

**GEORGE MASON UNIVERSITY
BOARD OF VISITORS MEETING**

**ANNUAL MEETING
July 26, 2024**

**Hazel Conference Room
Merten Hall 1201**

AGENDA

8:00 a.m. **Continental Breakfast**

8:30 a.m. **Executive Committee Meeting**

BOARD OF VISITORS MEETING AGENDA

9:00 a.m. **I. Call to Order**

II. Approval of Minutes

 A. Full Board Meeting Minutes for May 2, 2024 (**ACTION ITEM**)

III. Election of Officers and Committee Appointments

 A. Election of Rector (**ACTION ITEM**)

 B. Election of Vice Rector (**ACTION ITEM**)

 C. Election of Secretary (**ACTION ITEM**)

 D. Election of Members-at-Large to the Executive Committee (2) (**ACTION ITEM**)

 E. Appointment of Board Liaisons

 F. Committee Appointments

 G. Committee Chair and Vice Chair Appointments (**ACTION ITEM**)

9:15 a.m. **IV. Rector's Report**

 A. 2024-2025 Board Assessment Update

9:25 a.m. **V. Annual President's Report**

 A. Presentation of FY 2025 Goals – Dr. Washington (**ACTION ITEM**)

9:55 a.m. **VI. Board Orientation**

 A. Legal Overview

 1. FOIA and COIA for BOV Members

 2. Electronic Meeting Policy Update (**ACTION ITEM**)

 B. Code of Ethics – Annual Review and Certification

 C. Student Referrals/Admissions

 D. Classified Information Access (**ACTION ITEM**)

 E. Document and Records Request Policy Review

VII. New Business

10:25 a.m. A. Academic Programs, Diversity, and University Community

 1. Faculty Actions

 a. Election of New Tenured Faculty (**ACTION ITEM**)

- 10:30 a.m. B. Finance and Land Use
 1. Financial Matters
 a. Deficit Authorization Annual Notice
- 10:35 a.m. **VIII. Closed Session**
 A. Honorary Degrees and Special Awards (Code of VA: §2.2-3711.A.11)
 B. Consultation with Legal Counsel pertaining to actual or probable litigation (Code of
 VA: §2.2-3711.A.7)
 C. Consultation with Legal Counsel regarding specific legal matters requiring the
 provision of legal advice (Code of VA: §2.2-3711.A.8)
 D. Personnel Matter (Code of VA: §2.2-3711.A.1)
- 12:00 p.m. **IX. Adjournment**
- 12:00 p.m. **Lunch**

The July 26, 2024, Annual Meeting of the Board of Visitors will be in-person. Members of the public are welcome to observe in person or may view the meeting live at the following link: <https://bov.gmu.edu/live/>. Overflow gallery seating is located in Merten 1204. Please be aware that the full board agenda timing is for planning purposes only, the formal meeting could conclude before or after the time noted so participants should plan accordingly.

Written comments will be accepted until the full board meeting adjourns on July 26, 2024. To submit a written public comment, please complete the form at the following link: <https://forms.office.com/r/PyJXHY5TN2>. Written comments will be entered into the public record of this meeting.

No oral public comment will be taken at this meeting.

GEORGE MASON UNIVERSITY
BOARD OF VISITORS
Executive Committee Meeting
Friday, July 26, 2024
Merten Hall, Hazel Conference Room (1201)

AGENDA

- I. Call to Order**
- II. Approval of Minutes**
 - A. Executive Committee Meeting Minutes for May 2, 2024 (ACTION ITEM)**
- III. Rector's Comments**
- IV. President's Comments**
- V. Closed Session**
 - A. Honorary Degrees and Special Awards (Code of VA: §2.2-3711.A.11)**
 - B. Personnel Matter (Code of VA: §2.2-3711.A.1)**
 - C. Consultation with Legal Counsel pertaining to actual or probable litigation (Code of VA: §2.2-3711.A.7)**
 - D. Consultation with Legal Counsel regarding specific legal matters requiring the provision of legal advice (Code of VA: §2.2-3711.A.8)**
- VI. Adjournment**

**EXECUTIVE COMMITTEE OF THE BOARD OF VISITORS
GEORGE MASON UNIVERSITY**

**Meeting of
Thursday, May 2, 2024
Merten Hall, Hazel Conference Room (1201)**

MINUTES

PRESENT: Rector Horace Blackman, Vice Rector Jon Peterson, Secretary Michael Meese, Visitors Reginald Brown and Wendy Marquez.

ABSENT: None.

ALSO PRESENT: Visitors Lindsey Burke, James Hazel, Robert Pence, Nancy Prowitt, Jeffrey Rosen (virtual), Charles Stimson and Robert Witeck; Melissa Broeckelman-Post, Faculty Representative; Will Gautney, Staff Liaison; Paul Wyche, Undergraduate Student Representative; Vikas Velagapudi, Graduate Student Representative; Gregory Washington, President; Ken Walsh, Interim Provost and Executive Vice President; Deb Dickenson, Executive Vice President for Administration and Finance; Anne Gentry, University Counsel; and Sarah Hanbury, Secretary pro tem.

I. Call to Order

Rector Blackman called the meeting to order at 9:02 a.m. He mentioned the adjusted approach to the meeting format that commenced at the February 22, 2024 meeting, which aims to provide informative, on-time, read-ahead materials to facilitate focused discussions and questions/clarifications during meetings.

II. Approval of Minutes

A. Executive Committee Meeting Minutes for February 22, 2024 (**ACTION ITEM**)

Rector Blackman called for any corrections to the minutes for the Executive Committee Meetings for February 22, 2024. Hearing none, the **MINUTES STOOD APPROVED AS WRITTEN**.

III. Rector's Comments

Rector Blackman provided the following comments:

- Individually thanked Visitors Jimmy Hazel, Jon Peterson, Wendy Marquez and Bob Witeck for their service to the Board as their terms expire on July 1, 2024; noting that Vice Rector Peterson is eligible for reappointment.
- Reminders:
 - All recognition and award receipts have been invited to join the Board for lunch and encouraged the Visitors to take the opportunity to connect with the honorees.
 - Commencement is on Thursday, May 9, 2023 at EagleBank Arena
- Appointed Visitors Prowitt and Burke to present the slate of officers for Board consideration and election in preparation for the Board election during the annual meeting on July 26, 2024. Visitors Prowitt and Burke will also be in contact with each board member to ascertain committee preferences.
- Stated that he is not seeking reappointment as Rector for his final year of service (July 1, 2024 – June 30, 2025).

This concluded the Rector's Comments.

IV. President's Comments

Dr. Washington stated that he would reserve his formal comments for the full board meeting and emphasized that Mason has maintained a consistently strong performance.

V. Closed Session

- A. Consultation with Legal Counsel pertaining to actual or probable litigation (Code of VA: §2.2-3711.A.7)
- B. Consultation with Legal Counsel regarding specific legal matters requiring the provision of legal advice (Code of VA: §2.2-3711.A.8)

Rector Blackman relayed that the committee did not need to go into closed session and would do so during the full board meeting.

VI. Adjournment

Rector Blackman adjourned the meeting at 9:20 a.m.

Prepared by:

Sarah Hanbury
Secretary pro tem

**BOARD OF VISITORS
GEORGE MASON UNIVERSITY**

**Meeting of
Thursday, May 2, 2024
Merten Hall, Hazel Conference Room (1201)**

MINUTES

PRESENT: Rector Horace Blackman, Vice Rector Jon Peterson, Secretary Michael Meese, Visitors Armand Alacbay, Reginald Brown, Lindsey Burke, Anjan Chimaladinne, James Hazel, Wendy Marquez, Dolly Oberoi, Robert Pence, Nancy Prowitt, Charles Stimson, Jeffrey Rosen (virtual), Farnaz Thompson and Robert Witeck.

ABSENT: None.

ALSO PRESENT: Melissa Broeckelman-Post, Faculty Representative; Will Gautney, Staff Liaison; Paul Wyche, Undergraduate Student Representative; Vikas Velagapudi, Graduate Student Representative; Gregory Washington, President; Ken Walsh, Interim Provost and Executive Vice President; Deb Dickenson, Executive Vice President for Administration and Finance; Anne Gentry, University Counsel and Sarah Hanbury, Secretary pro tem.

