

Approved: March 21, 2017

2016-2017: Meeting #6

**MICHIGAN STATE UNIVERSITY
FACULTY SENATE APPROVED AGENDA
MARCH 21, 2017 3:15 PM
115 INTERNATIONAL CENTER**

1. CALL TO ORDER

2. Approval of Agenda for March 21, 2017

3. Approval of Draft Minutes for February 21, 2017 (Appendix A)

4. President's Remarks: Dr. Lou Anna K. Simon - out of town

5. Provost's Remarks: Dr. June Youatt

6. Chairperson's Remark: Professor Deborah Moriarty

7. NEW BUSINESS

7.1. University Committee on Curriculum Report, Professor Jerry Urquhart, Chairperson (Action Item) (Appendix B Short Report), [Long Report](#) (click on link)

7.2. Revised Patent Policy for Endorsement, Dr. Richard Chylla, Executive Director, MSU Technologies (Appendix C)

7.3. Committee Annual Reports (Information Item)

7.4. Mediation Policy, Professor Bill Donohue, Faculty Grievance Officer (Information Item) (Appendix D)

8. Comments from the floor

9. ADJOURNMENT

Approved: Enter Approved Date.

2016-2017: Meeting # 5

**MICHIGAN STATE UNIVERSITY
FACULTY SENATE DRAFT MINUTES
FEBRUARY 21, 2017 3:15 PM
115 INTERNATIONAL CENTER**

PRESENT: President Simon, Provost Youatt, R. Abramovitch, Y. Bolumole, C. Borchgrevink, N. Bunge, B. Chakrani, L. Cloud, M. Dease, J. Deller, B. Dutton, R. Edozie, R. Fernandez, R. Fisher, M. Floer, P. Floyd, K. Forrest, J. Francese, J. Goddeeris, D. Gould, R. Harold, B. Sternquest (for G Harrell), C. Hogan, H. Hong, G. Hoppenstand, E. Hunter, M. Johnson, A. Kepsel, I. Kovar-Gough, D. Kramer, L. Lapidus, J. Lipton, Y. Liu, M. Mechtel (for G. Lourens), R. Manderfield, V. Mandrekar, B. Mavis, L. McCabe, M. Miklavcic, R. Miksicek, K. Miller, D. Moriarty, J. Morningstar, K. Noe, R. Ofoli, A. Pegler-Gordon, R. Quispe-Agnoli, J. Rankin, D. Rivera, L. Robbins, E. Rosser, S. Safferman, A. Sanders-Jackson, J. Schwartz, L. Skibbe, R. Spiro, M. Crimp (for M. Sticklen), G. Stone, M. Mechtel (for G. Urquhart), C. Warren, D. Westrin, B. Zandstra, R. Zegers

ABSENT: G. Breitzer, S. Carter, J. Dulebohn, J. Fitzsimmons, L. Harris, I. Lee, L. Mansfield, S. Pager, A. Ross, W. Spielman, J. Tang, J. Torrez, J. Vargas, S. Yoder

1. CALL TO ORDER

The meeting was called to order at 3:20 pm.

2. Approval of Agenda for February 21, 2017

The **agenda for February 21, 2017** was **approved** as amended.

3. Approval of Draft Minutes for January 17, 2017

The **draft minutes for January 17, 2017** were **approved** as distributed.

4. President's Remarks: Dr. Lou Anna K. Simon

President Simon is attending a meeting with a State legislator in downtown Lansing, Michigan.

5. Provost's Remarks: Dr. June Youatt

Provost Youatt stated that President Simon is in downtown Lansing having a conversation with a State legislator. She noted that other university presidents are spending the afternoon there, trying to help those who make decisions about appropriations understand the impact of a reduction in state income tax on higher education funding. She said that if the proposal, as is, was enacted, that it would be approximately a billion-dollar loss to the budget and MSU's portion of that budget. Provost Youatt added that this financial support loss would be difficult to make up. Thus, President Simon's meeting is not political lobbying; it is part

of an attempt to advocate for higher education in the State of Michigan and the students who are part of our institutions.

Provost Youatt reported that on the Friday Board of Trustee's meeting, President Simon began the meeting by making a statement about MSU's real concern about for victims of any kind of sexual violence or abuse. President Simon reiterated her absolute commitment to not only support victims but also to make sure there is complete transparency in any investigation of reported sexual abuses. President Simon wants to assure the MSU community that the University will do whatever is necessary to know what happened with reported abuses, and to make sure that those people who were hurt in any of these circumstances are supported. Provost Youatt added that she believes that it is very important for MSU to continue to do the good work that we do every day and make sure that our work is shared.

