

BOARD OF TRUSTEES
UNIVERSITY OF THE DISTRICT OF COLUMBIA
UDC RESOLUTION 2014- _____

SUBJECT: Proposed Amendment to the University Rules to Delegate the Authority to Approve Executive Appointments of Deans, Associate and Assistant Deans of Academic Colleges to the President.

WHEREAS, pursuant to D.C. Code §38-1202.01 (b) The Board of Trustees has the authority to adopt, prescribe, amend, repeal, and enforce bylaws, rules, and regulations it considers necessary for the governance and administration of the University; and

WHEREAS, in adopting the revised Sections 208, 210 and 212 of the DCMR 8 the Board of Trustees is authorizing the President to fill the positions of Dean, Associate and Assistant Dean of Academic Colleges by executive appointments.

WHEREAS, the Board wishes allow the President the flexibility to fill these positions in a timely and efficient manner.

THEREFORE BE IT RESOLVED, that the Board of Trustees of the University of the District of Columbia hereby takes proposed rulemaking action to amend sections 208, 210 and 212 of the University Rules (Titles 8 DCMR) by amending § 208, 210, and 212 as attached; and

BE IT FURTHER RESOLVED the General Counsel is hereby directed to publish this Notice of Final Rulemaking in the District of Columbia Register, in accordance with the provisions of D.C. Official Code § 2-505(a).

Submitted by the Audit, Administration,
and Governance Committee

August 26, 2014

Approved by Board of Trustees:

September 16, 2014

Elaine A. Crider
Chairperson of the Board



Fiscal Impact Statement

TO: The Board of Trustees

FROM: Office of the Chief Financial Officer (UDC) *Donald L. Keckford Jr.*

DATE: April 1, 2014

SUBJECT: Delegated Authority To The President For Executive Appointments Below The Dean

Conclusion

It is projected that there is no fiscal impact in order to effect changes to sections of DCMR 8 giving authority to the President of the University of the District of Columbia (UDC) to make Executive Appointments at the level of an Academic Dean and below to include Associate and Assistant Deans, without seeking the Board of Trustees' approval.

Background

Under current DCMR 8 regulations, the positions that are to be filled through Executive Appointments comprise the Provost, Deans of academic colleges, Associate and Assistant Deans of academic colleges, as well as the Community College Chief Executive Officer. Executive Appointments also apply to faculty members appointed to serve in administrative positions which report directly to the Provost, Community College Chief Executive Officer or a Dean.

The proposed changes to the DCMR 8 would make allowance for the President of UDC to make Executive Appointments at the level of an Academic Dean and below to include Associate and Assistant Deans, without seeking the permission of the Board of Trustees of UDC.

Under the proposed changes, appointment of the Provost and Community College Chief Executive Officer shall remain under the purview of the Board of Trustees of UDC.

Financial Impact

The funding requirement associated with making the required changes to the DCMR 8 appears to be negligible and appears to have no tangible foreseen fiscal impact. As such, the Executive Management within the Budget Department of the Office of the Chief Financial Officer of UDC has approved this request based upon information provided. We do not anticipate any risks at this time.

ADMINISTRATION AND MANAGEMENT

200 THE PRESIDENT OF THE UNIVERSITY

- 200.1 The Chief Executive Officer of the University, appointed by the Board of Trustees (the "Board") pursuant D.C. Official Code § 38-1202.06(10), shall be the President of the University of the District of Columbia (the "President"). The President shall report directly to the Board.
- 200.2 Whenever a vacancy exists in the office of the President, or whenever the Board has notice that a vacancy will exist, the Board shall appoint a committee to be Chaired by a voting member of the Board to conduct an orderly search for candidates for appointment to the office of President. When the office of the President is vacant, the Board shall appoint an individual to serve as Interim President or Acting President within 30 days of the vacancy.
- 200.3 Appointment of the President, including the renewal of an existing appointment, shall be by affirmative vote of a majority of the Board.
- 200.4 The terms and conditions of the appointment of the President, including compensation and benefits, shall be set forth in a contract of employment which shall be negotiated with the appointee in a manner directed by the Board and shall be subject to ratification by an affirmative vote of the majority of the Board.
- 200.5 A housing allowance or a University residence in the District of Columbia may be provided for the President.

