

BOARD OF HIGHER EDUCATION
REQUEST FOR COMMITTEE AND BOARD ACTION

COMMITTEE: Fiscal Affairs and Administrative Policy **NO.:** FAAP 13-41

COMMITTEE DATE: June 11, 2013

BOARD DATE: June 18, 2013

APPROVAL OF AMENDED GUIDELINES AND PROCEDURES FOR THE SEARCH, SELECTION, APPOINTMENT AND REMOVAL OF STATE UNIVERSITY AND COMMUNITY COLLEGE PRESIDENTS

MOVED: The Board of Higher Education approves the attached Amended Guidelines and Procedures for the Search, Selection, Appointment and Removal of State University and Community College Presidents, and delegates to the Commissioner the authority to act on behalf of the Board of Higher Education as specified therein.

Authority: G.L. c. 15A, § 6, 9 and 21; Section 172 of Chapter 139 of the Acts of 2012

Contact: Constantia T. Papanikolaou, *General Counsel*

Background

The FY2013 Budget reaffirmed the authority and responsibility of the BHE to issue guidelines and procedures governing the search, selection, appointment, compensation, evaluation and removal of the chief executive officers for both the community colleges and state universities, citing to the BHE's statutory authority to:

- approve presidential appointments and removals (M.G.L. c. 15A, § 21);
- approve and fix presidential compensation (M.G.L. c. 15A, § 9(q)); and
- establish coordination between and among post-secondary public institutions and to resolve conflicts of polices or operations arising in public higher education. (M.G.L. c. 15A, § 9(u)).

See Section 172 of Chapter 139 of the Acts of 2012.

Within this framework, the legislature required the BHE to issue new Presidential guidelines and procedures for community colleges by November, 2012.

On October 16, 2012 the BHE adopted guidelines and procedures governing the search, selection, appointment, and removal of Community College Presidents. During its October 16th meeting, the BHE also passed two companion motions, directing the Commissioner to:

- 1) explore and formulate, based on the BHE's existing statutory authority, recommendations on guidelines and procedures for the search, selection, appointment, and removal of State University Presidents; and
- 2) work in consultation with the Executive Committee of the BHE to review the BHE's existing Presidential compensation and evaluation guidelines (as approved in December 2005 and as subsequently amended), and propose any necessary revisions for BHE review and approval in time for implementation during the FY2013 Presidential evaluation process.

In furtherance of the BHE's directive regarding the first companion motion identified above, on November 30, 2012 the Department forwarded to State University Trustees, as a starting point for discussion, the BHE's approved *Guidelines and Procedures for the Search, Selection, Appointment and Removal of Community College Presidents* ("*Search and Selection Guidelines*").

The Department held a six month comment period on the document, and during that time offered two¹ feedback sessions with State University Trustees and two feedback sessions with Community College Trustees. In addition, the Department received several written comments.

¹ Although two State University feedback sessions were offered-- one on April 18th in Holyoke, and the other on April 22nd in Framingham-- the April 18th session was cancelled due to low registration numbers.

Based on the questions, comments and suggestions received during the Trustee comment period, the Department made several revisions to the *Search and Selection Guidelines*, as summarized in the attached May 29, 2013 memorandum.

In addition, on June 6, 2013 the Commissioner met with members of the BHE Executive Committee to discuss the draft document, along with the proposed revisions. The Executive Committee reviewed the document, suggested further clarifications and expressed general agreement both with the consultative approach taken in drafting the guidelines and the substantive provisions contained in the final version.

Substantive revisions made to the *Search and Selection Guidelines* as a result of this consultative process include the following:

