TO: Academic Personnel Advisory Committee
Council of Academic Vice Presidents

FROM: Cynthia A. Beckwith
Director, Labor-Management Relations

SUBJECT: Multi-Year Appointments Task Group Report

Enclosed is a copy of the Multi-Year Task Group's final report and recommendations. We are planning on discussing the recommendations with the United Faculty of Florida at the November 24, 1997, bargaining session, and will schedule a conference call with APAC members prior to that.
RECOMMENDATION 1: The use of multi-year contracts for librarians, instructors and lecturers, and clinical/professional faculty be considered for implementation effective July 1, 1998, subject to the BOR-UFF 1998-2001 Successor Agreement negotiations.

RECOMMENDATION 2: The use of multi-year contracts for regular faculty be considered for implementation effective July 1, 1998 for appointments effective for the 1999-2000 academic year in accordance with implementing procedures recommended by the BOR-UFF Joint Task Group on Multi-Year Appointments and confirmed by the BOR-UFF 1999-2000 Reopener Agreement negotiations.

RECOMMENDATION 3: The BOR-UFF Joint Task Group on Multi-Year Appointments be reconstituted as a standing committee for the purpose of identifying data analysis needs and for evaluating the use of multi-year appointments at FGCU and the use of such appointments at other universities pursuant to Recommendation 1 and 2 above. The committee should report annually its findings and recommendations beginning with its first report for consideration in the BOR-UFF 2001-2004 Successor Agreement negotiations.

Task Group Role

In executing the agreement which resulted in the withdrawal of the unfair labor practice filed by the United Faculty of Florida, Inc. (UFF) against the Board of Regents (BOR) following the 1996-97 BOR-UFF Reopener negotiations, both parties agreed as follows:

The BOR agrees that the subject of multi-year appointments shall not be a subject for 1997-98 reopener negotiations and UFF and the BOR agree to assemble a task group to develop a report and recommendations on the implementation of multi-year appointments in the State University System to be submitted to the parties by August 30, 1997. These recommendations shall be the subject of successor agreement negotiations in the Fall of 1997 with the agreement of the parties on multi-year appointments to be concluded no later than December 1, 1997.

The bargaining team leaders, Dr. Chuck Elkins, Chief Negotiator for the UFF, and Ms. Roberta Maddox, Chief Negotiator for the BOR, appointed the following persons to the task group:

Representing the UFF:
Dr. Chuck Elkins, Department of English, FIU
Dr. Ronnie Hawkins, Department of Philosophy, UCF
Dr. Paul Warren, Department of Philosophy, FIU
Dr. Tim, Department of Political Science, FAU
Dr. Robert Mujus, Department of Management and Decision Science, FGCU

Representing the BOR:

Dr. James Ammons, Provost, FAMU
Dr. Gary Whitehouse, Provost, UCF
Dr. James Mau, Provost, FIU
Dr. Suzanne Richter, Provost, FGCU

Ms. Roberta Maddox, Associate Vice Chancellor, Human Resources and Labor Relations
Ms. Wendy Morris, Counsel, Human Resources and Labor Relations, BOR

The charge of the Task Group on Multi-Year Appointments was to "develop a report and recommendations on the implementation of multi-year appointments in the State University System."

The Task Group met on April 4, May 8, July 22, September 19, and October 17.

Background

In September 1994, the Board of Regents (BOR) adopted recommendations resulting from discussions at an earlier Tenure Workshop concerning current practices relating to tenure in the State University System (SUS). Included within the six recommendations adopted was the BOR's encouragement that all universities explore options for faculty appointment procedures that represent alternatives to the traditional tenure system. The BOR proposed the use of multi-appointments as a means to provide faculty with limited job security and universities with flexibility. These appointments can be used to staff entire academic programs in specialized or experimental areas of curriculum, or focus on particular areas of faculty responsibility such as teaching or clinical practice. Using multi-year appointments may increase the opportunity to attract persons with significant experience and expertise from outside academe, particularly in the professional programs. The use of multi-year appointments will not apply to faculty currently on tenure-earning or tenured appointments.

