

FLORIDA BOARD OF GOVERNORS

Regulation Development Procedure for State University Boards of Trustees

A. Background

of Governors establishes this procedure for the adoption of regulations by the state university boards of trustees.

B. Definitions

1. Regulations. Regulations are statements of general applicability to guide the conduct or action of constituents or the public, adopted by the university boards of trustees that implement its powers and duties.

Regulations must be consistent with law and the resolutions, and strategic plan of the Board of Governors. Regulations do not include the following:

- x Internal management memoranda, which are defined as statements that do not affect the private interests of any person and which have no application outside the state university system;

- x Legal memoranda, opinions and guidelines;

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- x Negotiated contractual provisions, including those reached as a result of collective bargaining; and
- x Curriculum and other academic requirements.

2. Select Regulations. Select regulations are regulations that pertain to student tuition and fees, admissions, and articulation which require approval

comments, written summaries of hearings, and responses submitted pursuant to this procedure. The regulation, amendment or repeal shall become effective on the date of filing unless the effective date is stated otherwise.

2. Accessibility to Regulations

Regulations adopted by a university board of trustees will be easily

public to do at least the following:

- x Search notices by type, publication date, or regulation number;
- x Search a permanent database that archives all notices published on the website;
- x Subscribe to an automated e-mail notification of selected notice types; and
- x Search by subject matter or key word current regulations.

F. Due Process

In implementing regulations that affect the rights of individuals, a university board of trustees will honor established due process principles to ensure that applicable due process rights are afforded to affected individuals.

G. Monitoring Regulations

A university board of trustees will monitor the effects of new regulations and periodically will review existing regulations to ensure they are current and consistent.

H. Regulation Challenges

1. Challenging a Board of Trustees Regulation

A substantially affected person may seek a determination of the invalidity of an existing regulation any time after the adoption of the regulation. The petition

seeking such determination must state with particularity the grounds for alleging that the regulation is an invalid exercise of authority, and a sufficient explanation of the facts showing that the person challenging a regulation is substantially affected by it. A regulation is an invalid exercise of authority only if one of the following applies:

- x A university board of trustees materially failed to follow regulation development procedures set forth herein;
- x The regulation does not comply with the law or contravenes the policies of the Board of Governors as specified in resolution, regulation, or strategic plan;
- x The regulation vests unbridled discretion in the university board of trustees; or
- x The regulation is arbitrary or capricious.

a. A petition challenging a state university regulation shall be filed with a university board of trustees, or its designee as indicated on its website. If the filed petition is not of sufficient specificity or does not state sufficient grounds to challenge a regulation, the petition may be dismissed, with or without leave to amend. If the petition is of sufficient specificity and states sufficient grounds to challenge a regulation, within 15 days after receiving the petition, if there are any disputed issues of material facts, the university board of trustees shall assign a hearing officer. The hearing officer shall conduct a hearing within 60 days thereafter unless the petition is withdrawn or a continuance is granted by agreement of the parties for good cause shown. If there are no disputed issues of material fact, the matter shall be referred to a university board of trustees or to its designee for resolution.

particularity facts sufficient to show that the statement constitutes a regulation as defined in this procedure and that the university has not adopted the statement by these regulation development procedures.

b. Within 15 days after receipt of the petition, the university board of trustees shall assign a hearing officer who shall conduct a hearing in compliance with paragraph H1.c. within 30 days thereafter, unless the petition is withdrawn or a continuance is granted by agreement of the parties for good cause shown. If a hearing is held and the petitioner proves the allegations of the petition, the university board of trustees shall have the burden of proving that regulation development is not feasible.

Regulation development shall be presumed feasible unless:

- x The university has not had sufficient time to acquire the knowledge and experience reasonably necessary to address a statement by regulation development; or

- x

address the statement, a presumption is created that the board of trustees is acting expeditiously and in good faith to adopt the regulation(s) that address the statement, and reliance upon the statement or any substantially similar statement as a basis for action shall be permitted.

e. If the university board of trustees fails to approve regulations that address the statement within 180 days after publishing notice of proposed regulation(s), for the purposes of the regulation challenge proceeding, a presumption is created that the university is not acting expeditiously and in good faith to adopt regulation, and the case should proceed to a final hearing.

I. Emergency Regulations

1. Adoption

An emergency regulation may be adopted if there is an immediate danger to the public health, safety, or welfare under a procedure which is fair under the circumstances. The action taken must be only that necessary to protect the

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action, it must publish on its internet website the specific facts and reasons for concluding that the procedure is fair under the circumstances. An emergency regulation shall not be effective for a period longer than 90 days. However, the state university may take identical action under the regular regulation development procedure set forth herein.

2. Challenges

Within 7 days after receiving a petition from a substantially affected person challenging an emergency regulation, if the petition complies with the

may be amended or repealed by using the processes set out in this procedure.

All university rules which are subject to a pending rule challenge under the Administrative Procedures Act, at the time this procedure is approved by the Board of Governors, shall continue to be subject to the Administrative Procedures Act until final resolution.

Approved by the Florida Board of Governors this 21st day of July, 2005, amended September 16, 2020.