



**BOARD OF REGENTS
Special Board Meeting
Conference Call
July 22, 2020**

AGENDA FOR PUBLIC SESSION

3:00 P.M.

Dial-in number: 1-443-353-0686

Conference ID: 557 183 978

Call to Order

Chair Gooden

- | | |
|--|--|
| 1. Chancellor's Updates (information) | Chancellor Perman |
| 2. Return-to-Campus Planning (information) | Chancellor Perman |
| a. Campus Planning | Vice Chancellor Boughman
Vice Chancellor Herbst |
| b. Budget Update | Vice Chancellor Herbst |
| 3. USM BOR Diversity and Inclusion Symposium (information) | Chair Gooden |
| 4. Revisions to VI-I.60 - University System of Maryland Policy on Sexual Harassment (action) | Vice Chancellor Boughman
AAG Bainbridge |
| 5. Reconvene to Closed (action) | Chair Gooden |



BOARD OF REGENTS

SUMMARY OF ITEM FOR ACTION,
INFORMATION OR DISCUSSION

TOPIC: Return to Campus Planning

COMMITTEE: Committee of the Whole

DATE OF MEETING: July 22, 2020

SUMMARY: Chancellor Perman will discuss return to campus planning. Vice Chancellor Herbst will provide an update on the FY 21 budget.

ALTERNATIVE(S): Information item.

FISCAL IMPACT: None.

CHANCELLOR'S RECOMMENDATION: Information item.

COMMITTEE ACTION:

DATE:

BOARD ACTION:

DATE:

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



BOARD OF REGENTS

SUMMARY OF ITEM FOR ACTION,
INFORMATION OR DISCUSSION

TOPIC: USM BOR Diversity and Inclusion Symposium

COMMITTEE: Committee of the Whole

DATE OF MEETING: July 22, 2020

SUMMARY: Chair Gooden will provide information about the USM BOR Diversity and Inclusion Symposium.

ALTERNATIVE(S): Information item.

FISCAL IMPACT: None.

CHANCELLOR'S RECOMMENDATION: Information item.

COMMITTEE ACTION:

DATE:

BOARD ACTION:

DATE:

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



BOARD OF REGENTS

SUMMARY OF ITEM FOR ACTION,
INFORMATION OR DISCUSSION

TOPIC: Revisions to VI-1.60 - University System of Maryland Policy on Sexual Harassment

COMMITTEE: Committee of the Whole

DATE OF MEETING: July 22, 2020

SUMMARY: Attached are proposed amendments to the USM Policy on Sexual Misconduct (VI-1.60) which incorporate the requirements of the new Title IX I regulations that will go into effect on August 14, 2020.

Those regulations narrow current Title IX jurisdiction to cover only conduct occurring in the United States and circumstances in which an institution has exercised substantial control over the respondent and the context in which sexual harassment occurs. The Department of Education has stated that institutions may address sexual harassment affecting students or employees that falls outside Title IX's jurisdiction in any manner they choose, including providing supportive measures or pursuing discipline.

The proposed amendments to the USM policy narrow prohibited conduct in accordance with the new regulations' more restricted coverage, but permit institutions to address conduct falling outside Title IX jurisdiction in institution specific policies. The USM will work with the institutions to support their efforts to address sexual misconduct that may not fall within Title IX jurisdiction.

All of the new regulatory requirements are addressed in the proposed policy; highlights include:
Requirement of live hearing: Institutions' investigation and adjudication processes must include a live hearing. At the live hearing, the decision-maker(s) must permit each party's advisor to ask the other party and any witnesses all relevant questions and follow-up questions, including those challenging witness credibility. Such cross-examination at the live hearing must be conducted directly, orally, and in real time by the party's advisor of choice.

- New definitions outlining the scope of institutions' Title IX obligations, including:
 - "Sexual harassment," defined as any instance of quid pro quo harassment by a school's employee; any unwelcome conduct that a reasonable person would find so severe, pervasive, and objectively offensive that it denies a person equal educational access; any instance of sexual assault (as defined in the Clery Act), dating violence, domestic violence, or stalking as defined in the Violence Against Women Act (VAWA).

- “Education program or activity,” defined as locations, events, or circumstances over which the school exercised substantial control over both the respondent and the context in which the sexual harassment occurred, and also includes any building owned or controlled by a student organization that is officially recognized by a postsecondary institution (such as a fraternity or sorority house).
- “Actual notice” of sexual harassment, defined as notice to an official with authority to institute corrective measures.

These amendments were developed with guidance from the Office of the Attorney General, and have been shared with institution Title IX coordinators, and USM Presidents.

ALTERNATIVE(S): The regents may make recommendations and ask for additional information, but it is recommended that they approve these policy revisions so that USM will be in compliance with the Title IX regulations effective August 14, 2020.

FISCAL IMPACT: None.

CHANCELLOR’S RECOMMENDATION: That the Board of Regents approve the proposed amendments to the USM Policy on Sexual Misconduct (VI-1.60).

COMMITTEE ACTION:

DATE:

BOARD ACTION:

DATE:

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



BOARD OF REGENTS

SUMMARY OF ITEM FOR ACTION,
INFORMATION OR DISCUSSION

TOPIC: Convening Closed Session

COMMITTEE: Committee of the Whole

DATE OF MEETING: July 22, 2020

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: July 22, 2020
Time: Approximately 3:30 p.m.
Location: Via Zoom

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) [X] 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. Discussion of 2020 BOR Committee assignments;
2. Development of FY 2022 Operating Budget;
3. Discussion regarding strategic communication related to COVID-19;
4. Succession planning; and
5. Discussion regarding leadership profile for UMB president search.

REASON FOR CLOSING:

1. To handle an administrative matter regarding BOR Committee assignments for 2020 ((§3-103(a)(1)(i)).
2. To preserve executive privilege with respect to Governor's budget before submission to the General Assembly ((§3-305(b)(13)).
3. To handle administrative and personnel matters pertaining to succession planning with respect to specific presidents (§3-103(a)(1)(i) and §3-305(b)(1));
4. To handle an administrative matter regarding strategies for USM communications with internal and external stakeholders regarding COVID-19 (§3-103(a)(1)(i)); and
5. To handle a personnel and administrative matter related to the specific leadership profile for the UMB president search (§3-305(b)(1)) and §3-103(a)(1)(i).