

FLORIDA	OFFICIAL
POLYTECHNIC	UNIVERSITY
UNIVERSITY	POLICY
Subject/Title: Intellectual Property	
FPU Policy Number: FPU-1.0061P	
<input checked="" type="checkbox"/> New Policy <input type="checkbox"/> Major Revision of Policy <input type="checkbox"/> Minor Technical Revision of Policy	
Date First Adopted: June 3, 2015	
Date Revised:	
Responsible Division/Department: President's Office	
Initiating Authority: Randy K. Avent, President	

A. APPLICABILITY

This policy is applicable to all units of the University including its colleges, departments, centers, institutes and labs; all University employees, students and other individuals who utilize University Resources (as defined below); and all intellectual property, as broadly defined in Section 1004.23, Florida Statutes and in this policy.

Applicable law and/or the terms of any sponsored research or other agreements undertaken by the University or one of its units in good faith shall govern in the event the law or such agreements differ from the provisions of this policy.

B. AUTHORITY

The President or designee is authorized to administer this policy and to implement further policies and procedures within the framework provided herein to encourage and facilitate technology development and compliance with this policy.

C. POLICY STATEMENT

The University is dedicated to teaching, research, and the pursuit of knowledge for the benefit and use of society. An inherent objective of the University is to encourage creative activity and nurture innovation by recognizing and rewarding individuals who engage in such endeavors. The University recognizes that the natural outgrowth of research, scholarly, and other University activities conducted by faculty, staff, students and others may result in the development of inventions and discoveries of commercial importance. Consequently, it is incumbent upon the University to seek assurance that any intellectual property and related rights arising from research, scholarly, and other University activities are administered consistent with the public interest. Because the protection of intellectual property can often enhance the potential for investment and commercialization, the University seeks to protect the property rights of those ideas and discoveries that arise out of the activities of its faculty, staff, students, and others where it appears necessary or beneficial to do so.

This policy is intended to facilitate the development and transfer of University technology to the marketplace for the public benefit, while encouraging the prompt and open dissemination of research results by securing publication rights and availability of University technology for

educational purposes and providing recognition to individual creators by achievement of a fair and equitable distribution of royalty income.

As a condition of employment, all University employees are immediately bound by this policy. Furthermore, to provide full disclosure and acknowledgment of rights, the University requires, as a condition of employment, that all University employees acknowledge in writing their duty to recognize and adhere to this policy. University students and others working on sponsored research projects or utilizing significant University Resources (defined below), are likewise bound to, and required to acknowledge in writing their duty to recognize and adhere to this policy.

D. LEGAL CONSIDERATIONS

Pursuant to the Bayh-Dole Act of 1980 and subsequent amendments, universities are granted ownership of intellectual property created under government-funded work and are charged with commercializing those inventions for the public good. This policy is meant to encourage and enable technology development and for the benefit of the public. Adequate recognition of and incentive to potential creators of intellectual property through the sharing of the financial benefits resulting from the transfer and development of patentable inventions and other marketable forms of intellectual property encourages the creation of such intellectual property. At the same time, the University's share in the financial benefits provides funds for further research at the University. Consistent with the Bayh-Dole Act, the University is committed to sharing the intellectual and financial benefits resulting from the work of its employees.

Inventions that arise pursuant to programs receiving federal funds, whether such funds provide full or partial support in funding the research, are subject to the federal government retaining rights to the use of that property. Under Bayh-Dole, the federal government has provided universities the right to retain title to such inventions provided that, in return for this election right, the university assumes specific obligations in handling these inventions. Specific requirements, as prescribed by the federal government, include: election of title by the university within two (2) years of invention disclosure; obligation of due diligence in seeking legal protection and in licensing the technology; providing the federal government a non-exclusive, royalty-free license to use the invention either on its own or through a government contractor; required written agreements with university employees under which the employee agrees to prompt disclosure of inventions and to execute any documents necessary to obtain patent protection. The federal government also retains the right to assert a claim against an invention or patent in the event an institution fails to fulfill its responsibilities in accordance with federal regulations.

In addition to such obligations assumed by the University through its acceptance of federal research funding, the University often enters into research-related agreements (e.g., sponsored research agreement, material transfer agreement, participation agreement, service agreement), which typically will include legally binding terms governing Intellectual Property rights generated by participating researchers. The University must be able to fulfill these obligations, which often involve the disclosure, management, development and commercialization of intellectual property generated by participating University Creators.

E. DEFINITIONS:

- 1. “Intellectual Property”** includes inventions, industrial designs, trade secrets, mask works, tangible research material, copyrightable works and related trademarks.
- 2. “Inventions”** include any potentially patentable concept and/or reduction to practice of a discovery, invention, process, composition of matter, method of doing business, article of manufacture, know-how, design, model, technological development, biological material, strain, variety, culture of any organism, or portion, modification, translation, computer software or databases, or extension of these items, any mark used in connection with these items. An invention also includes material, other than copyrightable Works, that is used to assist or enhance instruction.
- 3. “Student”** includes any full or part-time degree or non-degree seeking individual who is enrolled at the University in an undergraduate or graduate course. Students employed by the University shall be a University employee under the terms of this policy.
- 4. “Tangible Research Material”** means unique research products or tools, such as biological materials or chemical compounds, whether or not patentable.
- 5. “Trade Secrets”** include information and/or data reasonably kept confidential and that has existing or potential economic value.
- 6. “University Creator”** includes all University employees, both part and full-time, researchers, visitors and others individuals participating in University programs, research and/or utilizing University Resources.
- 7. “University Resources”** includes the use of University funds, facilities, equipment, personnel, materials, or technological information, and includes such support provided by other public or private organizations when it is arranged, administered or controlled by the University.
- 8. “Works”** include copyrightable computer software and databases, audio and visual material, circuit diagrams, compilations of the works of others, architectural and engineering drawings lectures, musical or dramatic compositions, motion pictures, choreographic works, multimedia works, web pages, sound recordings, pictorial or graphic illustrations or displays, and any creative expression of a mark used in connection with these items. A work also includes copyrightable material that is used to assist or enhance instruction.

F. OWNERSHIP OF INTELLECTUAL PROPERTY

- 1.** University Creators retain ownership of Intellectual Property that they develop, provided such Intellectual Property is:
 - (a) not developed in the course of or pursuant to a sponsored research or other agreement; and
 - (b) not created as a “work-for-hire” by operation of copyright law and not created pursuant to a written agreement with the University providing for a transfer of copyright ownership to the University; and
 - (c) not developed with significant use of University Resources, as further described herein.
- 2.** Ownership of all other Intellectual Property immediately vests with the University upon creation, conception and/or reduction to practice in the following circumstances:

- (a) Intellectual Property is made or created by University Creators pursuant to a sponsored project agreement to which the University is a party;
- (b) Copyrightable works are created as a “work-for-hire” or pursuant to a written agreement with the University providing for the assignment of any Intellectual Property rights to the University;
- (c) Intellectual Property is developed by a University Creators with the significant use of University Resources.

3. University Creators own Intellectual Property that is developed on their own personal, unpaid time, in the absence of any sponsored project agreement or other agreement giving rights to the University, and without significant use of University Resources.

G. SIGNIFICANT USE OF UNIVERSITY RESOURCES

1. When Intellectual Property is developed by University Creators with the use of significant University Resources, the University owns such Intellectual Property. Provided the Intellectual Property is not subject to a sponsored project, or other agreement granting third party rights, the issue of whether or not a significant use of such University Resources occurred will be determined by the President or designee.

