

St. Petersburg College

# BOARD TRUSTEES

## 2019-20

Board Governance:  
Authority and  
Responsibilities



**SPC** St. Petersburg  
College



# Board of Trustees Governance: Authority and Responsibilities

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## ***Introduction***

*Pursuant to the provisions of the Florida Statutes, and in accordance with rules of the State Board of Education, a Florida College System board of trustees is responsible for cost-effective policy decisions appropriate to the institution's mission, the primary mission being the response to community needs for high quality postsecondary academic education and career degree education as prescribed in s. [1004.65 FS](#).*

*This booklet is intended to provide an overview of board governance and policy, as well as a compilation of statutory authority and duties that facilitate the organized, efficient and cohesive functioning of a state college district board. This booklet contains pertinent sections of Florida Statutes and State Board of Education Rules current through the 2018 Florida legislative session, and also includes a section on Board governance related to oversight and certification of the Direct Support Organizations of a state college, as well as governance of a Charter high school.*

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## **I. Sunshine Law and Open Government**

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### **A. Public Meetings of the Board**

Florida's *Government in the Sunshine Law* ([286.011 FS](#)), commonly referred to as the Sunshine Law, provides a right of access to governmental proceedings at both the state and local levels, and is applicable to appointed boards such as a state college board of trustees.

There are three basic requirements of holding meetings in the Sunshine:

- (1) Meetings of public boards or commissions must be open to the public;
- (2) Reasonable notice of such meetings must be given; and
- (3) Minutes of the meetings must be taken.

All meetings of a board of trustees at which official acts are to be taken are declared to be public meetings open to the public at all times, and no resolution, rule, or formal action shall be considered binding except as taken or made at such meeting.

Public access to meetings is a key element of the Sunshine Law and public agencies are advised to avoid holding meetings in places not easily accessible to the public. Those with disabilities must be granted reasonable accessibility. In addition, discussions at such meetings which are audible only to those seated at the board table may violate the "openness" requirement of the law.

A board may not use secret ballots. Each voting member must cast a vote either for or against each proposal or action item, however it is not necessary to take a roll call before each specific vote. A vote must be recorded or counted for each member present, except when a member has, or appears to have, a conflict of interest and thereunder abstain from voting.

All board action must be reflected in meeting minutes. The minutes of a meeting shall be promptly recorded, and such records open to public inspection.

With certain specific statutory exceptions, the law does not authorize boards or board members to conduct closed-door hearings or deliberations. Where a board is called upon to act pursuant to a grievance, claim, or petitioning process as contemplated under Florida's Administrative Procedure Act, such meetings, deliberations and hearings must be made at a properly noticed public meeting.

Florida Statutes provide that certain records and reports may be exempt from public records law and public meeting requirements, and discussion by the Board remain confidential and exempt from public disclosure. Such exemptions include information regarding technology security incidents and breaches, security technologies and protocols, as well as associated risk assessments. [1004.055](#)

Also exempt from public meeting and records law would be discussions and records related to institutional emergency management plans and campus emergency response. [1004.0962](#)

### **B. Communications With Board Members**

All communications between board members related to agency business must be made in the Sunshine. Boards may not take action on or engage in private discussions of board business via private discussion, telephone, written correspondence, e-mails, text messages or other electronic communications that may facilitate communication on issues that foreseeably may come before the board in the future.

Sunshine Law extends to any discussion or deliberation of the Board, as well as formal action and decision-making. There is no requirement that a quorum be present for a meeting of the board to be subject to the Sunshine Law. Instead, the law applies to any gathering or communication, whether formal or casual, of two or more members of the same board to discuss some matter on which foreseeable action will be taken at a public meeting.

Not all communication must be made a public hearing. Communication by one trustee to inform other members of a subject which will be discussed at a public meeting is not a violation of the Sunshine Law if, prior to the meeting, there is no discussion and deliberation among the board members. If, however, the communication is circulated among board members for discussion with comments being provided to other members, there is interaction among the trustees which may be a violation. Members of a public board or commission are not prohibited under the Sunshine Law from meeting together socially, provided that matters which may come before the board are not discussed at such gatherings.

### **C. Public Records**

The Florida Statutes ([Chap. 119, FS](#)) provide that all public records are open for personal inspection and reproduction upon request. No agency may refuse access to public records unless the records fall under a prescribed statutory exception. Providing access to public records is a duty of each state agency and any individual who has custody of records shall permit the record to be inspected and copied by any person desiring to do so, at any reasonable time, under reasonable conditions and under the supervision of the custodian of such records.

Public records include all printed and written records, as well as other communications such as emails, text messages and other forms of electronic messaging that relate to public business. Public records are also subject to state retention requirements. For such reasons, it is prudent that electronic communications by trustees be made through an email address dedicated to board business and that records of trustee communications related to board business be maintained and preserved by the board clerk.

This Chapter contains various exemptions and exceptions to public records disclosure. [119.071](#)

Certain information such as the identity of reporting individuals and the identity of the appointed safe-school officer are exempt from public disclosure. [1006.12](#) [943.082](#)

Section [119.0701](#) provides certain contractual requirements related to public records and notice of obligations of parties under this Section.

Under the Florida Statutes, [119.12](#), each public agency, including state colleges, must appoint a public records custodian for purposes of accepting notice of any legal action to enforce public records laws. A court may award attorney fees and costs in actions to enforce public records law if the court determines that an agency refused access to records and notice was provided to the agency custodian at least five business days prior to the filing.

#### **D. Public Comment**

The Florida Statutes afford all interested persons the right to access and participate in public meetings. More specifically, citizens have the right to be heard at an open meeting during the decision-making process on a matter of public business and before a final decision is made.

Florida Statutes, [286.0114](#) (2), provides that such opportunity to be heard need not occur at the same meeting at which the board takes official action on the matter, as long as the opportunity occurs at a meeting that is during the decision-making process and is within reasonable proximity in time before the meeting at which the board takes the official action. This statutory requirement does not prohibit a board from adopting policies and establishing appropriate procedures for maintaining orderly conduct and proper decorum at all meetings of the board. Such established procedures shall prescribe the amount of time an individual has to address the board, include forms for an individual to use in order to inform the board of a desire to be heard, and include procedures for allowing representatives of groups or factions on a proposition to address the board at meetings in which a large number of individuals wish to be heard.

The right to public comment does not apply to situations where: (a) An official act must be taken to deal with an emergency situation affecting the public health, welfare, or safety, if compliance with the requirements would cause an unreasonable delay in the ability of a board or commission to act; (b) An official act involves no more than a ministerial act, including, but not limited to, approval of minutes and ceremonial proclamations; (c) A meeting is exempt from s. 286.011; or (d) A meeting is convened where the board is acting in a quasi-judicial capacity.

#### **E. Delegation of Authority and Sunshine Law [286.011](#)**

Committees or a task force appointed by the board may also be subject to the provisions of Sunshine Law, even if their powers are limited and they may possess no authority to independently bind the institution. One exception is when a committee is established for the purposes of fact-finding. Where a committee or subcommittee has been appointed or convened for purposes of fact-finding or research only, Sunshine Law may not apply, however all related records and minutes would be deemed public records.

#### **F. Violations and Impact on Board Decisions**

Any member of a board who knowingly violates the Sunshine Law is guilty of a misdemeanor of the second degree. Florida law imposes noncriminal penalties for violations, in most cases punishable by a fine. A trustee may be removed from office for a violation by executive order, or may be suspended for any misdemeanor arising directly out of his or her official duties.

Sunshine Law provides that no resolution, rule, regulation or formal action shall be considered binding except as taken or made at an open meeting. Courts have held that decisions or action taken in violation of the Sunshine Law may be deemed invalid as if they did not occur. However, where the Board does not merely perfunctorily ratify or accept such decision at a later open meeting, but rather takes “independent final action in the sunshine,” the decision or action will stand and the violation deemed “cured”.

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## II. Conflicts of Interest and Standards of Conduct for Public Officers

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- A. Trustees and employees are subject to the College’s policies regarding standards of conduct, as well as Florida’s “Code of Ethics for Public Officers and Employees”, and expected to operate with the highest level of honesty, accuracy, and responsibility.

The pertinent statutory provisions of [Chapter 112, Section III, FS](#) are provided at Section VI. C. of this booklet.

- B. Institutional policy on conflict of interest can be found in the Board of Trustees’ Rules and College Procedures (P6Hx23-2.031[Procedure](#)) which includes, but is not limited to, the following:

### 1. Acceptance of Gifts or Travel

Trustees may not solicit or accept gifts or gratuities in violation of the Code of Ethics or which give the appearance that a gift improperly influenced business decisions, or accept business travel paid for by individuals doing business with the College.

### 2. Doing Business and Conflict of Interest

Trustees may not have any interest, engage in any business transaction or professional activity, or incur any obligation of any nature, which is in substantial conflict with the proper discharge of his or her duties. This includes acting in his or her official capacity as a trustee to directly or indirectly purchase, rent or lease any realty, goods or services from any business entity of which the individual is an officer, partner, director, or proprietor or in which such person’s spouse or child has a material interest.

### 3. Unauthorized Compensation and Employment Conflict

Trustees may not hold employment or a contractual relationship with any business entity doing business with the College where it would create a continuing or reoccurring conflict between his or her private interests and responsibility as trustee, or otherwise impede the full and faithful discharge of public duties.

### 4. Misuse of Public Position and Fraud

A college trustee or employee may not use his or her position to gain a privilege, benefit or exemption, or by deliberate act, obtain a benefit, position, or financial gain by misrepresentation, deception, or any other type of fraudulent practice.

## 5. Voting Conflicts

Trustees may not participate in the deliberating and voting process in an official capacity on any measure which would inure to his or her private gain, or which he or she knows or suspects has the potential to inure to a private gain for that trustee, or a relative, or business associate without first disclosing the nature of their interest in the matter. Where a conflict of interest is identified, a trustee must abstain from deliberating and voting, and publicly state the nature of his or her interest in the matter. In such a case, the trustee must disclose the nature of his or her interest, and a record of the disclosure and abstention shall be incorporated into the minutes of the Board meeting.

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## III. Board of Trustees; Corporate Structure

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### *A. BOARD CORPORATE STRUCTURE*

Each Florida College System institution board of trustees is constituted a body corporate by the name of “The District Board of Trustees of (name of Florida College System institution) Florida” with all the powers and duties of a body corporate, including the power to adopt a corporate seal, to contract and be contracted with, to sue or be sued, to plead and be impleaded in all courts of law or equity, and to give and receive donations. ([1001.63 FS](#)) In all suits against a board of trustees, service of process shall be made on the chair of the board of trustees or, in the absence of the chair, the corporate secretary or designee of the chair.