SOURCE: Final Rulemaking revised at 40 DCR 3353 (May 21, 1993); as amended by Final Rulemaking published at 57 DCR 6156 (July 16, 2010).

201 DISMISSAL OF THE PRESIDENT FOR CAUSE

- 201.1 The Board may dismiss the President at any time for cause.
- 201.2 Upon request made within ten (10) calendar days after the Board action of dismissal, the President shall be furnished a statement of the charges against him or her.
- 201.3 If the President demands a hearing on his or her dismissal, a hearing shall be held within ten (10) calendar days after the receipt of the charges by the President.

- 201.4 The hearing shall be held before the Committee of the Whole of the Board, in executive session, in accordance with procedures adopted by the Board. The President shall be entitled to present a response and defense to the charges presented, either personally or through counsel of the President's choosing.
- 201.5 The Board may retain special counsel to represent the Board for the purposes of this section as the Board deems appropriate.
- 201.6 Dismissal of the President for cause shall be by a majority of the Board.

SOURCE: Final Rulemaking revised at 40 DCR 3353 (May 21, 1993); as amended by Final Rulemaking published at 57 DCR 6156 (July 16, 2010).

202 GENERAL AUTHORITY AND DUTIES OF THE PRESIDENT

- 202.1 The President shall have authority and responsibility for the academic and administrative affairs and operations of the University and the components thereof established under Section 100.3 subject to the provisions of this Title and applicable law.
- 202.2 The President may delegate to his or her subordinates any of the duties and authority of the office of President, except the following:
- (a) Service as a non voting ex officio member of the Board; and
 - (b) Responsibilities reserved solely to the President under the provisions of this subtitle or other applicable law or regulation.
- 202.3 The President shall fix the calendar of the University.
- 202.4 Upon the recommendation of the faculty, the President shall, in the name of the Board, award degrees to candidates who meet all of the requirements and prerequisites for the respective degree or concentration.
- 202.5 The President shall provide for awarding fellowships, scholarships, and academic prizes from appropriations, gifts, or endowments approved for these purposes.
- 202.6 Subject to the provisions of this title and applicable law, the President may appoint, promote, demote, and dismiss University employees. ~~The President may also determine compensation for, non-administrators. The President shall recommend for approval by~~

the Board through the Executive Committee, or committee determined by the Board
Chair the compensation of all administrators and non-administrators at pay grade level
1A and above.

Comment [MS1]: Redundant, addressed in
Section 210

SOURCE: Final Rulemaking revised at 40 DCR 3353 (May 21, 1993); as amended by Final Rulemaking
published at 57 DCR 6156, 6157 (July 16, 2010).

203 FUND-RAISING AND GIFTS

- 203.1 The President shall develop, initiate, implement, and approve fund-raising campaigns for the benefit of the University.
- 203.2 The President may determine, consistent with any expressed intent of the donor, if applicable:
- (a) The purpose(s) for which the gift shall be used; and
 - (b) Whether income or principal, or both, shall be used.
- 203.3 The President may utilize gifts to support established University programs or to fund new or special programs, in accordance with the provisions of this subtitle.
- 203.4 The President shall determine whether any condition on the receipt of a gift, or the purpose(s) for which the gift will be used, will require expenditure of additional or supplementary funds by the University and shall provide for inclusion of required expenditures in the University financial plan subject to Board approval. In no event shall the acceptance of any gift by the University constitute a commitment requiring expenditures in excess of budgeted items.
- 203.5 The President may return to the donor all or any unused portion of a gift of personal property when the purposes of the gift have been fulfilled or fulfillment has become impossible or impractical and alternative uses are precluded.

