

**NOTICE OF PROPOSED REGULATION DEVELOPMENT**  
**New College of Florida Board of Trustees**

**REGULATION CHAPTER NUMBER:**

Chapters 1, 2, 3, 7

**REGULATION TITLE:**

Chapter 1, General Regulations; Chapter 2, Board of Trustee Regulations; Chapter 3, Regulations Relating to the President; Regulation 7.03, Employment Security Check Regulation; Regulation 7.23, Education Assistance Program.

**REGULATION NUMBERS:**

1.01, 1.02, 1.03, 1.04, 1.05, 1.06, 1.07 1.08, 1.09, 1.10, 1.11, 1.12, 1.13, 1.14, 2.01, 2.02, 2.03, 2.04, 2.05, 2.06, 2.07, 2.08, 2.09, 2.10, 3.01, 3.02, 7.03, 7.23.

**SUMMARY OF PROPOSED REGULATION:**

New College of Florida proposes to adopt Chapters 1, 2, and 3 of its Regulations to establish general policy requirements, policies relating to the authority and the procedures of the Board of Trustees, and policies relating to the role and the authority of the President. With revisions required by law, these Chapters embody policies that had previously been established under the Rules of New College of Florida or under the New College of Florida Policies and Procedures Manual.

New College of Florida proposes to adopt a new policy establishing requirements for employment security checks as Regulation 7.03, and a new policy establishing an educational assistance program for employees as Regulation 7.23.

The purpose of Chapters 1, 2, and 3 of proposed regulations is to adopt regulations embodying the policies of New College in accordance with the Florida Board of Governor's Regulation Development Procedures for State Universities.

The purpose of proposed Regulation 7.03 is to establish procedures for pre-employment screening through use of available law enforcement data base searches.

The purpose of proposed Regulation 7.23 is to establish an educational assistance program for New College employees that will allow employees to enhance their education and receive compensation from the College for the cost of educational programs.

**TEXT OF PROPOSED REGULATION:**

The full text of the proposed regulations is set out following this notice.

**NEW COLLEGE OFFICIAL INITIATING THE REGULATION:**

Steve Pfeiffer, General Counsel  
New College of Florida

**PROCEDURE FOR COMMENTING ON PROPOSED REGULATION:**

Any person may submit written comments concerning the proposed regulation to the General Counsel within 14 days after the date of this notice. This notice was first published on October 4, 2005. Written comments must be submitted on or before October 18, 2005. Comments can be provided to the General Counsel by mail, facsimile, or email as follows:

Steve Pfeiffer, General Counsel  
New College of Florida  
5700 North Tamiami Trail  
Sarasota, Florida 34243-2197

Telephone: 941-359-4780  
Facsimile: 941-359-4655  
Email: [GSPfeiffer@ncf.edu](mailto:GSPfeiffer@ncf.edu)

**ACTION BY NEW COLLEGE BOARD OF TRUSTEES:**

The New College Board of Trustees will consider the proposed regulation for adoption at its regular meeting as follows:

DATE: Saturday, November 4, 2005

TIME: 10:00 a.m.

LOCATION: Harry Sudakoff Lecture and Conference Center  
New College of Florida  
5700 North Tamiami Trail  
Sarasota, Florida (East Campus)

# NEW COLLEGE OF FLORIDA REGULATIONS MANUAL

## CHAPTER 1 General Provisions

### 1.01 Mission Statement and Goals.

New College of Florida with a campus in Sarasota County, Florida, serves a distinctive mission as the 4-year residential liberal arts honors college of the State of Florida. To maintain this mission, NCF has the following goals:

- (1) To provide a quality education to students of high ability who, because of their ability, deserve a program of study that is both demanding and stimulating.
- (2) To engage in undergraduate educational reform by combining educational innovation with educational excellence.
- (3) To provide programs of study that allow students to design their educational experience as much as possible in accordance with their individual interests, values, and abilities.
- (4) To challenge undergraduates not only to master existing bodies of knowledge but also to extend the frontiers of knowledge through original research.

### 1.02 Definitions.

The following words shall have the indicated meanings throughout the New College of Florida Regulations Manual.

- (1) “BOT” means the New College of Florida Board of Trustees.
- (2) “BOG” means the Florida Board of Governors.
- (3) “College” or “NCF” mean New College of Florida.
- (4) “Regulations” are policies or procedures adopted by the BOT in accordance with procedures established by the Florida Board of Governors. Amendment, revision or repeal of a regulation shall constitute a regulation.
- (5) “Select regulations” are regulations that pertain to student tuition and fees, admissions, and articulation. Select regulations require review of the Board of Governors before becoming effective.
- (6) A “substantially affected person” is any natural person with an interest in an NCF Regulation that is within the zone of interest protected or regulated who suffers a real and sufficiently immediate injury in fact as a result of the application of a regulation. A substantially affected person shall also mean any association with a majority of natural

persons as members satisfying the first sentence of the subsection, as long as the subject matter of the regulation is within the association's general scope of interest and activity and the relief requested is of the type appropriate for a trade association to receive on behalf of its members.

### **1.03 Regulation Development Process.**

Regulations, other than emergency regulations, shall be adopted as follows.

(1) Notice. Prior to the adoption, amendment or repeal of any regulation, except an emergency regulation, the BOT shall give notice of its intended action. This notice shall be given at least 30 days prior to any proposed BOT adoption or repeal of a regulation. Notice of a proposed regulation, amendment or repeal shall be placed on a clearly marked area on the NCF internet website, and shall include the following:

- (a) Summary of the proposed regulation.
- (b) The full text of the proposed regulation.
- (c) Reference to the authority for the regulation.
- (d) The university official initiating adoption of the regulation.
- (e) The procedure for commenting upon the proposed regulation, with the name, electronic address, facsimile number, telephone number, and street address of the regulation contact person who will receive comments.

(2) Comments. Any person may submit written comments concerning a proposed regulation to the contact person identified in the notice within 14 days after the date of notice on the NCF internet website. In response, the BOT may solicit additional written comments, schedule a public hearing, withdraw or modify the regulation, in whole or in part after notice, or proceed with adopting the regulation.

(3) Adoption. The BOT is responsible for adopting regulations. Regulations, except select regulations, are adopted upon approval by the BOT. The BOT will provide the BOG all regulations adopted by the BOT.

(4) Adoption of Select Regulations. Select regulations adopted by the BOT shall be provided to the BOG for review, and shall not become effective until the BOG has approved them.

(5) Filing.

(a) Place of Filing, Record and Effective Date. When adopted, the regulation shall be filed with the NCF Clerk and posted on the NCF Internet website. When a regulation is filed, certification of compliance with this procedure shall be included, along with the record, including all notices, written comments, written summaries of hearings, and responses submitted pursuant to

this regulation. The regulation shall become effective on the date of filing unless the regulation provides otherwise.

(b) Accessibility to Regulations. Regulations adopted by the BOT accessible through the NCF internet website.

(6) Due Process. In implementing regulations that affect the rights of individuals, the BOT will honor established due process principles to ensure that applicable due process rights are afforded to affected individuals.

(7) Monitoring Regulations. The BOT will monitor the effects of new regulations and periodically will review existing regulations to ensure they are current and consistent.

#### **1.04 Emergency Regulation Adoption Process.**

An emergency regulation may be adopted if there is an immediate danger to the public health, safety, or welfare under a procedure which is fair under the circumstances. The action taken must be only that necessary to protect the public interest in the emergency. At the time of, or prior to the BOT adopting an emergency regulation, the BOT shall publish on its internet website the specific facts and reasons for concluding that the procedure is fair under the circumstances. An emergency regulation shall not be effective for a period longer than 90 days. However, the BOT may take identical action under the regular regulation development procedure set forth in NCF Reg. 1.03.

#### **1.05 Regulation Challenge Process.**

Challenges to regularly adopted regulations, unpromulgated regulations, and emergency regulations shall be initiated and maintained in accordance with this regulation and the BOG Regulation Development Process.

(1) Challenges to Regularly Adopted Regulations. A substantially affected person may seek a determination of the invalidity of an existing NCF regulation any time after the adoption of the regulation. The petition seeking such determination must state with particularity the grounds for alleging that the regulation is an invalid exercise of authority, and a sufficient explanation of the facts showing that the person challenging a regulation is substantially affected by it.

(a) A regulation is an invalid exercise of authority only if one of the following applies:

1. The BOT materially failed to follow regulation development procedures set forth herein;
2. The regulation does not comply with the law or contravenes the policies of the BOG as specified in resolution, regulation, or strategic plan;

3. The regulation vests unbridled discretion in the BOT, or
4. The regulation is arbitrary or capricious.

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

(c) The failure of the BOT to follow the regulation development procedures set forth in this procedure or in the Regulation Development Process adopted by the BOG shall be presumed to be material; however, NCF may rebut this presumption by showing that the substantial interests of the petitioner and the fairness of the proceedings have not been impaired.

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

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

(2) Challenges to Unpromulgated Regulations. A petition challenging a statement of general applicability to guide the conduct or action of constituents or the public that has not been promulgated as a regulation shall be filed with the NCF Clerk. The petition shall include the text of the statement or a description of the statement and shall state with particularity facts sufficient to show that the statement constitutes a regulation as defined in this procedure and that the university has not adopted the statement by regulation development procedures adopted by NCF or by the BOG.

(a) Within 15 days after receipt of the petition, NCF shall assign a hearing officer who shall conduct a hearing in compliance with paragraph (1) (d) and (e) of this regulation within 30 days thereafter, unless the petition is withdrawn or a continuance is granted by agreement of the parties for good cause shown. If a hearing is held and the petitioner proves the allegations of the

petition, the BOT shall have the burden of proving that regulation development is not feasible. Regulation development shall be presumed feasible unless:

1. The university has not had sufficient time to acquire the knowledge and experience reasonably necessary to address a statement by regulation development; or
2. Related matters are not sufficiently resolved to enable the university to address a statement by regulation development.

(b) Within 30 days after the hearing, the hearing officer shall issue a recommended order directed to the BOT, which may determine that all or part of a statement should have been promulgated as a regulation under procedures set forth in this regulation. The decision shall be published on the NCF internet website and all reliance on the statement or any substantially similar statement as a basis for action shall be discontinued.

(c) If, prior to a recommended order of a hearing officer, the BOT begins regulation development under this procedure to address the statement, a presumption is created that the BOT is acting expeditiously and in good faith to adopt regulation(s) that address the statement, and reliance upon the statement or any substantially similar statement as a basis for action shall be permitted.

(d) If the BOT fails to approve regulations that address the statement within 180 days after publishing notice of proposed regulation(s), for the purposes of the regulation challenge proceeding, a presumption is created that NCF is not acting expeditiously and in good faith to adopt regulation, and the case should proceed to a final hearing.

(3) Challenges to Emergency Regulations. Within 7 days after receiving a petition from a substantially affected person challenging an emergency regulation, if the petition complies with the requirements of paragraph (1) of this Regulation, the BOT shall assign a hearing officer. The hearing officer shall conduct a hearing in compliance with paragraph (1) (d) of this regulation within 20 days, unless the petition is withdrawn. Within 10 days of the hearing, the hearing officer shall issue a recommended order directed to the BOT, which shall timely issue a final decision.

