



UNIVERSITY OF CENTRAL FLORIDA

**Board of Trustees  
Nominating and Governance Committee  
UCF Rosen College of Hospitality Management  
January 24, 2019  
10:15 a.m. – 11:00 a.m.  
Call-in Number: 800-442-5794, Passcode: 463796**

**Agenda**

- |   |   |
|---|---|
| <b>I. CALL TO ORDER</b>   | William Yeargin<br><i>Chair, Nominating and Governance Committee</i>  |
| <b>II. ROLL CALL</b>  | Tanya Perry<br><i>Coordinator, Legal Affairs</i>  |
| <b>III. MEETING MINUTES</b>   | Chair Yeargin   |
| • <a href="#">Approval of the November 15, 2018</a> Nominating and Governance Committee meeting minutes           |   |
| <b>IV. NEW BUSINESS</b>   |   |
| • UCF Athletics Association Bylaws Amendments ( <a href="#">NGC-1</a> )   | Scott Cole<br><i>Vice President and General Counsel</i><br>Brad Stricklin<br><i>Executive Associate Athletics Director, UCFAA</i> |
| • Proposed University Regulation UCF-1.00 Regulation Interpretation and Application ( <a href="#">NGC-2</a> )     | Scott Cole<br>Youndy Cook<br><i>Deputy General Counsel</i>  |
| • Amendments to University Regulation UCF-3.0191 Disciplinary Actions – USPS ( <a href="#">NGC-3</a> )            | Scott Cole<br>Youndy Cook   |
| • Amendments to University Regulation UCF-4.034 University Direct Support Organizations ( <a href="#">NGC-4</a> ) | Scott Cole<br>Youndy Cook   |

- Amendments to University Regulation UCF-5.016 Student Academic Appeals ([NGC-5](#)) Scott Cole  
Youndy Cook
- Amendments to University Regulation UCF-5.020 Religious Observances ([NGC-6](#)) Scott Cole  
Youndy Cook
- Amendments to University Regulation UCF-7.130 Administration and Finance; Procurement Services ([NGC-7](#)) Scott Cole  
Youndy Cook
- The Stephen W. Hawking Center for Microgravity and Education ([INFO-1](#)) Elizabeth Klonoff  
*Vice President for Research and Dean, College of Graduate Studies*  
Sandra Sovinski  
*Deputy General Counsel for Research*

V. CLOSING COMMENTS

Chair Yeargin



UNIVERSITY OF CENTRAL FLORIDA

**Board of Trustees  
Nominating and Governance Committee  
FAIRWINDS Alumni Center  
November 15, 2018**

**MINUTES**

**CALL TO ORDER**

Trustee William Yeargin, chair of the Nominating and Governance Committee, called the meeting to order at 10:22 a.m. Committee members John Lord and Alex Martins were present and committee member John Sprouls attended by telephone. Chairman Marcos Marchena and Vice Chair Robert Garvey, Joseph Conte, William Self, and David Walsh were also present.

**MINUTES APPROVAL**

The minutes from the September 27, 2018, Nominating and Governance Committee meeting were approved as submitted.

**NEW BUSINESS**

**Appointment of Board Members to UCF Foundation (NGC-1)**

Scott Cole asked the committee to approve the appointment of new UCF Foundation board members Dr. Clarence H. Brown and Catherine McCaw-Engelman. The committee unanimously approved the appointments.

**Appointment and Reappointment of Board Members to Limbitless Solutions, Inc. (NGC-2)**

Cole asked the committee to approve the appointment of new Limbitless Solutions, Inc. board members Janet Owen and Anne Smallwood and the reappointment of seven current board members: Dr. Deborah German, Trustee David Walsh, Dr. Michael Georgiopoulos, Tracy Clark, Dale Jackson, Brendan Jones, and Michelle Hawley. The committee unanimously approved the appointments and the reappointments.

**Appointment of Board Member to UCF Research Foundation (NGC-3)**

Cole asked the committee to approve the appointment of new UCF Research Foundation board member Kathy Mitchell. The committee unanimously approved the appointment.

Amendments to University Regulation UCF-3.038 Advance Notice of Separation for USPS Employees (NGC-4)

Youndy Cook asked the committee to approve amendments to UCF-4.010 which amends the regulation to remove outdated language regarding solicitation credentials. The committee unanimously approved the proposed amendments.

The meeting adjourned at 10:29 a.m.

Reviewed by:

\_\_\_\_\_  
William Yeargin  
Chair, Nominating and Governance  
Committee

\_\_\_\_\_  
Date

Respectfully submitted:

\_\_\_\_\_  
Grant J. Heston  
Associate Corporate Secretary

\_\_\_\_\_  
Date

**ITEM: NGC-1**

**University of Central Florida  
Board of Trustees  
Nominating and Governance Committee**

**SUBJECT: UCF Athletics Association Bylaws Amendments and Reappointment of Board Members**

**DATE: January 24, 2019**

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**PROPOSED COMMITTEE ACTION**

Approve amendments to the UCF Athletics Association Bylaws and approve the reappointment of new board member candidates to the UCFAA Board of Directors.

**BACKGROUND INFORMATION**

The UCF Athletics Association bylaws were amended to align with the bylaws of other university direct support organizations. Amendments include:

- Change the date of a required annual meeting from July to “fourth quarter of the fiscal year or as soon thereafter as possible”.
- Designating all members as voting members.
- Restructuring the board. The old structure included the following as members: President of UCF, BOT designee, UCF Alumni Association President, UCF Golden Knights Club President, three members of the public, and members of the administration, faculty or student body as appointed by the President. The new structure includes the following as members: President of UCF or designee, BOT designee, one or more members of the public, one other UCF employee recommended by the President, and the Student-Athlete Advisory Committee president.
- Establishing term limits of two years; however, members may serve successive terms.
- Eliminating the finance committee and incorporating those duties into the full board duties. The audit committee remains a working committee of the Board.
- Removing the Executive Committee as a standing committee.
- Eliminating the Executive Vice President position. Those duties are now listed in the duties of the President of the Corporation (Athletics Director).
- Changing Miscellaneous Provision #1 to reflect required BOT oversight.

The UCF Athletics Association Board of Directors unanimously approved the bylaw changes at its meeting held on November 20, 2018.

Florida Statute 1004.28(3) requires that the university board of trustees approve all board appointments to direct support organizations. The three members being reappointed are Dr. Manoj Chopra, Phyllis Klock, and Brendan Rennie.

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**Supporting Documentation:** Attachment A: UCF Athletics Association Bylaws  
Attachment B: Board member candidate bios

**Prepared by:** W. Scott Cole, Vice President and General Counsel

**Submitted on behalf of:** Danny White, Vice President and Director of Athletics

Attachment A

**AMDENDED AND RESTATED BYLAWS OF  
UCF ATHLETICS ASSOCIATION, INC.**

**ARTICLE I.**

**MEMBERSHIP**

The Board of Directors of the Corporation shall constitute the members of the Corporation.

**ARTICLE II. ANNUAL**

**MEETING**

- I. The annual meeting of the members of this Corporation shall be held during the fourth quarter of the fiscal year or as soon thereafter as possible. The date, time and location of the annual meeting shall be designated by the Chairman of the Board of Directors.
2. The annual reports of the officers for the year shall be read and considered.
3. Following the reports of the officers, such other business as may come before the body may be transacted.
4. At this meeting, a majority of the members shall constitute a quorum and a majority of those members present may transact any business coming before the body.

**ARTICLE III.**

**BOARD OF DIRECTORS**

1. Upon approval by the University of Central Florida Board of Trustees the following persons shall be directors of the Corporation:
  - A. The President of the University of Central Florida or his/her designee. The President of the University of Central Florida or his/her designee shall serve as the Chairman of the Corporation's Board of Directors.
  - B. A member of the University of Central Florida Board of Trustees appointed by the Chairman of the University of Central Florida Board Of Trustees.
  - C. One or more persons from the Central Florida Community recommended by the President of the University of Central Florida.
  - D. A University of Central Florida employee recommended by the President of the University of Central Florida.
  - E. The University of Central Florida Student Athlete Advisory Committee President.

2. Each director shall serve a two- year term unless removed, with or without cause, as recommended by President of the University of Central Florida and approved by the University of Central Florida Board of Trustees. Directors may serve successive terms. The two-year term shall not apply to the Chairman of the Corporation's Board of Directors.
3. The duties of the Board of Directors shall be as follows:
  - A. To discharge faithfully all the duties imposed upon it by the Articles of Incorporation and bylaws.
  - B. To meet upon the call of the Chairman of the Board, the President of this Corporation, or any two members of the Board.
  - C. To select a bank or banks or other depositories for the deposit of the funds and securities of the Corporation; and to cause the Corporation to conduct its financial affairs in conformity with the policies and procedures adopted by the Board.
  - D. To approve the Corporation's budget for the upcoming fiscal year. The budget must then be approved by the University of Central Florida Board of Trustees before it is authorized.
  - E. To review the current results of operations to the annual budget and ensure that the Corporation operates in accordance with the policies of the Corporation.
  - F. To select independent certified public accountants to conduct an annual audit of the Corporations' financial books and records.
4. A majority of the directors shall constitute a quorum at any meeting of the Board of Directors or Committees thereof and all questions shall be determined by a majority vote.
5. The Chairman of the Corporation shall preside at meetings of the Board of Directors. In the absence of the Chairman from any meeting, the President of the Corporation shall preside.
6. Meetings may be conducted by telephone, video conference or similar communications equipment, provided all persons participating in such meetings are able to communicate with each other.
7. Proxies, general or special, shall not be accepted for any purpose in the meeting of the Board of Directors or Committees thereof.



**ARTICLE IV.**

**CHAIRMAN OF THE BOARD AND  
OFFICERS OF THE CORPORATION**

1. The Chairman of the Board of Directors shall have the following authority:
  - A. The Chairman shall retain the authority to monitor and control the use of the Corporation's resources. The Chairman shall retain control of the Corporation's name and shall monitor compliance of the Corporation with state and federal laws and the applicable rules, regulations, guidelines, and policies of the Board of Governors and University Board of Trustees. The Chairman or Chairman's designee shall review and approve quarterly expenditure plans for the Corporation. If the Chairman appoints a designee to review and approve the quarterly expenditure plans, such designee shall be a Vice President or other senior officer of the University who reports directly to the President of the University. The quarterly expenditure plan shall separately delineate planned actions which may result in a commitment of University resources or the resources of the Corporation.
  - B. The Chairman of the Board shall possess line-item authority over the budget of the Corporation. This authority includes the establishment of additional line items and reduction or elimination of existing budgetary items.
  - C. The Chairman or designee shall prepare the agenda for all meetings of the Board of Directors.
  - D. The Chairman shall appoint the officers of the Corporation, which at a minimum shall include a President, Secretary, and Treasurer. The Chairman may appoint additional officers as needed. Only employees of the Corporation or the University may be appointed as officers of the Corporation.
  - E. In the event of absence, inability, or refusal to act of any of the officers of this Corporation, the Chairman shall appoint a successor or successors to perform the duties of their respective offices.
2. The duties of the President of this Corporation shall be as follows:
  - A. To manage the day to day operations of the Corporation.
  - B. To present a written report of the conduct of his or her office at the next annual meeting following his or her appointment to office.
3. The duties of the Secretary shall be as follows:
  - A. To keep accurate minutes of the proceedings of the annual meeting of the Corporation and all meetings of the Board of Directors and preserve same in a book of such nature as to serve as a permanent record.

- B. To keep on record a copy of the Articles of Incorporation and Bylaws of the Corporation and all amendments thereto.
  - C. To keep the seal of the Corporation and affix same to such official documents, records and papers as may be required.
  - D. To keep an accurate list of all members of this corporation.
  - E. To present a written report of the conduct of his or her office at the next annual meeting following his or her appointment to office.
4. The duties of the Treasurer shall be as follows:
- A. To assure that adequate provision is made for the care and custody of all the assets of this Corporation.
  - B. To assure that adequate provision is made to keep in force a blanket surety bond to assure that each officer and employee who is authorized to collect, hold, or disburse funds of the Corporation shall faithfully discharge their duties.
  - C. To present a written report of the conduct of his or her office at the next annual meeting following his or her appointment to office.
5. The offices of Secretary and Treasurer may be held by a single person.

## **ARTICLE V.**

### **COMMITTEES OF THE BOARD OF DIRECTORS**

- 1. The Standing Committees shall be established by the Board of Directors. Standing Committees shall be permanent and their membership shall consist of directors and such other members of the University community as appointed by the Chairman. Standing Committee members shall serve until the Chairman of the Board appoints a replacement.
- 2. The Audit Committee shall be a standing committee and shall consist of a minimum of two members appointed from the Board of Directors. The duties of the Audit Committee shall be as follows:
  - A. In accordance with University policy 2-208, *Direct Support Organization External Auditor Selection*, shall cause an audit of the books and records of this Corporation to be made at least once each fiscal year together with a management letter, including the response from management, conducted by a firm of independent Certified Public Accountants selected by the Board, whose engagement letter shall provide that it render an opinion on the financial statements in accordance with generally accepted accounting principles and to have the results of the audit reported

to the Board of Directors and University of Central Florida Board of Trustees.

- B. Review financial policies and procedures of the Corporation and make detailed reports to the Board of Directors.

## ARTICLE VI.

### MISCELLANEOUS PROVISIONS

1. Contracts for the routine activities of this Corporation shall be signed in the name of the Corporation by the Chairman, President, or authorized designee. The Corporation shall follow all University of Central Florida Board of Trustees guidelines, policies, and regulations related to direct support organizations, materiality, delegation or authority and approval procedures. Contracts that are required to be submitted and approved by the Board of Directors or the University of Central Florida Board of Trustees shall be timely submitted prior to execution.
2. The Directors of this Corporation, except those otherwise employed by the Corporation, shall not receive any compensation from this Corporation for their services as director or officer; provided, however, that they may be reimbursed from funds of the Corporation for any travel expenses or other expenditures incurred by them in the proper performance of their duties.
3. Whenever a vacancy occurs on the Board of Directors of the Corporation or in any office, it may be filled by appointment made by the President of the University of Central Florida pending approval by the University of Central Florida Board of Trustees in conformity with these Bylaws. The newly appointed member or officer shall act during the remainder of the unexpired term of his or her predecessor.
4. The seal of this Corporation shall be in the form of a circle and shall bear, among other things, the name of the Corporation and the date of its incorporation.
5. Personnel employed by this Corporation shall not be considered to be employees of the State of Florida by virtue of employment by this Corporation.
6. This Corporation shall indemnify and hold harmless all directors, officers, and employees of the Corporation for any liability heretofore or hereafter incurred as a result of their actions in the performance of their duties on behalf of this Corporation. The Corporation shall have the authority to purchase insurance for this purpose.

**ARTICLE VII.**

**AMENDMENTS**

These Bylaws may be altered, amended, or rescinded only by an affirmative vote of the majority of all of the voting members. In case it becomes necessary to call a special meeting for this purpose, written notice shall be given to each voting member of the Corporation at least fifteen (15) calendar days before the date set for the meeting, and such notice shall indicate the provision sought to be amended and the nature of the amendment proposed to be adopted. All proposed amendments are subject to University of Central Florida Board of Trustees review and approval.