SOURCE: Final Rulemaking revised at 40 DCR 3353 (May 21, 1993); as amended by Final Rulemaking
published at 57 DCR 6156, 6158 (July 16, 2010).

204 BUDGET AND FINANCIAL ADMINISTRATION

- 204.1 The President shall annually prepare a budget for the University, including a plan for operating and capital expenditures and shall provide the Board copies of the proposal and all necessary back up documentation not less than 10 days prior to any Board or Committee on Budget and Finance for review and consideration of approval. As part of the budget process, the President shall prepare a request to the Mayor and Council for District appropriations for the support of the University subject to approval by the Board prior to submission to the Mayor or the Council of the District of Columbia of a final.
- 204.2 Prior to the beginning of each fiscal year, the President shall prepare a financial plan for control of expenditures by the University. Upon approval of the financial plan by the Board, the President shall manage the expenditures of the University in accordance with the financial plan. All modifications of the financial plan including shifting or reallocations of funds within programs or other areas over \$250,000 must be approved by the Budget and Finance Committee and reported to the Board. Cumulative modifications during the fiscal year of the financial plan that are \$1 million and over must be approved by the Board.
- 204.3 During the fiscal year, the President shall recommend to the Board for its approval modifications of the financial plan based on changes in the District appropriation, actual or projected revenues, cost of programs and operations, academic program needs, or other factors. Reprogramming of appropriated budget authority shall be in accordance with applicable District law.
- 204.4 The President shall make timely recommendations to the Board for the establishment or modification of tuition, fees, and other assessments to be paid by students of the University.
- 204.5 The President shall make recommendations to the Board for a capital improvement program, including recommendations for the addition of a new project or a deletion, substantial modification, or change in the priority of an approved project for Board approval and shall provide all necessary back up documentation necessary not less than 10 days prior to any Board or Committee on Budget and Finance for review and consideration of approval.
- 204.6 The President may negotiate and approve indirect cost rates to be applied to contracts and grants. The use of indirect cost funds shall be included in the annual financial plan.
- 204.7 The President may approve the write-off of debts owed to the University deemed uncollectible, subject to ratification by the Board as part of the financial plan. The President shall ensure that adequate reserves are maintained to allow for uncollectible debts.

- 204.8 The President may write off routine disallowed claims under grants and contracts against funds received from the federal government in reimbursement of indirect costs.

SOURCE: Final Rulemaking revised at 40 DCR 3353 (May 21, 1993); as amended by Final Rulemaking published at 57 DCR 6156, 6158 (July 16, 2010).

205 EXECUTION OF CONTRACTS AND OTHER DOCUMENTS

- 205.1 Except as otherwise specifically provided in this section or in this title, the President may execute on behalf of the University all contracts and other documents, including documents to solicit and accept pledges, gifts, and grants.
- 205.2 Notwithstanding any provision of this section to the contrary, the President may execute all documents necessary in the exercise of the President's duties when an emergency precludes prior submission to the Board; Provided, that in all cases the President shall submit to the Board within forty-eight 48 hours a written justification for actions taken, the impact, including fiscal, of the actions and a request for ratification of the action(s) by majority vote of the Board.
- 205.3 The President may provide for execution claims against debtors in bankruptcy, in receivership, or in liquidation, and against estates of deceased persons.
- 205.4 Specific authorization by the Board shall be required for the following documents or any transaction that would establish an exception to the University Rules as set forth in this subtitle:
- (a) Any commitment for more than seven (7) years; or
 - (b) All Capital Procurements as presented in the Capital Budget on annual basis;
 - (c) Each transaction that would require any of the following:
 - (1) Modification of the financial plan in excess of the reprogramming authority delegated to the President;
 - (2) Modification of the Capital Budget; or
 - (3) Obligating the University to expenditures or costs for which there is no established funding source.

