MINUTES OF THE REGULAR MEETING OF THE
OREGON STATE BOARD OF HIGHER EDUCATION (#833)
OIT, KLAMATH FALLS, OREGON
OCTOBER 1-2, 2009

1. Call to Order/Roll Call/Welcome ................................................................. 153
2. Discussion Item ................................................................................................. 153
   a. Board Policy: Retention .............................................................................. 153
3. Public Input .......................................................................................................... 155
4. Call to Order ........................................................................................................ 155
5. Discussion ........................................................................................................... 156
   a. OUS Resource Allocation Model ............................................................ 156
6. Call to Order/Roll Call/Welcome ...................................................................... 156
7. Reports ................................................................................................................ 156
   a. Chancellor’s Report ..................................................................................... 156
   b. Interinstitutional Faculty Senate (IFS) ......................................................... 157
   c. Oregon Student Association (OSA) ............................................................. 157
8. Consent Items ...................................................................................................... 157
   a. PSU, Land Acquisition and Ground Lease (College Station Housing) ........ 157
   b. UO, Request for Increased Article XI-F(1) Limitation (Student Housing) ... 160
9. Action Items .......................................................................................................... 162
   a. Adoption of Permanent Administrative Rule 580-021-0027, Voluntary FTE Reduction Program ........................................................................... 162
   b. Adoption of Permanent Administrative Rule 580-023-XXXX, Criminal Background Checks ...................................................................................... 163
   c. OUS, Approach to 2009-2011 Budget Allocation and the Proposed Fiscal Year 2009-10 Operating Budget Allocations ...................................................... 163
   d. OUS, Tuition Policy and Guiding Principles ................................................. 165
   e. OUS, Elimination of the Board’s Executive Committee ................................ 167
10. Report Items ...................................................................................................... 168
    a. Senate Bill 338, Update on State Stimulus-Funded Projects ...................... 168
    b. Board’s Standing Committees Update ......................................................... 168
11. Public Input ................................................................................................................................. 168
12. Board Comments ...................................................................................................................... 168
13. Adjournment ............................................................................................................................ 168
1. **CALL TO ORDER/ROLL CALL/WELCOME**

President Paul Kelly called the meeting to order at 3:45 p.m. The following Board members were present: Hannah Fisher, Allyn Ford, Brian Fox, Jim Francesconi, Paul Kelly, Dalton Miller-Jones, Rosemary Powers, Kirk Schueler, and David Yaden. Absent: Matt Donegan (business), Preston Pulliams (business), and Tony Van Vliet (personal). Chancellor’s Office staff present included: Ryan Hagemann, Joe Holliday, Jay Kenton, Bob Kieran, Di Saunders, Marcia Stuart, and Susan Weeks. Others present included: presidents Mary Cullinan (SOU), Bob Davies (EOU), Richard Lariviere (UO), Chris Maples (OIT), John Minahan (WOU), Ed Ray (OSU), and Wim Wiewel (PSU).

President Kelly welcomed newly appointed Board member Allyn Ford to the Board of Higher Education. Director Ford is president and CEO of Roseburg Forest Products, a fully integrated wood products manufacturer located in Roseburg, Oregon and has over 30 years of management experience with the company. He also serves as a director of the Ford Family Foundation, the Doernbecher Hospital Foundation, the World Forestry Center, and serves on the board of trustees of APA—The Engineered Wood Association.

2. **DISCUSSION ITEM**

   a. **Board Policy: Retention**

President Kelly called upon Vice Chancellor Susan Weeks to provide background to the agenda item (for materials, see [http://www.ous.edu/state_board/meeting/dockets/ddoc091002.pdf](http://www.ous.edu/state_board/meeting/dockets/ddoc091002.pdf)) and then called upon Assistant Vice Chancellor for Student Success Initiatives Joseph Holliday. He thanked Bob Kieran, Director of Institutional Research Services and the Interinstitutional Council of Enrollment Managers for their assistance in providing statistics on retention. He noted that “stop-outs” are tracked and approximately 9 percent of students leave the System and either continue their education in their state of origin or enroll in private institutions. Incoming transferred students are retained and graduate in greater numbers. The average time to degree is 4.6 years.
Following the presentation, President Kelly invited comments. President Wiewel noted that this area is very well researched nationwide. He cautioned against hiding behind the excuse of “lack of knowledge” but that it’s apparent that the funding is not available to retain the students (i.e., funding the Oregon Opportunity Grant, hiring additional advisors and full-time faculty). In response to Director Fox’s query about identifying the student demographics, Holliday advised that the largest demographic impacting higher education is the Latino population. Director Kelly asked about the benchmark/goal to increasing retention; in response, Vice Chancellor Weeks stated what the current institutional enrollment is and what is possible for sustainable growth. President Minahan noted that it is prudent to determine where strategic funding for the maximum growth should be applied. President Ray noted that encouraging freshmen students to live on campus, working on campus, identifying a major even if it changes before graduation, and being involved in campus activities all contribute to retaining students.

