

BOARD OF HIGHER EDUCATION

June 22, 2021

10:00 a.m.

Livestreamed, via Zoom

Meeting Minutes

A meeting of the Board of Higher Education (“BHE” or “the Board”) was held virtually on Tuesday, June 22, 2021 on the web-conference platform Zoom.

The following Board Members were present:

Chris Gabrieli, Chair

Ann Christensen¹

Veronica Conforme

Alex Cortez

Patty Eppinger

Paul Mattera

Tom Moreau, Secretary of Education Designee

Mike O’Brien

Judy Pagliuca²

Paul Toner³

Bill Walczak

Jorgo Gushi, non-voting Student Advisor, Community College segment

Kush Patel, non-voting Student Advisor, UMass segment

Carlos E. Santiago, Commissioner and Secretary to the Board

The following Board Members were absent:

Sheila Harrity, Vice Chair

Charles Bianchi, Voting Student Member, State University segment

I. CALL TO ORDER

Chair Chris Gabrieli called the meeting to order at 10:05 a.m. and announced that this meeting is being held remotely and in accordance with relevant amendments to the Open Meeting Law. Chair Gabrieli announced that the meeting is being livestreamed via Zoom and recorded, and members of the public who signed up for public comment would be allowed to join the Zoom meeting to provide comment. Department of Higher Education (DHE or Department) Chief of Staff Elena Quiroz-Livanis, then took roll call attendance (see above for attendance roster).

¹ Member Christensen arrived at 10:08 a.m.

² Member Pagliuca arrived at 10:20 a.m.

³ Member Toner arrived at 10:14 a.m.

II. PUBLIC PARTICIPATION

Chair Gabrieli reported that the Board did not receive requests for public comment.

III. WELCOME

Chair Gabrieli welcomed everyone to the final, full Board meeting of the fiscal year. He remarked that the Board would acknowledge two outgoing presidents later in the agenda. He thanked the three interim presidents who served this year-- Dr. Nate Bryant at North Shore Community College; Dr. Brenda Molife at Massasoit Community College; and Dr. Roy Saigo at Westfield State University-- for their work during a challenging year.

IV. ACCEPTANCE OF MINUTES

Chair Gabrieli asked for a motion to accept the minutes of the last Board meeting, which was held on May 04, 2021. The motion was duly moved and seconded. With no further discussion the motion proceeded to a roll call vote and passed unanimously by all members present, as follows:

- Veronica Conforme – Yes
- Alex Cortez – Yes
- Patty Eppinger – Yes
- Chair Chris Gabrieli – Yes
- Paul Mattera – Yes
- Tom Moreau – Yes
- Mike O'Brien – Yes
- Bill Walczak – Yes

V. REMARKS & REPORTS

A. Chairman's Remarks

Chair Gabrieli opened with commentary on the Executive Committee's FY20 Performance Evaluation of Commissioner Santiago. He acknowledged the review was behind schedule but expressed gratitude for the work done by the Commissioner, the Department, and the public higher education system on behalf of students.

Chair Gabrieli provided a brief update on proposed changes to the BHE By-Laws, and the proposed new advisory committee structure, adding that the Board would consider a related motion on this later. He applauded the Academic Affairs and Student Success team's efforts to advance the Equity Agenda, highlighting the work presented at the last Academic Affairs Committee meeting. Chair Gabrieli also announced the BHE Board Retreat will be scheduled for a date in September. Finally, he highlighted the results of Massachusetts's first wall-to-wall Early College charter school, New Heights

Charter School, where their 2021 graduating class became the first to simultaneously receive high school diplomas and associate degrees in the history of Massachusetts.

B. Commissioner's Remarks

Commissioner Santiago stated he would reserve his remarks until the Commissioner's FY21 Year-End Report.

C. Secretary of the Executive Office of Education's (EOE) Remarks

Assistant Secretary Tom Moreau indicated that Secretary Peyser was not able to attend the meeting due to a conflict with the Board of Elementary and Secondary Education Board meeting; he did not offer further remarks.

D. Report from Presidents

State University Segmental Report

For a copy of President Birge's full remarks, please see:

<https://www.mass.edu/bhe/lib/documents/2021-05-04%20Report%20from%20SU%20Presidents.pdf>

Massachusetts College of Liberal Arts College President James Birge spoke on behalf of the State University segment. He remarked that the State Universities intend to repopulate their campus housing to levels that balance the demand for housing with the health of our campus populations. He reiterated a comment made at the previous Board meeting, reporting that the State Universities will require all students to be vaccinated against COVID-19 before they attend in-person classes in the fall. The institutions will also continue to ensure that critical supports remain in place as we navigate out of this pandemic and make sure that we are serving our most vulnerable students.

