



REVISED

**Board of Regents Retreat
The Hotel at Arundel Preserve
7795 Arundel Mills Boulevard
Hanover, MD 21076**

October 17, 2019

8:15 a.m. *Breakfast (Foyer)*

AGENDA FOR PUBLIC SESSION

9:00 A.M.

9:00 – 9:15 a.m. **Patapsco Room**
Welcome and Introductions
Chair Linda Gooden, Board of Regents

2018 Retreat Follow-up
Chancellor Robert Caret, University System of Maryland

9:15 – 10:00 a.m. *Future Governance Challenges and Any Role for Accreditation*
Judith Eaton
Council on Higher Education Accreditation

10:00 – 10:30 a.m. **Board Self-Assessment Results**
Regent Robert Rauch

10:30 – 10:45 a.m. *Break*

10:45 – 12:00 p.m. **Enterprise Risk and Crisis Management**
Regent Louis Pope and Vice Chancellor Ellen Herbst

12:00 – 1:00 p.m. **Severn Room**
Lunch (themed table talks)

- 1. The Changing Higher Education Landscape**
- 2. Maryland Economic Competitiveness**
- 3. Regional Higher Education Governance and Operations**
- 4. Board Governance**
- 5. Enterprise Risk and Crisis Management/Biggest Vulnerabilities Ahead**
- 6. The Next Strategic Plan**

- 1:00 – 1:45 p.m.** **Patapsco Room**
A Conversation with Maryland General Assembly Leadership
Panel Discussion with Senate President Mike Miller and Speaker of the House Adrienne Jones, Moderated by Vice Chancellor Patrick Hogan
- 1:45 – 3:00 p.m.** **Refresher on Board Governance and Functions**
- **Office of the Attorney General**
AAG Katherine Bainbridge
 - **Athletics and Governance**
Vice Chancellor Ellen Herbst and Regent Barry Gossett
 - **Capital Planning Process**
Vice Chancellor Ellen Herbst and Regent Gary Attman
 - **Accreditation and Governance**
Vice Chancellor Joann Boughman and Regent Michelle Gourdine
- 3:00** **Reconvene to Closed Session**

Board of Regents Self-Assessment

Regent Robert Rauch



Board Self-Assessment

- Provides an opportunity for the Board to look at itself
- Evaluates the understanding of the role of the Board and expectations of the Board and the USM
- Allows us to see what the Board is doing well and provides a spring board for improving the Board
- Conducting regular self-assessment is a best practice for Boards

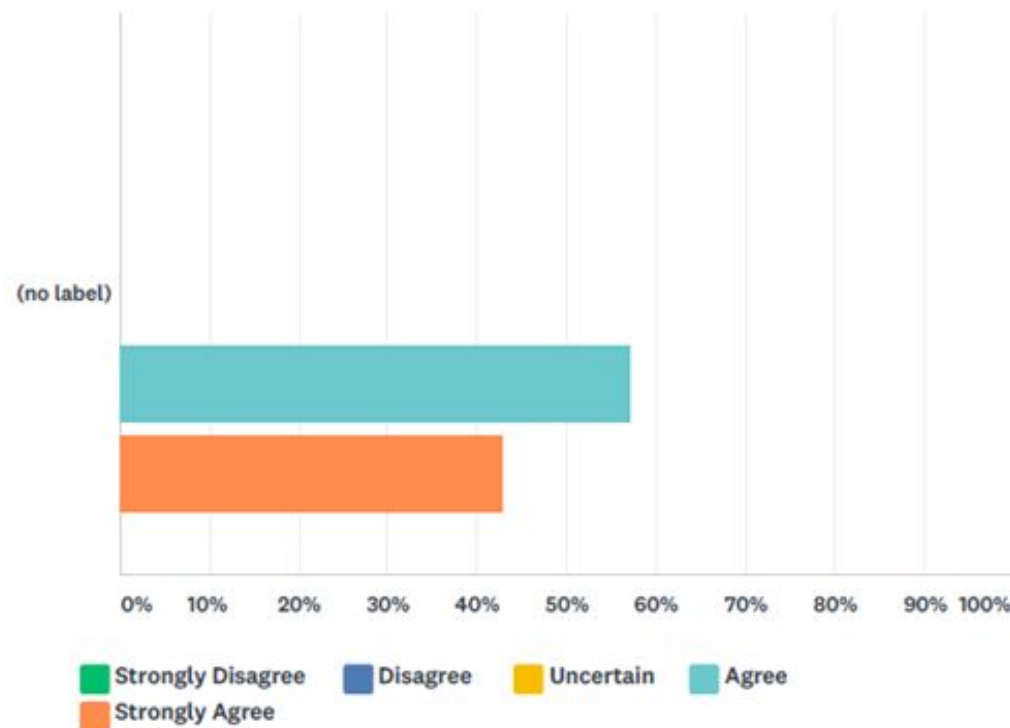
Background

- In March 2018, the Board approved survey questions for the full Board and each Standing Committee
- Surveys were administered in September 2019
- Surveys examined the activities of the Board and the committees for the 2018-2019 board year
- N=14

Board Survey

Q2 The BOR has a clear understanding of the USM's mission and vision and the priorities in its strategic plan.

