

ADMINISTRATIVE POLICIES AND PROCEDURES

This Administrative Handbook contains policies and procedures concerning the terms and conditions of employment of administrators of Capital University. Other policies promulgated by the university applicable to all employees are contained in academic unit handbooks, benefit plan documents, university web page, and other university documents. In addition, administrators may be subject to policies and procedures applicable to their particular divisions and departments.

1 ADMINISTRATIVE PERSONNEL

1.1 ADMINISTRATIVE DEFINITION

Administrative personnel are exempt, non-instructional employees paid by salary rather than hourly wage.

1.2 APPOINTMENTS

- A. Appointment procedures for administrative personnel follow the same guidelines as in effect for faculty personnel.
- B. Appointments at the level of vice president require the approval of the Board of Trustees.
- C. The usual appointment period runs for twelve (12) months beginning July 1 though June 30. Appointments that take effect July 1 cover the period from the date of the appointment through the following June 30.

1.3 NON-REAPPOINTMENTS

There is no fixed length of time for notice of non-reappointment for administrative personnel. Each notice of non-reappointment is handled on an individual basis. Notice of non-reappointment, however, will be made no later than the date of the issuance of letters of continuing appointment for the following year.

1.4 TERMINATION OF SERVICES PRIOR TO EXPIRATION OF LETTER OF APPOINTMENT

An administrative staff member may be terminated for cause prior to the expiration of the current letter of appointment. Cause is normally defined as acts of immorality or acts of gross irresponsibility in carrying out the duties of the position. The staff member in all instances is assured of due process and has the right of appeal of the decision to his/her immediate supervisor, to the appropriate vice president and, in the instances of deans, to the president.

1.5 EVALUATION

While there does not exist a formal evaluation process of administrative personnel, it is the responsibility of the supervisor of those individuals to provide the staff member a periodic evaluation of his or her work. This is particularly important in instances where the staff member's work is

regarded as unsatisfactory. In a variety of ways, administrative personnel are continuously evaluated through the informal processes associated with the staff member's responsibilities. Supervisors are responsible to continuously solicit evaluative information concerning the staff members under their jurisdiction.

2 LEAVES

2.1 MILITARY OBLIGATION AND LEAVES OF ABSENCE

Employees who are members of the National Guard or the Reserves and are called to duty to combat natural or other disasters shall be granted a leave of absence without pay. They shall be restored to their former positions or, at the discretion of the university, to a position of similar nature or compensation provided: 1) re-employment is requested within 90 days from the date of discharge, 2) official discharge papers are presented, and 3) employees are qualified for the duties of their former positions. The period of time serviced shall not be deducted from seniority and other institutional privileges. Employees will have the option of applying vacation time against their absence from the university.

Any employee who is a member of the National Guard or the Reserves of one of the armed forces shall be granted a two-week military leave of absence upon presentation of orders calling the employee to annual training, such leave being in addition to the normal vacation period.

Former employees having completed their military obligations but having requested re-employment within 90 days as specified above shall be given the same consideration as other former employees.

2.2 PREGNANCY LEAVE OF ABSENCE

Pregnant employees must arrange for a prenatal leave of absence if they desire to resume employment at Capital University. Such arrangements should be made through the immediate supervisor to the Human Resources Office. Sufficient time must be provided for adequate replacement (part-time) to be obtained. A leave of absence will be granted according to the Family & Medical Leave Policy and conditions of the university's approved sick leave policy and leave without pay policy. The notification should include the expected date of delivery and anticipated return to full-time employment.

In instances where an attending physician indicates that the staff member is unable to resume her responsibilities within six weeks, she is entitled to receive the remaining sick leave benefits. When the staff member is unable to return within six weeks after delivery, she must have the attending physician forward a statement to the university physician explaining why the staff member is unable to resume her duties. The

university physician will forward the appropriate recommendation to the Human Resources Office.

When all sick leave and vacation accrued has been used due to pregnancy leave of absence, the employee must make arrangements with the university payroll department for the payment of benefits she may have during the time for which no salary is paid.

