

**MINUTES OF THE BOARD OF TRUSTEES OF
STATE INSTITUTIONS OF HIGHER LEARNING
December 17, 2009**

BE IT REMEMBERED, That the Board of Trustees of State Institutions of Higher Learning of the State of Mississippi met in a regular session at the Board Office in Jackson, Mississippi, at 10:00 a.m., and pursuant to notice in writing mailed by certified letter with return receipt requested on November 21, 2008, to each and every member of said Board, said date being at least five days prior to this December 17, 2009 meeting. At the above-named place there were present the following members to wit: Mr. H. Ed Blakeslee, Dr. Stacy Davidson, Dr. Bettye Henderson Neely, Mr. Bob Owens, Mr. Aubrey B. Patterson, Mr. Alan Perry, Ms. Christine Pickering, Ms. Robin J. Robinson, Mr. Scott Ross, Dr. Douglas Rouse, and Mr. C.D. Smith. Ms. Amy Whitten was absent. The meeting was called to order by Mr. Scott Ross, President, and opened with prayer by Mr. C. D. Smith.

ANNOUNCEMENTS

Mr. Scott Ross expressed his condolences to Dr. Davidson and his family on the loss of his son, Mr. Friley Davidson.

CONSENT AGENDA

On motion by Mr. Patterson, seconded by Ms. Robinson, with Mr. Owens and Ms. Whitten absent and not voting, it was

RESOLVED, That the Board hereby approved the following Consent Agenda.

PERSONNEL REPORT

CHANGE OF STATUS

Jackson State University

Brown, Willie
Stovall, Troy A.
Okojie, Felix

Mississippi State University

Rabideau, Peter W.
Shaw, David R.
Steele, Jr., Wilbur Glenn

TERMINATION

Jackson State University

Stovall, Troy A.

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ANNOUNCEMENTS

- ▶ Mr. Scott Ross recognized Senator Doug Davis. Senator Davis expressed his appreciation for the good work being done by the staff at the Executive Office and the good working relationship with the Board. Dr. Hank Bounds thanked Senator Davis for his support and participation in the Graduation Rate Task Force.
- ▶ Mr. Ross welcomed Mr. Blake Jeter, the Student Government Association president at Mississippi State University, and Mr. J. R. Robinson, the Student Government Association president at the University of Southern Mississippi.
- ▶ Mr. Ross recognized Mr. Blake Wilson, CEO of the Mississippi Economic Council. Dr. Bounds thanked Mr. Wilson for pushing the cause of education in Mississippi. This year he highlighted why business needs to support education.

PRESENTATION

Dr. Bounds introduced Dr. Aims McGuinness from the National Center for Higher Education Management Systems (NCHEMS) who gave a presentation on the *Report on Policy Audit*.

ANNOUNCEMENT

Mr. Ross welcomed Mr. Johnny Franklin, Education Policy Advisor in the Governor's Office.

COMMISSIONER'S REPORT

Presented by Dr. Hank M. Bounds, Commissioner

The Commissioner gave a presentation on the following topics:

1. Board Goals
2. Economic Situation
3. Possible Steps Universities May Need to Take in Response to the Economic Situation
4. Various Funding Issues
 - a. 3-Year Tuition Model/Fees,
 - b. Out-of-State vs. In-State Tuition and
 - c. Funding Model.

ADMINISTRATION/POLICY AGENDA

Presented by Dr. Hank M. Bounds, Commissioner

On motion by Ms. Robinson, seconded by Dr. Davidson, with Ms. Whitten absent and not voting, it was

RESOLVED, That the Board hereby approved agenda items #1 - #6 as submitted on the following Administration/Policy Agenda to be effective July 1 so as not to effect any current contracts.
AGENDA ITEM #7 WAS PULLED FROM THE AGENDA.

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1. System - Approved for first reading the following proposed new policy 402.04 Termination of Staff with Employment Contracts.

402.04 Termination of Staff with Employment Contracts

1. Non-faculty staff members who have a contract of employment may be terminated during the employment contract period for the following reasons:
 - a. Financial exigencies as declared by the Board;
 - b. Termination or reduction of programs, academic or administrative units as approved by the Board;
 - c. Malfeasance, inefficiency or contumacious conduct; or
 - d. For other cause.
2. Termination for cause of such a staff member during the course of an employment contract shall not be recommended by the Institutional Executive Officer until the staff member has been afforded the opportunity for a hearing. In no event shall the staff member's contract of employment be terminated for cause without the staff member being afforded the opportunity for a hearing.

