

**THE FLORIDA POLYTECHNIC UNIVERSITY BOARD OF TRUSTEES
NOTICE OF PROPOSED REGULATION**

REGULATION NUMBER AND TITLE: FPU-10.002 University Direct Support Organizations.

SUMMARY OF THE REGULATION: This proposed regulation will take the place of University rule 6C13-10.002 University Direct Support Organizations. The proposed regulation amends the existing rule by incorporating changes to DSOs pursuant to Section 1004.28, Florida Statutes as follows: sets thresholds for the approval of DSO purchases, acquisitions, projects, and issuances of debt; requires the BOT Chair to appoint at least one representative to a DSO's board of directors; requires the BOT to approve all appointments to the DSO's board of directors; prohibits the use of state funds for DSO travel expenses; prohibits a DSO from giving any gift to a political committee; and stating that University personal services used by a DSO are subject to the remuneration requirements in Section 1012.976, Florida Statutes.

TEXT OF REGULATION: The full text of the Proposed Regulation can be viewed below and on the Florida Polytechnic University Board of Trustees website, at <http://floridapoly.edu/board-of-trustees/university-policies-and-regulations/>.

If you would like a copy of the Proposed Regulation, please contact Sherri Pavlik Melaine Schmiz, Executive Assistant, at (863) 874-8412.

AUTHORITY: Board of Governors Regulations 9.011.

NAME OF PERSON INITIATING PROPOSED REGULATION: Regina DeIulio, VP & General Counsel.

ANY PERSON SEEKING TO COMMENT ON THE PROPOSED REGULATION MUST SUBMIT COMMENTS IN WRITING TO THE CONTACT PERSON LISTED BELOW. ALL WRITTEN COMMENTS MUST BE RECEIVED BY THE CONTACT PERSON WITHIN 14 CALENDAR DAYS OF THE DATE OF PUBLICATION OF THIS NOTICE.

THE CONTACT PERSON REGARDING THIS REGULATION IS: Sherri Pavlik, Executive Assistant at 4700 Research Way, Lakeland, Florida 33805, Email: spavlik@floridapoly.edu, Phone: (863) 874-8412, Fax: (863) 874-8716.

DATE OF PUBLICATION: November 5, 2018

THE FULL TEXT OF THE PROPOSED REGULATION IS PROVIDED BELOW:

THE FLORIDA POLYTECHNIC UNIVERSITY BOARD OF TRUSTEES

FPU-10.002 University Direct Support Organizations.

(1) Purpose. The University President (“President“) may recommend to the Florida Polytechnic University (“University“) Board of Trustees (“BOT“) an organization, meeting the definition and requirements of Florida Statutes, Section 1004.28, to be established and certified a Florida Polytechnic University Direct Support Organization (“DSO“). Upon certification by the BOT, a DSO is authorized to use the property, facilities and personal services of the University in accordance with Board of Governor and University regulations, policies and procedures.

(2) Certification. In order to be considered for certification as a DSO, an eligible organization under Florida Statutes, Section 1004.28, must submit to the BOT proposed Articles of Incorporation and Bylaws. Any subsequent amendments to the Articles of Incorporation or Bylaws of the organization are subject to the approval of the BOT.

(3) DSO employees. Any person employed by the DSO shall not be considered to be an employee of Florida Polytechnic University by virtue of employment by the DSO.

(4) Equal Employment Opportunities. The DSO shall provide equal employment opportunities to all persons regardless of race, color, religion, sex, age, disability, marital status, veteran status, national origin, or any other basis protected by law.

(5) Gifts to political committees prohibited. The DSO is prohibited from giving, either directly or indirectly, any gift to a political committee, as defined in Florida Statutes, Section 106.011, for any purpose.

(6) Selection and Appointment of DSO’s CEO/director. The chief executive officer or director of the organization will be selected and appointed by the University President in consultation with the DSO’s governing board. The chief executive officer or director shall report to the President or a designee reporting directly to the President.

(7) University president’s powers and duties. The University President shall have the following powers and duties:

- 1. Monitor and control the use of University resources by the DSO.**
- 2. Control the use of the University name by the DSO.**
- 3. Monitor compliance of the DSO with federal and state laws.**
- 4. Approve contributions of funds or supplements to support intercollegiate athletics.**

(8) Appointments to DSO board. The Chair of the BOT shall appoint at least one representative to the governing board and the executive committee of each DSO and the President or designee shall serve on the governing board and the executive committee of each DSO. The BOT must approve all other appointments or reappointments to the DSO’s board of directors prior to them being effective.

(9) **Operating budget.** Each DSO must prepare, at least annually, a proposed operating budget for review and approval by the DSO's governing board and must be recommended by the President to the BOT for review.

(10) **Changes in planned expenditures.** Significant changes in planned expenditures in the DSO's approved budget shall be reported to the BOT as soon as practicable, but no later than the end of the quarter in which such changes were proposed.

(11) **BOT approval thresholds.** The DSO must get BOT approval when:

(a) The DSO is acquiring real property in excess of one million dollars (\$1,000,000).

(b) The DSO is constructing or renovating a facility and the cost of construction or renovation exceeds one million dollars (\$1,000,000).

(c) The DSO is purchasing goods and services and the total value of the contract exceeds five hundred thousand dollars (\$500,000).

(12) **Debt management and P3 guidelines.** All debt issued by a DSO is subject to the SUS Debt Management Guidelines. All public-private partnership transactions involving a DSO are subject to the State University System Public-Private Partnership Guidelines.

(13) **State funds for travel prohibited.** DSOs are prohibited from using state funds for travel expenses incurred by the DSO.

(14) **Remuneration requirements.** University personal services used by a DSO are subject to the remuneration requirements set forth in section 1012.976, Florida Statutes.

(15) **Audit.** Each DSO shall cause an annual financial audit to be conducted, in accordance with applicable laws and rules, by an independent certified public accountant upon the close of each fiscal year for submission to the BOT for review and oversight. The BOT Chair and the University President may require and receive any records or data relative to the operations of the DSO from the DSO or from its independent auditors.

(16) **Audit review.** The BOT shall submit each DSO's annual audit report to the Auditor General and the Board of Governors for review no later than nine (9) months after the close of the fiscal year.

(17) **Tax exemption.** Each DSO shall submit its federal Internal Revenue Service application for Recognition from Exemption form (Form 1023) and its federal Internal Revenue Service Return of Organization Exempt from Income Tax form (Form 990) to the President.

(18) **Decertification.** The President may recommend and request that the BOT decertify a DSO if the President determines that the organization is no longer serving the best interests of the University. Any recommendation and request for decertification shall include a plan for disposition of the DSO's assets and liabilities.

(19) The DSO shall comply with all other obligations required by law, including those required by Florida Statutes, Section 1004.28, and applicable Board of Governors and University rules, regulations, policies and procedures.

Authority: Section 7(d), Art. IX, Fla. Const.; BOG Regulation Development Procedure dated March 23, 2006; 1004.28(2)(b) FS.

History: Formerly rule 6C13-10.002, 8.5.14, Amended and renumbered _____.

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