Provost Youatt noted that we have all been involved with the Office of Institutional Equity (OIE) training and development of materials. She reemphasized what MSU now requires of our students, including what has been expected in the student residents halls, so any suggestion that MSU has created a place where abuse is overlooked or "winked at" is offensive to her. Provost Youatt concluded her remarks by thanking MSU faculty and staff for everything that they are doing to help address this situation.

Professor Moriarty added that she read the Faculty Senate statement at the MSU Board of Trustees meeting and made it clear that the Faculty Senate had passed this statement unanimously at their January 17th meeting. Professor Moriarty noted that work had begun on this statement at the end of last semester. Thus, the Faculty Senate statement was not just simply a reaction to recent events, but instead was a genuine concern that MSU faculty has to constantly make sure that the improvement and monitoring of the campus climate with our students is, and has been, ongoing.

6. Chairperson's Remarks: Professor Deborah Moriarty

Professor Moriarty reported that the poster for the Faculty Senate Statement is completed and is now available on the MSU Academic Governance website. It is available as a PDF and can be printed. She has printed 20 copies and is having these posted at various points on campus.

7. NEW BUSINESS

7.1. University Committee on Curriculum Report, Professor Jerry Urquhart, Chairperson

Marci Mectel, from the College of Nursing, represented the University Committee on Curriculum and presented the UCC report. She stated that two new programs, nine changes, and zero deletions were approved. The new programs that were approved include a minor in Creative Writing and English and a new Ph.D. program in Physiology Environmental Toxicology. In addition, she stated that 19 new courses, 38 changes, and 14 deletions were approved, and that and the full report is available at the UCC website.

A motion was made to approve the UCC report and was seconded. The **motion carried.**

7.2. Athletic Council Slate of Nominees for Endorsement, Professor Moriarty

The Athletic Council Slate of Nominees was presented. A motion to approve the Slate was seconded. **The motion carried.**

7.3. The Steering Committee At-Large Slate of Nominees for Endorsement, Professor Moriarty

The Steering Committee At-Large Slate of Nominees was presented. A motion was made to approve the slate was seconded. **The motion carried.**

7.4. Material Transfer Agreement (MTA) and MSU Patent Policy, Rick Chylla, Executive Director, MSU Technologies

Rick Chylla discussed the implementation of a proposed new patent policy. He said that the policy that is currently in place was last updated in the year 2001. He added that there are three reasons for an update. Because there was a change in the patent law in 2011 called the American Invents Act, he noted that it was prudent to update MSU's policy to reflect that change. In addition, MSU took the opportunity to do some benchmarking of best tech transfer practices and patent policy practices at leading research universities. He explained that MSU looked at about 20 peer institutions and used these institutions as a benchmark, because the practice of tech transfer has evolved over the last 15 years. And lastly, various academic institutions have written "white papers" about what constitutes best practices for university tech transfers.

Rick Chylla also discussed material transfer agreements at MSU. He defined a material transfer agreement as a legal contract, an agreement that allows for the exchange of materials (basically research materials) including such items as chemicals, software, plant/animal derived materials, cell lines, research animals, between universities and other organizations for research purposes. This agreement, he adds, defines the rights of the scientists. He states that work has been done on material transfer agreements to facilitate the process in order to make it more efficient.

This information will be posted on the Academic Governance website. Send any inquiries to chylla@msu.edu.

7.5. Budget, Dave Byelich, Assistant Vice President and Director, Planning and Budgets

Dave Byelich presented the update on the Budget. Dave Byelich stated that there has been a number of recent developments. The first involves the Governor of Michigan's recommendations that have been released, suggesting a 2.5% appropriation adjustment for the University. Second, there has been conversation about other State of Michigan initiatives, most notably a potential reduction in the state income tax, and subsequently, a potential reduction in MSU's revenues. In addition to providing a brief update on MSU's budget material, Dave Byelich presented a PowerPoint presentation, which will be available on the Academic Governance website, and responded to discussion questions from faculty following the presentation.

Provost Youatt added that one of the places where MSU's general fund money is directed is to financial aid. She notes that MSU places additional money every year

into the financial aid pool, so that MSU students can continue to afford to attend here. One of the direct advantages of this capital campaign, she adds, is that it is going to begin to provide some financial relief in that fund, so that much of MSU's general-fund dollars do not have to "float there." Unfortunately, Provost Youatt states, MSU's low return rate on investment has slowed that process down.