- Consistent with statutory authority and BHE precedent, the Department, in consultation with the Executive Committee, is recommending that the *Search and Selection Guidelines*, which currently apply only to Community College Presidential searches, selections and appointments, also apply to State University Presidential searches, selections and appointments. As reflected in the attached May 29, 2013 memorandum, trustees did not advance any real substantive reasons for a differentiated approach to State University presidential searches, selections, and alternative guidelines were not proposed.
- The following revisions to the *Search and Selection Guidelines* were made to include specific timeframes or otherwise help reduce the possibility of undue delays during the Presidential search, selection and appointment process :
 - Language was added which expresses the BHE's commitment to conduct its final interview and vote on the local Board of Trustees' recommended appointee as expeditiously as possible. Language was also added to state that the Commissioner, the local board chair and the Chair of the BHE will work together to ensure that BHE action occurs in a timely fashion and that the Chair of the BHE will call a special meeting of the BHE, if necessary to help avoid undue delays.
 - Regarding the BHE and Commissioner's interview of the 3 to 5 final candidates, language was added stating that, to the fullest extent possible, the BHE and the Commissioner will transmit their comments to the local board within two to three business days of interviewing the last finalist.
 - Regarding the step which provides the Commissioner and local Board of Trustees an opportunity to review the existing pool of candidates selected for interviews, language was added stating that the Commissioner will make every effort to complete his review within 48 hours of receiving the documents.
- A provision was added to acknowledge exceptions and allow for flexibility in the application of the *Search and Selection Guidelines* in a particular case, upon approval by the Commissioner in consultation with the Chair of the BHE.

- Language was added which expresses a commitment that the Commissioner will seek to appoint a member of the BHE to the search committee.

Consistent with the BHE's statutory authority and FY2013 Budget language, the BHE issues the attached *Search, Selection, Appointment and Removal of State University and Community College Presidents*, and delegates to the Commissioner the authority to act on behalf of the BHE as specified therein. G.L. c. 15A, § 6, 9 and 21.



Massachusetts Board of Higher Education

**Guidelines and Procedures for
the Search, Selection,
Appointment and Removal of
State University and Community
College Presidents**

[June 6, 2013 Draft]

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I. Introduction

Chapter 15A provides that the Board of Trustees for each state university and community college shall appoint and remove the institution's president subject to the approval of the Board of Higher Education. G.L. c. 15A, § 21. Section 9 of Chapter 15A further provides that the BHE shall "approve and fix the compensation of the chief executive officer of each institution." In furtherance of these legislative requirements, and consistent with the BHE's responsibility to establish overall goals in order to achieve a well-coordinated, quality system of public higher education in the Commonwealth, to establish coordination between and among institutions, and to resolve conflicts of policies or operations, the BHE issues these guidelines and procedures for the search, selection, appointment and removal of the chief executive officers at state universities and community colleges. G.L. c. 15A, § 9.

The authority to monitor and interpret this policy shall be vested in the Commissioner of Higher Education. The Commissioner, in consultation with the Chair of the BHE, shall have the authority to allow exceptions to this policy.

II. Search and Selection

A. Initiation of the Presidential Search

When a local Board of Trustees wishes to initiate the search for a new president, it shall so inform the Commissioner in writing. This notification shall occur at the earliest stage of the search process, prior to the appointment of a search committee or the selection of an executive search firm (where applicable).

To help ensure a successful outcome of the search, it is essential that communication between the Board of Trustees/search committee and the Commissioner's office be maintained throughout the search and selection process.

B. Position Description and Announcement

The leadership needs of an institution vary widely at different stages of its historical development. For this reason, the local Board of Trustees is strongly encouraged to begin the presidential search process by undertaking a careful assessment of the institution's current status and future goals. Such assessment is typically conducted with the assistance of an executive search firm (see Section II.D.3, below) and shall include attentiveness to regional and statewide needs and goals, and the institution's capacity to function within an integrated system.

Based on this assessment, the Board of Trustees (or the search committee, if so delegated by the Board of Trustees) should develop a reasonably detailed position description and announcement, commonly known as the "presidential profile." The Commissioner shall be provided a reasonable opportunity to review and comment upon the draft position description for a new president prior to its publication. The

Commissioner shall act with reasonable dispatch and shall share his/her comments, along with his/her preliminary thoughts regarding essential terms of appointment and an appropriate salary range, with the Chair of the Board of Trustees.

The presidential position description and announcement shall be placed in at least one major national publication serving the higher education marketplace, and in such other local and national publications as are necessary to attract a sufficiently large and diverse pool of qualified applicants.

C. Minimum Qualifications

All new presidents shall reflect the education and experience that represent the highest levels of qualifications for such positions. A well documented history of organizational leadership and proven success in meeting specific performance goals and objectives is required.

The minimum qualifications for a president shall therefore be as follows:

Education

An earned doctorate (including but not limited to a Ph.D., J.D., or Ed.D.), coupled with substantial experience relevant to the segmental mission and needs of the institution. In exceptional circumstances, an earned master's degree, coupled with substantial experience relevant to the segmental mission and needs of the institution, may satisfy minimum educational requirements.

