

**STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA
BOARD OF VISITORS ORIENTATION
LEWIS GINTER BOTANICAL GARDENS
NOVEMBER 14 and 15, 2023
DRAFT MINUTES**

NOVEMBER 14

Peter Blake, director of SCHEV, welcomed the attendees and commented on how they would benefit from the program that day. He recognized many of the individuals who would be appearing on the agenda, including several Council members. Attached is a copy of the attendee list.

Mr. Blake introduced Brian Trader, president and CEO of Lewis Ginter Botanical Garden, who spoke about how education is an important part of the Garden's mission.

Mr. Blake introduced SCHEV Chair Ken Ampy. Mr. Ampy welcomed everyone and commented on the importance of board service and the role of the board member in strengthening the value proposition of their institution.

Board Requirements in the Current Legal Environment

Mr. Rob Bell, deputy attorney general for health, education and social services, introduced the Commonwealth's Solicitor General, Mr. Andrew Ferguson. Mr. Ferguson stated that Virginia's public colleges and universities were created by the General Assembly to provide a service to the Commonwealth as a whole. The boards of visitors are the way we ensure that these educational institutions serve the purpose for which they were created.

Mr. Ferguson told board members that their duty is to the Commonwealth, not to their specific institution, its students, its administration or its alumni. Ultimately, he said, the boards are the instrument through which the will of the people is realized at the public colleges and universities. As officers of the government, board members are subject to the protections of the government, but also must bear the responsibilities.

Mr. Ferguson stated that the boards must act together to address the challenges facing Virginia's higher education campuses, including race-based admissions and speech protected by the First Amendment.

After his prepared remarks, Mr. Ferguson opened the floor for questions from the attendees. After answering questions about Title IX and academic freedom, among others, he advised board members to consult with the institutions' appointed representatives from the Attorney General's office and follow their legal advice.

Fundamentals of Service on a Public Board, Part 1: The Role of a Public Trustee

Mr. Ken Ampy introduced panel moderator Erin Hennessey, executive vice president of TVP Communications. Ms. Hennessey asked the panelists to introduce themselves.

Doug Wetmore, board member at the University of Virginia (UVA), advised board members to use their personal expertise and good judgment to help determine what is best for the long-term health of the Commonwealth.

Betsy Beamer, board member at Radford University, stated that serving on a public board is significantly different than serving on a private board. She mentioned the weight of the decisions to be made, the importance of ensuring that there are no conflicts of interest, and the necessity of following law and regulation related to transparency and the Freedom of Information Act (FOIA).

Victoria Harker, vice chair of the SCHEV Council and former chair of the finance committee on the board of visitors at UVA, reminded attendees that board members are entrusted with safeguarding the assets that the Commonwealth has created with these public institutions. Such governance, she reminded attendees, is not necessarily meant to be efficient, but to be transparent.

Ms. Beamer stated that the executive secretary to the board is always a good resource should board members have questions. Mr. Wetmore agreed, saying that it is incumbent on board members to ask questions and familiarize themselves with the acronyms and nomenclature on their campus. Ms. Hennessey mentioned the importance of national organizations, such as the American Council of Trustees and Alumni (ACTA).

The panel also discussed the board's responsibility to hire, evaluate and supervise senior administrators on campus. Ms. Beamer said it's important to be open to and respectful of new leaders' styles. Ms. Harker emphasized being inclusive and consulting all stakeholders from the beginning of the hiring process. Mr. Wetmore agreed, pointing out that stability in leadership and continuity of vision are vital components of successful higher education leadership.

To summarize, Ms. Harker advised, "Nose in. Fingers out," meaning ask a lot of questions at the beginning but trust the institutional leadership with the day-to-day management.

When the panelists took questions from the attendees, SCHEV Council member Retired General John Jumper emphasized the importance of ensuring factions don't develop; rather board members should collaboratively work together.

Remarks and Introduction

Secretary of the Commonwealth, Kelly Gee, introduced herself and described the responsibilities of her office. She discussed the appointment process and stressed that her office is not just filling seats on a board; they are creating a legacy for the Governor. She then introduced Governor Youngkin.

Remarks from Governor Youngkin

Governor Youngkin thanked the board members for their service and stressed that each of them was hand-picked for their capabilities, experience, passion and ability to impact.