I. Call to Order

Rector Blackman called the meeting to order at 1:15 p.m.

Rector Blackman relayed that Visitor Rosen requested to participate remotely due to his need to be out of state for a personal matter. Rector Blackman approved the remote participation request in accordance with the Electronic Meeting Policy.

Rector Blackman noted that when members of the board participate remotely, voting is accomplished by roll call.

Rector Blackman mentioned the adjusted approach to the meeting format that commenced at the February 22, 2024 meeting, which aims to provide informative, on-time, read-ahead materials to facilitate focused discussions and questions/clarifications during meetings.

Rector Blackman stated that due to the truncated agenda timing, the board is only accepting written public comments through the form on the Board of Visitors website. In addition, written comments will be accepted on the same form until the full board meeting adjourns (**ATTACHMENT 1**).

II. Recognitions

A. Appreciation Plaque Presentation to Outgoing Representatives

Rector Blackman recognized the 2023-2024 student representatives to the board, Paul Wyche and Vikas Velagapudi. He offered for Paul Wyche to provide remarks and introduce his successor. Mr. Wyche expressed gratitude to Rector Blackman, the Board, President Washington, Rose Pascarell, faculty, staff, and most importantly his fellow students for granting him many experiences and the privilege to represent the student body.

Mr. Wyche then introduced Maria Romero Cuesta who will serve as the Student Body President for the 2024-2025 academic year. Ms. Cuesta is a sophomore double majoring in government and international relations and economics. She is a first-generation student, Latina, an international student, and a woman who has received considerable support for her identities at Mason. Ms. Cuesta advocates for the support of the JUST Societies curriculum to foster cultural competency and social awareness, aiming to build a healthier Mason community and global environment.

Rector Blackman invited Vikas Velagapudi to share remarks and introduce his successor. Mr. Velagapudi extended his gratitude to the Board, Rector Blackman, President Washington, and his advisor Dr. Julie Choe Kim. He emphasized the

importance of hearing all viewpoints of the Board and expressed his hope that he and Mr. Wyche effectively conveyed the student perspective. Mr. Velagapudi concluded by expressing his appreciation to the Board for their support.

Mr. Velagapudi introduced Carolyn Faith Hoffman, who will serve as the 2024-2025 President for the Graduate and Professional Student Association (GAPSA). Ms. Hoffman is a third-year doctoral student in the health services research program in the Department of Health Administration and Policy in the College of Public Health. She is also pursuing a graduate certificate in health informatics and data analytics in the College of Public Health. Since May 2021, she has been a Graduate Research Assistant (GRA) in the Department of Health Administration, with a keen interest in disabilities and access-to-care factors such as health insurance and place of residence. Ms. Hoffman has been an active representative for the past two years from her program to the General Assembly that GAPSA chairs, advocating for various issues and also serving as a bridge of communication between the program students and GAPSA. Her efforts have greatly facilitated effective communication and collaboration between these bodies, enhancing the effectiveness of GAPSA.

Rector Blackman presented Mr. Wyche and Mr. Velagapudi, each with their own plaque of appreciation for their contributions to the Board during the past year.

Rector Blackman recognized Dr. Melissa A. Broeckelman-Post as the 2021-2024 faculty representative to the board, praising her invaluable contributions and insights. He expressed gratitude for her dedication and noted the rewarding collaboration. Both he and the Board learned significantly from her engagement, greatly benefiting the Board and the Faculty Senate. He then invited Dr. Broeckelman-Post to share remarks and introduce her successor.

Dr. Broeckelman-Post expressed it was an honor and privilege to serve as Faculty Senate President and board representative, acknowledging the weight of the responsibility. Reflecting on the challenges faced during her tenure, she emphasized the importance of shared governance, which strengthened Mason despite the pandemic and personal challenges of the university community. She highlighted achievements such as improved support for students, updated policies, and alignment of evaluation processes. She expressed hope for the continuity of these governance processes in serving the university effectively.

Dr. Broeckelman-Post introduced Dr. Solon Simmons as the incoming Faculty Senate President. Dr. Simmons brings extensive experience, having served on the Faculty Senate for several years and chaired key committees such as the Faculty Matters and Faculty Handbook Committees. Additionally, he has been involved in various other committees and responsibilities, including the Coach Leadership Team. Dr. Simmons also directs the Narrative Transformation Lab in the Jimmy and Rosalyn Carter School of Peace and Conflict Resolution. Dr. Broeckelman-Post expressed confidence in his leadership and looks forward to collaborating with him, and passing the gavel next week.

Rector Blackman presented Dr. Broeckelman-Post with a plaque of appreciation for her contributions to the Board.

B. Recognition of Boren Scholarship and Fulbright U.S. Student Program ETA Award

Rector Blackman introduced Dr. Megan Bruening, Director of the Office of Fellowships to present this year's student scholars. Dr. Bruening highlighted the following items:

- The Office of Fellowships advises Mason students and alumni as they apply to external, nationally competitive awards that support scholarship, research and professional development.
- The Fellowships Office aims to raise the academic profile of Mason through competitive awards.
- Two student scholars were recognized in the following awards:
 - Boren Scholar:
 - Janai Byrd, a senior double majoring in foreign languages and business, has been awarded a prestigious scholarship sponsored by the Department of Defense. This nationally competitive

award allows recipients to study a foreign language overseas, identified as critical to national security. Janai will be studying Korean in South Korea and intends to utilize her language skills in her future career as an economics officer in the Department of State.

- Fulbright U.S. Student Program Award:
 - Chelsea Lebron, a Master of Fine Arts (MFA) candidate in creative writing in the College of Humanities and Social Sciences, has been selected for the prestigious Fulbright Program. This renowned fellowship program, one of the nation's oldest and most respected, aims to foster international cooperation and cultural exchange. Ms. Lebron will serve as an English Teaching Assistant at a university in Spain, specifically the Canary Islands. Utilizing her enhanced Spanish skills, she plans to leverage her experience as a published author and advocate for incarcerated individuals and their families.

Both student scholars were in attendance and recognized with applause.

C. Recognition of Early Identification Program (EIP) Graduating Students

Rector Blackman reported that the names of the graduates and the history of EIP were provided in the board materials for this meeting. Rector Blackman introduced Dr. Khaseem Davis, Executive Director of EIP who highlighted the following items:

- On behalf of the programs 820 plus students, their families and staff he thanked the board for their continued support of EIP.
- EIP serves as a Mason college preparatory program and provides access to educational resources for middle and high school students in Northern Virginia who will be the first in their families to attend a college or university.
- The EIP graduates are on the verge of realizing their lifelong dream of receiving their baccalaureate degrees, with some also achieving master's degrees. Additionally, the program is celebrating 130 students graduating from partner high schools, many of whom have opted to continue their education at Mason.
- Dr. Davis proceeded to introduce Mina Al Hashimi as this year's student speaker, mentioning the presence of her parents in the audience:
 - Ms. Al Hashimi stated that it is with immense pride that she stands before everyone as a representative of the EIP graduating class of 2023.
 - She will be graduating with a Master's Degree in Accounting, marking a decade-long journey with Mason that began when she was 13.
 - She is the second child in her family to graduate from college and the first to attain a master's degree, an achievement not solely her own but shared with her family. Their journey from Iraq, under harrowing circumstances, in search of safety and opportunity, adds profound significance to her accomplishment.
 - EIP served as both a beacon and a promise of support and opportunity for her. She vividly remembers the day she was awarded a full tuition scholarship to Mason, a moment that fundamentally changed her life.
 - She often reflects on how she can repay EIP and Mason for the profound impact on her life, acknowledging that she could never fully repay it, but she can pay it forward. This realization led her to support and mentor the next generation of EIP students. Whether tutoring younger students in STEM fusion, assisting as a financial wellbeing peer mentor, or serving as a program support specialist, she is committed to ensuring the cycle of giving and growth continues. In her dedication to giving back to Mason, she has also served as a residential assistant and a graduate teaching assistant, providing direct guidance and assistance to her peers. Additionally, she has embraced leadership opportunities, such as serving as President for the Association of Latino Professionals for America at Mason, a role she pursued thanks to the encouragement of an EIP mentor.
 - She will soon embark on a career as a technology risk assurance professional at Ernst & Young.