Director Yaden asked what the level of engagement is with the K-12 System; Director Miller-Jones replied that the Performance-based Admissions Standards (PASS) encouraged collaboration between faculty and K-12 teachers; however, due to lack of funding, these partnerships have faded. President Davies advised that EOU has created ad hoc relationships with local school districts with the assistance of the GEAR-UP grant. President Cullinan added that students are struggling with staying in college and supporting families. She opined that additional Oregon Opportunity Grant funding is needed to assist these non-traditional students. Director Powers opined that we should look more to institute practices that influence faculty to increase, on a wider scale, the impact of their mentoring and influence on their students. President Lariviere opined that campuses should hold higher expectations of their students and that the student who is taking 15 credits and working 15 hours on campus has a greater rate of graduating than the student who may take less credits and doesn’t work but cannot effectively manage their time.

President Kelly asked, “What is the role of the Board in this?” President Minahan noted that the presidents need to know the hierarchy of importance in the issues and where they need to apply their attention. Director Francesconi agreed and recommended that the discussion be addressed in the Board retreat and that the Academic Strategies Committee also needs to know the Board’s priorities. Director Ford asked if there are goals set; Director Miller-Jones advised that the institutions are doing very well in meeting goals.

President Maples agreed with Dr. Lariviere’s comment concerning students’ ability to manage their time; the campuses are not in the business to create sophomores but to produce graduates. However, students enter the System with college credits obtained while in high school and then progress from freshmen to seniors but remain seniors for three, four, even five years as they change majors over and over. President Ray said that each institution has different demographics; therefore, individualized goals that track the rate of graduates who are successfully employing their education in life should be defined.

Director Powers stated that disaggregating institution goals would allow the Board to hear what each institution feels are its major areas of need for more support from the Board or the state,
or more engagement or knowledge, or whatever it is, so that at the same time that the Board is trying to work toward a System portfolio, the Board is recognizing the uniqueness of each institution. It is difficult, at times, for the legislature to appreciate the uniqueness of the campuses.

In conclusion, Director Francesconi recommended assigning this topic to the Academic Strategies Committee with the task of developing a staff recommendation for full Board action at a later meeting.

3. Public Input

President Kelly invited Associate Professor Cass Dykeman, Counselor Education, College of Education, Oregon State, to provide comment. He noted that he, in addition to teaching at OSU, participated on the team that established the first graduate program at OSU-Cascades. His comments pertained to an announcement by Oregon State’s administration to merge the College of Education with OSU-Cascades, which falls within their sole prerogative. He suggested that this statement conflicts with the Board’s Internal Management Directive 2.001 as the proposed merger involves a significant modification of two colleges and “overturns specific curricular allocations made by the Board.” He also opined that moving the focus of the Cascades campus from an upper-division model to a “normal school” model would be detrimental to the population of Deschutes County. In response to Measure 5, OSU closed the College of Education, including the counseling program; however, with the closure of the counseling program, it became apparent that Oregon citizens residing outside of Portland would lose access to school counselor training. As a result, the Board of Higher Education reversed this decision and funded the program. He said that “it has been rumored that part of the merger proposal is moving all school counseling training to OSU-Cascades. Such a move would eliminate, for most Western Oregon residents, access to school counseling training.” He concluded by summarizing that this would result in a decision and financial commitment by the Board being overturned, access to key K-12 personnel training being eliminated in a large part of the state, and significant annual income lost. (Professor Dykeman’s full comments are available in the Board’s Office.)

At 5:35 p.m., President Kelly recessed the meeting to reconvene at 6:45 p.m.

4. Call to Order

During a dinner working session, President Kelly reconvened the meeting at 6:45 p.m.; Board members present included Directors Hannah Fisher, Allyn Ford, Brian Fox, Paul Kelly, Dalton Miller-Jones, Rosemary Powers, Kirk Schueler, and David Yaden. Absent: Matt Donegan (business), Jim Francesconi (personal), Preston Pulliams (business), and Tony Van Vliet (personal). Chancellor George Pernsteiner, Neil Bryant, Ryan Hagemann, Jay Kenton, and Susan Weeks were also present. Presidents Mary Cullinan (SOU), Bob Davies (EOU), Richard Lariviere (UO), Chris Maples (OIT), John Minahan (WOU), Ed Ray (OSU), and Wim Wiewel (PSU) were present.
5. **DISCUSSION**

   a. **OUS Resource Allocation Model**

   President Kelly called upon Vice Chancellor Jay Kenton, who provided a primer on the System’s Resource Allocation Model. President Kelly recessed the meeting at 8:15 p.m., to reconvene at 8 a.m. on Friday, October 2, on the OIT campus.

