

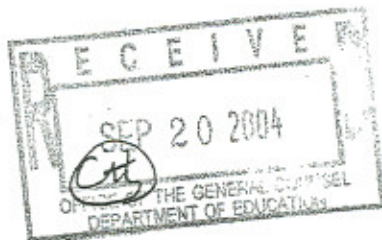


UNIVERSITY OF FLORIDA

Office of the Vice President and General Counsel

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September 16, 2004



Nathan A. Adams, IV, Ph.D., M.A., Esquire
Deputy General Counsel
Florida Department of Education
1244 Turlington Building
Tallahassee, FL 32399

Re: Certificate of eligibility processing and enrollment status verification fee
("international student fee")

Dear Nathan:

This is in response to your letter of August 24, 2004, concerning the certificate of eligibility processing and enrollment status verification fee (sometimes referred to as the "international student fee") that is a proposed amendment to University of Florida Rule 6C1-2.012, F.A.C. You note that the Joint Administrative Procedures Committee ("JAPC") staff had preliminarily concluded that the proposed amendment setting forth this charge was not supported by the statutes noted as specific authority and law implemented. Although JAPC no longer has jurisdiction over the matter, the Board of Governors has adopted by resolution the statutes that were referred to as specific authority and law implemented. You have asked why the statutes cited as specific authority and law implemented permit the international student fee. You also ask whether the University has been collecting the fee and expending the funds and to justify the amount of the fee.

As is more fully explained below, the statutes cited provide authority for the certificate of eligibility processing and enrollment status verification fee. Information justifying the amount of the fee is also provided in this letter, and supports the conclusion that the charges are for the recoupment of the costs of services provided to a particular group of students.

(1) Authority for the charge.

Section 1001.74(6), Fla. Stat., authorizes the certificate of eligibility processing and enrollment status verification fee. The Board of Governors' Resolution dated January 7, 2003,

granted the university boards of trustees this authority: “[E]ach board of trustees shall have responsibility for the use, maintenance, protection and control of university-owned or university-controlled buildings and grounds, property and equipment, . . . and the financial and other resources of the University.” This authority “includes the prioritization of the use of space, property, equipment and resources and the *imposition of charges* for those items. (Emphasis added.)” According to the Board of Governors Resolution, the university boards of trustees may implement this authority through rulemaking.

University of Florida Rule 6C1-2.012, F.A.C., establishes various charges for the use of university resources under this authority. Pursuant to this rule, university and non-university groups and persons (including students and student groups) may be charged for facilities and various library services. JAPC did not question the authority for these charges. The Chief Attorney for JAPC has questioned this particular service charge for international students, taking the position that the statutory authority only extended to the “imposition of charges or fees for use of university buildings, property and other resources by persons or entities other than the university itself in the regular course of its operations.” There is no basis whatsoever for reading the statute in such a narrow way, but even if one did so read the statute, it would allow the imposition of this charge. The fee at issue is a service charge assessed for services (use of resources) provided to certain students.

Specifically, the charge is for the provision of certain services to students with F or J visas. Information must be reported to the Bureau of Citizenship and Immigration Services and/or the Department of State, as required by federal law, through the Student and Exchange Visitor Information System of the United States Department of Homeland Security. Various requests and applications must also be processed. Such reporting and processing includes:

- Reporting registration hours, transfers, extension of stay and reinstatements, extension of I-20 or DS-2019 forms, and all changes of address, program, level of student and funding, and all requests to bring in family members.
- Reporting students with F or J visas who fall below course load or who are terminated from the University.
- Processing and reporting of applications for curricular practical training (CPT), optional practical training (OPT), and academic training.
- Processing of requests from students with F or J visas to take a reduced schedule or leave of absence for medical or other reasonable purposes.

Although Section 1001.74(6), Fla. Stat., provides sufficient authority for the charge, Section 1009.24(12)(m) and (n), Fla. Stat., also provide authority. Section 1009.24(12)(m) allows fees for duplicating and photocopying, and Section 1009.24(12)(n) allows for fees related to the use of facilities and equipment. Indeed, the services provided require, in addition to other University resources such as personnel, extensive use of, and investment in, computer equipment and software.

Finally, the service charge is not precluded under Rule 6C-7.003, F.A.C., as that rule allows fees when approved by the Board of Governors. The Board of Governors has allowed this charge through its delegation of authority to the boards of trustees as set out in Section 1001.74, Fla. Stat.

(2) Relationship of Actual Costs to the Charge.

The fee is calculated based on the cost of the services described above. "University of Florida Request to Operate an Educational Business Activity" for International Center Services (enclosed), indicates the basis for the calculation of the fee. As shown on page 3 of this document, the service charge at issue covers most of the costs for the services provided. The fee has been approved by the University of Florida Board of Trustees and has been collected since the fall of 2002.

In summary, the fee represents a charge for services to students holding F and J visas. The charge is based on the costs of providing specific services to these students. It is not a fee or tax on all students; and it fits within the delegation represented in Section 1001.74(6), Fla. Stat.

Thank you for this opportunity to clarify the authority for, and appropriateness of, the certificate of eligibility processing and enrollment status fee.

