Florida Gulf Coast University Board of Trustees
September 13, 2005

SUBJECT: Overview of Florida Board of Governors Regulation Development Procedure for State University Boards of Trustees

PROPOSED BOARD ACTION

For information only

BACKGROUND INFORMATION

At its July 21, 2005 meeting, the Florida Board of Governors adopted the Regulation Development Procedure for State University Boards of Trustees (“BOG Development Procedure”). The BOG Development Procedure was effective immediately upon adoption by the Board of Governors. The procedure removes the state universities from the rulemaking process contained in Florida’s Administrative Procedure Act, Chapter 120, Florida Statutes, and substitutes a new regulation adoption procedure. In this presentation, General Counsel Wendy S. Morris will give an overview of the new procedure and its impact upon the Board of Trustees.

Supporting Documentation Included: Florida Board of Governors Regulation Development Procedure for State University Boards of Trustees.

Prepared by: Wendy S. Morris, General Counsel

Legal Review by: N/A

Submitted by: Wendy S. Morris, General Counsel
FLORIDA BOARD OF GOVERNORS

Regulation Development Procedure
for State University Boards of Trustees

A. Background

In November 2002, Florida voters passed an amendment to article IX of the Florida Constitution establishing a system of governance for state universities. Under the amendment, “a board of trustees shall administer each public university and a board of governors shall govern the state university system.” A component of such governance is a procedure suitable for the state university setting that guides the state university board of trustees in their adoption of regulations. Because there is a system-wide benefit to having uniform procedures that are clearly laid out for university regulations, the Board of Governors establishes this procedure for the adoption of regulations by the state university boards of trustees.

B. Definitions

1. Regulations. Regulations are statements of general applicability to guide the conduct or action of constituents or the public, adopted by the university boards of trustees that implement its powers and duties. Regulations must be consistent with law and the resolutions, and strategic plan of the Board of Governors. Regulations do not include the following:
   - Internal management memoranda, which are defined as statements that do not affect the private interests of any person and which have no application outside the state university system;
   - Legal memoranda, opinions and guidelines;
   - Preparation of the state university system or a university’s budget;
   - Negotiated contractual provisions, including those reached as a result of collective bargaining; and
   - Curriculum and other academic requirements.

2. Select Regulations. Select regulations are regulations requiring the review of Board of Governors’ staff prior to the regulations being effective. Select regulations are regulations that pertain to student tuition and fees, admissions, and articulation which require approval
by the Board of Governors in accordance with Section D hereof prior to becoming effective.

3. Substantially Affected Person. A substantially affected person shall be any natural person with an interest within the zone of interest protected or regulated who suffers a real and sufficiently immediate injury in fact as a result of the application of a regulation. A substantially affected person shall also mean any association with a majority of natural persons as members satisfying the first sentence of the subsection, as long as the subject matter of the regulation is within the association’s general scope of interest and activity and the relief requested is of the type appropriate for a trade association to receive on behalf of its members.

4. Universities and University Board of Trustees. Universities and university board of trustees include the boards of trustees of each state university and New College.

C. Regulation Development Procedures for University Board of Trustees

1. Notice

Prior to the adoption, amendment or repeal of any regulation, except an emergency regulation, the university boards of trustees shall give notice of its intended action. This notice shall be given at least 30 days prior to any proposed board of trustees’ adoption or repeal of the regulation. Notice of a proposed regulation, amendment or repeal shall include publication on a clearly marked area on the university’s internet website of the following:

- Summary of the proposed regulation, regulation amendment or regulation repeal;

- The full text of the proposed regulation, regulation amendment or regulation repeal or instructions on where to view it;

- Reference to the authority for the regulation;

- The university official initiating the regulation, amendment or repeal;

- The procedure for commenting on the proposed regulation, amendment or repeal with the name, electronic address, facsimile number, telephone number and street address of the regulation contact person where comments can be sent.

2. Comments

a. Any person may submit written comments concerning a proposed regulation, amendment, or repeal to the contact person identified in the notice within 14 days after the date of notice on the internet website.
b. In response, a university board of trustees may solicit additional written comments, schedule a public hearing, withdraw or modify the regulation, amendment, or repeal in whole or in part after notice, or proceed with adopting the regulation.

D. Adoption
a. A university board of trustees is responsible for adopting its regulations. Regulations, except select regulations, are adopted upon approval by the university boards of trustees. The boards of trustees will provide the Board of Governors with regulations adopted by the board of trustees. The Board of Governors will notify a board of trustees of the need to revise a regulation that is inconsistent with established resolutions, regulations, or the strategic plan of the Board of Governors.

b. Select regulations, amendments or repeals filed by the university boards of trustees do not become effective until the Board of Governors has approved them pursuant to this procedure. After the university board of trustees has voted to adopt a select regulation, amendment or repeal, or a select regulation, amendment or repeal has been placed on a board of trustees agenda for approval, and the board of trustees has provided a copy to the Board of Governors, the select regulation shall become effective upon the Board of Governors’ approval or 60-30 days after being provided to the Board of Governors, whichever is sooner, unless within the 60-30 days the regulation has been disapproved by the Board of Governors, referred by staff to the Executive Committee of the Board of Governors. If referred to the Executive Committee of the Board of Governors, the select regulation shall become final upon approval of the Executive Committee of the Board of Governors or Board of Governors at its next regularly scheduled meeting. The Board of Governor’s may decline to approve a university regulation on the following grounds: The Board of Governors may disapprove a university regulation on the following grounds:

• A university board of trustees materially failed to follow regulation development procedures set forth herein:

• The regulation does not comply with the law or contravenes the policies of the Board of Governors’ authority as specified in resolution, regulation, or strategic plan:

• The regulation vests unbridled discretion in the university board of trustees; or

• The regulation is arbitrary or capricious.
E. **Filing**

1. **Place of Filing, Record and Effective Date**
   When adopted, the regulation, amendment or repeal shall be filed with the state university president or designee and posted on the internet website. When a regulation, amendment, or repeal is filed, certification of compliance with this procedure must be included, along with the record including all notices, written comments, written summaries of hearings, and responses submitted pursuant to this procedure. The regulation, amendment or repeal shall become effective on the date of filing unless the effective date is stated otherwise.