2. Textbooks developed in conjunction with teaching a University course are excluded from the “significant use” category (see “Scholarly Works” section below) and are not considered a “work-for-hire,” unless the textbook was developed using University personnel to support the textbook development or University administered funds were paid specifically to support the textbook development.

3. Generally, Intellectual Property will not be considered to have been developed using significant University Resources provided:

- (a) only a minimal amount of unrestricted funds has been used (e.g., amounts less than five hundred dollars (\$500) shall be presumed “minimal”); and
- (b) the Intellectual Property does not fall within an area of research that is subject to a sponsored research agreement for which the Creator is a participant or contributor; and
- (c) only a minimal amount of time has been spent using significant University facilities (e.g., time less than ten (10) hours shall be presumed “minimal”) or only insignificant facilities and equipment have been utilized (note: incidental use of office, library, machine shop facilities, and of traditional desktop personal computers are examples of facilities and equipment that are not typically considered significant); and
- (d) development of the Intellectual Property occurred during personal, unpaid time of the University Creator.

H. SCHOLARLY WORKS

1. In keeping with academic tradition, the University does not claim ownership of copyrights in scholarly books and textbooks, articles and other scholarly publications, nor popular novels, musical compositions, or other works of artistic imagination provided such works are:

- (a) created by the personal effort of the University Creator;
- (b) created without the significant use of University Resources; and
- (c) not subject to the terms of a sponsored research or other agreement.

I. STUDENT INTELLECTUAL PROPERTY

1. The University respects the long-standing tradition that students own their academic work. In general, any Intellectual Property (including theses and dissertations, inventions, discoveries, creations and new technologies) conceived or first reduced to practice by a student at the University as a work product (e.g., homework assignments, laboratory experiments and special and independent study projects) of a “for credit” course will be owned by the Student Creator. Generally, undergraduate and graduate Students own any Intellectual Property that they create through enrollment in a University course for academic credit. However, the University owns such Intellectual Property when one or more of the following apply:

- (a) When there is collaboration between a Student and University employee(s) to create works as part of a sponsored research project or faculty development activities.
- (b) In certain courses or special projects where a Student is presented with the opportunity to participate in a project or activity in which the ownership of any resulting Intellectual Property must be assigned either to the University or to a sponsoring entity as a condition of the Student’s participation.
- (c) When the Student is employed by the University, in which case the terms applicable to University employees shall apply.

2. Although a student retains copyright ownership to his/her thesis or dissertation or other Student-created Works, the Student grants the University permission to use, reproduce and publicly distribute copies of those Works.

J. SPONSORED STUDENT PROJECTS

1. Students are never obligated to participate in projects or activities that require the assignment of the Student’s Intellectual Property to the University or another entity. In these situations, Students must always be presented with two options to choose from:

- (a) participate in a project or activity that does not require the Student to assign his/her Intellectual Property; or
- (b) participate in a project or activity that requires the Student to assign his/her Intellectual Property.

2. A Student's grade and/or evaluation of performance in a University course shall not be affected by the Student's decision to participate or not to participate in projects or activities requiring the assignment of the Student's Intellectual Property. Students should consider that the assignment of Intellectual Property is a binding legal agreement and that they have the right to seek independent legal advice at their own expense prior to signing any agreement.

3. Student project results are not the work of the University and any references either internally or to third parties shall clearly identify the source of the student project results as student research performed at the University without subsequent independent evaluation.

K. INTELLECTUAL PROPERTY AGREEMENT

All individuals who participate in funded research activities or utilize University Resources shall be bound to, and must sign the *University Intellectual Property Agreement Form*. This obligation extends to all University Creators. The processing of a University appointment will not and cannot be completed until this agreement is signed and submitted to the Office of Human Resources, which shall be responsible for collecting and maintaining signed agreements for all individuals required to do so pursuant to this policy.

L. OUTSIDE CONSULTING AGREEMENTS

1. University employees who are consulting for, visiting, or collaborating with other entities may be asked by other entities to sign documents (e.g., consulting agreements, facility access arrangements, and non-disclosure/confidentiality agreements). Such third party agreements often contain language conferring rights to inventions arising from access to information or facilities and the signing of such agreement may conflict with an individual's existing obligations to the University. It is the responsibility of each individual to ensure that the terms of any consulting or other agreements with a third party does not conflict with his/her commitment to the University (see *University Regulation FPU-6.008 Outside Employment and Outside Activities*). A University employee should make the nature of his/her obligations to the University clear to any third party for whom he or she expects to consult or collaborate with. Specifically, the scope of the consulting services should be distinguished from the scope of any individual's University research commitments.

2. The University will not negotiate any outside consulting agreements on behalf of any employee or student; however, any questions regarding a University policy or regulation may be directed to the General Counsel's Office.

M. INTELLECTUAL PROPERTY DISCLOSURE

1. University Creators must disclose Intellectual Property in writing to the University promptly and completely upon creation or discovery, even if the University Creator does not believe the University has rights to such Intellectual Property under the provisions of this policy.

2. The terms of sponsored research and other related agreements normally impose obligations with respect to the reporting of inventions, technical data, and copyrightable works, such as software. In particular, Intellectual Property that is developed under federally or privately sponsored research must be promptly disclosed to the Provost or designee in order to accomplish required reporting actions.

3. Disclosure is made to the Provost or designee on the *University Invention Disclosure Form* within a reasonable time of creation. The disclosure must contain sufficient detail to convey a clear understanding, to the extent known at the time of the disclosure, of the nature, purpose, operation and technical characteristics relating to the disclosed Intellectual Property. The disclosure must also provide information pertaining to any publication or submission for publication, sale or offer of sale, or public use of the Intellectual Property. Thus, the University Creator has the responsibility to update the Provost or designee in a timely manner of any developments involving publication, sale or use of which the University Creator may become aware of after the initial disclosure, and must take all reasonable efforts to make the initial disclosure to the University well in advance of any publication, sale or public use.

N. INTELLECTUAL PROPERTY OWNERSHIP DETERMINATION

If the University Creator claims an ownership interest in Intellectual Property or has a question about whether an assignment must be made to the University, the Intellectual Property should be disclosed to the Provost or designee and the claim or question clearly stated. The University, through the Provost or designee will provide a determination of rights within a reasonable time following submission, generally not to exceed thirty (30) days from the date of disclosure.

O. INTELLECTUAL PROPERTY EVALUATION

The President or designee will evaluate all Intellectual Property disclosures for their commercialization potential and to determine the appropriate means for protecting and promoting the development of the technology, with the assistance and cooperation of the

University Creator(s). The President or designee will provide a timely response to the University Creator(s), generally not to exceed sixty (60) days from the date of disclosure, and may engage outside evaluators and other consultants to review the disclosure, as well as to assist in the licensing, commercialization and protection of the Intellectual Property.

P. INTELLECTUAL PROPERTY PROTECTION

When a patent application is deemed appropriate, University counsel will work with the creator(s) to prepare a patent application. The University Creator(s) shall provide a reasonable level of assistance in this process during the initial preparation of the patent application, the prosecution of the patent application and with subsequent patents that claim priority to the initial patent. This assistance shall survive the employment of the University Creator(s) with the University and the University Creator(s) shall execute all necessary paperwork to perfect rights in the patent(s) for the benefit of the University. Upon submission, the Intellectual Property Disclosure Form will initiate action by the President or designee to investigate the patenting (or other methods of Intellectual Property protection) and marketing of the technology, unless accompanied by a letter from the University Creator(s) requesting other action be taken by the University.