Sincerely,



Barbara C. Wingo
Deputy General Counsel

Enclosure

UNIVERSITY OF FLORIDA
REQUEST TO OPERATE AN EDUCATIONAL BUSINESS ACTIVITY

1. NAME OF PROPOSED ACTIVITY: International Center Services
2. SPONSORING UNIT: UF International Center
3. INITIATOR/TITLE: Lynn Frazier, Ex. Assoc. Director P.O.BOX: 113225
TELEPHONE: 392-5323
FAX: 392-5575

4. ACTIVITY:

a. Describe the educational business activity:
UFIC provides services to international students that are different and in addition to services provided to any other group of students. These services include: preparation of and reporting to INS/DOS I-20/IAP-66 for new international admissions, dependents, travel, change of degrees, change of majors and notification extensions. Additionally UFIC processes and reports to INS/D the following documents: Optional Practical Training applications, Curricular Practical Training applications, change of visa status, reinstatements of visa status, transfers (entering UF from another school), expense letters, verification letters of student status, late fee and registration waiver letters, work authorization letters and Fulbright paperwork. UFIC verifies that all international students have health insurance and conducts orientations and workshop

b. How does the activity support the mission of the University of Florida?

The activity of sponsoring and supporting international students assists faculty & staff in supporting the common pursuit of the University's threefold mission: education, research and service which address not only the needs of the state, the nation but also the world. UF's mission statement states UF "is committed providing knowledge, benefits & services with quality & effectiveness. It aspires to further state, national and international achievements in support of human values & improving the quality of life." A global perspective is an essential vital component in UF's ability to accomplish this mission and to enhance its standing among the very best public institutions in the nation & to gain recognition of its achievements. The hosting of international students is one aspect of the global perspective UF is striving to achieve.

5. ACTIVITY BEGINNING DATE: August 1, 2002
ENDING DATE (if one-time activity): _____

6. LOCATION OF ACTIVITY: 123 Grinter Hall

7. OTHER SUPPORT: Complete the following if this activity will receive support from other funding sources.

Funding Source (e.g., E & G, C & G, Auxiliary)	Position Number	Salary		OPS	Expense	OCO
		Value of Support (including fringe benefits)				
<u>E & G</u>	<u>849890</u>	<u>\$9,160</u>	<u>0</u>	<u>0</u>	<u>0</u>	
<u>"</u>	<u>811860</u>	<u>\$8,140</u>	<u>0</u>	<u>0</u>	<u>0</u>	
<u>"</u>	<u>849860</u>	<u>\$6,590</u>	<u>0</u>	<u>0</u>	<u>0</u>	
<u>"</u>	<u>811720</u>	<u>\$7,340</u>	<u>0</u>	<u>0</u>	<u>0</u>	
<u>"</u>	<u>816040</u>	<u>\$6,950</u>	<u>0</u>	<u>0</u>	<u>0</u>	
<u>"</u>	<u>850350</u>	<u>\$4,500</u>	<u>0</u>	<u>0</u>	<u>0</u>	

8. SPECIAL FUNDING SOURCES: Identify specific funding source(s) for the following (SAMAS Organization/EO)

A. Start-Up Funds: n/a
(1) Gift amount and donor name _____
(2) Loan amount (Note: Must be Auxiliary Lender) _____
Lender name and SAMAS Organization/EO _____

Loan terms _____

B. If expenditures exceed income, how will shortage be covered?
E & G funds

9. FINANCIAL PLAN: A financial plan must be submitted with each Request to Operate an Educational Business Activity. (Attached)

I have reviewed and support this Request to Operate an Educational Business Activity. I understand its mission as it relates to the overall mission of the University. I understand that this activity must maintain a positive financial condition and hereby recommend approval of this request.

E. Lynn Frazier
Initiator/Accountable Officer

E. Lynn Frazier
Signature

7/30/02
Date

Dennis C. Jett
Dean/Director

Dennis C. Jett
Signature

Date

APPROVAL:

Suzanne K. Sindledecker
Cost Accounting Coordinator
Contracts and Grants

Suzanne K. Sindledecker
Signature

8/8/02
Date

Ed Poppell
Vice President
for Finance and Administration

Ed Poppell
Signature

7/30/02
Date

UNIVERSITY OF FLORIDA
FINANCIAL PLAN FOR EDUCATIONAL BUSINESS ACTIVITY

	<u>Current Fiscal Year</u>	<u>Next Fiscal Year</u>
Start-Up Gift	<u>0</u>	<u>0</u>
Start-Up Loan	<u>0</u>	<u>0</u>
Beginning Cash	<u>0</u>	<u>0</u>
Revenues:		
E & G funds	<u>42,680</u>	<u>82,026</u>
Student visa service charge (2,700 @ \$100)	<u>270,000</u>	<u>270,000</u>
	<u> </u>	<u> </u>
	<u> </u>	<u> </u>
Transfers In	<u> </u>	<u> </u>
Interest Earnings	<u> </u>	<u> </u>
Available Cash	<u>312,680</u>	<u>352,026</u>

