

## ARTICLE 6

### FACULTY RIGHTS

#### **6.01 Continuation of Rights**

All rights, privileges, and benefits enjoyed by faculty members of Pensacola State College, except as modified by this CBA, shall remain in effect for the duration of this CBA.

#### **6.02 Academic Freedom**

##### A. Freedom of Expression

In recognition of the principle of academic freedom at Pensacola State College, the parties affirm that faculty members must be free of any arbitrary limitations on the study, investigation, presentation, or interpretation of facts and ideas. Academic freedom does not, however, allow an instructor the right to deviate from the general course description found in Pensacola State College's catalog or the major learning objectives specifically stated in the district course syllabus. Faculty members are entitled to that freedom of association and expression which is guaranteed to all persons by the First Amendment to the Federal Constitution.

When a faculty member writes or speaks, the public may judge both the faculty member's institution and profession by his or her statements. Therefore, the faculty member shall show appropriate respect for the opinions of others and in the expression of personal opinions indicate that he or she is not a spokesperson for Pensacola State College.

##### B. Grading Practices

###### 1. Evaluation

The evaluation of students and the assigning of grades are the prerogative and responsibility of the faculty member(s) assigned to teach the class in which the student is enrolled unless that faculty member is unable to do so. If that faculty member cannot or does not perform those duties, another faculty member may be assigned responsibility for the evaluations of the students. The faculty member assigned to evaluate another faculty member's students shall be compensated at the overload rate for the total number of hours beyond the normal workload in accordance with Article 15.

Faculty members have the responsibility to clearly explain in the section syllabus the process by which grades will be assigned. Except where explicitly precluded by state statute, students have the legal right to review during a scheduled meeting with the faculty member any test, exam, or other assignment used to determine their grade.

The official outcomes of such evaluations shall not be amended by the College except through mutual agreement with the faculty member, or unless so mandated as a result of the established student grade grievance procedure, appeals process, or-court proceedings. Any grade change as a result of the grade grievance procedure will be issued to the student and faculty member of record by the Registrar.

###### 2. Student Grade Grievance

Any student has the option of disputing any grade by following the Student Grade Grievance procedure as published in the Student Handbook section of the *College Catalog*). These processes must be initiated by the affected student. The Pensacola State College Faculty Association shall be notified of changes in the student grade grievance procedure. Although the Student Grade Grievance Procedure gives protection to the rights of a student, it must not be construed to negate the rights of faculty members to assess students and assign grades.

#### C. Course Development and Approval

Faculty members have a substantive role in both the determination of content and the approval of all credit courses included in the programs offered by the College. This responsibility is met by active participation in departmental meetings as well as the standing committees that are involved with curriculum, such as the Curriculum Council and the Distance Learning Committee.

#### D. Selection of Educational Materials

The selection of textbooks to be used is the prerogative and responsibility of the full-time discipline faculty members who teach the course, or have taught the course any time in the past two academic years, and shall be determined according to established procedure.

#### E. Professional Atmosphere

Faculty, other College employees, and students have a right to be treated in a professional fashion at all times. During personal interactions each will treat the others with respect and courtesy and will refrain from rude or unprofessional behavior.

### **6.03 Faculty Participation in Scheduling**

Departmental administrators will at all times be amenable to requests from faculty members within the departments for such information as the administrator has at the time concerning scheduling and assignments. Faculty members are encouraged to submit suggestions and recommendations as to scheduling and assignments which directly affect them and each will have an opportunity to review with the immediate supervisor his or her proposed schedule. The College will consult with an affected faculty member before significantly increasing the size of a section from that scheduled in prior semesters. Final decisions on scheduling and section size will be made by the College.

Whenever possible, faculty members will be notified in advance through normal departmental information channels of all new assignments and course and section offerings and will have the opportunity to apply for these new assignments and/or course and section offerings as part of their standard loads.

Once the faculty member's instructional schedule has been determined, the faculty member will schedule the times and locations of office hours and Other Professional Activity (OPA) hours. These hours will be scheduled within the normal operating hours of the College, unless approved by the faculty member's immediate supervisor, and student contact hours must be scheduled at times reasonably convenient for students. Those hours in excess of the 35 clock-hour week required as a result of overload assignments should be integrated with the scheduling of the normal work week.