Provost Youatt then responded to questions regarding budget and funding issues in their specific units.

The PowerPoint presentation will be posted on the Academic Governance website.

8. Comments from the floor

Provost Youatt responded to a question from a faculty member regarding how the Federal Government travel ban will affect students at MSU. Provost Youatt replied that the MSU Office of International Students and Scholars (OISS) is working in a focused way with MSU students and faculty. Discussions are also taking place, she adds, with MSU's representatives in Washington, D.C. She notes that MSU is looking at additional resources that the College of Law Immigration Clinic may require. Provost Youatt states that MSU's own legal counsel is looking carefully at each of these issues.

A faculty member then asked to have more practical conversation with the Office of International Scholars and Students. OISS is talking with students, it was claimed, but not with faculty, so it was suggested to invite them to the University Council.

9. ADJOURNMENT

A motion to adjourn was made and seconded. **The motion carried.** 4:43 pm.

SHORT REPORT of the UNIVERSITY COMMITTEE ON CURRICULUM (UCC)

March 21, 2017

To view the full UCC Report visit: www.reg.msu.edu/Read/UCC/fs032117.pdf

PROGRAM ACTIONS

Highlights:

Insurance and Risk Management, Minor - effective Fall 2017

Advertising Analytics, Minor - effective Summer 2017

Advertising Management, B.S. - effective Summer 2017

College	Department	Program Name	Award Type	Action
Agriculture and Natural Resources	Agricultural, Food, and Resource Economics	Agricultural, Food, and Resource Economics	M.S.	C
			Ph.D.	C
	Food Science and Human Nutrition	Nutritional Sciences	B.S.	C
	Horticulture	Horticulture	B.S.	C
	Plant, Soil and Microbial Sciences	Plant, Animal and Microbial Biotechnology	Minor	C
Arts and Letters	Art, Art History, and Design	Studio Art	M.F.A.	C
	English	English	Ph.D.	C
		Literature in English	M.A.	C
	Religious Studies	Religious Studies	B.A.	C
	Theatre	Theatre	B.A.	C
			B.F.A.	C
M.F.A.	C			
Business	Finance	Insurance and Risk Management	Minor	N

College	Department	Program Name	Award Type	Action
Business	Hospitality Business	Hospitality Business	Specialization	C
Communication Arts and Sciences	Advertising and Public Relations	Advertising Analytics	Minor	N
		Advertising Creative	B.A.	C
		Advertising Management	B.S.	N
Education	Counseling, Educational Psychology, and Special Education	Special Education	Ph.D.	C
Engineering	Civil and Environmental Engineering	Civil Engineering	B.S.	C
Lyman Briggs		Bioethics, Humanities and Society	Minor	C
Natural Science	Mathematics	Actuarial Science	Minor	C
Social Science		Graduation Requirements	B.A./B.S.	C
	Criminal Justice	Criminal Justice	Ph.D.	C
	Sociology	Sociology	B.A.	C

C = Change D=Deletion N=New

Totals **New:** **Change:** **Deletion:**

COURSE ACTIONS March 21, 2017

College	Department	Subject	New	Changes	Deleted
Agriculture and Natural Resources	Community Sustainability	CSUS	6	0	0
	Food Science & Human Nutrition	HNF	1	2	0
	Plant Soil and Microbial Sciences	PLP	0	1	0
Arts and Letters	Arts & Letters Dean	AIIS	0	1	0
		AL	1	0	0
	English	ENG	0	2	1
		FLM	0	3	0
	Theatre	THR	5	10	0
Business	Finance	FI	3	0	0
	Hospitality Business	HB	0	2	0
	Department of Supply Chain Mgt	SCM	0	4	0
Communication Arts and Sciences	Advertising and Public Relations	ADV	5	17	0
Education	Counseling, Ed Psych & Special Ed	CEP	1	0	0
	Kinesiology	KIN	0	1	0
Engineering	Civil & Environmental Engineering	CE	0	8	0
		ENE	0	1	0
		LB	2	0	0
Lyman Briggs College	Lyman Briggs Dean	LB	2	0	0
Music	Music	MUS	2	4	0
Natural Science	Earth and Environmental Sciences	GLG	1	0	0
	Neuroscience Program	NEU	0	1	0
	Physics-Astronomy	PHY	2	0	0
	Physiology	PSL	0	1	0
Osteopathic Medicine	Osteopathic Medicine Dean	OST	0	2	0
Social Science	Criminal Justice	CJ	1	0	0
	Human Resources and Labor Relations	HRLR	0	1	0
Assoc Prov Undergraduate Education	Assoc Prov Undergraduate Education	UGS	1	1	0
Veterinary Medicine	Pharmacology & Toxicology	PHM	0	1	0
	Small Animal Clinical Sciences	SCS	0	1	0
Total			31	64	1

INFORMATION ITEMS

March 21, 2017

Moratorium –

Moratorium in Applied Plant Science, Agricultural Technology Certificate, UCUE consultation 2/9/17; Provost approved 2/21/17 – Effective through Spring 2018.