	<u>Current Fiscal Yr</u>	<u>Next Fiscal Yr</u>
<u>Expenditures</u>		
Salaries	<u>227,049</u>	<u>293,100</u>
OPS	<u>5,000</u>	<u>5,200</u>
Beginning Inventory	<u> </u>	<u> </u>
Inventory Repurchase	<u> </u>	<u> </u>
Other Expenses		
Communications	<u>11,000</u>	<u>11,550</u>
Reproduction & Publications	<u>5,500</u>	<u>5,775</u>
Supplies	<u>8,000</u>	<u>8,400</u>
Software	<u>30,000</u>	<u>0</u>
Training	<u>6,000</u>	<u>6,300</u>
Orientations & Workshops	<u>6,000</u>	<u>6,300</u>
Travel	<u>8,000</u>	<u>8,400</u>
OCO	<u> </u>	<u> </u>
Subtotal Expenditures for OVH	<u>306,549</u>	<u>345,124</u>
Overhead @ 2%	<u>6,131</u>	<u>6,902</u>
Loan Repayment	<u> </u>	<u> </u>
Transfers Out	<u> </u>	<u> </u>
Total Expenditures	<u>312,680</u>	<u>352,026</u>
 ENDING CASH BALANCE (Available - Expenditures)	 <u>0</u>	 <u>0</u>

UNIVERSITY OF FLORIDA
EDUCATIONAL BUSINESS ACTIVITY INCOME STATEMENT

	<u>Current Fiscal Yr</u>	<u>Next Fiscal Yr</u>
A. Revenue From Sales	270,000	270,000
B. Cost of Goods Sold	0	0
C. Gross Margin (A-B)	270,000	270,000
D. Operating Expenses (including OVH)	312,680	352,026
E. Net Income (C-D)	(42,680)	(82,026)
F. Gross Margin % of Sales (C/A)	100 %	100 %
G. Net Income % of Sales (E/A)	%	%


UNIVERSITY OF FLORIDA
EDUCATIONAL BUSINESS ACTIVITY INVENTORY TURNOVER

	<u>Current Fiscal Yr</u>	<u>Next Fiscal Yr</u>
H. Beginning Inventory	0	0
I. Purchases	0	0
J. Total Available (H+I)	0	0
K. Cost of Goods Sold (B)		
L. Ending Inventory (J-K)		
M. Average Inventory [(H+L)/2]		
N. Turnover Rate * (K/M)		

* Cost of Goods Sold / Average Inventory

ISS Budget	FY 2002 - 2003	FY 2003 - 2004
Salaries & Fringe		
6.15 FTE (see sheet 2)	227,049	293,199
8.15 FTE FY 03-04		
OPS		
3 CWSP @ .50 FTE	5,000	5,200
Operating Expense		
Communications	11,000	11,550
Reproduction	2,000	2,100
Publications	3,500	3,675
Supplies	8,000	8,400
Software	30,000	0
Training	6,000	6,300
Orientations	3,000	3,150
Workshops	3,000	3,150
Travel	8,000	8,400
Subtotal	74,500	46,725
OCO		
Computer Equipment	0	8,000
Overhead @ 2%	6,131	6,902
TOTAL	312,680	360,026
Revenue		
2700 students @ \$100 ea	270,000	270,000
Variance	-42,680	-90,026

E & G funds (0125001-01) will subsidize variance.



UNIVERSITY OF
SOUTH FLORIDA

September 22, 2004

Nathan Adams, Esq.
Deputy General Counsel
Florida Board of Governors
325 W. Gaines Street, Suite 1244
Tallahassee, FL 32399-0400

Re: Rule 6C4-4.0107, F.A.C. International Student Administrative Charge and Optional
Late Graduation Fee

Dear Nate:

Thank you for your letter of August 24, 2004, in which you requested an explanation as to how certain statutory citations [1009.24(3); (12)(g),(m),(n) and 1001.74(6), F.S.] and Board of Governors Rule 6C-7.003, F.A.C., authorize the implementation of the above-referenced fees in the USF proposed Rule 6C4-4.0107, F.A.C.

The Board of Governors Resolution of January 7, 2003, authorizes university Boards of Trustees to establish fees pursuant to 1009.24, F.S. The Resolution further authorizes university Boards of Trustees to adopt rules pursuant to § 120.536(1) and 120.54, F.S., so long as such rules are consistent with the rules of the Board of Governors. Please refer to BOG Rule 6C-7.003(14)(23)(28) and (30), F.A.C. These sections correspond to the cited Florida Statutes.

International Student Administrative Charge

As of August 1, 2003, USF promptly implemented the appropriate tracking and administrative system necessary to ensure compliance with the U. S. Department of Homeland Security's activation of SEVIS, the Student and Exchange Visitor Information System.

This system requires all institutions enrolling foreign students and hosting foreign scholars in visa classifications F, J, and M to begin formally tracking foreign nationals using this new internet-based system. The tracking requirements include: registration hours, student transfers, extension of stay and reinstatements, extension of I-20 or DS-2019 forms, and all changes of address, program, level of study and funding. The University incurred the cost of these tracking services and developed a fee to be charged to international students to recover the cost of implementing the unfunded federal mandate. The initial fee was charged in August 2003.

