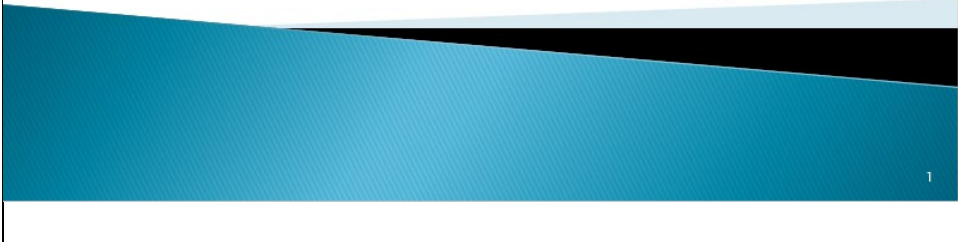


**HOLYOKE COMMUNITY COLLEGE  
BOARD OF TRUSTEES  
RETREAT**

**HCC/MGM Culinary Arts Institute  
164 Race Street, Holyoke, MA 01040  
12:30 pm – 4 pm**

Minutes of September 30, 2022

<p><b>MEMBERS PRESENT</b></p>	<p>Robert W. Gilbert, Chair Trustee George Ted Hebert (via Zoom – left at 3:30 pm) Yolanda Johnson Nayroby Rosa Vanessa Smith (joined at 1:48 pm) Eleanor Williams (left at 2:05 pm)</p>
<p><b>MEMBERS ABSENT</b></p>	<p>Charles Epstein Evan Plotkin Ivonne Vidal</p>
<p><b>ALSO PRESENT</b></p>	<p>Karen Desjeans, President Christina Royal, Gina Yarbrough, General Counsel (Via Zoom, Angela Provard, Pauly Group (via Zoom))</p>
<p><b>MEETING CALL TO ORDER</b></p>	<p>At 12:36 pm, the meeting was officially called to order by Chair Robert Gilbert.</p>
<p><b>INTRODUCTORY REMARKS</b></p>	<p>Chair Gilbert and President Royal welcomed the Trustees to the Board Retreat.</p>
<p><b>GOVERNANCE AND FIDUCIARY BOARD LEADERSHIP</b></p>	<p>Gina Yarbrough, General Counsel for the Massachusetts Community Colleges, presented the following presentation that details the Trustees’ responsibilities, Open Meeting Law (including Executive Session) and Public Records.</p>
	<div style="text-align: center;"> <p><b>MASSACHUSETTS COMMUNITY COLLEGES</b> Gina Yarbrough, General Counsel September 30, 2022</p> <p><b>HCC BOARD OF TRUSTEES RETREAT</b></p>  </div>

## Training Overview

- **History of the Massachusetts Community Colleges**
- **Current Public Higher Education Governance Structure**
- **Chapter 15A – BHE and Local Board's Duties and Authorities**
- **Delegation of Authority to President**
- **Open Meeting Law**
- **Open Meeting Law Scenarios**
- **Questions**

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## HISTORY OF THE MASSACHUSETTS COMMUNITY COLLEGES

### **1991 – Chapter 142 of the Acts and Resolves of 1991 (Approved July 11, 1991)**

- Dissolved:
  - Board of Regents
- Created:
  - Higher Education Coordinating Council

### **1992 Reorganization Commission Report**

- In 1991, Governor William Weld established a commission to review the "mission, purpose, financing, and governance of Massachusetts' state colleges and community colleges and to make specific recommendations for the future of these colleges." The resulting report included the following recommendation:

"[t]he mission, program, and financial goals to which the state colleges and community colleges should aspire can best be achieved through strong campus boards of trustees. Governance by segmental boards has already been tried and found wanting: it prevailed for these colleges until 1980, and proved inimical to institutional mission and program differentiation, as well as to flexible, proactive financial management. National experience, too, shows centralized segmental authority tends to promote uniformity within a system, and to stifle innovation and initiative. There is no reason for Massachusetts to return to a failed structure requiring large new bureaucracies, with all that implies in terms of cost and rigidity."

