

STATE OF FLORIDA  
DIVISION OF ADMINISTRATIVE HEARINGS

DARRYLL K. JONES,

Petitioner,

v.

DOAH Case No. 16-003613

FLORIDA A&M UNIVERSITY BOARD  
OF TRUSTEES,

Respondent.

---

FINAL ORDER

This matter was heard at the Division of Administrative Hearings on August 18, 2016, in Tallahassee, Florida, before Administrative Law Judge ("ALJ") D. R. Alexander. Upon consideration of the hearing transcript and the orders proposed by both parties, ALJ Alexander submitted his Recommended Order in this matter to Florida Agricultural and Mechanical University Board of Trustees ("University" or "FAMU") on November 3, 2016. A copy of the Recommended Order is attached hereto as Exhibit "A." The Petitioner did not file timely Exceptions to the Recommended Order. The matter is now before the University for final action.

Preliminary Statement

Petitioner requested an administrative hearing in accordance with Step Three of FAMU Regulation 10.206, to contest an adjustment in his base salary after being reassigned from his position as

Interim Dean (and Professor) to Professor without administrative duties in early 2016. Specifically, Petitioner challenged the University's salary adjustment made pursuant to all applicable FAMU regulations and policies including FAMU Policy 2005-15.

Standard of Review

Pursuant to Section 120.57(1)(1), Florida Statutes (2016), the University may adopt the recommended order () as final order of the agency. It may also "reject or modify the conclusions of law over which it has substantive jurisdiction and interpretation of administrative rules over which it has substantive jurisdiction," but "must state with particularity its reasons for rejecting or modifying such conclusion of law . . . and must make a finding that its substituted conclusion of law . . . is as or more reasonable than that which was rejected or modified." § 120.57(1)(1) Rejection or modification of conclusions of law may not form the basis for rejection or modification of findings of fact. Findings of fact in the recommended order may be rejected or modified only if the agency "determines from a review of the entire record, and states with particularity in the order, that the findings of fact were not based upon competent substantial evidence or that the proceedings on which the findings were based did not comply with essential requirements of law." *Id.*

Competent substantial evidence is evidence that is "sufficiently relevant and material that a reasonable mind would

accept it as adequate to support the conclusion reached." *De Groot v. Sheffield*, 95 So. 2d 912, 916 (Fla. 1957); see also *Strickland v. Florida A&M U.*, 799 So. 2d 276 (Fla. 1st DCA 2001). In considering the findings in the recommended order, the agency may not "weigh the evidence presented, judge credibility of witnesses, or otherwise interpret the evidence to fit its desired ultimate conclusion." *Heifetz v. Dept. of Bus. Reg., Div. of Alcoholic Beverages & Tobacco*, 475 So. 2d 1277, 1281 (Fla. 1st DCA 1985). An Administrative law Judge "is entitled to rely on the testimony of a single witness even if that testimony contradicts the testimony of a number of other witnesses." *Lantz v. Smith*, 106 So. 3d 518, 521 (Fla. 1st DCA 2013) (internal citations omitted).

#### Conclusion

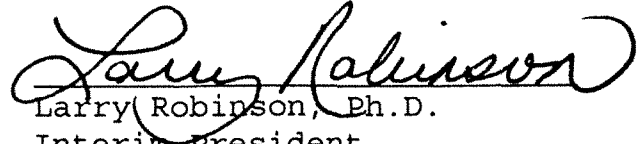
The University accepts the Findings of Fact as set forth in ALJ Alexander's Recommended Order (Exhibit "A"); and no timely exceptions were filed. The Findings of Fact are adopted and incorporated herein as inclusions in the Findings of Fact for this Final Order. Further, the Conclusions of Law as set forth in ALJ Alexander's Recommended Order are adopted and incorporated herein as inclusions of the Conclusions of Law for this Final Order.

#### Order

Based on the foregoing, it is hereby ORDERED and DIRECTED that the Administrative Law Judge's Recommended Order that the

University enter a final order denying Petitioner's Step Three grievance is ACCEPTED and the Step Three grievance is DENIED.

DONE and ORDERED this 17<sup>th</sup> day of November, 2016.



Larry Robinson, Ph.D.  
Interim President,  
Florida A&M University  
Suite 400, Lee Hall  
Tallahassee, Florida 32307  
(850) 599-3225

Filed with Florida A&M University this 17<sup>th</sup> day of November, 2016.



Abigail Raddar  
Florida A&M University Clerk

**NOTICE OF RIGHT TO JUDICIAL REVIEW**

Petitioner may seek judicial review of this Final Order pursuant to Florida Rule of Appellate Procedure 9.190(b)(3), applicable to review quasi-judicial decisions of an administrative body not subject to the Administrative Procedure Act, by filing a petition for certiorari review with the appropriate circuit court within thirty (30) days of the date of this Final Order is filed with Florida A&M University Clerk. If Petitioner seeks review with the court, a copy of the petition shall be provided to the Florida A&M University Clerk, Office of the General Counsel,

1700 Lee Hall Drive, Suite 304, Foote-Hilyer Administrative  
Center, Tallahassee, Florida 32307.

Copy:

Darryll Jones

Rodner Wright, Provost and Vice President for Academic Affairs

Felecia Epps, Dean of the College of Law

Joyce Ingram, Assistant Vice President and Chief of Human Resources  
Officer

Claudio Llado, Clerk of the Division of Administrative Hearings

Marie Feeley, Division of Legal Affairs

Ana Gargollo-McDonald, Assistant General Counsel