

**MANAGEMENT AGREEMENT
BETWEEN
THE COMMONWEALTH OF VIRGINIA
AND
VIRGINIA POLYTECHNIC INSTITUTE
AND STATE UNIVERSITY
PURSUANT TO
THE RESTRUCTURED HIGHER EDUCATION
FINANCIAL AND ADMINISTRATIVE OPERATIONS
ACT OF 2005**

**THE BOARD OF VISITORS
OF
VIRGINIA POLYTECHNIC INSTITUTE
AND STATE UNIVERSITY**

**POLICY GOVERNING
HUMAN RESOURCES FOR
PARTICIPATING COVERED EMPLOYEES
AND OTHER UNIVERSITY EMPLOYEES**

November 15, 2005

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**THE BOARD OF VISITORS OF VIRGINIA POLYTECHNIC INSTITUTE
AND STATE UNIVERSITY
POLICY GOVERNING HUMAN RESOURCES FOR
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AND OTHER UNIVERSITY EMPLOYEES**

I. PREAMBLE.

The Restructured Higher Education Financial and Administrative Operations Act (the “Act”), Chapter 4.10 of Title 23 of the Code of Virginia, establishes a process for the restructuring of institutions of higher education of the Commonwealth of Virginia and provides that upon becoming a Covered Institution, the University shall have responsibility and accountability for human resources management for all University employees, defined in the Act as “Covered Employees,” who pursuant to subsection A of § 23-38.114 of the Act “are state employees of” the University. Specifically, the Act provides that, as of the Effective Date of its initial Management Agreement with the Commonwealth, all Classified Employees shall continue to be covered by the Virginia Personnel Act, Chapter 29 (§ 2.2-2900 et seq.) of Title 2.2 of the Code of Virginia, and shall be subject to the policies and procedures prescribed by the Virginia Department of Human Resource Management, provided that they may subsequently elect to become Participating Covered Employees. All Participating Covered Employees shall: (i) be exempt from the Virginia Personnel Act, Chapter 29 (§ 2.2-2900 et seq.) of Title 2.2; (ii) remain subject to the state grievance procedure for employees subject to the Virginia Personnel Act, Chapter 30 (§ 2.2-3000 et seq.) of Title 2.2, provided they were subject to the state grievance procedure prior to that Effective Date; (iii) participate in a compensation plan that is subject to the review and approval of the Board of Visitors; (iv) be hired pursuant to procedures that are based on merit and fitness; and (v) may, subject to certain specified conditions, continue to

participate in either state- or University-sponsored benefit plans as described by the Management Agreement.

The provisions of this Policy are adopted by the Board of Visitors to implement the Governing Law and constitute the human resources policies to be included in any human resources system adopted by the University for its employees.

This Policy is intended to cover the authority that may be granted to the University pursuant to Subchapter 3 of the Act. Any other powers and authorities granted to the University pursuant to the Appropriation Act, or any other sections of the Code of Virginia, including other provisions of the Act and the University's Enabling Legislation, are not affected by this Policy.

DEFINITIONS.

As used in this policy, the following terms shall have the following meanings, unless the context requires otherwise:

“**Act**” means the Restructured Higher Education Financial and Administrative Operations Act, Chapter 4.10 of Title 23 of the Code of Virginia.

“**Board of Visitors**” or “**Board**” means the Board of Visitors of Virginia Polytechnic Institute and State University.

“**Classified Employees**” means employees who are covered by the Virginia Personnel Act, Chapter 29 (§ 2.2-2900 et seq.) of Title 2.2 of the Code of Virginia, and the policies and procedures established by the Virginia Department of Human Resource Management and who are not Participating Covered Employees.

“**Covered Employee**” means any person who is employed by the University on either a salaried or non-salaried (wage) basis.

“Covered Institution” means, on and after the Effective Date of its initial Management Agreement with the Commonwealth of Virginia, a public institution of higher education of the Commonwealth that has entered into a Management Agreement with the Commonwealth to be governed by the provisions of Subchapter 3 of the Act.

“Employee” means Covered Employee unless the context clearly indicates otherwise.

“Enabling Legislation” means those chapters, other than Chapter 4.10, of Title 23 of the Code of Virginia, as amended, creating, continuing, or otherwise setting forth the powers, purposes, and missions of the University.