### **6.04 Right to Privacy**

The private or personal life of faculty members, including but not limited to lifestyle, religious activities, or political activities, is not of concern to the College, and, therefore, the College shall take no action against a faculty member for such activities unless the activities are detrimental to the legitimate interests of the College.

#### **6.05 Surveillance Equipment**

The College agrees that security cameras and other surveillance equipment will not be used to record or monitor a faculty member's performance of his or her professional duties without the permission of the faculty member.

#### **6.06 Intellectual Property Rights**

##### **A. Ownership of Work Produced as Normal Duties**

The College shall be permitted use of all educational materials and products produced by a faculty member as a part of his or her normal duties subject to the following paragraph. Ownership of such materials and products shall be retained by the faculty member.

The College may use a faculty member's retired educational materials and products for any reason. The College may use a faculty member's current academic year educational materials and products for educational reasons with prior written approval of the faculty member. The College may use a faculty member's current academic year educational materials and products for educational or College business reasons without prior written approval where the College determines that exigent circumstances exist.

A faculty member approved to produce a work as a part of his or her normal duties may receive release time for the development of the work. All work produced by a faculty member using release time is the sole property of the College in accordance with a signed Intellectual Property Agreement for that product. The amount of release time will be recommended by the supervisor in consultation with the faculty member. The Vice President of Academic Affairs will make the final decision regarding release time awarded.

##### **B. Work For Hire**

All work produced by a faculty member outside of his or her normal duties and outside of the scheduled work week as defined by Article 9.01.C and not commissioned by the College shall belong to the faculty member.

Work that has been specifically ordered or commissioned by the College shall be negotiated between the faculty member and the College and the ownership and terms of the work shall be defined in an Intellectual Property Agreement (IPA) (Appendix P). Unless otherwise set forth in the IPA, all work for hire shall be owned and controlled by the College. A faculty member shall not expect payment for any work outside of normal duties without a completed IPA signed by the faculty member, the immediate supervisor, and the Vice President of Academic Affairs. Neither shall he or she use College resources not assigned to him or her and located in the assigned office for such work unless specified in a completed IPA.

A faculty member shall have five (5) working days from signing an IPA to cancel the agreement without penalty. The Vice President of Academic Affairs, upon signing, will provide a copy of the IPA to the faculty member and the President of the Pensacola State College Faculty Association.

### C. Faculty Member Compensation for Work for Hire

1. A faculty member who negotiates to produce a work for hire shall be compensated for the development of that work in accordance with a completed Intellectual Property Agreement (IPA), unless he or she voluntarily agrees in writing to waive compensation.
2. The amount of compensation will be recommended by the immediate supervisor in consultation with the faculty member. The Vice President of Academic Affairs will make the final decision regarding compensation.
3. When the College agrees to pay a faculty member for the production of work for hire, the parties involved will complete an Intellectual Property Agreement (IPA) between the College and the faculty member involved (see Appendix P). This IPA must specify the additional payment to be given the faculty member and the specific conditions applying to the production and future use of the work. A copy of all agreements shall be supplied to the PSCFA Board.
4. The intellectual property rights of the faculty member, as stipulated in the IPA, shall be transferable to the faculty member's heirs upon the death of the faculty member.

### D. Remediation Related to a Work Produced

A faculty member's failure to deliver work as specified in a completed IPA will result in one of the following actions, as determined by the College.

1. The project will be completed the following semester outside of the scheduled work week on a non-paid basis. If failure to complete the work or meet any benchmark defined in the IPA is the fault of the faculty member, the College will decide whether or not to have the work completed by the faculty member.
2. The IPA will be renegotiated to provide additional compensation to the faculty member if the inability to meet the conditions of the IPA was of no fault of the faculty member, and if the College decides to have the work completed.
3. The faculty member will be required to teach additional courses the following semester equivalent to the compensation or release time defined in the IPA.
4. The faculty member will repay the College an amount of money equivalent to the compensation or release time defined in the IPA.
5. Other terms may be negotiated upon mutual agreement by both the faculty member and the College.
6. The faculty member will notify his or her immediate supervisor and the Vice President of Academic Affairs in writing within two duty days of his or her expectation of being unable to meet any benchmark defined in the IPA. Failure to do so will constitute a breach of the IPA and grounds for the Administration to cancel the agreement and require the faculty member to remediate compensation to the College as defined in options 1 through 5 above.