(4) Appeals. Final decisions of the BOT may be challenged in a court of law pursuant to certiorari review under Florida Rule of Appellate Procedure 9.030(b)(2) only after exhausting the available administrative remedies under this procedure.

#### **1.06 Authority to Sign Contracts.**

(1) Authority of the President. The President has the authority to approve and execute all contracts, agreements, letters of understanding, and other documents regarding legal assurances, commitments, and obligations on behalf of the BOT.

(2) Submission to General Counsel. All contracts, agreements, letters of understanding, and other documents regarding legal assurances, commitments, and obligations shall be submitted to the General Counsel for review and approval as to form and legality.

(3) Delegation of Authority. The President may delegate to the Provost and Vice-Presidents (and their designee(s) in certain circumstances) the authority to sign described contracts and other documents.

(4) Authority Limited to President and Persons Expressly Delegated. NCF employees must not sign any contract, agreement, letter of understanding, or other document regarding legal assurances, commitments, and obligations unless they have been expressly delegated the authority to do so. Employees should contact the General Counsel for information and advice regarding authority to execute documents.

### **1.07 Public Meetings.**

NCF is subject to constitutional and statutory requirements to conduct public meetings as open meetings in accordance with Section 286.011, *Florida Statutes*.

(1) Meetings Subject to Requirements. NCF shall conduct the following meetings as open meetings in accordance with Section 286.011, *Florida Statutes*:

(a) All meetings of the Board of Trustees, except meetings that are statutorily exempt from the requirements of Section 286.011, *Florida Statutes*.

(b) All meetings of Committees of the BOT, except meetings that are statutorily exempt from the requirements of Section 286.011, *Florida Statutes*.

(c) All meetings of any committee appointed by the BOT or the President that has authority to make recommendations to the BOT or to the President, except meetings that are statutorily exempt from the requirements of Section 286.011, *Florida Statutes*. Committees subject to the requirements include search committees established to make recommendations regarding hiring new personnel, and evaluation or selection committees established to make recommendations regarding purchasing of materials, contracting for goods or services, or selection of consultants.

(d) Any gathering of two or more members of a committee subject to open meetings requirements at which a matter which will foreseeably come before the committee is discussed.

(2) Requirements for Open Meetings. All meetings subject to open meetings requirements as described in Paragraph (1) of this Regulation shall be conducted as follows:

(a) Reasonable Notice. Reasonable notice shall be given of all such meetings. Normally, at least seven (7) days notice should be given for any such meeting. Reasonable notice shall be satisfied by publication of notice on the NCF internet web site, and distribution of the notice to faculty, staff and students of



NCF through the NCF electronic mail system. Meetings subject to these requirements shall be notice using Form 12.01.

(b) Open to the Public. All such meetings shall be open to the public, including any person who wishes to attend the meeting at all times.

(c) Minutes. Minutes of all such meetings will be taken, and shall be available for inspection and copying upon request. Minutes of public meetings shall be filed with the NCF Clerk.

(3) Advice Regarding Application of Open Meeting Requirements. Anyone who has questions regarding the application of open meeting requirements should contact the NCF General Counsel for information and advice.

### **1.08 Public Records**

It is the policy of the NCF that all public records in the custody of NCF shall be open for inspection by any person, at reasonable times and under reasonable conditions, except records that are statutorily exempt from disclosure or designated as confidential. All custodians of public records shall make public records, except exempt or confidential records, available for inspection and shall furnish copies to anyone upon request. Prepayment of a charge for the cost of duplication and labor may be required where authorized by this Regulation.

(1) Definition of Public Records. All documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business of NCF are public records.

(2) Records that are Confidential or Exempt from Requirements to Produce. Certain records maintained by NCF are exempt from requirements to produce public records. NCF shall carefully analyze any request for public records to ensure that confidentiality is maintained and that no statutory exemption from requirements to produce applies to the requested documents. Documents that are exempt from requirements to produce public records include but are not limited to the following:

- (a) Student records.
- (b) Medical or psychological records.
- (c) Faculty evaluation records.
- (d) Social security numbers.
- (e) Certain information regarding NCF police and mental health workers and their families.
- (f) Certain collective bargaining records.

- (g) Certain Division of Sponsored Programs records.
- (h) Certain Direct Support Organization records.

(3) Procedures for Producing and Copying Public Records. When a member of the faculty or staff of NCF receives a request to inspect or copy a public record, he or she must determine whether the requested record is a public record and whether it is confidential or otherwise exempt from requirements to produce. If requested material is a public record that is not confidential or exempt, the faculty or staff member, within a reasonable time, shall:

(a) Make the record available for inspection under reasonable conditions which may include supervision of the inspection.

(b) Furnish copies of the records without charge where duplication and labor costs do not exceed \$10.00.

(c) Where duplication and labor costs are estimated to exceed \$10.00, charge the requestor a reasonable fee based on the actual cost of duplication and labor in accordance with the following procedure using the NCF Public Records Charge Document (NCF Form 12.02):

1. Complete items 1-4 of the New College of Florida Public Records Charge Document and ask the public records requestor to sign the estimate.

2. Duplicate the requested records, then indicate actual costs of duplication and labor and secure the accountable officer's signature on the New College of Florida Public Records Charge Document.

3. Furnish the requested record copies to the requestor when he/she presents evidence of payment in full.

(4) Location of Records. Questions concerning the location of particular records may be referred to the NCF Clerk or the NCF General Counsel.

(5) Advice Regarding Public Records Requirements. Anyone who has questions regarding the application of public records requirements should contact the NCF General Counsel for information and advice.

## **1.09 Student Records.**

(1) Introduction. The policies and procedures outlined in this policy are designed to implement the provisions of the Family Educational Rights and Privacy Act ("FERPA"; 20 U.S.C. 1232g), and s. 1002.22 and 1006.52, Florida Statutes, pursuant to which New College of Florida is obligated to inform students and parents of their rights to review and inspect education records, to challenge and seek to amend education records, to control disclosure of education records, and to complain to the FERPA Office or to Florida Circuit Court concerning alleged violations by New College of Florida of

any of such rights. New College of Florida has placed the responsibility for administration of this policy with its FERPA Coordinator who is the College Registrar.

(2) Definitions. The following definitions of terms apply to the construction of this regulation:

(a) Student -- an individual who is registered for an on-or-off campus program leading to the award of academic credit from the College.

(b) Education records -- those records which are maintained by the College employees/agents of the College, which contain information directly related to a student. "Record," as used herein, includes any information or data recorded in any medium, including but not limited to handwriting, print, magnetic tapes and disks, film, microfilm, and microfiche. "Agents," as used herein, means any individual who, pursuant to express or implied authorization, represents and acts for the College. The following types of records are expressly exempt from the definition of "education records":

1. Sole possession records -- personal record of College employees/agents which meets the following test:

a. It was created by the College employee/agent as a personal memory aid; and

b. It is in the sole possession of the College employee/agent who created it; and

c. The information contained in it has never been revealed or accessible to any other person, including the student, except the College employee's/agent's "temporary substitute." "Temporary substitute," as used herein, means an individual who performs on a temporary basis the duties of the College employee/agent.

2. Employment records -- records which are used only in relation to an individual's employment by the College. However, the following are education records rather than employment records:

a. Records relating to a student's employment by the College if the position in which the student is employed depends on his/her status as a student.

b. Records relating to a student's employment by the College if the student receives a grade or credit based on his/her performance as an employee.

3. Pre-attendance records -- records relating to an individual's application for admission to New College of Florida prior to his/her actual attendance as an enrolled student in the program for which application was made. This includes records relating to an application for admission to

one of the colleges within the College prior to the individual's actual attendance as an enrolled student in that college.

4. Alumni records -- records created and maintained on an individual as an alumnus/alumna of New College of Florida.

5. Law enforcement records -- records created and maintained by the College Police which are used solely for law enforcement purposes, are maintained apart from education records, and are not disclosed to individuals other than law enforcement officials of the same jurisdiction; provided that, in addition, no member of the College Police shall have access to education records where this policy authorizes release without the student's prior written consent.

6. Health records -- records of the College's Counseling and Wellness Center for Human Development which are used only for the provision of medical, psychiatric, or psychological treatment and which are kept separate from education records.

(c) Personal identifier -- any data or information that relates a record to an individual. This includes the individual's name, the name of the individual's parents, or other family members, the individual's address, the individual's social security number and any other number or symbol which identifies the individual, a list of the individual's personal characteristics, or any other information which would make the individual's identity known and can be used to label a record as the individual's record.

(3) Annual Notification.

(a) The College will publish annually in the New College of Florida catalog a notice of student rights under FERPA and s. 1002.22 and, 1006.52, Florida Statutes.

(b) The notice will advise of the following:

1. a student has the right to inspect and review his/her education records.

2. The College intends to limit the disclosure of information contained in a student's education records to the following circumstances:

a. the student has given prior written consent to the disclosure; or

b. the disclosure is of directory information which the student has not refused to permit the College to disclose; or

c. the FERPA and Florida Statutes authorize the College's disclosure of the information without the student's prior written consent.

3. a student has the right to request the College to amend any part of his/her education record which he/she believes to be inaccurate, misleading, or in violation of his/her privacy or other rights; and, should the College deny the student's request, that the student has a right to a hearing to present evidence that the record is inaccurate, misleading, or in violation of his/her privacy or other rights.

4. there exists the right to report violations of FERPA to the Family Policy Compliance Office of the U.S. Department of Education, and to bring an action in Florida Circuit Court for violations of s. 1002.22, Florida Statutes.

5. The locations where copies of this policy are available to students.

(4) Locations of Education Records.

(a) Admission records are located in the Office of Admissions, and the custodian for such records is the Dean of Admissions and Financial Aid, New College of Florida, 5700 North Tamiami Trail, Sarasota, Florida 34243-2167.

(b) Cumulative academic records are located in the Registrar's office and the custodian for such records is the College Registrar, New College of Florida, 5700 North Tamiami Trail, Sarasota, Florida 34243-2167.

(c) Medical records are located in the Counseling and Wellness Center, and the custodian for such records is the Director, Counseling and Wellness Center, New College of Florida, 5700 North Tamiami Trail, Sarasota, Florida 34243-2167.

(d) Psychological/Psychiatric counseling records are located in the Counseling and Wellness Center, and the custodian for such records is the Director, Counseling and Wellness Center, New College of Florida, 5700 North Tamiami Trail, Sarasota, Florida 34243-2167.

(e) Student employment records are located in the Campus Business Office, and the custodian for such records is the Vice-President of Finance and Administration, New College of Finance and Administration, New College of Florida, 5700 North Tamiami Trail, Sarasota, Florida 34243-2167.

(f) Financial aid records are located in the Campus Business Office, and the custodian for such records is Dean of Admissions and Financial Aid, New College of Florida, 5700 North Tamiami Trail, Sarasota, Florida 34243-2167.