“Effective Date” means the effective date of the initial Management Agreement between the University and the Commonwealth.

“Governing Law” means the Act and the University’s Enabling Legislation.

“Management Agreement” means the agreement required by subsection D of § 23-38.88 of the Act between the University and the Commonwealth.

“Participating Covered Employee” means (i) all salaried nonfaculty University employees who were employed as of the day prior to the Effective Date of the University’s initial Management Agreement with the Commonwealth, and who elect pursuant to § 23-38.115 of the Act to participate in and be governed by such human resources program or programs, plans, policies, and procedures established by Virginia Polytechnic Institute and State University, (ii) all salaried nonfaculty University employees who are employed by the University on or after the Effective Date of the initial Management Agreement between the University and the Commonwealth, (iii) all non-salaried nonfaculty University employees without regard to when they were hired, (iv) all faculty University employees without regard to when they were hired.

“University” means Virginia Polytechnic Institute and State University, consisting of the University Division (State Agency 208) and Virginia Cooperative Extension and the Agriculture Experiment Station Division (State Agency 229).

“University employee” means a Covered Employee.

“University Human Resources System” means the human resources system for University employees as provided for herein.

III. SCOPE AND PURPOSE OF UNIVERSITY HUMAN RESOURCES POLICIES.

The University has had human resources system autonomy through decentralization and codified autonomy for its employees for some time. For example, general faculty at the University are expressly exempt from the Virginia Personnel Act. The University has had decentralization in most human resources functions and activities since the late 1980s and early 1990s, including, but not limited to, the running of payrolls; the administration of hiring, classification, and promotion practices; the administration of separate health insurance and retirement plans.

The Act extends and reinforces the human resources autonomy previously granted to the University. This Policy therefore is adopted by the Board of Visitors to enable the University to develop, adopt, and have in place by or after the Effective Date of its initial Management Agreement with the Commonwealth, a human resources system or systems for all University employees. On that Effective Date, and until changed by the University or unless otherwise specified in this Policy, the systems for University employees shall be the same systems applicable to those employees in effect immediately prior to that Effective Date.

IV. BOARD OF VISITORS ACCOUNTABILITY AND DELEGATION OF AUTHORITY.

The Board of Visitors of the University shall at all times be fully and ultimately accountable for the proper fulfillment of the duties and responsibilities set forth in, and for the appropriate implementation of, this Policy. Consistent with this full and ultimate accountability, however, the Board may, pursuant to its legally permissible procedures, specifically delegate either herein or by separate Board resolution the duties and responsibilities set forth in this Policy to a person or persons within the University, who, while continuing to be fully accountable for such duties and responsibilities, may further delegate the implementation of those duties and responsibilities pursuant to the University's usual delegation policies and procedures.

V. VIRGINIA POLYTECHNIC INSTITUTE AND STATE UNIVERSITY HUMAN RESOURCES SYSTEMS.

A. Adoption and Implementation of University Human Resources Systems.

The President, acting through the Executive Vice President and Chief Operating Officer, is hereby authorized to adopt and implement human resources systems for University employees that implement and are consistent with the Governing Law, other applicable provisions of law, these University human resources policies, and any other human resources policies adopted by the Department of Human Resource Management or the Board of Visitors for University personnel, unless University employees are exempted from those other human resources policies by law or policy. The University Human Resources Systems shall include a delegation of personnel authority to appropriate University officials responsible for overseeing and implementing the University Human Resources Systems, including a grant of authority to such

officials to engage in further delegation of authority as the President or his designee deems appropriate.

The University commits to regularly engage employees in appropriate discussions and to receive employee input as the new University Human Resources Systems are developed. The University will regularly communicate the details of new proposals to all employees who are eligible to participate in the new University Human Resources System through written communication, open meetings, and website postings as appropriate, so that employees will have full information that will help them evaluate the merits of the new human resource system compared to the then-current State human resource system.

