



## Governance Committee Meeting

Tuesday, February 25, 2020

2:45 PM – 3:45 PM

*Or upon the conclusion of the previous committee meeting*

Florida Polytechnic University - Student Development Center  
4700 Research Way, Lakeland, FL 33805

Dial In Number: 1-415-655-0001 | Access Code: 649 312 790#

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Rear Admiral Philip Dur, Chair  
Cliff Otto

Dr. Louis Saco, Vice Chair  
Bob Stork

Frank Martin  
Henry McCance

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### AGENDA

- |   |                                      |
|---|--------------------------------------|
| I. Call to Order  | Rear Admiral Philip Dur, Chair       |
| II. Roll Call   | Sherri Pavlik                        |
| III. Public Comment   | Rear Admiral Philip Dur, Chair       |
| IV. <a href="#">Approval of the December 10, 2019 Minutes</a><br><i>*Action Required*</i> | Rear Admiral Philip Dur, Chair       |
| V. <a href="#">2018-20 Governance Committee Work Plan Review</a>                          | Rear Admiral Philip Dur, Chair       |
| VI. <a href="#">Nominations for Chair and Vice-Chair</a>                                  | Rear Admiral Philip Dur, Chair       |
| VII. <a href="#">Proposed Revisions to the President's Employment Agreement</a>           | Rear Admiral Philip Dur, Chair       |
| VIII. <a href="#">Regulation FPU-1.01 Service of Process</a><br><i>*Action Required*</i>  | Gina DeJulio, VP and General Counsel |
| IX. Closing Remarks and Adjournment   | Rear Admiral Philip Dur, Chair       |



FLORIDA POLYTECHNIC  
UNIVERSITY

## Governance Committee Meeting

### DRAFT MEETING MINUTES

Tuesday, December 10, 2019

2:45 PM – 3:45 PM

Florida Polytechnic University – Student Development Center  
4700 Research Way, Lakeland, FL 33805

I. Call to Order

Committee Chair Dur called the Governance Committee meeting to order at 2:25 p.m.

II. Roll Call

Sherri Pavlik called the roll: Committee Chair Philip Dur, Vice Chair Louis Saco and Trustee Henry McCance, Trustee Cliff Otto, and Trustee Bob Stork were present (Quorum).

Other Trustees present: Chair Don Wilson

Trustees not present: Trustee Frank Martin

Staff present: Ms. Gina Delulio, Mr. David Brunell, Mrs. Melaine Schmitz, Ms. Maggie Mariucci, Mr. Mark Mroczkowski, Ms. Teresa McLean, Mr. David Calhoun, Ms. Winifred Hall, Ms. Sherri Pavlik and Mrs. Kris Wharton.

III. Public Comment

There were no requests received for public comment.

IV. Approval of Minutes

**Trustee Bob Stork made a motion to approve the Governance Committee meeting minutes of September 11, 2019. Trustee Lou Saco seconded the motion; a vote was taken, and the motion passed unanimously.**

V. 2018-20 Governance Committee Work Plan Review

The Governance Committee revised its Work Plan to be consistent with the timeline recently approved by the Board for conducting the President's evaluation and to add a discussion to consider any proposed changes to the President's Employment Agreement to the February 2020 meeting.

In preparation for the February 2020 meeting, General Counsel will provide electronic copies of the President's Employment Agreement and any Amendments to members of the committee.

**Trustee Henry McCance made a motion to approve 2018-20 Governance Work plan with changes discussed. Trustee Bob Stork seconded the motion; a vote was taken, and the motion passed unanimously.**

VI. Discuss Board Training Needs

Board training needs is an annual discussion topic on the Work Plan. The Committee discussed existing opportunities for training available to the trustees: the University's new trustee orientation and materials, which are available to all trustees online (including Sunshine Law); the Board of Governor's (BOG's) Trustee Summit; and the AGB Trusteeship magazine.

Chair Dur emphasized the importance of the BOG's Trustee Summit as a way to stay current on the hot buttons in the BOG as it pertains to universities governance. He pointed out that they have at least one breakout or general session that is very important to stay abreast of how the BOG feel about the performance of trustees and their responsibilities in the governance of their respective universities.

VII. Continued Discussion: President Evaluation Instrument Review

The Office of the General Counsel supplied a comparison of President Evaluation Process as used in the State University System. The committee decided to recommend a change to provide for five rating options in the evaluations scale instead of three.

The recommended options on the evaluation scale are: Not Achieved, Partially Achieved, Achieved, Exceeded, and Far Exceeded. In addition, the Committee recommends the President speak to each trustee individually to get feedback on his performance.

**Trustee Cliff Otto made a motion to recommend approval of the changes in the number of options in the evaluation scale of the Evaluation Instrument FY 2019-20 to the full Board. Trustee Bob Stork seconded the motion; a vote was taken, and the motion passed unanimously.**

VIII. Closing Remarks and Adjournment

With no further comments, the meeting adjourned at 3:31 p.m.



**FLORIDA POLYTECHNIC**  
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# **Governance Committee Work Plan 2018-2020**

**Governance Committee**

**February 25, 2020**

# Governance Committee Work Plan 2018-2020

|  |  |   |   |
|--|--|---|---|
| <b>February 28, 2018</b>   | <b>May 22-23, 2018</b>   | <b>September 5, 2018</b>  | <b>December 5, 2018</b>   |
|  | <ul style="list-style-type: none"> <li>• Make recommendations to Board on President's proposed goals for 2018-2019, President's 2017-2018 evaluation outcome and compensation</li> <li>• Consultant report on BOT self-assessment survey</li> </ul>  | <ul style="list-style-type: none"> <li>• 2019 Government Relations Plan</li> <li>• Discussion on BOT self-assessment</li> </ul> | <ul style="list-style-type: none"> <li>• Discuss board training needs</li> </ul>  |
| <b>March 13, 2019</b>  | <b>May 21-22, 2019</b>   | <b>September 11, 2019</b>   | <b>December 10-11, 2019</b>   |
| <ul style="list-style-type: none"> <li>• Make recommendation on renewal of President's employment agreement</li> </ul> | <ul style="list-style-type: none"> <li>• Make recommendations to Board on President's proposed goals for 2019-2020, President's 2018-2019 evaluation outcome and compensation</li> </ul>   | <ul style="list-style-type: none"> <li>• 2020 Government Relations Plan</li> </ul>  | <ul style="list-style-type: none"> <li>• Discuss board training needs</li> </ul>  |
| <b>February 25, 2020</b>   | <b>Conference-call-early-May<br/>May 19-20 2020</b>  | <b>September 8, 2020</b>  | <b>Conference Call November 2020<br/>December 1, 2020</b>   |
| <ul style="list-style-type: none"> <li>• Start process of making nominations for Board Chair and Vice Chair</li> </ul> | <ul style="list-style-type: none"> <li>• <del>Discuss evaluation with President (early May)</del></li> <li>• Make recommendations to Board on President's proposed goals for 2020-2021, <del>President's 2019-2020 evaluation outcome and compensation</del></li> <li>• Make recommendation on renewal of President's employment agreement <u>(July 2020 – July 2021)</u></li> </ul> | <ul style="list-style-type: none"> <li>• 2021 Government Relations Plan</li> </ul>  | <ul style="list-style-type: none"> <li>• <u>Discuss board training needs</u></li> <li>• <u>Make recommendations to Board on President's 2019-2020 evaluation outcome and compensation</u></li> <li>• <u>Make recommendation on renewal of President's employment agreement (July 2021 – July 2022)</u></li> </ul> |

# Governance Committee Work Plan 2018-2020

| February 25, 2020  | Conference call early May<br>May 19-20 2020  | September 8, 2020  | Conference Call November 2020<br>December 1, 2020   |
|--|--|--|---|
| <ul style="list-style-type: none"> <li>Start process of making nominations for Board Chair and Vice Chair</li> </ul> | <ul style="list-style-type: none"> <li><del>Discuss evaluation with President (early May)</del></li> <li>Make recommendations to Board on President's proposed goals for 2020-2021, <del>President's 2019-2020 evaluation outcome and compensation</del></li> <li>Make recommendation on renewal of President's employment agreement <u>(July 2020 – July 2021)</u></li> </ul> | <ul style="list-style-type: none"> <li>2021 Government Relations Plan</li> </ul> | <ul style="list-style-type: none"> <li><u>Discuss board training needs</u></li> <li><u>Make recommendations to Board on President's 2019-2020 evaluation outcome and compensation</u></li> <li><u>Make recommendation on renewal of President's employment agreement (July 2021 – July 2022)</u></li> </ul> |

**Florida Polytechnic University**  
**Governance Committee**  
**Board of Trustees**  
**February 25, 2020**

**Subject: Nominations for Chair and Vice-Chair**

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**Proposed Committee Action**

Discussion on nominations for Chair and Vice-Chair – no action required

**Background Information**

The Board of Trustees Chair and Vice-Chair two year terms will be expiring August 1, 2020. The Governance Committee will make a recommendation to the Board at the May 2020 meeting. The two year terms will begin on August 1, 2020. The officers of the Board of Trustees must be appointed members of the Board. The pertinent provisions of the Boards bylaws are provided below.

