



Addendum to the Collective Bargaining Agreement

Between the

Florida Agricultural and Mechanical University Board of Trustees

and the United Faculty of Florida 2019-2022

ARTICLE 10 FACULTY MEMBER PERFORMANCE EVALUATIONS

10.1 Policy.

The University community is committed to ensuring excellence in teaching, research and creative activity, and service. Our performance evaluation and development process assists faculty members and supervisors in setting goals, engaging in professional development activities, and measuring and rewarding success. The process articulates individual goals and achievement in the context of the overall mission of the institution. The University community is committed to individual and collective responsibility of the success of the institution by articulating goals, fostering open dialogue and constructive feedback, emphasizing quality performance, and supporting professional development.

The objective of good teaching is student learning. Good teaching is necessary at any land-grant university. All members of the university community are accountable for the learning of their students. Faculty members being evaluated are responsible for providing the evidence to support their evaluation with respect to both quality and quantity of teaching. Supervisors will be trained and evaluated to enable them to evaluate faculty in a fair and objective manner. The elements of effective teaching are organization and planning, course content, teaching strategies and methodology, classroom decorum, including faculty and student punctuality and attendance, planning, design, use and grading of projects, assignments and exams, and the appropriateness of student evaluations, and accessibility.

(a) Annual Evaluations. The purpose of the annual evaluation is to assess and communicate the nature and extent of a faculty member's performance of assigned duties consistent with the criteria specified in Section 10.4. The performance of all faculty members, other than those who have received notice of non-reappointment under Section 12.2 or those not entitled to receive notice of non-reappointment under Section 12.2 shall be evaluated at least once annually, and they shall be advised of the academic term during which such evaluation will be made. Personnel decisions shall take such annual evaluations into account, provided that such decisions need not be based solely on written faculty member performance evaluations.

b. Sustained Performance Evaluations. In addition to the annual performance evaluations, tenured faculty members shall receive a sustained performance evaluation once every seven years following the award of tenure or their most recent promotion. The purpose of this evaluation is to document sustained performance during the previous six years of post-tenure assigned duties and to encourage continued professional growth and development.

10.2 Sources and Methods of Evaluation.

(a) In preparing the annual evaluation, the person(s) responsible for evaluating the faculty may consider, where appropriate, information from the following sources: immediate supervisor, peers, students, faculty member /self, other university officials who have responsibility for supervision of the faculty member, and

individuals to whom the faculty member may be responsible in the course of a service assignment, including public school officials when an faculty member has a service assignment to the public schools.

- (b) Observation/Visitation. The faculty member, if assigned teaching duties, shall be notified at least two (2) weeks in advance of the date, time, and place of any direct classroom observation or visitation made in connection with the faculty member's annual evaluation. If the faculty member determines that this date is not appropriate because of scheduled class activities, the faculty member may suggest a more appropriate date. Direct classroom observations shall not occur during the last two (2) weeks of the semester.

10.3 Procedures for Annual Evaluation.

- (a) The proposed written annual evaluation, including the faculty member's annual assignment which was furnished pursuant to Section 9.3, shall be provided to the faculty member within thirty (30) days after the end of the academic term during which such evaluation will be made. The faculty member shall be offered the opportunity to discuss the evaluation with the evaluator prior to it being finalized and placed in the faculty members' evaluation file. The evaluation shall be signed and dated by the person performing the evaluation, and by the person being evaluated who may attach a concise comment to the evaluation. A copy of the evaluation shall be provided to the faculty member. The faculty member may request, in writing, a meeting with an administrator at the next higher level to discuss concerns regarding the evaluation which were not resolved in previous discussions with the evaluator.
- (b) The department/unit shall develop and maintain procedures by which to evaluate each faculty member according to criteria specified in Section 10.4. These procedures will include the method for the distribution of salary increase funds specified in Section 23.6 based on said annual evaluation. The faculty of each department/unit, who are eligible to vote in department/unit governance, shall participate in the development of these procedures and shall recommend implementation by vote of a majority of at least a quorum of those faculty members.
 - (1) The proposed procedures, or revisions thereof, shall be reviewed by the President or representative to ensure that they are consistent with the mission and goals of the University and that they comply with this agreement.
 - (2) If the president or representative determines that the recommended procedures do not meet the conditions in Section 10.3(b) above, the proposal shall be referred to the department/unit for revision with a written statement of reasons for non-approval. No merit salary increase funds shall be provided to a department/unit until its procedures have been approved by the President or representative.
 - (3) Approved procedures, and revisions thereof, shall be kept on file in the department/unit office. Faculty members in each department/unit shall be provided a copy of that department's/unit's current procedures for annual evaluation.
- (c) The University is committed to providing assistance to any faculty member seeking improvement of his/her assignment performance. Therefore, upon written request

from the faculty member, the persons responsible for supervising and evaluating a faculty member shall endeavor to assist the faculty member in correcting any major performance deficiencies reflected in the faculty member's annual evaluation. A faculty member receiving an unsatisfactory annual evaluation in any area shall be responsible to demonstrate improvement in the area found to be unsatisfactory.

- (d) The University will provide training and development of the evaluation process during the 2016-17 year.

10.4 Sustained Performance Evaluations.

- (a) Tenured faculty members shall receive a sustained performance evaluation once every seven years following the award of tenure or their most recent promotion, whichever is most recent. The purpose of this evaluation is to document sustained performance during the previous six years of assigned duties and to encourage continued professional growth and development.
- (b) The sustained performance evaluation program shall provide that:
 - (1) Only elected faculty members may participate in the development of applicable procedures. Such procedures shall ensure involvement of both peers and administrators at the department and higher levels in the evaluation and shall ensure that a faculty member may attach a concise response to the evaluation;
 - (2) The proposed procedures for the sustained performance evaluation shall be available to faculty members and to the UFF for review prior to final approval.
- (c) Faculty members' Annual Evaluation Summary Form along with attachments, including the documents contained in the evaluation file, shall be the sole basis for the sustained performance evaluation.
 - (1) A faculty member who received "Meets Expectations" or better as an Overall result on her or his Annual Evaluation Summary Form during the previous six years shall not be rated below "Meets Expectations" in the sustained performance evaluation, nor subject to a PIP. Faculty whose performance falls below "Meets Expectations" in more than two of the previous six evaluations shall develop a performance improvement plan, as specified in 10.5.

