

**FLORIDA A&M UNIVERSITY BOARD OF TRUSTEES**



**NOTICE OF PROPOSED AMENDED REGULATION**

**DATE:** June 12, 2017

**REGULATION CHAPTER NO.:** Chapter 1.021

**REGULATION CHAPTER TITLE:** Organization and Function

**REGULATION TITLE AND NUMBER:** Authority of the President - 1.021

**SUMMARY OF REGULATION:** This Amended Regulation substantially rewords and reorganizes the previous version, aligning it with the Florida Board of Governors' (BOG) Regulation and including current powers that were located in other policies, regulations or laws. This amendment updates the President's delegated authority and the authority of the President to further delegate his duties in accordance with recommendations from the BOG and the FAMU Board of Trustees. Substantive changes include but are not limited to: requiring the President to consult with the BOT chair on hiring, dismissal or compensation of any person serving in a vice president capacity, as the athletic director, or head coach, or other executive direct report position to the President or BOT; allowing the President to take action after consultation with BOT Chair and the CFO, for settlement of claims greater than 100K, but less than 250K, requiring the President or designee to get BOT approval for settlements at or in excess of 250K; and adding language to state that all settlements shall be consistent with Florida Statutes.

**AUTHORITY FOR REGULATION:** Article IX, Section 7 (c), Florida Constitution; Chapters 120, 1011, and 1013 and sections 112.061, 273.055(5), 287.055, 705.18, 1001.706(4)(d), 1004.23, 1004.24, 1004.28, 1007.22, 1009.24, 1010.03, and 1012.965, Florida Statutes; and Board of Governors' Regulation 1.001.

**UNIVERSITY OFFICIAL INITIATING THIS REGULATION:** Florida A&M University Board of Trustees.

**PROCEDURE FOR COMMENTS:** Written comments concerning this proposed regulation shall be submitted within 14 days of the date of this notice to the person identified below.

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED REGULATION IS:** Shira Thomas, Acting General Counsel, 1700 Lee Hall Drive, Suite 304 Foote-Hilyer Administration Center, Tallahassee, Florida 32307, (850) 599-3591 (phone), (850) 561-2862 (fax), [shira.thomas@famu.edu](mailto:shira.thomas@famu.edu).

**FULL TEXT OF THE PROPOSED REGULATION:** The full text of the proposed regulation follows:



## Regulation of



## Florida A&M University

### **(Substantially Reorganized and Reworded)**

#### **1.021 Authority of the President.**

In accordance with s. 7(c), Art. IX of the Florida Constitution, Florida Statutes, and the rules, guidelines, procedures, regulations, and resolutions of the Board of Governors of the State University System of Florida (Florida Board of Governors), the Florida Agricultural and Mechanical University Board of Trustees (FAMU Board of Trustees) hereby delegates to the President, as the Chief Executive Officer and Corporate Secretary of the FAMU Board of Trustees, responsibility for the operation and administration of Florida Agricultural and Mechanical University, the following authority and duties:

#### **(1) Administration and Oversight.**

(a) Organize and periodically review the operations of the University in order to determine how effectively and efficiently the University is being administered and whether it is meeting the goals of its strategic plan approved by the FAMU Board of Trustees and adopted by the Florida Board of Governors, and provide reports to the FAMU Board of Trustees.

(b) Prepare a strategic plan in alignment with the Florida Board of Governors' system wide strategic plan and regulations, and the University's mission for consideration and approval by the FAMU Board of Trustees for submission to the Board of Governors.

(c) Consult with the FAMU Board of Trustees in a timely manner on any matters appropriate to its policy-making and fiduciary functions.

(d) Prepare a multi-year workplan for consideration and approval by the FAMU Board of Trustees for submission to the Board of Governors that outlines the 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 system wide goals. The workplan 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, as well as national and global needs as applicable to the University's mission.

(e) Maintain an effective information system to provide accurate, timely, and cost-effective information about the University, and require that all data and reporting requirements of the FAMU Board of Trustees and Florida Board of Governors be met.

(f) Take routine administrative actions on behalf of the FAMU Board of Trustees actions related to the development, adoption, amendment or repeal of University regulations or rules, or any action required under the Florida Administrative Procedures Act, Chapter 120, F.S. This authority does not include the final approval of University regulations.