**Section 4.2**

**SELECTION OF OFFICERS AND TERMS OF OFFICE**

The Board shall elect the Chair and Vice-Chair from the appointed members of the Board at its last regular meeting prior to August 1 upon recommendation of the Governance Committee; the Chair and the Vice-Chair shall each serve for a two-year term to begin on August 1. The Chair and the Vice-Chair shall be eligible for reselection for one additional consecutive term by vote of the Board, after which they may not be an officer for two years before being eligible for selection again. There shall not be automatic succession by virtue of holding an office, except as otherwise provided in Section 4.3.

**Section 4.4**

**CHAIR**

The duties of the Chair shall include presiding at all meetings of the Board, calling special meetings of the Board, determining the composition of all Board committees requiring assignment, appointing committee chairs, serving as an ex officio voting member on all Board committees unless these Bylaws provide otherwise, appointing at least one representative to the board of directors and the executive committees of the direct support organizations, signing and executing all documents and instruments on behalf of the Board, attesting to actions of the Board, serving as spokesperson for the Board, and fulfilling other duties as may be required by law or assigned by the Board or the Board of Governors. The Chair shall perform such duties in consultation with the University President. The Board may also delegate the authority to sign and execute documents and instruments on behalf of the Board to the Corporate Secretary. The Chair is responsible for causing the Board to conduct an annual evaluation of the University President.

**Section 4.5**

**VICE-CHAIR**

The duty of the Vice-Chair is to perform the duties of the Chair with full authority during the absence or disability of the Chair and to fulfill other duties as may be assigned by the Board. In the absence of both the Chair and the Vice-Chair, the Corporate Secretary shall determine whether a quorum is present and,

in that event, shall call for the election of a temporary presiding officer, who shall be elected from the appointed membership of the Board upon a majority vote of those Trustees present. Upon arrival of the Chair or Vice-Chair, the temporary chair shall relinquish the chair after concluding the business then before the Board.

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**Supporting Documentation:** Appointed Trustees' Terms

**Prepared by:** Gina Delulio, VP and General Counsel



**FLORIDA POLYTECHNIC**  
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# **Appointed Trustees' Terms**

**Governance Committee**

**February 25, 2020**

# Appointed Trustees' Terms

| Trustee   | Current Term             | Appointing Authority |
|---|--------------------------|----------------------|
| <b>BOG appointees eligible for reappointment after current term expires</b>     |                          |                      |
| Adrienne Perry  | 3/29/18- <b>7/15/20</b>  | BOG                  |
| Louis Saco, M.D.  | 11/9/17-11/8/22          | BOG                  |
| W. Earl Sasser  | 10/30/19 - 7/15/24       | BOG                  |
| <b>Governor appointees - eligible for reappointment, no limit on terms</b>      |                          |                      |
| Cliff Otto (Vice Chair)   | 3/24/16 - <b>6/30/19</b> | Governor             |
| Gary Wendt  | 11/9/17-6/30/22          | Governor             |
| Mark Bostick  | 3/24/16 - <b>6/30/20</b> | Governor             |
| Philip Dur (Rear Admiral)   | 3/24/16 - <b>6/30/20</b> | Governor             |
| Robert "Bob" Stork  | 6/12/15- <b>5/30/18</b>  | Governor             |
| <b>Ineligible for reappointment or not seeking reappointment at end of term</b> |                          |                      |
| Don Wilson (Chair)  | 3/19/15 - <b>7/15/19</b> | BOG                  |
| Frank T. Martin   | 1/21/16 - <b>7/15/20</b> | BOG                  |
| Henry McCance   | 3/24/16 - <b>6/30/20</b> | Governor             |

**Florida Polytechnic University  
Governance Committee  
Board of Trustees  
February 25, 2020**

**Subject: Proposed revisions to President's Employment Agreement**

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**Proposed Committee Action**

Consider proposed revisions to the President's Employment Agreement – no action required.

**Background Information**

On February 26, 2019 the Board of Trustees approved an amendment to the President's Employment Agreement ("Agreement") with a term ending July 7, 2020. In preparation for the next renewal term, the Governance Committee requested a draft of the proposed Agreement. The supporting documents include the redlined version indicating proposed changes to the original Agreement. The Agreement has been revised and the material proposed revisions are as follows:

- Clarifications were made throughout the Agreement to clarify which terms are applicable only when Dr. Avent is serving as president since there is an opportunity for him to serve in a faculty capacity during the remainder of the Presidential Appointment Term if his appointment is terminated without cause or he resigns from the position as president.
- 3.1- revises end date of Presidential Appointment Term to be July 6, 2021.
- 3.2- deletes the requirement for the Chair and President to discuss and agree upon the goals and objectives for the next fiscal year because the Governance Committee and full Board have been performing that function. Also added language to allow for the revision of the goals and objectives during the fiscal year.
- 3.3- deletes the use of a consultant to perform a 360-degree review of the President and his administration- such will be determined by the Board on an as-needed basis and provided in the Policy on Annual Review of the President. In light of proposed calendar changes as to timing of the annual review, took out the dates of "September 30" of each year to allow flexibility in the timing of the review.
- 4.1- revised to reflect President's current base salary.
- 5.2- deleted language related to relocation reimbursement as it is no longer necessary.
- 5.3 and 5.3.2- deleted language related to accreditation bonus, as it is no longer necessary.
- 5.3.1- revised Performance Compensation to state that if the President receives an evaluation of "Achieved" or higher, he will receive not less than 20% of base salary as performance compensation.
- 6.2- incorporated language from previous amendment which allows for compensation exceeding \$200,000 to be paid for out of the University's auxiliary funds.
- 7.2- added language which allows the Supplemental Retirement Benefit to be paid for out of the University's auxiliary funds, if permitted.
- 8.1- revised to reflect the purchase of the University's Presidential Home and deleted the language that is no longer necessary.

- 9.1- revised to reflect the current practice of providing a flat monthly automobile allowance versus the leasing of an automobile and reimbursement of insurance and other costs. Also provides that the University will reimburse the cost of renting a vehicle when the President rents a vehicle for traveling long distances on University business.
  - 11.1- provides that the President will submit information for reimbursement to the University controller rather than the Board, as is current practice.
  - 14.1- allows for the President to remain as a professor for the remainder of the Presidential Appointment Term if he resigns his position as president.
  - 17.0 - updated addresses for Board and General Counsel.
  - 28.2- included the General Cooperation Covenant as required by the Board of Governors.
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**Supporting Documentation:**

1. Draft Revised President's Employment Agreement
2. SUS 2018-19 Presidential Compensation Survey
3. President's Evaluation Instrument

**Prepared by:** Gina Delulio, VP and General Counsel

## PRESIDENT'S EMPLOYMENT AGREEMENT

This President's Employment Agreement (the "Agreement") is entered into by the **Florida Polytechnic University Board of Trustees** ("the Board" or "the Board of Trustees"), a public body corporate of the State of Florida, on behalf of Florida Polytechnic University ("University"), and **Dr. Randy K. Avent** ("President").

### Background

WHEREAS, the Board, acting on behalf of Florida Polytechnic University (the "University"), has the authority to select and employ the President of the University; and

WHEREAS, the Board previously ~~has~~ selected Dr. Randy Avent to serve as President of the University, subject to confirmation of the Board of Governors; and

WHEREAS, the Board wishes to continue to employ Dr. Randy Avent as the University's President, and Dr. Randy Avent wishes to serve as President and be a University employee, subject to the terms and conditions of this Agreement; ~~and~~

~~WHEREAS, all prior acts of the Board and its Presidential Search Committee were confirmed by the Board;~~

NOW, THEREFORE, in consideration of mutual promises and other good and valuable consideration, the receipt and sufficiency of which is acknowledged by the parties, the parties agree to this Agreement as follows:

### 1.0 Powers and Duties of President While Serving as President

1.1 The President reports to the Board and is the Corporate Secretary of the Board and the Chief Executive Officer of the University, subject to the supervision of the Board, the laws of Florida, and the rules, regulations, and policies of the Board, the University and the Board of Governors. During the Presidential Appointment Term (as defined in section 3.1 below), the President ~~shall have~~has the powers and duties reserved to the position of president by the Florida Statutes and the University regulations and other actions of the Board (collectively "Duties"), as they presently exist or may hereafter be amended. The President and the Board acknowledge and agree that the Duties hereunder are and shall be consistent with those customary for the position of a university president, including, but not limited to educational leadership, faculty relations, budgeting, long-range planning, fundraising, public relations, student services, recruitment of personnel, appointment, promotion and dismissal of all faculty and staff members, as well as any such additional duties commensurate with such position as may be specified from time-to-time by the Board. The President ~~shall have~~has the full power and authority to direct the operation and management of the University, subject to the direction, control and instructions of the Board.