It is the legislative intent ([1004.67 FS](#)) that Florida College System institutions, constituted as political subdivisions of the state, continue to be operated by Florida College System institution boards of trustees as provided in s. [1001.63](#) and that no department, bureau, division, agency, or subdivision of the state exercise any responsibility and authority to operate any Florida College System institution of the state except as specifically provided by law or rules of the State Board of Education

### *B. BOARD GOVERNANCE AND MISSION*

Florida Statutes, at [1004.65 FS](#) provide:

- (1) Each Florida College System institution shall be governed by a district board of trustees under statutory authority and rules of the State Board of Education.
- (2) Each Florida College System institution district shall:
  - (a) Consist of the county or counties served by the Florida College System institution pursuant to s. 1000.21(3).
  - (b) Be an independent, separate, legal entity created for the operation of a Florida College System institution.
- (3) Florida College System institutions are locally based and governed entities with statutory and funding ties to state government. As such, the mission for Florida College System institutions reflects a commitment to be responsive to local educational needs and challenges. In achieving this mission, Florida College System institutions strive to maintain sufficient local authority and flexibility while preserving appropriate legal accountability to the state.
- (4) As comprehensive institutions, Florida College System institutions shall provide high-quality, affordable education and training opportunities, shall foster a climate of excellence, and shall provide opportunities to all while combining high standards with an open-door admission policy for lower-division programs. Florida College System institutions shall, as open-access institutions, serve all who can benefit, without regard to age, race, gender, creed, or ethnic or economic background, while emphasizing the achievement of social and educational equity so that all can be prepared for full participation in society.

- (5) The primary mission and responsibility of Florida College System institutions is responding to community needs for postsecondary academic education and career degree education. This mission and responsibility includes being responsible for:
- (a) Providing lower level undergraduate instruction and awarding associate degrees.
  - (b) Preparing students directly for careers requiring less than baccalaureate degrees. This may include preparing for job entry, supplementing of skills and knowledge, and responding to needs in new areas of technology. Career education in a Florida College System institution shall consist of career certificates, credit courses leading to associate in science degrees and associate in applied science degrees, and other programs in fields requiring substantial academic work, background, or qualifications. A Florida College System institution may offer career education programs in fields having lesser academic or technical requirements.
  - (c) Providing student development services, including assessment, student tracking, support for disabled students, advisement, counseling, financial aid, career development, and remedial and tutorial services, to ensure student success.
  - (d) Promoting economic development for the state within each Florida College System institution district through the provision of special programs, including, but not limited to, the:
    - 1. Enterprise Florida-related programs.
    - 2. Technology transfer centers.
    - 3. Economic development centers.
    - 4. Workforce literacy programs.
  - (e) Providing dual enrollment instruction.
  - (f) Providing upper level instruction and awarding baccalaureate degrees as specifically authorized by law.
- (6) A separate and secondary role for Florida College System institutions includes the offering of programs in:
- (a) Community services that are not directly related to academic or occupational advancement.
  - (b) Adult education services, including adult basic education, adult general education, adult secondary education, and high school equivalency examination instruction.
  - (c) Recreational and leisure services.
- (7) Funding for Florida College System institutions shall reflect their mission as follows:
- (a) Postsecondary academic and career education programs and adult general education programs shall have first priority in Florida College System institution funding.
  - (b) Community service programs shall be presented to the Legislature with rationale for state funding. The Legislature may identify priority areas for use of these funds.
  - (c) The resources of a Florida College System institution, including staff, faculty, land, and facilities, shall not be used to support the establishment of a new independent nonpublic educational institution. If any institution uses resources for such purpose, the Division of Florida Colleges shall notify the President of the Senate and the Speaker of the House of Representatives.
- (8) Florida College System institutions are authorized to:
- (a) Offer such programs and courses as are necessary to fulfill their mission.
  - (b) Grant associate in arts degrees, associate in science degrees, associate in applied science degrees, certificates, awards, and diplomas.
  - (c) Make provisions for the high school equivalency examination.
  - (d) Provide access to and award baccalaureate degrees in accordance with law.
- Authority to offer one or more baccalaureate degree programs does not alter the governance relationship of the Florida College System institution with its district board of trustees or the State Board of Education.

**C. BOARD OVERSIGHT  
ACADEMIC STANDARDS.**  
[1004.68 FS](#)

Each Florida College System institution board of trustees shall adopt rules establishing student performance standards for the award of degrees and certificates.

**D. BOARD OVERSIGHT  
DIRECT SUPPORT ORGANIZATIONS**  
[1004.70 FS](#)

(1) DEFINITIONS.—For the purposes of this section:

(a) “Florida College System institution direct-support organization” means an organization that is:

1. A Florida corporation not for profit, incorporated under the provisions of chapter 617 and approved by the Department of State.
2. Organized and operated exclusively to receive, hold, invest, and administer property and to make expenditures to, or for the benefit of, a Florida College System institution in this state.
3. An organization that the Florida College System institution board of trustees, after review, has certified to be operating in a manner consistent with the goals of the Florida College System institution and in the best interest of the state. Any organization that is denied certification by the board of trustees may not use the name of the Florida College System institution that it serves.

(b) “Personal services” includes full-time or part-time personnel as well as payroll processing.

(2) BOARD OF DIRECTORS.—The chair of the board of trustees shall appoint a representative to the board of directors and the executive committee of each direct-support organization established under this section, including those established before July 1, 1998. The president of the Florida College System institution for which the direct-support organization is established, or the president’s designee, shall also serve on the board of directors and the executive committee of the direct-support organization, including any direct-support organization established before July 1, 1998.

(3) USE OF PROPERTY.

(a) The board of trustees is authorized to permit the use of property, facilities, and personal services at any Florida College System institution by any Florida College System institution direct-support organization, subject to the provisions of this section.

(b) The board of trustees is authorized to prescribe by rule any condition with which a Florida College System institution direct-support organization must comply in order to use property, facilities, or personal services at any Florida College System institution.

(c) The board of trustees may not permit the use of property, facilities, or personal services at any Florida College System institution by any Florida College System institution direct-support organization that does not provide equal employment opportunities to all persons regardless of race, color, national origin, gender, age, or religion.

(4) ACTIVITIES; RESTRICTIONS.—

(a) A direct-support organization may, at the request of the board of trustees, provide residency opportunities on or near campus for students.

(b) A direct-support organization that constructs facilities for use by a Florida College System institution or its students must comply with all requirements of law relating to the construction of facilities by a Florida College System institution, including requirements for competitive bidding.

(c) Any transaction or agreement between one direct-support organization and another direct-support organization or between a direct-support organization and a center of technology innovation designated under s. [1004.77](#) must be approved by the board of trustees.

(d) A Florida College System institution direct-support organization is prohibited from giving, either directly or indirectly, any gift to a political committee or committee of continuous existence as defined in s. 106.011 for any purpose other than those certified by a majority roll call vote of the governing board of the direct-support organization at a regularly scheduled meeting as being directly related to the educational mission of the Florida College System institution.

(e) A Florida College System institution board of trustees must authorize all debt, including lease-purchase agreements, incurred by a direct-support organization. Authorization for approval of short-term loans and lease-purchase agreements for a term of not more than 5 years, including renewals, extensions, and refundings, for goods, materials, equipment, and services may be delegated by the board of trustees to the board of directors of the direct-support organization. Trustees shall evaluate proposals for debt according to guidelines issued by the Division of Florida Colleges. Revenues of the Florida College System institution may not be pledged to debt issued by direct-support organizations.

(5) ANNUAL BUDGETS AND REPORTS.—Each direct-support organization shall submit to the board of trustees its 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).

(6) ANNUAL AUDIT.—Each direct-support organization shall provide for an annual financial audit in accordance with rules adopted by the Auditor General pursuant to s. 11.45(8). The annual audit report must be submitted, within 9 months after the end of the fiscal year, to the Auditor General, the State Board of Education, and the board of trustees for review. The board of trustees, the Auditor General, and the Office of Program Policy Analysis and Government Accountability may require and receive from the organization or from its independent auditor any detail or supplemental data relative to the operation of the organization. The identity of donors who desire to remain anonymous shall be protected, and that anonymity shall be maintained in the auditor's report. All records of the organization, other than the auditor's report, any information necessary for the auditor's report, any information related to the expenditure of funds, and any supplemental data requested by the board of trustees, the Auditor General, and the Office of Program Policy Analysis and Government Accountability, shall be confidential and exempt from the provisions of s. 119.07(1).

### ***E. INSTITUTIONAL INSURANCE***

#### [1004.725 FS](#)

The Florida College System institution boards of trustees, singly or collectively, are authorized to contract with an administrator or service company approved pursuant to chapter 626 to provide self-insurance services, including, but not limited to, the evaluation, settlement, and payment of self-insurance claims on behalf of the board of trustees or a consortium of boards of trustees.

### ***F. INSTITUTIONAL BUDGETS***

#### [1011.30 FS](#)

Each Florida College System institution president shall recommend to the Florida College System institution board of trustees a budget of income and expenditures at such time and in such form as the State Board of Education may prescribe. Upon approval of a budget by the Florida College System institution board of trustees, such budget shall be transmitted to the Department of Education for review. Rules of the State Board of Education shall prescribe procedures for effecting budget amendments subsequent to the final approval of a budget for a given year.

### ***G. COST ACCOUNTING***

#### [1010.23 FS](#)

Florida College System institutions shall provide an annual report on the cost of operations as provided in s. 1011.84.

**H. EDUCATIONAL PLANT NEEDS****1013.64 FS (in part)**

Funds for comprehensive educational plant needs; construction cost maximums for school district capital projects.—Allocations from the Public Education Capital Outlay and Debt Service Trust Fund to the various boards for capital outlay projects shall be determined as follows: (1)(a) Funds for remodeling, renovation, maintenance, repairs, and site improvement for existing satisfactory facilities shall be given priority consideration by the Legislature for appropriations allocated to the boards from the total amount of the Public Education Capital Outlay and Debt Service Trust Fund appropriated...

(b) Each board is prohibited from using the funds received pursuant to this section to supplant funds in the current fiscal year approved operating budget, and all budgeted funds shall be expended at a rate not less than would have been expended had the funds under this section not been received.

(c) Each remodeling, renovation, maintenance, repair, or site improvement project will expand or upgrade current educational plants to prolong the useful life of the plant.

(d) Each board shall maintain fund accounting in a manner which will permit a detailed audit of the funds expended in this program.

(e) Remodeling projects shall be based on the recommendations of a survey pursuant to s. 1013.31.

(f) At least one-tenth of a board's annual allocation provided under this section shall be spent to correct unsafe, unhealthy, or unsanitary conditions in its educational facilities, as required by s. 1013.12, or a lesser amount sufficient to correct all deficiencies cited in its annual comprehensive safety inspection reports. This paragraph shall not be construed to limit the amount a board may expend to correct such deficiencies....

(4)(a) Florida College System institution boards of trustees and university boards of trustees shall receive funds for projects based on a 3-year priority list, to be updated annually, which is submitted to the Legislature in the legislative budget request at least 90 days prior to the legislative session. The State Board of Education shall submit a 3-year priority list for Florida College System institutions, and the Board of Governors shall submit a 3-year priority list for universities. The lists shall reflect decisions by the State Board of Education for Florida College System institutions and the Board of Governors for state universities concerning program priorities that implement the statewide plan for program growth and quality improvement in education. No remodeling or renovation project shall be included on the 3-year priority list unless the project has been recommended pursuant to s. 1013.31 or is for the purpose of correcting health and safety deficiencies. No new construction project shall be included on the first year of the 3-year priority list unless the educational specifications have been approved by the commissioner for a Florida College System institution project or by the Board of Governors for a university project, as applicable. The funds requested for a new construction project in the first year of the 3-year priority list shall be in conformance with the scope of the project as defined in the educational specifications. Any new construction project requested in the first year of the 3-year priority list which is not funded by the Legislature shall be carried forward to be listed first in developing the updated 3-year priority list for the subsequent year's capital outlay budget. Should the order of the priority of the projects change from year to year, a justification for such change shall be included with the updated priority list.