OFFICE OF THE GENERAL COUNSEL

University Of South Florida • 4202 E. Fowler Avenue, ADM 250 • Tampa, FL 33620-6250
(813) 974-2131 • FAX (813) 974-5236 • <http://www.isis2.admin.usf.edu/usfgcl>

Letter to Nathan Adams, Esq.
September 22, 2004
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In application, the University realized that the system affected all aspects of the student advisory and visa-maintenance work of the USF International and Student Scholar Services and the use of University facilities, equipment, materials and supplies. It also required additional administrative functions to ensure that all documents, records and files were accurately and timely maintained and processed.

Accordingly, the fee was presented to the ACE Workgroup on March 22, 2004, and after consideration and appropriate review periods, on May 20, 2004, the USF Board of Trustees approved the fee.

The specific statutory sections of Title XLVIII of the K-20-Education Code and BOG rules or resolution providing the statutory authority for this fee are as follows:

1009.24(12)(g), F.S. and 6C-7.003(30), F.A.C.

SEVIS requires the use of specific materials and supplies necessary in registration, dropping, adding and changing status of international students and/or their instructional courses and activities.

1009.24(12)(m), F.S. and 6C-7.003(14), F.A.C.

SEVIS compliance includes, but is not limited to, services relating to duplicating, photocopying and microfilming of international student records. The statute requires that this fee may be charged only to those students who receive the services, as it will be.

1009.24(12)(n), F.S. and 6C-7.003(23), F.A.C.

The SEVIS system compliance requires the use of additional facilities and equipment to track students on a daily basis.

1001.74(6), F.S. and the BOG 1/7/03 Resolution

Section 1001.74(6) authorizes the imposition of charges or fees for the use of university property, equipment, buildings and other resources. The SEVIS system arose pursuant to a federal mandate, not a University voluntarily implemented program or service. At no time did the University independently decide to begin tracking and registering foreign students.

In essence, the federal requirement sets forth the parameters and directly mandates that university space, property, equipment and resources be designated for the implementation of the SEVIS system. This system is to be directed to international students only. This mandate is unique in that it allows an outside user, the federal government, to direct the allocation and use of University resources without identifying who should be responsible for the charges associated with that use.

Letter to Nathan Adams, Esq.
September 22, 2004
Page 3 of 4

The Federal Government has identified a cost of a \$100 per student as an appropriate fee to be collected at the time of immigration (U.S. Department of Homeland Security, Bureau of Immigration and Customs Enforcement, Public Law 104-208, Subtitle D., Section 641). Accordingly, the University is assessing the costs of the Federal mandate to the students. This cost allocation allows for the appropriate party, the person actually using University facilities, to be charged with the cost. In addition, the charges will remain with the beneficiaries of the service and will not result in costs to the State as a fee recovery against the budgets of either Bright Futures or the Florida Pre-Paid Tuition Program, as the fees are not assessed against recipients of either.

The University of South Florida has collected \$245,200 for FY 03-04 and \$41,150 for FY 04-05. The budget allocation (which does not reflect summer fees not yet applied) is attached to this memorandum.

Optional Late Graduation Fee

This proposed fee is entirely *optional*. It will not be assessed on any student who does not *request the assessment*.

At the present time, USF undergraduate students are given a deadline, noted in the academic calendar, to submit an application for degree. The deadline is necessary because of the difficulty associated with certifying thousands of applicants within a brief period of time each semester.

If students fail to apply within the designated period, they will not graduate in that term, but must wait until the next term to receive their diploma and certification for graduation. As a result, such degrees are not awarded within the terms in which the students complete the academic requirements. This may create hardships for some students when seeking admission to graduate and professional schools or employment in positions where a degree "in hand" is required.

The University would like to provide late applicants with a voluntary opportunity to graduate within the term in which they earned the degree, if they agree to bear the additional workload costs for the office of the registrar. Therefore, the University has proposed a \$50 optional fee if the late applicants wish to pay for the extra service rather than wait another semester.

We refer you to two sources that authorize this proposed optional fee.

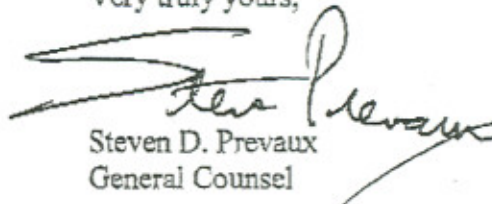
(1) **Section (3) of 1009.24, Florida Statutes**, provides that ...*"This subsection does not prohibit a university from increasing or assessing "optional" fees related to specific activities if payment of such fees is not required as part of registration for courses."*

(2) **Daniel Woodring's May 26, 2004, opinion** to Chairperson Roberts regarding a proposed technology fee in which he states: "any additional student fee not listed in 1009.24, F.S., must be optional."

Letter to Nathan Adams, Esq.
September 22, 2004
Page 4 of 4

Thank you for the opportunity to discuss the proposed amendments to this rule. If you need any additional information please let me know.