10.5. Performance Improvement Plan

A performance improvement plan shall be developed for those faculty members whose performance is identified through an evaluation as being consistently below satisfactory in one or more areas of assigned duties. The performance improvement plan shall be developed by the faculty member, in concert with his/her supervisor, and include specific performance targets and a time period for achieving the targets. The performance improvement plan shall be approved by the Chair or the Dean or his or her representative. Specific resources identified in an approved performance improvement plan shall be provided by the University. The supervisor shall meet periodically with the faculty

member to review progress toward meeting the performance targets. It is the responsibility of the faculty member to attain the performance targets specified in the performance improvement plan.

10.6 Criteria. The annual performance evaluation shall be based upon assigned duties, and shall carefully consider the nature of the assignments, in terms, where applicable, of:

- (a) Teaching effectiveness, including effectiveness in presenting knowledge, information, and ideas by means or methods such as lecture, discussion, assignment when consideration of a portfolio submitted for meritorious performance salary and recitation, demonstration, laboratory exercise, practical experience, and direct consultation with students. The evaluation shall include consideration of effectiveness in imparting knowledge and skills, and effectiveness in stimulating students' critical thinking and/or creative abilities, the development or revision of curriculum and course structure, and adherence to accepted standards of professional behavior in meeting responsibilities to students. The evaluator may take into account class notes, syllabi, student exams and assignments, and any other materials relevant to the faculty member's teaching assignment. The teaching evaluation must take into account any relevant materials submitted by the faculty member, including the results of peer evaluations of teaching, and may not be based solely on student evaluations when this additional information has been made available to the evaluator.
 - (b) Contribution to the discovery of new knowledge, development of new educational techniques, and other forms of creative activity. Evidence of research and other creative activity shall include, but not be limited to, published books; articles and papers in professional journals; musical compositions; paintings; sculpture; works of performing art; papers presented at meetings of professional societies; and research and creative activity that has not yet resulted in publication, display, or performance. The evaluation shall include consideration of the 'faculty member's productivity, including the quality and quantity of what has been done during the year, and of the faculty member's research and other creative programs and contributions; and recognition by the academic or professional community of what is done.
 - (c) Public service that extends professional or discipline-related contributions to the community; the State, including public schools; and the national and international community. This public service includes contributions to scholarly and professional organizations and governmental boards, agencies, and commissions that are beneficial to such groups and individuals.
- 2) Participation in the governance processes of the institution through significant service on committees, councils, and senates, beyond that associated with the expected responsibility to participate in the governance of the institution through participation in regular departmental or college meetings.
 - 3) Other assigned University duties, such as advising, counseling, supervision of interns, and academic administration, or as described in a Position Description, if any, of the position held by the faculty member.

10.7 Proficiency in Spoken English. No faculty member shall be evaluated as deficient in oral English language skills unless proved deficient in accordance with the appropriate procedures and examinations established by Section 1012.93, Florida Statutes, and State Board of Education rule, for testing such deficiency.

- (a) Faculty involved in classroom instruction, other than in courses conducted primarily in a foreign language, found by their supervisor, as part of the annual evaluation, to be potentially deficient in English oral language skills, shall be tested in accordance with appropriate procedures and examinations established by statute and rule cited above for testing such skills. No reference to an alleged deficiency shall appear in the annual evaluation or in the personnel file of a faculty member who achieves a satisfactory examination score determining proficiency in oral English as specified in the rule (currently "50" or above on the Test of Spoken English).
- (b) Faculty who score at a specified level on an examination established by statute and rule cited above for testing oral English language skills ("45" on the Test of Spoken English), may continue to be involved in classroom instruction up to one (1) semester while enrolled in appropriate English language instruction, as described in paragraph (d) below, provided the appropriate administrator determines that the quality of instruction will not suffer. Only such faculty members who demonstrate, on a basis of examinations established by statute and rule, that they are no longer deficient in oral English language skills may be involved in classroom instruction beyond one (1) semester.
- (c) Faculty who score below a minimum score on an examination established by statute and rule for determining proficiency in oral English (currently "45" on the Test of Spoken English) shall be assigned appropriate non-classroom duties for the period of oral English language instruction provided by the University under paragraph (d) below, unless during the period of instruction the faculty member is found, on the basis of an examination specified above, to be no longer deficient in oral English language skills. In that instance, the faculty member will again be eligible for assignment to classroom instructional duties and shall not be disadvantaged by the fact of having been determined to be deficient in oral English language skills.
- (d) It is the responsibility of each faculty member who is found, as part of the annual evaluation, to be deficient in oral English language skills by virtue of scoring below the satisfactory score on an examination established by statute and rule for determining such proficiency (see paragraph (10.5(a))), to take appropriate actions to correct these deficiencies. To assist the faculty member in this endeavor, the University shall provide appropriate oral English language instruction without cost to such faculty members for a period consistent with their length of appointment and not to exceed two (2) consecutive semesters. The time the faculty member spends in such instruction shall not be considered part of the individual assignment or time worked, nor shall the faculty member be disadvantaged by the fact of participation in such instruction.
- (e) If the University determines, as part of the annual evaluation, that one (1) or more administrations of a test to determine proficiency in oral English language skills is

necessary, in accordance with the statute and rule and this section, the University shall pay the expenses for up to two (2) administrations of the test. The faculty member shall pay for additional testing that may be necessary.