- In closing, she expressed gratitude to all the dedicated staff and mentors within EIP and encouraged her fellow graduates to embrace the responsibility to empower and elevate the generations that follow, ensuring the program continues to thrive.

The Board and members of the gallery recognized the graduates with a standing ovation.

D. Jack Wood Awards Presentation

Rector Blackman mentioned that stories for each Jack Wood Award recipient in their respective categories were included in the board materials. He then introduced Toni Andrews, Senior Associate Director for the Office of Community and Local Government Relations, to present this year's Jack Wood Awards. Ms. Andrews explained that the award is named after former Fairfax Mayor, John C. Jack Wood. Mr. Wood's son joined this segment and assisted with presenting each award alongside President Washington. Ms. Andrews offered congratulatory remarks for the following recipients of the five award categories:

- Business/Nonprofit Category:
 - Mind the Mat Pilates & Yoga is this year's recipient. Sarah VanderGoot accepted the award on the behalf of her company.
- Student Category
 - Anthony Amos is this year's recipient and was in attendance to accept his award.
- Faculty/Staff Category:
 - Matt McLaughlin, Off-Campus Coordinator for Contemporary Student Services is this year's recipient and was in attendance to accept his award.
- Partnership Category:
 - LEAD Office Student Leadership Consultants and Terraset Elementary School in Reston, Virginia are this year's recipient. Members from both organizations came forward to accept the award.
- Legacy Award:
 - Janet Walker, Transportation Programs Manager for Parking and Transportation, is this year's recipient and was in attendance to accept her award.

On behalf of the board, Rector Blackman congratulated and extended appreciation to all the award recipients for their leadership in fostering mutually beneficial relations between Mason and the community.

III. Approval of Minutes

- A. Full Board Meeting on February 22, 2024 (ACTION ITEM)**
- B. Full Board Meeting on April 2, 2024 (ACTION ITEM)**
- C. Continuing Education Session on April 2, 2024 (ACTION ITEM)**

Rector Blackman called for any corrections to the minutes for the full board meeting on February 22, 2024, the full board meeting on April 2, 2024, and the continuing education session on April 2, 2024, that was provided in the board meeting materials. Hearing no corrections, Rector Blackman **MOVED** to approve the minutes. The motion was **SECONDED** by Visitor Witeck. **MOTION CARRIED UNANIMOUSLY BY ROLL CALL VOTE.**

Yes – 15

Absent – 1 – Visitor Pence

IV. Rector's Report

- A. Board of Visitors Meeting Schedule for 2024-2025 (ACTION ITEM)**
- B. Board of Visitors Meeting Schedule for 2025-2026 (ACTION ITEM)**

Rector Blackman reminded the board that during the February 22, 2024 meeting that the two February meeting dates didn't align with Visitor Rosen's schedule and suggested exploring alternate options. He emphasized the need to make a decision regarding whether to maintain the approved meeting schedules or adjust them as outlined:

2024-2025 Meeting Schedule

- Thursday, February 20, 2025 - Full Board Meeting, Previously Approved Date
- Thursday, February 27, 2025 - Full Board Meeting, Proposed Alternate Option

2025-2026 Meeting Schedule

- Thursday, February 19, 2026 - Full Board Meeting, Previously Approved Date
- Thursday, February 26, 2026 - Full Board Meeting, Proposed Alternate Option

Rector Blackman invited Visitor Rosen to share his thoughts. Visitor Rosen noted that the proposed alternate options would address his concerns and doesn't mean to inconvenience anyone else but if it was a matter of indifference, the one-week shifts would work well from his standpoint. Rector Blackman then asked for any additional thoughts or comments from the board.

Rector Blackman moved to approve to adjust the February meeting dates to February 27, 2025 and February 26, 2026. The motion was **SECONDED** by Secretary Meese. **MOTION CARRIED UNANIMOUSLY BY ROLL CALL VOTE.**

Yes – 16

Rector Blackman reported the following items:

- Reminded the board that Commencement is on Thursday, May 9, 2024 at EagleBank Arena.
- In preparation for the Board elections during the annual meeting on July 26, 2024, he appointed Visitors Prowitt and Burke to present the slate of officers and ascertain committee preferences for Board consideration and election.
- Secretary Meese was recognized to provide an update on the amended Document and Records Request Policy, which was approved during February's meeting. He explained that according to the policy, whenever board members have questions, they are to send them to Sarah Hanbury, Executive Coordinator to the Board of Visitors, Secretary pro tem, who will then forward them to him. He noted that two requests had been made in the last three months, which were directed to the staff and subsequently answered. He added that if there are any issues or problems with this process, board members are encouraged to contact him directly.

C. Campus Security Briefing

Rector Blackman reminded the board that during the public comment session in April, Visitor Brown requested a brief update on the security provided to Professor Bethany Letiecq, the outcome of their investigation, and overall measures taken to protect faculty and staff. He then recognized Carl Rowan, Jr., Chief of Police and Assistant Vice President for Public Safety, to provide the campus security update. Chief Rowan presented the following information:

- Chief Rowan summarized the Letiecq case due to time constraints. Professor Letiecq's viral article led to her receiving abusive messages across various platforms, prompting her to seek help from campus police. These cases are handled with utmost seriousness. Unless the victim declines police involvement, Mason Police take extensive measures to ensure community safety.
- Mason Police monitored messages to Professor Letiecq, identifying one as a law violation and direct threat. They tracked the message to an individual in Urbana, Illinois, seeking assistance from the Champaign County sheriff's department. Upon identification, local deputies interviewed the suspect, who admitted to venting and denied intent to harm. An arrest warrant was issued for Rodney Prosser for criminal harassment by phone, a class one misdemeanor in Virginia. Though extradition is uncommon, further abusive behavior will result in Mr. Prosser's arrest and return to the Fairfax Adult Detention Center.
- Before addressing questions, Chief Rowan mentioned that more detailed information is available in his testimony provided in the meeting materials.

Visitor Brown thanked Chief Rowan and Mason Police for their follow-up. Visitor Stimson relayed that the professor could also consider obtaining a civil restraining order as an additional precaution in his state of residence. He then thanked Chief Rowan for his thoroughness in handling the matter which concluded the briefing.

Rector Blackman individually thanked Visitors Jimmy Hazel, Jon Peterson, Wendy Marquez and Bob Witeck for their service to the Board as their terms expire on July 1, 2024, adding that Vice Rector Peterson is eligible for reappointment and invited them to share remarks. Please refer to video recording for specifics:
<https://vimeo.com/showcase/8557205/video/942461377>.

This concluded the Rector's Report.

V. President's Report

Dr. Washington provided the following highlights:

- Bottom Line Up Front:
 - Mason has continued strong performance while experiencing a difficult academic environment.
 - Mason has achieved its highest enrollment to date.
 - It's been the highest fundraising year to date.
 - Mason is ranked number one for social mobility.
 - Mason is the largest 4-year institution in Virginia by headcount and is also the most diverse institution in the state.
- Best rise in rankings:
 - The Doctor of Nursing program is ranked number one in the country among other public institutions and second overall.
 - Scalia Law School is ranked eleventh among public institutions and twenty-eighth overall, making it the third-highest-ranking law school in Washington DC, Virginia, and Maryland.
- The Mason Impact:
 - Mason students are doing well, as evidenced by their post-graduation outcomes. The median salary for graduates is \$74K, and 87% of them achieve positive career outcomes. A positive career outcome is defined as being employed, continuing education, volunteering, or serving in the military within six months of graduation.
- 2023-2024 Presidential Metrics:
 - A few months remain to achieve some of the remaining goals, and will have another year of mostly completed goals.
- The Hazel Peterson Scholarship:
 - Created by Gregory and Nicole Washington in honor of the Hazel and Peterson families for their generations of commitment to the university.
 - Supports Costello College of Business full or part-time undergraduate students pursuing a minor in real estate development and who graduated from high schools within 50 miles of the Fairfax Campus.
 - The Washington's donation was matched by corporate contributions.
 - Donations can be made at go.gmu.edu/hazel-peterson.
- General Issues:
 - There are challenges with cultural issues. Mason's diversity is its secret weapon, and it should be embraced. Any attempts to change that will be met with resistance from the university community.
 - 80% of all new graduates' growth in the state is attributed to Mason. When President Washington inquired of leadership from companies like Amazon, Microsoft, Northrop Grumman, etc., why they are coming here, they responded that Mason is a net producer of talent.
- Challenges Ahead:
 - Cost inflation