**ARTICLE VIII.**

**FISCAL YEAR**

The fiscal year of the Corporation shall begin on July 1 and end on June 30 of the following year.

**ARTICLE IX.**

**NONDISCRIMINATION**

The Corporation is committed to non-discrimination with respect to race, creed, color, religion, age, disability, sex, marital status, national origin, or veteran status.

**ARTICLE X.**

**CONFLICT OF INTEREST**

All actual or potential conflicts of interest involving directors of the Corporation shall be disclosed and addressed in accordance with the Corporation's Conflict of Interest Policy and Florida law.

**ARTICLE XI.**

**PUBLIC RECORDS**

Public access to the Corporation's records shall be governed by Section 1004.28, Florida Statutes.

I HEREBY CERTIFY that that the foregoing Amended and Restated Bylaws were approved by majority vote of the Board of Directors on \_\_\_\_\_, 2018.

\_\_\_\_\_  
Secretary

\_\_\_\_\_  
Date

Attachment B

**Dr. Manoj Chopra** is a professor of civil engineering at UCF and serves as the NCAA Faculty Athletics Representative (FAR) for UCF responsible for student-athlete eligibility, academic success, welfare and development. He joined UCF in 1993 and was appointed FAR by President Hitt in 2012. He has served as the faculty representative on the Florida Board of Governors responsible for all 12 state universities as well as the UCF Board of Trustees. In 2017, he was elected chair of the American Athletic Conference FAR's and also appointed to the NCAA Division1 Committee on Academics. He is also a founding member of the AAC Consortium on Academics.

**Phyllis A Klock** is the retired President and Chief Operating Officer of CompBenefits Corporation. A dental and vision benefits company serving five million members in the US South and Midwest, CompBenefits grew to over \$350 million in revenues by the time of its sale to Humana in 2006.

A Charter Member of the Board of Trustees of the University of Central Florida, Phyllis served the university in this capacity from 2001 to 2012 and was named as a Trustee Emerita in 2012. In 2014 she was honored as Doctor of Commercial Sciences. Phyllis continues to be very involved with UCF as the immediate Past Chair of the UCF Foundation Board and current Chair of its Governance Committee, Board Member and Member of the Executive Committee of the UCF Athletics Association, Past President of the Town & Gown Council, and Past Chair of the Central Florida Wesley Foundation. She also serves as Board Member – Bridgewater State University Foundation, Board Member and Secretary of the Laity Council of Asbury United Methodist Church, Board Member for Agua Viva Serves, member of the Board of Higher Education and Campus Ministry of the Florida Conference of the United Methodist Church, member of the Board of Directors of the Florida United Methodist Foundation, volunteer at Hungerford Elementary School in Eatonville, and Reading Pals volunteer at Three Points Elementary School.

**Brendan Rennie** is President of the Student-Athlete Advisory Committee, which is a liaison between UCF student athletes, UCF Athletics Administration, and the NCAA. He has been a member of the UCF Men's soccer team since 2015. He is an accounting major and intends to graduate in 2019 with honors before obtaining his CPA. Brendan is a member of the President's List, the Golden Key International Honor Society, the American Athletic Conference Honor Roll, and Phi Eta Sigma National Honor Society.

**ITEM: NGC-2**

**University of Central Florida  
Board of Trustees  
Nominating and Governance Committee**

**SUBJECT: Proposed University Regulation UCF-1.00**

**DATE: January 24, 2019**

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**PROPOSED COMMITTEE ACTION**

Approve proposed University of Central Florida Regulation UCF-1.00 entitled Regulation Interpretation and Application.

**BACKGROUND INFORMATION**

Florida Board of Governors Regulation 1.001 provides that “Each Board of Trustees is authorized to promulgate university regulations in accordance with the Regulation Development Procedure adopted by the Board of Governors.”

This regulation is proposed for adoption in order to establish general guidance on the interpretation and application of all university regulations, especially in the context of university activities and operations either outside of the State of Florida or in foreign jurisdictions. The purpose of such guidance is to inform those affected by university regulations that certain aspects of a given regulation - or, depending on the circumstances, the entire regulation - may be inapplicable when in conflict with the laws or rules of different jurisdictions.

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**Supporting documentation:** Attachment A: Proposed Amended Regulation UCF-1.00

**Prepared by:** Youndy Cook, Deputy General Counsel

**Submitted by:** Scott Cole, Vice President and General Counsel

Attachment A

**UCF-1.001 Regulation Interpretation and Application**

- (1) This regulation is applicable to all other University Regulations. This regulation should be considered in the interpretation and application of any University Regulation to University operations or activities outside of the State of Florida.
- (2) Definitions.
  - (a) University refers to and means the University of Central Florida.
  - (b) A University Regulation is a statement of broad and general applicability, adopted by the University of Central Florida Board of Trustees, to guide the conduct or action of constituents or the public in relation to the University of Central Florida and implementing a power or duty of the University of Central Florida Board of Trustees. Regulations must be consistent with Florida law and with the strategic plan of the Florida Board of Governors. Generally, University Regulations are developed because they deal with directives required by Florida Statute, BOG Regulation or other legally recognized entity with the authority to require the University to adopt specific subject matter rules.
  - (c) Regulations do not include: internal management memoranda, preparation of the university's budget, legal opinions, negotiated contractual provisions, or curriculum or other academic requirements.
  - (d) A select regulation is a University Regulation that pertains to student tuition and fees, admissions, or articulation. Select regulations must be adopted by the UCF Board of Trustees and must also be approved by the Florida Board of Governors.
  - (e) University Regulations are the administrative equivalent of a rule published in the Florida Administrative Code. In the event of a conflict between a University regulation and a University policy or procedure, the University regulation controls.
- (3) The University of Central Florida is based in Florida, operates primarily in Florida, and its primary place of business is the State of Florida. The administration of the University of Central Florida is based in Orange County, Florida, and that is the University's home venue.
- (4) University Regulations are designed to implement Florida law and federal law in the context of the University's operations within the State of Florida. However, there are occasions when the University operates outside the State of Florida and even outside of the United States. In those instances, the University Regulations may not apply or may be limited in their application.

(5) Operations in other States and Territories. Where the University operates outside of the state of Florida, University Regulations will be limited in their application or inapplicable altogether, as necessary to conform to applicable local law and regulation.

(6) Operations in Foreign Jurisdictions. Where the University acts in a foreign jurisdiction, on a temporary basis or otherwise, the University's regulations will not apply to those functions if applicable local law or regulation conflicts with or supersedes University regulations. For clarity, laws of a foreign jurisdiction control in that jurisdiction and may completely or partially displace Florida law and university regulation or policy.

(7) Other statements of university policy and procedure may be found in numbered University Policies or in other university policies, guidelines, and operating procedures. Like regulations, these statements of university policy and procedure are designed to articulate University practice in the context of the University's Florida operations and, as applicable, implement Florida and federal law as they relate to the University's Florida-based operations. Therefore, where the University operates outside of the State of Florida, these statements of university policy and procedure may also be limited in their application or inapplicable altogether as necessary to conform to applicable laws and regulations outside of the State of Florida.

(8) Effect of Collective Bargaining Agreements. The University is party to collective bargaining agreements with units defined by the Florida Public Employees Relations Commission. Each of those agreements contains terms governing the employment of the employees covered by the agreement. An applicable collective bargaining agreement provision will supersede a conflicting University Regulation provision, making the University Regulation provision either inapplicable in that context or limited to the extent necessary to apply the conflicting collective bargaining provision. However, a collective bargaining agreement cannot supersede applicable laws or controlling regulations. Where an in-unit employee may be temporarily working in a location with different law(s), the University will comply with applicable law and controlling regulation, even if in conflict with one or more provisions of a collective bargaining agreement.

*Authority: BOG Regulation 1.001; BOG Regulation Development Procedure for State University Boards of Trustees. History – New \_\_\_\_\_-19.*



**ITEM: NGC-3**

**University of Central Florida  
Board of Trustees  
Nominating and Governance Committee**

**SUBJECT: Amendments to University Regulation UCF-3.0191**

**DATE: January 24, 2019**

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**PROPOSED COMMITTEE ACTION**

Approve amendments to University of Central Florida Regulation UCF-3.0191  
Disciplinary Actions – University Support Personnel System.

**BACKGROUND INFORMATION**

Florida Board of Governors Regulation 1.001 provides that “Each Board of Trustees is authorized to promulgate university regulations in accordance with the Regulation Development Procedure adopted by the Board of Governors.”

Regulation UCF-3.191 is amended to update language concerning probationary employees and the types of disciplinary actions that may be taken. Additionally, amendments are proposed to clarify language concerning standards for disciplinary action. Standards to address misuse of confidential information and misuse of position have been incorporated into the standard on Conduct Unbecoming of a Public Employee.

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**Supporting documentation:** Attachment A: Proposed Amended Regulation UCF-3.0191  
(redline)

**Prepared by:** Youndy Cook, Deputy General Counsel

**Submitted by:** Scott Cole, Vice President and General Counsel

Attachment A

**UCF-3.0191 Disciplinary Action - University Support Personnel System.**

(1) Scope and Purpose.

- (a) This regulation applies to all University Support Personnel System employees of the university with regular status. The provisions of this regulation are subject to applicable provisions of collective bargaining agreements. Employee discipline is an action that is to be undertaken with care, objectivity, and with full consideration of the rights and interests of both the employee and the university.
- (b) The university subscribes to the principle of the use of discipline to correct employee conduct and behavior. Such discipline will normally be issued in a progressive manner, dependent upon the facts and circumstances of each case. Penalties will be imposed, dependent upon the seriousness of the offense and any aggravating or mitigating circumstances, or as otherwise required by law.
- (c) Probationary Employees: The probationary period shall be a working-test period. ~~required of any USPS employees must successfully complete a probationary period upon initial hire before they earn regular status; USPS employees must also complete a probationary period upon rehire to a USPS position following appointment to any class in which the employee does not hold regular status. It is important to note that~~ For purposes of discipline, regular status refers to an employee's status in the USPS and not a specific position. ~~Consequently, an employee with regular status in USPS, but in probationary status in a class, may be removed from the class during this probationary period, without the application of these standards. New Employees, serving a in~~ probationary status in the USPS ~~appointment~~ may be dismissed during this probationary period without the use of these standards set forth in this regulation and without the right of appeal.

(2) Guidelines on Employee Discipline. The immediate supervisor has the primary responsibility for taking or requesting disciplinary action against an employee, but should consult with their higher level ~~leadership authority~~. Human Resources has the responsibility of providing guidance to the various departmental units with regard to the administration of disciplinary actions and for assuring that they are accomplished in accordance with USPS regulations, university and the policies and guidelines, and any applicable collective bargaining agreement of the university.

(3) Delegation of Authority. Discipline may only be administered by the supervisor who has been delegated the authority to do so. This delegation of authority varies with the severity of the disciplinary action and is identified in the following table:

Disciplinary Action	Authority
Oral Reprimand	Employee’s immediate supervisor or higher level supervisor
Written Reprimand	Employee’s immediate supervisor or higher level supervisor with the approval of the department head
Suspension, Discharge	The dean, director or department head shall arrange for a review of the proposed action by the <u>Chief Human Resources Officer</u> <del>Director of Human Resources</del> , or his/her designee. If the proposed action is approved, the <u>Chief Human Resources Officer</u> <del>Director of Human Resources</del> , or his/her designee, will implement the suspension/discharge.

(4) Types of Disciplinary Action.

- (a) Oral Reprimand – Involves a discussion between the supervisor and the employee regarding the infraction with an emphasis on correcting the employee’s behavior. A written confirmation of an oral reprimand ~~shall~~ may be kept in the employee’s local departmental file~~personnel file~~.
- (b) Written Reprimand – For more serious or repeated cases of infractions, the supervisor, with approval of the second level supervisor, will counsel the employee as to the correct and expected behavior as well as record the circumstances of the violation in memorandum form, giving the original to the employee and maintaining a copy in either the local departmental file or noting that a copy will be sent to the employee’s official personnel file housed in Human Resources. Written reprimands resulting from an official university investigation must be submitted to the official personnel file housed in Human Resources~~sending a copy to Human Resources~~.
- (c) Suspension – The suspension of an employee shall normally be based on the recommendations of the supervisor and shall be subject to the approval of the dean, director or department head and the Chief Human Resources Officer~~Director of Human Resources~~ or his/her designee to ensure consistency of action throughout the institution. The Chief Human Resources Officer~~Director of~~

~~Human Resources~~ or his/her designee will issue all suspensions. A written reprimand in lieu of suspension represents a suspension level disciplinary action, but one where the action is documented as a reprimand and the employee continues to work and collect wages.

- (d) Discharge – When less severe actions fail in correcting an employee’s job-related behavior, or when the offense requires immediate separation from employment, a discharge action should be taken. The supervisor shall normally recommend the action, and it shall be subject to the approval of the dean, director or department head and the Chief Human Resource Officer ~~Director of Human Resources~~ or his/her designee, who shall issue the discharge. -If authorized by the Chief Human Resources Officer ~~Director of Human Resources~~ or his/her designee, an employee may be placed on administrative leave with or without pay pending an investigation, which may be continued between the notice of proposed disciplinary action and the date of final action. -Employees who are discharged for disciplinary reasons will not be eligible for rehire.

(5) Standards for Disciplinary Actions. Included herein are standards for the administration of disciplinary actions for various types of offenses. The following list is not all-inclusive, and the disciplinary action selected for a particular offense will be chosen based on the facts of the specific situation taking into consideration any extenuating circumstances. Decisions regarding disciplinary action, including the level of discipline to impose, will consider the employee’s prior disciplinary record excluding: any written reprimand that is more than two years old and any oral reprimand that is more than one year old. ~~Previous offenses will be considered when determining the level of discipline to impose as to a new offense subject to the following: after two years have elapsed from the date of written reprimand or one year has elapsed from an oral reprimand;~~ Such reprimands will not be used for escalating the level of disciplinary action but ~~can~~will be referenced as background. -Suspensions and written reprimands in lieu of suspension can be used indefinitely, with no time limit whatsoever. These standards do not preclude the imposition of more or less severe penalties depending upon all circumstances surrounding a particular incident.

- (a) Absence Without Authorized Leave. The failure to secure approval for an absence from work during the established shift or work period.- Included under this

standard are absences that are not reported to management in accordance with departmental or university guidelines.

1. First occurrence: Written reprimand.
2. Second occurrence: Suspension.
3. Third occurrence: Discharge.

Provided, however, that the failure to secure approval for an absence of two or more consecutive days shall be considered a second occurrence; and the failure to secure approval for an absence of three or more consecutive days shall be considered a third occurrence. This standard shall also apply to employees who fail to return to work as specified in an approved leave of absence.