Very truly yours,



Steven D. Prevaux
General Counsel

SDP/cm
Enclosure

cc: Chairman Dick Beard
President Judy Genshaft

INTERNATIONAL STUDENT AND SCHOLAR SERVICES OVERALL BUDGET

David Austell/August 9, 2004

<u>STAFF SALARIES SUPPORTED BY E&G FUNDS</u>	% of work directly related to <u>SEVIS</u>
David Austell, Director.....	\$74,000.00 15%
Catherine Seybold, Assistant Director.....	\$44,000.00 25%
Carol Kim, Office Manager.....	\$28,000.00 10%
Kari Saunders, Receptionist... OPS listed in Operations Budget.....	00 10%
Maria Sebti, Senior Intern..... OPS listed in Operations Budget.....	00 15%
 Sub-Total.....	 \$146,000.00
 <u>STAFF SALARIES SUPPORTED BY SIAC FUNDS</u>	
Marcia Taylor, Foreign Student Adviser-SEVIS Coordinator.....	\$37,292.00 90%
Lynn Reilly-Smith, Foreign Student Advisor-USCIS Coord.....	\$35,150.00 50%
Kim Kelly-Wood, SEVIS Program Assistant I.....	\$23,500.00 100%
Vacant, SEVIS Program Assistant II.....	\$23,500.00 100%
 Sub-Total.....	 \$119,442.00
 <u>E&G FUNDS NEEDED FOR BENEFITS</u>	
Seven (7) ISSS staff positions at 30% Sub-Total.....	\$79,633.00
 <u>OPERATING BUDGET FUNDED BY SIAC</u>	
ISSS Operating Budget Sub Total.....	\$74,200.00 100%
 <u>CONCESSIONS</u>	
ISSS Concession Account SubTotal.....	\$1,500.00
 TOTAL ISSS BUDGET (OVERALL).....	 \$420,775.00
 TOTAL BUDGET SUPPORT FROM SIAC.....	 \$193,642.00
 PERCENTAGE OF ISSS BUDGET SUPPORT FROM <u>E&G</u>	 54%
 PERCENTAGE OF ISSS BUDGET SUPPORT FROM <u>SIAC</u>	 46%



UNIVERSITY OF
SOUTH FLORIDA

May 25, 2005

Nathan A. Adams IV, Ph.D., M.A., Esq.
Deputy General Counsel
Florida Department of Education
325 W. Gaines Street, Suite 1244
Tallahassee, FL 32399-0400

Sent via fax to: (850) 245-9379

Re: International Student Administrative Charge, Rule 6C4-4.0107, F.A.C.

Dear ~~Dr. Adams,~~ **NATE**

In response to your inquiry regarding the Student International Administrative Charge (SIAC) for foreign scholars, the University of South Florida collects the fee pursuant to Rule 6C4-4.0107, F.A.C. In adopting this Rule, the University followed all required rule development procedures including compliance with section 120.54, Florida Statutes. Beginning on February 21, 2004 the University issued a Rule Development Notice and proceeded through all required notices, Board of Trustee approvals, noticed hearings and notices of rule change.

The Joint Administrative Procedures Committee (JAPC) **certified** the final Rule 6C4-4.0107, F.A.C. for adoption on September 28, 2004 (copy attached). The Rule was filed with the Department of State, published in the Florida Administrative Code and became **effective on October 18, 2004** (copy attached).

This fee was created to offset the costs forced upon the University by the program known as SEVP (Student and Exchange Visitor Program) and its core technology known as SEVIS (Student and Exchange Visitor Information System) as provided in Section 641 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA). The federal government, in response to the increased costs and expenses involved in implementing the law, amended Section 641(e) of IIRIRA, Public Law No. 104-208, 110 Stat. 3009-704, codified at 8 USC 1372, to require that a \$100.00 per student fee be established and charged to students tracked in SEVIS to fund the federal program. As the federal law does not isolate or identify how the educational institutions affected should fund the mandate, the University along with other institutions followed the federal government in assessing the fee directly to the students tracked. The adoption of the University's Rule is consistent with the federal government and it offsets the costs incurred by SEVIS directly to the students in the tracking system.

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In implementing this institutional level charge, the University of South Florida followed all Rule development steps. In addition, the University has cited the following specific statutory authority for promulgation of its rule:

1001.74(6), F.S. and the BOG 1/7/03 Resolution

Section 1001.74(6) authorizes the imposition of charges or fees for the use of university property, equipment, buildings and other resources. The SEVIS system is federally mandated, not a University voluntarily implemented program or service. At no time did the University independently decide to begin tracking and registering foreign students. In essence, the federal requirement sets forth the parameters and directly mandates that university space, property, equipment and resources be designated for the implementation of the SEVIS system. This system is to be directed to international students only. This mandate is unique in that it allows an outside user, the federal government, to direct the allocation and use of finite University resources.

1009.24(12)(g), F.S. and 6C-7.003(30), F.A.C.

SEVIS requires the use of specific materials and supplies necessary in registration, dropping, adding and changing status of international students and/or their instructional courses and activities.

1009.24(12)(m), F.S. and 6C-7.003(14), F.A.C.

SEVIS compliance includes, but is not limited to, services relating to duplicating, photocopying and microfilming of international student records. The statute requires that this fee may be charged only to those students who receive the services, as it will be.