## 2.0 Best Efforts While Serving as President

- 2.1 During the Presidential Appointment Term, the President will diligently devote his full professional time, ability, and attention to the day-to-day operations of the University, including without limitation, all administrative, executive and academic functions.
- 2.2 During the Presidential Appointment Term, the President's expenditure of reasonable amounts of time for personal or outside business, as well as non-University related charitable and professional development activities, shall not be deemed a breach of this Agreement, provided such activities do not interfere with the services required to be rendered to the University under the provisions of this Agreement, Part III of Chapter 112 of the Florida Statutes: Code of Ethics for Public Officers and Employees, and applicable regulations or policies of the Board of Trustees or University.
- 2.3 The President shall not knowingly engage in any activity that may be competitive with or adverse to the best interests of the Board of Trustees or the University.
- 2.4 During the Presidential Appointment Term, the President shall seek approval from the Board prior to agreeing to serve on any boards of directors or engaging in outside employment, business or professional activities subject to the provisions of University regulation or policy. Any and all income or other compensation earned by the President in connection with approved non-University outside activities shall be paid to and retained by him, and such income or other compensation shall have no effect on the amount of salary, compensation, or benefits he is otherwise entitled to receive under this Agreement.
- 2.5 During the Presidential Appointment Term, the President shall perform the duties of ~~President~~ president for all existing and future campuses of the University, and for and at such other place or places as the Board deems appropriate for the interests, needs, business, or goals of the University.

## 3.0 Presidential Appointment Term; Evaluation; Renewal

- 3.1 Presidential Appointment Term. The appointment as President ("Presidential Appointment Term") ~~shall be for a term of five (5) years, commencing commenced~~ on July 7, 2014 and ~~ending ends~~ on ~~June 30, 2019~~ July 6, 2021. ~~This appointment and the Agreement are~~ renewable by mutual written consent of the parties. This appointment and this Agreement is subject to prior termination as provided for in this Agreement, and by the applicable laws of the State of Florida, the regulations and policies of the Board of Trustees, the University, and the Florida Board of Governors.

- 3.2 ~~Goals and Objectives While Serving as President. On or before October 1, 2014 for fiscal year 2014-2015, and on or b~~efore June 1 of each year, thereafter, the President ~~shall~~will provide the Chair of the Board of Trustees (“Chair”) with a list of proposed goals and objectives for the ~~next upcoming~~ fiscal year. The proposed goals and objectives shall be related to, and in furtherance of, the University’s strategic plan goals, work plan and accountability report, and the Board of Governors’ strategic plan and performance funding model , and other priorities as established by the Board of Trustees or the Board of Governors. ~~The Chair and the President shall discuss and agree upon the goals and objectives for the next fiscal year.~~ The goals and objectives ~~shall then~~are be presented to the Board for discussion and approval. ~~The Board and the President may agree to revise the goals and objectives as necessary during the fiscal year.~~
- 3.3 ~~Annual Evaluation While Serving as President. On or before April 1, 2015, and on or before April 1 each year thereafter w~~hile the President is employed as ~~President~~president, the President shall initiate the evaluation process for the ~~prior~~ fiscal year ending June 30 of such year by preparing a self-appraisal of his performance for submission to the Chair and evaluation by the Board, its designee, or both, in accordance with ~~directives~~, policies and procedures established by the Board as the Board may deem appropriate. The President ~~agrees to~~will furnish any additional information requested by the Chair to aid the Board in its annual performance review of the President. ~~For the self-appraisal that will be delivered by the President on or before May 1, the Chair, in consultation with the President, will select a consultant who will perform a 360 degree review of the President and his administration’s performance. The consultant’s 360 degree review will be provided to the Board and the President and considered in its annual evaluation of the President for that year.~~ Pursuant to Board of Governors Regulations, the Chair ~~shall~~will solicit input from the Chair of the Board of Governors during the evaluation process. The Board ~~shall~~will complete the annual evaluation and make any compensation award under Section 5.3 ~~no later than September 30 of each year, commencing September 15, 2015.~~

#### 4.0 Salary

- 4.1 Base Salary. As compensation for all services rendered by the President as ~~President~~president pursuant to this Agreement, the University will pay the President according to the pay plan for Executive Service employees, an ~~initial~~ annual base salary of ~~Three Hundred Eighty five Thousand Dollars~~Four Hundred forty-one thousand seven hundred ninety-seven dollars (\$~~385,000~~441,797) ~~as of July 7, 2020~~ (“Presidential Base Salary), of which a maximum of Two Hundred Thousand Dollars (\$200,000) can be paid for with state funds. This amount shall be paid in accordance with the

University's standard payroll practices, with appropriate deductions for taxes and benefits. ~~In addition to the Base Salary, the President shall receive a one time payment of Thirty eight Thousand Five hundred Dollars (\$38,500) to be paid within thirty (30) days of commencement of the Presidential Appointment Term.~~ The President shall be responsible for any income tax liability incurred as a result of this Agreement.

- 4.2 Increase to Presidential Base Salary During Annual Evaluation. Effective with the Board's evaluation of the President's performance for the July 1, ~~2014-2019~~ to June 30, ~~2015-2020~~ fiscal year and continuing each year thereafter while he serves as President~~resident~~, the President's salary shall be reviewed annually for increase by the Board in conjunction with the Board's evaluation of job performance, as set forth in Section 3.3 of this Agreement. The President shall each year ~~following the first year~~ also be eligible for any salary increase generally applicable to University employees in his employment classification, but in no event shall the Base Salary increase be less than Three and One-Half Percent (3.5%) of the prior year's Base Salary.

## 5.0 Other Compensation While Serving as President

- 5.1 Insurance, Annual and Sick Leave. While serving as president ~~During~~ the Presidential Appointment Term, the President shall receive leave and other usual and customary benefits equal to those provided to Florida Polytechnic University Executive Service employees, except as provided in this Agreement.
- 5.2 ~~Intentionally Deleted. Relocation Reimbursement. Payable during the first two annual terms of the President's employment under this Agreement, the President shall be eligible to receive reimbursement of up to Thirty Thousand Dollars (\$30,000) for moving, relocation and travel expenses incurred by the President and his family in connection with travel to and from the Lakeland area, locating and securing appropriate housing, moving and storage of personal property, and other associated expenses for moving from his current home to the Lakeland area.~~
- 5.3 Effective with the Board's evaluation of the President's performance for the July 1, ~~2014-2019~~ – June 30, ~~2015-2020~~ fiscal year and continuing each year thereafter while he serves as President~~resident~~, the President shall be eligible for performance compensation; ~~and he shall also be entitled to an accreditation bonus~~, as follows:
- 5.3.1 Performance Compensation. The President shall be eligible for performance compensation ~~of up to Twenty Percent (20%) as a percent~~ of his annual base salary then in effect. However, if the President receives an overall evaluation of "Achieved" or higher from

the Board in his annual evaluation, the amount shall be not less than Twenty Percent (20%). The award of performance compensation ~~is discretionary and~~ shall be awarded based on the Board's assessment, in its sole and absolute discretion, of the President's performance as President during the fiscal year under review. ~~The Board may award any amount of performance compensation from zero to the maximum identified above.~~ In making its determination, the Board shall consider the President's achievement of the annual goals and objectives set pursuant to Section 3.2, the evaluation results pursuant to Section 3.3, and/or other criteria set by the Board prior to the start of the evaluation period and provided to the President in writing. The President shall receive such award if he remains as President through the end of a fiscal year for which performance is determined even though the award is determined later. Any performance compensation awarded shall be paid to the President within 90 days of the date on which it is awarded.

5.3.2 ~~Intentionally Deleted. Accreditation Bonus. Within thirty (30) days of the University receiving final confirmation that the University has received its accreditation from the Southern Association of Colleges and Schools, the President shall be paid a bonus of Fifty Thousand Dollars (\$50,000).~~

## 6.0 Annual Appropriation and Source of Funding

- 6.1 The performance of the University of any of its obligations under this contract shall be subject to and contingent upon the availability of funds appropriated by the legislature for the current and future periods.
- 6.2 While the President is serving as president ~~During~~ the term of this Agreement and contingent upon the availability of funds, the Board shall not be responsible for, but authorizes this compensation arrangement and shall use its best efforts to cause the Florida Polytechnic University Foundation, Inc. ("Foundation") to contribute to the University the portions of all payments provided for in this Agreement that exceed the limits set forth in Florida Statutes Section 1012.975. The Board further authorizes the use of the University's auxiliary funds to pay for the President's compensation which exceeds the limits set forth in the statute.

## 7.0 Other Benefits

- 7.1 The President ~~shall be~~ eligible for all applicable State of Florida and University developed benefits and perquisite programs as authorized by the legislature or other authorized governing bodies. The Board further agrees

that while serving as president, -the President ~~shall be~~ is entitled, at all times, to the state sponsored life insurance benefits applicable to Executive Service personnel.

- 7.2 Supplemental Retirement Benefit. During each year of the Presidential Appointment Term, and while serving as president, the President will receive and reserve on a quarterly basis, in addition to his base salary, fifteen percent (15%) of the President's annual base salary which shall be used to establish a supplemental retirement benefit in a form reasonably acceptable to the President, such as an annuity or other tax deferred product to supplement his retirement. The FPU Foundation will contribute the sum required to fund this retirement benefit or, if permitted, the sum will be paid, in whole or in part, with University auxiliary funds.
- 7.3 Business/Travel Expenses. During the Presidential Appointment Term and while serving as President, the University ~~shall~~ will cover the cost of the President's reasonable business expenses, including professional dues, meetings, business travel, and entertainment. In addition, when the President's spouse travels with him on University-related business while he is serving as President, the FPU Foundation shall cover the cost of her reasonable travel expenses for travel serving a bona fide business purpose. Funding for spouse travel is only authorized in conjunction with the President's travel outside of the University service area.