- (b) Abuse of Sick Leave. Falsification by an employee of a notification of absence due to personal illness, injury or exposure to contagious disease.
  1. First occurrence: Suspension or discharge.
  2. Second occurrence: Discharge.
- (c) Possession or Use of a Deadly Weapon or a Dangerous Material. Possession or use of firearms, fireworks of any description, explosives, chemicals which are disruptive, explosive, or corrosive in nature, or any weapon other than a common pocket knife.
  1. First occurrence: Suspension or discharge.
  2. Second occurrence: Discharge.
- (d) Damage or Destruction of University Property or Equipment. The actual or attempted damage, destruction, or careless operation of university property or equipment which may or may not result in personal injury. (If personal injury does result, more severe discipline may be imposed.) Sabotaging equipment or facilities will result in discharge.
  1. First occurrence: Written reprimand to discharge.
  2. Second occurrence: Suspension or discharge.
  3. Third occurrence: Discharge.
- (e) Conduct Unbecoming a Public Employee. Any act or acts on or off the job, that renders an employee ineffective within the university, discredits the university, affects the ability for acceptance by others, or poses a threat to the safety and well-being of ~~members of~~ the university community. Such conduct includes, and

is not limited to, use of position, authority, or access to university confidential information to attempt to benefit themselves or others; any act or acts inconsistent with university values; failing to uphold the standards of honesty, integrity, and impartiality; or any prohibited act or acts set forth in the university's *Prohibition of Discrimination, Harassment and Related Interpersonal Violence Policy*.

1. First occurrence: Written reprimand to ~~Suspension or~~ discharge.
  2. Second occurrence: Discharge.
- (f) Conviction of a Misdemeanor or Felony. When an employee is convicted of a misdemeanor or felony as a result of a crime committed on or off the job and that conviction results in a negative effect on the employee's ability or availability to perform the duties of the job whether immediate or in the future.
1. First occurrence: Suspension or discharge.
  2. Second occurrence: Discharge.
- (g) Absenteeism. The university has a right to expect that employees will be available to perform work with a reasonable degree of regularity and to conduct their personal business using accrued leave without the need to resort to the use of approved leave without pay or unscheduled absences. If there is a pattern of absence by the employee, such as consistent absence on the day preceding or following the employee's regular days off, absence on the same day of each week or each month, or absences that occur with such frequency as to constitute a hardship on the office/department, these absences may be considered excessive.
1. First occurrence: Oral reprimand.
  2. Second occurrence: Written reprimand.
  3. Third occurrence: Suspension.
  4. Fourth occurrence: Discharge.
- (h) Tardiness. The failure to report to work at an established time at the beginning of the work shift, or the late return to work at the established time after lunch or rest period.
1. First occurrence: Oral reprimand.
  2. Second occurrence: Written reprimand.
  3. Third occurrence: Suspension.

4. Fourth occurrence: Discharge.

~~(i) Misuse of Confidential Information. To use or disclose information not otherwise available to the general public and gained by reason of his or her official position for his or her personal gain or benefit of any other person or business entity.~~

~~1. First occurrence: Written reprimand to discharge.~~

~~2. Second occurrence: Suspension.~~

~~3. Third occurrence: Discharge~~

(j) Falsification of Records. The misrepresentation or omission of any facts, whether verbal or written, with the intent to defraud or otherwise mislead.

1. First occurrence: Written reprimand to discharge.

2. Second occurrence: Discharge.

(k) Fighting. A physical assault on or against another person.

1. First occurrence: Written reprimand to discharge.

2. Second occurrence: Discharge.

(l) Horseplay. Actions which are intended to be mischievous or prankish rather than malicious. If personal injury results, more severe disciplinary action up to and including suspension or discharge will be considered on the first occurrence.

1. First occurrence: Oral reprimand.

2. Second occurrence: Written reprimand.

3. Third occurrence: Suspension.

4. Fourth occurrence: Discharge.

(m) Insubordination. The unwillingness or refusal to comply with a direct order or any established work assignment of the immediate supervisor or higher level supervisor. This includes, but is not limited to, the refusal to carry out an assignment, refusal to work overtime, willful delay in carrying out an assignment, refusal to comply with a university-mandated fitness for duty evaluation and/or reasonable suspicion drug test, or responding with defiance to a reasonable work order or assignment issued by the immediate supervisor or higher level supervisor.

1. First occurrence: Suspension.

2. Second occurrence: Discharge.

(~~m~~) Leaving Work Station Without Authorization. The unauthorized absence by an employee from the work station or duty location during the established work period or the leaving of a work station for a lunch or rest period without being properly relieved where that station must be maintained during such period.

1. First occurrence: Written reprimand to suspension.
2. Second occurrence: Suspension.
3. Third occurrence: Discharge.

(~~ne~~) Loafing. The continued idleness or non-productiveness during working hours which diverts the employee from performing assigned tasks. This includes wasting time, engaging in idle talk or gossip, conducting personal business, or using business phone or computers for personal reasons.

1. First occurrence: Oral reprimand to written reprimand.
2. Second occurrence: Written reprimand to suspension.
3. Third occurrence: Suspension to discharge.
4. Fourth occurrence: Discharge.

~~(p) Misuse of Position. The misuse of powers of authority that accompany a position for personal advantages such as to assist friends or family for financial or other gains.~~

- ~~1. First occurrence: Written reprimand to discharge.~~
- ~~2. Second occurrence: Discharge.~~

(~~oq~~) Misuse of University or University Controlled Property or Equipment. The unauthorized use of any university or university controlled property or equipment for any reason other than for official university business.

1. First occurrence: Written reprimand to discharge.
2. Second occurrence: Discharge.

(~~pr~~) Neglect of Duty. Carelessness in omission of, or inattention to, the performance of assigned duties and responsibilities resulting in a negative consequence to the department. Negligence is synonymous with carelessness and signifies lack of care, caution, attention, diligence, or discretion.

1. First occurrence: Written reprimand to discharge.
2. Second occurrence: Discharge.



- (~~qs~~) Abuse of Intoxicants. Being under the influence of, being in possession of, the sale of, or the distribution of any controlled substances or illegal drugs while on duty; or violating the University's Drug-Free Workplace/Drug-Free Schools Policy. (This provision does not extend to prescribed use of prescription medications.)
1. First offense: Suspension to discharge.
  2. Second offense: Discharge.
- (~~rt~~) Rudeness to Students, Staff or the Public. Impolite, discourteous, unprofessional, or uncooperative language or actions towards students, staff, or the public.
1. First occurrence: Oral reprimand.
  2. Second occurrence: Written reprimand.
  3. Third occurrence: Suspension.
  4. Fourth occurrence: Discharge.
- (~~st~~) Sexual Harassment. Any unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when (1) submission to such conduct is made either explicitly or implicitly a term or condition of employment, (2) submission to or rejection of such conduct by an individual is used as basis for employment or personnel decisions, or (3) when such conduct has the purpose or effect of substantially interfering with performance of work or creating an intimidating, hostile, or offensive working environment as determined by the university's Office of Institutional Equity.
1. First occurrence: Written reprimand to discharge.
  2. Second occurrence: Discharge.
- (~~tv~~) Sleeping While on Duty. The failure of an employee to remain awake while on duty during the established work shift.
1. First occurrence: Suspension.
  2. Second occurrence: Discharge.
- (~~uw~~) Use of University equipment or work time to view pornography or explicitly nude images for non-business reasons.
1. First occurrence: Suspension to discharge.
  2. Second occurrence: Discharge.

- (~~v\*~~) Theft or Stealing. The unauthorized taking of any property or service.  
First occurrence: Discharge.
- (~~w\*~~) Threatening and/or Abusive Language. The use of language which is threatening, profane, vulgar, or abusive.
  1. First occurrence: Written reprimand to discharge.
  2. Second occurrence: Discharge.
- (~~x\*~~) Violation of Safety Practices. The failure to adhere to or follow established safety rules or requirements. This includes the failure to report an accident of an employee involving personal injury, failure to wear safety equipment, and the performance of any unsafe action.
  1. First occurrence: Written reprimand to ~~discharge~~ suspension.
  2. Second occurrence: Discharge.
- (~~yaa~~) Willful Violation of a Provision of Law or Board of Governors or University Regulation. The deliberate failure to abide by Board of Governors or University Regulations or to follow the statutes governing employment by the State of Florida. This may include, but is not limited to giving or accepting a bribe, discrimination in employment, or illegal campaigning.
  1. First occurrence: Written reprimand to discharge.
  2. Second occurrence: Discharge.
- (~~zbb~~) Strike or Concerted Activity. Instigating or supporting in any manner a strike. A strike is defined by Florida Statute as: The concerted failure of employees to report for duty; the concerted absence of employees from their positions; the concerted stoppage of work by employees; the concerted submission of resignations by employees; the concerted abstinence in whole or in part by any group of employees from the full and faithful performance of the duties of employment with a public employer [such as the University] for the purpose of inducing, influencing, condoning, or coercing a change in the terms and conditions of employment or the rights, privileges, or obligations of public employment, or participating in a deliberate and concerted course of conduct which adversely affects the services of the public employer; the concerted failure of employees to report for work after the expiration of a collective bargaining

agreement; and picketing in furtherance of a work stoppage. The term “strike” shall also mean any overt preparation, including but not limited to, the establishment of strike funds with regard to the above activities.

First occurrence: Discharge.

*Authority: BOG Regulation 1.001. History–New 1-10-82, Amended 10-26-82, 12-29-88, Formerly 6C7-3.191, Amended 3-2-94, 4-23-03, 7-26-04; Formerly 6C7-3.0191, Amended 6-11-09, Amended \_\_\_\_\_-19.*

**ITEM: NGC-4**

**University of Central Florida  
Board of Trustees  
Nominating and Governance Committee**

**SUBJECT: Amendments to University Regulation UCF-4.034**

**DATE: January 24, 2019**

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**PROPOSED COMMITTEE ACTION**

Approve amendments to University of Central Florida Regulation UCF-4.034 University Direct Support Organizations.

**BACKGROUND INFORMATION**

Florida Board of Governors Regulation 1.001 provides that “Each Board of Trustees is authorized to promulgate university regulations in accordance with the Regulation Development Procedure adopted by the Board of Governors.”

Regulation UCF-4.034 is amended to incorporate new language that complies with revised Board of Governors regulation 9.011 regarding direct support organization board member appointments, guidelines for direct support organization items requiring university Board of Trustee approval, and travel expenses for direct support organization staff.

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**Supporting documentation:** Attachment A: Proposed Amended Regulation UCF-4.034 (redline)

**Prepared by:** Youndy Cook, Deputy General Counsel

**Submitted by:** Scott Cole, Vice President and General Counsel

Attachment A

**UCF-4.034 University Direct Support Organizations.**

- (1) As provided in Section 1004.28, Florida Statutes, and Florida Board of Governors Regulation 9.011 a Direct Support Organization is an organization that is certified by the University of Central Florida Board of Trustees as operating in a manner consistent with the goals of the University and the best interest of the State.
- (2) To obtain certification as a Direct Support Organization, the organization must submit to the Board of Trustees the following:
  - (a) The proposed Articles of Incorporation.
  - (b) The proposed Bylaws, which shall describe the operating procedures and specific individual responsibilities of the Board of Directors, committees, and officers of the organization.
- (3) The Articles of Incorporation and the Bylaws, together, shall provide that:
  - (a) Persons employed by the organization shall not be considered to be employees of the State of Florida by virtue of employment by the organization.
  - (b) The chief executive officer or director of the organization shall be selected and appointed by the governing board of the organization, subject to prior approval by the President of the University. The director or chief executive officer shall report to the President of the University or the President's designee, who shall be a vice president or other senior officer reporting directly to the President.
  - (c) The chair of the Board of Trustees ~~may shall~~ appoint a Trustee representative to the board of directors and executive committee of the organization, and the President of the University or his/her designee ~~will shall~~ serve on the board of directors and executive committee of the organization. The Board of Trustees shall approve appointments to each direct support organizations Board of Directors, except for the chair's Trustee representative and the president (or president's designee). The chair's Trustee representative may not be the university president; nor may the chair and president appoint the same person to represent both the chair and the president on any one direct support organization board.
  - (d) Any subsequent amendments to the Articles of Incorporation or Bylaws of the organization must be submitted to the Board of Trustees for approval prior to becoming effective.

(e) The organization shall provide equal employment opportunities for all persons regardless of race, color, religion, sex, age, or national origin. Personal services provided to the organization must comply with Section 1012.976, Florida Statutes.

(4) Upon certification by the Board of Trustees, a direct support organization is authorized to use the property, facilities and personal services of the University.

(5) Direct support organizations shall conduct business in accordance with the Board of Trustees' Materiality Guidelines, UCF Debt Management Guidelines, and the Delegation of Authority to President. As required therein, the Board of Trustees shall approve: purchases, acquisitions, and project expenditures with an annual financial commitment, obligation, or contingent risk of five million dollars or .5% of the university budgets, whichever amount is smaller; a contractual obligation of either more than five (5) years' duration or an aggregate net value of five million or more dollars; and the issuance of debt by a direct support organization. The provisions of this paragraph are not intended to apply to either: (i) the receipt by or award of funds to a direct support organization, such as donations or sponsored research funding or (ii) a direct support organization expenditure where the funding is supplied by a third party (including but not limited to a granting agency, awarding entity, or donor) as part of a grant, award, sponsored research contract, or donation.

~~(56)~~ The President of the University shall have the authority to monitor and control the use of University name and resources by the organization, monitor compliance of the organization with state and federal laws and rules of the Board of Trustees, and approve salary supplements and other compensation or benefits paid to the University faculty and staff from organization assets.

~~(76)~~ The President of the University shall determine the compensation of organization employees from organization assets and such authority may not be delegated.

~~(87)~~ A Direct Support Organization shall prepare, at least annually, a budget to be reviewed and approved by the organization's governing board and the Board of Trustees.

~~(98)~~ The Direct Support Organization shall prepare quarterly expenditure plans for review and approval by the President or designee, who shall be a vice president or other senior officer of the university reporting directly to the President.

~~(910)~~ Direct support organizations shall provide for an annual audit by an independent certified public accountant, as prescribed by applicable law and rules, which shall be forwarded to the Board of Trustee for review and oversight.

(~~10~~11) The University President may request that the Board of Trustees decertify a direct support organization if the President determines that the organization is no longer serving the best interest of the university. The request for decertification shall include a plan for disposition of the direct support organization's assets and liabilities.

(~~12~~1) The organization shall comply with all other obligations required by law and regulation, including those required by Section 1004.28, Florida Statutes and Florida Board of Governor Regulation 9.011. As set forth therein, the organization shall not use state funds for travel expenses.

*Authority: BOG Regulations 1.001 and 9.011. History—New 4-3-03; Formerly 6C7-4.034; Amended 5-11-09, Amended 9-15-14, \_\_\_\_\_-19.*

**ITEM: NGC-5**

**University of Central Florida  
Board of Trustees  
Nominating and Governance Committee**

**SUBJECT: Amendments to University Regulation UCF-5.016**

**DATE: January 24, 2019**

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**PROPOSED COMMITTEE ACTION**

Approve amendments to University of Central Florida Regulation UCF-5.016 Student Academic Appeals.

**BACKGROUND INFORMATION**

Florida Board of Governors Regulation 1.001 provides that “Each Board of Trustees is authorized to promulgate university regulations in accordance with the Regulation Development Procedure adopted by the Board of Governors.”