(g) Financial records are located in the Campus Business Office, and the custodian for such records is the College Comptroller, New College of Florida, 5700 North Tamiami Trail, Sarasota, Florida 34243-2167.

(h) College records are located in the college dean's office and/or departmental offices of each college or department and in the faculty offices at each college or department and the custodian for such records is the appropriate dean, department chairperson, professor, instructor or lecturer.

(i) Disciplinary records are located in the Office of Student Affairs, and the custodian for such records is the Dean of Student Affairs, New College of Florida, 5700 North Tamiami Trail, Sarasota, Florida 34243-2167.

(j) Occasional records, student education records not encompassed within the above-enumerated categories such as copies correspondence located in offices not listed above either shall be collected and the student directed to their location by the FERPA Coordinator, or shall otherwise be made available to the student for inspection and review.

(5) Procedure to Inspect Education Records.

(a) Students who wish to inspect and review their education records should submit a written request to the appropriate record custodian or to the FERPA Coordinator. The request should identify as accurately as possible the specific records the student wishes to inspect and review. It may identify records according to the types listed in subsection (4) of this policy, as records located at specific places, or as records under the custodianship of specific College employees/agents identified by title. Records listed in this policy as "occasional records" should be identified in terms which will make it possible for the FERPA Coordinator to locate them and make them available for the student to inspect and review.

(b) The FERPA Coordinator or the record custodian shall either permit the student to immediately inspect and review his/her education records or advise the student when and where the records will be available for inspection and review. Access to education records requested in compliance with this policy shall be granted within a reasonable period of time, but in no case more than thirty (30) calendar days after the FERPA Coordinator or the record custodian receives the student's written request. The FERPA Coordinator or the record custodian or his/her designee shall have the right to be present while the student inspects and reviews the records. Upon reasonable request, the College shall furnish the student with an explanation or interpretation of his/her record.

(c) Upon reasonable request and demonstration to the FERPA Coordinator that the failure to provide the student with copies of the requested education records will effectively deny the student the right to inspect and review such records, the College will arrange for the student to obtain copies of such records. In the event that the student has an unpaid financial obligation to the College, he/she shall not be entitled to transcripts or copies of education records.

(d) When records contain personally identifiable information about more than one student, a student may inspect only that information which relates to him/her.

(e) The College reserves the right to refuse to permit a student to inspect and review the following education records:

1. The financial records of the parents of the student or any information contained therein.

2. Statements and letters of recommendation prepared by College officials or submitted with the student's application for admission which were placed in the student's records before January 1, 1975 or for which the student has waived his/her right of access in writing; provided, however, that if such statements and letters of recommendation have been used for any purpose other than that for which they were originally prepared, the student may inspect and review them.

3. Those records which are excluded from the definition of "education records" under this policy.

(6) Copies of Education Records.

(a) Fees. The College will charge the following fees for copies of education records:

1. New College of Florida official transcripts -- \$5.00.

2. FERPA required copies of education records -- the fee for FERPA required copies of education records shall be Ten Cents (\$.10) per page, which reflects actual copying costs but does not include the cost of search and retrieval. Copies of education records are required by FERPA under the following circumstances:

- a. A failure to provide such copies would effectively deny the student the right to inspect and review his/her records; or

- b. The College has disclosed information from the student's education records under authority of the student's prior written consent and the student requests a copy of the information disclosed; or

- c. The student requests copies of records the College has disclosed to other schools where the student seeks or intends to enroll.

3. Copies (not signed and certified) of education records will be available to students when administratively possible, even though not required by FERPA, at a copying cost of One Dollar (\$1.00) per page plus the actual cost of search, retrieval, and mailing.

(b) When administrative costs of collecting fees exceed the amount which would be received, the FERPA Coordinator shall be authorized to waive such fees.

(c) The College reserves the right to deny transcripts or copies of records not required by FERPA in any of the following situations:

1. The student has an unpaid financial obligation to New College of Florida.

2. There is an unresolved disciplinary action against the student.

3. There is an unresolved litigation between the student and New College of Florida.

(7) Directory Information.

(a) Designation of directory information. The College hereby designates the following described personally identifiable information contained in a student's education record as "directory information" in order that the College may, at its discretion, disclose the information without a student's further prior written consent:

1. The student's name.

2. The student's local and permanent addresses.

3. The student's local and permanent telephone listing.

4. Date and place of birth.

5. The student's classification and major field of study.

6. The student's participation in officially recognized activities and sports.

7. The weight and height of members of athletic teams.

8. The student's dates of attendance part-time or full-time status, degrees and awards received, and most recent previous educational agency or institution attended.



9. The student's photographic image.

10. Other similar information.

(b) Student's refusal to permit disclosure of "directory information." The College will publish in the Schedule of Classes for each academic term the above list, or a revised list, of the items of information it proposes to designate as "directory information." Students must notify the FERPA Coordinator in writing if they refuse to permit the College to disclose directory information about themselves; such notification must be received by the FERPA Coordinator no later than the end of the second week of classes of the academic term or the student will be deemed to have waived his/her right of refusal until the next academic term. When the FERPA Coordinator receives a student's refusal to permit the College to disclose "directory information" about that student, the FERPA Coordinator will notify the appropriate records custodians of the student's action. The records custodians will not make any further disclosures of directory information about that student without the student's prior written consent except to the extent authorized by FERPA and the Florida Statutes.

(c) Publication of directory information in the College Directory. New College of Florida proposes to publish for each academic year a College Directory which will contain certain items of directory information respecting students who are registered during the Fall Semester of such academic year. Students registering during the Fall Semester must notify the FERPA Coordinator in writing of their refusal to permit the College to disclose or publish directory information in the College Directory; such notification must be received by the FERPA Coordinator no later than the end of the second week of classes of the Fall Semester or the student will be deemed to have waived his/her right of refusal with respect to the College Directory until Semester One of the next academic year.

(d) Requests for directory information. All requests for directory information about students should be referred to the FERPA Coordinator.

(8) Use of Education Records. All custodians of a student's education records and other College employees/agents will follow a strict policy that information contained in a student's education record is confidential and may not be disclosed to third parties without the student's prior written consent except as otherwise provided in this section.

(a) College officials shall have access to student education records for legitimate educational purposes.

1. "College official," as used herein, means:

a. A person currently serving as a member of the State of Florida Board of Education.

b. A person under contract to the State of Florida Board of Education/New College of Florida or the Florida Department of Administration in any faculty or staff position at New College of Florida.

c. A person employed by the State of Florida Board of Education as a temporary substitute for a staff member or faculty member at New College of Florida for the period of his/her performance as a substitute.

d. A person employed by the State of Florida Board of Education or under contract to the State of Florida Board of Education to perform a special administrative task for New College of Florida. Such persons may be employed as secretaries, clerks, attorneys, auditors, and consultants. They shall be considered to be College officials for the period of their performance as an employee or contractor.

2. "Legitimate educational purpose," as used herein, means a College official's need to know in order to:

a. Perform an administrative task outlined in the official's position description or contract; or

b. Perform a supervisory or instructional task directly related to the student's education; or

c. Perform a service or benefit for the student such as health care, counseling, student job placement, or student financial aid.

(b) Under the following circumstances, College officials may make disclosures of personally identifiable information contained in the student's education records without the student's consent:

1. To another college or College where the student seeks or intends to enroll.

2. To certain federal and state officials who require information in order to audit or enforce legal conditions related to programs at the College supported by federal or state funds.

3. To parties who provide or may provide financial aid to the student in order to:

a. Establish the student's eligibility for the financial aid;

b. Determine the amount of financial aid;

c. Establish the conditions for the receipt of the financial aid; or

d. Enforce the terms of the agreement between the provider and the receiver of the financial aid.

4. To state or local officials in compliance with state law adopted prior to November 19, 1974.

5. To an individual or organization under written agreement or contract with New College of Florida or the State of Florida Board of Education for the purpose of conducting a study on the College's behalf for the development of tests, the administration of student aid, or the improvement of instruction.

6. To accrediting organizations to carry out their accrediting functions.

7. To parents of a student if the parents claim the student as a dependent under the Internal Revenue Code of 1954. The College will exercise this option only on the condition that evidence of such dependency is furnished to the FERPA Coordinator.

8. To comply with a lawfully issued subpoena or judicial order of a court of competent jurisdiction. The College will make a reasonable effort to notify the student before it makes a disclosure under this provision.

9. The result of a disciplinary proceeding may be released to the victim of the student's crime of violence.

10. All requests for disclosure under the nine (9) circumstances listed above, where the College may disclose personally identifiable information without the student's prior consent to third parties other than its own officials, will be referred to the FERPA Coordinator or appropriate records custodian.

(c) College officials are authorized to make necessary disclosures from student education records, without the student's prior consent in a health or safety emergency if the College official deems:

1. The disclosure to be warranted by the seriousness of the threat to the health or safety of the student or other persons; and

2. The information disclosed is necessary and needed to meet the emergency; and

3. The persons to whom the information is disclosed are qualified and in a position to deal with the emergency; and

4. Time is an important and limiting factor in dealing with the emergency.

(d) College officials may not disclose personally identifiable information contained in a student's education record, except directory information or under the circumstances listed above, except with the student's prior written consent. The written consent must include the following:

1. A specification of the information the student consents to be disclosed;

2. The person or organization or the class of persons or organizations to whom the disclosure may be made; and

3. The date of the consent.

(e) The student may obtain a copy of any records the College discloses pursuant to the student's prior written consent.

(f) The College will not release information contained in a student's education records, except directory information, to any third parties except its own officials, unless those third parties agree that they will not redisclose the information without the student's prior written consent.

(9) Records of Requests for Access and Disclosures Made from Education Records.

(a) All requests for disclosures of information contained in a student's education record or for access to the record made by persons other than College officials or the student or those requests accompanied by the student's prior written consent will be submitted to the FERPA Coordinator or appropriate records custodian. The FERPA Coordinator or appropriate records custodian will approve or disapprove all such requests for access and disclosures and, except for requests for directory information, he/she will maintain a record of these actions.

(b) This record of requests/disclosures shall include the following information:

1. The name of the person or agency that made the request.

2. The interest the person or agency had in the information.

3. The date the person or agency made the request.

4. Whether the request was granted and, if it was, the date access was permitted or the disclosure was made.

(c) The College will maintain this record of requests/disclosures as long as it maintains the student's education record.

(10) Procedures to Request Amendment of and Challenge Education Records.

(a) Students have the right to, in accordance with this policy, request amendment of and challenge the content of their education records.

(b) Definitions.

1. The term "incorrect" is used herein to describe a record that is inaccurate, misleading, or in violation of the privacy or other rights of students. A record is not "incorrect," for purposes of this policy, where the requestor wishes to challenge the evaluation reflected by the grade an instructor assigns for a course.

2. The term "requestor" is used herein to describe a student or former student who is requesting the College to amend a record.

(c) Students who believe that their education records contain information which is incorrect should informally discuss the problem with the record custodian. If the record custodian finds the information is incorrect because of an obvious error, and it is a simple matter to amend it to the satisfaction of the requestor, the record custodian may make the amendment.