(g) Propose the adoption of regulations, rules, and policies, as appropriate, to the FAMU Board of Trustees to implement provisions of Florida law governing the operation and administration of the University and to approve administrative policies. Such regulations, rules and policies shall be consistent with the mission of the University and the rules, guidelines, procedures, regulations, and resolutions of the Florida Board of

Governors.

- (h) Establish procedures related to data and technology, including information systems, communications systems, computer hardware and software, and networks.
- (i) Maintain all data and information pertaining to the operation of the University, and report on the attainment by the University of institutional and statewide performance accountability goals.
- (j) Minimize University risk and manage the University's risk management program.
- (k) Securing comprehensive general liability insurance pursuant to Sections 1001.706(4)(d) and 1004.24, F.S.
- (l) Provide for the payment of the cost of civil actions against officers, employees, or agents of the FAMU Board of Trustees pursuant to Section 1012.965, F.S.
- (m) Sign contracts in accordance with University rules, regulations, procedures and policies.
- (n) 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.
- (o) Establish the program for campus safety and emergency preparedness, including safety and security measures for University personnel, students, and campus visitors.
- (p) Close all or portions of the University campus and cease normal operations and services in the event of an emergency, when, in the President's judgment, such action would protect the safety, health and welfare of the University faculty, students and staff, and the University facilities and grounds. In exercising this authority, the President is authorized to determine and assign those employees who are required to provide essential services.

(q) Set the agenda for meetings of the FAMU Board of Trustees in consultation with the chair.

(r) Prepare and periodically update a policy addressing conflicts of interest for the FAMU Board of Trustees and University employees.

(s) Perform any powers, duties, and authority that is vested with the University.

(t) Perform such other duties as are not retained by the FAMU Board of Trustees and as may be necessary or appropriate for the administration of the University, in compliance with any applicable laws, FAMU Board of Trustees and Board of Governors' regulations, policies, and resolutions.

**(2) Academic Affairs and Student Affairs.**

(a) Propose for adoption by the FAMU Board of Trustees, as appropriate, University regulations or policies 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. Anti-hazing, related penalties, and program for enforcement;
9. Reasonable accommodation of religious observances;
10. Textbook and instructional materials affordability; and
11. Uniform Student code of conduct and related penalties.

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

(b) Govern admissions, subject to Florida law and rules, guidelines, procedures, regulations, and resolutions or policies of the FAMU Board of Trustees and Florida Board of Governors.

- (c) Establish the internal academic calendar of the University within general guidelines of the Florida Board of Governors.
- (d) Recommend to the FAMU Board of Trustees the establishment and termination of undergraduate and master's level degree programs within the approved role and scope of the University.
- (e) Award degrees, including posthumous, in memoriam and honorary degrees.
- (f) Develop, approve, and implement student exchange programs, including without limitation those ancillary to the degree and non-degree, including non-college credit, granting programs of the University.
- (g) Enter into agreements for student exchange programs which involve students at the University and students in other postsecondary educational institutions.
- (h) Enter into articulation agreements as encouraged by Section 1007.22, F.S.
- (i) Consult with the Chancellor of the State University System prior to recommending any acquisition, establishment, reclassification, relocation, or closure of additional campuses or special purpose centers to the FAMU Board of Trustees.
- (j) Establish a committee to periodically review and evaluate the student disciplinary system. At least one-half of the members of the committee shall be students appointed in consultation with the student body president.
- (k) Approve or reject the internal procedures of student government organizations.
- (l) Approve the establishment of an educational research center for child development in accordance with the provisions of section 1011.48, Florida Statutes.
- (m) Administer all aspects of the University intercollegiate athletics program, with periodic reports to the FAMU Board of Trustees on the operations of the program

including, but not limited to, finances, audit and compliance, and changes in key personnel.

**(3) Personnel.**

(a) Establish and implement policies and procedures to recruit, appoint, transfer, promote, compensate, evaluate, reward, demote, discipline, and remove personnel, in accordance with Florida law and rules, guidelines, procedures, regulations, resolutions or policies approved by the FAMU Board of Trustees and the Florida Board of Governors.

