

**FLORIDA BOARD OF GOVERNORS
NOTICE OF PROPOSED AMENDED REGULATION**

DATE: September 16, 2022

REGULATION NUMBER AND TITLE: 8.002, Self-supporting and Market Tuition Rate Program and Course Offerings

SUMMARY: Board of Governors Regulation 8.002, Self-supporting and Market Tuition Rate Program and Course Offerings, outlines the requirements and process for universities to offer courses and programs as self-supporting and/or charge market rate tuition. In 2016, the Board adopted a revised version of this regulation to address a statutory change that removed the ability of the Board of Governors to authorize the university boards to set tuition and fees for graduate and professional programs and out-of-state fees for all programs. Since approving this revised regulation in 2016, Board staff has identified several inconsistencies with implementation across the State University System through the data collected from university annual reports. As a result, Board staff recommend amendments to clarify policies regarding allowable activities, program review procedures, and reporting requirements in the State University System.

The proposed revisions to the regulation more clearly delineate between two possible auxiliary education categories and the educational levels at which such offerings may exist. The amendment clearly states that universities may not offer undergraduate degree programs as either self-supporting or market tuition rate education programs to ensure consistent implementation of section 1009.24, Florida Statutes, which authorizes tuition and fees at the undergraduate level. Universities may continue to offer self-supporting undergraduate-level certificate programs so long as the tuition and fees comply with the statute and Board Regulation 7.001, Tuition and Associated Fees.

The proposed amendment establishes additional requirements for self-supporting and market tuition rate education programs. First, the proposed amendments will require institutions to publish side-by-side cost comparisons for programs with a comparable Education & General (E&G) program so that students can make informed choices regarding the tuition and fee options available. The proposed amendments also clarify that E&G programs should not be suspended or terminated in favor of offering a similar self-supporting graduate-level college credit program. Finally, the proposed amendments specifies that information on any new degree program or track must be submitted to the Board office for an appropriate review before implementation to ensure compliance with the regulation and other relevant Board regulations.

FULL TEXT OF THE REGULATION IS INCLUDED WITH THIS NOTICE.

AUTHORITY TO PROPOSE REGULATION(S): Section 7(d), Art. IX, Fla. Const.; BOG Regulation Development Procedure dated March 23, 2006.

THE BOARD OF GOVERNORS' OFFICIAL INITIATING THE PROPOSED REGULATION: Dr. Christy England, Vice Chancellor, Academic and Student Affairs

COMMENTS REGARDING THE PROPOSED REGULATION SHOULD BE SUBMITTED WITHIN 14 DAYS OF THE DATE OF THIS NOTICE TO THE CONTACT PERSON IDENTIFIED BELOW. The comments must identify the regulation on which you are commenting:

General Counsel, Board of Governors, State University System, 325 W. Gaines Street, Suite 1614, Tallahassee, Florida 32399, (850) 245-0466 (phone), (850) 245-9685 (fax), or generalcounsel@flbog.edu.