Regulation UCF-5.016 is amended to clarify the timeline of the academic appeal process and opens up service on the Student Academic Appeals Committee to all full-time instructional faculty categories. Other aspects of the process were clarified, particularly a statement of burden of proof, clarification of deadlines, and distribution of the committee action.

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**Supporting documentation:** Attachment A: Proposed Amended Regulation UCF-5.016 (redline)

**Prepared by:** Youndy Cook, Deputy General Counsel

**Submitted by:** Scott Cole, Vice President and General Counsel



Attachment A

**UCF-5.016 Student Academic Appeals**

(1) Scope.

- (a) This regulation shall apply to undergraduate and graduate student appeals of grades (typically limited to final grades) resulting from an instructor's:
  - 1. Alleged deviation from established and announced grading policy;
  - 2. Alleged errors in application of grading procedures;
  - 3. Alleged deviation from University syllabus policy or, if applicable, program handbook(s); and
  - 4. Alleged lowering of grades for non-academic reasons, including discrimination. (A grade appeal alleging discrimination in violation of University policy will be referred to the Office of Institutional Equity.)
- (b) This regulation shall also apply to appeals of undergraduate program action, including termination from an undergraduate academic program.
- (c) The professional judgment exercised by an instructor in assigning a specific grade or in conducting a class is excluded from the provisions of this regulation except as noted above.
- (d) This regulation does not apply to appeals of graduate programs actions or decisions by a faculty member, program, or college, including termination from an academic program, or to the assignment of grades for Thesis or Dissertation credit hours. Appeals from such actions are discussed in and may only be brought under Regulation UCF-5.017.

(2) General Policy. The following assumptions are adopted:

- (a) Students are entitled to a fair and timely resolution of academic appeals.
- (b) Faculty members and administrators are entitled to a fair and timely forum in defense of their action.
- (c) The burden of proof in a student academic appeal is on the student.
- (ed) Students have access to published materials and student government representatives to help them become familiar with and understand procedures for handling academic appeals.

- (de) Faculty members and administrators have access to published materials and University staff to help them be aware of and understand procedures to address academic appeals.
- (fe) Resolution of student academic appeals should be made as informally as possible.
- (gf) The University as an institution and its faculty are entitled to procedures that ensure the maintenance of academic standards.
- (hg) The appropriate forum for discussion or alteration of academic matters is the academic unit responsible for these matters.
- (ih) The University is entitled to a reasonable period of time to review allegations of discrimination contained in a grade appeal, and the University may accordingly extend deadlines applicable to the University for purposes of reviewing such allegations.
- (jt) Students may consult with Student Government Association's Judicial Advisor or designee, who shall furnish advice regarding the student's rights and responsibilities with respect to this policy.

(3) Resolution of Student Appeals at Informal Level

- (a) Step 1: All student academic appeals of allegedly wrongful academic action(s) by an instructor or administrator shall first be brought to the attention of the person whose action is being appealed. (The instructor of the course or administrator whose action is being appealed will be referred to in this regulation as the Responding Party.) This action must be initiated within one semester of the alleged wrongful action or grade. The parties should attempt to resolve the problem in a timely and satisfactory manner. If dissatisfied with the decision of the Responding Party, or if that person is not available, the student must first continue to pursue an informal solution with the unit head, usually the chair or director of the unit.
- (b) Step 2: The unit head ~~or supervisor~~, in consultation with the Responding Party, should make every effort to communicate with the student and resolve the problem. When classes are in session, this communication shall normally take place within 10 business days of the complaint being brought to the unit head ~~or supervisor~~. Between semesters and during the summer term, this communication may be extended ~~ten~~ 10 business days into the new semester. The unit head ~~or supervisor~~

will provide the student with a written decision that includes reference to student academic appeals procedures.

1. When the Responding Party is not available to discuss the problem, if at all possible, the resolution should wait until such time as the Responding Party can return to the campus, but not more than six months.
2. If the unit head or college dean or designee determines that an emergency exists requiring that the problem be solved prior to the availability of the Responding Party (e.g. in a case of probable delayed graduation), the unit head or dean or designee shall make every reasonable effort to inform the Responding Party of the situation. The Responding Party may elect to submit a written statement and/or to designate a replacement to aid in solving the problem.
3. If the Responding Party cannot be reached or does not designate a replacement, and the complaint must be dealt with promptly, then the unit head or dean or designee shall act on behalf of the Responding Party.

(4) Resolution of Student Academic Appeals at the College Level

- (a) Step 3: Within 10 business days of receipt of the unit head's or supervisor's decision, if the student wishes to file a formal appeal, the student must contact the dean's office of the college in which the action occurred and schedule an appointment with the dean or a designee. That individual will informally review the student's concerns, counsel the student on his/her options, and explain the formal Student Academic Appeals process.
- (b) Step 4: ~~After~~ If dissatisfied with the consultation with the administrator, ~~within 10 days of their meeting or conversation,~~ the student may, within 10 business days, file a written appeal with ~~may appeal in writing to~~ the Student Academic Appeals Committee of the college. This committee will ~~determine~~ review ~~the legitimacy of student's appeal regarding~~ the awarded grade and/or the academic program action and, if appropriate, suggest a resolution. The student's written appeal shall include the basis of the ~~original student's~~ complaint, the dates when the instructor, unit head, administrator, or supervisor, discussed the problem with the student, and the suggested resolution at that time.

(5) Composition of the Student Academic Appeals Committee

- (a) Each college shall establish a Student Academic Appeals Committee whenever required.
- (b) The committee shall be made up of at least three and no more than five ~~tenure-earning or tenured~~full-time instructional faculty members and an equal number of students of comparable academic classification (i.e., undergraduate or graduate) as the student initiating the appeal.
- (c) Student members shall be selected by the dean of the college or designee from a panel of students. This panel shall be appointed by the Vice President of Student Development and Enrollment Services or the College of Graduate Studies.
- (d) Any member may be challenged for cause by either party. The validity of such challenges shall be decided by the Office of Student Rights and Responsibilities. If a challenge is upheld, the college dean or designee shall appoint a replacement from the college's tenured and tenure-earning faculty or the student panel.
- (e) The college dean or designee shall assemble the Student Academic Appeals Committee to conduct a formal review of the student academic appeal.

(6) Formal Review of a Student Academic Appeal

- (a) In conducting a formal review, the Student Academic Appeals Committee shall adhere to the following guidelines:
  - 1. ~~Where a time limit is~~The time limits specified in the following review procedure, it may be extended by mutual agreement of the parties. Where an appeal makes allegations of discrimination, the University may unilaterally extend deadlines applicable to it to allow for review of such allegations.
  - 2. The committee shall not be officially convened to review the appeal until the Responding Party, or substitute/replacement, has received a copy of the appeal and has had at least 5 business days to submit, if desired, a response or additional information. The student will be provided with a copy of any material submitted by the Responding Party at least 5 business days before the committee meets to review the case.

3. The committee should make ~~every~~ reasonable efforts to meet for review of the case within 20 business days after receipt of the student's written appeal and any information provided by the Responding Party and/or unit head. Scheduling and holding a committee meeting may require more time; as such, this 20 business days is not a time limit. If the committee cannot meet within the 20 days, the university will inform the appealing student.
4. The committee will function as an objective, fact finding body when examining all available and relevant information concerning the student's appeal of academic action by the Responding Party. Such information shall include the student's written appeal, written and/or oral information provided by the Responding Party, statements made by both parties before the committee, and any other information the committee may deem relevant.
5. The college dean or designee will convene the committee, establish procedural rules for conducting the meeting, serve as its chair, and will vote in the case of a tie. The meeting is not covered by Sunshine laws, and is thus closed to outside parties and will not be recorded.
6. The student and Responding Party shall be invited to meet with the committee. Participating individuals in the appeal may appear through virtual (electronic) means at the committee meeting. Each shall be allowed adequate time to respond to the appeal and material as submitted, to answer any questions from committee members, and to present additional information needed to clarify the issues involved.
7. After meeting with both parties, the committee will deliberate and issue a decision by majority vote. The committee will first decide if the student has proven that there were grounds for the appeal, and second, if there were grounds, what resolution should be implemented. This decision may let the grade/action stand as is or change the grade/action. If the decision of the committee is to change the grade, only the faculty members on the committee will be involved in deciding what the change will be. The

committee chair will ensure that the committee's majority opinion is recorded and forwarded to the college dean.

- (b) The college dean will provide copies of the panel's decision within 10 business days of the Student Academic Appeals Panel hearing to both parties concerned, to the Provost, ~~and all~~ other involved parties and departments, and to the appropriate dean of undergraduate or graduate studies.

(7) Final Appeal

- (a) Step 6: If dissatisfied with the college dean's decision, the student may, within 10 business days, file a written request for review with the dean of undergraduate studies or the dean of graduate studies (depending upon the classification of the student), stating the basis for review and the resolution sought by the student.
- (b) Acting as the University President's representative, the dean of undergraduate studies or the dean of graduate studies shall make a final decision on the matter within 10 business days of receipt of the student's request for review. Copies of the dean's written decision shall be sent to the student, the college dean, the chair, the Director of OSC, the Responding Party, and other involved parties.

*Authority: BOG Regulation 1.001. History—New 4-23-03, Formerly 6C7-5.00431, Amended 8-10-09, 9-4-12, 10-29-15, 7-20-17, 7-19-18, \_\_\_\_\_-19.*

**ITEM: NGC-6**

**University of Central Florida  
Board of Trustees  
Nominating and Governance Committee**

**SUBJECT: Amendments to University Regulation UCF-5.020**

**DATE: January 24, 2019**

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**PROPOSED COMMITTEE ACTION**

Approve amendments to University of Central Florida Regulation UCF-5.020 Religious Observances.

**BACKGROUND INFORMATION**

Florida Board of Governors Regulation 1.001 provides that “Each Board of Trustees is authorized to promulgate university regulations in accordance with the Regulation Development Procedure adopted by the Board of Governors.”

Regulation UCF-5.020 is amended to clarify the period of time in which a student must notify their instructors of their desire to observe a holy day.

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**Supporting documentation:** Attachment A: Proposed Amended Regulation UCF-5.020 (redline)

**Prepared by:** Youndy Cook, Deputy General Counsel

**Submitted by:** Scott Cole, Vice President and General Counsel

Attachment A

UCF-5.020 Religious Observances

- (1) The University of Central Florida will reasonably accommodate the religious observances, practices, and beliefs of individuals in regard to admissions, class attendance, and the scheduling of examinations and work assignments. A student who desires to observe a religious holy day of his or her religious faith must notify all of the his/her instructors teaching the class(es) from which the student desires to be excused no later than the tenth business day of the term. at the beginning of the term to be excused from classes to observe the religious holy day.
- (2) The student will be held responsible for any material covered during the excused absence, but will be permitted a reasonable amount of time to complete any work missed. Where practicable, major examinations, major assignments and University ceremonies will not be scheduled on a major religious holy day.
- (3) Students who are absent ~~from academic or social activities~~ because of religious observances and have complied with this regulation will not be penalized.
- (4) A student who believes that he/she has been unreasonably denied an educational benefit due to his/her religious belief or practices may seek redress with the Office of Institutional Equity in accordance with that office's Investigation Procedures.

*Authority: BOG Regulations 1.001 and 6.0115. History – New 11-13-09. Amended –10-27-17, \_\_\_\_\_-19.*



**ITEM: NGC-7**

**University of Central Florida  
Board of Trustees  
Nominating and Governance Committee**

**SUBJECT: Amendments to University Regulation UCF-7.130**

**DATE: January 24, 2019**

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**PROPOSED COMMITTEE ACTION**

Approve amendments to University of Central Florida Regulation UCF-7.130  
Administration and Finance; Procurement Services

**BACKGROUND INFORMATION**

Florida Board of Governors Regulation 1.001 provides that “Each Board of Trustees is authorized to promulgate university regulations in accordance with the Regulation Development Procedure adopted by the Board of Governors.”

Regulation UCF-7.130 is amended to remove section (3)(i)(23). The language in section (3)(i)(12) already captures this information and conforms with the University’s procurement guidelines with the Florida Board of Governors’ Regulation 18.001 on the same topic. Additional language has also been added to section (6)(a) to clarify the appropriate means for procurement of commodities or contractual services.

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**Supporting documentation:** Attachment A: Proposed Amended Regulation UCF-7.130  
(redline)

**Prepared by:** Youndy Cook, Deputy General Counsel

**Submitted by:** Scott Cole, Vice President and General Counsel

Attachment A

**UCF-7.130 Administration and Finance; Procurement Services.**

(1) The University Board of Trustees (BOT) has authority to establish a system of coordinated procurement policies, procedures, and practices to be used in acquiring commodities and contractual services required by the University. The University Procurement Services Department has the duty to:

- (a) Develop procurement procedures.
- (b) Canvass sources of supply and contracting for the procurement or lease of all commodities and contractual services for the University, in any manner, including procurement by installment- or lease-purchase contracts. Installment- or lease-purchase contracts may provide for the payment of interest on unpaid portions of the purchase price.
- (c) Recommend or advise the suspension or debarment of a contractor, in accordance with University Regulation UCF-7.124, from doing business with the University for demonstrated cause, including previous unsatisfactory performance.
- (d) Plan and coordinate procurements in volume and negotiate and execute agreements and contracts for commodities and contractual services under which the University may make procurements.
- (e) Develop an Annual Certification List to serve as a waiver of the competitive solicitation requirement for commodities/services that are frequently procured and are available from a single source.
- (f) Evaluate, approve, and utilize contracts that are entered into after a public and open competitive solicitation by any State of Florida agency or department, the Federal Government, other states, political subdivisions, cooperatives or consortia, or any independent college or university for the procurement of commodities and contractual services, when it is determined to be cost-effective and in the best interest of the University, to make purchases under contracts let by such other entities. Universities shall review existing consortia and cooperative contracts to identify potential savings and, if there is the potential for savings, enter into new consortia and cooperative contracts to achieve the savings, with the goal of achieving a five-percent savings on existing contract prices.

- (g) Elect as an alternative to any provision in Board of Governor's (BOG) Regulation 18.002 to proceed with a bid solicitation or contract award process when it is set forth, in writing, that the particular facts and circumstances which demonstrate that the delay due to staying the solicitation or contract award process would be detrimental to the interests of the University. After the award of a contract resulting from a competitive solicitation in which a timely protest was received and in which the University did not prevail, the contract may be canceled and re-awarded to the prevailing party.
  - (h) Award contracts for commodities and contractual services to multiple suppliers, if it is determined to be in the best interest of the University. Such awards may be on a university, regional or multiple state university-wide basis and the contracts may be for multiple years.
  - (i) Reject or cancel any or all competitive solicitations when determined to be in the best interest of the Institution.
  - (j) Inspect the part of the plant or place of business to determine the capability of contract performance of a contractor or any subcontractor which is related to the performance of any contract awarded or to be awarded by the University, when specified in the agreement.
- (2) Competitive Solicitations Required.
- (a) All contracts for the procurement of commodities or contractual services exceeding \$75,000 shall be awarded pursuant to a competitive solicitation, unless otherwise authorized herein.
  - (b) When only one response is received to a competitive solicitation for commodities or contractual services exceeding \$75,000 the University shall review the solicitation to determine if a second call for a competitive solicitation is in the best interest of the University. If it is determined that a second call would not serve a useful purpose, the University shall proceed with the acquisition or cancel the acquisition.
  - (c) When multiple responses that are equal in all respects are received to a competitive solicitation, the University will give preference to responses that include commodities manufactured in the state, Florida businesses, or foreign

manufacturers located in the state to determine the contract award, or, if these conditions do not exist, will use toss of the coin.