President Birge shared an update on contract negotiations with the four employee bargaining units. He remarked that State Universities and the DHE have been meeting with union negotiators since March 30th on talks over successor agreements to the 2020-2021 collective bargaining agreements. He continued that the Council requested that President Birge include in this report an update on bargaining to bring an issue about the financial parameters given by the Administration to the Board's attention. He recognized that it is unusual for the State Universities' Council of Presidents to discuss salary parameters with the Board but wanted to go on record with how they feel the parameters disadvantage their workforce. President Birge commented that other public sector units that did not reach agreement are now being offered a bonus for the current year and two subsequent years at 2%. Despite having to pivot to remote teaching and work; despite having to learn how to use new technology; despite committing additional hours to learning how to use new equipment and software; and despite adding lessons for their students on the new equipment and software, the state's faculty and staff succeeded at continuing to offer high quality learning for our students. He shared stories of what the last 17 months of the pandemic have been like for his colleagues, citing

COVID-19 deaths, struggles with remote learning, job uncertainty and declines in mental health. He remarked that despite all these competing interests, faculty and staff continued to carry out their responsibilities to make sure that our students received a high quality, public higher education.

President Birge implored the Board to exercise their role as advocates and to press the Administration to increase the economic parameters for employees in the State Universities. He added that the State Universities' workforce were the only public sector bargaining units to agree to a one-year contract with a zero-percent increase in their salary. Further, he stated that now is a rare opportunity for everyone to be on the same side of the table and to advocate for a reasonable, fair, and meaningful set of economic parameters indicative of the Board's gratitude for the work of their colleagues and employees.

President Birge concluded with a note of thanks to the Department, Secretary Peyser, and Secretary of Health and Human Services Marylou Sudders. 500 Massachusetts Maritime Cadets were able to fulfill their Sea Term requirement and are on track to graduate in June. The cadets were scheduled to return to Buzzard's Bay tomorrow morning having completed their mandatory graduation requirement for on-ship training.

Community College Segmental Report

For a copy of President Mabry's full remarks, please see:

<https://www.mass.edu/bhe/lib/documents/2021-05-04%20Report%20from%20CC%20Presidents.pdf>

Middlesex Community College President James Mabry shared updates from the Massachusetts Community College segment. He remarked that the presidents were excited about a recent report by the Boston Foundation, which confirmed what Community College leaders have always known: a community college education pays off. In this report, the data are very clear: a community college education means greater earnings and a greater likelihood of employment. The lead author of the study also mentioned an important finding related to the role of community colleges for low-income and underrepresented minority students. Dr. Alicia Modestino stated that "if they can attend a community college, they can get a much higher return than a higher-income individual who has already had better academic opportunities." President Mabry shared additional findings before stating that the research demonstrates a strong case for investing in community colleges and their value for underserved communities.

President Mabry remarked that as we look at what the pandemic has done to many Black and Latino students, especially many male Black and Latino students, the report's recommendations align with our advocacy to state legislative leaders at many levels. Areas such as the SUCCESS Fund, Early College, the Performance Based Funding Formula, and MASSGrant Plus, among many other programs, are integral to supporting our students and fulfilling the BHE's Equity Agenda.

President Mabry concluded by stating he knows the Board will be in capable hands with his successor as chair of the Community College Council of Presidents, Dr. David Podell, President of MassBay Community College. President Mabry remarked that he is proud of the work the Community Colleges continued to do during this extraordinary period, and the resiliency of their students continually

inspires him. He stated that he hopes the bold and proactive partnership continues to face future challenges. Together, we can strive toward the goals of the Equity Agenda and help build the post-COVID economy the Commonwealth needs.

Chair Gabrieli thanked President Mabry and asked if there were questions or comments from the Board. Member Paul Mattera commended the remarks made by President Birge regarding the state university vaccination requirements and salary parameters. He wanted to be on record in support of the comments and the specific request related to salary parameters.

Before turning to the students, Chair Gabrieli recognized the work done by former Massasoit Community College President, Gena Glickman, and Middlesex Community College President James Mabry. Both were presented with resolutions. Dr. Gena Glickman's reads as follows:

Whereas the Massachusetts Board of Higher Education recognizes the significant accomplishments of Dr. Gena Glickman at the conclusion of her tenure as president of Massasoit Community College, and after a forty-year career of service to the higher education profession; and

Whereas Dr. Glickman was the sixth and first female president to serve at Massasoit Community College; and

Whereas prior to coming to Massasoit Community College in July 2018, Dr. Glickman served as president at Manchester Community College in Connecticut for ten years, and served in numerous roles to include Vice President for Academic and Student Affairs at Elgin Community College in Illinois, Associate and Assistant Provost at the University of Baltimore, Dean of the College at Maryland College of Art and Design, Executive Director for Curriculum Development and Evaluation at Hartford Community College, and held faculty positions at five major institutions; and

Whereas Dr. Glickman holds a Bachelor of Fine Arts degree from the Maryland Institute College of Art, a Master of Science in Counseling and Education from the Johns Hopkins University School of Education, and a Ph.D. in Education, Policy and Planning, from the University of Maryland, College Park; and

Whereas Dr. Glickman has overseen several facility upgrades on Massasoit Community College campuses, including the establishment of a centralized enrollment center and the overhaul of the dining commons on the Brockton campus, in addition to several Americans With Disabilities Act (ADA) compliance upgrades; and

Whereas Dr. Glickman, with a focus on student success and the elimination of student debt, revitalized the College Office of Advancement, raising significant funds for student financial support, and secured over five million dollars in grant funds; and

Whereas Dr. Glickman inspired the Massasoit Community College Foundation, Inc. to expand, adding new members to strengthen the Board and extend its geographical representation, to ensure the future success and sustainability of the college and its students; and