- (d) Any contracts and change orders/modifications, other than those already approved in the Capital Budget, resulting in a commitment of greater than four million dollars (\$4,000,000) in a single fiscal year for any Capital Procurement; and
- (e) Any commitment greater than one million dollars (\$1,000,000) in a single fiscal year for all other University Procurements.

205.5 Specific authorization by the Board shall be required for any of the following:

- (a) Acceptance of any pledge or gift in excess of one million dollars (\$ 1,000,000) in cash or estimated value;
- (b) Agreements for the provision of employee group insurance benefits;
- (c) Affiliation agreements involving direct financial obligations or commitments by the University to programs or projects not included in the financial plan;
- (d) Applications for licenses to operate radio or television broadcast equipment; and
- (e) Agreements under which the University assumes liability for the conduct of persons other than University officers, employees, agents, students, invitees, and guests. This restriction shall not apply to agreements under which the University assumes responsibility for the condition of property in its custody.

SOURCE: Final Rulemaking revised at 40 DCR 3353 (May 21, 1993); as amended by Final Rulemaking published at 57 DCR 6156, 6159 (July 16, 2010); as amended by Final Rulemaking published at 59 DCR 13923 (November 30, 2012).

208 — COMPENSATION OF ADMINISTRATORS

208.1 — The Board shall determine Executive compensation for administrators and non-administrators at Grade level 1A and above, including initial compensation upon appointment and subsequent changes in compensation, upon recommendation of the President through the Executive Committee or appropriate committee determined by the Board Chair.

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~~208.2 Compensation of administrators of the University with "acting" status shall be approved in the same manner in 208.1.~~

Comment [MS2]: Redundant. This information is also in Section 210 "Executive Appointments: General Provisions"

SOURCE: Final Rulemaking revised at 37 DCR 5077 (August 3, 1990); Final Rulemaking revised at 40 DCR 3353 (May 21, 1993); as amended by Final Rulemaking published at 57 DCR 6156, 6160 (July 16, 2010).

210 EXECUTIVE APPOINTMENTS: GENERAL PROVISIONS

- 210.1 In order to allow the President to appoint highly qualified and experienced executive talent to senior administrative positions, as well as to provide flexibility in making top administrative appointments, the President is authorized to make executive appointments to designated positions in the Educational Service, in accordance with the provisions of §§ 210 through 212 subject to the provisions of this Title and applicable law.
- 210.2 Except as required under § 212, an executive appointment may be made on a noncompetitive basis. Each executive appointee shall be qualified based on job description submitted by the President and approved by the Executive Committee for the position to which he or she is appointed. ~~The Executive Committee shall also review the qualifications of the appointee being considered prior to the appointment being made.~~
- 210.3 Executive appointments are "at will" appointments and executive appointees shall serve at the pleasure of the President. A person serving under an executive appointment shall not have any job tenure or protection in that position. An executive appointment may be terminated at any time without appeal or right to compensation.
- 210.4 The President may appoint a current employee to serve in an "acting" status in a position designated to be filled by executive appointment without requiring that employee to resign from his or her current position. Compensation of appointees with "acting" status shall be determined in accordance with the provisions of § ~~210.5~~ 210.6 and other applicable subsections of this chapter. Service in an "acting" status in a position designated to be filled by executive appointment shall be limited to one (1) year. The President shall seek Board approval for an extension forty five (45) days prior to the year ending if he/she determines and can demonstrate that additional time is needed. Should an extension be approved by the Board, the President shall provide the Board immediately with a plan and time line for making the permanent appointment within ninety days (90) of the end of the one (1) year period should the appointment be necessary. The Board may approve an extension or renewal of an acting appointment

for no more than one (1) additional year due to extenuating circumstances as determined by the Board.