In the Fall of 1994, the BOR held negotiations with the United Faculty of Florida, Inc. (UFF), the certificated bargaining agent for SUS faculty, for the 1995-98 BOR-UFF Successor agreement. One objective was to implement the BOR's policy relating to the use of multi-year appointments. The BOR and the UFF agreed to their use at Florida Gulf Coast University (FGCU) and Article 8.4 (g) of the BOR-UFF Agreement became effective July 1, 1995. FGCU is using multi-year appointments as it recruits and hires its faculty. The BOR in November 1995 adopted Rule 6C-5.910 (2)(b) which makes the use of multi-year appointments permissible for nonunit faculty and A&P employees effective July, 1996.

The BOR again proposed extending the use of multi-year appointments to other universities when the BOR and UFF began negotiations on the 1996-97 Reopener Agreement in the Fall of 1995. This proposal established the multi-year appointment as a form of faculty appointment that could be used by a university in the same way as any other faculty appointment, i.e., regular 9-month, summer, or adjunct appointments. The BOR went to impasse over this issue and presented it to the 1996 Legislature for resolution. The Legislature acted to resolve the impasse by maintaining the status quo, thus, FGCU continued to operate under Article 8.4(g) and the authority to expand the use of multi-year appointments to other universities was denied.
Following action of the 1996 Legislature, the UFF filed an unfair labor practice against the BOR with the Florida Public Employees Relations Commission (PERC), charging that the BOR had unfairly taken the multi-year appointment issue as well as several others to impasse. The unfair labor practice was not pursued to a final decision after both parties agreed to a settlement of the issues in their best interests. The proceedings did reach the point of a recommended order being issued by the PERC hearing officer and both parties expected PERC to adopt the recommended order had the proceedings continued. This action would have resulted in a decision by PERC that the BOR had not violated its authority in its insistence to impasse on its proposal to use multi-year appointments for faculty, determining the issue to be a mandatory, rather than permissive, subject of bargaining.

At its September 1996 meeting, the BOR reaffirmed its earlier actions by adopting the report and recommendations resulting from a two-year review of tenure practices by the BOR Committee on Tenure. These recommendations involved the work of two groups: one examining strengthening the process by which faculty are evaluated for tenure, including increasing the emphasis on teaching; the other group focusing on the evaluation of tenured faculty members. The report also commented on the use of multi-year appointments at FGCU and acknowledged the concerns of several provosts with the significant implications for the universities raised by the use of multi-year appointments in lieu of tenure.

The BOR Committee on Tenure, with the support of the university provosts, concluded their review of tenure practices by endorsing the tenure system and by adopting recommendations on post-tenure evaluation and the use of multi-year appointments. In recommending approval of these reforms to the full BOR, the Committee chair stated that "the BOR and the university presidents and provosts believe the tenure system has a fundamental role in the academic process in sustaining a strong faculty and guaranteeing the continuing excellence of the university's programs."

Multi-year appointments

The task group discussed many issues, both positive and negative, concerning the use of multi-year appointments for faculty. Many of these issues are unresolved since no university has experimented fully with multi-year appointments, and it is too soon to know if these concerns with multi-year appointments are mitigated in actual use. The following summarizes a number of the questions that the task group explored.

Are multi-year appointments widely used in higher education?

The American Association for Higher Education reported in its Inquiry #3 Working Paper Series (1997) that 97% of the research universities, 99% of public four-year colleges, and 94% of private four-year colleges offer tenure. The report, authored by Richard Chiat and Cathy A. Tower, examined contract systems at forty-three institutions without tenure. While the report stated that some elements of the nontenure contract systems could be applied beneficially on campuses with traditional tenure, it concluded that "while these contract systems differ from tenure systems in theory, they operate quite similarly in practice." Because of this conclusion, it would be not be prudent to dismiss the use of multi-year appointments without further experience.

