

SOUTH DAKOTA BOARD OF REGENTS

Budget and Finance

AGENDA ITEM: 8 – A
DATE: August 7-9, 2018

SUBJECT:

BOR Policy 4:49 – Multi-Year Employment Contract Revisions (First Reading)

CONTROLLING STATUTE, RULE, OR POLICY

[BOR Policy 4:49](#) – Multi-Year Employment Contracts

[BOR Policy 4:1](#) – General Personnel Policy

BACKGROUND / DISCUSSION

BOR Policy 4:49 was approved in [March 2016](#) to allow for multi-year contracts for NCAA Division I head coaches and athletic directors, and university presidents. This policy was established in response to the market demands for NCAA Division I athletics. Currently, the policy allows, but does not require, three (3) year contracts. The ability to provide these longer term contracts has assisted both USD and SDSU in their ability to recruit and retain head coaches for the major sports programs. Currently, there are nine coaches and one athletic director in the Regental system that have multi-year contracts.

The Board Athletic Committee has met twice and discussed with the SDSU and USD President’s and Athletic Directors about the opportunity to change the policy to allow for a five (5) year contract. The market for college athletics continues to evolve and it is commonplace for head coaches and athletic directors to have contracts of five (5) years or more. Data regarding coach contract lengths from a survey of the conferences in which USD and SDSU compete in are outlined below:

1. The Summit League: Contracts range in length of three (3) to six (6) years, South Dakota universities are the only ones in the conference with contracts less than four (4) years in length.
2. The Missouri Valley (Football conference): Contracts range from three (3) to eight (8) years, South Dakota universities are the only ones in the conference who have contracts less than four (4) years in length.
3. The Big 12 (Wrestling Conference): Contracts range from one (1) to seven (7) years in length.

(Continued)

DRAFT MOTION 20180807_8-A:

I move to approve the first reading of the proposed revisions to BOR Policy 4:49 – Multi-Year Employment Contracts.

In addition to the market driving longer term contracts, the presidents have also voiced that this policy change would facilitate more continuity for student-athletes. The longer terms that coaches can be provided, the less likely there will be coaching disruption for the student athletes. This is important not only as a part of student athlete recruitment, but also for the student's academic success. Lastly, the longer term contracts provide security to the institutions with larger buyout provisions if a coach or athletic director resigns prior to the end of the contract.

IMPACT AND RECOMMENDATIONS

The recommended changes to BOR policy 4:49 can be found in Attachment I. The substantive changes include the following:

1. Changing the language to allow for a contract term of more than one (1) year, but not more than five (5) years, except to extend by the minimum amount of time required to align with the end of the fiscal year;
2. A definitions section has been added to align with new BOR policy template requirements;
3. Language has been added to clarify the funding information that is required by the Board when a new contract is being requested:
 - a. A summary by account of uncommitted, unrestricted non-appropriated funds that would be available for a termination for convenience payout;
 - b. A ratio between the uncommitted, unrestricted non-appropriated funds and the liability of a termination for convenience by the university on the largest contract.

The board staff recommends approval of the recommended policy changes to align BOR policy with the labor market requirements in Division I athletics.

ATTACHMENTS

Attachment I – BOR Policy 4:49 proposed changes

SOUTH DAKOTA BOARD OF REGENTS

Policy Manual

SUBJECT: Multi-Year Employment Contracts

NUMBER: 4:49

A. ~~Preamble~~ PURPOSE

~~To This policy allows, but does not require,~~allow multi-year employment contracts for the positions identified in this policy. Employment contracts for the positions identified in this policy may be offered for a term of one or more years up to the maximum term allowed by this policy. ~~Employment contracts for a term of one year are governed by Board Policy 4.1.1 (for institutional presidents) or Board Policy 4.1 (for all other employees).~~

In the event of a termination for convenience by the University, any early termination payout shall be paid from the University's ~~non-restricted~~unrestricted, non-unappropriated funds.

B. DEFINITIONS

1. University: Black Hills State University, Dakota State University, Northern State University, South Dakota School of Mines & Technology, South Dakota State University, and the University of South Dakota.
2. President: The chief executive officer of a SD Board of Regents university.
3. Unrestricted non-appropriated funds: Funds received from tuition and fees, indirect cost recovery, campus auxiliary operations and enterprises, and other miscellaneous sources.
4. Guaranteed Supplemental Compensation: Compensation that is contractually guaranteed, but not included in the contractual base salary.

~~1.~~C. POLICY

1. Multi-Year Employment Contracts for NCAA Division I Head Coaches and Athletic Directors

The President of an institution may offer to enter into, or renew, subject to approval by the Board of Regents, a contract for the services of non-faculty exempt NCAA Division I Head Coaches and one NCAA Division I Athletic Director for a term of more than one year, but not more than ~~three-five~~ years, except that such contracts may extend beyond ~~three-five~~ years by the minimum amount of time required to align it with the fiscal year calendar.

2. Multi-Year Employment Contracts for University Presidents

The South Dakota Board of Regents may enter into, or renew, a contract, for the services of University Presidents for a term of more than one year, but less than four years.

2.3. Multi-Year Employment Contract Requirements

All employment contracts shall define the entire employment relationship between the Board of Regents and the employee, and may incorporate by reference applicable Board of Regents and institutional policies and rules, and applicable law.

3.1. All multi-year employment contracts for the services shall follow the Board approved model contract that corresponds to the position type. Should there be any proposed deviations from the Board-approved model contract, such proposed deviations shall be clearly and specifically identified.

3.2. Multi-year employment contracts submitted for Board approval shall include the following supporting documentation:

3.2.1. Base salary and guaranteed supplemental compensation;

3.2.2. All supplemental compensation incentives and their monetary value;

3.2.3. Base salaries, guaranteed supplemental compensation and incentive payments of similar positions from peer institutions (for institutional presidents) or conference institutions (for NCAA Division I Head Coaches and NCAA Division I Athletic Directors).

3.2.4. A summary of all current University multi-year contracts, including remainder of terms and compensation obligations in the event of a termination for convenience by the University.

3.2.5. A summary by account of all uncommitted, unrestricted non-appropriated funds that would be available for a termination for convenience payout.

~~1) — The ratio between the uncommitted, unrestricted non-appropriated funds and the liability of a termination for convenience by the University on the largest potential multi-year contract payout.~~

~~2) — A summary of University non-restricted unappropriated funds.~~

FORMS / APPENDICES:

None

SOURCE:

BOR March 2016; BOR October 2018.