8.002-Self-supporting and Market Tuition Rate Program and Course Offerings

- ~~(1) **Continuing Education**—Continuing education is defined as an Auxiliary Enterprise of the university providing non-state fundable, self-supporting college-credit courses or programs, non-credit professional development courses or programs designed to upgrade existing technical or professional skills, and courses that are provided primarily for personal enrichment or as a public service to the community. Continuing education allows prospective students who wish to pursue their higher education beyond the attainment of traditional degrees the option to pursue alternative curricula or alternative credentials, which may be offered via alternative delivery models.~~
- ~~(a) The administrative unit(s) under which continuing education programs are managed shall be determined by the university.~~
- ~~(b) Continuing education activity shall be reflected in the Auxiliary budget entity, except that activity related to sponsored credit courses and programs may be reflected in the contracts and grants trust fund.~~
- ~~1. Costs associated with non-college-credit continuing education activity must be recovered from student fees or sponsoring entities and shall not be recovered from funds appropriated in the Education & General (E&G) budget entity. Universities may collect and expend revenues collected above the level needed for cost recovery of non-college-credit continuing education activity when such revenues are used to provide enhanced support for the academic units associated with the courses or programs, or to provide financial support to students.~~
 - ~~2. Tuition and fees charged for college-credit continuing education courses must be sufficient to offset the full instructional cost of serving the student and shall not exceed the existing approved tuition and out-of-state fees for similar level courses unless Board of Governors' approval for an exception has been granted pursuant to Regulation 7.001 (4) or the process for Market Tuition Rate established in this regulation.~~
- ~~(2) **Continuing Education College-credit Courses and Programs**—College-credit courses and programs offered through continuing education shall be self-supporting through tuition and fees and shall not supplant existing university offerings funded by state appropriations.~~
- ~~(a) Admissions and graduation criteria, as well as academic standards, for degree programs offered through continuing education must align with those criteria and standards in equivalent programs funded through the E&G budget entity and must go through the same curriculum approval processes as those E&G-funded programs.~~
- ~~(b) Graduate level degree programs and majors that address clearly identified post-professional workforce demand may be implemented as a unique continuing education offering which is not available as a state funded program, subject to the tuition and fees policy and data reporting requirements established in this regulation~~
- ~~(c) Degree programs and majors offered through continuing education shall not include those which lead to initial licensing or certification for occupational areas identified as a state critical workforce need by the Board of Governors unless it can be~~

demonstrated to be the best strategy to increase the number of graduates in the state and has been approved for market tuition rate in accordance with subsection (4) of this regulation.

~~(3) **Sponsored Credit Courses and Programs**—Sponsored credit courses and programs are self-supporting college credit offerings where substantially all the direct costs are paid by the external sponsoring entity, where there is no direct expenditure of E&G funds for the conduct of the programs, and where no fees or other assessments are collected from students by the sponsoring entity, the university, or any other entity.~~

~~(a) In determining whether the direct costs are paid by the sponsoring entity, funds paid directly to the participants in a form such as, but not limited to, stipends, travel or book allowances should not be taken into account. "Direct costs" refer to the costs associated with the instruction or training which a participant receives. All funds collected from sponsoring entities for sponsored credit courses and programs will be remitted to the university's contract and grants trust fund and/or continuing education auxiliary trust funds as appropriate.~~

~~(b) Each university board of trustees is authorized to waive any tuition, associated fees, and material and supply fees for students participating in sponsored credit courses and programs when they are not covered under the contract with the sponsoring entity, and pursuant to a regulation adopted by the university board of trustees under section 1009.26 (9), Florida Statutes, and Board of Governors Regulation 7.008.~~

~~(4) **Market Tuition Rate Courses and Programs**—Market Tuition Rate is defined as a tuition rate that is competitively aligned with comparable programs offered by public and independent institutions located both in-state and out-of-state.~~

~~(a) A university board of trustees may approve a new graduate level degree program for market tuition rate at the time it approves the new degree for implementation pursuant to Board of Governors Regulation 8.011. The new degree proposal must provide a convincing rationale for seeking market tuition rate and the proposed budget must clearly indicate that the revenue generated will be sufficient to operate the program without E&G funding. New degree programs approved for market tuition rate must be submitted to the Board of Governors for consideration and approval of the tuition and any associated fees before enrollment of any students.~~

~~(b) A university board of trustees may submit a proposal for market tuition rates for graduate level courses offered online or through the university's continuing education unit when such courses are included as a major of an existing approved degree program or as a college credit certificate program. Proposals to charge market tuition rates for majors of existing degree programs and college credit certificate programs shall be considered by the Board during a November meeting if documentation is provided that demonstrates:~~

~~1. The existing degree program majors and college credit certificates have been approved in accordance with Regulation 8.011 and the university has established one or more separate market tuition rate student cohorts, each of which can be tracked for administrative and reporting purposes.~~