Experience

Substantial experience in a senior management position in higher education.

or

Substantial experience in a senior management position in a field outside higher education, where such experience is deemed relevant to, and provides a basis for judging, the candidate's capability to serve as a college or university president.

D. Search Committee Selection, Procedures and Responsibilities

1. Selection and composition of the search committee

The Board of Trustees shall appoint a presidential search committee that includes a minimum of three Trustees and at least one individual from each of the major campus constituencies (students, faculty, professional staff, non-unit staff and support staff). In addition, one voting member shall be appointed by the Commissioner. In selecting the appointee, the Commissioner shall first offer the opportunity to serve on the search committee to members of the Board of Higher Education, and if that does not result in an appointment, the Commissioner shall appoint a senior-level staff member of the Department of Higher Education.

Other individuals, including but not limited to alumni/ae, community representatives, and distinguished educators from other institutions, may be included on the search committee at the discretion of the Board of Trustees. The search committee should not normally exceed nine to thirteen voting members. The chair of the search committee shall be appointed by the Chair of the Board of Trustees from among the Trustee members of the search committee.

The process for selecting search committee members from campus constituencies shall be determined by the Board of Trustees; provided, however, that the Board of Trustees shall provide an opportunity for any member of the college/university community to express interest in, and be considered for appointment. If the Board wishes to solicit nominations from any organization, including any employee organization, it shall require that such organization submit at least two nominees for each available committee vacancy. The Board shall make all reasonable efforts to ensure adequate diversity (i.e., gender, race, ethnicity) among members of the search committee.

The institution's affirmative action officer shall serve as a non-voting member of the search committee; shall have access to all committee materials and candidate files; and shall be invited to attend all meetings, including any executive sessions, of the search committee or any subcommittee thereof.

2. Search committee procedures

The Board of Trustees must approve a budget for the search committee which typically includes the following, where applicable: administrative or other support staff hired by or assigned to the search committee; supplies, stationery, and postage; travel and lodging for out-of-state candidates; visits to the home campuses of candidates; executive search firm fees; background and reference checks; and other related expenses. Members of the search committee shall not be compensated for their service but may be reimbursed for reasonable expenses connected with the search that are: 1) provided for in the budget, and 2) approved in advance by the chair of the search committee.

The chair of the search committee will appoint a secretary to the committee. The secretary's duties may include scheduling meetings and interviews; making travel arrangements for presidential candidates; maintaining committee files; preparing agendas, minutes and reports; and ensuring the Committee's compliance with the Open Meeting Law.

a) Open Meeting law and required trainings

As a special committee of the Board of Trustees, the presidential search committee is a "governmental body" subject to the state's Open Meeting Law, G.L. c. 30A, §§ 18-25. At the outset of the search process, the search committee must be fully trained on, and provided a copy of the Open Meeting

Law. The committee must also be trained on the applicable provisions of the Public Records Law.

In accordance with the Open Meeting Law procedures established by the Attorney General's Office, a notice of every search committee meeting must be posted on a website and a copy filed with the Secretary of State, at least 48 hours prior to the meeting. G.L. c. 30A, § 20; 940 CMR 29.03. Accurate minutes must be kept and become a part of the public record. Except as provided under the Open Meeting Law, and as otherwise provided in the Attorney General's regulations, interpretive guidance and rulings on the law, search committee meetings must be open to the public, in order to ensure transparency of the presidential search process. Please note, however, that many candidates for a presidential position may agree to be considered only if they can be assured that their candidacy will remain confidential until they reach the final stages of the process. There is a strong public interest in ensuring that the Commonwealth can attract the best possible pool of qualified candidates for this important position. For these reasons, it is permissible for public bodies, such as a search committee, to meet in executive session to screen, discuss and interview applicants during the preliminary, screening stages of a search, subject to Open Meeting Law procedural requirements. Since, however, this is an area of the Open Meeting Law subject to changing interpretation, the chair of the search committee is urged to consult the General Counsel of the Board of Higher Education or his/her designee before determining final procedures with respect to this point.

b) Confidentiality, Communications and Record Keeping

Subject to the requirements of the state's Open Meeting and Public Record Laws, members of the search committee shall protect the confidentiality of the search process.

