

**THE FLORIDA POLYTECHNIC UNIVERSITY BOARD OF TRUSTEES
NOTICE OF PROPOSED REGULATION**

REGULATION NUMBER AND TITLE: FPU-8.005 Real Property Leasing.

SUMMARY OF THE REGULATION: This regulation provides for general guidelines that Florida Polytechnic University will adhere to when entering into leases.

TEXT OF THE REGULATION: The full text of the Proposed Regulation can be viewed below and on the Florida Polytechnic University Board of Trustees website, at <http://floridapolytechnic.org/board-of-trustees/university-policies-and-regulations>. If you would like a copy of the Proposed Regulation, please contact Bacogie Luke, Administrative Assistant to the VP and General Counsel at (863)583-9061.

AUTHORITY: Board of Governors Regulations 1.001, 17.001 and Fla. Stat. § 1013.171.

NAME OF THE PERSON INITIATING PROPOSED REGULATION: Gina DeJulio, VP and General Counsel.

ANY PERSON SEEKING TO COMMENT ON THE PROPOSED 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.

THE CONTACT PERSON REGARDING THIS REGULATION IS: Bacogie Luke, Administrative Assistant to the VP and General Counsel at 439 South Florida Avenue, Suite 300, Lakeland, Florida 33810, Email: bluke@floridapolytechnic.org, Phone: (863)583-9061, Fax: (863)583-9070.

DATE OF PUBLICATION: November 12, 2013

THE FULL TEXT OF THE PROPOSED REGULATION IS PROVIDED BELOW:

FPU-8.005 Real Property Leasing.

(1) Purpose. Florida Polytechnic University (“University”) may lease real property for the use and benefit of approved programs of the University, as delegated by the Florida Board of Governors (FBOG) regulation 17.001 Lease Authority and other related regulations.

(2) Exceptions. These regulations shall not apply to leases for less than 21 consecutive days.

(3) Lease. A lease is an agreement containing the terms and conditions establishing the relationship of landlord and tenant for real property, including land and any improvement thereon. A lease agreement must be in writing and executed by an authorized university official.

(4) Approval of Leases. Before leasing a building or any part thereof and occupying such space, a lease agreement shall be approved by the University’s attorney and the President or the President’s designee. All lease agreements in excess of \$1,000,000 shall be approved by the Board of Trustees or designee.

(5) Applicable Law. Nothing contained in these regulations shall be interpreted as circumventing any applicable statutory or regulatory requirements for life safety, construction, or disabled access.

(6) Standard Lease Agreement Terms. The University has certain standard lease agreement terms that are required where the university leases space from a third party and certain terms that are required when the university is the lessor. The Office of the General Counsel must approve all lease agreements. If a lease agreement is not approved by the Office of the General Counsel prior being signed, it shall be considered null and void and unenforceable.

(7) Escalation Clauses Prohibited. A lease shall not contain a rental escalation clause or an open rental rate that permits an adjustment in the amount paid by the University based on the happening of a future event, such as a change in the Consumer Price Index. Any such clause in a lease shall be null and void and unenforceable. The final cost to the University for the complete term of a lease, including the projected costs for all renewal periods, must be clearly set forth in the lease or calculable based on the terms of the lease.

(8) Right to Terminate. A right-to-terminate clause shall be a part of any lease for a term exceeding one fiscal year and may not be omitted from any University lease. To comply with this provision, each lease for a term exceeding one fiscal year shall contain the following clause: “The State of Florida’s performance and obligation to pay under this lease is contingent upon an annual appropriation by the legislature.”

(9) Renewal of Leases. If the lease contains an option to renew, such renewal shall be made according to the terms and conditions of the original lease.

(10) Code Compliance in Leased Space. Any privately owned building or part thereof to be leased to the University shall comply with those portions of Florida Statutes Chapters 553 and 633, applicable to University buildings, including but not limited to fire safety, life safety and disabled access standards. Before any construction or renovation of any University leased building from a third party lessor is commenced, the University shall ascertain that the proposed construction or renovation plan complies with those applicable portions of Chapters 553 and 633. The cost of all modifications or renovations made for the purpose of bringing such leased property into compliance with applicable fire safety, life safety, and disabled access standards shall be borne by the lessor unless otherwise agreed in writing by the University.

(11) Space Measurement. The measurement of leased space shall be based on the method of measurement used by the State University System described in BOG regulation 17.001.

Authority: FBOG Regulations 1.001, 17.001 and Fla. Stat. § 1013.171.

History—New: _____

11.5.13 RLD