- (d) The procurement of commodities and contractual services shall not be divided to avoid the requirement of competitive solicitation.
- (e) The Procurement Services Department, in issuing an Invitation to Bid, Request for Proposal or Invitation to Negotiate, shall provide notice of a decision or intended decision concerning a solicitation, or contract award by electronic posting for 72 hours, which is interpreted as three business days. (Business days do not include Saturdays, Sundays, State or University holidays, or any other days when the University is otherwise closed for business.) This notice shall contain the following statement: “Failure to file a protest in accordance with BOG regulation 18.002, or failure to post the bond or other security as required in BOG regulation 18.003, shall constitute a waiver of protest proceedings.”
- (f) Advertisement. Invitations to Bid, Requests for Proposals, and Invitations to Negotiate for commodities expected to be in excess of \$150,000 and for contractual services expected to be in excess of \$75,000 shall be advertised in the Florida Administrative Weekly or the State of Florida’s VBS System. The ~~Director of~~ head of The Procurement Services Department or designee shall have the authority to waive this advertisement requirement when the number of potential bidders or proposers is limited and can otherwise be solicited, when the availability of funding so requires, or where delivery is urgent.
- (g) Bids and proposals shall remain sealed (with the exception of typical information revealed at the Bid/Proposal opening for the tabulation sheet) until notice of final contract award is given or in accordance with Florida Statute as appropriate.
- (h) In the case of extension errors, the unit price will prevail.
- (i) Withdrawal. A vendor may withdraw his or her bid or proposal in writing if done within seventy-two (72) hours of the bid or proposal opening, if the bid or proposal is clearly erroneous and it is withdrawn prior to final award or the purchase order being issued.
- (j) Bid/Proposal Evaluations – Bids/Proposals shall be evaluated based on the requirements set forth in the Invitation to Bid/ Request for Proposal, which may

include criteria to determine acceptability such as inspection, testing quality, workmanship; delivery and suitability for a particular purpose. Those criteria that will affect the bid/proposal price and be considered in evaluation for award shall be objectively measured, such as all or none, discounts, transportation costs and total or life cycle costs. The Invitation to Bid, Request for Proposal or Invitation to Negotiate shall set forth the criteria to be used. No criteria may be used in bid/proposal evaluation that is not set forth in the Invitation to Bid, Request for Proposal or Invitation to Negotiate.

(3) Procurement of Commodities or Contractual Services.

- (a) Procurement of Products with Recycled Content. The University encourages the procurement and use of products and materials with recycled content and post consumer recovered material.
- (b) Procurement of Private Attorney Services. Written approval from the Attorney General is not required for private attorney services acquired by the University.
- (c) Procurement of Insurance. The University has the authority to procure insurance as deemed necessary and appropriate for the operation and educational mission of the University. Examples of insurance coverage that may be acquired by the University include (but are not limited to) insurance coverage for:
  - 1. Physical damage on vehicles and boats;
  - 2. Inland marine on property owned, leased, or loaned to or by the University;
  - 3. Building and property damage;
  - 4. Equipment losses due to theft;
  - 5. Loss of rental income;
  - 6. Excess general liability coverage;
  - 7. Professional liability;
- (d) Procurement of Printing. Printing shall be procured in accordance with the requirements of these rules. The University may refer to the requirements of Chapter 283, F.S., and rules promulgated thereto for guidance with respect to the procurement of printing services.

- (e) Procurements from Small, Minority and Woman-Owned Business Enterprises (SMWBE). The University is an equal opportunity institution and encourages procurement contracting with SWMBE.
- (f) Procurements from Contractors Convicted of Public Entity Crimes. The University shall not accept a competitive solicitation from, or procure commodities or contractual services from, a person or affiliate who has been convicted of a public entity crime and has been placed on the State of Florida's convicted vendor list for a period of 36 months from the date of being added to the convicted vendor list.
- (g) Preferences for Florida-Based Vendors when Procuring Personal Property: For procurements of tangible personal property, the Florida Legislature enacted economic development laws establishing certain conditions and circumstances which, when applicable, require the granting of price preferences to businesses whose principal place of business is the State of Florida. Pursuant to §287.084 Florida Statute, award recommendations shall make appropriate adjustments to Resident Vendor pricing when considering solicitations from Bidders having a principal place of business outside the State of Florida. Refer to Florida Statute 287.084 and BOG Regulation 18.001 for additional information regarding applicability and implementation of this section.
- (h) Procurement actions that are not subject to the competitive solicitation process include but are not limited to:
  - 1. Emergency Procurements. When the President or his or her designee determines, in writing, that a condition exists that threatens the health or safety of person(s) or animal(s) or the preservation or protection of property or the continuance of a vital University function, the University may proceed with an emergency procurement without a competitive solicitation. The emergency procurement shall be limited to the procurement of only the type of items and quantities or for a time period sufficient to meet the immediate threat and shall not be used to meet long-term requirements.
  - 2. Sole Source Procurements. Commodities or contractual services available from a single source shall be exempted from the competitive solicitation

process. Sole Source document shall be publicly posted by the Procurement Services Department for three working days. Working days do not include Saturdays, Sundays, or State or University Holidays.

3. Procurements from competitively bid Contracts and Negotiated Annual Price Agreements established by the State, other governmental entities, other public or private educational institutions, and any procurement cooperative or consortium are not subject to competitive solicitation.
  4. Construction Direct Procurement Program. Commodities to be incorporated into any public work (as that term is defined in Rule 12A-1.094, F.A.C.) which are procured by the University in accordance with the requirements of the University's direct procurement program are not subject to any further competitive solicitation.
- (i) Commodities and contractual services that are not subject to the competitive solicitation process include:
1. Artistic services;
  2. Academic reviews;
  3. Lectures;
  4. Accountant services, including auditor services;
  5. Legal services, including attorney, paralegal, expert witness, appraisal, lobbyist, arbitrator or mediator services;
  6. Health services, including related equipment and supplies, involving examination, diagnosis, treatment, prevention, consultation or administration of physical or mental conditions or the provision of developmental or vocational rehabilitation;
  7. Medicaid services delivered to an eligible Medicaid recipient by a health care provider who has not previously applied for and received a Medicaid provider number from the Department of Children and Family Services. This exception will be valid for a period not to exceed 90 days after the date of delivery to the Medicaid recipient and shall not be renewed;
  8. Training and education services;
  9. Advertising; except for media placement services;

10. Services or commodities provided by governmental agencies, another university in the State of Florida or other independent colleges and universities;
11. Programs or continuing education events that are offered to the general public for which fees have been collected to pay all expenses associated with the program or event;
12. Procurements from firms or individuals that are prescribed by state or federal law or specified by a granting agency;
13. Regulated utilities and government franchised services;
14. Regulated public communications, except long distance telecommunication services or facilities;
15. Extension of an existing contract; (see section (6)(c));
16. Renewal of an existing contract if the terms of the contract specify renewal option(s); see section (6)(d));
17. Procurements from the Annual Certification List developed by the University;
18. Procurements for resale;
19. Contracts or services provided by not-for-profit support and affiliate organizations of the University, direct support organizations, health support organizations and faculty practice plans;
20. Implementation/programming/training services available from the owner of copyrighted software or its contracted vendor;
21. Procurements of materials, supplies, equipment, or services for instructional or sponsored research purposes when a director of sponsored research or designee certifies that, in a particular instance, it is necessary for the efficient or expeditious prosecution of a research project in accordance with sponsored research procedures or to attain the instructional objective. Sponsored research documents shall be publicly posted by the Procurement Services Department for three business days.
22. Procurements for the Florida High Tech Corridor initiative~~;~~ ~~and~~



~~23. The acquisition of commodities or contractual services that are specifically provided for in an existing contract, grant, subcontract, letter of agreement, etc.~~

- (j) Participants in Contract Awards Not Subject to Competitive Solicitations.
1. No person or firm who receives a contract to perform a feasibility study for potential implementation of a subsequent contract, participates in the drafting of a competitive solicitation or specifications, or designs or develops a program for future implementation shall be eligible to contract with the University dealing with the specific subject matter.
  2. The individuals taking part in the development or selection of criteria for evaluation, the evaluation process and the contract award in any procurement shall be independent of, and have no conflict of interest in, the entities evaluated and selected and may be required to so attest in writing.

(4) Bonds.

- (a) Solicitation Security. A certified, cashier's or treasurer's check, bank draft or bid bond may be required as a condition for participating in a competitive solicitation where the University is reasonably uncertain about the contractor's ability to perform, and the expected value of the contract is in excess of \$100,000.
- (b) Payment and Performance Bonds for Commodities and Services Contracts. The head of the Procurement Services ~~Director~~ Department or designee is authorized to require any contractor contracting with the University to provide services or commodities (including installation) to furnish a payment and performance bond, with good and sufficient securities, to the University prior to the issuance of the contract when the total contract amount is greater than \$100,000 and the University is uncertain about the contractor's ability to perform.
- (c) A bond or security required pursuant to paragraphs (a) or (b) above must be in an amount equal to 100% of the response submitted to the competitive solicitation.
- (d) Solicitation Protest Bond. Any contractor that files a formal protest pursuant to the protest procedures of BOG Regulation 18.002 and this regulation protesting a decision or intended decision pertaining to a solicitation, shall at the time of filing of the formal protest, post with the University a bond payable to the University in

an amount equal to: 10% of the estimated value of the protestor's bid or proposal; 10% of the estimated expenditure during the contract term; \$10,000; or whichever is less. The bond shall be conditioned upon the payment of all costs which may be adjudged against the contractor filing the protest action. In lieu of a bond, the University may accept a cashier's check or money order in the amount of the bond.

(5) Notice and Protest Procedures for Protests Related to a University's Contract Procurement Process

- (a) The procedures set forth in BOG Regulation 18.002 shall apply exclusively to any protest that arises from any university contract procurement processes for the procurement of goods, services, leases and for construction-related competitive solicitations.
- (b) Any qualified offeror who is adversely affected by the university's decision may file a written notice of intent to protest within 72 hours after university posting of award or intent to award notice. The protesting firm must reduce its complaint to a written petition and file it with the department that issued the solicitation within ten (10) calendar days from registration of the original complaint. Failure to timely file a protest or failure to timely deliver the required bond or other security in accordance with the Board of Governors' (BOG) Regulations 18.002 and 18.003 shall constitute a waiver of protest proceedings. Additional information on protest procedures can be viewed in the above referenced BOG Regulations.

(6) Contracts.

- (a) Acquisitions ~~for the procurement~~ of commodities, ~~or~~ contractual services, or licenses shall ~~consist of be executed with a purchase orders, or a bilateral agreement/contract, prior to the goods or services being ordered, contracted for, or rendered by the vendor. except for p~~Procurement using a pCard, where compliant with applicable policies and procedures, or prior verbal approval from the Procurement Services Department, are also acceptable means to obligate the university for a procurement. necessary funds prior to the contractor being provided a notice to proceed or said contractor rendering the goods or services. All necessary procurement actions (i.e. competition, competition exemptions,

approvals) must take place prior to signing a contract/agreement or engaging in any actions that will obligate the university funds. For procurement under a bilateral agreement/contract or prior verbal approval from the Procurement Services Department, the requisition to process the associated purchase order must be submitted within thirty (30) days of (i) delivery of the commodities or (ii) the obligation for contractual services or licenses being incurred.

- (b) Any contract for the procurement of services or tangible personal property for a period in excess of one fiscal year shall include the following or an equivalent statement: “The State of Florida’s and University’s performance and obligation to pay under this contract is contingent upon an annual appropriation by the Legislature.”
- (c) Permitting the extension(s) of a contract, entered into as a result of a competitive solicitation, for up to twelve (12) months or until completion of the competitive solicitation and award or protest, whichever is longer. The extension shall be in writing, signed by both parties, and shall be subject to the same terms and conditions set forth in the initial contract.
- (d) A contract may contain provisions for renewal. If the commodity or contractual service is procured as a result of a competitive solicitation, the cost of any contemplated renewal must be included in the competitive solicitation. All contract renewals are subject to sufficient annual appropriations. Renewals of a contract, whether the contract resulted from a competitive process or other procurement method, shall be for a period that may not exceed 5 years or twice the term of the original contract, whichever is longer. This provision is not intended to apply retroactively; existing contracts entered into prior to January 1, 2017, including any specified renewal period(s) may continue in accordance with the existing contract terms.
- (e) When any commodity contract requires deferred payments and the payment of interest, such contract may be submitted to the State of Florida Comptroller for the purpose of pre-audit review and approval prior to acceptance by the University. The President shall have the authority to enter into deferred payment agreements utilizing the State of Florida Comptroller’s Consolidated Equipment

Financing Program. No agreement shall establish a debt of the state or shall be a pledge of the faith and credit of the state; nor shall any agreement be a liability or obligation of the state except from appropriated funds.

- (f) In order to promote cost-effective procurement of commodities and contractual services, the University may enter into contracts that limit the liability of a vendor consistent with Section 672.719, F.S.
- (g) The total value of the contract is, for purposes of this regulation and university procedures, the procurement price for the initial term plus all renewal costs.
- (h) If a contractor does not furnish proof of payment to subcontractors, suppliers, or laborers within 60 days after the project is certified to be finally complete by the University, the University will pay any retainage, on a pro-rata basis, directly to the subcontractors, suppliers or laborers. In order to obtain payment, subcontractors, suppliers, or laborers who have not been paid after the 60 days have passed have an additional 30 days to submit documentation satisfactory to the University showing that they have performed work on the project, the amount due, and certifying that they have not been paid. If a contractor does not complete a project, the University will use any retainage to complete the work and then pay any balance of the retainage, on a pro-rata basis, to subcontractors, suppliers, or laborers who provide the above required documentation within 30 days after the completion of the project.

(7) Standard of Conduct. It shall be a breach of ethical standards: (a) for any employee of the University to accept, solicit, or agree to accept a gratuity of any kind, form or type in connection with any contract for commodities or services; (b) for any potential contractor to offer an employee of the University a gratuity of any kind, form or type to influence the development of a contract or potential contract for commodities or services; or (c) for any University or University direct support organization employee participating on a procurement selection committee to solicit donations from responding vendors during the selection process, except for donations or benefits expressly stated in the procurement document.

(8) Procurement of Motor Vehicles.

- (a) The term “motor vehicle” includes any automobile, truck, watercraft or other vehicle designed primarily for transporting persons, and construction vehicles or farm equipment.
- (b) The University has authority to:
  - 1. Establish standard classes of motor vehicles to be leased, procured or used by University personnel;
  - 2. Obtain the most cost effective and efficient motor vehicles for state purposes;
  - 3. Establish and operate facilities for the acquisition, disposal, operation, maintenance, repair, storage, control and regulation of University-owned motor vehicles. Acquisition may be by procurement, lease, installment-purchase, loan or by any other legal means and may include a trade-in. All motor vehicles procured or leased shall be of a class that will safely transport University personnel and adequately meet the minimum requirements of the University.
  - 4. Contract for specialized maintenance services.
- (c) Motor vehicles owned, leased or operated by the University shall be available for official University business only.

