

**FLORIDA BOARD OF GOVERNORS
NOTICE OF PROPOSED NEW REGULATION**

DATE: September 28, 2016

REGULATION NUMBER AND TITLE: 4.004, Board of Governors Oversight Enforcement Authority

SUMMARY: This regulation describes the Joint Legislative Auditing Committee and the Board of Governors' escalation procedures for repeat Auditor General audit findings and other university noncompliance. It outlines the Board of Governors Inspector General's role in providing direction for, supervising, or coordinating investigations of allegations of material non-compliance with any law or Board of Governors regulations.

FULL TEXT OF THE REGULATION IS INCLUDED WITH THIS NOTICE.

AUTHORITY TO PROPOSE REGULATION(S): Section 7(d), Art. IX, Fla. Const.; BOG Regulation Development Procedure dated March 23, 2006.

THE BOARD OF GOVERNORS' OFFICIAL INITIATING THE PROPOSED REGULATION: Joe Maleszweski, Inspector General and Director of Compliance

COMMENTS REGARDING THE PROPOSED REGULATION SHOULD BE SUBMITTED WITHIN 14 DAYS OF THE DATE OF THIS NOTICE TO THE CONTACT PERSON IDENTIFIED BELOW. The comments must identify the regulation on which you are commenting:

General Counsel, Board of Governors, State University System, 325 W. Gaines Street, Suite 1614, Tallahassee, Florida 32399, (850) 245-0466 (phone), (850) 245-9685 (fax), or generalcounsel@flbog.edu.

4.004 Board of Governors Oversight Enforcement Authority

- (1) The Joint Legislative Auditing Committee (JLAC) of the Florida Legislature has the authority to address state universities that have failed to take full corrective action in response to audit findings included in the two (2) preceding financial or operational audit reports in accordance with section 11.45(7)(j), Florida Statutes. The JLAC may request from a board of trustees a written statement explaining why full corrective action has not been taken or, if the board of trustees intends to take full corrective action, describing the corrective action to be taken and when it will occur. If the JLAC determines that the written statement is not sufficient, it may require the chair of the board of trustees, or the chair's designee, to appear before the JLAC. If the JLAC determines that the state university has failed to take full corrective action for which there is no justifiable reason or has failed to comply with their requests made pursuant to section 11.45(7)(j), Florida Statutes, the JLAC shall refer the matter to the Board of Governors to proceed in accordance with this regulation.
- (2) The Office of Inspector General and Director of Compliance (OIGC) Charter is incorporated herein by this reference.
- (3) In addition to OIGC investigative responsibilities outlined in the OIGC charter, the chancellor may determine that allegations of material non-compliance with any law or Board of Governors regulations warrant an investigation. The Board of Governors' inspector general shall provide direction for, supervise, and coordinate such investigations. When appropriate, matters of alleged non-compliance will be forwarded to the proper university for handling. In addition, the Board of Governors' inspector general will review all instances referred to the Board of Governors by the JLAC as described in paragraph (1) above.
- (4) The Board of Governors' inspector general shall submit the investigatory findings to the chair of the university's board of trustees, or the chair's designee, which shall have twenty (20) working days from the receipt of the draft report to submit a written response to the findings. The university's response and the inspector general's rebuttal to the response, if any, shall be included in the final report presented to the Board of Governor's Audit and Compliance Committee and the chair of the university's board of trustees or the chair's designee.
- (5) The Board of Governors may require the university board of trustees to document that it has come into compliance with the law or Board of Governors regulation or that it is taking reasonable and diligent steps to come into compliance. If, after being provided the opportunity to demonstrate compliance, the university board of trustees cannot satisfactorily document that it is in compliance or will come into compliance within a reasonable period of time, the Board of Governors may order compliance within a specified timeframe.

- (6) If non-compliance is substantiated, and the Board of Governors determines that a university board of trustees is unwilling or unable to comply with any law, Board of Governors regulation, or audit recommendation within the specified timeframe, the Board of Governors may initiate any of the following actions:
- (a) Withhold the transfer of state funds, discretionary grant funds, discretionary lottery funds, or any other funds appropriated to the Board of Governors by the Legislature for disbursement to the state university until the university complies with the law or Board of Governors' regulation.
 - (b) Declare the state university ineligible for competitive grants disbursed by the Board of Governors until the university complies with the law or Board of Governors' regulation.
 - (c) Require monthly or periodic reporting on the situation related to noncompliance until it is remedied.
 - (d) Report to the Legislature that the state university is unwilling or unable to comply with the law or Board of Governors' regulation and recommend action to be taken by the Legislature.
- (7) Any actions taken by the Board of Governors pursuant to this regulation will be commensurate with, and take into account, the nature and severity of the non-compliance, the criticality of the compliance, and the reason for the university's failure to come into compliance.

Authority: Section 7(d), Art. IX, Fla. Const.; History: New _____.