



## BOARD OF REGENTS

### SUMMARY OF ITEM FOR ACTION, INFORMATION OR DISCUSSION

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**TOPIC:** Convening Closed Session

**COMMITTEE:** Committee of the Whole

**DATE OF MEETING:** October 21, 2016

**SUMMARY:** The Open Meetings Act permits public bodies to close their meetings to the public in special circumstances outlined in §3-305 of the Act and to carry out administrative functions exempted by §3-103 of the Act. The Board of Regents will now vote to reconvene in closed session. As required by law, the vote on the closing of the session will be recorded. A written statement of the reason(s) for closing the meeting, including a citation of the authority under §3-305 and a listing of the topics to be discussed, is available for public review.

It is possible that an issue could arise during a closed session that the Committee determines should be discussed in open session or added to the closed session agenda for discussion. In that event, the Committee would reconvene in open session to discuss the open session topic or to vote to reconvene in closed session to discuss the additional closed session topic.

**ALTERNATIVE(S):** No alternative is suggested.

**FISCAL IMPACT:** There is no fiscal impact

**CHANCELLOR'S RECOMMENDATION:** The Chancellor recommends that the BOR vote to reconvene in closed session.

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COMMITTEE ACTION:

DATE:

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BOARD ACTION:

DATE:

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SUBMITTED BY: Janice Doyle, [jdoyle@usmd.edu](mailto:jdoyle@usmd.edu), 301-445-1906

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STATEMENT REGARDING CLOSING A MEETING  
OF THE USM BOARD OF REGENTS

Date: October 21, 2016  
Time: Approximately 11:00 a.m.  
Location: The Board Room, 14<sup>th</sup> floor  
Saratoga Building  
University of Maryland, Baltimore

STATUTORY AUTHORITY TO CLOSE A SESSION

Md. Code, General Provisions Article §3-305(b):

- (1) To discuss:
- (i) The appointment, employment, assignment, promotion, discipline, demotion, compensation, removal, resignation, or performance evaluation of appointees, employees, or officials over whom it has jurisdiction; or
  - (ii) Any other personnel matter that affects one or more specific individuals.
- (2)  To protect the privacy or reputation of individuals with respect to a matter that is not related to public business.
- (3)  To consider the acquisition of real property for a public purpose and matters directly related thereto.
- (4)  To consider a preliminary matter that concerns the proposal for a business or industrial organization to locate, expand, or remain in the State.
- (5)  To consider the investment of public funds.
- (6)  To consider the marketing of public securities.
- (7)  To consult with counsel to obtain legal advice on a legal matter.
- (8)  To consult with staff, consultants, or other individuals about pending or potential litigation.
- (9)  To conduct collective bargaining negotiations or consider matters that relate to the negotiations.

- (10)  To discuss public security, if the public body determines that public discussions would constitute a risk to the public or public security, including:
- (i) the deployment of fire and police services and staff; and
  - (ii) the development and implementation of emergency plans.
- (11)  To prepare, administer or grade a scholastic, licensing, or qualifying examination.
- (12)  To conduct or discuss an investigative proceeding on actual or possible criminal conduct.
- (13)  To comply with a specific constitutional, statutory, or judicially imposed requirement that prevents public disclosures about a particular proceeding or matter.
- (14)  Before a contract is awarded or bids are opened, to discuss a matter directly related to a negotiation strategy or the contents of a bid or proposal, if public discussion or disclosure would adversely impact the ability of the public body to participate in the competitive bidding or proposal process.

Md. Code, General Provisions Article §3-103(a)(1)(i):

- Administrative Matters

TOPICS TO BE DISCUSSED:

1. Meetings with President Burnim and President Dudley-Eshbach as part of their performance reviews;
2. Administrative matter pertaining to the procedures for BOR bylaw requirement;
3. Legislative audit matters that are ongoing and, therefore, confidential;
4. Investigative matters which may lead to criminal prosecution;
5. Potential adjustment to the USM's FY 2018 Capital Budget to be submitted to the Governor;
6. Investment performance of the USM Common Trust Fund;
7. Information about team academic performance indicators and graduation rates that could reveal FERPA-protected information about individual students;
8. Approval of a nomination of an individual for an honorary degree;
9. Administrative matter relating to an RFP for a study of presidential compensation;
10. Advice regarding impact and legal requirements of a change in Fair Labor Standards Act;
11. Update from legal counsel on the status of unfair labor practice complaint against an institution;
12. Approval of proposed collective bargaining agreements relating to the University of Baltimore and the Fraternal Order of Police, and the USM Collective Bargaining

Coalition and AFSCME; and  
13. Options for compensation for specific USM employees.

REASON FOR CLOSING:

1. To maintain confidentiality of presidents' personnel-related information (§3-305(b)(1)(i));
2. To discuss administrative matters (procedures) to implement BOR bylaw (§3-103(a)(1)(i));
3. To maintain confidentiality of ongoing legislative audit matters as required by law (§3-305(b)(13));
4. To maintain confidentiality of investigative matters which may lead to criminal prosecution (§3-305(b)(12));
5. To maintain confidentiality (pursuant to executive privilege) of proposed capital budget prior to Governor's submission to legislature (§3-305(b)(13));
6. To maintain confidentiality of discussions of the investment of public funds (§3-305(b)(5));
7. To maintain confidentiality of FERPA-protected information concerning individual students in the review and discussion of the Intercollegiate Athletics Report (§3-305(b)(13));
8. To maintain confidentiality of personal and personnel-related information concerning an individual nominated to receive an honorary degree (§3-305(b)(1) and §3-305(b)(2));
9. To maintain confidentiality of personnel information regarding specific USM employees (§3-305(b)(1));
10. To discuss administrative matters (timing and process) relating to an RFP for a study of presidential compensation and to maintain confidentiality of specific information submitted in response to the RFP (§3-103(a)(1)(i) and §3-305(b)(14));
11. To maintain confidentiality regarding collective bargaining negotiations (§3-305(b)(9));
12. To maintain attorney-client privilege and confidentiality of discussion regarding ongoing litigation (ULP) (§3-305(b)(8));
13. To maintain attorney-client privilege for legal advice regarding FLSA (§3-305(b)(7)). .