Effective on the Effective Date of its initial Management Agreement with the Commonwealth, and until amended as described below, the University's human resources systems shall consist of the following:

1. the current human resources system for faculty described in the Virginia Tech Faculty Handbook and Special Research Faculty Handbook as posted on the University's web site, <http://www.policies.vt.edu/>, and periodically amended; and
2. the current human resources system for "Classified Employees" as posted on the Virginia Department of Human Resource Management website at <http://www.dhrm.state.va.us/hrpolicy/policy.htm> and the University's website, <http://www.policies.vt.edu/>, and Human Resources' website, <http://www.hr.vt.edu>, as periodically amended;
3. the Human Resources System for salaried nonfaculty "Participating Covered Employees," as posted on the University's website, <http://www.policies.vt.edu>, and Human Resources' website, [http://www.hr.vt.edu/](http://www.hr.vt.edu), as periodically amended; and

4. the Human Resource System for wage employees as set forth in the current Virginia Tech policies, procedures, and guidelines, as posted on the University's website, <http://www.policies.vt.edu/>, and Human Resource' website, <http://www.hr.vt.edu/>, as periodically amended, and for graduate students employed on assistantships as set forth in the Virginia Tech Graduate School policies, as posted on the Graduate School website, <http://www.grads.vt.edu/>, as periodically amended.

All the systems described above, except the system described in paragraph 2, may be amended by the President, acting through the Executive Vice President and Chief Operating Officer, consistent with these human resources policies. The system described in paragraph 2 may be amended only by the State.

B. Training in and Compliance with Applicable Provisions of Law and Board of Visitors' Human Resources Policies.

The President, acting through the Executive Vice President and Chief Operating Officer, shall take all necessary and reasonable steps to assure (i) that the University officials who develop, implement and administer the University Human Resources Systems authorized by Governing Law and these human resources policies are knowledgeable regarding the requirements of the Governing Law, other applicable provisions of law, these University human resources policies, and other applicable Board of Visitors' human resources policies affecting University employees, and (ii) that compliance with such laws and human resources policies is achieved.

VI. HUMAN RESOURCES POLICIES.

The Human Resources Systems adopted by the University pursuant to Governing Law and this Policy, as set forth in Section V above shall embody the following human resources policies and principles:

A. Election by Salaried Nonfaculty University Employees. Upon the adoption by the University of a University Human Resources System, all salaried nonfaculty University employees who were in the employment of the University as of the day prior to the Effective Date of its initial Management Agreement with the Commonwealth, shall be given written notice of their right to elect to participate in and be governed by either (i) the State human resources program set forth in Chapters 28 (§ 2.2-2800 et seq.) and 29 (§ 2.2-2900 et seq.) of Title 2.2 of the Code of Virginia and administered by the Department of Human Resource Management, or (ii) the University Human Resources System. A salaried nonfaculty University employee who elects to continue to be governed by the State human resources program described above shall continue to be governed by all State human resources and benefit plans, programs, policies and procedures that apply to and govern State employees. A salaried nonfaculty University employee who elects in writing to participate in and be governed by the University Human Resources System, also, by that election, shall be deemed to have elected to be eligible to participate in and to be governed by the human resources, authorized alternative insurance, and severance plans, programs, policies and procedures that are or may be adopted by the University as part of that University Human Resources System.

Each such salaried nonfaculty University employee, shall be given at least 90 days to make the election required by the prior paragraph. Such 90 day period shall begin to run on the date on which the University Human Resources System becomes effective for that University

employee's classification of employees. If such a salaried nonfaculty University employee does not make an election by the end of that specified election period, that University employee shall be deemed not to have elected to participate in the University Human Resources System. If such a salaried nonfaculty University employee elects to participate in the University Human Resources System, that election shall be irrevocable. At least every two years, the University shall offer to salaried nonfaculty University employees who have elected to continue to participate in the state human resources program set forth in Chapters 28 (§ 22.-2800 et seq.) and 29 (§ 2.2-2900 et seq.) of Title 2.2 an opportunity to elect to participate in the University Human Resources System; provided that, each time prior to offering such opportunity to such salaried nonfaculty University employees, and at least once every two years after the effective date of the University Human Resources System, the University shall make available to each of its salaried nonfaculty University employees a comparison of its human resources program for that classification of salaried nonfaculty University employee with the State human resources program for comparable State employees, including but not limited to a comparability assessment of compensation and benefits. A copy of the human resources program comparison shall be provided to the Department of Human Resource Management.

