

QUESTIONS FROM THE CONCORDIA COLLEGE – ALABAMA BOARD OF REGENTS FOR THE COMMISSION ON CONSTITUTIONAL MATTERS

Question 1:

Bylaw 3.10.6.4 sets forth the authority of the boards of regents of the colleges and universities of the Synod. Subsection (i) describes the authority of a board of regents such that “It shall operate and manage the institution as the agent of the Synod, in which ownership is primarily vested and which exercises its ownership through the Board of Directors as custodian of the Synod’s property, the Board of Directors of Concordia University System, and the respective board of regents as the local governing body.” Included in the operation and management under subsection (6) is that a board of regents has “no power by itself to close the institution or to sell all or any part of the property which constitutes the main campus.”

- A. Under the Constitution and Bylaws of the Synod, who has the authority to close a college or university of the Synod, or “to sell all or any part of the property which constitutes the main campus?” What entity or entities can delegate the power (authority) to a board of regents to “close the institution” or sell the “main campus”? If such power can be delegated to a board of regents, how must that authority be delegated and what constitutes the granting of that power?
- B. Must the granting of such power to a board of regents be included in that entity’s or entities’ official minutes and made available to all members of the Synod?
- C. Are the requirements to “close or sell” required to be granted separately? Does the granting of the power to close an institution inherently include also the power to sell the main campus?

Question 2:

Bylaw 3.6.6.5, establishing the duties and authority of the Concordia University System, indicates: “In keeping with the objectives and the Constitution, Bylaws, and resolutions of the Synod, the Board of Directors of Concordia University System shall

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(h) have authority, after receiving the consent of the Board of Directors of the Synod by its two-thirds vote and also the consent of either the Council of Presidents by its two-thirds vote or the appropriate board of regents by its two-thirds vote, to consolidate, relocate, separate, or divest a college or university.”

- A. Can the Board of Directors of the Concordia University System, without the prior formal consent of the Board of Directors of the Synod, request, direct, or otherwise cause a college or university to be closed, sold or otherwise divested? In other words, may the Board of Directors of the Concordia University System divest a college or university without (1) receiving the consent of the Board of Directors of the Synod and (2) the consent by two-thirds vote of either the Council of Presidents or the appropriate board of regents?
- B. Can a Board of Regents of an institution (1) without the prior formal and initiating authority of the Board of Directors of the Concordia University System and (2) without the prior formal consent of Board of Directors of the Synod by its two-thirds vote and (3)

without the prior formal consent by two-thirds vote of either the Council of Presidents or the appropriate board of regents, divest a college or university?

- C. Do such descriptive words (actions) as “encouraged” to close or sell; “counseled” to close or sell; “no objection;” “no obstacle;” “support;” or “concur” with closing meet the empowerment requirement of “authority” and “consent” in Bylaw 3.6.6.5 (h) and “power” in Bylaw 3.10.6.4 to close or sell?

Question 3:

Bylaw 3.3.4.5(e), establishing the duties and authority of the Board of Directors of the Synod, indicates: “Regarding the Synod’s colleges, universities, and seminaries, the board shall approve capital projects in relation to campus property management agreements and institutional master plans, and shall establish and monitor criteria for determining institutional viability, fiscal and otherwise.”

Must the Board of Directors of the Synod reflect in its public minutes the actions it has taken to fulfill this responsibility so that members of the Synod can evaluate their efforts?

Question 4:

The work of the Synod is designed to be transparent and reviewable by all members of the Synod. For example, Bylaw 1.5.3.5 requires: “All agencies of the Synod shall develop policies and procedures for making available official minutes of their meetings. All mission boards and commissions shall develop policies and procedures to make available upon request and at a reasonable price a verbatim copy of the official minutes of their meetings except for executive sessions. Any member of the Synod may request a copy of any official minutes of mission boards or commissions by submitting a written or electronic (via email) request to the Secretary of the Synod, who shall provide such minutes according to the policy of the Board of Directors.”

Can the Board of Directors of the Synod or an agency of the Synod, after conferring in executive session, fail or refuse to include in its minutes available to all members of Synod any actions taken to fulfill bylaw-required actions? Can the Board of Directors of the Synod, the Board of Directors of the Concordia University System or the Council of Presidents take action to consolidate, relocate, separate, or divest a college or university without including in its minutes the action so taken in order to make the minutes available to all members of Synod?

Question 5:

In the event that vacancies occur on a board of regents (Bylaw 3.10.6.3), what remedy does a board of regents have if the appointing body fails or neglects to fill the vacancies?

Question 6:

According to the Constitution and Bylaws of the Synod, when, and under what circumstances, is a board of regents of a “closed” institution considered dissolved or dismissed?