2.3 SICK LEAVE

Faculty and administrators will accrue 1.67 days of sick leave per month for those employees with full-time status, which equates to 20 days per year, with a maximum of six months in any six year period. Twelve-month employees working at least 20 hours per week (half- time) will receive sick time on a pro-rated basis.

2.4 ADMINISTRATIVE SABBATICALS, LEAVES, SPECIAL ASSIGNMENTS

1. Administrative Sabbaticals. The Capital University Board of Trustees has not adopted a policy authorizing administrative sabbaticals.
2. Administrative Leaves. In consultation with the appropriate vice president or provost, the president may approve written requests by administrators for administrative leaves. While there is no entitlement to administrative leave, an application for such leave may be made in situations that arise for personal reasons which are not professional in nature. A leave of absence is without pay. Although all fringe benefits are discontinued during a leave of absence, special arrangements may be made for certain coverage provided the administrator pays the necessary premiums. Complete information on these possibilities is available in the Human Resources Office. If the administrator decides not to continue any of the medical coverage under the fringe benefit programs during the leave of absence, application for reinstatement must be made within 30 days of the effective date of return to her/his administrative position. If the reason for a requested leave is covered by the university's Family and Medical Leave Policy, that policy applies.
3. Administrative Special Assignments. In consultation with the appropriate vice president or provost, the president may approve written requests by administrators for special assignments which meet the following criteria:
 - the special assignment is for a limited time determined to be appropriate under the circumstances;
 - the special assignment is project-specific and well-defined;

- the special assignment will result in substantial benefit to the particular unit and to the university as a whole; and
- the administrator's responsibilities can be effectively discharged by others during the special assignment with an acceptable budget impact.

(President's Executive Council, December 1999)

3 BENEFITS

3.1 MANDATED BENEFITS

As required by law, the university provides one-half the required Social Security payment for employees except those with clergy status. The university also provides reimbursement for Unemployment Compensation and Workers Compensation as required by law.

3.2 RETIREMENT PROGRAM

The university participates in the TIAA-CREF retirement programs. All faculty and staff who are scheduled to work at least half-time (12 semester hours per academic year for faculty and 1,000 hours for staff) are eligible to participate. The university's contribution to the retirement program is 9% of base salary. No contribution is required of the employee. However, those employees who wish to add to their retirement fund may do so through payroll reduction subject to the limitation of applicable tax laws.

3.3 MEDICAL INSURANCE

Employees contracted to work three-quarter time or greater are eligible to participate in the university's sponsored group health insurance plan. The university pays 100% of single coverage and if dependent coverage is needed, the university shares one-half of the additional premium costs.

Effective July 1, 2005, employees will be responsible for a portion of the single coverage.

Coverage is effective the first day of the month following the date of employment provided that the employee applies for coverage within 31 days of their start date. Changes to existing coverage can be made during the established open enrollment period once a year unless a qualifying event occurs in an employee's life. Detailed information on deductibles and covered expenses is available in the Human Resources Office.

3.4 DENTAL INSURANCE

Employees contracted to work three-quarter time or greater are eligible to participate in the university's sponsored group dental insurance plan. The university pays 80% of single coverage and if dependent coverage is needed, the university shares one-half of the additional premium costs.

Coverage is effective the first day of the month following the date of employment provided that the employee applies for coverage within 31 days of their start date. Changes to existing coverage can be made during the established open enrollment period once a year unless a qualifying event occurs in an employee's life. Detailed information on deductibles and covered expenses is available in the Human Resources Office.

3.5 LIFE INSURANCE

The university provides group term life insurance for employees contracted to work three-quarter time or greater. Coverage is effective the first day of the month following the date of employment. The amount of insurance is two times an employee's annual salary with a minimum of \$50,000 and a maximum of \$500,000. The benefit amount is reduced to 65% at age 70 and 50% at age 75.

The university also maintains an accidental death and dismemberment policy. The death benefit is equal to two times an employee's annual salary with a minimum of \$50,000 and a maximum of \$500,000; the benefit amount is reduced to 65% at age 70 and 50% at age 75. The dismemberment benefit varies with the severity of dismemberment.