B. Classification and Compensation.

1. *General.* The Systems shall include classification and compensation plans that are fair and reasonable, and are based on the availability of University financial resources. The plans adopted by the University for its faculty and other Participating Covered Employees shall be independent of, and need not be based on, the classification and compensation plans of the Commonwealth, do not require the approval of any State agency or officer, and shall be subject to the review and approval by the Board of Visitors as set forth in paragraph 3 below. The

University shall provide information on its classification and compensation plans to all University employees. The plans applicable to Participating Covered Employees may or may not include changes in classification or compensation announced by the Commonwealth depending on such factors as the availability of necessary financial resources to fund any such changes, and subject to the review and approval by the Board of Visitors of any major changes in the University's compensation plans.

2. *Classification Plan.* The Systems shall include one or more classification plans for University employees that classify positions according to job responsibilities and qualifications. On the Effective Date of the University's initial Management Agreement with the Commonwealth, and until changed by the University, the classification plans shall be the same plans that are in effect for each group of employees immediately prior to that Effective Date.

3. *Compensation Plan.* The Systems shall include one or more compensation plans for each University employee classification or group. On the Effective Date of the University's initial Management Agreement with the Commonwealth, and until changed by the Department of Human Resource Management, the compensation plan for Classified Employees shall be the compensation plan in effect immediately prior to that Effective Date, known as the Commonwealth's Classified Compensation Plan. On that Effective Date, and until changed by the University, the compensation plan or plans for all Participating Covered Employees shall be the compensation plan or plans in effect immediately prior to that Effective Date. The University may adopt one or more compensation plans for Participating Covered Employees that are non-graded plan(s) based on internal and external market data and other relevant factors to be determined annually. Any major change in compensation plans for Participating Covered Employees shall be reviewed and approved by the Board of Visitors before that change becomes

effective. Any change recommended in the compensation plans may take into account the prevailing rates in the labor market for the jobs in question, or for similar positions, the relative value of jobs, the competency and skills of the individual employee, internal equity, and the availability of necessary financial resources to fund the proposed change. The compensation payable to University employees shall be authorized and approved only by designated University officers delegated such authority by the University, and shall be consistent with the approved compensation plan for the relevant position or classification. Further approval by any other State Agency, governmental body or officer is not required for setting, adjusting or approving the compensation payable to individual Participating Covered Employees.

4. *Wages.* The Systems shall include policies and procedures for the authorization, computation and payment of wages, where appropriate, for such premium pays as overtime, shift differential, on call, and call back, and for the payment of hourly employees.

5. *Payment of Compensation.* The Systems shall include policies and procedures for paying compensation to employees, including the establishment of one or more payday schedules.

6. *Work Schedule and Workweek.* The Systems shall include policies and procedures for the establishment of, and modifications to, work schedules and workweeks for all University employees, including alternative work schedules and sites, and telecommuting policies and procedures.

7. *Other Classification and Compensation Policies and Procedures.* The Systems may include any other reasonable classification and compensation policies and procedures the President, acting through the Executive Vice President and Chief Operating Officer, deems appropriate.

C. Benefits.

The Systems shall provide fringe benefits to all benefits eligible employees, including retirement benefits, health care insurance, life, disability, and accidental death and dismemberment insurance. The benefits provided shall include a basic plan of benefits for each benefits eligible employee, and may include an optional benefits plan for benefits eligible employees, including additional insurance coverage, long-term care, tax deferred annuities, flexible reimbursement accounts, employee assistance programs, employee intramural and recreational passes, and other wellness programs. As provided in subsections B and C of § 23-38.119 of the Act, the University may require Participating Covered Employees to pay all or a portion of the cost of group life, disability and accidental death and dismemberment insurance, which may be collected through a payroll deduction program. Participating Covered Employees shall not be required to present evidence of insurability for basic group life insurance coverage. The Board of Visitors may elect to provide benefits through Virginia Retirement System group insurance programs under the terms of and to the extent allowed by subsections B and D of § 23-38.119. of the Act or any other provision of law.

Notwithstanding the above, pursuant to subsection A of § 23-38.114 of the Act, and unless and until that section is amended, the state retirement system, state health insurance program, and state workers' compensation coverage program as they may be amended from time to time, shall continue to apply to and govern all eligible University employees. If, however, the University has been or is permitted by law other than the Act to establish an alternative health insurance plan or an alternative faculty retirement plan or plans, such alternative health insurance or faculty retirement plan or plans shall apply to and govern the University employees included in such plan or plans.

