

MINUTES
STATE UNIVERSITY SYSTEM OF FLORIDA BOARD OF GOVERNORS
Via ZOOM – September 8, 2023

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<https://thefloridachannel.org/videos/9-8-23-board-of-governors-meeting/>

1. Opening Remarks by Chair Lamb at the Start of the Committee Meetings

Chair Lamb takes a few minutes to allow everyone time to join. He asks everyone to mute their devices. He then asks Rachel if we have a quorum – Rachel states that we have a quorum for the Facilities Committee and start there. Chair Lamb acknowledges Chancellor Rodrigues.

Chair Lamb opens with a few comments. He states that he appreciates everyone joining us on ZOOM, even though it is not the ideal operating model for us as the Board of Governors and from the other participants' standpoints as well. But he agreed we had to put safety first and thinks we did the right thing in not having an in person meeting. He also mentioned how the University of Florida was gracious in preparing a wonderful visit and promised President Sasse and Chair Hosseini we will get back to their campus. He complimented the universities' response and expressed he was happy to hear that so far things have gone well for the most part. He noted the most reasonable way that we could pull off getting through two days of materials in a very condensed fashion was to divide it among two shorter meetings. The hope was to return to the regular operating rhythms and schedules by the November meeting. He also welcomed new member to the Board Amanda Phalin from UF. Thereafter committees met, leading into the full board meeting.

2. Full Board

Opening Remarks

Rachel calls roll for the full board. A quorum was present.

Public Comment

Chair Lamb opens the floor for public comment, Rachel first called on Mike Sanderson. Mr. Sanderson spoke on New College and the sentimental attachment to the University also commenting on the student success plan. Jono Miller provided comment, as the President of NCF Freedom and spoke on the New College Student Success Plan. Rachel noted a request to issue public comment from Shaila Jaffe and Bryn Taylor were received and the Board staff searched the attendees list but did not located either person, both were reached out to regarding public comment. Public comment concluded.

Presidential Search Report

New College of Florida

Chair Lamb stated that we have a number of items that moved off the consent agenda, but next turned to the Presidential Search and Selection report, beginning with New College and gave Chair Debra Jenks the floor.

Chair Jenks thanks the Chair and began to explain the process. Over the last 5 months the New College Presidential Search Committee consisting of 15 members, received, reviewed and vetted 63 candidates. The search committee conducted 8 finalist interviews and then they narrowed it down to the three candidates. She had been told that BOG representative and committee member of our search committee, Governor Alan Levine, praised the committee for the process and compliance with BOG regulations. The three finalists, Richard Corcoran, Tyler Fisher and Robert Gervaise (sp) were submitted to the NCF Board of Trustees (BOT) for consideration. The BOT interviewed the 3 candidates in mid-August. Forums for students, faculty and staff were scheduled but had to be cancelled due to Hurricane Idalia and those forums should be rescheduled by September with the three candidates available for those meetings. The committee work has concluded and will now be up to the BOT to determine the final candidate for the president of new college with the goal that the finalist will be submitted to the BOG at the November Meeting. The search process was meticulously followed, as well as the BOG regulations. She stated that the BOG regs and checklists are very clear – well planned and carried out to provide a fair review of all applicants and officially reveal 3 great candidates. She graduated from New College and is very proud of the work they did during this process.

Chair Lamb thanked Chair Jenks for working closely with the BOG and noted to keep in touch with the Chancellor and Rachel and the General Counsel's office as its very important.

Florida Atlantic University

Chair Lamb then moved to the update on Florida Atlantic University Presidential Search Update and asked the Chancellor to provide that update to the Board.

Chancellor Rodrigues stated this is the first time the Board has met since June, there had been significant activity in the FAU presidential search. This will also be the first time Chancellor Rodrigues offered any public comments on the suspension of the FAU presidential search. Since the last meeting in June, on July 5th, the FAU Presidential Search and Selection Committee in collaboration with their search firm AGB held a meeting where 3 finalists were identified to move forward to the FAU Board Of Trustees to consider as the institutions next president. Based on anomalies reported to the Board and in consultation with the chair of the BOG, Chair Brad Levine was notified to suspend the FAU search in order for the BOG to investigate the allegations.

