

SOUTH DAKOTA BOARD OF REGENTS

Budget and Finance

Consent

AGENDA ITEM: 8 – K

DATE: June 22-23, 2022

SUBJECT

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

CONTROLLING STATUTE, RULE, OR POLICY

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

BACKGROUND / DISCUSSION

BOR Policy 4:49 was implemented in March of 2016, at which time the catalyst for the policy was NCAA Division I head coaches. Consequently, the discretion to enter into multi-year coaches' contracts was limited to only those head coaches and athletic directors at the NCAA Division I level. Since that time, the market for collegiate coaches has continued to evolve, eroding the merits of the initial distinction in policy between NCAA Division I head coaches and other collegiate head coaches.

The proposed revisions to BOR Policy 4:49 simply strike the applicable references to "NCAA Division I", effectively leaving the multi-year contract option open for all head coaches and athletic directors within the system, assuming the other policy requirements are otherwise met.

IMPACT AND RECOMMENDATION

The proposed revisions to BOR Policy 4:49 remove the NCAA Division I requirement for multi-year contracts for head coaches and athletic directors, making the option available for head coaches and athletic directors at any level.

This is the second reading of the proposed policy changes. No revisions have been made since the first reading at the May 2022 Board meeting.

ATTACHMENTS

Attachment I – Proposed Revisions to BOR Policy 4:49 – Multi-Year Employment Contracts

DRAFT MOTION 20220622_8-K:

I move to approve the second and final reading of the proposed revisions to BOR Policy 4:49, as presented 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. **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.

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 Directors 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. Multi-year employment contracts will only be considered when required to retain or compete for an employee.

3.1.3.2. 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.

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

3.2.1.3.3.1. Base salary and guaranteed supplemental compensation;

3.2.2.3.3.2. All supplemental compensation incentives and their monetary value;

3.3.3. 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).

3.2.3.3.3.4. An explanation of the market factors necessitating the multi-year employment contract.

3.2.4.3.3.5. 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.

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

3.2.6.3.3.7. 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.

FORMS / APPENDICES:

None

SOURCE:

BOR March 2016; BOR October 2018; BOR June 2022.