

## CHAPTER FSU-4 FACULTY AND STAFF

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### **FSU-4.001 General Human Resource Policies.**

Equal Opportunity, Employment, Child Labor and Nepotism.

(1) Equal Opportunity. Florida State University is an equal opportunity employer and educational provider committed to a policy of non-discrimination for any member of the University's community. Discrimination against any individual based on race, creed, color, sex, religion, national origin, age, disability, genetic information, veterans' status, marital status, sexual orientation, gender identity, gender expression, or any other legally protected group status is expressly forbidden.

(2) Employment. This regulation prescribes Human Resources policies for Florida State University Administrative and Professional employees (A&P), Executive Service employees (AEX), University Support Personnel System employees (USPS), Other Personal Services employees (OPS), and Faculty employees (Faculty), unless otherwise exempted from these regulations or inconsistent with an applicable collective bargaining agreement.

(a) Human Resources Programs.

1. The University President, as the Chief Administrative Officer for the University, shall be responsible and accountable for administering the human resources programs for the University. The word "University" includes the Board of Trustees and the word "Chief Administrative Officer" includes the President or lawful designee.

2. The Chief Administrative Officer shall establish and maintain all policies, procedures, and records which are necessary to substantiate compliance with all laws, regulations and rules relating to employment.

3. The University will administer a classification and compensation plan.

(b) University employees are those persons who are lawfully employed by the designated hiring authority, receive financial compensation to perform services for the University, and whose work is directed by the University. The term “employee” does not include volunteers or independent contractors. University employment consists of the following defined categories:

1. A&P: positions assigned administrative and management responsibilities or professional duties at the department/unit or above.

2. AEX: positions assigned executive responsibilities at the division-level or above. Employees in these positions serve at the will of the Chief Administrative Officer and have no expectation of appointment beyond a 60-day notice period. AEX positions report directly to the Chief Administrative Officer or designee.

3. USPS: positions assigned professional, paraprofessional, administrative, clerical, secretarial, technical, skilled crafts, service, or maintenance duties.

4. OPS: at-will, temporary employment.

5. Faculty: positions assigned teaching, research, and/or service responsibilities.

(3) Child Labor. The University must comply with the provisions of the Florida Child Labor Law, Chapter 450, F.S., Part I, in the appointment and employment of minors.

(4) Nepotism.

(a) Employment of individuals that will result in a subordinate-supervisor relationship between relatives is prohibited, unless a specific exemption is requested and approved, in accordance with the Florida State University Employment of Relatives (Nepotism) Policy. *See* 4-OP-C-7-L Employment of Relatives (Nepotism) Policy

(5) Non-Citizens. Before they can be considered for employment, non-citizens must possess sufficient documentation, which permits gainful employment in the United States as determined by the United States Immigration and Naturalization Service.

Specific Authority BOG Regulation 1.001(3) (j), BOG Reg. Procedure July 21, 2005. 42 U.S.C.A. § 2000ff-1 § 2000ff-1. History–New 9-30-75, Formerly 6C2-4.01, Amended 9-24-98, 4-16-03, 3-6-2016, 10-28-2016

#### **FSU-4.0015 Attendance and Leave, Hours of Work Requirements.**

(1) The President or designee shall have the authority to determine the use of administrative or other leave for official closings or needs of the University as deemed appropriate.

(2) Faculty, A&P, AEX, and USPS employees are eligible for paid and unpaid leave and holidays.

If determined to be eligible under the FMLA, OPS employees are eligible for unpaid leave.

(3) Each employee is expected to work the number of hours in the employee's established workweek unless on approved leave.

(4) The minimum workweek is 40 hours for full-time employees. Holiday pay and paid leave are not considered overtime and are paid at the employee's regular pay rate. Approved leave will be adjusted to ensure an employee's workweek does not exceed 40 hours.

(5) Compensatory leave shall consist of the following types and will be earned, transferred or paid in accordance with the Florida State University Attendance and Leave Policy (4-OP-C-7-E Attendance and Leave Policy):

(a) Overtime compensatory leave is provided instead of payment for overtime for nonexempt employees at the rate of one-and-one-half times the total hours worked beyond 40 in a workweek.

(b) Straight-time compensatory leave is provided to employees as follows:

1. Straight-time compensatory leave is provided to a USPS exempt employee for work beyond 40 hours in a workweek on an hour-for-hour basis. Extra hours worked beyond 40 hours shall be paid on an hour-for-hour basis no later than the end of the following pay period unless accrued as straight-time compensatory leave.

2. Straight-time compensatory leave is provided on an hour-for-hour basis to compensate nonexempt employees for working more than their scheduled hours during holiday weeks or when certain administrative leaves are taken.

3. Straight-time compensatory leave is provided to exempt A&P and AEX employees when the employee physically worked on a holiday and worked more hours than required in the workweek with a maximum of 8 hours.

(6) An employee shall be paid proportionately for all holidays designated for University employees up to a maximum of 8 hours per holiday day.

(7) Leave shall be accrued while in pay status and shall be credited on the last day of that pay period or, in the case of separation, on the last day the employee is on the payroll.

(8) During approved unpaid leave, an employee may use accrued leave to continue the contributions to benefits and other expenses.

(9) Unless agreed otherwise, an employee shall be employed in the same or similar status upon completion of an approved leave period. While on paid leave, an employee may not be employed elsewhere unless the requirements for outside activity have been met.

(10) Sick leave accrual for full-time employees shall be as follows with proportionate accrual for less than full-time.

Hours Accrued Each Pay Period	
	Biweekly
A&P	4
AEX	5
Faculty	4
USPS	4

(a) Sick leave shall be accrued before use. There is no maximum on the amount of sick leave that can be accrued. Sick leave accrued prior to October 1, 1973, shall be used prior to any sick leave accrued after that date.

(b) Sick leave is authorized for the following purposes:

1. The employee's personal illness, injury, exposure to contagious disease, a condition where the employee is unable to perform assigned duties, or appointments with health care providers.

2. The illness, injury, appointments with health care providers, or death of a member of the employee's immediate family (spouse, grandparents, parents, brothers, sisters, children and grandchildren of both the employee and the employee's spouse).

(c) Notice of absence due to illness, injury, condition, or exposure to a contagious disease shall be given on the first day of absence, except in the case of an extreme emergency.

(d) An individual who resigns from a State of Florida governmental entity and is thereafter employed by the University may transfer up to 240 hours of accrued unused and unpaid sick leave with department approval.

(11) Upon separation from a leave accruing appointment with the University, salaried employees with 10 or more years of combined State of Florida service may be paid 1) for one-eighth of all unused sick leave accrued prior to October 1, 1973, and 2) for one-fourth of unused sick leave up to a lifetime maximum of 480 hours accrued after October 1, 1973. Upon reemployment by the University within 100 days of separation or upon recall by the University within one year after layoff, all unpaid sick leave shall be restored and any sick leave paid at time of separation shall be restored upon repayment. Faculty hired after May 6, 2011 shall not be paid for any unused sick leave. A&P, AEX, and USPS employees hired after October 1, 2015 with less than 10 years of Florida State University Service shall not be paid for any unused sick leave. If an employee separates from University employment due to disability retirement, the employee shall not receive a payout of sick leave. Annual leave for full-time employees shall be as follows with proportionate accrual for less than full-time. Academic year faculty employees (9-month) and Developmental Research School faculty employees

(10-month) shall not accrue annual leave.

	Biweekly	Year End	Lifetime
Faculty	6.769	352	352
A&P	6.769	352	352
AEX	9.195	480	480
USPS (Months of FSU)			
0-6	4	240	0
7-60	4	240	240
61 to 120	5	240	240
Over 120	6	240	240

(a) Annual leave shall be accrued prior to use unless annual leave is advanced by the Chief Human Resources Officer or designee.

(b) 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 the last pay period of the calendar year, shall have any excess converted to post October 1, 1973 sick leave on an hour-for-hour basis.

(c) An individual who resigns from a State of Florida governmental entity and is thereafter employed by the University may transfer up to 80 hours of accrued, unused, and unpaid annual leave with department approval.

(d) An employee who separates from employment with the University shall be paid for all unused annual leave hours up to the lifetime maximum payout allowed for the pay plan. Upon reemployment by the University within 100 days or upon recall by the University within one year after layoff, all unpaid annual leave may be restored and any annual leave paid at time of separation shall be restored upon repayment. Upon entering into the Deferred Retirement Optional Program (DROP), employees may elect to be paid up to the lifetime maximum payout of their unused annual leave.

(e) Upon transfer from an annual leave-accruing position to a non-leave accruing position, the employee shall be paid up to the lifetime maximum for unused annual leave, unless the employee elects to retain all unused annual leave, for up to two years from separation date. Leave may not be used while an employee is appointed in a non-leave accruing position.

(12) Compulsory leave provisions shall be consistent with the following:

(a) Medical certification by an approved health care provider will be required.

(b) Notice shall be provided to the employee identifying duration of the leave, the conditions for

return to the position, and whether such leave shall count toward FMLA entitlements.

(c) The employee may be allowed to use paid leave during compulsory leave to continue the contributions to benefits and other expenses.

(d) Unless agreed otherwise, an employee shall be employed in the same or similar status upon completion of the approved leave period and upon receipt of medical certification.

(e) Employees who fail to meet the conditions of the compulsory leave or who fail to obtain medical certification and are unable to perform duties may be offered part-time employment, placed on unpaid leave or have such leave extended, requested to resign, or be dismissed for inability to perform the duties of the position.

(13) Employees may be provided with up to 12 workweeks of Family and Medical Leave within a 12 month rolling calendar year measured backward in compliance with the Family and Medical Leave Act (FMLA) of 1993 (Public Law 103-3) and the Final Regulations of the Family and Medical Leave Act of 1993 (29 CFR Part 825). As amended by Section 585 of the National Defense Authorization Act (Public Law 110- 181), employees may be provided with up to 26 workweeks of FMLA. All employees are eligible including OPS employees who have worked at least 12 months (these need not have been consecutive) and who have worked at least 1250 hours in the 12 months prior to the leave. Faculty, A&P, AEX, and USPS employees may use paid leave for an FMLA event coinciding with their FMLA entitlement.

(14) Employees shall be provided with up to six months' unpaid parental leave during which time the employee may use paid leave when the employee becomes a biological or adoptive parent. Parental leave shall begin no sooner than two weeks before the expected date of the child's arrival or upon the child's arrival unless otherwise approved by the Chief Human Resources Officer or designee.

(15) Employees are provided paid administrative leave as follows, which shall not cause the full-time employee to exceed 40 hours during the workweek. Administrative leave is not accrued.

(a) Administrative leave shall be provided to an employee summoned or voluntarily produced by the University as a witness in a matter involving or related to the University. Administrative leave shall not be provided to an employee serving as an expert witness.

(b) Administrative leave for athletic competition in Olympic events shall be provided in accordance with Section 110.118, F.S.