Whereas Dr. Glickman launched Massasoit Community College 's first baccalaureate collaborative, a program allowing nurses with an Associate degree to earn a Bachelor of Science in Nursing from Curry College, while attending classes at Massasoit Community College; and

Whereas, Dr. Glickman has served public higher education locally, regionally and nationally, with a current appointment on the Executive Committee of the Board for the Commission on Higher Education Accreditation (CHEA) and soon to assume position of Board Chair, and previous service with the American Association of Colleges and Universities (AAC&U), College Board Community College President's Advisory Council, Commission of the American Associate of Community Colleges (AACC), and the Commission for the Advancement of Race and Ethnicity for the American Council on Education (ACE); and

Whereas Dr. Glickman received the Distinguished Alumna Award from the John Hopkins School of Education; the Faculty Mentor Award from University of Maryland College Park; recognized as the Outstanding Administrator by the Maryland Association of Higher Education; and received a service award from the Black Law Student's Association at the University of Baltimore, in addition to receiving the Businesswoman of the Year award from the Hartford Business Journal; and

Whereas, throughout her career, Dr. Glickman has demonstrated a commitment to the community college mission to change lives, strengthen families and communities, and has been an advocate for public higher education in Massachusetts, the New England region, and the nation;

Now, therefore, be it resolved that on behalf of the members of the Board of Higher Education, the Department staff, and the students and institutions of the Commonwealth of Massachusetts, the Massachusetts Board of Higher Education honors and commends Dr. Gena Glickman on the occasion of her retirement from the presidency at Massasoit Community College.

Dr. Glickman thanked Chair Gabrieli and the DHE and expressed gratitude for the City of Brockton and the various business partnerships to help students.

Chair Gabrieli read the resolution prepared for President James Mabry as follows:

Whereas the Massachusetts Board of Higher Education recognizes the significant accomplishments of Dr. James Mabry at the conclusion of his tenure as president of Middlesex Community College, after nearly forty years of service to the education profession; and

Whereas Dr. Mabry was the fourth president to serve at Middlesex Community College; and
Whereas, prior to coming to Middlesex Community College in February 2015, Dr. Mabry served as Vice President at Mesa Community College for five years, and served in numerous roles to include Dean of Academic Affairs at Palm Beach State College, Associate Dean of

Academic Affairs at Dutchess Community College, and held faculty positions at four institutions after beginning his career as a high school social studies teacher in the New York City public school system; and

Whereas Dr. Mabry holds an associate degree from the University of Maryland Overseas Division, a Bachelor's degree in Political Science from Columbia University's School of General Studies, a Master of Science in Economic History from The London School of Economics and Political Science, and a Ph.D. in United States History from Columbia University; and

Whereas Dr. Mabry has overseen several facility upgrades on Middlesex Community College campuses, including securing funding for the Biotech Learn and Earn program housed in the new Biotech Lab, modernizing more than 50 classrooms, and renovating the Multicultural Center; and

Whereas Dr. Mabry, a proponent of racial equity and supporter of the Equity Agenda, opened the Asian Student Center after Middlesex Community College earned an Asian American Native American Pacific Islander - Serving Institutions grant; and

Whereas Dr. Mabry chaired the Community College Council of Presidents during the COVID-19 pandemic and served as a thought partner to state education leaders; and

Whereas Dr. Mabry has worked tirelessly throughout his tenure and has demonstrated profound commitment to what is best for students of the Commonwealth and its system of public higher education;

Now, therefore, be it resolved that, on behalf of the members of the Board of Higher Education, the Department staff, and the students and institutions of the Commonwealth of Massachusetts, the Massachusetts Board of Higher Education honors and commends Dr. James Mabry on the occasion of her retirement from the presidency at Middlesex Community College.

Dr. Mabry thanked the DHE and commented on the honor it was to serve as a community college president in Massachusetts. Commissioner Santiago shared his appreciation for President Glickman and President Mabry's work and congratulated them on their retirement.

Chair Gabrieli wished students members Charles Bianchi and Kush Patel success as they graduate before introducing Segmental Advisor Jorgo Gushi for the next part of the agenda.

E. Report from Student Advisory Council

Community College Segmental Representative Jorgo Gushi opened by thanking Chair Gabrieli, Commissioner Santiago, and the Board for their support. He also expressed gratitude for the DHE's Stacy Bougie and her work with the Student Advisory Council (SAC). Mr. Gushi provided a year-end report divided into three parts: 1) the SAC's goals for 2020-2021; 2) the SAC's major accomplishments; and 3) the SAC's new leadership team.

Mr. Gushi outlined SAC's goals to change the Massachusetts General Law's full-time student trustee requirement to part-time, which successfully passed in December 2020. The amendment now allows part-time students to serve as trustees. Mr. Gushi also addressed SAC's goals to expand Open Education Resources (OER) through student advocacy and state funding. They met their goal resulting in three ambassador training sessions where students were trained to be campus-level advocates, twenty new student ambassadors, and five OER panel sessions. The group continues to submit letters of support for additional OER funding. Mr. Gushi shared the SAC's goal to implement a Community Building Day. They will reach out to Community Colleges and State Universities for their support and plan to organize the event in October 2021. SAC also created a student trustee handbook as a tool to familiarize newly elected trustees with their roles.