6. **CALL TO ORDER/ROLL CALL/WELCOME**

   President Paul Kelly reconvened the meeting at 8:13 a.m. and asked the Secretary to call the roll. He then thanked President Maples for the excellent campus visit the prior day and noted that the morning faculty coffee had the largest attendance in his two-year service on the Board. Kelly then re-introduced Allyn Ford to the Board.

   Board members present included: Hannah Fisher, Brian Fox, Allyn Ford, Paul Kelly, Dalton Miller-Jones, Rosemary Powers, Preston Pulliams (8:33), Kirk Schueler, and David Yaden. Board members absent included Matt Donegan (business), Jim Francesconi (personal), and Tony Van Vliet (personal).

   Chancellor’s staff present included: Chancellor George Pernsteiner, Neil Bryant, Ryan Hagemann, Jay Kenton, Di Saunders, Cindy Starke, Marcia Stuart, and Susan Weeks,. Others present included: presidents Mary Cullinan (SOU), Bob Davies (EOU), Richard Lariviere (UO), Chris Maples (OIT), John Minahan (WOU), Ed Ray (OSU), and Wim Wiewel (PSU); Provost Bob Vieira (OHSU) was also at the table.

7. **REPORTS**

   a. **Chancellor’s Report**

   President Kelly called upon Chancellor Pernsteiner for his report. The Chancellor reported that the campuses are enjoying record enrollments this fall and that he is proud that the campuses have stepped up to assist citizens in pursuing and completing a postsecondary education during these difficult recession times. He informed the Board of the potential budget downturn in the next year and the use of reserves to fill the funding gaps. He spoke of the new Board meeting format that the Board experienced during this campus visit. He informed the Board that the January 2010 Board format will include a “tri-board” meeting that will include the Boards of the Department of Education and Community Colleges. He noted that the new format should allow more time for discussion and setting courses of action to address issues that affect the campuses at present and future times.

   Mr. Neil Bryant advised that the legislature is now meeting in committees during a two-and-a-half day period of time. The legislative session in February will be a limited agenda. He talked
about how the legislature has been dealing with the issue of public and campus safety and how those who have been authorized to carry concealed weapons have been lobbying to carry concealed weapons on campuses. Due to these lobbying efforts, a committee has been formed to address the issue (e.g., who should be allowed to carry on campus, how should public safety officers act when they could potentially deal with a person with a handgun, should they be allowed to carry a weapon into the classroom, etc.).

There will be a January election and the ballot measures have been supported by private citizens with volunteers gathering signatures of support rather than professional ballot workers. Director Pulliam advised that the community colleges are at 95 percent capacity. He asked how one sector is impacting the other sectors; Chancellor Pernsteiner advised that that data will not be available until after the fourth week and noted that his impression is that the in-take of transfer students from community colleges to the universities is the larger category in the enrollment statistics. However, with the potential tax repeal, the campuses will no longer have the resources to continue meeting the increased enrollment.

b. Interinstitutional Faculty Senate (IFS)

President Kelly called upon Dr. Peter Gilkey for the IFS report. Dr. Gilkey noted that there are three to four areas of concern for faculty: furloughs; long-term sustainability, financial stability for the long-term; changes to the health insurance package (from Blue Cross to Providence); and dealing with the possibilities of an outbreak of the H1N1 flu on the campuses.

c. Oregon Student Association (OSA)

President Kelly called upon the new OSA chair, Emma Kallaway; her testimony is available from the Board’s Office.

8. Consent Items

a. PSU, Land Acquisition and Ground Lease (College Station Housing)

Docket Item:

Summary:
Portland State University has established as a major University goal the expansion of student housing to accommodate the rapid growth in enrollments over the past 15 years (28,000 student headcount projected in 2009-10) and to better serve the University’s student success and retention goals. In January 2009, the Board authorized the Chancellor, on behalf of Portland State University, to seek legislative authorization to issue up to $8 million in Article XI-F(1) bonds for land acquisition to facilitate development of a mixed-use facility incorporating student housing, academic classrooms, retail, and related support space. Legislative authorization has been received and PSU is now requesting authorization to issue taxable Article XI-F(1) bonds to complete the land acquisition. In addition, PSU is requesting
authorization to proceed with a ground lease for the acquired property to a private student housing company that will coordinate with PSU in developing a mixed-use, primarily student housing facility.

Background:
PSU currently houses approximately 2,000 students in its University-owned and operated student residential facilities (about 7 percent of the total student population). This is an increase from 1,560 four years ago and demand for student housing will remain strong and grow with additional enrollments. The long-term goal for Portland State is to house up to 25 percent of its student body. As such, Portland State has developed a campus housing plan that includes both internal management strategies and partnering with private developers to assist in meeting the overall goals.