(c) Administrative leave up to two days shall be provided to an employee upon the death of an immediate family member (spouse, grandparents, parents, brothers, sisters, children and grandchildren of both the employee and the employee's spouse).

(d) Administrative leave up to 15 days per year shall be provided to a certified Florida Disaster Volunteer of the American Red Cross called to duty in accordance with Section 110.120, F.S.

(e) With the approval of the Chief Human Resources Officer or designee, an employee under investigation will be placed on administrative leave up to the length of the investigation when in the best interest of the University.

(f) The Chief Human Resources Officer or designee may place an employee on administrative leave between the notice of reduction in pay, suspension, or dismissal and the effective date of such action.

(g) The Chief Human Resources Officer or designee will place an employee on administrative leave when the employee's presence in the workplace may reasonably be suspected of resulting in damage to property or injury to the employee or others.

(h) An employee who has been rated by the United States Department of Veterans Affairs or its predecessor to have incurred a service-connected disability and has been scheduled by the United States Department of Veteran Affairs to be reexamined or treated for the disability shall be granted administrative leave in accordance with Section 110.119, F.S.

(16) In the specific circumstances below, employees may be eligible to earn compensatory leave in accordance with University regulation FSU-40015(5)(b)(2) and are provided paid administrative leave as follows:

(a) Administrative leave for jury duty shall not exceed the number of hours in the employee's normal workday. If jury duty does not require absence for the entire workday, the employee shall return to work immediately upon release by the court.

(b) Administrative leave shall be provided for official emergency closing of University facilities or with prior approval of the Chief Human Resources Officer non-emergency closing of University facilities. Only employees who have an established work schedule on the day(s) of the emergency closing shall be provided administrative leave.

(17) Upon approval by the University President, employees may be granted administrative leave for the closure of University operations.

(18) Military leave and reemployment rights shall be provided to Faculty, A&P, AEX, and USPS employees consistent with Federal and State of Florida laws.

(19) Workers' Compensation benefits for an injury compensable under the Florida Workers' Compensation Law shall be provided consistent with the following:

(a) An employee shall remain in full pay status for a period up to a maximum of 40 hours without being required to use accrued leave credits. If, during that period, the employee receives Workers' Compensation benefits, then the employee shall reimburse the University the amount of the benefits. Such reimbursement shall not include payments for expenses related to medical, surgical, hospital, or nursing treatment or payments of disability losses.

(b) An employee may elect to use paid leave to supplement Workers' Compensation payments up to the employee's regular salary.

(c) The period of paid or unpaid job-related disability leave shall be in accordance with Chapter 440, F.S.

(d) An employee who was injured in the workplace, may be returned to alternate duty consistent with established University policies and procedures.

(e) At the end of the leave period if an employee is unable to return from leave to work full-time and perform the duties of the position, the Chief Human Resources Officer or designee may place the employee on unpaid leave or extend the leave status, request the employee's resignation, or terminate the employee from employment.

(20) Each full-time USPS employee is entitled to one 8-hour personal holiday each year with proportionate accrual for less than full-time. Such personal holiday shall be credited to eligible employees on July 1 of each year to be taken by June 30 of the following year. An employee hired after July 1 will receive the personal holiday upon hire. If the personal holiday is not used by June 30, it will be forfeited. A&P and AEX employees are not eligible for this benefit. Personal holidays may not be transferred to or from the University. Unused personal holidays may not be paid out upon separation from the University.

(21) Leave without pay (LWOP) may be used as necessary on a limited basis. Extended use of LWOP for four to eight consecutive weeks may be subject to evaluation and approval by the Chief Human Resources Officer. Leave without pay lasting for eight weeks or more will require approval of the Chief Human Resources Officer.

Specific Authority BOG Regulation 1.001(3) (j), 1.001(5) (a) History-New 4-16-03, Amended 11-20-09, 6-26-2015, 10-28-2016, 9-4-2018

#### **FSU-4.011 Affirmative Action Program.**

(1) As a federal contractor, the University will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. Additionally, the University is required to take affirmative action for women, racial and ethnic minorities, individuals with disabilities, and certain veterans. The premise is that, absent discrimination, the University's workforce will generally reflect the demographics of the qualified labor pool from which the University recruits. Various diagnostic analyses are required to discover potential problems and then



programs to correct or eliminate those potential problems should be implemented. The diagnostic analyses and action-oriented programs are known collectively as an affirmative action program or an AAP.

(2) Administrative organization. The responsibility for implementing the affirmative action program of the University resides with the President. The program requires the understanding, cooperation, and commitment of the entire University community. Because of the unique requirements of an affirmative action program, the President has designated the Human Resources Office of Equal Opportunity and Compliance to coordinate University efforts in this area and to ensure good faith efforts and on-going compliance.

Specific Authority BOG Regulation 1.001(3) (j), Reg. Procedure July 21, 2005 Law Implemented 1001.74(1) (d), (4), (5), Executive Order 1124, 29 USC §793, 38 USC §4212, 41 CFR §§60-1, 60-2, & 60-741. New 9-30-75, Amended 11-29-07, 10-28-2016 Formerly 6C2-4.11.

#### **FSU-4.012 Director of Equal Opportunity and Compliance/Chief Diversity Officer**

In order to keep the President more keenly aware of the problems, issues, laws, and latest developments in the area of equal opportunity, affirmative action, diversity and non-discrimination and in order to meet the responsibilities for planning, coordinating, and evaluating these programs of the University, the President appointed a Director of Equal Opportunity and Compliance/Chief Diversity Officer. The Director of Equal Opportunity and Compliance/Chief Diversity Officer reports to the Chief Human Resources Officer. Duties of the Director include:

(1) Serving as a resource person, on a regular basis, to the President, Vice Presidents, Executive Officers, and the various University and State University System committees and councils involved with equal opportunity, affirmative action, diversity and non-discrimination.

(2) Planning, recommending, developing, and/or coordinating the procedures to be used in the implementation of the University's affirmative action programs

(3) Reviewing periodically and reporting to the Board of Trustees, President Vice Presidents, and others as appropriate, on the progress made by the various University units regarding their goals and timetables and their elimination and/or revision of policies and practices which have had a disparate impact upon minority group members and women.

Specific Authority BOG Regulation 1.001(3)(j) , Reg. Procedure July 21, 2005 Law Implemented 1001.74(1)(d), (4), (5) New 9-30-75, Amended 11-29-07, tech change 1-2014, Director of Diversity and Compliance changed to Director of Equal Opportunity and Compliance, Formerly 6C2-4.11.

#### **FSU-4.027 The Florida State University Procedures Relating to Faculty Appointments.**

(1) The initial responsibility for seeking candidates for authorized faculty positions lies at the departmental level. The field should be thoroughly surveyed to locate those candidates of proven moral character who demonstrate the best academic qualifications compatible with the level of the position. A recommendation for appointment should be made by the department head only after appropriate consideration of the proposed appointment by department members, after consultation with the appropriate representatives of other departments, schools, colleges, or teaching programs to which the work proposed for the particular appointment is substantially related, and after consultation with the principal administrative officer concerned.

(2) When an agreement has been reached regarding the best applicant for the position, the recommendation for appointment is submitted to the Vice President for Faculty Development and Advancement on the prescribed form and with the required supporting information by the principal administrative officer concerned. All understandings, limitations, promises, and the like pertaining to the proposed employment are to be recorded in writing on the standard form or attached to it. Acceptance of such appointment in writing constitutes a legal contract.

(3) The authorization of any position is subject to reconsideration whenever it becomes vacant. When a vacancy occurs or is anticipated the department chairman is expected to report the fact promptly to the principal administrative officer concerned who will ascertain from the Executive Vice President whether the vacancy may be filled, and if it is to be filled, to initiate search for the most highly qualified available candidate for the approved position. No commitment is to be made until the proposed appointment has been approved by the Executive Vice President.

(4) Forms and supporting materials for new academic appointments must be in the office of the Vice President for Faculty Development and Advancement at least two weeks preceding the date the appointment is to become effective.

(5) When the faculty member first reports at the University, his department will request him to complete the necessary payroll form, if the completion has not been accomplished by mail. The forms include the authorization for withholding tax deductions, retirement information, group insurance authorizations, and the loyalty oath required by the State of Florida. State law requires that each new employee of the State be fingerprinted at the time payroll forms are completed.

Specific Authority BOG Regulation 1.001(3)(j), Reg. Procedure July 21, 2005 Law Implemented 1001.74(5), 1012.94 FS., 6C-4.001(5), (8)(a), 6C-5.004(2)(b), (3)(a), History—New 9-30-75, Formerly 6C2-4.27.

#### **FSU-4.062 Research Institutes, Centers and Facilities.**

##### (1) Definitions.

(a) Research Institutes are connected with two or more departments (involving one or more schools or colleges). Both the establishment of the institute and the appointment of its director must be approved by the Board of Governors. Institutes may function as an umbrella for one or more research centers. Institutes are reasonably permanent, formally organized units. Institutes may not grant degrees.

(b) Research Centers do not require Board of Governors approval. Their immediate administration may be by an individual or group of individuals. Centers are more flexible, and probably more temporary, than are institutes. Centers, like institutes, may not grant degrees. Research centers referred to here are separate from centers which would be classified as intradepartmental or intrainstitute.

(c) Facilities are entities in which the major emphasis is upon a single or a series of experimental techniques, research instrument, etc., which are likely to be utilized across departmental lines. Normally the facility will have a director who coordinates utilization of the resources of the facility. Facilities referred to here are separate from facilities which would be classified as intradepartmental or intrainstitute.

##### (2) Establishment of Organizations.

(a) A formal application will be made for the establishment of all three types of organizations. Such applications will set forth the aims of the proposed new organization and the means for functioning. Commitments of faculty effort and proposed sources of funding will be described. Applications will be submitted to the appropriate department chairman. After approval by appropriate departments, deans of schools or colleges, and provosts concerned, the application will be forwarded to the Provost for Graduate Studies and Research who in consultation with the Executive Vice President will normally forward it to the Graduate Research Council for recommendation. Final approval will be obtained as follows:

(b) In the case of centers and facilities, final approval is granted the Executive Vice President. In the case of institutes, the application is forwarded from the vice presidential level for approval by the Board of Governors. In general, there are three possible grounds for the establishment of new organizations. These grounds are as follows:

1. To encourage interdisciplinary research which bridges gaps left by departmental research;
2. To undertake a larger or broader research mission than can be administered feasibly by the department(s) concerned;
3. To provide better utilization of facilities and resources.

(c) In general, no new organization should be established simply on the basis of the availability of

federal funding. No new organization should be established around a single “key” word likely to be of only temporary high priority in federal funding. While some researchers feel impelled to do research on important social problems, others do not. In any event, a research or service focus must be clearly kept distinct from a political focus. There should be within the faculty a core of excellence already existing before the planning of an interdisciplinary research organization. This is a corollary of the need to avoid establishment simply because funds are available.

(3) Administration of Organizations.