The Governor opened his remarks by describing the challenges faced by higher education. He stressed the difficult environment on college campuses. He highlighted the following issues:

- Impending enrollment decline.
- Declining completion numbers.
- Unprepared students from the K12 system.
- Social and cultural disagreements.
- Rapidly increasing costs for institutions and families.
- Health and safety of the campus communities.

The Governor announced that he is convening a symposium on freedom of speech the week after Thanksgiving at UVA.

Governor Youngkin stated that Virginia should aspire to be a system that prepares, develops and cultivates students to take advantage of their capabilities to dream their biggest dreams and chase those dreams. We should make sure we have the best talent pipeline and the best opportunities.

The Governor encouraged all members to look at the six-year plans for their institutions. The plans contain data to help inform decision-making. He pointed out that the six-year completion rates and first drop-out rates are too high. Students and families invest in higher education and very often students who drop out do not return.

The Governor described the tools each member has at their disposal for making decisions: insights of the institution's strategic plan, leadership objectives, data-driven reviews and best practices in board governance. We can also design curriculum that meets business needs, we can collaborate with K12, provide tutoring and create lab schools. Boards need to control costs and keep tuition as low as possible. Board members are responsible to the Commonwealth, not cheerleaders for the institutions. The success of the higher education institutions serves the Commonwealth.

The Governor concluded his remarks by stating that the Commonwealth aspires to have the very best institutions of higher education in the world but that we need to keep working to match academic pursuits to jobs and market needs. The discussions that happen in these board rooms shape the future of higher education. He expressed confidence in the board members and our students.

The Governor responded to questions from the audience.

Fundamentals of Service on a Public Board, Part 2: Virginia Specific Responsibilities (FOIA; COIA; Ethics)

Alan Gernhardt, executive director of the Virginia Freedom of Information Advisory Council, described the purpose of the Freedom of Information Act (FOIA). All of the work that the boards do is for the benefit of the Commonwealth, so the goal is to be as transparent as possible. Citizens have a right to know what their government is doing. This is government with consent of the governed. Mr. Gernhardt described the rules regarding public records and meetings. He also described the remedies for FOIA infractions.

All documentation regarding board business, no matter how it is stored, are public records. Board members need to keep this in mind when there is a choice of having a conversation or sending an email. Email is a public record and subject to record retention rules. Mr. Gernhardt recommended not mixing business and personal emails and keeping business emails professional. The working paper exemption does not apply to board members. FOIA requires a response to a request within five working days.

Anytime three or more board members get together, it is considered a meeting. Quorum is generally met with three or more members present. Public business is anything that is on the current agenda or likely to come before the body in the future. Consideration of a topic is enough to require a record. Mr. Gernhardt cautioned against meeting outside of formal meetings.

Mr. Gernhardt described some of the remedies for FOIA infractions:

- Knowing and willful violations of FOIA rules can result in a \$500-\$2,000 fine.
- Improper destruction of public records with the intention to avoid FOIA results in a fine of \$100 per record.
- Improper certification of a closed meeting can result in a \$1,000 fine paid by the body.

Mike Melis, senior assistant attorney general, Office of the Attorney General (OAG), described the role of the Office of the Attorney General and the Conflict of Interest Act (COIA) in board business.

The Office of the Attorney General appoints a university counsel who represents the board, not individual members in their individual capacities.

COIA ensures that state officers are aware of and avoid conflict of interest issues. Knowing violations can result in civil and criminal penalties. Mr. Melis stressed that board members should avoid even the appearance of impropriety. If a board member stands to gain a financial benefit or accrue a liability from a contract, that is a conflict of interest. The Virginia Ethics Advisory Council (VEAC) provides opinions and is a safe harbor for advice.

Mr. Melis outlined the three general categories of prohibited conduct:

- Soliciting or accepting money or gifts.
- Using confidential information acquired as a board member to one's benefit.

- Using a public position to retaliate against someone expressing themselves on a matter of public concern.

Panelists answered questions from the audience.

Analyzing and Benchmarking Institutional Outcomes and Spending

Lina Bankert, managing director and partner of Boston Consulting Group (BCG), presented the major findings of the BCG study of the Op-Six process. BCG worked with the Op-Six group and, at that time, completed the following:

- Reviewed the process timeline.
- Changed the process from a compliance exercise to a discussion rooted in data.
- Discussed preparing institutions to deal with the enrollment cliff.
- Encouraged institutions to think about student and market needs.
- Encouraged institutions to consider how they are stewarding public funds.