Mr. Gushi commented on the SAC's successful year. The highlights included:

- the creation of social media accounts to continue student outreach;
- increased attendance in SAC meetings operating remotely; and
- ongoing advocacy for students.

He concluded by acknowledging his leadership team for their support, with special thanks to outgoing SAC members Kush Patel and Charles Bianchi. Mr. Gushi also welcomed Cameron Costa as the 2021-2022 BHE Voting Member and Cindy Mack as the State University Segment Advisor.

UMass Segmental Student Advisor Kush Patel shared his gratitude for SAC Chair Jorgo Gushi and his leadership. He stated that Mr. Gushi takes the initiative on issues most would not have thought about bringing to governmental constituents for resolution, and he is steering SAC and our leadership team to new heights. Mr. Patel also thanked the Board, Chair Gabrieli, Commissioner Santiago, and the Department of Higher Education for the opportunity to serve. He commented that serving as a Student Advisor for the past three years has been an honor and a privilege. Mr. Patel thanked Commissioner Santiago for allowing him to shadow him for a day, which allowed Mr. Patel to observe and learn the inner workings of higher education. He expressed gratitude for the opportunity to serve on the Board and support Department's overall work to help students succeed, as his aspiration is to work in education after graduating from college this Summer.

Before turning to the motions, Chair Gabrieli and other Board members thanked the student advisors for their leadership and participation and congratulated them on their accomplishments.

VI. MOTIONS

List of Documents Used

AAC Motions 21-14 through 21-15

BHE Motion 21-48 through 21-52

Links to Materials:

- [AAC 21-11](#)
- [AAC 21-12](#)
- [AAC 21-13](#)

- [AAC 21-14 Presentation Video](#)
- [AAC 21-15 Presentation Video](#)
- [BHE 21-48](#)
- [BHE 21-49](#)
- [BHE 21-50](#)
- [BHE 21-52](#)

A. Academic Affairs Committee

Co-Chair Patty Eppinger reported that the Academic Affairs Committee met the previous week and considered three Commonwealth Honors Program reapprovals: Bristol Community College, UMass Boston, and UMass Dartmouth. She also reported that the committee is advancing a motion to receive both the OER Course Marking implementation Guidelines and the Open Education Resources (OER) Key Performance indicators. Co-Chair Eppinger reminded the Board of the New Undergraduate Experience (NUE) and Basic Needs Security (BNS) materials and the opportunity for further engagement at the September Board retreat.

Co-Chair Eppinger asked for a motion of approval of AAC 21-14, which seeks to approve AAC-21-11 through AAC-21-13 on a consent agenda. On a motion duly made and seconded, AAC 21-14 was approved unanimously by all Board members present, without discussion, as follows:

- Ann Christensen – Yes
- Veronica Conforme – Yes
- Alex Cortez – Yes
- Patty Eppinger – Yes
- Chair Chris Gabrieli – Yes
- Paul Mattera – Yes
- Tom Moreau, Secretary of Education Designee – Yes
- Mike O’Brien – Yes
- Judy Pagliuca – Yes
- Paul Toner – Yes
- Bill Walczak – Yes

AAC 21-14

CONSENT AGENDA

VOTED:

- AAC 21-11 Reapproval of Bristol Community College Membership in the Commonwealth Honors Program
- AAC 21-12 Reapproval of the University of Massachusetts Boston Membership in the Commonwealth Honors Program
- AAC 21-13 Reapproval of the University of Massachusetts Dartmouth Membership in the Commonwealth Honors Program

Authority: Article III, Section 6, By-Laws

Contact: Winifred M. Hagan, Ed.D., Senior Associate Commissioner for Strategic Planning and Public Program Approval

Co-chair Patty Eppinger next asked for a motion of approval for AAC 21-15. On a motion duly made and seconded, AAC 21-15 was approved unanimously by all Board members present without discussion, as follows:

- Ann Christensen – Yes
- Veronica Conforme – Yes
- Alex Cortez – Yes
- Patty Eppinger – Yes
- Chair Chris Gabrieli – Yes
- Paul Mattera – Yes
- Tom Moreau, Secretary of Education Designee – Yes
- Mike O'Brien – Yes
- Judy Pagliuca – Yes
- Paul Toner – Yes
- Bill Walczak – Yes

AAC 21-15 RECEIPT OF THE OPEN EDUCATIONAL RESOURCES (OER) ADVISORY COUNCIL IMPLEMENTATION GUIDELINES ON COURSE MARKING & OER KEY PERFORMANCE INDICATORS

VOTED: The Board of Higher Education receives both the OER *Course Marking Implementation Guidelines* in furtherance of the Board's short-term recommendations, outlined in AAC 20-03 and adopted on October 22, 2019; and the OER *Key Performance Indicators* recommendations from the OER Advisory Council.

The Board thanks the members of the OER Advisory Council and specifically the OER Course Flagging Committee and DHE lead staff Robert Awkward, Ph.D. for their work.

