

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

NOTICE OF ADOPTION OF EMERGENCY REGULATIONS

REGULATION TITLES:	REGULATION NOS.
Bargaining Unit Employee Disciplinary Actions	FIU Emergency Reg. 2005-01
Bargaining Unit Faculty and Bargaining Unit Employees Vacancies, Selection, Appointments, Promotions, Internal Promotions, Reassignments, Transfers, and Demotions	FIU Emergency Reg. 2005-02
Nonreappointment and Resignation of Non-Tenured, Bargaining Unit Faculty	FIU Emergency Reg. 2005-03
Termination for Cause and Other Disciplinary Actions for Bargaining Unit Faculty and Bargaining Unit Employees	FIU Emergency Reg. 2005-04
Separation from Employment for Non-Bargaining Unit Employees	FIU Emergency Reg. 2005-05
Disciplinary Actions for Non-Bargaining Unit Employees and Certified Law Enforcement Personnel	FIU Emergency Reg. 2005-06

**STATEMENT OF FACTS AND REASONS FOR CONCLUDING THAT THE
PROCEDURE IS FAIR UNDER THE CIRCUMSTANCES**

On June 29, 2005, The Florida International University Board of Trustees adopted the following proposed rules in accordance with the rulemaking procedure contained in the Florida Administrative Procedures Act (“APA Rulemaking Procedure”): Bargaining Unit Employee Disciplinary Actions (Rule 6C8- 4.006), Bargaining Unit Faculty and Bargaining Unit Employees Vacancies, Selection, Appointments, Promotions, Internal Promotions, Reassignments, Transfers, and Demotions (Rule 6C8-4.014), Nonreappointment and Resignation of Non-Tenured, Bargaining Unit Faculty (Rule 6C8-4.016), Termination for Cause and Other Disciplinary Actions for Bargaining Unit Faculty and Bargaining Unit Employees (Rule 6C8-4.019), Separation from Employment for Non-Bargaining Unit Employees (Rule 6C8-4.025), Disciplinary Actions for Non-Bargaining Unit Employees and Certified Law Enforcement Personnel (Rule 6C8-4.030) (collectively, “Personnel Rules”). The adoption of these Personnel Rules was part of a major revision of the University’s personnel program regarding its non-bargaining unit employees that included the adoption of new personnel polices as well as these Personnel Rules by the Board of Trustees. The University commenced implementation of the new personnel program on July 1, 2005 and full implementation was scheduled for completion no later than mid-August 2005 with the inclusion of the Personnel Rules in the Florida Administrative Code.

On July 21, 2005, the Florida Board of Governors (BOG) adopted a Regulation Development Procedure for State University Boards of Trustees (“BOG Regulation Development Procedure”), which replaced the APA Rulemaking Procedure effective immediately. According to the BOG Regulation Development Procedure, rules that were in the process of completion pursuant to the

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

**FIU Emergency Reg. 2005-02 Bargaining Unit Faculty and Bargaining Unit
Employees Vacancies, Selection, Appointments,
Promotions, Internal Promotions, Reassignments,
Transfers, and Demotions.**

- (1) Definition: For purposes of this Regulation, "Bargaining Unit Employee" means all bargaining unit employees who are not certified law enforcement personnel, or bargaining unit faculty.
- (2) Applicability. This Regulation is supplemented by Article 8 of the Board of Regents/United Faculty of Florida (BOR/UFF) Collective Bargaining Agreement for bargaining unit faculty, BOR/AFSCME Collective Bargaining Agreement for Bargaining Unit employees and by applicable University Regulations, policies, procedures, and provisions of the University's affirmative action plans including the University search and screen procedures. This Regulation does not apply to non-bargaining unit employees and bargaining unit employees who are certified law enforcement personnel.
- (3) Vacancies. The University seeks to maintain the highest possible standard of fairness and equity in its employment practices. All bargaining unit position vacancies must be announced in the FIU position vacancy listings, unless otherwise exempted by University policy. The University shall give equitable consideration to all applicants in accordance with applicable University policies and procedures for determining eligibility for appointments to bargaining unit positions in faculty and employee categories. Employee career advancement is encouraged by assuring consideration of qualified permanent bargaining unit employees within the University, in accordance with the University's internal promotion policy and appropriate bargaining unit agreement.
- (4) Bargaining Unit Faculty Screening and Selection.
 - (a) The department should first define the nature of the vacant position(s) and what it expects from a prospective colleague selected to fill the vacancy. The department will advertise the position and its general requirements.
 - (b) The department will use the University's search and screen procedures or personnel policies and procedures as appropriate to the pay plan and level of the position.
 - (c) The department will assess the eligibility of candidates and reach decisions on their relative merits. The department should also communicate to final candidates information regarding the position, the State University System, and the institution.
 - (d) If practicable, the candidates reaching the final stages of screening should be invited to the campus for personal interviews with the department and appropriate officials.
- (5) Bargaining Unit Faculty Appointments.
 - (a) If, after receipt of the recommendation of the search and screen committee, if applicable, the chairperson or other appropriate administrator decides to recommend that a candidate be offered a position, the recommendation will be transmitted to the appropriate administrative

officer.

(b) The President, or designated representative, may then offer the candidate employment by means of a contract or letter of offer. The letter of offer or contract shall be conditioned on the return of a duly executed copy by a specific date.

(c) The contract or letter of offer shall indicate whether the appointment is for one year or multiple years.

(d) The contract or letter of offer shall be issued in accordance with the requirements of the BOR/UFF Bargaining Agreement, if applicable, and shall include, but not be limited to, the following elements:

1. Date;
2. Rank and professional classification system title and class code;
3. Department, program, college, or employment unit;
4. Salary and administrative salary supplement when appropriate;
5. Employment period;
6. Special conditions of employment;
7. The duties and responsibilities of the employee;
8. The percent of full-time equivalency;
9. A statement that in the performance of the contract or letter of offer both parties are subject to the Constitution and laws of the State of Florida and the applicable regulations of the University and the Board of Governors;
10. Position number;
11. A statement indicating the tenure earning status during the appointment, including any tenure credit, if applicable;
12. The formula by which an annual contract shall be converted to an academic year contract, if applicable.

(6) Selection and Appointment of Bargaining Unit Employees . Selection and appointment of bargaining unit employees will be in accordance with BOR/AFSCME Bargaining Agreement, and University regulations, policies, and procedures.

(7) Bargaining Unit Employees Promotions, Reassignments, Transfers, and Demotions.

(a) Promotions. Promotion of bargaining unit employees will be in accordance with applicable bargaining unit agreements and University policies and procedures.

(b) Internal Promotions. When a department wishes to consider only applicants from within the University for a vacancy, the internal recruitment and promotion policy and procedure may be used. All bargaining unit employee vacancies, may be approved for internal recruitment by the Division of Human Resources upon request from the hiring official and recommendation by the Office of Equal Opportunity Programs. Positions in job groups with identified underutilization (University or department) of minority group members and women may not be recommended for internal posting.

(c) Reassignments and Transfers.

1. Voluntary. Bargaining unit employees may request a voluntary reassignment or transfer to positions within the University by completing and submitting the appropriate form to the

Division of Human Resources . The request will be considered for vacancies for which the employee qualifies.

2. Involuntary. The University may reassign or transfer bargaining unit employees in accordance with University policies and procedures and applicable collective bargaining agreements.

(d) Demotions. Any bargaining unit employee who has permanent status may be subject to demotion in accordance with University policy and procedures and appropriate collective bargaining agreements, where applicable.

Authority: 1001.74(19), FS