Q. COMMERCIALIZATION OF UNIVERSITY INTELLECTUAL PROPERTY

The President or designee may determine it appropriate to pursue the licensing of University Intellectual Property to promote the likelihood that the Intellectual Property will provide a benefit to the public in accordance with the mission of the University. The President or designee will pursue the licensing by researching the market, identifying third parties to support development and/or commercialization, entering into discussions with potential licensees, negotiating appropriate licensing or other agreements, monitoring progress, and distributing net royalty income that is generated to the University Creator(s) in accordance with this policy. Licensing agreements will generally entail a nonrefundable license fee, patent expense reimbursement, a royalty percentage and minimum royalty payments, development and reporting milestones and a requirement of licensee diligence, providing march-in rights where a licensee does not perform diligently pursuant to the terms of the license. When it is appropriate to do so, the University may accept an equity position in partial lieu of cash royalties. For Trade Secrets including, but not limited to, databases, technical data, manufacturing processes and methods having commercial value, the University Creator(s) may request the University to license said Trade Secrets to outside industry.

R. REQUEST TO LICENSE UNIVERSITY INTELLECTUAL PROPERTY

University Creators may request a license from the University to commercially develop their Intellectual Property where such licensing would enhance the transfer of the technology, is consistent with University obligations to third parties, and does not involve a conflict of interest. When Intellectual Property is not subject to a sponsored research or other agreement, but has been developed using significant University Resources, the President or designee may, at his/her discretion and consistent with the public interest, license the Intellectual Property to the University Creator(s), exclusively or nonexclusively, on a royalty basis. Such license will include the payment of appropriate royalties, in accordance with the agreement terms and will require diligence in developing and disseminating the technology. The University Creator(s) must demonstrate technical and financial capability to commercialize the Intellectual Property, and the President or designee shall have the right to terminate the license if the University Creator(s) does not achieve effective dissemination within a reasonable amount of time. If the University grants such request, the University Creator(s) may be required to assume the costs of filing, prosecuting, and maintaining any patent rights.

S. REQUEST TO UNIVERSITY TO COMMERCIALIZE INTELLECTUAL PROPERTY

University Creators may request that University pursue the commercial development of Intellectual Property owned by the University Creator(s). The President (or designee) will evaluate the commercial potential of any Intellectual Property and determine whether or not the University will accept it for licensing. If the University has determined to pursue commercialization, the University Creator(s) will be required to assign his/her ownership of the Intellectual Property to the University. The terms of such assignment will be negotiated between the University and the University Creator(s).

T. WAIVER OF UNIVERSITY INTELLECTUAL PROPERTY RIGHTS

1. If the University decides to waive its rights in the disclosed Intellectual Property, the University Creator(s) may proceed to protect such Intellectual Property as he, she or they may wish. If sponsored funds supported the work leading to the creation or discovery of such Intellectual Property, any such waiver is subject to any governing provisions in the sponsoring agreement. Waiver of such rights by the University is contingent upon a perpetual, nonexclusive, royalty-free grant to the University to use or practice the Intellectual Property for educational and research purposes, unless otherwise agreed to in writing.

2. Should the University decide to waive its rights as provided for herein, the University Creator shall disclose any potential conflict of interest arising from his/her ownership of the Intellectual Property when proposing University research activities that could reasonably appear to influence the financial value of such Intellectual Property.

U. ASSIGNMENT OF UNIVERSITY INTELLECTUAL PROPERTY

In the event the University has not pursued commercialization of the Intellectual Property within one hundred and twenty (120) days of receipt of the disclosure, the University Creator who intends to pursue commercialization of the Intellectual Property may submit a written request to the General Counsel's Office for the Intellectual Property to be reassigned to the University Creator. To the extent the Intellectual Property is not subject to any sponsored project or other agreement, and provided that all other University co-Creators, if any, consent to the request, the President or designee shall reasonably consider such a request. Any waiver or assignment of Intellectual Property rights by the University shall be limited only to the substance disclosed by the University Creator(s) in the Intellectual Property Disclosure Form and is subject to the grant of a perpetual, nonexclusive, royalty-free grant to the University to use or practice the Intellectual Property for educational and research purposes, unless otherwise agreed to in writing.

V. ROYALTY DISTRIBUTION

1. The University will receive all royalty revenue that is generated from the commercialization of University Intellectual Property ("gross royalty revenue") and will deduct any outstanding costs incurred by the University to protect the Intellectual Property and, if appropriate, reasonable projected expenses that the University deems necessary to maintain the Intellectual Property ("net royalty revenue"). As a means to assure recognition of the efforts and contributions of the University Creator(s), the University will then distribute the total net royalty revenue as follows:

- (a) Sixty percent (60%) to the University Creator(s) in recognition of their contribution. In the case of University co-Creators, this distribution will be equally shared among all University co-Creators unless otherwise agreed to by the University co-Creators in writing;
- (b) Thirty percent (30%) will be designated by the Provost to support innovation and entrepreneurship programs and activities and distributed, in the discretion of the Provost, among any of the following units: a college, a University institute or center, a University laboratory and/or an academic department or program; and
- (c) Ten percent (10%) to the Sponsored Research Development Fund to be used to support University research programs and training activities.

2. Distribution of net royalty revenue will occur on a semi-annual basis. In the event the University acquires equity in the company in lieu or partial lieu of royalties for Intellectual Property, any Creator(s) receiving an individual equity stake in the company shall not be entitled to share in the University's equity stake. Otherwise, proceeds from the liquidation of the University's equity in the company will be distributed as royalty revenue in the manner described above. In the case of an irresolvable dispute over the terms of royalty revenue

distribution, such funds will be distributed in accordance with the terms herein as determined by the President or designee, whose decision shall be final.

W. RESPONSIBILITY TO ASSIGN INTELLECTUAL PROPERTY INTERESTS

1. The assignment of Intellectual Property rights to the University, as provided herein, is a condition of employment, enrollment, or access to University facilities. In the case of University ownership of Intellectual Property pursuant to this policy, the University Creator(s) hereby irrevocably assign to the University, all right, title and interest in and to the Intellectual Property and shall cooperate fully with the University in the preparation and prosecution of patent applications and patents. Any transfer of Intellectual Property rights shall be documented through the appropriate legal instrument, such as an assignment agreement, in a form consistent with applicable law and regulation.

2. Those who fail to sign and submit the *University Intellectual Property Agreement Form* may not be granted employment, or in the case of current employees, will be referred to the President. At the discretion and recommendation of the President or designee, the failure of an individual to comply with this requirement or any other requirements pursuant to this policy may result in sanctions up to and including termination or expulsion, as determined by the President in accordance with University policies and regulations.

X. POLICY IMPLEMENTATION

This policy, as currently set forth, and as it may change from time to time, constitutes an understanding that is binding on the University and individual University Creators. This policy shall take effect immediately upon adoption by the University.

Y. FORMS

1. University Intellectual Property Agreement Form (attached).
2. University Invention Disclosure Form (attached).

POLICY APPROVAL	
Policy No.: FPU-1.0061P	
_____	_____
Initiating Authority	Date
_____	_____
Policies & Procedures Review Committee Chair	Date
_____	_____
President/Designee	Date
Approved by FPU BOT, if required	_____
	Date

**EXECUTED SIGNATURE PAGES ARE AVAILABLE IN THE
OFFICE OF THE GENERAL COUNSEL**

THE FLORIDA POLYTECHNIC UNIVERSITY BOARD OF TRUSTEES

FPU-1.003 Use of University Facilities and Property.