(a) The higher level of administration for new organizations should be as follows:

1. Most institutes and centers should operate under a provost or dean of an appropriate school or college. If the facility, institute or center cuts across school and college lines, either a group of deans should be responsible, or a committee drawn from the appropriate colleges, or the organization placed under the supervision of a central University office such as the Provost for Graduate Studies and Research or the Executive Vice President.

2. Each institute, center, or facility which cuts across departmental lines should be supervised in some way by a board or advisory committee appointed by the appropriate level administrator and selected from nominees of the departments most affected by the research organization.

(b) The director of an institute, center, or facility will be appointed by the appropriate level administrator for a specified term from nominees provided by the governing board or supervisory committee of the research organization.

(4) Evaluation of Organizations.

In addition to the continuous kind of evaluation that is assumed to take place by the administrators of organizations, and by the final approval authority which established each organization, it is desired that evaluation become more formal than in the past. The Graduate Research Council and outside consultants could be called upon in many instances. When such formal evaluations show that an organization is no longer serving its original purpose, the authority for closing down an organization rests with the final approval authority which established the organization.

(5) Faculty Appointments.

While a research organization may take the initiative in recruitment of new faculty, and may provide some of the funds for faculty salaries, appointment of new faculty members is through departments only. Such persons must take an active part in their home departments only. Such persons must take an active part in their home departments so that other members of the department, especially the chairman, are well acquainted with their performance.

While nothing in this policy forbids the employment of research personnel on a staff basis for work in research organizations, it must be observed that faculty positions temporarily paid for by research funds

must be backed up by regular faculty line positions.

(6) Renaming of Organizations.

In order to achieve and maintain the uniformity in meaning of the above definitions of organizations, any existing organization designations which conflict with these definitions should be corrected to conform with these definitions. The highest level of administration now responsible for such organizations will have the responsibility for reviewing names of existing organizations and for initiating any necessary corrective action.

(7) Research Projects Involving Human Subjects.

The responsibility for administration of University policies to assure the welfare of human research subjects is assigned to the Provost, Graduate Studies and Research. University policy is mandated by the Board of Governors and the U.S. Department of Health, Education and Welfare. In this effort, the Provost, Graduate Studies and Research is assisted by a university-wide committee composed of representatives of the various schools and colleges. University policy requires prior approval of research protocols involving human subjects. Faculty members are requested to contact the Office of Graduate Studies and Research for detailed information and procedural guidelines.

Specific Authority BOG Regulation 1.001(3)(j) , Reg. Procedure July 21, 2005 Law Implemented 240.227(1), (21), 240.242, 240.299 FS. History–New 9-30-75, Technical Change, 4-2-24 Formerly 6C2-4.62.

**FSU-4.063 University Sponsored Educational Materials.**

(1) Scope of Statement of Policy.

(a) This statement of policy shall apply only to the ownership and use of University-sponsored educational materials, as defined in paragraph (2)(a), and extends to University personnel, including faculty, staff, and students, as defined in paragraph (2)(c).

(b) Unless specifically excluded by other Sections of this statement, the types of educational materials to which this policy is designed to apply include, but are not limited to, the following:

1. Video and audio recordings;
2. Films, filmstrips, charts, transparencies, slides, and other visual aids and accompanying sound recordings;
3. Study guides, tests, scripts, manuals, syllabi, bibliographies, periodicals, books, or similar printed or audio materials;
4. Computer programs and programmed instructional materials;
5. Live audio and video transmissions open (broadcast) or closed (cable);

6. Musical compositions and works of art to include drawings, plastic works of scientific or technical character, photographs, prints, and pictorial illustrations;

7. Other print and non-print materials subject to Federal copyright.

(c) This policy statement does not apply to the following types of materials:

1. Articles submitted to or published by scholarly and professional journals;

2. Class notes produced in connection with regularly scheduled courses of instruction;

3. Scholarly and professional books, texts, works of art, musical compositions and the like unless the author or producer was assisted by a support agency of the University as specified under sub-subparagraph (2)(a)1.a. or unless the author or producer was both specifically commissioned in writing and assisted in whole or in part as provided under sub-subparagraph(2)(a)1.b.;

4. Sponsored grants or contracts may contain specific provisions regarding ownership, copyright, or royalty income privileges related to materials generated under the contract. These conditions are binding on the University and the author or producer. If the extramural agency does not stipulate how royalty income is to be distributed within the University then the provision of this policy shall prevail.

(2) Definitions.

(a) University-sponsored Educational Materials.

1. Educational Materials are University-sponsored.

a. If the author or producer has employed in his developmental work, without personal charge to himself, the equipment, materials or staff services of the Computer Center, WFSU-FM, WFSU-TV, the Photo Laboratory or the Division of Instructional Research and Service, or any other new agency, or combinations of above mentioned existent agencies, and/or new agencies, established or supported by the University primarily to assist in developing and producing educational materials; or

b. If the author or producer has been both commissioned in writing by the University, or one of its colleges, schools, departments, or by other subdivisions, to develop the materials and, in their production has received assistance in the form of released time or from University funds, including grants and contract funds administered by the University.

(b) Costs (Production Costs).

The word costs or the phrase production costs, as related to the production of University-sponsored educational materials, will include the following categories:

1. Direct costs.

Those salaries and materials specifically identified with the production of such materials. [(2) (a)1.a., 1.b.] Direct costs are computed by those supporting agencies involved with the design, preparation, production, editing, duplication, and distribution of educational materials.

2. Indirect costs (Overhead).

Costs for space, utilities, amortization of equipment, etc., which are generally referred to as overhead. The current University indirect cost rate will be applied for recovery of indirect costs relating to the production of University-sponsored educational materials.

(c) University Personnel.

Part-time and full-time members of the faculty, administrative and professional staff, career staff, undergraduate and graduate students, postdoctoral students, and fellows of the University.

(d) Author or Producer.

An individual, a group, a department, or other unit of the University involved in the production of educational materials.

(3) Control of the Content and the Presentation of University-Sponsored Educational Materials.

(a) Subject to the provisions of this policy, the author or producer has the right to and the responsibility for control of the content of University-sponsored educational materials.

(b) Subject to the provisions of this policy, the author or producer has the right to make other versions of the content of the materials for presentation in other media.

(4) Use of University-Sponsored Educational Materials.

(a) Internal Use.

1. Internal use within the University requires approval of the author or producer responsible for the materials, and the academic department, school, college, or agency incurs costs in making materials available for internal use, the supplying entity may require such costs to be reimbursed by the user unit.

2. As long as the author or producer of University-sponsored educational materials remains a member of the staff of the University, he or she has the right to revise any or all materials because of obsolescence; provided that the University shall not be obligated to provide further resources for the development of any such revisions unless the revisions are requested by the University or agreed upon jointly by the University and the author or producer. Should the extent of the required revision exceed the resources of University supporting agencies involved, materials may be withdrawn by agreement of the author or producer and the University. Questions regarding revisions or the withdrawal of materials will be referred to the Provost for Graduate Studies and Research, and shall be governed by the procedures outlined in subparagraph (7)(b)2.

3. If the University-sponsored educational materials are used internally without revision for a period of two years, the University shall request the author or producer and the appropriate University supporting agency or agencies to consider revising the materials or to determine whether they shall continue to be used.

4. The author or producer has the right to make personal and professional use of the materials within the University. Scheduling and arrangements to cover the costs for such personal requests will be made with the University supporting services involved with the original production of the educational materials.

5. If the author or producer terminates employment with the University, the University retains the right to continued internal use of the University-sponsored educational materials in accordance with this policy unless special conditions for subsequent internal use have been arrived at by joint written agreement of the author or producer and the University.

6. The author or producer has the right to use the University-sponsored educational materials at no cost to the University after termination of his or her employment with the University subject to the provisions of this policy.

(b) External Use.

1. Licensing or sale of publication of University-sponsored educational materials for external use shall be preceded by a written agreement between the University and the author or producer specifying the conditions of use, including provisions concerning the right of the author to revise the materials or to withdraw them from use, and the distribution of net royalty income in accordance with sub-subparagraph (5)(b)2.d.

2. Use by other institutions in the State University System shall be royalty free.

(5) Compensation for the Production and Use of University-sponsored Educational Materials.

(a) Compensation for Production Activity.

1. With the exception of payments made on an overload basis subparagraph (5)(a)3., the University shall not make any payment to the author or producer of University-sponsored educational materials other than the compensation regularly received.

2. The regular assignment of the author or producer may be adjusted to take into account the extra time required to develop, or produce, or revise the University-sponsored educational materials.

3. In accordance with the established policy which enables the Division of Continuing Education to pay for services on an overload basis, the author or producer may receive payment for the development of materials. Such additive compensation will be provided for in a written agreement between the Division of Continuing Education and the author or producer.

(b) Distribution of Royalties.

1. The University shall license the external use of University-sponsored materials only after it enters into a written agreement among the Board of Governors, the University, and the author or producer specifying the distribution of net royalty income, in accordance with (5)(b)2.d.

2. Such an agreement will be subject to the following guidelines:

a. The University's original production costs as defined in subparagraphs (2)(b)1. and 2., shall be recovered by the University prior to the distribution on any royalties.

b. Expenses related to the production and distribution of additional copies of educational materials will be recovered from each sale or rental on the same basis as the original production costs.



c. Royalties may be included in the sale or rental price subject to any limitation imposed by outside contracting or granting agencies.

d. Fifty percent of any resultant net royalty income (royalty income after production costs and distribution costs as defined in (2)(b) derived from the external use of University-sponsored educational materials will go to the University, and fifty percent to the author or producer.

e. Twenty-five percent of the University share shall be allocated to SRAD. The remaining royalties that accrue to the University shall be returned to the school, college and/or supporting agency to finance further the development of educational materials or for other educational purposes. Distribution shall be as negotiated among the Provost for Graduate Studies and Research and the chief administrator of the department, school, college or agency involved.

(6) Ownership and Copyright. Ownership of University-sponsored educational materials shall be vested in the University, subject to the conditions set forth in this statement of policy. Copyright of University-sponsored educational materials resides with the State of Florida. The author or producer shall cooperate with the University in obtaining copyright.

(a) Copyright Statement.

Property rights in copyrightable material may be secured for a published work by initially publishing the work in printed or otherwise processed form bearing or displaying a proper copyright notice. Notice contains a display of the word copyright, the abbreviation COPR, or the symbol “C” enclosed in a circle, followed by year of publication and the name of the copyright owner. The “C” in the circle is preferred because it gives the work certain international copyright protection. Formal registration in the U.S. Copyright Office constitutes further evidence of copyright. The publication of a work without proper notice may forfeit copyright protection.

(b) Credit Statements on University-Sponsored Educational Materials.

1. University-sponsored educational materials should bear the name of the author or producer, The Florida State University, the date when produced, and a copyright notice. Guidance on the appropriate copyright notice should be obtained from the Provost for Graduate Studies and Research.

2. The author or producer has the right of withdrawal of personal credit.

(7) Procedures and Administration.

(a) Administration of Policy.

