

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

DALE CASSIDY,

Petitioner,

vs.

DOAH Case No. 2016-007342

FAMU Case No. 16-002

FLORIDA A&M UNIVERSITY
BOARD OF TRUSTEES,

Respondent.

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FINAL ORDER

This matter was heard at the Division of Administrative Hearings on February 15, 2017, in Tallahassee, Florida, before Administrative Law Judge (ALJ) R. Bruce McKibben. Upon consideration of the hearing transcript and the orders proposed by both parties, ALJ McKibben submitted his Recommended Order in this matter to Florida Agricultural and Mechanical University Board of Trustees ("University" or "FAMU") on April 13, 2017. Exceptions were not filed in this case.

Preliminary Statement

On October 20, 2014, Petitioner began his employment with Florida A&M University as the Vice President of Finance and Administration with a base salary of \$195,000.00. On August 3, 2015, as a result of Petitioner assuming additional functional responsibilities, Petitioner received an increase to his annual salary in the amount of \$25,000.00.

With the authority vested in the University President, on March 11, 2016, the President, through her designees, consulted with Petitioner by providing him with a notice of reassignment and affording him an opportunity to ask questions prior to the effective date of the reassignment, pursuant to University Regulation 10.209. Petitioner accepted the new position as the Chief External Compliance and Ethics Officer in a memo to his personnel file, dated March 13, 2016.

Petitioner challenged the change in assignment pursuant to FAMU Regulation 10.206. Petitioner contended that the University did not follow Regulation 10.209, and

therefore, the reassignment was null and void. The University's action was upheld at both Step One and Step Two. In a letter dated December 2, 2016, Petitioner requested a formal hearing at Step Three. This matter was referred to the Division of Administrative Hearings on December 12, 2016. On February 15, 2017, a formal hearing was held in this matter.

During the hearing, Petitioner offered testimony. Both Parties offered exhibits. A transcript of the proceedings was filed with the Division of Administrative Hearings on March 17, 2017. Both parties submitted Proposed Recommended Orders to the Administrative Law Judge on April 6, 2017. A Recommended Order was issued by the Administrative Law Judge on April 13, 2017.

Statement of the Issue

Whether Respondent properly followed FAMU Regulation 10.209 in Petitioner's change in assignment.

Findings of Fact and Conclusions of Law

The University hereby accepts and incorporates by


reference the Findings of Fact and Conclusions of Law set forth in the Administrative Law Judge's Recommended Order.

Order

Based upon the foregoing Findings of Fact and Conclusions of Law, it is hereby ORDERED and DIRECTED that the Recommendation of the Administrative Law Judge is ADOPTED.

THEREFORE, Respondent's employment action as to Petitioner is upheld, and Petitioner's claim for damages or other relief is denied.

DONE and ORDERED this 26th day of April, 2017.


Larry Robinson, Ph.D.
Interim President

Filed with the Agency this 26th day of April, 2017.


Abigail V. Radar, FAMU Clerk

NOTICE OF RIGHT TO JUDICIAL REVIEW

A party who is adversely affected by this Final Order is entitled to judicial review pursuant to Section 120.68, Florida Statutes. Review proceedings are governed by the Florida Rules of Appellate Procedure. Such proceedings are commenced by filing one copy of a notice of appeal with the Agency Clerk of Florida Agricultural and Mechanical University, Office of the General Counsel, 1700 Lee Hall Drive, Suite 304, Tallahassee, Florida 32307, and a second copy, accompanied by filing fees prescribed by law, with the First District Court of Appeal. The Notice of Appeal must be filed within thirty (30) days of rendition of this Final Order.

Copy: Dale Cassidy, Petitioner
Shira Thomas, Interim General Counsel