

**NEW COLLEGE OF FLORIDA
REGULATIONS MANUAL**

CHAPTER 2 - The Board of Trustees

2-1004 Powers and Duties of the Board of Trustees

Pursuant to Article IX, section 7 of the Constitution of the State of Florida, and Board of Governors Regulation 1.1001 and the State University System Governance Agreement dated March 24, 2010, the Board of Trustees shall have the following status, powers, duties, and responsibilities.

(1) General Powers, Duties and Responsibilities

- (a) The BOT shall be a public body corporate by the name of "The New College of Florida Board of Trustees," with all the powers of a body corporate, including the power to adopt a corporate seal, to contract and be contracted with, to sue and be sued, to plead and be impleaded in all courts of law or equity, and to give and receive donations. In all suits against the BOT, service of process shall be made on the Chair of the BOT, or, in the absence of the Chair, on the corporate secretary or designee.
- (b) The BOT shall be a corporation primarily acting as an instrumentality or agency of the state pursuant to Chapter 768.28(2), Florida Statutes, for purposes of sovereign immunity.
- (c) The BOT is not a department of the executive branch of state government within the scope and meaning of Article IV, section 6 of the Constitution of the State of Florida.
- (d) The BOT is constitutes a public instrumentality, and the exercise by the BOT of the power conferred by this section is considered to be the performance of an essential public function. The corporation is subject to Chapter 119, Florida Statutes, subject to exceptions applicable to it, and to the provisions of Chapter 286, Florida Statutes; however, the corporation shall be entitled to provide notice of internal review committee meetings for competitive proposals or procurement to applicants by mail, email, web posting, or facsimile rather than by means of publication. The corporation is not governed by Chapter 607, Florida Statutes. The corporation shall maintain coverage under the State Risk Management Trust Fund as provided in Chapter 284, Florida Statutes.
- (e) No bureau, department, division, agency, or subdivision of the State shall exercise any responsibility and authority to operate NCF except as specifically provided by law, regulation, or agreement of the BOG. This regulation shall not prohibit any department, bureau, division, agency, or subdivision of the state from providing access to programs or systems or providing other assistance to NCF pursuant to an agreement between NCF and such department, bureau, division, agency, or subdivision of the State.

(2) University Administration and Oversight

- (a) The BOT is vested with the authority to govern NCF, as necessary to provide proper guidance and direction to carry out its mission in accordance-with law and with regulations, resolutions and agreements of the BOG. The BOT shall perform all duties assigned by law or by the BOG.
- (b) The BOT 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 BOT all data and information required by the BOT in the performance of its duties.
- (c) The BOT may establish committees to address matters including, but not limited to, academic and student affairs, strategic planning, finance, audit, property acquisition and construction, personnel, and budgets.

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- (d) The BOT shall adopt a strategic plan specifying institutional goals and objectives that are in alignment with the College's mission, the BOG system-wide strategic plan, and BOG regulations. The BOT strategic plans shall be submitted to the BOG for approval.
 - (e) The BOT shall prepare a multi-year work-plan that outlines the College's top priorities, strategic directions, and specific actions and financial plans for achieving those priorities, as well as performance expectations and outcomes on institutional and system-wide goals. The work-plan shall reflect the College's distinctive mission and focus on core institutional strengths within the context of State University System goals and regional and statewide needs. The work-plan shall be submitted to the BOG.
 - (f) The BOT shall maintain an effective information system to provide accurate, timely, and cost-effective information about the College, and shall require that all data and reporting requirements of the BOG, accreditors, and other governing bodies are met.
 - (g) The BOT may promulgate regulations and procedures related to data and technology, including information systems, communications systems, computer hardware and software, and networks.
 - (h) The BOT may secure comprehensive general liability insurance pursuant to Chapter 1004.24, Florida Statutes.
 - (i) The BOT may provide for payment of the cost of civil actions against its officers, employees, or agents pursuant to Chapter 1012.965, Florida Statutes.
 - (j) The BOT may promulgate regulations in accordance with the Regulation Development Procedure adopted by the BOG.
 - (k) The BOT may govern traffic on the grounds of the College and in other areas in accordance with law and any mutual aid agreements entered into with other law enforcement agencies.
 - (l) The BOT shall be responsible for campus safety and emergency preparedness, to include safety and security measures for College personnel, students, and campus visitors.
 - (m) The BOT may create divisions of sponsored research and establish policies regulating the administration and operation of the divisions of sponsored research.
- (3) Academic Programs and Student Affairs
- (a) The BOT has responsibility for ensuring that students have access to general education courses as identified in regulation and requiring no more than one hundred and twenty (120) semester hours of coursework for baccalaureate degree programs unless approved by the BOG. At least half of the required coursework for any baccalaureate degree must be offered at the lower-division level, except in program areas approved by the BOG.
 - (b) The BOT shall adopt College regulations or policies consistent with BOG regulations in areas including, but not limited to the following.
 - 1. The BOT has responsibility for the establishment and discontinuance of degree programs up to and including the master's degree level; the establishment and discontinuance of course offerings;