2. **Accessibility to Regulations**
   Regulations adopted by a university board of trustees will be easily accessible through a university’s internet website. The website shall permit the public to do at least the following:
   - Search notices by type, publication date, or regulation number;
   - Search a permanent database that archives all notices published on the website;
   - Subscribe to an automated e-mail notification of selected notice types; and
   - Search by subject matter or key word current regulations.

F. **Due Process**
   In implementing regulations that affect the rights of individuals, a university board of trustees will honor established due process principles to ensure that applicable due process rights are afforded to affected individuals.

G. **Monitoring Regulations**
   A university board of trustees will monitor the effects of new regulations and periodically will review existing regulations to ensure they are current and consistent.

H. **Regulation Challenges**

1. **Challenging a Board of Trustees Regulation**
   A substantially affected person may seek a determination of the invalidity of an existing regulation any time after the adoption of the regulation. The petition seeking such determination must state with particularity the grounds for alleging that the regulation is an invalid exercise of authority, and a sufficient explanation of the facts showing that the person challenging a regulation is substantially affected by it. A regulation is an invalid exercise of authority only if one of the following applies:
• A university board of trustees materially failed to follow regulation development procedures set forth herein;

• The regulation does not comply with the law or contravenes the policies of the Board of Governors’ authority as specified in resolution, regulation, or strategic plan;

• The regulation vests unbridled discretion in the university board of trustees; or

• The regulation is arbitrary or capricious.

(a) A petition challenging a state university regulation shall be filed with a university board of trustees, or its designee as indicated on its website. If the filed petition is not of sufficient specificity or does not state sufficient grounds to challenge a regulation, the petition may be dismissed, with or without leave to amend. If the petition is of sufficient specificity and states sufficient grounds to challenge a regulation, within 15 days after receiving the petition, if there are any disputed issues or material facts, the university board of trustees shall assign a hearing officer. The hearing officer shall conduct a hearing within 60 days thereafter unless the petition is withdrawn or a continuance is granted by agreement of the parties for good cause shown. If there are no disputed issues of material fact, the matter shall be referred to a university board of trustees or to its designee for resolution.

(b) The failure of a state university to follow the regulation development procedures set forth in this procedure shall be presumed to be material; however, the state university may rebut this presumption by showing that the substantial interests of the petitioner and the fairness of the proceedings have not been impaired.

(c) Hearings shall be de novo in nature and shall be conducted pursuant to the Model Rules of Procedure, Chapter 28-106, except if there is any conflict, this procedure controls. The petitioner must demonstrate by clear and convincing evidence that a policy is invalid. The petitioner shall be adverse to the state university. Other substantially affected persons may join the proceedings as interveners on appropriate terms which shall not unduly delay the proceedings.

(d) Within 30 days after the hearing, the hearing officer shall issue a recommended order directed to the university board of trustees, which shall timely issue a final decision whether all or part of a regulation is invalid. If a regulation is declared invalid
in whole or in part notice of the decision shall be given on its internet website.

2. Challenges to Unpromulgated University Regulations.
   (a) A petition challenging a statement of general applicability to guide the conduct or action of constituents or the public that has not been promulgated as a regulation shall be filed with the university board of trustees as indicated on its internet website. The petition shall include the text of the statement or a description of the statement and shall state with particularity facts sufficient to show that the statement constitutes a regulation as defined in this procedure and that the university has not adopted the statement by these regulation development procedures.
   
   (b) Within 15 days after receipt of the petition, the university board of trustees shall assign a hearing officer who shall conduct a hearing in compliance with paragraph D1(c) within 30 days thereafter, unless the petition is withdrawn or a continuance is granted by agreement of the parties for good cause shown. If a hearing is held and the petitioner proves the allegations of the petition, the university board of trustees shall have the burden of proving that regulation development is not feasible. Regulation development shall be presumed feasible unless:
      - The university has not had sufficient time to acquire the knowledge and experience reasonably necessary to address a statement by regulation development; or
      - Related matters are not sufficiently resolved to enable the university to address a statement by regulation development.

   (c) Within 30 days after the hearing, the hearing officer shall issue a recommended order directed to the university board of trustees, which may determine that all or part of a statement should have been promulgated as a regulation under this procedure. The decision shall be published on the university internet website and all reliance on the statement or any substantially similar statement as a basis for action shall be discontinued.
   
   (d) If, prior to a recommended order of a hearing officer, the university board of trustees begins regulation development under this procedure to address the statement, a presumption is created that the board of trustees is acting expeditiously and in good faith to adopt regulation(s) that address the statement, and reliance upon the statement or any substantially similar statement as a basis for action shall be permitted.
(e) If the university board of trustees fails to approve regulations that address the statement within 180 days after publishing notice of proposed regulation(s), for the purposes of the regulation challenge proceeding, a presumption is created that the university is not acting expeditiously and in good faith to adopt regulation, and the case should proceed to a final hearing.

I. Emergency Regulations

1. Adoption

An emergency regulation may be adopted if there is an immediate danger to the public health, safety, or welfare under a procedure which is fair under the circumstances. The action taken must be only that necessary to protect the public interest in the emergency. At the time of, or prior to the state university’s action, it must publish on its internet website the specific facts and reasons for concluding that the procedure is fair under the circumstances. An emergency regulation shall not be effective for a period longer than 90 days. However, the state university may take identical action under the regular regulation development procedure set forth herein.

2. Challenges

Within 7 days after receiving a petition from a substantially affected person challenging an emergency regulation, if the petition complies with the requirements of paragraph H1(a), the university board of trustees shall assign a hearing officer. The hearing officer shall conduct a hearing in compliance with paragraph H1(c) within 20 days, unless the petition is withdrawn. Within 10 days of the hearing, the hearing officer shall issue a recommended order directed to the university board of trustees, which shall timely issue a final decision.