(b) Florida College System institution boards of trustees and university boards of trustees may lease relocatable educational facilities for up to 3 years using non-bonded PECO funds.

(c) Florida College System institution boards of trustees and university boards of trustees shall receive funds for remodeling, renovation, maintenance and repairs, and site improvement for existing satisfactory facilities pursuant to subsection (1).

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## IV. Statutory Powers and Duties of a College Board of Trustees

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Florida Statutes, [1001.64 FS](#) and [1004.65 FS](#), outline the powers and duties of a Florida College System board of trustees (in pertinent part, by subsection):

### ***A. AUTHORITY OF THE BOARD***

[1001.64](#)(1) The boards of trustees shall be responsible for cost-effective policy decisions appropriate to the Florida College System institution's mission, the implementation and maintenance of high-quality education programs within law and rules of the State Board of Education, the measurement of performance, the reporting of information, and the provision of input regarding state policy, budgeting, and education standards.

[1001.64](#)(2) Each board of trustees is vested with the responsibility to govern its respective Florida College System institution and with such necessary authority as is needed for the proper operation and improvement thereof in accordance with rules of the State Board of Education.

[1001.64](#)(3) A board of trustees shall have the power to take action without a recommendation from the president and shall have the power to require the president to deliver to the board of trustees all data and information required by the board of trustees in the performance of its duties. A board of trustees shall ask the Commissioner of Education to authorize an investigation of the president's actions by the department's inspector general if the board considers such investigation necessary. The inspector general shall provide a report detailing each issue under investigation and shall recommend corrective action. If the inspector general identifies potential legal violations, he or she shall refer the potential legal violations to the Commission on Ethics, the Department of Law Enforcement, the Attorney General, or another appropriate authority.

[1001.64](#)(13) Each board of trustees is responsible for the uses for the proceeds of academic improvement trust funds pursuant to s. [1011.85](#).

[1001.64](#)(35) Each board of trustees may exercise the right of eminent domain pursuant to the provisions of chapter 1013.

[1001.64](#)(39) Each board of trustees shall prescribe conditions for direct-support organizations to be certified and to use Florida College System institution property and services. Conditions relating to certification must provide for audit review and oversight by the board of trustees.

[1001.64](#)(43) Each board of trustees has responsibility for compliance with state and federal laws, rules, regulations, and requirements.

### ***B. RULEMAKING AND POLICY***

[1001.64](#)(4)(a) The board of trustees, after considering recommendations submitted by the Florida College System institution president, may adopt rules pursuant to ss. [120.536\(1\)](#) and [120.54](#) to implement the provisions of law conferring duties upon it. These rules may supplement those prescribed by the State Board of Education if they will contribute to the more orderly and efficient operation of Florida College System institutions.

1001.64(b) Each board of trustees is specifically authorized to adopt rules, procedures, and policies, consistent with law and rules of the State Board of Education, related to its mission and responsibilities as set forth in s. 1004.65, its governance, personnel, budget and finance, administration, programs, curriculum and instruction, buildings and grounds, travel and purchasing, technology, students, contracts and grants, or college property.

1001.64(8) Each board of trustees has authority for policies related to students, enrollment of students, student records, student activities, financial assistance, and other student services.

(a) Each board of trustees shall govern admission of students pursuant to s. 1007.263 and rules of the State Board of Education. A board of trustees may establish additional admissions criteria, which shall be included in the district inter-institutional articulation agreement developed according to s. 1007.271(21), to ensure student readiness for postsecondary instruction. Each board of trustees may consider the past actions of any person applying for admission or enrollment and may deny admission or enrollment to an applicant because of misconduct if determined to be in the best interest of the Florida College System institution.

(b) Each board of trustees shall adopt rules establishing student performance standards for the award of degrees and certificates pursuant to s. 1004.68.

(c) Boards of trustees are authorized to establish intra-institutional and inter-institutional programs to maximize articulation pursuant to s. 1007.22.

(d) Boards of trustees shall identify their core curricula, which shall include courses required by the State Board of Education, pursuant to the provisions of s. 1007.25(7).

(e) Each board of trustees must adopt a written anti-hazing policy, provide a program for the enforcement of such rules, and adopt appropriate penalties for violations of such rules pursuant to the provisions of s. 1006.63.

(f) Each board of trustees may establish a uniform code of conduct and appropriate penalties for violation of its rules by students and student organizations, including rules governing student academic honesty. Such penalties, unless otherwise provided by law, may include fines, the withholding of diplomas or transcripts pending compliance with rules or payment of fines, and the imposition of probation, suspension, or dismissal.

(g) Each board of trustees pursuant to s. 1006.53 shall adopt a policy in accordance with rules of the State Board of Education that reasonably accommodates the religious observance, practice, and belief of individual students in regard to admissions, class attendance, and the scheduling of examinations and work assignments.

1001.64(24) Each board of trustees shall provide rules governing parking and the direction and flow of traffic within campus boundaries. Except for sworn law enforcement personnel, persons employed to enforce campus parking rules have no authority to arrest or issue citations for moving traffic violations. The board of trustees may adopt a uniform code of appropriate penalties for violations. Such penalties, unless otherwise provided by law, may include the levying of fines, the withholding of diplomas or transcripts pending compliance with rules or payment of fines, and the imposition of probation, suspension, or dismissal. Moneys collected from parking rule infractions shall be deposited in appropriate funds at each Florida College System institution for student financial aid purposes.

1001.64(40) Each board of trustees may adopt policies pursuant to s. 1010.02 that provide procedures for transferring to the direct-support organization of that Florida College System institution for administration by such organization contributions made to the Florida College System institution.

1001.64(44) Each board of trustees may adopt rules, procedures, and policies related to institutional governance, administration, and management in order to promote orderly and efficient operation, including, but not limited to, financial management, budget management, physical plant management, and property management.

1001.64(45) Each board of trustees may adopt rules and procedures related to data or technology, including, but not limited to, information systems, communications systems, computer hardware and software, and networks.

**C. FINANCIAL OBLIGATIONS**

[1001.64](#)(11) Each board of trustees shall submit an institutional budget request, including a request for fixed capital outlay, and an operating budget to the State Board of Education for review in accordance with guidelines established by the State Board of Education.

[1001.64](#)(12) Each board of trustees shall account for expenditures of all state, local, federal and other funds in the manner described by the Department of Education.

**D. EMPLOYMENT POLICIES**

[1001.64](#)(18) Each board of trustees shall establish the personnel program for all employees of the Florida College System institution, including the president, pursuant to the provisions of chapter 1012 and rules and guidelines of the State Board of Education, including: compensation and other conditions of employment; recruitment and selection; non-reappointment; standards for performance and conduct; evaluation; benefits and hours of work; leave policies; recognition; inventions and work products; travel; learning opportunities; exchange programs; academic freedom and responsibility; promotion; assignment; demotion; transfer; ethical obligations and conflict of interest; restrictive covenants; disciplinary actions; complaints; appeals and grievance procedures; and separation and termination from employment.

[1001.64](#)(20) Each board of trustees is authorized to enter into contracts to provide a State Community College System Optional Retirement Program pursuant to s. [1012.875](#) and to enter into consortia with other boards of trustees for this purpose.

[1001.64](#)(21) Each board of trustees is authorized to purchase annuities for its Florida College System institution personnel who have 25 or more years of creditable service and who have reached age 55 and have applied for retirement under the Florida Retirement System pursuant to the provisions of s. [1012.87](#).

[1001.64](#)(22) A board of trustees may defray all costs of defending civil actions against officers, employees, or agents of the board of trustees pursuant to s. [1012.85](#).

[1001.64](#)(46) Each board of trustees may consider the past actions of any person applying for employment and may deny employment to a person because of misconduct if determined to be in the best interest of the Florida College System institution.

[1001.64](#)(47) Each contract or employment agreement, or renewal or renegotiation of an existing contract or employment agreement, containing a provision for severance pay with an officer, agent, employee, or contractor must include the provisions required in s. [215.425](#).

**E. STUDENT POLICIES**

[1001.64](#)(8) Each board of trustees has authority for policies related to students, enrollment of students, student records, student activities, financial assistance, and other student services.

(a) Each board of trustees shall govern admission of students pursuant to s. [1007.263](#) and rules of the State Board of Education. A board of trustees may establish additional admissions criteria, which shall be included in the district inter-institutional articulation agreement developed according to s. [1007.271\(2\)](#), to ensure student readiness for postsecondary instruction. Each board of trustees may consider the past actions of any person applying for admission or enrollment and may deny admission or enrollment to an applicant because of misconduct if determined to be in the best interest of the Florida College System institution.

(e) Each board of trustees must adopt a written anti-hazing policy, provide a program for the enforcement of such rules, and adopt appropriate penalties for violations of such rules pursuant to the provisions of s. [1006.63](#).

(f) Each board of trustees may establish a uniform code of conduct and appropriate penalties for violation of its rules by students and student organizations, including rules governing student academic honesty. Such penalties, unless otherwise provided by law, may include fines, the withholding of diplomas or transcripts pending compliance with rules or payment of fines, and the imposition of probation, suspension, or dismissal.

(g) Each board of trustees pursuant to s. 1006.53 shall adopt a policy in accordance with rules of the State Board of Education that reasonably accommodates the religious observance, practice, and belief of individual students in regard to admissions, class attendance, and the scheduling of examinations and work assignments.

#### ***F. BUSINESS AND CONTRACTS***

1001.64(25) Each board of trustees constitutes the contracting agent of the Florida College System institution. It may when acting as a body make contracts, sue, and be sued in the name of the board of trustees. In any suit, a change in personnel of the board of trustees shall not abate the suit, which shall proceed as if such change had not taken place.

1001.64(26) Each board of trustees is authorized to contract for the purchase, sale, lease, license, or acquisition in any manner, including purchase by installment or lease-purchase contract which may provide for the payment of interest on the unpaid portion of the purchase price and for the granting of a security interest in the items purchased, subject to the provisions of subsection (38) and ss. 1009.22 and 1009.23, of goods, materials, equipment, and services required by the Florida College System institution. The board of trustees may choose to consolidate equipment contracts under master equipment financing agreements made pursuant to s. 287.064.

1001.64(28) Each board of trustees is authorized to enter into agreements for, and accept, credit card, charge card, and debit card payments as compensation for goods, services, tuition, and fees. Each Florida College System institution is further authorized to establish accounts in credit card, charge card, and debit card banks for the deposit of sales invoices.

1001.64(37) Each board of trustees may purchase, acquire, receive, hold, own, manage, lease, sell, dispose of, and convey title to real property, in the best interests of the Florida College System institution.

1001.64(48) Each board of trustees shall use purchasing agreements and state term contracts pursuant to s. 287.056 or enter into consortia and cooperative agreements to maximize the purchasing power for goods and services. A consortium or cooperative agreement may be statewide, regional, or a combination of institutions, as appropriate to achieve the lowest cost, with the goal of achieving a five percent savings on existing contract prices through the use of new cooperative arrangements or new consortium contracts.