Can a university recruit/maintain a quality faculty using multi-year appointments?

Academic literature reports that the tenure system encourages creativity, ensures stability, and promotes continuity in the faculty. The relatively short-term multi-year appointments may not achieve these same goals. Nontenured faculty are viewed within academe as "second-tier," and, consequently, these positions do not
generally attract prospective faculty as professionally qualified as those who compete for tenure-earning appointments. Some scholars simply will not apply to a university that does not offer tenure. At the same time, the FGCU provost reports that they had no difficulty recruiting a quality faculty using the multi-year appointment for its charter faculty. However, she acknowledges that faculty attracted to a university opening its doors for the first time may not be concerned with many of the traditions of academia, such as tenure.

The fear of alienating senior faculty and academic managers who will ultimately vote on their application for tenure can result in some tenure-earning faculty engaging in low risk, non-controversial research and teaching. This same behavior will likely be exhibited by some faculty on multi-year appointments. In teaching, easy graders have an immense survival advantage. Realistic grading often generates student complaints. Under a multi-year appointment, complaints could cost faculty their jobs. Thus, they could protect themselves by awarding whatever grades their students wanted. Should this occur, quality certainly will be diminished.

The multi-year appointment gives an option to a department to attract persons who they cannot currently attract because of their not being eligible for, or interested in, tenure. Female faculty in child bearing and both male and female faculty in child rearing years may also find the option of a multi-year appointment attractive.

**Will the use of multi-year appointments increase flexibility to terminate faculty?**

Since multi-year appointments are of specified length, ranging from 2 to 5 years, without continuing expectation of employment, the university has the ability to nonrenew these appointments as it determines appropriate. The presumption is that most multi-year appointments will be renewed.

Currently, several mechanisms exist to deal with tenured faculty who become unproductive, such as performance improvement plans or just cause dismissal - measures that may not have not been used effectively in the past. Evaluation does not end with the award of tenure. Students rate teaching through written evaluations at the end of every course, chairs conduct annual evaluations, a comprehensive promotional review is required to progress in academic rank to full professor, and a post-tenure review is required each 7 years. Faculty on multi-year appointments will undergo similar evaluation procedures to determine if future appointments will be offered.

Regardless of the type of appointment, academic administrators must place clear and rigorous expectations on faculty; evaluate on the basis of such expectations; and act when faculty fail to meet these expectations.

Current data do not support the suggestion that tenured faculty stay well beyond normal retirement age. In unit, tenured faculty who are age 65 and over range from a low of 2.5% (UNF) to a high of 5.9% (FAU) with the SUS average being 4.5%.

**Will multi-year appointments allow universities to downsize overstuffed departments?**

One widely reported expectation of the use of multi-year appointments is that the university can more easily shift its faculty work force to respond to academic fields that are gaining or losing popularity. However, the AAHE Inquiry #3 comments, with respect to contract systems, that a university's ability to quickly shift its workforce is limited. It should also be pointed out that universities with tenure systems were able to reallocate faculty resources in the 1970s and 1980s when staffing and curricula had to be adapted to the shift in student orientation from the humanities to business and technology. The core of a university is its ability to offer a
liberal arts education to undergraduates; hence certain core disciplines such as philosophy, history, mathematics, etc., must be maintained within the university even though they are not highly popular electives. While resisting certain program changes, tenured faculty continue to be in the forefront of the vast, on-going changes reshaping and innovating higher education.

**Will the use of multi-year appointments increase teaching faculty to the detriment of the research mission of the university?**

The use of multi-year appointments should not distort the historical allocation of resources among teaching and research since such appointments may be used for either purpose. However, academic managers should use the reward system - promotion, tenure, and salary -to encourage the teaching and research outcomes that are valued by the university.

**Will the performance expectation of faculty on multi-year appointments and tenure-earning/tenured appointments differ and will faculty on multi-year appointments be committed to the long-term health of the university's academic environment?**

Evaluation with respect to assigned responsibilities for faculty, regardless of type of appointment, should be the same.

