



Governance Committee
September 22, 2022
FIU, Modesto A. Maidique Campus, Graham Center Ballrooms

MINUTES

1. Call to Order and Chair's Remarks

The Florida International University Board of Trustees' Governance Committee meeting was called to order by Board Chair Dean C. Colson at 12:11 p.m. on Thursday, September 22, 2022.

General Counsel Carlos B. Castillo conducted roll call of the Governance Committee members and verified a quorum. Present were Trustees Dean C. Colson, *Board Chair*; Roger Tovar, *Board Vice Chair*; Carlos A. Duarte; Natasha Lowell; and Gene Prescott.

Trustee Marc D. Sarnoff was excused.

Trustees Cesar L. Alvarez, Deanne Butchey, and Cristhofer E. Lugo and Interim University President Kenneth A. Jessell were also in attendance.

Board Chair Colson welcomed all Trustees and members of the University administration. He also welcomed the University community and general public accessing the meeting via the University's webcast.

2. Approval of Minutes

Board Chair Colson asked if there were any additions or corrections to the minutes of the Governance Committee meeting held on June 16, 2022. Hearing none, a motion was made and unanimously passed to approve the minutes of the Governance Committee meeting held on June 16, 2022.

3. Action Items

G1. Update to Key Management Personnel

Interim Provost and Executive Vice President Elizabeth M. Bejar presented the update to Key Management Personnel for Committee review. She indicated that the National Industrial Security Program Operating Manual (NISPOM) requires the University to designate Key Management Personnel (KMP) in order to enter into contractual obligations with agencies of the United States Government, including contractual obligations requiring security clearance. She noted that all members of the KMP at the present time possess all the required security clearances. Interim Provost Bejar indicated that at the March 3, 2022 meeting of the FIU Board of Trustees, the Board designated the following FIU officials to serve as the KMP of FIU as required by the NISPOM: FIU's Facility Security Officer, FIU's Insider Threat Program Senior Official, and the Director of the Global Forensic and Justice Center and Executive Director of the National Forensic Science

Technology Center, with the Director of the Global Forensic and Justice Center and serving as the FIU Interim Senior Management Official having final authority.

Interim Provost Bejar pointed out that the Board of Trustees is now being asked to include the FIU Associate Vice President for Research as a member of the KMP to further the continued effective review and processing of contractual obligations with agencies of the United States Government requiring security clearance. She indicated that the FIU Board of Trustees continues to delegate to the KMP all duties, responsibilities and authorities pertaining to FIU's obligations under the NISPOM. She remarked that, in the future, if a cognizant security agency (CSA) of the U.S. Government determines that additional FIU officials must be added to the managerial group, such requirements shall be made and approved by the KMP, and not the FIU Board of Trustees, unless approval by the FIU Board of Trustees is required by the CSA.

A motion was made and unanimously passed that the FIU Board of Trustees Governance Committee recommend that the Florida International University Board of Trustees adopt a Resolution updating the Key Management Personnel and the delegation to the Key Management Personnel of certain responsibilities and authorities pursuant to 32 CFR Part 117, National Industrial Security Program Operating Manual.

G2. Ratification of the Amended 2021-2024 Collective Bargaining Agreement between the Florida International University Board of Trustees and the United Faculty of Florida-FIU

Interim Provost Bejar presented, for Committee review, the amended 2021-2024 Collective Bargaining Agreement between the FIU Board of Trustees and the United Faculty of Florida-FIU. She indicated that pursuant to a contract reopener, representatives of the FIU Board of Trustees and the United Faculty of Florida (UFF) have engaged in collective bargaining negotiations to discuss specific terms and conditions of employment that will govern personnel who fall within the bargaining unit represented by the UFF. Interim Provost Bejar pointed out that the bargaining teams have reached an agreement on the following amendments to the terms of the 2021-2024 BOT-UFF Collective Bargaining Agreement: effective August 12, 2022, for the academic year 2022-2023, all eligible employees who were employed prior to January 1, 2022, and who are continuously employed through August 12, 2022, and are not in receipt of a notice of termination or non-reappointment shall receive an increase to their base salary of one and a half percent (1.5%) or \$1,500.00, whichever is greater. She added that all eligible employees are also entitled to a one-time, nonrecurring inflationary relief payment of \$1,500.00. Interim Provost Bejar stated that said payments will be made the first full payroll following the parties' ratification. She mentioned that the other amendments related to correcting scrivener's errors pertaining to Non-Reappointment Policy.