#### ***G. COLLEGE PROPERTY & FACILITIES***

1001.64(5) Each board of trustees shall have responsibility for the use, maintenance, protection, and control of Florida College System institution owned or Florida College System institution controlled buildings and grounds, property and equipment, name, trademarks and other proprietary marks, and the financial and other resources of the Florida College System institution. Such authority may include placing restrictions on activities and on access to facilities, firearms, food, tobacco, alcoholic beverages, distribution of printed materials, commercial solicitation, animals, and sound.

1001.64(23) Each board of trustees has authority for risk management, safety, security, and law enforcement operations. Each board of trustees is authorized to employ personnel, including police officers pursuant to s. 1012.88, to carry out the duties imposed by this subsection.

[1001.64](#)(27) Each board of trustees shall be responsible for managing and protecting real and personal property acquired or held in trust for use by and for the benefit of such Florida College System institution. To that end, any board of trustees is authorized to be self-insured, to enter into risk management programs, or to purchase insurance for whatever coverage it may choose, or to have any combination thereof, in anticipation of any loss, damage, or destruction. A board of trustees may contract for self-insurance services pursuant to s. [1004.725](#).

[1001.64](#)(33) Each board of trustees is authorized to develop and produce work products relating to educational endeavors that are subject to trademark, copyright, or patent statutes pursuant to chapter 1004.

[1001.64](#)(34) Each board of trustees shall administer the facilities program pursuant to chapter 1013, including but not limited to: the construction of public educational and ancillary plants; the acquisition and disposal of property; compliance with building and life safety codes; submission of data and information relating to facilities and construction; use of buildings and grounds; establishment of safety and sanitation programs for the protection of building occupants; and site planning and selection.

[1001.64](#)(41) The board of trustees shall exert every effort to collect all delinquent accounts pursuant to s. [1010.03](#).

#### ***H. ACADEMIC PROGRAMS AND AWARDING OF DEGREES***

[1001.64](#)(6) Each board of trustees has responsibility for the establishment and discontinuance of program and course offerings in accordance with law and rule; provision for instructional and non-instructional community services, location of classes, and services provided; and dissemination of information concerning such programs and services. New programs must be approved pursuant to s. [1004.03](#).

[1001.64](#)(7) Each board of trustees has responsibility for: ensuring that students have access to general education courses as identified in rule; requiring no more than 60 semester hours of degree program coursework, including 36 semester hours of general education coursework, for an associate in arts degree; notifying students that earned hours in excess of 60 semester hours may not be accepted by state universities; notifying students of unique program prerequisites; and ensuring that degree program coursework beyond general education coursework is consistent with degree program prerequisite requirements adopted pursuant to s. [1007.25](#)(6).

[1001.64](#)(8)(b) Each board of trustees shall adopt rules establishing student performance standards for the award of degrees and certificates pursuant to s. [1004.68](#).

(c) Boards of trustees are authorized to establish intra-institutional and inter-institutional programs to maximize articulation pursuant to s. [1007.22](#).

(d) Boards of trustees shall identify their core curricula, which shall include courses required by the State Board of Education, pursuant to the provisions of s. [1007.25](#)(6).

[1001.64](#)(17) Each board of trustees is accountable for performance in certificate career education and diploma programs pursuant to s. [1008.43](#).

[1001.64](#)(10) Each board of trustees shall establish fees pursuant to ss. [1009.22](#), [1009.23](#), [1009.25](#), [1009.26](#), and [1009.27](#).

#### ***I. STRATEGIC PLANNING***

[1001.64](#)(44) Each board of trustees may adopt rules, procedures, and policies related to institutional governance, administration, and management in order to promote orderly and efficient operation, including, but not limited to, financial management, budget management, physical plant management, and property management.

[1001.64](#)(14) Each board of trustees shall develop a strategic plan specifying institutional goals and objectives for the Florida College System institution for recommendation to the State Board of Education.

***J. COMPLIANCE WITH LAW***

[1001.64](#)(43) Each board of trustees has responsibility for compliance with state and federal laws, rules, regulations, and requirements.

[1001.64](#)(15) Each board of trustees shall develop an accountability plan pursuant to s. [1008.45](#).

***K. PRESIDENTIAL CONTRACT  
AND EVALUATION***

[1001.64](#)(19) Each board of trustees shall appoint, suspend, or remove the president of the Florida College System institution. The board of trustees may appoint a search committee. The board of trustees shall conduct annual evaluations of the president in accordance with rules of the State Board of Education and submit such evaluations to the State Board of Education for review. The evaluation must address the achievement of the performance goals established by the accountability process implemented pursuant to s. [1008.45](#) and the performance of the president in achieving the annual and long-term goals and objectives established in the Florida College System institution's employment accountability program implemented pursuant to s. [1012.86](#).

[1001.64](#)(47) Each contract or employment agreement, or renewal or renegotiation of an existing contract or employment agreement, containing a provision for severance pay with an officer, agent, employee, or contractor must include the provisions required in s. [215.425](#).

***L. ARTICULATION/K-20***

[1001.64](#)(9) A board of trustees may contract with the board of trustees of a state university for the Florida College System institution to provide college-preparatory instruction on the state university campus.

[1001.64](#)(8)(c) Boards of trustees are authorized to establish intra-institutional and inter-institutional programs to maximize articulation pursuant to s. [1007.22](#).

[1001.64](#)(42) Each board of trustees shall implement a plan, in accordance with guidelines of the State Board of Education, for working on a regular basis with the other Florida College System institution boards of trustees, representatives of the university boards of trustees, and representatives of the district school boards to achieve the goals of the seamless education system.

***M. MISCELLANEOUS***

[1001.64](#)(29) Each board of trustees may provide incubator facilities to eligible small business concerns pursuant to s. [1004.79](#).

[1001.64](#)(30) Each board of trustees may establish a technology transfer center for the purpose of providing institutional support to local business and industry and governmental agencies in the application of new research in technology pursuant to the provisions of s. [1004.78](#).

[1001.64](#)(31) Each board of trustees may establish economic development centers for the purpose of serving as liaisons between Florida College System institutions and the business sector pursuant to the provisions of s. [1004.80](#).

[1001.64](#)(32) Each board of trustees may establish a child development training center pursuant to s. [1004.81](#).

[1001.64\(33\)](#) Each board of trustees is authorized to develop and produce work products relating to educational endeavors that are subject to trademark, copyright, or patent statutes pursuant to chapter 1004.

[1001.64\(34\)](#) Each board of trustees shall administer the facilities program pursuant to chapter 1013, including but not limited to: the construction of public educational and ancillary plants; the acquisition and disposal of property; compliance with building and life safety codes; submission of data and information relating to facilities and construction; use of buildings and grounds; establishment of safety and sanitation programs for the protection of building occupants; and site planning and selection.

[1001.64\(36\)](#) Each board of trustees may enter into lease-purchase arrangements with private individuals or corporations for necessary grounds and buildings for Florida College System institution purposes, other than dormitories, or for buildings other than dormitories to be erected for Florida College System institution purposes. Such arrangements shall be paid from capital outlay and debt service funds as provided by s. [1011.84\(2\)](#), with terms not to exceed 30 years at a stipulated rate. The provisions of such contracts, including building plans, are subject to approval by the Department of Education, and no such contract may be entered into without such approval.

[1001.64\(38\)](#) Each board of trustees is authorized to enter into short-term loans and installment, lease-purchase, and other financing contracts for a term of not more than 5 years, including renewals, extensions, and refundings. Payments on short-term loans and installment, lease-purchase, and other financing contracts pursuant to this subsection shall be subject to annual appropriation by the board of trustees. Each board of trustees is authorized to borrow funds and incur long-term debt, including promissory notes, installment sales agreements, lease-purchase agreements, certificates of participation, and other similar long-term financing arrangements, only as specifically provided in ss. [1009.22\(6\)](#) and [\(9\)](#) and [1009.23\(11\)](#) and [\(12\)](#).

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## V. Statutes Related to Affordability and Student Fees

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### A. TEXTBOOK AFFORDIBILITY

#### [1004.085 FS](#) *Textbook and instructional materials affordability.*—

- (1) As used in this section, the term “instructional materials” means educational materials for use within a course which may be available in printed or digital format.
- (2) An employee of a Florida College System institution or state university may not demand or receive any payment, loan, subscription, advance, deposit of money, service, or anything of value, present or promised, in exchange for requiring students to purchase a specific textbook or instructional material for coursework or instruction.
- (3) An employee may receive:
  - (a) Sample copies, instructor copies, or instructional materials. These materials may not be sold for any type of compensation if they are specifically marked as free samples not for resale.
  - (b) Royalties or other compensation from sales of textbooks or instructional materials that include the instructor’s own writing or work.
  - (c) Honoraria for academic peer review of course materials.

(d) Fees associated with activities such as reviewing, critiquing, or preparing support materials for textbooks or instructional materials pursuant to guidelines adopted by the State Board of Education or the Board of Governors.

(e) Training in the use of course materials and learning technologies.

(4) Each Florida College System institution and state university board of trustees shall, each semester, examine the cost of textbooks and instructional materials by course and course section for all general education courses offered at the institution to identify any variance in the cost of textbooks and instructional materials among different sections of the same course and the percentage of textbooks and instructional materials that remain in use for more than one term. Courses that have a wide variance in costs among sections or that have frequent changes in textbook and instructional materials selections shall be identified and a list of such courses sent to the appropriate academic department chair for review. This subsection is repealed July 1, 2018, unless reviewed and saved from repeal through reenactment by the Legislature.

(5) Each Florida College System institution and state university board of trustees is authorized to adopt policies in consultation with providers, including bookstores, which allow for the use of innovative pricing techniques and payment options for textbooks and instructional materials. Such policies may include bulk pricing arrangements that enable students to purchase course materials or texts that are delivered digitally; delivered through other technologies that are, or the licenses of which are, required for use within a course; or delivered in a print format. Innovative pricing techniques and payment options must include an opt-in provision for students and may be approved only if there is documented evidence that the options reduce the cost of textbooks and instructional materials for students taking a course.

(6) Each Florida College System institution and state university shall post prominently in the course registration system and on its website, as early as is feasible, but at least 45 days before the first day of class for each term, a hyperlink to lists of required and recommended textbooks and instructional materials for at least 95 percent of all courses and course sections offered at the institution during the upcoming term. The lists must include the International Standard Book Number (ISBN) for each required and recommended textbook and instructional material or other identifying information, which must include, at a minimum, all of the following: the title, all authors listed, publishers, edition number, copyright date, published date, and other relevant information necessary to identify the specific textbooks or instructional materials required and recommended for each course....

(8) The board of trustees of each Florida College System institution and state university shall report, by September 30 of each year, beginning in 2016, to the Chancellor of the Florida College System or the Chancellor of the State University System, as applicable, the textbook and instructional materials selection process for general education courses with a wide cost variance identified pursuant to subsection (4) and high-enrollment courses; specific initiatives of the institution designed to reduce the costs of textbooks and instructional materials; policies implemented in accordance with subsection (6); the number of courses and course sections that were not able to meet the textbook and instructional materials posting deadline for the previous academic year; and any additional information determined by the chancellors. By November 1 of each year, beginning in 2016, each chancellor shall provide a summary of the information provided by institutions to the State Board of Education and the Board of Governors, as applicable.

## ***B. STUDENT FEES***

### ***1009.23 FS Florida College System institution student fees (in part)***

(2)(a) All students shall be charged fees except students who are exempt from fees or students whose fees are waived.