## 8.0 Housing

- 8.1 The University deems it to be in its best interest that the President, while serving as President, ~~is maintain a residence in the Lakeland area in which he is~~ required to reside as a condition of his employment, in the University's Presidential Home, and to the extent reasonable, to use his ~~the~~ residence in the performance of his duties hereunder including, but not limited to receptions and meetings benefiting the University. The University is responsible for providing ~~During the first year of the Presidential Appointment Term, pursuant to an arrangement agreed upon between the President and the Chair, the University will cooperate with the President to provide a suitable interim residence for the President, including utilities, maintenance, service fees, internet and television service~~ for the Presidential Home, ~~with a total cost to the University not to exceed Two Thousand Five Hundred Dollars (\$2,500) per month. During this first year, the President and the University agree to work cooperatively to arrange for a permanent residence for the President to be provided by the University and in which the President shall be required to reside as a condition of his employment. The parties acknowledge that the arrangement provided herein during the first year may temporarily continue beyond the first term until the permanent residence is available.~~

## 9.0 Automobile

9.1 During the Presidential Appointment Term and while serving as ~~President~~president, the University or the FPU Foundation will provide a flat monthly automobile allowance in the amount of \$850. The allowance will cover all automobile related expenses including, but not limited to, gas, maintenance, and repairs. full-sized automobile acceptable to the President for the President's University business related and other use, with a new vehicle being provided not less than every three (3) years. The University will reimburse the President when he rents a vehicle for purposes of traveling long distance for University business.

## 10.0 Professional Dues, Meeting and Entertainment

10.1 During the Presidential Appointment Term and while serving as ~~President~~president, the Board will authorize and provide for the President's reasonable expenses related to his joining and participating in University-related social, professional or service organizations and activities. The Board may fulfill this obligation through the use of available FPU Foundation funds.

## 11.0 Expense Receipts and Documentation

11.1 The President agrees to maintain and furnish to the ~~Board~~Controller an accounting of reimbursable expenses and membership dues and fees provided for in this Agreement in reasonable detail and consistent with University policies, standards, and procedures and applicable State law on no less than a monthly basis, or as requested. Following the President's submission of an accounting, the University shall promptly reimburse the President for such expenses, membership dues and fees in accordance with University policies, standards and procedures and applicable State law.

## 12.0 Termination of the Contract for Cause

12.1 Notwithstanding anything in this Agreement to the contrary, the parties agree that, upon a vote of two thirds (2/3) of the Board of Trustees, the Board may terminate this Agreement at any time for "just cause" (as hereinafter defined).

12.2 "Just cause" shall be deemed to include, but shall not be limited to:  
(i) a deliberate or material violation by the President of the Duties or his refusal or unwillingness to perform the Duties in good faith, during his full business time, or to the best of his abilities if, within thirty (30) days following

the President's receipt of the written notice of what the Board considers to be the violation, the President fails to cure the same;

(ii) materially harmful neglect of essential responsibilities of the President's duties; (iii) material dishonesty or serious misconduct that adversely affects the University; (iv) the commission of any felony or of a misdemeanor involving moral turpitude; or (v) a material, significant, or repetitive breach of this Agreement.

- 12.3 In the event of termination for "just cause" by the Board, the President's employment with the University shall cease. The Board's obligations under this Agreement in such event shall be limited to: (a) the prorated payment of his salary through the date of termination; (b) the payment of any performance compensation or supplemental retirement benefit that is awarded and/or due, though unpaid as of the date of termination; (c) the payment of accrued and unused leave through the date of termination in accordance with University regulation; and (d) the payment of any unpaid reimbursable business/travel/relocation expenses incurred prior to the date of termination and documented by him in accordance with University procedures. The President shall not be entitled to any further employment, compensation or benefits from the University in any capacity except for benefits required to be continued by law.

### **13.0 Termination Without Cause**

- 13.1 Notwithstanding anything in this Agreement to the contrary, the parties agree that upon a vote of two thirds (2/3) of the Board of Trustees, the Board may terminate the Agreement at any time prior to its term expiration without cause, provided that the President is given thirty (30) days prior written notice of this issue coming before the University's Board of Trustees. Upon receiving notice from the Board, the President may waive any portion or the entire notice period at his discretion and terminate earlier.
- 13.2 The President may terminate the Agreement at any time prior to its term expiration without cause, provided that the President gives ninety (90) days prior written notice to the Board of Trustees. Upon receiving notice from the President, the Chair may waive any portion or the entire notice period at his/her discretion and terminate earlier.

### **14.0 Professorial Appointment**

- 14.1 If the President is terminated without cause or resigns from his position as president and chooses to join the teaching faculty of the University upon conclusion of his presidency, he will be eligible for sabbatical leave of one calendar year commencing immediately after his employment as president

ends and prior to joining the University's faculty. Prior to beginning any sabbatical leave, he will have committed to fill a faculty position at the rank of "Full Professor" or other mutually agreeable faculty position. Upon conclusion of the sabbatical, if taken, President's teaching, research, and service responsibilities will be substantially equivalent to similarly situated faculty positions.

- 14.2 During this first year post-presidency, the President's initial 12 month base salary, whether on sabbatical leave or serving as Professor ("initial base salary as a Professor"), will be 90% of his final annual base salary as President, not to include any deferred compensation or performance incentive payment. During his second year post-presidency and for the balance of the Presidential Appointment Term, his 12 month base salary as a Professor will be 90% of his initial base salary as a Professor, and he will be eligible for any salary increments provided to regular, full-time faculty members. Usual faculty and administrative processes will determine such salary increments. While on sabbatical, if any, and while serving as a Professor, he shall receive leave and other usual and customary benefits equal to those provided to University Faculty members.

#### **15.0 Termination due to Resignation, Death or Disability**

- 15.1 Notwithstanding anything in this Agreement to the contrary, this Agreement shall terminate upon the President's resignation from employment at the University, death, or "permanent disability" (as hereinafter defined). Such termination shall be deemed to have occurred for "just cause" and the President's employment with the University shall cease, and he shall not be entitled to any further employment, compensation or benefits from the University in any capacity except for compensation as provided in Section 12.3 and for benefits required to be continued by law. For purposes of this Agreement, "permanent disability" shall be defined as the President's inability to perform the applicable job duties for a minimum of six (6) continuous months.
- 15.2 In the event of the President's death during the term of this Agreement, his spouse or, if none, his estate, shall receive all accrued benefits as of the date of his death to the extent permitted by law.

#### **16.0 Non-binding Mediation**

- 16.1 The Board and the President agree that if any dispute arises concerning this Agreement, they will first attempt in good faith to resolve the dispute to their mutual satisfaction. If they are unable to do so, the Board and the President agree that they will submit the dispute to non-binding mediation in Lakeland, Florida, in accordance with the Employment Arbitration Rules

and Mediation Procedures of the American Arbitration Association then in effect. The Board and the President will use their best efforts, to the extent permitted under Florida law, to keep any disputes and any efforts to resolve disputes confidential, informing only their respective legal counsel and other persons determined in good faith to have a need to know. To the extent permitted under Florida law, they will use their best efforts to ensure that such persons do not further disclose any such information. The Board and the President agree that no mediator or arbitrator may have any material ongoing relationship with the University.

**17.0 Notice**

17.1 Unless and until changed by a party giving written notice to the other, the addresses below shall be the addresses to which all notices required or allowed by this Agreement shall be sent:

**If to the Board:**

Chairperson  
Florida Polytechnic University Board of Trustees  
Florida Polytechnic University  
~~439 S. Florida Avenue~~  
~~Suite 300~~ 4700 Research Way  
Lakeland, Florida ~~33804~~ 33805-8531

With a copy to:

General Counsel  
Florida Polytechnic University

~~4700 Research Way~~  
~~Lakeland, Florida 33805-8531~~ 439 S. Florida Avenue  
~~Suite 300~~  
~~Lakeland, Florida 33804~~

**If to the President:**

\_\_\_\_\_  
\_\_\_\_\_

**18.0 Entire Agreement: Modification**

18.1 This Agreement constitutes the entire understanding of the parties and supersedes any and all prior or contemporaneous representations or Agreements, whether written or oral, between the parties. There are no

other promises, understandings, obligations, inducements, or considerations between the parties or owed by either party to the other that are not set forth in this Agreement.

18.2 This Agreement cannot be changed or modified unless accomplished in writing and signed by the parties.

## **19.0 Severability**

19.1 The terms of this Agreement are severable, meaning that if any term or provision is declared by a court of competent jurisdiction to be illegal, void, or unenforceable, the remainder of the provisions shall continue to be valid and enforceable to the extent possible.

## **20.0 Governing Law and Forum**

20.1 This Agreement shall be interpreted and construed in accordance with the laws of the State of Florida, excluding choice of law rules.

20.2 Notwithstanding any other terms and conditions of this Agreement, either party may bring an action for the sole and limited purpose of enforcing the terms and conditions of this Agreement in any court of competent jurisdiction. Venue shall be in Polk County, Florida.

## **21.0 Understanding of the Agreement**

21.1 Both parties represent that they have thoroughly read this Agreement, that they understand it to be a binding contract, that they understand each provision, term, and condition of this Agreement as well as its legal effect, and that they have signed the Agreement voluntarily and of their own free will with the intention to comply with its terms. Both parties have participated in the preparation of this Agreement. Therefore, the Agreement shall not be construed against or in favor of either party based upon which party was responsible for the drafting of the Agreement.

