

**THE FLORIDA INTERNATIONAL UNIVERSITY BOARD OF TRUSTEES  
FLORIDA BOARD OF GOVERNORS**

**NOTICE OF PROPOSED REPEAL OF REGULATION**

**REGULATION NO.:** FIU-1711

**REGULATION TITLE:** Separation from Employment for Non-Bargaining Unit Employees

**SUMMARY:** This regulation pertains to separation from employment for non-bargaining unit employees of the University. The regulation is being repealed as it was superseded by University policies adopted by the Board of Trustees.

**TEXT OF REGULATION:** The full text of the Proposed Regulation Repeal can be viewed below and on the website of The Florida International University Board of Trustees, <http://bot.fiu.edu/regulations/>. If you would like a copy of the Proposed Regulation Repeal, please contact Eli Deville, Coordinator, Administrative Services, Office of the General Counsel, (305) 348-2103.

**AUTHORITY:** Resolution of the Florida Board of Governors dated January 7, 2003.

**NAME OF PERSON INITIATING PROPOSED REPEAL:** Cristina Mendoza, Vice President and General Counsel.

ANY PERSON SEEKING TO COMMENT ON THE PROPOSED REPEAL OF THE REGULATION MUST SUBMIT COMMENTS IN WRITING TO THE CONTACT PERSON LISTED BELOW. ALL WRITTEN COMMENTS MUST BE RECEIVED BY THE CONTACT PERSON WITHIN 14 CALENDAR DAYS OF THE DATE OF PUBLICATION OF THIS NOTICE.

**CONTACT PERSON REGARDING THE PROPOSED REPEAL OF THE REGULATION:** Eli Deville, Coordinator, Administrative Services, Office of the General Counsel, Florida International University, 11200 SW 8<sup>th</sup> Street, PC 511, Miami, FL 33199. Email: devillee@fiu.edu Fax: (305) 348-3272. Phone: 305-348-2103.

**DATE OF PUBLICATION:** August 12, 2008.

**THE FULL TEXT OF THE PROPOSED REGULATION REPEAL IS PROVIDED BELOW:**

## **~~FIU-1711—Separation from Employment for Non-Bargaining Unit Employees~~**

### **~~(1) Policy:~~**

~~University employees are considered “at will.” Employment at will is presumed to be voluntary and indefinite for both the employee and the University. The employee-employer relationship may be terminated at any time with or without cause. Terminations based on discriminatory reasons are prohibited. Any separation of employment shall be in consultation and with the approval of the Vice President for Human Resources or his/her designee, or the Provost or his/her designee in the case of the non-bargaining unit faculty member.~~

### **~~(2) Definitions:~~**

~~(a) Employee—For purposes of this Regulation, “employee” means all University employees except certified law enforcement personnel (not including the Director of Public Safety) employed by the University Police Department who have passed their probationary period, registered nurses and nurse practitioners employed by University Health Services (not including any Director for University Health Services) who have passed their probationary period, and tenured faculty.~~

~~(b) Separations of Employment—Includes termination, resignation, job abandonment, and layoff.~~

~~(c) Termination—Occurs when an employee is permanently separated from University employment with or without cause. Termination may be preceded by corrective action. Unsatisfactory performance or misconduct may warrant immediate dismissal.~~

~~(d) Nonreappointment—termination of a non-bargaining non-tenured unit faculty member without cause.~~

~~(e) Resignation—Occurs when an employee initiates a termination by notifying the immediate supervisor of his/her intention to resign.~~

~~(f) Job Abandonment—Occurs when an employee is absent without approved leave for three (3) or more consecutive scheduled workdays. Such action represents an abandonment of position, and the employee will be automatically terminated. If the employee’s absence is for reasons beyond the control of the employee and the employee notifies the University as soon as practicable, the University will review the circumstances surrounding the absence on an individual basis to determine if it is to be considered abandonment of position.~~

~~(g) Layoff—Terminations of employment due to layoff of a non-bargaining unit employee are governed by University policy.~~

### **~~(3) Notice to Employees; Resignation:~~**

~~(a) Employees will be given a notice period of fourteen (14) days if the separation from employment is due to layoff. If the separation from employment is due to termination without cause, employee shall be given a notice period of four (4) weeks after one year of employment, plus two weeks for every year of employment thereafter up to a maximum of twelve (12) weeks.~~

~~————— (b) Exception. The notice period for termination of employment without cause for employees who were in the Administrative and Professional (A&P) pay classification prior to July 1, 2005 and had a minimum of ten (10) consecutive years of full time employment with the University as of June 30, 2005, shall be six (6) months notification, prior to terminating their employment relationship. ———~~

~~————— (c) ——— Employees will give two weeks written notice of resignation. A resignation may not be rescinded by the employee without concurrence of the University. ———~~

~~(4) Notice for Non-Tenured, Non-Bargaining Unit Faculty.~~

~~————— (a) Faculty members, except those described in sub-paragraph (b) below are entitled to the following written notice of nonreappointment. ———~~

~~————— 1. ——— If the faculty member has less than three (3) years of continuous University service, a notice period of one semester; ———~~

~~————— 2. ——— If the faculty member has three (3) or more years of continuous University service, a notice period of two semesters. ———~~

~~————— (b) Exception. The notice provisions of this paragraph do not provide rights to: ———~~

~~————— 1. ——— Summer appointments; ———~~

~~————— 2. ——— Faculty members who are funded from contracts, grants and/or sponsored research funds as they are governed by the terms and conditions of employment of their contract or grant; or ———~~

~~————— 3. ——— Faculty members who are appointed as visitors or who are appointed to multi-year appointments. ———~~

~~(5) Upon notice of termination without cause pursuant to paragraph (3) above or notice of nonreappointment pursuant to paragraph (4) above, the University shall decide at its sole option, whether to: ———~~

~~————— (a) Allow the employee to continue to work at the University during the notification period in the same position or in a different position; ———~~

~~————— (b) Place the employee on leave with pay during the notification period; ———~~

~~————— (c) Pay the amount due to the employee in salary during the notification period as a lump sum payment and cease employment of the employee immediately; or ———~~

~~————— (d) Take a course of action that is a combination of any of the above. ———~~

~~(6) Special Provisions Regarding Separation from Employment for Tenured, Non-Bargaining Unit Faculty~~

~~———— (a) Notwithstanding anything to the contrary in this Regulation, separation from employment for tenured faculty include resignation, job abandonment, and layoff as defined in paragraph (2) above, and termination as defined in sub-paragraph (b) below.~~

~~———— (b) For purposes of this paragraph, termination is defined as permanent separation from University employment for just cause.~~

~~———— (c) For purposes of this paragraph, just cause is defined as incompetence or misconduct.~~

~~———— (d) Notice of Termination for Tenured Faculty.~~

~~———— 1. Tenured faculty shall be given written notice at least six (6) months in advance of the effective date of such termination.~~

~~———— 2. Exception. In cases where the Provost or his/her representative determines that a faculty employee's actions adversely affect the functioning of the University or jeopardize the safety or welfare of any employee, or students, the Provost or his/her representative may give less than six (6) months notice.~~

~~———— (7) A non bargaining unit faculty member who wishes to resign has the professional obligation, when possible, to provide the University with at least one semester's notice upon resignation. All consideration for tenure and reappointment shall cease. A resignation may not be rescinded by the non-tenured bargaining unit faculty without concurrence of the University.~~

~~———— (8) Applicability. This Regulation does not apply to bargaining unit faculty and bargaining unit employees.~~

Authority: Resolution of the Florida Board of Governors