J. Appeal

Final decisions of the university boards of trustees may be challenged in a court of law pursuant to certiorari review under Florida Rule of Appellate Procedure 9.030(b)(2) only after exhausting the available administrative remedies under this procedure. Copies of Notices of Appeal shall be provided to the Board of Governors promptly upon service by the appellant.

K. Designee

Throughout this procedure, when the university board of trustees is referenced, the university board of trustees may name a designee or designees for any action, except that the university board of trustees may not delegate adoption of their regulations under Section F.

L. Continuing Validity of Rules and Effective Date

These procedures are effective on the date approved and will apply to any regulations finally adopted on or after that date. All university rules previously adopted or currently in the process of being adopted (assuming process is completed) under the Administrative Procedures Act at the time this procedure is approved by the Florida Board of
Governors shall be considered as validly adopted regulations under this procedure. Such rules are subject to Regulation Challenges as provided in Section H of this procedure. In addition, such rules may be amended or repealed by using the processes set out in this procedure. All university rules which are subject to a pending rule challenge under the Administrative Procedures Act, at the time this procedure is approved by the Board of Governors, shall continue to be subject to the Administrative Procedures Act until final resolution.

Approved by the Florida Board of Governors this ___ day of __________, 2005.

PJB/BOG/Regulation Development Procedure for BOTs/MAB/ 7 19 05 clean
ITEM: 8

Florida Gulf Coast University Board of Trustees
September 13, 2005

SUBJECT: Authorization to President or Designee regarding University Regulation Development

PROPOSED BOARD ACTION

For purposes of actions to be taken in accordance with the Florida Board of Governors Regulation Development Procedure for State University Boards of Trustees, authorize the President or designee to act on behalf of the FGCU Board of Trustees with respect to the development of regulations, except that the Board of Trustees reserves the authority to approve, modify or reject the proposed adoption, amendment or repeal of a regulation.

BACKGROUND INFORMATION

The Florida Board of Governors Regulation Development Procedure for State University Boards of Trustees ("BOG Development Procedure"), in Section K, Designee, allows a university board of trustees to name a designee or designees for any action to be taken with respect to the development of regulations, except that a university board of trustees may not delegate the authority to adopt regulations. The FGCU Board of Trustees is requested to exercise this delegation opportunity by authorizing the President or designee to handle routine actions related to regulation development.

Approval of such authorization would facilitate the University’s timely processing, adoption and ongoing management of regulations in matters such as: (1) upgrading and updating the University’s regulation website, (2) posting regulation notices, (3) determining that initiation of regulation adoption procedures is appropriate, (4) accepting and reviewing comments from members of the public relating to proposed regulations, (5) accepting the filing of petitions and challenges to regulations, and (6) functioning as liaison with representatives of the Florida Board of Governors for purposes of proposed or adopted FGCU regulations. However, the Board reserves its authority to engage in the policymaking function of approving, modifying or rejecting the proposed adoption, amendment or repeal of a regulation.
The FGCU Board of Trustees may recall that, on October 10, 2002, the Board approved similar delegations of authority with respect to the rulemaking procedures under the Administrative Procedure Act, Chapter 120, Florida Statutes. These earlier delegations of authority enabled the University to initiate and complete necessary rule changes in a swift manner while reserving the policymaking activity of rule adoption for the Board of Trustees.

**Supporting Documentation Included:** N/A

**Prepared by:** Wendy S. Morris, General Counsel

**Legal Review by:** N/A

**Submitted by:** Wendy S. Morris, General Counsel
Florida Gulf Coast University Board of Trustees
September 13, 2005

SUBJECT: Tuition and Fee Regulations

PROPOSED BOARD ACTION

Approve adoption of permanent FGCU Regulation 6C10-7.001, Tuition and Fees, and FGCU Emergency Regulation 6C10-ER05-5, Fall 2005 Tuition and Fees, to establish the University’s 2005-06 tuition and fee schedule in accordance with the Florida Board of Governors Regulation Development Procedure for State University Boards of Trustees.

BACKGROUND INFORMATION

The Florida Board of Governors Regulation Development Procedure for State University Boards of Trustees (“BOG Development Procedure”) requires the universities to adopt as regulations any rules that the universities were in the process of adopting at the time the BOG Development Procedure was approved on July 21, 2005. While the FGCU Board of Trustees at its June 21, 2005 meeting approved amendments to Rule 6C10-7.001, Tuition and Fees, to establish the 2005-06 tuition and fee schedule, the University had not completed all of the rulemaking procedures required by Chapter 120, Florida Statutes, on July 21, 2005. Therefore, FGCU Regulation 6C10-7.001, Tuition and Fees, and FGCU Emergency Regulation 6C10-ER05-5, Fall 2005 Tuition and Fees, are presented to the Board of Trustees for adoption in accordance with the new procedures.

The text and fee structure set forth in FGCU Emergency Regulation 6C10-ER05-5, Fall 2005 Tuition and Fees, is identical to permanent Regulation 6C10-7.001, Tuition and Fees. Both regulations are identical to the emergency and permanent tuition and fee rules approved by the Board of Trustees in June 2005 with two exceptions. First, the regulations do not contain a provision requiring imposition of an additional surcharge for excess credit hours. On June 23, 2005, the Governor vetoed the authority for charging the excess credit hour fee, Committee Substitute for Committee Substitute for Senate Bill 2236. Second, the regulations do not contain a provision granting the University the flexibility to
charge a uniform per credit hour tuition rate for distance education courses when so doing is in the best interests of the University.

In accordance with Section D, Adoption, of the BOG Development Procedure, the permanent regulation will become effective upon approval of the Board of Governors or sixty (60) days after being submitted to the Board of Governors, whichever is sooner, unless the Board of Governors disapproves the regulation.

In accordance with Section I, Emergency Regulations, of the BOG Development Procedure, the emergency regulation will become effective immediately upon being approved by the Board of Trustees. Adoption of this emergency regulation will enable the University to have a regulation in effect while the Board of Governors considers the permanent tuition and fee regulation. Emergency regulations remain effective for a period no longer than ninety (90) days.