2. ~~The programs do not lead to initial licensing or certification for occupational areas identified as state critical workforce need in the most current State University System of Florida Strategic Plan. A university may request establishment of market tuition rates for such programs for non-residents if such programs do not adversely impact development of other programs for Florida residents. A university, upon a written request for a special exception from the Chancellor, may submit a proposal for market tuition rate for a program leading to initial licensing or certification in a state critical workforce need area if it can be demonstrated to increase the number of graduates in the state.~~
3. ~~The program admission and graduation requirements shall be the same as similar programs funded by state appropriations.~~
- (c) ~~The Board shall approve no more than five new graduate level degree programs or college credit certificate program proposals per university per academic year.~~
- (d) ~~The proposal for market tuition rate programs shall be submitted in a format designated by the Chancellor and include at a minimum:~~
 1. ~~A description of the program and its compliance with the requirements outlined in subsection (3) (b) 1.~~
 2. ~~An explanation of the process used to determine the market tuition rate and the tuition at similar programs from at least five other institutions, including both private and public.~~
 3. ~~A description of similar programs offered by other state university system institutions.~~
 4. ~~An estimate of the market tuition rate to be charged over the next three years.~~
 5. ~~A description of how offering the proposed program at market tuition rate is aligned with the mission of the university.~~
 6. ~~An explanation and declaratory statement that offering the proposed program at market tuition rate does not increase the state's fiscal liability or obligation.~~
 7. ~~An explanation of any differentiation in rate between resident and non-resident students paying market tuition rate.~~
 8. ~~An explanation of any proposed restrictions, limitations, or conditions to be placed on the program.~~
 9. ~~A description of any outcome measures that will be used to determine the success of the proposal.~~
 10. ~~In addition, the following information will be included with the proposal:~~
 - a. ~~An explanation of how the university will ensure that sufficient courses are available to meet student demand and facilitate completion of each program submitted for consideration.~~
 - b. ~~A baseline of current enrollments, including a breakout of resident and non-resident enrollment, in similar state-funded courses.~~
 - c. ~~An estimation of the economic impact that implementation of the proposal will have on the university and the student by identifying the incremental revenue the university anticipates collecting if the proposal is approved.~~

- ~~d. A description of how revenues will be spent, including whether any private vendors will be utilized, and which budget entity the funds will be budgeted.~~
- ~~(e) The Board of Governors will act upon the responsible committee's recommendation at the next scheduled meeting. If a university board of trustees' proposal is denied, within five calendar days, the university board of trustees may request reconsideration by the Board's Tuition Appeals Committee, which shall consist of the Chair of the Board and the Chair of each Board committee. The Tuition Appeals Committee will meet within ten calendar days after the Board of Governors' denial to consider a university board of trustees request for reconsideration.~~
- ~~(f) Any proposed increase in tuition and fees for an approved market tuition rate program or certificate must be approved first by the university board of trustees and then the Board of Governors.~~

~~(5) Reporting Credit Hours and Degrees Earned—~~

- ~~(a) Credit hours generated by college credit courses offered through continuing education, sponsored credit courses and programs, and market tuition rate shall not be reported as fundable credit hours and shall be reported to the Board of Governors using the State University Data System separately from credit hours funded through the E&G budget entity.~~
- ~~(b) Degrees awarded for programs offered entirely through continuing education, sponsored credit courses and programs, or market tuition rate shall be reported to the Board of Governors using the State University Data System separately from degrees awarded for programs funded through the E&G budget entity.~~