Answered: 14 Skipped: 0

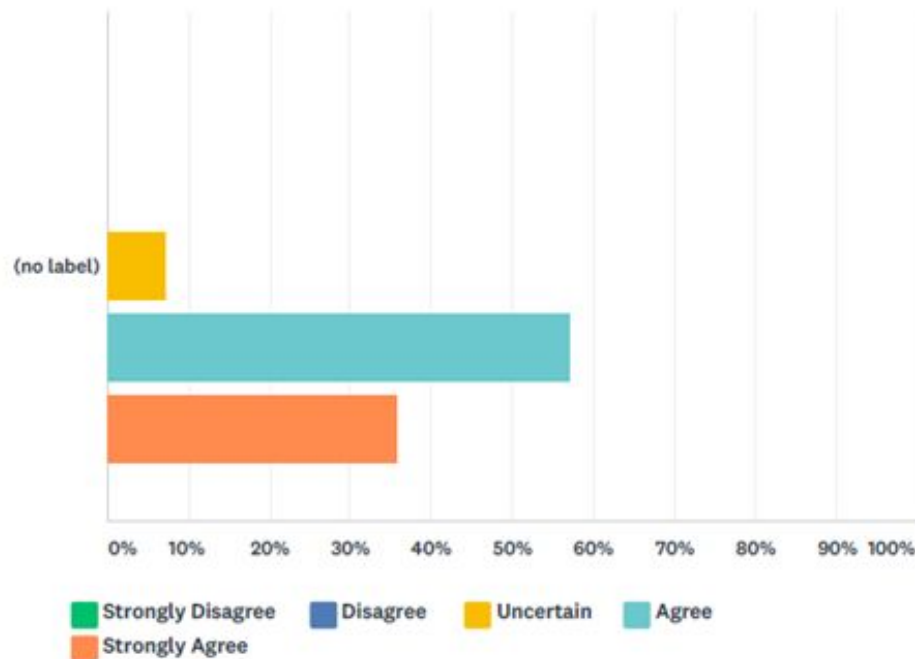


	STRONGLY DISAGREE	DISAGREE	UNCERTAIN	AGREE	STRONGLY AGREE	TOTAL	WEIGHTED AVERAGE
(no label)	0.00%	0.00%	0.00%	57.14%	42.86%	14	4.43
	0	0	0	8	6		

Board Survey

Q3 The decision-making responsibilities of the BOR, Chancellor and presidents are well defined and the BOR's role in decision-making on important issues and priorities of the USM is appropriate.

Answered: 14 Skipped: 0

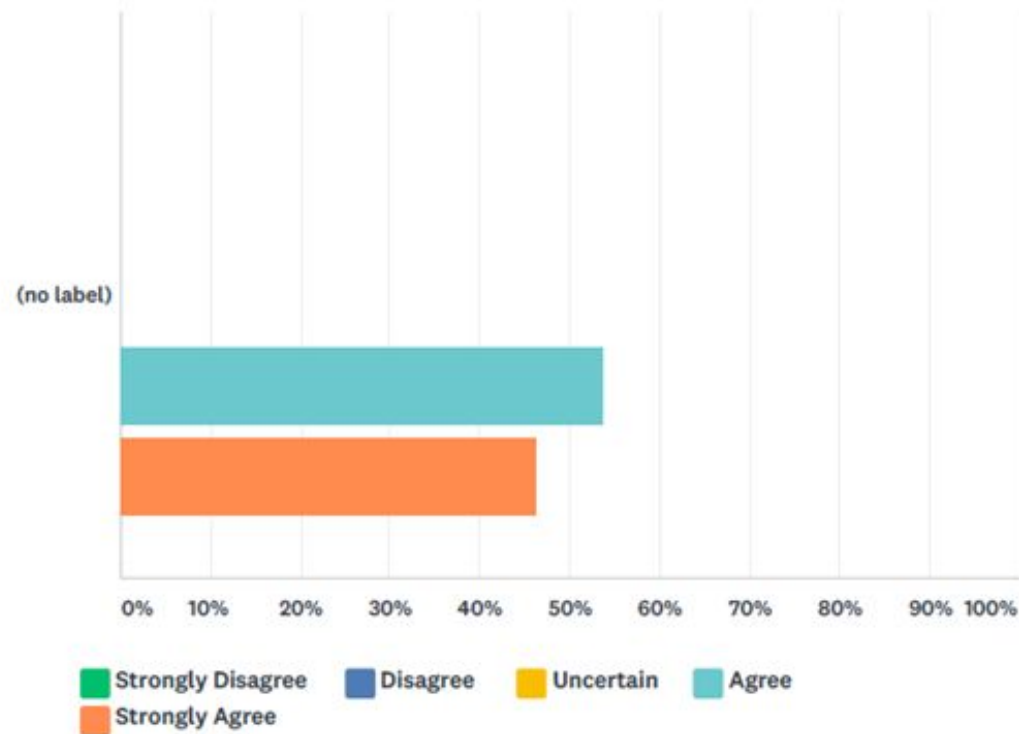


	STRONGLY DISAGREE	DISAGREE	UNCERTAIN	AGREE	STRONGLY AGREE	TOTAL	WEIGHTED AVERAGE
(no label)	0.00% 0	0.00% 0	7.14% 1	57.14% 8	35.71% 5	14	4.29

Board Survey

Q5 The current BOR committees are appropriate to address major USM issues.