The Board directs the Commissioner to work with the OER Advisory Council and the institutions of public higher education to implement the attached *Course Marking Implementation Guidelines* and *OER Key Performance Indicators* and report back on implementation progress next year. In addition, the Board further directs the Commissioner or his/her designee to periodically report to the Board on the Department's progress in this regard.

Authority: M.G.L. c. 15A, §9 (c) and (u); AAC 20-03.

Contact: Patricia A. Marshall, Ph.D., Deputy Commissioner for Academic Affairs & Student Success
Robert J. Awkward, Ph.D., Assistant Commissioner for Academic Effectiveness

Chair Gabrieli thanked Co-Chair Patty Eppinger and turned the Board's attention to the next set of

motions. Before proceeding, Chair Gabrieli stated that there is one update to the agenda. In last week's supplemental Board package, Department staff put the Board on notice of a potential agenda item. In furtherance of implementing the new campus sexual assault law, Department staff anticipated being in a position to move forward with a motion which would finalize the promulgation of regulations related to public and private higher education institutions' responsibility to enter into MOUs with local law enforcement agencies (*BHE 21-52: Approval and Adoption of 610 CMR 14.00: Coordination with Local Law Enforcement to Prevent and Respond to Sexual Misconduct*). At the time the supplemental package was sent, the Department had not received any public comment on the proposed regulations. However, since that time comments were received and Department staff will need time to review these comments internally, with stakeholders, and with our state agency partners. Accordingly, we will be tabling that agenda item. DHE Staff will provide additional information regarding how and when the regulations will be finalized in the coming weeks. Chief Counsel Papanikolaou thanked the Board for permitting extra time for such a review.

B. Board of Higher Education

Chair Gabrieli introduced the Commissioner's FY20 Performance Evaluation. He stated that the Executive Committee developed the evaluation after meeting twice in the Spring. Chair Gabrieli noted that the Commissioner's efforts in keeping the Department and campuses up and running under extraordinary circumstances during the height of the pandemic, while also advancing the Equity Agenda and the ongoing work of the Department, were all considerations taken during the review.

Chair Gabrieli proceeded to ask for a motion for approval of BHE 21-48: Commissioner's FY20 Performance Evaluation. On a motion duly made and seconded, BHE 21-48 was approved as follows, without further discussion:

- Ann Christensen – Yes
- Veronica Conforme – Yes
- Alex Cortez – Yes
- Patty Eppinger – Yes
- Chair Chris Gabrieli – Yes
- Paul Mattera – Yes
- Tom Moreau, Secretary of Education Designee – Yes
- Mike O'Brien – Yes
- Judy Pagliuca – Yes
- Paul Toner – Yes
- Bill Walczak – Abstain

BHE 21-48

COMMISSIONER'S FY20 PERFORMANCE EVALUATION

VOTED:

The Board of Higher Education hereby approves the attached Commissioner's FY 2020 Performance Evaluation, as prepared by members of the Executive Committee.

Authority:

Massachusetts General Laws Chapter 15A, Section 6

Contact: Constantia T. Papanikolaou, Chief Legal Counsel

Chair Gabrieli once again thanked Commissioner Santiago for his service and introduced the next item on the agenda. He shared that one of his priorities as the Board Chair was to improve the functioning of the Board and Committees. After feedback received from a listening tour conducted last fall, followed by discussions held at subsequent BHE and Executive Committee meetings, Chair Gabrieli asked the Board to consider approving changes to the BHE's By-Laws. In partnership with Chief Legal Counsel Dena Papanikolaou, new By-Laws were drafted and sent to the Board on June 7 in accordance with requirements that BHE members must receive proposed By-Law amendments at least (15) days prior to the date of the meeting where proposed revisions are to be taken up.

Chair Gabrieli highlighted the major change in the By-Laws which is the ability to create Advisory Councils, which are not traditionally appointed groups as they may include non-BHE members. The councils would operate under Open Meeting Law and would be required to have a BHE Board member as chair, or co-chair. The By-Laws further provide for an annual meeting which will allow for the BHE to conduct governance reviews and address the Advisory Council membership selection process.

Chief Counsel Papanikolaou summarized the governance changes in the By-Laws, reiterating that the revised By-Laws require the full Board to review and approve the membership and charges of the Advisory Councils, and to annually review their structure and function. The intention of the revisions is to provide the full Board ownership on governance, while allowing for greater flexibility on how the Board does its work. She pointed out that the newly added annual meeting would provide the venue for the Board's annual review of governance.

Member Paul Mattera shared his support of the Advisory Councils, stating that he was very open to the notion of bringing in new perspectives, but he expressed two issues. First, he expressed hesitancy to the notion of having a co-chair that is a non-BHE member (a non-director). He believed this would create a disequilibrium with the duties and responsibilities of co-chair BHE members, (directors) who have fiduciary and statutory responsibilities. Board Member Mattera also asked whether the Advisory Councils would vote on board actions. Chief Counsel Papanikolaou responded by saying no, the Advisory Councils would weigh in on policy and strategic matters and would not vote on BHE motions; a quorum of Board retains the authority to approve all motions.