(d) If the record custodian cannot amend the record to the requestor's satisfaction or if the record does not appear to be obviously incorrect, the record custodian will:

1. Provide the requestor a copy of the questioned record at no cost; and

2. Ask the requestor to initiate and provide the record custodian a written request for the amendment; such written request must identify the information which the requestor believes is incorrect, must state why such information is incorrect, and must be dated and signed by the requestor.

(e) The record custodian will send the request, together with a written explanation of his/her refusal to amend the record to the requestor's satisfaction, to the FERPA Coordinator. The FERPA Coordinator will examine the request, discuss it with appropriate College officials, including the person who initiated the record, the College General Counsel, and other persons who might have an interest in the questioned record. At the conclusion of this investigation, the FERPA Coordinator will summarize his/her findings, make a recommendation for the College's action, and deliver the request, the record custodian's written explanation, his/her summary of findings, and his/her recommendation to the College President.

(f) The College President will instruct the FERPA Coordinator whether the record should or should not be amended in accordance with the request. If the College President's decision is to amend the record, the FERPA Coordinator will advise the record custodian to make the amendment. The record custodian will advise the requestor in writing when he/she has amended the record and invite the requestor to inspect the record.

(g) If the College President's decision is that the record is correct and should not be amended, the FERPA Coordinator will prepare and send the requestor a letter stating the decision. This letter will also inform the requestor that the requestor has a right to a hearing pursuant to s. 120.57, Florida Statutes to challenge the College's decision not to amend.

(h) In the event the education records are not amended to the requestor's satisfaction, the requestor shall have the right to place with the education records a written statement explaining, commenting upon, or disagreeing with information contained in the education records. This statement shall be maintained as part of the student's education record for as long as the College maintains the questioned part of the record. Whenever the questioned part of the record is disclosed, the student's written statement shall also be disclosed.

(11) Right of Waiver of Access -- The College may request a waiver of access to evaluations and letters of recommendation related to admissions, employment applications and receipt of honors. While such a waiver may be requested, requests for waivers do not constitute a pre-condition for admission, financial aid, or any services or benefits. Upon request, students who have waived access to such items can receive a listing of all individuals providing confidential recommendations or evaluations.

#### **1.10 Records Retention and Destruction.**

#### **1.11 NCF Publications.**

(1) Statement of Policy. All NCF publications and promotional materials, including graphics-capable electronic communications such as internet web sites and home pages should bear the NCF logo or seal. Guidance for appropriate use of the logo and seal is set forth in the NCF Graphics Standards Manual. Further guidance may be obtained through the Public Affairs Director.

#### **(2) Publication Standards.**

(a) All publications shall comply with standards set forth in the NCF Graphics Standards Manual. Manuals are available in the offices of Department Heads, Deans, Vice Presidents and Public Affairs Director. A copy can also be obtained through the NCF internet web site.

(b) All NCF publications paid for by state funds shall be produced in compliance with sections 283 and 287, Florida Statutes.

(c) The editor and issuing unit shall be responsible for the contents of the publication produced.

(3) Publication Procedures.

(a) Anyone desiring to produce an NCF publication (“editor”) shall consult with the Public Affairs Director about the type of publication desired, and shall consider the purpose, audience, desired results, and budget in making decisions about publications and alternatives. In consultation with the Public Affairs Director, the editor shall develop an effective copy and design for the publication consistent with the NCF Graphics Standards Manual, budget limitations and time constraints.

(b) In consultation with the Public Affairs Director, the editor shall develop a strategy for the delivery and distribution mode and cost.

(c) In consultation with the Public Affairs Director, the editor shall prepare the manuscript copy and acquire necessary artwork, illustrations and pictures.

(4) The Requisition and Bidding Process.

(a) When state funds are used to acquire printing services, the standard "Requisition to Purchase" form shall be used. The requisition shall be prepared by the editor and approved by the appropriate authorized department head.

(b) The requisition shall be forwarded to the appropriate Purchasing staff.

(c) Two (2) bids and a written telephone quotation must be obtained for all printing by off-campus vendors costing less than \$11,000.00.

(d) Printing by NCF on-campus printing services is strongly encouraged and does not require bids.

(e) All printing costs of \$11,000 or more requires formal bidding and a ten (10) day posting period.

(f) All bids shall contain the following information: quantity to be printed, options for additional prints or reprints, dimensions, paper stock, number and color of ink, expected photos and artwork, typesetting requirements, folding and binding needs, proofs required and a time schedule for both the printer and the College to follow.

**1.12 Independent Student Publications.**

(1) Purpose and Intent. The intent of this regulation is to establish clear responsibility for any publications produced solely by the students of NCF.

(2) Declaration. NCF assumes no responsibility for any publications produced solely by the students of NCF.

(3) Definition. The term “publications” includes, but is not limited to brochures, pamphlets, newsletters, magazines, flyers, student websites, student radio station, and other similar printed, on-line, and on-air publications.

(4) Disclaimer. Students who produce such publications do so independently without direction from or supervision by the faculty and/or staff of NCF. NCF is not responsible for independent student publications.

### **1.13 Use of College Name and Symbols.**

(1) Purpose and Intent. In order to promote goodwill in the business community and increase the visibility of the New College of Florida, the BOT will generally grant revocable, renewable licenses which enable third party entities to use the College name and symbols for approved commercial, promotional and product purposes.

(a) The BOT does not permit the use of the New College of Florida name or symbols in commercial or other advertising or promotional materials where such use implies endorsement of the advertiser or product or service unless approved by the Board.

(c) All requests for the commercial use of the New College of Florida name or symbols should be referred to the President. All requests from non-College third parties for non-commercial use of the New College of Florida name or symbols should be referred to the President. Organizational units of the College, registered student organizations and official New College of Florida Faculty and Staff groups do not require permission to use the New College of Florida name and symbols for non-commercial purposes.

(2) Procedures.

(a) Persons interested in acquiring a license to use the College name or symbols for commercial purposes must apply to the Board through the President. Applicants shall state with particularity the symbols they wish to use and the use they wish to make of the symbols. If the symbols are to be placed on a product, a copy, example or detailed description of the product should accompany the application.

(b) If the President determines the requested use is permissible, an agreement outlining the terms and conditions of the license will be forwarded to the requestor. Before the license is issued, the requestor must sign and return a copy of the agreement indicating agreement with its terms to the President. All licenses shall expire and are renewable in accordance with the terms of the agreement.



(c) Persons interested in acquiring a license to use the College name or symbols for non-commercial purposes must apply to the BOT through the President. Applicants shall state with particularity the symbols they wish to use and the use they wish to make of the symbols. If the symbols are to be placed on a product, a copy, example or detailed description of the product should accompany the application. If the BOT determines the requested use is permissible, a letter outlining the terms and conditions of the license will be forwarded to the requestor. Before the license is issued, the requestor must sign and return a copy of the letter indicating agreement with its terms to the President.

(d) All such licenses shall expire and are renewable in accordance with the terms of the letter of agreement.

#### **1.14 Naming of Institutional Events, Facilities, or Groups.**

NCF may recognize the significance of certain events, individuals, or groups, by recommending to the Florida Board of Education that institutional buildings or other facilities or parts thereof be named in honor of the event, individual, or group. The BOT has authority and responsibility for approving the name of buildings and facilities or parts thereof on behalf of NCF, and recommending approval by the BOG in accordance with applicable laws and regulations. The President has authority and responsibility for the administration of this policy.

##### **(1) Criteria.**

(a) Facilities and/or parts thereof may be named for an individual, living or deceased, who is not an NCF employee but has distinguished himself or herself through significant contributions to NCF. These contributions may be in the form of material gifts, special service, extraordinary achievement in a scholarly discipline, or magnanimous dedication to the betterment of NCF or society. In accordance with Section 267.062, *Florida Statutes*, an NCF facility may not be named for any living person except as specifically provided by law.

(b) NCF facilities shall not normally be named for current or former NCF employees, living or deceased. An exception to this policy may be considered by the BOT when an individual has made significant contributions to NCF. The contribution to the College must be broader than any sub-part.

1. In special and limited cases, the BOT may decide that the contributions of a deceased or retired NCF employee were of such extraordinary dimensions that appropriate recognition would include naming a part of a building, such as an office, classroom, lobby area, laboratory, or auditorium for that individual.

2. No facility, building, or part thereof shall be named for an individual who is currently employed by the College.

3. No request to name a facility, building, or part thereof for a retired employee or deceased individual will be considered until two years following the date of retirement or date of death.

(c) Buildings or facilities may be named for a donor or donors to NCF in accordance with the following guidelines:

1. A building or facility may be named for a donor who makes a gift which approximates or exceeds fifty percent of the total construction cost of the building or facility; or

2. Donors may establish endowments to provide for the perpetual maintenance of existing academic facilities. Naming opportunities exist for the recognition of such gifts. Information regarding such naming opportunities is available from the President.

(2) Procedures.

(a) Nominations for the naming of facilities or parts thereof shall be made in writing to the President who, in consultation with the president of the New College Foundation, Inc., shall provide a recommendation to the BOT. Each nomination shall be acknowledged and acted upon by the BOT.

(b) The President shall also refer nominations for the naming of a building or facility for a person or entity other than a donor to the Provost and to the College Standing Committee on Honors and Awards for a recommendation. Such recommendations shall be given to the President within 60 days of referral to the committee.

(c) The BOT has final authority to approve the naming of buildings on behalf of the College, and to recommend approval by the BOG.

(3) Recognition. If the naming of a building or facility or part thereof is approved by the BOT, the BOG, and the Florida Legislature, as appropriate, the President or designee shall be for planning and coordinating appropriate recognition activities and events.

(4) Exceptions. The BOT shall have the sole authority to make exceptions to these policies and procedures in order to serve the interests of NCF.

## CHAPTER 2

### The Board of Trustees

#### 2.01 General Provisions.

The New College of Florida Board of Trustees (BOT) is vested with the authority to govern and administer the College, as necessary to provide proper governance and improvement of the College in accordance with law, and rules and resolutions of the Board of Governors of the State University System of the State of Florida (BOG). Chapter 2 and Chapter 3 of the Regulations of New College of Florida shall constitute the By-laws of the BOT.

#### 2.02 Membership.

(1) Composition. The BOT is composed of 13 citizen members dedicated to the purposes of the State University System, six of whom shall be appointed by the Governor, and five of whom shall be appointed by the BOG. The appointed members shall be confirmed by the Senate. The BOT shall be a body corporate with the powers and duties established by Article IX, section 7 of the Constitution of the State of Florida, and the BOG resolution dated January 7, 2003. In addition, the student body president and the chair of the faculty senate, or the equivalent shall be members. Three members shall be residents of Sarasota County. Two members shall be residents of Manatee County. There shall be no residency requirement for College Board members, but the Governor shall consider diversity and regional representation.

(2) Terms. BOT members will serve staggered terms of five years as provided by law. BOT members shall receive no compensation but may be reimbursed for travel and per diem expenses as provided in section 112.061, Florida Statutes.

