Florida Gulf Coast University Board of Trustees
January 20, 2015

SUBJECT: Regulation: FGCU-PR5.023 Separation from Employment

PROPOSED BOARD ACTION

Approve amendment to Regulation FGCU-PR5.023 Separation from Employment to provide an exception to the rehire of an employee dismissed for cause.

BACKGROUND INFORMATION

Currently, employees dismissed for cause are ineligible for rehire. In an effort to address employee issues that may not relate to or have any bearing on another department, this proposed amendment (as well as the amendment to FGCU-PR5.016 Disciplinary Actions Regulation) will allow for exceptions to separation decisions recognizing circumstances where the rehire of an employee previously terminated for cause may be permissible.

Supporting Documentation Included: Notice and Text for Regulation FGCU-PR5.023 Separation from Employment

Prepared by: Vice President and General Counsel Vee Leonard

Legal Review by: N/A

Submitted by: Vice President and General Counsel Vee Leonard
FLORIDA GULF COAST UNIVERSITY
NOTICE OF REGULATORY ACTION
December 3, 2014

REGULATION TITLE:
Separation from Employment

REGULATION NO:
FGCU-PR5.023

SUMMARY:
This Regulation is being amended to provide an exception to the rehire of an employee dismissed for cause.

FULL TEXT:
The full text of the regulation being proposed is attached and can also be found at http://www.fgcu.edu/generalcounsel/promulgation.asp

AUTHORITY:
§§215.425 and 1001.706, Florida Statutes, Board of Governors Regulation 1.001

UNIVERSITY OFFICIAL INITIATING THE PROPOSED REVISED REGULATION:
Christine Lloyd, Assistant Vice President and Director, Human Resources

UNIVERSITY OFFICIAL APPROVING THE PROPOSED REGULATION:
Vee H. Leonard, Vice President and General Counsel

OFFICE TO BE CONTACTED REGARDING THE PROPOSED REVISED REGULATION:
Office of the General Counsel, GCO@FGCU.edu 239.590.1101 (Phone), 239.590.7470 (Facsimile); 10501 FGCU Blvd. S, Fort Myers, FL 33965-6565.

ANY COMMENTS REGARDING THE PROPOSED REVISED REGULATION SHOULD BE SUBMITTED IN WRITING ON OR BEFORE JANUARY 5, 2015, BY 5:00 P.M. THE COMMENTS MUST IDENTIFY THE REGULATION ON WHICH YOU ARE COMMENTING.

THIS NOTICE WAS POSTED ON THE FGCU WEBSITE ON DECEMBER 3, 2014.
A. GENERAL INFORMATION

This regulation applies to all employees who are not subject to a collective bargaining agreement, unless otherwise indicated. “Separation from Employment” is defined as and includes:

1. Resignation
2. Job Abandonment
3. Termination of Employment During Probationary Period
4. Layoffs
5. Notice of Separation; and
6. Dismissal for Cause

B. SEPARATIONS FROM EMPLOYMENT

A “Separation from Employment” shall be administered consistent with the following provisions:

1. Resignation

Whenever possible, employees are encouraged to provide at least two weeks advance notice of resignation to the University. Once tendered, a resignation, whether communicated verbally or in writing, is deemed accepted, and may not be rescinded by the employee without concurrence of the President, for a President’s direct report, or the applicable Vice President or designee. Employees resigning in lieu of termination are not eligible for rehire.

2. Job Abandonment

An employee who is absent without approved leave for three (3) or more consecutive workdays may be considered to have abandoned the position and has therefore resigned from the University, unless the employee provides information regarding the existence of an emergency situation or medical condition that impaired his/her ability to contact
his/her supervisor. Employees separating due to job abandonment are not eligible for rehire.

3. Separation During SP-Probationary Period

Employees serving in a probationary period in any position or class may be separated from employment at any time, for any reason. Separations during the probationary period do not require notice and may not be appealed.