## **22.0 Public Disclosure of the Agreement**

22.1 Both Parties agree and acknowledge that this Agreement is subject to the Florida public records laws and may, therefore, be subject to disclosure by and in the manner provided by law.

## **23.0 Waiver**

23.1 No delay or failure to enforce any provision of this Agreement shall constitute a waiver or limitation of rights enforceable under this Agreement.

## **24.0 Assignment**

24.1 This Agreement is not assignable, but shall be binding upon the heirs, administrators, personal representatives, successors, and assigns of both parties.

## **25.0 Execution and Counterparts**

25.1 This Agreement may be executed in counterparts and by the parties on separate counterparts each of which, when so executed, shall constitute but one and the same instrument.

## **26.0 No Trust Fund**

26.1 Nothing contained in this Agreement and no action taken pursuant to the provisions of this Agreement shall create or be construed to create a trust of any kind. To the extent that the President acquires a right to receive payments from the University, such rights shall be no greater than the right of any unsecured, general creditor of the University.

## **27.0 Taxes**

27.1 The President understands that the services to be rendered by him under this Agreement will cause him to recognize taxable income, which is considered under the Internal Revenue Code of 1986, as amended, and applicable regulations thereunder as compensation income subject to the withholding of income tax (any social security or other employment taxes). The President hereby consents to the withholding of such taxes as are required by law. All sums payable to the President under this Agreement will be reduced by all federal, state and other withholdings and similar taxes and payments required by law.

## **28.0 Miscellaneous**

28.1 The headings in this Agreement are for convenience only and shall not be used in construing or interpreting this Agreement. The terms "Board," "Board of Trustees" and "University," where applicable or appropriate, shall include or refer to any duly authorized board, committee, officer, or employee of said entity. Whenever the context requires, the masculine shall include the feminine and neuter, the singular shall include the plural, and conversely.

28.2 General Cooperation Covenant. Without limitation of the obligations specified in the Agreement and applicable University rules, regulations, policies and procedures, the President agrees to cooperate fully in any review or investigation involving University matters in which he may possess pertinent information. This obligations shall survive the expiration or earlier termination of this Agreement.

THEREFORE, Dr. Randy Avent, President, and Mr. Robert H. Gidel, Chair and authorized representative of the Florida Polytechnic University Board of Trustees, have executed this Agreement on the dates appearing below.

**Florida Polytechnic University Board  
of Trustees**

By: Robert H. Gidel \_\_\_\_\_ Date \_\_\_\_\_  
Chairperson

Dr. Randy K. Avent, President \_\_\_\_\_ Date \_\_\_\_\_

## PRESIDENT'S EMPLOYMENT AGREEMENT

This President's Employment Agreement (the "Agreement") is entered into by the **Florida Polytechnic University Board of Trustees** ("the Board" or "the Board of Trustees"), a public body corporate of the State of Florida, on behalf of Florida Polytechnic University ("University"), and **Dr. Randy K. Avent** ("President").

### Background

WHEREAS, the Board, acting on behalf of Florida Polytechnic University (the "University"), has the authority to select and employ the President of the University; and

WHEREAS, the Board previously ~~has~~ selected Dr. Randy Avent to serve as President of the University, subject to confirmation of the Board of Governors; and

WHEREAS, the Board wishes to continue to employ Dr. Randy Avent as the University's President, and Dr. Randy Avent wishes to serve as President and be a University employee, subject to the terms and conditions of this Agreement; ~~and~~

~~WHEREAS, all prior acts of the Board and its Presidential Search Committee were confirmed by the Board;~~

NOW, THEREFORE, in consideration of mutual promises and other good and valuable consideration, the receipt and sufficiency of which is acknowledged by the parties, the parties agree to this Agreement as follows:

### 1.0 Powers and Duties of President While Serving as President

1.1 The President reports to the Board and is the Corporate Secretary of the Board and the Chief Executive Officer of the University, subject to the supervision of the Board, the laws of Florida, and the rules, regulations, and policies of the Board, the University and the Board of Governors. During the Presidential Appointment Term (as defined in section 3.1 below), the President ~~shall have~~has the powers and duties reserved to the position of president by the Florida Statutes and the University regulations and other actions of the Board (collectively "Duties"), as they presently exist or may hereafter be amended. The President and the Board acknowledge and agree that the Duties hereunder are and shall be consistent with those customary for the position of a university president, including, but not limited to educational leadership, faculty relations, budgeting, long-range planning, fundraising, public relations, student services, recruitment of personnel, appointment, promotion and dismissal of all faculty and staff members, as well as any such additional duties commensurate with such position as may be specified from time-to-time by the Board. The President ~~shall have~~has the full power and authority to direct the operation and management of the University, subject to the direction, control and instructions of the Board.

## 2.0 Best Efforts While Serving as President

- 2.1 During the Presidential Appointment Term, the President will diligently devote his full professional time, ability, and attention to the day-to-day operations of the University, including without limitation, all administrative, executive and academic functions.
- 2.2 During the Presidential Appointment Term, the President's expenditure of reasonable amounts of time for personal or outside business, as well as non-University related charitable and professional development activities, shall not be deemed a breach of this Agreement, provided such activities do not interfere with the services required to be rendered to the University under the provisions of this Agreement, Part III of Chapter 112 of the Florida Statutes: Code of Ethics for Public Officers and Employees, and applicable regulations or policies of the Board of Trustees or University.
- 2.3 The President shall not knowingly engage in any activity that may be competitive with or adverse to the best interests of the Board of Trustees or the University.
- 2.4 During the Presidential Appointment Term, the President shall seek approval from the Board prior to agreeing to serve on any boards of directors or engaging in outside employment, business or professional activities subject to the provisions of University regulation or policy. Any and all income or other compensation earned by the President in connection with approved non-University outside activities shall be paid to and retained by him, and such income or other compensation shall have no effect on the amount of salary, compensation, or benefits he is otherwise entitled to receive under this Agreement.
- 2.5 During the Presidential Appointment Term, the President shall perform the duties of President-president for all existing and future campuses of the University, and for and at such other place or places as the Board deems appropriate for the interests, needs, business, or goals of the University.

## 3.0 Presidential Appointment Term; Evaluation; Renewal

- 3.1 Presidential Appointment Term. The appointment as President ("Presidential Appointment Term") ~~shall be for a term of five (5) years, commencing-commenced~~ on July 7, 2014 and ~~ending-ends~~ on ~~June 30, 2019~~ July 6, 2021. This appointment and the Agreement are renewable by mutual written consent of the parties. This appointment and this Agreement is subject to prior termination as provided for in this Agreement, and by the applicable laws of the State of Florida, the regulations and policies of the Board of Trustees, the University, and the Florida Board of Governors.

- 3.2 ~~Goals and Objectives While Serving as President. On or before October 1, 2014 for fiscal year 2014-2015, and on or b~~Before June 1 of each year, thereafter, the President shall will provide the Chair of the Board of Trustees (“Chair”) with a list of proposed goals and objectives for the next upcoming fiscal year. The proposed goals and objectives shall be related to, and in furtherance of, the University’s strategic plan goals, work plan and accountability report, and the Board of Governors’ strategic plan and performance funding model , and other priorities as established by the Board of Trustees or the Board of Governors. ~~The Chair and the President shall discuss and agree upon the goals and objectives for the next fiscal year.~~ The goals and objectives shall then are be presented to the Board for discussion and approval. The Board and the President may agree to revise the goals and objectives as necessary during the fiscal year.
- 3.3 ~~Annual Evaluation While Serving as President. On or before April 1, 2015, and on or before April 1 each year thereafter w~~While the President is employed as ~~President~~president, the President shall initiate the evaluation process for the prior fiscal year ending June 30 of such year by preparing a self-appraisal of his performance for submission to the Chair and evaluation by the Board, its designee, or both, in accordance with directives, policies and procedures established by the Board as the Board may deem appropriate. The President ~~agrees to~~will furnish any additional information requested by the Chair to aid the Board in its annual performance review of the President. ~~For the self-appraisal that will be delivered by the President on or before May 1, the Chair, in consultation with the President, will select a consultant who will perform a 360 degree review of the President and his administration’s performance. The consultant’s 360 degree review will be provided to the Board and the President and considered in its annual evaluation of the President for that year.~~ Pursuant to Board of Governors Regulations, the Chair shall will solicit input from the Chair of the Board of Governors during the evaluation process. The Board shall will complete the annual evaluation and make any compensation award under Section 5.3 ~~no later than September 30 of each year, commencing September 15, 2015.~~

#### 4.0 Salary

- 4.1 Base Salary. As compensation for all services rendered by the President as ~~President~~president pursuant to this Agreement, the University will pay the President according to the pay plan for Executive Service employees, an ~~initial~~ annual base salary of ~~Three Hundred Eighty five Thousand Dollars~~Four Hundred forty-one thousand seven hundred ninety-seven dollars (\$~~385,000~~441,797) as of July 7, 2020 (“Presidential Base Salary), of which a maximum of Two Hundred Thousand Dollars (\$200,000) can be paid for with state funds. This amount shall be paid in accordance with the

University's standard payroll practices, with appropriate deductions for taxes and benefits. ~~In addition to the Base Salary, the President shall receive a one time payment of Thirty-eight Thousand Five hundred Dollars (\$38,500) to be paid within thirty (30) days of commencement of the Presidential Appointment Term.~~ The President shall be responsible for any income tax liability incurred as a result of this Agreement.