Currently, FGCU Emergency Rule 6C10-ER05-5, Fall 2005 Tuition and Fees, as approved by the Board of Trustees on June 21, 2005, remains in effect until September 26, 2005.

Supporting Documentation Included: (1) Notice and Permanent Regulation Text, and (2) Notice and Emergency Regulation text.

Prepared by: Wendy S. Morris, General Counsel

Legal Review by: N/A

Submitted by: Vice President for Administrative Services Joe Shepard
NOTICE OF PROPOSED REGULATIONMAKING
Florida Gulf Coast University Board of Trustees

REGULATION CHAPTER TITLE:    CHAPTER NUMBER:
Finance and Accounting        6C10-7

REGULATION TITLE(S):    NUMBER(S):
Tuition and Fees            6C10-7.001

PURPOSE AND EFFECT:
The purpose and effect of proposed Regulations 6C10-7.001, Tuition and Fees, is to
implement the Florida Gulf Coast University Board of Trustees’ authority and
responsibility to adopt the University’s 2005-06 tuition and fee schedules in accordance
with the K-20 Education Code, Chapters 1000-1013, Florida Statutes, the 2005-06
General Appropriations Act, and the Florida Board of Governors Regulation
Development Procedure for State University Boards of Trustees. The University is
implementing a tuition increase of 5.0% for in state undergraduates over the 2004-05
amount, as required by the 2005-2006 General Appropriations Act. In addition, the
regulation increases the athletic fee by $2.00 per credit hour, the Activity and Service
fee by $1.24 per credit hour and the repeat course fee by $1.10 per credit hour over the
2004-05 amounts.

SUMMARY:
Regulation 7.001 will establish the University’s 2005-2006 tuition and fee schedule,
effective with the Fall 2005 Semester. The University is implementing a tuition increase
of 5.0% for in state undergraduates as required by the 2005-2006 General
Appropriations Act. In addition, the regulation increases the athletic fee by $2.00 per
credit hour, the Activity and Service fee by $1.24 per credit hour and the repeat course
fee by $1.10 per credit hour

SPECIFIC AUTHORITY: 1001.74(4), FS.
LAW IMPLEMENTED: 2005-06 General Appropriations Act, 1001.74(11), 1009.24,
1009.27, FS.

NAME OF PERSON ORIGINATING PROPOSED REGULATION:
Dr. Joseph D. Shepard, Vice President, Administrative Services, Florida Gulf Coast
University

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED
REGULATION:
Dr. William C. Merwin, President, Florida Gulf Coast University
PROCEDURE FOR SUBMITTING WRITTEN COMMENTS CONCERNING THE PROPOSED REGULATION:

ANY PERSON MAY SUBMIT COMMENTS IN WRITING BY 5 PM ON MONDAY, AUGUST 29, 2005, TO:
Wendy S. Morris, General Counsel
10501 FGCU Blvd. South
Fort Myers, Florida 33965-6565
Phone: (239) 590-1101; Fax (239) 590-1010
Email: wmorris@fgcu.edu

A COPY OF THE PROPOSED REGULATION IS POSTED ON THE WEB AT:
www.fgcu.edu/generalcounsel/governance.html
6C10-7.001 Tuition and Fees

(1) General. Tuition and fees assessed by the University shall be in accordance with the General Appropriations Act and the rules and policies of the Board of Governors.

(2)(a) Tuition and fee schedule. The University shall assess the following tuition and fees per credit hour for each regularly enrolled student, depending on whether a student is a resident or non-resident of the State of Florida, unless provided otherwise by law or in this rule:

<table>
<thead>
<tr>
<th>Tuition/Fee</th>
<th>Resident Undergraduate</th>
<th>Non-Resident Undergraduate</th>
<th>Resident Graduate</th>
<th>Non-Resident Graduate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tuition</td>
<td>$71.57</td>
<td>$452.18</td>
<td>$180.24</td>
<td>$771.78</td>
</tr>
<tr>
<td>Financial Aid Fee</td>
<td>$3.57</td>
<td>$22.60</td>
<td>$9.01</td>
<td>$38.58</td>
</tr>
<tr>
<td>Transportation Fee</td>
<td>$5.29</td>
<td>$5.29</td>
<td>$5.29</td>
<td>$5.29</td>
</tr>
<tr>
<td>Capital Improvement Trust</td>
<td>$2.44</td>
<td>$2.44</td>
<td>$2.44</td>
<td>$2.44</td>
</tr>
<tr>
<td>Building Fee</td>
<td>$2.32</td>
<td>$2.32</td>
<td>$2.32</td>
<td>$2.32</td>
</tr>
<tr>
<td>Activity and Service Fee</td>
<td>$10.94</td>
<td>$10.94</td>
<td>$10.94</td>
<td>$10.94</td>
</tr>
<tr>
<td>Athletic Fee</td>
<td>$12.54</td>
<td>$12.54</td>
<td>$12.54</td>
<td>$12.54</td>
</tr>
<tr>
<td>Total Per Credit Hour</td>
<td>$108.67</td>
<td>$508.31</td>
<td>$222.78</td>
<td>$843.89</td>
</tr>
</tbody>
</table>

(b) Students will be assessed the following fee per term:

<table>
<thead>
<tr>
<th>Fee</th>
<th>Undergraduate</th>
<th>Graduate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Health</td>
<td>$47.50</td>
<td>$47.50</td>
</tr>
</tbody>
</table>

(2)(c) Repeat course fee. A student enrolled in the same undergraduate course more than twice shall be assessed an additional $170.22 per credit hour charge for each such course.

(3) Payments on Accounts Due the University. Charges against a student's account for loss or breakage of University equipment, lost books, library or parking fines and other
related charges are due immediately. University policy prohibits registration, or release of transcript and diploma for any student whose account with the University is delinquent.