10.8 Employee Assistance Programs. Neither the fact of a faculty member's participation in an employee assistance program nor information generated by participation in the program, shall be used as evidence of a performance deficiency within the evaluation process described in this Article, except for information relating to an faculty member's failure to participate in an employee assistance program consistent with the terms to which the faculty member and the University have agreed.

10.9 Merit Evaluations.

- (a) The determination of meritorious performance for the distribution of funds allocated for merit-based salary increases pursuant to Article 23 shall be according to each department/unit's faculty evaluation criteria and procedures developed pursuant to this section, which must be consistent with the criteria for faculty evaluation specified elsewhere in this Article. All faculty members will be reviewed for merit.
- (b) These criteria and procedures may include any refinements of the methods for the distribution of salary increase funds that are permitted by Article 23 and are based on the annual performance evaluation.
- (c) Merit distribution criteria must:
 - (1) Define meritorious performance as "performance that substantially exceeds expectations, exceeds expectations, meet expectations, does not meet expectation or substantially does not meet expectations for the position classification and department/unit."
 - (2) Not mandate a merit pay award for all members of the department/unit.
 - (3) Establish distinctive levels of merit reflecting the differences in performance.
- (d) Merit distribution plans are subject to the approval of the department chair (or in non-departmentalized units, the dean). If the chair makes any changes to the merit distribution plan proposed by a faculty evaluation committee, she/he shall report such changes to the faculty evaluation committee, if there is such a body. The original merit distribution plan along with any recommendations by the chair shall be submitted to the dean and the provost. The dean and the provost provide final approval of merit distribution plans. Any changes at this level to the merit distribution plan shall be reported to the chair by the dean's office, and the chair will inform the faculty evaluation committee, if there is such a body.

10.10 Provision for Appeal

- (a) If a faculty member is dissatisfied with an evaluation, including the determination of failure to successfully complete a PIP. Summary, the faculty member may register his or her disagreement in writing.
- (b) In addition, if the faculty member is not satisfied with an evaluation, he or she may present his or her request for review in writing to the appropriate reviewer within

thirty (30) days after being informed of the evaluation. The reviewer, like the evaluator, shall have complete freedom of action, consistent with this Agreement, in seeking to settle or resolve differences concerning evaluations and presumably his or her efforts will be largely conciliatory. The reviewer shall meet with the faculty member to discuss the request within fifteen (15) days of receipt of the written request for review. Within fifteen (15) days of receipt of the written request, the reviewer shall reach a decision and report it to the faculty member.

- (c) If the faculty member is not satisfied with the reviewer's decision, the faculty member may request in writing a review from the Dean of the College within fifteen (15) days after the reviewer's decision. Within fifteen (15) days of receipt of the written request, the Dean of the College shall meet with the faculty member to discuss the request. Within fifteen (15) days of receipt of the written request, the Dean of the College shall reach a decision and report it to the faculty member.
- (d) An appeal of the decision of the Dean of the College may be made to the Provost and Vice President for Academic Affairs. Such a request for review shall be made in writing within fifteen (15) days after the Vice President for Academic Affairs decision. Within fifteen (15) days of the receipt of the written request, the Provost and Vice President for Academic Affairs shall reach a decision and report it to the faculty member.

ARTICLE 14 PROMOTION PROCEDURE

14.1 Policy.

(a) Promotion decisions are not merely a totaling of a faculty member's annual performance evaluations. Rather, the University, through faculty, professional employees, and administrators, assesses the faculty member's potential for growth and scholarly contribution, as well as past meritorious performance. Established promotion criteria should be objectively and consistently applied to all seeking promotion.

(b) Upon annual written request beginning with the second year of employment, faculty member eligible for consideration for promotion shall be apprised of their progress toward promotion. The appraisal shall be included as a separate component of the annual evaluation and is intended to provide assistance and counseling to faculty members to help them to qualify themselves for promotion. The faculty member may request, in writing, a meeting with an administrator at the next higher level to discuss concerns regarding the promotion appraisal which were not resolved in previous discussions with the evaluator. The appraisals are not binding upon the university.

14.2 Criteria.

(a) Promotion decisions shall be a result of meritorious performance of assigned duties pursuant to Article 10.3 and other established criteria specified in writing by the Board or the University. The Board and the University may modify these criteria so long as the local UFF Chapter has been notified of the proposed changes and offered an opportunity to impact bargain. Changes in criteria shall not become effective until one (1) year following adoption of the changes, unless mutually agreed to in writing by the local UFF President and the Board or University. The date of adoption shall be the date on which the changes are approved by the administrator at the highest level required under applicable policies and procedures. Any proposal to develop or modify promotion criteria shall be available for discussion by members of the affected departments/units before adoption.

(b) The University is encouraged to review its promotion criteria at the university, college/school, or department/unit level to ensure that such criteria are consistent with each other and that they conform with the mission of the University and its various academic units.

(c) Promotion criteria shall be available in the department/unit office and or at the college/unit level.

(d) Promotion to Associate Instructor or University Instructor requires that the faculty member has been in continuous academic year employment for the previous 6 years. Promotion to University Instructor requires first having obtained the rank of Associate Instructor and having held that rank for a minimum of 6 years. The first opportunity to apply for Associate Instructor will be in the 2021-22 Academic year.

(1) For the initial groups of applicants, no more than 20 applicants will be permitted on an annual basis. These will be prioritized based on number of

continuous years of service at Florida A&M as an instructor, subject to the conditions of Article 17.4.

(2) In the event that a promoted instructor transfers within the University, any promoted rank would not transfer without the approval of the receiving Dean.