The university also provides full-time employees the option to purchase supplemental life insurance for themselves, spouse and dependents.

Detailed information on these policies is available in the Human Resources Office.

3.6 DOMESTIC PARTNER BENEFITS

The university provides medical, dental and life insurance for the domestic partners of employees who are contracted to work three-quarter time and greater. For the purpose of Capital University's benefits policy, a "domestic partnership" is a relationship between an unmarried employee and one other unmarried person over 18 years of age of the same or opposite sex as the employee and who has a single, dedicated relationship, intend to remain in the relationship indefinitely, and meet all of the requirements for eligibility stated in the Capital University Affidavit of domestic partnership. Upon completing the university's required Affidavit of Domestic Partnership, your domestic partner is eligible to receive coverage for health care, dental, voluntary life insurance, long

term care insurance and tuition benefit. Detailed information on this group policy is available in the Human Resources Office.

3.7 DISABILITY INSURANCE

In case of serious illness or disability of academic personnel and administrative personnel, the university will continue the monthly compensation one month for each full year of service up to a maximum of six months in any six-year period. For purposes of this section, monthly compensation shall mean one-twelfth of annual compensation.

The university provides long term disability insurance for employees who are contracted to work three-quarter time and greater. After a qualifying disability period of six consecutive months, if approved, the disability policy will pay a benefit of 66 2/3% of monthly compensation up to a maximum of \$7,000 per month reduced by the amount of any other income benefits available for that monthly period. Detailed information on this group policy is available in the Human Resources Office.

3.8 LONG TERM CARE INSURANCE

The university provides the option for employees contracted to work three-quarter time or greater to purchase long-term care insurance. Long term care is the type of care received either at home or in a facility, when someone needs assistance with activities of daily living, or suffers from severe cognitive impairment. Eligible employees electing to participate in this insurance plan will be responsible for 100% of the monthly premiums. Detailed information on this supplemental policy is available in the Human Resources Office.

3.9 FLEXIBLE SPENDING ACCOUNTS

Employees contracted to work three-quarter time or greater are eligible to participate in the university's sponsored flexible spending accounts. Eligible employees may elect to have pre-tax contributions made from their paychecks to establish one or both of the following flexible spending accounts:

- A Health Care Reimbursement Account to cover family health care expenses not covered by insurance or other sources
- A Dependent Care Account to cover certain expenses involved in caring for dependents while the employee is working

Detailed information is available in the Human Resources Office.

3.10 VACATIONS

Administrators will accrue 1.67 days of sick leave per month for those employees with full-time status, which equates to 20 days per year. Twelve month employees working at least 20 hours per week (half-time time) will receive vacation time at a pro-rated rate.

3.11 PAID HOLIDAYS

The university recognizes the nine (9) traditional paid holidays listed below. In addition, the university will generally be closed for holiday from December 26th through December 31st, making the Christmas to New Year's closing from December 24th through January 1st. A notice of each succeeding fiscal year's holiday schedule will be distributed no later than May 15th. Non-essential offices will be closed on all holidays.

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|-------------------|------------------------------|
| 1. New Year's Day | 6. Thanksgiving Day |
| 2. Good Friday | 7. Friday after Thanksgiving |
| 3. Memorial Day | 8. Christmas Eve |
| 4. Fourth of July | 9. Christmas Day |
| 5. Labor Day | |

When a holiday falls on a Saturday, it will be recognized the workday immediately preceding. Holidays falling on a Sunday will be recognized the workday immediately following.

Some employees may be required to work on a holiday in order to maintain necessary services.

3.12 TUITION REMISSION

Interested persons should contact the Human Resources Office for detailed information on Capital's Tuition Remission, Tuition Exchange, and Tuition Payment programs. Information is also posted online at www.capital.edu/cc/hr/policy/tuitionbenefitpolicy.pdf. It is the employee's responsibility to understand and comply with applicable program requirements. It is the Human Resources Office's responsibility to provide accurate information on these programs including annual tuition benefit program reminders, and to include information on tuition benefit programs as part of the orientation of new employees.