The Systems may provide different benefits plans for reasonably different groups or classifications of employees, and may provide benefits to part-time employees. On the Effective Date of the University's initial Management Agreement with the Commonwealth, and until changed by the appropriate governing authority, the benefits plans provided by the University to Classified Employees and Participating Covered Employees shall be the benefits plans provided to that group or classification as of the date immediately prior to that Effective Date. On or after that Effective Date, alternative University group life, accidental death and dismemberment, and short- and long-term disability plans may be provided to eligible Participating Covered Employees, or at the election of the Board of Visitors and subject to the execution of participation agreements as provided in subsections B and C of § 23-38.119 of the Act, they may be provided by the appropriate State programs, but no contributions to the State programs by the University shall be required for Participating Covered Employees who do not participate in the programs. Subject to the provisions of the Act, any new plans, programs and material changes permitted under current law in University employee benefit plans, other than Classified Employee benefits plans, shall be approved by the Board of Visitors, including the authority to increase the Cash Match Contribution rate up to the limit permitted by the Code of Virginia based on available resources, and the authority to implement cafeteria-style benefits for University employees other than Classified Employees.

Insurance and all proceeds there from provided pursuant to § 23-38.119 of the Act shall be exempt from legal process and may be subject to assignment as provided in subsection A of § 23-38.119.

D. Employee Relations.

1. *General.* The Systems shall contain provisions that protect the rights and privileges of University employees consistent with sound management principles and fair employment practice law. At regular intervals, the University shall engage in consultations and discussions with, and receive input from, diverse employee groups regarding human resources issues, including the University Human Resources System.

2. *Employee Safety and Health.* The Systems shall contain provisions that promote workplace safety compliance with applicable law and regulations.

3. *Employee Work Environment.* The Systems shall promote a work environment that is conducive to the performance of job duties, and free from intimidation or coercion in violation of State or federal law, including sexual harassment or other discrimination.

4. *Employee Recognition.* The Systems may provide for the use of leave awards and bonuses specific to policies and procedures for awarding, honoring, or otherwise recognizing University employees, including but not limited to those who have performed particularly meritorious service for the University, have been employed by the University for specified periods of time, or have retired from the University after lengthy service.

5. *Counseling Services.* The Systems shall provide counseling services through the State's Employee Assistance Program or a University Employee Assistance Program to any eligible University employee experiencing job-related difficulties and seeking counseling for those difficulties, and shall establish the circumstances under which the time necessary to participate in such counseling may be granted.

6. *Unemployment Compensation.* The Systems shall ensure that University employees receive the full unemployment compensation benefits to which they are legally entitled, and that the University's liability is limited to legitimate claims for such benefits.

7. *Workers' Compensation.* The Systems shall ensure that University employees have workers' compensation benefits to which they are legally entitled pursuant to the State Employees' Workers Compensation Program administered by the Department of Human Resource Management.

8. *Performance Planning and Evaluation.* The Systems shall include one or more performance planning and evaluation processes for University employees that (i) establish and communicate the University's performance expectations, (ii) help develop productive working relationships, (iii) allow employees to present their views concerning their performance, (iv) identify areas for training or professional development, (v) establish the process by which evaluations shall be conducted, (vi) clarify how superlative or inadequate performance shall be addressed, and (vii) ensure that all University employees are provided relevant information on the evaluation process. The Systems may include separate performance and evaluation processes for reasonably distinguishable groups of University employees. On the Effective Date of the University's initial Management Agreement with the Commonwealth, the existing merit-based performance management system for faculty shall continue, until amended by the University. On or after that Effective Date, nonfaculty salaried Participating Covered Employees may be subject to a variable merit-based performance management system.