14.3 Procedures.

- (a) Recommendations for promotion shall begin with the faculty member's supervisor and shall be submitted to the appropriate officials for review. Faculty desiring to be considered for promotion may also initiate the process by nominating themselves. Prior to the consideration of the faculty member's promotion, the faculty member shall have the right to review the contents of the promotion file and may attach a brief and concise response to any material therein. It shall be the responsibility of the faculty to see that the file is complete. The provisions of Section 11.2 through 11.8 of this Agreement, regarding access to the evaluation file, shall apply also to the contents of the promotion file. If any material is added to, deleted from, or changed in the file by anyone other than the nominee after the commencement of consideration, a copy shall be sent to the faculty member within five (5) days (by personal delivery or by mail, return receipt requested). The faculty member may attach a brief response within five (5) days of his/her receipt of the added material. The file shall not be forwarded until either the faculty member submits a response or until the second five (5) day period expires, whichever occurs first.
- (b) Recommendations for promotion shall include a copy of applicable promotion criteria, the faculty member's annual assignments and annual evaluations, and, if the chooses, the faculty member's promotion appraisals. The reviewers at any stage in the review may request to review the appraisals.

14.4 Notice of Denial. If any faculty member is denied promotion, the faculty member shall be notified in writing by the appropriate administrative official, within ten (10) days or as soon as possible thereafter, of that decision. Upon written request by a faculty member within twenty (20) days of the faculty member's receipt of such decision, the university shall provide the faculty member with a written statement of reasons by the President or representative.

ARTICLE 15 TENURE

15.1 Eligibility. Faculty members with the rank of Assistant Professor, Associate Professor, Professor, and other faculty members the Board may designate (such as Assistant Librarians, and Associate Librarians), shall be eligible for tenure. The university may, by rule, make Assistant Professors ineligible for tenure. The universities' rule-making power to make Assistant Professors ineligible for tenure shall apply only to faculty members appointed after January 1, 1982. Other faculty members shall be governed by the agreement in force at the time of their original appointment. The Board may designate other positions as tenure earning and shall notify the faculty member of such status at the time of initial appointment. Tenure shall be in a department/unit or other appropriate administrative unit. Tenure shall not extend to administrative appointments in the General Faculty or Administrative and Professional classification plans.

15.2 Tenure Decision:

- (a) A faculty member shall normally be considered for tenure during the sixth year of continuous service in a tenure-earning position including any prior service credit granted at the time of initial employment. A faculty member's written request for early tenure consideration is subject to the university's written agreement.
- (b) By the end of six (6) years of service at the university, a faculty member eligible for tenure shall either be awarded tenure by the Board or given notice that further employment will not be offered. Upon written request by a faculty member within twenty (20) days of the faculty member's receipt of such notice, the university shall provide the faculty member with a written statement of reasons by the President or provide the faculty member with a written statement of reasons by the President or representative why tenure was not granted.
- (c) Decision by the Board. The Board shall award tenure. This decision shall normally be made at the May Board Meeting but no later than the following meeting. The faculty member shall be notified in writing by the President or representative within five (5) days of the decision of the Board.
- (d) A faculty member being considered for tenure prior to the sixth (6) year may withdraw from consideration on or before March 15 without prejudice.

15.3 Criteria for Tenure.

- (a) The decision to award tenure to a faculty member shall be a result of meritorious performance and shall be based on established criteria specified in writing by the Board. The decision shall take into account the following:
 - (1) annual performance evaluations;
 - (2) the needs of the department/unit, college/unit, and university;
 - (3) the contributions of the faculty member to the faculty members' academic unit (program, department/unit, college/unit); and
 - (4) the contributions the faculty member is expected to make to the institution.
- (b) The university shall give a copy of the criteria for tenure to faculty member eligible for tenure, and each such shall be apprised in writing once each year of the faculty member's progress toward tenure. The appraisal shall be included as a

separate component of the annual evaluation and is intended to provide assistance and counseling to candidates to help them to qualify themselves for tenure. The faculty member may request, in writing, a meeting with an administrator at the next higher level to discuss concerns regarding the tenure appraisal which were not resolved in previous discussions with the evaluator. The appraisals are not binding upon the university.

- (c) Tenure criteria shall be available in the department/unit office and/or at the college/unit level.

15.4 Modification of Criteria.

- (a) Modifying Criteria. The Board may modify the criteria for tenure so long as the local UFF Chapter has been notified of the proposed changes and offered an opportunity to impact bargain. Changes in criteria shall not become effective until one (1) year following adoption of the changes, unless mutually agreed to in writing by the local UFF President and the university President or representative. The date of adoption shall be the date on which the changes are approved by the administrator at the highest level required under applicable university policies and procedures. Any proposal to develop or modify tenure criteria shall be available for discussion by members of the affected departments/units before adoption.
- (b) Effect on Faculty members. The provisions of Section 9.3(d) are applicable to the modified criteria. Further, if a faculty member has at least three (3) years of tenure-earning credit as of the date on which the tenure criteria are adopted under Section 15.4(a), above, the faculty member shall be evaluated for tenure under the criteria as they existed prior to modification unless the faculty member notified the university at least thirty (30) days prior to commencement of the tenure consideration that he/she chooses to be evaluated under the newly-adopted criteria.

15.5 Recommendations and Procedures.

- (a) Recommendations for the awarding of tenure shall be made by the faculty member's supervisor and shall include a poll by secret ballot of the tenured members of the faculty member's department/unit. The performance of a faculty member during the entire term of employment at the institution shall be considered in determining whether to grant tenure. Recommendations regarding tenure shall include a copy of applicable tenure criteria, the faculty member's annual assignments and annual evaluations, and, if the chooses, the faculty member's tenure appraisals. The reviewers at any stage in the review may request to review the appraisals. Prior to the consideration of the faculty member's candidacy, the faculty member shall have the right to review the contents of the tenure file and may attach a brief and concise response to any materials therein. It shall be the responsibility of the faculty member to see that the file is complete. The provisions of Sections 11.2 through 11.8 of this Agreement shall apply to the contents of the tenure file.
- (b) If any material is added to the file after the commencement of consideration, a copy shall be sent to the faculty member within five (5) days (by personal delivery or by mail, return receipt requested). The faculty member may attach a brief

response within five (5) days of his/her receipt of the added material. The file shall not be forwarded until either the faculty member submits a response or until the second five (5) day period expires, whichever occurs first. The only documents which may be considered in making a tenure recommendation are those contained or referenced in the tenure file.