Ms. Bankert suggested that the boards use the following strategies to support their institutions:

- Participate in strategic planning.
- Engage with the data.
- Review institutional data and narrative documents.
- Ask strategic questions.
- Ensure that dialogue continues and evolves over time.

What Virginians Think about Higher Education

Heidi Abbott, a board member of Norfolk State University, introduced Kirk Cox, president of the Virginia Business Higher Education Council (VBHEC), and invited him to address the presidents and Council members.

Mr. Cox introduced the VBHEC's 2023-2024 Growth4VA advocacy campaign. The campaign's message is that it's time to invest in Virginia's talent.

The VBHEC sponsored a comprehensive economic impact study by the Weldon Cooper Center at UVA. The study found that Virginia public institutions contribute \$52 billion annually to Virginia's gross state product. The public system accounts for 188,000 jobs in the state, and higher education returns approximately \$3.8 billion in revenue to the state treasury. The investment in higher education more than pays for itself.

According to a public opinion poll released by the VBHEC, more than 90% of Virginians in both parties say that making sure that every Virginian can earn a certificate or degree is the most critical investment the state can make.

Mr. Cox wrapped up his remarks by advocating for greater investment in the Virginia Talent + Opportunity Partnership (V-TOP) as the best way to provide more opportunities for students and Virginia businesses.

NOVEMBER 15

Mr. Blake welcomed the attendees back, thanked staff who were involved in planning and organizing the event and reviewed the agenda for the day.

Virginia's Economic Outlook

Secretary of Finance Stephen Cummings provided an overview of Virginia's economic outlook. The Commonwealth is transitioning from utilizing COVID funds back to reality with a 'tight' budget.

Mr. Cummings stated that the Virginia economy continues to grow, but risks remain. The Governor takes a conservative view with many built-in cushions for upcoming downturns. The administration is pro-business. Virginia has the third-highest growing economy in the nation, and labor participation is the ninth-highest in the nation (working or actively looking for work). While total employment grew more than expected, the low unemployment rate is a problem since we won't get business since there are no people to work in new jobs. Inflation is decreasing but still higher than desired. The housing inventory and home sales are down over the last two years. While consumer spending is strong, rising credit card and auto loan delinquencies are concerning because people are depleting their savings.

General Fund revenues greatly exceeded forecasts for the fiscal year. The Governor suggests that BOV members be aware of the fiscal environment and focus on how to fund rising educational costs to labor market outcomes, as it is expected that the Commonwealth will face a recession in the second half of 2024.

Questions focused on the impact of the national credit rating, migration and more job openings than adults of working age in the Commonwealth.

Institutional and State Finance: Budgeting, Spending and Tuition Setting

Deputy Secretary of Finance John Markowitz, moderated the discussion and provided introductory remarks. The Governor wants the boards of visitors to be involved in budgets for institutions and in setting tuition. Education and general fund increased 60% over the last 10 years, at a rate higher than inflation. Mr. Markowitz shared that the following contribute to rising costs:

- Salary and wage inflation.
- Student support services, for example, counseling and veterans support.
- Compliance and accreditation requirements.

- Retirement and healthcare.

Michael Maul, director of the Virginia Department of Planning and Budget, provided an overview of the Virginia budgeting process and the current budget. General Funds from income and sales tax are almost completely discretionary. General funds account for 36.7% of the state budget. Non-general funds are used for specific purposes, such as student tuition is used for higher education. Non-general funds account for 63.3% of the budget. Forty-one percent of the general fund is used for education, but the state is not required to spend on higher education. For the current budgeting cycle, the Department of Planning and Budget is in the developmental stage. This biennial budget will be the only one fully overseen by the current Governor.

Amy Sebring, executive vice president and chief operating officer of Virginia Tech, discussed the key areas of board oversight, including: six-year plans, annual operating budgets, capital budgets, financial statements and financial policies. Ms. Sebring also shared that the primary sources of institutional revenue include the state, students, research, self-generated activity and philanthropy. Institutional expenses include academic and instructional support, research, auxiliary, financial aid, physical plant, student services and institutional support. Boards can help institutions focus on long-term trends and planning.

Ron Tillet, a member of Christopher Newport University's board of visitors, provided the board members perspective on budgeting. Mr. Tillet stressed that hiring a president, setting tuition and fees, and approving operating budgets are the critical responsibilities of the board. Board members need to spend time outside the meetings asking questions and learning about the administration and legislative priorities in higher education. He suggested that board members be forward thinking about how the budgeting will impact the institution in five years.

