

BOARD OF HIGHER EDUCATION

REQUEST FOR BOARD ACTION

NO.: BHE 20-10

BOARD DATE: April 08, 2020

**DELEGATION OF AUTHORITY TO THE COMMISSIONER TO ACT IN BETWEEN
REGULARLY SCHEDULED BOARD MEETINGS**

MOVED: On March 10, 2020, the Governor declared a public health state of emergency for the Commonwealth of Massachusetts to prepare for, respond to, and mitigate the spread of COVID-19. While the Governor's state of emergency is in effect, the Board of Higher Education hereby delegates to the Commissioner authority to take such action in between regularly scheduled Board meetings as is deemed necessary or desirable, provided:

- Such action is for good cause, is related to or arises out of the state of emergency, and is authorized or does not conflict with state or federal law; and
- The Commissioner takes such action in consultation with and upon the advice of the Chair or Vice Chair of the Board.

The Commissioner is directed to report back to the Board on whether and how the Commissioner exercised such delegated authority.

VOTED: Motion adopted by BHE 4/8/2020.

Authority: Massachusetts General Laws Chapter 15A, Section 6

Contact: Constantia T. Papanikolaou, Chief Legal Counsel

BACKGROUND

Chapter 15A Section 6 of the Massachusetts General Laws provides that the Board of Higher Education may delegate its authority or any portion thereof to the Commissioner whenever in its judgment such delegation may be “necessary or desirable.”

On March 10, 2020, the Governor declared a public health state of emergency for the Commonwealth of Massachusetts “to prepare for, respond to, and mitigate the spread of COVID-19 to protect the health and welfare of the people of the Commonwealth”. The Governor subsequently issued Executive Orders which impact public and private higher education institutions in the Commonwealth, and the communities they serve. The spread of COVID-19 continues to pose significant challenges and disruptions to the Commonwealth’s public and private higher education institutions, and responsive state and federal legal requirements and guidance are rapidly evolving.

It is essential that the Commissioner be granted the flexibility to act in a timely and efficient manner in between Board meetings, while the state of emergency is in effect, to be able to swiftly respond and adapt to the evolving state and federal requirements and guidance. Relevant actions Commissioner could take under this delegation of authority include making reasonable adjustments to Board policy or procedure, or granting expedited authorizations or approvals, for the purpose of minimizing campus operational disruptions; minimizing financial or other hardships experienced by students, faculty or staff; or otherwise helping to advance the Commonwealth’s COVID-19 prevention and response efforts.