Board Member Mattera added that as a segmental representative he has always felt that his voice, through the current committee structure, has been heard. He expressed concern that the Advisory Councils would become so large that the segmental views may get drowned out. He suggested adding a requirement that the BHE membership on each council shall always be greater than non-BHE membership on each council. Chair Gabrieli thanked Board Member Mattera for the suggestion but noted that there are annual governance review protections in the By-Laws, as well as protections that the gubernatorial and segmental appointees will be making the decisions, and he suggested that the Board give this a try and make course corrections as needed.

Member Bill Walczak asked if an Advisory Council co-chair is eligible to serve on the Executive Committee if the co-chair is also a Board member. Chair Gabrieli confirmed, yes.

Member Judy Pagliuca suggested that including a semi-annual review of the Advisory Councils may prove useful as a best practice for the Board. Chief Counsel Papanikolaou stated that the Member Pagliuca's suggestion could be easily incorporated into the motion, by stating that the motion is approved "subject to" the Board committing to conducting at least a mid-year review of implementation of the By-Laws in year one. Chair Gabrieli acknowledged Board members' general consensus on that approach, and agreed to add the language

Chair Gabrieli asked for a motion of approval for BHE 21-49, subject to the Board committing to conducting at least a mid-year review of By-Law implementation in year one. On a motion duly made and seconded, the motion was approved unanimously by all Board members present, as follows:

- Ann Christensen – Yes
- Veronica Conforme – Yes
- Alex Cortez – Yes
- Patty Eppinger – Yes
- Chair Chris Gabrieli – Yes
- Paul Mattera – Yes
- Tom Moreau, Secretary of Education Designee – Yes
- Mike O'Brien – Yes
- Judy Pagliuca – Yes
- Paul Toner – Yes
- Bill Walczak – Yes

BHE 21-49 AMENDMENTS TO BOARD OF HIGHER EDUCATION BY-LAWS

VOTED: The Board of Higher Education hereby approves amendments to its By-Laws, as set forth in Attachment A, and subject to the Board of Higher Education committing to conducting at least a mid-year review of By-Law implementation in year one.

Authority: Massachusetts General Laws Chapter 15A, Section 4; BHE By Laws Article IV, Section 1 (Amendment or Revision).

Contact: Constantia T. Papanikolaou, Chief Legal Counsel

VII. PRESENTATIONS

A. Financial Assessment and Risk Management – Year 1 Overview

List of Documents Used

Financial Assessment and Risk Monitoring (FARM) of Independent Institutions: Year 1 Review, PowerPoint Presentation, June 22, 2021

Chair Gabrieli moved to the final agenda items, stating that two presentations would be given by

Commissioner Santiago. The first one will provide an overview of the Department's efforts to implement the legislatively approved approach to proactively screening and assessing the financial condition of private (independent) higher education institution. The final presentation will be the *Commissioner's Year-End Report*. Chair Gabrieli thanked Commissioner Santiago, Deputy Commissioner Marshall, Chief Counsel Papanikolaou, and Deputy Commissioner Simard for their contributions, and then turned it over to the Commissioner.

Commissioner Santiago opened by setting the context for the first presentation on the Department's institutional screening and assessment process, which is called "FARM" and stands for Financial Assessment and Risk Management (FARM). He noted that this is the Department's first year of implementing this important work, and that it was important to provide a Year 1 summary to the Board, along with recommendations for Year 2 implementation. He commented that the federal and state stimulus allocations made available to institutions during the pandemic positively impacted their financial sustainability. However, the problem is ongoing, with demographics showing a decline in birth rates, which will, in turn, produce a dramatic reduction in the number of college students years from now and adversely impact institutions. The Commissioner also noted that 2023 would be a challenging year due to declining enrollment, and the exhaustion of stimulus funding.

Commissioner Santiago shared that the law requires the Department to annually screen private higher education institutions, both nonprofit and for-profit institutions. As a regulatory agency, he emphasized the importance of acknowledging the regulatory term at "risk of imminent closure," which is the Department's primary focus when reviewing an institution. The Commissioner reviewed the 18-month rule which forms the basis for the risk analysis. He added that those institutions that screen in as "at-risk" bear the responsibility of then submitting plans, data, and other information to the Department to help the Department assess the severity of the risk. All institutions, irrespective of their screening status are required to proactively notify the Department of known financial liabilities and risks, post their audited financial statements, and ensure their trustees receive the necessary training to understand the financial risks of their institution.

FARM implementation encompasses participation from three DHE divisions, and the Board will hear from each division: Legal, led by Chief Legal Counsel Dena Papanikolaou; Finance, led by Deputy Commissioner for Administration and Finance, Tom Simard; and Academic Affairs, led by Deputy Commissioner for Academic Affairs & Student Success, Pat Marshall. He turned to Chief Counsel Papanikolaou to share her insights on the FARM work and suggested changes.

Chief Counsel Papanikolaou opened by summarizing and commenting on operationalizing the FARM process. Ms. Papanikolaou stated that a cross-functional regulatory team manages the process, each with lead assignments and weekly meetings as a group. The legal division, which included Ashley Wisneski and Alex Nally, is primarily responsible for drafting correspondence, providing internal team coordination and project management, and providing institutions with technical assistance. The finance division, which in addition to Tom included Joe Wallerstein, is responsible for the initial screenings and assessments, while all members of the team provide input on risk mitigation review and monitoring for Commissioner review. And, the academic affairs division, which in addition to Pat included Cindy Brown, is responsible for contingency closure planning with identified institutions. In

Year 1, the FARM team developed the infrastructure for the work, while simultaneously implementing the new law. The team established external and internal communication protocols, templates, and data trackers, as well as a password-protected, confidential reporting portal for institutions. The team also adapted financial screening workbooks to make risk assessment summaries readily available through a partnership with the New England Commission of Higher Education (NECHE). Chief Counsel Papanikolaou closed by stating the Commissioner's FARM Advisory Committee convened quarterly to provide consultation and advice to the Commissioner. She next turned to Tom Simard for an overview of the year one screening and assessment process.