Committee files and candidate application materials shall be kept in a secure area, and maintained consistent with Public Records Law requirements. Access to these materials shall be restricted to the members of the search committee and such other individuals who, having a direct role in the search process, are specifically so authorized by the chair. To facilitate review by committee members, the chair may authorize the production of one or more duplicate copies of candidate application materials and/or secure electronic access.

All communications from the search committee, including responses to media inquiries, shall be handled solely by the chair of the search committee or his/her designated spokesperson. The chair or his/her designee should issue periodic progress reports on the search to the college/university community and to the Commissioner.

A written record of the search committee's activities, proceedings, and decisions shall be maintained, including minutes from each meeting conducted by the search committee, whether held in open or executive session. This record shall include a summary of the steps taken to ensure affirmative action in the search and a statistical analysis of the applicant pool at each stage of the search process.

3. Use of executive search firms

The Board of Trustees or the search committee (with the Board's approval) will typically engage an executive search firm to assist in the conduct of the search. Exceptions to this practice may be approved when warranted due to extraordinary circumstances. Such a firm may be contracted to provide any or all of the following services:

- Developing an institutional profile or other background materials on the institution.
- Preparing and placing advertisements.
- Identifying and soliciting applications from qualified candidates.
- Preparing and processing correspondence with candidates.
- Responding to candidate inquiries and information requests.
- Making travel and lodging arrangements for out-of-state candidates.
- Conducting background and reference checks on applicants.
- Other related services.

In no case shall an executive search firm be delegated authority that is appropriately vested in Board of Trustees, or the search committee, as delegated by the Board of Trustees. At the discretion of the search committee, the search firm may screen the initial applicant pool to determine which candidates meet the minimum qualifications set forth in the position description. The search firm shall not screen or select candidates for further consideration.

The Board of Trustees and/or the search committee should solicit and consider proposals from a number of qualified executive search firms. Upon request, the Board of Higher Education shall furnish a list of executive search firms known to have interest and/or experience in presidential searches, including firms that have previously worked for other public higher education institutions in the Commonwealth.

In selecting an executive search firm, the Board of Trustees and/or the search committee shall take into specific consideration evidence of each firm's commitment to and experience in affirmative action recruitment.

4. Responsibilities of the search committee: screening, interviewing and recommending candidates

The search committee shall serve in an advisory capacity to the Board of Trustees, which has statutory authority to appoint the president of the institution, subject to approval of the Board of Higher Education. The Board of Trustees' charge to the search committee should set forth the Trustees' expectations, as well as the scope of the authority granted to the search committee.

The committee shall oversee the entire presidential search process, including all correspondence with candidates, solicitation and acknowledgement of references, and other communications and reports. The committee shall screen and evaluate all applications, and shall select candidates for interviews. The search committee shall provide the Board of Trustees and the Commissioner the opportunity to review the applications of the pool of candidates selected for interviews by the search committee. The Board of Trustees and the Commissioner shall act with reasonable dispatch in conducting such a review, and shall have the authority to ask that additional candidates be sought before interviews proceed; the Commissioner will make every effort to complete his/her review within 48 hours of receiving the documents.

The committee shall interview candidates for the presidency and shall recommend to the Board of Trustees an unranked list of no less than three (3) and no more than five (5) qualified candidates. Prior to making its recommendation, the search committee shall ensure that thorough reference and background checks are completed on all of the recommended finalists, and that the finalists understand that their appointment will be subject to a State Police Background check which will be facilitated by Department of Higher Education staff. In making its recommendations, the search committee shall transmit to the Board of Trustees the resume and all other relevant application materials for each of the three to five recommended finalists. The search committee may also, at its discretion, provide a summary of the perceived strengths and weaknesses of each candidate, but under no circumstances shall the committee rank order the candidates.

E. Board of Trustees Guidelines and Procedures for Interviewing Finalists and Selecting a Recommended Candidate

The Board of Trustees shall review the materials submitted by the search committee and interview each of the recommended finalists in open session. In conjunction with such interviews, the Board may provide an opportunity for students, faculty, and staff to meet informally with the candidates. The Board may also conduct such additional background and reference checks, including visits to candidates' home campuses or workplaces, as it deems necessary. By this stage of the process, there should be a clear understanding between the chair of the Board of Trustees and the Commissioner regarding essential terms of appointment and an appropriate salary

range, so that the chair of the Board of Trustees can ensure that the leading candidates have appropriate expectations prior to the Board of Trustees' vote to recommend a finalist to the Board of Higher Education.