4 OTHER POLICIES AND PROCEDURES

4.1 ACTIVITY CARDS

All full-time and regular part-time staff members are entitled to activity cards for themselves and for the members of their immediate families. This privilege is extended to sons and daughters until the end of the academic year in which they have their 18th birthday.

Unmarried staff members employed by Capital University are entitled to an activity card, properly identified, which will entitle the employee to bring a guest to university-sponsored events.

Activity cards may be used during that period when employees are on an approved leave of absence or a sabbatical leave.

When an employee chooses to leave the services of Capital University, that employee is responsible for returning the activity cards to the Human Resources Office.

Personnel who are employees of agencies with whom Capital University has contracted for campus services are eligible for activity tickets on the same basis as students enrolled at Capital University.

4.2 CHAPEL AND CONVOCATIONS

Capital University provides chapel services and convocations throughout the academic year. Members of the instructional and administrative staffs are encouraged to attend these services regularly since attendance is an expression of the Christian commitment within the university community. The example of faculty and administrative personnel is very important in the life of the individual student.

4.3 HOUSING ALLOWANCE (Clergy Staff)

A portion of the compensation to full-time, ordained staff members may be designated as housing allowance. To comply with federal tax regulations, this amount shall not exceed 40% of the total compensation.

4.4 JURY DUTY

When staff members receive notice to serve jury duty, they should notify their dean or vice president immediately. The university recognizes the importance of citizens exercising their responsibility in performing jury service. However, in the event that jury service imposes hardship upon either the individual or upon the university, the university will support the staff member's request to be excused or to delay jury duty. The salary of staff members will be continued at their present level less their jury duty compensation.

4.5 REIMBURSEMENT OF MOVING COSTS FOR NEW APPOINTEES

Capital University will provide support for relocation of new faculty and staff appointees through reimbursement of out-of-pocket expenses incurred in moving family, personal and professional effects as follows:

1. **Self-Moves**. Reimbursement will be made for ordinary and reasonable out-of-pocket expenses for the most direct route with reasonable stopovers for:
 - a. Rental and insurance charges for one-way truck or trailer;
 - b. Fuel costs for rental and personal vehicles;
 - c. Tolls; and
 - d. Meals and lodging for appointee and family.

No per diem or mileage allowance will be provided. Labor costs, including packing, loading, unloading, and unpacking charges are not reimbursable.

2. **Commercial Moves.** If an appointee chooses to be moved commercially, reimbursement will not exceed the amount which would have been reimbursable as a self-move, as outlined above.

New appointees are asked to consult with the provost, vice president, or president before making arrangements for a move. Reimbursement will be made for documented expenses upon the approval of the provost, vice president, or president.

(Approved, Executive Committee of Board of Trustees, 4/19/85)

4.6 OVERLOAD REMUNERATION

Full-time administrative personnel who teach (excluding deans) more than one course must have the authorization of their supervisor and the appropriate dean. Administrative personnel will be compensated at the prevailing part-time rate for instruction only if teaching more than one course.

4.7 OUTSIDE EMPLOYMENT

No rigid restriction concerning part-time employment outside Capital University is imposed upon full-time members of the instructional staff, the officers of the administration, and/or the administrative staff. Full-time members accepting part-time outside employment, however, must clear such activity with the appropriate dean, vice president, and/or provost to ensure that it will not interfere with the discharge of their responsibilities satisfactorily, including service on standing committees of the university and advising. In the case of the instructional staff, it is essential that office hours are maintained so that students have access to the instructor on a reasonable basis.

It is contrary to university policy to accept a full-time position elsewhere while a full-time employee of Capital, as it would be detrimental to the responsibilities of one or both.

4.8 PAYMENT OF SALARY

Faculty and administrative employees are paid on the 25th of each month. Whenever the regularly scheduled payday falls on a holiday, Saturday or Sunday, the check is normally issued the preceding work day. If the 25th falls during vacation periods, the date of payment remains the 25th.

Capital University makes certain deductions as required by law, including federal, state and city income taxes and Social Security contributions.