210.5 The President shall determine compensation for each non-academic administrator executive appointment at grade level 2A and below, including initial compensation upon appointment and subsequent changes in compensation, in accordance with the level of responsibility of the position, the experience and qualifications of the appointee, and other factors, in accordance with the administrative pay scale approved by the Board.

~~210.6 The Board shall determine Executive compensation for non-academic administrators and non-academic non-administrators at Grade level 1A and above, including initial compensation upon appointment and subsequent changes in compensation, upon recommendation of the President through the Executive Committee or appropriate committee determined by the Board Chair.~~

Comment [MS3]: Moved to §211 since it only applies to non-academic

~~210.7 Compensation of administrators of the University with "acting" status shall be approved in the same manner in 210.5-210.6.~~

Comment [MS4]: Redundant, stated in §210.4

210.87 A University employee who is a permanent incumbent and who is serving in a position designated to be filled by executive appointment shall retain all the rights and benefits of his or her permanent employment status and shall not be converted to an executive appointment. However, once the incumbent vacates the position (due to reassignment, resignation, or other reason), the person subsequently appointed to fill the position shall be subject to the executive appointment provisions of this section.

210.89 The President shall not enter into any agreements ~~with interim/acting executive appointees~~ that grant tenure or right of employment in any faculty, administrative or other University position unless such person holds permanent or tenured faculty rank at the University or as approved by the ~~Board of Trustees~~ Executive Committee.

~~210.10 There shall be no interim appointments to executive positions. Any existing appointments shall be acting and shall expire ninety (90) days from the final rulemaking of this section.~~

Comment [MS5]: No longer applicable

SOURCE: Final Rulemaking revised at 40 DCR 3353 (May 21, 1993); as amended by Final Rulemaking published at 57 DCR 6156, 6161 (July 16, 2010).

211 EXECUTIVE APPOINTMENTS: NON-ACADEMIC ADMINISTRATORS

211.1 The following ~~administrative~~ positions shall be filled by executive appointment ~~and shall be ratified by the majority vote of the Board~~:

- (a) Non-academic ~~v~~ice ~~P~~presidents;
- (b) General Counsel; and
- (c) Internal Auditor.

211.2 The President may designate any position which reports directly to the President or any senior management or legal position of Administrative Salary Grade Level of 2B or higher which reports directly to a vice president to be filled by executive appointment.

211.3 The President, in his or her discretion, may conduct a formal or informal search or provide for a recruitment process to fill a position by executive appointment under this section.

211.4 An employee of the University with permanent status who accepts an executive appointment under this section shall not have reversionary rights to return to the same position upon termination of the executive appointment. However, upon termination of the executive appointment, the former executive appointee shall retain his or her employment status at the University and shall be assigned to a position at the same level that he or she held at the time of the executive appointment.

211.5 A person newly hired under this section may, upon termination of the executive appointment, apply for competitive appointment to a position in the Educational Service for which he or she is qualified.

211.6 Upon recommendation of the President, the Executive Committee shall approve the qualifications of all non-academic administrators prior to appointment and the approval shall be ratified by the majority vote of the Board.

211.7 The Board shall determine compensation for non-academic executive appointments at Grade level 1A and above, including initial compensation upon appointment and subsequent changes in compensation, upon recommendation of the President through the Executive Committee or appropriate committee as determined by the Board Chair.

Comment [MS6]: If this goes through another committee it will not be official until it goes before the Board, recommend to strike and only allow review of compensation through Executive committee.

SOURCE: Final Rulemaking revised at 40 DCR 3353 (May 21, 1993); as amended by Final Rulemaking published at 44 DCR 5835 (October 10, 1997); as amended by Final Rulemaking published at 57 DCR 6156, 6162 (July 16, 2010).

212 EXECUTIVE APPOINTMENTS: ACADEMIC ADMINISTRATORS

212.1 The following positions shall be filled by executive appointment:

- (a) Provost;
- (b) Deans of academic colleges;
- (c) Associate and assistant deans of academic colleges; and
- (d) Community College Chief Executive Officer.

