

**New College of Florida Board of Trustees
Approved Minutes
Teleconference Meeting of October 17, 2002**

Members in Attendance: Rev. Jerome Dupree; Gen. Rolland Heiser; Bob Johnson; Jane Smiley. Participating by Telephone: Bob Allen; Bob Blalock; John Cranor; Andrew Hossack; Col. Mickey Presha; Alexis Simendinger. Not participating: Dr. Meg Lowman; Kenneth Misemer; Dr. Vicki Raeburn.

Call to Order

Chairman Johnson called the meeting to order at 1:35 P.M. and called the roll.

Approval of Minutes

The minutes of the meeting of August 24, 2002 were approved as submitted.

Action on Rulemaking

David Smolker, General Counsel, explained that rulemaking is required by statute and must satisfy the Administrative Procedures Act requirements.

Consideration of Adoption of, or Changes in, Proposed Rules

Nine rules were previously approved by the Board of Trustees and Notice of Proposed Rulemaking was published on Sept. 18, 2002 in the Sarasota *Herald Tribune*, to give persons an opportunity to request a public hearing. No one has requested a formal hearing on any of these rules:

- Rule 6C11-2.002 Student Records Policy
- Rule 6C11-3.001 Admissions
- Rule 6C11-4.001 Vehicle Registration, Parking and Traffic
- Rule 6C11-4.002 Student Registration and Payment of Tuition and Fees
- Rule 6C11-6.001 Student Code of Conduct
- Rule 6C11-8.002 Appointment, Employment and Removal of University Police
- Rule 6C11-8.003 Limited Access Personnel Records
- Rule 6C11-8.004 Misconduct
- Rule 6C11-8.001 Personnel Matters

Mr. Smolker asked that Rule 6C11-8.001, Personnel Matters, be held aside for discussion later, since he recommends a number of changes due to personnel regulations at the College.

Chairman Johnson opened a Public Hearing on the remaining rules. Since there was no discussion, Ms. Smiley moved to approve the eight rules as proposed. The motion was seconded by Colonel Presha and carried unanimously.

A motion to authorize filing of the rules with the Bureau of Administrative Code in the Secretary of State's Office was made by Andrew Hossack and seconded by Col. Presha.

Discussion followed. Ms. Simendinger asked about the New College policy or rule on faculty, administrators and staff having relationships with students; any statement regarding faculty free speech, and the availability of free transcripts for students. Mr. Smolker responded that the New College of Florida *Policy Manual* includes a policy on sexual harassment and discourages relationships between students and faculty/staff in which allegations of sexual harassment could arise. The NCF *Faculty Handbook* contains a statement on faculty members' rights of free speech, as does each faculty members' contract. Both the *Policy Manual* and the *Faculty Handbook* were approved by the BOT. The transcript fee policy was approved by the Board on April, 2002: enrolled students are entitled to two free transcripts and all thereafter cost \$5 each.

The motion to authorize filing of the rules with the Bureau of Administrative Code in the Secretary of State's Office passed unanimously.

Consideration of Development of Proposed Rules

Mr. Smolker ascertained that the Notice of Rule Development was published on Sept. 25, 2002, which enables someone to request a workshop if they wish in order to discuss the proposed rules:

Rule 6C11-4.003, Tuition, Fee Schedule, and Percentage of Cost

Rule 6C11-4.004, Waiver of Tuition and Materials and Supply Fee

Rule 6C11-6.002 on Student Financial Aid

No one has requested a Rules Workshop, so it is not necessary to conduct one.

Rule 6C11-4.003, Tuition, Fee Schedule, and Percentage of Cost, was approved by the Board on an emergency basis in July 2002. Chairman Johnson stated that a Public Hearing on the Proposed Rule is now open. Since there was no comment or discussion, the Public Hearing was closed. Mr. Cranor moved to approve Rule 6C11-4.003 on Tuition, Fee Schedule, and Percentage of Cost, seconded by Col. Presha. There was no discussion. The motion carried. Mr. Smolker stated that a Notice of Rulemaking on this rule would be published prior to the Nov. 9th BOT meeting.

Consideration of Rule 6C11-4.004, Waiver of Tuition and Materials and Supply Fee, was deferred without objection until the Nov. 9th meeting in response to Mr. Smolker's request.

The proof of publication of Notices of Proposed Rule Development related to Rule 6C11-6.002 on Student Financial Aid was ascertained; the Notice was published in the Sarasota *Herald Tribune* on Sept. 25, 2002. No requests for workshops have been made. Chairman Johnson opened a Public Hearing on the Student Financial Aid rule. Ms. Smiley and Ms. Simendinger commented on typographical errors (page 8, line 5, and the spelling of "Tamiami") and asked that they be corrected. The Public Hearing was closed. General Heiser moved the Rule on Student Financial Aid be adopted with the correction of typographical errors; it seconded by Rev. Dupree, and carried. Mr. Smolker stated that a Notice of Rulemaking would be published prior to the Nov. 9th BOT meeting.