Other deductions (which are voluntary on the part of the employee) include pension plan premiums, United Way gifts, and gifts to the university. The statement of earnings attached to the paycheck will list deductions which have been made.

The deadline for submitting the W-4 form and other necessary paperwork to the Human Resources Office is noon of the 18th of the month in order to receive the first salary check.

4.9 POLITICAL ACTIVITIES

Members of the faculty and staff are encouraged to become involved in political activities as private citizens, but not in the name of the institution.

4.10 UNEMPLOYMENT COMPENSATION

Capital University employees are covered under the provisions of the Unemployment Compensation Act and are accorded the rights and privileges of the Ohio statute.

4.11 WORKER'S COMPENSATION

Staff members who suffer disability arising out of and in the course of employment can apply for compensation in accordance with the Workers Compensation Act. The university does not guarantee receipt of compensation.

4.12 RETIREMENT

- A. Capital University complies with the provisions of the Age Discrimination in Employment Act.
- B. A member of the administrative or instructional staff who wishes to retire is expected to express this desire in writing and submit it to the appropriate supervisor and/or vice president by November 1 of the last academic year of employment.
- C. A person who is at least 59 1/2 years of age who retires as a full-time employee of Capital University and who has served as a full-time employee of the university for at least the tenth consecutive year immediately prior to such retirement, shall be eligible to participate in the university's medical insurance plan, with the university making the same premium contribution as it would for active employees and their dependents, until such employee reaches the age of 65 years.

(Board of Trustees, 6/13/93)

**4.13 CAPITAL UNIVERSITY ADMINISTRATIVE/STAFF
GRIEVANCE POLICY (Approved, Board of Trustees, 6/14/93)**

1. **Applicability.** This policy applies to a grievance against an administrator or hourly staff person (hereafter referred to as “staff person”) by a student, a faculty member, hourly staff, or administrator (hereafter referred to as “grievant”). A grievance alleges a violation of university policy by the staff person that is damaging to the grievant, or a malicious, arbitrary or capricious action by the staff person that is employment related and damaging to the grievant.
2. **Submission of Grievance.** A written grievance signed by the grievant should be submitted to the provost or vice president of the division in which the staff person works. A grievance against a vice president or provost should be submitted in writing to the president. A grievance should be submitted within a reasonable period of time following the incident or circumstances giving rise to the grievance, normally within 30 days.
3. **Grievance Process.**
 - a. The grievance process is instituted by submitting a written statement of the grievance with the provost or vice president of the division in which the staff person works.
 - (1) Upon receipt of a signed, written statement asserting a grievance, the divisional vice president or provost will appoint a panel as provided in the section (3)(d) below. If the panel concludes that the allegations of the written statement do not constitute a grievance under this policy, the grievant shall be so informed in writing. If it is concluded that the allegations, if true, would constitute a grievance under this policy, the procedures in sections (3) (b)-(f) will apply.
 - (2) If the person submitting a grievance is unwilling to be identified as the grievant based upon a reasonable fear of retaliation or for other bona fide reason, an investigation will proceed in a manner that is fair to the staff person, including review of documents, provision of opportunity for the staff person to respond to the specific allegations, and interviews of other appropriate persons. The university will protect the confidentiality of the parties to the greatest extent feasible, and will take

appropriate action reasonably based only upon reliable information determined in the investigation.

- b. A mediator acceptable to the grievant and the staff person will normally be appointed by the provost or divisional vice president to attempt informal and voluntary conciliation of the grievance. Mediation discussions will be treated as confidential by the mediator, grievant and staff person. In the event of a successful conciliation, the grievant should notify the divisional vice president or provost that the grievance is withdrawn, and both parties to the grievance should notify the vice president for legal affairs that they accept the results of the conciliation. The results of the conciliation will be forwarded to the provost or appropriate divisional vice president.
- c. If the mediator reports to the provost or divisional vice president that voluntary conciliation is not feasible, a copy of the written grievance will be provided to the staff person. The staff person will be asked to submit a written reply to the grievance, and a copy of that reply will be provided to the grievant.
- d. The responsible divisional vice president or provost will appoint a panel to conduct a prompt and thorough investigation of the grievance. Reasonable efforts will be made to ensure that members of the investigative panel will be impartial. The grievant and the staff person will be consulted with respect to the composition of the panel. All parties will be assured confidentiality to the greatest extent feasible. The panel will include (1) at the request of the grievant, either a student (if the grievant is a student), a faculty member (if the grievant is a faculty member), an hourly staff member (if the grievant is an hourly staff member), or an administrator (if the grievant is an administrator); (2) the vice president for legal affairs; and (3) such other person(s) as may be deemed appropriate in the judgment of the responsible divisional vice president or provost. The divisional vice president or provost will meet with the panel and participate fully in the investigation.
- e. The panel will review all pertinent documents and will interview the grievant, the staff person. The panel may interview such other persons as the parties may request or the panel may identify. The grievant and the staff person may be accompanied during the interview by an adviser

