

REVISED  
September 10, 2014

MEETING OF THE FULL BOARD

Friday, September 12, 2014  
1:30 - 2:15 p.m.

Auditorium of the Albert & Shirley Small Special  
Collections Library, Harrison Institute

OPEN SESSION

- A. Pledge of Allegiance (Dr. Long)
- B. Approval of the Minutes of the June 5-6, 2014 Meeting of the Board of Visitors (The Rector)
- C. Resolution for Addition(s) to the Agenda (The Rector)
- D. Setting the Date of the 2015 Annual Meeting of the Board (The Rector)
- E. Renewal of the Special Committee on Governance (The Rector)
- F. Appointment of Public Member to the Medical Center Operating Board (The Rector)
- G. Amending the Code of Virginia (Ms. Sheehy)
  - 1. To Allow Employees of Institutions of Higher Education to Serve on the State Air Pollution Control Board
  - 2. To Exclude Certain Medical Records and Communications from Disclosure under the Freedom of Information Act
- H. University of Virginia Investment Management Company (UVIMCO) Board Appointments (The Rector)
- I. Amendments to the *Manual of the Board of Visitors of the University of Virginia* (See Attachment) (The Rector)
- J. Freedom of Information Act (FOIA) Policy (The Rector)
- K. Resolution for Exclusion of Certain Directors and Officers - September 2014 (The Rector)
- L. Comments by the Rector
- M. NCAA Orientation (The Rector will introduce Mr. Eric Baumgartner, Associate Athletics Director of Compliance, who will conduct the orientation)
- N. ACC Certification (The Rector)
- O. Comments by the Student Member (Ms. Gould)
- P. Comments by the Faculty Senate Chair (Mr. Garofalo)
- Q. Report by the President (President Sullivan)

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RESOLUTION TO APPROVE ADDITIONAL AGENDA ITEMS

RESOLVED, the Board of Visitors approves the consideration of addenda to the published Agenda.

SETTING THE DATE OF THE 2015 ANNUAL MEETING  
OF THE BOARD

RESOLVED, the first meeting of the Board of Visitors in the fall of 2015 will be designated the 2015 Annual Meeting of the Board.

EXTENSION OF THE SPECIAL COMMITTEE ON GOVERNANCE

WHEREAS, the *Manual of the Board of Visitors of the University of Virginia* specifies that Special Committees of the Board be extended each year at the Annual Meeting;

RESOLVED, the Special Committee on Governance is extended to the Annual Meeting of 2015.

APPOINTMENT OF HUNTER E. CRAIG TO THE MEDICAL CENTER  
OPERATING BOARD

WHEREAS, the *Manual of the Board of Visitors of the University of Virginia*, Section 3.28, authorizes the Board of Visitors to appoint public non-voting members to the Medical Center Operating Board to serve for initial terms not to exceed four years;

RESOLVED, Hunter E. Craig, of Charlottesville, is appointed to the Medical Center Operating Board as a public non-voting member for the term commencing July 1, 2014 until June 30, 2018.

AMENDING THE CODE OF VIRGINIA

1. To Allow Employees of Institutions of Higher Education to Serve on the State Air Pollution Control Board

Current law prohibits persons employed by entities subject to permits or enforcement orders of the State Air Pollution Control Board ("the Board") from being appointed to or serving

on the Board. Recently, the Office of the Attorney General determined that a member of the University's faculty was not eligible to serve on the Board because the University has a power plant and is therefore a permitted entity of the Board. As a result, scientists and scholars, employed by institutions of higher education that have power plants, who study air pollution and climate issues from the perspective of human health, ecosystem health, infrastructure impacts, natural resource management, economic well-being, environmental justice, legal implications, and constraints on business are not allowed to serve on the Board.

The importance of the Air Pollution Control Board has been heightened with the recent ruling by the Environmental Protection Agency that limits carbon dioxide emissions from existing power plants. Virginia is tasked with making important decisions about how to comply with this rule - decisions that will affect people, businesses, and natural resources - and experienced professionals should not be prohibited from contributing to the discussion on these important matters simply because they are employees of the University or other institutions of higher education that operate power plants.

The University seeks to introduce legislation for consideration during the 2015 Session of the General Assembly to amend § 10.1-1302 of the Code of Virginia to allow employees of institutions of higher education that own or operate power plants to serve on the State Air Pollution Control Board. The proposed amendment is underlined in the body of the resolution.