- (1) **Educational Programs and Courses** – All of the educational programs and courses described in this regulation are conducted through the auxiliary enterprise of the university and provide non-state-fundable training, courses, and programs. The two categories of education programs described are self-supporting courses and programs and market tuition rate programs. The three sub-categories of self-supporting education programs and courses are college-credit, non-credit, and sponsored-credit.
- (a) The administrative unit(s) under which all self-supporting and market tuition rate education programs are managed shall be determined by the university.
 - (b) All activity for self-supporting and market tuition rate education programs shall be reflected in the auxiliary budget entity, except that activity related to self-supporting sponsored credit courses and programs may be reflected in the contracts and grants trust fund.
 - (c) Undergraduate college-credit degree programs shall not be operated as a self-supporting or market tuition rate education program. Undergraduate college-credit certificate programs may be operated as self-supporting so long as the tuition and fees charged for undergraduate college-credit courses offered by a university comply with section 1009.24, Florida Statutes and Board of Governors Regulation 7.001.
 - (d) Self-supporting and market tuition rate education programs are not eligible for inclusion in the Southern Regional Education Board's Academic Common Market program.
 - (e) For the purposes of this regulation, a program is considered similar if it is offered under the same six-digit CIP code as one funded under the Education and General (E&G) budget entity.
- (2) **Self-supporting Education Courses and Programs**
- (a) **College-Credit Programs** – Self-supporting college-credit certificate programs and graduate-level degree programs that address clearly identified post-professional workforce demand may be implemented subject to the policies and data reporting requirements established in paragraphs (1), (2) and (4) of this regulation.
 - 1. Admissions and graduation criteria, as well as academic standards, for self-supporting graduate-level college-credit degree programs must align with those criteria and standards in equivalent programs funded through the E&G budget entity and must go through the same program approval processes defined in Board of Governors Regulation 8.011 for E&G-funded programs.
 - a. Prior to the implementation of any new self-supporting graduate-level college-credit degree program, documentation must be submitted in a format prescribed by the Chancellor for review. This requirement applies even if the program was previously approved as an E&G program. This requirement does not apply to self-supporting college-credit certificate

- programs.
- b. Supporting documentation must include evidence that the new program will not supplant any existing E&G degree offering.
 2. If the self-supporting program is a track under an existing E&G program or has a similar existing E&G program, universities must provide students with a side-by-side tuition and fee comparison and maintain this information on their website. This information shall be publicized in catalogs and all other sections of the university's public-facing website that provide information about the program, and any non-public websites or applications that provide information about the program. Universities must also provide students with information about financial assistance and obligations for repayment of loans for these programs.
 3. Self-supporting graduate-level college-credit degree programs shall not supplant similar existing university offerings funded by the E&G budget entity. To guarantee access to E&G programs, self-supporting programs will not replace existing E&G programming; thus, a similar E&G program cannot be suspended or terminated in favor of a self-supporting program. Similar E&G programs may only be suspended in extraordinary circumstances per Board of Governors Regulation 8.012. Universities proposing new self-supporting college-credit programs must attest that the similar E&G program will not be closed as a result of the new offering unless prior approval is obtained from the Board of Governors. Enrollment between E&G and self-supporting education offerings may fluctuate over time, depending on demand. However, universities have the responsibility to ensure that the existing E&G offering remains viable in meeting traditional student needs.
 4. Self-supporting graduate-level college-credit degree programs shall not include those which lead to initial licensing or certification for occupational areas identified as a state critical workforce need by the Board of Governors unless it can be demonstrated to be the best strategy to increase the number of graduates in the state and has been approved for market tuition rate in accordance with paragraph (3) of this regulation.
 5. Tuition and fees charged for all self-supporting college-credit programs must be sufficient to offset the full instructional cost of serving the student and shall not exceed the existing approved tuition and out-of-state fees for similar level courses.
 - a. Tuition for self-supporting graduate-level college-credit degree programs must be approved according to the process outlined in Board of Governors Regulation 7.001(4).
 - b. Fees for self-supporting graduate-level college-credit degree programs must be established according to the requirements

outlined in Section 1009.24, Florida Statutes, and Board of Governors Regulation 7.001. Universities may collect and expend revenues collected above the level needed for cost-recovery of college-credit self-supporting activity when such revenues are used to provide enhanced support for the academic units associated with the courses or programs or to provide financial support to students.