15.6 Other Considerations.

- (a) During the period of tenure-earning service, the faculty member's employment shall be governed by the provisions of Article 12.
- (b) Part-time service of a faculty member employed at least one semester in any twelve (12) month period shall be accumulated. For example, two (2) semesters of half-time service shall be considered one-half year of service toward the period of tenure-earning service.
- (c) Where faculty members are credited with tenure-earning service at the time of initial appointment, all or a portion of such credit may be withdrawn once by the faculty member prior to formal application for tenure.
- (d) Department Chairs, Division Directors and higher administrators may not be faculty representatives to the University Wide Tenure and Promotion Committee.

15.7 Transfer of Tenure.

- (a) A tenured faculty member may seek a transfer with tenure through the normal hiring process within the University to a vacant position in the same or similar discipline. The President or Provost may approve the transfer at her or his discretion and may consider any discrepancies in the tenure criteria in approving the transfer.
- (b) When a tenured faculty member is transferred as a result of a reorganization or program curtailment within the university and is employed in the same or similar discipline in which tenure was granted, the faculty member's tenure shall be transferred to the new department.

15.8 Tenure upon appointment. Tenure may be granted to a faculty member by the Board at the time of initial appointment, upon recommendation of the appropriate administrator. The administrator shall consider the recommendation of the department or equivalent unit prior to making his/her final tenure recommendation.

15.9 Leave. Authorized leaves of absence may, under the provisions of Article 17, Leaves, be credited toward the period of tenure-earning service.

15.10 Termination/Layoff. Tenure/permanent status guarantees annual reappointment for the academic year until voluntary resignation, retirement, removal for just cause in accordance with the provisions of Article 16, Disciplinary Action and Job Abandonment, or layoff in accordance with the provisions of Article 13, Layoff and Recall, but does not extend to administrative appointments.

ARTICLE 16

DISCIPLINARY ACTION AND JOB ABANDONMENT

16.1 Just Cause.

- (a) The purpose of this Article is to provide a prompt and equitable procedure for disciplinary action taken with just cause. Just cause shall be defined as:
 - (1) incompetence, or
 - (2) misconduct.
- (b) A faculty member's activities which fall outside the scope of employment shall constitute misconduct only if such activities adversely affect the legitimate interests of the University or Board.

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

16.3 Notice of Intent. When the President or representative has reason to believe that a suspension or termination should be imposed, the President or representative shall provide the faculty member with a written notice of the proposed action and the reasons therefore. Such notice shall be sent certified mail, return receipt requested, or delivered in person with written documentation of receipt obtained. The faculty member shall be given ten (10) days in which to respond in writing to the President or representative before the proposed action is taken. The President or representative then may issue a notice of disciplinary action under Section 16.4. The faculty member, who is a member of the UFF, has a right to union representation during the investigatory questioning that may reasonably be expected to result in disciplinary action. If the President or representative does not issue a notice of disciplinary action, the notice of proposed disciplinary action shall not be retained in the faculty member's evaluation file.

16.4 Notice of Discipline. All notices of disciplinary action shall include a statement of the reasons therefore and a statement advising the faculty member that the action is subject to Article 20, Grievance Procedure. All such notices shall be sent certified mail, return receipt requested, or delivered in person to the faculty member with written documentation of receipt obtained.

16.5 Termination. A tenured or permanent status appointment or any appointment of definite duration may be terminated during its terms for just cause. A faculty member shall be given written notice of termination at least six (6) months in advance of the effective date of such termination, except that in cases where the President or representative determines that an faculty member's actions adversely affect the functioning of the university or jeopardize the safety or welfare of the faculty, colleagues, or students, the President or representative may give less than six (6) months notice.

16.6 Disciplinary Action Other Than Termination. The Board, acting through the university, retains its rights to impose disciplinary action other than termination for just cause including, but not limited, to suspension with or without pay. Counseling, including

recommendations for participation in an Employee Assistance Program, shall not be considered disciplinary action.

16.7 Job Abandonment

- (a) If a faculty member is absent without authorized leave for twelve (12) or more consecutive days under the provisions of Section 17.1, the faculty member shall be considered to have abandoned the position and voluntarily resigned from the university.
- (b) Notwithstanding paragraph (a), above, if the faculty member's absence is for reasons beyond the control of the faculty member and the faculty member notifies the university as soon as practicable, the faculty member will not be considered to have abandoned the position.

16.8 Employee Assistance Program. Neither the fact of a faculty member's participation in an assistance program, nor information generated by participation in the program, shall be used as a reason for discipline under this Article, except for information relating to a faculty member's failure to participate in an employee assistance program consistent with the terms to which the faculty member and the university have agreed.

ARTICLE 20 GRIEVANCE PROCEDURE

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

20.2 Resort to Other Procedures. It is the intent of the parties to first provide a reasonable opportunity for resolution of a dispute through the grievance procedure and arbitration process. Except as noted below, if prior to seeking resolution of a dispute by filing a grievance hereunder, or while the grievance proceeding is in progress, an employee requests, in writing, resolution of the matter in any other forum, whether administrative or judicial, the Board or the University shall have no obligation to entertain or proceed further with the matter pursuant to this grievance procedure. As an exception to this provision, a grievant may file an EEOC charge while the grievance is in progress when such filing becomes necessary to meet federal filing deadlines pursuant to 42 U.S.C. § 2000e et seq. Further, since the parties do not intend that this grievance procedure be a device for appellate review, the President's response to a recommendation of a hearing officer or other individual or group having appropriate jurisdiction in any other procedure shall not be an act or omission giving rise to a grievance under this procedure.