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**EXECUTIVE OFFICE OF EDUCATION**  
**M.G.L. Chapter 6A, Section 14A**

- EOE under control of a Secretary of Education
- Secretary's duties and powers:
  1. Analyze the present and future goals, needs, and requirements of public education
  2. Review and approve mission statements and 5-year master plans encompassing each sector of the public education system
  3. Approve appointment of Commissioner of the Department of Higher Education
  4. Make recommendations to the Secretary of A&F and governor concerning funding of education and assist in preparing budget proposals to be put before the legislature
  5. Serve as governor's educational advisor and on governor's cabinet
  6. Serve as ex officio voting member of the BHE and the UMASS Board

**Chapter 15A Section 15 - Ordinary Maintenance**

- In consultation with the BHE, the Secretary shall prepare and submit to the Budget Director an estimate on ordinary maintenance for public higher education

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**EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES**  
**M.G.L. Chapter 6A, Section 16**

**BY COMPARISON:**

- The EOHHS shall include: Department of Elder Affairs; Department of Public Health; Department of Mental Health; Division of Medical Assistance; Department of Children and Families; Department of Transitional Assistance; Department of Youth Services; Child Abuse Prevention Board; Office for Refugees and Immigrants; Department of Developmental Services; Massachusetts Rehabilitation Commission; Massachusetts Commission for the Blind; Massachusetts Commission for the Deaf and Hard of Hearing; Department of Veterans' Services; Managed Care Oversight Board; and Health Facilities Appeals Board.
- The Secretary of Health and Human Services shall serve at the pleasure of the Governor and shall act as the executive officer in all matters pertaining to the administration, management, operation, regulation, planning, fiscal and policy development functions and affairs of the departments, commissions, offices, boards, divisions and other agencies within the executive office.

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**BOARD OF HIGHER EDUCATION**  
**Selected Functions and Duties**  
**MGL Chapter 15A, Section 9**

- 13 Members (3 Higher Education Representatives)
- Recommend Commissioner to the Secretary
- Delegation of Authority to Commissioner
- Approve/deny new academic programs
- Confer power to grant degrees
- Approve appointment of Community College Presidents
- Establish guidelines for CEO search, selection, appointment, compensation, evaluation & removal
- Classify student charges as tuition or as fees
- Establish guidelines for student charges
- Develop a statewide tuition plan
- Establish residency standard for in-state tuition
- Develop funding formula
- "Employer" under MGL Chapter 150E for collective bargaining
- Establish in the Department of Higher Education an Office of Coordination
- Establish trustee recruitment, training and accountability initiatives

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## LOCAL BOARDS OF TRUSTEES

- **Fiduciary Duty**

- Trustees act as fiduciaries of their institutions
- Trustees are charged with acting in the best interest of their institution
- "Fiduciary" comes from the Latin word for "trust"

- **Three Standards of Board Responsibility**

- **Duty of Care** - A Board member acts reasonably, competently, and prudently when making decisions on behalf of the institution and in managing its assets (Personnel, Fiscal, and Reputational Assets). A Board member must set aside competing personal or professional interests when exercising his/her duty of care.
- **Duty of Loyalty** - Requires Board members to put the interests of the institution before all others. It prohibits a Board member from acting out of self-interest.
- **Duty of Obedience** - A Board member's obligation to advance the mission of the College and the Board, including an expectation that Board members will act in conformity with Board policies and practices.

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## LOCAL BOARD OF TRUSTEES Selected Functions and Duties MGL Chapter 15A, Section 22

- **Governance Authority**

- The Boards of Trustees are responsible for "the administrative management of personnel, staff services and the general business of the institution under its authority"

- **Personnel Authority**

- Appoint, transfer, dismiss, promote & award tenure to all personnel
- At its pleasure and with the approval of the BHE appoint and remove the Chief Executive Officer of its institution
- BHE Guidelines for search and selection of CEO

- **Fiscal Authority**

- Establish all fees
- Retain fees in a revolving fund or funds
- Expend fees as the Board of the institution may direct
- Authority to transfer funds within and among subsidiary accounts as allocated by the BHE
- Line item appropriations