The Board of Trustees shall extend to the Board of Higher Education and the Commissioner the opportunity to interview candidates selected as finalists by the search committee as part of candidate visits to the campus to meet with various constituencies. To that end, the Board of Trustees shall transmit to the Commissioner the résumés and all other relevant application materials for each of the three to five recommended finalists for review. The Board of Higher Education may, at its election, exercise its option to interview the candidates either by acting as a whole or through a committee, and shall conduct the interviews in open session, consistent with Open Meeting Law requirements. The Board of Higher Education and the Commissioner shall promptly forward any comments on the finalists to the Board of Trustees, for the Board of Trustees' review and consideration prior to voting on a recommended appointment. To the fullest extent possible, the Board of Higher Education and the Commissioner's comments shall be transmitted to the Chair of the local Board of Trustees within two to three business days of the last finalist interview. The Board of Higher Education and the Commissioner's comments shall be limited to their general impressions of the candidates, and shall not include a recommendation of any specific candidate.

In accordance with the Open Meeting Law, the Board of Trustees shall vote to recommend the appointment of a president in open session, with a quorum present. The vote should be conducted by roll call, with the Chair of the Board voting last. If no candidate receives the required majority, the process may be repeated as often as deemed necessary by the Board. To avert potential controversy or legal challenge, the recommended appointee should receive the votes of the majority of the Board's full membership. A Board of Trustees' vote to recommend the appointment of a president will also typically include language which authorizes the Chair of the Board of Trustees to negotiate with the recommended candidate terms of appointment.

F. Reopening a Search

If the Board of Trustees rejects all candidates submitted by the search committee, the Trustees may 1) request that the search committee reevaluate the credentials of other candidates in the pool and submit the name(s) of any additional recommended candidate(s); 2) direct the existing search committee to reopen the search; or 3) appoint a new search committee to conduct a reopened search. The Trustees shall not, however, require the search committee to submit the name of any specific candidate; nor shall the Trustees vote to recommend the appointment of any individual whose name has not been duly submitted by the search committee.

III. Appointment of a President

A. Board of Trustees Procedure for Recommending the Appointment of a Candidate to the Board of Higher Education

Once the Board of Trustees has voted to recommend to the Board of Higher Education the appointment of a president, the Chair of the Board of Trustees shall so notify the Commissioner in writing. The Chair of the Board of Trustees shall also promptly forward to the Commissioner copies of the résumés and other relevant application materials of all finalists interviewed by the Board of Trustees and a summary of the search process, which shall include a statement of the steps taken to ensure affirmative action and a statistical analysis of the applicant pool at each stage of the search process.

The Chair of the Board of Trustees will negotiate with the recommended candidate proposed appointment terms, including compensation terms, consistent with the guidelines in Section IV, below, and shall memorialize the negotiated terms in writing. A template for use in drafting proposed Terms of Appointment shall be provided by the Department of Higher Education staff. The Board of Trustees shall forward to the Commissioner proposed Terms of Appointment, for the Commissioner's review and comment prior to its finalization with the recommended candidate and prior to its execution.

The Board of Trustees shall arrange for a State Police background check, or a similar background check performed by another qualified agency, firm, or individual, on the recommended candidate. A copy of the results of such background investigations shall be forwarded to the Commissioner.

B. Board of Higher Education and Commissioner Review and Approval of the Board of Trustees' Recommended Candidate for Appointment

After a nominee has been selected by the Board of Trustees, the Commissioner shall review the materials submitted by the Board of Trustees in support of the recommended candidate and shall have an opportunity to meet with the presidential candidate recommended by the Board of Trustees.

Within 14 days of receiving the Board of Trustees' submittal, the Commissioner will review the submittal to determine whether it is complete and consistent with the Board of Higher Education guidelines. If not, then the Commissioner may request a meeting with the chair of the Board of Trustees to discuss the submittal further. Upon determination that the Board of Trustees' submittal is complete and consistent with the BHE guidelines, the Commissioner will promptly forward the submittal, along with his/her recommendation, to the Board of Higher Education for consideration and formal action.

