

FLORIDA BOARD OF GOVERNORS

July 21, 2005

SUBJECT: Regulation Adoption Procedure for the University Boards of Trustees

PROPOSED BOARD ACTION

Consider adoption of a Regulation Making Procedure for the University Boards of Trustees.

AUTHORITY FOR BOARD OF GOVERNORS ACTION

Article IX, Section 7, Constitution of the State of Florida

BACKGROUND INFORMATION

In June 2004, the First District Court of Appeal recognized that the provisions of Chapter 120, Fla. Stat., the Administrative Procedure Act, do not apply to the Board of Governors or university boards of trustees. *NAACP, Inc. v. Fla. Bd. of Regents*, 876 So.2d 636 (Fla. 1st DCA 2004). As an interim measure, the Board of Governors required university boards of trustees to follow Chapter 120, Fla. Stat.

On November 18, 2004 and March 24, 2004, the Board of Governors considered and commented upon drafts of a replacement rulemaking procedure. State universities and Board members requested modifications to the procedure to be coordinated by Ms. Lynn Pappas. This Board will consider the regulation making procedure resulting from this coordination.

Supporting Documentation: To be provided.

Facilitators/Presenters: Chancellor Debra Austin,
General Counsel Daniel Woodring