(4) Registration occurs when a student:

(a) Selects one or more credit courses approved and scheduled by the University; and

(b) Pays tuition and fees, partial or otherwise, or makes other appropriate arrangements for tuition payment (deferment, or third party billing) for the courses in which the student is enrolled as of the end of the drop/add period. The University does not have a plan for installment payment of fees.

(5) Payment. Tuition and registration fees must be paid in full by the date designated in the University Student Schedule and Fee Statement as the "last date to pay fees" for each semester. Payments shall be made at the Cashier's Office or by mail and received no later than that date. The President or designee will extend the deadline for fee payment when payment by the student is delayed due to University action or inaction.

(6) Liability for payment of tuition is incurred at the point at which the student has completed registration. Students are liable for all fees associated with all courses in which they are registered at the end of the drop/add period.

(7) Cancellation of Registration. A student's course schedule shall be canceled when tuition has not been paid in full or when arrangements for payment have not been made through the Office of Financial Aid or the Cashier's Office. By the published "last date to pay fees" students awaiting receipt of financial aid must pay any additional amount due before the end of the last day to pay fees to prevent cancellation of the course schedule. A student whose course schedule has been canceled cannot thereafter attend classes and will not obtain credit for courses. A student whose course schedule has been canceled will be mailed written notice of cancellation to his/her last known address on record and be given a deadline by which he/she may apply for reinstatement.

(8) Reinstatement. Students may seek reinstatement of their course schedule by following the procedures outlined in this subsection.

(a) Requests for reinstatement. A request for reinstatement must be presented in writing to the Registrar's Office by the deadline given on the notice of cancellation mailed to the student. The request for reinstatement must include all documentation supporting the request. The Reinstatement Appeals Committee will evaluate the request based upon the criteria contained in this rule and notify the student in writing of its decision.

(b) Reinstatement Appeals Committee. A student whose course schedule has been canceled for non-payment may apply for reinstatement of the course schedule to the Reinstatement Appeals Committee. The Committee shall consist of at least three staff members appointed annually by the President, and one student appointed by the
Student Association. The Committee shall meet as required between the published last day to pay fees and six months after the end of the term for which the reinstatement is requested. The decision of the Committee shall be final.

(c) Criteria for Reinstatement. In evaluating a request for reinstatement, the Committee shall apply the following criteria:

1. Reinstatement shall be granted where it is demonstrated that the student's registration was canceled through University error.

2. Reinstatement shall be granted where the student submits documentation demonstrating that the student was prevented from making timely payment due to extenuating circumstances beyond the student's control. Examples of "extenuating circumstances" include:
   a. A student was unavoidably out of town during the week prior to the last day to pay fees, or
   b. A student was ill and unable to make payment prior to the last day to pay fees.

3. If a student's reinstatement is approved by the Reinstatement Appeals Committee, they must be reinstated for all courses for which they were originally registered.

(d) Where reinstatement is granted, the student shall take the written decision of the Committee to the Cashier's office, pay the fees which are due and complete the registration process with the Registrar's Office.

(9) Late Registration Fee.

(a) A late registration fee of $100 shall be assessed by the University when registration is initiated after the close of the regular registration period.

(b) The late registration fee shall be waived when:

1. The late registration was caused by a University error, or

2. The student was unavoidably out of town on the last day to register (documentation must be provided), or

3. The student was ill (documentation must be provided), or

4. The course was closed and the student was required to wait until classes started (written documentation from the instructor is required), or

5. The student was informed after the published last day to register that a course is necessary in order to graduate, be re-certified, or is a work related requirement (appropriate documentation must be provided).
(10) Late Payment Fee. A late payment fee of $100 shall be assessed by the University when:

(a) A student pays his/her fees after the published "last day to pay fees", and has been approved for reinstatement pursuant to this rule; or

(b) A dishonored check is redeemed after the last date to pay fees.

(11) University Loan Program Service Charge. In lieu of interest, a $10 service charge will be assessed to any student participating in the University loan program regardless of the amount of the loan. Students utilizing the university loan program must sign a promissory note which obligates them to the total loan amount including the $10 service charge for each loan issued.

(12) Fee Appeals. Students may appeal the assessment of fees and request refunds of tuition and fees to the Fee Appeals Committee according to procedures set forth in this subsection.

(a) Procedures. A student who seeks review of a fee assessed shall file a written appeal with the Registrar’s Office. The appeal must set forth the basis for seeking a refund and attach all supporting documentation. An appeal must be filed no later than six months following the last day of the term during which the fees were incurred. For the purpose of this rule, summer terms are considered as one term.

(b) Fee Appeals Committee. The Fee Appeals Committee shall consist of at least three staff members who are appointed annually by the President, and one student appointed by the Student Association. The Committee shall meet as often as necessary to review and act upon appeals which come before it.

(c) Committee Determinations. Each appeal will be initially reviewed by the Registrar or designee. A decision will be made by the Registrar’s Office according to criteria established by this rule. The decision shall be communicated in writing to the student within 60 days from the date the appeal was filed with the University. The Fee Appeals Committee shall consider only cases of those students who are appealing the initial decision made by the Registrar’s Office. Students may appear in person before the Committee to present their appeal. The decision of the Committee is final.

(d) Criteria for Determining Fee Appeals. The criteria established by this rule shall govern decisions by the Registrar and the Fee Appeals Committee:

1. A fee appeal shall be granted when it is demonstrated that fees were paid as a result of University error.

2. A fee appeal shall be granted when it is demonstrated that the student was prevented from timely withdrawal from the University due to extenuating circumstances beyond the student's control. Extenuating circumstances include death of the student, or death in the immediate family (parent, spouse, child, sibling) of the student; illness of the student that is of long duration or severity, as confirmed in writing by a physician; or
involuntary call to military duty.

(13) Refunds. Refunds will be processed and mailed to the address shown on the Registrar's files to all students whose fee accounts show an overpayment after the published last day to pay fees. Students due a refund will not be required to submit a refund request to receive their refund because it will be automatically calculated. If there is a balance due to the University in the accounts receivable system, that amount will be deducted from any refund due. In addition, students shall be entitled to refunds in the following circumstances:

(a) 100% of tuition and course related fees will be refunded if notice of complete withdrawal or course withdrawal from the University occurs prior to the end of drop/add period.

