



July 10, 2023

Chancellor Ray Rodrigues
Office of the Chancellor
200 West College Avenue
Tallahassee, FL 32301

Chancellor Rodrigues,

As a follow up to my initial reply on Saturday, I wish to provide you the following information that I believe you will find relevant to your inquiry.

Regarding your concerns about the search committee's use of a straw preference poll before selecting the semifinalists for interview, this practice did not run afoul of Florida Statute s. 1004.098(2)(b). The straw preference poll was merely a tool that the committee used to expedite their conversation about the applicants.

The request for a straw preference poll was made by one of the committee members at a closed committee meeting on May 19. This meeting was closed to the public pursuant to Florida Statute s. 1004.098(2)(a) because its purpose was to begin the process of identifying and vetting the applicants. A recording was made and preserved, as required by Florida Statute s. 1004.098(2)(b).

Our consultant presented a summary overview of the applications received, highlighting a few of our nearly sixty applicants to that point that had especially relevant experience related to the university's approved position criteria. Following this overview, the committee members discussed their assessments of some of the candidates. This discussion lasted nearly thirty minutes, and more than half of the committee members expressed their views about candidates and each other's comments.

Eventually one of the committee members suggested that the members send their top eight candidates to the consultant, for him to tabulate and report back. That way the committee might more quickly recognize there was consensus around a top tier of the candidates, and the conversation could be more focused on that group rather than all sixty applicants. Our consultant confirmed that this was an industry standard approach to facilitate efficient discussion of a large applicant pool.

The Board of Governors' representative on the committee, Governor Alan Levine, enthusiastically agreed. He said he had seen the process done many times before and that it is "actually a best practice." He informed the committee that it would allow "each of us to apply our own values" individually to the candidates' application materials, efficiently share them with the consultant, and then return in a subsequent meeting to discuss and explain the reasons for each committee member's selections. Governor Levine predicted that in that subsequent discussion, committee members' impressions of their top candidates would likely change based on what other committee members said, but this was the best

way to begin the discussion. He assured the committee that “this will work . . . this will work well.” After a few more questions, Governor Levine concluded, “This is exactly the right way to do it.”

With this strong endorsement from the Board of Governors’ representative, I directed our consultant to implement an informal straw preference survey. We made clear to the committee that no final committee decisions would be made until after the survey results were shared with and discussed by the committee. Each committee member then used the informal preference survey to efficiently identify six candidates they were most interested in discussing, using a simple numerical format. Our search consultant then tabulated the results and found that over 20 applicants had been designated by at least one committee member.

Governor Levine’s decisive advocacy for the straw preference poll proved prescient. At our next meeting (also closed and recorded), our consultant presented to the committee the complete list of all candidates who had been named by at least one committee member. He emphasized that the committee was free to discuss any applicant. The committee was thus aware they could discuss any applicant, but as Governor Levine had predicted, they recognized it made the most sense to focus their discussion on the candidates who were on the cumulative preference list. A thorough discussion of nearly twenty candidates ensued with a wide range of opinions expressed, and even some mention of candidates who were not on the cumulative preference list. The discussion culminated in a unanimous vote on the record to select the semifinalists for interviews with the committee.

Our process was similar to one conducted by FSU’s search consultant in their most recent search, in which the consultant met privately with each committee member individually, gauged the sentiments regarding the candidates, and then reported that consensus back to the committee in a properly convened committee meeting. In response to an inquiry from Governor Levine as to whether this violated the Sunshine Law, the BOG General Counsel wrote that the consultant “did not violate the Sunshine Law by conferring with members individually to determine if there were candidates that rose to the top of the list among individual members.” She watched the FSU committee’s deliberations after the consultant had presented his consensus results and observed that, “Search committee members engaged in a full and open discussion of the qualifications of seven of the nine candidates who were interviewed.”

In rendering her opinion in the FSU search, the BOG’s General Counsel noted that “the role of a search consultant is to facilitate the public discussions toward a productive review of the candidates.” That is what she concluded occurred at FSU, and that is what our consultant did at FAU as well. Governor Levine’s promise to the committee that this was “exactly the right way to do it” was itself exactly right. The committee was able to begin their discussion with an overview of their preliminary opinions, then robustly debate the merits of the individual candidates. No portion of their vote for the semifinalists occurred “off the record,” and no violation of any statute occurred.

With respect to your concerns about the demographic profile questionnaire that candidates were asked to voluntarily complete, I am sure you are aware that such surveys are routinely administered to job applicants across industry, including at our state universities. Our consultant informs us that demographic surveys were sent to each applicant in the most recent presidential searches at UF, FSU, USF, and UNF.

We were not aware that our consultants automatically sent a voluntary questionnaire to each applicant. They inform us this is their standard practice in every search across the nation. Had they advised us in

advance of this practice, we would have reviewed their questions to ensure their appropriateness in Florida.

AGB Search's use of the demographic survey did not create a violation of any law by FAU for the following reasons:

1. FAU did not ask or authorize AGB Search to send the questionnaires and was in fact unaware that AGB had done so until Friday, July 7, 2023. AGB Search has never shared any of the questionnaire responses with FAU or the search committee.
2. AGB Search has advised FAU that AGB Search administers the questionnaire completely anonymously and voluntarily, has no way to track who responds to the survey, does not know which applicants respond and which do not, and that there is no way that AGB Search can associate any submitted responses with any individual applicant. They assure us that it is impossible to attribute an individual response to any candidate in the search by the AGB Search operations team.
3. AGB Search has advised FAU that it utilizes the questionnaire on all of their searches nationwide from their operations division, which is why the questionnaire asks respondents to identify the university and position they are applying for; otherwise, AGB Search's operations division would have no way of knowing which search the responses relate to.
4. AGB Search has advised FAU that the responses are processed by AGB Search's operations team into aggregate data. Individual responses are never seen by the search consultants who assist the universities. In our search, we have three consultants, none of whom have ever seen any individual or aggregate responses.
5. AGB Search has advised FAU that it utilizes the questionnaire for two of its own business purposes: 1) for AGB Search's own internal use, so that AGB Search can measure how well they are attracting comprehensive and diverse candidate pools; and 2) for AGB Search's many clients outside of Florida which request the detailed demographic profiles of their applicant pools for their own operational reasons, which is then provided by AGB Search to the client upon request. FAU has not made any such request.

In sum, FAU never requested or received the anonymous questionnaire responses, and thus they played no role in the search committee's selection of the semifinalists and finalists.

As for your concern that a candidate reported he was surveyed for his gender and preferred pronouns, AGB Search informs us that this was not a survey, but rather part of an authorization from the candidate to allow a search of available public records and online resources, as required by BOG Regulation 1.002. To ensure the accuracy of these searches, the authorization asks for identifying information, including but not limited to the candidate's gender. There is also an optional field where a candidate may provide, if they wish, their preferred pronouns. As with the voluntary demographic survey, the candidates' responses to this authorization were never shared with FAU or the search committee, and, thus, played no role in the committee's decisions.

I hope this additional information fully addresses your and Chair Lamb's concerns. FAU is anxious to resume our search process. Although we had to postpone the public forums that were scheduled for

today, we would like to resume the schedule that was set for later this week. We therefore respectfully ask that you authorize us to resume our process as soon as possible.

Sincerely,

A handwritten signature in black ink, appearing to read "Brad Levine". The signature is written in a cursive style with a large, prominent "L" and "V".

Brad Levine
Chair