At the November 3, 2006, Board meeting, Portland State reported to the Board on its proposed acquisition of properties from TriMet as part of a transit-oriented development incorporating the Max Green Line Project. The properties are on the SW College/SW Jackson block between Fifth and Sixth Avenues, as well as the properties immediately south of Jackson Street which accommodates the southern turnaround for the rail expansion. The briefing informed the Board that Portland State and TriMet had developed a Memorandum of Understanding concerning the acquisitions of the parcels from TriMet for future student housing expansion as a “transit-oriented development.” The “transit-oriented development” program makes it possible for Portland State to acquire these properties below the original cost of acquisition to TriMet. This assists the University in meeting another important goal—keeping the cost to student residents as low as possible.

Portland State returned to the Board in January 2009 and obtained authorization for the Chancellor to seek legislative approval for the land purchases from TriMet. Approval of an $8 million limitation for land acquisition was subsequently obtained in June 2009. In addition, Portland State also outlined plans for expansion of on-campus housing, including issuing a Request for Proposal (RFP) to identify a development team to plan, finance, design, build, and operate a mixed-use development incorporating 600 to 1,000 student beds, academic classroom and support space, and some retail and transit support space; and plans to enter a ground lease with the developer for the College/Jackson properties.

TriMet is now completing acquisitions of all properties on the College/Jackson site with the exception of the already owned Portland State Sixth Avenue Building (see attached map). Portland State has now developed a plan with the selected company and has completed its due diligence on the project. The University now seeks Board approval to issue up to $8 million in Article XI-F(1) bonds to acquire the TriMet properties. This purchase price of the parcels to PSU is less than the acquisition prices of the properties plus the costs of demolition, etc., paid by TriMet. TriMet has completed Level 1 environmental assessments on these properties with no significant concerns noted. In addition, Portland State, having completed its developer selection and preliminary planning process, now requests Board approval to enter into a ground lease with American Campus Communities (ACC). The Article XI-F(1) bonds issue would be taxable.
To accommodate this subsequent ground lease of the land to ACC (see the attached briefing sheet on ACC).

**Terms of the Proposed Ground Lease and Legal Considerations:**
Upon acquiring the TriMet properties, Portland State will execute a 65-year ground lease with ACC. The ground lease will include two 10-year extension options, exercisable by the lessee upon notice to Portland State. The initial Ground Rent will be equal to the annual debt service on the land acquired from TriMet and will escalate on an annual basis. In addition, the Ground Lease will include additional payments to the University based on gross revenues sharing at a designated return level. ACC will plan, finance, design, construct, and operate a mixed-use facility on the site, incorporating ground floor retail, TriMet light rail stations and break rooms, academic classroom and support space, and approximately 900-1,000 beds of student housing. Estimated completion date of the development would be Fall 2012. The improvements constructed on the site would be owned and financed by ACC, with no recourse or financial guarantees to Portland State. Upon expiration of the ground lease, the improvements on the site would either revert to Portland State or be deconstructed, at Portland State’s discretion. After an initial period of operation, the University would have an option to purchase the improvements from ACC at fair market value.

To maintain the below-market rent to Portland State students, the project is planned as a tax exempt project. To accomplish this, ACC is pursuing county approval of a financing structure that will involve the PSU Foundation. Under this proposal, ACC will sub-lease both the ground and the improvements to a charitable entity established by the PSU Foundation, a 501(C)3, thus establishing a charitable purpose ownership. The Foundation’s charitable entity will, in turn, contract the operation of the facility to ACC. The ground lease with PSU will require ACC to implement a residence life program for student housing that meets all Portland State programmatic requirements. ACC will also coordinate with PSU for services such as marketing, safety and security, and parking.

Portland State has negotiated terms for the ground lease in consultation with the Department of Justice and the Department has verified that these terms do not require PSU to provide any financial guarantees to ACC. PSU has also consulted and obtained approval from bond counsel on the terms of the proposed transaction. The University is in the process of seeking a preliminary opinion from Moody’s to verify that the proposed structure will result in an off balance sheet, off credit transaction for PSU.

The University’s financial exposure would be limited to debt service on the land parcels acquired from TriMet, which is estimated to be approximately $648,000 annually, the majority of which will be covered by the ground lease to ACC, supplemented with a minimal amount of other housing revenues.

The following conditions remain open and must be satisfactorily resolved prior to acquisition:

**Seller – TriMet**
• Acquisitions of remaining (2) parcels;
• Phase 2 Environmental Reports; and
• TriMet Board Authorization (October 2009).

