

PART 4. ADMINISTRATION AND FINANCE

SUBPART 4-1 CONTRACTING POLICY

Sec. 4-101. Applicability of this Subpart. This subpart shall apply in tandem with Subpart 4-2 and the other applicable subparts. In cases where there is another subpart dealing with authority to contract in a particular area, (e.g., Subpart 4-2) that subpart shall govern as to matters addressed in that subpart. Examples of contractual activity that would be governed largely or entirely by this subpart are; technical service agreements; affiliation, articulation, consignment and consortium agreements; contracts to provide services to a third party; subcontracting documents; federal, state and private grant proposals and grant agreements and any other oral or written agreement (to the extent not covered by Subpart 4-2) between the University and another entity for the acquisition or purchase or barter of property or services for the direct benefit or use of either of the entities.

Cross Reference:

Subpart 4-2. Purchasing Policy.

Sec. 4-102. Contracting Authority of the Board. The Board, as the body corporate having ultimate responsibility for the University, reserves to itself the obligation for review and final action on all contracts and areas not delegated by the Board to the President, Vice President for Administration and Finance, and for matters which concern solely Kendall College of Art & Design, the President of Kendall College of Art & Design. Specifically, the Board reserves to itself the responsibility (i) to approve all contracts for the University involving a cost greater than \$150,000, to the extent that they are not governed by other policies, such as Subpart 4-2 and the University's Purchasing Policy, and (ii) to approve grant awards of \$500,000 or more, and also to approve any grant award (regardless of amount) that requires more than a \$150,000 cash match of University funds.

Prior Board Action:

November 11, 2012.

Sec. 4-103. Delegation of Authority by the Board. The President, Vice President for Administration and Finance, and for matters which concern solely Kendall College of Art & Design, the President of Kendall College of Art & Design, may bind the University on contracts regarding items included within the General Fund Budget approved by the Board or the Auxiliary Services Budget approved by the President.

In addition, the President, or the Vice President for Administration and Finance, is authorized to approve grant awards and enter into related agreements where the grant award is less than \$500,000 and does not require more than a \$150,000 cash match of University funds.

Prior Board Action:

November 11, 2012.

Sec. 4-104. Contracts Where the Amount Involved Does Not Exceed \$150,000. The President, Vice President for Administration and Finance, and for matters which concern solely Kendall College of Art & Design, the President of Kendall College of Art & Design, may bind the University on contracts for sponsored research and supplements thereto, including agreements for fellowships, scholarships, and grants-in-aid, and all contracts covering payment for tuition, books and fees, fees for non-degree academic courses, non-credit programs, third party recruitment fees, non-credit continuing education offerings, contracts for in-service field training, training grants or fellowship programs which do not exceed a rate of \$150,000 per year, and all other contracts where the Board has not retained authority and where the amount involved does not exceed \$150,000 for any one (1) contract. This section does not apply to the setting of tuition and fees.

Cross Reference:

Subpart 4-5. Tuition and Fees.

Prior Board Action:

November 11, 2012.

Sec. 4-105. Institutional Articulation Agreements. The President, or his designee, is authorized to enter into institutional articulation agreements on behalf of the University with educational institutions in the United States and Canada. The President shall promptly advise the Chairperson of the Academic Affairs Committee of the Board of Trustees of each new institutional articulation agreement, and shall provide an annual report to the Academic Affairs Committee of the Board of Trustees.

Sec. 4-106. Contracts Not Involving Monetary Consideration. Except for contracts covered by other applicable Board policies or resolutions, the President, Vice President for Administration and Finance, and for matters which concern solely Kendall College of Art & Design, the President of Kendall College of Art & Design may bind the University for contracts where there is no exchange of monetary consideration between the parties. As to those contracts where there is no exchange of monetary consideration between the parties, but where (i) significant policy considerations may be involved, or (ii) the name or reputation of the University may be implicated, the Chairperson of the Board shall be consulted prior to binding the University to the contract. Where the Chairperson of the Board deems it advisable, but not otherwise, the contract shall require Board approval prior to binding the University.

Prior Board Action:

November 11, 2012.