In all cases, the staff member under contract shall be informed in writing of the proposed action against him/her and that he/she has the opportunity to be heard in his/her own defense. Within ten (10) calendar days of notification of the proposed action and opportunity to be heard, the staff member shall state in writing his/her desire to have a hearing. He/she shall be permitted to have with him/her an adviser of his/her own choosing who may be an attorney, but who shall not be permitted to address or otherwise communicate with the institution, its officials, or a hearing panel on behalf of the staff member. The institution is directed to record (suitable for transcription) all hearings. Any decision made by a hearing body shall be a recommendation to the Institutional Executive Officer.

Contract staff members, who are dismissed for a Board approved financial exigency or reduction of programs, academic or administrative units, may be sent the notice of termination letter prior to actual Board approval of the financial exigency or reduction of programs, academic or administrative units. However, the effective date of the termination must not occur until after the Board approves the financial exigency or reduction of programs, academic or administrative units. Staff members with employment contracts who are terminated for the reasons stated as follows:

- c. malfeasance, inefficiency or contumacious conduct; or
- d. for other cause;

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shall have their contracts terminated at any time subsequent to notice and hearing with no right to continued employment for any period of time. At the discretion of the Institutional Executive Officer, any such staff member's salary may be paid, and he/she may be relieved of all duties, assignments, appointments and privileges when he/she is dismissed for any reasons stated above or pending a termination hearing.

3. Lack of Funds – Non-faculty staff with employment contracts may be terminated prior to the expiration of the employment contract due to a lack of funds, as determined by the Institutional Executive Officer, but must be provided with at least thirty (30) calendar days advance written notice of termination for lack of funds. The non-faculty staff member shall be afforded the opportunity for a hearing, as described in section 2 above.
2. System - Approved for first reading the following proposed amendments to policy 403.0102 Notice of Non-Renewal of Tenure Track Faculty.

403.0102 Notice of Non-Renewal or Termination of Tenure Track Faculty

1. Notice of intention not to renew a tenure track faculty member shall be furnished in writing ~~according to the following schedule:~~
 - a: not later than ~~March~~ April 1 before the date of termination, except that a notice to not renew the 2010-2011 contract of any current tenure-track faculty member who has been employed in the tenure track position for two or more years, as of the date this change of policy is approved by the Board, must be issued not later than September 1, 2010, but thereafter those tenure-track faculty members shall also be subject to the April 1 notice date . during the first year of service;
 - b: ~~not later than December 1 before the date of termination during the second year of service;~~
 - c: ~~not later than September 1 before the date of termination of a contract after two or more years of service in the institution.~~

~~This schedule of notification does not apply to persons holding temporary or part-time positions, or persons with courtesy appointments, such as adjunct appointments. This notification obligation shall apply only to full-time, tenure-track faculty members who have a written contract of employment with the Board.~~

2. Termination for Lack of Funds – Tenure track faculty may be terminated prior to the expiration of a contract of employment due to a lack of funds, as determined by the Institutional Executive Officer. Notice of termination of tenure track faculty prior to the expiration of a contract of employment due to a lack of funds shall be furnished in writing at least thirty (30) calendar days prior to the termination. The faculty member shall also be afforded the opportunity for a hearing, as described in section 3 below.

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3. Termination for Malfeasance, Inefficiency, Contumacious Conduct or for other Cause Prior to Expiration of Term. The termination of a tenure track faculty member shall not be recommended by the Institutional Executive Officer until the faculty member has been afforded the opportunity for a hearing. The faculty member shall be informed in writing of the proposed termination action and of the right for an opportunity to be heard. Within ten (10) calendar days of such notice, the faculty member shall state in writing the desire to have a hearing. The member shall be permitted to have an advisor, who may be an attorney, at the hearing but the advisor shall not be permitted to address or otherwise communicate with the institution, its officials, or a hearing panel on behalf of the member. The institution is directed to record(suitable for transcription) all hearings. In the hearing of charges of incompetence, the testimony shall include that of faculty and other scholars. Any decision made by the hearing body shall be a recommendation to the Institutional Executive Officer. Tenure track faculty members whose contracts are terminated for cause prior to the expiration of their contract may have their contracts terminated at any time subsequent to notice and hearing with no right to continued employment for any period of time. At the discretion of the Institutional Executive Officer, the member's salary may be paid, and the member may be relieved of all teaching duties, assignments, appointments and privileges when the member is subject to being dismissed for cause, even while pending a termination hearing.

