



To: Dan Raulerson, Alternating Chair, Joint Legislative Auditing Committee
Debbie Mayfield, Alternating Chair, Joint Legislative Auditing Committee

From: Joseph Maleszewski, Inspector General and Director of Compliance
State University System of Florida Board of Governors

Date: May 17, 2017

Re: Six-month Follow-up: 2016 Board of Governors Operational Audit (2017-048)

The following information constitutes our six-month follow-up report required by section 20.055(6)(h), Florida Statutes. I have organized the information by finding and included the original management response and an update regarding corrective actions taken and planned.

GUIDANCE AND OVERSIGHT FUNCTION

Finding 1: The Board of Governors (Board) needs to enhance regulations to help state universities establish uniform standards that conform to statutory requirements. A similar finding was noted in the Auditor General's Report No. 2013-024.

The Auditor General's review disclosed certain regulations related to the remuneration of university presidents and administrative employees, sponsored research, anti-hazing policies, student codes of conduct, and purchasing practices that the Board could clarify to help state universities establish uniform standards and, as applicable, conform to statutory requirements.

REMUNERATION OF PRESIDENTS AND ADMINISTRATIVE EMPLOYEES

Recommendation: The Board should review, and revise as appropriate, its current regulations to ensure definitions of teaching faculty do not conflict with State law.

Board of Governors Response: We concur with the recommendation to avoid conflict between our regulation and State law regarding the definition of teaching faculty. The Board will work to ensure alignment between the regulation and section 1012.976, Florida Statutes, with respect to remuneration of university teaching faculty.

The Auditor General's report correctly notes that pursuant to the State Constitution, the Board of Governors has the duty to operate, regulate, control, and be fully responsible for the management of the State University System. The Constitution provides the regulatory authority to the Board to implement system-wide policies that affect the universities, including university personnel. The authority over the personnel programs is recognized in law in section 1001.705(2), Florida Statutes, and in the Governance Agreement between the Board of Governors, the Legislature, and the Executive Office of the Governor. Consequently, the Board of Governors has the authority to promulgate a regulation that affects university personnel. Notably, the reference to "university teaching faculty" in section 1012.976, Florida Statutes, is not defined.

Board of Governors Six-month Follow-up Status:

Board of Governors staff will be seeking an amendment to section 1012.976, Florida Statutes, to define "university teaching faculty" consistent with Board of Governors Regulation 9.006 *Remuneration of University Presidents and Administrative Employees*. Board of Governors Regulation 9.006(2)(d), states:

University teaching faculty or medical school faculty or staff are excluded from the \$200,000 limit. University teaching faculty is defined as an employee that provides direct instructional services to students or provides direct or indirect support in the instruction of students by establishing curriculum and other requirements involved in teaching students. Instructional services would also include classroom activities, research laboratories, co-curricular activities or service activities in which students participate. These employees may be on a tenured/tenured-track line or under contract by the university in a faculty or other academic personnel or personnel support position. This would include a university's provosts, deans, professors, lecturers, librarians, distinguished

professors, eminent scholars, curators, scholars, scientists,
engineers and clinicians.

SPONSORED RESEARCH

Recommendation: The Board should review, and revise as appropriate, its current regulations for sponsored research activities to provide guidance including, for example, restrictions on the use of research funds; procedures for negotiating, entering into, and executing research contracts; procedures for soliciting and accepting research grants and donations; and procedures over the collection of fees and donations.

Board of Governors Response: We concur with the recommendation to review, and revise as appropriate, our regulations for sponsored research activities. The Board of Governors will develop appropriate guidelines for divisions of sponsored research in alignment with applicable state and federal law related to sponsored research contracts and grants.

Board of Governors Six-month Follow-up Status:

Subsequent to the 2016 Board of Governors Operational Audit (2017-048), a work group comprised of members of the State University System Council of General Counsels, the State University System Council of Vice Presidents for Research, and staff from the Board of Governors Office of Academic and Student Affairs met on February 13, 2017 (meeting agenda attached: "Agenda 2_13_2017 Meeting") to review any regulations pertaining to sponsored research activities and to draft new regulations as appropriate. As a result, the workgroup drafted Board of Governors Regulation 10.002 Sponsored Research (attached: "03c 10 002 Sponsored Research Regulation 2017_02_22_JMI").