LEGISLATIVE PROPOSAL TO AMEND CODE OF VIRGINIA  
SECTION 10.1-1302

RESOLVED, the Board of Visitors approves and endorses amending the Code of Virginia as it pertains to the State Air Pollution Control Board.

The proposed amendment to § 10.1-1302 of the Code of Virginia is as follows:

The members of the Board shall be citizens of the Commonwealth and shall be selected from the Commonwealth at large on the basis of merit without regard to political affiliation. Members shall, by their education, training, or experience, be knowledgeable of air quality control and regulation, and shall be fairly representative of conservation, public health, business, and agriculture. Except for employees of institutions of higher education subject to permits or

enforcement orders of the Board, no No person appointed to the Board shall be employed by persons subject to permits or enforcement orders of the Board or receive a significant portion of his income, whether directly or indirectly, from persons subject to permits or enforcement orders of the Board. Income from a vested retirement benefit shall not be considered income for purposes of this section. Notwithstanding any other provision of this section relating to Board membership, the qualifications for Board membership shall not be more strict than those that are required by federal statute or regulations of the United States Environmental Protection Agency. The provisions of this section shall be in addition to the requirements of the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq.).

2. To Exclude Certain Medical Records and Communications from Disclosure under the Freedom of Information Act

The Freedom of Information Act (FOIA) provides that public records be made available to citizens of the Commonwealth, while also excluding various records from disclosure specifically those that include sensitive information. Section 2.2-3705.5 of the Code of Virginia includes exemptions for certain health and social services records, but does not include an exemption for communications and information that are classified as privileged and exempt from discovery under § 8.01-581.17 of the Code of Virginia. This gap in the current law places the University of Virginia Medical Center at risk of greater exposure in sensitive areas of patient safety, quality improvement, peer review, and credentialing communications and information.

The Medical Center has relied upon §§ 2.2-3705.4(5) and 8.01-581.17 of the Code of Virginia to exempt such communications and information from disclosure. Section 2.2-3705.4(5) focuses on proprietary, business-related information and mentions joint ventures and other business partnerships. Section 8.01-581.17 codifies as privileged and not subject to discovery certain information related to medical staff credentialing and peer review, as well as patient safety and quality records and information maintained by a hospital and certain other health care organizations. The current protection exists so that individuals will be forthcoming regarding patient safety, quality of care, and peer review issues and so that hospitals can and will make improvements in providing healthcare. It is not clear if these two statutes would withstand a legal challenge to the Medical Center's refusal to provide these documents.

The University seeks to introduce legislation for consideration during the 2015 Session of the General Assembly to amend § 2.2-3705.5 of the Code of Virginia clarifying that all communications and information that are privileged and exempt from discovery under § 8.01-581.17 of the Code of Virginia are also exempt from public disclosure under the FOIA. Creating a specific exemption in the FOIA for this already privileged information will close the gap in the law and will ensure that these records will not be disclosed to third parties. The proposed amendment is underlined in the body of the resolution.

LEGISLATIVE PROPOSAL TO AMEND CODE OF VIRGINIA  
SECTION 2.2-3705.5

RESOLVED, the Board of Visitors approves and endorses amending the Code of Virginia as it pertains to the Freedom of Information Act.

The proposed amendment to § 2.2-3705.5 of the Code of Virginia is as follows:

§ 2.2-3705.5. Exclusions to application of chapter; health and social services records.

The following records are excluded from the provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law:

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19. All communications that are privileged pursuant to § 8.01-581.17.

APPOINTMENT OF A. MACDONALD CAPUTO AND JOHN B. HARRIS  
TO THE UNIVERSITY OF VIRGINIA INVESTMENT MANAGEMENT  
COMPANY BOARD OF DIRECTORS

RESOLVED, A. Macdonald Caputo, of Greenwich, Connecticut, is appointed to the Board of Directors of the University of Virginia Investment Management Company for a term of two years, effective July 1, 2014 through June 30, 2016; and

RESOLVED FURTHER, John B. Harris Jr., of New York, New York, is appointed to the Board of Directors of the University of Virginia Investment Management Company for a term of three years, effective July 1, 2014 through June 30, 2017.

