



FLORIDA INTERNATIONAL UNIVERSITY
BOARD OF TRUSTEES
ACADEMIC POLICY AND STUDENT AFFAIRS COMMITTEE
MINUTES
AUGUST 12, 2020

1. Call to Order and Chair's Remarks

The Florida International University Board of Trustees' Academic Policy and Student Affairs Committee meeting was called to order by Committee Chair Natasha Lowell on August 12, 2020 at 10:01 a.m. via Zoom.

General Counsel Carlos B. Castillo conducted roll call of the Academic Policy and Student Affairs Committee members and verified a quorum. Present were Trustees Natasha Lowell, *Chair*; Donna J. Hrinak, *Vice Chair*; Cesar L. Alvarez (*joined after roll call*); Jose J. Armas, *Health Affairs Liaison*; Board Chair Dean C. Colson; Joerg Reinhold; Marc D. Sarnoff (*joined after roll call*); Board Vice Chair Roger Tovar, *Athletics Liaison*; and Alexandra Valdes.

Trustees Leonard Boord, Gerald C. Grant, Jr., and Claudia Puig, and University President Mark B. Rosenberg were also in attendance.

Committee Chair Lowell welcomed Trustees and University administrators participating via the virtual environment and explained that the University community and general public were accessing the meeting via the FIU webcast.

Provost and Executive Vice President Kenneth G. Furton announced that the University is on track to exceed its goal relating to the four-year graduation rate, adding that this is the fourth consecutive academic year with over a five percent year-over-year increase. He explained that as one of the five R-1 Carnegie Research universities in the state, FIU achieved an 11% year-over-year increase in research expenditures, the highest increase in research expenditures amongst all five R-1 institutions.

2. Action Items

AP1. Honorary Degree Nomination

Provost Furton presented the Honorary Degree Nomination for Committee review, commenting that the request for an Honorary Degree is for Mr. Hashim Al Abri, an Honors College student currently double majoring in International Business and Management at FIU. Provost Furton remarked on Mr. Al Abri's achievements, namely, that he conducted novel research about the psychological hardships endured by Third Culture Kids, that he raised funds for FIU's Relay for Life, and single handedly organized a charity event to raise funds for a fellow FIU peer who is also

battling cancer. Provost Furton explained that last year, Mr. Al Abri was diagnosed with cancer and that this is his third time battling this disease, adding that in July he relapsed, and his treatment has now ended. Provost Furton stated that during his chemotherapy treatment, Mr. Al Abri continued his studies maintaining a 3.97 GPA and that as of mid-July, Mr. Al Abri had completed 88 of the 120 credits required for his major. Provost Furton explained that Mr. Al Abri's last wish is to graduate from FIU. Provost Furton indicated that the Faculty Senate's Honorary Degree and Awards Committee unanimously recommended the approval of the Honorary Bachelor of Business Administration degree for Mr. Al Abri.

A motion was made and unanimously passed that the FIU Board of Trustees Academic Policy and Student Affairs Committee recommend that the Florida International University Board of Trustees endorse Hashim Al Abri as a recipient of an Honorary Bachelor of Business Administration from Florida International University.

AP2. Approval of Amendments to Regulation FIU-105 Sexual Misconduct (Title IX)

General Counsel Castillo explained that the amendments to Regulation FIU-105 Sexual Misconduct (Title IX) include the renaming to Regulation FIU-105 Sexual Harassment (Title IX) and Sexual Misconduct. He pointed out that the Department of Education issued regulations on Title IX of the Education Amendments of 1972 and mandated that institutions of higher education, such as FIU, adopt these changes, no later than August 14, 2020. He commented that, consistent with the process being employed by other State University System (SUS) institutions and by the Florida Board of Governors (BOG) with respect to its own Title IX regulation, FIU is relying on the BOG's Emergency Regulation Procedures to bring this action before the Board of Trustees. He remarked that, if approved, the revised Regulation will be in effect for 90 days, adding that before the expiration of that 90-day period, the matter will be presented to the Board of Trustees in accordance with the BOG's non-emergency regulation procedures.

General Counsel Castillo acknowledged the work of various departments, namely, Academic Affairs, Employee and Labor Relations, the Office of Inclusion, Diversity, Equity, and Access, the Office of the General Counsel, Student Conduct and Academic Integrity, and the Victim Empowerment Program. He presented the proposed amendments to Regulation FIU-105 Sexual Misconduct (Title IX) for Committee review, referring Trustees to the executive summary contained within the agenda materials. He explained that one change relates to jurisdiction, adding that the Department of Education makes clear that sexual harassment only applies to conduct in an educational program in the United States and that said conduct is required to be severe, pervasive, and objectively offensive and that sexual misconduct applies to any conduct of a sexual nature, regardless of location. He described another change pertaining to the scope of the revised regulation, commenting that this will now equally apply to students, employees, and third parties and will also now utilize the same investigative and adjudication process. General Counsel Castillo highlighted another area of change relating to the role of advisors, complainants, and respondents, noting that said parties were always permitted to have advisors throughout the entire process, but now during the hearings only advisors are permitted to question, and cross examine witnesses. He added that if either party does not have an advisor for witness questioning, the University is required to provide one.