### E. Use of Institutional Owned Work By Faculty Members

1. College owned works, including works for hire, produced by a faculty member may be claimed for promotion purposes.
2. College owned works, including works for hire, produced by a faculty member may be claimed in his or her vitae and samples of the works may be utilized by the faculty member as an exhibit within his or her vitae provided College ownership is acknowledged.
3. The faculty member will also receive credit for up to one-half of his or her Faculty Development Plan for a course developed as a work for hire.

#### F. Dispute Resolution

Disputes between the author(s) of a work and the College will be heard by a five-person ad hoc committee convened by the Vice President of Academic Affairs for the purpose of determining ownership of a work or the application of the sections of the CBA that apply to such works. The committee shall be comprised of two voting members chosen by the faculty, two voting members chosen by the College, and a chair chosen by the College and voting only in case of a tie. The majority recommendation of the committee shall be provided to the President of the College within five (5) working days and both parties within ten (10) working days of the hearing. If the President decides in agreement with the recommendation of the committee, the decision shall be binding and not subject to a grievance.

#### G. Royalties, Copyrights, and Patents

As between the College and the faculty member, the faculty member has the right to ownership of all work products, including any patent rights, copyrights, and royalties, if such products are the result of the faculty member's independent labor outside of the scheduled work week, are not the product of a specific agreement with the College, and do not result from the use of College resources not freely available to the public. All associated profits derived there from shall inhere solely to the faculty member, with the following exception: for any work product or required textbook authored by a faculty member and selected for use by the College, the royalties shall be remitted to the College and deposited in the Faculty Authors' Account in the Loan Fund to provide short term loans to students.

Ownership of copyrights, royalties, patents, and associated profits shall be individually negotiated between the faculty member and the College whenever College resources, not freely available to the public, are utilized to develop the product or the product is developed during the scheduled work week.

### **6.07 Legal Assistance**

Faculty members shall have the right to petition the College to provide free legal assistance in work-related disputes. The petition shall be addressed to the sound discretion of the College. By electing to provide legal assistance, the College does not, and shall not be deemed to, assume any partisan role in any legal action or any monetary liability beyond its commitment as limited by the College to pay attorney's charges.

When a legal action is brought against the College in its official capacity and one or more faculty members as co-defendants, the College's legal counsel will also furnish representation to the faculty member co-defendant(s), so long as (1) the College continues to be a defendant in the case in the same status as the defendant faculty member(s), and (2) the cost of the legal representation is not greater than if the College were defending itself only. The College will not be deemed to be

in the same status as the defendant faculty member(s) if the action has been dismissed as against the College, and the College remains in the case for purposes of related proceedings, such as an appeal, when the faculty member defendant(s) is in a different situation.

It is understood and agreed that any attorney employed by the College will be obliged to represent the College interest and that a conflict of interest may exist or arise between co-defendants in any legal proceedings. A faculty member who is a co-defendant with the College in any such proceedings and who is represented by the same counsel as the College, must take cognizance of this possibility and be responsible for deciding whether, at any point, to employ separate counsel at his or her own expense.

#### **6.08 Outside Employment and Consultant Activities**

The College recognizes that faculty members may engage in outside employment and consultant activities, including being employed by another institution. The College will not interfere with faculty members engaging in such activities unless it can clearly determine that such activities have an adverse effect on the faculty member's performance of his or her college duties as specified in this Collective Bargaining Agreement. Such determination shall not be made in an arbitrary and capricious manner. No outside employment or consultant activities shall occur during scheduled working hours as defined in Section 9.01.B. College resources shall not be used for outside employment or consultant activities. It is understood and agreed that all compensation earned from such activities are the property of the faculty member who earns it.

If the faculty member is employed by another institution to teach a course which is the same as one in the College course file, the faculty member shall inform his or her immediate supervisor of those activities in writing, in advance when possible.

The provisions of the above paragraph which require notification shall not apply during any summer semester in which the faculty member has not contracted to teach for the College.

#### **6.09 Seniority**

For matters subject to collective bargaining, seniority for a faculty member shall be based on, in the following order, rank, years in rank, date of hire at Pensacola State College as a full-time faculty member, and highest degree/credential held in-field. Time spent on paid leaves of absence shall for all purposes be counted in computing a faculty member's seniority. Time spent on unpaid leaves of absence and layoff shall not be counted in computing seniority.