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provision of credit and noncredit educational offerings; location of classes; services provided; and dissemination of information concerning such programs and services. Approval of new programs must be pursuant to criteria established by the BOG;

2. The BOT must identify its core curricula and work with school districts to ensure that its curricula coordinate with the core curricula and prepare students for college-level work. The BOT may establish intra-institutional and inter-institutional programs to maximize articulation pursuant to Chapter 1007.22, Florida Statutes;
 3. The BOT shall govern admission and financial assistance of students pursuant to Florida Statutes and regulations of the BOG. The BOT 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 NCF;
 4. The BOT shall establish student performance standards for the award of degrees and certificates;
 5. The BOT has responsibility for student activities and organizations;
 6. The BOT has responsibility for student records and reports;
 7. The BOT must adopt a written anti-hazing regulation, appropriate penalties for violations of such regulation, and a program for enforcing such regulation;
 8. The BOT must adopt a policy pursuant to Chapter 1006.53, Florida Statutes, 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; and
 9. The BOT shall establish a uniform code of conduct and appropriate penalties for violations 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.
- (c) The BOT shall establish a committee to periodically review and evaluate the student judicial system. At least one-half of the members of the committee shall be students appointed by the student body president.
- (d) The BOT shall approve the internal procedures of student government organizations.
- (e) The BOT shall require that institutional control and oversight of its intercollegiate athletics program is in compliance with the rules and regulations of the National Collegiate Athletic Association. The College President is responsible for the administration of all aspects of the intercollegiate athletics program, as stated in NCF Regulation 2-2002 Powers of the President.
- (4) Personnel
- (a) The BOT shall provide for the establishment of the personnel program for all College employees, including the President, which may include, but is not limited to, the following:

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1. Compensation and other conditions of employment;
 2. Recruitment and selection;
 3. Non-reappointment;
 4. Standards for performance, conduct, evaluation, benefits, and hours of work;
 5. Leave policies;
 6. Recognition and awards;
 7. Inventions and works
 8. Travel;
 9. Learning opportunities and exchange programs;
 10. Academic freedom and responsibility;
 11. Promotion, assignment, demotion, transfer, tenure, and permanent status;
 12. Ethical obligations and conflicts of interest;
 13. Restrictive covenants;
 14. Disciplinary actions, complaints, appeals, and grievance procedures; and
 15. Separation and termination from employment.
- (b) The Department of Management Services shall retain authority over College employees for programs established in Chapters 110, 121, 122, and 238, Florida Statutes.
- (c) To the extent allowed by law, College employees shall continue to be able to participate in the state group insurance programs and the state retirement systems.
- (d) The BOT 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 NCF.
- (e) The BOT shall act as the sole public employer with regard to all public employees of the College for the purposes of collective bargaining, and shall serve as the legislative body for the resolution of impasses with regard to collective bargaining matters.