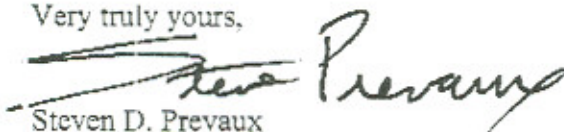
1009.24(12)(n), F.S. and 6C-7.003(23), F.A.C.

The SEVIS system compliance requires the use of additional facilities and equipment to track students on a daily basis.

The University clearly followed all protocols and procedures set forth in the only process available to the University at the time. Currently, the University of South Florida has implemented the fee for the appropriate students at \$50.00 per term.

If you require any additional information please let me know and I will endeavor to provide it promptly.

Very truly yours,



Steven D. Prevaux
General Counsel



THE FLORIDA LEGISLATURE
JOINT ADMINISTRATIVE
PROCEDURES COMMITTEE



Representative Juan-Carlos "J.C." Pizarra, Chair
Senator Michael S. "Mike" Bennett, Vice-Chair
Senator Nancy Argenziano
Senator Gwen Margolis
Representative Bill Galvano
Representative Yolly Roberson

CERTIFIED

SEP 24 2004

JOINT ADMINISTRATIVE
PROCEDURES COMMITTEE

F. SCOTT BOYD
EXECUTIVE DIRECTOR
AND GENERAL COUNSEL
Room 120, Holland Building
Tallahassee, Florida 32399-1300
Telephone (850) 488-9110


CERTIFICATION

Department: Education
Agency: University of South Florida
Rule No(s): 6C4-4.0107
File Control No: 133291

FILED
2004 SEP 20 AM 10:20
DEPARTMENT OF STATE
TALLAHASSEE, FLORIDA

As required by subparagraph 120.54(3)(e)4, F.S., the Joint Administrative Procedures Committee hereby certifies that:

- There were no material and timely written comments or written inquiries made on behalf of the Committee regarding the above listed rules; or
- The adopting agency has responded in writing to all material and timely written comments or written inquiries made on behalf of the Committee regarding the above listed rules; or
- The adopting agency has not responded in writing to all material and timely written comments or written inquiries made on behalf of the Committee regarding the above listed rules.


Signature of Certifying Attorney September 24, 2004
Certification Date
This certification expires after September 28, 2004

**Note: After the expiration date a new certification should be requested. This certification does not address the validity of the rules. The rules remain subject to committee review pursuant to the provisions of section 120.545, Florida Statutes.*

V. 2, p. 875

ADMINISTRATIVE AFFAIRS

(R. 1/1/04)
6C4-4.0107**6C4-4.0107 Special Fees, Fines and Penalties.**

(1) The Board of Trustees, hereinafter referred to as the "Board," must authorize all fees assessed by the University of South Florida, hereinafter referred to as the "University." For purposes of clarification, the term "at cost" or "cost" as used in this rule includes those increased costs that are directly related to the delivery of the goods or services. All special fees, fines and penalties collected by the University shall be allocated to the appropriate account as required by Section 1009.24, F.S., or Board Rule. The Board hereby authorizes the following fees:

(a) **Application Fee** – Individuals who make application for admission to the University shall pay a non-refundable Application Fee of \$30.00. This fee will be waived for applicants who can document that they have received a fee waiver because of economic need as determined by the College Board or the American College Testing Program.

(b) **Admissions Deposit Fee** – Effective with the fall semester, 2005, all applicants to undergraduate degree programs will be assessed a \$200.00 Admissions Deposit fee. The Admissions Deposit fee shall be imposed at the time of the applicant's acceptance to the University and shall be applied toward the applicant's tuition upon enrollment. The Admissions Deposit fee is non-refundable in the event the applicant fails to enroll. Requests to waive the Admissions Deposit fee, based on financial hardship, will be reviewed by an Appeals Review Committee comprised of the Director of Undergraduate Admissions; Director of Financial Aid; Associate Director of Admissions for Compliance and Data Management; and Associate Director of Financial Aid. The Appeals Review Committee will use the following criteria in determining financial hardship:

Recipients of SAT or ACT fee waivers.

Federal Pell Grant Eligibility.

Federal Tax Returns: (Additional documentation will be considered in instances where the previous year's federal tax return did not reflect a current hardship).

The Fee will be waived for students participating in the summer Student Support Services (SSS) program and for Pell Grant students who are eligible for the Freshman Summer Institute.

(c) **Audit Registration Fees** – Audit registration assures a course space for the student, however, no grade is awarded. This fee is the same as the Resident tuition provided in Rule 6C4-4.102, F.A.C. Depositing of fee proceeds shall be the same as that provided for tuition.

(d) **International Student Administrative Charge** – An International Student Administrative Charge shall be assessed each semester to foreign students enrolled at the University who are not currently U.S. Citizens or Permanent Residents of the United States. This charge, in the sum of \$50.00 per semester, shall be assessed only to those students who receive the services of the Office of the International Student and Scholar Services (ISSS). The funds generated by this charge will be used to offset the costs of compliance with the requirements of the Student and Exchange Visitor Information System (SEVIS). The charge will be assessed for both fall and spring semesters, but only once for any summer enrollments for a maximum total charge of \$150.00 per calendar year.

(e) **Registration of Zero Hours** – Such registration provides for examinations, graduations, use of facilities, etc., when deemed appropriate by the institution. The student is assessed Resident tuition for one credit hour. The Zero Credit Fee shall be distributed in the same manner as tuition.