4. Layoffs

Layoffs shall be administered consistent with the following provisions. Additional guidance will be provided in a University policy.

a) Employees may be laid off at any time as a result of:

1) Adverse financial circumstances of the University,

2) Reallocation of resources,

3) Reorganization of degree or curriculum offerings or requirements,

4) Reorganization of academic or administrative structures, programs or functions,

5) Curtailment or abolishment of one or more programs or functions,

6) Shortage of work or

7) Material change in duties.

b) The University President or designee shall notify any appropriate employee organizations when layoffs are to take place.

c) Layoff units may be at an organizational level such as a division, college, school, department, area, program, unit or other level of organization as the University President or designee deems appropriate.

d) In designating the employees for layoff, the University President or designee shall consider the qualifications and relevant experiences required for specific positions and exclude such from layoff.

e) The University President or designee may make reasonable efforts to locate appropriate alternative/equivalent employment within the University for laid-off employees, where possible.
5. Notice of Separation

a) Separation with Advance Notice

1) Non-Unit Faculty, Administrative & Professional (A&P), Support Personnel (SP), and Executive Service employees may be separated from the University without cause, as long as written notice is provided, according to the following schedule:

   i) Employees in their initial year of employment shall be given thirty (30) days notice prior to the effective date.

   ii) Employees with more than one year of employment shall be given ninety (90) days notice prior to the effective date.

   iii) Employees in the Executive Service shall be given sixty (60) days notice prior to the effective date.

2) An employee who has received a separation notice may be reassigned to other duties, responsibilities and locations for the duration of the notice period, and during the notice period shall not be eligible for pay increases or bonuses and benefits designated for employees “in good standing” during the notice period.

3) The University may opt to provide a lump sum amount to be paid to the employee in lieu of providing the applicable time as notice of separation. If applicable, such lump sum shall not exceed 20 weeks of pay, subject to limitations under Section 215.425, Florida Statutes.

b) Fixed Term Appointments

Persons appointed to fixed term appointments, including but not limited to visiting appointments and employees in positions funded through contracts and grants, sponsored research funds, trust funds, auxiliary, or local funds, shall be provided notice that employment will cease on a specific date where no further notice of cessation of employment is required in an employment agreement, offer letter, or other document.

c) Other Personal Services (OPS) Employment

1) Persons appointed to the Other Personal Services (OPS) employment category are provided notice upon hire that such appointment is temporary in nature and may end at any time without notice and with no right to appeal.
2) Persons appointed to Adjunct faculty are hired for one academic term at a time and are provided notice upon hire that such appointment may end due to lack of enrollment, funding, or reassignment of faculty workload.

6. **Dismissal for Cause**

Non-Unit Faculty, A&P, SP, and Executive Service employees dismissed for cause are not entitled to advance notice and may be dismissed at any time during an appointment in accordance with this policy Regulation. Employees resigning in lieu of termination are not eligible for rehire. Dismissal for cause is also addressed in FGCU-PR5.016, Disciplinary Actions and states that employees dismissed for cause are provided an exception for rehire by the express approval of the President or the vice president for the hiring Division.

C. **EXIT INTERVIEW**

Individuals who separate from employment are encouraged to complete the Exit Interview Process through the Department of Human Resources.

D. **SEPARATION CLEARANCE**

1. Faculty (including in-unit), A&P, and SP employees separating from employment with the University shall return all University property in their possession and settle their financial accounts with the University prior to receipt of any final payments due them. The Department Head shall work in collaboration with the Department of Human Resources and all applicable University departments to ensure the timely return of all University property and/or to activate the appropriate measures to collect such. The employee’s immediate supervisor is responsible for ensuring proper separation procedures are followed and for notifying the Department Head if property or keys are not returned or accounts are not settled.

2. The University reserves the right to deduct any amounts owed to the University or to deduct an amount to compensate for unreturned property from any funds, which may be due the employee (i.e., final pay, leave payoff pay).