The BHE is committed to conducting its final interview and vote on the local Board of Trustees' recommended appointee as expeditiously as possible. The Commissioner, the local board chair and the Chair of the BHE will work together to ensure that BHE action occurs in a timely fashion. The Chair of the BHE will call a special meeting of the BHE, if necessary to help avoid undue delays. At the meeting of the Board of Higher Education during which the presidential appointment is to be acted upon, the Commissioner shall be provided an opportunity to comment on the conduct of the search process and to offer his/her recommendation concerning the proposed appointment. The Board of Higher Education shall also be presented with proposed Terms of Appointment, for review and approval, as well as all other supporting documents submitted by the Board of Trustees, and shall interview the local Board of Trustee's nominee.

The appointment of the president shall not be effective until and unless it is approved by the Board of Higher Education, and any public statements made by the Board of Trustees prior to Board of Higher Education approval shall clearly reflect the same. Any press releases by the local Board of Trustees in this regard shall be coordinated with the Department of Higher Education.

Nothing in these guidelines and procedures shall be deemed to restrict or prohibit the Board of Higher Education from delegating to the Commissioner the authority to approve presidential appointments. Neither shall these guidelines or procedures prohibit the Board of Higher Education from delegating to the Commissioner or a committee of the Board of Higher Education the authority to approve a presidential appointment during the months of July and August or during any other extended period in which the Board of Higher Education is not scheduled to meet.

IV. Terms of Appointment

The Terms of Appointment for all initial presidential appointments are to be developed and negotiated by the local Board of Trustees following these guidelines, and must be approved by a formal vote of the Board of Higher Education, unless otherwise delegated to the Commissioner. Proposed terms of appointment should address all aspects of a president's appointment and must, at a minimum, address compensation packages, including salary and benefits, as well as evaluation processes and notification of removal and termination rights.

A. Compensation for Initial Presidential Appointments

The Board of Higher Education is responsible for setting the compensation, which includes salary and benefits, for the chief executive officer of each institution within the state university system and community college system. G.L. c. 15A, § 9(q).

The Board of Higher Education is committed to an approach to presidential compensation that is set at rates which ensure the recruitment of the best candidates possible, with a sensitivity to public concerns about public salaries. Decisions on

presidential salaries for initial appointments shall be based on the professional experience of the candidate, institutional size, as well as the complexity and particular short-term and long-term challenges facing the institution. Equity considerations and comparative data on the salary ranges of current, sitting presidents in the Commonwealth's public higher education institutions shall also be taken into account. All compensation proposals shall be consistent with the Board of Higher Education Compensation Guidelines. Proposed presidential compensation packages may include benefits consistent with the Board of Higher Education's Compensation Guidelines, but such benefits must be specifically negotiated and identified in the draft appointment agreement submitted for Board of Higher Education approval.

B. Evaluations and Compensation Adjustments

Annual evaluations, as well as periodic comprehensive evaluations, of presidents shall be conducted by local Boards of Trustees, and shall be required to justify compensation adjustments, including merit increases, consistent with Board of Higher Education policies and procedures, including the Board of Higher Education's Compensation Guidelines. All references in proposed Terms of Appointments to annual and comprehensive evaluations in the Terms of Appointment shall be consistent with Board of Higher Education policies and procedures.

V. Selection of a Acting and/or Interim President

The procedures for a selection of an acting and/or interim (hereinafter "interim") president shall in each instance be determined by the Board of Trustees after consultation with the Commissioner in accordance with the following requirements:

- It is preferable that an interim president should meet the same minimum qualifications as are required of a permanent president. The ultimate decision, however, should be based on the needs of the institution.
- The recommendation to appoint an interim president shall be made by a vote of the Board of Trustees in open session. Written notice of the Trustees' action, along with a copy of the nominee's curriculum vitae and proposed Terms of Appointment, shall be forwarded in timely fashion to the Commissioner.
- The appointment of an interim president shall not be effective until and unless approved by the Commissioner, in consultation with the Chair of the BHE.
- The salary of an interim president shall be set by the Trustees in accordance with the Board of Higher Education's Compensation Guidelines and shall be subject to the approval of the Commissioner, in consultation with the Chair of the BHE.
- An interim president may, at the discretion of the Trustees, be provided with the same benefits as are provided to the permanent president, including a housing allowance (where applicable).