9. *Standards of Conduct and Performance.* In order to protect the well-being and rights of all employees and to ensure safe, efficient University operations and compliance with the law, the Systems shall establish rules of personal conduct and standards of acceptable work

performance for University salaried nonfaculty employees and policies for corrective discipline. In general, the policies for corrective discipline shall serve to (i) establish a uniform and objective process for correcting or disciplining unacceptable conduct or work performance, (ii) distinguish between less serious and more serious actions of misconduct and provide corrective action accordingly, and (iii) limit corrective action to employee conduct occurring only when employees are at work or are otherwise representing the University in an official or work-related capacity, unless otherwise specifically provided by the policies of the Systems or other applicable law. The Systems may provide for a probationary period for new and re-employed University salaried nonfaculty employees, during which period the policies for corrective discipline shall not be applicable and the employee may not use the grievance procedure set forth in the next paragraph. The Systems may include separate rules of personal conduct and standards of acceptable work performance and policies for corrective discipline for reasonably distinguishable groups of University employees.

10. *Grievance Procedure.* As provided in the Governing Law, employees shall be encouraged to resolve employment-related problems and complaints informally, and shall be permitted to discuss their concerns freely and without fear of retaliation with immediate supervisors and management. In the event that such problems cannot be resolved informally, all salaried nonfaculty University employees, regardless of their date of hire, shall have access, as provided in subsection A of § 23-38.114 and in § 23-38.117 of the Act, to the State Grievance Procedure, Chapter 30 (§ 2.2-3000 et seq.) of Title 2.2 of the Code of Virginia, to the extent it was applicable to their classification of employees prior to the Effective Date of the University's initial Management Agreement with the Commonwealth. On that Effective Date, and until

changed by the University, the faculty grievance procedures in effect immediately prior to the Effective Date shall continue.

11. *Discrimination Complaints.* If a Classified Employee believes discrimination has occurred, the Classified Employee may file a complaint with the Department of Human Resource Management, Office of Equal Employment Services, with the appropriate University office, or with the appropriate federal agencies. All Participating Covered Employees and applicants for employment after the Effective Date of the University's initial Management Agreement with the Commonwealth shall file a complaint with the appropriate University office or with the appropriate federal agencies.

12. *Layoff Policy.* The Systems shall include one or more layoff policies for salaried University employees who lose their jobs for reasons other than their job performance or conduct, such as a reduction in force or reorganization at the University. These University layoff policies shall govern such issues as (i) whether there is a need to effect a layoff, (ii) actions to be taken prior to a layoff, (iii) notice to employees affected by a layoff, (iv) placement options within the University or its respective major divisions and within other parts of the University, (v) the preferential employment rights, if any, of various University employees, (vi) the effect of layoff on leave and service, and (vii) the policy for recalling employees. In accordance with the terms of the Act, University employees who: (i) were employed prior to the Effective Date of the University's initial Management Agreement with the Commonwealth, (ii) would otherwise be eligible for severance benefits under the Workforce Transition Act, (iii) were covered by the Virginia Personnel Act prior to that Effective Date, and (iv) are separated because of a reduction in force shall have the same preferential hiring rights with State agencies and other executive branch institutions as Classified Employees have under § 2.2-3201 of the Code of Virginia.

Conversely, the University shall recognize the hiring preference conferred by § 2.2-3201 on State employees who were hired by a State agency or executive branch institution before the Effective Date of the University's initial Management Agreement with the Commonwealth and who were separated after that date by that State agency or executive branch institution because of a reduction in workforce. If the University has adopted a classification system pursuant to § 23-38.116 of the Act that differs from the classification system administered by the Department of Human Resource Management, the University shall classify the separated employee according to its classification system and shall place the separated employee appropriately. The University may include separate policies for reasonably distinguishable groups of University employees. On or after the Effective Date of the University's initial Management Agreement with the Commonwealth, all employees from other State agencies and executive branch institutions who are placed by the University under the provisions of the State Layoff Policy shall be Participating Covered Employees.

13. *Severance Benefits.* In accordance with the terms of the Act, the University shall adopt severance policies for salaried Participating Covered Employees who are involuntarily separated for reasons unrelated to performance or conduct. The terms and conditions of such policies shall be determined by the Board of Visitors. Classified Employees who otherwise would be eligible and were employed prior to the Effective Date of the University's initial Management Agreement with the Commonwealth shall be covered by the Workforce Transition Act, Chapter 32 (§ 2.2-3200 et seq.) of Title 2.2 of the Code of Virginia. The University and the Board of the Virginia Retirement System may negotiate a formula according to which cash severance benefits may be converted to years of age or creditable service for Participating Covered Employees who participate in the Virginia Retirement System. An employee

becoming, on such Effective Date, a Covered Employee shall not constitute a severance or reduction in force to which severance or Workforce Transition Act policies would apply.