Moratorium in Beef Cattle Management, Agricultural Technology Certificate, UCUE consultation 2/9/17; Provost approved 2/21/17 – Effective through Spring 2018.

Moratorium in Grounds Management, Agricultural Technology Certificate, UCUE consultation 2/9/17; Provost approved 2/21/17 – Effective through Spring 2018.

Moratorium in Landscape and Lawn Management, Agricultural Technology Certificate, UCUE consultation 2/9/17; Provost approved 2/21/17 – Effective through Spring 2019.

Moratorium in Swine Management, Agricultural Technology Certificate, UCUE consultation 2/9/17; Provost approved 2/21/17 – Effective through Spring 2018.

Discontinuation –

None.

Other –

None.

University Patent Policy

Introduction

Michigan State University's primary obligation in conducting research and scholarly activities is the pursuit of knowledge for the benefit and use of society. Consistent with its public service mission and with the law and regulations governing federally-funded research, the University endeavors to foster the development of its inventions and discoveries through patenting and licensing to industry. A patent provides an incentive for a company to license an invention from the University and to invest in developing and marketing products based on the invention. Licensing proceeds provide a means for the University to recognize and reward the creative research efforts of inventors and to support additional University research.

I. Applicability and Administration of Policy

This Policy governs the ownership, protection, use, and commercialization of inventions and discoveries of University faculty, students, and staff.¹

The President shall be responsible for administering this Policy and managing University Inventions. In consultation with the President and the Provost, the VPRGS may authorize exceptions to this Policy that he/she determines to be in the best interest of the University.

II. Ownership

- (a) All discoveries or inventions by a University employee which: (i) result from research which is supported by University funds or by funds controlled or administered by the University; or (ii) were created in a field of work or study directly related to that employee's scholarly or other academic endeavors at the University; or (iii) have been developed in whole or in part through the use of University resources or facilities, shall belong to the University (hereinafter "University Inventions").
- (b) The University does not own discoveries or inventions created by students unless the student (i) is employed by the University (in which case the University's ownership is determined under the previous paragraph), (ii) made the discovery or invention using funds controlled or administered by the University, except grants or awards specifically designed to encourage student innovation and entrepreneurship, or (iii) made the discovery or invention in whole or in part through use of University resources or facilities other than those generally available to students. Students may elect to assign to the University their intellectual property rights in inventions or discoveries which the University does not own. If the University accepts such an assignment, the University will administer the student's discovery or invention as if it were a University Invention under this Policy.
- (c) This Policy is applicable to discoveries and inventions made by faculty members and other University employees who engage in approved outside work for pay under the applicable University policy. An employee must disclose to MSU Technologies ("MSUT") inventions and/or discoveries made during the performance of outside work for pay. Ownership of discoveries and inventions made by faculty members and other University employees during approved outside work for pay will be determined by MSUT in accordance with guidelines in

¹ The University's policy concerning works of copyright is addressed separately in the *Development of Copyrighted Materials* policy.¹

the companion handbook to this Policy. Faculty members or other University employees engaged in approved outside work for pay shall not assign any rights in inventions or discoveries created during the outside work for pay unless the assignment is submitted to MSUT for its review and assessment prior to the start of the outside work for pay and MSUT determines that the inventions or discoveries to be assigned are not University Inventions.

- (d) The University may choose to assign its ownership of University Inventions to their inventors or others when it is deemed to be in the best interest of the University to do so. The VPRGS will provide guidelines for such circumstances in the companion handbook to this policy.

III. Assignment; Duty to Cooperate

All individuals subject to this Policy are (a) obligated to assign and do assign to the University all right, title, and interest in and to all University Inventions of which they are inventors; and (b) have a duty to cooperate with the University when it seeks intellectual property protection for such University Inventions and in complying with legal obligations to research sponsors relating to such University Inventions. The University shall control the administration and disposition of University Inventions in its sole discretion.