(3) Vacancy. A vacancy on the BOT is filled by appointment by the Governor for the unexpired term. Members shall continue to hold office until their successors have been appointed and have qualified.

(4) Removal. BOT members may be removed by the Governor for cause or upon recommendation of the BOG. Failure to attend three consecutive regular BOT meetings in any fiscal year may be grounds for removal. If any BOT member fails to attend three consecutive regular meetings in any fiscal year, the Chairman shall notify the Governor of such failure to attend.

#### 2.03 Meetings.

Meetings of the Board are of two kinds: regular meetings (of which one is the Annual Meeting) and special meetings.

(1) Regular Meetings. Regular meetings of the BOT shall be called by the Chairman not less than six times a year, and preferably on a monthly basis, for the purpose of approving the minutes of regular Board meetings and Executive Committee

meetings, and for considering such other business as may properly be brought before it. These meetings shall be held on such dates and at such places for the succeeding calendar year as the Board shall determine at the last regular meeting of the calendar year.

(2) Annual Meeting. The first regular meeting after July 1 shall be the Annual Meeting. The purpose of the Annual Meeting shall be to receive a report on the state of the College by its president, to elect officers and the Executive Committee, and to conduct such other business as may properly come before the meeting. At the meeting at which a Chairman is selected, the retiring Chairman shall preside pro tempore if he/she is still a member of the Board; if not, the retiring Vice Chairman. If no officer or retiring officer remains on the Board, the first named Board member is the temporary chair and will call for the election of a Chairman pro tem. A Chairman pro tem shall be elected by the Board to preside at the election of a new Chairman.

(3) Special Meetings. Special meetings of the BOT may be called by the Chairman or any three members at such dates, times and places as may be specified in the call for the meeting.

(4) Notice. Notice of the time and place of the Annual Meeting and all regular meetings of the BOT shall be sent by the Secretary to each member at least 10 days before such meeting accompanied by an agenda of those matters scheduled to be raised for consideration and by the minutes of such Executive Committee meetings as may have been held since the BOT's last previous annual or regular meeting. Written notice of all special meetings shall be sent by the Secretary at least three days in advance of the meeting. All notices of special meetings shall be mailed to the address of record of each member and shall include the item or items of business to be considered. No matter may be considered at any special meeting that was not included in the call of that meeting except by a two-thirds vote of the trustees present at the meeting.

(5) Quorum. Seven members shall constitute a quorum for the conduct of business by the full Board, except in those instances where a different quorum may be required by other statutory provisions.

(6) Vote. Approval of any proposal at any meeting of the BOT shall require the affirmative vote of a majority of those members present. BOT members shall be required to vote on all proposals made at any meeting; provided, however, that no member shall participate in any matter in which that Board member has a conflict of interest as set forth in section 112.3143, Florida Statutes, without first complying with the disclosure requirements set forth therein.

(7) Open Meeting Requirements. All meetings of the BOT and its committees will be considered open as provided in the Florida Government in the Sunshine Act.

(8) Agenda. For the Annual Meeting and each regular meeting, the President of NCF shall have prepared, in consultation with the Chairman of the BOT, an agenda comprising such matters as the Board, the Chairman, the President and the chairman of each standing committee shall refer for consideration. After receiving the Chairman's approval, the Secretary shall mail a copy of this agenda to each member of the Board at least ten days prior to the meeting of the Board. Matters which arise subsequent to the

mailing of the agenda and prior to the convening of the meeting of the Board shall be presented to the Board at the time of the meeting in a supplementary agenda prepared by the President in consultation with the Chairman.

#### **2.04 Powers and Duties of the Board.**

Pursuant to Article IX, s. 7 of the Constitution of the State of Florida and BOG resolution dated January 7, 2003, the BOT shall have the following status, powers, duties and responsibilities:

(1) The BOT shall be a public body corporate by the name of "The New College of Florida Board of Trustees," with all the powers of a body corporate, including the power to adopt a corporate seal, to contract and be contracted with, to sue and be sued, to plead and be impleaded in all courts of law or equity, and to give and receive donations. In all suits against the Board, service of process shall be made on the chair of the board or, in the absence of the chair, on the corporate secretary or designee.

(2) The BOT is not a department of the executive branch of state government within the scope and meaning of Article IV, s. 6 of the Constitution of the State of Florida.

(3) The BOT is constituted as a public instrumentality, and the exercise by the BOT of the power conferred by this section is considered to be the performance of an essential public function. The corporation is subject to chapter 119, Florida Statutes, subject to exceptions applicable to it, and to the provisions of chapter 286, Florida Statutes; however, the corporation shall be entitled to provide notice of internal review committee meetings for competitive proposals or procurement to applicants by mail or facsimile rather than by means of publication. The corporation is not governed by chapter 607. The corporation shall maintain coverage under the State Risk Management Trust Fund as provided in chapter 284, Florida Statutes.

(4) No bureau, department, division, agency, or subdivision of the state shall exercise any responsibility and authority to operate the College except as specifically provided by law or rules of the BOG. This regulation shall not prohibit any department, bureau, division, agency, or subdivision of the state from providing access to programs or systems or providing other assistance to the College pursuant to an agreement between the College and such department, bureau, division, agency, or subdivision of the state.

(5) The Board shall be a corporation primarily acting as an instrumentality or agency of the state, pursuant to s. 768.28(2), Florida Statutes, for purposes of sovereign immunity.

(6) Whenever appointed by any competent court of the state, or by any statute, or in any will, deed, or other instrument, or in any manner whatever as trustee of any funds or real or personal property in which any of the institutions or agencies under its management, control, or supervision, or their departments or branches or students, faculty members, officers, or employees, may be interested as beneficiaries, or otherwise, or for any educational purpose, the Board is hereby authorized to act as trustee with full legal capacity as trustee to administer such trust property, and the title thereto shall vest in said

board as trustee. In all such cases, the Board shall have the power and capacity to do and perform all things as fully as any individual trustee or other competent trustee might do or perform, and with the same rights, privileges, and duties, including the power, capacity, and authority to convey, transfer, mortgage, or pledge such property held in trust and to contract and execute all other documents relating to said trust property which may be required for, or appropriate to, the administration of such trust or to accomplish the purposes of any such trust.

(7) Deeds, mortgages, leases, and other contracts of the Board relating to real property of any such trust or any interest therein may be executed by the Board, as trustee, in the same manner as is provided by the laws of the state for the execution of similar documents by other corporations or may be executed by the signatures of a majority of the members of the Board; however, to be effective, any such deed, mortgage, or lease contract for more than 10 years of any trust property, executed hereafter by the Board, shall be approved by a resolution of the BOG; and such approving resolution may be evidenced by the signature of either the chair or the secretary of the BOG to an endorsement on the instrument approved, reciting the date of such approval, and bearing the seal of the BOG. Such signed and sealed endorsement shall be a part of the instrument and entitled to record without further proof.

(8) Any and all such appointments of, and acts by, the Board of Regents as trustee of any estate, fund, or property prior to May 18, 1949, are hereby validated, and said board's capacity and authority to act as trustee until July 1, 2001, in all of such cases is ratified and confirmed; and all deeds, conveyances, lease contracts, and other contracts heretofore executed by the Board of Regents, either by the signatures of a majority of the members of the board or in the board's name by its chair or chief executive officer, are hereby approved, ratified, confirmed, and validated.

(9) Nothing herein shall be construed to authorize the Board to contract a debt on behalf of, or in any way to obligate, the state; and the satisfaction of any debt or obligation incurred by the Board as trustee under the provisions of this section shall be exclusively from the trust property, mortgaged or encumbered; and nothing herein shall in any manner affect or relate to the authority of the State Board of Education.

(10) The Board shall be responsible for cost-effective policy decisions appropriate to the College's mission, the implementation and maintenance of high quality education programs within law and rules of the Board of Governors, the measurement of performance, the reporting of information, and the provision of input regarding state policy, budgeting, and education standards.

(11) The Board is vested with the authority to govern NCF, as necessary to provide proper governance and improvement of the College in accordance with law and with rules of the BOG. The Board shall perform all duties assigned by law or by the BOG.

(12) The Board shall have the power to take action without a recommendation from the President and shall have the power to require the president to deliver to the Board all data and information required by the Board in the performance of its duties.

(13) The Board may adopt regulations pursuant to the regulation development procedure adopted by the BOG on July 19, 2005 to implement the provisions of law conferring duties upon it. Such regulations must be consistent with regulations, rules, and resolutions of the BOG.

(14) The Board shall have the authority to acquire real and personal property and contract for the sale and disposal of same and approve and execute contracts for the purchase, sale, lease, license, or acquisition of commodities, goods, equipment, contractual services, leases of real and personal property, and construction. The acquisition may include purchase by installment or lease-purchase. Such contracts may provide for payment of interest on the unpaid portion of the purchase price. Title to all real property acquired prior to January 7, 2003, and to all real property acquired with funds appropriated by the Legislature shall be vested in the Board of Trustees of the Internal Improvement Trust Fund and shall be transferred and conveyed by it. Notwithstanding any other provisions of this subsection, the Board shall comply with the provisions of s. 287.055, Florida Statutes for the procurement of professional services as defined therein.

(15) The Board shall have responsibility for the use, maintenance, protection, and control of College-owned or College-controlled buildings and grounds, property and equipment, name, trademarks and other proprietary marks, and the financial and other resources of the College. Such authority may include placing restrictions on activities and on access to facilities, firearms, food, tobacco, alcoholic beverages, distribution of printed materials, commercial solicitation, animals, and sound. The authority vested in the Board in this subsection includes the prioritization of the use of space, property, equipment, and resources and the imposition of charges for those items.

(16) The Board has responsibility for the establishment and discontinuance of degree programs up to and including the master's degree level; the establishment and discontinuance of course offerings; provision of credit and noncredit educational offerings; location of classes; services provided; and dissemination of information concerning such programs and services. Approval of new programs must be pursuant to criteria established by the BOG.

(17) The Board is authorized to create divisions of sponsored research pursuant to the provisions of s. 1011.411, Florida Statutes to serve the function of administration and promotion of the programs of research.

(18) The Board has responsibility for: ensuring that students have access to general education courses as identified in rule and requiring no more than 120 semester hours of coursework for baccalaureate degree programs unless approved by the BOG. At least half of the required coursework for any baccalaureate degree must be offered at the lower-division level, except in program areas approved by the BOG.

(19) The Board has responsibility for policies related to students, enrollment of students, student activities and organizations, financial assistance, and other student services. Specifically:

(a) The Board shall govern admission of students pursuant to s. 1007.261, Florida Statutes and rules of the Board of Governors. The Board may consider the past actions of any person applying for admission or enrollment and may deny admission or enrollment to an applicant because of misconduct if determined to be in the best interest of the College.

(b) The Board shall establish student performance standards for the award of degrees and certificates.

(c) The Board must identify its core curricula and work with school districts to ensure that its curricula coordinate with the core curricula and prepare students for college-level work.

(d) The Board must adopt a written antihazing regulation, appropriate penalties for violations of such regulation, and a program for enforcing such regulation.