(9) Public Records.

- (a) Agreements may be canceled unilaterally by the University for refusal by the vendor/contractor to allow public access to all papers, documents, letters or other material subject to the provisions of Chapter 119, Florida Statutes, and made or received by the vendor/contractor in conjunction with the Agreement.
- (b) The University is subject to the Florida Public Records laws.
- (c) Contract for Services. To the extent that Payee meets the definition of “contractor” under Section 119.0701, Florida Statutes, in addition to other contract requirements provided by law, Payee must comply with public records laws, including the requirements of Section 119.0701, Florida Statutes.

(10) Vendors Excluded from Competition. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications,

requirements, statements of work, Invitations to Bid, Request for Proposals and/or Invitations to Negotiate shall be excluded from competing for such procurements.

*Authority: BOG Regulations 1.001, 18.001, 18.002 and 18.003. History—New 4-23-03, Amended 4-17-06, 8-6-07, 10-19-07, Formerly 6C7-7.130, Amended 7-6-09, 8-8-14, 10-29-15, 7-5-16, 4-17-17, \_\_\_\_\_-19.*

**ITEM: INFO-1**

**University of Central Florida  
Board of Trustees  
Nominating and Governance Committee**

**SUBJECT: The Stephen W. Hawking Center for Microgravity and Education**

**DATE: January 24, 2019**

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**PROPOSED COMMITTEE ACTION**

Information item only.

**BACKGROUND INFORMATION**

Before his death, Stephen Hawking, Ph.D. boarded a plane in Cape Canaveral, Florida where he was able to experience zero gravity. Following that experience, he granted Space Florida and UCF the right to use his name in conjunction with a not-for-profit corporation to be created to conduct research and provide education on microgravity. The corporation would be called “The Stephen W. Hawking Center for Microgravity Research and Education”, or “The Hawking Center”. UCF and Space Florida are negotiating terms for such an undertaking, and are communicating with the Hawking estate for potential collaborative participation.

Space Florida is an independent special district, authorized by Section 331.305 of the Florida Statutes, to own, acquire, construct, develop, create, reconstruct, equip, operate, maintain, extend, and improve launch pads, landing areas, ranges, payload assembly buildings, payload processing facilities, laboratories, aerospace space business incubators, launch vehicles, payloads, space flight hardware, facilities and equipment for the construction of payloads, space flight hardware, rockets, and other launch vehicles, and other spaceport facilities and other aerospace-related space-related systems, including educational, cultural, and parking facilities and aerospace-related space-related initiatives.

Section 1004.28 of the Florida Statutes allows a university to establish direct support organizations. A direct support organization is a not-for-profit corporation established pursuant to Chapter 617 of the Florida Statutes, organized and operated exclusively to receive, hold, invest, and administer property and to make expenditures to or for the benefit of a state university, and which the Board of Trustees, after review, has certified to be operating in a manner consistent with the goals of the university and in the best interests of the state. UCF Regulation 4.034 further implements the Florida Statute.

Space Florida and UCF have agreed that UCF would establish The Hawking Center as a direct support organization, with Space Florida appointing a minority of the Board and officer positions.

With UCF as the majority stakeholder, The Stephen W. Hawking Center for Microgravity Research and Education will operate exclusively to hold, invest and administer property and to make expenditures to or for the benefit of the University of Central Florida. More specifically, the intended purpose of the corporation will be, in brief, to carry out leading space research enabled by a microgravity environment, attract support from and collaboration with private and public parties, and engage in educational and public outreach activities.

This matter will return for Board approval of (1) the incorporation of “The Stephen W. Hawking Center for Microgravity and Education, Inc.”, (2) the registration of a related fictitious name “The Hawking Center”, and (3) the certification of The Stephen W. Hawking Center for Microgravity and Education, Inc. as a direct support organization of the University of Central Florida.

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**Supporting documentation:** Attachment A: Stephen Hawking, Ph.D. Consent Letter  
Attachment B: Draft Space Florida Collaboration Agreement  
Attachment C: Communication to Hawking Estate  
Attachment D: Florida Statute 331.305  
Attachment E: Florida Statute 1004.28  
Attachment F: UCF Regulation 4.034 (redline)

**Prepared by:** Sandra Sovinski, Deputy General Counsel for Research

**Submitted by:** Elizabeth Klonoff, Vice President for Research and Dean of the College of Graduate Studies



Attachment A

CONSENT OF STEPHEN W. HAWKING, PH.D.  
TO SPACE FLORIDA

18th February 2011 (Date)

Frank A. DiBello, President  
Space Florida  
Mail Stop: SPFL  
Bldg: M6-306; Room 9030  
Kennedy Space Center, FL 32899

RE: Consent to use and register "The Stephen W. Hawking Center for Microgravity Research and Education"

Dear Mr. DiBello,

This letter serves as my certified consent to allow Space Florida, an independent special district, a body politic and corporate, and a subdivision of the State of Florida, and the University of Central Florida, to incorporate and register a not-for-profit corporation that includes my name in its name.

In particular, I consent to Space Florida and the University of Central Florida use of my name in connection with "The Stephen W. Hawking Center for Microgravity Research and Education", a non-profit corporation to be incorporated under the laws of the State of Florida. This consent further extends to federal and/or state trademark or business name registrations made by Space Florida or The Stephen W. Hawking Center for Microgravity Research and Education that includes my name. This consent also includes permission for The Stephen W. Hawking Center for Microgravity Research and Education to be referred to as "The Hawking Center".

This consent is irrevocable and exclusive to Space Florida, the University of Central Florida, and The Stephen W. Hawking Center for Microgravity Research and Education.

Very Truly Yours,



Stephen Hawking, Ph.D.

RIGHT THUMB-PRINT  
OF S.W. HAWKING  
WITNESSED BY  
JUDITH CROASDELL

Judith CroasdeLL BD, FRGS  
Personal Assistant to Professor S W Hawking



UNIVERSITY OF  
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Centre for Mathematical Sciences  
Wilberforce Road  
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England

Attachment B

**COLLABORATION AGREEMENT  
BETWEEN  
SPACE FLORIDA  
and  
UNIVERSITY OF CENTRAL FLORIDA**

This **COLLABORATION AGREEMENT** ("Agreement") is entered into as of the date of last signature below, (the "Commencement Date") by **SPACE FLORIDA** ("SF"), an independent special district, a body politic and corporate, and a subdivision of the State of Florida, whose principal place of business is 505 Odyssey Way, Suite 300, Exploration Park, FL 32953, and **THE UNIVERSITY OF CENTRAL FLORIDA BOARD OF TRUSTEES**, (hereinafter referred to as "UCF"), a Public University and public body corporate authorized to do business in Florida whose principal place of business is 4000 Central Florida Boulevard, Orlando, FL 32816-0015.

**WHEREAS**, Section 331.302 of the Florida Statutes created SF to foster the growth and development of a sustainable and world-leading aerospace industry in the State of Florida;

**WHEREAS**, SF is charged with promoting aerospace business development by facilitating business financing, spaceport operations, research and development, workforce development, and innovative education programs;

**WHEREAS**, Section 331.305 of the Florida Statutes authorizes SF to own, acquire, construct, develop, create, reconstruct, equip, operate, maintain, extend, and improve launch pads, landing areas, ranges, payload assembly buildings, payload processing facilities, laboratories, aerospace space business incubators, launch vehicles, payloads, space flight hardware, facilities and equipment for the construction of payloads, space flight hardware, rockets, and other launch vehicles, and other spaceport facilities and other aerospace-related space-related systems, including educational, cultural, and parking facilities and aerospace- related space-related initiatives;

**WHEREAS**, UCF is recognized as a leading space-related research university, as the operator and manager of the Arecibo Observatory, one of the world's largest radio telescopes, and as the home of the Florida Space Institute (FSI), which supports space research, development, and education activities within the University of Central Florida and other FSI member universities and colleges throughout Florida, and, also supports the development of Florida's space economy – civil, defense, and commercial;

**WHEREAS**, UCF's Planetary Science Group, a unit of FSI, and UCF's Department of Physics use spacecraft data, images from the world's largest telescopes, meteorites, ground-based and space-based experiments, and supercomputers to investigate our Solar System as well as others around the Galaxy, with expertise areas including in situ resource utilization, planetary origins and evolution, and plasma physics;

**WHEREAS**, SF and UCF have worked together under a series of agreements to establish and conduct research in The Center for Microgravity Research and Education at UCF, focusing, to date, on planetary rings, planetesimal formation, small bodies, and other microgravity applications;

**WHEREAS**, Professor Stephen William Hawking, Ph.D., a renowned and well-honored physicist, worked on the basic laws which govern the universe, was able to experience weightlessness in 2007, and always hoped to make it into space one day, prior to his death certified his consent for SF and UCF to use his name in connection with a certain non-profit corporation to be incorporated in the State of Florida; and

**WHEREAS**, SF and UCF set forth herein their agreement to collaborate in the formation and operation of “The Stephen W. Hawking Center for Microgravity Research and Education”, also to be known as “The Hawking Center”.

**WHEREAS**, it is the intention of SF and UCF to work together in good faith to formalize the mission of the “The Stephen W. Hawking Center for Microgravity Research and Education”.

**NOW, THEREFORE**, in consideration of the foregoing, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, he parties agree as follows:

1. Certified Consent.

On February 18, 2011, Stephen William Hawking, Ph.D., certified his irrevocable consent, exclusive to SF, UCF, and The Stephen W. Hawking Center for Microgravity Research and Education, in a letter attached hereto as Exhibit A, and incorporated herein, as follows:

- 1.1. To allow SF and UCF to incorporate and register a not-for-profit corporation that includes his name in its name;
- 1.2. To SF and UCF’s use of his name in connection with “The Stephen W. Hawking Center for Microgravity Research and Education”, a non-profit corporation to be incorporated under the laws of the State of Florida (the “Non-Profit”);
- 1.3. For SF or the Non-Profit to include his name in federal and/or state trademark or business name registrations; and
- 1.4. For the Non-Profit to also be referred to as “The Hawking Center”.

2. Formation of the Non-Profit.

SF and UCF hereby agree it is their intent, following approval by a majority of the UCF Trustees and a majority of the SF Directors at their respective public meetings:

- 2.1 To act together to form a non-profit Florida corporation, named “The Stephen W. Hawking Center for Microgravity Research and Education” (as defined above, the “Non-Profit”);
- 2.2 For the Non-Profit to register “The Hawking Center” as a fictitious name for the Non-Profit which trade name and trademark rights shall be owned by the Non-Profit; and
- 2.3 For the Non-Profit to apply for tax exempt status as a 501(c)(3) with the United States Internal Revenue Service.

3. Structure of the Non-Profit.

- 3.1. The Board of Directors shall serve as the members of the corporation.
- 3.2. Future Governance shall be as follows:
  - 3.2.1. The total number of UCF designee’s on the Board of Directors shall be as necessary in order for UCF to retain a majority and controlling position.
  - 3.2.2. Upon further expansion beyond the initial board members identified in Article 3.3, the

Board of Directors shall consist of at least 2 Directors appointed by SF.

- 3.2.3. Directors will be appointed as agreed to in the bylaws of the Nonprofit, and with the parties making good faith efforts for industry representation, and ensuring at least one industry representative Director.
- 3.2.4. Directors shall be chosen with characteristics agreed upon by the parties.
- 3.3. The initial board members for the Non-Profit shall be as follows:
  - 3.3.1. One SF designee – Frank DiBello, President & CEO Space Florida
  - 3.3.2. One UCF designee – Elizabeth Klonoff, Ph.D., UCF Vice President for Research and Dean of the College of Graduate Studies
  - 3.3.3. A second UCF designee – To be determined following consultation with SF
- 3.4. The initial officers for the Non-Profit shall be as follows:
  - 3.4.1. President – Ramon Lugo III, Ph.D., UCF Director of FSI
  - 3.4.2. Vice President – Dale Ketcham, SF Vice President Government & External Relations
  - 3.4.3. Treasurer – Joshua Colwell, Ph.D., UCF Associate Chair of Department of Physics and Assistant Director of FSI
  - 3.4.4. Secretary – Tony Gannon, SF Vice President Research & Innovation
- 3.5. Other eventual officers of the Non-Profit shall be selected by the Board, and shall include:
  - 3.5.1. Professional Executive Director
  - 3.5.2. Chief Financial Officer
  - 3.5.3. Development Officer
  - 3.5.4. Other as needed

#### 4. Activities of the Non-Profit.

It is the intention of the parties that the Non-Profit will:

- 4.1. Conduct fundamental and applied scientific research in the areas of:
  - 4.1.1. Granular, fluid, plasma, combustion, and material physics that require microgravity or reduced-gravity environment such as provided by drop towers, parabolic airplane flights, suborbital rocket flights, and orbital platforms
  - 4.1.2. other areas of interest related to or enabled by microgravity environments, to further advance scientific, exploration and commercialization opportunities
- 4.2. Attract support from and collaboration with third parties, such as:
  - 4.2.1. commercial suborbital launch providers
  - 4.2.2. commercial orbital launch providers
  - 4.2.3. commercial & government orbital platform providers
  - 4.2.4. commercial parabolic flight providers
  - 4.2.5. government agencies, especially space related
  - 4.2.6. private and public educational institutions
  - 4.2.7. industries with interests in the capabilities provided by reduced-gravity and microgravity environments
  - 4.2.8. other parties interested in the Non-Profit activities and priorities
- 4.3. Engage in educational and public outreach activities to involve and excite the public about space research, such as:
  - 4.3.1. by bringing the public and educators to the Non-Profit to see the research being carried out
  - 4.3.2. by sending researchers out across the State of Florida to give presentations, on gravity,

microgravity applications, and planetary science research enabled by microgravity experiments

- 4.3.3. focusing efforts on encouraging the pursuit of Science Technology Engineering & Math (STEM) with a particular focus on why and how microgravity research impacts life on Earth

4.4. Pursue the following Objectives:

- 4.4.1. Carry out leading space science research enabled by a microgravity environment including, but not limited to:
  - 4.4.1.1. Collisional evolution of particle systems in circumstellar and circumplanetary disks;
  - 4.4.1.2. Evolution of the surfaces of comets, moons, asteroids;
  - 4.4.1.3. Physics of granular materials;
  - 4.4.1.4. Validation of space hardware and space operations;
  - 4.4.1.5. Space life sciences;
  - 4.4.1.6. Space material sciences;
  - 4.4.1.7. Crystal growth;
  - 4.4.1.8. Dusty plasma physics;
  - 4.4.1.9. In situ resource allocation
  - 4.4.1.10. The application of microgravity across other domains
- 4.4.2. Train the next generation of space scientists and engineers by providing hands-on experience with designing, building, testing, and flying space experiments;
- 4.4.3. Grow the Florida space science economy;
- 4.4.4. Compete for new research funding enabled by microgravity access;
- 4.4.5. Develop associations with launch providers such as SpaceX, Blue Origin, Virgin Galactic, Virgin Orbital and other viable companies that may develop in the future;
- 4.4.6. Develop associations with other government and private sector platforms;
- 4.4.7. Leverage resources of the Non-Profit to grow the federally-funded space-related research and engineering activities in Florida;
- 4.4.8. Educate the public about space science and exploration through dissemination of results to the public in non-technical language, visits to the Center, social media, and presentations to schools and public groups;

5. Responsibilities of the Parties.

5.1. SF will:

- 5.1.1. Assist with introductions and provision of information as to potential board nominees and other parties of interest
- 5.1.2. Disseminate information regarding the Non-Profit to its unique audiences, as appropriate

5.2. UCF will:

- 5.2.1. Have primary responsibility for support and management of the operational aspects of the Non-Profit.
- 5.2.2. Conduct and manage the scientific research
- 5.2.3. Disseminate information regarding the Non-Profit to its unique audiences, as appropriate

5.3. SF and UCF will:

- 5.3.1. work together in good faith to define and implement a functional and effective fundraising strategy, operations plan and management structure within a 90 day period following the filing of the formation documents for the Non-Profit
- 5.3.2. work together to create and implement a trademark logo for use in identifying the

- services of the Non-Profit, and for registration by the Non-Profit
- 5.3.3. each be responsible for their own expenses, unless and until otherwise agreed in writing
- 5.3.4. be available, with reasonable notice for meetings and telephone communications for issues relating to the Non-Profit

6. Term.

This agreement shall continue until superseded by the Bylaws of the Center, unless earlier terminated by the parties.