The essence of institution building is a faculty's commitment to its academic health over the long term. Is a faculty on a multi-year appointment likely to be less committed than a faculty where tenure assures a future at the university? The answer to this question will probably depend on each individual faculty member. An appointment to the faculty requires a person to be committed to his or her institution and discipline and carry out assigned duties with excellence regardless of whether the appointment leads to tenure.

**Do the protections of academic freedom exist if a multi-year appointment is simply not renewed when it expires?**

Nonrenewal of multi-year appointments must not be at the whim of a chair and/or dean, but should have a sound basis for the decision (i.e., lack of funds to continue, a need no longer exists, or poor performance) and involve departmental peers in the decision process. Many fear a "good" teacher's multi-year appointment will be allowed to simply end if that teacher happens to be teaching a "not so good" subject or espouses opinions in conflict with the chair or dean.

**Who will protect this good faculty's rights?**

The protection of academic freedom is not present if a multi-year appointment is simply not renewed when it expires.

Faculty are dealing with ideas -- any classroom discussion of race, gender, religion, evolution, sexuality, immigration, intelligence inheritance, DNA, children's smoking, fetal tissue to name a few can erupt into a career-threatening controversy. Tenure has traditionally protected the faculty's ability to pursue such creative work without fear of being fired for espousing controversial views or endorsing unpopular theories. Tenure prevented the university from imposing a "correct" line of teaching.
In the SUS, all faculty, including tenure-earning, tenured, and nontenured appointments, have First Amendment protection and the academic freedom derived from the amendment's free-speech guaranties. However, the concern still remains that many activities that academic freedom covers may not fall into the legal category of speech. Curriculum design, textbook selection, syllabus preparation, grading, and participation in departmental governance are everyday faculty activities that the courts may not equate with speech. Inunit faculty are covered for alleged violation of academic freedom and responsibilities in Article 5 and for alleged violation of constitutional rights involving nonreappointment in Article 12 of the collective bargaining agreement.

Freedom of expression and intellectual exploration can be guaranteed contractually under a multi-year appointment; however, there must be agreement on the rights and duties defined as academic freedom and safeguards, such as faculty peer-review panels or grievance procedure, that provide faculty the opportunity to challenge personnel decisions.

**Should multi-year appointments in lieu of regular tenured appointments be extended to other universities before the FGCU experience has been evaluated?**

FGCU officials believe a significant benefit of the multi-year appointment is that the university can more quickly shift its faculty work force to respond to academic fields that are gaining or losing popularity. Additionally, they can choose not to renew appointments of faculty who are not performing well in the classroom or laboratory. There has not been sufficient time passage to provide adequate experiences on which to evaluate these expectations.

The experiment at FGCU involves implementing multi-year appointments for faculty for a specific period, ranging from 2 to 5 years as determined by the university on an individual basis. These appointments may include administrative responsibilities, i.e., chairs. Faculty on multi-year appointments have academic rank and eligibility to earn promotion in rank with the same status as tenure-earning or tenured faculty. They are required to develop an annual performance plan in consultation with the chair and receive an annual performance evaluation. They are subject to dismissal for just cause. Faculty having these appointments participate in faculty governance. The university has the option to renew multi-year appointments and, if the appointment is converted to a tenure-earning appointment, some or all service credit may apply.

When FGCU opened in the fall of 1997, there were 119 faculty members. Of this number, 90 faculty were hired on multi-year appointments. The remaining 29 transferred from USF-Ft. Myers as tenure-earning or tenured faculty. While the FGCU provost indicates that they did not have difficulty in recruiting the charter faculty using the multi-year, they acknowledge that most were attracted by the challenge of building a university, in being creative and innovative in designing programs and curriculum, experimenting with organizational and collegial structures, and building non-traditional educational delivery systems using distance learning and technology. Also, the overproduction of scholars in some disciplines as well as a "buyer's market" in most disciplines may have assisted FGCU in its recruiting.