- Except in rare or extraordinary circumstances, an interim president shall not be eligible to be considered for the permanent presidency.
- The term of an interim president shall not exceed one year, except in exceptional circumstances and only with the prior approval of the Commissioner.
- The Terms of Appointment for an interim president shall be set forth in a written contract or letter of appointment, a copy of which shall be provided to the Commissioner for review, comment, and approval prior to its finalization with the proposed interim president and prior to its execution.

VI. Removal

A. Recommended Removal of a President Initiated by the Board of Trustees

A president serves “at the pleasure” of the local Board of Trustees, subject to Board of Higher Education approval, and as such, a Board of Trustees has the authority to remove a sitting president at any time, without cause or explicit reasons, subject to Board of Higher Education approval. G.L. c. 15A, § 21. However, consistent with good practice of presidential evaluation, and except in exigent circumstances and cases of malfeasance, presidential performance issues should typically be identified through the annual evaluation process and the president should typically have an opportunity to address identified areas of concern prior to Board of Trustees action to initiate removal for reasons related to performance.

In accordance with the Open Meeting Law, the Board of Trustees shall vote to recommend the removal of a president in open session, with a quorum present. The vote should be conducted by roll call, with the Chair of the Board voting last. If the vote receives the required majority, the recommendation shall be forwarded to the Commissioner for presentation to the Board of Higher Education for approval, along with any documentation supporting the reasons for the recommended removal. To avert potential controversy or legal challenge, the recommended action should receive the votes of the majority of the Board’s full membership.

B. Board of Higher Education Action on a Recommended Removal of a President

The Board of Higher Education Trustees shall review the local Board of Trustees’ recommended removal, along with all supporting documentation, and shall vote on the recommend removal of a president in open session, with a quorum present. To avert potential controversy or legal challenge, the recommended action should receive the votes of the majority of the Board’s full membership.

**Appendix: Board of Higher Education Motion
to Approve Guidelines and Procedures**

BOARD OF HIGHER EDUCATION
REQUEST FOR COMMITTEE AND BOARD ACTION

COMMITTEE: Fiscal Affairs and Administrative Policy **NO.:** FAAP 13-19

COMMITTEE DATE: October 9, 2012

BOARD DATE: October 16, 2012

APPROVAL OF GUIDELINES AND PROCEDURES FOR THE SEARCH, SELECTION, APPOINTMENT AND REMOVAL OF COMMUNITY COLLEGE PRESIDENTS

MOVED: The Board of Higher Education approves the attached Guidelines and Procedures for the Search, Selection, Appointment and Removal of Community College Presidents.

The Board of Higher Education further acknowledges the existence of current Presidential compensation and evaluation guidelines and directs the Commissioner, in consultation with the Executive Committee or an ad hoc Committee of the Board, to review the compensation and evaluation guidelines in light of current data and best practices and propose any necessary revisions for Board of Higher Education review and approval in time for implementation during the FY2013 Presidential evaluation process.

Authority: M.G.L. c. 15A, § 6, 9 and 21; Section 172 of Chapter 139 of the Acts of 2012

Contact: Constantia T. Papanikolaou, *General Counsel*

Background

The FY2013 Budget reaffirmed the authority and responsibility of the BHE to issue guidelines and procedures governing the search, selection, appointment, compensation, evaluation and removal of the chief executive officers for both the community colleges and state universities, citing to the BHE's statutory authority to:

- approve presidential appointments and removals (M.G.L. c. 15A, § 21);
- approve and fix presidential compensation (M.G.L. c. 15A, § 9(q)); and
- establish coordination between and among post-secondary public institutions and to resolve conflicts of policies or operations arising in public higher education. (M.G.L. c. 15A, § 9(u)).

See Section 172 of Chapter 139 of the Acts of 2012. Within this framework, the legislature required the BHE to issue new Presidential guidelines and procedures for community colleges by November, 2012.