14. *Use of Alcohol and Other Drugs.* The Systems shall include policies and procedures that (i) establish and maintain a work environment at the University that is free from the adverse effect of alcohol and other drugs, (ii) are consistent with the federal Drug-Free Workplace Act of 1988 and with the Virginia Polytechnic Institute and State University Alcohol and Other Drugs Policy, (iii) describe the range of authorized disciplinary action, including termination where appropriate, for violations of such policies and procedures, and the process to be followed in taking such disciplinary action, (iv) provide University employees access to assistance and treatment for problems involving alcohol and other drugs, (v) provide for the circumstances under which employees are required to report certain violations of the policies and procedures to their supervisor, and the University is required to report those violations to a federal contracting or granting agency, (vi) describe the circumstances under which personnel records of actions taken under the University's alcohol and other drugs policy shall not be kept confidential, and (vii) provide notice to University employees of the scope and content of the University alcohol and other drugs policy. As part of this alcohol and other drugs policy, and in compliance with the federal Omnibus Transportation Employee Testing Act of 1991, the Systems may provide for pre-employment, reasonable suspicion, random, post-accident, return-to-duty and follow-up alcohol and other drug testing for University positions that are particularly safety sensitive, such as those requiring a Commercial Driver's License or the provision of patient care.

15. *Background Checks.* The Systems shall include a process for conducting background checks, which may include but is not limited to reference checks, educational/

professional credentialing checks, and conviction and driver's records checks on applicants for full-time or part-time positions at the University, and for addressing situations where employees do not disclose a conviction on their application or otherwise falsify their application with regard to information concerning their education/professional credential and/or prior convictions.

16. *Other Employee Relations Policies and Procedures.* The Systems shall include any other reasonable employee relations policies or procedures that the President, acting through the Executive Vice President and Chief Operating Officer, deems appropriate, which may include, but are not limited to, policies or procedures relating to orientation programs for new or re-employed University employees, an employee suggestion program, the responsibility of University employees for property placed in their charge, work breaks, inclement weather and emergencies, and employment outside the University.

E. Leave and Release Time.

The Systems shall include policies and procedures regarding leave for eligible employees. The Systems shall provide reasonable paid leave for purposes such as holidays, vacation, or other personal uses. The Systems may provide for release time for such matters as the donation of blood, participation in an employee assistance program and other appropriate employment-related matters. On or after the Effective Date of its initial Management Agreement with the Commonwealth, and until a new program is adopted by the appropriate authority, the University shall continue to provide leave and release time to Participating Covered Employees in accordance with the leave and release time policies and procedures applicable to each classification of employees prior to that Effective Date. On or after that Effective Date, the University may provide an alternative leave and release time system for salaried nonfaculty Participating Covered Employees.

F. Equal Employment Opportunity, Nondiscrimination, Employment, and Separation.

1. *Equal Employment Opportunity and Nondiscrimination.* The Systems shall contain policies and procedures to ensure that all aspects of human resources management, including the employment of University employees, meet all requirements of federal and state law, and of the relevant policies of the Board of Visitors, with regard to equal employment opportunity and nondiscrimination.

2. *Employment.* The Systems shall include policies and procedures for the recruitment, selection and hiring of University employees that are based on merit and fitness, including where appropriate a requirement for job posting, interviews, pre-employment testing, pre-employment drug testing, reference checks and conviction record checks. On and after the Effective Date of its initial Management Agreement with the Commonwealth, the University shall post all salaried nonfaculty position vacancies through the University's job posting system, the Commonwealth's job posting system, and other external media as appropriate. The Systems shall establish designated veterans' re-employment rights in accordance with applicable law.

In order to encourage employees to attain the highest level positions for which they are qualified, and to compensate employees for accepting positions of increased value and responsibility, the Systems shall include policies and procedures governing the promotion of employees, including the effect of promotion on an employee's compensation.