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- (f) The BOT shall select the President subject to confirmation by the BOG. A Presidential search committee shall be appointed to make recommendations to the full BOT subject to BOG Regulation 1.002. The BOT shall select a candidate for confirmation, and shall submit a written description of the selection process and criteria, and the qualifications of the selected candidate for BOG consideration. The candidate selected by the BOT shall be required to appear before the BOG at the meeting where confirmation of the candidate will be considered. Such meeting will be held as soon as practicable to ensure a timely transition. A two-thirds vote of the BOG shall be required to deny confirmation of a candidate selected by the BOT.
 - (g) In the event the BOT selects an interim President, such selection is subject to confirmation by the Board of Governors. If it is determined by the BOT to be in the best interests of the College, the interim President selected by the BOT may be delegated full authority to serve as the interim President during the period prior to confirmation by the BOG. Continued service as interim President requires confirmation by the BOGs, and the candidate shall be required to appear before the BOG at the meeting where confirmation will be considered. Such meeting will be held as soon as practicable to ensure a timely transition.
 - (h) The BOT shall develop guidelines for the annual evaluation of the President.
 - (i) The BOT shall conduct an annual evaluation of the President in accordance with rules of the BOG and submit such evaluations to the BOG for review. The evaluation must address the achievement of the performance goals established by the accountability process implemented pursuant to Chapter 1008.46, Florida Statutes, and the performance of the President in achieving the annual and long-term goals and objectives established in the institution's employment equity accountability program implemented pursuant to Chapter 1012.95, Florida Statutes. The Chair of the BOT shall request input from the Chair of the BOG, who may involve the Chancellor, during the annual evaluation process pertaining to responsiveness to the BOG's strategic goals and priorities, and compliance with system-wide regulations.
- (5) Financial Management
- (a) The BOT shall be responsible for the financial management of the College and shall submit an institutional budget request, including a request for fixed capital outlay, and an operating budget to the BOG for approval in accordance with the guidelines established by the BOG.
 - (b) The BOT shall establish tuition and fees, as well as waivers for tuition and fees, pursuant to the State University System Governance Agreement dated March 24, 2010, BOG regulations and delegation, and Chapters 1009.24 and 1009.26, Florida Statutes.
 - (c) The BOT shall engage in sound debt management practices for the issuance of debt by the College and its direct support organizations, and shall comply with the guidelines established by the BOG in connection with the authorization, issuance, and sale of College and direct support organization debt.
 - (d) The BOT shall account for expenditures of all state, local, federal, and other funds in accordance with BOG guidelines or regulations, and as provided by state or federal law.

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- (e) The BOT may enter into agreements for, and accept, credit card payments as compensation for goods, services, tuition, and fees.
- (f) The BOT shall establish policies and procedures for the performance of annual internal audits of College finances and operations. All reports generated from such audits must be submitted to the BOG after review and acceptance by the BOT or its designee.
- (g) The BOT and any direct support organization shall submit annual financial statements to the BOG.

(6) Property and Purchasing

- (a) The BOT shall ensure compliance with the provisions of Chapter 287.09451, Florida Statutes, for all procurement, and Chapters 255.101 and 255.102, Florida Statutes, for construction contracts, and rules adopted pursuant thereto, relating to the utilization of minority business enterprises, except that procurements costing less than the amount provided for in CATEGORY FIVE as provided in Chapter 287.017, Florida Statutes, shall not be subject to Chapter 287.09451, Florida Statutes.
- (b) Notwithstanding the provisions of Chapter 253.025, Florida Statutes, the BOT may, with the consent of the Board of Trustees of the Internal Improvement Trust Fund, sell, convey, transfer, exchange, trade, or purchase real property and related improvements necessary and desirable to serve the needs and purposes of NCF.
- (c) The BOT and any direct support organization must obtain prior approval from the BOG before entering into a binding contractual obligation to improve real property that will result in the BOT or the direct support organization seeking a commitment of state funds for the development, construction, operation, or maintenance of an educational or research facility.
- (d) The BOT shall have the authority to acquire real and personal property and contract for the sale and disposal of same, and approve and execute contracts for purchase, sale, lease, license, or acquisition of commodities, goods, equipment, and contractual services, leases of real and personal property, and construction. The acquisition may include purchase by installment or lease-purchase. Such contracts may provide for payment of interest on the unpaid portion of the purchase price.
- (e) With respect to state-funded real property acquisitions, the BOT may, with the consent of the Board of Trustees of the Internal Improvement Trust Fund, sell, convey, transfer, exchange, trade, or purchase real property and related improvements necessary and desirable to serve the needs and purposes of the College.
 - 1. The BOT may secure appraisals and surveys in accordance with the policies and procedures of the Board of Trustees of the Internal Improvement Trust Fund. Whenever the BOT finds it necessary for timely property acquisition, it may contract, without the need for competitive selection, with one or more appraisers whose names are contained on the list of approved appraisers maintained by the Division of State Lands in the Department of Environmental Protection.