REVISED  
September 10, 2014

POLICY FOR PARTICIPATION IN BOARD OF VISITORS MEETINGS  
BY ELECTRONIC MEANS OF COMMUNICATION IN THE EVENT OF  
EMERGENCY OR PERSONAL MATTER OR CERTAIN DISABILITIES

WHEREAS, Virginia Code § 2.2-3708.1 specifies the requirements for the remote participation in meetings by members of public bodies in event of emergency or personal matter, or certain disabilities; and

WHEREAS, the General Assembly amended Virginia Code § 2.2-3708.1, effective July 1, 2014, to require the adoption of written policies by public bodies allowing for and governing participation of its members in meetings by the means of electronic communication;

RESOLVED, the "Policy for Participation in Board of Visitors Meetings by Electronic Means of Communication in the Event of Emergency or Personal Matter or Certain Disabilities" is adopted as follows:

POLICY FOR PARTICIPATION IN BOARD OF VISITORS MEETINGS BY  
ELECTRONIC MEANS OF COMMUNICATION IN THE EVENT OF EMERGENCY OR  
PERSONAL MATTER OR CERTAIN DISABILITIES

A. A member of the Board of Visitors may participate in a meeting through electronic means of communication from a remote location that is not open to the public only as follows and subject to the requirements of subsection B:

1. On or before the day of a meeting, a member notifies the Rector that he or she is unable to attend the meeting due to an emergency or personal matter, and identifies with specificity the nature of the emergency or personal matter, and the Rector approves the request to participate in the meeting from a remote location.

- a. The Board of Visitors is to record in its minutes the specific nature of the emergency or personal matter and the remote location from which the member participated. If a member's participation from a remote location is disapproved by the Rector because such participation would violate subsection B of this policy, disapproval shall be recorded in the minutes with specificity.
- b. Such remote participation by the member shall be limited each calendar year to two meetings or 25 percent of the meetings of the public body, whichever is fewer.

2. A member notifies the Rector that he or she is unable to attend a meeting due to a temporary or permanent disability or other medical condition that prevents the member's physical attendance.

- The Board of Visitors is to record this fact and the remote location from which the member participated in its minutes.

B. Participation by a member of the Board of Visitors under subsection A shall be authorized only under the following conditions:

1. A quorum of the Board of Visitors is physically assembled at the primary or central meeting location; and

2. The Board of Visitors has made arrangements for the voice of the remote participant to be heard by all persons at the primary or central meeting location.

C. This policy shall be applied strictly and uniformly, without exception, to the entire membership and without regard to the identity of the member requesting remote participation or the matters that will be considered or voted on at the meeting.

RESOLUTION FOR EXCLUSION OF CERTAIN DIRECTORS AND OFFICERS – SEPTEMBER 2014

WHEREAS, current Department of Defense Regulations contain a provision making it mandatory that the Chair of the Board, a Senior Management Official, and a Facility Security Officer meet the requirements for eligibility for access to classified information established for a contractor facility security clearance; and

WHEREAS, said Department of Defense Regulations permit the exclusion from the personnel of the requirements for access to classified information of certain members of the Board of Directors and other officers, provided that this action is recorded in the public Minutes;

RESOLVED, the Rector as Chair of the Board, Senior Management Official, and Facility Security Officer at the present time do possess, or will be processed for, the required eligibility for access to classified information; and

REVISED  
September 10, 2014

RESOLVED FURTHER, in the future, when any individual enters upon any duties as Rector of the Board, Senior Management Official, and Facility Security Officer, such individual shall immediately make application for the required eligibility for access to classified information; and

RESOLVED FURTHER, the following members of the Board of Visitors and other officers shall not require, shall not have, and can be effectively and formally excluded from access to all *CLASSIFIED* information disclosed to the University and shall not affect adversely Board and University policies or practices in the performance of classified contracts for the Department of Defense or the Government contracting activities (User Agencies) of the National Industrial Security Program.