- (1) **Purpose.** Facilities are scheduled on a priority basis to serve university needs and, when available, to accommodate non-university groups and the general public. The purpose of this regulation is to set priorities for Facility use and to establish authority for determining scheduling procedures and setting charges.
- (2) **Definitions.**
 - (a) **Facilities.** Physical space and grounds that are under the University's operating authority.
 - (b) **Facility Administrators.** Individuals with designated responsibility for the management of one or more Facilities, appointed by the President or designee.
 - (c) **Student Group.** Student groups, clubs or organizations that have received official recognition from the Office of Student Affairs.
 - (d) **University Affiliated Groups.** The University's Direct Support Organizations, institutes, and centers.
 - (e) **Affiliated Organizations.** University Departments or Units, University Affiliated Groups, Student Groups and University Partners.
 - (f) **Affiliated Activities.** Activities hosted by Affiliated Organizations that are related to University business.
 - (g) **Unaffiliated Activities.** Activities hosted by Unaffiliated Groups or activities hosted by any other groups or individuals when such activities are not related to University business.
 - (h) **Unaffiliated Groups.** Groups or individuals other than University Departments or Units, University Affiliated Groups, Student Groups or University Partners.
 - (i) **University Departments or Units.** Component parts of the University.
 - (j) **University Partners.** Institutions and organizations with which the University has formal written agreements for mission-relevant joint efforts, for example: industry partners and state colleges.
 - (k) **Elected Official or Candidate.** Individuals serving in, or running for, an elected position at the local, state, or national level.
- (3) **Access.** There are some areas of the University where access of the Facilities by the general public is permitted, and in many cases, encouraged. However, in order to foster an atmosphere and environment in which the University's educational mission can be carried out, some areas such as classrooms, laboratories, academic offices, and other academic and research areas are not open to the general public. For the most part, the academic and research areas are limited to the use of faculty, staff, students, and invited guests who have business related to the mission of the University.
- (4) **Priority.** The following order of priorities will be observed by Facility Administrators when scheduling Facilities:
 - (a) **Credit Instruction.** The highest priority for the use of the Facilities is reserved for

academic scheduling, i.e., the use of classrooms, laboratories, and other Facilities for teaching and instructional programs for credit.

- (b) Other Academic Use (Research and Essential Support Services). These are mission-essential academic activities including sponsored and non-sponsored research projects and support services. These include but are not limited to library services, technology support, recruiting events, art exhibits, performances needed to fulfill the academic mission, registration services, counseling and tutoring, and Student Group meetings.
- (c) Non-Credit Instruction and Academic Outreach. This includes academic offerings that are not degree-related or credit-generating (i.e., certain continuing education programs).
- (d) Affiliated Organization and University Partner events related to the University mission.
- (e) Unaffiliated Activities. On a resources-available basis, the University may grant use of its Facilities for Unaffiliated Activities when such use:
 - i. Complies with University rules, regulations, policies and charge schedules;
 - ii. Does not compete with University programs;
 - iii. Does not interfere with other proper functions of the University; and
 - iv. Does not result in the deterioration of Facilities without reimbursement to the University.

Tax exempt organization activities will generally be given priority in scheduling over commercial activities.

- (5) **Scheduling.** When scheduling use of Facilities or equipment, priority shall be given to University programs and functions. Requests for scheduling events in Facilities, except for instructional space, should be directed to the appropriate Facilities Administrator for the Facility. Scheduling of instructional space shall be determined by the Registrar.

(6) **Charges.**

- (a) Rental Fees. The President or designee will establish standard Facility/Equipment Use Fees. These fees may correlate to the number of attendees per event and may include:
 - i. Space rental fee;
 - ii. Equipment use, maintenance or replacement fee;
 - iii. Cost recovery charges; and
 - iv. Processing fees.
- (b) Cost Recovery. Cost recovery may include, but is not limited to, expenses incurred for:
 - i. Event-specific security;
 - ii. Event-specific traffic control;
 - iii. Parking for event guests or visitors;
 - iv. Use of technology;
 - v. Set up;
 - vi. Clean-up; and
 - vii. Processing.
- (c) Distribution of Rental Fee and Cost Recovery. All fees collected will be distributed to the appropriate service areas and Facilities or as directed by the President or designee.
- (d) Facility/Equipment Use Fee. The President or designee will establish a standard Facility use fee schedule. The President or designee may waive or reduce fees for the use of Facilities when appropriate. Applicants requesting a Facilities/Equipment use fee waiver must submit written documentation with the basis for the waiver to the Facilities Administrator or Registrar, as appropriate, for consideration.

(7) Conditions.

- (a) **Laws and Policies.** All use of Facilities and equipment shall be governed by all applicable state and federal laws and by University rules, regulations, and policies. Security and traffic control for all events held on or in Facilities are under the jurisdiction of the University and all event attendees are subject to University traffic and parking rules.
- (b) **Licenses for the use of the Facilities** shall include appropriate insurance provisions. All non-governmental groups not directly a part of the University or Student Groups must provide proof of insurance coverage in the appropriate amount as determined by risk management.
- (c) If a University Department or Unit, Student Group, or governmental group holding an event utilizes an outside vendor to provide services for the event, the vendor must be required, by contract, to have and maintain types and amounts of insurance that cover the vendor's exposure in performing the services.
- (d) **Unaffiliated Activities Sponsored by University Departments or Units.** The University sponsor is responsible for:
 - i. Submitting all required applications for the proposed use as required;
 - ii. Being on site to supervise the activity or event;
 - iii. Assuring that the Facilities are used for the purposes for which they were scheduled;
 - iv. Being fiscally responsible for the event;
 - v. Ensuring that all (on-campus and off-campus) promotion and advertising of such events shall identify the University Department or group that is the sponsor and all groups involved in funding the event;
 - vi. Taking all reasonable steps to ensure that use of the Facilities complies with local, state, and federal laws, and University rules, policies and regulations.
- (e) Before contacting or inviting any Elected Official or Candidate to an event sponsored by the University or a University Affiliated Group, the Government Relations staff must be consulted.

(8) Fronting. A University Department or Unit or Student Group may not reserve space on behalf of or for the use by an Unaffiliated Group so that the Facility can be used at a reduced rate. This conduct constitutes "fronting" and is prohibited.

(9) Refusal, Reassignment or Cancellation. The reservation and use of Facilities or equipment is a privilege and not a right. The University reserves the right to refuse a request for use of Facilities or equipment or to reassign or cancel any reservation by any person or group. The requestor will be notified, as soon as practicable, of any decision refusing the request for use of space or equipment, or the reassignment or cancellation of a reservation.

(10) Employees Protected Right to Engage in Concerted Activities. This regulation in no way limits or restricts employees' protected rights to self-organization and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection.

Authority: BOG regulation 1.001(7)(g); Fla. Stat. § 1013.10

History: New: 5.15.14. Amended:12.6.2017

THE FLORIDA POLYTECHNIC UNIVERSITY BOARD OF TRUSTEES

FPU-6.004 Annual Leave.

(1) **Purpose.** Annual Leave offers employees the opportunity to take vacations, to enjoy time off for personal reasons, or to supplement other forms of leave.

(2) **Eligible Employees and Accrual Rate.** Annual Leave for non-OPS full-time Executive Service, Faculty, Administrative and Support employees (collectively referred to as “Budgeted Employees”) will accrue as follows, with proportionate accrual for less than full-time. Any employee appointed for 9 months or less of each year will not accrue Annual Leave.

A Support employee’s accrual of Annual Leave hours is based on the employee’s number of years of creditable service with the University and such service will be awarded as one month of service credit for each calendar month that the employee is either on the salaried (non-OPS) payroll of the University or on authorized unpaid leave.