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2. The BOT may negotiate and enter into an option contract before an appraisal is obtained. The option contract must state that the final purchase price may not exceed the maximum value allowed by law. The consideration for such an option contract may not exceed 10 percent of the estimate obtained by the BOT, or 10 percent of the value of the parcel, whichever is greater, unless otherwise authorized by the BOT.
 3. Title to property acquired by the BOT prior to January 7, 2003, and to property acquired thereafter with state funds, shall vest in the Board of Trustees of the Internal Improvement Trust Fund. With respect to all other real property acquired by the College, such property shall be titled in the name of the BOT, or as the BOT may deem appropriate.
 4. This subsection is not intended to abrogate in any manner the authority delegated to the Board of Trustees of the Internal Improvement Trust Fund or the Division of State Lands to approve a contract for purchase of state lands or to require policies and procedures to obtain clear legal title to parcels purchased for state purposes. Title to property acquired by the BOT prior to January 7, 2003, and to property acquired with funds appropriated by the Legislature, shall vest in the Board of Trustees of the Internal Improvement Trust Fund.
- (f) The BOT shall submit plans for all new campuses and instructional centers to the BOG for approval.
- (g) The BOT shall administer a program for the maintenance and construction of facilities.
- (h) The BOT may exercise the right of eminent domain pursuant to the provisions of Chapter 1013, Florida Statutes. Any suits or actions brought by the BOT shall be brought in the name of the BOT, and the Department of Legal Affairs shall conduct the proceedings for, and act as the counsel of, the BOT.
- (i) The BOT shall be responsible for the use, maintenance, protection, and control of, and the imposition of charges for, College-owned or College-controlled buildings and grounds, property and equipment, name trademarks and other proprietary marks, and the financial and other resources of the College. 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. The authority vested in the BOT in this subsection includes the prioritization of the use of space, property, equipment, and resources and the imposition of charges for those items.
- (j) With respect to any funds or real or personal property designated by will, deed, agreement, or court appointment to be held in trust for the benefit of the College or its students, faculty members, officers, or employees, or for any educational purpose, the BOT may act as trustee with full legal capacity as trustee to administer such trust property and, in such event, the title thereto shall vest in the BOT as trustee. In all such cases, the BOT shall have the power and capacity to do and perform all things as fully as any individual trustee or other competent trustee might do or perform, and with the same rights, privileges, and duties including the power, capacity, and authority to convey, transfer, mortgage, or pledge such property held in trust and to contract and execute all other documents relating to said trust property which may be required for or appropriate to the administration of such trust or to accomplish the purposes of any such trust.

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Nothing herein shall be construed to authorize the BOT to contract a debt on behalf of, or in any way to obligate, the state; and the satisfaction of any debt or obligation incurred by the BOT under the provisions of this section shall be exclusively from the trust property, mortgaged or encumbered.