Mr. Tillet also stressed that board members must know about the institution's foundations and outstanding debt.

Audience questions focused on the benefits of having one versus multiple educational foundations and how the Commonwealth determines state support for in-state students.

Student Health and Wellness

Justin Pope, vice president and chief of staff of Longwood University, moderated this session and focused on illuminating mental health and wellness myths on campus, identifying where institutional responsibilities to health and wellness begin and end, and knowing how to identify successful work toward institution-wide health and wellness. Dr. Kelly Crace, associate vice president for health and wellness at William & Mary, noted students are no more fragile than previous generations; they are simply more aware of their own mental health and comfortable discussing and addressing concerns. Dr. Makola Abdullah, president of Virginia State University, remarked that institutions must stick to their core mission while working to ensure their students, faculty and staff have the appropriate resources available to address wellness concerns. Mr. John Littel, Secretary of Health and

Human Resources and rector at William & Mary, discussed best practices including refraining from micromanaging, setting realistic expectations for a return to 'normalcy' and aiming to provide accommodations rather than to alleviate all problems.

Questions from the audience centered on the effect of diversity on campus on mental health and how to measure the effectiveness of mental health and wellness programs.

Governor's Priorities for Higher Education

SCHEV Council member Retired General John Jumper introduced Secretary of Education Aimee Guidera. Ms. Guidera thanked all who answered the Governor's call to service by becoming members of boards of visitors. The Secretary reviewed the Governor's guiding principles and north star goals for higher education as reference points for the work done by governing boards. Her remarks focused on maintaining high educational standards while reducing the cost of higher education. Ms. Guidera reiterated the administration's commitment to supporting the work of the boards and higher education as a whole. The Secretary concluded her remarks by letting attendees know that she and her deputy are always available to them by phone.

Boards' Roles in Graduate Outcomes and Labor-market Needs

Moderated by Todd Haymore, rector of VCU, the panelists discussed how the work of governing boards should help institutions advance student success, align with workforce needs and create the workforce of the future. Gil Bland, board member for Norfolk State University, noted the most important contributions of a board member are their counsel and their professional relationships for institutional networking. Ms. Heather McKay, executive director of the Virginia Office of Education Economics (VOEE), provided an overview of the work of VOEE and the available data to help boards make informed decisions. Dr. Joseph DeFilippo, director of academic affairs at SCHEV, presented information on duplication and labor market needs for all new program proposals.

Questions from the attendees centered on statewide knowledge of future proposals for program expansion, the effect of H1B visas on the labor market and the ability of state processes to keep pace with quickly evolving technological advances.

Best Practices for Effective Governance: Advice from Rectors and Presidents

Moderator Judi Lynch, former member and former vice rector at Longwood University asked the panelists to introduce themselves. The participants included Valerie Brown, rector at Virginia State University; Bruce Bradley, rector at Old Dominion University; Maribeth Herod, rector at James Madison University; David Doré, chancellor of the Virginia Community College System; and Michael Rao, president of Virginia Commonwealth University.

Ms. Lynch then asked panelists to respond to a series of questions:

What makes for a productive relationship?

Communication between rectors and presidents should be frequent, open and honest. Board members should respect the role of the rector and communicate to the president through the rector so that the board is speaking as one entity. Trusting that each person has their role for a reason leads to greater transparency and stability. The boards should be sounding boards and look at issues from different perspectives. It is the rector's responsibility to ensure the board operates legally and ethically, keeping in mind that it's the president's job to run the university.

What advice do you have for board members who are contacted by someone with an issue they want you to handle?

Board members should listen to any issue people have, ask for substantiation, probe into the circumstances of the concern and the conclusions drawn, and get facts and data, but don't be reactionary. The board should speak with one voice so as to listen without confirming, denying, agreeing or disagreeing. Board members should collect information until a discussion with the rector and board occurs.

Media concerns – how do you handle them?

All members should ensure the board and president are on the same page, have an understanding of who the spokesperson for the institution is, and know where to send all inquiries. Board members should know that one can't control the press and that some people will never be satisfied with any explanation.

The attendees asked questions about transfer policies, university counsel and conflict mediation.

Conclusions, Reflections and Appreciation

Mr. Blake thanked everyone for their attendance and his staff for their hard work. He asked each attendee to complete the survey through the link in their folders.

Thaddeus Holloman
Council Secretary

SCHEV Staff