1. The Provost for Graduate Studies and Research shall represent the University in negotiating all agreements with authors or producers and initially in other matters covered by this policy. In drafting any agreement, he shall also consult with the heads of the author’s or producer’s unit and the heads of the production or supporting agencies. Where copyright coverage should be obtained on University-sponsored materials, the Provost for Graduate Studies and Research will initiate the copyright notice and application

for copyright.

2. The President of the University shall appoint a University Committee on Copyrights consisting of three members, all knowledgeable in the field of instructional systems and materials and including representation from the faculty. The Provost for Graduate Studies and Research shall be an additional non-voting member of the Copyright Committee. The Committee shall consider all requests for reviews and reports submitted to it promptly and shall make the determinations required within a reasonable time. All University personnel involved in the development and production of materials covered by this policy shall be entitled to appear before the Committee and present evidence with respect to the determinations made by the Committee. The Committee's determinations shall be made in writing and shall contain a statement of its findings and reasons for the decision.

(b) Procedures for Interpretation of Policy.

1. Determining the nature of educational materials. All materials which may belong to the University under the provisions of this policy shall be reported promptly in writing by the author-producer concerned through the appropriate department head and dean to the Provost for Graduate Studies and Research. Any faculty or staff member having questions as to whether certain materials, either in preparation or under planning for preparation, will be considered University property should initiate an inquiry to the Provost for Graduate Studies and Research. This inquiry shall constitute a full and complete disclosure of the subject matter and the identity of all persons participating in the development and production of the educational materials. The Provost for Graduate Studies and Research shall promptly advise the author or producer as to whether the material should be considered University-sponsored within the meaning of this policy. Such advisory opinions are subject to final clarification when production of the materials is completed. When the work has been completed, the author or producer should submit questions regarding rights in the work to the University Committee on Copyrights for review or recommendation. Recommendation by the Committee on Copyrights may be reviewed by the Research Council and the decision of the Research Council will be final subject to the provisions of paragraph (7)(b)2.

2. Reconciling Disputes.

Any differences between the author or producer on the one hand and the Provost for Graduate Studies and Research or the University Committee on Copyrights on the other hand, shall be submitted to the Research Council. The Research Council shall have full access to any pertinent records over which University personnel, including the author or producer, or the University has jurisdiction. The determination of the Research Council shall be communicated to the President of the University who may review the determination or refer the matter to the Board of Governors for final determination with his recommendation.

(8) Protection and Liability.

(a) Protection.

The University Committee on Copyrights, where authorized by the Board of Governors, shall investigate allegations of unauthorized use or copyright infringement of University-sponsored educational materials and shall recommend appropriate action. If such action is started by the University all costs of such action shall be borne by the University. All proceeds in excess of such costs shall be shared as noted in paragraph (5)(b).

(b) Liability.

Before any use is made of University-sponsored educational materials, the author or producer shall hold the University harmless and certify in writing to the Office of the Provost for Graduate Studies and Research that to the best of his knowledge the materials do not infringe on any existing copyright or other legal right. When other alleged violations of personal or property rights by the University, or by the author or producer of University-sponsored educational materials, the University may assume responsibility for the defense of any action and the satisfaction of any judgments rendered against the University, or the author or producer. However, the Provost for Graduate Studies and Research acting for the University, may request or require the author or producer to indemnify and hold harmless the University for all costs to which it has been subjected when the action for personal or property rights is based upon matters which should have been known or with reasonable care should have been discovered by the author or producer. Any judgment rendered against the University or the author or producer shall be satisfied first from net royalties received by the University and the author or producer.

(9) Radio Program Submissions for Distribution.

(a) For programs or segments to be aired on WFSU-FM prior to or simultaneously by National Public Radio (NPR) or other program distributors transmissions, individual producers are encouraged to submit the material for nationwide distribution. For such production the producer may receive the royalty fee paid by the program distributor as compensation for his or her efforts. Any additional costs above those normally incurred by WFSU-FM to air a program on the station will be reimbursed to the station by the producer from the fee received. No additional station time may be used to revise programs to meet distribution specifications.

(b) If WFSU-FM does not desire to air the produced material, a producer may, with the advance approval of the Director of Radio, use his or her personal time for production and shall reimburse the station for use of equipment and materials.

(c) The Director of Radio must be informed in advance of such program production efforts and has the discretion to decide the amount of the reimbursements to the station on a case-by-case basis after consultation with the producer. Disagreements concerning the amount of reimbursements will be resolved by the Vice President for Public Affairs.

Specific Authority BOG Regulation 1.001(3)(j) , Reg. Procedure July 21, 2005 . Law Implemented 240.227(1), 240.229 FS. History—New 9-30-75, Technical Changer 2-4-24 Formerly 6C2-4.63, Amended 6-16-86.

**FSU-4.064 Sick Leave Pool.**

(1) The Sick Leave Pool allows participating employees in a sick leave earning position, regardless of Full Time Equivalent (FTE), to have sick leave available for use upon the depletion of their personally accrued sick, annual, personal holiday, and compensatory leave, consistent with Section 110.121, F.S.

(2) Administration of the Pool.

(a) There may be one or more Sick Leave Pools established within Florida State University, the number to be determined by the President. The President shall also determine which employees will be eligible to participate in each pool.

(b) There shall be an administrator designated by the Office Human Resources and a committee appointed by the President or designee who shall be jointly responsible for the operation of the Sick Leave Pool.

(c) The Administrator shall:

1. Meet on a regular basis with the Sick Leave Pool Committee and review the sick leave accounts of all participating employees;
2. Maintain accurate and reliable written records regarding all functions of the Sick Leave Pool;
3. Administer and facilitate the membership process and the issuance of Sick Leave Pool hours to eligible employees; and
4. Investigate alleged abuse of the Sick Leave Pool.

(d) The Sick Leave Pool Committee shall:

1. Meet on a regular basis with the Administrator;
2. Make a determination of all membership and use of Sick Leave Pool hours requests; and
3. Establish internal operating procedures including, but not limited to, enrollment of participating employees and application for use of Sick Leave Pool hours.

(3) Membership and Participation.

(a) To be eligible for membership in the Sick Leave Pool, a person must, meet the following criteria:

1. Occupy a sick leave earning position;

2. Have completed one year of continuous employment with the University before participation in the Sick Leave Pool;

3. Have a minimum of 72 hours of sick leave accumulated at the time of the application to participate in the Sick Leave Pool; and

4. Have an average sick leave usage of less than 9 days per year during employment with the University.

(b) In addition to satisfying the requirements of paragraph (a) above, an employee desiring to participate in the Sick Leave Pool must complete and submit an application form, which is subject to final approval by the Sick Leave Pool Committee.

(c) Participation in the Sick Leave Pool is voluntary and a participating employee may withdraw from the pool at any time by written notice to the Sick Leave Pool Administrator.

(d) Any sick leave contributed to the Sick Leave Pool by a participating employee shall be forfeited upon contribution to the Sick Leave Pool.

(e) Membership in the Sick Leave Pool shall be forfeited upon separation from the University.

(f) A member of the Sick Leave Pool may be expelled from the Sick Leave Pool by a majority vote of the Sick Leave Pool Committee after a determination by the Administrator that such member has abused the use of the Sick Leave Pool.

(g) If warranted by the circumstances, and upon a majority vote of the committee, an employee who misused the Sick Leave Pool hours granted shall be required to repay all or part of the sick leave hours withdrawn from the pool by that employee.

(4) Maintenance of the Sick Leave Pool.

(a) When establishing a Sick Leave Pool, a deposit balance of 720 hours must be met for the pool to be activated for use by the eligible participating employees.

(b) Each participating employee will contribute eight hours of sick leave upon approval of membership by the committee. Any Sick Leave pooled under this regulation shall be removed from the personally accumulated sick leave balance of the employee contributing the leave.

(c) The pool will be considered depleted when less than 240 hours remain on deposit.

1. Whenever the pool is depleted, each participating employee, with prior notification, shall automatically contribute an additional eight hours of sick leave to the pool.

2. If the participating employee's individual sick leave balance is less than eight hours at the time the pool is depleted, the employee shall contribute all hours accumulated, and shall contribute the remainder as soon as employee has accrued additional sick leave hours. The employee shall not be allowed to use sick leave hours until the amount owed to the pool has been contributed.

3. If a participating employee, for more than four pay periods, fails to have a sufficient balance of

accrued sick leave when requested to contribute eight hours to the pool, the reasons for the use of sick leave hours by the employee shall be investigated by the Administrator for a determination as to whether the employee's membership in the pool should be cancelled. The decision to cancel an employee's membership shall be by majority vote of the committee.

(d) Hours contributed to the pool shall be placed in a single account for use by all members. No contributions for the benefit of a specific individual, illness, or position will be accepted.

(5) Use of Sick Leave from the Pool.

(a) Use of sick leave from the pool shall be in accordance with the Florida State University Sick Leave Pool Policy. *See* 4-OP-C-E2 Sick Leave Pool Policy.

(b) Medical certification of the accident, illness, or injury for which the use of sick leave from the pool is requested must accompany the request.

(c) Final determination for the granting of hours is made by majority vote of the Sick Leave Pool Committee.

1. If the Sick Leave Pool Committee has denied the use of sick leave from the pool, the requesting employee may submit an appeal to the Chief Human Resources Officer for final determination and review.

(d) Any sick leave in the pool shall only be used by a participating employee for the employee's personal illness, accident, or injury. The following occurrences or situations shall not be considered personal illness, accident, or injury for the purpose of this regulation, and shall not entitle participating employees to draw from the Sick Leave Pool:

1. Cosmetic surgery, unless such cosmetic surgery results in serious complications or was necessitated by an illness, accident, or injury not excluded under this subsection;

2. Intentionally self-inflicted injuries, such as resulting from a suicide attempt;

3. Illness, accident, or injury to a member of the employee's family;

4. Pregnancy or recovery from childbirth unless such event results in complications causing a catastrophic or serious personal illness to the employee.

5. Pre-existing conditions unless the requested leave was necessitated by a catastrophic event or accident; and

6. Any employee postponing or delaying obtaining medical attention (to correct an existing medical problem) in order to make him/her eligible for benefits from the FSU Sick Leave Pool, shall be declared ineligible for such benefits.

(e) Sick leave accumulated in the pool shall not be used by a participating employee until all of the employee's personally accrued sick, annual, personal holiday and compensatory leave has been used.

(f) An employee who is on leave without pay for reason other than personal illness, accident, or injury shall not be eligible to receive sick leave from the pool.

(g) Upon using 480 Sick Leave Pool hours in a 12-month period, an employee may not be granted any additional sick leave from the Sick Leave Pool for 12 months from the expiration of the last hour granted from the Sick Leave Pool.

(h) Abuse of the use of sick leave from the pool shall include, but not be limited to, the following:

1. Misrepresentation of an illness, accident, or injury, or the circumstances surrounding it, to receive leave to which the employee is not entitled under the provisions of this regulation.