(b) 25% of tuition and course related fees will be refunded if notice of withdrawal from ALL courses from the University occurs prior to the end of the fourth week of classes.

(c) Students who receive financial aid and subsequently change their enrollment status and this action results in a refund, may have all or a portion of their refund returned to the University's Financial Aid Office in accordance with the terms of their financial aid agreement.

(d) 100% of tuition and course related fees if a student withdraws or drops a course due to circumstances which are exceptional and beyond the control of the student. Requests for fee adjustments must meet one of the conditions below to be considered:

1. Death of the student or immediate family member (parent, spouse, child or sibling) as confirmed by documentation indicating the student's relationship to the deceased. Death certificate required.

2. Illness of student of such severity or duration to preclude completion of course(s). Written confirmation by a physician required.

3. A situation in which the University is in error as confirmed in writing by the appropriate Vice President.

(14) Deferred Payment Status. Deferred payment status for tuition and registration fees will be granted upon application by the student on the following grounds:

(a) Veterans shall be entitled to deferment in accordance with the provisions of Section 1009.27, F.S.

1. Each student granted a veteran's deferment shall sign a promissory note for the amount of registration and tuition fees due. The promissory note must be presented to the University Cashier's Office before the published last day to pay fees. Failure to present the promissory note by the deadline will result in the student being assessed the $100 late payment fee. If the student does not present an authorized deferment to the Cashier, including the $100 late fee, by the close of the fourth week of classes, the
student's registration shall be canceled. The student may request reinstatement by presenting an authorized VA deferment promissory note along with a $100 late registration/late payment fee in lieu of full payment of tuition and registration fees. (See the procedure outlined in Reinstatement.)

2. If an eligible student's educational benefits are delayed beyond the deferral period, (end of term for which they are enrolled) the deferment will be extended upon request by the student with written verification from the granting entity that the student is eligible to receive benefits and that benefits are being processed for payment. Upon receipt of written verification, the Registrar's Office shall approve the deferment and any request for extension. Additional extensions may be similarly granted until such time that the student begins receiving educational benefits. Failure of the veteran to pay the amount of the authorized deferment by the due date or extended date, whichever is later, will result in the student being assessed the $100 late registration/late payment fee.

(b) Third Party Billings. Deferment is permitted when formal contractual arrangements have been made with the University for payments by an approved third party. The University Controller or designee is responsible for negotiating such third party contracts.

(c) Delay in Financial Aid Delivery. Deferral of tuition and fees is permitted for those students receiving financial aid from federal, state, or University assistance programs when delivery of the aid is delayed through circumstances beyond the control of the student. Failure to make timely application for such aid shall be insufficient reason to receive such deferral. The Director of Financial Aid shall certify a student's eligibility for deferral to the University Controller or designee for each student for each academic term for which receipt of aid is delayed.

(d) Extraordinary circumstances exist and the deferment has the approval of the President or his designee.

Specific Authority 1001.74(4) FS. Law Implemented 1001.74(11), 1009.24, 1009.27, FS., 2005-06 General Appropriations Act, CS/SB 2600.
NOTICE OF EMERGENCY REGULATION
Florida Gulf Coast University
Board of Trustees

REGULATION TITLE(S):
Fall 2005 Tuition and Fees

REGULATION NUMBER(S):
6C10-ER05-5

SPECIFIC REASONS FOR FINDING AN IMMEDIATE DANGER TO THE PUBLIC, HEALTH, SAFETY OR WELFARE: The Florida Board of Governors Regulation Development Procedure for State University Boards of Trustees and Sections 1001.74(11) and 1009.24, F.S., require the FGCU Board of Trustees to set university tuition and fees. Regulation 6C10-ER05-5, Fall 2005 Tuition and Fees, increases in-state undergraduate tuition by 5.0% over the 2004-05 amount, as required by the 2005-2006 General Appropriations Act. In addition, the regulation increases the athletic fee by $2.00 per credit hour, the Activity and Service fee by $1.24 per credit hour and the repeat course fee by $1.10 per credit hour over the 2004-05 amounts. While time alone is not sufficient to justify an emergency, it is important to the fiscal welfare of the University and the State of Florida that the University implements the increased tuition and fees in the proper manner, pursuant to the 2005-2006 General Appropriations Act and the Florida Board of Governors Regulation Development Procedure for State University Boards of Trustees. It is necessary, therefore, to adopt this regulation by emergency regulationmaking to comply with the University’s legal obligations.

REASONS FOR CONCLUDING THAT THE PROCEDURE USED IS FAIR UNDER THE CIRCUMSTANCES: The Board of Trustees will consider the proposed emergency regulation at its September 13, 2005 meeting which begins at 8:30 AM in the Student Union Ballroom (Room 203-B) at FGCU, 10501 FGCU Blvd. South, Fort Myers, FL 33965-6565. This meeting will be publicly noticed and interested parties will be given an opportunity to comment upon the regulations at the meeting in accordance with the Board’s Bylaws. The emergency regulation also is being noticed on or about August 14, 2005 and the full text of the rule is published on the University’s website at www.fgcu.edu/generalcounsel/governance.html and at other appropriate locations on campus. In addition, the University has already begun promulgation procedures for permanent tuition and fee regulation, Regulation 6C10-7.001, F.A.C. The Board also will approve the permanent regulation at the September 2005 meeting. The proposed text and fee structure of the permanent and emergency regulations are identical to each other and to Emergency Rule 6C10-ER05-5 which was approved by the Board of Trustees at its June 21, 2005 meeting. This emergency rule was filed with the Secretary of State on June 28, 2005 and remains effective until September 26, 2005, in accordance with Chapter 120, F.S.
Florida Gulf Coast University
Emergency Regulation Text

6C10-ER05-5 Fall 2005 Tuition and Fees

(1) General. Tuition and fees assessed by the University shall be in accordance with the General Appropriations Act and the rules and policies of the Board of Governors.