- Increasing bureaucracy relative to increasing reporting and operations nationally and statewide.
 - Culture war issues in an election year.
- Enterprise Risk Priorities, Trends, and Heat Map:
 - Have started to rank the risks; please refer to the rankings and graph in the meeting materials.
 - Highlighted that the top seven risks are present and increasing. It is the responsibility of leadership to focus on these entities and position the institution for success moving forward.
- Our Plan for Success FY25: Redefining Excellence:
 - Students First:
 - Students' Bill of Rights
 - Mason Virginia Promise
 - Free Speech Campus
 - Cost of Attendance:
 - Reduce cost of attendance
 - 3-year degree
 - Partner or Perish:
 - Fairfax West Campus expansion
- Welcomed New Provost and Executive Vice President, James Antony:
 - Current dean of graduate education and postdoctoral affairs at the University of California, San Diego.
 - Begins new role on July 1, 2024.

This concluded Dr. Washington's report.

VI. University Committee on Diversity, Equity, and Inclusion and Just Societies Update

Rector Blackman mentioned during February's Academic Programs, Diversity, and University Community Committee meeting that he designated Visitors Meese and Witeck to collaborate with the administration regarding board oversight of the Just Societies requirement and report back to the board at this meeting. He then gave Visitors Meese and Witeck the floor. Visitor Meese relayed that after a brief presentation from the other four members of the university committee, they will conclude with brief comments from himself and Visitor Witeck.

The University Committee on Diversity, Equity, and Inclusion and Just Societies provided the following updates:

- Committee Members:
 - Mike Meese, Board of Visitor Member
 - Bob Witeck, Board of Visitor Member
 - Rose Pascarell, Committee Chair & Vice President of University Life
 - Sharnnia Artis, Vice President for Diversity, Equity and Inclusion and Chief Diversity Officer
 - Melissa Broeckelman-Post, President of the Faculty Senate, Professor and Basic Course Director, Department of Communication
 - Keith Renshaw, Senior Associate Provost for Undergraduate Education, Professor of Psychology
- Ms. Pascarell began by noting the full report and an executive summary were provided in the meeting materials and that they would summarize that information.
- Committee Process (Pascarell):
 - Was data driven.
 - Conducted 13 working session meetings with committee members from March 7, 2024 through April 30, 2024.
- The Mason Way (Artis):
 - The committee reviewed the DEI critics and Mason's response to each which were displayed and are available in the meeting materials.
 - The committee also looked at how Mason's approach aligned with Governor Youngkin's Executive Order 10.

- Just Societies (Broeckelman-Post & Renshaw):
 - The report outlines the why and how the Just Societies are required in the Mason Core:
 - Why:
 - Students have been asking for courses focused on understanding diversity for more than a decade and faculty identified intercultural competence as a key gap in the Mason Core.
 - Numerous employer surveys indicate that colleges should place more emphasis on collaborating with others in diverse group settings. Mason's top employers have expressed that Mason's diversity and its students' experience working with others from a variety of backgrounds are among the primary reasons they recruit them.
 - The Southern Association of Colleges and Schools (SACSCOC) and the State Council of Higher Education for Virginia (SCHEV) have statements that place value on developing the capacity to work productively with diverse people and perspectives.
 - How:
 - Mason Core revision process
 - Relevant Laws & Policies that guided the process
- Visitor Witeck's comments:
 - Stated that Mason's DEI philosophy is unique to Mason. It fits its values and what unites our community of scholars. The Mason Way emphasizes that being altogether different means welcoming differences but not inciting division. Reason and argument are embraced, not conflict. The passion to learn is celebrated, not the passion to disrupt, censor, or silence anyone. It's about teaching students how to think, not what to think.
 - DEI Infrastructure Recommendations:
 - Emphasized the importance of inclusive excellence within Mason's diversity mission, aligning with directives from the Commonwealth.
 - Highlighted the success of student support programs in fostering a positive climate, promoting student success, and mitigating negative outcomes. The recommendation is to maintain current staffing roles deemed appropriate.
 - Expressed a strong belief in the necessity of reviewing titles, roles, and accountability, alongside proposing a campus climate survey conducted by a qualified third party to ensure objectivity and assess alignment with promised goals.
 - Advocated for expanding offerings that emphasize civil discourse and dialogue, as they strengthen freedom of expression and teachshow to align free speech with intellectual diversity and welcome all points of view.
 - Mason Core Recommendation:
 - Urged the Mason Core Committee to be vigilant, ensuring that the Just Societies student learning outcomes are plainly and effectively communicated.
 - Also urged the Mason Core Committee to further expand the number and breadth of courses eligible under the requirement to ensure the greatest freedom of choice to all students in pursuing their general education, as well as their degree obligations.
 - Recommended that the Mason Core Committee accelerate its assessment to determine if the desired outcomes and student learning objectives are being achieved.
 - Recognized the provost as the academic leader with the designated authority to assess the timing and implementation of the Just Societies framework in consultation with the Mason Core Committee and with the faculty.
 - Finally, there is a call for increased dialogue within this administration, faculty, and Board of Visitors to share, review, and discuss significant curriculum updates and assessments. It is crucial for members and stakeholders across the community to understand the well-defined roles of the faculty, the Board of Visitors, and the administration in curriculum matters, especially to ensure compliance with SCHEV and SACSCOC requirements.
- Secretary Meese's Comments:

- Noted that when he started with the university committee, he was skeptical. However, as he delved deeper into the matter, he discovered that Mason is aligning closely with what the governor outlined in his diversity, opportunity, and inclusion plan.
- Governor Youngkin in Executive Order One defines what inherently divisive concepts are as it applies to K through 12 education but Secretary Meese thinks it should also apply to post-secondary education.
- After meeting with offices for Center for Culture Equity, and Empowerment (CCEE), LGBTQ, and DEI to inquire if they are engaging in inherently divisive concepts, it was almost laughable because their primary concern is responding to the communities they serve. This sentiment was echoed in the comments during the listening session that was held on April 2, 2024.
- Inclusive Excellence:
 - He learned about the Black Male Success Initiative (BSMI). Highlighting that the graduation rate for black males from public universities is 39%, whereas at Mason, it's 69% due to the support provided by CCEE.
- The extent to which the core curriculum should be required is open for debate, and the provost, in consultation with the board and faculty, is best positioned to make this decision.

Visitor Witeck **MOVED** that the Board accept the Achieving Inclusive Excellence: The Mason Way Report that was provided for review in the meeting materials and approve the recommendations in the report. Rector Blackman opened the floor for discussion. Significant conversation ensued. Please refer to the video recording for specifics: <https://vimeo.com/showcase/8557205/video/942461377>.

After robust conversation Visitors Meese and Witeck accepted to modify the motion. Rector Blackman **MOVED** that the Board accept the Achieving Inclusive Excellence: The Mason Way Report that was provided for review in the meeting materials. The motion was **SECONDED** by Secretary Meese. **MOTION CARRIED BY ROLL CALL VOTE.**

Yes – 15

Abstain – 1 – Visitor Burke

Visitor Brown expressed concern about a course mandate. Ken Walsh, Interim Provost and Executive Vice President, spoke to the board and assured them that he had taken note of their discussion and the concern regarding the core course mandate.

VII. Committee Reports

Rector Blackman mentioned that, due to the shortened meeting format, the Research Committee did not meet today, and a growth update was included in the meeting materials. He thanked Dr. Andre Marshall, Vice President for Research, Innovation, and Economic Impact, for the update.