2. Submission by an employee of medical certification which is from other than a qualified medical practitioner or which misrepresents the nature of the employee's illness.

(i) Extended consecutive use of the Sick Leave Pool by an individual will require committee review for approval of the individual's continued use of the leave.

(j) A participating employee may draw a lifetime maximum of 960 hours of sick leave from the pool during their employment at Florida State University.

(6) Discontinuation of the Sick Leave Pool.

(a) The President of Florida State University may at any time, with notice to the participating employees, discontinue the Sick Leave Pool.

(b) Unless otherwise provided by regulation or policy, all hours remaining in the Sick Leave Pool at the time it is discontinued will be divided equally between the remaining active members.

**Specific Authority** BOG Regulation 1.001(3)(j), (5)(a); BOG Reg. Procedure July 21, 2005 FS. History—New 5-20-86, Amended 9-24-98, 11-2009, 2-22-2017, 11-1-2019

#### **FSU-4.065 Employee Recognition Program.**

(1) The Florida State University Employee Recognition Program provides for recognition of eligible employees.

(2) The University is authorized to expend State funds for recognition and awards to employees in compliance with this regulation. Any award will be contingent upon the availability of funds. Nothing in this regulation is intended to govern the expenditure of private funds to which the University may have access.

(3) The awards provided for herein shall acknowledge employee achievement in the following two components:

(a) Superior Accomplishment – Exemplary performance by faculty members, or Administrative and Professional (A&P), Executive Service (AEX) or USPS employees, that is deemed to have significantly contributed to their respective field, thereby reflecting positively on the caliber of the University. Such recognized accomplishments may be either tangible ones promoting savings or revenue generation or intangible ones promoting other desired improvements without a fixed monetary benefit.

(b) Service – Sustained satisfactory service with the University by faculty members, A&P, AEX or USPS employees.

1. Eligible employees may be recognized for service upon retirement.

2. Eligible employees may also be recognized upon achieving increments of five continuous years of satisfactory service at the employing university.

(4) Superior Accomplishment:

(a) Awards for superior accomplishment may be presented to eligible employees on an individual basis or collectively for outstanding group performance.

(b) No cash award granted under the superior accomplishment component shall exceed a net of \$1,000. Savings Bonds or other items in lieu of cash may be awarded, provided the cost of such item does not exceed a net of \$1,000.

(c) The University may award certificates, pins, plaques, letters of commendation, or other appropriate tokens of recognition for superior accomplishment, provided that the cost of the token does not exceed \$100.

(5) Service Award:

(a) The University may recognize retiring employees whose service has been satisfactory. Awards for retirees may take the form of suitable framed certificates, pins, or other tokens of recognition and appreciation, provided such awards do not cost in excess of \$100 each.

(b) The University may recognize employees who have attained continuous satisfactory service in increments of five continuous years. Awards for satisfactory service may take the form of suitable framed certificates, pins, or other tokens of recognition, provided such awards do not cost in excess of \$100 each.

Specific Authority BOG Regulation 1.001(3) (j), 1.001(5) (a), Reg. Procedure July 21, 2005. Law Implemented 110.1245 FS. History–New 3-20-88, Amended 9-24-98, 2-22-17

#### **FSU-4.070 Guidelines for Disciplinary Action.**

(1) Scope. This rule applies to all University Support Personnel System (USPS) employees of the University with regular status and Administrative and Professional (A&P) employees. The provisions of



this rule are subject to applicable provisions of collective bargaining agreements. The disciplining of an employee is considered to be a very serious action that is undertaken with care, objectivity and full consideration for the rights and interest of both the employee and the University. Discipline shall be administered in a judicious manner that assures equitable treatment for all employees included in the University Support Personnel System and A&P Pay Plan.

(2) Progressive and Cumulative Discipline. Disciplinary actions described by this rule are based on the concepts of progressive and cumulative discipline. Progressive discipline is based on the idea that employees have been informed of the performance and behavior expected of them. As offenses occur appropriate discipline will be administered in a progressive manner. Penalties shall be appropriate to the circumstances of the offense. In prescribing disciplinary actions it is recognized that some offenses are so serious that suspension or dismissal may be warranted on the first occurrence even though the employee has no prior record of having been disciplined. All offenses can have a cumulative effect and offenses need not be identical to impose a penalty more severe than prescribed for a similar offense.

(3) Delegated Authority. The appropriate disciplinary action may be taken only by a supervisor who has been delegated authority from the University President. The level of delegation varies with the severity of the particular disciplinary action and is identified in the following table.

Disciplinary Action	Authority Delegated to the
Oral Reprimand	Immediate Supervisor
Written Reprimand	Immediate Supervisor with approval of next higher level Supervisor
Demotion and/or Reduction in Pay	Vice President or Designee
Suspension	Vice President or Designee
Dismissal	Vice President or Designee

(4) Types of Disciplinary Action. The type of disciplinary action taken will depend upon the gravity of the employee's offense and the type of disciplinary action that has been taken in the past for similar offenses. Except in extraordinary situations, prior to the dismissal or suspension without pay of a regular employee, the University shall give the employee written notice as required in the University's Predetermination Procedures (7/98). The disciplinary proceedings shall proceed as set out in the University's Predetermination Procedures which are hereby adopted by reference. The following types of disciplinary actions may be imposed.

(a) Oral Reprimand. This is the least severe disciplinary action. The purpose of this action is to bring a problem to the attention of an employee. Where practical, the reprimand will be delivered in private and the supervisor will clearly state that the employee is receiving an oral reprimand. The supervisor will

indicate the nature of the improper behavior, cite the work standard governing the situation and explain precisely what corrective action is expected. The employee shall also be informed that future similar behavior may result in more serious disciplinary action consistent with the guidelines herein. Two copies of a completed Oral Reprimand Record will document the meeting with the original filed in the employee's official personnel file and a copy given to the employee. The Oral Reprimand Record shall include the date, time and location at which the oral reprimand was delivered and indicate the nature of the reprimand.

(b) Written reprimand. This type of disciplinary action is issued for a more serious offense than one that warrants an oral reprimand. The purpose of a written reprimand is to help an employee recognize errors made and to correct them. The contents of the written reprimand will be concise and to the point. It will specifically state that the employee is receiving an official written reprimand, cite the specific performance or conduct standard that was violated, briefly note the specific incident prompting the discipline, indicate the corrective action expected and state that future violations may result in more severe disciplinary action consistent with the guidelines herein. The written reprimand shall be signed by the immediate supervisor and approved by the next higher level supervisor, with a signature line for the employee to acknowledge receipt. The completed written reprimand will be delivered to the employee in private, where practical. A copy of the completed reprimand shall be filed in the employee's official personnel file and a copy given to the employee.

(c) Demotion and/or Reduction in Base Pay. The disciplining authority shall consult with the appropriate Vice President and Human Resources prior to taking this type of action. The employee shall be provided written notice by personal delivery or certified mail, return receipt requested, prior to the action being taken with notification of the employee's appeal or negotiated contract provision rights and this notice shall become a part of the employee's official personnel record.

(d) Suspension and Dismissal. These actions are the most severe form of disciplinary action that may result from the commission of one offense or as the result of cumulative offenses. The disciplining authority shall consult with the appropriate Vice President and Human Resources prior to initiating these actions.

(5) Extraordinary Situations. When the retention of an employee is likely to result in damage to property or injury to any individual or would be detrimental to the best interest of the University, such employee will be suspended without pay or dismissed immediately, provided that written notice of such action is furnished to the employee. These procedures shall be invoked only when an extraordinary situation exists and shall comply with the provisions of the University's Predetermination Procedures.

(6) Abuse of Alcohol. When an employee knows or suspects that he/she may have a drinking problem or be abusing alcohol, he/she should take advantage of the University's many available resources to aid

in rehabilitation, including the Employee Assistance Program, the University Counseling Center and the Health Promotion Department of University Health Services. Similarly, when a supervisor knows or suspects that an employee under his/her supervision may have a drinking problem or be abusing alcohol, the supervisor should refer the employee to any or all of the available resources.

(7) Disciplinary Action. Included below are standards for the administration of disciplinary actions for various types of offenses. The disciplinary actions for the listed offenses have been established to assure that employees who commit offenses receive similar treatment in like circumstances. The suspension of an exempt employee shall be for no less than one workweek, unless required for a major safety violation. Within each level of occurrence a range may be provided to allow the supervisor flexibility in selecting appropriate discipline in order to take into consideration mitigating or aggravating circumstances.

(a) Absence Without Authorized Leave. This includes:

1. Failure to obtain approval prior to any absence from work, except in the case of a proven emergency where the employee must be absent prior to receiving approval from the proper authority, or failure to notify or call in on the first day of an absence.

2. Obtaining leave based upon a misrepresentation or falsification.

a. First occurrence: written reprimand to dismissal.

b. Second occurrence: suspension to dismissal.

c. Third occurrence: dismissal.

An employee who is absent without approved leave for three or more consecutive workdays shall be considered to have abandoned the position.

(b) Assault or Fighting. Physically assaulting or fighting with another person.

1. First occurrence: written reprimand to dismissal.

2. Second occurrence: suspension to dismissal.

3. Third occurrence: dismissal.

(c) Conduct Unbecoming a Public Employee. Conduct whether on or off the job, that adversely affects the employee's ability to continue to perform his or her current job, or that adversely affects the agency's ability to carry out its assigned mission.

1. First occurrence: written reprimand to dismissal.

2. Second occurrence: suspension to dismissal.

3. Third occurrence: dismissal.

(d) Conviction of a Crime. The conviction of an employee for a crime where such conviction adversely affects the employee's ability to perform his or her job, or adversely affects the agency's ability to carry out its assigned mission.

1. First occurrence: written reprimand to dismissal.

2. Second occurrence: suspension to dismissal.

3. Third occurrence: dismissal.

(e) Drinking on the Job or Reporting to Work Under the Influence of Alcohol.

1. Drinking any alcoholic beverage on the job is prohibited.

a. First occurrence: suspension to dismissal.

b. Second occurrence: dismissal.

2. Reporting to work under the influence of alcohol is prohibited.

a. First occurrence: written reprimand to suspension.

b. Second occurrence: suspension to dismissal.

c. Third occurrence: dismissal.

3. Rehabilitation is the University's preferred goal for an employee who has a drinking problem or is abusing alcohol, and reasonable efforts will be made to refer such an employee to the University's many available resources and to assist and support the employee. However, an employee shall be subject to disciplinary action, as outlined herein, when the use of alcohol adversely affects job performance or the employee's behavior otherwise warrants disciplinary action.

(f) Reporting to Work Under the Influence of Illegal Drugs or Illegal Use of Drugs (Controlled Substances).

1. The illegal use of drugs on the job is prohibited.

a. First occurrence: suspension to dismissal.

b. Second occurrence: dismissal.

2. Reporting to work under the influence of any illegal drug or testing positive on a drug test is prohibited.

a. First occurrence: written reprimand to suspension.

b. Second occurrence: suspension to dismissal.

c. Third occurrence: dismissal.