(b) **Non-credit Courses and Programs** - Non-credit professional development courses and programs designed to upgrade existing technical or professional skills and courses and programs that are provided primarily for personal enrichment or as a public service to the community may be offered as self-supporting education. These courses should not be offered for college-credit or count towards any degree requirements.

1. Costs associated with non-college-credit self-supporting education activity must be recovered from student fees or sponsoring entities and shall not be recovered from funds appropriated in the E&G budget entity. Universities may collect and expend revenues collected above the level needed for cost-recovery of non-college-credit self-supporting education activity when such revenues are used to provide enhanced support for the units associated with the courses or programs, support the teaching, research, and service mission of the institution, or to provide financial support to students.

(c) **Sponsored-Credit Courses and Programs** – Sponsored-credit courses and programs are self-supporting college-credit offerings where all the direct costs are paid by an external sponsoring entity, Expenditure of E&G funds for the conduct of the programs is not permitted. No fees or other assessments may be collected from students by the sponsoring entity, the university, or any other entity.

1. In determining whether the direct costs are paid by the sponsoring entity, funds paid directly to the participants in a form such as, but not limited to, stipends, travel, or book allowances should not be taken into account. "Direct costs" refer to the costs associated with the instruction or training that a participant receives. All funds collected from sponsoring entities for sponsored credit courses and programs will be remitted to the university's contract and grants trust fund and/or continuing education auxiliary trust funds as appropriate.
2. Each university board of trustees is authorized to waive any tuition, associated fees, and material and supply fees for students participating in sponsored credit courses and programs when such costs are not covered under the contract with the sponsoring entity and pursuant to a regulation adopted by the university board of trustees under section 1009.26 (9), Florida Statutes, and Board of Governors Regulation 7.008.

(3) **Graduate-level Market Tuition Rate Programs** – A market tuition rate is defined as a tuition rate that is competitively aligned with comparable programs offered by

public or private institutions located both in-state and out-of-state. Market tuition rate programs must be offered at the graduate-level only.

- (a) A university board of trustees may approve a new graduate-level degree or certificate program for market tuition rate at the time it approves the new degree or certificate for implementation pursuant to Board of Governors Regulation 8.011. The new program proposal must provide a convincing rationale for seeking a market tuition rate, and the proposed budget must clearly indicate that the revenue generated will be sufficient to operate the program without E&G funding. New programs approved for market tuition rate must be submitted to the Board of Governors for consideration and approval of the tuition and any associated fees before enrollment of any students.
- (b) A university board of trustees may submit a proposal for market tuition rates for graduate-level programs when such programs are included as a major of an existing approved degree program or as a college-credit certificate program. Proposals to charge market tuition rates for majors of existing degree programs and college-credit certificate programs shall be considered by the Board during a November meeting if documentation is provided that demonstrates that the following criteria are met.
 1. The existing degree program majors and college-credit certificates have been approved in accordance with Regulation 8.011, and the university has established one or more separate market tuition rate student cohorts, each of which can be tracked for administrative and reporting purposes.
 2. The program does not lead to initial licensing or certification for occupational areas identified as critical state workforce needs in the most current Florida Board of Governors Strategic Plan. A university may request the establishment of market tuition rates for such programs for non-residents if such programs do not adversely impact the development of other programs for Florida residents. A university, upon a written request for a special exception from the Chancellor, may submit a proposal for market tuition rate for a program leading to initial licensing or certification in a critical state workforce need area if it can be demonstrated to increase the number of graduates in the state.
 3. The program admission and graduation requirements shall be the same as similar programs under the same six-digit CIP code funded by the E&G budget entity.
 4. If the graduate-level market tuition rate program is a track under an E&G program or has a similar existing E&G program, universities must provide students with a side-by-side tuition and fee comparison and maintain this information on their website. Universities must also provide students with information about financial assistance and obligations for repayment of loans for these programs on their websites. This information shall be publicized in catalogs and all other sections of the university's public-facing website that provide

information about the program and any non-public websites or applications that provide information about the program.