(b) Tuition and out-of-state fees for upper-division courses must reflect the fact that the Florida College System institution has a less expensive cost structure than that of a state university. Therefore, the board of trustees shall

establish tuition and out-of-state fees for upper-division courses in baccalaureate degree programs approved pursuant to s. 1007.33 consistent with law and proviso language in the General Appropriations Act. However, the board of trustees may vary tuition and out-of-state fees only as provided in subsection (6) and s. 1009.26(11).

(4) Each Florida College System institution board of trustees shall establish tuition and out-of-state fees, which may vary no more than 10 percent below and 15 percent above the combined total of the standard tuition and fees established in subsection (3).

(5) Except as otherwise provided in law, the sum of nonresident student tuition and out-of-state fees must be sufficient to defray the full cost of each program.

(6)(a) A Florida College System institution board of trustees that has a service area that borders another state may implement a plan for a differential out-of-state fee.

(b) A Florida College System institution board of trustees may establish a differential out-of-state fee for a student who has been determined to be a nonresident for tuition purposes pursuant to s. 1009.21 and is enrolled in a distance learning course offered by the institution. A differential out-of-state fee established pursuant to this paragraph shall be applicable only to distance learning courses and must be established such that the sum of tuition and the differential out-of-state fee is sufficient to defray the full cost of instruction.

*Subsections (7) through (19) outline permissible student fees.*

(20) Each Florida College System institution shall publicly notice and notify all enrolled students of any proposal to increase tuition or fees at least 28 days before its consideration at a board of trustees meeting. The notice must:

(a) Include the date and time of the meeting at which the proposal will be considered.

(b) Specifically outline the details of existing tuition and fees, the rationale for the proposed increase, and how the funds from the proposed increase will be used.

(c) Be posted on the institution's website and issued in a press release.

**Student Fees- Fee Exemptions** [1009.25 FS](#)

**Student Fees- Fee Waivers** [1009.26 FS](#)

**Student Fees- Workforce Education postsecondary fees** [1009.22 FS](#)

**Student Fee- Determination of Resident Status for Tuition Purposes** [1009.21 FS](#)

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## VI. Statutes Related to Performance Funding

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*Florida Statutes, [1001.66](#)*

*Florida College System Performance-Based Incentive (in part)*

(l) A Florida College System Performance-Based Incentive shall be awarded to Florida College System institutions using performance-based metrics adopted by the State Board of Education. The performance-based metrics must include retention rates; program completion and graduation rates; post-graduation employment, salaries, and continuing education for workforce education and baccalaureate programs, with wage thresholds that reflect the added value of the certificate or degree; and outcome measures appropriate for associate of arts degree recipients. The state board shall adopt benchmarks to evaluate each institution's performance on the metrics to measure the institution's achievement of institutional excellence or need for improvement and the minimum requirements for eligibility to receive performance funding.

- (2) Each fiscal year, the amount of funds available for allocation to the Florida College System institutions based on the performance-based funding model shall consist of the state's investment in performance funding plus institutional investments consisting of funds to be redistributed from the base funding of the Florida College System Program Fund as determined in the General Appropriations Act. The State Board of Education shall establish minimum performance funding eligibility thresholds for the state's investment and the institutional investments. An institution that meets the minimum institutional investment eligibility threshold, but fails to meet the minimum state investment eligibility threshold, shall have its institutional investment restored but is ineligible for a share of the state's investment in performance funding. The institutional investment shall be restored for all institutions eligible for the state's investment under the performance-based funding model.
- (3)(a) Each Florida College System institution's share of the performance funding shall be calculated based on its relative performance on the established metrics in conjunction with the institutional size and scope.
- (b) A Florida College System institution that fails to meet the State Board of Education's minimum institutional investment performance funding eligibility threshold shall have a portion of its institutional investment withheld by the state board and must submit an improvement plan to the state board which specifies the activities and strategies for improving the institution's performance. The state board must review and approve the improvement plan and, if the plan is approved, must monitor the institution's progress in implementing the activities and strategies specified in the improvement plan. The institution shall submit monitoring reports to the state board by December 31 and May 31 of each year in which an improvement plan is in place. Beginning in the 2017-2018 fiscal year, the ability of an institution to submit an improvement plan to the state board is limited to 1 fiscal year.
- (c) The Commissioner of Education shall withhold disbursement of the institutional investment until the monitoring report is approved by the State Board of Education. A Florida College System institution determined by the state board to be making satisfactory progress on implementing the improvement plan shall receive no more than one-half of the withheld institutional investment in January and the balance of the withheld institutional investment in June. An institution that fails to make satisfactory progress may not have its full institutional investment restored. Any institutional investment funds that are not restored shall be redistributed in accordance with the state board's performance-based metrics.
- (4) Distributions of performance funding, as provided in this section, shall be made to each of the Florida College System institutions listed in the Florida Colleges category in the General Appropriations Act.

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## VII. Employment Policies and Standards of Conduct for Public Employees

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### A. *HIRING; ANTI-DISCRIMINATION*

Florida Statutes, [1012.855 FS](#), provides:

- (1)(a) Employment of all personnel in each Florida College System institution shall be upon recommendation of the president, subject to rejection for cause by the Florida College System institution board of trustees; to the rules of the State Board of Education relative to certification, tenure, leaves of absence of all types, including sabbaticals, remuneration, and such other conditions of employment as the State Board of Education deems necessary and proper; and to policies of the Florida College System institution board of trustees not inconsistent with law.
- (b) Any internal auditor employed by a Florida College System institution shall be hired by the Florida College System institution board of trustees and shall report directly to the board.
- (2) Each Florida College System institution board of trustees shall undertake a program to eradicate any discrimination on the basis of gender, race, or physical handicap in the granting of salaries to employees.

**B. SEXUAL PREDATOR NOTIFICATION**

Florida College institutions, state universities, and career centers shall inform students and employees at orientation and on its website of the existence of the Florida Department of Law Enforcement sexual predator and sexual offender registry website and the toll-free telephone number that gives access to public information pursuant to [943.043 FS](#).

**C. STANDARDS OF CONDUCT****112.313 FS**

- (1) **DEFINITION.**—As used in this section, unless the context otherwise requires, the term “public officer” includes any person elected or appointed to hold office in any agency, including any person serving on an advisory body.
- (2) **SOLICITATION OR ACCEPTANCE OF GIFTS.**—No public officer, employee of an agency, local government attorney, or candidate for nomination or election shall solicit or accept anything of value to the recipient, including a gift, loan, reward, promise of future employment, favor, or service, based upon any understanding that the vote, official action, or judgment of the public officer, employee, local government attorney, or candidate would be influenced thereby.
- (3) **DOING BUSINESS WITH ONE’S AGENCY.**—No employee of an agency acting in his or her official capacity as a purchasing agent, or public officer acting in his or her official capacity, shall either directly or indirectly purchase, rent, or lease any realty, goods, or services for his or her own agency from any business entity of which the officer or employee or the officer’s or employee’s spouse or child is an officer, partner, director, or proprietor or in which such officer or employee or the officer’s or employee’s spouse or child, or any combination of them, has a material interest. Nor shall a public officer or employee, acting in a private capacity, rent, lease, or sell any realty, goods, or services to the officer’s or employee’s own agency, if he or she is a state officer or employee, or to any political subdivision or any agency thereof, if he or she is serving as an officer or employee of that political subdivision. The foregoing shall not apply to district offices maintained by legislators when such offices are located in the legislator’s place of business or when such offices are on property wholly or partially owned by the legislator. This subsection shall not affect or be construed to prohibit contracts entered into prior to: (a) October 1, 1975; (b) Qualification for elective office; (c) Appointment to public office; (d) Beginning public employment.
- (4) **UNAUTHORIZED COMPENSATION.**—No public officer, employee of an agency, or local government attorney or his or her spouse or minor child shall, at any time, accept any compensation, payment, or thing of value when such public officer, employee, or local government attorney knows, or, with the exercise of reasonable care, should know, that it was given to influence a vote or other action in which the officer, employee, or local government attorney was expected to participate in his or her official capacity.
- (5) **SALARY AND EXPENSES.**—No public officer shall be prohibited from voting on a matter affecting his or her salary, expenses, or other compensation as a public officer, as provided by law. No local government attorney shall be prevented from considering any matter affecting his or her salary, expenses, or other compensation as the local government attorney, as provided by law.
- (6) **MISUSE OF PUBLIC POSITION.**—No public officer, employee of an agency, or local government attorney shall corruptly use or attempt to use his or her official position or any property or resource which may be within his or her trust, or perform his or her official duties, to secure a special privilege, benefit, or exemption for himself, herself, or others. This section shall not be construed to conflict with s. [104.31](#).
- (7) **CONFLICTING EMPLOYMENT OR CONTRACTUAL RELATIONSHIP.**—
  - (a) No public officer or employee of an agency shall have or hold any employment or contractual relationship with any business entity or any agency which is subject to the regulation of, or is doing business with, an agency of which he or she is an officer or employee, excluding those organizations and their officers who, when acting in their official capacity, enter into or negotiate a collective bargaining contract with the state or any municipality, county, or other political subdivision of the state; nor shall an officer or employee of an agency have or hold any employment or contractual relationship that will create a continuing or frequently recurring conflict between his or her private interests and the performance of his or her public duties or that would impede the full and faithful discharge of his or her public duties.

1. When the agency referred to is that certain kind of special tax district created by general or special law and is limited specifically to constructing, maintaining, managing, and financing improvements in the land area over which the agency has jurisdiction, or when the agency has been organized pursuant to chapter 298, then employment with, or entering into a contractual relationship with, such business entity by a public officer or employee of such agency shall not be prohibited by this subsection or be deemed a conflict per se. However, conduct by such officer or employee that is prohibited by, or otherwise frustrates the intent of, this section shall be deemed a conflict of interest in violation of the standards of conduct set forth by this section.
2. When the agency referred to is a legislative body and the regulatory power over the business entity resides in another agency, or when the regulatory power which the legislative body exercises over the business entity or agency is strictly through the enactment of laws or ordinances, then employment or a contractual relationship with such business entity by a public officer or employee of a legislative body shall not be prohibited by this subsection or be deemed a conflict.
  - (b) This subsection shall not prohibit a public officer or employee from practicing in a particular profession or occupation when such practice by persons holding such public office or employment is required or permitted by law or ordinance.
  - (8) **DISCLOSURE OR USE OF CERTAIN INFORMATION.**—A current or former public officer, employee of an agency, or local government attorney may not disclose or use information not available to members of the general public and gained by reason of his or her official position, except for information relating exclusively to governmental practices, for his or her personal gain or benefit or for the personal gain or benefit of any other person or business entity.

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## VIII. FLORIDA STATE BOARD OF EDUCATION (SBE) RULES

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### **(6A-14)Community Colleges**

#### ***A. State Board of Education Rule [6A-14.026](#) Employment of a President***

Boards of trustees shall notify the State Board of Education of the appointment, suspension, or dismissal of presidents immediately upon such action. At the time the contract is issued, the board of trustees shall inform the president of duties and responsibilities, of the procedure by which performance shall be evaluated, and of the criteria for evaluation. The board shall evaluate the president annually. After completion of the evaluation and acceptance by the board of trustees, the notice of findings shall be submitted to the Chancellor of the Division of Community Colleges for review.

