FLORIDA BOARD OF GOVERNORS
NOTICE OF PROPOSED AMENDED REGULATION

DATE: January 25, 2024

REGULATION NUMBER AND TITLE: 1.001, University Boards of Trustees Powers and Duties

SUMMARY: Board of Governors Regulation 1.001, University Boards of Trustees Powers and Duties, establishes the composition, organization, and authority of a University Board of Trustees.

During the 2023 session, the Florida Legislature passed House Bill 931, which was signed by the Governor on May 15, 2023. The new law created section 1001.7415, Florida Statutes, prohibiting higher education institutions from instituting a political loyalty test for employment, admission, or promotion.

Board staff proposes to amend Regulation 1.001, University Boards of Trustees Powers and Duties, to align with section 1001.7415, Florida Statutes. The proposed amendment also aligns the regulation with Board of Governors Regulation 2.002, University Accountability Plans.

FULL TEXT OF THE REGULATION IS INCLUDED WITH THIS NOTICE.

AUTHORITY TO PROPOSE REGULATION(S): Section 7, Art. IX, Fla. Const.; Section 1001.7415, Florida Statutes; BOG Regulation Development Procedure.

THE BOARD OF GOVERNORS' OFFICIAL INITIATING THE PROPOSED REGULATION: Amanda Gay, Attorney, Office of the General Counsel

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 St., Suite 1614, Tallahassee, Florida 32399, (850) 245-0466 (phone), (850) 245-9685 (fax), or generalcounsel@flbog.edu.

1.001 University Board of Trustees Powers and Duties

(1) Pursuant to Article IX, section 7(c), Florida Constitution, the Board of Governors shall establish the powers and duties of the board of trustees as set forth herein and as may be established in Board of Governors' regulations. This regulation supersedes the delegation of authority to the boards of trustees contained in the Board of Governors' Resolution dated January 7, 2003. The intent of this regulation is to delegate powers and duties to the university boards of trustees so that the university boards have all of the powers and duties necessary and appropriate for the direction, operation, management, and accountability of each state university.

(2) Composition of Boards; Membership and Organization.

(a) Each university shall be administered by a board of trustees, consisting of thirteen members dedicated to the purposes of the State University System. Each university board of trustees includes six members appointed by the Governor and five members appointed by the Board of Governors, all of whom must be confirmed by the Senate. All trustees are required to attend a Board of Governors orientation session, preferably prior to service on the university board. The chair of the faculty senate, or the equivalent, and the president of Student Government, or the equivalent, are also members. Board of trustee members shall serve staggered terms of five years and may be reappointed for subsequent terms, except for the faculty and student representatives who shall serve for the duration of the term of their respective elected offices. All members are public officers subject to the requirements of the Florida Code of Ethics.

(b) Each board of trustees shall select its chair and vice chair from the appointed members. Each chair shall serve for two years and may be reselected for one additional consecutive two-year term. Any exception to this term of office must be approved by a two-thirds vote of the board of trustees.

(c) The duties of the chair shall include presiding at all meetings of the board of trustees, calling special meetings of the board of trustees, attesting to actions of the board of trustees, and notifying the Board of Governors or the Governor, as applicable, in writing whenever a board member has three consecutive unexcused absences from regular board meetings in any fiscal year, which may be grounds for removal as provided in section 1001.71, Florida Statutes.

(d) The university president shall serve as the chief executive officer to the board of trustees and shall be responsible to the board of trustees for all operations of the university and for setting the agenda for meetings of the board of trustees in consultation with the chair.

(e) Members of the boards of trustees shall receive no compensation but may be reimbursed for travel and per diem expenses as provided in section 112.061, Florida Statutes.
(f) Each board of trustees shall establish the powers and duties of the university president.
(g) Each board of trustees shall be a public body corporate with all the powers of a body corporate, including the power to adopt a corporate seal, to contract and be contracted with, to sue and be sued, to plead and be impleaded in all courts of law and equity, and to give and receive donations. In all suits against the board of trustees, service of process shall be made on the chair of the board of trustees or on a university designee.
(h) Each board of trustees shall be primarily acting as an instrumentality of the state pursuant to section 768.28, Florida Statutes, for purposes of sovereign immunity.
(i) Each board of trustees is subject to the public records and open meetings requirements set forth in Article I, section 24 of the Florida Constitution and laws implementing that section.
(j) Each board of trustees shall keep and, within two weeks after a board meeting, post prominently on the university's website detailed meeting minutes for all meetings, including the vote history and attendance of each trustee, as provided in section 1001.71, Florida Statutes.