Among the anomalies presented to the Board office was the use of a preference survey provided by AGB to the members of this search committee to rank their top preferences anonymously and off the record. Those rankings were submitted confidentially and directly to AGB who then aggregated the ranking by committee members and presented the cumulative rankings at the next meeting to promote efficiency in the discussions. Chancellor Rodrigues noted that this practice appeared questionable in light of the application of the statute governing shade meetings and the sunshine law. Another concern raised for investigation was the use of a survey asking applicants to disclose their preferred pronouns and their sexual orientation. FAU responded that it had no idea that AGB had used such a survey and that they had not received results of that survey. This raised concerns about whether other important information was withheld from the university or the search committee members. Based upon these allegations among others, Chancellor Rodrigues directed the Board IG to initiate an investigation.

FAU has assured the BOG that the search and selection process was sound, and that the University intends to fully cooperate with the IGs investigation. Chancellor Rodrigues commended the FAU President and the contact she designated to work with our IG. They have been fully cooperative, and we appreciate the level of professionalism they are offering as we go through this process. As we have begun the investigation, there have been some delays because both AGB Search Firm and FAU have retained outside counsel. The [Board IG] is now working with both through legal counsel but nevertheless remain steadfast in completing a fair and thorough investigation.

Chancellor Rodrigues pointed out that the interest of the Board of Governors lies beyond just the integrity of the search and selection process used in the FAU presidential search. Rather the BOG is responsible for oversight and governance for the entire university system. It is imperative that uniform application of regulation 1.002 is promoted and integrity in all presidential searches is maintained. Julie and her team have worked diligently to conduct their investigation and he expected to soon have a comprehensive audit report of the facts and findings. That will then guide our next steps. Chancellor Rodrigues then yielded the floor to the Chair.

Chair Lamb asked for comments or questions for the Chancellor on the FAU update. Governor Silagy asked for clarification on one of the surveys that was actually done, the one about asking potential candidates about how they identify themselves, that survey your saying, was one, done and two, was done without the knowledge of FAU and the information was not provided to FAU. Governor Silagy asked if that was correct. The Chancellor answered as follows: it is correct that it was done, it is correct that FAU did not receive, or did not know it was done, but did not receive any results. Governor Silagy asked for confirmation on the following: that FAU had no information therefore that information did not come into any bearing on the selection process. Chancellor Rodrigues answers that is what FAU has said. Governor Silagy asks if that had been contradicted by anyone else and the Chancellor responded that the investigation was still ongoing.

Request for Attorney General Opinion

The Chair asks for any other questions or comments moved to the next action item. He noted the item was a request for an attorney general opinion – not something the Board does often. He echoed the Chancellors remarks regarding the responsibility of the Board on oversight and governance. He noted everyone knew the importance of that for the entire university system; that we are one system and we have to get this right. The University System of Florida is number one higher education system in the country for a reason and so in that vein the board reviewed and amended regulation 1.002 which guides institutions on presidential search and selection. There the Board took a closer look at bonus structures and presidential contracts. Here, the fact that the Board has a regulation guiding how the presidential search and selection much be conducted and the future presidential searches will need to be clear on that guidance and the legal permissibility to use a third party to conduct preference surveys of committee members to streamline future discussions of a committee is an issue that necessary to address. It was an issue that has come up before and as a board it needs to be addressed.

Chair Lamb noted he was seeking clarity which is key here so as to assist the board in determining whether and how the regulation must be further amended to align. Amending regulations and is not uncustomary. In this particular case Chair Lamb wanted to make sure the Regulation is amended in a way with the appropriate interpretation of the law. Accordingly he called for a motion to seek a legal opinion from the AGs office on the question of whether a committee governed under the sunshine law can use a survey that is conducted off the record, outside of a meeting and

anonymously submitted by committee members to a third party in order to streamline the discussion at a future meeting is consistent with the requirements with the sunshine law. The Chair makes the motion and pauses – but states that this is very important in looking at our own regulations. Rachel states Chair Lamb made the first motion. Seconded by Governor Jones. Chair Lamb asked if there was any further discussion. Rachel stated that Governor Levine could not be on the call today but wanted his comments shared with the Board. Rachel noted that Governor Levine sent an email and it would be entered into the meeting records. Governor Levine’s comments were summarized as follows: He first wanted to thank everyone for their confidence placed in his representing the BOG while serving on the FAU presidential search committee. He did not want to comment specifically on the IGs investigation. He did look forward to providing a more detailed report once the investigation has concluded and Julie is done. He did want to share that he has publicly objected to the use of secret voting as he believes it can be used to manipulate the results of a search. He has publicly objected to this approach before it the sunshine law change, specifically as it applies to the shade statute as applicable here. If he were at the meeting, he would have enthusiastically voted to advance this question to the AG. Rachel closed.