Notice of Intent to Establish the Regulation was placed on the March 29, 2017 agenda of the Board of Governors Task Force on University Research (attached: "00 Research Task Force March Agenda_JMI," and "03a Sponsored Research Regulation Amendment ai JMI_rev"). The Notice of Intent to Establish the Regulation was approved and forwarded to the full Board of Governors for consideration at its March 30, 2017 meeting (attached: "02a Sponsored Research Certification_ai_JMI_rev"). The full Board of Governors approved Notice of Intent to Establish Regulation 10.002 Sponsored Research on that date. The Regulation will be considered for final approval at the June 2017 Board of Governors meeting.

Under the terms of Regulation 10.002, University boards of trustees are authorized to create divisions of sponsored research and establish policies regulating the administration and operation of the divisions of sponsored research. They are to annually certify to the Board of Governors by October 1st of each year that policies are in place to negotiate, enter into, and execute research contracts including, but not limited to, policies for solicitation and acceptance of research grants and research donations, policies for the collection of fees and research donations in the context of university sponsored research, and policies relating to the appropriate use of research funds. Further, each certification will provide assurance that reasonable control and monitoring systems are in place for research activities to comply with applicable laws. Finally, the certification form will be signed, to the best of the certifying official's knowledge, by the most senior officer responsible for research as designated by the university president, and the annual certification will be reported to the university's board of trustees.

In addition to the Regulation, the workgroup produced an accompanying Sponsored Research Certification Form (attached: "03b Sponsored Research Certification Form REV_JMI") that will ensure standardized and adequate responses across all State University System institutions.

ANTI-HAZING POLICIES

Recommendation: The Board should review, and revise as appropriate, its current regulations to provide guidance for establishing anti-hazing policies as well as the penalties and enforcement actions and require universities to periodically report to BOG the number of hazing incidents that occurred.

Board of Governors Response: We concur with the recommendation to review, and revise as appropriate, our regulations for anti-hazing policies. Board staff will conduct a review of existing university anti-hazing policies and recommend changes as appropriate to the universities' policies and/or Board of Governors' regulations.

With regard to providing specific penalties and enforcement actions for hazing incidents within Board of Governors regulations, we recognize each incident is fact-specific and student affairs professionals must address these incidents consistently with the principles described below.

Student affairs professionals and student conduct programs have a well-established practice of “administering student discipline to the end that the individual will be strengthened, and the welfare of the group preserved” and of viewing discipline as “a special phase of counseling in the development of self-responsibility for behavior rather than in the spirit of punishment of misbehavior” while simultaneously complying with federal, state, and local laws (The Student Personnel Point of View, 1937 & 1949, published by the American Council on Education).

The current *Ethical Principles and Standards of Conduct for the Association of Student Conduct Administration* states:

Members support the principle of adherence to community standards and when those standards are violated, the necessity of disciplinary interventions that contribute to the educational and personal growth of the student.

In addition, the Council for the Advancement of Standards in Higher Education (CAS) develops standards for all areas of student affairs that reflect best practices agreed upon by the student affairs profession-at-large. The CAS standards for student conduct programs state that the program goals:

. . . must address the institution’s need to provide learning experiences for students whose conduct may not be consistent with institutional expectations as well as for those students who participate in the operations of the student conduct system.

These principles and standards are also supported by national student affairs leaders as indicated by the following:

The student conduct process, unlike the criminal and civil legal systems, is designed to address the student’s relationship to the institution and its behavioral standards and policies. While the process may involve situations that overlap with criminal laws (e.g. theft, drugs, or sexual assault) and civil statutes (e.g. fraud, social host laws, and other neighborhood issues) campus policies and processes are intentionally and appropriately different. Instead, the student conduct process focuses on assessing the impacts of an individual’s behavior on the learning

environment of others and facilitating student growth, learning, and development. (An Attorney's Role in the Conduct Process, By Tamara King, JD and Benjamin White, JD, published by the Association for Student Conduct Administration)

Board staff will work with university personnel to develop a process for collecting the number of hazing incidents that occur and will work with university student affairs professionals to assess consistency with the principles articulated above.