(2)(a) Tuition and fee schedule. The University shall assess the following tuition and fees per credit hour for each regularly enrolled student, depending on whether a student is a resident or non-resident of the State of Florida, unless provided otherwise by law or in this rule:

<table>
<thead>
<tr>
<th>Tuition/Fee</th>
<th>Resident Undergraduate</th>
<th>Resident Graduate</th>
<th>Non-Resident Undergraduate</th>
<th>Non-Resident Graduate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tuition</td>
<td>$71.57</td>
<td>$180.24</td>
<td>$452.18</td>
<td>$771.78</td>
</tr>
<tr>
<td>Financial Aid Fee</td>
<td>$3.57</td>
<td>$9.01</td>
<td>$22.60</td>
<td>$38.58</td>
</tr>
<tr>
<td>Transportation Fee</td>
<td>$5.29</td>
<td>$5.29</td>
<td>$5.29</td>
<td>$5.29</td>
</tr>
<tr>
<td>Capital Improvement Trust</td>
<td>$2.44</td>
<td>$2.44</td>
<td>$2.44</td>
<td>$2.44</td>
</tr>
<tr>
<td>Building Fee</td>
<td>$2.32</td>
<td>$2.32</td>
<td>$2.32</td>
<td>$2.32</td>
</tr>
<tr>
<td>Activity and Service Fee</td>
<td>$10.94</td>
<td>$10.94</td>
<td>$10.94</td>
<td>$10.94</td>
</tr>
<tr>
<td>Athletic Fee</td>
<td>$12.54</td>
<td>$12.54</td>
<td>$12.54</td>
<td>$12.54</td>
</tr>
<tr>
<td>Total Per Credit Hour</td>
<td>$108.67</td>
<td>$222.78</td>
<td>$508.31</td>
<td>$843.89</td>
</tr>
</tbody>
</table>

(b) Students will be assessed the following fee per term:

<table>
<thead>
<tr>
<th>Fee</th>
<th>Resident Undergraduate</th>
<th>Non-Resident Undergraduate</th>
<th>Resident Graduate</th>
<th>Non-Resident Graduate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Health</td>
<td>$47.50</td>
<td>$47.50</td>
<td>$47.50</td>
<td>$47.50</td>
</tr>
</tbody>
</table>

(2)(c) Repeat course fee. A student enrolled in the same undergraduate course more than twice shall be assessed an additional $170.22 per credit hour charge for each such course.

(3) Payments on Accounts Due the University. Charges against a student's account for loss or breakage of University equipment, lost books, library or parking fines and other related charges are due immediately. University policy prohibits registration, or release of transcript and diploma for any student whose account with the University is delinquent.
(4) Registration occurs when a student:

(a) Selects one or more credit courses approved and scheduled by the University; and

(b) Pays tuition and fees, partial or otherwise, or makes other appropriate arrangements for tuition payment (deferment, or third party billing) for the courses in which the student is enrolled as of the end of the drop/add period. The University does not have a plan for installment payment of fees.

(5) Payment. Tuition and registration fees must be paid in full by the date designated in the University Student Schedule and Fee Statement as the "last date to pay fees" for each semester. Payments shall be made at the Cashier's Office or by mail and received no later than that date. The President or designee will extend the deadline for fee payment when payment by the student is delayed due to University action or inaction.

(6) Liability for payment of tuition is incurred at the point at which the student has completed registration. Students are liable for all fees associated with all courses in which they are registered at the end of the drop/add period.

(7) Cancellation of Registration. A student's course schedule shall be canceled when tuition has not been paid in full or when arrangements for payment have not been made through the Office of Financial Aid or the Cashier's Office. By the published "last date to pay fees" students awaiting receipt of financial aid must pay any additional amount due before the end of the last day to pay fees to prevent cancellation of the course schedule. A student whose course schedule has been canceled cannot thereafter attend classes and will not obtain credit for courses. A student whose course schedule has been canceled will be mailed written notice of cancellation to his/her last known address on record and be given a deadline by which he/she may apply for reinstatement.

(8) Reinstatement. Students may seek reinstatement of their course schedule by following the procedures outlined in this subsection.

(a) Requests for reinstatement. A request for reinstatement must be presented in writing to the Registrar's Office by the deadline given on the notice of cancellation mailed to the student. The request for reinstatement must include all documentation supporting the request. The Reinstatement Appeals Committee will evaluate the request based upon the criteria contained in this rule and notify the student in writing of its decision.

(b) Reinstatement Appeals Committee. A student whose course schedule has been canceled for non-payment may apply for reinstatement of the course schedule to the Reinstatement Appeals Committee. The Committee shall consist of at least three staff members appointed annually by the President, and one student appointed by the Student Association. The Committee shall meet as required between the published last day to pay fees and six months after the end of the term for which the reinstatement is requested. The decision of the Committee shall be final.
(c) Criteria for Reinstatement. In evaluating a request for reinstatement, the Committee shall apply the following criteria:

1. Reinstatement shall be granted where it is demonstrated that the student's registration was canceled through University error.

2. Reinstatement shall be granted where the student submits documentation demonstrating that the student was prevented from making timely payment due to extenuating circumstances beyond the student's control. Examples of "extenuating circumstances" include:
   a. A student was unavoidably out of town during the week prior to the last day to pay fees, or
   b. A student was ill and unable to make payment prior to the last day to pay fees.

3. If a student's reinstatement is approved by the Reinstatement Appeals Committee, they must be reinstated for all courses for which they were originally registered.

(d) Where reinstatement is granted, the student shall take the written decision of the Committee to the Cashier's office, pay the fees which are due and complete the registration process with the Registrar's Office.

(9) Late Registration Fee.

(a) A late registration fee of $100 shall be assessed by the University when registration is initiated after the close of the regular registration period.