(3) University Administration and Oversight.
(a) Each board of trustees shall be responsible for the administration of its university in a manner that is dedicated to, and consistent with the university's mission which shall be otherwise consistent with the mission and purposes of the State University System as defined by the Board of Governors.
(b) Each board of trustees may establish committees of the board to address matters including, but not limited to, academic and student affairs, strategic planning, finance, audit, property acquisition and construction, personnel, and budgets.
(c) Each board of trustees shall adopt a strategic plan in alignment with the Board of Governors' systemwide strategic plan and regulations, and the university's mission. University strategic plans shall be submitted to the Board of Governors for approval.
(d) Each board of trustees shall prepare an accountability plan and submit updates on an annual basis for consideration by the Board of Governors. The accountability plan shall outline the university's top priorities, strategic directions, and specific actions for achieving those priorities, as well as progress towards previously approved institutional and System-wide goals.
~~(d) Each board of trustees shall prepare a multi-year workplan/report for the Board of Governors that outlines its university's top priorities, strategic directions, and specific actions and financial plans for achieving those priorities, as well as performance expectations and outcomes on institutional and systemwide goals. The workplan/~~

~~report shall reflect the university's distinctive mission and focus on core institutional strengths within the context of State University System goals and regional and statewide needs.~~

(e) Each board of trustees shall have a policy addressing conflicts of interest for its members.

(f) Each board of trustees shall maintain an effective information system to provide accurate, timely, and cost-effective information about the university, and shall require that all data and reporting requirements of the Board of Governors are met.

(g) Each board of trustees may promulgate regulations and procedures related to data and technology, including information systems, communications systems, computer hardware and software, and networks.

(h) Each board of trustees is authorized to secure comprehensive general liability insurance.

(i) Each board of trustees may provide for payment of the cost of civil actions against officers, employees, or agents of its board.

(j) Each board of trustees is authorized to promulgate university regulations in accordance with the Regulation Development Procedure adopted by the Board of Governors.

(k) Each board of trustees may govern traffic on the grounds of the university and in other areas in accordance with law and any mutual aid agreements entered into with other law enforcement agencies.

(l) Each board of trustees shall be responsible for campus safety and emergency preparedness, to include safety and security measures for university personnel, students, and campus visitors.

(m) Each board of trustees is authorized to create divisions of sponsored research and establish policies regulating the administration and operation of the divisions of sponsored research.

(4) Academic Programs and Student Affairs.

(a) Each board of trustees shall adopt university regulations or policies, as appropriate, in areas including, but not limited to:

1. authorization and discontinuance of degree programs;
2. articulation and access;
3. admission and enrollment of students;
4. minimum academic performance standards for the award of a degree;
5. student financial assistance;
6. student activities and organizations;
7. student records and reports;
8. antihazing, related penalties, and program for enforcement;
9. reasonable accommodation of religious observances; and

10. uniform student code of conduct and related penalties.

Such regulations or policies shall be consistent with any applicable Board of Governors' regulations.

(b) Each board of trustees shall establish a committee to periodically review and evaluate the student judicial system. At least one-half of the members of the committee shall be students appointed by the student body president.

(c) Each board of trustees shall approve the internal procedures of student government organizations.

(d) Each board of trustees of an institution with an intercollegiate athletics program, shall require that institutional control and oversight of its intercollegiate athletics program is in compliance with the rules and regulations of their respective athletic conference or association. The university president is responsible for the administration of all aspects of the intercollegiate athletics program.

(5) Personnel.

(a) Each board of trustees shall provide for the establishment of the personnel program for all the employees of the university, including the president, which may include but is not limited to: compensation and other conditions of employment, recruitment and selection, nonreappointment, standards for performance and conduct, evaluation, benefits and hours of work, leave policies, recognition and awards, inventions and works, travel, learning opportunities, exchange programs, academic freedom and responsibility, promotion, assignment, demotion, transfer, tenure, and permanent status, ethical obligations and conflicts of interest, restrictive covenants, disciplinary actions, complaints, appeals and grievance procedures, and separation and termination from employment. To the extent allowed by law, university employees shall continue to be able to participate in the state group insurance programs and the state retirement systems.

(b) Each board of trustees must ensure that its personnel program and the university's implementation of the program comply with section 1001.7415, Florida Statutes. Failure to comply with section 1001.7415, Florida Statutes, may subject the board of trustees and the university to the enforcement mechanisms in section 1008.322, Florida Statutes.