**PSU**

- Approval of the ground lease by the State Board of Higher Education;
- Finalization of campus housing development agreement with ACC; and
- Final ground lease approval by the Department of Justice Assistant Attorney General and execution by the Board President and Secretary.

**Committee Recommendation to the Board:**
The Finance and Administration Committee approved the proposal at the October 1, 2009, meeting and further recommended that the Board take the following actions:

1. Recommend to the Board the approval of the use of $8 million in Article XI-F(1) bonds to acquire this property. This recommendation includes a finding that this project will be self-supporting and self-liquidating as required by the Oregon Constitution.
2. Approval of the long-term ground lease to ACC.

b. **UO, Request for Increased Article XI-F(1) Limitation (Student Housing)**

**DOCKET ITEM:**

**Summary:**
The University of Oregon (UO) seeks approval for the Chancellor, or designee, to request authority from the legislature at its 2010 Supplemental Session or the next meeting of the Legislative Emergency Board to increase expenditure limitation and authorize the use of $75 million Article XI-F(1) bonds for the purpose of constructing a 400–450 bed student residence hall that will also contain faculty offices, resident faculty apartments, and multipurpose rooms that can be used for seminars, classes, and other programming. The residence hall will be constructed and operated by the UO.

**Staff Report to the Board:**
The Chancellor and the Board asked the University to develop a long-range housing plan in conjunction with the approval of the sale of Westmoreland Village Apartment Complex in 2006. That plan established broad objectives and measurable goals as well as a financial plan to achieve those goals. The UO reported to the Board on the plan in January and October 2007. In October 2007, the UO expressed its intention to solicit broader University feedback before moving ahead with the first phase of construction to implement the plan.

The UO established a goal of housing up to 25 percent of its undergraduates on campus in housing that, by offering sequenced independence, would attract students to remain in on-campus housing beyond their freshman year. That goal was a basis for planning efforts with Student Affairs. The 2008 Student Affairs Strategic Plan established goals related to Student
Affairs capital projects that, over a 15- to 20-year period, will create learning and community spaces in both existing and new facilities. After development of the Plan, a Facilities Implementation Team developed a detailed strategy to implement the goals of increasing the number of students who choose to live on campus after their first year and of increasing the academic and community activities that are part of the on-campus residential experience. The East Campus Residence Hall is the first structure developed as an outgrowth of that planning process. The UO Campus Planning Committee has conducted an initial review of the project.

The UO continues to experience strong undergraduate enrollment, both through increases in freshman enrollment and in student retention. However, most returning students choose to live off-campus. New housing will diversify the types of housing available to offer residential options, such as semi-suites, suites, and apartments that encourage students to develop independent living skills and bring greater faculty participation into the student residential experience. The East Campus Residence Hall will also contain a dining room that will be used to provide dining services during the upcoming renovation of the Hamilton Complex dining facilities.

The East Campus Residence Hall will be constructed on campus at the corner of 15th Avenue and Moss Street, across the street from Bean Complex, on property that currently serves as a parking lot. The UO chose ZGF (Zimmer Gunsul Frasca) Architects through a competitive process to design the facilities. Students have been involved in the design process with a focus on sustainability. A residence hall is a permitted use under the property’s current Public Land zoning. Construction is planned to begin in June 2010 and will open in September 2012. The UO will construct, own, and operate the East Campus Residence Hall.

The Board’s 2007-2009 Capital Construction Program included New Student Housing at the UO envisioned to be constructed with Article XI-F(1) bonds. The 2007 Oregon Legislature authorized the project, with the expectation the Board would return for legislative expenditure limitation and bonding approval once the details of the project were known. The UO requests approval to seek authorization to spend $75 million on the project. All funding will be derived from proceeds from the sale of Article XI-F(1) bonds.

The East Campus Residence Hall is an important first step in meeting the UO’s housing goals and is consistent with the UO’s goal to increase the number of students who remain in campus housing after their first year. It also provides an opportunity to incorporate academic and community activities within the student residential setting, which is an important part of the academic community that the UO wishes to create. It provides construction at a time when other campus construction will be nearing completion. As a result, it will continue the UO’s efforts to use capital construction to stimulate the state economy.

Due to time constraints at the October meeting, the University of Oregon will present and discuss its financial pro formas for this project at the November 2009 Finance Committee meeting.
Committee Recommendation to the Board:
The Finance and Administration Committee reviewed and approved this item at the October 2009 meeting and submits to the full Board for final approval of the University of Oregon’s request to authorize the Chancellor, or designee, to seek legislative approval to increase the expenditure limitation for this project to $75 million and to subsequently submit to the full Board for approval.