3. System - Approved for first reading the following proposed amendments to policy 403.0104 Tenured Faculty Dismissal.

403.0104 Tenured Faculty Dismissal

1. Termination of service of a tenured faculty member is made only under these extraordinary circumstances:
 - a. Financial exigencies as declared by the Board;
 - b. Termination or reduction of programs, academic or administrative units as approved by the Board;
 - c. Malfeasance, inefficiency or contumacious conduct; or
 - d. For other cause.
2. ~~Termination for cause of a tenured faculty member or the dismissal for cause of a faculty member prior to the expiration of a term appointment~~ shall not be recommended by the Institutional Executive Officer until the faculty member has been afforded the opportunity for a hearing. In no event shall the contract of a tenured faculty member be terminated for cause without the faculty member being afforded the opportunity for a hearing.

In all cases, the faculty member shall be informed in writing of the proposed action against him/her and that he/she has the opportunity to be heard in his/her own defense. Within ten

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(10) calendar days of notification of the proposed action and opportunity to be heard, the faculty member shall state in writing his/her desire to have a hearing. He/she shall be permitted to have with him/her an adviser of his/her own choosing who may be an attorney, but who shall not be permitted to address or otherwise communicate with the institution, its officials, or a hearing panel on behalf of the faculty member. The institution is directed to record (suitable for transcription) all hearings. In the hearing of charges of incompetence, the testimony shall include that of faculty and other scholars. Any decision made by a hearing body shall be a recommendation to the Institutional Executive Officer. Beginning with the 2010-2011 academic year, Tenured faculty members, who are dismissed for reasons stated as follows:

- a. financial exigencies as declared by the Board;
or
- b. termination or reduction of programs, academic units and/or administrative units as approved by the Board;

shall remain employed for a minimum of 180 calendar days ~~9-12 months, consistent with current contract, periods of time,~~ from the date of notification of the opportunity to be heard. The notification letter to the tenured faculty member from the institution may be sent before actual Board approval is granted for the financial exigency or for the termination or reduction in programs, academic or administrative units. However, the termination from employment due to financial exigency or due to the termination or reduction of programs, academic or administrative units may not occur until the Board has approved on its minutes such financial exigency or termination or reduction of programs, academic or administrative units, as well as the termination of the specific employee(s).

Tenured faculty members, who are dismissed for reasons stated as follows:

- c. malfeasance, inefficiency or contumacious conduct; or
- d. for other cause;

shall have their contracts terminated at any time subsequent to notice and hearing with no right to continued employment for any period of time. At the discretion of the Institutional Executive Officer, any faculty member's salary may be paid, and he/she may be relieved of all teaching duties, assignments, appointments and privileges when he/she is dismissed for any reasons stated above or pending a termination hearing.

4. System - Approved for first reading the following proposed amendments to policy 403.0105 Appeals.

403.0105 Appeals of Tenured Faculty Terminations

1. Conditions of Appeals to the Board of Trustees:

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Miss. Code Ann., Section 37-101-15 sets forth the general obligations of the Board of Trustees of State Institutions of Higher Learning with respect to employment at the various institutions of higher learning. It is the policy of the Board to consider appeals of the termination of tenured faculty members only, faculty personnel decisions and only after the aggrieved faculty member has exhausted all administrative remedies at the institutional level. In the event that an appeal to the Board is requested by a faculty member ~~the aggrieved party~~, the Institutional Executive Officer shall transmit to the Board Commissioner the full report of the campus grievance/tenure committee concerning the matter appealed.

The individual allegedly aggrieved will be allowed to submit a written statement of his grievance to the Commissioner within a thirty (30) calendar day period following notification of the decision of the Institutional Executive Officer. The Commissioner shall review the employee's statement of grievance and the institutional record and then make a recommendation to the Board as to whether the Board should grant or deny the request for a Board review of the university decision. The Board will then be provided with the employee's statement of grievance and will consider the Commissioner's recommendation, prior to making a decision on the request for a Board review. No persons will appear personally before the Board unless invited.

If review is allowed by the Board, only the record developed at the institution will be reviewed. Review by the Board is not a matter of right, but is within the sound discretion of the Board. Review by the Board, if granted, is only on the record made at the lower level. No new evidence may be submitted on appeal.