7. General Understandings.

- 7.1. SF and UCF agree that any press or publicity regarding the subject matter of this agreement shall require prior written approval of each party.
- 7.2. The terms of this agreement may be amended only by written mutual agreement, effective when signed by the parties.
- 7.3. The relationship between the parties shall be solely that of independent entities, except as otherwise set forth in the corporate documents for the Non-Profit, the rights and obligations of the parties shall be limited to those expressly set forth herein or otherwise agreed upon in writing by the parties or in the corporate documents of the Non-Profit.
- 7.4. Nothing herein contained shall be construed as authorizing either party to act as an agent or representative of the other or to make any commitment or create any obligations for the other without such party's prior written consent, and the rights of the parties to act on behalf of the Non-Profit shall be set forth in the corporate documents.
- 7.5. All documents, books, records, accounts, and materials of any kind related to this agreement and the collaboration created thereby shall be open to the public for inspection as subject to the applicable provisions of the Florida Public Records Act, Chapter 119, Florida Statutes.
- 7.6. No right or license to either party's intellectual property is granted or implied hereunder.
- 7.7. Severability. If any provision of this agreement is found by a court of competent jurisdiction to be invalid or unenforceable to any extent, the remainder of this Agreement shall not be affected thereby and shall remain enforceable to the greatest extent permitted by law.
- 7.8. Limitation of Liability.
  - 7.8.1. The limits of liability for both parties are set forth in Section 768.28 of the Florida Statutes, and nothing herein shall be construed to extend the liabilities of either party beyond that cap provided in Section 768.28 of the Florida Statutes. Nothing herein is intended as a waiver of either party's sovereign immunity under Section 768.28 of the Florida Statutes. Nothing hereby shall inure to the benefit of any third party for any purpose, including but not limited to anything which might allow claims otherwise barred by sovereign immunity or operation of law. Furthermore, all of each party's obligations under this agreement are limited to the payment of no more than the per person amount limitation and the aggregate contained in Section 768.28 of the Florida Statutes, even if the sovereign immunity limitations of that statute are not otherwise applicable to the matters as set forth herein.
  - 7.8.2. In no event shall either party be liable to the other party for indirect, special, or consequential damages, including, but not limited to, loss of revenue, loss of profit, cost

of capital, or loss of opportunity regardless of whether such liability arises out of contract, tort (including negligence), strict liability, or otherwise.

7.8.3. Neither party shall assume any liability for the acts, omissions, or negligence of the other party, its agents, servants, employees, or subcontractors.

7.9. Representations.

7.9.1. Each party has the necessary and required Federal and State authority to enter into this agreement.

7.9.2. Neither this agreement nor either party's performance of its obligations hereunder will knowingly place such party in breach of any other contract or obligation and will not knowingly violate the rights of any third party.

7.10.No Third-Party Beneficiaries. This agreement does not, and is not intended, to confer any rights or remedies upon any person other than the parties.

7.11.Counterparts. The parties may sign this agreement in several counterparts,each of which will be deemed an original but all of which together will constitute one instrument.

7.12.Facsimile Deemed as Original. Acceptance of this Agreement may be made by facsimile or electronic transmission. Receipt of the facsimile, or electronic, transmission shall for the purposes of this Agreement be deemed to be an original, including signatures.

7.13.The parties shall comply with all applicable Federal, State and local laws, rules and regulations.

7.14.This Agreement may not be assigned by either party without the prior written consent of the other.

7.15.This Agreement shall be construed in accordance with the laws of the State of Florida.

Authorized parties are signing this agreement on the execution dates under the signatures below.

**Space Florida Board of Directors**

By: Frank DiBello  
President & CEO  
Space Florida

Date:

**The University of Central Florida  
Board of Trustees**

By: Elizabeth Klonoff, Ph.D.  
Vice President for Research and  
Dean of Graduate Studies

Date:



Attachment C



UNIVERSITY OF CENTRAL FLORIDA

**Office of the General Counsel**

P.O. Box 160015  
Orlando, FL 32816-0015

November 29, 2018

Via email (Patrick.farrant@taylorvinters.com)

Patrick Farrant  
Taylor Vinters  
Merlin Place, Milton Road  
Cambridge, CB4 0DP United Kingdom

Re: The Stephen W. Hawking Center for Microgravity and Education

Dear Patrick,

Thank you for engaging in communications with UCF and Space Florida, on behalf of the Estate of Professor Hawking, as we work to bring Professor Hawking's desire for "The Stephen W. Hawking Center for Microgravity and Education" to reality. Having the utmost respect for the Estate, we understand the desire for clarification of rights and details, and this letter describes our intentions for "The Hawking Center".

As previously communicated by Dale Ketcham, Space Florida's Vice President of Government and External Affairs, Space Florida was pleased to have provided the funding which enabled Professor Hawking to fly on those famous ZeroG flights at Cape Canaveral back in 2007, and was honored to have received Professor Hawking's permission to establish, with UCF, a microgravity research and education center in his name. We are fully supportive of the Estate's desire for a further clarifying letter or agreement, and in fact, welcome the Estate's participation and involvement with the center, to the extent desired by the Estate.

In order to assist the Estate, I've included relevant documentation with this letter, for a complete review package. Namely, I have attached a copy of the February 18, 2011 Consent letter from Professor Hawking, and the pending draft Collaboration Agreement between UCF and Space Florida. As more fully described in the draft Collaboration Agreement, Space Florida is an independent special district, a body politic and corporate, and a subdivision of the State of Florida, and UCF is a public university and public body corporate of the State of Florida. Accordingly, we reassure the Estate that as state entities, our intentions for The Hawking Center are focused upon public benefit.

The following information is directed to your specific areas of inquiry:

Business name/corporate registrations proposed

As further described in the draft Collaboration Agreement, our intention is to follow the specific text of Professor Hawking's consent letter, for Space Florida and UCF to incorporate a Florida non-profit corporation with the business name "The Stephen W. Hawking Center for Microgravity Research and Education, Inc." Also, because Professor Hawking specifically noted his consent for the center to also be referred to as "The Hawking Center", and because the Florida Fictitious Name Act requires registration of any other name under which a business will operate other than the legal name, our intention is to register "The Hawking Center" as a fictitious name, or "dba", for The Stephen W. Hawking Center for Microgravity Research and Education, Inc.

Once we have the Florida non-profit corporate status, our intention is to apply for tax exempt status, as a 501(c)(3) with the United States Internal Revenue Services. Also, because Space Florida desires for UCF to have primary responsibility for the support and management of the operational aspects of the non-profit corporation, it is our intention to seek certification from the UCF Board of Trustees, with the agreement of Space Florida, for the non-profit corporation to be a "University direct support organization", as defined in Florida Statute 1004.28. (I have included a link to this statute in my email, for your convenience.) As a direct support organization, the non-profit corporation would be an instrumentality of UCF, and its activities consistent with the goals of the public research university, and in the best interest of the state.

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#### Trademark plans

Our intention, based upon the consent letter, was to seek federal and/or state trademark registration(s) for the business names, with such rights to be owned by the non-profit corporation. Our intention with such registration(s) was to ensure means of protecting against others misuse/misappropriation of the name, rather than as a means for expanding any commercial use or exploitation.

We are now aware of the Estate's U.S. registrations #5010670 and #5010876 for the STEPHEN HAWKING mark. Accordingly, a non-exclusive license grant from the Estate to the non-profit center would serve to confirm the center's right to use your marks, to the extent contained in the center name, in view of the consent letter. With respect to the business names of the non-profit, and their use and protection as trademarks, we have several options. The non-profit center could rely solely upon common law trademark rights; or, we could pursue registration as a Florida state trademark; and/or, the Estate and the non-profit center could work together to pursue a U.S. federal registration. We can also confirm license rights that the Estate may desire, if the non-profit should obtain any trademark registration, and depending upon which path is preferred for best protecting all of the trademark interests.

#### Merchandising, fund raising, promotional plans

As noted above, Space Florida and UCF are focused on public benefit. Accordingly, any merchandising, fund raising, or promotional activities would be in support of this purpose. We've compiled the following exemplary list for the Estate. As to the business name, "The Stephen W. Hawking Center for Microgravity Research and Education, Inc.", and its dba, "The Hawking Center, Inc.", and trademark(s) thereto (collectively, "Center Names"), the non-profit center intends to:

- include the Center Names in published research and press releases (for research, grants professional or student awards and short feature of staff) coming from faculty, students, scientists in the lab or partner institutions that also publish work,
- use the Center Names in listings of UCF space related collateral,
- use the Center Names, and film the center for social media and television public service announcements and commercials,
- use (with the Estate's guidance) background material about Professor Hawking on the center's website,
- use a logo, incorporating the Center Names, on the center website,
- share news regarding each of the above on UCF and Space Florida social media platforms,
- use Center Names when sponsoring or co-sponsoring educational events (STEM day type events) for K-18,
- produce marketing materials for outreach activities, to share with students, media, and friends of the center,
- display Center Names and logo in multiple places in the center, including areas that may be filmed or recorded by UCF public relations and media for specific announcements,
- use the Center Names and logo for general center business, including letterhead, brochure, business cards, website.

The non-profit center also would like to consider using the Center Names for potential anniversary celebrations, such as at the 5, 10, 25 year marks, and for publicity/marketing for those celebrations.

We are supportive of detailing rights in a further letter or agreement with the Estate, and including such non-exclusive copyright license to images as may be necessary. We would be happy to permit direct participation by the Estate in events and media opportunities, if desired, and/or to send press releases to an Estate representative or designate in advance of intended media interaction.

#### Proposed Announcement

As to the intended announcement of the creation of the center, we have formulated three potential concepts, with the following order of preference:

##### Option 1:

- We host a press conference at a space-related event (such as the American Geophysical Union conference in December, 2018 in Washington, D.C., or similar event), or at UCF,
  - with a Hawking family representative, Space Florida and UCF present,
  - talk about our growing impact on space research and make announcement,
  - offer lab tours to media,
  - share the news via social media, and
  - perhaps notify a national media outlet ahead of time so they can "break the news."

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Option 2:

- Press release with media availability of the center,
  - request/include a quote from the Hawking family or Estate, Space Florida, and UCF,
  - send to local, national and UK media, and
  - share via social media.

Other Options:

- Make the announcement on social media, or
- Estate announces.

In closing, we are honored to have the opportunity to fulfill Professor Hawking's desire for the creation of a microgravity research and education center bearing his name. Please don't hesitate to reach out if you have any questions or if you would like any further information. We look forward to finalizing our arrangements with the Estate at your earliest convenience.

Respectfully,



Sandra M. Sovinski  
Senior Associate General Counsel  
Office of the General Counsel  
Office of Research & Commercialization  
University of Central Florida

Enclosures: (1) 2011 Consent Letter, (2) Draft Space Florida and UCF Collaboration Agreement, (3) Florida Statute 1004.28.

cc: Space Florida

## Attachment D

Select Year:  

## The 2018 Florida Statutes

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[Title XXV](#)[Chapter 331](#)[View Entire Chapter](#)

AVIATION

AVIATION AND AEROSPACE FACILITIES AND COMMERCE

**331.305 Powers of Space Florida.**—Space Florida may:

- (1) Sue and be sued by its name in any court of law or in equity.
- (2) Adopt and use a corporate seal and alter the same at pleasure.
- (3) Conduct its affairs, carry on its operations, and have offices and exercise the powers granted by this act in any state, territory, district, or possession of the United States or any foreign country.
- (4) Acquire, enjoy, use, and dispose of patents, copyrights, and trademarks and any licenses and other rights or interests under or in such licenses.
- (5) Purchase, take, receive, subscribe for, or otherwise acquire, own, hold, vote, use, employ, sell, mortgage, lend, pledge, or otherwise dispose of and otherwise use and deal in and with shares and other interests in, or obligations of, other domestic or foreign corporations, whether for profit or not for profit, associations, partnerships, or individuals, or direct or indirect obligations of the United States, or of any other government, state, territory, governmental district, municipality, or of any instrumentality of such governmental units.
- (6) Lend money for its purposes, invest and reinvest its funds, and take and hold real and personal property as security for the payment of funds loaned.
- (7) Have and exercise all powers necessary or convenient to effect any or all of the purposes for which it is organized.
- (8) Acquire property, real, personal, intangible, tangible, or mixed, within or without its territorial limits, in fee simple or any lesser interest or estate, by purchase, gift, devise, or lease, on such terms and conditions as the board may deem necessary or desirable, and sell or otherwise dispose of the same and of any of the assets and properties of Space Florida.
- (9) Make and execute any and all contracts and other instruments necessary or convenient to the exercise of its powers, including financing agreements with persons or spaceport users to facilitate the financing, construction, leasing, or sale of any project.
- (10) Whenever deemed necessary by the board, lease as lessor or lessee to or from any person, public or private, any facilities or property for the use of Space Florida and carry out any of the purposes of Space Florida.
- (11) Own, acquire, construct, develop, create, reconstruct, equip, operate, maintain, extend, and improve launch pads, landing areas, ranges, payload assembly buildings, payload processing facilities, laboratories, aerospace business incubators, launch vehicles, payloads, space flight hardware, facilities and equipment for the construction of payloads, space flight hardware, rockets, and other launch vehicles, and other spaceport facilities and other aerospace-related systems, including educational, cultural, and parking facilities and aerospace-related initiatives.
- (12) Own, acquire, construct, reconstruct, equip, operate, maintain, extend, or improve transportation facilities appropriate to meet the transportation requirements of Space Florida and activities conducted within spaceport territory.
- (13) Own, acquire, construct, reconstruct, equip, operate, maintain, extend, or improve electric power plants, transmission lines and related facilities, gas mains and facilities of any nature for the production or distribution of natural gas, transmission lines and related facilities and plants and facilities for the generation and transmission of power through traditional and new and experimental sources of power and energy; purchase electric power,

natural gas, and other sources of power for distribution within any spaceport territory; develop and operate water and sewer systems and waste collection and disposal consistent with chapter 88-130, Laws of Florida; and develop and operate such new and experimental public utilities, including, but not limited to, centrally distributed heating and air-conditioning facilities and services, closed-circuit television systems, and computer services and facilities, as the board may from time to time determine. However, Space Florida may not construct any system, work, project, or utility authorized to be constructed under this paragraph in the event that a system, work, project, or utility of a similar character is being actually operated by a municipality or private company in the municipality or territory adjacent thereto, unless such municipality or private company consents to such construction.