20.3 Definitions and Forms. As used herein:

- (a) The term "grievance" shall mean a dispute filed on a form referenced in Section 20.3(c) concerning the interpretation or application of a specific term or provision of this Agreement, subject to those exclusions appearing in other Articles of this Agreement.
- (b) The term "grievant" shall mean the UFF, an employee or group of employees who has/have filed a grievance in a dispute over a provision of this Agreement. A grievance filed by the FAMU Chapter of UFF shall be initiated at Step 2.
- (c) Grievance Forms. Each grievance, request for review, and notice of arbitration must be submitted in writing on the appropriate form attached to this Agreement as Appendix "C", "D", or "E", respectively, and shall be signed by the grievant. All grievance forms shall be dated when the grievance is received. If there is difficulty in meeting any time limit, the UFF representative may sign such documents for the grievant; however, grievant's signature shall be provided prior to the Step 1 meeting or Step 2 review if filed directly at Step 2. The aforementioned grievance forms, as well as Appendix "H", may be filed by means of fax, United States mail, or any other recognized means of delivery.

20.4 Burden of Proof. In all grievances except disciplinary grievances in accordance with Article 16, Disciplinary Action and Job Abandonment, the burden of proof shall be on the employee. In disciplinary grievances, the burden of proof shall be on the university or the Board.

20.5 Representation. The UFF shall have the exclusive right to represent any employee in a grievance filed hereunder, unless an employee elects self-representation or to be represented by legal counsel. If an employee elects not to be represented by the UFF, the University shall promptly inform the UFF in writing of the grievance. No resolution of any individually processed grievance shall be inconsistent with the terms of this Agreement and for this purpose the UFF shall have the right to have an observer present at all meetings called for the purpose of discussing such grievance and shall be sent copies of all decisions at the same time as they are sent to the other parties.

20.6 Grievance Representatives. The UFF shall annually furnish to the board and University a list of all persons authorized to act as grievance representatives and shall update the list as needed. The UFF grievance representative shall have the responsibility to meet all classes, office hours, and other duties and responsibilities incidental to the assigned workload. Some of these activities are scheduled to be performed at particular times. Such representative shall have the right during times outside of those hours scheduled for these activities to investigate, consult, and prepare grievance presentations and attend grievance hearings and meetings. Should any hearings or meetings with the President, Board or their representatives necessitate rescheduling of assigned duties, the representative may with the approval of the appropriate administrator, arrange for the rescheduling of such duties or their coverage by colleagues. Such approval shall not be unreasonably withheld.

20.7 Appearances.

- (a) When an employee participates during working hours in an arbitration hearing or in a grievance meeting between the grievant or representative and the University or Board, that employee's compensation shall neither be reduced nor increased for time spent in those activities.
- (b) Prior to participation in any such proceedings, conferences, or meetings, the employee shall make arrangements acceptable to the appropriate supervisor for the performance of the employee's duties. Approval of such arrangements shall not be unreasonably withheld. Time spent in such activities outside regular working hours shall not be counted as time worked.

20.8 Formal Grievance Procedure.

(a) Filing.

- (1) A grievance shall be filed with the Unit Head of the College, School, Institute, Library, or Housing at Step 1, or in the case of a grievance initiated at Step 2 with the Provost/President, within thirty (30) days following the act or omission giving rise thereto, or the date on which the employee knew or reasonably should have known of such act or omission if that date is later. Thirty (30) days shall be determined by a receipt executed by the office receiving the grievance,

or by the date of mailing as determined by the postmark. The grievant may amend the Appendix "C" form one time, either prior to the Step 1 meeting for all grievances filed at Step 1, or prior to the Step 2 review for all grievances filed directly at Step 2.

(2) An employee may seek redress of alleged salary discrimination by filing a grievance under the provisions of Article 20. An act or omission giving rise to such a grievance may be the employee's receipt of the employee's salary warrant for the first full-pay period in which the annual salary increases referenced in Article 23 are reflected.

(3) The filing of a grievance constitutes a waiver of any rights to judicial review of agency action pursuant to Chapter 120, Florida Statutes, or to the review of such actions under University procedures which may otherwise be available to address such matters. This grievance procedure shall be the sole review mechanism for resolving disputes regarding rights or benefits which are provided exclusively by this Agreement. Only those acts or omissions and sections of the Agreement identified at the initial filing may be considered at subsequent steps.

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

(c) Postponement.

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

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

(d) Step 1.

- (1) Meeting. The Unit Head or his/her representative and the grievant and the grievant's representative shall meet within fifteen (15) days following (a) receipt of the grievance if no postponement is requested, or (b) receipt of written notice that the grievant wishes to proceed with the Step 1 meeting. At the Step 1 meeting, the grievant shall have the right to present any evidence in support of the grievance, and the grievant and/or the UFF representative or the grievant's legal counsel (if selected pursuant to Section 20.5), and the Unit Head or representative, shall discuss the grievance.
 - (2) Decision. The Unit Head or representative shall issue a written decision, stating the reasons therefore, to grievant's Step 1 representative within thirty (30) days following the conclusion of the meeting. Thirty days shall be determined by a receipt executed by the office receiving the grievance, or by the date of mailing as determined by the postmark. In the absence of an agreement to extend the period for issuing the Step 1 decision, the grievant may proceed to Step 2 if the grievant's Step 1 representative has not received the written decision by the end of the 30th day following the conclusion of the Step 1 meeting. A copy of the decision shall be sent to the grievant and to the local UFF grievance representative if the grievant elected self-representation or representation by legal counsel.
 - (3) Documents. Where practicable, the Step 1 reviewer shall make available to the grievant, or grievance representative, documentation referenced in the Step 1 decision prior to its issuance. All documents referred to in the decision and any additional documents presented by the grievant shall be attached to the decision, together with a list of these documents. In advance of the Step 1 meeting, the grievant shall have the right, upon written request, to a copy of any identifiable documents relevant to the grievance.
- (e) Step 2.
- (1) Review. If the grievance is not satisfactorily resolved at Step 1, the grievant may file a written request for review with the President within thirty (30) days following receipt of the Step 1 decision by grievant's Step 1 representative. Thirty days shall be determined by a receipt executed by the office receiving the grievance, or by the date of mailing as determined by the postmark.
 - (2) Meeting. The President or representative and the representative of the grievant shall meet no later than thirty (30) days following receipt request review. At the Step 2 meeting, the grievant shall have the right to present any evidence in support of the grievance, and the grievant and/or the UFF representative or the grievant's legal counsel (if selected pursuant to Section 20.5).
 - (3) Decision. The President or his/her representative shall issue a written decision, stating the reasons therefore, to grievant's Step 2 representative within thirty (30) days following the conclusion of the review meeting. Thirty days shall be determined by a receipt executed by the office receiving the grievance, or by the date of mailing as determined by the postmark. In the absence of an agreement to extend the period for issuing the Step 2 decision, the UFF may proceed to Step 3 if the grievant's Step 2 representative has not received the written decision by the end of the 30th day following the conclusion