1. Deeds, mortgages, leases, and other contracts of the BOT relating to real property of any such trust or any interest therein may be executed by the BOT, as trustee, in the same manner as is provided by the laws of the State for the execution of similar documents by other corporations or may be executed by the signatures of a majority of the members of the BOT; however, to be effective, any such deed, mortgage, or lease contract for more than 10 years of any trust property, executed hereafter by the BOT, shall be approved by a resolution of the BOG; and such approving resolution may be evidenced by the signature of either the chair or the secretary of the BOG to an endorsement on the instrument approved, reciting the date of such approval, and bearing the seal of the BOG. Such signed and sealed endorsement shall be a part of the instrument and entitled to record without further proof.
 2. Any and all such appointments of, and acts by, the BOG as trustee of any estate, fund, or property prior to May 18, 1949, are hereby validated, and said board's capacity and authority to act as trustee until July 1, 2001, in all of such cases is ratified and confirmed; and all deeds, conveyances, lease contracts, and other contracts heretofore executed by the BOG, either by the signatures of a majority of the members of the board or in the board's name by its chair or chief executive officer, are hereby approved, ratified, confirmed, and validated.
- (k) The BOT shall prepare and adopt a campus master plan, and shall prepare, adopt, and execute a campus development agreement, pursuant to Chapter 1013.30, Florida Statutes.
- (l) The BOT may authorize the rent or lease of parking facilities, provided that such facilities are funded through parking fees or parking fines imposed by the College. The BOT may authorize the College to charge fees for parking at such rented or leased parking facilities and parking fines.
- (m) The BOT shall promulgate regulations that establish basic criteria related to the procurement of commodities and contractual services.
- (n) The BOT shall be responsible for the fire safety and sanitation of public educational and ancillary plants.
- (7) Direct Support Organizations and Health Services Support Organizations
- (a) The BOT may establish direct support organizations (“DSO”) and health services support organizations and certify them to use College property, facilities and personal services. Such support organizations shall be organized and operated to serve the best interests or missions of the College, including the College’s research, education and service missions, and may receive, hold, invest, and administer property and make expenditures to or for the benefit of the College or for the benefit of a research and development park or research and development authority affiliated with the College.
 - (b) The BOT shall establish by regulation conditions with which a support organization must comply in order to use College property, facilities, or personal services and such additional conditions,

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controls, and requirements for support organizations as the BOT deems appropriate to provide for budget and audit review and oversight. In addition, the regulation must include the following conditions:

1. The establishment of appropriate thresholds that delineate when approval by the BOT is required for the purchase of goods and services by a DSO.
 2. All debt issued by a DSO is subject to the State University System Debt Management Guidelines and all public-private partnership transactions involving a DSO are subject to the State University System Public-Private Partnership Guidelines.
 3. The establishment of appropriate thresholds that delineate when approval is required by the BOT for the acquisition of real property and the construction or renovation of facilities by a DSO.
 4. College personal services used by a DSO are subject to the remuneration requirements set forth in section 1012.976, Florida Statutes.
 5. A DSO is prohibited from using state funds for travel expenses incurred by the DSO.
 6. A DSO is prohibited from giving, either directly, or indirectly, any gift to a political committee as defined in section. 106.011 Florida Statutes, for any purpose.
- (c) The Director or Chief Executive Operating Officer of the support organization shall report to the college president or designee.
- (d) Operating budgets of support organizations shall be prepared at least annually, and approved by the organization's governing board and the BOT or designee. Significant changes in planned expenditures in the approved budget must be reported to the BOT or designee as soon as practicable but no later than the deadline established by the BOT.
- (e) Support organizations shall provide for an annual audit conducted pursuant to College regulations or policies. The annual audit report shall be submitted to the BOT for review. The approved audit report shall be submitted to the Board of Governors, and the Auditor General. The BOT or designee, the Board of Governors, the Auditor General, and the Office of Program and Policy Analysis and Government Accountability may require and receive any records relative to the operation of a support organization from the organization or its independent auditors.
- (f) Each support organization shall submit 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) to the BOT or designee at the times required by the applicable regulation or policy of the BOT. Copies of such forms shall be provided by the College to the Board of Governors.
- (g) As of July 1, 2019, any transfer of a state appropriation to a DSO is limited to funds pledged for capital projects.

