

NATIONAL
ASSOCIATION
of SCHOLARS

8 December 2022

Florida Board of Governors
State University System
325 West Gaines Street, Suite 1614
Tallahassee, FL 32399-0400

Dear Florida Board of Governors,

I am delighted that you have moved to put SB 7044: Postsecondary Education into effect by means of your proposed Board of Governors Regulation 10.003, Post-Tenure Faculty Review.¹ I believe your proposed regulation thoughtfully and successfully translates SB 7044 into administrative regulation, and that it will have a positive effect on the University of Florida. I write to explain our approval—and to urge you to accompany this work with other regulations that I believe will help the Board fulfill the legislative intent behind SB 7044.

I write as President of the National Association of Scholars (NAS). NAS is a network of mostly U.S. scholars and citizens united by our commitment to academic freedom, disinterested scholarship, and excellence in higher education. As part of our mission, we support intellectual freedom and depoliticized education throughout North America. We have more than thirty years of experience in advocating for these principles. (For further information, please see www.nas.org.)

Regulation 10.003, Post-Tenure Faculty Review: What It Does Right

Regulation 10.003, Post-Tenure Faculty Review thoughtfully and successfully translates SB 7044 into administrative regulation. I am impressed at how clearly you have stated the process by which tenured faculty will be judged, how you provide faculty chances to improve before termination, and how you provide for due process so that faculty may appeal this decision. You have removed every element of arbitrary judgment from the proposed Post-Tenure Faculty Review. Indeed, it would appear to me that faculty possess far greater rights of job security under this proposed regulation than do any other class of workers in Florida. You allow for tenure to be revoked, but you do not make the process easy, and you assure that it will only be for cause.

Suggestions for Accompanying Reform

I believe the Board of Governors should make sure that no personnel within Florida's university system abuse this system. Regulation 10.002 delegates the determination of *professional conduct, academic responsibilities, and performance* to the different components of the Florida University System. Many universities around the country, however, are now integrating radical activism into their definition of

¹ SB 7044: Postsecondary Education, <https://www.flsenate.gov/Session/Bill/2022/7044/BillText/er/HTML>; 10.003 Post-Tenure Faculty Review, <https://www.flbog.edu/wp-content/uploads/2022/11/Regulation-10.003.pdf>.

*professional conduct, academic responsibilities, and performance.*² If this is done in Florida, it raises the possibility that tenured professors at the University of Florida could be fired for failing to perform a sufficient amount of radical activism. I urge the Board of Governors to preclude this possibility by drafting and entering into the State University System of Florida's Regulations three performance metrics for faculty, which may not be overridden by any departmental or collegiate definitions of *professional conduct, academic responsibilities, and performance: Intellectual Diversity, Professorial Neutrality, and Nondiscrimination*. I offer the following language, drawn from the Civics Alliance's model Campus Intellectual Diversity Act, which I believe might usefully inform your own work.³

Intellectual Diversity

Faculty should endeavor, wherever relevant in their professional activities,

1. to foster the fullest degree of intellectual diversity, both with regard to public policy issues widely-discussed and debated in society at large, and within their academic disciplines; and
2. to allow and encourage students to reach their own conclusions about all controversial matters and not seek to inculcate any social, political, or religious point of view.

Professorial Neutrality

Faculty should endeavor, wherever relevant in their professional activities,

1. not to encourage, discourage, require, or forbid students, faculty, or staff, as a condition of receiving a grade, recommendation, job, or any material benefit, to endorse, assent to, or publicly express a given ideology, political stance, or view of social policy, including issues such as climate change, electoral politics, foreign policy, diversity programs, immigration policy, or marriage policy, and concepts such as allyship, diversity, social justice, sustainability, systemic racism, gender identity, equity, or inclusion, and any ideology that classifies individuals within identity groups, divides identity groups into oppressed and oppressors, and prescribes advantages, disadvantages, or segregation based upon identity group membership.

Nondiscrimination

Faculty should endeavor, wherever relevant in their professional activities,

1. not to apply political and ideological litmus tests in any hiring, promotion, and admissions decisions, including "diversity statements" and any other requirement that applicants describe their commitments to concepts such as allyship, diversity, social justice, sustainability, systemic racism, gender identity, equity, or inclusion, or to any ideology that classifies individuals within identity groups, divides identity groups into oppressed and oppressors, and prescribes advantages, disadvantages, or segregation based upon identity group membership, or to any other ideology, principle, concept, or formulation that requires commitment to any belief or policy that is the subject of political controversy;
2. not to use any hiring, promotion, or admissions process or decision to encourage, discourage, require, or forbid students, faculty, or administrators to endorse, assent to, or publicly express

² E.g., John Sailer, *The Anatomy of a Diversity Equity and Inclusion Takeover A Case Study of the University of Tennessee*, National Association of Scholars, August 11, 2022, <https://www.nas.org/reports/the-anatomy-of-a-diversity-equity-and-inclusion-takeover/full-report>.

³ Campus Intellectual Diversity Act, Civics Alliance, <https://civicsalliance.org/campus-intellectual-diversity-act/>.

a given ideology, political stance, or view of social policy; nor to use a “diversity statement,” or any other assessment of applicants’ commitments to concepts such as allyship, diversity, social justice, sustainability, systemic racism, gender identity, equity, or inclusion, in any hiring, promotion, or admissions process or decision; and

3. not to use any process or decision regulating conditions of work or study, such as committee assignments, course scheduling, or workload adjustment policies, to encourage, discourage, require, or forbid students, faculty, or administrators to endorse, assent to, or publicly express a given ideology, political stance, or view of social policy.

I also suggest the Board apply *Intellectual Diversity*, *Administrative Neutrality*, and *Nondiscrimination* performance metrics to the State University System of Florida’s administrative employees and condition these employees’ continued employment on their adequate performance according to these metrics. Above all, I urge the Board to apply these metrics to all personnel involved in administering Regulation 10.003, and to engage in personal oversight to ensure that the State University System of Florida’s administrative employees follow through with the letter and the spirit of Regulation 10.003 and of *Intellectual Diversity*, *Administrative Neutrality*, and *Nondiscrimination* performance metrics.

Conclusion

The Board of Governors has done excellent work drafting Regulation 10.003, Post-Tenure Faculty Review. The National Association of Scholars would be glad to testify publicly in favor of the Regulation. I encourage you to put it into operation as soon as possible—and to complement it by enacting new *Intellectual Diversity*, *Professorial Neutrality*, and *Nondiscrimination* performance metrics for faculty and administration. If you do so, you will fulfill the spirit of the legislative intent behind the excellent legislation SB 7044.

Respectfully yours,



Peter Wood
President
National Association of Scholars