The big unknown is whether the use of multi-year appointments in lieu of tenure-earning and tenured faculty at FGCU will have negative implications for the long-term health of the university's academic environment. Issues such as recruitment and retention of a high quality faculty, a faculty member's commitment to institution building, and due process can not be adequately evaluated during the initial startup phase of FGCU since comparatively few faculty are employed there. The decision to use multi-year appointments should be based on continued evaluation of the FGCU experience over a sufficient time period so as to observe the behavior of
faculty as they undergo several cycles of such appointments. The FGCU provost has agreed to work with the BOR in identifying and collecting data critical to such an on-going evaluation. In order to determine if the use of multi-year appointments is appropriate at other universities, a limited number of such appointments should be considered at each university beginning with the 1999-2000 academic year.

**Will universities shift more resources to multi-year appointments to the detriment of tenure-earning and tenured appointments?**

In the Spring 1997, the SUS had 8,240 in-unit faculty. Of this amount, 67% are tenure-earning and tenured appointments. One fear often expressed is that if multi-year appointments are used that university presidents will shift funding from tenure-earning and tenured appointments and erode the number of tenure-earning appointments available to faculty.

The university presidents/provosts recognize that every university needs a core of continuing faculty -- professors who understand its values, care for its future, and provide its institutional memory. The use of multi-year appointments should not create a revolving door with a weak faculty lacking continuity, tradition, and direction. Using the faculty employment data available in the SUS database, the distribution of appointments between tenured and nontenured can be monitored and shifts can be evaluated to determine if the needs of the faculty and the program are at-risk. The expectation is that the historical pattern for this relationship will serve as a benchmark and, while some variance will occur, the pattern should be maintained.

**Will the Board seek funding from the Legislature for multi-year appointments to the detriment of tenure-earning and tenured appointments?**

The BOR's legislative budget request is not presented at the individual appointment detail level. Further, the Legislature appropriates funds to the Board on a lump sum basis and the BOR allocates these funds to the universities on a lump sum basis using a funding formula. The university president, in consultation with the provost, deans and department chairs, determines the appropriate mix of faculty appointments to meet the mission of the university. The BOR has sought budget flexibility from the Legislature for a number of years and does not plan to depart from the lump sum method for requesting funding.

**Will multi-year appointments assist in providing access to the increase of students expected for the next 10 years?**

Current demographic projections indicate that the state universities will experience a significant increase in student enrollments during the next 10 years to be followed by a slight downturn and leveling of enrollments. The greatest demand from this enrollment increase will be for teaching faculty. If this demand is met by hiring faculty using the current presumptive tenure model, the universities may have difficulty sustaining the same level of faculty workforce should a downturn or leveling of enrollment occur. The multi-year appointment may be an effective mechanism in dealing with a peak in enrollments and allow universities to hire teaching faculty for specified periods, thus avoiding a possible layoff of tenure-earning and tenured faculty or becoming over-tenured.
Use of Multi-Year Appointments

The following conditions will apply to all multi-year appointments:

- A faculty on a multi-year appointment shall have equal status to a tenured faculty except that their appointment is for a specific period of time.

- The evaluation process shall be consistent whether the faculty is a multi-year, a tenure-earning, or a tenured appointment.

- If a faculty on a multi-year appointment moves to a tenure-earning appointment, service credit for the multi-year appointment may apply towards tenure at the option of the provost.

- A faculty on a multi-year appointment can be dismissed for just cause at anytime.

- A faculty on a multi-year appointment is covered by the provisions of the bargaining agreement, including having access to grievance procedures.

For instructors and lecturers

Instructors and lecturers are classified within the current faculty employment system. These appointments are limited to 1 year and are not eligible for tenure. The expectation is that using a multi-year appointment will improve recruitment and stabilize a segment of the faculty delivering a significant teaching workload.

The multi-year appointment for instructors and lecturers should be for 2 to 5 years, subject to renewal by mutual agreement. The notice of nonrenewal will be timely, in writing, and provide the faculty sufficient time to secure other employment.

