

(j) The ADR Meeting with the Mediator shall be scheduled as soon as practicable after the Mediator has received the Grievant's ADR File. The president's representative shall notify the Grievant and/or the Grievant's representative of the time and place of the ADR Meeting no later than forty-eight (48) hours prior to it being convened.

(k) No person concerned with, or involved in, the assignment dispute shall attempt to lobby the decision of the Mediator.

(l) The ADR Meeting shall be conducted as follows:

(1) The Mediator shall conduct and have total authority at the ADR Meeting. The Mediator may conduct the ADR Meeting in whatever fashion, consistent with this Agreement, which will aid in arriving at a just decision.

(2) The Grievant's representative shall be the sole representative for the Grievant, and the president's representative shall be the sole representative of the University. Each representative may have one individual present to assist in the presentation of the Grievant's case.

(3) Each representative may present documentary evidence from the employee's ADR File, question witnesses, offer arguments and cross-examine witnesses.

(4) The Mediator shall submit to all parties, on Part 4 of the ADR Form within forty-eight (48) hours after the close of the ADR Meeting, a written, binding decision as to whether the assignment was imposed arbitrarily or unreasonably. The decision shall include the reasons for the Mediator's determination.

(5) If the Mediator decides that the Grievant's assignment was imposed arbitrarily or unreasonably, the Mediator may also suggest an appropriate remedy. This suggestion is not binding on the University but shall be used by the president's representative in fashioning an appropriate remedy.

9.13 Mediator Panel.

(a) The president's representative and the UFF Grievance Representative shall meet within two (2) weeks of the ratification of this Agreement for the purpose of selecting an odd-numbered Mediator Panel. The Panel shall consist of no fewer than five (5) and no more than nine (9) individuals, who meet the following qualifications:

- (1) a mediator certified in the state of Florida;
- (2) familiarity with academic assignments at Florida universities;
- (3) an ability to serve on short notice;
- (4) a willingness to serve on the Panel for one academic year; and
- (5) acceptability to both the University and the UFF.

(b) Panel Membership Review. Panel membership may be reviewed at the initiation of the University or the UFF, through written notice provided before the end of preceding fiscal year.

9.14 Expenses. All fees and costs of the Mediator shall be borne equally by the University and the UFF when the UFF represents the Grievant.

Article 10 (TA 9/14/2012)

ARTICLE 10

EMPLOYEE PERFORMANCE EVALUATIONS

10.1 Annual Evaluations.

(a) Policy. Performance evaluations are primarily intended to communicate to an employee a qualitative assessment of that employee's performance of assigned duties by providing written constructive feedback that will assist in improving the employee's performance and expertise. Evaluations may be considered in employment related decisions such as salary, retention, assignments, awards, tenure, and promotion. Each employee's performance shall be evaluated in writing at least once annually. Employees shall be evaluated solely according to the University Criteria for Annual Performance Evaluations and the clarifications thereof provided by the Annual Evaluation Standards and Procedures for their department or unit that were approved most recently but prior to the beginning of the evaluation period.

(b) Annual Evaluation Period. The annual evaluation period shall be the academic year, beginning August 8th, and shall include the preceding summer, as appropriate. The evaluation period for research may be longer than one year if specified in the approved Annual Evaluation Standards and Procedures. The evaluation period used to distinguish between ratings of Conditional and Unsatisfactory in any area of assignment may be longer than one year if specified in the approved Annual Evaluation Standards and Procedures.

(c) Evaluation Ratings. Evaluations shall use the rating categories of outstanding, above satisfactory, satisfactory, conditional, and unsatisfactory in each area of assignment and for the overall evaluation. The overall evaluation shall be consistent with the employee's annual assignment, the evaluations in each assignment area, and the department or unit's Annual Evaluation Standards and Procedures. An employee shall not be evaluated in and the overall evaluation shall not be affected by an area in which the employee had no assignment. A department or unit's Annual Evaluation Standards and Procedures may require an employee to receive a minimum rating of Satisfactory in each area of assignment with an assignment of effort of five percent (5%) or more in order to receive an overall rating of Satisfactory or above.