(f) **Late Registration Fee** – A Late Registration Fee shall be assessed against students who fail to initiate registration in the regular registration period. The fee shall be \$100.

(g) **Late Payment Fee** – A Late Payment Fee will be assessed to students who fail to pay, or make appropriate arrangements for payment (installment payment, deferral, or third-party billing), of tuition by the deadline set by the University, which shall be no later than the end of the second week of classes. The fee shall be \$100. Provisions will be made to waive the Late Payment Fee for minor underpayment as specified by the University and as outlined in Rule 6C4-4.0101, F.A.C.

(h) **Health Fee** – The student Health Fees shall be established pursuant to subsections 1009.24(3), 1009.24(8) and 1009.24(10), F.S., and are set forth in Rule 6C4-4.0102, F.A.C. The President of the University, hereinafter referred to as the "President," shall submit requests to change the student Health Fee, to be effective the following fall semester, to the Board for approval at the first Board meeting of the calendar year. In addition, the President, or his or her designee, will assess miscellaneous health-related charges for services provided at cost by the health center which are not covered by the Health Fee.

(i) **Athletic Fee** – The Athletic Fee shall be established pursuant to subsections 1009.24(3), 1009.24(8) and 1009.24(11), F.S., and are set forth in Rule 6C4-4.0102, F.A.C. The President shall submit requests to change the Athletic Fee, to be effective the following fall semester, to the Board for approval at the first Board meeting of the calendar year.

(j) **Activity and Service Fee** – The Activity and Service Fees are established pursuant to subsections 1009.24(3), 1009.24(8) and 1009.24(9)(a), (b), F.S., and are set forth in Rule 6C4-4.0102, F.A.C. The President shall submit requests to change the Activity and Service Fee, to be effective the following fall semester, to the Board for approval at the first Board meeting of the calendar year.

(k) Library Fees:	Amount
1. Overdue fine per book or unit, per day	\$25
2. Overdue fine on reserve item, per hour	\$25
3. Overdue fine for Interlibrary loan item, per day	Cost
4. Overdue library equipment fee, per hour	\$1.00
5. Duplicating/Photocopying fee for personal use only, per copy	Cost
6. Binding fee, Theses and Dissertations	Cost
7. Loss or damage of library material	Cost plus processing fee
8. Loss or damage of library equipment	Cost plus processing fee

(l) **Late Equipment Fee, Physical Education** – per item, per day \$25

(m) **Security/Access/Identification Card, Duplicate Security/Access/ Identification Card, Fee Card, or Passbook:**

1. One time fee	\$10.00
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2. Duplicates	\$10.00
(n) Standardized Tests – the fee for all standardized tests, (GRE, URE, etc.) will consist of the direct costs of administering the tests.	Cost
(o) Microfilm Fee – Thesis and Dissertation	Cost
(p) Copyright Fee – Dissertation	Cost
(q) Thesis and Dissertation Processing Fee	Cost
(r) Lost Keys (includes cylinder change)	Cost
(s) Facilities/Equipment Use Charge	Cost
(t) Orientation Fee	\$35.00
(u) Transcript Fee, Per item	\$8.00
(v) Diploma Replacement Fee, Per item	\$5.00
(w) Optional Late graduation Application Fee	\$50.00

(x) Marshall Center Use Fee – All students who enroll at the University of South Florida, Tampa Campus shall pay a non-refundable flat fee of \$20.00 per semester and an additional \$1.50 per credit hour fee to facilitate the use of student union facilities.

(y) Off-Campus Educational Course Offerings – Fees will be charged for off-campus course offerings when the location results in specific, identifiable increased costs to the University. These fees will be in addition to the regular Student Credit Hour fees charged to students enrolling in these courses on-campus. The additional fees charged are for the purpose of recovering the increased costs resulting from off-campus vis-a-vis on-campus offerings. As used herein, "off-campus" refers to locations other than regular state-funded main campuses, branch campuses, or centers. The University shall use the additional fees collected to cover the increased cost of these courses.

(z) Material and Supply Fees – Material and Supply Fees will be charged, but will not exceed the amount necessary to offset the cost of materials or supply items which are consumed in the course of the student's instructional activities, excluding the cost of equipment and equipment repairs and maintenance.

(aa) Housing Rental Rates – Basic rates for housing rental shall be set by the Board. The President shall submit requests to change the basic rates for housing rental, to be effective the following fall semester, to the Board for approval at the first Board meeting of the calendar year. Current housing rental rates are found in the Residence Services brochure: "Live the Campus Life" (Rev. 2004/2005). Copies of the brochure may be obtained from the University of South Florida Department of Residence Services, Division of Student Affairs.

(bb) Parking Fines and Decals – A schedule of parking fines and a charge for parking decals, are set forth in Rule 6C4-4.0013, F.A.C., and the referenced, "Parking at the University of South Florida" brochures.

(cc) Transportation Access Fee – Pursuant to the University's authorization to adopt by rule a transportation access fee, with appropriate input from students, to support the University's transportation infrastructure and to increase student access to transportation services, a transportation access fee set in the sum of \$2.25 per credit hour, shall be charged, commencing with the fall term, 2003.