212.2 The appointment of faculty members to serve in administrative positions which report directly to the Provost, Community College Chief Executive Officer or a dean shall be an executive appointment.

212.3 The appointment of the Provost and the Community College Chief Executive Officer in a permanent or acting position shall be approved by the Executive Committee and ratified by the majority vote of the Board.

212.4 The President shall provide for a formal search and selection process, including active faculty and Board participation, to fill the positions of Provost, ~~academic dean~~, and Chief Executive Officer of the Community College. If the Provost or, Community College Chief Executive Officer, ~~or a academic dean position~~ is vacated, the President shall name an acting Provost or Community College Chief Executive Officer consistent with §2102.3, subject to the provisions of this Title and applicable law.

4. ~~for a period not to exceed one (1) year from the date of the vacancy, and administrative leave shall not be considered time in the position. For other executive appointments under this section, the~~

212.5 ~~The~~ President, in his or her discretion, may conduct a formal or informal search or provide for a recruitment process to fill an Academic Dean, Associate Dean or Assistant Dean position by executive appointment. Such process shall include faculty participation and shall be completed within one (1) year of the time of vacancy.

212.54 A person newly hired for the position of Provost or academic dean may be granted academic title and rank with tenure in the department in which he or she is qualified at the recommendation of the President and approval by the Board through the Executive Committee or Committee designated by the Chair.

212.65 A person who holds permanent or tenured faculty rank at the University and who accepts an appointment to an academic administrative position under this section shall not be required to resign from his or her faculty position and shall have the right to return to his or her faculty position upon termination of the executive appointment.

212.~~76~~

During a simultaneous appointment to an academic administrative position under this section, a faculty member shall be subject to the terms and conditions of employment set forth in the executive appointment. The faculty member shall be deemed to be on leave of absence from his or her faculty position, but shall retain simultaneous faculty title and rank.

212.~~87~~

When a person holding faculty rank accepts an executive appointment to an academic administrative position, he or she shall be a full-time, twelve (12) month employee and shall receive compensation and benefits as set forth in the executive appointment, in accordance with the provisions of § 210.5, until termination of the executive appointment.

SOURCE: Final Rulemaking revised at 40 DCR 3353 (May 21, 1993); as amended by Final Rulemaking published at 57 DCR 6156, 6163 (July 16, 2010).

213

APPOINTMENT AND REMOVAL OF DEPARTMENT CHAIRS

213.1

Subject to the approval of the Provost, the dean shall appoint the chair of each department. Each appointee shall serve at the pleasure of the dean, and shall be subject to annual review and evaluation by the dean.

213.2

The dean shall consult with the members of the faculty of a department on the appointment of the department chair, pursuant to a uniform process approved by the Provost.

213.3

To be eligible to serve as a chair, a person shall be a member of the department faculty who holds the rank of Associate Professor or Professor. A dean may appoint a faculty member who does not meet the requirements of this subsection to be "acting" chairperson for a term of not more than one (1) year.

213.4

Each department chair shall be paid his or her regular faculty salary for services performed during the academic year. If the services of the department chair are required for all or part of a summer term, compensation for those services shall be determined by the President in consultation with the Provost and the deans.

213.5

A department chair shall not be required to provide services as chair beyond the academic year. If a chair is not available to provide services needed beyond the academic year, the dean may appoint an "acting" chair to serve during the interim period.

213.6 The faculty of a department may petition the dean for the removal of the department chair by two-thirds (2/3) majority vote of the regular, full-time faculty of the department. The decision to remove or retain the chair shall be at the discretion of the dean after consultation with the Provost.

213.7 Reduced teaching loads requirements for each department chair shall be determined by the dean and approved by the Provost.

SOURCE: Final Rulemaking revised at 40 DCR 3353 (May 21, 1993); as amended by Final Rulemaking published at 57 DCR 6156, 6164 (July 16, 2010).