(d) University Criteria for Annual Performance Evaluations. The annual performance evaluation shall be based upon the professional performance of assigned duties and shall carefully consider the nature of the assignments and quality of the performance in terms, where applicable, of:

(1) Teaching effectiveness, including effectiveness in imparting knowledge, information, and ideas by means or methods such as lecture, discussion, assignment and recitation, demonstration, laboratory exercise, workshop, practical experience, student perceptions of instruction, assessment of and engagement with student work, and direct consultation with students.

a. The evaluation shall include consideration of effectiveness in imparting knowledge and skills, and effectiveness in stimulating students' critical thinking and/or creative abilities, the development or revision of curriculum and course structure, effective student performance evaluation procedures, and adherence to accepted standards of professional behavior in meeting responsibilities to students. The learning objectives of each course, the means of assessing learning objectives, and the outcomes of the assessment should be assessed as part of the teaching performance.

b. The evaluation shall include consideration of other assigned university teaching duties, such as advising, counseling, supervision, or duties of the position held by the employee.

c. The evaluator shall take into account any relevant materials submitted by the employee such as class notes, syllabi, student exams and assignments, an employee's teaching portfolio, results of peer evaluations of teaching, and any other materials relevant to the employee's instructional assignment.

d. The evaluator shall consider all information available in forming an assessment of teaching effectiveness.

(2) Contribution to the discovery of new knowledge, development of new educational techniques, and other forms of research/scholarship/creative activity.

a. Evidence of research/scholarship/creative activity, either print or electronic, shall include, but not be limited to, as appropriate, published books; chapters in books; articles and papers in professional journals; musical compositions, paintings, sculpture; works of performing art;

papers presented at meetings of professional societies; funded grant activities; reviews; and research and creative activity that has not yet resulted in publication, funding, display, or performance.

b. The evaluation shall include consideration of the quality and quantity of the employee's research/scholarship and other creative programs and contributions during the evaluation period, and recognition by the academic or professional community of what has been accomplished.

(3) Performance of assigned professional duties such as library instruction, public and technical services librarianship, library collection development, advising, counseling, and supervision as described in a Position Description, if any, of the position held by the employee.

(4) Public service that extends professional or discipline-related contributions to the community; the State, including public schools; and the national and international community. Such service includes contributions to scholarly and professional conferences and organizations, governmental boards, agencies, and commissions that are beneficial to such groups and individuals.

(5) Service within the university and participation in the governance processes of the institution through significant service on committees, councils, and senates, attendance at commencement, and the employee's contributions to the governance of the institution through participation in regular departmental or college meetings.

(6) Other assigned university duties such as academic administration.

(e) Annual Evaluation Standards and Procedures (AESPs). Each University department or unit shall maintain written AESPs by which to evaluate each employee according to the University Criteria for Annual Performance Evaluations specified in this article. AESPs shall be clarifications of the University criteria in terms tailored to the department or unit's discipline(s), employee positions (e.g., tenured or tenure earning, non-tenure-earning, library faculty), and assigned duties. These discipline-specific clarifications shall:

(1) take into consideration the University's mission, the college's or division's mission the department's mission, and the reasonable expectations for the different ranks;

(2) be adaptable to various assigned duties, so that department employees have an equitable opportunity to earn merit increases, regardless of their assignments;

(3) address, as appropriate, how the department values various research/scholarship/creative activities and the outlets in which employees might be reasonably expected to publish, exhibit, or perform.

(4) be detailed enough that a reasonable employee should not be uncertain or confused about what performance or accomplishment is sufficient in teaching, research/scholarship/creative activity, professional duties commonly assigned in the department or unit, and service to earn each performance evaluation rating. The clarifications shall identify for each assignment area some representative examples of the achievements or performance characteristics that would earn each performance evaluation rating, consistent with an employee's assigned duties. Examples shall be included for typical assignments within the department or unit (e.g., for 2-2 and 3-2 teaching assignments with correspondingly larger and smaller research assignments, if typically assigned), and must demonstrate the equitable opportunity required by (2) above.

(f) Process for developing AESPs.