In response to Committee Chair Lowell's inquiry, General Counsel Castillo explained that the University has been working on developing procedures for implementing the revisions in the form of procedures and turned it over for details to Ms. Shirlyon McWhorter, Director and Title IX Coordinator, Inclusion, Diversity, Equity and Access. Ms. McWhorter explained that a committee was formed in order to address the revisions to the University's Title IX Regulation and described several matters that the committee has addressed. She commented on the requirement that there is one Title IX process for faculty, staff, and students and that the live hearings will be new to the University's faculty and staff. She indicated that parties must be physically or virtually present enabling participants to see and hear each other and that the Assistant Dean of Students will coordinate and arrange the University live hearings for matters where the respondent is a student and that the Director of Employee and Labor Relations will do the same for matters where the respondent is a faculty or staff member. She pointed out that the hearings will be conducted by a hearing officer and a hearing body who are responsible for issuing the written determination of responsibility upon the conclusion of the hearing. She remarked that trained University officials involving faculty and staff matters and students involving student matters will constitute a hearing body, which will be chaired by a hearing officer. She stated that Professor of Law Phyllis Kotey will serve as a University hearing officer and that this will ensure a consistent process for the FIU community.

In response to Trustee Marc D. Sarnoff's inquiries and comments regarding the substantive changes to the Regulation, General Counsel Castillo explained that the University began working with the BOG, as part of this process, shortly after the Department of Education announced the changes and that utilizing the Emergency Regulation Procedure allows for the continued review of the proposed revisions during the 90-day period. Committee Chair Lowell urged Trustee Sarnoff to address any remaining concerns with the Office of the General Counsel during the 90-day review process.

A motion was made and unanimously passed that the FIU Board of Trustees Academic Policy and Student Affairs Committee recommend to the Florida International University Board of Trustees the approval of the amendment of Regulation FIU-105 Sexual Misconduct (Title IX), including the renaming to Regulation FIU-105 Sexual Harassment (Title IX) and Sexual Misconduct.

AP3. Proposed Amendments to Regulation FIU-2501 Student Conduct and Honor Code

Senior Vice President for Academic and Student Affairs Elizabeth M. Bejar presented the proposed amendments to Regulation FIU-2501 Student Conduct and Honor Code for Committee review. She explained that it is recommended that all matters related to gender-based misconduct, including violations prohibited by Title IX and FIU, be encompassed under Regulation 105. She referred Trustees to the executive summary contained within the agenda materials and commented that additional changes for the Board's consideration were opportunistically prompted by the release of the Title IX regulations. She noted that the editorial revisions included rearranging portions of the Code to ensure that related information was included in the same or most relevant area of the Code, removing and consolidating redundant information, and working to promote readability of the regulation. She described the other changes, including expanding the amnesty provisions under the Code, expanding the interim measures under the Code and adding the specific process of petitioning for review of an interim suspension, changing the restrictions related to probation under to Code to better align with the educational and developmental aims of the document, adding, and in some

instances incorporating existing language from the Code, the following as distinct violations under the Code: assisting, failure to comply, harassment, and social host liability, and revising the length of the notation of suspension on a respondent's academic transcript.

In response to Trustee Donna J. Hrinak, Sr. VP Bejar explained that, while not anticipated, revisions to Regulation FIU-105 after the 90-day period may likely require subsequent changes to FIU-2501. In response to inquiries from Trustee Sarnoff, Sr. VP Bejar confirmed that some of the proposed changes to the Student Conduct and Honor Code are not mandated by the Department of Education and Assistant Dean of Students Michelle R. Horvath referred to changes relating to interim measures, providing general examples, given the high thresholds needed in order to temporarily suspend an individual. Associate General Counsel Iris A. Elijah pointed out that while certain changes to the Code are a result of the revisions to FIU-105, other changes, outside of sexual harassment or sexual misconduct, do not have to be implemented by the same time period.

A motion was made and unanimously passed that the FIU Board of Trustees Academic Policy and Student Affairs Committee recommend that the Florida International University Board of Trustees approve the revisions to Regulation FIU-2501 Student Conduct and Honor Code, and delegate authority to the University President to approve any subsequent non-material amendments based on comments to the Regulation received from the Florida Board of Governors (BOG) or as a result of the regulation-making process.

3. New Business

No new business was raised.

4. Concluding Remarks and Adjournment

With no other business, Committee Chair Natasha Lowell adjourned the meeting of the Florida International University Board of Trustees Academic Policy and Student Affairs Committee on Wednesday, August 12, 2020 at 10:42 a.m.

There were no Trustee requests.