Answered: 13 Skipped: 1

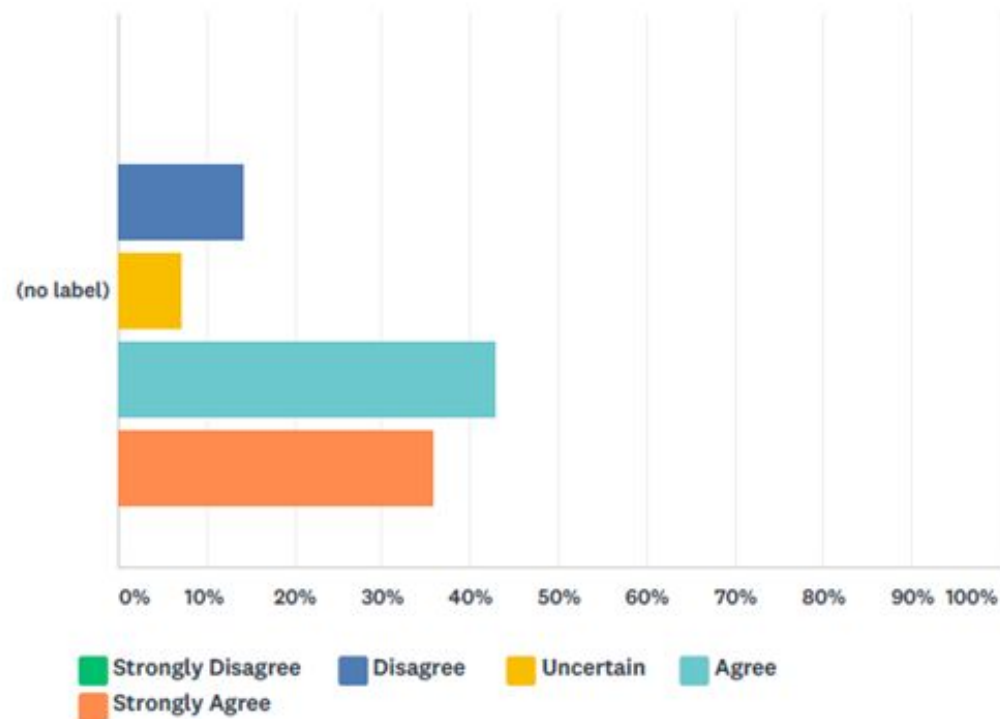


	STRONGLY DISAGREE	DISAGREE	UNCERTAIN	AGREE	STRONGLY AGREE	TOTAL	WEIGHTED AVERAGE
(no label)	0.00%	0.00%	0.00%	53.85%	46.15%	13	4.46
	0	0	0	7	6		

Board Survey

Q7 The BOR is adequately staffed and supported by USM staff and the Office of the Attorney General.

Answered: 14 Skipped: 0

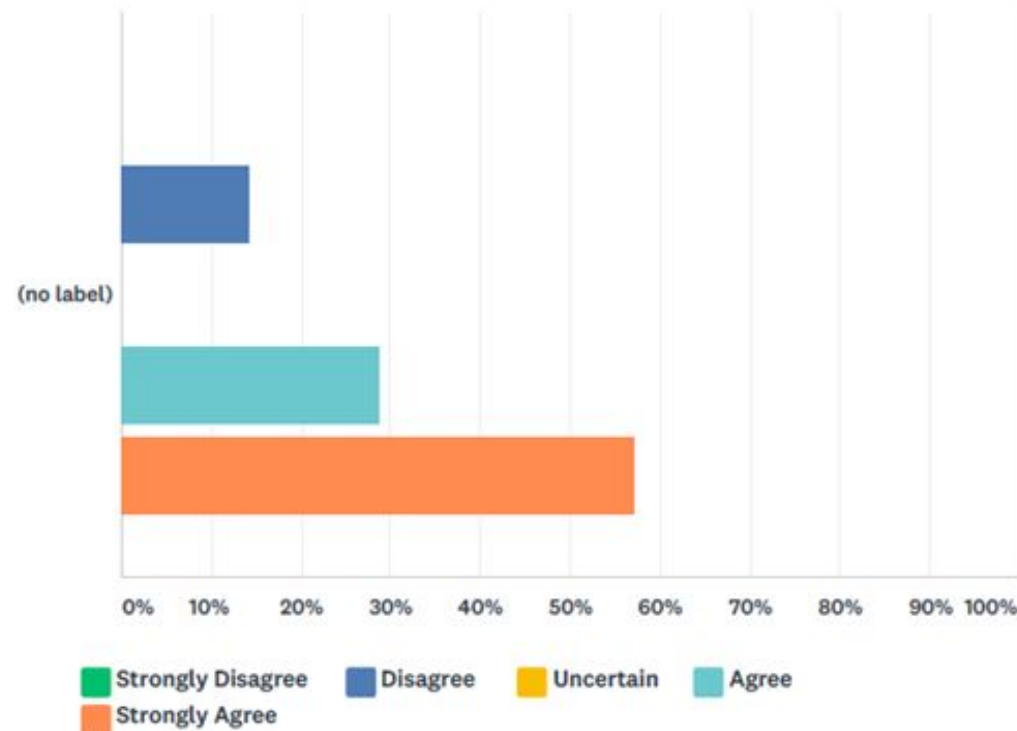


	STRONGLY DISAGREE	DISAGREE	UNCERTAIN	AGREE	STRONGLY AGREE	TOTAL	WEIGHTED AVERAGE
(no label)	0.00%	14.29%	7.14%	42.86%	35.71%	14	4.00
	0	2	1	6	5		

Board Survey

Q8 The BOR has adequate opportunities to interact with the presidents and institutions, both formally and informally.