#### **6.10 Use of Part-Time and Full-Time Faculty**

##### **A. Proportion of Full-Time and Part-Time Faculty**

The two parties recognize that the unavailability of full-time faculty members or temporary shifts in student population are among the most important factors that necessitate the use of part-time faculty. The two parties agree that the part-time faculty serve a necessary role and that the educational mission of the College is served by a reasonable proportion of full-time and part-time faculty. In recognition of these factors, the College agrees that it will maintain a reasonable and educationally sound proportion of full-time and part-time faculty throughout the College and throughout the academic year.

The parties agree that the full-time faculty members represent a valued pool of experts from which overload assignments may be drawn. Accordingly, the College shall give reasonable good faith consideration to all requests from full-time faculty members wishing to work

overload assignments. The parties agree, however, that all scheduling decisions, including the assignment of overloads, shall be made by the College, and that nothing in this Agreement shall be construed to give full-time faculty members any preferential right, from a legal standpoint, to work beyond the standard load as specified in Article 9.

#### B. Process by Which Full-Time Faculty Members Apply for Overload/Summer Assignment

The parties agree that the overload assignment process, including the summer assignments, depends upon two-way communication within the department. All final scheduling decisions, however, rest with the College.

##### 1. Requesting an Overload Assignment for Fall or Spring Semester

Each semester, any faculty member who desires to teach an overload shall file a written request with his or her immediate supervisor. Throughout the semester, the immediate supervisor shall openly publicize the availability of possible overload assignments.

##### 2. Requesting or Declining a Guaranteed Summer Assignment

Not later than January 15 of each year, the faculty member will complete the form in Appendix U-1 and submit it to his or her immediate supervisor. This form is used by the instructional or library faculty member to request his or her preferred assignment or to decline a summer assignment. By February 15, the immediate supervisor shall notify the faculty member in writing on the same form either that the request is accepted as submitted or that an alternate assignment is available. (If the preferred assignment is not accepted, the faculty member may still be offered such an assignment if it becomes available at a later date.) The faculty member shall have until March 1 to decline the assignment after which date both the faculty member and the College shall be obligated to honor the summer assignment provided that enrollment is sufficient as determined solely by the Administration. If enrollment is determined by the Administration to be insufficient, the immediate supervisor shall offer the faculty member an alternate available assignment to satisfy the summer assignment. Counseling faculty will request or decline their 120-hour guaranteed summer assignment not later than January 15. If requested, the assignment will be scheduled in coordination with the 164-day contract. The immediate supervisor will prepare the schedule in accordance with Article 9.03 and in consultation with the counseling faculty member. The scheduled assignment shall be offered not later than February 15. The faculty member shall have until March 1 to decline the assignment after which date both the faculty member and the College shall be obligated to honor the resulting assignment, including the 164-day contract (Appendix U-2).

##### 3. Criteria

The criteria used to determine overload assignments, including additional hours in the summer semester, shall be based upon program and student needs and shall be in the best interests of the College. If, in the sole judgment of the College, the faculty member is the best choice for the assignment, the faculty member may then be offered the assignment. The College does not have a specified cap on the number of overload sections assigned to a faculty member. Therefore, while this factor may be used in determining the best choice for the overload assignment, it shall not be used as a sole basis for the decision.

If two or more full-time faculty members who apply for the same assignment are determined by the College to be equivalent choices, seniority at the College will be used

as the deciding factor for the first such instance in any academic year. In subsequent sessions of the academic year, requests for overload assignments for that same course will be awarded by rotating among the faculty members concerned by descending seniority.

C. Requesting Overload Assignments Outside of the Faculty Member's Department

A faculty member may, at any time, request an overload assignment outside of his or her assigned department from the immediate supervisor of the department in which the overload will be taught. Once such a tentative assignment has been offered, the faculty member will complete and submit Appendix U-3 to his or her assigned immediate supervisor. The request should be specific regarding the assignment requested and should reflect the benefits to the faculty member and the College. The request may include summer assignments including the guaranteed summer assignments.

The faculty member's assigned immediate supervisor will forward the request to the Dean with a recommendation for approval or disapproval. The Dean will make the final decision regarding the request. Recommendations for disapproval must include an explanation for the recommendation.

The assignment of overloads is the responsibility of the College. The approval or disapproval of an overload request does not impact other articles of the CBA which clearly specify that the final decision regarding faculty scheduling, including overloads, will be made by the College.