BOARD DISCUSSION AND ACTION:

President Kelly asked if the Board wished to discuss any of the consent items. As there was no discussion, President Kelly called for a motion to approve the Finance & Administration’s recommendations; Director Kirk Schueler made the motion and Director Preston Pulliams seconded. Those voting in favor: President Kelly and Directors Fisher, Ford, Fox, Francesconi, Miller-Jones, Powers, Schueler, and Yaden. Those voting in opposition: None. Motion carried.

9. Action Items

a. Adoption of Permanent Administrative Rule 580-021-0027, Voluntary FTE Reduction Program

Docket Item:

Staff Report:
Oregon Administrative Rules 580-021-0027 outlines various benefits, including vacation and sick leave accruals provided to unclassified employees. The OUS, like other agencies in Oregon state government, must respond to state revenue shortfalls and the resulting budget reduction and disappropriation. As one measure, OUS approved and implemented a temporary OAR on March 6, 2009, that permits unclassified employees to reduce their FTE (full-time equivalency) on a temporary basis. OUS believes that employees who choose to participate in the program should not also experience the reduction in leave accruals that would otherwise result from a reduced FTE. This rule implements that policy, ensures fairness, and simplifies the administration of the program.

A public hearing was held on August 14, 2009, with no participation; additionally, no public comments were received by August 19, 2009, when the public comment period was closed.

Staff Recommendation to the Board:
Staff recommended that the Board adopt the 580-021-0027 as a permanent rule. (See the OUS website at: http://www.ous.edu/state_board/meeting/dockets/ddoc091002.pdf for the text of the proposed Administrative Rule.)

BOARD DISCUSSION AND ACTION:

President Kelly called upon General Counsel Ryan Hagemann to present the item. With no discussion given, Director Paul Kelly made the motion to approve the adoption of the
Administrative Rule, Director Preston Pulliams seconded; the motion passed. Those voting in favor: President Kelly and Directors Fisher, Ford, Fox, Francesconi, Miller-Jones, Powers, Schueler, and Yaden. Those voting in opposition: None. Motion carried.

**b. Adoption of Permanent Administrative Rule 580-023-XXXX, Criminal Background Checks**

**DOCKET ITEM:**

**Staff Report:**
Oregon Revised Statute 181.534 allows the State Board of Higher Education to conduct fingerprint-based criminal records checks for employment purposes. The statute requires "authorized agencies," such as the State Board of Higher Education, to adopt rules governing these fingerprint-based criminal records checks. In June 2006, the Board adopted rules governing criminal background checks pursuant to this statute. Over the course of the past two years, there has been some confusion on the part of the campuses regarding the process necessary to comply with the statute and the rules. These proposed criminal record check rules were drafted to clarify confusion, more closely track the authorizing statute, and delineate a hearing process that an applicant, contractor, or volunteer could use if the applicant, contractor, or volunteer were determined to be unfit to hold a position.

A hearing was convened on September 16, 2009, with no public participation; additionally, no public comments were received by September 21, 2009, when the public comment period was closed.

**Staff Recommendation to the Board:**
Staff recommends that the Board rescind the current administrative rules in Chapter 580, Division 23, and adopt the proposed rules as permanent rules. (See the OUS website at: [http://www.ous.edu/state_board/meeting/dockets/ddoc091002.pdf](http://www.ous.edu/state_board/meeting/dockets/ddoc091002.pdf) for the full text of the proposed Administrative Rule.)

**BOARD DISCUSSION AND ACTION:**

President Kelly called upon General Counsel Ryan Hagemann to present the item. With no discussion provided, Director Kirk Schueler made the motion to approve the adoption of the permanent Administrative Rule, Director Dalton Miller-Jones seconded. Those voting in favor: President Kelly and Directors Fisher, Ford, Fox, Francesconi, Miller-Jones, Powers, Schueler, and Yaden. Those voting in opposition: None. Motion carried.

**c. OUS, Approach to 2009-2011 Budget Allocation and the Proposed Fiscal Year 2009-10 Operating Budget Allocations**

**DOCKET ITEM:**
The proposed approach for the allocation of the Oregon University System 2009-2011 Legislatively Approved Budget and the proposed OUS 2009-10 Annual Operating Budgets are summarized in the report for Board consideration and approval. Following the discussion of the principles and processes used to guide the allocation of the 2009-2011 General Fund to the campuses is the 2009-10 budget proposed for Board adoption. (See the OUS website at: http://www.ous.edu/state_board/meeting/dockets/ddoc091002.pdf for the proposed budget allocations.)

**Staff Recommendation to the Board:**
The staff recommended that the Board:

1. Approve the proposed guiding principles and process used to determine the 2009-10 budget allocation as described in this docket, including continuing to phase in the use of current enrollments for allocating the budget through the RAM model by funding 50 percent of the change since the 2002-03 enrollment funding freeze; and

2. Approve the 2009-10 Annual Operating Budget as described in this docket and delegate authority to the Chancellor to make adjustments to the OUS Annual Operating Budget for 2009-10 as is necessary.