(dd) Returned Check Fee – The University shall assess a service charge as authorized by subsection 832.07(1), F.S., for unpaid checks returned to the University.

(ee) Collection Costs – The University will assess a charge representing reasonable cost of collection efforts to effect payment for overdue accounts. Collection costs will be assessed to the student for collection of debts owed the University not secured by a promissory note or contract.

(ff) Educational Research Center for Child Development Fee – The Center shall submit a request to establish or change child care and service fees to the President, who shall make a recommendation to the Board by November 1, of each year, to become effective the subsequent fall semester. Current fees are posted on the Center website:

<http://www.cnedu.usf.edu/clarlerccd.htm>.

(2) The Board will establish additional fees in order to meet specific higher education needs identified by the University when special circumstances result in specific, identifiable increased costs of instruction in a course of study. These fees will be in addition to the regular on-campus Student Credit Hour and other fees charged to students enrolled at the University. The additional fees charged shall be sufficient to recover all increased costs of these courses.

Specific Authority 1001.74(4), (6), (11) FS. Law Implemented 832.07(1), 1001.74(11), 1009.24, 1009.26 FS History—New 8-31-03. Amended 10-18-04.

6C4-4.012 Purpose. The purpose of Rules 6C4-4.012–6C4-4.01217, F.A.C., is to implement the delegated authority received by the State University System in accordance with Section 240.225, F.S., with respect to those functions and duties regarding leasing heretofore performed by the Department of General Services in accordance with Sections 255.248, 255.249, and 255.25, F.S.

Specific Authority 240.227(1), 255.249(2) FS. Law Implemented 240.225, 240.227(1), (17), 255.248, 255.249, 255.25 FS. History—New 6-4-80, Formerly 6C4-4.12.

6C4-4.01201 Definitions. For the purpose of this chapter, each of these words shall have the following meaning:

(1) Lease – The contract instrument or agreement required to lease a building or any part thereof.

(2) Privately Owned – Any building not owned by a governmental agency.

(3) Nominal Consideration – Consideration of \$1.00 or less for the term of the lease.

(4) State Owned Building – Any facility owned by the state regardless of use or control.

(5) State University System Standard Method of Space Measurement – As specified in the HEGIS Facilities Inventory and Classifications Manual, incorporated by reference in Rule 6C-17.012, F.A.C., of the Board of Regents.

Specific Authority 240.227(1), 255.249(2) FS. Law Implemented 240.225, 240.227(1), (17), 255.25(2) FS. History—New 6-4-80, Formerly 6C4-4.1201.

6C4-4.01203 Approval.

(1) General. Before leasing a building or any part thereof for other than nominal or no consideration, the University Space Committee shall certify the need for each space. Occupancy, lease terms and conditions shall be reviewed by the University Attorney and approved by the University

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this section within 180 days after the effective date of the act, unless the act provides otherwise.

(b) In adopting rules, all agencies must, among the alternative approaches to a regulatory objective and, to the extent allowed by law, choose the alternative that imposes the lowest net cost to society based upon the factors listed in paragraph (2)(c), or provide a statement of the reasons for rejecting that alternative in favor of the proposed rule. This paragraph shall not provide a basis for challenging a rule.

(13)(a) The proposed rule shall be adopted on being filed with the Department of State and become effective 20 days after being filed, on a later date specified in the rule, or on a date required by statute. Rules not required to be filed with the Department of State shall become effective when adopted by the agency head or on a later date specified by rule or statute.

(b) After the notice required in subsection (1) and prior to adoption, the agency may withdraw the rule in whole or in part or may make such changes in the rule as are supported by the record of public hearings held on the rule, technical changes which do not affect the substance of the rule, changes in response to written material relating to the rule received by the agency within 21 days after the notice and made a part of the record of the proceeding, or changes in response to a proposed objection by the committee. After adoption and before the effective date, a rule may be modified or withdrawn only in response to an objection by the committee or may be modified to extend the effective date by not more than 60 days when the committee has notified the agency that an objection to the rule is being considered. The agency shall give notice of its decision to withdraw or modify a rule in the first available issue of the publication in which the original notice of rulemaking was published and shall notify the Department of State if the rule is required to be filed with the Department of State. After a rule has become effective, it may be repealed or amended only through regular rulemaking procedures.

(14) If the committee disapproves a proposed rule and the agency does not modify the rule, the committee shall file with the Department of State a notice of the disapproval detailing with particularity its objection to the rule. The Department of State shall publish this notice in the Florida Administrative Weekly and shall publish, as a history note to the rule when it is published in the Florida Administrative Code, a reference to the committee's disapproval and to the issue of the weekly in which the full text thereof appears. *NOTE*

(15) No agency has inherent rulemaking authority; nor has any agency authority to establish penalties for violation of a rule unless the Legislature, when establishing a penalty, specifically provides that the penalty applies to rules. However, an agency may adopt rules necessary to the proper implementation of a statute prior to the effective date of the statute, but the rules may not be enforced until the statute upon which they are based is effective.

(16) The rulemaking provisions of this chapter do not apply to compensation appeals referees.