- **Academic Authority**

- Award degrees in fields approved by the BHE
- Institutions may conduct summer and evening programs at no expense to the Commonwealth

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**LOCAL BOARD OF TRUSTEES**  
**Selected Functions and Duties**  
**MGL Chapter 15A, Section 22**

• **Policy Development**

- Implement and evaluate affirmative action policies and programs
- Establish, implement and evaluate student services and policies

• **Delegation Authority**

- “**The Board of Trustees of each institution may delegate to the President ... any of the powers and responsibilities herein enumerated**”
- Delegation enables the Board to govern while the President manages
- Delegation to the President does not relieve the Board of its statutory responsibilities of governance and oversight
- Boards must be knowledgeable about an institution’s systems and controls
- Board must have confidence in the expertise of management
- Board meetings are critical for gaining that knowledge and confidence, understanding institutional and system-wide priorities, and establishing strategic plan and expectations
- Physical presence and participation in meetings is crucial to Board and institutional success
- **Micro-managing an institution is not conducive with operating under the Open Meeting Law**

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**OPEN MEETING LAW**

**Important Definitions**

- **Meeting** – deliberation by public body on matters within its jurisdiction
- **Deliberation** – oral/written communication among or b/w quorum on Board business
- **Executive Session** – closed session conducted in accordance with the law

**General Rules**

- All meetings must be **properly posted**
- Board and **Board Committees** are subject to the law
- Physical **quorum required to conduct a meeting**
- **Minutes** must be maintained in open and executive sessions
- Physical Attendance Preferred – Limited **Remote Participation** Permitted

**Communication Outside of a Posted Meeting**

- Deliberation **outside** of a posted meeting violates the law
- Communication among less than a quorum of Board **is not a violation, unless ...**
- **Multiple communications** between individual Board members when taken together constitutes deliberation of a quorum of the Board
- Avoid **electronic** communications
- Do not hit “**Reply All**”
- Follow the “**Table Rule**”

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## OPEN MEETING LAW

### Executive Session

- **Procedures**
  - ES must be included on posted meeting agenda (48 hours in advance);
  - Convene in open session;
  - Motion made to go into ES for a lawful purpose;
  - Majority, roll-call vote to go into ES recorded in the minutes;
  - Chair announces whether the open session will resume at conclusion of ES; and
  - Minutes of ES shall be maintained.
- **Grounds**
  - Discuss the reputation, character, physical condition or mental health, rather than professional competence, of an individual\*
  - Discuss the discipline or dismissal of, or complaints or charges brought against, a public officer, employee, staff member or individual\*
  - Discuss strategy with respect to collective bargaining or litigation
  - Discuss the deployment of security personnel or devices, or strategies with respect thereto
  - Investigate charges of criminal misconduct or to consider the filing of criminal complaints
  - Consider the purchase, exchange, lease or value of real property
  - Discuss trade secrets or confidential, competitively-sensitive or other proprietary information

\*Individual to be discussed must receive 48 hours notice, may attend the ES, bring an advisory, address the Board, and/or demand that the Board's deliberations be held in open session.

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Questions?

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	Gina also provided the Trustees a copy of the Massachusetts Board of Higher Education Presidential Search Guidelines and Procedures for the Search, Selection, Appointment and Removal of State University and Community College Presidents (dated June 2013)
<b>PRESIDENTIAL SEARCH COMMITTEE</b>	Angela Provard, President of the Pauly Group presented an overview of the Presidential Search timeline and discussed the Position Profile with Trustees. The Committee will consist of 19 members, including Trustees, a member from the DHE, HCC Foundation, a Community member, faculty, staff and students. Angela anticipates 8 to 10 semi-finalists that will be interviewed virtually, and 3 to 5 candidates for in-person visits to the campus. There will be an opportunity for Trustees to meet the candidates with a Trustee Dinner.
<b>ADJOURNMENT OF MEETING</b>	The meeting was adjourned at 4:04 p.m.

Respectfully submitted,

DocuSigned by:



11/22/2022

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Karen Desjeans, Staff Assistant, President's Office

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Robert W. Gilbert, Jr., Chair