(g) Possession, Sale, Distribution of Alcoholic Beverages or Illegal Drugs (Controlled Substances). The possession, sale or distribution of alcoholic beverages or illegal drugs on state property or on the job is prohibited.

1. First occurrence: suspension to dismissal.

2. Second occurrence: dismissal.

(h) Excessive Absences. An attendance record of recurring absences, even though all or a majority of the absences were necessary and excused. This also includes a pattern of absences by the employees, such as but not limited to, consistent absences on the day preceding or following the employee's regular days off or absence on the same day of each month.

1. First occurrence: oral to written reprimand.
2. Second occurrence: written reprimand to suspension.
3. Third occurrence: suspension to dismissal.
4. Fourth occurrence: dismissal.

(i) Tardiness. The failure to follow established work schedules. Includes reporting late at the beginning of the work schedule, leaving early or returning late from lunch or breaks, or leaving work early at the end of the work schedule, all without approval.

1. First occurrence: oral reprimand.
2. Second occurrence: written reprimand.
3. Third occurrence: suspension.
4. Fourth occurrence: dismissal.

(j) Falsification of Records. Includes misrepresentation, falsification or omission of any fact, whether verbal or written, on such records as, but not limited to: time, attendance and leave; employment status; employment application; travel vouchers; and work and production.

1. First occurrence: written reprimand to dismissal.
2. Second occurrence: suspension to dismissal.
3. Third occurrence: dismissal.

(k) Horseplay. Actions whether intended or unintended to be mischievous or prankish which disrupt or have the effect of disrupting the work of the participants or other employees or have the potential for personal injury to other employees or oneself.

1. First occurrence: oral reprimand.
2. Second occurrence: written reprimand.
3. Third occurrence: suspension.
4. Fourth occurrence: dismissal.

(l) Improper or Careless Use or Operation of State Property or Equipment. The improper or careless use of state property or equipment including abuse or misuse. This includes failure to observe the established speed limit while driving a state vehicle.

1. First occurrence: written reprimand.
2. Second occurrence: suspension.
3. Third occurrence: dismissal.

(m) Unsatisfactory Work Performance Including Continuing Inefficiency, Inability to Perform Assigned Duties and/or Substandard Performance of Assigned Duties. The failure to satisfactorily meet the minimum performance standards that specifically relate to the employee's duties and responsibilities. An employee's failure to meet established work standards may be addressed through the performance

evaluation process and/or the use of progressive discipline.

1. First occurrence: oral to written reprimand.
2. Second occurrence: written reprimand to suspension.
3. Third occurrence: suspension to dismissal.
4. Fourth occurrence: dismissal.

In the case of Inability to Perform Assigned Duties due to medical reasons, the University will proceed with termination notwithstanding the above schedule of progressive discipline.

(n) Insubordination. A deliberate and inexcusable refusal to obey a reasonable order that relates to an employee's job function. An unwillingness to submit to authority. Includes both an expressed refusal to obey a proper order and a deliberate failure to carry out an order.

1. First occurrence: written reprimand to dismissal.
2. Second occurrence: suspension to dismissal.
3. Third occurrence: dismissal.

(o) Leaving Work Area or Duty Assignment Without Authorization. Absence from the work area or duty assignment during a work period without permission of the appropriate supervisor. Includes leaving a work area for lunch or a break, or at the end of a work schedule without proper relief where such relief or permission is a specific requirement.

1. First occurrence: written reprimand.
2. Second occurrence: suspension.
3. Third occurrence: dismissal.

(p) Loafing. Continued and deliberate idleness during work periods that results in the employee's failure to perform assigned tasks. This includes, but is not limited to, deliberately wasting time, engaging in idle talk or gossip or conducting personal business during work periods.

1. First occurrence: oral reprimand.
2. Second occurrence: written reprimand.
3. Third occurrence: suspension.
4. Fourth occurrence: dismissal.

(q) Negligence. Carelessness in omission of, or inattention to the performance of assigned duties and responsibilities. Negligence is synonymous with carelessness and signifies lack of care, caution, attention, diligence or discretion.

1. First occurrence: written reprimand to dismissal.
2. Second occurrence: suspension to dismissal.
3. Third occurrence: dismissal.

(r) Sabotage. Participation in an act of destruction or attempted destruction of state property or

equipment, or an act or attempted act that obstructs or has the potential to obstruct productivity, or normal functions or operations of the department or the University.

1. First occurrence: suspension to dismissal.
2. Second occurrence: dismissal.

(s) Sexual Harassment. Violation of The Florida State University Policy on Sexual Harassment, Rule FSU-6.013, F.A.C.

1. First occurrence: written reprimand to dismissal.
2. Second occurrence: suspension to dismissal.
3. Third occurrence: dismissal.

(t) Sleeping on Duty. The failure of an employee to remain awake while on duty during working periods.

1. First occurrence: written reprimand.
2. Second occurrence: suspension.
3. Third occurrence: dismissal.

(u) Strike or Concerted Activity. Instigating or supporting in any manner a strike. A strike is defined as: The concerted failure of employees to report for duty; the concerted absence of employees from their positions; the concerted stoppage of work by employees; the concerted submission of resignations by employees; the concerted abstinence in whole or in part by any group of employees from the full and faithful performance of the duties of employment with a public employer for the purpose of inducing, influencing, condoning or coercing a change in the terms and conditions of employment or the rights, privileges or obligations of public employment; participating in a deliberate and concerted course of conduct that adversely affects the services of the public employer; the concerted failure of employees to report for work after the expiration of a collective bargaining agreement; and picketing in furtherance of a work stoppage. The term “strike” shall also mean any overt preparation including but not limited to: the establishment of strike funds with regard to the above listed activities.

First occurrence: dismissal.

(v) Threatening or Abusive Language. The use of language that is threatening or abusive, whether directed towards a supervisor, another employee or any other person. Includes any offensive language whether or not directed toward anyone in particular regardless of intent.

1. First occurrence: written reprimand to dismissal.
2. Second occurrence: suspension to dismissal.
3. Third occurrence: dismissal.

(w) Unauthorized Solicitation. The unauthorized solicitation by employee of another employee including the distribution of material while either employee is on duty.

1. First occurrence: written reprimand.
2. Second occurrence: suspension.
3. Third occurrence: dismissal.

(x) Unauthorized Taking of Property. The unauthorized taking of any property of the State or another person.

1. First occurrence: suspension to dismissal.
2. Second occurrence: dismissal.

(y) Unauthorized Use of State Property, Equipment or Personnel. The use of any state property, equipment or personnel for any purpose other than official state business.

1. First occurrence: written reprimand to dismissal.
2. Second occurrence: suspension to dismissal.
3. Third occurrence: dismissal.

(z) Violation of Safety Practices. The failure to follow established safety practices. This includes the performance of unsafe acts or failure to wear or use safety equipment including but not limited to safety belts.

1. First occurrence: oral reprimand to suspension.
2. Second occurrence: suspension to dismissal.
3. Third occurrence: dismissal.

(aa) Violation of a Provision of Law or University Rule or Policy. The violation of the provisions of law or agency rules or policies. This may include but is not limited to: failure to obtain approval for outside employment; misuse of position; giving or accepting a bribe; discrimination in employment or illegal campaigning.

First occurrence: oral reprimand to dismissal.

(bb) Failure to Follow Instructions. An employee's failure to follow oral or written instructions from supervisory personnel.

1. First occurrence: oral to written reprimand.
2. Second occurrence: written reprimand to suspension.
3. Third occurrence: suspension to dismissal.
4. Fourth occurrence: dismissal.

(cc) Disruptive Conduct. Behavior that interferes with the employee's work performance or the work performance of others. This may include, but is not limited to: loud, boisterous language; creating a disturbance; throwing objects; slamming doors, or other activities which would have a detrimental effect on the work environment.

1. First occurrence: oral to written reprimand.



2. Second occurrence: written reprimand to suspension.
3. Third occurrence: suspension to dismissal.
4. Fourth occurrence: dismissal.

(dd) Chargeable Crash in a University Vehicle (Applicable to Sworn Law Enforcement Personnel Only)

A chargeable crash is any accident involving a university vehicle resulting in physical damage to the vehicle or to other property or personal injury which could have been charged as a vehicular offense, whether actually charged or not. A “minor violation” is a chargeable crash, which is caused by slight negligence, or carelessness, which does not have the potential for serious injury. A “more serious clear-cut violation” is a chargeable crash, which is caused by greater negligence, or carelessness, which has the potential for serious injury or damage. An “extreme violation” is a chargeable crash, which is caused by driving in a reckless or irresponsible manner, or with gross disregard for the safety of persons or property or a crash which exhibits willful abuse of authority.

1. Minor Violation

- a. First or second occurrence: counseling [counseling is not considered discipline]
- b. Third occurrence: written reprimand
- c. Fourth occurrence: suspension
- d. Fifth occurrence: Dismissal

2. More Serious Clear-Cut Violation

- a. First occurrence: written reprimand and driver training
- b. Second occurrence: suspension
- c. Third occurrence: suspension to dismissal
- d. Fourth occurrence: dismissal

3. Extreme Violation

- a. First or second occurrence: suspension to dismissal
- b. Third occurrence: dismissal

.001(8) Appeal and Grievance Rights. USPS employees with regular status and A&P employees may

appeal or grieve any disciplinary action taken against them in accordance with this rule, or any applicable collective bargaining agreement. An employee who resigns from employment shall not have any rights of appeal. Both USPS employees and A&P employees may use the USPS and A&P Complaint Procedure in accordance with the USPS and A&P Complaint Procedure (7/98) and Form (7/98) which is hereby adopted by reference.

(9) USPS and A&P Arbitration Appeal Procedure.

USPS employees who have earned regular status in their current classification and A&P employees shall have the right to appeal to an arbitrator any suspension without pay, dismissal, layoff, demotion, job abandonment, transfer (greater than 50 miles), or reduction in pay, provided that the employee has not signed a statement indicating the action was voluntary. An employee whose position is classified to a lower class shall have the right to appeal only the reduction in pay, if any, which has occurred as a result of the demotion appointment.

(a) Request for Processing.

1. If an employee requests an arbitration, the employee shall, within 14 calendar days after the receipt of notice of the employment action from the University, file with the Director of Human Resources or designee a completed Arbitration Request Form-2013 which is hereby incorporated by reference.

2. Failure to file an Arbitration Request Form within the time limits prescribed shall be deemed a waiver of the right to arbitration. In the event of a question regarding timeliness, the date of first receipt by Human Resources shall be determinative.

3. After the Request for Arbitration has been received, the Director of Human Resources or designee will determine whether the request has been filed in accordance with the provisions of this section and shall notify the employee or his/her representative and immediate supervisor of this determination.