Deputy Commissioner Tom Simard focused on screening and assessments, and risk mitigation review and monitoring. He highlighted the timeline of key regulatory checkpoints during Year 1 implementation-- April 2020 through May 2021. Deputy Commissioner Simard identified the four critical financial health elements reviewed by the DHE and NECHE: enrollment, the sufficiency of cash flow, cash liquidity, and wealth reserves. The FARM process consists of seven phases, where phase four determines how and whether an institution advances through the next phases of the process, with a determination that either risk mitigation plans are required, or no further action is warranted. Deputy Commissioner Simard closed by identifying challenges and recommendations related to Year 1 implementation. Among many, one significant challenge was a process delay the Department experienced in waiting to receive detail and underlying data relevant to NECHE's financial screenings. The Department is addressing this in Year 2 by requiring all screened-in institutions to sign and submit a release form, which will authorize NECHE to release any and all requested information to the Department without delay. In addition, in Year 1 the Department identified a few unique institutions that did not fit well in the screening methodology. Future screenings will adapt to the institution's distinction to properly screen their unique position. An institution's president and the chair of the institution's board of trustees will also sign a certification attesting that the institution has both the means and the shared commitment to fulfill its risk mitigation plans and to continue operations through the end of the next academic year. Deputy Commissioner Simard then asked Deputy Commissioner Marshall to continue the next section of the presentation.

Deputy Commissioner Marshall provided an overview of FARM's process improvement plan in the area of contingency closure planning. As part of risk mitigation and monitoring last October, communications to the presidents of those institutions advanced to the risk mitigation phase of the process also requested that they begin Phase I of contingency closure planning. Deputy Commissioner Marshall described the various phases of contingency closure planning and stated that Phase I includes the submission of a table with a list of all academic programs offered by the institution, along with CIP codes and enrollment information. The full contingency closure plan consists of Phases I and II, with the Final Phase representing closure. She emphasized the importance of an institution needing to understand why information such as enrollment numbers, students receiving VA benefits, and a list of academic programs is necessary to assist students should operations cease.

In reviewing Year 1, Deputy Commissioner Marshall noted that contingency closure planning began in October with a light touch (Phase I) followed by increased requirements and requested revisions/additions (Phase II). In Year 2, the team will shift and expedite the timelines, and newly screened-in

institutions will be required to complete *both* Phase I and Phase II contingency closure planning before January 1, simultaneously with risk mitigation plan submissions.

Next, Chief Counsel Dena Papanikolaou provided an overview of three additional regulatory and legal requirements of the Commonwealth's new statutory and regulatory FARM process. She noted that in addition to the law's affirmative obligation on the Department to conduct the annual financial screenings and assessments (either directly or through NECHE), the law creates three specific, affirmative obligations on all private higher education institutions (IHEs) located in the Commonwealth and authorized to grant degrees as follows:

- IHEs must proactively notify the Board of any "known financial liabilities and risks;"
- IHEs must annually post audited financial statements; and
- IHEs must ensure their trustees receive instruction and training on fiduciary duty and financial metrics at least once every four years.

All 85 institutions that fall under the jurisdiction of the law received a notice from the Commissioner detailing these expectations and how to meet the obligations, which includes submitting reports through the Department's confidential online portal. On the first bulleted item, Chief Counsel Papanikolaou noted that, with one exception, in Year 1 the Department did not receive any proactive notifications from IHEs of "known liabilities or risks." To address this, in Year 2 the Department will add a "nothing to report" checkbox/ confirmation in the IHE's annual reporting portal. On the requirement to post audited financial, ninety-four percent of these institutions are in compliance. The Department will continue to monitor compliance with this requirement but does not have Year 2 recommendations on this item. Similarly, the roll out of the trustee training requirement is ongoing. The Department worked with The Boston Consortium and the Attorney General's office on a comprehensive training, where over 300 hundred board members participated and over 60 leaders. The Department will review and analyze compliance data after the November 1, 2021 deadline. Chief Counsel Papanikolaou turned to the Commissioner to offer closing remarks.

Commissioner Santiago thanked the team for their report and their work. He offered his observations on the inherent challenges in identifying an institution's risk of imminent closure based on prior year's data and emphasized the importance of implementing enhancements to the process to avoid lost time, a crucial factor once an institution has been identified. One notable recommendation for FY22 which is already underway is the development of the NECHE "release form" signed by IHEs, which would permit the accreditor to release information to the DHE directly and quickly. Commissioner Santiago highlighted three additional recommendations which the Department intends to implement:

- accelerate the timeline from December to October for "at risk" and public notice determinations;
- require all Presidents and Board Chairs of IHEs assessed as "at risk" to submit certifications attesting that they have both the means (18 months) and the intention (commitment) to stay open through the end of the next academic year; and
- increase DHE capacity and resources to conduct assessments, risk monitoring and contingency closure planning.

