

**THE FLORIDA INTERNATIONAL UNIVERSITY BOARD OF TRUSTEES
FLORIDA BOARD OF GOVERNORS**

NOTICE OF PROPOSED REGULATION

REGULATION NO.: FIU-1502

REGULATION TITLE: Direct Support Organizations.

SUMMARY: This regulation provides the process of certifying and decertifying a direct support organization (“DSO”) of the University; the requirements of such DSO’s articles of incorporation and bylaws; the ability of the University to make appointments to the DSO’s governing body and executive committee; the University President’s powers related to the DSO’s; and the confidentiality of DSO records.

TEXT OF REGULATION: The full text of the Proposed Regulation can be viewed below and on the website of The Florida International University Board of Trustees, <http://bot.fiu.edu/regulations/>. If you would like a copy of the Proposed Regulation, please contact Eli Deville, Coordinator, Administrative Services, Office of the General Counsel, (305) 348-2103.

AUTHORITY: Resolution of the Florida Board of Governors dated January 7, 2003.

NAME OF PERSON INITIATING PROPOSED REGULATION: Cristina Mendoza, Vice President and 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.

CONTACT PERSON REGARDING THE PROPOSED REGULATION: Eli Deville, Coordinator, Administrative Services, Office of the General Counsel, Florida International University, 11200 SW 8th Street, PC 511, Miami, FL 33199. Email: devillee@fiu.edu Fax: (305) 348-3272. Phone: 305-348-2103.

DATE OF PUBLICATION: August 12, 2008.

THE FULL TEXT OF THE PROPOSED REGULATION IS PROVIDED BELOW:

~~6C8-6.100~~ FIU-1502 Direct Support Organizations.

(1) The President of the University may recommend to the Board of Trustees that an organization meeting the requirements of Florida law pertaining to Direct Support Organizations (“DSO”) ~~Section 1004.28(1)(a), F.S.~~, be designated a Florida International University ~~Direct Support Organization (“DSO”)~~. Upon approval by the Board of Trustees and the Board of Governors, a DSO shall be considered to be certified and authorized to use the property, facilities and personal services of the University.

(2) In order to be considered for certification as a DSO, an organization must fulfill the requirements of Florida law pertaining to DSOs ~~Section 1004.28(1)(a), F.S.~~, the Board of Governors’ Regulations and must have Articles of Incorporation and Bylaws that together:

~~(a) Provide that any person employed by the organization shall not be considered to be an employee of the Florida International University Board of Trustees by virtue of employment by the DSO.~~

~~(b) Provide that the chief executive officer or director of the DSO shall be selected and appointed by the governing board of the DSO, with prior approval of the President of the University, and that the chief executive officer or director shall report to the President or a designee reporting directly to the President.~~

~~(ae) Provide that any amendments to the Articles of Incorporation or Bylaws must be submitted by the President of the University and to the Board of Trustees for approval prior to becoming effective.~~

~~(d) Provide that the President of the University shall have the following powers and duties:~~

~~1. Monitor and control the use of University resources by the organization.~~

~~2. Control the use of the University name by the DSO.~~

~~3. Monitor compliance of the organization with federal and state laws.~~

~~4. Recommend to the governing board of the DSO an annual budget.~~

~~5. Review and approve quarterly expenditure plans.~~

~~6. Approve contributions of funds or supplements to support intercollegiate athletics.~~

(be) Provide that the organization shall provide equal employment opportunities to all persons regardless of race, color, religion, gender, age, disability, marital status, sexual orientation, veteran's status or national origin.

(cf) Prohibit the giving, directly or indirectly, of any gift to a political committee or committee of continuous existence as defined in ~~Section 106.011~~the Florida Statutes, F.S., for any purpose other than those certified by a majority roll call vote of the organization's governing board at a regularly scheduled meeting as being directly related to the educational mission of the University.

~~(3) The Chair of the Florida International University Board of Trustees may appoint a representative to the governing body and the executive committee of each DSO. In addition, the President of the University or a designee shall also serve on the governing body and executive committee of each DSO.~~

(d4) ~~Each DSO shall submit~~Provide that an annual budget, which has been approved by its governing board and recommended by the President of the University, is submitted to the Board of Trustees for review. Such proposed budget shall be approved~~submitted by~~ the Board of Trustees no later than sixty (60) days after the first day of the fiscal year to which the proposed budget pertains. Each proposed budget shall include therein:

~~(a1.)~~ Expenditures for the construction of physical facilities, and

~~(2.b)~~ Salary supplements, compensation and benefits provided to the President, University faculty, and staff, and to DSO employees to be paid with assets of the DSO, which shall be specifically identified.

~~(5e)~~ ~~Each DSO shall~~ Prepare and submit to the President, no later than the first day of each quarter of the organization's fiscal year, a quarterly expenditure plan that separately delineates planned actions which would cause a commitment of University resources or which represent a significant commitment of the resources of the DSO, including:

~~(a1.)~~ Major fund raising events and campaigns and their purpose.

~~(b2.)~~ Compensation and benefits to University employees and employees of the organization.

~~(e3.)~~ Capital projects, including land acquisition, construction, renovation or repair.

~~(d4.)~~ Other major commitments of the resources of the organization.

~~(f6)~~ ~~Each DSO shall cause~~ Have a financial audit of its accounts and records to be conducted by an independent certified public accountant after the close of each fiscal year. The audit report shall be submitted by the President of the University to the Board of Trustees and the Board of Governors no later than the end of the fourth month following the close of the organization's fiscal year.

~~(a1.)~~ Audits shall be conducted pursuant to ~~Section 1004.28(5), F.S.,~~ the requirements of the Florida Statutes and in accordance with rules adopted by the Auditor General, ~~pursuant to Section 11.45(8), F.S., and Florida International University rules.~~

~~(2.b)~~ The President of the University shall submit the annual audit report to the

Auditor General and the Board of Governors no later than nine (9) months after the close of the organization's fiscal year. A DSO must also submit to the Board of Governors its Federal Internal Revenue Service Application for Recognition of Exemption form and its federal Internal Revenue Service Return of Organization Exempt from Income Tax form.

(3) The Chair of the Florida International University Board of Trustees may appoint a representative to the governing body and the executive committee of each DSO. In addition, the President of the University or a designee shall also serve on the governing body and executive committee of each DSO.

(4) The President of the University shall have the power to:

(a) Monitor and control the use of University resources by the organization.

(b) Control the use of the University name by the DSO.

(c) Monitor compliance of the organization with federal and state laws.

(5) The Director or Chief Operating Officer of a DSO shall report to the University President or designee, who shall be a Vice President of the University or other Senior Officer reporting directly to the University President.

(67) The President of the University may recommend to the Board of Trustees that an organization be decertified as a DSO if the President determines that the organization is no longer serving the best interest of the University. The recommendation for decertification shall include a plan for disposition of the organization's assets and liabilities.

(7) All records of the organization other than the auditor's report, management letter, and any supplemental data requested by the Board of Governors, the University Board of Trustees, the Auditor General or the Office of Program Policy Analysis and Government

Accountability shall be confidential and exempt from the provisions of Florida's Public Records Laws.

Specific Authority—~~1001.74(4), 1004.28(2) FS~~ Board of Governors Resolution dated January 7, 2003. Law Implemented ~~1001.74(37) FS~~. History—New 5-8-03, Formerly 6C8-6.100, Amended _____.