

SOUTH DAKOTA BOARD OF REGENTS

Budget and Finance

AGENDA ITEM: 9 – A (2)

DATE: October 6-7, 2021

SUBJECT

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

CONTROLLING STATUTE, RULE, OR POLICY

[BOR Policy 1:6](#) – Appointment, Authority, and Responsibilities of Presidents and Superintendents

BACKGROUND / DISCUSSION

The proposed policy changes are being requested to align with the proposed revisions to BOR Policy 1:6 related to the Board’s delegation of authority in employment actions. The changes in BOR Policy 4:49 would require approval from the Executive Director before the institution enters into, or renews, a multi-year contract for NCAA Division I head coaches and athletic directors. These approved actions will then be reported to the Board as an informational item.

In addition, Section 3 of BOR Policy 4:49 has proposed revisions to more clearly articulate that when the foundation has provided a guarantee to satisfy the costs associated with a termination convenience for the largest potential payout, then the University does not need to provide the financial summaries and ratio outlined in the policy. This will align the policy with current practice.

IMPACT AND RECOMMENDATION

The staff recommends that the Board approve the first reading of BOR Policy 4:49 to align with the revisions proposed to BOR Policy 1.6 as outlined in Attachment I.

ATTACHMENTS

Attachment I – Revisions to BOR Policy 4:49

DRAFT MOTION 20211006_9-A(2):

I move to approve the first reading of the proposed revisions to BOR Policy 4:49, as outlined in Attachment I.

SOUTH DAKOTA BOARD OF REGENTS

Policy Manual

SUBJECT: Multi-Year Employment Contracts

NUMBER: 4:49

A. PURPOSE

To 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.

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

B. DEFINITIONS

1. Executive Director: The chief executive officer of the SD Board of Regents.

1.2. 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.

2.3. President: The chief executive officer of a SD Board of Regents university.

3.4. Unrestricted non-appropriated funds: Funds received from tuition and fees, indirect cost recovery, campus auxiliary operations and enterprises, and other miscellaneous sources.

4.5. Guaranteed Supplemental Compensation: Compensation that is contractually guaranteed, but not included in the contractual base salary.

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 prior approval by the ~~Board of Regents~~ Executive Director, 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 five years, except that such contracts may extend beyond 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.

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 Executive Director ~~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.
 - 3.2.6. 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.
 - ~~3.2.6.~~3.2.7. In the event the University foundation provides documentation evidencing its guarantee of the necessary financial commitment, from non-institutional funds, to satisfy the termination for convenience costs associated with the largest potential multi-year contract payout, the University does not need to provide the information required in Sections 3.2.5 and 3.2.6.

FORMS / APPENDICES:

None

SOURCE: BOR March 2016; BOR October 2018, BOR December 2021.