A. Academic Programs, Diversity and University Community Committee

Visitor Burke briefed the board on the topics presented and discussed during the Academic Programs, Diversity and University Community Committee meeting, which included:

- During the APDUC meeting, Interim Provost Ken Walsh provided an overview of the upcoming spring graduation, with commencement set for May 9 at 10 a.m. at Eagle Bank Arena and degree celebrations running through May 11 and he reviewed the size of the graduating class in historical context.
- Interim Provost Walsh reviewed international enrollment by country and addressed the recent FAFSA disruption, noting that financial aid packages were sent on April 15 and the freshman enrollment deposit deadline was extended to May 15.
- He also noted the positive impacts of Mason's test-optional policy since 2017, including market expansion, stronger academic quality, and improved retention.

- Melissa Broeckelman-Post provided an overview of the proposed revisions to the Faculty Handbook, and welcomed the New Faculty Senate President, Solon Simmons.

Visitor Burke **MOVED** to approve the following eight actions items en bloc as provided for review in the meeting materials:

- a. New Degree Programs:
 - i. PhD in Robotics (**ACTION ITEM**)
 - ii. MS in Artificial Intelligence (**ACTION ITEM**)
- b. Degree Program Name Change:
 - i. BSEd in Early Childhood Education for Diverse Learners to “BSEd in Inclusive Early Childhood Education” (**ACTION ITEM**)
- c. Proposed Revisions to the Faculty Handbook (**ACTION ITEM**)
- d. Faculty Actions:
 - i. Promotion and/or Tenure (**ACTION ITEM**)
 - ii. Conferral of Emeritus/Emerita Status (**ACTION ITEM**)
 - iii. Elections of New Tenured Faculty (**ACTION ITEM**)
 - iv. Special Rank Change (**ACTION ITEM**)

The motion was **SECONDED** by Visitor Hazel. Rector Blackman opened the floor for discussion. There were none.
MOTION CARRIED UNANIMOUSLY BY VOICE VOTE.

Yes – 15

Absent – 1 – Secretary Meese

B. Finance and Land Use Committee

Visitor Pence briefed the board on the topics presented and discussed during the Finance and Land Use Committee meeting, which included:

- The Committee voted to approve the proposed FY 2025 University Budget within the Scenario ranges, including FY 2025 Tuition, Mandatory Student Fee, Room and Board rates, as well as FY 2026 Tuition rates.
- This includes a 3% increase for in-state tuition in FY 2025 and in FY 2026, and a 3% increase in the mandatory student fee in FY 2025. The FY2025 Room and Board increase of 4.2%.
- Since the General Assembly has not yet finalized the FY 2025 Commonwealth budget, three budget scenarios are being recommended with different assumptions for State General Fund Appropriations and Salary Increases.
- The Committee voted to approve Mason’s Six-Year Capital Plan that includes Board funding approval for:
 - EagleBank Arena Air Handling Units
 - ITS Core Network Replacement
- The Committee also voted to approve the annual Land Use Certification submission with the significant changes from the last report being:
 - Acquisitions of Vernon Smith Hall, 922 N. Kenmore St., and 950 N. Jackson St. in Arlington
 - Easements on the Mason Square and SciTech campuses

Visitor Pence noted that the committee’s three actions items would be voted on individually and differ in some ways from the provisions he just stated.

1. Financial Matters
 - a. FY 2025 University Operating Budget, Tuition and Fees (**ACTION ITEM**)

Visitor Pence **MOVED** to approve the FY2025 University Budget within the scenario ranges, including FY2025 Tuition, subject to final resolution of the amount of increase for FY2025 Tuition to take effect Fall of 2024, Mandatory Student Fee, Room, and Board rates, as detailed in the board book. The motion was **SECONDED** by Visitor Witeck. Rector Blackman opened the floor for discussion:

- Secretary Meese relayed that they were not approving the FY 2026 budget, which Visitor Pence confirmed was accurate.
- For future discussions, Visitor Alacbay would like to know what would getting to a zero tuition increase look like.
- Visitor Brown indicated that if it's not the decisive vote, he may cast a protest vote. Mason's highly successful model is underfunded, despite producing exceptional outcomes that deserve global recognition and investment. Considering the current financial constraints, capping growth needs serious consideration. He proposed prioritizing discussions on such significant matters during the July meetings.

MOTION CARRIED BY VOICE VOTE.

Yes – 12

No – 2 – Visitors Brown & Pence

Abstain – 2 – Visitors Burke & Thompson

2. Capital Matters

a. Six-Year Capital Plan (**ACTION ITEM**)

Visitor Pence **MOVED** to approve the Six-Year Capital Plan as detailed in the Board book. The motion was **SECONDED** by Visitor Hazel. Rector Blackman called for discussion. There were none. **MOTION CARRIED UNANIMOUSLY BY VOICE VOTE.**

Yes – 16

b. Land Use Certification (**ACTION ITEM**)

Visitor Pence **MOVED** to approve the Land Use Certification as detailed in the Board book. The motion was **SECONDED** by Visitor Witeck. Rector Blackman called for discussion. There were none. **MOTION CARRIED UNANIMOUSLY BY VOICE VOTE.**

Yes – 15

Absent – 1 – Visitor Burke

C. Audit, Risk, and Compliance Committee

Visitor Oberoi forwent the report for the Audit, Risk, and Compliance Committee after Rector Blackman expressed that it would be acceptable to do so, considering there were no action items to bring before the full board.

D. Development Committee

Visitor Chimaladinne forwent the report for the Development Committee as there were no action items to bring before the full board.

VIII. Closed Session

- A. Consultation with Legal Counsel pertaining to actual or probable litigation (Code of VA: §2.2-3711.A.7)
- B. Consultation with Legal Counsel regarding specific legal matters requiring the provision of legal advice (Code of VA: §2.2-3711.A.8)

Secretary Meese **MOVED** that the Board go into Closed Session under the provisions of Section 2.2-3711.A.7, for Consultation with legal counsel pertaining to actual or probable litigation including briefings on:

Ganley and Surber v. GMU et al.
Jeong v. GMU et al
Morrison v. GMU et al.
Wright v. GMU et al.
Zahabi v. George Mason University et al.

and Section 2.2-3711.A.8 for Consultation with Legal Counsel regarding specific legal matters requiring the provision of legal advice concerning the aforementioned items. The motion was **SECONDED** by Vice Rector Peterson.
MOTION CARRIED UNANIMOUSLY BY ROLL CALL VOTE.

Yes – 14

Absent – 2 – Visitors Burke & Pence

Following closed session, Secretary Meese **MOVED** that the board go back into public session and further moved that by roll call vote the board affirm that only public business matters lawfully exempted from the open meeting requirements under the Freedom of Information Act were heard, discussed or considered in the closed meeting, and that only such business matters that were identified in the motion to go into a closed meeting were heard, discussed or considered in the closed meeting. Any member of the board who believes that there was a departure from the requirements as stated, shall so state prior to taking the roll call, indicating the substance of the departure that, in his or her judgment, has taken place. The was **SECONDED** by Visitor Witeck. **ALL PRESENT BOARD MEMBERS RESPONDED IN THE AFFIRMATIVE BY ROLL CALL.**

Yes – 15

Absent – 1 – Visitor Burke

IV. Adjournment

Rector Blackman called for any additional business to come before the board:

- Visitor Pence expressed that upon leaving the boardroom, each board member should depart with the belief that we are doing what is right for the university.
- Visitor Rosen relayed that there were two items in the meeting materials that weren't review today and would like to flag them for a future meeting in either July or September. They are standardized testing and the definition of antisemitism that Virginia adopted.
- Visitor Brown commended President Washington for the security measures taken at Mason.
- Visitor Stimson thanked Rector Blackman for his leadership. Rector Blackman stated it has been an incredible honor to serve the university.

Hearing no further business Rector Blackman adjourned the meeting at 4:15 p.m.

Prepared by:

Sarah Hanbury
Secretary pro tem

Attachment 1: Written Public Comments (10 pages)

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1. Name: Colin McAulay **Mason Affiliation:** Student

Comment: I am Colin McAulay, the newly elected Student Body Vice-President. I briefly want to share my experience from campaigning to achieve this office. Our platform, and core values, included support for DEI support units and Just Societies. We spoke with over 35 clubs which consisted of hundreds of students. We also spoke with many students sitting in the student centers, the dining halls, and the library. Overall, we spoke with over a thousand students. In each of these conversations, we mentioned the our support for DEI and Just Societies. Once, we faced pushback for this stance. Once in our three week campaign was someone against these programs. This, to me, is unequivocal evidence that the student body supports DEI and Just Societies. I hope that the Board of Visitors reflects that opinion.