4. The Director of Human Resources or designee shall select an arbitrator on a rotational basis from an odd-numbered panel of at least three arbitrators maintained by Human Resources and shall notify the employee or his/her representative of the arbitrator selected. If the parties do not agree on the arbitrator selected, the selection shall be made by alternatively striking names from the panel. The right of first strike shall be determined by a coin toss. The employee will receive notice of the identity of the arbitrator selected and may request disqualification of the arbitrator based on cause within five calendar days of receipt of the notice. Cause is present when the arbitrator was chosen through corruption, fraud, or other undue means.

5. When an action is both appealable under this rule and grievable under a collective bargaining agreement, the employee shall have the option of using either procedure. The filing of the Arbitration Request Form constitutes a waiver of any rights to review of the matter under an applicable collective bargaining agreement, Chapter 120, F.S., or any other review procedures. If the employee seeks a review

of a matter in an alternative forum after requesting arbitration under this rule or fails to appear at the scheduled arbitration hearing, the University shall have no obligation to proceed further.

(b) Fees and Expenses.

1. All fees and expenses for the arbitrator will be paid by the University. However, when an employee is represented by an employee organization, the arbitrator's fees and expenses shall be paid by the party who fails to prevail in the arbitration or evenly split if the award sustains the appeal in part and denies it in part.

2. 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 and shall be responsible for scheduling a reporter to record the proceedings. The party desiring the transcript shall be responsible for the appearance fee of the reporter and the cost of obtaining an original transcript. The requesting party shall provide the other party a photocopy of the transcript received from the reporter and deliver the photocopy to the other party within five calendar days after receiving the copy of the transcript from the reporter.

(c) The employee may self represent or be represented. If the employee elects to be represented, the employee must deliver or send to the Director of Human Resources or designee within five working days after filing a Request for Arbitration, a written statement indicating the name, address, telephone number and qualifications of the representative and confirming that the employee as well as the representative will be present during the arbitration hearing, and that the employee agrees to this representation.

(d) If the aggrieved employee participates during working hours in the arbitration, the employee's compensation will not be affected by the time spent at the arbitration hearing. The employee must notify the immediate supervisor seven days in advance of his/her anticipated absence. An employee will not be permitted to prepare the case during working hours.

(e) Hearing.

1. The arbitrator shall hold the hearing in Tallahassee, Florida, unless otherwise agreed by the parties. The hearing shall commence within 30 working days of the arbitrator's acceptance of selection, or as soon thereafter as practicable. Arbitration proceedings shall be conducted in accordance with this rule, supplemented by the current Labor Arbitration Rules published by the American Arbitration Association which are hereby incorporated by reference.

2. The arbitrator may subpoena witnesses and compel the production of documents pertinent to the appeal. All requests for subpoenas must be made to the arbitrator no later than 10 working days prior to the arbitration date and each party is responsible for providing its own witnesses and documents which it wishes to present. The party requesting a subpoena or the production of documents from the arbitrator shall promptly provide the other party a copy of the request.

3. Within 60 calendar days, the arbitrator shall issue to the University and the employee a written order which may affirm, reverse, or alter the decision of the University.

4. The employee and the University agree that the decision of the arbitrator shall be final and binding on both parties. No judicial review of the arbitration order is available except as provided by Chapter 682, F.S.

(f) Jurisdiction of Arbitrator.

1. The arbitrator shall neither add to, subtract from, modify, or alter the provisions of these rules, University rules and policies or procedures, or an applicable collective bargaining agreement. Arbitration shall be confined solely to the application and/or interpretation of those provisions and limited to the matters in the Request for Arbitration Form submitted for arbitration. No statements of opinion or conclusions not essential to the determination of the matters submitted shall be permitted. The arbitrator shall not review managerial decisions, nor substitute his judgment for that of management, other than to ensure that such actions are in accordance with the applicable procedures under review. In the case of suspension without pay, dismissal, and reduction in pay taken as a disciplinary action, the arbitrator shall determine whether there is just cause for such action.

2. The burden of proof shall be on the employee in layoff, demotion, reduction in pay and transfer actions when not taken as a disciplinary action, and in job abandonment. The burden of proof shall be on the employer in suspension without pay, dismissal, demotion, and reductions in pay when taken as disciplinary actions.

3. The arbitrator's order and award may reinstate an employee, with or without back pay. The back pay award shall not exceed the amount of pay the employee would otherwise have earned at the employee's regular rate of pay and shall not be retroactive to a date earlier than the date of the occurrence of the event giving rise to the action at issue and in no event more than fourteen (14) calendar days prior to initiation of the arbitration request. In no situation will the award exceed the actual loss to the employee or provide attorney fees to either party.

4. Punitive damages are not permitted.

5. The arbitrator may reduce a dismissal to a suspension for such time as the arbitrator may fix, or reduce the period of suspension, which order shall be binding on the University and employee concerned subject to the jurisdiction of the arbitrator.

6. The arbitrator may reduce a dismissal to a suspension for such time as the arbitrator may fix or reduce the period of suspension which order shall be binding on the University and employee concerned subject to the jurisdiction of the arbitrator.

Specific Authority BOG Regulation 1.001(3)(j) , Reg. Procedure July 21, 2005 Law Implemented 1001.74(5) FS. History—New 6-16-87, Amended 9-24-98, 6-15-99, 4-16-03, 11-29-07, 6-25-2010, 6-26-

2015

**FSU-4.071 Faculty Practice Plan**

(1) The Florida State University College of Medicine provides educationally oriented clinical practice settings and opportunities, through which faculty members provide health care and treatment to patients, including patients at independent hospitals, other institutions, and various clinical sites as an integral part of their academic activities and employment as faculty. Such faculty practice activities are designed to assure clinical practice opportunities and experiences that are essential in the training of students and postgraduate health professionals and that will enhance skills and knowledge of faculty members who must teach and train medical and other health professional students. Participation in such faculty practice activities by members of the faculty of the College of Medicine is vital to the educational mission, the maintenance of skills in the treatment and diagnosis of disease, and the maintenance of patient management skills, clinical expertise, and medical judgment, and is a necessary and essential part of their employment as faculty. Because these faculty practice activities generate income from a cross section of patients served by faculty members, the College of Medicine is authorized to regulate fees generated from faculty practice, and to develop and maintain a faculty practice plan for the orderly collection and distribution of such fees. The College is authorized to form corporate entities to achieve the objectives of the faculty practice plan. The faculty practice plan, when developed and subsequent changes therein, must be approved by the Dean of the College of Medicine and the President of the university prior to approval of the Board of Trustees. The faculty practice plan must be consistent with, and supportive of, the objectives of the College of Medicine and the university.

(2) The faculty practice plan shall include and/or provide for:

(a) A written document that describes the university's policies and procedures pertaining to faculty practice activities and the resulting professional fees.

(b) Articles of incorporation and bylaws.

(c) A separate bank account into which all faculty practice fees are to be deposited, which shall be held and administered by the faculty practice plan on behalf, and under the control, of the university.

(d) An operating budget prepared at least annually and recommended by the dean of the College of Medicine and university president to the Board of Trustees for review and oversight.

(e) An annual audit and management letter that shall be forwarded to the Board of Trustees for review and oversight.

(f) The faculty practice plan shall not employ medical doctors or other health care professionals, and shall not determine, control, or evaluate any medical procedures or standards for any medical doctor or for any other health care professional or facility.

(g) The review of all agreements by The Florida State University Office of General Counsel.

Specific Authority BOG Regulation 1.001(3)(j) , Reg. Procedure July 21, 2005 Law Implemented: 1001.74(2) (k), FS. History: New 12-1-2005, Amended 2-3-2007, 2-12-2020

#### **FSU-4.072 Self-insurance Program**

(1) The Florida State University College of Medicine Self-Insurance Program is established for the purpose of providing comprehensive general liability protection, including professional liability protection, for The Florida State University Board of Trustees and other persons and entities as provided by law and as authorized by The Florida State University Board of Trustees or the Self-Insurance Program Council. The Self-Insurance Programs shall be funded by contributions paid by or on behalf of protected persons and entities. There shall be no funds appropriated to the Self-Insurance Program. The assets of the Self-Insurance Program shall be deposited outside the State Treasury and shall be the property of the Board of Governors. The assets of the Self-Insurance Program shall be used only to pay the administrative expenses of the Self-Insurance Program and any claim, judgment, or claims bill arising out of the activities for which the Self-Insurance Program was created.

(2) The Self-Insurance Program may not sue or be sued. The claims files of the Self-Insurance Program are privileged and confidential, exempt from the provisions of Section 119.07(1), Florida Statutes, and are only for the use of the Program in fulfilling its claims, underwriting and risk management duties.

(3) The Self-Insurance Program shall be administered by The Florida State University College of Medicine Self-Insurance Program Council. The Council shall consist of the following officers of FSU: Dean of the College of Medicine, who shall serve as Chair; Associate Dean for Academic Affairs of the College of Medicine; Director of Community Clinical Relations of the College of Medicine; the FSU General Counsel or designee; and such other persons as from time to time may be appointed to the Council by the Dean of the College of Medicine.

(4) The powers and duties of the Self-Insurance Council shall be:

(a) To administer the Self-Insurance Program in accordance with the laws of Florida and all applicable rules and regulations;

(b) To develop and implement a financial expenditure policy that recognizes the unique mission, duties, obligations and fiscal responsibilities of the Self-Insurance Program. The Council's financial responsibility policies shall ensure fiscal responsibility and accountability and, to the maximum extent possible, be consistent with recognized practices of the insurance industry;

(c) To propose and submit an annual budget for the Self-Insurance Program to the University Board of Trustees;

(d) To develop and implement a Memorandum of Protection that shall constitute the Self-Insurance Program's coverage document. The Memorandum of Protection shall contain the insuring agreements, exclusions, and other conditions applicable to persons and entities protected and shall be part of this regulation by reference. The Council may extend by resolution the protections described in the Memorandum of Protection to persons and entities as authorized by statute and establish the levels of liability protections extended to such persons and entities;

(e) To contract with an independent casualty actuary to establish funding requirements necessary to maintain the fiscal integrity of the Self-Insurance Program.

(f) To appoint the Self-Insurance Program Director who shall conduct the policies and directives of the Council;

(g) Receive from the university such administrative and logistical support as the Council may reasonably request and to reimburse the University for the cost of such support;

(h) To contract with professional consultants, including attorneys-at-law, to represent the persons and entities protected by the Self-Insurance Program and to perform services that further the interests of the Self-Insurance Program;

(i) To establish committees and designate persons as necessary to assist in the performance of its duties, and authorize such committees or persons to act for and on behalf of the Council. In addition to any other committees it may elect to establish, the Council shall establish as a standing committee or committees to conduct investigations and the settlement and defense of claims and actions against protected entities and individuals and to identify risk factors which cause or contribute to such claims and suits, and develop and implement risk management programs to reduce or eliminate those risk factors. The Council and such committee or committees shall conduct reviews pursuant to the provisions of Section 766.106, Florida Statutes, and shall be deemed a medical review committee or committees as defined in Section 766.101, Florida Statutes;

(j) To participate in internal, local, regional, national and/or international risk management and loss prevention research programs and to develop risk management and loss prevention programs for use by both protected and non-protected entities under such terms, conditions and reimbursement rates as the Councils may deem appropriate.