of the Step 2 meeting. A copy of the decision shall be sent to the grievant and to the UFF if the grievant elected self-representation or representation by legal counsel.

(f) Step 3 Arbitration.

- (1) Filing. If the grievance has not been satisfactorily resolved at Step 2, the UFF may, upon the request of the grievant, proceed to arbitration by filing a written notice of the intent to do so. Notice of intent to proceed to arbitration must be filed with the Provost or representative within thirty (30) days after receipt of the Step 2 decision by grievant's Step 2 representative and shall be signed by the grievant and the State UFF President or representative, or State UFF Director of Arbitrations. Thirty days shall be determined by a receipt executed by the office receiving the grievance, or by the date of mailing as determined by the postmark. The grievance may be withdrawn at any time by the grievant or by the UFF President or Director of Arbitrations at any point during Step 3. The parties shall stipulate to the issue(s) prior to the arbitration. In the event a stipulation is not reached, the parties shall proceed to a hearing on arbitrability pursuant to Section 20.8(f) (4).
- (2) Selection of Arbitrator. Representatives of the University and the UFF shall meet within ninety (90) days after the execution of this Agreement for the purpose of selecting an Arbitration Panel of ten (10) or more members. Within fourteen (14) days after receipt of a notice of intent to arbitrate, representatives of the Board and the UFF shall meet for the purpose of selecting an arbitrator from the Panel. Selection shall be by mutual agreement or by alternately striking names from the Arbitration Panel list until one name remains. The right of the first choice to strike from the list shall be determined by the flip of a coin. If the parties are unable to agree to a panel of arbitrators, they shall follow the normal American Arbitration Association procedure for the selection of an arbitrator. The parties may mutually select as the arbitrator an individual who is not a member of the Arbitration Panel. The arbitration shall be held within sixty (60) days following the selection of the arbitrator.
- (3) Authority of the Arbitrator.
 - a. The arbitrator shall neither add to, subtract from, modify, or alter the terms or provisions of this Agreement. Arbitration shall be confined solely to the application and/or interpretation of this Agreement and the precise issue(s) submitted for arbitration. The arbitrator shall refrain from issuing any statements of opinion or conclusions not essential to the determination of the issues submitted.
 - b. Where an administrator has made a judgment involving the exercise of discretion, such as decisions regarding tenure or promotion, the arbitrator shall not substitute the arbitrator's judgment for that of the administrator. Nor shall the arbitrator review such decision except for the purpose of determining whether the decision has violated this Agreement. If the arbitrator determines that the Agreement has been violated, the arbitrator shall direct the university to take appropriate action. An arbitrator may award back salary where the arbitrator determines that the employee is not receiving the appropriate salary from the university, but the arbitrator may not award other monetary damages

or penalties. If notice that further employment will not be offered is not given on time, the arbitrator may direct the university to renew the appointment only upon a finding that no other remedy is adequate, and that the notice was given so late that (a) the employee was deprived of reasonable opportunity to seek other employment, or (b) the employee actually rejected an offer of comparable employment which the employee otherwise would have accepted.

- c. An arbitrator's decision awarding employment beyond the sixth year shall not entitle the employee to tenure. In such cases the employee shall serve during the seventh year without further right to notice that the employee will not be offered employment thereafter. If an employee is reappointed at the direction of an arbitrator, the President or representative may reassign the employee during such reappointment.
- (4) Arbitrability. Issues of arbitrability shall be bifurcated from the substantive issue(s) and, whenever possible, determined by means of a hearing conducted by conference call. The arbitrator shall have ten (10) days from the hearing to render a decision on arbitrability. If the issue is judged to be arbitrable, an arbitrator shall then be selected to hear the substantive issue(s) in accordance with the provisions of Section 20.8(f) (2).
- (5) Conduct of Hearing. The arbitrator shall hold the hearing in Tallahassee, Florida, unless otherwise agreed by the parties. The hearing shall commence within twenty-five (25) days of the arbitrator's acceptance of selection, or as soon thereafter as is practicable, and the arbitrator shall issue the decision within forty-five (45) days of the close of the hearing or the submission of briefs, whichever is later, unless additional time is agreed to by the parties. The decision shall be in writing and shall set forth findings of fact, reasoning, and conclusions on the issues submitted. Arbitration Code, Chapter 682, Florida Statutes, shall not apply. Except as modified by the provisions of this Agreement, arbitration proceedings shall be conducted in accordance with the rules and procedures of the American Arbitration Association.
- (6) Effect of Decision. The decision or award of the arbitrator shall be final and binding upon the Board, the UFF, and the grievant, provided that either party may appeal to an appropriate court of law a decision that was rendered by the arbitrator acting outside of or beyond the arbitrator's jurisdiction, pursuant to Section 682.13, Florida Statutes.
- (7) Venue. For purposes of venue in any judicial review of an arbitrator's decision issued under this agreement, the parties agree that such an appeal shall be filed in the courts in Leon County, Florida, unless both parties specifically agree otherwise in a particular instance. In an action commenced in Leon County, neither the Board nor the UFF will move for a change of venue based upon the defendant's county of residence.
- (8) Fees and Expenses. All fees and expenses of the arbitrator shall be divided equally between the parties. Each party shall bear the cost of preparing and presenting its own case. The party desiring a transcript of the arbitration proceedings shall provide written notice to the other party of its intention to have a transcript of the arbitration made at least one week prior to the date of the