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1. This regulation does not prohibit the transfer of non-state funds between College DSOs, or the transfer of non-state funds to the DSO, as long as the original source of funding was not a state appropriation.
 2. A DSO may transfer funds and provide the use of DSO property, facilities or personal services without any charge to the College.
 3. Effective for fiscal 2018-2019, and annually thereafter, the College will report to the Legislature and the Board of Governors all transfers of state funds to each university DSO, using the format and instructions specified by the Chancellor.
- (h) A support organization shall provide equal employment opportunities to all persons, regardless of race, color, national origin, sex, religion, age, disability, marital status, veteran status, or any other basis protected by law.
- (i) The chair of the BOT shall appoint at least one representative to each DSO board of directors and executive committee (if any). The College president or designee shall also serve on the board of directors and executive committee of each DSO. The BOT shall approve all appointments to any DSO board other than the chair's representative(s) or the president or president's designee. The chair's designee may not be the university president; nor may the chair and president appoint the same person to represent both the chair and the president on any one DSO board.
- (j) The BOT shall decertify a support organization if the university board of trustees or designee determines that the organization is no longer serving the best interest or mission of the university and decertification is appropriate.

In decertifying a support organization, the BOT shall require an accounting of the organization's assets and liabilities and take such reasonable action as necessary to secure the return of all College property and facilities as requested by the College.

(8) Other Powers and Duties

- (a) The BOT may form such corporate entities as are necessary to establish and maintain faculty practice plans for the collection, distribution, and regulation of fees generated by faculty members engaged in the provision of healthcare services to patients as an integral part of their academic activities and employment as faculty. Each such faculty practice plan must be adopted by the BOT in accordance with BOG regulations and sent to the BOG for approval.
- (b) The BOT may establish educational research centers for child development pursuant to Chapter 1011.48, Florida Statutes.
- (c) The BOT may protect, develop, and transfer the work products of College personnel, agents, and contractors, which authority shall include but not be limited to licensing, assigning, selling, leasing, or otherwise allowing the use of or conveying such work products and securing and enforcing patents, copyrights, and trademarks on such products. The BOT may develop and produce work products relating to educational endeavors that are subject to trademark, copyright, or patent statutes pursuant to Chapter 1004.23, Florida Statutes. The BOT shall have policies and procedures concerning the work products of College personnel that facilitate technology

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development and transfer for the public benefit. Such policies must include, without limitation, provisions that take into account the contributions of College personnel in the development of work products and that require any proceeds from such work products be used to support the research and sponsored training programs of the College.

- (d) The BOT bears ultimate responsibility for compliance with the requirements of all applicable laws, rules, and regulations.
 - (e) The BOT shall perform such other duties as provided by the BOG, or as the BOT may determine are necessary or appropriate for the administration of the College, so long as the BOT complies with any applicable laws and BOG regulations and policies.
 - (f) The BOT shall be responsible for cost-effective policy decisions appropriate to NCF's mission, the implementation and maintenance of high quality education programs within law and rules of the BOG, the measurement of performance, the reporting of information, and the provision of input regarding state policy, budgeting, and education standards.
 - (g) The BOT shall develop an accountability plan pursuant to guidelines established by the BOG and Florida Statutes.
 - (h) The BOT shall actively implement a plan, in accordance with guidelines of the State Board of Education, for working on a regular basis with the other university boards of trustees, representatives of the community college boards of trustees, and representatives of the district school boards, to achieve the goals of the seamless education system.
- (9) In addition to the duties and responsibilities enumerated herein, NCF and the BOT shall have those duties and responsibilities as may be specifically delegated by the BOG and as may be provided by law or agreement and shall act consistent with those responsibilities.

Authority: Article IX, Sec. 7, Fla. Constitution; Fla. Board of Governors Regulation 1.001

History: Adopted 09-29-01, as By-laws of the Board of Trustees of NCF; Revised 11-03-01, 05-25-02, 07-15-02, 08-24-02, 02-8-03, 02-05-05; Revised and renumbered 11-05-05; Revised 09-11-10, 11-06-10, 11-04-17, 10-20-18; 04-19-22