For librarians

Librarians are classified within the current faculty employment system. These appointments are currently limited to 1 year, without earning tenure or permanent status - similar to positions in the A&P employment plan. These appointments are eligible for academic rank promotion. The expectation is that using a multi-year appointment will improve recruitment and stabilize a segment of the faculty delivering significant student and public contact.

The multi-year appointment for librarians should be for 2 to 5 years, subject to renewal by mutual agreement. The decision to renew or nonrenew shall include the opportunity for recommendation by department faculty. The notice of non-renewal will be timely, in writing, and provide the faculty sufficient time to secure other employment.
For clinical/professional faculty

Clinical/professional faculty appointments are classified in the faculty employment system using appointment modifiers, such as "visiting," "research," or "clinical." Persons in the clinical/professional category generally supervise in practicum settings or augment the curriculum of professional schools where knowledge of practice is essential. They are career or performance-oriented with extensive experience in other settings and are employed to teach and do research. They are sometimes referred to as "professors of the practice of." This group may also include persons teaching specialized curricula in experimental programs or research faculty employed to do research and supervise research facilities. They are most often employed contingent upon obtaining outside funding for their salaries and research programs. This category also includes distinguished senior individuals seeking to use their experience after successful careers in academe or other professions who are generally assigned to teaching and service. In most cases, individuals hired as clinical/professional faculty may not qualify under, or be attracted by, a tenure system; however, they bring considerable value to the university's program and faculty.

These appointments are currently limited to 1 year, without earning tenure or permanent status --similar to positions in the A&P employment plan. These appointments are not currently eligible for academic rank promotion; however, the use of a multi-year appointment for these faculty will include eligibility for academic rank. The expectation is that using a multi-year appointment will allow the university to attract individuals with special expertise that may deterred by a tenure requirement.

The multi-year appointment for clinical/professional faculty should be for 2 to 5 years, subject to renewal by mutual agreement. The decision to renew or nonrenew shall include the opportunity for recommendation by department faculty. The notice of non-renewal will be timely, in writing, and provide the faculty sufficient time to secure other employment.

For regular faculty

Regular faculty are classified within the current faculty employment system. These appointments are for 1 year with the expectation of annual renewal if the individual is making satisfactory progress towards tenure. Once tenure is granted, the regular faculty appointment is renewed annually unless the faculty member resigns or is terminated for just cause. The use of multi-year appointments for regular faculty includes several options which may also involve combining a specific appointment term with tenure. The multi-year appointment for regular faculty shall include eligibility for academic rank promotion. One possible configuration for regular faculty includes:

The multi-year appointment may include an initial 1 year appointment. This initial appointment will be followed by a 3 year appointment if the faculty member demonstrates satisfactory performance during the first year's appointment.

Progress towards tenure will be evaluated during the second year of the first 3 year appointment. A second 3 year appointment is issued if a faculty member demonstrates satisfactory progress towards tenure. If a faculty
member fails to demonstrate progress towards tenure, the third year of the first 3 year appointment is the faculty member's terminal year.

If earned, a faculty member shall be awarded tenure prior to the end of the second 3 year appointment. If a faculty is denied tenure, the third year of the second 3 year appointment is the faculty's terminal year.

If awarded tenure, the faculty member shall be evaluated annually and in the sixth year undergo a comprehensive sustained performance evaluation.

The use of multi-year appointments for regular faculty may also include financial incentives to allow existing tenured faculty to transfer to a multi-year appointment. Such incentives include: a 1 semester sabbatical for each 3 year appointment, 12 month appointments, guaranteed summer appointments, and a late career retirement salary enhancement.

This report represents the work of the BOR-UFF Joint Task Group on Multi-Year Appointments and is being transmitted for consideration in the 1998-2001 BOR-UFF Successor Agreement Negotiations.

Chuck Elkins for UNITED FACULTY OF FLORIDA, INC.

Roberta Maddox for FLORIDA BOARD OF REGENTS