arbitration. The party desiring such transcript shall be responsible for scheduling a stenotype reporter to record the proceedings. The parties shall share equally the appearance fee of the stenotype reporter and the cost of obtaining an original transcript and one copy for the party originally requesting a transcript of the proceedings. The requesting party shall, at its expense, photocopy the copy of the transcript received from the reporter and deliver the photocopy to the other party within five days after receiving the copy of the transcript from the reporter.

- (9) Retroactivity. An arbitrator's award may or may not be retroactive as the equities of each case may demand, but in no case shall an award be retroactive to a date earlier than thirty (30) days prior to the date the grievance was initially filed in accordance with this Article.

20.9 Filings and Notification. All documents required or permitted to be issued or filed pursuant to this Article may be transmitted by fax, United States mail, or any other recognized delivery service (note: e-mail is an acceptable form of delivery). Step 1 and Step 2 decisions shall be transmitted to the grievant's representative(s) by personal delivery with written documentation of receipt, by certified mail, return receipt requested, or via e-mail. In the event that any action falls due on a Saturday, Sunday, or holiday (as referred to in Section 17.5), the action will be considered timely if it is accomplished by 5:00 P.M. on the following business day.

20.10 Precedent. No complaint informally resolved, or grievance resolved at either Step 1 or 2, shall constitute a precedent for any purpose unless agreed to in writing by the Provost or representative and the UFF acting through its President or representative.

20.11 Processing.

- (a) The filing or pendency of any grievance or arbitration proceedings under this Article shall not operate to impede, preclude, or delay the Board from taking the action complained of. Reasonable efforts, including the shortening of time limits when practical, shall be made to conclude the processing of a grievance prior to the expiration of the grievant's employment, whether by termination or failure to reappoint. An employee with a pending grievance will not continue to be compensated beyond the last date of employment.
- (b) The Provost/ President, or representative, may refuse consideration of a grievance not filed or processed in accordance with this Article.

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

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

20.14 Inactive Grievances. A grievance which has been filed at Step 2 or Step 3 and on which no action has been taken by the grievant or the UFF for ninety (90) days shall be deemed withdrawn and resolved in accordance with the decision issued at the prior Step.

20.15 Expedited Grievance Procedure for Conflict of Interest (Section 19.5).

- (a) A grievance alleging a violation of Article 19 shall be heard at Step 1 by the President or representative no more than seven (7) days after it has been filed. The President or representative shall issue a Step 1 decision no more than seven (7) days after the Step 1 meeting.
- (b) A request for review of the Step 1 decision shall be filed using Appendix "D", no more than seven (7) days following the receipt of the Step 1 decision. The Step 2 meeting shall be held no more than seven (7) days after the receipt of Appendix "D", and the Step 2 decision shall be issued no more than seven (7) days after the meeting.
- (c) A request for arbitration using Appendix "E" shall be filed within fourteen (14) days after receipt of the Step 2 decision. An arbitrator shall be selected by the parties no more than fourteen (14) days following the receipt of the Appendix "E". The arbitrator shall issue a memorandum of decision within seven (7) days following the conclusion of the arbitration, to be followed by a written opinion and award in accordance with Section 20.8(f)(5).
- (d) The parties shall establish a panel of three (3) experienced arbitrators to hear a grievance filed in accordance with this Section.
- (e) All other provisions of Article 20 shall apply to these grievances, except as noted above.

APPENDIX A
CLASS CODE CLASS TITLE

9001 Professor
 9002 Associate Professor
 9003 Assistant Professor
 9004 Instructor
 9005 Lecturer
 9006 Graduate Research Professor
 9007 Distinguished Service Professor
 9009 Eminent Scholar
 9053 University Librarian
 9054 Associate University Librarian
 9055 Assistant University Librarian
 9056 Instructor Librarian
 9080 Non-tenure Earning Professor of Research
 9081 Non-tenure Earning Associate Professor of Research
 9082 Non-tenure Earning Assistant Professor of Research
 9115 Coordinator
 9120 Associate in _____
 9121 Assistant in _____
 9126 Program Director
 9150 Curator
 9151 Associate Curator
 9152 Assistant Curator
 9153 Staff Physicist
 9160 Scholar/Scientist/Engineer
 9161 Associate Scholar/Scientist/Engineer
 9162 Assistant Scholar/Scientist/Engineer
 9166 Research Associate
 9173 Counselor/Advisor
 9178 Instructional Specialist
 9334 Specialist, Computer Research
 9394 Coordinator, Cooperative Education
 9419 Coordinator, Research Information
 9433 Specialist, Music
 9434 Psychologist
 9435 Resident Advisor to Students
 9460 Psychiatrist
 9462 Physician
 9464 Physician's Assistant
 9490 Dentist
 9495 Specialist, Student Counseling
 Assistant Chair (C3)
 Assistant Department Head (H3)
 Assistant Program Director (G3)
 Associate Chair (C2)
 Associate Department Head (H2)

Associate Program Director (G2)
Coordinator (N1)
Counselor/Advisor (B1)
Department Chair (C1)
Department Head (H1)
Program Director (G1)

Excluded: President, Vice President, Provost, Directors, Deans, University School Professor (9016), University School Associate Professor (9017), University School Assistant Professor (9018), University School Instructor (9019), all other employees with administrative appointments not specifically included above, managerial, confidential, and all other employees of the Florida A&M University.