HOURS ACCRUED DURING PAY CYCLE

	SEMI-MONTHLY	YEAR-END MAXIMUM	MAXIMUM PAYOUT
FACULTY	7.3125	352	352
ADMINISTRATIVE	7.3125	352	352
EXECUTIVE SERVICE	9.7500	480	480
SUPPORT (Months of service)			
0-6	4.3334	240	240
6-120	5.4167	240	240
Over 120	6.5000	240	240

(3) **Accrual Prior to Use.** An employee must accrue Annual Leave prior to its use. An employee must get their supervisor’s approval prior to using Annual Leave.

(4) **Conversion of Annual Leave to Sick Leave.** An employee may accrue Annual Leave in excess of the Year-End Maximum during a calendar year. However, if on December 31 of each year the employee has accrued Annual Leave in excess of the Year-End Maximum for the employee’s pay plan, the excess Annual Leave will be converted to Sick Leave on an hour-for-hour basis on the next day, January 1. An employee must receive approval from Human Resources by December 31 of each year to retain Annual Leave hours in excess of the Year-End Maximum.

(5) **Transfer of Annual Leave from Other Employers.** No Annual Leave, accrued in another entity, state university or state plan will transfer to the University.

(6) **Separation from Employment.** An employee who separates from employment will be paid for all unused Annual Leave hours up to the Year-End Maximum allowed (“maximum payout”) for the employee’s pay plan. If the employee is reemployed by the University in a budgeted position within 60 days of the employee’s date of separation or if a laid off employee is recalled by the University within one year of the date of the layoff, all of the employee’s unpaid Annual Leave will be restored to the Budgeted Employee. Also, any Annual Leave paid at the time of separation will be restored upon repayment to the University by the Budgeted Employee.

(7) **Employees in DROP.** Upon entering into the Deferred Retirement Optional Program (DROP), an employee may elect to be paid for up to the Year-End Maximum of the employee's unused Annual Leave.

(8) **Transfer to Non-Leave Accruing Position.** Upon transfer from an Annual Leave-accruing position to a non- Annual Leave-accruing position, the employee will be paid for unused Annual Leave hours up to the Year-End Maximum.

(9) **Death of Employee.** Upon the death of an employee, payment for all unused Annual Leave will be paid to the employee's estate, the employee's beneficiary or as provided by law. Where an employee is participating in DROP at the time of his or her death, certain restrictions may apply.

(10) Effective date, October 1, 2016 or when ERP Workday goes live, whichever date is later.

Authority: FBOG regulation 1.001(3)(j) and 1.001(5)

History: New: 8.28.13, Amended: 6.5.15, 9.14.16

THE FLORIDA POLYTECHNIC UNIVERSITY BOARD OF TRUSTEES

FPU-6.006 Sick Leave Pool.

- (1) Purpose. The purpose of this regulation is to establish an employee sick leave pool.
- (2) An eligible Budgeted Employee who began employment with the University on or after March 1, 2013 may join the sick leave pool within 30 days after completing his/her first year of service or during an annual open enrollment period. An eligible Budgeted Employee who began employment with the University prior to March 1, 2013, may join the sick leave pool any time prior to February 1, 2014 or during an annual open enrollment period.
- (3) Budgeted Employees shall be eligible for participation in the sick leave pool after one (1) year of employment with the University, provided that such employee has accrued a minimum of sixty-four (64) hours of unused sick leave at the time of joining the sick leave pool.
- (4) To enroll, the employee must contribute eight (8) hours of sick leave to the sick leave pool. Participating employees may be required to contribute additional hours to remain in the sick leave pool when the balance in the sick leave pool falls below the designated level. Participation in the sick leave pool shall, at all times, be voluntary on the part of the participating employees.
- (5) Any sick leave pooled shall be removed from the personally accumulated sick leave balance of the employee contributing such leave.
- (6) Any sick leave in the sick leave pool that is used by a participating employee shall be used only for the employee's own personal illness, accident, or injury.
- (7) A participating employee shall not be eligible to use sick leave accumulated in the sick leave pool until all of his or her personally accrued sick, annual, and compensatory leave has been used.
- (8) An employee may only use a maximum of 20 work days of sick leave in the sick leave pool per illness, accident or injury, and no more than 60 work days of sick leave in the pool per fiscal year.
- (9) A participating employee who uses sick leave from the sick leave pool shall not be required to recontribute such sick leave to the pool, except as otherwise provided in this regulation.
- (10) An employee who cancels his or her membership in the sick leave pool shall not be eligible to withdraw the hours of sick leave contributed by that employee to the pool.
- (11) An employee who transfers from one position in state government to another position in state government may transfer membership from one sick leave pool to another if the eligibility criteria of the pools are comparable or the administrators of the pools have agreed on a formula for transfer of credits.
- (12) Alleged abuse of the use of the sick leave pool shall be investigated, and in the event of a finding of wrongdoing, the employee shall repay all of the sick leave credits drawn by that employee from the sick leave pool, and the employee shall be subject to such other disciplinary action as is determined by the University President or designee.
- (13) Sick leave credits may be drawn from the sick leave pool by a part-time employee on a pro rata basis.

Authority: FBOG Reg. 1.001, Florida Statutes Section 110.121.

History: NEW 2.5.14

THE FLORIDA POLYTECHNIC UNIVERSITY BOARD OF TRUSTEES

FPU-6.007 Other Types of Leave.

(1) Employees are provided with types of leave (other than Sick Leave, Annual Leave, and Compensatory Leave, etc. which are addressed under separate regulations) as provided below.

(2) **Administrative Leave.** Employees are provided paid Administrative Leave in accordance with this regulation. The granting of Administrative Leave shall not cause any full-time employee to exceed 40 hours during a workweek. Paid Administrative Leave shall not count as hours worked for purposes of calculating overtime. Administrative Leave is not accrued. Below are the circumstances when Administrative Leave will/may be provided to an Employee:

(a) **Jury Duty.** If an employee is summoned as a member of a jury panel, he/she will be granted Administrative Leave as follows.

(i) Administrative Leave will be provided to the employee for each day of jury duty; however, the amount of Administrative Leave acquired for each day of jury duty shall not exceed the number of hours in the employee's normal workday. If the jury duty does not require the employee's absence for the entire workday, the employee shall return to work immediately upon release by the court.

(ii) If the jury duty does not coincide with the employee's regular work schedule (i.e. the employee works the night shift and the jury duty takes place during the day), the employee shall be granted Administrative Leave based on the total hours served on jury duty and such leave shall be granted on the employee's next scheduled work shift.

(iii) The University will not reimburse the employee for any meals, lodging or travel expenses while serving as a juror; however, the employee shall retain any jury pay received.

(iv) The employee must provide documentation for all hours of jury duty to Human Resources in a timely manner. The employee's failure to provide appropriate documentation will result in the employee using Annual Leave in lieu of Administrative Leave. Appropriate documentation may include a copy of the jury summons, a copy of the subpoena or a notification from the bailiff of the court.

(b) **Non-Expert Witnesses in a Hearing or Trial.** Administrative Leave shall be provided to an employee summoned as a witness in a matter not involving the employee's personal interests or matters in which the employee is a party. The employee shall retain any witness pay. The employee must provide documentation for all hours of "Summons as Witness" to Human Resources in a timely manner. The employee's failure to provide appropriate documentation will result in the employee using Annual Leave in lieu of Administrative Leave. Documentation may include a copy of the summons, subpoena or a notification from the bailiff of the court.

Administrative Leave shall not be provided to an employee hired as an expert witness. If an employee is subpoenaed to represent the University or a state agency as a witness, such duty is considered a part of the employee's job assignment and the employee will be paid per diem and reimbursed for any travel expenses. In such instances, the employee is required to give the University any fees received.

(c) **Athletic Competition.** Administrative Leave for employees who are members of the official delegation of the United States to world, Pan American, or Olympic events shall be provided in accordance with Florida Statutes §110.118.

