

**Massachusetts Board of Higher Education  
EXECUTIVE COMMITTEE**

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April 12, 2021  
11:00 a.m.- 1:00 p.m.

The April 12, 2021 meeting of the Executive Committee of the Board of Higher Education (“BHE” or “the Board”) was held virtually on the web-conference platform Zoom.

**Meeting Minutes**

Committee Members Present: BHE Chair Chris Gabrieli; Vice-Chair Sheila Harrity; Patty Eppinger; and Commissioner Carlos Santiago (non-voting, ex officio).

Others Present: J.D. LaRock, former BHE member.

Department Staff Present: Constantia Papanikolaou; Elena Quiroz-Livanis.

**I. CALL TO ORDER**

Board Chair Chris Gabrieli called the meeting to order at 11:04 a.m.

Chair Gabrieli thanked those in attendance and noted that this was the first Executive Committee meeting that has been held since the reconstituting of Board operations during the pandemic. Chair Gabrieli also noted that an election was held last week for the Community Colleges’ segmental BHE seat, and Bunker Hill Board of Trustees’ Chair Bill Walczak was selected as J.D. LaRock’s successor on the BHE. Chair Gabrieli noted that Mr. LaRock was attending today’s meeting for transitional purposes to offer comment on the agenda items from his perspective and based on his experiences as a BHE member familiar with the topics. Roll call attendance was taken (see above for attendance roster).

**II. DISCUSSION**

### List of Materials Used

Commissioner's FY20 Self Evaluation, November 15, 2020

Chair Gabrieli stated that there are two agenda items set for discussion for today's meeting, with no anticipated motions: Review of Board Structure and Processes, and the Commissioner's FY20 Evaluation.

The Committee began with a review of board structure and processes. Chair Gabrieli set the context for the discussion by referencing the four listening sessions that he and the Commissioner held in October 2020 to hear directly from Board members about their reflections on Board service, structure, and strategy. He said he learned a lot from the conversations and was appreciative of Board members taking the time to share their thoughts. Questions that were raised during the listening tour focused on how the Board acts in a time of both acute and chronic challenges to the public higher education system. Chair Gabrieli noted that many Board members had questions about how to best organize themselves to speak to the strategic dimension of how public higher education can meet its important goals in this state. Board members also expressed an interest in better understanding their authority and using that authority to advance specific initiatives that create system authenticity. Upon the completion of those listening sessions Chair Gabrieli made an express commitment to return to the Board with proposals that reflected the conversations, and today's meeting was in furtherance of that commitment.

Chair Gabrieli stated that he worked with Chief Legal Counsel Papanikolaou to review the statutory and current BHE By Law requirements for board structures. Chief Counsel Papanikolaou confirmed that the BHE's statute requires the Board to have at least an Executive Committee and allows for the establishment of other committees, specifically providing as follows: "the board shall have an executive committee and such other committees as the board may from time to time establish." M.G.L. c. 15A, section 4(b). Under the current By Laws, the Board established two standing committees—Academic Affairs and Fiscal Affairs and Administrative Policy—and also allowed for the establishment of Task Forces. The Strategic Planning committee was established subsequently in October 2014 through a Board vote.

Chair Gabrieli noted that while the Strategic Planning committee is not an official, standing committee of the Board under By Laws it has been operating as such. But, while the other two standing committees have been reconstituted and have begun meeting again during the pandemic, the Strategic Planning committee is currently not active because he has not identified Board appetite to staff it. He also noted that from time to time the By Laws' section on Task Forces has been successfully deployed- in the

past with the assembly of the For Profit and Campus Safety Task Forces, and more recently the THESIS working group (which was essentially a Task Force) and the Evidence Based Policy Making Task Force. He observed that he liked the Task Force models as it allowed the Board to add non-Board member expertise to the table.

Based on all of this, including the feedback from the listening sessions, Chair Gabrieli proposed converting the working (standing) committees of the Board to more of a “task force” or perhaps “advisory” committee structure. He confirmed that the Open Meeting Law would apply to this approach, so this was not an attempt to circumvent that, but noted that the benefits of such an approach would be the ability to add some external, critical expertise to the discussions. Each committee would have a chair, and perhaps a co-chair who is not a member of the Board. An added benefit of this approach is that it would lighten the load of Board members, while also seeking to advance diversity in every sense of the term. Chair Gabrieli concluded by adding that the central purpose of this approach would be to increase the time and ability of Board members to look at strategic issues.

Board Member Eppinger expressed support for the concepts presented, particularly if the intended outcome would be to help balance the time and energy at the Board level on strategic issues and necessary administrative responsibilities. She also suggested perhaps an administrative committee or delegating some authority could help with the latter. Vice Chair Harrity agreed that it would be helpful to improve the Board’s ability to focus on strategic issues during the full Board meetings. She expressed frustration that the Board does not get to the heart of some important issues until the end of a meeting and then there is a hard stop. Vice Chair Harrity also suggested abbreviating or restructuring some of the opening reports and comments received during the beginning of each Board meeting.

