

FLORIDA BOARD OF GOVERNORS

June 9, 2005

SUBJECT: Petition to Overturn International Student Fee.

PROPOSED BOARD ACTION

Decide the Petition to Overturn International Student Fee.

AUTHORITY FOR BOARD OF GOVERNORS ACTION

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

BACKGROUND INFORMATION

In or about September 2002, the University of Florida (UF) began collecting a mandatory foreign student fee in the amount of \$50 per semester to recover the administrative costs of complying with certain post-9-11 federal visa processing requirements. In March 2004, the UF Board of Trustees approved a rule promulgating the fee. Other universities have also approved a similar fee.

On July 14, 2004, the Joint Administrative Procedures Committee (JAPC) of the Florida Legislature advised that it had received draft rules imposing the fee. JAPC advised that, in its view, the student fees were not authorized by the statutes cited as specific authority and law implemented. JAPC continued that the "fees do not appear to be among the approved fees listed in rule 6C-7.003, adopted by resolution of the Board of Governors."

The Board of Governors staff requested the specific authority and law implemented for the draft rule and asked whether the universities referenced in the letter were collecting or expending funds generated by the proposed rule and to justify the amount of the fee for the purposes intended. UF responded with its legal rationale strongly disagreeing with JAPC's conclusions, stated that it had approved and begun collecting the fees, and provided a budget for future expenditures. UF reported collecting \$253,232 in FY 02-03 and \$261,763 in FY 03-04.

In February 2005, petitioners, Sophie Croisy, an international student enrolled at the University of Florida, and the University of Florida chapter of Graduate Assistants United Faculty of Florida filed with the Board of Governors a Petition to Invalidate Unpromulgated Rule and Unlawful International Student Fee, challenging the \$50 per semester international student fee.

Petitioners asked the Board to declare the allegedly unpromulgated rule unlawful and in violation of § 120.54(1)(a), Fla. Stat., as adopted by the Board and Article IX, § 7, Florida

Constitution; to direct UF to cease relying upon this allegedly unpromulgated rule as a basis for agency action; to direct UF to refund to each student the full amount of all unlawful fees assessed in reliance on the unpromulgated rule; and to award reasonable costs and attorney's fees to them.

Supporting Documentation Included: Letter from JAPC regarding fees (including attachments);

Letters from UF and USF regarding fees;

Petition to Invalidate Unpromulgated Rule and Unlawful International Student Fee (including attachments);

UF's Response to Petition.

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