(e) The Board may establish a uniform code of conduct and appropriate penalties for violations of its rules by students and student organizations, including rules governing student academic honesty. Such penalties, unless otherwise provided by law, may include fines, the withholding of diplomas or transcripts pending compliance with rules or payment of fines, and the imposition of probation, suspension, or dismissal.

(f) The Board shall establish a committee, at least one-half of the members of which shall be students appointed by the student body president, to periodically review and evaluate the student judicial system.

(g) The Board must adopt a policy pursuant to s. 1006.53, Florida Statutes that reasonably accommodates the religious observance, practice, and belief of individual students in regard to admissions, class attendance, and the scheduling of examinations and work assignments.

(h) The Board may establish intrainstitutional and interinstitutional programs to maximize articulation pursuant to s. 1007.22, Florida Statutes.

(i) The Board shall approve the internal procedures of student government organizations.

(20) The Board shall establish fees pursuant to ss. 1009.24 and 1009.26, Florida Statutes.

(21) The Board shall submit an institutional budget request, including a request for fixed capital outlay, and an operating budget to the BOG for approval in accordance with guidelines established by the BOG.

(22) The Board shall account for expenditures of all state, local, federal, and other funds in the manner described by the BOG.



(23) The Board shall develop a strategic plan specifying institutional goals and objectives for the College for recommendation to the Board of Governors.

(24) The Board shall develop an accountability plan pursuant to guidelines established by the BOG and statute.

(25) The Board shall maintain an effective information system to provide accurate, timely, and cost-effective information about the College, and shall ensure that all data and reporting requirements of the Chancellor of the state university system are met.

(26) The Board is authorized to secure comprehensive general liability insurance pursuant to s. 1004.24, Florida Statutes.

(27) The Board may provide for payment of the costs of civil actions against officers, employees, or agents of the board pursuant to s. 1012.965, Florida Statutes.

(28) The Board shall establish the personnel program for all employees of the College, including the president, pursuant to the provisions of chapter 1012 and, in accordance with rules and guidelines of the Board of Governors, including: compensation and other conditions of employment, recruitment and selection, nonreappointment, standards for performance and conduct, evaluation, benefits and hours of work, leave policies, recognition and awards, inventions and works, travel, learning opportunities, exchange programs, academic freedom and responsibility, promotion, assignment, demotion, transfer, tenure and permanent status, ethical obligations and conflicts of interest, restrictive covenants, disciplinary actions, complaints, appeals and grievance procedures, and separation and termination from employment. The Department of Management Services shall retain authority over College employees for programs established in ss. 110.123, 110.1232, 110.1234, and 110.1238 and in chapters 121, 122, and 238, Florida Statutes.

(29) The Board may consider the past actions of any person applying for employment and may deny employment to a person because of misconduct if determined to be in the best interest of the College.

(30) The Board shall appoint a presidential search committee to make recommendations to the full Board, from which the Board may select a candidate for ratification by the BOG.

(31) The Board shall conduct an annual evaluation of the president in accordance with rules of the BOG and submit such evaluations to the BOG for review. The evaluation must address the achievement of the performance goals established by the accountability process implemented pursuant to s. 1008.46, Florida Statutes and the performance of the president in achieving the annual and long-term goals and objectives established in the institution's employment equity accountability program implemented pursuant to s. 1012.95, Florida Statutes.

(32) The Board constitutes the contracting agent of the College.

(33) The Board may enter into agreements for, and accept, credit card payments as compensation for goods, services, tuition, and fees.

(34) The Board may establish educational research centers for child development pursuant to s. 1011.48, Florida Statutes.

(35) The Board may develop and produce work products relating to educational endeavors that are subject to trademark, copyright, or patent statutes pursuant to s. 1004.23, Florida Statutes.

(36) The Board shall submit to the Board of Governors, for approval, plans for all new campuses and instructional centers.

(37) The Board shall administer a program for the maintenance and construction of facilities pursuant to chapter 1013, Florida Statutes.

(38) The Board shall ensure compliance with the provisions of s. 287.09451, Florida Statutes for all procurement and ss. 255.101 and 255.102, Florida Statutes for construction contracts, and rules adopted pursuant thereto, relating to the utilization of minority business enterprises, except that procurements costing less than the amount provided for in CATEGORY FIVE as provided in s. 287.017, Florida Statutes shall not be subject to s. 287.09451, Florida Statutes.

(39) The Board may exercise the right of eminent domain pursuant to the provisions of chapter 1013. Any suits or actions brought by the Board shall be brought in the name of the Board, and the Department of Legal Affairs shall conduct the proceedings for, and act as the counsel of, the Board.

(40) Notwithstanding the provisions of s. 253.025, Florida Statutes, the Board may, with the consent of the Board of Trustees of the Internal Improvement Trust Fund, sell, convey, transfer, exchange, trade, or purchase real property and related improvements necessary and desirable to serve the needs and purposes of the College.

(a) The Board may secure appraisals and surveys. The Board shall comply with the rules of the Board of Trustees of the Internal Improvement Trust Fund in securing appraisals. Whenever the Board finds it necessary for timely property acquisition, it may contract, without the need for competitive selection, with one or more appraisers whose names are contained on the list of approved appraisers maintained by the Division of State Lands in the Department of Environmental Protection.

(b) The Board may negotiate and enter into an option contract before an appraisal is obtained. The option contract must state that the final purchase price may not exceed the maximum value allowed by law. The consideration for such an option contract may not exceed 10 percent of the estimate obtained by the

Board or 10 percent of the value of the parcel, whichever is greater, unless otherwise authorized by the Board.

(c) This subsection is not intended to abrogate in any manner the authority delegated to the Board of Trustees of the Internal Improvement Trust Fund or the Division of State Lands to approve a contract for purchase of state lands or to require policies and procedures to obtain clear legal title to parcels purchased for state purposes. Title to property acquired by the Board prior to January 7, 2003, and to property acquired with funds appropriated by the Legislature shall vest in the Board of Trustees of the Internal Improvement Trust Fund.

(41) The Board shall prepare and adopt a campus master plan pursuant to s. 1013.30, Florida Statutes.

(42) The Board shall prepare, adopt, and execute a campus development agreement pursuant to s. 1013.30, Florida Statutes.

(43) The Board has responsibility for compliance with state and federal laws, rules, regulations, and requirements.

(44) The Board may govern traffic on the grounds of that campus pursuant to s. 1006.66, Florida Statutes.

(45) The Board has responsibility for supervising faculty practice plans for the academic health science centers.

(46) The Board shall prescribe conditions for direct-support organizations and College health services support organizations to be certified and to use College property and services. Conditions relating to certification must provide for audit review and oversight by the Board.

(47) The Board shall actively implement a plan, in accordance with guidelines of the State Board of Education, for working on a regular basis with the other university boards of trustees, representatives of the community college boards of trustees, and representatives of the district school boards, to achieve the goals of the seamless education system.

(48) Notwithstanding the provisions of s. 216.351, Florida Statutes, the Board may authorize the rent or lease of parking facilities, provided that such facilities are funded through parking fees or parking fines imposed by the College. The Board may authorize the College to charge fees for parking at such rented or leased parking facilities.

(49) The Board may adopt rules and procedures related to data and technology, including information systems, communications systems, computer hardware and software, and networks. Such policies and procedures shall ensure that each institution participate fully and efficiently in statewide management information systems.

(50) The Board shall ensure that each institution participates fully in statewide programs that advance articulation, access, equity, financial assistance and accountability as provided by law or rule.

(51) The Board shall perform such other duties as are provided by law or by the BOG.

(52) In addition to the duties and responsibilities enumerated herein, NCF and the BOT shall have those duties and responsibilities specifically set forth in the K- 20 Education Code, Title XLVIII Florida Statutes and shall act consistent with those responsibilities.

## **2.05 Officers of the BOT.**

(1) Officers. The Officers of the Board shall consist of the Chairman, the Vice Chairman, and the Secretary.

(2) Election. At the Annual Meeting in even-numbered years, the Board shall elect from its own body a Chairman, who shall preside at meetings, a Vice Chairman, and a Secretary. The President shall serve as Secretary of the Board. However, the Board may appoint an Assistant Secretary to assist the President or to serve in the President's stead.

(3) Term. The officers may serve two-year terms and may be reelected for one additional consecutive term. Where any officer is unable to complete the entire two-year term, an election shall be held to fill the unexpired portion.

(4) Chairman. The duties of the Chairman shall be as follows:

(a) To preside over all meetings of the Board and, in that capacity, to fix the order of business, call special meetings of the Board, attest to actions of the Board, appoint all standing and special committees, require the proper preservation of records of the Board's proceedings by the Secretary, and notify the Governor in writing whenever a board member fails to attend three consecutive meetings in any fiscal year.

(b) Without diminishing the right of individual trustees to publicly express their personal views, the Chairman of the Board, unless otherwise determined by the Board or the Chairman, shall act as spokesman for the Board.

(c) To sign all diplomas, certificates or degrees issued by the institution.

(d) To execute all deeds, contract, agreements or other legal documents authorized by the Board.

(e) To attend official functions of the College as the representative of the Board.

(f) To carry out such other acts and functions as the Board may from time to time direct.

(g) Whenever the office of the President becomes vacant or a vacancy is impending, the Chairman shall appoint a Special Committee on the Nomination of a President to seek and recommend to the Board a person to fill the vacancy. This special committee shall be responsible to the Chairman and shall consist of no fewer than five members.

5) Vice Chairman. The duties of the Vice Chairman shall be as follows:

(a) In the absence of the Chairman, to preside at meetings of the Board.

(b) To serve in the place and stead of the Chairman upon the disability of the Chairman or at such other times and circumstances when directed by the Chairman.

(c) To perform such other duties as the Board from time to time may direct.

(6) The President. The President is the chief executive officer of the corporation and the corporate Secretary of the Board. The President is responsible for the operation and administration of the College. The President is responsible to the Board, and shall be charged with carrying out the policies and plan of the Board in achieving the stated goals and objectives of the College. In consultation with the Chairman of the Board, the President shall set the agenda for meetings of the Board, as set out more fully under these By-laws. Specific duties of the President relating to the management of the affairs of NCF are set out in Chapter 3 of these regulations.

(7) Other Personnel. In addition, the Board shall appoint, upon recommendation of the President, such other personnel of the College as the Board may from time to time deem appropriate.

(8) Selection and Removal of the President. The President shall be elected by the Board and may be removed only by assent of two-thirds of the whole number of trustees. The President shall attend all meetings of the Board and shall have notice of and the privilege of attending all meetings of its committees.

(9) Presidential Review. The Board shall adopt a statement of priorities for the year which shall include the President's initiatives and obligations. These statements, along with standards of performance to be developed by the Board, will become the performance plan by which the Board evaluates the President. At least once per year, the Board will discuss the President's performance. The Board will provide the President with a written summary of its evaluation.