#### ***B. State Board of Education Rule [6A-14.041](#) Personnel Contracts***

- (1) Contract forms for college personnel shall be prescribed by the board of trustees.
- (2) Periods of service. Full-time administrative personnel may be given multi-year contracts not to exceed three (3) years, but other contracts, except for the president, shall not exceed twelve (12) months.
- (3) A contract shall not create the expectancy of employment beyond the term of the contract. Non-renewal of a contract shall not entitle the person to the reasons for non-renewal or to a hearing.

**C. State Board of Education Rule 6A-14.0411 *Employment Contracts for Full-Time Faculty***

(1) Each District Board of Trustees shall develop, maintain and distribute a policy governing the issuance of continuing contracts and other employment contracts for employees serving in a full-time faculty capacity as determined by the college. Such policy shall be consistent with this rule.

(2) In order to be eligible for a continuing contract, full-time faculty shall meet the following minimum requirements:

(a) Complete at least five (5) years of satisfactory service, based on the criteria set forth in subsection (3) below, in the same college, except as provided below, during a period not in excess of seven (7) years. In all cases, such service shall be continuous except for leave duly authorized and granted. The policy established by the district board of trustees may also consider satisfactory service in other institutions of higher learning for purposes of this section.

(b) Receive the recommendation of the president and approval by the board for a continuing contract based on successful performance of duties, demonstration of professional competence pursuant to policy adopted by the board in accordance with subsection (3) of this rule and the needs of the college.

(3) Each board of trustees, after receiving a recommendation from the president and ensuring that input has been received from the faculty, shall establish criteria which must be met by a full-time faculty member before a continuing contract may be awarded.

(a) Such criteria, shall include:

1. Quantifiable measured effectiveness in the performance of faculty duties;
2. Continuing professional development;
3. Currency and scope of subject matter knowledge;
4. Relevant feedback from students, faculty and employers of students;
5. Service to the department, college, and community; and,
6. Criteria determined by the board under subsection (8) of this rule.

(b) Such criteria may include:

1. Educational qualifications, efficiency, compatability, student learning outcomes, character;
2. Capacity to meet the educational needs of the community;
3. The length of time the duties and responsibility of this position are expected to be needed; and,
4. Such other criteria as shall be included by the board.

(4) Each board may establish full-time faculty positions that are not eligible for continuing contract. Faculty hired in these positions may be awarded multiple year contracts, annual contracts, or contracts of less than one (1) year. Notwithstanding any provision in Rule 6A-14.041, F.A.C., no multiple year contracts may exceed three (3) years. Each board shall adopt policies addressing such positions and contracts.

(5) Each employee issued a continuing contract shall be entitled to continue in his or her respective full-time faculty position at the college without the necessity for annual nomination or reappointment until the individual resigns from employment, except as provided in subsection (7) of this rule.

(6) In order to contribute to the continual growth and development of faculty, each board shall adopt policy requiring periodic post-award performance reviews for faculty under continuing contract. Periodic reviews of continuing contract faculty shall use the criteria under subsection (3) of this rule.

(7)(a) Each district board of trustees may, upon recommendation of the president, terminate a full-time faculty employee under continuing contract, or return the employee to an annual contract, for failure to meet post-award performance criteria, or, for cause in accordance with college policies and procedures upon recommendation by the president and approval by the board. The president or designee shall notify the full-time faculty employee in writing of the recommendation and shall afford the full-time faculty employee the right to formally challenge the action in accordance with the policies and procedures of the college. As an alternative to the hearing rights provided by college policies and procedures, the employee may request an administrative hearing in accordance with Chapter 120, F.S., by filing a petition with the board within twenty-one (21) days of receipt of the recommendation of the president.

(b) Upon recommendation of the president, the board may terminate a full-time faculty employee under continuing contract upon consolidation, reduction, or elimination of an institution's program, or restriction of the required duties of a position by the board. The board shall determine on the basis of the criteria set forth in subsections (2) and (3) of this rule, which full-time faculty employees to retain on a continuing contract and which shall be dismissed or returned to an annual contract. The decision of the board shall not be controlled by any previous contractual relationship. In the evaluation of these factors, the decision of the board shall be final.

(8) In addition, each district board of trustees, after receiving a recommendation from the president and ensuring that input has been received from the faculty, shall develop appropriate criteria to measure student success, which may include the following factors, as appropriate:

- (a) Demonstrated or documented learning gains;
- (b) Course completion rates;
- (c) Graduation and/or certification rates;
- (d) Continued success in subsequent and additional courses or educational pursuits;
- (e) Job placements in the appropriate field; and,
- (f) Other criteria as may be included in the policy approved by the board.

Such criteria shall be used, as appropriate, for the particular field of learning and the individual faculty member, as consideration in determining whether to grant a continuing contract pursuant to subsection (3) above. Such factors shall also be used, as relevant and appropriate to individual faculty members, in the review set forth in subsection (6) above.

(9) Any full-time faculty employee holding a continuing contract who accepts an offer of annual employment in a capacity other than that in which the continuing contract was awarded may be granted an administrative leave of absence pursuant to the college's administrative rules.

#### ***D. State Board of Education Rule [6A-14.060](#) Accountability Standards***

The standards herein provide a basis for quality improvement and for accountability. Each community college shall:

- (1) Adopt and follow a periodic needs assessment process to determine the educational services needed within the community college district. The process shall use accurate and current information about the educational services which could be provided by the college pursuant to its purpose. Needs assessment shall be conducted in cooperation with other institutions and agencies serving the district.
- (2) Provide a system to enable its students to set educational goals for themselves and to use its services to attain the goals. The system shall recognize that many students establish their goals without direct assistance from the institution. Consideration of student goals shall be an important part of the institutional planning process.
- (3) Establish a process to select and retain employees who are successful in helping the college accomplish its purpose. The process shall involve selection, evaluation, development, and retention procedures related to successful performance of the responsibilities for which the personnel are employed.
- (4) Provide equal access to and equal opportunity in employment, programs, and services without regard to race, color, age, national origin, religion, marital status, sex or disability.
- (5) Develop a comprehensive, long-range program plan, including program and service priorities. Statements of expected outcomes shall be published, and facilities shall be used efficiently to achieve such outcomes. Periodic evaluations of programs and services shall use placement and follow-up data, shall determine whether expected outcomes are achieved, and shall be the basis for necessary improvements.
- (6) Establish adequate and sound control of expenditures, efficient operations including energy conservation, and a budget process producing the greatest benefits to the service area. Efficiency is the economical use of resources to support programs. The emphasis is the operation of an effective program at a reasonable cost.
- (7) Differentiate between the policy making responsibility of the board of trustees and the management responsibility of the president.

#### ***E. State Board of Education Rule [6A-14.099](#) Florida College System –Reporting of Child Abuse, Abandonment or Neglect***

(1) Definitions. For purposes of this section:

- (a) The terms “abuse,” “abandonment,” and “neglect” shall have the same meaning as in Section 39.01, F.S.
- (b) The term “Administrator” means high level personnel who have been assigned the responsibilities of college-wide or campus-wide academic or administrative functions, such as: college presidents, campus presidents, provosts, senior/executive vice presidents, vice presidents, associate vice presidents, associate/vice provosts, chief human resource officer, deans, chief of police, campus safety officer, equal opportunity programs director, intercollegiate athletics director, internal auditor, Title IX coordinator and college compliance officer.
- (c) The term “college” means a Florida College System institution.

(d) The term “Law Enforcement Agency” means the unit of the college which is vested with the authority to bear arms and make arrests, and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic or highway laws of the state.

(e) The term “State Board” means the State Board of Education.

(2) Investigation of an Allegation of a Failure to Report.

(a) Upon receipt of a credible allegation that a college Administrator or Law Enforcement Agency knowingly and willfully failed to report information of known or suspected child abuse, abandonment, or neglect as required by Section 39.205, F.S., the Florida Department of Education’s Office of Inspector General shall conduct an investigation to determine if sufficient evidence exists to support the allegation and the assessment of the \$1 million fine pursuant to Section 39.205, F.S.

(b) The Inspector General shall submit the investigatory findings to the Chair of the college’s District Board of Trustees or the Chair’s designee, and the college shall have twenty (20) business days after receipt to submit a written response to the Inspector General. The Inspector General shall provide a rebuttal, if any, to the college within twenty (20) business days after receipt of the college’s response. The college’s response and the Inspector General’s rebuttal to the response, if any, shall be included in the final investigative report presented to the State Board and the Chair of the college’s District Board of Trustees.

(3) Action by the State Board. The State Board shall issue a written order determining whether or not to assess the \$1 million fine against the college pursuant to Section 39.205, F.S.

(4) Additional Proceedings. Within twenty-one (21) business days after receipt of the State Board’s written order, the college may file a petition challenging the State Board of Education’s determination in an administrative proceeding conducted pursuant to Section 120.57, F.S.

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## IX. Governance of the College’s Direct Support Organizations (DSO)

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Florida Statutes, [1004.70](#) FS outlines the approval and operational requirements and structure of the Florida College System institution direct-support organizations (DSO) **[In the case of St. Petersburg College, the St. Petersburg College Foundation, Leepa-Rattner Museum of Art and Institute for Strategic Policy Solutions.]** The statutes provide:

### A. Authority and Definitions

[1010.09](#) FS Direct-support organizations.—

(1) School district and Florida College System institution direct-support organizations shall be organized and conducted under the provisions of ss. [1001.453](#) and [1004.70](#) and rules of the State Board of Education, as applicable.

1004.70(1) (a) “Florida College System institution direct-support organization” means an organization that is:

1. A Florida corporation not for profit, incorporated under the provisions of chapter 617 and approved by the Department of State.
2. Organized and operated exclusively to receive, hold, invest, and administer property and to make expenditures to, or for the benefit of, a Florida College System institution in this state.
3. An organization that the Florida College System institution board of trustees, after review, has certified to be operating in a manner consistent with the goals of the Florida College System institution and in the best interest of the state. Any organization that is denied certification by the board of trustees may not use the name of the Florida College System institution that it serves.

## B. Corporate Structure and Requirements

1004.70(2) BOARD OF DIRECTORS.—The chair of the board of trustees shall appoint a representative to the board of directors and the executive committee of each direct-support organization established under this section, including those established before July 1, 1998.

### (3) USE OF PROPERTY.—

(a) The board of trustees is authorized to permit the use of property, facilities, and personal services at any Florida College System institution by any Florida College System institution direct-support organization, subject to the provisions of this section.

(b) The board of trustees is authorized to prescribe by rule any condition with which a Florida College System institution direct-support organization must comply in order to use property, facilities, or personal services at any Florida College System institution.

(c) The board of trustees may not permit the use of property, facilities, or personal services at any Florida College System institution by any Florida College System institution direct-support organization that does not provide equal employment opportunities to all persons regardless of race, color, national origin, gender, age, or religion.

### (4) ACTIVITIES; RESTRICTIONS.—

(a) A direct-support organization may, at the request of the board of trustees, provide residency opportunities on or near campus for students.

(b) A direct-support organization that constructs facilities for use by a Florida College System institution or its students must comply with all requirements of law relating to the construction of facilities by a Florida College System institution, including requirements for competitive bidding.