Board of Governors Six-month Follow-up Status:

During the last six months, the Council for Student Affairs (CSA) has planned a hazing prevention summit, which will take place at the University of Central Florida on May 19, 2017. All members of the Council signed a one-year extension of the System contract with AliveTek for the continued use of *Hazing Prevention: It's Everyone's Responsibility*TM, which will go into effect July 1, 2017. The CSA is also preparing a report on the utilization and effectiveness of *Hazing Prevention: It's Everyone's Responsibility*TM that will be available in June 2017.

In addition, Board staff plans to initiate a review of university anti-hazing policies and is developing a Board of Governors regulation that is based upon section 1006.63, Florida Statutes.

STUDENT CODES OF CONDUCT

Recommendation: The BOG should review, and revise as appropriate, its current regulations to provide guidance identifying student misconduct to be addressed in university student codes of conduct and describing the appropriate disciplinary action for unacceptable conduct.

Board of Governors Response: We concur with the recommendation to review, and revise as appropriate, our regulations for university student codes of conduct. Board staff will work with the universities whose codes do not address gambling, unauthorized commercial solicitation, and arson/fires to revise their student codes of conduct to include these types of misconduct.

May 17, 2017

Page 7 of 9

With regard to describing the appropriate disciplinary action for unacceptable conduct within Board of Governors regulations, we recognize each incident is fact-specific and student affairs professionals must address these incidents consistently with the principles described below.

Student affairs professionals and student conduct programs have an established practice of “administering student discipline to the end that the individual will be strengthened, and the welfare of the group preserved” and of viewing discipline as “a special phase of counseling in the development of self-responsibility for behavior rather than in the spirit of punishment of misbehavior” while simultaneously complying with federal, state, and local laws (The Student Personnel Point of View, 1937 & 1949, published by the American Council on Education).

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The student conduct process, unlike the criminal and civil legal systems, is designed to address the student’s relationship to the institution and its behavioral standards and policies. While the process may involve situations that overlap with criminal laws (e.g.

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Board staff will work with university student affairs professionals to assess consistency of student conduct disciplinary action with the principles articulated above.

Board of Governors Six-month Follow-up Status:

Board staff plans to initiate a review of university student codes of conduct.

PURCHASING PRACTICES

Recommendation: We also recommend that the BOG continue efforts to document consideration of the appropriateness of waivers from the competitive solicitation process for certain goods and services, such as accounting and advertising services, and purchases for resale.

Board of Governors Response: We concur with the recommendation that the Board of Governors continue efforts to document consideration of the appropriateness of waivers from the competitive solicitation process for certain goods and services, such as accounting and advertising services, and purchases for resale.

Effective November 3, 2016, the Board of Governors amended Regulation 18.001, Procurement Regulation. The amended regulation places limits on extensions and renewals, and specifies that the advertisement exemption does not include media placement services. The intent of the exemption, except for media placement, is to allow for advertisements such as required legal notices or other items that require public notice to be placed in local markets that may have limited advertisement opportunities.

Regarding the other two exemptions specified in the audit, accounting services and goods for resale, we have gathered documentation for their continued exemption.

1. University procurement officers advised that the exemption for accounting services is applied in cases where the university's business needs include factors such as: specialization in a particular industry; focus on specific target audiences; a unique business model; or a particular geographic focus. According to the universities, the use of this exemption is infrequent.
2. Regarding purchases of goods for resale, the use of this exemption is extensive and long-standing. Purchase of goods for resale by a university by its nature is not conducive to a strict bidding process. These types of purchases, or sales decisions, are driven by customer preferences.

The Board of Governors will continue to monitor the use of these exemptions, as well as other aspects of the Procurement regulation, and consider further amendments as may be needed in the future.