(1) In tenure-granting departments or units, a committee of six (6) members including four (4) tenured unit employees elected by the tenured employees in the unit, the department chair or unit head, and one representative appointed by the dean will develop or revise AESPs. If such a department or unit has fewer than four (4) tenured employees, the entire department or unit shall serve on the committee, along with the department chair or unit head and one member appointed by the dean. In non-tenure-granting units, the committee will consist of four (4) unit employees elected by the employees in the unit, along with unit head and one member appointed by the appropriate vice president.

(2) In tenure-granting departments or units, tenured employees in the department or unit shall propose AESPs or changes thereto as developed by the committee by a majority vote in a secret ballot. If such a department or unit has fewer than four (4) tenured employees, all employees in the department or unit shall participate in the vote until such time as the department or unit has four (4) or

more tenured employees. If a majority exists, the proposed AESPs shall be forwarded to the dean. In non-tenure granting units, all employees in the unit shall participate in the vote and, if a majority exists, the proposed AESPs shall be forwarded to the appropriate vice president.

(3) The proposed AESPs or revisions thereto shall be reviewed by the dean or vice president for consistency with the missions and goals of the college or division. If the dean/vice president determines the proposed AESPs do not meet the mission and goals of the college/division, the dean/vice president may refer them back to the department or unit for revision with a written statement of the reasons for non-acceptance.

(4) Once the dean or vice president determines the proposed AESPs or revisions thereto meet the mission and goals of the college or division, they shall be forwarded to the president or president's representative for review to ensure they are consistent with the mission and goals of the University and comply with this Agreement. If the president or president's representative determines that the proposed AESPs or revisions thereto meet the missions and goals of the university and comply with this Agreement, they shall be approved. If not, they shall be referred back to the college or division for revision by the department or unit with a written statement of reasons for non-approval.

(5) If, one year after the initiation of the process described in this subsection, AESPs acceptable to the dean/vice president and president or president's representative have not been approved by the department or unit, draft AESPs, committee and department votes, and comments from employees, committee, and the dean/vice president shall be forwarded to the president or president's representative for consideration. The president or president's representative shall, in conjunction with the dean/vice president and department head, and in consideration of the opinions of the employees and of approved AESPs for other departments and units, develop and institute new department or unit AESPs. These AESPs shall remain in place until such time as new AESPs are developed and approved according to the procedure outlined in this subsection.

(6) Approved AESPs and revisions thereto shall be kept on file in the department or unit office. Upon written request, employees in each department or unit shall be provided an electronic copy of that department or unit's current AESPs.

(7) Review of AESPs must occur on a regular basis and must begin no later than five (5) years after the adoption or most recent review of those AESPs. The president or president's representative, the dean, or a majority of the tenured employees in the department or unit may initiate the review of AESPs at any time. In non-tenure-granting units, the vice president or a majority of the employees in the unit may initiate a review of the AESPs at any time. The process for reviewing a department or unit's AESPs shall be the same as the process for developing them, as described in this article. The effective date for AESPs or revisions thereto shall be the start of the annual evaluation period that begins after the date the AESPs or revisions are approved by the president or president's representative and the employees of the department or unit are so informed in writing.

(8) If a department or unit is in the process of developing or revising its AESPs when this article is ratified, the department or unit shall begin that process anew, following the procedures required by this article. If a department's or unit's AESPs are not in compliance with this article when it is ratified, the department or unit shall begin the revision process required by this article no later than the Fall semester 2011.

(g) Process for and Sources of Evaluation.

(1) Employee Annual Report. Every year, each employee shall submit to the department chair or unit head (hereafter, "evaluator") a report of the employee's performance in each area of assignment. This report shall be due to the evaluator no sooner than fourteen (14) days after the end of the evaluation period and no sooner than fourteen (14) days after receipt by the employee of all University provided materials required to produce the report, including student evaluations and department or unit and college averages for these evaluations. The employee annual report may include any interpretive comments and supporting data that the employee deems appropriate for evaluating the employee's performance.

(2) The evaluator shall also consider, where appropriate and available, information from the following sources: immediate supervisor, peers, students, employee, other university officials who have responsibility for supervision of the employee, and individuals to whom the employee may be responsible in the course of a service assignment, including public school officials when the employee has a service assignment to the public schools. Copies of materials to be used in the evaluation process submitted by persons other than the employee shall be provided to the employee, who may attach a written response.