(b) Consult with the chair of the FAMU Board of Trustees, or other trustee designee, on the hiring, dismissal, and compensation of any person to serve in a Vice President capacity, as the Athletic Director, or as a Head Coach, or other executive direct report position to the President or the FAMU Board of Trustees. The following positions shall also have a reporting relationship to the FAMU Board of Trustees in addition to reporting to the President: the General Counsel, the Chief Audit Executive, and the Chief Compliance Officer.

(c) The President may further delegate, in writing, authority to the Provost, Vice Presidents, Director of Procurement, Controller, Dean of Students, Director of Athletics, and other Presidential direct report positions that are equivalent in seniority and responsibility to a vice president to serve as the President's designee when deemed necessary to effectively and efficiently administer the University. Delegations shall be in writing to the designated employees of the University with responsibility in an area relating to the subject matter of the delegation and is deemed by the President to have the appropriate capabilities. The delegation must specify the date of the delegation, the name and title of the delegee, the particular authority or portion of authority being delegated and a copy of such delegation is filed with the delegee and with the Vice President and General



Counsel of the University. This authority may not be further delegated. A summary table of the delegations shall be provided to the FAMU Board of Trustees. A copy of any and all such delegations shall be retained by the Office of the General Counsel and the summary table of delegations posted on its webpage.

(d) Serve as the University representative with regard to administering collective bargaining matters; appoint members to the collective bargaining teams to negotiate agreements on behalf of the FAMU Board of Trustees; and execute on behalf of the FAMU Board of Trustees final agreements approved by the FAMU Board of Trustees after ratification by collective bargaining units.

(e) Approve travel under Section 112.061, Florida Statutes.

(f) Prepare and submit an annual equity report to the Chancellor of the State University System by September 30th of each year in accordance with the provisions of Florida Board of Governors Regulation 2.003.

**(4) Financial Management.**

(a) Inform the FAMU Board of Trustees of the financial condition of the University and each direct support organizations certified by the FAMU Board of Trustees or any affiliated organizations subject to the oversight of the FAMU Board of Trustees.

(b) In accordance with the provisions of Section 1011.40, F.S., to prepare a budget request, including a request for fixed capital outlay, and an operating budget for approval by the FAMU Board of Trustees and to implement the operating budget of the University as prescribed by Florida law, the provisions of the General Appropriations Act and rules, guidelines, procedures, regulations, resolutions and policies of the Florida Board of Governors and the FAMU Board of Trustees. The proposed expenditures, plus transfers,

and balances shall not exceed the estimated income, transfers, and balances. The budget and each part thereof shall balance. If at any time the unencumbered balance in the education and general fund of the FAMU Board of Trustees approved operating budget goes below 5 percent (5%), the President shall provide written notification to the FAMU Board of Trustees and the Florida Board of Governors.

(c) Prepare a capital outlay budget as a part of the annual budget, based upon and in harmony with the University's capital outlay plan for approval by the FAMU Board of Trustees. This budget shall designate the proposed capital outlay expenditures by project for the year from all fund sources.

(d) Account for expenditures of all state, local, federal, and other funds in accordance with guidelines or regulations established by the Florida Board of Governors, and as provided by state or federal law.

(e) Certify to the Florida Board of Governors or State Department of Education, as requested, a project's compliance with the requirements for expenditure of PECO funds prior to release of funds in accordance with Chapter 1013, F.S.

(f) Establish policies and procedures for the performance of annual internal audits of University's finances and operations. All reports generated from such audits must be submitted to the Florida Board of Governors after review and acceptance by the FAMU Board of Trustees.

(g) Establish policies and procedures to implement appropriate financial controls, with review by the University's internal auditor.

(h) Recommend to the FAMU Board of Trustees a schedule of tuition and fees to be charged by the University, in accordance with the provisions in section 1009.24, Florida

Statutes, and within Florida law and rules, guidelines, procedures, regulations, resolutions and policies of the Florida Board of Governors.

(i) Recommend to the FAMU Board of Trustees a regulation for the waiver of tuition and fees pursuant to law and regulations established by the Florida Board of Governors.