(b) The late registration fee shall be waived when:

1. The late registration was caused by a University error, or

2. The student was unavoidably out of town on the last day to register (documentation must be provided), or

3. The student was ill (documentation must be provided), or

4. The course was closed and the student was required to wait until classes started (written documentation from the instructor is required), or

5. The student was informed after the published last day to register that a course is necessary in order to graduate, be re-certified, or is a work related requirement (appropriate documentation must be provided).

(10) Late Payment Fee. A late payment fee of $100 shall be assessed by the University when:

(a) A student pays his/her fees after the published "last day to pay fees", and has been approved for reinstatement pursuant to this rule; or
(b) A dishonored check is redeemed after the last date to pay fees.

(11) University Loan Program Service Charge. In lieu of interest, a $10 service charge will be assessed to any student participating in the University loan program regardless of the amount of the loan. Students utilizing the university loan program must sign a promissory note which obligates them to the total loan amount including the $10 service charge for each loan issued.

(12) Fee Appeals. Students may appeal the assessment of fees and request refunds of tuition and fees to the Fee Appeals Committee according to procedures set forth in this subsection.

(a) Procedures. A student who seeks review of a fee assessed shall file a written appeal with the Registrar's Office. The appeal must set forth the basis for seeking a refund and attach all supporting documentation. An appeal must be filed no later than six months following the last day of the term during which the fees were incurred. For the purpose of this rule, summer terms are considered as one term.

(b) Fee Appeals Committee. The Fee Appeals Committee shall consist of at least three staff members who are appointed annually by the President, and one student appointed by the Student Association. The Committee shall meet as often as necessary to review and act upon appeals which come before it.

(c) Committee Determinations. Each appeal will be initially reviewed by the Registrar or designee. A decision will be made by the Registrar's Office according to criteria established by this rule. The decision shall be communicated in writing to the student within 60 days from the date the appeal was filed with the University. The Fee Appeals Committee shall consider only cases of those students who are appealing the initial decision made by the Registrar's Office. Students may appear in person before the Committee to present their appeal. The decision of the Committee is final.

(d) Criteria for Determining Fee Appeals. The criteria established by this rule shall govern decisions by the Registrar and the Fee Appeals Committee:

1. A fee appeal shall be granted when it is demonstrated that fees were paid as a result of University error.

2. A fee appeal shall be granted when it is demonstrated that the student was prevented from timely withdrawal from the University due to extenuating circumstances beyond the student's control. Extenuating circumstances include death of the student, or death in the immediate family (parent, spouse, child, sibling) of the student; illness of the student that is of long duration or severity, as confirmed in writing by a physician; or involuntary call to military duty.

(13) Refunds. Refunds will be processed and mailed to the address shown on the Registrar's files to all students whose fee accounts show an overpayment after the published last day to pay fees. Students due a refund will not be required to submit a refund request to receive their refund because it will be automatically calculated. If there is a balance due to the University in
the accounts receivable system, that amount will be deducted from any refund due. In addition, students shall be entitled to refunds in the following circumstances:

(a) 100% of tuition and course related fees will be refunded if notice of complete withdrawal or course withdrawal from the University occurs prior to the end of drop/add period.

(b) 25% of tuition and course related fees will be refunded if notice of withdrawal from ALL courses from the University occurs prior to the end of the fourth week of classes.

(c) Students who receive financial aid and subsequently change their enrollment status and this action results in a refund, may have all or a portion of their refund returned to the University's Financial Aid Office in accordance with the terms of their financial aid agreement.

(d) 100% of tuition and course related fees if a student withdraws or drops a course due to circumstances which are exceptional and beyond the control of the student. Requests for fee adjustments must meet one of the conditions below to be considered:

1. Death of the student or immediate family member (parent, spouse, child or sibling) as confirmed by documentation indicating the student's relationship to the deceased. Death certificate required.

2. Illness of student of such severity or duration to preclude completion of course(s). Written confirmation by a physician required.

3. A situation in which the University is in error as confirmed in writing by the appropriate Vice President.

(14) Deferred Payment Status. Deferred payment status for tuition and registration fees will be granted upon application by the student on the following grounds:

(a) Veterans shall be entitled to deferment in accordance with the provisions of Section 1009.27, F.S.

1. Each student granted a veteran's deferment shall sign a promissory note for the amount of registration and tuition fees due. The promissory note must be presented to the University Cashier's Office before the published last day to pay fees. Failure to present the promissory note by the deadline will result in the student being assessed the $100 late payment fee. If the student does not present an authorized deferment to the Cashier, including the $100 late fee, by the close of the fourth week of classes, the student's registration shall be canceled. The student may request reinstatement by presenting an authorized VA deferment promissory note along with a $100 late registration/late payment fee in lieu of full payment of tuition and registration fees. (See the procedure outlined in Reinstatement.)

2. If an eligible student's educational benefits are delayed beyond the deferral period, (end of term for which they are enrolled) the deferment will be extended upon request by the student with written verification from the granting entity that the student is eligible to receive benefits
and that benefits are being processed for payment. Upon receipt of written verification, the Registrar's Office shall approve the deferment and any request for extension. Additional extensions may be similarly granted until such time that the student begins receiving educational benefits. Failure of the veteran to pay the amount of the authorized deferment by the due date or extended date, whichever is later, will result in the student being assessed the $100 late registration/late payment fee.

(b) Third Party Billings. Deferment is permitted when formal contractual arrangements have been made with the University for payments by an approved third party. The University Controller or designee is responsible for negotiating such third party contracts.

(c) Delay in Financial Aid Delivery. Deferral of tuition and fees is permitted for those students receiving financial aid from federal, state, or University assistance programs when delivery of the aid is delayed through circumstances beyond the control of the student. Failure to make timely application for such aid shall be insufficient reason to receive such deferral. The Director of Financial Aid shall certify a student's eligibility for deferral to the University Controller or designee for each student for each academic term for which receipt of aid is delayed.

(d) Extraordinary circumstances exist and the deferral has the approval of the President or his designee.

Specific Authority 1001.74(4) FS. Law Implemented 1001.74(11), 1009.24, 1009.27, FS., 2005-06 General Appropriations Act, CS/SB 2600.