

MINUTES
STATE UNIVERSITY SYSTEM OF FLORIDA
BOARD OF GOVERNORS
ACADEMIC AND STUDENT AFFAIRS COMMITTEE
VIA TELECONFERENCE
FEBRUARY 22, 2023

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1. Call to Order and Opening Remarks

Chair Cerio convened the meeting on February 22, 2023, at 10:32 a.m., with the following members present: Governors Edge, Diaz, Jr., Frost, Haddock, Michael, and Scott. A quorum was established.

2. Public Notice of Intent to Adopt Board of Governors Regulation 10.003, Post-Tenure Faculty Review

Chair Cerio introduced the public notice of intent to adopt Board of Governors Regulation 10.003, Post-Tenure Faculty Review. He stated that a draft of the proposed regulation was approved for public notice at the November 2022 meeting and then posted for public comment. He noted that a large number of comments regarding the regulation were submitted, particularly from faculty at the state universities, and thanked all who took advantage of the opportunity to provide feedback.

Chair Cerio explained that based on an extensive review of the feedback, substantive revisions were made to the regulation, and Board policy requires that the proposed regulation be re-noticed.

Chair Cerio recognized Ms. Emily Sikes, Assistant Vice Chancellor for Strategic Initiatives and Economic Development, to provide an overview of the proposed revisions.

Ms. Sikes described the role the proposed Board of Governors Regulation 10.003 plays in fulfilling the Board's statutory requirements relating to personnel and staff, which now includes the authority for the Board to develop a regulation regarding post-tenure faculty review. She also reported that the Board office received over 1,300 comments regarding the proposed regulation. Ms. Sikes then reviewed the revisions made to the proposed regulation. She noted that in section 2, language regarding faculty with the "most longevity in rank" was revised to address concerns regarding a possible correlation between age and longevity in a position. Ms. Sikes reported that the new language allows the universities to determine how best to select the 20% of faculty to be reviewed each review year. In sections 2 and 3, references to section 1005.05(4), Florida Statutes, were removed in light of the current injunction in the Pernell and Novoa matters. Ms. Sikes then stated that section 6 was revised so audits would be conducted every three years, beginning in January 2024, instead of annually as originally

proposed. Section 7 was revised to clarify that following the regulation's effective date, no university may enter into a collective bargaining agreement that conflicts with the proposed regulation. She noted that section 7 was also amended to remove the reference to 1001.706, Florida Statutes, since the statute is already referenced in Section 9 in the previous version. Ms. Sikes then stated that Section 8 was removed to reflect that this regulation does not apply to universities without tenure.

Ms. Sikes reported that if the Board adopts this new regulation at a subsequent meeting, the university boards of trustees will be required to revise their policies to align with the regulation. She said the universities would then implement the new review process using the process outlined in the regulation.

Governor Michael questioned the scope of the proposed regulation extending directions to the department level of governance, as opposed to the president or provost level. She also asked for clarity regarding equity in section 5(e).

Chair Cerio explained that the intent is to compel the arbitrator to base the decision on whether or not there is a regulation and the record at hand, as opposed to decisions based on other opinions or judgments made by the arbitrator. Chair Cerio then recognized that university departments are not monolithic and can be different from each other, but the point of the rule is to standardize methods to maintain accountability and streamline recognition of success by allowing for individuals who are more closely interacting with faculty to participate in that process.

Governor Michael agreed with the benefits of department-level evaluation and asked whether departments without a chair or other unique department structure would be required to follow the structure outlined in the proposed regulation.

Chair Cerio stated that generally speaking, there was potential for the rule to be adapted to a specific university's environment. He also noted that references to universities without tenure were removed. Board Chair Lamb added that the State University System is notably diverse and that the regulation accounts for as many different organizational models across the system as possible. He noted that the changes that had been made were based on the feedback the Board of Governors received regarding the diversity in department structure and discouraged moving words around further so as not to lose the intent behind the current language. Board Chair Lamb also encouraged the boards of trustees of individual universities to make a note of faculty with unique situations that may not fall into the scope of the proposed regulation.

Governor Michael expressed her appreciation for the changes thus far and thanked the committee for their work.

Chair Cerio thanked everyone for the comments and discussions and hoped that the Board had demonstrated its commitment to the proposed regulation. He stated that the regulation is designed to have teeth where necessary but also to reward high

performers. Chair Cerio noted that the whole Board is willing to listen to all university faculty and administration feedback.

Governor Lydecker requested clarification on the removal of section 8.

Chancellor Rodrigues stated that the intent behind the legislation was to address the examination of faculty who had been granted tenure and were no longer undergoing an annual evaluation. He said universities that do not have tenure already conduct annual faculty evaluations. Commissioner Diaz confirmed the Chancellor's explanation regarding legislative intent.

Governor Michael stated that all of the universities have annual reviews regardless of tenure or not, and she was pleased to see the language of the amended proposed regulation because of the confusion it could have caused. Governor Michael requested clarification on the differences between the current annual reviews that all universities conduct and the proposed regulation's reviews.

Chancellor Rodrigues stated that the information provided to the legislature indicated that annual reviews were not being conducted after faculty had been granted tenure. Chancellor Rodrigues emphasized that the intent of the legislation was for all faculty at some point to undergo review to ensure they were still being productive members and contributing in the fields of teaching, scholarship, and service.

Governor Michael remarked she had recently turned in an annual review.

President Randy Avent from Florida Polytechnic University, one of two universities in the system that do not have tenure, confirmed that they conduct an annual review referred to as a contract review. President Avent explained that it was similar in technique to a peer review that includes a committee, making it similar in structure to the proposed regulation.

Governor Michael commented on the function of the peer review committee and wanted to know more about why faculty committees were only permitted at the provost level, as opposed to the department level or lower. Governor Michael also asked whether a department could utilize a faculty committee without violating the regulation.

Chair Cerio noted that the rule provides that the chief academic officer can request assistance from an advisory committee, but the language regarding a committee at the departmental level was removed because it should only be relied upon when that level of input is needed.

Ms. Vikki Shirley, General Counsel to the Board of Governors, confirmed this was the intent behind the regulation during drafting.

Chair Cerio concluded that if the committee and the full Board approve this motion, the proposed regulation will be posted for a 14-day public comment period in accordance with the Board's regulation development procedure.

Chair Cerio stated he would entertain a motion to approve the Public Notice of Intent to adopt Board of Governors regulation 10.003, Post-Tenure Faculty Review.

Governor Scott made the motion, and Governor Frost seconded.

Chair Cerio thanked Board staff for working on incorporating the feedback received, as well as the faculty members around the state and the members of the administration of the universities. He stated that the proposed regulation is unique and would be a major benefit to the State University System if appropriately implemented. Chair Cerio also commented that he was excited for faculty to see the rewards and shared Board Chair Lamb's sentiments that the Board has been open to comments regarding the regulation and commended the Board for their time and input.

Governors Edge, Diaz, Jr., Frost, Haddock, and Scott voted in favor of the motion. Governor Michael voted against it. The motion carried.

5. Concluding Remarks and Adjournment

Having no further business, Chair Cerio adjourned the meeting at 10:55 a.m.

Timothy Cerio, Chair

Diego Fermin, Academic and Student Affairs Intern