(14) Designate, set aside, and maintain lands and areas within or without the territorial limits of any spaceport territory as conservation areas or bird and wildlife sanctuaries; stock such areas with animal and plant life and stock water areas with fish and other aquatic life; adopt pursuant to ss. 120.536(1) and 120.54 and enforce rules with respect thereto and protect and preserve the natural beauty thereof; and do all acts necessary or desirable in order to qualify such lands and areas as conservation areas and sanctuaries under any of the laws of the state or under federal law.

(15) Establish a program for the control, abatement, and elimination of mosquitoes and other noxious insects, rodents, reptiles, and other pests throughout the spaceport territory and undertake such works and construct such facilities within or without the spaceport territory as may be determined by the board to be needed to effectuate such program; abate and suppress mosquitoes and other arthropods, whether disease-bearing or pestiferous, within any spaceport territory when in the judgment of the board such action is necessary or desirable for the health and welfare of the inhabitants of or visitors to any spaceport; and take any and all temporary or permanent eliminative measures that the board may deem advisable. The Legislature hereby finds and declares Space Florida eligible to receive state funds, supplies, services, and equipment available or that may in the future become available to mosquito or pest control districts, the provisions of s. 388.021 notwithstanding.

(16) Subject to the rules and regulations of the appropriate water management district, own, acquire, construct, reconstruct, equip, maintain, operate, extend, and improve water and flood control facilities. The Legislature hereby finds and declares Space Florida eligible to receive moneys, disbursements, and assistance from the state available to flood control or water management districts and navigation districts or agencies.

(17) Own, acquire, construct, reconstruct, equip, maintain, operate, extend, and improve public safety facilities for the spaceport, including security stations, security vehicles, fire stations, water mains and plugs, and fire trucks and other vehicles and equipment; hire employees, security officers, and firefighters; and undertake such works and construct such facilities determined by the board to be necessary or desirable to promote and ensure public safety within the spaceport territory.

(18) Hire, through its president, a safety officer with substantial experience in public safety procedures and programs for space vehicle launching and related hazardous operations. The safety officer shall monitor and report on the safety and hazards of ground-based space operations to the president.

(19) Examine, develop, and use new concepts, designs, and ideas; own, acquire, construct, reconstruct, equip, operate, maintain, extend, and improve experimental spaceport facilities and services; and otherwise undertake, sponsor, finance, and maintain such research activities, experimentation, and development as the board may from time to time determine, in connection with any of the projects that Space Florida is authorized to undertake pursuant to the powers and authority vested in it by this act, and in order to promote the development and utilization of new concepts, designs, and ideas in the fields of space exploration, commercialization of the space industry, and spaceport facilities.

(20) Issue revenue bonds, assessment bonds, or any other bonds or obligations authorized by the provisions of this act or any other law, or any combination of the foregoing, and pay all or part of the cost of the acquisition, construction, reconstruction, extension, repair, improvement, or maintenance of any project or combination of projects, including payloads and space flight hardware, and equipment for research, development, and educational activities, to provide for any facility, service, or other activity of Space Florida, and provide for the retirement or refunding of any bonds or obligations of Space Florida, or for any combination of the foregoing purposes. Space Florida must provide 14 days' notice to the presiding officers and appropriations chairs of both houses of the

Legislature prior to presenting a bond proposal to the Governor and Cabinet. If either presiding officer or appropriations chair objects to the bonding proposal within the 14-day-notice period, the bond issuance may be approved only by a vote of three-fourths of the members of the Governor and Cabinet.

(21) Make expenditures for entertainment and travel expenses and business clients, guests, and other authorized persons as provided in this act.

(22) In connection with any financing agreement, fix and collect fees, loan payments, rental payments, and other charges for the use of any project in such amount as to provide sufficient moneys to pay the principal of and interest on bonds as the same shall become due and payable, if so provided in the bond resolution or trust agreement, and to create reserves for such purposes. The fees, rents, payments, and charges and all other revenues and proceeds derived from the project in connection with which the bonds of any issue shall have been issued, except such part thereof as may be necessary for such reserves or any expenditures as may be provided in the resolution authorizing the issuance of the bonds or in the trust agreement securing the same, shall be set aside, at the time as may be specified in the resolution or trust agreement, in a sinking fund which may be pledged to and charged with the payment of the principal of and the interest on such bonds as the same shall become due and the redemption price or the purchase price of bonds retired by call or purchase as therein provided. Such pledge is valid and binding from the time the pledge is made. The fees, rents, charges, and other revenues and moneys so pledged and thereafter received by or on behalf of Space Florida shall immediately be subject to the lien of any such pledge without any physical delivery thereof or further act, and the lien of any such pledge is valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against Space Florida, irrespective of whether such parties have notice thereof. Neither the resolution nor any trust agreement by which a pledge is created need be filed or recorded, except in the records of Space Florida. The use and disposition of money to the credit of the sinking fund shall be subject to the provisions of the resolution authorizing the issuance of such bonds or the provisions of such trust agreement.

*History.*—ss. 5, 61, ch. 89-300; ss. 7, 8, ch. 90-192; s. 3, ch. 90-361; s. 3, ch. 91-265; s. 476, ch. 95-148; s. 117, ch. 99-13; s. 73, ch. 99-385; s. 5, ch. 2006-60.



## Attachment E

Select Year:  

## The 2018 Florida Statutes

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[Title XLVIII](#)

K-20 EDUCATION CODE

[Chapter 1004](#)

PUBLIC POSTSECONDARY EDUCATION

[View Entire Chapter](#)

**1004.28 Direct-support organizations; use of property; board of directors; activities; audit; facilities.—**

(1) DEFINITIONS.—For the purposes of this section:

(a) “University direct-support organization” means an organization which is:

1. A Florida corporation not for profit incorporated under the provisions of chapter 617 and approved by the Department of State.
2. Organized and operated exclusively to receive, hold, invest, and administer property and to make expenditures to or for the benefit of a state university in Florida or for the benefit of a research and development park or research and development authority affiliated with a state university and organized under part V of chapter 159.
3. An organization that a state university board of trustees, after review, has certified to be operating in a manner consistent with the goals of the university and in the best interest of the state. Any organization that is denied certification by the board of trustees shall not use the name of the university that it serves.

(b) “Personal services” includes full-time or part-time personnel as well as payroll processing.

(c) “Property” does not include student fee revenues collected pursuant to s. [1009.24](#).

(2) USE OF PROPERTY.—

(a) Each state university board of trustees is authorized to permit the use of property, facilities, and personal services at any state university by any university direct-support organization, and, subject to the provisions of this section, direct-support organizations may establish accounts with the State Board of Administration for investment of funds pursuant to part IV of chapter 218.

(b) The board of trustees, in accordance with regulations and guidelines of the Board of Governors, shall prescribe by regulation conditions with which a university direct-support organization must comply in order to use property, facilities, or personal services at any state university, including that personal services must comply with s. [1012.976](#). Such regulations shall provide for budget and audit review and oversight by the board of trustees, including thresholds for approval of purchases, acquisitions, projects, and issuance of debt. No later than July 1, 2019, the transfer of a state appropriation by the board of trustees to any direct-support organization may only include funds pledged for capital projects. Beginning July 1, 2019, and annually thereafter, each university board of trustees shall report to the Legislature the amount of state appropriations transferred to any direct-support organization during the previous fiscal year, the purpose for which the funds were transferred, and the remaining balance of any funds transferred.

(c) The board of trustees may not transfer any funds to and shall not permit the use of property, facilities, or personal services at any state university by any university direct-support organization that does not provide equal employment opportunities to all persons regardless of race, color, religion, gender, age, or national origin.

(d) The board of trustees may not permit the use of state funds for travel expenses by any university direct-support organization.

(3) BOARD OF DIRECTORS.—The chair of the university board of trustees shall appoint at least one representative to the board of directors and the executive committee of any direct-support organization established under this section. The president of the university for which the direct-support organization is established, or his or her designee, shall also serve on the board of directors and the executive committee of any

direct-support organization established to benefit that university. The university board of trustees shall approve all appointments to any direct-support organization not authorized by this subsection.

(4) **ACTIVITIES; RESTRICTION.**—A university direct-support organization is prohibited from giving, either directly or indirectly, any gift to a political committee as defined in s. [106.011](#) for any purpose.

(5) **ANNUAL AUDIT; PUBLIC RECORDS EXEMPTION; PUBLIC MEETINGS EXEMPTION.**—

(a) Each direct-support organization shall provide for an annual financial audit of its accounts and records to be conducted by an independent certified public accountant in accordance with rules adopted by the Auditor General pursuant to s. [11.45\(8\)](#) and by the university board of trustees. The annual audit report shall be submitted, within 9 months after the end of the fiscal year, to the Auditor General and the Board of Governors for review. The Board of Governors, the university board of trustees, the Auditor General, and the Office of Program Policy Analysis and Government Accountability shall have the authority to require and receive from the organization or from its independent auditor any records relative to the operation of the organization. The identity of donors who desire to remain anonymous shall be protected, and that anonymity shall be maintained in the auditor's report.

(b) Other than the auditor's report, management letter, any records related to the expenditure of state funds, and any financial records related to the expenditure of private funds for travel, all records of the organization and any supplemental data requested by the Board of Governors, the university board of trustees, the Auditor General, and the Office of Program Policy Analysis and Government Accountability shall be confidential and exempt from s. [119.07\(1\)](#).

(c) Any portion of a meeting of the board of directors of the organization, or of the executive committee or other committees of such board, at which any proposal seeking research funding from the organization or a plan or program for either initiating or supporting research is discussed is exempt from s. [286.011](#) and s. 24(b), Art. I of the State Constitution. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. [119.15](#) and shall stand repealed on October 2, 2019, unless reviewed and saved from repeal through reenactment by the Legislature.

(6) **FACILITIES.**—Each direct-support organization is authorized to enter into agreements to finance, design and construct, lease, lease-purchase, purchase, or operate facilities necessary and desirable to serve the needs and purposes of the university, as determined by the systemwide strategic plan adopted by the Board of Governors. Such agreements are subject to the provisions of ss. [1010.62](#) and [1013.171](#).

(7) **ANNUAL BUDGETS AND REPORTS.**—Each direct-support organization shall submit to the university president and the Board of Governors its federal Internal Revenue Service Application for Recognition of Exemption form (Form 1023) and its federal Internal Revenue Service Return of Organization Exempt from Income Tax form (Form 990).

**History.**—s. 172, ch. 2002-387; s. 173, ch. 2007-5; s. 89, ch. 2007-217; s. 31, ch. 2013-37; s. 1, ch. 2014-27; s. 7, ch. 2018-4.

Attachment F

**UCF-4.034 University Direct Support Organizations.**

- (1) As provided in Section 1004.28, Florida Statutes, and Florida Board of Governors Regulation 9.011 a Direct Support Organization is an organization that is certified by the University of Central Florida Board of Trustees as operating in a manner consistent with the goals of the University and the best interest of the State.
- (2) To obtain certification as a Direct Support Organization, the organization must submit to the Board of Trustees the following:
  - (a) The proposed Articles of Incorporation.
  - (b) The proposed Bylaws, which shall describe the operating procedures and specific individual responsibilities of the Board of Directors, committees, and officers of the organization.
- (3) The Articles of Incorporation and the Bylaws, together, shall provide that:
  - (a) Persons employed by the organization shall not be considered to be employees of the State of Florida by virtue of employment by the organization.
  - (b) The chief executive officer or director of the organization shall be selected and appointed by the governing board of the organization, subject to prior approval by the President of the University. The director or chief executive officer shall report to the President of the University or the President's designee, who shall be a vice president or other senior officer reporting directly to the President.
  - (c) The chair of the Board of Trustees ~~may shall~~ appoint a Trustee representative to the board of directors and executive committee of the organization, and the President of the University or his/her designee ~~will shall~~ serve on the board of directors and executive committee of the organization. The Board of Trustees shall approve appointments to each direct support organizations Board of Directors, except for the chair's Trustee representative and the president (or president's designee). The chair's Trustee representative may not be the university president; nor may the chair and president appoint the same person to represent both the chair and the president on any one direct support organization board.
  - (d) Any subsequent amendments to the Articles of Incorporation or Bylaws of the organization must be submitted to the Board of Trustees for approval prior to becoming effective.



- (e) The organization shall provide equal employment opportunities for all persons regardless of race, color, religion, sex, age, or national origin. Personal services provided to the organization must comply with Section 1012.976, Florida Statutes.
- (4) Upon certification by the Board of Trustees, a direct support organization is authorized to use the property, facilities and personal services of the University. Direct support organizations shall conduct business in accordance with the Board of Trustees' Materiality Guidelines, UCF Debt Management Guidelines, and the Delegation of Authority to President. As required therein, the Board of Trustees shall approve: purchases, acquisitions, and projects with an annual financial commitment, obligation, or contingent risk of five million dollars or .5% of the university budgets, whichever amount is smaller; a contractual obligation of either more than five (5) years' duration or an aggregate net value of five million or more dollars; and the issuance of debt by a direct support organization.
- (5) The President of the University shall have the authority to monitor and control the use of University name and resources by the organization, monitor compliance of the organization with state and federal laws and rules of the Board of Trustees, and approve salary supplements and other compensation or benefits paid to the University faculty and staff from organization assets.
- (6) The President of the University shall determine the compensation of organization employees from organization assets and such authority may not be delegated.
- (7) A Direct Support Organization shall prepare, at least annually, a budget to be reviewed and approved by the organization's governing board and the Board of Trustees.
- (8) The Direct Support Organization shall prepare quarterly expenditure plans for review and approval by the President or designee, who shall be a vice president or other senior officer of the university reporting directly to the President.
- (9) Direct support organizations shall provide for an annual audit by an independent certified public accountant, as prescribed by applicable law and rules, which shall be forwarded to the Board of Trustee for review and oversight.
- (10) The University President may request that the Board of Trustees decertify a direct support organization if the President determines that the organization is no longer serving the best interest of the university. The request for decertification shall include a plan for disposition of the direct support organization's assets and liabilities.

(11) The organization shall comply with all other obligations required by law and regulation, including those required by Section 1004.28, Florida Statutes and Florida Board of Governor Regulation 9.011. As set forth therein, the organization shall not use state funds for travel expenses.

*Authority: BOG Regulations 1.001 and 9.011. History—New 4-3-03; Formerly 6C7-4.034; Amended 5-11-09, Amended 9-15-14, \_\_\_\_\_-19.*