A motion was made and unanimously passed that the FIU Board of Trustees Governance Committee recommend that the Florida International University Board of Trustees (BOT) ratify the amended 2021-2024 Collective Bargaining Agreement between the BOT and the United Faculty of Florida (UFF-FIU).

G3. Board of Governors' Statement of Free Expression Endorsement Resolution

There were no questions or comments from the Committee members.

A motion was made and unanimously passed that the FIU Board of Trustees Governance Committee recommend that the Florida International University Board of Trustees, having reviewed the State University System of Florida Statement of Free Expression, endorse such statement.

G4. FIU Plan for Implementing Civil Discourse Recommendations

Heather Russell, Vice Provost for Faculty Leadership and Success, presented FIU's plan for implementing civil discourse recommendations for Committee review. She explained that the Florida Board of Governors requested that each university submit by no later than October 3, 2022 a board of trustees-approved plan for implementing the recommendations from the Board of Governors' Civil Discourse Final Report. She added that FIU continuously works towards fostering a culture of diversity and espousing different points of view to encourage differing perspectives that promote effective and expansive learning opportunities. Vice Provost Russell stated that the seven (7) recommendations task university leadership with the operationalization, promotion, support, and regular evaluation of institution-wide adherence to the principles set-forth in the Florida Board of Governors Statement of Free Expression, principles of free speech and civil discourse, and compliance with section 1004.097 of the Florida Statutes.

Vice Provost Russell provided an overview of the seven (7) recommendations. She indicated that recommendation one (1) sets the expectation for leadership to operationalize the promotion, support, and regular adherence to the Board's commitment to open-minded and tolerant civil discourse. She pointed out that recommendation two (2) requires the University's Accountability Plan and Strategic Plan to include a specific endorsement of the Florida Board of Governors Statement of Free Expression and articulate clear expectations for open-minded and tolerant civil discourse throughout the campus community. Vice Provost Russell stated that recommendation three (3) requires that each university board of trustees, faculty senate, and student government annually review and endorse the Board's Statement of Free Expression and commit to the principles of civil discourse with the first review occurring during the 2022-23 academic year. She commented that recommendation four (4) asks that each board of trustees conducts a thorough review of current student orientation programs, student codes of conduct, and employee policies and procedures to ensure consistency with the Board of Governors Statement of Free Expression, the principles of free speech and civil discourse, and compliance with section 1004.097, Florida Statutes.

Vice Provost Russell mentioned that recommendation five (5) states that the Chair of the Board of Governors will consult with the board of trustees chairs to review the university's campus free speech climate including adherence to the principles set forth in the Board's Statement of Free Expression and the resolution of any issues related to the university's compliance with substantiated violations of the Campus Free Expression Act and the implementation of best practices promoting civil discourse. She noted that the result of said consultation will form a part of the 2022 presidential evaluation and contract renewal cycle. She added that universities are not required to submit a plan for recommendation five (5) to the Florida Board of Governors.

Vice Provost Russell commented that recommendation six (6) works in concert with recommendation four (4) and tasks university academic, student affairs, and administrative leaders to review student orientation programming, student codes of conduct, and employee personnel policies and procedures to ensure that they contain clear and unambiguous support for the Board's

Statement of Free Expression, and the principles of free speech and civil discourse, and that they are in compliance with section 1004.097 of the Florida Statutes. She mentioned that recommendation seven (7) speaks to the implementation of best practices outlined in pages 6 and 7 of the Board of Governors' Civil Discourse Final Report and for each best practice implemented, or to be implemented, that a timeline be included.

Vice Provost Russell commented on FIU's implementation plan. She remarked that the implementation for recommendation one (1) commenced with the creation of a civil discourse taskforce, which is charged with periodic review, making recommendations for implementation, reporting to administration, setting agenda items, and operationalizing University-wide communications. She pointed out that in terms of recommendation two (2), FIU's Accountability Plan, which was approved by the FIU Board of Trustees on April 26, 2022, includes the following statement: "FIU endorses the Florida Board of Governor's Statement of Free Expression to support and encourage full and open discourse and the robust exchange of ideas and perspectives on our campus. In addition to supporting this legal right, we view this as an integral part of our ability to deliver a high-quality academic experience for our students, engage in meaningful and productive research, and provide valuable public service." She added that the University will include specific endorsement of the Florida Board of Governor's Statement of Free Expression in the subsequent strategic plan.