Answered: 14 Skipped: 0

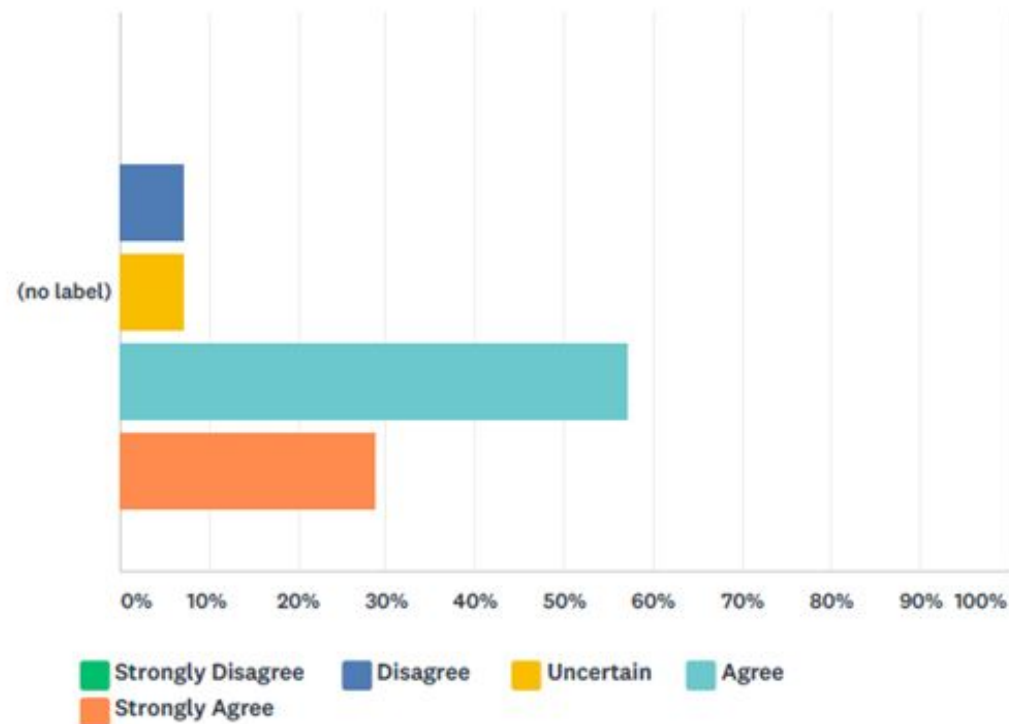


	STRONGLY DISAGREE	DISAGREE	UNCERTAIN	AGREE	STRONGLY AGREE	TOTAL	WEIGHTED AVERAGE
(no label)	0.00%	14.29%	0.00%	28.57%	57.14%	14	4.29
	0	2	0	4	8		

Board Survey

Q9 The BOR employs appropriate measures to ensure accountability of chancellor, presidents and senior staff.

Answered: 14 Skipped: 0



	STRONGLY DISAGREE	DISAGREE	UNCERTAIN	AGREE	STRONGLY AGREE	TOTAL	WEIGHTED AVERAGE
(no label)	0.00%	7.14%	7.14%	57.14%	28.57%	14	4.07
	0	1	1	8	4		

Committee Surveys

- First four questions on each committee survey were the same
- Each committee had the opportunity to ask questions specific to the work of that committee

Committee Surveys: *All Committees*

The committee ...

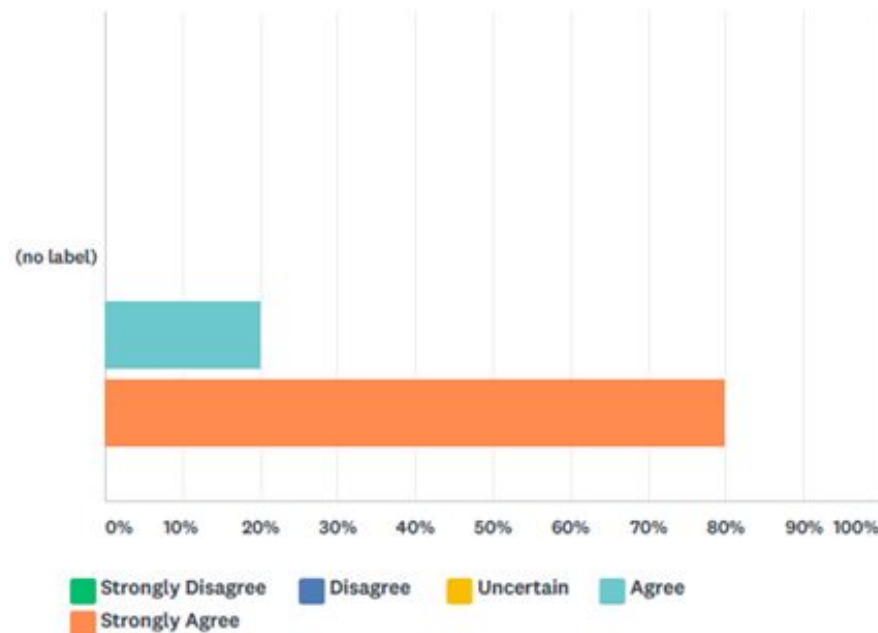
- Q1: ...members have a good understanding of the committee's charge and role.
- Q2: ...receives sufficient support to address important issues that come before the committee.
- Q3: ...has appropriate discussions to plan the work of the committee for each year.
- Q4: ...focuses on relevant and important matters the should be reviewed by the BOR.