- 4.2 Increase to Presidential Base Salary During Annual Evaluation. Effective with the Board's evaluation of the President's performance for the July 1, ~~2014-2019~~ to June 30, ~~2015-2020~~ fiscal year and continuing each year thereafter while he serves as President~~resident~~, the President's salary shall be reviewed annually for increase by the Board in conjunction with the Board's evaluation of job performance, as set forth in Section 3.3 of this Agreement. The President shall each year ~~following the first year~~ also be eligible for any salary increase generally applicable to University employees in his employment classification, but in no event shall the Base Salary increase be less than Three and One-Half Percent (3.5%) of the prior year's Base Salary.

## 5.0 Other Compensation While Serving as President

- 5.1 Insurance, Annual and Sick Leave. While serving as president ~~During~~ the Presidential Appointment Term, the President shall receive leave and other usual and customary benefits equal to those provided to Florida Polytechnic University Executive Service employees, except as provided in this Agreement.
- 5.2 ~~Intentionally Deleted. Relocation Reimbursement. Payable during the first two annual terms of the President's employment under this Agreement, the President shall be eligible to receive reimbursement of up to Thirty Thousand Dollars (\$30,000) for moving, relocation and travel expenses incurred by the President and his family in connection with travel to and from the Lakeland area, locating and securing appropriate housing, moving and storage of personal property, and other associated expenses for moving from his current home to the Lakeland area.~~
- 5.3 Effective with the Board's evaluation of the President's performance for the July 1, ~~2014-2019~~ – June 30, ~~2015-2020~~ fiscal year and continuing each year thereafter while he serves as President~~resident~~, the President shall be eligible for performance compensation; ~~and he shall also be entitled to an accreditation bonus;~~ as follows:
- 5.3.1 Performance Compensation. The President shall be eligible for performance compensation ~~of up to Twenty Percent (20%) as a percent~~ of his annual base salary then in effect. However, if the President receives an overall evaluation of "meets expectation" or

higher from the Board in his annual evaluation, the amount shall be not less than Twenty Percent (20%). The award of performance compensation ~~is discretionary and~~ shall be awarded based on the Board's assessment, in its sole and absolute discretion, of the President's performance as President during the fiscal year under review. ~~The Board may award any amount of performance compensation from zero to the maximum identified above.~~ In making its determination, the Board shall consider the President's achievement of the annual goals and objectives set pursuant to Section 3.2, the evaluation results pursuant to Section 3.3, and/or other criteria set by the Board prior to the start of the evaluation period and provided to the President in writing. The President shall receive such award if he remains as President through the end of a fiscal year for which performance is determined even though the award is determined later. Any performance compensation awarded shall be paid to the President within 90 days of the date on which it is awarded.

- 5.3.2 ~~Intentionally Deleted. Accreditation Bonus. Within thirty (30) days of the University receiving final confirmation that the University has received its accreditation from the Southern Association of Colleges and Schools, the President shall be paid a bonus of Fifty Thousand Dollars (\$50,000).~~

## 6.0 Annual Appropriation and Source of Funding

- 6.1 The performance of the University of any of its obligations under this contract shall be subject to and contingent upon the availability of funds appropriated by the legislature for the current and future periods.
- 6.2 While the President is serving as president ~~During~~ the term of this Agreement and contingent upon the availability of funds, the Board shall not be responsible for, but authorizes this compensation arrangement and shall use its best efforts to cause the Florida Polytechnic University Foundation, Inc. ("Foundation") to contribute to the University the portions of all payments provided for in this Agreement that exceed the limits set forth in Florida Statutes Section 1012.975. The Board further authorizes the use of the University's auxiliary funds to pay for the President's compensation which exceeds the limits set forth in the statute.

## 7.0 Other Benefits

- 7.1 The President ~~shall be~~ eligible for all applicable State of Florida and University developed benefits and perquisite programs as authorized by the

legislature or other authorized governing bodies. The Board further agrees that while serving as president, -the President ~~shall be~~ is entitled, at all times, to the state sponsored life insurance benefits applicable to Executive Service personnel.

- 7.2 Supplemental Retirement Benefit. During each year of the Presidential Appointment Term, and while serving as president, the President will receive and reserve on a quarterly basis, in addition to his base salary, fifteen percent (15%) of the President's annual base salary which shall be used to establish a supplemental retirement benefit in a form reasonably acceptable to the President, such as an annuity or other tax deferred product to supplement his retirement. The FPU Foundation will contribute the sum required to fund this retirement benefit or, if permitted, the sum will be paid, in whole or in part, with University auxiliary funds.
- 7.3 Business/Travel Expenses. During the Presidential Appointment Term and while serving as President, the University ~~shall will~~ cover the cost of the President's reasonable business expenses, including professional dues, meetings, business travel, and entertainment. In addition, when the President's spouse travels with him on University-related business while he is serving as ~~p~~President, the FPU Foundation shall cover the cost of her reasonable travel expenses for travel serving a bona fide business purpose. Funding for spouse travel is only authorized in conjunction with the President's travel outside of the University service area.

## 8.0 Housing

- 8.1 The University deems it to be in its best interest that the President, while serving as ~~p~~President, ~~is maintain a residence in the Lakeland area in which he is~~ required to reside as a condition of his employment, in the University's Presidential Home, and to the extent reasonable, to use his the residence in the performance of his duties hereunder including, but not limited to receptions and meetings benefiting the University. The University is responsible for providing ~~During the first year of the Presidential Appointment Term, pursuant to an arrangement agreed upon between the President and the Chair, the University will cooperate with the President to provide a suitable interim residence for the President, including utilities, maintenance, service fees, internet and television service for the Presidential Home, with a total cost to the University not to exceed Two Thousand Five Hundred Dollars (\$2,500) per month. During this first year, the President and the University agree to work cooperatively to arrange for a permanent residence for the President to be provided by the University and in which the President shall be required to reside as a condition of his employment. The parties acknowledge that the arrangement provided herein during the first year may temporarily continue beyond the first term until the permanent residence is available.~~

## 9.0 Automobile

9.1 During the Presidential Appointment Term and while serving as pPresident, the University or the FPU Foundation will provide a flat monthly automobile allowance in the amount of \$850. The allowance will cover all automobile related expenses including, but not limited to, gas, maintenance, and repairs. full-sized automobile acceptable to the President for the President's University business related and other use, with a new vehicle being provided not less than every three (3) years. The University will reimburse the President when he rents a vehicle for purposes of traveling long distance for University business.

## 10.0 Professional Dues, Meeting and Entertainment

10.1 During the Presidential Appointment Term and while serving as pPresident, the Board will authorize and provide for the President's reasonable expenses related to his joining and participating in University-related social, professional or service organizations and activities. The Board may fulfill this obligation through the use of available FPU Foundation funds.

## 11.0 Expense Receipts and Documentation

11.1 The President agrees to maintain and furnish to the Board Controller an accounting of reimbursable expenses and membership dues and fees provided for in this Agreement in reasonable detail and consistent with University policies, standards, and procedures and applicable State law on no less than a monthly basis, or as requested. Following the President's submission of an accounting, the University shall promptly reimburse the President for such expenses, membership dues and fees in accordance with University policies, standards and procedures and applicable State law.

## 12.0 Termination of the Contract for Cause

12.1 Notwithstanding anything in this Agreement to the contrary, the parties agree that, upon a vote of two thirds (2/3) of the Board of Trustees, the Board may terminate this Agreement at any time for "just cause" (as hereinafter defined).

12.2 "Just cause" shall be deemed to include, but shall not be limited to:  
(i) a deliberate or material violation by the President of the Duties or his refusal or unwillingness to perform the Duties in good faith, during his full business time, or to the best of his abilities if, within thirty (30) days following

the President's receipt of the written notice of what the Board considers to be the violation, the President fails to cure the same;

(ii) materially harmful neglect of essential responsibilities of the President's duties; (iii) material dishonesty or serious misconduct that adversely affects the University; (iv) the commission of any felony or of a misdemeanor involving moral turpitude; or (v) a material, significant, or repetitive breach of this Agreement.

- 12.3 In the event of termination for "just cause" by the Board, the President's employment with the University shall cease. The Board's obligations under this Agreement in such event shall be limited to: (a) the prorated payment of his salary through the date of termination; (b) the payment of any performance compensation or supplemental retirement benefit that is awarded and/or due, though unpaid as of the date of termination; (c) the payment of accrued and unused leave through the date of termination in accordance with University regulation; and (d) the payment of any unpaid reimbursable business/travel/relocation expenses incurred prior to the date of termination and documented by him in accordance with University procedures. The President shall not be entitled to any further employment, compensation or benefits from the University in any capacity except for benefits required to be continued by law.

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- 13.2 The President may terminate the Agreement at any time prior to its term expiration without cause, provided that the President gives ninety (90) days prior written notice to the Board of Trustees. Upon receiving notice from the President, the Chair may waive any portion or the entire notice period at his/her discretion and terminate earlier.