2. Name: Gustavo Lanz **Mason Affiliation:** Student

Comment: DEI is something that must be preserved within the budget by the BOV.

3. Name: Keshawn Brown **Mason Affiliation:** Student

Comment: I believe in DEI programs. Cutting funding for this is very anti-black and would detrimental to the overall health of not only blacks , but also all minorities within the Mason community.

4. Name: Oluferanmi Olugbemi **Mason Affiliation:** Student

Comment: I love this school and I love my blackness but there are times I feel like I am not fully accepted here.

5. Name: Abeeku Morrison **Mason Affiliation:** Student

Comment: DEI provides opportunities to those who would not otherwise not have them. DEI has given me a feeling of belonging at a PWI.

6. Name: Jonathan Ogebe **Mason Affiliation:** Student

Comment: The Just Societies requirement needs to be upheld because our world is only becoming more diverse. By ignoring the histories and discrimination faced by BIPOC, Women, Disabled and LGBTQ+ people, not only would you be voting against the interests of Mason - considered to have one of the most diverse student bodies and the largest public school in VA - but you would also be devaluing the experiences of marginalized students and the quality of education of Mason's student body. Our lives and stories must be learned and valued.

7. Name: Sai padma sriya pothula **Mason Affiliation:** Student

Comment: Diversity matters to me because, it should matter to everyone.

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8. Name: laila nahidian Mason Affiliation: Student

Comment: FREE PALESTINE!!! Gmu needs to acknowledge the genocide and how they're complicit

9. Name: Darshini Mason Affiliation: Student

Comment: Diversity = broader knowledge

10. Name: Pranet Ok Mason Affiliation: Student

Comment: Cookies

11. Name: kavitha viswanadhan Mason Affiliation: Student

Comment: Diversity is important because it brings inclusion.

12. Name: Kai M Mason Affiliation: Student

Comment: Multiple perspectives

13. Name: Savannah Eakes Mason Affiliation: Student

Comment: diversity at george mason matters because without diversity there wouldn't be all these cool people at this school

14. Name: Bianca Johnson Mason Affiliation: Student

Comment: diversity is important because it allows everyone to see different perspectives of life.

15. Name: Giorgia Potter Mason Affiliation: Student

Comment: Diversity is important because it brings people together and it teaches people love and compassion for others

16. Name: Destiny Mercado Mason Affiliation: Student

Comment: Allows everyone to see and learn about different cultures

17. Name: Leah newlin Mason Affiliation: Student

Comment: Diversity is important because it creates a space for fun ! Everyone gets to meet new people and learn new things.

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18. Name: Sebastian Gutierrez Sandoval Mason Affiliation: Student

Comment: Diversity allows for different lines of thought to cross and build upon each other, and this is important to celebrate because of that. Emphasis on cultural clubs is one thing, but it would be nice to see a unison of representation while each retain their own values.

19. Name: Ian Dinwiddie Mason Affiliation: Student

Comment: Diversity important because of the diversity of opinions and life stories provides good insights into making a better campus and community.

20. Name: Austin Diaz Mason Affiliation: Student

Comment: The campus when it comes to diversity is very important to the community as a whole. Having different cultures and perspectives allows for discussion between everyone on campus

21. Name: Shauna Rigaud Mason Affiliation: Student

Comment: The Just Societies tag offers students an opportunity to learn about how we can be better humans to each across disciplines. It is not an indoctrination but rather a critical analysis of our current world. The faculty agreed on the implementation of this core study based off of the demands of students. It is an ill practice for the BOV to step in an attempt to supersede a decision made through shared governance of the faculty.

22. Name: Denise Albanese Mason Affiliation: Faculty

Comment: In mounting an attack on the Just Societies course approved by two previous BOVS, the current Board has exceeded its role as guarantors of fiduciary and procedural oversight and moved into realms for which its members have no relevant expertise. In so doing, they have violated the Faculty Handbook as well as the principle of academic freedom. I further note that their projected fears about students being “forced” to conform to professorial beliefs are an insult to faculty integrity—and they are one-sided fears, since it is equally likely students taking (e.g.) economics are also in the same position, but no concern was expressed by the BOV about that. Why the asymmetry?

23. Name: Dan Klein Mason Affiliation: Faculty

Comment: The leftist-flag initiative is unjust and should be scrapped.

24. Name: Sarah Ochs Mason Affiliation: Student

Comment: It is extremist, and unconscionable, that the BOV engage in interference in curricula. This must remain under the sole discretion of faculty, not administration. This

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interference is purely political, it is a power grab, and does nothing to improve student education or the quality of George Mason as an institution.

25. Name: Rose Cherubin **Mason Affiliation:** Faculty

Comment: Thank you for offering this forum. I think it is crucial to maintain faculty control over, and student input into, curriculum content and requirements. It is our (faculty) responsibility, and our research priority, to lead with well-informed research and changes based on that, selected to the benefit of students.

The Just Societies course flag is not a new program but rather a way of preparing students to think about and examine (not telling them what to think) about their own experience and those of others as they interact and lead locally and globally. It was approved by SCHEV, a state-mandated independent body. Attempts to override SCHEV would set a terrible precedent of ignoring non-partisan oversight in favor of personal views.

You have heard, at the previous meeting, the testimonies of students whose lives have been enriched and made safer by some of our Diversity, Equity, and Inclusion initiatives. That alone would be reason to retain the. But it is also relevant to mention that these initiatives were also crafted with input from faculty, staff, and students: not just by people specifically hired to DEI positions (of whom there are very very few at GMU), but by the community at large.

26. Name: Stephanie Kane **Mason Affiliation:** Faculty

Comment: It is imperative that decisions regarding student learning goals and course requirements be made solely by faculty members, in alignment with the principles of shared governance, free inquiry, and academic freedom. Allowing politics to interfere in the classroom would violate these principles. Faculty members are responsible for setting the curriculum at Mason, and any deviation from this standard would compromise the freedom to teach and learn on campus.

27. Name: Bethany Letiecq **Mason Affiliation:** Faculty

Comment: Dear GMU Board of Visitors:

My name is Bethany Letiecq. I am a faculty member at Mason in the CEHD and a leader of the GMU chapter and Virginia Conference of the American Association of University Professors (AAUP). The AAUP alongside the American Council on Education and the Association of Governing Boards of Universities and Colleges articulated in their 1966 joint statement that "When an educational goal has been established, it becomes the responsibility primarily of the faculty to determine the appropriate curriculum and procedures of student instruction." Good governance of our university requires that the BOV stay in their lane and cease their encroachment on faculty responsibilities. The BOV interrogation of the Just Societies core curriculum and the threat to derail the implementation of this new element of the core is a prime example of BOV overreach. The committee established to write up a report about Just Societies and the report itself likewise represent overreach. The Just Societies (JS) "flag" is not a program in need of monitoring. The BOV's interest in the JS appears to be predicated on its focus on diversity, equity, and inclusion. Anti-DEI efforts appear motivated

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by political operatives and their big money donors seeking to weaken public institutions of higher education. The BOV should resist political interference and uphold their commitments to academic freedom, and to Mason's faculty and students first and foremost.
Thank you.

28. Name: Dr. Mciehelle LaFrance **Mason Affiliation:** Faculty

Comment: The BOV should refrain from ideological oversight over curricular matters at GMU. Under no circumstances should political appointees or political operatives make decisions about student learning goals and course requirements. This kind of political interference in the classroom clearly violates foundational principles of shared governance, free inquiry, and academic freedom. Faculty, not political appointees, must set Mason's curriculum. Anything else is a structural violation of the freedom to teach and learn on campus.

29. Name: Min Park **Mason Affiliation:** Faculty

Comment: Under no circumstances should political appointees or political operatives make decisions about student learning goals and course requirements. This kind of political interference in the classroom clearly violates foundational principles of shared governance, free inquiry, and academic freedom. Faculty, not political appointees, must set Mason's curriculum. Anything else is a structural violation of the freedom to teach and learn on campus.