With regard to Rule 6C11-8.001, Personnel Matters, Mr. Smolker explained that this rule had to be reworked from previously-approved text, which was adapted from a standing USF rule. The revised version acknowledges and recognizes that some NCF employees are members of collective bargaining units and is in compliance with the 1997 Uniform Rules of Procedures, which states that agencies must use the same uniform rules for all basic procedures. The revisions of NCF Rule 6C11-8.001 fall into three categories: (1) typographical error correction; (2) technical corrections to define the scope of application of the Personnel Rule and make it dovetail with the collective bargaining agreements, ensuring that all employees have the same basic rights and are subject to the same disciplinary procedures, regardless of their status; and (3) changes mandated by the 1997 statutory changes in the Uniform Rules of Procedures for state agencies. Mr. Smolker reviewed the three categories of revisions to the Personnel Rules page by page. He also explained that the rewording of Rule 6C11.8011, Inventions and Works, on page 19, is intended to ensure that university employees with outside employment cannot waive their individual employee rights or the university's rights to any inventions which arise from their outside employment, and the employee and the university must work out the property interest in the invention. Chairman Johnson opened a Public Hearing on the revised Personnel Matters Rule. Professor Rick Coe asked why New College has adopted USF rules rather than developing its own. Mr. Smolker responded that the pressure of time prevented New College from starting from scratch in developing its own rules governing personnel, misconduct, and a host of other matters. On January 7, 2003, the University Boards of Trustees (UBOTs) will take on many additional responsibilities when they become the employer of record for each university and must serve as the bargaining agent. No further discussion was forthcoming. The Public Hearing was closed. Ms. Smiley made a motion to adopt the revised Rule 6C11-8.001, Personnel Matters, in lieu and replacement of the former rule, to approve the modifications and to authorize publication of Notice of Change, Rev. Dupree seconded, and the motion was approved.

Update on Collective Bargaining

Chairman Johnson noted that the present collective bargaining agreements were negotiated by the Board of Regents on behalf of the State University System. Mr. Smolker provided an update on the collective bargaining agreements that expire Jan. 7, 2003 with all three union groups on campus, the United Faculty of Florida (UFF), American Federation of State and Municipal Employees (AFSME), and the Police Benevolent Association (PBA). The Legislature designated the UBOTs as employers of record as of Jan. 7, so they must not only bargain with any duly certified union, but also resolve collective bargaining impasses. This situation raises many novel legal issues, not the least of which is the question of the status of each union on each campus as the entity representing NCF employees. UFF has filed a petition with the Public Employee Relations Commission (PERC) asking for determination of this and other legal questions. However, it is not likely that the questions will be answered by Jan. 7. Ultimately NCF

has to fashion a strategy that provides for the BOT becoming the employer on Jan. 7, but the BOT is not now legally the employer. Within the next two months, the BOT will hold a workshop to formulate policy on this issue, in an open or executive (closed to the public) session. The BOT Chair, the President, and the UFF representatives are already in conversation, working toward preservation of the prerogatives of the BOT, the rights of all employees, and the goal of keeping relations harmonious. Regardless of whether the unions will or will not represent the employees, NCF must have a personnel system in place covering all employees. More information on this situation will be provided at the November 9th board meeting.

Update on Presidential Search

General Heiser reported on the progress of the Presidential Search Committee, which last met on Sept. 11, 2002 and reduced the number of applicants under active consideration to five. The five are: John Cranor, Alan Dillingham, Marvin Henberg, Mike Michalson, and Axel Steuer. Reference and background checks are underway with the five candidates. The date of the next committee meeting will be announced soon.

Board Resolution to Oppose the Reinstatement of a Statewide Governing Board

Chairman Johnson announced that the Florida Board of Education and the UBOTs of the other ten state universities have passed resolutions opposing a constitutional amendment calling for reinstatement of a statewide governing board like the Board of Regents. The Board of Manatee Community College has passed a resolution against it yesterday. He requested that the New College Board of Trustees go on record opposing this constitutional amendment. Mr. Cranor moved that the Board pass a Resolution stating its opposition to a proposed state constitutional amendment (No. 11) calling for reinstatement of a statewide governing board to manage the Florida's university system. It was seconded by Mr. Allen and passed without further discussion.

Board Resolution to Support SUS Initiative on Bond Issue to Clear Matching Funds Program Backlog

Chairman Johnson reported that a \$100 million deficit exists in the state fund used to match private donations to state universities. This situation creates a severe credibility problem for university fundraisers. Last month, representatives of the eleven state university foundations met in Tampa and developed a plan to deal with the backlog in matching gifts that have gone unmatched by state money. They proposed a one-time 20-year bond be issued to generate \$100 million owed the state universities (including \$1 million owed to New College), plus \$25 million due to the community colleges. The bond's carrying costs of about \$8 million per year would be paid out of lottery money. Internal parameters were set for eligible state matching funds projects. General Heiser noted that it is in the BOT's best interest to join the other SUS UBOTs. He moved that the Board to pass a Resolution to support the initiative of the other ten state universities and the Florida Board of Education to propose a state bond issue payable over 20 years to make good on \$100 million owed to state universities plus \$25 million for the community colleges; the motion was seconded by Col. Presha.

Discussion ensued. Mr. Allen moved to amend the motion on the table as follows: "This Board of Trustees supports the efforts to resolve the matching funds problem." His amendment was seconded by Ms. Simendinger. There was no discussion. A roll call vote on the amendment failed by a vote of 7 to 2. The original Resolution passed unanimously.

Since there was no further business, the meeting was adjourned at 2:53 P.M.

Respectfully submitted,

Suzanne Janney
Assistant Secretary