IV. Obligation to Disclose University Inventions

In order to assist the University in protecting University Inventions, University employees and students shall report any University Inventions to MSUT in a timely manner. As a general rule, such reports must be made prior to disclosing such discoveries or inventions through publications, presentations, or communications with third parties (including research sponsors) in a manner which may inhibit or preclude the University from obtaining patent protection.

V. Distribution of Revenue and Equity from Technology Transfer

(a) When they occur the economic benefits arising from the commercialization of University Inventions will be shared among the inventor(s), the inventor's major administrative unit (MAU), and the University.

(b) The University will recover all direct cumulative expenses incurred for the patenting, protection (including litigation related to the patent), marketing, and licensing of each University Invention from its licensing proceeds before distributing the remaining net proceeds.

(c)

(i) For University Inventions with more than one inventor, all inventors must agree in writing to each inventor's share of the total percentage of net proceeds allocable to the Inventor(s), as set forth below. Absent such an agreement, the University will divide the inventors' share of the net proceeds equally among them.

(ii) Except as set forth in section V(c)(iii), distributions of net licensing proceeds will be made as follows:

Net Licensing Proceeds on a Particular University Invention	Inventor(s)	Major Administrative Unit	University
First \$100,000	50%	25%	25%
Next \$900,000	30%	30%	40%
Over \$1,000,000	30%	10%	60%

(iii) The distribution of net licensing proceeds obtained under technology transfer agreements effective before _____, 2017 will be made as follows:

Net Licensing Proceeds on a Particular University Invention	Inventor(s)	Major Administrative Unit	University
First \$5,000	100%	0	0
Next \$100,000	33 1/3%	33 1/3%	33 1/3%
Next \$400,000	30%	30%	40%
Next \$500,000	20%	20%	60%
All Additional Net Licensing Proceeds over \$1,005,000	15%	15%	70%

(d) Consideration received by the University in connection with the commercialization of a University Invention may include shares of stock or other securities. The University or the Michigan State University Foundation, as the University's assignee, shall control the administration and disposition of any equity so received in its sole discretion, provided that any net proceeds from the liquidation of the equity received will be distributed as license proceeds in the manner described above.

Mediation Policy

I. Policy Statement

Michigan State University recognizes the benefits of a method to resolving disputes in place of or prior to filing a grievance under the Faculty Grievance Policy (FGP). As such, the University will offer an alternative method of dispute resolution known as mediation. The purpose is to have a voluntary process aimed at solving specific issues independent of the FGP. Mediation shall not preclude parties from filing a grievance under the FGP.

II. Definitions

- a. **Mediation:** The procedure in which disputing parties enlist the assistance of a neutral third party to help them achieve a voluntary bilateral agreement that finally and definitively resolves all or portions of their dispute, without resorting to adversarial procedures such as grievance hearings or litigation. Conciliation and informal negotiation shall remain part of the normal grievance process. An agreement to mediate shall not constitute an obligation to reach a binding conclusion.
- b. **Mediation Agreement:** A written document that sets out the terms agreed to in mediation. When parties enter into a mediation agreement it becomes binding and constitutes “an established practice” for the parties directly involved. It is not precedent setting for anyone except the parties directly involved.
- c. **Mediator:** A neutral party from outside the University, supervised by the Faculty Grievance Official (FGO), whose responsibilities are to assist the parties in defining, clarifying, and communicating about the issues that appear to divide the parties and to aid the parties in generating, considering, and communicating with each other about possible bases for resolving the dispute. The Mediator may suggest ways of resolving the dispute but may not impose their own judgment on the issues for that of the parties. The Mediator does not act as an attorney or advocate for any party and any recommendations made by the Mediator do not constitute legal advice.

III. Eligibility

Participation in mediation is voluntary and shall be available to administrators, faculty and academic staff members subject to the FGP. Parties may choose mediation as an option or may be referred to mediation by university personnel. Any combination of parties covered by the FGP may enter into mediation and are not bound by the jurisdictional requirements of the FGP (e.g. disputes among faculty or within units may be mediated even if not subject to grievance).

IV. Scope

- a. Mediation can be used to resolve any workplace dispute **except** reappointment, promotion, tenure, discrimination, sexual harassment, serious misconduct or criminal activity, discharge, or any other issues covered by state and federal law.

- b. Parties to mediation cannot enter into an agreement that would exceed the scope of their own authority without approval from the required authorities.