30. Name: Mark Koyama **Mason Affiliation:** Faculty

Comment: I believe very strongly in academic freedom and in faculty determining what they teach their students. However, this freedom only makes sense if students have full freedom to sort into classes they are interested in! I am deeply concerned about the Just Societies requirement because it obligates students who might not otherwise be interested to take certain courses. In other words, it reduces the ability of students to specialize in their fields of interest.

If it is true "employers have increasingly rated the ability to work effectively in diverse teams and to understand different cultures as key characteristics needed in college graduates" then students will choose these courses. They do not need to be required to do so.

Moreover, I share the concerns of many that the specificity of the learning outcomes, such as requiring students to "define key terms related to justice, equity, diversity, and inclusion" and "articulate obstacles to justice and equity, and strategies for addressing them," veers too close to compelling faculty to teach and assess a particular ideology or set of beliefs. Despite the assertion that "students are not expected to espouse a particular set of values," in practice these learning outcomes suggest certain conclusions deemed acceptable by the university. True academic freedom must allow for a wide range of perspectives to be shared and debated, without fear of administrative sanction if certain viewpoints are not sufficiently emphasized.

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Allowing faculty to organically incorporate themes of diversity and equity if and when relevant to their subject, rather than imposing a one-size-fits-all requirement, is more in keeping with principles of academic freedom and faculty autonomy over curriculum.

31. Name: G. Chesler **Mason Affiliation:** Faculty

Comment: As a university educator of 24 years and faculty at Mason for 11 years, I am appalled that a few members of the Board of Visitors are considering injecting their political beliefs into our curriculum design. Through Just Societies and the Mason Core, my colleagues have worked on an innovative curriculum that is appropriate to the world in which we live. That serves the tens of thousands of students at Mason. And which builds upon countless hours of research, assessment, consideration, deliberation, historical knowledge, socio-cultural analysis and quantifiable evidence.

The voices of our students at the listening session linger in my mind. How would they be served and respected if 4 voices on this board shift curricular design for thousands?

Leave the educating to us. The faculty.

I wish to reiterate the words of my colleagues who have been most vocal so far. "This kind of political interference in the classroom clearly violates foundational principles of shared governance, free inquiry, and academic freedom. Faculty, not political appointees, must set Mason's curriculum. Anything else is a structural violation of the freedom to teach and learn on campus."

32. Name: Maria Alejandra Romero Cuesta **Mason Affiliation:** Student

Comment: The programs, policies, and practices that create a space for students of all backgrounds are under attack. DEI doesn't just help build community, it is our community. Please don't destroy all the work and money that has already been placed into this programs. Taking away the funding will be the same as destroying your investment. If you care about your students and our community. Vote in favor of DEI and Just Societies. Vote for a Mason filled with love, community and knowledge. Thank you!

33. Name: Alexander Monea **Mason Affiliation:** Faculty

Comment: Hello, my name is Alexander Monea and I am a faculty member teaching at GMU. I am here today to join my colleagues in voicing concern over the Board's actions over the last couple of months. As a faculty member, I trust in the years-long, faculty-led, collaborative process that produced the Just Societies flag. We made our voices heard via public comment at the February 22 and April 2 Board meetings to demand the BOV keep its hands off the Mason Core. And then dozens of students, faculty, and staff came together at the Listening and Information Gathering Session on April 17 to ask the Board, again, to stay in its lane regarding Just Societies and other Diversity, Equity, and Inclusion initiatives at GMU, and that message carries through to today.

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The principles of the American Association of University Professors are clear. Only faculty have the disciplinary expertise and professional backgrounds to set university curriculum. The proper role of the board is to champion the university and exert oversight over the President's office regarding the financial and operational health of the university. Under no circumstances should political appointees or political operatives be making decisions about student learning goals and course requirements. This kind of political interference in the classroom clearly violates foundational principles of shared governance, free inquiry, and academic freedom.

Faculty, not political appointees, must set Mason's curriculum. Anything else is a structural violation of the freedom to teach and learn on campus.

34. Name: Amanda Leach Mason Affiliation: Student

Comment: The Board of Visitors fulfills an incredibly important role here at Mason, and we as the students respect all that you do for our community. That said, the Board members are not educators. While we recognize that you have been given the authority to make curriculum and academic decisions, we urge you to listen to and rely on the statements and knowledge of the experts in these fields. We recognize that the Board's decision may be influenced by political tensions, but we urge you to recognize that Just Societies is not any more political than the simple recognition that the world around us is full of people with different backgrounds and experiences. The Just Societies courses aim to help students navigate a diverse world. Please do not cancel an already approved program. We strongly urge you to approve the Just Societies requirement.

35. Name: Jeremy Otieno Mason Affiliation: Student

Comment: The Board of Visitors' meeting to even debate the end of DEI programs is extremely disturbing. As a student who is part of the African community at George Mason, DEI programs have given me access to community and information crucial to my personal development thus far. They have truly made me enjoy everything available at the university, and there is no chance I would have had as good of an experience without my brothers and sisters who orchestrate the DEI programs on campus.

I think the BoV fails to understand and recognize that people who don't fit into the majority demographic have a fundamentally different experience of institutions. There is a different path we need to navigate, and without the guidance of people who understand the nuance of these institutions, we cannot provide our utility and abilities to the highest degree. Students who are POC or in the LGBTQ community want to be useful and beneficial to society at large, which I think opposers to DEI are confused about. These programs are not about creating separation within the Mason community. They only allow us to find our voices and give us the knowledge and confidence necessary to be more productive and constructive in our community, regardless of our varying identities.

36. Name: Shelby Adams Mason Affiliation: Student

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Comment: As a Black woman, DEI offices, curriculum, and initiatives are and have been fundamental to my academic success, future career, and personal growth. I completed my undergraduate years and am currently pursuing my Master's in Public Policy here at Mason. I chose to come back to Mason due to the richness in diversity that comes from students, staff, and faculty here that have truly support me. I've taken classes that deepen my understanding of how the world works, how social frameworks interact, and how to make an impact in my community. Learning about the real history of not only my community, but other communities have given me the foundations of becoming a global citizen. Having the opportunity to deliberate with peers who I don't always agree with has allowed me to gain perspectives on worldly issues. DEI doesn't just mean amplifying the voices of marginalized communities, but also allowing an open space for opposite viewpoints to interact. I believe continuing the process and implementation of the "Just Societies" course will allow future generations to be able to gain that cultural understanding that the current trajectory of the world needs and demands. Most importantly, I wouldn't be where or who I am today if it wasn't for DEI offices, such as the Center for Culture, Equity, and Empowerment that have supported my journey here as a Mason student and given me a sense of belonging. CCEE and other DEI initiatives have given me the tools of civic engagement, community building, cultural understanding, and overall building my voice. They've allowed an open space for students, faculty, and staff to affirm or challenge their thoughts. This can be seen through the workshops, events as well as the open space that continues to foster healing spaces for students. The lessons, the hard truths, the resources, all gifted to me by Mason, specially the academics and DEI offices, have made me prepared to tackle real world issues and truly make the impact I would like in this world.

37. Name: Ben Dover Mason Affiliation:

Comment: The new logo just sucks

38. Name: Gabriel Curtis Mason Affiliation: Student

Comment: Board of Visitors,

I hope this message finds you well and that you will make time to read the entirety of it. My name is Gabriel Curtis, I have serious grievances with the financial decision-making of this university and despite many provided solutions and efforts to work with Rose Pascarell and Deb Dickenson, the executive administration has done nothing to remedy these grievances. Thus the Board of Visitors, with whom I hope share the same values of stewardship, transparency, and importance of choice, is the only group that can now help.

My first grievance is that Mason has not properly informed student of why tuition and fees are increasing, demonstrating a lack of good stewardship, nor involved them in the decision making, demonstrating a lack of stakeholder consideration. I asked Deb Dickenson for details regarding what costs are increasing and what additional projects the university pursuing that requires the additional money. Her response was the the budget is still in the works and that it will be prepared on May 2nd which is not helpful as the budget will be voted on that date. I

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have asked for students to be included in discussions surrounding the allocations of this funds, considering students are required to pay them, and every time I have been met with different forms of stonewalling or redirection. The 2023-24 Budget reports that George Mason University will collect over \$514M in tuition and fees from students, 66.32% of the total revenues. Not only is our money more than half of the budget but it represents an estimated increase of 3.62% despite the estimated increase in state appropriations of 22.47% to \$327M; for comparison UVA's estimated increase in state appropriations is 9.44%. George Mason University is requiring students to pay more to attend despite a massive boost in state funding, that students advocated for during their annual visits to Richmond during Mason Lobbies. Students worked hard to get the additional funding and our reward is no involvement in how the money is spent. If you value transparency and stewardship this should not sit well on your heart, please help provide students with the details of how their money is being spent or at least provide them a representative.