Board of Governors Six-month Follow-up Status:

The Board of Governors' adopted the proposed amendment to Board of Governors Regulation 18.001, *Procurement Regulation* on November 3, 2016. As of April 30, 2017, five of the universities have incorporated the revisions into their university procurement regulations; four are in the process of incorporating the revisions into their university procurement regulations; two universities' procurement regulations were already compliant with the amended regulation; and one university has the regulation under review to determine if changes are needed.

Board Office staff will continue to monitor university implementation of the amended regulation and will monitor any changes adopted by the Legislature as well as any evolving best practices.

JKM/lc

C: Wendy Link, Chair, Audit and Compliance Committee, Board of Governors
Sherrill Norman, Florida Auditor General



Meeting of the SUS Work Group on Sponsored Research

February 13, 2017, 10:00 a.m. – 1:00 p.m.
Patel Center for Global Solutions, Room Patel 361
University of South Florida, Tampa

Purpose: This Work Group's first meeting will review the State Auditor General's findings on Sponsored Research to the Board of Governors Office and begin discussion of a possible processes to address the findings

Participants: Scott Cole, UCF General Counsel; Dan Flynn, FAU VP for Research; Jan Ignash, BOG Vice Chancellor; Jamie Keith, UF General Counsel; David Norton, VP for Research, UF; Gary Ostrander, FSU VP for Research; Vikki Shirley, BOG General Counsel; Gerard Solis, USF General Counsel

Agenda

10:00 a.m. Introductions and the Purpose of the Group

- Review of Auditor General's Findings (*Jan Ignash & Vikki Shirley*) (<http://www.myflorida.com/audgen/pages/subjects/university.htm>)
- Sponsored Research Laws and Regulations (*Vikki Shirley*)

10:30 – 12:00 Discussion of possible response

- Example of the form used to certify control and monitoring of performance-based funding data (*2016-2017 PBF_Certification Form Final*) (*Jan Ignash*)
- Identification of Components within Sponsored Research to be addressed (*Whole Group*)
- Procedure to document institutional monitoring and control (*Whole Group*)

12:00 – 12:30 p.m. Lunch (provided)

12:30 – 1:00 p.m. Next Steps (*Whole Group*)

1:00 p.m. Adjourn

10.002 Sponsored Research

- (1) University boards of trustees are authorized to create divisions of sponsored research and establish policies regulating the administration and operation of the divisions of sponsored research.
- (2) Each university shall annually certify to the Board of Governors that it has policies in place to negotiate, enter into, and execute research contracts including, but not limited to, policies for solicitation and acceptance of research grants and research donations, policies for the collection of fees and research donations in the context of university sponsored research, and policies relating to the appropriate use of research funds.
- (3) Each certification will further provide that reasonable control and monitoring systems are in place for research activities to comply with applicable laws and the mission and long term plans of the university. The certification will be submitted to the Board of Governors by October 1 of each calendar year.
- (4) The certification form will be signed, to the best of the certifying official's knowledge, by the most senior officer responsible for research as designated by the President and the annual certification will be reported to the board of trustees.

Authority: Section 7(d), Art. IX, Fla. Const.; History - New _____.



STATE
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SYSTEM
of FLORIDA
Board of Governors

AGENDA

**Task Force on University Research
Grand Ballroom
H. Manning Efferson Student Union Building
Florida A&M University
1780 S. Martin Luther King, Jr. Boulevard
Tallahassee, Florida 32307
March 29, 2017
3:15 p.m. - 3:45 p.m.
or
Upon Adjournment of Previous Meeting**

**Chair: Daniel Doyle, Jr.
Darlene Jordan, Fernando Valverde**

- 1. Call to Order and Opening Remarks** **Governor Daniel Doyle, Jr.**

- 2. Approval of September 22, 2016 Minutes** **Governor Doyle**

- 3. State University System Research and Innovation Metrics Dashboard** **Dr. Jan Ignash**
Vice Chancellor
Academic and Student Affairs

- 4. Public Notice of Intent to Establish Board of Governors Regulation 10.002 Sponsored Research; Review of Sponsored Research Certification Form** **Dr. Ignash**