(3) All assigned activities for which an employee receives compensation from the university, including summer assignments, shall be reported upon and evaluated. An employee may report activities related to the areas of assignment that are performed during times when the employee is not compensated by the university; if reported upon, these activities shall be evaluated.

(4) Observation/Visitation. The evaluator or the evaluator's representative may conduct classroom observation/visitation in connection with the employee's evaluation. If such classroom observations/visitations are conducted, no fewer than two (2) observations/visitations shall be completed during the evaluation period.

a. Absent immediate concerns described below, the evaluator shall notify the employee at least two (2) weeks in advance of the date and time of any direct classroom observation or visitation. If the employee determines this date is not appropriate because of the nature of the scheduled class activities, the employee may suggest a more appropriate date.

b. If the evaluator has received a complaint or other information that gives rise to immediate concerns about the conduct of the class, the evaluator or the evaluator's representative may observe or visit the class at any time without notice to the employee.

c. Observation/visitation of online classroom settings is permitted under the terms of this section.

d. A written report of the observation/visitation shall be submitted to the employee within two (2) weeks of the observation/visitation. If the observation/visitation involves a course that was assigned to the employee with less than six (6) weeks' notice, such change shall be noted in the report. The employee shall be offered the opportunity to discuss the evaluation with the evaluator prior to its being finalized and placed in the employee's evaluation file and may submit a written reply, which shall be attached to the report.

e. Peer Assessment. An employee has the right to have the evaluator assign a peer to observe/visit the employee's teaching and to have an assessment of that observation/visitation included as part of the employee's annual report. A department or unit AESP may require peer observation/visitation, which shall be carried out in accordance with the requirements of this subsection. In these cases, the peer may be a colleague within the University, a retired colleague, or a colleague in the same discipline from another university.

(5) Written Evaluation.

a. The proposed written annual evaluation shall be provided to the employee within sixty (60) days after the due date for the Employee Annual Report.

b. The employee shall be offered the opportunity to discuss the evaluation with the evaluator prior to its being finalized and placed in the employee's evaluation file. The evaluation shall be signed and dated by the evaluator and by the employee, to acknowledge receipt of it. The employee may attach a concise comment to the evaluation. A copy of the evaluation shall be provided to the employee.

c. Upon written request from the employee, the evaluator shall endeavor to assist the employee in addressing any performance deficiencies.

10.2 Cumulative Progress Evaluations.

(a) Policy. Employees eligible for consideration for promotion to the rank of associate professor and/or tenure shall be informed annually of their progress toward promotion and/or tenure. Each year's cumulative progress evaluation shall build upon prior cumulative progress evaluations so an

employee's progress toward tenure and/or promotion in a given year will be viewed in the context of attainments over the entire tenure and/or promotion earning period. Employees eligible for promotion to professor may, at their option and upon written request, be similarly apprised of their progress toward promotion. The cumulative progress evaluations are intended to provide an accurate assessment of cumulative performance as leading to attainment of promotion and/or tenure, and to provide assistance and counseling to candidates to help them qualify themselves for tenure and/or promotion.

(b) Process. All cumulative progress evaluations shall be completed during the spring semester. Beginning with the second year of employment (or the first year, if tenure credit was given) and continuing annually, an employee who is eligible for tenure and/or promotion to the rank of associate professor shall receive a cumulative progress evaluation. Separate cumulative progress evaluations shall be provided by the tenured members of the department or unit (excluding the chair/head and dean), the chair/head, and dean. For cumulative evaluations of progress towards promotion to professor, only tenured professors participate in the employee's evaluation. If the department or unit has fewer than three tenured members or tenured professors, as appropriate, the dean may increase the committee membership to three using tenured members of appropriate rank from other departments or units. The employee may request, in writing, a meeting with the chair/head and/or dean to discuss concerns regarding the cumulative progress evaluation.

(c) Criteria.

(1) Progress toward the promotion to the rank of associate professor with tenure will be assessed based on professional performance of teaching, research, and service, and the likelihood of future contributions at or exceeding current levels of performance.