Vice Provost Russell remarked that in order to effectuate recommendation three (3), FIU leadership will ask the Faculty Senate and Student Government Association to review, and strongly encourage them to endorse, the Board's Statement of Free Expression at the beginning of each academic year in September, starting with the 2022 fall semester. In terms of recommendations four (4) and six (6), Vice Provost Russell mentioned that FIU already has begun reviewing the current orientation program, student code of conduct, and employee personnel policies to ensure that they include an endorsement of the Board's Statement of Free Expression and align with the principles of free speech and civil discourse.

Vice Provost Russell pointed out that recommendation seven (7) involves the implementation of the best practices that are outlined in the Board of Governors' Civil Discourse Final Report, including instilling the importance of civil discourse, academic freedom, and free speech. She noted that FIU will ensure that the campus community is aware of the mechanisms for reporting instances where it is believed that free expression is foreclosed, and FIU will also ensure that the campus community is aware of the mechanisms for capturing instances where it is believed that exclusions based on race and ethnicity are occurring. Vice Provost Russell added that the department of Talent Acquisition and Management has incorporated the Board's Statement of Free Expression into the New Employee Experience and the New Faculty Orientation. She indicated that the Center for the Advancement of Teaching is collaborating with the Office of Faculty Leadership and Success to help faculty initiate and manage discourse and free expression in the classroom.

In response to Board Chair Colson's request, Interim Provost Bejar stated that the taskforce will provide regular reports to the Board of Trustees. Interim University President Kenneth A. Jessell added that messaging is critical and collaborations with the Faculty Senate and Student Government Association will help to ensure that faculty and students are aware that the University encourages

debate and opportunities for free expression and discourse. In response to Trustee Cesar L. Alvarez, Vice Provost Russell commented that the University has several measures for the evaluation of teaching. She added that student perception surveys are administered every year allowing students the opportunity to provide comments and feedback. Vice Provost Russell commented that the current survey tool will be expanded to include questions that speak to students' perceptions of the learning environment. Interim President Jessell stated that, in compliance with Florida statute, the Florida Board of Governors administered the Intellectual Freedom and Viewpoint Diversity 2022 survey to all State University System institutions and that the results of said survey have been published.

A motion was made and unanimously passed that the FIU Board of Trustees Governance Committee recommend that the Florida International University Board of Trustees, pursuant to the request of the Board of Governors, (1) approve the University's plan for implementing the Board of Governors' recommendations relative to civil discourse set forth in the Board of Governors' Civil Discourse Final Report and the University's civil discourse reporting template; and (2) delegate to the University President or his designee the authority to amend the plan and/or the reporting template in accordance with the Board of Governors' Civil Discourse Final Report prior to submission to the Board of Governors, including to update the progress of any items.

G5. Proposed Regulation FIU-107 Intimate Relationships

Senior Vice President for Human Resources and Vice Provost of Diversity, Equity and Inclusion El pagnier K. Hudson introduced Senior Director and Title IX Coordinator for the Office of Civil Rights Compliance and Accessibility, Ryan M. Kelley. Mr. Kelly presented the proposed regulation FIU-107 Intimate Relationships, for Committee review. He indicated that the proposed regulation will further the University's commitment to preventing conflict of interest, conflict of interest, coercion, and sexual harassment. He pointed out that the proposed regulation establishes that employees with authority may not engage in, initiate, or attempt to initiate an intimate relationship with a person over whom they exercise authority.

A motion was made and unanimously passed that the FIU Board of Trustees Governance Committee recommend to the Florida International University Board of Trustees approval of the proposed Regulation FIU-107 Intimate Relationships 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 and as a result of the regulation-making process.

G6. Direct Support Organizations Board Appointments

There were no questions or comments from the Committee members.

A motion was made and unanimously passed that the FIU Board of Trustees Governance Committee recommend that the Florida International University Board of Trustees approve the appointments of the individuals listed in the board materials, to the Florida International University Foundation, Inc. Board of Directors.

4. New Business

No new business was raised.

5. Concluding Remarks and Adjournment

With no other business, Board Chair Dean C. Colson adjourned the meeting of the Florida International University Board of Trustees Governance Committee on Thursday, September 22, 2022 at 12:52 p.m.

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