~~(b)~~(c) Each board of trustees shall act as the sole public employer with regardto all public employees of its university for the purposes of collective bargaining, and shall serve as the legislative body for the resolution of impasses with regard to collective bargaining matters.

~~(c)~~(d) Each board of trustees shall select its university president subject to confirmation of the candidate by the Board of Governors and in accordance with the requirements of Regulation 1.002. A presidential search committee shall be appointed to make recommendations to the full board of trustees. The board of trustees shall select a candidate for confirmation by the Board of Governors. Prior to confirmation, the board of trustees shall submit a written description of the selection process and criteria, the qualifications of the selected candidate, and a copy of the proposed employment contract to the Board of Governors

for its consideration in confirming the candidate. The candidate selected by the board of trustees shall be required to appear before the Board of Governors at the meeting where confirmation of the candidate will be considered. Such meeting will be held as soon as practicable to ensure a timely transition. Renewals of presidential employment contracts shall be subject to confirmation by the Board of Governors and shall be limited to one-year terms.

~~(d)~~(e) In the event that a board of trustees selects an interim president, suchselection is subject to confirmation of the candidate by the Board of Governors. If it is determined by the board of trustees to be in the bestinterests of the university, the interim president selected by the board may be delegated full authority to serve as the interim president duringthe period prior to confirmation by the Board of Governors. Continued service as interim president requires confirmation by the Board of Governors, and the candidate selected by the board of trustees shall be required to appear before the Board of Governors at the meeting where confirmation will be considered. Such meeting will be held as soon as practicable to ensure a timely transition.

~~(e)~~(f) Each board of trustees shall develop guidelines for the annual evaluation of the president.

~~(f)~~(g) Each board of trustees shall conduct an annual evaluation of the president. The chair of the board of trustees shall request input from the Chair of the Board of Governors, who may involve the Chancellor, during the annual evaluation process pertaining to responsiveness to the Board of Governors' strategic goals and priorities, and compliance with systemwide regulations.

(6) Financial Management.

(a) Each board of trustees shall be responsible for the financial management of its university and shall submit an institutional budget request, including a request for fixed capital outlay, and an operating budget to the Board of Governors for approval in accordance with the guidelines established by the Board of Governors.

(b) Each board of trustees shall establish tuition and fees in accordance with regulations established by the Board of Governors.

(c) Each board of trustees shall establish waivers for tuition and fees pursuant to regulations established by the Board of Governors.

(d) Each board of trustees shall engage in sound debt management practices for the issuance of debt by the university and its direct support organizations, and shall comply with the guidelines established by the Board of Governors in connection with the authorization, issuance and sale of university and direct support organization debt.

(e) Each board of trustees shall account for expenditures of all state, local, federal, and other funds in accordance with guidelines or regulations established by the Board of Governors, and as provided by state or federal law.
(f) Each board of trustees may enter into agreements for, and accept, credit card payments as compensation for goods, services, tuition, and fees.
(g) Each board of trustees shall establish policies and procedures for the performance of annual internal audits of university finances and operations. All reports generated from such audits must be submitted to the Board of Governors after review and acceptance by the board of trustees, or its designee.
(h) Each board of trustees and each direct support organization shall submit annual financial statements to the Board of Governors.

(7) Property and Purchasing.
(a) Each board of trustees and university direct support organization must obtain prior approval from the Board of Governors before entering into a binding contractual obligation to improve real property that will result in the board or the direct support organization seeking a commitment of state funds for the development, construction, operation, or maintenance of an educational or research facility.
(b) Each board of trustees shall have the authority to acquire real and personal property and contract for the sale and disposal of same, and approve and execute contracts for purchase, sale, lease, license, or acquisition of commodities, goods, equipment, and contractual services, leases of real and personal property, and construction. The acquisition may include purchase by installment or lease-purchase. Such contracts may provide for payment of interest on the unpaid portion of the purchase price.
(c) With respect to state-funded real property acquisitions, each board of trustees may, with the consent of the Board of Trustees of the Internal Improvement Trust Fund, sell, convey, transfer, exchange, trade, or purchase real property and related improvements necessary and desirable to serve the needs and purposes of the university.
1. The board of trustees may secure appraisals and surveys in accordance with the policies and procedures of the Board of Trustees of the Internal Improvement Trust Fund. Whenever the board of trustees finds it necessary for timely property acquisition, it may contract, without the need for competitive selection, with one or more appraisers whose names are contained on the list of approved appraisers maintained by the

Division of State Lands in the Department of Environmental Protection.