(2) Progress toward tenure for tenure-earning associate professors will be assessed based on the professional performance of teaching, research, and service, and the likelihood of future contributions at or exceeding current levels of performance.

(3) Progress toward tenure for tenure-earning professors will be assessed based on the professional performance of teaching, research, and service, the achievement of national and/or international prominence, evidence of advancing their field of study, and the likelihood of future contributions at or exceeding current levels of performance.

(4) If requested by the employee, progress toward the rank of professor will be assessed based on the professional performance of teaching, research, and service, the achievement of national and/or international prominence, evidence of advancing their field of study, and the likelihood of future contributions at or exceeding current levels of performance.

10.3 Sustained Performance Evaluations.

(a) Policy. Tenured employees shall receive a sustained performance evaluation once every seven (7) years following the award of tenure or their most recent promotion. The purpose of this evaluation is to document sustained performance during the previous seven (7) years of assigned duties to evaluate continued professional growth and development.

(b) Process.

(1) At the end of seven (7) years of tenured or post-promotion service, and each subsequent seven (7) year period, an employee's sustained performance will be evaluated. This evaluation will consist of a review of the overall annual evaluation ratings for that seven-year period. If the employee's overall performance is, on average, below satisfactory for that seven-year period, then the employee shall be issued a performance improvement plan. The average shall be determined by assigning a value of 4 for Outstanding, 3 for Above Satisfactory, 2 for Satisfactory, 1 for Conditional, and 0 for Unsatisfactory to each of the employee's annual evaluation ratings over the seven-year period and computing the numeric average. A value below 1.5 shall be considered below satisfactory performance.

(2) A performance improvement plan shall be developed by the employee in concert with the department chair or unit head and shall include specific measurable performance targets with target dates that must be completed in a period of three (3) years. The performance improvement plan requires the approval of the dean and the president or president's representative.

(3) When an employee has a performance improvement plan, the department chair or unit head shall provide an annual evaluation of the employee's performance on the plan. The dean shall also provide a separate annual evaluation of the employee's performance on the plan. Adherence to the performance improvement plan, including its targets and target deadlines, shall be the sole criteria for performance improvement plan evaluations.

(4) The University shall provide for a process to accommodate instances when the employee and the department chair or unit head cannot agree on the elements to be included in the performance improvement plan.

(5) It is the responsibility of the employee to attain the performance targets specified in the performance improvement plan. Lack of success may result in dismissal. The employee may attach a concise response to the sustained performance evaluation, the performance improvement plan, and annual evaluations of performance on the sustained performance plan. Any such responses shall be included in the evaluation file.

10.4 Proficiency in Spoken English.

(a) Requirement. Employees must, to be involved in classroom instruction beyond one (1) semester, establish proficiency in the oral use of English, as set forth in Section 1012.93, Florida Statutes, and any applicable Board of Education or Board of Governors rule or resolution.

(b) Deficiency. For non-tenured employees found to be deficient in the oral use of English as set forth in Section 10.4(a), the University shall provide, as needed, one or two month-long sessions with post-training evaluations administered through the Center for Multicultural and Multilingual Studies. Employees who require more than two sessions to speak English effectively will have to rely upon personal resources to correct this deficiency. Failure to correct the deficiencies may result in termination. This paragraph shall apply only during the first three years of employment.

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

Article 11 (TA 10/5/2012, no changes from white (handshake) book)

ARTICLE 11

EVALUATION FILE

11.1 Policy. There shall be one (1) evaluation file containing a dated copy of all documents used in the evaluation process, other than evaluations for tenure and/or promotion. When evaluations and other personnel decisions are made, other than for tenure and/or promotion, the only documents which may be used are those contained in that file. Such documents shall be placed in the evaluation file within a reasonable time after receipt by the custodian of the file.

11.2 Access. An employee may examine the evaluation file, upon reasonable advance notice, during the regular business hours of the office in which the file is kept, normally within the same business day as the employee requests to see it, and under such conditions as are necessary to insure its integrity and safekeeping. Upon request, an employee may paginate with successive whole numbers the materials in the file, and may attach a concise statement in response to any item therein. Upon request, an employee is