- 5. State University System Research Return on Investment** **Dr. Ignash**

- 6. Concluding Remarks and Adjournment** **Governor Doyle**

STATE UNIVERSITY SYSTEM OF FLORIDA
BOARD OF GOVERNORS
Task Force on University Research
March 29, 2017

SUBJECT: Public Notice of Intent to Establish Board of Governors Regulation 10.002
Sponsored Research

PROPOSED TASK FORCE ACTION

Consider for approval Public Notice of Intent to Establish Board of Governors
Regulation 10.002 Sponsored Research

AUTHORITY FOR BOARD OF GOVERNORS ACTION

Article IX, Section 7, Florida Constitution

BACKGROUND INFORMATION

Under the “Guidance and Oversight Function” of the *State University System of Florida Board of Governors Operational Audit, Report No. 2017-048 (November 2016)* a finding was that the Board of Governors needed to enhance regulations to help the State University System (SUS) conform to statutory requirements regarding sponsored research. As a result, a workgroup comprised of Board Staff, SUS Vice Presidents for Research, and SUS General Councils met and drafted Board of Governors Regulation 10.002 Sponsored Research. The Chair of the SUS Task Force on University Research will provide a recommendation to the full Board.

The new Regulation is accompanied by a Research Certification Form that will assist in operationalizing the provisions of the Regulation.

Supporting Documentation Included: 1. Amended Regulation 10.002
2. Research Certification Form

Facilitators/Presenters: Dr. Jan Ignash

STATE UNIVERSITY SYSTEM OF FLORIDA
BOARD OF GOVERNORS

March 30, 2017

SUBJECT: Notice to Establish Board of Governors Regulation 10.002 Sponsored Research; Review of Sponsored Research Certification Form

PROPOSED BOARD ACTION

Consider for approval Notice to Establish Board of Governors Regulation 10.002 Sponsored Research; Review Sponsored Research Certification Form

AUTHORITY FOR BOARD OF GOVERNORS ACTION

Article IX, Section 7, Florida Constitution

BACKGROUND INFORMATION

Under the “Guidance and Oversight Function” of the *State University System of Florida Board of Governors Operational Audit, Report No. 2017-048 (November 2016)* a recommendation was for the Board of Governors to provide additional guidance regarding research in the State University System (SUS). As a result, a workgroup comprised of Board Staff, SUS Vice Presidents for Research, and SUS General Councils met and drafted Board of Governors Regulation 10.002 Sponsored Research. A member of the Task Force on University Research will make a recommendation to the full Board to approve the new regulation.

In addition, the Task Force reviewed a Sponsored Research Certification Form created by the workgroup. The Certification Form will assist in operationalizing the new Regulation.

Supporting Documentation Included:

Information located in the Task Force on University Research materials



STATE
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of FLORIDA
Board of Governors

Sponsored Research Certification

Name of University: _____

INSTRUCTIONS: Please respond “Yes” or “No” for each representation below. Explain any “No” responses to ensure clarity of the representation you are making to the Board of Governors.

Sponsored Research Certification Representations			
Representations	Yes	No	Comment / Reference
1. I am responsible for establishing and maintaining, and have established and maintained, reasonable effective internal controls and monitoring over my university’s division of sponsored research.	<input type="checkbox"/>	<input type="checkbox"/>	
2. The internal controls and monitoring activities include policies for negotiating, entering into, and executing research contracts; policies for soliciting and accepting research grants and research donations; policies over the collection of fees and research donations; and policies related to the appropriate use of research funds.	<input type="checkbox"/>	<input type="checkbox"/>	
3. The research activities of the university comply materially with applicable laws and the mission and long term plans of the university, and reasonable controls are in place to identify any material noncompliance so that it may be remedied.	<input type="checkbox"/>	<input type="checkbox"/>	
4. The internal controls and monitoring activities are consistent with the requirements of applicable funding entities.	<input type="checkbox"/>	<input type="checkbox"/>	
<p>I certify the foregoing information is true and correct to the best of my knowledge. My signature below acknowledges I have read and understand these statements. I certify this information will be reported to the board of trustees.</p> <p>Certification: _____ Date _____</p> <p>Title: _____</p>			