2. The board of trustees may negotiate and enter into an option contract before an appraisal is obtained. The option contract must state that the final purchase price may not exceed the maximum value allowed by law. The consideration for such an option contract may not exceed 10 percent of the estimate obtained by the board of trustees or 10 percent of the value of the parcel, whichever is greater, unless otherwise authorized by the board of trustees.
3. Title to property acquired by a university board of trustees prior to January 7, 2003, and to property acquired thereafter with state funds shall vest in the Board of Trustees of the Internal Improvement Trust Fund. With respect to all other real property acquired by a university, such property shall be titled in the name of the university board of trustees, or as the trustees of the university may deem appropriate.

(d) Each board of trustees shall submit to the Board of Governors, for approval, plans for all new campuses and instructional centers.

(e) Each board of trustees shall administer a program for the maintenance and construction of facilities.

(f) Each board of trustees may exercise the right of eminent domain pursuant to the provisions of chapter 1013, Florida Statutes.

(g) Each board of trustees shall be responsible for the use, maintenance, protection, and control of, and the imposition of charges for, university-owned or university-controlled buildings and grounds, property and equipment, name trademarks and other proprietary marks, and the financial and other resources of the university.

(h) With respect to any funds or real or personal property designated by will, deed, agreement, or court appointment to be held in trust for the benefit of the university, or its students, faculty members, officers, or employees, or otherwise, or for any educational purpose, a university board of trustees is authorized to act as trustee with full legal capacity as trustee to administer such trust property and, in such event, the title thereto shall vest in the board of trustees as trustee. In all such cases, the university board of trustees shall have the power and capacity to do and perform all things as fully as any individual trustee or other competent trustee might do or perform, and with the same rights, privileges, and duties including the power, capacity, and authority to convey, transfer, mortgage, or pledge such property held in trust and to contract and execute all other documents relating to said trust property which may be required for or appropriate to the administration of such trust or to accomplish the purposes of any such

trust. Nothing herein shall be construed to authorize a board of trustees to contract a debt on behalf of, or in any way to obligate, the state; and the satisfaction of any debt or obligation incurred by the board as trustee under the provisions of this section shall be exclusively from the trust property, mortgaged or encumbered.

(i) Each board of trustees shall prepare and adopt a campus master plan pursuant to section 1013.30, Florida Statutes.

(j) Each board of trustees shall prepare, adopt, and execute a campus development agreement pursuant to section 1013.30, Florida Statutes.

(k) Each board of trustees may authorize the rent or lease of parking facilities, provided that such facilities are funded through parking fees or parking fines imposed by a university. A board of trustees may authorize a university to charge fees for parking at such rented or leased parking facilities and parking fines.

(l) Each board of trustees shall promulgate regulations that establish basic criteria related to the procurement of commodities and contractual services.

(m) Each board of trustees shall be responsible for the fire safety and sanitation of public educational and ancillary plants.

(8) Miscellaneous Powers and Duties.

(a) Each board of trustees is authorized to form such corporate entities as are necessary to establish and maintain faculty practice plans for the collection, distribution, and regulation of fees generated by faculty members engaged in the provision of healthcare services to patients as an integral part of their academic activities and employment as faculty. Each such faculty practice plan must be adopted by the board of trustees in accordance with regulations of the Board of Governors and approved by the Board of Governors.

(b) Each board of trustees is authorized to establish direct support organizations and university health services support organizations and certify them to use university property, facilities, and services.

(c) Each board of trustees may establish educational research centers for child development.

(d) Each board of trustees is authorized to protect, develop, and transfer the work products of university personnel and other university agents and contractors, which authority shall include but not be limited to licensing, assigning, selling, leasing, or otherwise allowing the use of or conveying such work products and securing and enforcing patents, copyrights, and trademarks on such products. Each board of trustees shall have policies and procedures concerning the work products of university personnel that facilitate technology development and transfer for the public benefit. Such policies must include, without

limitation, provisions that take into account the contributions of university personnel in the development of work products and that require any proceeds from such work products be used to support the research and sponsored training programs of the university.

(e) Each board of trustees is responsible for compliance with all applicable laws, rules, regulations, and requirements.

(f) Each board of trustees shall perform such other duties as provided by the Board of Governors, or as each board of trustees may determine are necessary or appropriate for the administration of the university so long as the trustees comply with any applicable laws and Board of Governors' regulations and policies.

Authority: Section 7(c), Art. IX, Fla. Const., Section 1001.7415, Florida Statutes.; History: Resolution 1-07-03, New3- 26-09, Amended 09-16-10, Amended 08-31-17, Amended 11-09-22; Amended 11-09-23; Amended XX-XX-24.