Committees
generally received
agree/strongly
agreed responses,
with the majority
saying they “Strongly
Agree”

Committee Surveys – Committee Specific Questions: *Committee on Audit*

Q6 The independent and internal audit functions provide adequate support to assist the committee in fulfilling its fiduciary responsibilities.

Answered: 5 Skipped: 0

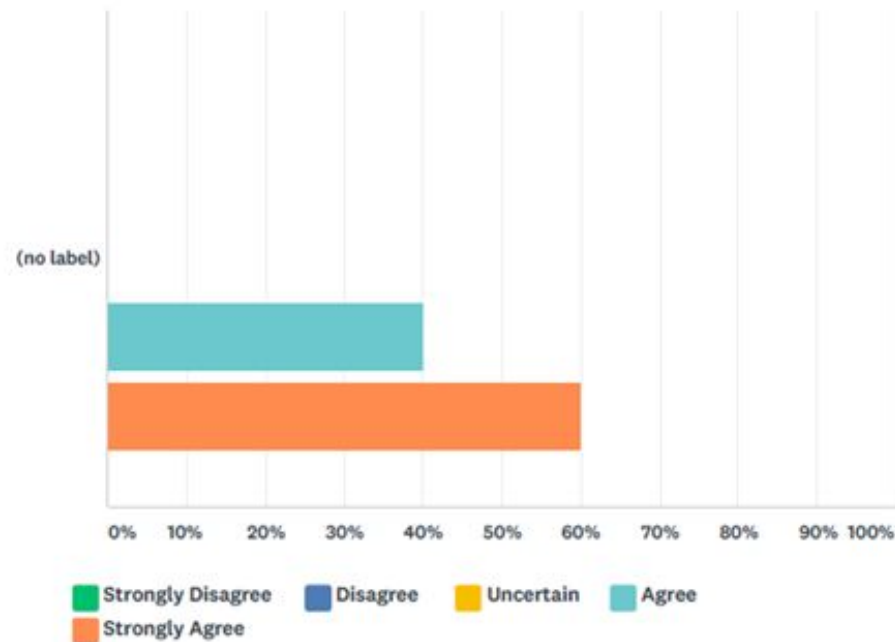


	STRONGLY DISAGREE	DISAGREE	UNCERTAIN	AGREE	STRONGLY AGREE	TOTAL	WEIGHTED AVERAGE
(no label)	0.00%	0.00%	0.00%	20.00%	80.00%	5	4.80
	0	0	0	1	4		

Committee Surveys – Committee Specific Questions: *Committee on Education Policy and Student Life*

Q7 The committee is provided sufficient information on the national and campus contexts for critical issues of the time (e.g., diversification of faculty, inclusion, free speech/hate speech).

Answered: 5 Skipped: 0

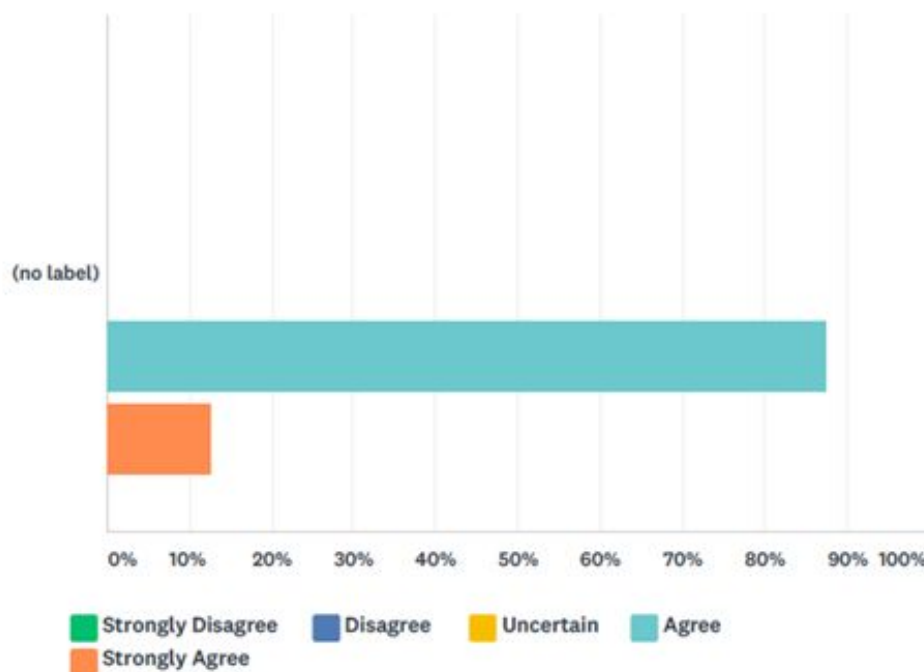


	STRONGLY DISAGREE	DISAGREE	UNCERTAIN	AGREE	STRONGLY AGREE	TOTAL	WEIGHTED AVERAGE
(no label)	0.00%	0.00%	0.00%	40.00%	60.00%	5	4.60
	0	0	0	2	3		

Committee Surveys – Committee Specific Questions: *Committee on Finance*

Q8 The committee receives sufficient information to make recommendations to the full board regarding the Capital Budget.