On or after the Effective Date of the University's initial Management Agreement with the Commonwealth, all employees hired from other state agencies shall be Participating Covered Employees. University Classified Employees who change jobs within the University through a competitive employment process – i.e., promotion or transfer – shall have the choice of

remaining a Classified Employee or becoming a Participating Covered Employee. If a Classified Employee elects to become a Participating Covered Employee, that decision shall be irrevocable.

3. *Notice of Separation.* The Systems shall include policies and procedures requiring reasonable notice, where appropriate, of a decision either by the employee or by the University to separate the employee from the University in accordance with policies governing performance, conduct, or layoff.

G. Information Systems.

The University shall provide an electronic file transfer of information on all salaried University employees and shall continue to provide the Employee Position Reports to meet the human resources reporting requirements specified by law or by request of the Governor or the General Assembly, unless the University is specifically exempted from those requirements. The University shall conduct assessments to demonstrate its accountability for human resources practices that comply with laws and regulations. The Department of Human Resource Management and the University have entered into a Memorandum of Understanding, attached hereto as Attachment 1, which may be amended from time to time by agreement of the parties, regarding the specific data and reporting requirements. The University shall be accountable for ensuring the timeliness and integrity of the data transmitted to the Department of Human Resources Management.

VII. CONTINUED APPLICABILITY OF OTHER PROVISIONS OF THE CODE OF VIRGINIA AND OTHER BOARD OF VISITORS' POLICIES AFFECTING UNIVERSITY PERSONNEL.

On and after the Effective Date of its initial Management Agreement with the Commonwealth, University employees shall be subject to the terms and conditions of the Act and the Management Agreement between the Commonwealth and the University. Classified

Employees shall continue to be subject to the human resources policies and exceptions to those policies adopted or approved by the Department of Human Resource Management.

In addition, all University employees also shall remain subject to any other human resources policies adopted by the Board of Visitors applicable to University personnel unless University employees or a subset thereof are specifically exempted from those other human resources policies either by those other policies or by this Policy.

**Memorandum of Understanding
Between Virginia Polytechnic Institute and State University and the
Department of Human Resources Management Regarding
The Reporting of Human Resources Management Data**

This Memorandum of Understanding, which may be amended from time to time by the agreement of all parties, is an attachment to the Policy Governing Human Resources for Participating Covered Employees and Other University Employees pursuant to the Restructured Higher Education Financial and Administrative Operations Act of 2005, and is hereby entered into between Virginia Polytechnic Institute and State University and the Department of Human Resource Management (DHRM).

This document outlines the provisions for information management pertaining to human resources data, consistent with the objectives to enable DHRM to meet the Commonwealth's reporting requirements, to ensure compliance with relevant federal and state laws and regulations, and to do so through efficient and cost-effective methods.

1. In lieu of data entry into the state's Personnel Management Information System (PMIS), data will be transmitted through an electronic file transfer to update DHRM's warehouse.
 - a. The University will provide a flat file of designated personnel data. For "Classified Employees", the data provided will match DHRM's data values for the designated fields. For salaried "Participating Covered Employees", the data provided will include the University's data values for the designated fields. The University will provide a data dictionary to DHRM. The file of designated data will be specifically described by an addendum to this Memorandum upon the agreement of the University and DHRM.
 - b. The University will provide a second flat file of salaried personnel actions for "Classified Employees" and salaried "Participating Covered Employees", such as promotions, separations, and salary adjustments. The file of relevant personnel actions and designated data to be provided for each action will be specifically described by an addendum to this Memorandum upon the agreement of the University and DHRM.
2. DHRM will accept the federal Affirmative Action Plan (AAP), including the adverse impact analyses of employment and compensation actions that are part of the AAP, as demonstration of the University's compliance with relevant federal and state employment laws and regulations.
3. The University may key data into the Benefits Enrollment System or employees may use Employee Direct (employee self-service).

4. Other reports to be provided by the University include the following:

- a. Monthly Employee Position Report
- b. Annual report on salaried, wage, and contract employees

The undersigned hereby agree to the provisions contained in the MOU.

APPROVALS:

Virginia Polytechnic Institute and State University:

By: _____ Date _____

James A. Hyatt
Executive Vice President & Chief Operating Officer

Department of Human Resources Management:

By: _____ Date _____

Sara R. Wilson, Director