- (c) E&G graduate-level programs should not be suspended or terminated in favor of offering a similar market tuition rate education program.
- (d) The Board shall approve no more than five new graduate-level degree programs or college-credit certificate program proposals per university per academic year.
- (e) The proposal for market tuition rate programs shall be submitted in a format designated by the Chancellor and include, at a minimum, the following information.
 - 1. A description of the program and its compliance with the requirements outlined in Board of Governors Regulation 8.011 (3)(b)1.
 - 2. An explanation of the process used to determine the market tuition rate and the tuition at similar programs from at least five other institutions, including both private and public.
 - 3. A description of similar programs offered by other state university system institutions.
 - 4. An estimate of the market tuition rate to be charged over the next three years.
 - 5. A description of how offering the proposed program at a market tuition rate is aligned with the mission of the university.
 - 6. An explanation and a declaratory statement that offering the proposed program at the market tuition rate does not increase the state's fiscal liability or obligation.
 - 7. An explanation of any differentiation in rate between resident and non-resident students paying market tuition rate.
 - 8. An explanation of any proposed restrictions, limitations, or conditions to be placed on the program.
 - 9. A description of any outcome measures that will be used to determine the success of the proposal.
 - 10. In addition, the following information must be included with the proposal.
 - a. An explanation of how the university will ensure that sufficient courses are available to meet student demand and facilitate the completion of each program submitted for consideration.
 - b. A baseline of current enrollments, including a breakout of resident and non-resident enrollment, in similar courses funded by the E&G budget entity.
 - c. An estimation of the economic impact that implementation of the proposal will have on the university and the students by identifying the incremental revenue the university anticipates collecting if the proposal is approved.

- d. A description of how revenues will be spent, including whether any private vendors will be utilized. The institution must also identify all of the budget entities used for the program.
 - f) The Board of Governors will act upon the responsible committee's recommendation at the next scheduled meeting. If a university board of trustees' proposal is denied, within five calendar days, the university board of trustees may request reconsideration by the Board's Tuition Appeals Committee, which shall consist of the Chair of the Board and the Chair of each Board committee. The Tuition Appeals Committee will meet within ten calendar days after the Board of Governors' denial to consider a university Board of Trustees' request for reconsideration.
 - g) Any proposed increase in tuition and fees for an approved market tuition rate program or certificate must be approved first by the university board of trustees and then the Board of Governors.
- (4) **Reporting of Self-supporting and Market Tuition Rate Education Information**
 - (a) Credit hours generated by college-credit courses offered through all self-supporting and market tuition rate education programs shall not be reported as fundable credit hours and shall be reported to the Board of Governors separately from credit hours funded through the E&G budget entity using the State University Database System.
 - (b) Degrees awarded for programs offered entirely through self-supporting or market tuition rate education shall be reported to the Board of Governors separately from degrees awarded for programs funded through the E&G budget entity using the State University Data System.
 - (c) Institutions must complete an annual report in the format prescribed by the Chancellor and distributed through the data request system on all college-credit self-supporting and market tuition rate education programs. The report must be approved by the institution's Board of Trustees prior to submission and must include, at a minimum, the following information.
 - 1. The CIP Code and complete name of each program under which each self-supporting and market tuition rate education program is operating. Additionally, all program majors as defined in Board of Governors Regulation 8.011 must be identified.
 - 2. The approval dates for each program's tuition from the University Board of Trustees and Board of Governors.
 - 3. The approved tuition and fees for each program, including costs per credit hour and any additional fees, such that the total cost to the student for each program may be calculated.
 - 4. The revenues and expenditures for each degree and major within a college-credit self-supporting or market tuition rate education program.
 - 5. Other documentation to demonstrate compliance with this regulation as required.
 - (d) Board staff may verify compliance with paragraph (2(b)), self-supporting non-credit courses or programs, as needed.

Authority: Section 7(d), Art. IX, Fla. Const.; Section 1009.24, Florida Statutes.
History: New 09-15-11; Amended 08-31-17, XX-XX-22.