(10) Secretary. The duties of the Secretary — who is also the President — shall be as follows:

- (a) To attend all meetings of the Board and to provide for preparation and maintenance of all the minutes of the meetings of the Board and of all other records or documents pertaining to actions of the Board. The Board may prescribe appropriate regulations with respect to access to said records.
- (b) To provide for the issuance of all notices required pursuant to these By-laws.
- (c) To be custodian of the corporate seal of the College.
- (d) To carry out such other duties as the Board may from time to time prescribe.

## **2.06 Committees**

The committee system of the Board shall be composed of the Executive Committee, standing committees and special committees. In addition to the appointed members, the Chairman of the Board shall be an ex officio member of all standing and special committees.

(1) Executive Committee. At each Annual Meeting, the Board Chairman shall appoint from among Board membership an Executive Committee composed of eight members. These eight members shall consist of the Board Chairman, who shall serve as Chair, Board Vice Chairman and the six Chairs of the Board's Standing Committees to be elected by the Board. Nominations for these six positions on the Executive Committee may be made by any trustee, and if there are more than six nominations, a vote shall be taken and the results shall be announced jointly by the Chairman of the Board and the Secretary. Any vacancy on the Executive Committee shall be filled for the unexpired term at the next regular meeting of the Board and by vote if there is more than one nomination. The President shall serve as an ex-officio member of the Executive Committee.

(a) The Executive Committee shall meet upon the call of the Chairman of the Board. It shall consider all matters referred to it by the Chairman or the President and shall, in the interim between meetings of the Board, be vested with the powers and authority of the full Board and shall take such action on all matters that may be referred to it as in its judgment is required. All such actions taken by the Executive Committee in the interim between meetings of the Board shall be reported to the Board at the next regular meeting and shall be confirmed and approved by the Board at that time.

(b) All Board members may fully participate in Executive Committee meetings. However, voting will be limited to members of the Executive Committee.

(c) The Executive Committee will act in the name of the Board only on matters which need immediate action or are of an emergency nature. The Executive Committee will authorize expenditures only during times of emergency.

(2) Standing Committees. The Standing Committees of the Board shall consist of the Finance and Administration Committee, Audit Committee, Academic Affairs Committee, Student Affairs and Athletics Committee, External Affairs Committee and the Strategic Planning Committee. The number to be appointed to each standing committee shall be determined by the Chairman of the Board at the time of appointment. However, no committee shall consist of fewer than three members. The Chairman of the Board may appoint non-Board members to any standing committee, except that no College management or other employees may serve on the Audit Committee; provided, however, that only Board members shall chair standing committees.

(a) The standing committees shall be nominated by the Chairman of the Board and appointed at the Annual Meeting of each year, and at the time of appointment, the Board shall elect the chair of each committee. A vacancy on any committee shall be filled by the Chairman of the Board for the unexpired term, and the Chairman of the Board shall have the power to change the membership of any standing committee at any time. Each standing committee shall meet at the call of the committee chair, or the Chairman or the Secretary of the Board.

(b) The committee secretary shall prepare an agenda for each committee meeting in consultation with the Chairman and shall attend the meeting.

(c) In addition to the duties of the standing committees as listed below, each committee shall consider such other matters as may be referred to it by the Board, the Chairman of the Board, the President, or the committee chairman, and shall make and report its recommendations as required to the Board and to the President. No standing committee has power or authority to commit the Board to any policy or action unless specifically granted such power or authority by the Board.

(3) Finance and Administration Committee. The Finance and Administration Committee shall be responsible for all matters relating to the College's financial affairs and business operations, including all matters relating to buildings and grounds. The Committee shall continually analyze the various financial operations, activities, and plans of the College and make appropriate recommendations to the Board to ensure achievement of the College's stated goals and objectives. It shall be responsible for in-process guidance, review and analysis of the preparation of the College's annual budget, capital outlay budget, and other budget requests for submission to the Florida Board of Governors. The Committee shall conduct the same type of review and analysis of the annual maintenance and operation budget.

(a) It shall review and make a recommendation to the Board concerning the annual budget and the setting of tuition rates, student fees, and other student charges. The Committee shall ensure that budget materials are submitted to the Board in a way that is timely and facilitates Board review.

(b) On behalf of the Board, it shall approve the investment of endowment and other funds, the purchase of real and personal property, and it shall make progress reports to the Board on its actions.

(c) The Committee shall review the contractual policies of the College to ensure conformance with State regulations and with sound business and ethical practices. It shall review and make recommendations to the Board on proposed contracts or agreements which are major and/or not routine and which the Committee shall consider to be of particular interest or concern to the Board.

(d) It shall ensure that the College complies with restrictions on gifts and report periodically to the Board on those gifts.

(e) It shall exercise oversight over the care, maintenance, and security of the College's buildings and grounds; the selection of architects and the construction and naming of new buildings; the care and preservation of all furnishings and equipment; and such other matters relating to the buildings and grounds of the College as may come before it.

(4) Audit Committee. The Audit Committee shall be responsible for all matters relating to the College's financial reporting and internal controls. It shall provide oversight of the integrity of the College's financial statements; the independence and qualifications of its Independent Auditor; the performance of the College's internal audit process; interaction with the State Auditor General's Office; and the College's compliance with legal, regulatory and internal College policies. At least one member of the Committee shall be designated as the Committee's financial expert.

(a) The Committee shall be responsible for the appointment, compensation, retention, dismissal and oversight of the work of any public accounting firm engaged (including the resolution of disagreements between management and the auditor regarding financial reporting) for the purpose of preparing or issuing an audit report or performing other audit, review or attest services for the College. The Independent Auditor shall report directly to the Committee.

(b) The Committee shall review the annual audited financial statements with management and the Auditor General, including the College's disclosures; review with management and the Independent Auditor the scope of any audit and significant accounting policies and audit conclusions; provide a basis for direct exchanges of views and information between the Committee and the Independent Auditor or Auditor General concerning unresolved differences between management and the Independent Auditor or Auditor General arising from any audit, any failure of internal controls, or any other significant financial or



accounting matters or any other matter which, in the opinion of the Auditor, are not receiving adequate management attention.

(c) The Committee shall review and approve the audit plan prepared by the Independent Auditor regarding objectives and activities, including any major changes to the scope of the audit plan.

(5) Academic Affairs Committee. The Academic Affairs Committee shall have responsibility in all matters relating to educational policies and programs. Its powers shall include but not be limited to appraising all proposed new programs and degrees and monitoring the conduct of existing programs; reviewing policies concerning the selection, appointment, compensation, tenure, rights and responsibilities, conditions, development and retention of the faculty; developing procedures governing the appointment and promotion of faculty for use by the President; reviewing all proposals for the organization of the academic structure of the College; reviewing the adequacy of instructional facilities; reviewing policies governing the admission of students to the College and periodically reviewing experience with application of such policies and such other matters relating to the policies and programs as may be brought before it by the President or referred to it by the Board.

(a) As a general matter, the Academic Affairs Committee will not sit in review of specific salary complaints or other faculty grievances. Faculty members will be expected to follow the procedures set out specifically for faculty to resolve such complaints.

(6) Student Affairs and Athletics Committee. The Student Affairs and Athletics Committee shall be responsible in all matters relating to nonacademic student affairs and athletics. It shall exercise oversight over student conduct, residential and social life, student government, student organizations and extracurricular activities, student publications, food services, health and such other matters relating to student affairs as may be brought to its attention. The Committee shall have oversight over athletic policy and programs, both intramural and intercollegiate.

(7) External Affairs Committee. The External Affairs Committee shall have responsibility in all matters pertaining to public communications. It shall consult and coordinate with the New College Foundation in matters pertaining to College development, alumni affairs, and programs that promote private donations to and alumni support of the College, including related activities undertaken directly by College offices on the College's behalf.

(8) Strategic Planning Committee. The Strategic Planning Committee shall be responsible for defining and developing a strategic plan for the College and recommending the plan to the full Board, as provided by law, specifying the institutional goals and objectives of New College of Florida.

(9) Special Committees. The Chairman of the Board may appoint special committees of the Board as required for the benefit of the Board and the College. Such committees shall consist of no fewer than three members appointed by the Chairman of

the Board and shall have a life of not to exceed one year unless renewed for a specific period by action of either the Board or the Chairman of the Board. At the time a special committee is created, its mission shall be specifically established either by action of the Board or written direction of the Chairman of the Board and the resolution shall specify the time the special committee is to make its report to the Board. The Chairman may appoint non-Board members to any special committees; provided, however, that only Board members shall chair special committees.

(10) Quorum. A quorum for the Executive Committee and all standing and special committees of the Board shall consist of one-third of the appointed members of the Committee, except in no case shall the number be fewer than two.

(11) Service on Committees. The maximum number of standing committees a trustee may serve on shall be three. Unless otherwise stipulated, committee members shall be appointed for one year. No Board member shall be chair of more than one committee.

(12) Board Discretion Regarding Committees. The duties and responsibilities and terms of membership on committees of the Board shall be defined by the Board and may be changed from time to time.

## **2.07 Delegation of Certain Responsibilities.**

The Board may extend authority in writing to other officers or entities pursuant to its statutory obligations. The Board may, from time to time, amend or withdraw any such authorization issued pursuant to this article.

## **2.08 Indemnity.**

The Board may pay civil costs for actions against trustees.

## **2.09 Adoption and Amendment of By-laws.**

(1) Amendment of By-Laws. The By-laws of the Board may be amended by a two-thirds vote of the Board at the Annual Meeting or at any regular or special meeting provided that the proposed amendments are conveyed to the members of the Board at least ten days in advance of the meeting in which they are to be acted upon. Certified copies of amendments or of the amended By-laws shall be forwarded to the Governor.

(2) Subsequently Enacted Statutes. The enactment of any statute by the Legislature, or the amendment of any existing statute, inconsistent with these By-laws shall take precedence over the provisions hereof.

## **2.10 Miscellaneous.**

(1) Service of Process. Service of process may be made on the Chairman of the Board, or in the Chair's absence, on the Secretary or his or her designee.

(2) Meeting Procedures According to Robert's Rules of Order. The Board will conduct all business according to the By-laws, as amended. All meetings shall be conducted in accordance with the principles of procedure prescribed in Robert's Rules of Order.

## CHAPTER 3

### The President

#### 3.01 General Provisions.

The President is the chief executive and academic officer of the NCF and corporate secretary to the BOT. The President is responsible for the operation and administration of the College. The President is responsible to the Board, and shall be charged with carrying out the policies and plan of the Board in achieving the stated goals and objectives of the College.

#### 3.02 Powers.

As the chief executive and academic officer of the College and corporate secretary to the Board, the President shall have the power and duty to:

(1) Recommend the adoption of regulations, as appropriate, to the BOT to implement provisions of law governing the operation and administration of the College, which shall include the specific powers and duties enumerated in this section. Such regulations shall be consistent with the mission of the College and the rules, regulations, resolutions and policies of the Board of Governors.

(2) Prepare a budget request and an operating budget for approval by the BOT.

(3) Establish and implement policies and procedures to recruit, appoint, transfer, promote, compensate, evaluate, reward, demote, discipline, and remove personnel, within law and rules and resolutions of the BOG and in accordance with rules or policies approved by the BOT.