In order for the BHE to be able to effectively execute its statutory authority regarding Presidential appointments, removals and compensation adjustments, it must establish a coordinated, consistent and rational process for evaluating the recommendations made by local Boards of Trustees. To that end, and consistent with FY2013 Budget language, the BHE issues the attached Guidelines and Procedures for the Search, Selection, Appointment and Removal Community College (the "Guidelines"), and delegates to the Commissioner the authority to act on behalf of the BHE as specified in the Guidelines. M.G.L. c. 15A, § 6. The BHE further acknowledges the existence of current Presidential compensation and evaluation guidelines and directs the Department to review the current guidelines, and propose to the BHE any necessary modifications or updates for FY2013 implementation.

Search, Selection, Appointment and Removal Guidelines

The attached Guidelines are based on the BHE's 1992 Policy for the Conduct of Presidential Searches (the "BHE 1992 Policy") for community college and state university presidents. The BHE 1992 Policy was issued in April 1992¹ and was in effect until June 1999, at which time the BHE delegated to the campuses the development and implementation of policies and procedures for the selection of a president for their respective institution, explicitly reserving, however, the policy that a candidate selected by the board of trustees as the nominee must be interviewed by the Commissioner prior to a recommendation to the Board of Higher Education for final approval. See BHE 99-05 (June 15, 1999).

¹ In May, 1982 the BHE, through its predecessor entity, the Board of Regents, issued two policies regarding the search and selection process for chief executive officers of public higher education institutions: a Policy for the Conduct of Searches for the Office of President or Chancellor, and Guidelines for College and University Presidential Search and Selection Procedures. The May, 1982 policies were superseded and replaced by the BHE 1992 Policy. See HEC A&F 92-12 (April 14, 1992).

The BHE is reinstating the scope and substantive requirements of the BHE's 1992 Policy, with a few additional elements. Highlights of the proposed differences between the BHE's 1992 Policy and the attached Guidelines include:

- FY2013 Budget language requires the BHE to appoint to each search committee for a community college and state university president, one voting member. The draft Guidelines adds this requirement for community college searches and delegates the authority to the Commissioner to appoint a member.
- Updates the minimum educational requirements for a campus president consistent with the national norm.
- Stresses better, on-going communication between the chair of the search committee and the Commissioner throughout the search and selection process.
- The search committee must provide the institution's local Board of Trustees (BOT) and the Commissioner the opportunity to review the applications of the pool of candidates selected for interviews by the search committee; either the BOT or the Commissioner may ask that additional candidates be sought before interviews proceed.
- More thorough background and reference checks will be required of the final 3 to 5 candidates selected by the search committee for final interviews, prior to public announcements.
- The BOT shall extend to the BHE and the Commissioner the opportunity to interview candidates selected as finalists by the search committee as part of the candidate visits to the campus to meet with various constituencies.
- The draft Guidelines also includes a section on the appointment of an acting or interim president, the terms of which are essentially the same as those in the BHE 1992 Policy. There are, however, two differences between the two documents. Specifically, the BHE 1992 Policy included explicit limitations that an acting president: 1) must meet the same minimum qualifications as are required of a permanent president, and 2) cannot be appointed as a permanent president. The draft Guidelines allow for some BOT flexibility on these two points in extraordinary circumstances, based on the needs of the institution. Also, the authority to set the compensation of the acting/ interim president is clearly delegated to the Commissioner.
- FY2013 Budget language requires the Department to issue guidelines and procedures for the "removal" of Presidents, which was not previously addressed in the 1992 Policy. To that end, proposed minimum guidelines and procedures for the removal of presidents are included for the first time in these draft Guidelines.

Compensation and Evaluation Guidelines

FY2013 Budget language also asked the BHE to issue "compensation and evaluation" guidelines and procedures. The BHE, however, currently has compensation and

evaluation guidelines in place. The BHE's current guidelines, which are entitled "Compensation Guidelines for State University and Community College Presidents," were initially passed in April 2005, amended in December 2005 and most recently updated in April 2008. The BHE's current "Compensation Guidelines" include evaluation criteria which local boards of trustees are to take into account in reviewing presidential performance and recommending annual compensation adjustments, and the BHE and the Commissioner are likewise to take into account in calculating and fixing compensation adjustments, including merit based adjustments. The BHE recognizes the existing compensation and evaluation guidelines and directs the Commissioner to work with the Executive Committee to review the document in the coming year, and propose any recommended changes to the BHE in time for implementation during the FY2013 Presidential evaluation cycle, which typically commences in the spring of each year.