Answered: 8 Skipped: 0

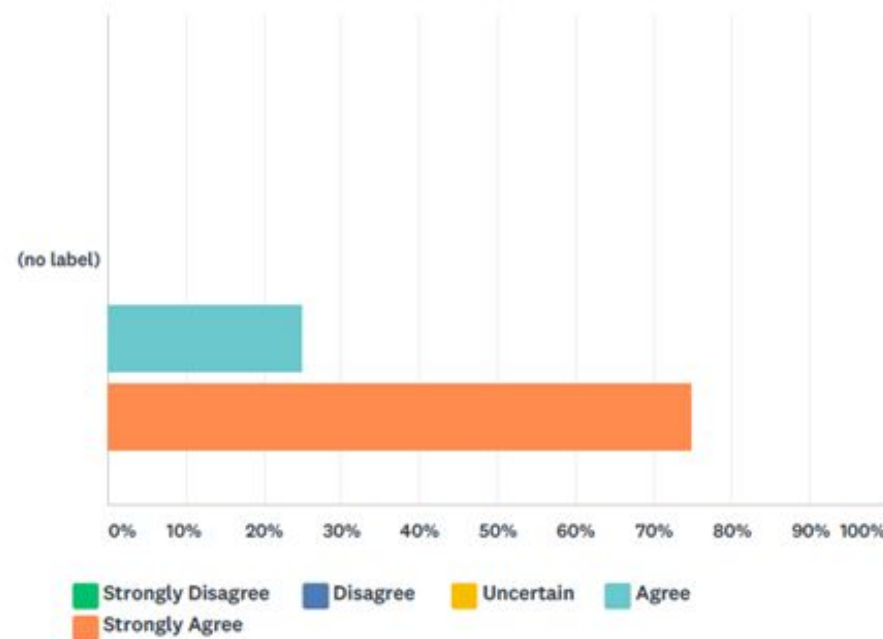


	STRONGLY DISAGREE	DISAGREE	UNCERTAIN	AGREE	STRONGLY AGREE	TOTAL	WEIGHTED AVERAGE
(no label)	0.00%	0.00%	0.00%	87.50%	12.50%	8	4.13
	0	0	0	7	1	8	

Committee Surveys – Committee Specific Questions: *Committee on Organization and Compensation*

Q8 The Board/CEO relationship is built on respect and confidence and a climate of mutual trust exists between the Board and the Chancellor.

Answered: 8 Skipped: 0



	STRONGLY DISAGREE	DISAGREE	UNCERTAIN	AGREE	STRONGLY AGREE	TOTAL	WEIGHTED AVERAGE
(no label)	0.00%	0.00%	0.00%	25.00%	75.00%	8	4.75
	0	0	0	2	6		

Committee Surveys – Committee Specific Questions: ***Committee on Advancement***

- Excellent discussion explaining ideas for institutional goals
- Develop an annual long range plan for visits and communication
- Would like to be more involved in working with VPs for Advancement and in the solicitation of funds
- Endowment staff is doing a great job, and would like to have 3rd party assessment to give additional insight

Committee Surveys – Committee Specific Questions: ***Committee on Economic Development and Technology*** ***Commercialization***

- The committee format works well
- Would like to better define the committee's role and demonstrate the economic impact of the USM

Conclusion

- Board is doing many things well
- There is room for improvement across the Board and the committees
- Implementation of new initiatives this year will serve to strengthen the Board
- Topics for today's retreat focus on better board governance and address many of the issues the Board and others say need improvement



UNIVERSITY SYSTEM
of MARYLAND

Enterprise Risk Management

Board of Regents
November 2018 through October 2019

Enterprise Risk Management



What is it? – AGB Definition

- ▶ A process lead by senior leadership that extends the concepts of risk management and includes:
 - Identifying risks across the entire enterprise;
 - Assessing the impact of risks to the operations & mission;
 - Developing and practicing response or mitigation plans; and,
 - Monitoring the identified risks, holding the risk owner accountable and consistently scanning for emerging risks.

Enterprise Risk Management



- ▶ What is it? – Operational Definition
 - Comprehensive overview of risks and mitigation plans integrated across all institutions
 - Designed to capture risks of the whole or risks that would slip between individual institutions risk analysis
 - Built on individual institutions risk identification and management plans
 - Should be integrated with strategy and performance as part of an integrated framework of management
- ▶ What it isn't
 - Writing down risks does not create them
 - Risk management does not eliminate risk
 - Not a one-time process

Enterprise Risk Management

► Risk Appetite

- Type of risk an organization is willing to take in order to meet strategic objectives

► Risk Tolerance

- Amount of risk an organization is prepared to accept, or tolerate, with respect to a particular risk category or for a specific initiative



Enterprise Risk Management

Types of Risk



Enterprise Risk Management

► Benefits

- Best practice and majority of universities across the US have or are implementing ERM programs
- Comprehensive, holistic view of risk across enterprise
- Identification of common threads not otherwise visible
- Identification of interconnectivity of risks not otherwise visible
- Increases awareness and connectivity between personnel across the enterprise
- Supports understanding of risk appetite and trade-offs between desired outcomes and risks