2. Review of Appeal by the Board:

The Board, upon receipt of such an appeal, shall review the records of the institutional committee's hearing and all documentation relative to the personnel decision. The Board reserves the right to correct an omission or other inaccuracy in the record submitted upon suggestion by either party or upon its own motion. The Board shall then determine the following:

a. If the institutional due process procedures were followed;

and/or

b. If the decision was arbitrary or capricious.

The Board, after reviewing the ~~written argument~~ employee's statement and ~~documentary evidence~~ the record from the institution, shall affirm the decision of the Institutional Executive Officer or make another decision which shall be final and binding.

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5. System - Approved for first reading the following proposed amendments to policy 403.0201 Grievance Defined.

403.0201 Grievance Defined

A grievance is defined as the claim of an individual employee that there has been a violation, misinterpretation or misapplication of a personnel rule, policy or procedure, ~~in relation to personnel policies, including working hours, working conditions, leaves, promotions and other conditions of employment.~~

6. System - Approved for first reading the following proposed amendments to policy 404.02 Notice of Non-Renewal or Termination of Non-Tenure, Track Personnel.

404.02 Notice of Non-Renewal or Termination Notice of Non-Tenured, Non-Tenure Track Personnel

1. Notice of intention not to renew the written contracts of employment of non-tenured, non-tenure track personnel, whether non-tenure track faculty or staff, personnel shall be furnished in writing ~~thirty (30) days~~ prior to the expiration date of the contract. ~~Notice of non-Renewal of employees with written contracts, other than those covered in § 403.0102, is 30 days.~~
 2. Lack of Funds - Notice of termination of non-tenured, non-tenure track personnel, whether faculty or staff, prior to expiration of the employment contract due to a lack of funds, as determined by the Institutional Executive Officer, shall be furnished in writing thirty (30) calendar days prior to the termination. The employee shall also be afforded the opportunity for a hearing on the termination. Any employees without a written employment contract are terminable at the will and pleasure of the employer.
7. System - Request approval for first reading the following proposed amendments to policy 801.04 Employment Contracts. **(THIS ITEM WAS PULLED FROM THE AGENDA.)**

801.04 Written Employment Contracts

Acting under appropriate statutory authority and Board policy, the Board of Trustees hereby empowers the Institutional Executive Officers of the several institutions the authority to approve and execute written contracts on behalf of the Board only with full-time deans, professors, other members of the teaching staff[,] and such categories of ~~FULL-TIME~~ full-time administrative employees as designated by the Commissioner in accordance with state law and Board Policy. ALL OTHER EMPLOYEES SHALL BE "AT WILL" EMPLOYEES. Board approval for appointments and promotions is still required as provided within Board policy 401.0102 Delegation of Authority. The maximum Board approved contract length is for four years. Written employment contracts are to be maintained on campus in an office designated by the Institutional Executive Officer. The written employment contracts for Institutional Executive Officers, athletics directors and head coaches ~~selected athletic personnel~~ are also to be maintained at the Office of the Commissioner.

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Institutions must obtain prior Board approval to employ, and of the salary of, athletics directors and head coaches before executing an employment contract on behalf of the Board.

EXECUTIVE SESSION

On motion by Mr. Patterson, seconded by Dr. Rouse, with Ms. Whitten absent and not voting, the Board voted to close the meeting to determine whether or not it should declare an Executive Session. On motion by Ms. Pickering, seconded by Dr. Rouse, with Dr. Neely and Ms. Whitten absent and not voting, the Board **voted to go into Executive Session** for the reason reported to the public and stated in these minutes, as follows:

Discussion of a personnel matter at Alcorn State University.

During Executive Session, the following matter was discussed:

The Board discussed a personnel matter at Alcorn State University.

On motion by Dr. Rouse, seconded by Mr. Patterson, with Dr. Neely, Ms. Pickering and Ms. Whitten absent and not voting, the Board voted to return to Open Session.

ADJOURNMENT

There being no further business to come before the Board, on motion by Mr. Patterson, seconded by Mr. Perry, with Dr. Neely, Ms. Pickering and Ms. Whitten absent and not voting, the Board members voted to adjourn the meeting.



President, Board of Trustees of State Institutions of Higher Learning



Commissioner, Board of Trustees of State Institutions of Higher Learning