who is not an attorney, provided that the conduct of such adviser shall be only to advise the parties and not to participate, and shall be subject to the authority of the panel to conduct the interview and investigation in a fair, reasonable and efficient manner. The panel's interviews shall not be open to persons other than the person being interviewed, unless mutually agreed by the grievant, staff person and panel.

f. At the conclusion of its investigation, the panel will issue a written report on its findings to the appropriate vice president or provost.

4. **Grievance Determination.** The divisional vice president or provost will make a written determination on the grievance, a copy of which will be provided to the grievant, the staff person, and the members of the investigative panel. The president will make a written determination on a grievance against a vice president or provost, a copy of which will be provided to the grievant, the vice president or provost, and the members of the investigative panel.

5. **Appeal.** The decision of the divisional vice president or provost will be appealable to the president. The president's decision on an appeal is final and will be communicated to the parties and to the members of the investigative panel. The decision of the president on a grievance against a vice president or provost is final.

6. **Administration of Policy.** The vice president for legal affairs is responsible for administration of this grievance process in a prompt and fair manner. Formal judicial rules of evidence and procedure shall not apply to this grievance process, nor shall deviations from prescribed procedures or schedules necessarily invalidate a decision unless significant prejudice resulted to the complainant or the staff person.

4.14 **INTELLECTUAL PROPERTY, COPYRIGHT AND CONFIDENTIALITY OF RECORDS**

1. **Ownership and Royalty Rights.** Capital University encourages its faculty, staff and students to pursue scholarly publications and creative opportunities. The University does not seek rights in the scholarly output of its faculty. Employees and students retain copyright ownership and royalty rights and patent rights in books, software, and other products or works produced by them unless the work is a "work made for hire" as defined in the federal Copyright Act of 1976 as amended:

- a. a work prepared by an employee within the scope of his or her employment;
- b. a work specifically ordered or commissioned for use as a contribution to a collective work, as a part of a motion picture or other audio-visual work, as a translation, as a supplementary work, as a compilation, as an instructional text, as a test, as answer material for a test, or as an atlas, if the parties expressly agree in a written instrument signed by them that the work shall be considered a work made for hire.

Students and faculty members engaged in collaborative work are encouraged to make clear their intentions about ownership of the work in writing at the outset of the project, or as soon thereafter as possible.

2. **Copyright and “Fair Use”.** Capital University does not condone, authorize, or assist any infringement of copyright by faculty, staff, or students. It is the responsibility of the individual faculty, staff and student to be informed about copyright law and permissible “fair use” of copyrighted works. Information regarding generally accepted guidelines and practice in higher education may be secured from University librarians, but the provision of such information shall not be, nor be construed to be, an authorization by the university of any particular use as a “fair use” under copyright law.
3. **Confidentiality of Files and Computer Records.** Capital University respects the confidentiality of student, employee and other records as required by federal and state law. It shall be a violation of university policy for any person with authorized access to university information, files, and/or computer records to duplicate, alter, use, or disclose such information, files, or records without proper authorization by the person’s supervisor. It shall be a violation of university policy, as well as federal and state law, to gain or attempt to gain unauthorized access to records on university computers and university files.
4. **Electronic Records and Communications.** The privacy of electronic records and communications shall be given the same respect as that traditionally given to paper records and communication, subject to the university’s Acceptable Use Policy.