Enterprise Risk Management - Roles

University Departments/ Colleges	Take and Manage Risks	<ul style="list-style-type: none"> • Ownership of activities that give rise to risk • Identify key risks and/or opportunities and initiate department/college level assessments • Develop strategies and take action to mitigate risks • Share assessment results with University Presidents and Provosts
University Presidents and Provosts	Lead & Acknowledge	<ul style="list-style-type: none"> • ERM framework, top risks for respective campus • Integrate ERM into strategic priorities • Establish risk appetite and risk tolerance
Chancellor	Lead & Acknowledge	<ul style="list-style-type: none"> • ERM framework, top risks for System • Integrate ERM into strategic priorities • Establish risk appetite and risk tolerance
Risk Council (to be established)	Monitor & Aggregate	<ul style="list-style-type: none"> • Establish framework, standards and templates • Monitor for the purpose of providing the System perspective
Internal Audit	Validate	<ul style="list-style-type: none"> • Verify and test internal controls • Provides feedback on risk areas and adjusts audit schedule and areas as needed
Board of Regents	Oversight/Encourage	<ul style="list-style-type: none"> • Set policy to ensure ERM is a priority, with sustained effort • Foster an exchange of information about top risks and participate in overall risk monitoring

Enterprise Risk Management



- ▶ Establishment of a Risk Work group to determine:
 - How can we implement ERM?
 - What level of implementation do we want?
 - What level of implementation can we handle?
 - Next steps
 - Process

Enterprise Risk Management

► What have we done?

- Formed workgroup with representatives from five universities to work on draft policy for the BOR
 - BSU - Michael Atkins, Assistant Vice President for Administration and Finance
 - TU - Sara Slaff, Vice President of Legal Affairs and General Counsel
 - UMB - Dr. Roger Ward, Senior Vice President for Operations and Institutional Effectiveness and Vice Dean of the Graduate School
 - UMBC - Lynne Schaefer, Vice President for Administration and Finance
 - UMCP - Carlo Colella, Vice President for Administration and Finance
- Reviewed best practices
- Drafted policy
- Reviewed with VPAF Council and CUSP

Enterprise Risk Management

- ▶ Best Practices in Higher Education
 - Presidential level process with Cabinet
 - Risks identified within context of impact to strategic plan goals
 - Risks identified and prioritized for probability and impact
 - Risks assigned to leaders for mitigation, management and monitoring
 - System level process to identify common risk across institutions and systemic risks for mitigation and monitoring

Enterprise Risk Management

- ▶ Key elements of proposed new Board Policy
 - Each institution, including the System Office, will adopt an ERM process
 - Under the leadership of President (or Chancellor for System), a senior level, institution-wide body will identify and evaluate strategic risks, and oversee mitigation strategies
 - Annual reporting of top risks and mitigation strategies during performance evaluation meetings (once process is established)
 - Chancellor will report system-wide risks annually through BOR Audit Committee

Enterprise Risk Management

► Next steps

- Audit Committee review and recommendation - October 30
- Full Board consideration - November 22
- Implementation - Year 1
 - Training of key university staff
 - University level policies and processes established
 - System level processes established
 - Initial consideration of risks and mitigation/management plans
 - Sharing of expert resources between institutions



UNIVERSITY SYSTEM
of MARYLAND

Crisis Management

Board of Regents
October 2019

Crisis Management

► What is it?

- Process to prepare for unplanned, high impact and/or unexpected events at the University
- Pre-planning by considering types of crises that could occur ahead of time and putting a response plan, including, but not limited to, communications, in place ahead of time
- Identifying and communicating an escalation process ahead of time

Crisis Management

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Crisis Management

► Best Practices in Higher Education

- Build on ERM work to pre-identify types of crisis which could occur
- Anticipate crisis through analyzing and assessing information across campus activities
- Define parameters for activation of a crisis response team
- Identify key response activities and teams (by position and with full contact information) for each type of crisis
- Identify communication pathways within University and to outside groups
- Identify spokesperson for each type of crisis
- Practice response
 - Similar to annual emergency management and response exercises, crisis response teams should practice activities and responses to hypothetical scenarios

Crisis Management

- ▶ Key elements of proposed new Board Policy
 - Presidents will develop institution protocols to respond to and communicate when a crisis arises
 - System Office will develop guidance to support each President in developing crisis management process. Will address
 - Clear reporting and escalation
 - Response structure and team roles
 - Crisis communications
 - Documents existing process for Presidents to communicate with Chancellor as a crisis is occurring

Crisis Management

► Next steps

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UNIVERSITY SYSTEM
of MARYLAND

Thank You

OAG AND USM GOVERNANCE

Board of Regents Retreat
October 17, 2019

KATHERINE BAINBRIDGE

CHIEF, EDUCATIONAL AFFAIRS

OFFICE OF THE ATTORNEY GENERAL OF MARYLAND





Background

- The Attorney General is the legal advisor to and representative of Maryland state governmental units. Md. Code, State Gov't, § 6-106; Md. Const., Art. V, §3(a).
- USM Policy VI-6.00 provides that “the Attorney General of the State of Maryland shall serve as the legal advisor to the Board of Regents and the University System of Maryland.”
- There are additional USM policies and guidelines that specifically provide for OAG legal oversight of certain matters.

Educational Affairs Division

The Attorney General has delegated to the Educational Affairs Division the responsibility of advising and representing Maryland public higher education institutions.

The Division employs 23 attorneys, 19 of whom provide day to day advice, handle litigation, or handle real estate and other transactional matters for the USM and institutions.