(j) Enter into agreements for, and accept, credit card payments as compensation for goods, services, tuition, and fees.

(k) Sign checks to pay legal obligations of the University in accordance with Section 1011.42(7), F.S.

(l) Perform banking transactions, and the President may delegate such authority to the Vice President for Administration and Finance, the University Controller, the University Treasurer, and other positions deemed by the President or senior designee reporting to the President to have responsibility for financial matters.

(m) Employ private attorney services after consulting with the University's General Counsel.

(n) Employ the services of collection agencies when deemed advisable in collecting delinquent accounts and to charge off and settle accounts in such amounts as approved by the FAMU Board of Trustees, when uncollectible pursuant to Section 1010.03, F.S. The President or President's designee will annually report the status of accounts receivable charge-offs to the Board, which may be provided through the University's financial statements or reports.

(o) Ensure the FAMU Board of Trustees is presented with sufficient information for prudent decision-making for projects subject to the Board of Governors Debt Management Guidelines, Public-Private Partnership Guidelines, and University guidelines.

(p) Provide purchasing, contracting, and budgetary review processes for student government organizations.

**(5) Property and Purchasing.**

(a) Administer a program for the maintenance and construction of facilities pursuant to Chapter 1013, Florida Statutes; certify to the Board of Governors or Department of Education, as requested, a project's compliance with the requirements for expenditure of Public Education Capital Outlay funds.

(b) In accordance with the provisions of Section 1013.48, F.S., approve change orders in the name of the FAMU Board of Trustees for amounts not exceeding \$250,000 in the aggregate in accordance with the provisions of the FAMU Board of Trustees Policy No. 2005-06.

(c) Regulate 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.

(d) Comply with the provisions of Section 287.055, F.S., for the procurement of professional services and may approve and execute all contracts on behalf of the FAMU Board of Trustees for planning, construction, and equipment. For the purposes of the President's contracting authority, a "continuing contract" for professional services under the provisions of Section 287.055, F.S., is one in which construction costs do not exceed \$2 million or the fee for study activity under such continuing contract does not exceed \$200,000.

(e) Ensure that all plans for the construction, renovation, remodeling, or demolition of

any educational or ancillary plants conform to the requirements of the Florida Building Code and the Florida Fire Prevention Code. The President is authorized to submit documents to the Florida Board of Governors or State Department of Education, as appropriate, and to award contracts subsequent to and consistent with FAMU Board of Trustees' approval of the scope, timeframes, funding source, and budget of a survey-recommended project.

(f) Propose the naming of buildings to FAMU Board of Trustees for approval in accordance with Board of Trustees Policy No. 2008-05.

(g) Recommend for adoption and promulgation by the FAMU Board of Trustees, regulations establishing basic criteria related to procurement, including policies, procedures, practices and administration's monetary thresholds, to be used in acquiring commodities and contractual services in accordance with Board of Governors' regulations.

(h) Approve, execute, and administer contracts for and on behalf of the FAMU Board of Trustees for licenses; the acquisition or provision of commodities, goods, equipment, and contractual services; acquisition or leases of real and personal property; and planning and construction to be rendered to or by the University, provided such contracts are in conformance with Florida law and rules, guidelines, procedures, regulations, resolutions or policies of the FAMU Board of Trustees and the Florida Board of Governors, and are for the implementation of approved programs of the University. 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.

(i) Act for the FAMU Board of Trustees as custodian of all University property.

(j) Adjust property records and dispose of state-owned tangible personal property in

the University's custody in accordance with procedures established by the FAMU Board of Trustees. Notwithstanding the provisions of Section 273.055(5), Florida Statutes, all moneys received from the disposition of state-owned tangible personal property shall be retained by the University and disbursed for the acquisition of tangible personal property and for all necessary operating expenditures. The University shall maintain records of the accounts into which such moneys are deposited.