He shared his belief that the recommended changes would facilitate the process of identifying institutions at risk and making the work more efficient and effective. Commissioner Santiago closed by sharing his overall assessment that the Department's work in Year 1 was successful and opened the floor for questions.

Chair Gabrieli expressed support for the Commissioner's recommendations and their focus on protecting students. Member Judy Pagliuca asked if the Department had information on the number of institutions identified, and their timeliness in getting data. She also asked about student complaints once an institution closes, digitization, and if aggregating and sharing information would help others understand the health of private schools in the higher education economy. Commissioner Santiago noted that the Department has a complaint process in place to assist students. Chief Counsel Papanikolaou added that under the statute, the Department is under strict confidentiality regarding the FARM work and therefore cannot publicly disclose data, though the Department can share data or other information with the Board through an appropriate non-public process such as an executive session, if desired. Deputy Commissioner Simard added that through Sales Force, the Department receives digitized information in various ways as institutions go through the regulatory process. Still, the screening tools will continue to be monitored to ensure they remain valid for the screening process. Chair Gabrieli thanked the Department for their work then turned to Commissioner Santiago for the final presentation.

B. Commissioner's Year End Report

List of Documents Used

Commissioner's FY21 Year-End Report

Commissioner Santiago opened by stating the experience this academic year is one he has not seen in 40 years in the field of higher education. In the interest of time, he stated that he will be reviewing only the highlights of FY2021 (academic year 2020-2021) with the option for questions at the end. He stated that his presentation will focus on three items in particular: Covid-19 Response, the Equity Agenda, and Financial Assessment and Risk Management (FARM).

Commissioner Santiago discussed the transition to remote work for the Department and remote teaching and learning for the institutions in March 2020. He presented slides illustrating the Department's move to remote work and the changes implemented ensure staff were safe, as well as able to work effectively and efficiently from their homes. Commissioner Santiago also commented on the Department's work with the Department of Elementary Education (DESE) to improve FAFSA completion, stating that while we are not exactly where we were in FAFSA completion before COVID-19, that gap is closing.

Commissioner Santiago transitioned to the Equity Agenda and provided updates on several initiatives advancing this important work. He stated that Basic Needs Security (BNS) rose to the top as an area of focus and there is more work to be done. The BNS initiative represents a cross-agency initiative that tackled issues with food insecurity, housing insecurity, lack of access to transportation, and, more

recently, mental health issues among our students. He continued by sharing the success of Early College. There are now 31 programs serving approximately 5,000 students, with more than 50% of students identifying as students of color.

Commissioner Santiago commented that financial aid reform was another major component of the Equity Agenda. The MASSGrant Plus program in Community Colleges has made a considerable dent in reducing the unmet needs of students and now there is a need to determine whether that difference carries over to outcomes, retention, graduation, and transfer. The New Undergraduate Experience (NUE) will also be foundational to the Equity Agenda and a major conversation topic. STEM Starter Academy has served over 31,000 community college students with positive outcomes for 64% of the participants.

Commissioner Santiago opted to not repeat comments related to the FARM work given the previous presentation earlier in the meeting but paused to emphasize the significance of rolling out this work in FY21. The Commissioner continued by noting that in addition to this new statutory responsibility, in FY21 the Department was also required to take on and begin implementing other important regulatory requirements-- the new campus sexual assault law, as well as public and private higher education trustee training requirements included in the FARM law. The Commissioner also referenced the use of the Governor's Emergency Education Grant Funds and summarized ongoing campus-based initiatives.

Commissioner Santiago provided a recap of the five presidential searches completed in FY21 and highlighted that two state university searches increased gender diversity in these important leadership roles, as we now have two female state university presidents. He concluded by extending his appreciation to the Board for their support during the past year and stated that this summer would be very important for the equity work as we begin to map out a strategic plan for racial equity. Finally, the Commissioner commended and thanked the Department staff for their work over the course of the past year.

Chair Gabrieli thanked the Commissioner for his presentation and suggested a special Board meeting in August to discuss some of the items presented at the Academic Affairs Committee the previous week. He then asked for comments or questions from the Board. Member Pagliuca thanked the Commissioner for his overview and commented that she was proud to be a member of the Board. She also wondered if there was a way to acknowledge the work of higher education institutions for the adaptations made during the COVID-19 pandemic. Commissioner Santiago agreed and said he had never seen higher education's mission change so quickly. Chair Gabrieli remarked that it seemed appropriate to acknowledge all their hard work to help educate students during this time.

Chair Gabrieli shared that Department staff would reach out to Board members to schedule a three-hour meeting in August to continue important conversations on the NUE and BNS presentations brought before the Academic Affairs Committee. He thanked Commissioner Santiago, his team, and the Board before asking for a motion to adjourn.

VIII. OTHER BUSINESS

None.

IX. ADJOURNMENT

The meeting was adjourned at 1:00 p.m.

*Respectfully Submitted,
Carlos E. Santiago
Commissioner and Secretary to the Board*