(d) **Official Closing of the University.** Administrative Leave shall be provided to Budgeted Employees in the event of an official closing of University facilities (excluding closings for Holidays). Support employees required to perform essential services during an emergency closing shall have the time worked during the official closing calculated as overtime. Only Budgeted Employees scheduled to work during the time of an emergency closing shall be provided the Administrative Leave.

- (e) **Florida Disaster Volunteers.** The University President may provide Administrative Leave for employees who are Florida Disaster Volunteers in accordance with Florida Statutes §110.120.
- (f) **Volunteer Emergency Response Team Members.** The University President may grant Administrative Leave to an employee who is a member of a volunteer emergency response team for responding to civil disorder or a disaster.
- (g) **Voting in Public Elections.** Up to two hours of Administrative Leave may be provided to an employee for voting in public elections when it is not possible for the employee to vote outside of his/her normal work schedule. If early voting procedures are in effect, employees are not eligible for this benefit. The employee must request this leave in advance.
- (h) **University Investigations.** The University President or designee may place an employee who is under investigation on Administrative Leave for a time period up to the length of the investigation when there is reason to believe that the employee's presence on the job will adversely affect the operation of the university.
- (i) **Disciplinary Notice.** The University President or designee may place an employee on Administrative Leave for all or some of the time period between the employee's receipt of a notice of reduction in pay, notice of suspension, or notice of dismissal and the effective date of such action.
- (j) **Best Interest of the University.** The University President or designee may place an employee on Administrative Leave when the employee's presence in the workplace may result in damage to property or injury to the employee or others, or when it has been determined that it is in the best interest of the University to do so.
- (k) **Presidential Discretion.** The University President, may, at his/her discretion, designate additional leave days with pay for administrative purposes.

(3) **Bereavement Leave.** Budgeted Employees may use up to two (2) days of paid Bereavement Leave upon the death of the employee's immediate family member/relative. For purposes of this regulation, immediate family member/relative is defined as the employee's spouse, parents, children, grandparents, grandchildren, siblings, or individual for whom the employee is the current legal guardian; or the employee's spouse's parents, children, grandparents, grandchildren, or siblings. The employee must provide appropriate documentation to Human Resources; such documentation may be a copy of the obituary, a copy of the funeral program, or a death certificate. The employee's name and relationship to the deceased must be provided when requesting Bereavement Leave. Failure to provide documentation in a timely manner will result in the employee using Annual Leave in lieu of the Bereavement Leave. Bereavement Leave does not accrue. The employee may use reasonable amounts of accrued leave to extend the leave, with the employee's immediate supervisor's approval. Within thirty (30) days of this regulation becoming effective, each eligible employee who lost a family member/relative between the date they began employment with the University and the date this regulation is first effective shall be given a credit of a maximum of two (2) days of Annual Leave to compensate the employee for the Annual Leave the employee used in bereavement.

- (4) **Compulsory Leave.** The University may place an employee on unpaid Compulsory Leave if the employee is unable to perform the duties of the position, or the employee is experiencing excessive absences due to medical reasons. Compulsory Leave provisions shall be consistent with the following:
- (a) The employee may be required to provide medical certification of the medical condition and work restrictions, if any, by an approved health care provider.
 - (b) The University may require the employee to be examined by a University-appointed physician to determine fitness for duty. The University shall pay the cost of such examination.
 - (c) The University shall provide notice to the employee identifying duration of the leave, any conditions for returning to the position, and whether such leave shall count toward FMLA entitlements.
 - (d) The employee may use accrued leave during Compulsory Leave to continue contributions to

the employee's State benefits and other expenses.

(e) Unless agreed otherwise, an employee shall be employed in the same or similar status upon completion of the Compulsory Leave period and upon the University's receipt of medical certification.

(f) If the employee:

(i) fails to meet any conditions of the Compulsory Leave, or

(ii) fails to obtain medical certification and is unable to perform duties of the position, the University may offer the employee part-time employment, place the employee on unpaid leave, have the compulsory leave extended, request the employee to resign and/or dismiss the employee for inability to perform the duties of the position.

(5) **Family and Medical Leave.** Eligible University employees are provided with twelve (12) workweeks (no more than 480 hours) of Family and Medical Leave within a 12-month period in compliance with the Family and Medical Leave Act (FMLA) of 1993 (Public Law 103-3) and the Final Regulations of the Family and Medical Leave Act of 1993 (29 CFR Part 825). The 12-month period is calculated on a rolling year basis for each individual employee. All employees are eligible, including Other Personal Services (OPS) employees, who have worked at least 12 months at the University (these need not have been consecutive) and who have worked at the University at least 1250 hours in the 12-months prior to the leave. Budgeted Employees who are covered by FMLA may choose to use accrued leave in order to remain in pay status during the FMLA event and such shall be counted toward the entitlement.

(6) **Military Leave.** Military leave and reemployment rights shall be provided to employees consistent with Federal and State laws.

(7) **Workers' Compensation.** Workers' Compensation benefits for an injury compensable under the Florida Workers' Compensation Law shall be provided to University employees consistent with the following:

(a) An employee shall remain in full pay status for seven (7) calendar days (a maximum of 40 hours) without being required to use accrued leave credits. If, during that period, the employee receives Workers' Compensation benefits, the employee shall reimburse the University for the amount of the benefits. Such reimbursement shall not include reimbursements for University payments of expenses related to medical, surgical, hospital, or nursing treatment or payments of disability losses.

(b) An employee may elect to use accrued leave (Sick Leave, Annual Leave, or Compensatory Leave) in an amount not to exceed the employee's regularly scheduled work day to supplement Workers' Compensation payments.

(c) The period of paid or unpaid job-related disability leave shall be in accordance with Florida Statutes Chapter 440.

(d) An employee who was injured in the workplace, may be returned to alternate duty consistent with established University policies or procedures.

(e) If at the end of the leave period, an employee is unable to return to work full-time and perform the duties of the position, the University may consider various employment options.

(f) FMLA shall run concurrently with Workers' Compensation.

(8) **Domestic Violence Leave.** In accordance with Florida law, the University will provide University employees up to three (3) days of leave in a 12-month period if the employee or a family or household member is a victim of domestic violence. Domestic Violence Leave is unpaid; however, the employee may use any form of accrued leave during this period.

(9) Personal Holiday. Budgeted Support employees are authorized one additional personal day per fiscal year to be used at any time after the first thirty (30) days of employment on any day the employee selects, provided such date is approved by the employee's immediate supervisor. This personal day is a non-cumulative holiday. Within 30 days of this regulation becoming effective, a personal day will be credited to those current eligible employees who have not used a personal day for fiscal year 2013-14, and thereafter eligible employees will be credited with a personal day on July 1 of each fiscal year. The employee forfeits the personal day if the employee fails to use it prior to June 30 of the following year. The personal day must be used as a full day, and cannot be taken on an hour for hour basis. The personal day cannot be accrued and unused personal days will not be paid out upon termination of employment. A part-time Budgeted Support employee is entitled to personal day time in proportion to the number of hours in his/her workweek.

Authority: BOG Reg. 1.001; Florida Statutes Chapter 440, and Sections 110.117, 110.118, 110.120, 741.313.

History: New 2.5.14

FLORIDA	OFFICIAL
POLYTECHNIC	UNIVERSITY
UNIVERSITY	POLICY

Subject/Title: Work and Absence Certification
FPU Policy Number: FPU-6.0031P
<input checked="" type="checkbox"/> New Policy <input type="checkbox"/> Major Revision of Policy <input type="checkbox"/> Minor Technical Revision of Policy
Date First Adopted: April 12, 2017
Date Revised:
Responsible Division/Department: Finance and Administration
Initiating Authority: Mark Mroczkowski, VP & CFO

A. APPLICABILITY/ACCOUNTABILITY:

This policy applies to all University salaried exempt employees including faculty.