(k) To purchase excess insurance on behalf of persons and entities protected by the Self-Insurance Program for claims which exceed the level of protection provided by the Self-Insurance Program, including claims bills to award compensation in amounts which exceed the protection provided by the Self-Insurance Program or by commercial insurance; to assist entities not described in Section 768.28, Florida Statutes, which are authorized and approved as allowed by Florida laws to be protected by the Self-Insurance Program, in the procurement of insurance for losses which exceed the levels of protection provided by the Self-Insurance Program as established by the Council, but the Council is not authorized to purchase such insurance with Self-Insurance Program assets; and

(l) To participate in other self-insuring mechanisms such as Risk Retention Groups or group captive insurance companies, independently or in association with other compatible entities, subject to the approval of the University Board of Trustees.

(m) To establish an investment policy consistent with section 215.47 Florida Statutes and to maintain an investment account that shall optimize income for the support of the Self-Insurance Program and its participants. The Council may direct that investment income that is in excess of that income necessary to ensure the long-term solvency of the Self-Insurance Program as established by a casualty actuary be used to defray the annual contributions paid into the Program by the entities and persons protected by Program.

(n) To submit to the University Board of Trustees for its review an annual post-audit of the Self-Insurance Program's financial accounts conducted by an independent certified public accountant. The annual audit report shall include a management letter and shall be submitted to the Board of Trustees for review. Upon request of the University Board of Trustees, the Self-Insurance Program Council or its independent auditor shall provide any detail or supplemental data relative to the operations of the Self-Insurance Program.

(o) Contract with other Self-Insurance Program Councils for the provision of liability protection and other services.

Specific Authority BOG Regulation 1.001(3)(j) , Reg. Procedure July 21, 2005 Law Implemented: 1004.24, 768.28, 766.101, 766.106, FS. History- New 12-1-2005

#### **FSU-4.073 Post-Tenure Faculty Review**

(1) Purpose. The Post-Tenure Review process for tenured faculty at Florida State University (FSU)



is intended to accomplish the following:

- (a) Ensure continued high standards of quality and productivity among the University's tenured faculty.
- (b) Determine whether a faculty member is meeting the responsibilities and expectations associated with assigned duties in research, teaching and service.
- (c) Recognize, honor and reward exceptional achievement and provide incentives for retention, as appropriate.
- (d) When appropriate, refocus academic and professional efforts and take appropriate employment action.

(2) Definitions: For purposes of this regulation, the following definitions apply:

(a) "Administrative Role" means a position or role at FSU in which a tenured faculty member is the Provost, a vice president, dean, chair, school director, institute director, center director, or otherwise has significant administrative duties and for which an annual evaluation of all assigned administrative duties, responsibilities and professional conduct is performed.

(b) "Eligible Faculty Member" means a tenured faculty member at the University who has been notified by the University that they are subject to Post-Tenure Review in a given year, as outlined in Board of Governors (BOG) Regulation 10.003(2) and determined by the University, who has not received an approved postponement or submitted a letter of resignation/retirement. Tenured faculty in Administrative Roles are not included in this definition. Eligible Faculty Members may include any/all tenured faculty employed at the University in all colleges, including the College of Medicine and the College of Law.

(c) "Materials" means an evidence of performance report prepared by an Eligible Faculty Member, and subsequently supplemented by the department chair/unit head (if applicable) and college dean, highlighting the Eligible Faculty Member's accomplishments, and demonstrating performance relative to assigned duties for the Review Period.

(d) "Post-Tenure Review" means a comprehensive review of performance of Eligible Faculty Members by the University for the Review Period, including consideration of: (i) the level of accomplishment and productivity relative to a faculty member's assigned duties of research, teaching and service, guided by the Assignment of Responsibility and the college/unit/or department's bylaws; (ii) history of professional conduct and performance of academic responsibilities; (iii) any findings following an official inquiry or investigation that the faculty member has failed to comply with applicable laws or regulations within the scope of their University employment; (iv) any unapproved absences from teaching assigned courses that are reported and substantiated; and (v) any disciplinary action related to a substantiated report of misconduct by a student or others following an official inquiry

or investigation. Post-Tenure Review does not replace an Eligible Faculty Member's annual evaluation for that year.

(e) "Performance Rating Scale" means a rating scale including the following:

1. Exceeds Expectations: a clear and significant level of accomplishment beyond the average performance of faculty across the faculty member's discipline and unit;
2. Meets Expectations: expected level of accomplishment compared to faculty across the faculty member's discipline and unit;
3. Does Not Meet Expectations: performance falls below the normal range of annual variation in performance compared to faculty across the faculty member's discipline and unit but is capable of improvement; and
4. Unsatisfactory: failure to meet expectations that reflect disregard or failure to follow previous advice or other efforts to provide correction or assistance, or performance involved incompetence or misconduct, as defined in applicable university regulation and policies.

(f) "Review Period" means the five-year period prior to the semester in which Post-Tenure Review is occurring for an Eligible Faculty Member.

(3) Timing of the Initial and Subsequent Reviews.

(a) The Post-Tenure Review process will initially begin in Spring Semester 2024 and encompass approximately 20% of the tenured faculty, as determined by the University, which will include those due for a Sustained Performance review. In addition, each tenured faculty member in the fifth year following their tenure award, their last promotion, or their hire date (if hired with tenure) will be subject to Post-Tenure Review.

(b) Each Spring Semester in 2025, 2026, 2027 and 2028, approximately 20% of the tenured faculty of the University (who have not yet been subject to Post-Tenure Review) will be subject to an initial Post-Tenure Review, as determined by the University. In addition, during these semesters, each tenured faculty member in the fifth year following their tenure award, their last promotion, or their hire date (if hired with tenure) will be subject to Post-Tenure Review.

(c) Beginning in Spring Semester 2029, each tenured faculty member will be subject to Post-Tenure Review in the fifth year following their tenure award, their last promotion, their hire date (if hired with tenure) or their last Post-Tenure Review.

(d) A faculty member's Post-Tenure Review may be postponed, upon approval by the Provost or designee, for extenuating circumstances, including but not limited to being on approved extended leave (such as FMLA, parental leave, or leave of absence), being on a sabbatical, or actively being reviewed for promotion from Associate Professor to Professor.

(4) Participants and Their Responsibilities.

(a) **Eligible Faculty Member:** An Eligible Faculty Member shall prepare and submit their Materials to the department chair/unit head (or to the dean, for colleges without departments/units) by the date and via the method specified by the University.

(b) **Department Chair/Unit Head:** For colleges that have departments/units, the Eligible Faculty Member's department chair/unit head shall:

1. review the Materials submitted by the Eligible Faculty Member, the Eligible Faculty Member's personnel file (with attention to any disciplinary actions), and any other relevant records for the Review Period (such as records of accomplishments and awards, annual evaluations, any findings of an inquiry or investigation of non-compliance with applicable laws or regulations within the scope of their University employment, any records of substantiated unapproved absences from teaching assigned courses, and any disciplinary action issued by the University);
2. prepare and add to the Materials a letter assessing the level of achievement of the Eligible Faculty Member for the Review Period (which may include input from a faculty evaluation committee, if requested by the chair/unit head) and certifying that any substantiated reports regarding professional conduct, academic responsibilities or performance for the Review Period have been included in the letter; and
3. forward the supplemented Materials to the Eligible Faculty Member's college dean for review by the date and via the method specified by the University.

(c) **College Dean:** The Eligible Faculty Member's college dean shall:

1. review the supplemented Materials received from the department chair/unit head (if the college has departments/unit);
2. prepare and add to the Materials a letter assessing the level of achievement of the Eligible Faculty Member for the Review Period (which may include input from a college advisory committee, if requested by the dean), including any substantiated reports regarding professional conduct, academic responsibilities or performance, and using the Performance Rating Scale; and
3. Forward the supplemented Materials to the Provost for review by the date and via the method specified by the University.

(d) **Provost:** The Provost shall:

1. review the supplemented Materials received from the college dean, including the dean's letter and rating (which the Provost will accept, reject or modify);
2. rate the Eligible Faculty Member's performance (including information about professional conduct and academic responsibilities) for the Review Period, using the Performance Rating Scale (in consultation with the President and, if requested by the Provost, with input from a University advisory committee); and

3. notify the Eligible Faculty Member, their department chair/unit head and the college dean of the Eligible Faculty Member's rating and outcome.

(e) Upon request, the Eligible Faculty Member can view the supplemental documentation added to the Materials by the department chair/unit head and/or the college dean during this process, including letters assessing the level of achievement of the Eligible Faculty Member for the Review Period.

(5) Outcomes from Post-Tenure Review

(a) Faculty members who receive an Exceeds Expectations or Meets Expectations rating from the Provost shall receive a Post-Tenure Review monetary reward that may consist of a salary increase, a one-time bonus, or both.

(b) Regarding faculty members who receive a Does Not Meets Expectations rating from the Provost, the relevant college dean, department chair/unit head and appropriate University offices shall propose a Performance Improvement Plan (PIP) to the Provost for each faculty member, which shall include a time period of 12 months or less for the faculty member to achieve the requirements of the PIP. In the event that any faculty member placed on a PIP does not meet the requirements of the PIP by the stated deadline, the Provost shall propose termination of such faculty member, pursuant to applicable University processes.

(c) For any faculty member who receives an Unsatisfactory rating from the Provost, the Provost shall propose termination of such faculty member, pursuant to applicable University processes.

(d) Outcomes from the Post-Tenure Review process may be appealed pursuant to the applicable collective bargaining agreement (CBA) or to the Faculty Senate Grievance Committee. In any arbitration hearing, the arbitrator shall review the University's decision solely for the purpose of determining whether it violates the CBA or University regulation/policy and cannot consider claims on equity or substitute the arbitrator's judgment for that of the University.

(6) Reporting.

(a) The Provost shall report annually to the President and Board of Trustees on the outcome of the Post-Tenure Review process.

(b) Beginning January 1, 2024 and then every three years thereafter, the University's Office of Inspector General Services shall conduct an audit on the Post-Tenure Review process for the prior fiscal year and submit to the Board of Trustees by July 1<sup>st</sup> of that year an audit report that includes: (i) the number of tenured faculty members that received each of the four ratings in the Performance Rating Scale from the Provost, (ii) the outcome in cases of each rating category, and (iii) any findings of non-compliance with applicable laws and regulations.

(c) The Board of Trustees shall consider the audit report outlined above at its next meeting following the audit report's publication. The audit report cannot be a consent agenda item and must be

presented to the Board by the Chief Audit Officer. The audit report must be provided to the BOG, as specified in BOG Regulation 10.003(6)2.b.- c.

Authority: Section 7(d), Art. IX, Fla. Const., Section 1001.706(6)(b), Florida Statutes; Board of Governors Regulation 10.003; History: New June 15, 2023.