### **14.0 Professorial Appointment**

- 14.1 If the President is terminated without cause or resigns from his position as president and chooses to join the teaching faculty of the University upon conclusion of his presidency, he will be eligible for sabbatical leave of one calendar year commencing immediately after his employment as president

ends and prior to joining the University's faculty. Prior to beginning any sabbatical leave, he will have committed to fill a faculty position at the rank of "Full Professor" or other mutually agreeable faculty position. Upon conclusion of the sabbatical, if taken, President's teaching, research, and service responsibilities will be substantially equivalent to similarly situated faculty positions.

- 14.2 During this first year post-presidency, the President's initial 12 month base salary, whether on sabbatical leave or serving as Professor ("initial base salary as a Professor"), will be 90% of his final annual base salary as President, not to include any deferred compensation or performance incentive payment. During his second year post-presidency and for the balance of the Presidential Appointment Term, his 12 month base salary as a Professor will be 90% of his initial base salary as a Professor, and he will be eligible for any salary increments provided to regular, full-time faculty members. Usual faculty and administrative processes will determine such salary increments. While on sabbatical, if any, and while serving as a Professor, he shall receive leave and other usual and customary benefits equal to those provided to University Faculty members.

## **15.0 Termination due to Resignation, Death or Disability**

- 15.1 Notwithstanding anything in this Agreement to the contrary, this Agreement shall terminate upon the President's resignation from employment at the University, death, or "permanent disability" (as hereinafter defined). Such termination shall be deemed to have occurred for "just cause" and the President's employment with the University shall cease, and he shall not be entitled to any further employment, compensation or benefits from the University in any capacity except for compensation as provided in Section 12.3 and for benefits required to be continued by law. For purposes of this Agreement, "permanent disability" shall be defined as the President's inability to perform the applicable job duties for a minimum of six (6) continuous months.
- 15.2 In the event of the President's death during the term of this Agreement, his spouse or, if none, his estate, shall receive all accrued benefits as of the date of his death to the extent permitted by law.

## **16.0 Non-binding Mediation**

- 16.1 The Board and the President agree that if any dispute arises concerning this Agreement, they will first attempt in good faith to resolve the dispute to their mutual satisfaction. If they are unable to do so, the Board and the President agree that they will submit the dispute to non-binding mediation in Lakeland, Florida, in accordance with the Employment Arbitration Rules

and Mediation Procedures of the American Arbitration Association then in effect. The Board and the President will use their best efforts, to the extent permitted under Florida law, to keep any disputes and any efforts to resolve disputes confidential, informing only their respective legal counsel and other persons determined in good faith to have a need to know. To the extent permitted under Florida law, they will use their best efforts to ensure that such persons do not further disclose any such information. The Board and the President agree that no mediator or arbitrator may have any material ongoing relationship with the University.

**17.0 Notice**

17.1 Unless and until changed by a party giving written notice to the other, the addresses below shall be the addresses to which all notices required or allowed by this Agreement shall be sent:

**If to the Board:**  
Chairperson  
Florida Polytechnic University Board of Trustees  
Florida Polytechnic University  
~~439 S. Florida Avenue~~  
~~Suite 300~~ 4700 Research Way  
Lakeland, Florida ~~33801~~ 33805-8531

With a copy to:  
General Counsel  
Florida Polytechnic University  
4700 Research Way  
Lakeland, Florida 33805-8531 ~~439 S. Florida Avenue~~  
~~Suite 300~~  
~~Lakeland, Florida 33801~~

**If to the President:**  
\_\_\_\_\_  
\_\_\_\_\_

**18.0 Entire Agreement: Modification**

18.1 This Agreement constitutes the entire understanding of the parties and supersedes any and all prior or contemporaneous representations or Agreements, whether written or oral, between the parties. There are no

other promises, understandings, obligations, inducements, or considerations between the parties or owed by either party to the other that are not set forth in this Agreement.

18.2 This Agreement cannot be changed or modified unless accomplished in writing and signed by the parties.

## **19.0 Severability**

19.1 The terms of this Agreement are severable, meaning that if any term or provision is declared by a court of competent jurisdiction to be illegal, void, or unenforceable, the remainder of the provisions shall continue to be valid and enforceable to the extent possible.

## **20.0 Governing Law and Forum**

20.1 This Agreement shall be interpreted and construed in accordance with the laws of the State of Florida, excluding choice of law rules.

20.2 Notwithstanding any other terms and conditions of this Agreement, either party may bring an action for the sole and limited purpose of enforcing the terms and conditions of this Agreement in any court of competent jurisdiction. Venue shall be in Polk County, Florida.

## **21.0 Understanding of the Agreement**

21.1 Both parties represent that they have thoroughly read this Agreement, that they understand it to be a binding contract, that they understand each provision, term, and condition of this Agreement as well as its legal effect, and that they have signed the Agreement voluntarily and of their own free will with the intention to comply with its terms. Both parties have participated in the preparation of this Agreement. Therefore, the Agreement shall not be construed against or in favor of either party based upon which party was responsible for the drafting of the Agreement.

## **22.0 Public Disclosure of the Agreement**

22.1 Both Parties agree and acknowledge that this Agreement is subject to the Florida public records laws and may, therefore, be subject to disclosure by and in the manner provided by law.

## **23.0 Waiver**

23.1 No delay or failure to enforce any provision of this Agreement shall constitute a waiver or limitation of rights enforceable under this Agreement.

## **24.0 Assignment**

24.1 This Agreement is not assignable, but shall be binding upon the heirs, administrators, personal representatives, successors, and assigns of both parties.

## **25.0 Execution and Counterparts**

25.1 This Agreement may be executed in counterparts and by the parties on separate counterparts each of which, when so executed, shall constitute but one and the same instrument.

## **26.0 No Trust Fund**

26.1 Nothing contained in this Agreement and no action taken pursuant to the provisions of this Agreement shall create or be construed to create a trust of any kind. To the extent that the President acquires a right to receive payments from the University, such rights shall be no greater than the right of any unsecured, general creditor of the University.

## **27.0 Taxes**

27.1 The President understands that the services to be rendered by him under this Agreement will cause him to recognize taxable income, which is considered under the Internal Revenue Code of 1986, as amended, and applicable regulations thereunder as compensation income subject to the withholding of income tax (any social security or other employment taxes). The President hereby consents to the withholding of such taxes as are required by law. All sums payable to the President under this Agreement will be reduced by all federal, state and other withholdings and similar taxes and payments required by law.

## **28.0 Miscellaneous**

28.1 The headings in this Agreement are for convenience only and shall not be used in construing or interpreting this Agreement. The terms "Board," "Board of Trustees" and "University," where applicable or appropriate, shall include or refer to any duly authorized board, committee, officer, or employee of said entity. Whenever the context requires, the masculine shall include the feminine and neuter, the singular shall include the plural, and conversely.

28.2 General Cooperation Covenant. Without limitation of the obligations specified in the Agreement and applicable University rules, regulations, policies and procedures, the President agrees to cooperate fully in any review or investigation involving University matters in which he may possess pertinent information. This obligations shall survive the expiration or earlier termination of this Agreement.

THEREFORE, Dr. Randy Avent, President, and ~~Mr. Robert H. Gidel~~\_\_\_\_\_, Chair and authorized representative of the Florida Polytechnic University Board of Trustees, have executed this Agreement on the dates appearing below.