Katherine Bainbridge, division chief, Christopher Lord, division deputy chief, Elena Langrill, senior counsel, advice.

Catherine Bledsoe (litigation), Emily Bolyard (advice), Allison Boyle (advice), Kathryn Bradley (advice and litigation), Erik Delfosse (advice and litigation), Jennifer DeRose (advice and litigation), Julia Grio (advice), Alex Hortis (litigation), Katherine Levy (advice), Kristin McFarlane (advice), Ray Mulera (litigation), Jeffrey Palkovitz (real estate/transactions), Lillian Reynolds (advice and litigation), Elizabeth Rivera (advice), Rebecca Salisbury (real estate/transactions), Ann Ware (litigation).





Our Attorneys' Work for the USM

Day-to-day legal advice to USM and institutions

- Coordination to ensure consistency among USM institutions in interpretation of laws

Formal advice memoranda to institution counsel

Litigation in state and federal courts

- Between 80 and 100 cases at any given time filed against USM and/or constituent institutions, SMCM, MSU, BCCC

Non-litigation matters that may lead to litigation

- Between 75 and 100 matters at any given time
- Represent institutions in matters before administrative bodies, such as EEOC, MCCR, OCR, SHELRB, OAH
- Advise the Treasurer and clients on liability issues regarding tort claims filed with the Treasurer's Office under the Maryland Tort Claims Act

Contract review for form and legal sufficiency, assistance with real estate matters and bond issuance



Our Role in Board Governance

Assistance in interpreting, drafting and revising Board of Regents'

- bylaws
- policies
- guidelines

To ensure consistency with applicable laws, federal guidance, and other USM policies

OAG Role (cont.)

Advice regarding:

The Board's powers and authority under Title 12 of the Education Article, Maryland Annotated Code, the enabling legislation for the University System of Maryland.

Interpretation of Maryland laws applicable to the USM and constituent institutions.





OAG Role (cont.)

With respect to the Board's role as employer/contracting party:

Advice regarding employment of presidents and presidents' contracts

Advice facilitating regents' review of certain employment contracts

Assistance in engaging consultants to assist in Board review of certain matters

OAG Role (cont.)



With respect to the Board's role as a public body:

Advice to the Board and its standing committees regarding the interpretation of the Open Meetings Act.

- Advice regarding Open Meetings Compliance Board opinions interpreting Open Meetings Act.
- Responses to Open Meetings Compliance Board complaints.

Advice to staff and regents on compliance with the Public Information Act, and assistance in responding to PIA requests.

Advice regarding ethics questions and referral of questions to Maryland State Ethics Commission for official advice, as appropriate.



Questions?



BOARD OF REGENTS

SUMMARY OF ITEM FOR ACTION,
INFORMATION OR DISCUSSION

TOPIC: Convening Closed Session

COMMITTEE: Committee of the Whole

DATE OF MEETING: October 17, 2019

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 Board determines should be discussed in open session or added to the closed session agenda for discussion. In that event, the Board 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.

COMMITTEE ACTION:

DATE:

BOARD ACTION:

DATE:

SUBMITTED BY: Denise Wilkerson, dwilkerson@usmd.edu, 301-445-1906



REVISED

STATEMENT REGARDING CLOSING A MEETING
OF THE USM BOARD OF REGENTS

Date: October 17, 2019
Time: Approximately 3:00 p.m.
Location: The Hotel at Arundel Preserve

STATUTORY AUTHORITY TO CLOSE A SESSION

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

- (1) To discuss:
 - [X] (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
 - [X] (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) [X] To consult with counsel to obtain legal advice on a legal matter.
- (8) [X] 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.

FORM OF STATEMENT FOR CLOSING A MEETING

PAGE TWO

- (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) [X] 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.
- (15) [] To discuss cybersecurity, if the public body determines that public discussion would constitute a risk to:
- (i) security assessments or deployments relating to information resources technology;
 - (ii) network security information, including information that is:
 1. related to passwords, personal identification numbers, access codes, encryption, or other components of the security system of a governmental entity;
 2. collected, assembled, or maintained by or for a governmental entity to prevent, detect, or investigate criminal activity; or
 3. related to an assessment, made by or for a governmental entity or maintained by a governmental entity, of the vulnerability of a network to criminal activity; or
 - (iii) deployments or implementation of security personnel, critical infrastructure, or security devices.

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

- [X] Administrative Matters

TOPICS TO BE DISCUSSED:

1. Investigation of UMCP's response to mold and adenovirus;

2. Advice of counsel on institutional policies and practices related to environmental health and safety;
3. Investigation into potential employee misconduct at an institution;
4. Discussion with a President regarding communication with the Board about a proposed business action;
5. Discussion regarding obtaining legal advice from the OAG; and
6. Discussion of an investigation and potential enforcement action regarding a compliance issue.

REASON FOR CLOSING:

1. To maintain confidentiality of discussions of matters involving potential litigation and to maintain attorney client privilege for communications with legal counsel regarding matters involving potential legal liability issues (§3-305(b)(7) and (8));
2. To maintain confidentiality of investigation into matter involving possible misconduct by employees (§3-305(b)(12));
3. To handle administrative matters related to an investigation and follow-up (§3-103(a)(1)(i)); and
4. To discuss an administrative item relating to obtaining advice of counsel (§3-103(a)(1)(i)).