**BOARD DISCUSSION AND ACTION:**

President Kelly called upon Vice Chancellor Jay Kenton to present the item. For clarification, the System budget is approximately 6 percent of the state’s budget. In accepting the Federal Stimulus Package, the state must maintain a set reserve level; the $37 million funding must be spread across the three sectors: community colleges, OHSU, and the OUS. Director Fox noted that, with the dwindling state revenues, guiding principle #9 will be difficult to accomplish; Dr. Kenton agreed.

In discussing the Targeted Programs in the budget, Director Pulliams asked for clarification of the difference between sponsored- and signature-research. Pernsteiner explained that signature research was built into the original Resource Allocation Model (RAM) development; the sponsored-research funding was created when the monies for OCED was rolled into the RAM. Director Schueler commented that there is growth in the Targeted Programs, which then drives the cell values down and that that growth is determined by the legislature. Director Yaden noted that the funding levels in the cell values were originally determined by cost in the peer institutions. Dr. Kenton agreed and Vice Chancellor Weeks invited Assistant Vice Chancellor Bob Kieran, Institutional Research, to address the Board; he advised that peer cost levels were used to set cell value benchmarks for higher- and lower-cost programs. Director Schueler asked if the funding applied by the legislature to the Targeted Programs would not be available without the category of targeted programs; Chancellor Pernsteiner affirmed that supposition.

During discussion, President Kelly proposed amending guiding principle #9 due to the fluctuations in the budget; however, Director Powers disagreed and opined that the guiding
principle is more an aspiration. Chancellor Pernsteiner agreed with Director Powers and added #10 as also being an aspiration.

President Kelly called for the motion, Director David Yaden made the motion and Director Preston Pulliams seconded. Those voting in favor: President Kelly and Directors Fisher, Fox, Francesconi, Miller-Jones, Powers, Schueler, and Yaden. Those voting in opposition: None. Director Ford abstained from the vote. Motion carried.

d. OUS, Tuition Policy and Guiding Principles

**DOCKET ITEM:**

**Background:**
In October 2008, the Board established a Workgroup to investigate issues regarding tuition policy under the leadership of Director Brian Fox. The Workgroup was comprised of students, campus representatives, and Chancellor’s Office staff. The charge to the Workgroup that was approved by the Board in October was as follows:

“This work group will be exploratory and advisory to the State Board of Higher Education. The Workgroup charge is to review OUS tuition policy with a primary focus on resident undergraduate tuition. Said review is to include an examination of other systems of higher education and other public universities’ tuition philosophies, how they set tuition, fee remissions policies, and other affiliated policies, and to make recommendations to the Board of Higher Education regarding:

1. **Tuition philosophy and principles to guide the process.** For example, access to a quality education; affordability; balance between state and student share of costs; competitive with similar programs in other states; and some guiding principles/policies that are both rational and predictable.
2. **Factors to be used in setting tuition.** For example, state General Fund appropriations, institutional mission, peer rates, program costs, perceived value of the degree as measured by salaries in the field, etc.
3. **Financial aid policy recommendations** as related to tuition with a focus on fee remission policies and practices. For example, what level and type (merit- or need-based) of fee remissions should be granted.”

In April 2009, the Workgroup discussed a draft set of guiding principles with the Board. Subsequent to that meeting the draft was discussed with the Presidents’ and Administrative Councils. These discussions resulted in some modifications to the draft as reflected below.

*Proposed OUS Tuition Policy Guiding Principles:*
The Legislative Assembly declares: “... that higher education for residents of Oregon who desire it and are qualified to benefit from it is critical to the welfare and security of this state and this nation and consequently is an important public purpose. [1993 c.240 §3]”

In the early years, higher education was a privilege of only the very gifted and affluent. Over time, these qualities drove American society to redefine the goal of higher education, which became in Clark Kerr’s (1982) words, “to serve less the perpetuation of an elite class and more the creation of a relatively classless society, with the doors of opportunity open to all through public education.”

In agreement with the Legislative Assembly and with the goal of re-gaining a social compact via increased State support to improve access, affordability, and quality education for the people of the State of Oregon, the Tuition Policy Workgroup of the State Board of Higher Education seeks to establish the following guidelines. We are now requesting that the Board approve this set of Guiding Principles for use in setting tuition and in discussions with the Legislature regarding this topic.