Sec. 4-107. Contracts in Case of Emergency. In case of emergency wherein any delay in contracting would possibly result in the interruption of or detriment to the proper operation of

the University, the President, the Vice President for Administration and Finance after notice to the President, or for matters which concern solely Kendall College of Art & Design, the President of Kendall College of Art & Design, after notice to the President, may waive the provisions of this subpart and enter into a contract. The President shall make every attempt to notify the Chairperson of the Board within 24 hours and shall apprise the Board on or before the next scheduled Board meeting of any contract made under this section and the factual basis for any such emergency contract.

Prior Board Action:

November 11, 2012.

Sec. 4-108. Requirement that there be a Sufficient Unencumbered Balance. Notwithstanding any other provision of this part, no University official shall enter into any contract requiring an expenditure of University funds without having determined that there is a sufficient unencumbered balance in the appropriate account to defray the amount of such contract.

Sec. 4-109. Compliance with Law and with Legal and Liability Standards. All University contracts must comply with the law and conform to the legal and liability standards of the University General Counsel's office and the Risk Management office.

Sec. 4-110. Legal Review and/or Risk Management Review. The contracting officer may submit all contracts for legal review and/or risk management. However, the University General Counsel's office or Board Counsel must review the following contracts prior to execution;

1. all contracts involving an amount greater than \$100,000,
2. any federal, state or private grants involving an amount greater than or equal to \$250,000 and
3. all contracts with a foreign entity.

Where the University General Counsel's office or Board Counsel has reviewed and approved a contract, as to form, the reviewing attorney shall indicate thereon "approved as to form" and sign or initial such approval.

Cross Reference:

Sec. 4-111. Definition of "Foreign Entity."

Sec. 4-111. Definition of "Foreign Entity." As used in this subpart, the term "foreign entity" means a non-resident alien, corporation, foundation or association whose principal place of business is outside the United States; a foreign government; an agency or subdivision of a foreign government or an agent registered under the Foreign Agents Registration Act, 22 U.S.C. 611-621, when acting in that capacity.

Sec. 4-112. Settlements and Agreements Relating to Employment Disputes for Labor Relations Matters. All settlements and agreements relating to employment disputes or labor relations matters shall be reviewed by the University General Counsel's office, prior to binding the University.

Sec. 4-113. Delegations of Contracting Authority. No person may contract for the University except as prescribed by the Board by specific designation or by delegation of the authorized contracting officer. The President, Vice President for Administration and Finance, and for matters which solely concern Kendall College of Art & Design, the President of Kendall College of Art & Design, are the principal contracting officers for the University. All delegations of contract authority must be documented in writing to the Office of the President, the Secretary to the Board, the Vice President for Administration and Finance, and the President of Kendall College of Art & Design.

Prior Board Action:

November 11, 2012.

Sec. 4-114. Certain Specific Delegations of Authority. In addition to any other specific delegations of authority by the Board made in this code or in resolutions of the Board or by other action of the Board, the following are designated contracting officers of the University for the areas indicated and amounts indicated:

<u>Area</u>	<u>Position with Contracting Authority</u>
Entertainment Contracts for amounts not more than \$150,000 for programming associated with student organizations and resident activities.	The President, or the Vice President for Student Affairs or other person designed by the Vice President for Student Affairs.
Automobile Repair Contracts.	The Dean of the College of Engineering Technology or his/her designated representative.

Sec. 4-115. Contracting Policy. Contracts shall be entered into in accordance with an established University Contracting Policy. This policy shall include criteria for board notification, compliance with laws, legal and risk management review, and requirements for sufficient unencumbered balances.

Cross-Reference:

Part 7. Equal Opportunity and Non-Discrimination Policy.

Business Policy, *Contracting Policy*

Business Policy, *Grant Policy and Procedures*

Business Policy, *Lease/Installment Purchase Agreement Review*

Prior Board Action:

October, 1998.

February 12, 2000.

Entire Subpart 4-1 included in October 19, 2001 Codification, Phase I.

Entire Subpart 4-1 included in October 22, 2004 Codification, Phase II.

Entire Subpart 4-1, July 13, 2011.

July 11, 2012.

May 8, 2015.