V. Mediation Process

- a. Persons interested in mediation should first complete the Michigan State University Mediation Request Form identifying the parties involved, the nature of the circumstances surrounding the dispute and their perception of the issues.
- b. Eligible parties seeking mediation will then discuss their complaint in a conference with the FGO so that the issues involved can be better understood. The FGO will also discuss the matter with the secondary individual(s) identified in the Mediation Request Form, as well as pertinent administrators to gain a more complete understanding of the issues and to determine the willingness of parties to participate in the mediation process.
- c. After these discussions and a full review of the situation the FGO will determine if the parties are eligible for mediation based on Section IV.a of this policy. This review will be completed in writing and distributed to the appropriate parties within 14 days from the completion of the discussions. If the FGO finds the parties are not eligible for mediation then the FGO will advise the parties on other steps to resolve the issue(s).
- d. The review will be presented to the appropriate administrator by the FGO for discussion. The administrator then must approve any decision to move forward and agree to the scope and budget for completing the mediation process. It is recognized that payment for approved mediation will come from the college, department, school or unit authorizing the process.
- e. The Mediator will be selected by the FGO. Parties shall be presented with the proposed Mediator's name and credentials to determine if any conflicts of interest exist and provide an opportunity for parties to raise objections. The FGO will work with any objecting parties to find a mediator agreeable to all participants.
- f. Upon initiation of the formal mediation process all involved parties shall sign a statement agreeing to adhere to terms of this Mediation Policy.
- g. Mediation Session

The following shall apply to the mediation sessions:

- i. The Mediator shall act as a facilitator or resource for resolution and shall use their best efforts to assist the parties in reaching a mutually acceptable settlement. The Mediator does not have the authority to decide any issue for the parties, but will attempt to facilitate the voluntary resolution of the dispute by the parties. The Mediator is authorized to conduct joint and separate meetings and/or communications with the parties and may also offer suggestions to assist the parties in achieving a settlement.

- ii. It is expected that all parties will participate in the proceedings to the fullest extent, expeditiously, and in good faith with the intention to settle, if at all possible.
- iii. The parties involved in mediation are responsible for negotiating a settlement acceptable to them. The Mediator, as a facilitator of settlement, will use every effort to facilitate the negotiations of the parties but will not impose a settlement upon the parties.
- iv. Only persons directly involved in the mediation will attend the proceedings. There will be no non-party witnesses heard at the mediation, and representatives, advisors and/or attorneys will not be permitted to attend.
- v. Disclosure
 - 1. The mediation process can be successful only if all parties make full and complete disclosure of all information pertinent to the resolution of the issues.
 - 2. If either party fails to make a full and complete disclosure of all relevant information and documents, then any agreement that may be reached based on the incomplete set of materials may be set aside by the FGO and/or the pertinent department or unit administrator.
- vi. Termination of Mediation shall occur under any of the following conditions:
 - 1. A settlement is reached between the parties resulting in a signed agreement and supplemental documents from the Faculty Grievance Office recognizing the settlement.
 - 2. At the discretion of the Mediator or parties directly involved in the form of a written statement of termination. It will not be necessary for the Mediator or participant to provide a reason for the termination of mediation and such a decision will not be held against the party or parties in any way.

In the case of the termination of mediation by the Mediator or parties involved, no record of a failed mediation process will be produced.
 - 3. At the discretion of the Faculty Grievance Official or authorizing administrator, by providing a written statement to the parties.
- h. The parties may jointly request a new mediation process with a different mediator if the parties believe that another attempt with a different mediator may result in successful mediation. If a second mediation is unsuccessful, no further mediation attempts shall be permitted.
- i. In the event that the Mediator terminates mediation and the parties are interested in continuing the process, the FGO will conduct another assessment to determine the viability of another attempt at mediation.

- j. A mediation agreement that has been enacted shall be binding on the parties to the agreement and a breach of such an agreement may result in administrative action (e.g. discipline, etc.).

VI. Confidentiality

All records and information related to mediation proceedings under the Mediation Policy (both formal and informal) shall be kept confidential to the degree permitted by law. The FGO, Mediator, parties to the mediation, and other relevant administrators shall respect the confidentiality of information and records and the privacy of all parties whose interests are affected by mediation. The final mediation agreement may be disclosed to the extent necessary to enforce the settlement reached.

VII. Other Proceedings

The Mediator shall not be called as a witness in any subsequent proceedings. Additionally, the actions or discussions that occurred during mediation shall not be referred to or used against a party in subsequent proceedings. Parties to mediation shall waive the right to subpoena mediation records from the Mediator.