Frank B. Atkinson	Member, University of Virginia Board of Visitors
L.D. Britt, M.D.	Member, University of Virginia Board of Visitors
Frank M. Conner III	Member, University of Virginia Board of Visitors
Allison Cryor DiNardo	Member, University of Virginia Board of Visitors
Helen E. Dragas	Member, University of Virginia Board of Visitors
Kevin J. Fay	Member, University of Virginia Board of Visitors
Barbara J. Fried	Member, University of Virginia Board of Visitors
Frank E. Genovese	Member, University of Virginia Board of Visitors
John A. Griffin	Member, University of Virginia Board of Visitors
William H. Goodwin Jr.	Member, University of Virginia Board of Visitors
Victoria D. Harker	Member, University of Virginia Board of Visitors
Bobbie G. Kilberg	Member, University of Virginia Board of Visitors
Stephen P. Long, M.D.	Member, University of Virginia Board of Visitors
John G. Macfarlane III	Member, University of Virginia Board of Visitors
Edward D. Miller, M.D.	Member, University of Virginia Board of Visitors
John L. Nau III	Member, University of Virginia Board of Visitors

REVISED  
September 10, 2014

Leonard W. Sandridge Jr.	Senior Advisor to the Board of Visitors
Margaret N. Gould	Student Member, University of Virginia Board of Visitors
Roscoe C. Roberts	General Counsel to the University of Virginia
Susan G. Harris	Secretary to the Board of Visitors
Patrick D. Hogan	Executive Vice President and Chief Operating Officer
Richard P. Shannon, M.D.	Executive Vice President for Health Affairs
John D. Simon	Executive Vice President and Provost

## AMENDMENTS TO THE MANUAL OF THE BOARD OF VISITORS

RESOLVED, in accordance with the provisions of Section 5.9 of the *Manual of the Board of Visitors of the University of Virginia* (the Manual) and the Code of Virginia Section 23-75, and upon recommendation of the Executive Committee, Sections 3.1, 3.2, 3.28, 4.11, and 4.12 of the *Manual of the Board of Visitors of the University of Virginia* are amended, and Section 3.29 is added, as follows:

SECTION 3.1 THE EXECUTIVE COMMITTEE —At each Annual Meeting the Board shall elect from among its membership an Executive Committee composed of ~~six~~seven members. These ~~six~~seven members shall consist of the Rector, who shall serve as chair, the Vice Rector, who shall serve as vice chair, and ~~four~~five Visitors to be elected by the Board. Nominations for these ~~four~~five positions on the Executive Committee may be made by any Visitor, and if there are more than ~~four~~five nominations, a vote shall be taken, and the results shall be announced jointly by the Rector and the Secretary. Any vacancy on the Executive Committee shall be filled for the unexpired term at the next regular meeting of the Board and by vote if there is more than one nomination.

The Executive Committee shall meet upon the call of the Rector. It shall consider all matters referred to it by the Rector, the Vice Rector, or the President and shall, in the interim between meetings of the Board, be vested with the powers and authority of the full Board and shall take such action on all matters that may be referred to it as in its judgment is required. All such actions taken by the Executive Committee in the interim between meetings of the Board shall require a two-thirds vote of the whole number of committee members, and their actions shall be reported to the Board at the next regular meeting and shall, if confirmation is required, be confirmed and approved by the Board at that time.

In addition to the above, the Executive Committee shall organize the working processes of the Board and recommend best practices for governance to the Board. More specifically, the Executive Committee shall:

1. Develop and recommend to the Board a statement of governance setting out the Board's role;
2. Periodically review the Board's bylaws and recommend amendments;
3. Provide advice to the Board on committee structure, appointments and meetings;

4. Develop an orientation and continuing education process for Visitors that includes training on the Virginia Freedom of Information Act;
5. Create, monitor, oversee, and review compliance with a code of ethics for Visitors; and
6. Develop a set of qualifications and competencies for membership on the Board for approval by the Board and recommendation to the Governor.

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SECTION 3.2 STANDING COMMITTEES -The standing committees of the Board of Visitors shall consist of the Finance Committee, Buildings and Grounds Committee, Student Affairs and Athletics Committee, Educational Policy Committee, Advancement and Communications Committee, Audit and Compliance Committee, Committee on The University of Virginia's College at Wise, and the Medical Center Operating Board, and the Committee on Diversity and Inclusion. The number to be appointed to each standing committee shall be determined by the Rector at the time of appointment. However, no committee shall consist of fewer than three members.

The standing committees shall be appointed by the Rector at the Annual Meeting of each year, and at the time of appointment the Rector shall designate the chair of each committee. A vacancy on any committee shall be filled by the Rector for the unexpired term, and the Rector shall have the power to change the membership of any standing committee at any time. Each standing committee shall meet at the call of the chair, the Rector, the Vice Rector, or the President and shall consider such matters as may be referred to it by these officers or by members of the committee.