4.15 RESEARCH REVIEW POLICY

1. **Introduction and Mission.** The Research Review Committee (RRC) shall protect the rights and welfare of human and animal subjects recruited to participate in research activities conducted under the auspices of the institution. Specifically, the RRC serves to assure that research on human

subjects is planned and carried out in accordance with certain ethical codes and federal regulations.

*Administrators conducting research under this policy should review this policy in its entirety in the Faculty Handbook.

4.16 INDEMNIFICATION POLICY (BYLAW V. INDEMNIFICATION)

Capital University shall indemnify every person who is or was a member of the Board of Trustees (or Board of Regents) or officer who is or was a party or threatened to be made a party to any threatened, pending or completed proceeding, whether civil, criminal, administrative or investigative (including, without limitation, any proceeding threatened or instituted directly by or in the right of the university) by reason of the fact that the person is or was a member of the Board of Trustees (or the Board of Regents) or officer against expenses (including, without limitation, attorney's fees), judgments, fines and amounts paid in settlement reasonably incurred by the person in connection with such proceeding if the person acted in good faith and in a manner reasonably believed to be in or not apposed to the best interests of the university, and, with respect to any criminal proceeding, the person had no reasonable cause to believe the conduct was unlawful. A person claiming indemnification hereunder shall be presumed to have met the applicable standard of conduct set forth herein, and the termination of any proceeding by judgment, order, settlement, conviction, or upon plea of *nolo contendere* shall not, of itself, rebut such presumption.

Notwithstanding the foregoing, the university shall not be obligated hereunder to indemnify any person who was a party to any completed proceeding instituted by or in the right of the university to procure a judgment in its favor with respect to any claim, issue or matter asserted in such proceeding if the person is adjudged to be liable for gross negligence or misconduct (other than negligence) in the performance of the duty of the person to the university.

Any indemnification required hereunder shall be made only upon a determination that the person seeking indemnity has met the applicable standard of conduct. Such determination may be made only by those persons set forth in Section 1702.12 (E)(4) of the Ohio Revised Code.

Expenses incurred in defending any proceeding referred to herein shall be paid by the university in advance of the final disposition of such proceeding to or on behalf of the present or former member of the Board of Trustees (or Board of Regents) or officer promptly as such expenses are incurred by the person but only if such person shall first agree, in writing, to repay all amounts so paid in respect of any claim, issue or other matter asserted in such proceeding in defense of which the person shall not have been successful on the merits or otherwise if it shall ultimately be determined that the person is not entitled to be indemnified by the university.

The university shall be mandatorily obligated to indemnify hereunder a present or former member of the Board of Trustees (or Board of Regents) or officer for fees of an attorney privately retained by the person only if independent legal counsel, at the request of the university or the person, opinions that are due to a real or potential conflict of interest, the counsel for the university may not ethically represent both the university and the person in the proceeding.

The indemnification provided hereunder shall inure to the benefit of the heirs, executors, and administrators or a person indemnified hereunder.

INDEMNIFICATION POLICY

Capital University
Board of Trustees Executive Committee

April 26, 1993

RESOLVED, That the Executive Committee of the Board of Trustees hereby affirm the university policy that, for purposes of Bylaw V of the Capital University Bylaws providing for indemnification of members of the Board of Trustees and officers, the term “officers” shall include employees, agents, students and volunteers of the university acting within the scope of their employment including service as duly appointed or elected members of university committees;

AND BE IT FURTHER RESOLVED that the Executive Committee expresses its intention that such university employees, agents and volunteers shall not be subject to the \$2,500 deductible for coverage of officers under the university’s director and office liability insurance policy and that the university shall indemnify such employees, agents and volunteers against such amounts under such policy;

AND BE IT FURTHER RESOLVED that the Executive Committee direct the administration to communicate this resolution to the Faculty Rights and Responsibilities Committee and take such steps as may be necessary to implement fully this action of the Executive Committee including any necessary amendments of the University’s director and officer liability policy and of Capital University Bylaw V.

ADOPTED