(c) Any transaction or agreement between one direct-support organization and another direct-support organization must be approved by the board of trustees.

(d) A Florida College System institution direct-support organization is prohibited from giving, either directly or indirectly, any gift to a political committee as defined in s. [106.011](#) for any purpose other than those certified by a majority roll call vote of the governing board of the direct-support organization at a regularly scheduled meeting as being directly related to the educational mission of the Florida College System institution.

(e) A Florida College System institution board of trustees must authorize all debt, including lease-purchase agreements, incurred by a direct-support organization. Authorization for approval of short-term loans and lease-purchase agreements for a term of not more than 5 years, including renewals, extensions, and refundings, for goods, materials, equipment, and services may be delegated by the board of trustees to the board of directors of the direct-support organization. Trustees shall evaluate proposals for debt according to guidelines issued by the Division of Florida Colleges. Revenues of the Florida College System institution may not be pledged to debt issued by direct-support organizations.

(5) ANNUAL BUDGETS AND REPORTS.—Each direct-support organization shall submit to the board of trustees its 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).

(6) ANNUAL AUDIT.—Each direct-support organization shall provide for an annual financial audit in accordance with rules adopted by the Auditor General pursuant to s. [11.45](#)(8). The annual audit report must be submitted, within 9 months after the end of the fiscal year, to the Auditor General, the State Board of Education, and the board of trustees for review. The board of trustees, the Auditor General, and the Office of Program Policy Analysis and Government Accountability may require and receive from the organization or from its independent auditor any detail or supplemental data relative to the operation of the organization. The identity of donors who desire to remain anonymous shall be protected, and that anonymity shall be maintained in the auditor's report. All records of the organization, other than the auditor's report, any information necessary for the auditor's report, any information related to the expenditure of funds, and any supplemental data requested by the board of trustees, the Auditor General, and the Office of Program Policy Analysis and Government Accountability, shall be confidential and exempt from the provisions of s. [119.07](#)(1).

### C. Non-Discrimination Policy

[1004.06 FS](#) Prohibited expenditures.—No Florida College System institution, state university, Florida College System institution direct-support organization, or state university direct-support organization shall expend any funds, regardless of source, to purchase membership in, or goods and services from, any organization that discriminates on the basis of race, national origin, gender, or religion.

### D. Corporate Code of Ethics

[112.3251 FS](#) Citizen support and direct-support organizations; standards of conduct.—A citizen support or direct-support organization created or authorized pursuant to law must adopt its own ethics code. The ethics code must contain the standards of conduct and disclosures required under ss. [112.313](#) and [112.3143](#)(2), respectively. However, an ethics code adopted pursuant to this section is not required to contain the standards of conduct specified in s. [112.313](#)(3) or (7). The citizen support or direct-support organization may adopt additional or more stringent standards of conduct and disclosure requirements if those standards of conduct and disclosure requirements do not otherwise conflict with this part. The ethics code must be conspicuously posted on the citizen support or direct-support organization's website.

### E. Sunshine Law and Public Records [286.011 FS](#)

The Florida Attorney General has determined that Direct Support Organizations (DSO) of a public agency created by statute are subject to the Sunshine Law. While there are some meetings of an institutional DSO that may fall under the exceptions to public meeting requirements pursuant to 286.011 FS, and as outlined in Section I of this booklet, the board of directors is responsible to conduct business under the Sunshine Law, such as holding accessible and properly notice meetings and making all public records created in the course of business open for disclosure and production.

Public meetings and records; public inspection; criminal and civil penalties.—

(1) All meetings of any board or commission of any state agency or authority or of any agency or authority of any county, municipal corporation, or political subdivision, except as otherwise provided in the Constitution, including meetings with or attended by any person elected to such board or commission, but who has not yet taken office, at which official acts are to be taken are declared to be public meetings open to the public at all times, and no resolution, rule, or formal action shall be considered binding except as taken or made at such meeting. The board or commission must provide reasonable notice of all such meetings.

(2) The minutes of a meeting of any such board or commission of any such state agency or authority shall be promptly recorded, and such records shall be open to public inspection. The circuit courts of this state shall have jurisdiction to issue injunctions to enforce the purposes of this section upon application by any citizen of this state.

### F. Meetings of the Board of Directors

Florida Statutes, [617.0820](#) Meetings.—

(1) The board of directors may hold regular or special meetings in or out of this state.

(2) A majority of the directors present, whether or not a quorum exists, may adjourn any meeting of the board of directors to another time and place. Unless the bylaws otherwise provide, notice of any such adjourned meeting shall be given to the directors who were not present at the time of the adjournment and, unless the time and place of the adjourned meeting are announced at the time of the adjournment, to the other directors.

(3) Meetings of the board of directors may be called by the chair of the board or by the president unless otherwise provided in the articles of incorporation or the bylaws.

(4) Unless the articles of incorporation or the bylaws provide otherwise, the board of directors may permit any or all directors to participate in a regular or special meeting by, or conduct the meeting through the use of, any means of communication by which all directors participating may simultaneously hear each other during the meeting. A director participating in a meeting by this means is deemed to be present in person at the meeting.

### G. Duties of Board Directors

Pursuant to [617.0801](#) FS, all corporate powers must be exercised by or under the authority of, and the affairs of the corporation managed under the direction of, its board of directors, subject to any limitation set forth in the articles of incorporation. Below are the statutory standards outlined for directors.

### H. General Standards for Directors

The Florida Statutes at [617.0830](#) FS provide the following general standards for directors of non-profit corporations:

- (1) A director shall discharge his or her duties as a director, including his or her duties as a member of a committee:
  - (a) In good faith;
  - (b) With the care an ordinarily prudent person in a like position would exercise under similar circumstances; and
  - (c) In a manner he or she reasonably believes to be in the best interests of the corporation.
- (2) In discharging his or her duties, a director may rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by: (a) One or more officers or employees of the corporation whom the director reasonably believes to be reliable and competent in the matters presented; (b) Legal counsel, public accountants, or other persons as to matters the director reasonably believes are within the persons' professional or expert competence; or (c) A committee of the board of directors of which he or she is not a member if the director reasonably believes the committee merits confidence.
- (3) A director is not acting in good faith if he or she has knowledge concerning the matter in question that makes reliance otherwise permitted by subsection (2) unwarranted.
- (4) A director is not liable for any action taken as a director, or any failure to take any action, if he or she performed the duties of his or her office in compliance with this section.

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## X. Governance of the College's Charter High School

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### A. Board of Trustees as Governing Board of a Charter High School

Pursuant to [1002.33](#), Florida Statutes, the charter school's governing board is charged with the general oversight of the school's operation and given financial and fiduciary responsibilities accordingly.

#### [1002.33](#) (9)(a)-(g.) Charter School Requirements

- (a) A charter school shall be nonsectarian in its programs, admission policies, employment practices, and operations.
- (b) A charter school shall admit students as provided in subsection (10).
- (c) A charter school shall be accountable to its sponsor for performance as provided in subsection (7).
- (d) A charter school shall not charge tuition or registration fees, except those fees normally charged by other public schools. However, a charter lab school may charge a student activity and service fee as authorized by s. [1002.32\(5\)](#).
- (e) A charter school shall meet all applicable state and local health, safety, and civil rights requirements.
- (f) A charter school shall not violate the antidiscrimination provisions of s. [1000.05](#).
- (g) 1. In order to provide financial information that is comparable to that reported for other public schools, charter schools are to maintain all financial records that constitute their accounting system:
  - a. In accordance with the accounts and codes prescribed in the most recent issuance of the publication titled "Financial and Program Cost Accounting and Reporting for Florida Schools"; or
  - b. At the discretion of the charter school's governing board, a charter school may elect to follow generally accepted accounting standards for not-for-profit organizations, but must reformat this information for reporting according to this paragraph.

2. Charter schools shall provide annual financial report and program cost report information in the state-required formats for inclusion in district reporting in compliance with s. 1011.60(1). Charter schools that are operated by a municipality or are a component unit of a parent nonprofit organization may use the accounting system of the municipality or the parent but must reformat this information for reporting according to this paragraph.

3. A charter school shall, upon approval of the charter contract, provide the sponsor with a concise, uniform, monthly financial statement summary sheet that contains a balance sheet and a statement of revenue, expenditures, and changes in fund balance. The balance sheet and the statement of revenue, expenditures, and changes in fund balance shall be in the governmental funds format prescribed by the Governmental Accounting Standards Board. A high-performing charter school pursuant to s. 1002.331 may provide a quarterly financial statement in the same format and requirements as the uniform monthly financial statement summary sheet. The sponsor shall review each monthly or quarterly financial statement to identify the existence of any conditions identified in s. 1002.345(1)(a).

4. A charter school shall maintain and provide financial information as required in this paragraph. The financial statement required in subparagraph 3. must be in a form prescribed by the Department of Education.

#### 1002.33 (9)

Each Board member shall exercise due care to:

- (a) actively take a role in financial oversight of resources and assets in compliance with state and federal law;
- (b) comply with financial reporting mandates including annual financial reports and program cost reports; and an annual financial audit;
- (c) work together with the sponsor to ensure the financial integrity of the charter school;
- (d) adopt and monitor the annual budget;
- (e) discharge the duties of the office pursuant to standards of responsibility as a fiduciary as provided under law; and
- (f) provide oversight as the ethical, legal and financial stewards of the charter school.

#### *B. Oversight and Responsibilities Under the Charter*

1002.33(7) The School and its Board are responsible for academic and student success; measurement and reporting requirements, special needs, eligibility and graduation, procedures for student code of conduct.

#### 1002.33(9)[(h.)-(k.)]

- (h) The governing body is responsible to review and adopt an annual budget and maintain an operating budget. The School shall be in compliance with monthly and annual reporting to the Board and the Department of Education
- (i) The governing body of the charter school shall exercise continuing oversight over charter school operations.
- (j) The governing body of the charter school shall be responsible for:
  1. Ensuring that the charter school has retained the services of a certified public accountant or auditor for the annual financial audit, pursuant to s. 1002.345(2), who shall submit the report to the governing body.
  2. Reviewing and approving the audit report, including audit findings and recommendations for the financial recovery plan.
  - 3.a. Performing the duties in s. 1002.345, including monitoring a corrective action plan.
  - b. Monitoring a financial recovery plan in order to ensure compliance.
  4. Participating in governance training approved by the department which must include government in the sunshine, conflicts of interest, ethics, and financial responsibility.
- (k) The governing body of the charter school shall report its progress annually to its sponsor, which shall forward the report to the Commissioner of Education at the same time as other annual school accountability reports. The Department of Education shall develop a uniform, online annual accountability report to be completed by charter schools. This report shall be easy to utilize and contain demographic information, student performance data, and financial accountability information. A charter school shall not be required to provide information and data that

is duplicative and already in the possession of the department. The Department of Education shall include in its compilation a notation if a school failed to file its report by the deadline established by the department. The report shall include at least the following components:

1. Student achievement performance data, including the information required for the annual school report and the education accountability system governed by ss. 1008.31 and 1008.345. Charter schools are subject to the same accountability requirements as other public schools, including reports of student achievement information that links baseline student data to the school's performance projections identified in the charter. The charter school shall identify reasons for any difference between projected and actual student performance.
2. Financial status of the charter school which must include revenues and expenditures at a level of detail that allows for analysis of the charter school's ability to meet financial obligations and timely repayment of debt.
3. Documentation of the facilities in current use and any planned facilities for use by the charter school for instruction of students, administrative functions, or investment purposes.
4. Descriptive information about the charter school's personnel, including salary and benefit levels of charter school employees, the proportion of instructional personnel who hold professional or temporary certificates, and the proportion of instructional personnel teaching in-field or out-of-field.