No further discussion. Motion Carried. The Chair asked Rachel to work with him in preparation for the AG opinion.

Authorization to Issue Debt by USF Financing Corporation for a Stadium

Chair Lamb moved to the facilities item moved from the consent agenda – Authorization to Issue Debt for the Stadium. It was pulled for further discussion or comment. Nobody had any further questions. The Chair also thanked Tampa General Hospital, for their a significant contribution. If there is no further discussion – Chair Lamb asked for a motion. Governor Jones motioned, Governor Silagy seconded. No further discussion. Motion carried.

Public Notice of Intent to Amend Board of Governors Regulation 10.003, Post Tenure Review

Next item addressed was BOG Regulation 10.003, Post Tenure Review, which was covered in a prior committee. Chair Lamb noted that it was not unusual to pull consent items to bring to the full board for various reasons and asked that the record reflect that this is done from time to time. He was glad board members ask for that so they have time to ask questions if needed. The Chair paused for comments. Governor Phalin complimented Board Staff to have these items off the consent agenda and thanked Governor Cerio and thanked them for allowing her to discuss this topic and Faculty’s concerns about this regulation. She looks forward to working with the Board. Chair Lamb reinstated that this why we do this so we can have open conversation. Motion was called for – Governor Cerio moved, Governor Edge seconded. Nay for Governor Phalin. Motion carries.

Public Notice of Approval of Amendment to Board of Governors Regulation 6.008 Postsecondary-College-Level- Preparatory Testing, Placement, and Instruction for State Universities

Chair Lamb moved to BOG Regulation 6.008 – says there has been great conversation on this topic and asked if there are any additional comments or questions. Governor Phalin was not yet part of the BOG when the committee first covered this, so this was her first chance to address this, so she appreciated the chance to speak about this. She spoke about her concern of approving CLT, which surrounded around a lack of data around CLT as a comparable option to ACT or SAT, as a result she opposed the use of the CLT at this time. She further noted that the CLT had not been independently demonstrated or verified for their reliability or validity. She recommended the board instruct institutions to keep and report data on students who matriculate having used CLT and if

they perform comparably to students having used SAT or ACT; the Board require an independent review of CLT; and encourage all state leaders continue to expand access to the SUS. She provided a summary of the proposed legislation she would like to see put forward. Chair Lamb asked for any other questions or comments. No further comments. Chair Lamb called for a motion at her conclusion. Governor Cerio motioned, Governor Hitchcock seconded. Nay from Phalin. Motion Carries.

Student Success Plan – New College of Florida

Chair Lamb spoke on the NCF Student Success Plan as the last item moved from consent and he asked for any discussion or questions on the matter. Governor Phalin expressed appreciation that she was allowed to share her comments during the committee even though she is not a member. She also noted that she has a lot of comments on the plan from her student engagement and success experts across the state that she would be happy to share another time and she only asked some questions before to be respectful of time. The Chair encourages her to share questions with the university and anything she wishes to share with the full board to share with Rachel in order to observe the Sunshine. Chair called for a motion. Governor Silagy moves, thanked President Corcoran on the progress he has made, and said he expects a lot more progress moving forward. Governor Jones seconds. Governor Phalin is a Nay. Motion carries.

Consent Agenda Items

Chair Lamb opens the floor on the consent agenda. He calls for a last action item motion on the consent agenda. Governor Phalin moves, Governor Silagy seconds. No further discussion. Motion carries.

Closing Remarks and Adjournment

Chair Lamb acknowledged Florida Poly President Randy Avent and his service on the Board; Chair Lamb then adjourned the meeting.