It is acknowledged that these principles cannot be met without adequate state funding. The Board of Higher Education believes and advocates that, as a matter of prudent fiscal and educational policy, state appropriations should, at a minimum, strive to provide at least 50 percent of the costs of an undergraduate education for all qualified Oregonians in OUS institutions. When state allocations are insufficient to perpetuate services, supplemental tuition increases above inflationary adjustments will assist in redressing the imbalance between needs and resources. Changes in tuition pricing should be moderate and predictable whenever possible. When setting undergraduate tuition rates, the Board will seek to balance the following factors in order to accomplish its strategic priorities:

1. Maintaining and increasing access for qualified Oregonians to be educated at Oregon University System (OUS) institutions.
2. Maintaining and increasing affordability for students through both support and advocacy for state funding and need-based aid.
   a. Ensuring, to the extent feasible, that no student is deterred from enrolling at a participating campus or in a particular major due to tuition pricing.
   b. Program demand and the salaries in the field upon completion of education should only be considered when setting differential tuition so long as need-based aid is available to avoid the cost of a particular major becoming an impediment to degree choice to the extent possible.
3. Maintaining and increasing the quality of education should not be compromised.
4. Maintaining and managing institutional financial viability by balancing the aforementioned principles, access (participation), affordability, degree completion, and quality with tuition pricing.
5. Nonresident undergraduate students should pay a larger share of instructional costs than resident students when the market allows. Nonresident rates should be
competitive with those charged at peer institutions and sensitive to institutional nonresident enrollment changes and objectives.

Considerations:
In order to best position OUS and accomplish the Board’s strategic priorities when setting tuition rates, OUS institutions and the Board, in consultation with student leadership, should consider each of the following factors:

1. Level of State funding – this is the primary and critical factor
2. Institutional mission
3. Sustain quality of the academic programs and student experience
4. Institutional accessibility (size, location, program mix, capacity)
5. Peer/Competitor rates
6. Program cost
7. Value of degree, salaries in field, program demand and institutional capacity

Staff Recommendation to the Board:
Staff recommended that the Board adopt the proposed Tuition Policy Guiding Principles as outlined above. Once adopted, these policies should be incorporated into the annual Fee Book and into the Oregon State Board of Higher Education’s policies.

BOARD DISCUSSION AND ACTION:

President Kelly called upon Director Brian Fox to present the item. Following discussion pertaining to the sentence “...when state allocations are insufficient to perpetuate services, supplemental tuition increases above inflationary adjustments will assist in redressing the imbalance between needs and resources,” President Kelly recommended tabling the discussion and having the item brought back to the Tuition Work Group for further refinement of that statement.

e. OUS, Elimination of the Board’s Executive Committee

President Kelly called upon Director Rosemary Powers to introduce the action to eliminate the Executive Committee. She noted that the Governance and Policy Committee has recommended the elimination of the Executive Committee as it is moot since the full Board meets in special telephonic meetings to take action. Director Powers made the motion and Director Yaden seconded the motion to eliminate the Executive Committee with the specific direction to staff to prepare the technical changes to the Bylaws, to be presented to the full Board after appropriate notice and Committee deliberation and recommendation.

Secretary Hagemann informed the Board that the Bylaws are currently in the process of examination by the Governance Committee for relevancy and current applicability. When the Committee finishes the review, the edited Bylaws will be presented to the Board for approval.
Those voting in favor: President Kelly and Directors Fisher, Ford, Fox, Francesconi, Miller-Jones, Powers, Schueler, and Yaden. Those voting in opposition: None. The motion was carried.

10. **Report Items**

   a. **Senate Bill 338, Update on State Stimulus-Funded Projects**

   President Kelly called upon Assistant Vice Chancellor Bob Simonton to provide the update to the Board. Of note, the System was the only state agency that applied the monies to capital construction projects on time; the System was recognized as creating or sustaining 1,500 new or sustained jobs, which is 15 percent of the state total.

   b. **Board’s Standing Committees Update**

   Vice Chancellor Weeks brought an update concerning the Academic Strategies Committee’s meeting on Thursday; Director Schueler provided information pertaining to the Finance and Administration’s Thursday agenda; Director Kelly provided an update on the Governance and Policy Committee.

   Director Yaden informed the Board concerning the creation of the “Governor’s Reset Cabinet,” which will deal with long-term trends of the funding of key public services of which the public requires (e.g., public safety, human resources, etc.) and to clarify for the legislature, public, and potential legislative candidates how sectors have been funded (by legislative direction or ballot measures) and where funding should be redistributed.

11. **Public Input**

   No public input was provided.

12. **Board Comments**

   Director Preston Pulliams commended Assistant Vice Chancellor Joe Holliday on the work of the Interinstitutional Council of Enrollment Managers; he advised that Dr. Yvonne Curtis has agreed to work on the access task force in providing access of the Latino population to postsecondary education. President Kelly asked the Board to check their calendars for their availability to meet in a retreat setting on December 7-8.

13. **Adjournment**

   With no further business proposed, President Kelly adjourned the meeting at 11:32 a.m.