement, even though such subject or matter may not have been within the knowledge or contemplation of the parties at the time they negotiated or signed this Agreement.

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

## ARTICLE 32 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, or approximately 42 weeks for FAUS.

-- "FAUS" means Florida Atlantic University Schools, including A.D. Henderson University School and FAU High School.

-- "bargaining unit" means those employees, collectively, represented for collective bargaining purposes by UFF pursuant to the Florida Public Employees Relations Commission Certification Order Number 04E-010, dated January 9, 2004. Attached as Appendix "A," for information purposes only and not made a part of the Agreement, is the listing of titles included in the General Faculty bargaining unit.

-- "Board" means the FAU Board of Trustees body established by Florida Statutes.

-- "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 a break in service. For academic year employees (9 or 10 month employees), one year of continuous service is equivalent to the nine (9) or ten (10) month employment period.

- "days" means calendar days.
- "department/unit" means a department or a comparable administrative unit generally equivalent in size and character to a department.
- "employee" means a member of the bargaining unit.
- "equitable" means fair and reasonable under the circumstances.
- "months" means calendar months.
- number: The singular includes the plural.
- "principal place of employment" means the campus location or other University site specified on the employee's standard Notice of Appointment.
- "semester" means one of the two approximately 19.5 week periods (approximately 21 week period for FAUS) which together constitute the academic year.
- "supervisor" means an individual identified by the President or representative as having immediate administrative authority over bargaining unit employees.
- "written" means to set down or communicate in writing or by electronic means (e.g., letter, memo, email or fax), as opposed to oral.
- "UFF" means the FAU Chapter of United Faculty of Florida.
- "unit head" is defined as Dean, ~~Director of Libraries~~, Executive Director of FAUS and Dean of Students.
- "University" means Florida Atlantic University.
- "year" means a period of twelve (12) consecutive months.