Regarding delegation of authority, Chief Legal Counsel Papanikolaou stated that under statute the Board can delegate its authority to the Commissioner, whenever in its judgment such delegation “may be necessary or desirable.” As such, the Board could delegate some administrative or core functions to the Commissioner. However, the statute does not allow the Board to delegate its authority to others, including to any committees or task forces of the Board, as the statute requires “the affirmative vote of 7 members” for any action taken by the board to pass. Within that context, the contemplated advisory committees can study and advise on issues, similar to how task forces and working groups have worked in the past, but managing votes including the consent agenda process could prove to be challenging. Chief Counsel Papanikolaou suggested that if standing committees were to be disbanded, then perhaps the Board could look at using a “committee of the whole” or the Executive Committee or ad hoc

committees, in conjunction with the advisory committee process, to help advance Board business.

The Committee discussion then turned to whether the Board could keep meeting remotely after the state of emergency is lifted. Chief Counsel Papanikolaou stated that the Open Meeting Law's requirement that a quorum of a public body be physically present was suspended during the state of emergency; when the state of emergency is lifted the physical presence rule will be reinstated absent a change in state law. However, proposals to amend the underlying state law are anticipated, and we will be watching and commenting on the legal developments as they arise. Committee members expressed a strong preference to continue to meet remotely and to support any legislation that would allow for that to happen.

Before moving on to the next agenda item, Chair Gabrieli summarized the discussion. He stated that he would work with Chief Legal Counsel Papanikolaou to develop a proposal to amend the By Laws to allow for an advisory committee process, and that he would bring the proposal back to the Executive Committee in May for review. His goal was to present the full Board with a refined proposal for action during the June Board meeting.

Next, the Committee turned to the Commissioner's FY20 Evaluation. Chair Gabrieli introduced the agenda item noting that it is the BHE's statutory responsibility to annually evaluate and set the compensation of the Commissioner, and this is an important function of the Executive Committee. As in prior years, the Commissioner submitted a self-evaluation. Chair Gabrieli asked the Commissioner to offer remarks, which would then be followed by Committee discussion.

The Commissioner provided a high-level summary of the Department's work, noting in particular the tremendous challenges that have upended public and private higher education during the last four months of FY20 and the first three months of FY21 as a result of the pandemic. In addition to having to transition the Department and Board's work processes to a remote environment, the Commissioner assembled and deployed several members of his senior staff to serve as a "COVID-response-team." This team worked tirelessly with all of our public and private higher education institutions, the Executive Office of Education, and the Department of Public Health and representatives from public and private higher education institutions, to quickly and safely help our institutions quickly "de-densify" their campuses and transition to a 100% remote environment, and then to set the stage for an effective and safe "reopening" or "repopulating" of our campuses. All the while, Department staff continued to advance the Department and Board's key priorities including and especially the Equity Agenda.

The Commissioner briefly summarized efforts during FY20 to advance the Equity Agenda, as well as FY21 anticipated implementation work activities. In addition, the Commissioner highlighted the Department's work in FY20 in launching and implementing the Financial Assessment and Risk Management (FARM) work.

The Commissioner concluded by noting that over the last two years, the Department has been tasked with new and far-reaching projects. While it was necessary to pivot during the pandemic to address these challenges, the ongoing and essential projects that preceded the previous two years moved forward. Significant advancements continue to be made in the area of program approvals, remediation, dual enrollment, transfer, state reciprocity agreements, Stem Starter Academy programming, support for veterans, financial aid disbursement, teacher diversity, strategic planning, and learning outcomes assessment. The Commissioner characterized FY20 as foundational in many respects. Without an appreciable increase in staff resources, the Department accepted critical new projects that significantly impact higher education, and staff commitment to the success of students is unparalleled. They managed to keep ongoing projects moving forward and, without exception, they have welcomed new projects and challenges. The Commissioner noted that his only disappointment over the last few years is that the Department's reputation and expertise is more recognized nationally than within the Commonwealth. Our approach to equity in higher education is unique, and we are acknowledged as a leader among our peers in this area.

Committee members thanked the Commissioner for his presentation and commended him and Department staff for their work. In particular, Committee members highlighted the Department's COVID-response work, and the continuing commitment and implementation of the Equity Agenda.

Chair Gabrieli thanked the Commissioner for his written and verbal self-evaluation. At approximately 12:20 p.m., Commissioner Santiago, Chief Counsel Papanikolaou, and Chief of Staff Elena Quiroz-Livanis left the meeting. Chair Gabrieli stated that he would take minutes on behalf of the Committee from this point forward.

Chair Gabrieli advised the Committee members on the process to complete the review which would include soliciting input at this meeting; drafting a review for comment by Executive Committee members; sharing a subsequent draft for any feedback with Commissioner Santiago; and then delivering a document to the full Board by the June meeting. Committee members then engaged in a constructive exchange of views and perspectives on activities and accomplishments made by the Department under the Commissioner's leadership over the last eighteen months. The Committee members also considered the context of challenges and opportunities facing higher education

and provided to the Chair specific feedback and thoughts for inclusion in the review letter.

Chair Gabrieli thanked Committee members for their comments. He indicated that he would take all of the information received, including the Committee's comments, the Commissioner's written evaluation, and the Commissioner's verbal presentation, and would prepare a draft evaluation document for the Committee's review during the next Executive Committee meeting.

### **III. OTHER BUSINESS**

There was no other business.

### **IV. ADJOURNMENT:**

On a motion duly made and seconded, the meeting adjourned at 1:00 p.m.