

# SOUTH DAKOTA BOARD OF REGENTS

## Policy Manual

**SUBJECT:** Appointment, Authority, and Responsibilities of Presidents and Superintendents

**NUMBER:** 1:6

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### 1. Appointment

The presidents and superintendents shall be appointed by the Board of Regents. The Board may conduct a nationwide search by utilizing a search and screen committee consistent with Board bylaws. The president or superintendent is the chief executive officer of the institution and shall serve on the basis of contracts subject to annual renewal. No president or superintendent who assumes those responsibilities after July 1, 1990, shall receive or retain a tenured faculty appointment. Those individuals who were appointed to presidencies prior to July 1, 1990, and who were granted or allowed to retain tenured faculty rank, shall continue to enjoy such tenure rights, subject to the terms and conditions provided in their annual appointment notices.

### 2. Responsibilities

The president or superintendent of each institution shall be responsible for the administration of the university or special school and the respective component entities. He or she shall have the following specific responsibilities:

- A. Maintain an effective communications link between the campus and the Board, the Executive Director, other System campuses, and all constituencies at the campus levels including faculty, students, administrators, CSA employees, alumni, and community.
- B. Provide academic leadership and promote academic excellence at the campus and formulate educational policies and academic standards consistent with Board policy.
- C. Maintain institutional expenditures within the budgetary authorizations and limitations of the Board of Regents and the Legislature.
- D. Recommend budget allocation and apportion funds within allocations.
- E. Enforce the policies and regulations of the Board of Regents and the State of South Dakota.
- F. Present all official business of the institution to the Board of Regents.

- G. Recommend for appointment, tenure, and dismissal all members of academic and non-academic staff in accordance with Board policy and procedures.
- H. Determine the overall administrative organization of the institution and annually present to the Board an outline of the structure noting any recommended changes.
- I. Attend all regular meetings of the Board unless excused by the President of the Board.
- J. Perform such other duties as the Board may from time to time specify.

### **3. Executive Powers**

The presidents and superintendents shall have all powers necessary to carry out their executive responsibilities, including, but not limited to, the following:

- A. Organize a structure of academic governance and provide for the establishment, review and assessment of curricula and instruction, of research and scholarly programs and of public service activities.
- B. Provide for the governance of students and for the establishment of programs to address their educational, social, cultural and ethical development within available resources.
- C. Establish regular or special consultative bodies as deemed useful or necessary.
- D. Determine and manage institutional budgets.
- E. Expend monies and enter into contracts.
- F. Acquire, preserve, register, manage, lease, license or assign institutional properties, including intellectual properties, within the limits of state law and Board policy; and provide assurance of right or of title or make such similar undertakings as may be customarily incidental to the diligent management of such properties.
- G. Recommend the hiring, promotion and termination of employees.
- H. Assign, transfer, evaluate and discipline employees and investigate and adjust their grievances.
- I. Participate on behalf of the institution in the activities of affiliated organizations.
- J. Determine and present official institutional positions, policies and practices.
- K. Preside at all general faculty meetings or delegate that function to another member

of the administration or faculty.

The executive powers delegated through this section remain subject to such substantive or procedural limitations as may otherwise be established by law or policy.

**4. Provisional Delegation of Authority in Matters Relating to Governance, Discipline and Grievances.**

The South Dakota Supreme Court, in *Worzella v. Board of Regents of Education*, 77 S.D. 447, 93 N.W.2d 411 (S.D. 1958), held that the South Dakota Constitution limits the Board's power of delegation. The Board may only delegate provisional authority to its subordinates. The court has decided that the Board can neither authorize nor adopt policies that create procedural bars to Board consideration of a matter. Nor can the Board vest a delegatee with the power to prevent the Board from taking up a matter that it deems of public interest.

The court has also held that the legislature may limit the Board's power over certain aspects of certain employment relations. It upheld the Career Service Act and the Public Employees' Unions Act as legitimate exercises of legislative power, notwithstanding the fact that the acts remove certain employment decisions from final Board action. *South Dakota Board of Regents v. Meister*, 309 N.W.2d 121 (S.D. 1981); *South Dakota Board of Regents v. Meierhenry*, 351 N.W.2d 450 (S.D. 1984).

A. In order to give effect to the constitutional limitations described in *Worzella*, the delegation of authority provided in this policy shall be understood to be provisional in the following sense.

1. The authority vested in chief executive officers must, at all times, be exercised in a manner that is consistent with Board policy.
2. Except as provided in section 4(A)(3), below, the authority to take binding action without specific prior Board approval is subject to the condition that the Board may require that a matter be forwarded to it for review.
  - a. Such a review shall not ordinarily result in a modification of an action that has created third party rights, but the Board may direct that such responsive measures be taken as it deems necessary.
3. Where the action in question relates to the implementation of Board policy involving governance, discipline or grievances, the Board may reconsider the matter.
  - a. In the context of a disciplinary action or a grievance, the Board may:
    - i. Accept the factual findings that were reached below, but modify the conclusions drawn from those facts or the action taken on their basis; or

- ii. Reject the factual findings that were reached below and hold new hearings, upon due notice, to reconsider the matter in its entirety.
  4. Nothing herein shall be interpreted to modify the procedural requirements of regulations or agreements duly adopted pursuant to the Career Service Act or the Public Employees' Unions Act.
- B. Chief executive officers may delegate provisionally to their subordinates or to such administrative or consultative bodies as they may establish from time to time the authority that the Board has delegated to them.
  1. A provisional delegation of authority by a chief executive officer shall be understood to authorize only actions that are consistent with Board policy and with institutional policies previously approved by the chief executive officer.
  2. The authority to take binding action without specific prior approval by the chief executive officer approval is subject to the condition that the chief executive officer may require that a matter be forwarded for review.
  3. Where the action undertaken with delegated authority involves the implementation of Board or institutional policy involving governance, discipline or grievances, the chief executive officer may reconsider the matter anew.
    - a. In the context of a disciplinary action or a grievance, the chief executive officer may:
      - i. Accept the factual findings that were reached below, but modify the conclusions drawn from those facts or the action taken on their basis; or
      - ii. Reject the factual findings that were reached below, and hold new hearings, upon due notice, to re-examine the matter in its entirety.
  4. Nothing herein shall be interpreted to modify the procedural requirements of regulations or agreements duly adopted pursuant to the Career Service Act or the Public Employees' Unions Act.

## **5. Acting Chief Executive Officer**

Each president and superintendent shall designate a staff member to act in his or her place when he or she is outside the state, otherwise not reasonably accessible or subject to temporary illness or disability. Each president and superintendent shall provide the Executive Director a current list of persons so designated.

## **6. Evaluation**

Presidents and superintendents shall be evaluated annually by the Board in a format and

setting determined by the Board.

## **7. Acceptance of Grant Supplements**

Presidents and superintendents are authorized to receive supplements of existing approved grants that continue previously approved grant activities when the value of the supplement does not exceed \$10,000. The president or superintendent shall notify the Executive Director when this approval authority is exercised.

**SOURCE: BOR, June 1974; BOR Aug. 1979; BOR April 1992; BOR March 1993; BOR, January 1996; BOR, August 2011.**