

**BREVARD COMMUNITY COLLEGE
BOARD OF TRUSTEES
WORKSHOP**

February 27, 2006
3:20 p.m.

Rooms 163-163A
Library Building (Bldg. #2)
Palm Bay Campus

PRESENT: Mrs. Alberta K. Wilson, Chairman; Mr. C. R. “Rick” McCotter III, Vice Chairman;
Mr. James W. Handley; Mrs. Miriam Martinez; Mr. James Theriac;
Mr. Joe D. Matheny, Attorney; Dr. Thomas E. Gamble, Secretary

GUEST: Mr. Bill Mallowney, Valencia Community College

1. CALL TO ORDER:

Mrs. Alberta K. Wilson, Chairman, called the Board Workshop to order.

2. GENERAL DISCUSSION:

None.

3. DISCUSSION - POLICY GOVERNANCE MANUAL:

Mr. Joe Matheny, college attorney, introduced Mr. Bill Mallowney, Vice President and General Counsel, Valencia Community College, who was invited by Dr. Gamble to review and report on BCC’s recently-implemented Policy Governance Manual. Mr. Matheny reported that the Manual underwent major modifications using the Carver model with the intent to transfer maximum legal authority to the President of the College.

Mr. Mallowney reported that he agreed the Carver model is generally a good one as global authority is beneficial. However, he reported that Florida law does not provide well for policy governance which causes some conflicts with the model.

Mr. Mallowney provided a detailed report, “Community College Presidents and Boards: General Statutory Powers and Duties In Comparison with the District Board of Trustees of Brevard Community College’s Policy Governance Manual,” for future reference, as desired. He recommended that Mr. Matheny provide a review and analysis of the document for the Board’s clarification.

Mr. Mallowney provided a document, “Policy Discussion Matters,” which points out several areas that raised questions as he reviewed the document, namely:

1. Introduction: Mr. Mallowney stated the verbiage at the end states some governance principles. Mrs. Martinez stated the introduction reiterates the principles upon which the manual was composed and is non-binding.

2. 200.1: Mr. Mallowney stated the language is too vague and he suggested injecting more permissive language to allow flexibility as this is not meant to be a zero tolerance policy.
 - a. The statement, "Promise or imply guaranteed employment to anyone.." could be open to interpretation as a Continuing Contract could be considered a guarantee of employment unless terminated for cause.
 - b. Mr. Mallowney asked if the gender equity section applied specifically to Title IX. Mr. Matheny stated that it was included according to state statute. Mr. Mallowney stated the statement may be too narrow and suggested defining as non-discrimination.
3. 200.2: Mr. Mallowney stated 200.2 was good on harassment guidelines but very low-key on the concept of non-discrimination. He recommended that non-discrimination be defined similar to 100.3.A on page seven of the Manual. He also noted that a second statement on an implementation is included, which goes against the Carver model. In this case, Mr. Mallowney agreed it should remain.
4. 200.7: Mr. Mallowney commented 200.7 was a good policy as the Board should define parameters, but recommend revising an earlier statement that "the President is the sole employee of the Board." Mrs. Martinez suggested leaving the foregoing verbiage with the clarification that 200.7 defines the standards required by the Board of employees. Mr. Mallowney stated that Sections A, B, C and E are all connected with legal requirements. However, Section D is not, so perhaps Section D should be removed and placed into a separate policy promulgated by the President dealing with specific standards of conduct.

Mr. Mallowney stated Section E is subjective and difficult to enforce and suggested it be deleted and included as a Human Resource policy. Mrs. Martinez agreed that this should be deleted as it is covered under Section C.
5. 200.10: Mr. Mallowney recommended leaving the first paragraph; the second paragraph is procedural and could be removed.
6. 300.0: Mr. Mallowney recommended adding "As a matter of principle," to avoid the legal imperative that the President is the only employee of the Board. This would then allow the Board's hiring of an internal auditor, etc. He suggested making reference to the Boards' statutory role with regard to strategic planning. Mr. Mallowney suggested Mr. Matheny could draft these changes appropriately.
6. 300.2 to .4: Mr. Mallowney questioned whether all the Presidential Evaluation forms, etc. should be a part of the Policy Manual. Modifications would be easier if they were maintained in a separate document outside the policy, i.e. Appendix or in the Board Procedure Manual to make changes without going through the whole process. Mrs. Martinez stated having everything in one book helps because if it were maintained outside of the book it might be forgotten. Mr. Mallowney stated it could remain in the book, but not as a "policy." Policies should be written for issues which are consistent and enduring.

7. 300.6: Mr. Mallowney suggested integrating limitations and powers/duties of the President into one policy (i.e. integrate 300.8). Knowing that the law points out the powers and duties of a President in a detailed way, these items could be covered in the contract to allow for change. He also suggested clarification of the Board of Trustees' statutory duty for establishing the personnel program of the college
8. 300.7: Mr. Mallowney recommended removing the reference to specific holidays to allow flexibility. There could be created a policy that gives the President the authority to create the college schedule, which he has under law, and let the calendar be a matter of procedure. Mrs. Martinez said it was added as advised by Mr. Matheny.
9. 300.8: See comment for 300.6 (above).
10. 400.0 to .2: Mr. Mallowney reported these policies deal with some board processes, but might be folded into a larger policy of by-laws. This is not required, but helps make consistent decisions and avoid legal controversy. Mr. Mallowney provided copy of Valencia by-laws for review and consideration.
11. 400.3: Mr. Mallowney stated policy 400.3 contains very little information on the business administration side of the finances.

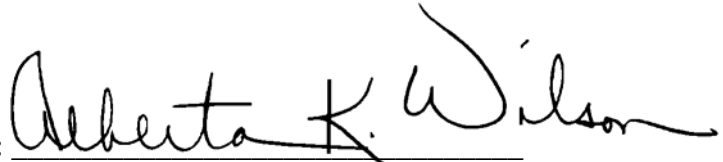
Mr. Mallowney reported the Policy Governance Manual, as written, is thorough and would be fine as is; however, he suggested specific policy modifications which were spelled out in his report "Review: The District Board of Trustees of Brevard Community College's Policy Governance Manual." A list of Policy additions is also included in the aforementioned report. He indicated the comments are self-explanatory; however, pointed out that it is important to note that a statement that for both students and employees, the Board is allowed to consider past conduct in their decisions regarding enrollment and employment be included. He reported such a statement is utilized at Valencia for anyone wishing to enroll or apply for employment with a history of sexual offenses. The Board requested a sample of Valencia's verbiage regarding these suggested policies, especially those dealing with Intellectual Property and Academic Freedom.

Mr. Mallowney, in reference to personnel contract forms, stated that Valencia Community College's Board drafted verbiage that any contracts developed under the policy would be deemed prescribed by the board. The rule changed that originally required a State Board of Education (SBOE) contract form; to allow that a community college could create their own contract if authority is prescribed by the board. Mr. Mallowney will forward the Valencia resolution for review of verbiage. He further suggested that a statement regarding delegation of authority be added, such as "Unless expressly prohibited by law, the Board delegates all necessary power and authority to the President."

4. **ADJOURNMENT:**

The retreat adjourned at 4:05 p.m.

APPROVED:



Chairman, District Board of Trustees

ATTESTED:



Secretary, District Board of Trustees