1002.33 (9)(p)

1. Each charter school shall maintain a website that enables the public to obtain information regarding the school; the school's academic performance; the names of the governing board members; the programs at the school; any management companies, service providers, or education management corporations associated with the school; the school's annual budget and its annual independent fiscal audit; the school's grade pursuant to s. 1008.34; and, on a quarterly basis, the minutes of governing board meetings.
2. Each charter school's governing board must appoint a representative to facilitate parental involvement, provide access to information, assist parents and others with questions and concerns, and resolve disputes. The representative must reside in the school district in which the charter school is located and may be a governing board member, a charter school employee, or an individual contracted to represent the governing board. If the governing board oversees multiple charter schools in the same school district, the governing board must appoint a separate representative for each charter school in the district. The representative's contact information must be provided annually in writing to parents and posted prominently on the charter school's website. The sponsor may not require governing board members to reside in the school district in which the charter school is located if the charter school complies with this subparagraph.
3. Each charter school's governing board must hold at least two public meetings per school year in the school district where the charter school is located. The meetings must be noticed, open, and accessible to the public, and attendees must be provided an opportunity to receive information and provide input regarding the charter school's operations. The appointed representative and charter school principal or director, or his or her designee, must be physically present at each meeting. Members of the governing board may attend in person or by means of communications media technology used in accordance with rules adopted by the Administration Commission under s. 120.54(5).

1002.33 (10) *ELIGIBLE STUDENTS.*—

(d) A charter school may give enrollment preference to the following student populations:

1. Students who are siblings of a student enrolled in the charter school.
2. Students who are the children of a member of the governing board of the charter school.
3. Students who are the children of an employee of the charter school.
4. Students who are the children of:
  - a. An employee of the business partner of a charter school-in-the-workplace established under paragraph (15)(b) or a resident of the municipality in which such charter school is located; or
  - b. A resident or employee of a municipality that

operates a charter school-in-a-municipality pursuant to paragraph (15)(c) or allows a charter school to use a school facility or portion of land provided by the municipality for the operation of the charter school...

6. Students who are the children of an active duty member of any branch of the United States Armed Forces.

7. Students who attended or are assigned to failing schools pursuant to s.1002.38(2)...

(h) The capacity of the charter school shall be determined annually by the governing board, in conjunction with the sponsor, of the charter school in consideration of the factors identified in this subsection unless the charter school is designated as a high-performing charter school pursuant to s. [1002.331](#). A sponsor may not require a charter school to waive the provisions of s. [1002.331](#) or require a student enrollment cap that prohibits a high-performing charter school from increasing enrollment in accordance with s. [1002.331\(2\)](#) as a condition of approval or renewal of a charter.

(i) The capacity of a high-performing charter school identified pursuant to s. [1002.331](#) shall be determined annually by the governing board of the charter school. The governing board shall notify the sponsor of any increase in enrollment by March 1 of the school year preceding the increase. A sponsor may not require a charter school to identify the names of students to be enrolled or to enroll those students before the start of the school year as a condition of approval or renewal of a charter.

### C. Background Screening

#### [1002.33](#) (12)(g)

1. A charter school shall employ or contract with employees who have undergone background screening as provided in s. [1012.32](#). Members of the governing board of the charter school shall also undergo background screening in a manner similar to that provided in s. [1012.32](#).

2. A charter school shall disqualify instructional personnel and school administrators, as defined in s. [1012.01](#), from employment in any position that requires direct contact with students if the personnel or administrators are ineligible for such employment under s. [1012.315](#).

3. The governing board of a charter school shall adopt policies establishing standards of ethical conduct for instructional personnel and school administrators. The policies must require all instructional personnel and school administrators, as defined in s. [1012.01](#), to complete training on the standards; establish the duty of instructional personnel and school administrators to report, and procedures for reporting, alleged misconduct by other instructional personnel and school administrators which affects the health, safety, or welfare of a student; and include an explanation of the liability protections provided under ss. [39.203](#) and [768.095](#). A charter school, or any of its employees, may not enter into a confidentiality agreement regarding terminated or dismissed instructional personnel or school administrators, or personnel or administrators who resign in lieu of termination, based in whole or in part on misconduct that affects the health, safety, or welfare of a student, and may not provide instructional personnel or school administrators with employment references or discuss the personnel's or administrators' performance with prospective employers in another educational setting, without disclosing the personnel's or administrators' misconduct. Any part of an agreement or contract that has the purpose or effect of concealing misconduct by instructional personnel or school administrators which affects the health, safety, or welfare of a student is void, is contrary to public policy, and may not be enforced.

4. Before employing instructional personnel or school administrators in any position that requires direct contact with students, a charter school shall conduct employment history checks of each of the personnel's or administrators' previous employers, screen the instructional personnel or school administrators through use of the educator screening tools described in s. [1001.10\(5\)](#), and document the findings. If unable to contact a previous employer, the charter school must document efforts to contact the employer.

*D. Disqualification of Personnel*

Charter School administrators/board shall disqualify instructional personnel and others in positions that require direct contact with students from employment if convicted of a particular type of crime pursuant to 1012.315. [1001.42 FS](#) [1012.315 FS](#)

*E. Nondiscrimination of Personnel***[1012.855 FS](#) Employment of Florida College System institution personnel; discrimination in granting salary prohibited.—**

(1)(a) Employment of all personnel in each Florida College System institution shall be upon recommendation of the president, subject to rejection for cause by the Florida College System institution board of trustees; to the rules of the State Board of Education relative to certification, tenure, leaves of absence of all types, including sabbaticals, remuneration, and such other conditions of employment as the State Board of Education deems necessary and proper; and to policies of the Florida College System institution board of trustees not inconsistent with law.

(b) Any internal auditor employed by a Florida College System institution shall be hired by the Florida College System institution board of trustees and shall report directly to the board.

(2) Each Florida College System institution board of trustees shall undertake a program to eradicate any discrimination on the basis of gender, race, or physical handicap in the granting of salaries to employees.

*F. Meetings Requirements and Public Records*

A Charter School must be in compliance with Section 286.011 relating to public meetings, records, public inspection, and criminal/civil penalties, and Chapter 119 relating to public records. Charter Schools shall operate in accordance with its charter and are exemption from all statutes in 1001-1013, except statutes specifically applying to charter schools, student assessment programs, grading systems, provision of services to students with disabilities, civil rights including 1000.05, student health, safety and welfare, Section 286.011, and Chapter 119, public records provisions relating to class size, compensation and salary schedule, workforce reductions, and performance evaluations of instructional personnel and administrators.

[1002.33](#)(7)(d)1. Each charter school's board must appoint a representative to facilitate parental involvement, provide access to information, assist parents and others with questions and concerns, and resolve disputes.

[1002.33](#)(7)(d)2. Each charter school's governing board must hold at least two public meetings per school year in the school district. The meetings must be noticed, open, and accessible to the public, and attendees must be provided an opportunity to receive information and provide input regarding the charter school's operations. The appointed representative and charter school principal or director, or his or her equivalent, must be physically present at each meeting.

*G. Child Abuse (K-12) [1006.061 FS](#)*

Each district school board, charter school, and private school that accepts scholarship students under s. 1002.39 or s. 1002.395 shall:

- Post in a prominent place in each school a notice that, pursuant to chapter 39, all employees and agents of the district school board, charter school, or private school have an affirmative duty to report all actual or suspected cases of child abuse, abandonment, or neglect; have immunity from liability if they report such cases in good faith; and have a duty to comply with child protective investigations and all other provisions of law relating to child abuse, abandonment, and neglect. The notice shall also include the statewide toll-free telephone number of the central abuse hotline.
- Provide a liaison to DCFS where a case is referred for investigation or action.

- Require the principal of the charter school to act as a liaison to the Department of Children and Families and the child protection team, as defined in s. 39.01, when in a case of suspected child abuse, abandonment, or neglect or an unlawful sexual offense involving a child the case is referred to such a team.

#### *H. Sexual Offenses by Authority Figures*

House Bill 485 (2014) created [775.0862 FS](#), the “Stop Harassing Underage Teens Act” which provides for reclassification of specified sexual offenses committed against students by authority figures of a public school, including charter schools.

#### *I. Bullying and Harassment*

[1006.147 FS](#) Bullying and harassment prohibited.—

Bullying or harassment of any student or employee of a public K-12 educational institution (*including charter*) is prohibited: (a) During any education program or activity conducted by a public K-12 educational institution; (b) During any school-related or school-sponsored program or activity or on a school bus of a public K-12 educational institution; (c) Through the use of data or computer software that is accessed through a computer, computer system, or computer network within the scope of a public K-12 educational institution; or (d) Through the use of data or computer software that is accessed at a non-school-related location, activity, function, or program or through the use of technology or an electronic device that is not owned, leased, or used by a school district or school, if the bullying substantially interferes with or limits the victim’s ability to participate in or benefit from the services, activities, or opportunities offered by a school or substantially disrupts the education process or orderly operation of a school. This paragraph does not require a school to staff or monitor any nonschool-related activity, function, or program.

#### *J. Governance Training Requirements for the Governing Body*

[6A-6.0784 FAC](#) subsection (1) provides:

(1) General training requirements.

(a) Beginning with the effective date of this rule, every member of the governing body of a charter school operating in Florida shall participate in governance training. The charter school governance training must meet the requirements of this rule and be approved by the Department. Governing boards composed entirely of “school officers”, as defined by Section 1012.01, F.S., may meet the requirements of this rule by complying with the procedures set forth in subsection (6) of this rule.

(b) Each governing board member must complete a minimum of four (4) hours of instruction focusing on government in the sunshine, conflicts of interest, ethics, and financial responsibility as specified in Section 1002.33(9)(k), F.S. After the initial four (4) hour training, each member is required, within the subsequent three (3) years and for each three (3) year period thereafter, to complete a two (2) hour refresher training on the four (4) topics above in order to retain his or her position on the charter school board. Any member who fails to obtain the two (2) hour refresher training within any three (3) year period must take the four (4) hours of instruction again in order to remain eligible as a charter school board member.

(c) New members joining a charter school board must complete the four (4) hour training within 90 days of their appointment to the board.

(d) Instruction beyond the hours specified in paragraphs (1)(b) and (c) of this rule may be included in the training plan to address additional topics generally recognized and supported by research or practitioners as important for effective governing board operation.

(e) Each charter school is responsible for contracting with or providing a trainer who delivers governance training consistent with a governance training plan that has been approved by the Department.

*K. Ethics in Education Act (K-12)*

The Florida Statutes, [1001.42 FS](#) (6) outlines the following mandates within the Standards of Ethical Conduct for all public schools, including charter schools:

- Adopt policies to complete training on standards for all teachers and administrators.
- Establish reporting procedures for addressing misconduct.
- Impose a duty to report all suspected misconduct that may affect the health safety and welfare of students.
- No school may execute a confidentiality agreement based on misconduct and provide references without the disclosure of such misconduct.





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