**Florida Polytechnic University Board  
of Trustees**

By: ~~Robert H. Gidel~~\_\_\_\_\_ Date \_\_\_\_\_  
Chairperson

Dr. Randy K. Avent, President Date \_\_\_\_\_



**FLORIDA POLYTECHNIC**  
UNIVERSITY

**SUS 2018-2019**  
**Presidential Compensation Survey**

**Governance Committee**

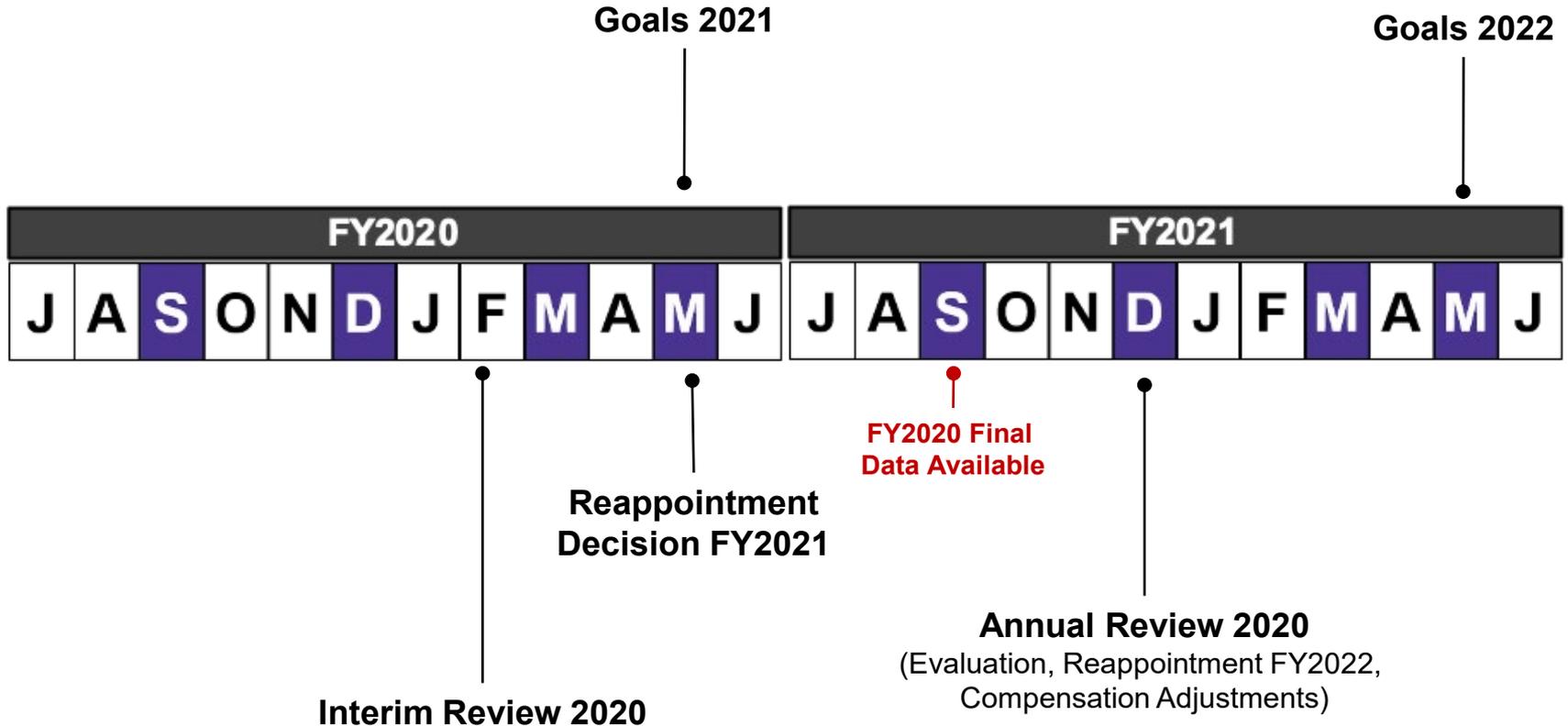
**February 25, 2020**

# SUS 2018-2019 Presidential Compensation Survey

| University | Presidents Name    | Total Salary | % Bonus | Total Comp.  |
|------------|--------------------|--------------|---------|--------------|
| UF         | W. Kent Fuchs      | \$899,087.00 | 4%      | \$ 1,259,140 |
| FSU        | John Thrasher      | \$595,159.00 | 50%     | \$ 1,055,216 |
| USF        | Judy Genshaft      | \$505,837.00 | 58%     | \$ 919,297   |
| FIU        | Mark B. Rosenberg  | \$502,579.00 | 17%     | \$ 713,699   |
| FAU        | John William Kelly | \$483,065.00 | 29%     | \$ 704,216   |
| FPOLY      | Randy Avent *      | \$441,800.00 | 12%     | \$ 570,161   |
| UNF        | David Szymanski    | \$405,000.00 | 0%      | \$ 562,527   |
| UWF        | Martha Saunders    | \$373,228.00 | 19%     | \$ 541,980   |
| FAMU       | Larry Robinson     | \$419,650.00 | 14%     | \$ 533,800   |
| FGCU       | Michael V. Martin  | \$348,659.00 | 29%     | \$ 500,452   |
| NCF        | Donal B. O'Shea    | \$305,000.00 | 8%      | \$ 428,375   |

\* When the President's Supplemental Retirement Plan was created by the Board in 2018, Dr. Avent was paid out the deferred retirement contributions that have been collected in his previous years of employment. Such payment is not reflected in the above Total Compensation.

# Transitional Calendar



**President's Annual Review**  
**(July 1, 2019 to June 30, 2020)**

Trustee's name \_\_\_\_\_

**DEGREE ALIGNMENT: BUILD PROMINENT PROGRAMS IN HIGH PAYING INDUSTRIES**

**Priority 1: Enroll a high-quality and diverse incoming class**

- Not Achieved    Partially Achieved    Achieved    Exceeded    Far Exceeded

Comments:

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**Priority 2: Grow a faculty body committed to excellence**

- Not Achieved    Partially Achieved    Achieved    Exceeded    Far Exceeded

Comments:

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**Priority 3: Improve instructional effectiveness and consistency of quality**

- Not Achieved    Partially Achieved    Achieved    Exceeded    Far Exceeded

Comments:

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**President's Annual Review**  
**(July 1, 2019 to June 30, 2020)**

Priority 4: Grow the number of academic programs in strategic disciplines

- Not Achieved    Partially Achieved    Achieved    Exceeded    Far Exceeded

Comments:

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Priority 5: Mature and grow the graduate program

- Not Achieved    Partially Achieved    Achieved    Exceeded    Far Exceeded

Comments:

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**STUDENT SUCCESS: PREPARE STUDENTS FOR A LIFETIME OF SUCCESS**

Priority 6: Help students achieve academic goals

- Not Achieved    Partially Achieved    Achieved    Exceeded    Far Exceeded

Comments:

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**President's Annual Review**  
**(July 1, 2019 to June 30, 2020)**

Priority 7: Build essential skills in communication, leadership, design, and business

- Not Achieved    Partially Achieved    Achieved    Exceeded    Far Exceeded

Comments:

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Priority 8: Embed projects in a sustainable manner to enhance professional development

- Not Achieved    Partially Achieved    Achieved    Exceeded    Far Exceeded

Comments:

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Priority 9: Support students through work experience programs and career opportunities

- Not Achieved    Partially Achieved    Achieved    Exceeded    Far Exceeded

Comments:

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**President's Annual Review**  
**(July 1, 2019 to June 30, 2020)**

**ECONOMIC DEVELOPMENT: GROW A HIGH-TECHNOLOGY ECONOMY AROUND FLORIDA POLY**

Priority 10: Conduct and execute a realistic and sustainable industry interaction model

- Not Achieved    Partially Achieved    Achieved    Exceeded    Far Exceeded

Comments:

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Priority 11: Conduct applied research to strengthen University impact

- Not Achieved    Partially Achieved    Achieved    Exceeded    Far Exceeded

Comments:

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Priority 12: Develop extended campus to support University growth

- Not Achieved    Partially Achieved    Achieved    Exceeded    Far Exceeded

Comments:

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**President's Annual Review**  
**(July 1, 2019 to June 30, 2020)**

**AFFORDABILITY: MAXIMIZE VALUE FOR THE STUDENT**

Priority 13: Create a strong student user experience

- Not Achieved    Partially Achieved    Achieved    Exceeded    Far Exceeded

Comments:

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Priority 14: Concentrate spending on academic programs

- Not Achieved    Partially Achieved    Achieved    Exceeded    Far Exceeded

Comments:

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Priority 15: Continue advocacy efforts to support University growth and reputation

- Not Achieved    Partially Achieved    Achieved    Exceeded    Far Exceeded

Comments:

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**President's Annual Review**  
**(July 1, 2019 to June 30, 2020)**

**Priority 16: Ensure a highly effective organization**

- Not Achieved     Partially Achieved     Achieved     Exceeded     Far Exceeded

Comments:

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**OVERALL RATING**

- Not Achieved     Partially Achieved     Achieved     Exceeded     Far Exceeded

Comments

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**GENERAL COMMENTS**

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**Florida Polytechnic University  
Governance Committee  
Board of Trustees  
January 25, 2020**

**Subject: Regulation FPU-1.01 Service of Process**

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**Proposed Action**

Recommend approval of proposed Regulation FPU-1.01 Service of Process to the Board of Trustees.

**Background Information**

Florida Statutes and the Board's bylaws require that service of process related to lawsuits against the University or its board of trustees, officers, directors or employees serving in their official capacities must be made on the general counsel when the Board chair is not present. However, process servers have recently attempted to make service on various other departments at the J.D. Alexander Campus instead of serving the documents at the Office of the General Counsel, which is located at Poly South. By adopting a regulation which provides specific notice of the requirement and information necessary to assist process servers in complying with the requirement (such as the physical address and the mailing address of the Office of the General Counsel) we hope to ensure that the administration has immediate notice of lawsuits and the general counsel has adequate time to respond to each lawsuit.

The Notice of Proposed Regulation was published on the University's website on January 23, 2020. No comments were received during the review and comment period.

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**Supporting Documentation:** Proposed Regulation FPU-1.01 Service of Process

**Prepared by:** David J. Brunell, Assistant General Counsel

## **THE FLORIDA POLYTECHNIC UNIVERSITY BOARD OF TRUSTEES**

### **FPU-1.01 Service of Process.**

In all suits against Florida Polytechnic University, its board of trustees, officers, directors, or employees serving in their official capacities, service of process must be made on either the chair of the board of trustees, in the absence of the chair, the corporate secretary's designee is the University's General Counsel or any attorney employed in the Office of the General Counsel. Service must be made in person on the Office of the General Counsel currently located at the Florida Polytechnic University offices on the Polk State College Campus, 3425 Winter Lake Road, LTB-2121, Lakeland, Florida 33803. For service by mail—only when permitted by law—the mailing address is Office of the General Counsel, 4700 Research Way, Lakeland, Florida 33805-8531.

Authority: § 1001.72(1), Fla. Stat.

History: New: \_\_\_\_\_