B. POLICY STATEMENT:

The University requires that all salaried exempt employees, including faculty, certify that they have either worked or properly recorded their absences. The University also requires that supervisors approve the certifications of their direct reports. All such certifications and approvals must be reported in the University ERP System on or before the last day of each pay period.

C. DEFINITIONS:

1. **Certification:** is the process in which a salaried exempt employee certifies that they have worked and recorded all absences, if any, in the ERP System.
2. **Absence:** occurs when an employee is not present during a normally scheduled work period.
3. **ERP System:** is the Enterprise Resource Planning System known as Workday presently in use by the University or any system that may replace Workday in the future.
4. **Salaried Exempt Employees:** those employees classified as either executive, administrative or professional who satisfy the requirements of 29 CFR 541 “Defining, Delimiting the Exemptions for Executive, Administrative, Professional, Computer and Outside Sales Employees.”
5. **Supervisor:** is an employee at the University whose responsibilities include managing time, managing absences, and conducting performance appraisals for one or more of his or her direct reports.

D. PROCEDURE:

Twice monthly, by each pay date, each salaried exempt employee must certify in the ERP System that they have either worked or recorded their absences. Each supervisor must subsequently review and approve the certifications made by their salaried exempt direct reports on or before the last day of each pay period. Each certification and supervisor approval must be made electronically in the ERP System, in accordance with instructions provided by the Administration.

- E. COMPLIANCE:** Failure to comply with this policy may result in disciplinary action up to and including termination of employment.

POLICY APPROVAL

Policy No.: FPU-6.0031P

Initiating Authority

Date

Policies & Procedures Review Committee Chair

Date

President/Designee

Date

Approved by FPU BOT, if required

Date

EXECUTED SIGNATURE PAGES ARE AVAILABLE IN THE
OFFICE OF THE GENERAL COUNSEL

FLORIDA	OFFICIAL
POLYTECHNIC	UNIVERSITY
UNIVERSITY	POLICY

Subject/Title: Family and Medical Leave of Absence
FPU Policy Number: FPU-6.0071P
<input checked="" type="checkbox"/> New Policy <input type="checkbox"/> Major Revision of Policy <input type="checkbox"/> Minor Technical Revision of Policy
Date First Adopted: February 3, 2017
Date Revised:
Responsible Division/Department: Human Resources
Initiating Authority: Mark Mroczkowski, VP and CFO

A. APPLICABILITY/ACCOUNTABILITY:

This policy applies to all University “eligible employees” as defined below.

B. POLICY STATEMENT:

The University promotes and adheres to the requirements of the Family and Medical Leave Act (FMLA) of 1993 (29 U.S.C. 825). The University accomplishes this goal through the implementation of the following:

1. All eligible employees are authorized to take a total of twelve (12) workweeks of job-protected, unpaid leave, or to substitute earned paid leave within a twelve (12) month rolling calendar year period.
2. Eligible employees are permitted to take the twelve (12) workweeks of leave, as set out above, for the following qualifying events:
 - a. Birth of a child
 - b. Care for newborn
 - c. Placement of a child with the employee for adoption or foster care
 - d. Care for a family member (child, spouse, or parent) with a serious health condition
 - e. Employee’s own serious health condition that makes the employee unable to perform the function of their job
 - f. Qualifying exigency due to the employee’s spouse, son, daughter or parent is a military member on active duty, who is called to a covered active duty, or has been notified of an impending call or order to active duty.
3. Eligible employees are permitted to take a total of twenty-six (26) workweeks in a twelve (12) month period to care for a covered servicemember with a serious injury or illness.
4. FMLA leave may be taken all at once, used on an intermittent basis, or as part of a part-time schedule.
5. An eligible employee who takes advantage of FMLA leave is still entitled to have their health benefits maintained while on leave, unless the employee fails to return to work when the FMLA leave ends. Failure to return to work may lead to disciplinary action up to and including termination of employment.
6. Eligible employees are entitled to return to the same or an equivalent position with equivalent pay when they return from FMLA leave, exceptions include reduction in force, layoff or other legitimate business decision.
7. Eligible employees who are married spouses, both employed at the University, are limited to a combined twelve (12) weeks of FMLA within a twelve (12) month period for the same qualifying event listed above and are limited to a combined twenty-six (26) weeks to provide care for a covered servicemember within a twelve (12) month period.

C. DEFINITIONS:

1. **Covered Servicemember:** is either (1) current member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness or (2) a veteran who is undergoing medical treatment, recuperation, or therapy for a serious injury or illness.
2. **Eligible employee:** to be considered an “eligible employee” (1) the employee must have been employed with the University for a total of at least twelve (12) months when the use of FMLA leave begins and (2) must have been employed at the University for at least 1,250 hours of service with the University during the previous twelve (12) month period. The University will not consider any period of previous employment with the University that occurred more than seven years before the most recent hiring of the employee.¹
3. **In loco parentis:** does not require a biological or legal relationship but instead is an individual who has the day to day responsibility to care for and financially support a child, or, who had the responsibility when the individual was a child.
4. **Serious health condition:** is an illness, injury, impairment or physical or mental condition that involves inpatient care or continuing treatment from a health care provider.
5. **Spouse:** husband or wife with whom the eligible employee entered into marriage.
6. **Parent:** is a biological, adoptive, step or foster father or mother, or any individual who stood in loco parentis to the employee when the employee was a child. Parents “in-law” are not considered included in this definition.
7. **Son or daughter:** a biological child, adopted child, or foster child, stepchild, or legal ward of the employee, including a child for which the employee is in loco parentis. The child is either under 18 years of age or is 18 years of age or older, but is not capable of self-care because of a mental or physical disability (temporary or permanent) at the time the FMLA leave begins. However, when an eligible employee takes FMLA leave for a son or daughter on covered active duty or call to covered active duty status, the son or daughter may be of any age.
8. **Unable to perform the functions of the position:** occurs when a health care provider determines that the employee is unable to work at all or is unable to perform any one of the essential functions of the employee’s position as defined by the American with Disabilities Act (ADA)(42 U.S.C. 12101)
9. **Qualifying exigencies:** includes, but is not limited to, short notice deployment, military events and related activities, financial and legal arrangements, counseling and rest and recuperation. The full list of qualifying exigencies, including examples and definitions, can be found at 29 U.S.C. §825.126 (Leave because of a Qualifying Exigency).

D. PROCEDURES:

Employee:

Notice

A University employee who believes that they are entitled to FMLA leave must provide at least 30 days’ verbal or written need notice to the Human Resources Department prior to beginning the FMLA leave. All FMLA related absences must be submitted and processed through the University’s Human Capital Management (HCM) system in the “Time-Off”

¹ Please review 29 U.S.C. 825.102 Definitions for the USERRA (Uniformed Services Employment and Reemployment Rights Act) and the applicable collective bargaining agreement exceptions to this seven year rule.

module. The submission of FMLA absence requests within the HCM module outlines the business process and includes an official and electronic approval of the absence. At a minimum, verbal notice may be given in unusual circumstances that may inhibit the employee from performing the electronic process. In those cases, please contact the Human Resources Department. Employees are encouraged to contact the Human Resources Department as early as possible to ensure that all required prerequisites are satisfied prior to the employee needing to use FMLA leave. If an employee is unable to provide 30 days' notice or more, due to medical emergency, change in circumstances, etc. then the employee will provide notice as soon as possible and practicable.