(4) Govern admissions, subject to law and rules, regulations, resolutions or policies of the BOT and the BOG.

(5) Approve, execute, and administer contracts for and on behalf of the BOT for licenses; the acquisition or provision of commodities, goods, equipment, and services; leases of real and personal property; and planning and construction to be rendered to or by the College, provided such contracts are within law and rules, regulations, and resolutions of the BOG and in conformance with policies of the BOT, and are for the implementation of approved programs of the College. The President shall comply with the provisions of s. 287.055, Florida Statutes for the procurement of professional services and may approve and execute all contracts on behalf of the Board for planning, construction, and equipment. For the purposes of a President's contracting authority, a "continuing contract" for professional services under the provisions of s. 287.055, Florida Statutes is one in which construction costs do not exceed \$1 million or the fee for study activity does not exceed \$100,000.

(6) Act for the Board as custodian of all College property.

(7) Establish the internal academic calendar of the College within general guidelines of the BOG.


- (8) Administer the College's program of intercollegiate athletics.
- (9) Recommend to the Board the establishment and termination of undergraduate and master's-level degree programs within the approved role and scope of the College.
- (10) Award degrees.
- (11) Recommend to the Board a schedule of tuition and fees to be charged by the College, within law and rules and resolutions of the Board of Governors.
- (12) Organize the College to efficiently and effectively achieve the goals of the College.
- (13) Review periodically the operations of the College in order to determine how effectively and efficiently the College is being administered and whether it is meeting the goals of its strategic plan.
- (14) Enter into agreements for student exchange programs that involve students at the College and students in other postsecondary educational institutions.
- (15) Provide purchasing, contracting, and budgetary review processes for student government organizations.
- (16) Ensure compliance with federal and state laws, rules, regulations, and other requirements that are applicable to the College.
- (17) Maintain all data and information pertaining to the operation of the College, and report on the attainment by the College of institutional and statewide performance accountability goals.
- (18) Adjust property records and dispose of state-owned tangible personal property in the College's custody in accordance with procedures established by the BOT. Notwithstanding the provisions of s. 287.55(5), Florida Statutes, all moneys received from the disposition of state-owned tangible personal property shall be retained by the College and disbursed for the acquisition of tangible personal property and for all necessary operating expenditures. The College shall maintain records of the accounts into which such moneys are deposited.
- (19) Have vested with the president or the president's designee the powers, duties, and authority that is vested with the College.

## Proposed Regulation

**Category: General Administration**

**Subcategory: Human Resources**

### NEW COLLEGE OF FLORIDA Policies and Procedures Manual

	Subject of Policy Statement	Effective Date	Policy Number
	<b>Employment Security Checks/Screenings</b>		<b>0-607</b>

#### I. INTRODUCTION (Purpose and Intent)

The purpose of this regulation is to specify the protocols and responsibilities in conducting security checks on Administrative and Professional (A&P), University Support Personnel System (USPS), Executive Service (ES) and Faculty job candidate(s) to whom an offer of employment has been extended but employment has not yet begun. Security checks on Other Personnel Services (OPS) employee candidates and volunteers are also required in certain situations. Security background checks involving current employees are also addressed. This regulation supplements the employment and education verification process performed in support of the College's hiring process.

#### II. STATEMENT OF POLICY

- A. Security background checks will be conducted on all A&P, USPS, ES and Faculty job candidate(s) to whom an offer of employment has been made, except as noted in Section IV.J. of this regulation. The post offer, pre employment background check will include:
  - 1. Name and Address Verification;
  - 2. Social Security Number Verification; and
  - 3. Potential Criminal History via Fingerprint Search (state, and/or national).
- B. A security background check shall apply to Other Personnel Services (OPS) employees in designated positions of special trust and accepted volunteers in positions whose duties may include one or more of the following:
  - 1. Working with minors/children (National Child Protection Act 1993 as amended) (minors/children defined as any person under age of 18 – as mandated FL Statute 827.01);
  - 2. Access to cash, credit card numbers and/or demand deposits;
  - 3. Access to campus buildings as a result of being assigned building master keys;
  - 4. Ability to complete final processing of payroll, investments or purchase orders; or
  - 5. Ability to access underlying codes/processing protocol supporting College ERP computer systems applications or complete final processing of ERP security access transactions.
- C. A security background check to verify that the candidate possesses a valid driver's license and verify the candidate's driving history will be performed on candidates offered positions whose duties include but are not limited to operating licensed motor vehicles owned by the College at

least one or more times per week. Driver's license/driving record checks may be performed annually at the discretion of College management.

- D. If the security background check reveals any felony or first degree misdemeanor convictions or adverse driving history (where applicable), the following factors will be considered to determine whether the convictions are grounds for denying employment or acceptance as a volunteer:
  - 1. The nature and gravity of the offense for which convicted;
  - 2. The time period that has lapsed since the conviction;
  - 3. The nature of the position being considered; and
  - 4. Florida Statutes.
- E. Current employees and volunteers shall notify College management of any felony or first degree misdemeanor of which they are convicted or, if applicable to their position, if their driver's licenses is suspended subsequent to their employment or volunteer work with the College. Such notification must be made within three (3) working days of the conviction or driver's license suspension. Factors identified in Section II.D. will be considered in determining the individual's continued employment disposition.
- F. A security background check may be conducted on a current employee if College management has reason to believe an employee falsified his or her employment application, or for other justifiable reasons. Except for ongoing police investigations, Human Resources will be responsible for conducting any security background checks on current employees. Should a security background check reveal any felony or first degree misdemeanor convictions not previously divulged by an employee/volunteer, Human Resources will consult with the appropriate department regarding the individual's continued employment disposition.
- G. This regulation applies to all A&P, USPS, ES and Faculty employees, provided, however that its application is subject to the terms and conditions of any existing applicable collective bargaining agreements in the case of employees who are members of a collective bargaining unit and are represented by a collective bargaining agent.

#### **IV. PROCEDURES**

- A. Human Resources will coordinate all employee and volunteer security background checks and screening activities, with the exception of those required for the New College of Florida Police Department (see Section J below).
- B. When any hiring department/organization submits a Position Vacancy Announcement (PVA) to Human Resources, the PVA will specify whether a driver's license/records check is to be completed in addition to name, address, and social security number verification and potential criminal history check.
- C. All advertisements for positions will inform applicants of the security background checks required. The requirement to undergo a security background check will be contained in the official position description.
- D. Associated costs for any security background checks or additional screenings will be incurred by the hiring department/organization.
- E. Post offer, pre-employment employees will sign a release form which allows Human Resources to conduct a background check and review the results. Employment is contingent upon the results of the background check/screening.

- F. Upon acceptance of OPS employees or volunteers into a program or department, the department utilizing the OPS employee or volunteer will be responsible for notifying Human Resources of any special circumstances pertaining to their duties that require a security background check (See Section IIB). The OPS employee or volunteer will be referred to Human Resources to facilitate the appropriate security background check. Each will sign a release form and the security check processing will begin.
- G. It is preferred that an applicant/volunteer not begin employment until security background check/screening results are received, but if an applicant/volunteer must begin working in the position prior to receipt of the results, Human Resources and the hiring authority will inform the applicant/volunteer that continued employment or acceptance is contingent upon the results of the background check/screening.
- H. Human Resources will assist the hiring authority in explaining the ramifications of the results. If the results are of concern, Human Resources will evaluate the information and consult with the hiring authority. If the applicant/volunteer is not to continue employment or volunteering, Human Resources will notify the appropriate department. The hiring authority will inform the applicant/volunteer of the concern and the applicant/volunteer will be given an opportunity to reply. A copy of the screening results will be furnished to the employee/volunteer.
- I. Results of all background checks/screenings will be kept confidential and will be disclosed only to the extent necessary to administer and enforce this regulation, or pursuant to the State's public records law.
- J. Prior to making an offer of employment for positions of special trust involving law enforcement positions, the New College of Florida Police Department will complete and obtain results from background checks/screenings with specific criteria set forth by Criminal Justice Standards and Training Commission (CJSTC) and enforced by Florida Department of Law Enforcement (FDLE) in accordance with Florida Statutes, on candidates being considered for employment of said department. Records of those results will be kept in the office of the Police Department; all other records will be kept in separate file in Human Resources.





## EDUCATION ASSISTANCE PROGRAM

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**Purpose:** New College of Florida strongly encourages its employees to pursue educational opportunities for professional growth and development. The Education Assistance Program (Program) is designed to provide eligible employees tools to enhance their jobs skills and further their education by providing assistance in meeting the expenses of continuing education.

Regular USPS, A&P and Faculty employees, working full time, who have been employed in an established position for at least six (6) months and who meet academic requirements are eligible for such assistance.

Monetary Assistance: Vocational, undergraduate or graduate course work is eligible for tuition reimbursement. The College will reimburse tuition costs at the actual semester credit hour rate charged up to the cost of a resident undergraduate semester credit hour charged by New College of Florida. Total semester credit hours eligible for reimbursement will not exceed a maximum of six (6) semester credit hours per term.

### **Eligibility Requirements:**

- An employee must be admitted as degree seeking or non-degree seeking student at an accredited vocation/technical institute, community college, four year college or university prior to applying to participate in the Program. The Program does not permit enrollment in thesis, dissertation, internships, directed individual study, individual performance courses, non-credit courses, sponsored credit Programs, or off-book Programs.
- An employee must be a regular employee (1.0 FTE) on the day before classes begin for the semester through the end of that semester.
- Employees assigned to Acting/Temporary/Visiting/ OPS are not eligible to participate in the Program.
- An employee must have completed six (6) months full-time, continuous, satisfactory and regular service with New College of Florida prior to applying to participate in the Program.
- Enrollment in the Program is contingent upon Supervisory approval, VP/Provost approval, and verification of eligibility status by Human Resources.
- Participation in the Program is to be conducted on the employee's own time. Employees are encouraged to take classes during off-duty hours. However, if that is not possible, supervisors may approve leave (Annual Leave, accrued Comp Leave, or leave without pay) or adjust the employee's work schedule, as long as this does not conflict with departmental operations.
- Employee must receive a grade of C or better to receive reimbursement if a grading scale is utilized at the institute/college/university that is attended.
- Employee will not receive reimbursement for any classes they withdraw or drop after the official Drop/Add period.

**Supervisory Responsibilities:**

- Approve or deny the employees request to participate in the Program and any changes in the employee's work schedule.

**ENROLLMENT PROCEDURES**

- Prior to class registration, the eligible employee shall obtain the required Education Assistance form from Human Resources. The form is also available at the NCF website (Go to MORE LINKS, Human Resources, click on Human Resources forms).
- This form is to be completed, necessary approvals are to be obtained, and the form is to be returned to Human Resources for verification and final approval.
- HR will process all forms and inform the employee of approval.
- After approval, it is the employee's responsibility to register and initially pay for the courses by the published deadline.
- Employee is responsible to provide proof of course enrollment/completion, and accompanying grade of "C or better," to Human Resources.
- After Human Resources validates the proof, a form will be submitted to the Business Office for the issuance of the reimbursement check.