(k) In accordance with section 705.18, Florida Statutes, and Florida Board of Governors' regulation, take charge of any lost or abandoned personal property found on the University campus or on premises owned or controlled by the University or any direct support organization thereof. If the property is not claimed by the owner within 30 days after it is found, or a longer period of time as may be deemed appropriate by the President, the President or his or her may order it to be sold at a public auction after giving notice of the time and place of sale in a publication of general circulation on the campus. The rightful owner of the property may reclaim the property at any time prior to the disposition, sale, or use of the property in accordance with section 705.18, Florida Statutes, and the established procedures of the University. In accordance with the provisions of Florida law, all moneys realized from such sale shall be placed in an appropriate fund and used solely for student scholarship and loan purposes.

(l) Prepare a campus master plan for adoption by the FAMU Board of Trustees, prepare a campus development agreement for execution by the FAMU Board of Trustees, pursuant to section 1013.30, Florida Statutes, and report on progress under the Master Plan.

(m) Exercise responsibility for the fire safety and sanitation of public educational and ancillary plants.

(n) Perform all things necessary to secure letters of patent, copyrights, and trademarks on any work products and to enforce the University's rights therein in accordance with Section 1004.23, Florida Statutes. 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

**(6) Supplemental Authority.**

(a) In accordance with the provisions of Section 1004.28, Florida Statutes, and Board of Governors' regulations, to recommend to the FAMU Board of Trustees for final approval, the creation and certification, as well as the decertification and dissolution, of direct support organizations, and any other affiliated organization of the University whose authorizing legislation, bylaws or agreement with the University so requires, in order to serve the needs or further the interests of the University.

(b) Serve, or to appoint a designee to serve on the board of directors and the executive committee of each direct-support organization established to benefit the University, or any other affiliated organization of the University, in accordance with the provisions of Section 1004.28, Florida Statutes, and Board of Governors' regulation, and to receive annual budgets and reports of such organizations, including the federal Internal Revenue Service Application for Recognition of Exemption form (Form 1023) and its federal Internal Revenue Service Return of Organization Exempt from Income Tax form (Form 990). Prior to appointing representatives to the governing boards of direct support organizations or any other affiliated organization of the University, the President shall consult with the chair of the FAMU Board of Trustees, or other trustee designee.

- (c) Accept gifts, grants, bequests, and devises on behalf of the University.
- (d) In accordance with the terms specified by the donor, to designate the purpose for which, and the location at which, the income and/or principal of a gift shall be used and to make allocations in accordance therewith and/or reallocation to the extent not specified by the donor of a gift.
- (e) Establish policies regulating the administration and operation of the University Division of Sponsored Research. The President, or his or her designee, is authorized to negotiate, enter into, and execute research contracts; to solicit and accept research grants and donations; and to fix and collect fees, other payments, and donations that may accrue by reason thereof. The President or his or her designee may negotiate, enter into, and execute contracts on a cost-reimbursement basis and may provide temporary financing of such costs prior to reimbursement from moneys on deposit in a sponsored research development fund, except as may be prohibited elsewhere by law.
- (f) All purchases of the Division of Sponsored Research shall be made in accordance with the policies and procedures of the University and the purchasing regulations of the Board of Governors; however, upon certification addressed to the President that it is necessary for the efficient or expeditious prosecution of a research project, the President may exempt the purchase of material, supplies, equipment, or services for research purposes from the general purchasing requirement of the Florida Statutes.
- (g) Initiate, appeal adverse rulings, and settle lawsuits and claims (in accordance with the provisions of the FAMU Board of Trustees Resolution No. 17-05), when doing so would be in the best interests of the University. All such settlements must in accordance with Florida Law. Notice and reports referenced below may be oral.



1. For settlement of claims up to \$100,000, the President may take action.
  2. For settlement of claims greater than \$100,000 but less than \$250,000, the President may take action after consultation with the Chair of the FAMU Board of Trustees and the Vice President of Finance and Administration/Chief Financial Officer, as appropriate.
  3. The President or designee shall obtain approval of the FAMU Board of Trustees for settlements at or in excess of \$250,000.
- (h) Nothing in this regulation should be construed as limiting or divesting the FAMU Board of Trustees' right to exercise any authority or responsibility as deemed appropriate
- (i) Comply with all applicable laws, rules, regulations, and requirements.

*Specific Authority: Article IX, Section 7(c), Florida Constitution, BOG Regulation 1.001. History: New 9-8-07; Amended 12-3-12, 7- -17.*