The Secretary shall prepare a docket for each committee meeting and shall attend the meeting.

In addition to the duties of the standing committees as listed below, each committee shall consider such other matters as may be referred to it by the Board, the Rector, the Vice Rector, the President, or the chair and shall make its report and recommendations as required to the Board, to the President, and, upon the request of the Rector, to the Executive Committee. No standing committee has power or authority to commit the Board to any policy or action unless specifically granted such power or authority by the Board. In such cases, a report of final action by any committee shall be made at the

next regular meeting of the Board and, if confirmation is required, shall be confirmed and approved by the Board at that time.

On motion of any member, any grant to a committee of power or authority to commit the Board shall be reviewed by the Board, at which time it may be modified or rescinded by majority vote of the members present without complying with the requirements for amending this *Manual*.

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SECTION 3.28 THE MEDICAL CENTER OPERATING BOARD— The Medical Center Operating Board shall be the governing board of the Medical Center and the Transitional Care Hospital for Joint Commission on Accreditation of Hospital Organization purposes, responsible to oversee and direct the operations of the Medical Center and the Transitional Care Hospital as delegated by the Board of Visitors.

The Rector shall serve as a voting member, and he shall appoint ~~four~~ five other members of the Board of Visitors, including the chair, to serve as voting members of the Medical Center Operating Board; one of these members shall be the chair of the Finance Committee and one of these members shall be a physician with administrative and clinical experience in an academic medical center. The Board of Visitors may appoint no more than six public non-voting members of the Medical Center Operating Board to serve for initial terms not to exceed four years. The President of the University, the Executive Vice President and Provost of the University, the Executive Vice President and Chief Operating Officer of the University, the Executive Vice President for Health Affairs, ~~the Vice President and~~ Chief Executive Officer of the Medical Center, the Dean of the School of Medicine, the Dean of the School of Nursing, and the President of the Clinical Staff of the Medical Center shall serve as non-voting advisory members.

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SECTION 3.29 COMMITTEE ON DIVERSITY AND INCLUSION—The Committee on Diversity and Inclusion shall encourage and support an atmosphere at the University that ensures that diverse members of the University of Virginia and Charlottesville communities are treated equally and fairly. The accomplishment of this

mission is essential to creating an educational experience for students to prepare them for productive and responsible citizenship in the world beyond the University Community. The Committee defines diversity to include race and ethnicity, age, gender, disability status, sexual orientation, religious and national origin, socio-economic status, and other aspects of individual experience and identity.

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SECTION 4.11 TERMS OF OFFICE, ~~AND~~ ELECTION, AND REMOVAL - The Rector and Vice Rector shall serve terms of two years, commencing 1 July of the first year and ending 30 June of the last year. At the conclusion of the Rector's term of office, the Vice Rector shall succeed the Rector and serve for two years in that office.

At its regular meeting closest to 30 June every two years, the Board shall elect a Vice Rector from among its members to succeed the Rector, as hereinabove provided. At the election meeting, the election shall be by majority vote of the members present following nominations, and the Secretary shall serve as the presiding officer until an election is accomplished unless the Board decides to appoint another presiding officer. The Secretary shall count the votes and announce the election of the Vice Rector.

The Rector may be removed by a vote of two-thirds of the whole number of Visitors at a regular meeting, or special meeting called for this purpose.

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SECTION 4.12 POWERS AND DUTIES -The Rector shall be the presiding officer of the Board of Visitors at all of its meetings; in the Rector's absence, the Vice Rector shall serve in that capacity. The Rector shall have the power, unless otherwise directed by the Board, to fix the order of business, appoint all standing and special committees (except the Executive Committee), and require the proper preservation of a record of the Board's proceedings by the Secretary. Without diminishing the right of individual Visitors to publicly express their personal views, the Rector, unless otherwise determined by the Board or the Rector, shall act as spokesman for the Board of Visitors. The Rector and Vice Rector shall perform such additional duties as may be imposed on their offices by statute or by the direction of the Board. The Rector may delegate

specified duties to the Vice Rector.

Whenever the office of the President becomes vacant or a vacancy is impending, the Rector shall appoint a Special Committee on the Nomination of a President from among the membership of the Board to seek and recommend to the Board a person to fill the vacancy.

This special committee shall be under the chairmanship of the Rector, and the committee shall consist of no fewer than five members.