The need notice must include notification that the employee is seeking FMLA leave, the qualifying basis that makes this leave fall under FMLA leave, anticipated timing of the FMLA leave, and the anticipated duration of the leave.

An employee re-seeking FMLA leave based on a previously approved FMLA need must indicate that they are seeking FMLA leave under the previous qualifying reason.

Medical Certification

If the basis for an employee's FMLA leave is a medical condition, the employee will be required to submit a completed medical certification. The employee must provide a response to all request for medical certification within fifteen (15) calendar days of receiving the request. If an employee is unable to complete the requested medical certification within fifteen (15) calendar days, despite their due diligence, an employee should contact the Human Resources Department to obtain additional time to submit the completed medical certification.

An employee's failure to satisfy these requirements may cause a delay in the employee being deemed an eligible employee, result in a delay of the start of the employee's FMLA leave, and/or result in a denial of FMLA leave.

Human Resources:

Review of Notice and Determination on Eligible Employee Status

The Human Resources Department will review the request for FMLA and will perform additional inquiries, as needed, with the employee to ensure that the Human Resources Department has received all the details needed to make a determination of the employee's eligibility and to determine if the employee's request for leave falls under one of the approved categories where FMLA may be taken.

When an employee is requesting FMLA for a medical condition, the Human Resources Department will require the employee to provide a medical certification(s) to support the need for the leave. Within 5 (five) days of receiving need of FMLA notice (written or verbal) from the employee, the Human Resources Department will issue a Notice of Eligibility and Rights/Responsibilities form, which sets forth whether the employee is eligible for FMLA Leave and the employee's rights and responsibilities when using FMLA leave. The Human Resources Department will include the request for medical certification the anticipated consequences of an employee failing to provide adequate certification. The Human Resources Department will deny any FMLA request when the medical certification is requested and the employee fails to provide the form or to provide complete information on

the form. The Human Resources Department will review the submitted medical certification to determine whether the form is sufficient and complete. If the medical certification is incomplete and insufficient the Human Resources Department will provide written notice to the employee indicating what additional information is needed for the document to be complete and sufficient. The employee will have seven (7) calendar days to correct the deficiencies in the form. An employee’s failure to correct the deficiencies may lead to a denial of the FMLA request.

Note: All medical certifications must be handled through the Human Resources Department. A supervisor is not permitted to contact a health care provider.

Review of Notice and Determination of on Eligible Employee Status

The Human Resources Department may request that an employee provide documentation to show proof a relationship.

Determining in Loco Parentis

The Human Resources Department will request documentation to support a determination of in loco parentis. Examples of situations in which FMLA leave may be based on an *in loco parentis* relationship include:

1. A grandfather may take leave to care for a grandchild whom he has assumed ongoing responsibility for raising if the child has a serious health condition.
2. An aunt who assumes responsibility for caring for a child after the death of the child’s parents may take leave to care for the child if the child has a serious health condition.
3. A person who will co-parent a same-sex partner’s biological child may take leave for the birth of the child and for bonding.

Failure to Return to Work Following FMLA Leave. If the employee does not return to work following the conclusion of FMLA leave, the employee may be considered to have voluntarily resigned from their position at the University.

Compliance with FMLA. The foregoing provisions are intended to comply with the Family and Medical Leave Act of 1993 and with regulations promulgated by the Department of Labor. To the extent that any provision in this policy conflicts with the Act or regulations, the Act and/or regulations shall control.

POLICY APPROVAL	
Policy No.: FPU-6.0071P	
Initiating Authority	Date
Policies & Procedures Review Committee Chair	Date
President/Designee	Date
Approved by FPU BOT, if required	Date
<p>EXECUTED SIGNATURE PAGES ARE AVAILABLE IN THE OFFICE OF THE GENERAL COUNSEL</p>	

THE FLORIDA POLYTECHNIC UNIVERSITY BOARD OF TRUSTEES

FPU-6.005 Sick Leave.

(1) **Eligible Employees and Accrual Rate.** Sick Leave for full-time Executive Service, Faculty, Administrative and Support employees (collectively referred to as “Budgeted Employees”) will be as follows, with proportionate accrual for less than full-time. An academic year (39 weeks) employee, and an employee appointed for less than 9 months of each year will not accrue Sick Leave.

Hours Accrued During Pay Period

	Semi-Monthly
Faculty	4.3334
Administrative	4.3334
Executive Service	5.4167
Support	4.3334

(2) **Accrual Prior to Use.** An employee must accrue Sick Leave before the leave can be used, unless available through the University’s Sick Leave Pool pursuant to the Sick Leave Pool Policy. There is no maximum on the amount of Sick Leave that can be accrued. During a leave of absence with pay an employee will continue to earn sick leave hours.

(3) **Authorized Use.** Sick Leave is authorized for only the following purposes:

- (a) The employee’s personal illness, injury, exposure to a contagious disease; a disability where the employee is unable to perform assigned duties, or employee’s appointments with health care providers.
- (b) The employee’s immediate family member’s/relative’s illness, injury, appointments with health care providers, or death. For purposes of this regulation, immediate family member/relative is defined as the employee’s spouse, parents, children, grandparents, grandchildren, siblings, or individual for whom the employee is the current legal guardian; or the employee’s spouse’s parents, children, grandparents, grandchildren, or siblings.
- (c) The employee’s disability caused or contributed to by pregnancy, miscarriage, abortion, childbirth, and recovery thereafter.
- (d) The birth of employee’s child.
- (e) The placement of a child with employee for adoption or foster care.
- (f) The employee to care for the employee’s child following child birth or a newly placed child after adoption or foster care.
- (g) As otherwise provided by University regulation or law.

When possible, employees are expected to schedule planned medical appointments in a manner that minimizes disruption of the workflow.

Employees must use sick leave only for its intended purpose. An employee may be required by Human Resource Services or his or her supervisor to provide medical documentation to support the use of Sick Leave for three (3) or more absences in any 30 day period, when absences are

excessive or when a pattern has emerged. Abuse of paid sick leave will result in disciplinary action up to and including dismissal.

Upon return from sick leave due to illness or injury, an employee may be required by Human Resource Services or his or her supervisor to submit a Fitness for Duty form to establish whether the employee is fully recovered and capable of returning to his or her duties.

(4) **Notice of Absence.** An employee will give notice to his or her supervisor of the employee's absence due to illness, injury, disability, or exposure to a contagious disease on or before the first day of absence.

(5) **Transfer of Sick Leave from Other Employers.** The University accepts the transfer of a maximum of eighty (80) hours of Sick Leave accrued by the Budgeted Employee in another State university within Florida or New College for which payment has not been received by the employee provided no more than 31 days have elapsed between the last day of employment with the other State university or New College and the first day of the Budgeted Employee's employment with Florida Polytechnic University.

(6) **Separation from Employment.** Upon separation from employment with the University, an employee with ten (10) or more years of State service with the State of Florida will be paid one-fourth (1/4) of the number of hours of the employee's unused accrued Sick Leave, but shall not exceed a maximum of 480 hours of actual payment subject to and in accordance with Florida Statutes Section 110.122.

(7) **Reemployment by Florida Polytechnic.** If an employee is reemployed by Florida Polytechnic University as a Budgeted Employee within 60 days of separating employment with the University, unpaid Sick Leave will be restored. In the case of a layoff, the unpaid Sick Leave of the laid off employee will be restored if such employee is recalled by the University within one year of the date of layoff.

Authority: FBOG regulation 1.001 and Florida Statutes §110.122

History: New: 8.28.13, Amended: 9.14.16, 3.1.18