A good financial steward is transparent about how they spend their client's money, how would you feel if your wealth advisor did not respond to your request to see the equities that make up portfolio they have invested your money into? This has been my continual experience regarding tuition and fees. Many students have questions regarding the

39. Name: Malda Kocache Mason Affiliation: Faculty

Comment: Under no circumstances should political appointees or political operatives make decisions about student learning goals and course requirements. This kind of political interference in the classroom clearly violates foundational principles of shared governance, free inquiry, and academic freedom. Faculty, not political appointees, must set Mason's curriculum. Anything else is a structural violation of the freedom to teach and learn on campus.

40. Name: Julia Jarvis Mason Affiliation: Faculty

Comment: Faculty, not political appointees, must set Mason's curriculum. Anything else is a structural violation of the freedom to teach and learn on campus.”

41. Name: James H. Finkelstein Mason Affiliation: Professor Emeritus

Comment: I want to commend Chief Rowan for his report to the Board of Visitors regarding the Mason Police Department's investigation of the threats made against Professor Bethany Leteicq and their swift action to protect her academic freedom. In the current climate, it should not escape anyone's attention that perhaps the most aggressive protectors of academic freedom turn out to be Mason's law enforcement officers. I hope that the Board of Visitors will demonstrate its commitment to academic freedom in as demonstrably a manner as the Mason Police.

42. Name: Todd Mason La Porte Mason Affiliation: Faculty

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Comment: My name is Todd La Porte; I am a faculty member teaching at the Schar School here at GMU. I am concerned about recent Board actions with respect to possible limitations on the faculty's independence in curriculum development, course topics, reading selections and teaching approaches. Academic freedom is a cornerstone principle of American higher education, a principle that has made our education system the envy of the world. It is a beacon of freedom and dignity that all humans aspire to.

It is also the product in part here at Mason of years-long, faculty-led, collaborative processes, one outcome of which is the general education system, which includes a number of key areas that the faculty believe deserve foundational status in our teaching, as we assist in the pursuit of a healthy, fair and equitable society.

I urge you to resist efforts to undermine these principles and practices through over-reaching into curricular matters. The principles of the academic freedom are clear. Only faculty have the disciplinary expertise and professional backgrounds to set university curriculum. The proper role of the board is to champion the university and exert oversight over the President's office regarding the financial and operational health of the university.

Under no circumstances should political appointees or political operatives be making decisions about student learning goals and course requirements. This kind of political interference in the classroom clearly violates foundational principles of shared governance, free inquiry, and academic freedom. Once started, political interference in curricular matters does not stop, and leads inexorably to a deterioration of inquiry and discourse, ultimately resulting in second- rate thinking and loss of economic vitality and diminished freedom.

Faculty, not political appointees, must set Mason's curriculum. Anything else is a violation of the freedom to teach and learn on campus.

2023-2024 BOV Assessment Update

Per Article VI.3 of the [bylaws](#), the Board shall conduct a self-evaluation of its responsibilities and expectations at least once every two years, using a process determined by the Executive Committee and approved by the Rector.

2022-2023 Survey Overview and Updates:

- As part of the requirements from The Southern Association of Colleges and Schools Commission on Colleges (SACSCOC) to develop a board self-evaluation process, the Executive Committee approved the continued use of a survey for the self-evaluation process during their September 29, 2022 meeting.
- The survey was emailed to the entire Board on Tuesday, January 3, 2023, and the period of completion closed on Wednesday, January 18, 2023, with the results relayed at the February 23, 2023 full board meeting. Please refer to those [meeting minutes](#) for specifics.
- During the February 23, 2023, full board meeting Rector Blackman thanked the Board for their feedback and relayed that action would be taken to address some of the feedback. Commitments were made for the following:
 - Provide more opportunities for board members to engage with on-campus activities.
 - Follow-up: Multiple invitations were sent between January 2023 and the present time:
 - January 7, 2023 - Men's Basketball Games/Various
 - January 25, 2023 - Invite to join Mason Alumni in Richmond
 - April 20, 2023 - Campaign for Mason Gala Invite
 - April 28, 2023 - Hylton Performing Arts Center's 13th Anniversary Invite
 - May 5, 2023 - Honors College Spring Exhibition and Awards Ceremony Invite
 - May 8, 2023 - Student-Athlete Mental Health Reception and Discussion Invite
 - May 9, 2023 - OSCAR Celebration Invite
 - May 18, 2023 - Spring Commencement Invite
 - May 19, 2023 - Schar School Degree Celebration Invite
 - August 18, 2023 - New Student Convocation Invite
 - September 28, 2023 - Mason Now: Power the Possible Celebration Invite
 - September 30, 2023 - ARTS by George 2023 Invite
 - October 18, 2023 - BOV, BOT, and Alumni Association Board Recognition Reception Invite
 - November 30, 2023 - School of Business Renaming Celebration Invite
 - December 3, 2023 - Celebration of Giving Invite
 - December 8, 2023 - President's Holiday Open House and Reception Invite
 - December 14, 2023 - Winter Graduation Invite
 - January 23, 2024 - Democratic National Committee Event Invite
 - March 17, 2024 - BOV & BOT Social Activity - Wizards/Celtics Game
 - March 27, 2024 - ACTA Debate at Mason Leadership Summit Series
 - April 10, 2024 - Mason Autonomy and Robotics Center Grand Opening
 - April 11, 2024 - ACTA Webinar: Antisemitism, Academic Freedom & Board Leadership
 - April 17, 2024 - Listening Session - Just Societies Core and DEI Units at Mason
 - April 27, 2024 - Hylton Performing Arts Center Gala

- April 29, 2024 - OSCAR Celebration Invite
- May 2, 2024 - Annual Food for Thought Invite
- May 9, 2024 - Spring Commencement Invite
- May 10, 2024 - Schar School Degree Celebration Invite
- It's Important to note that individual university units (Examples: Advancement & University Life) reach out to individual BOV members to make them aware of activities and/or events of interest.
- Mixed feedback on the length of meetings. Work toward finding the optimal balance.
 - Follow-up: Beginning with the February 22, 2024 meeting, an abbreviated format was attempted that includes an adjusted approach for presentations which placed more emphasis on read-ahead materials to allow more available time for discussion.
- Online attendance and virtual committee meetings could boost effectiveness. Rector Blackman informed the board that virtual meetings are governed by state law. Will work within the current restraints to make meetings more effective for everyone.
 - Follow-up: Individual virtual attendance meeting dates that were approved by the rector:
 - September 28, 2023 (Rosen)
 - November 30, 2023 (Blackman & Alacbay)
 - December 14, 2023 (Gray & Oberoi)
 - February 22, 2024 (Oberoi)
 - May 2, 2024 (Rosen)
- More information is desired on the following topics:
 - How the university ensures student success.
 - Follow-up, by Rose Pascarell, Vice President of University Life:

Response to board request for more information (from a survey administered 2/23) – Provide more info on “How Mason Ensures Student Success.”

Mason’s approach to student success has consistently produced overall degree completion rates (72%) that are 8% above the national average and 14% above the average for public institutions. Within six months of graduation, as noted in our Career Outcomes survey, our graduates cite an 87% positive career outcome. These sector-leading achievements are produced in partnership between University Life, Academic Affairs, Enrollment Management, and academic units at Mason.

Our approach to student support is both comprehensive and customized to respond to emerging student needs – starting with the way future Patriots are identified through the recruitment/admissions process. Once students select Mason to meet their educational goals, students go through a robust onboarding experience – inclusive of on-demand digital assets and direct contact through the New Student Orientation process. As part of the first-year experience, students learn about career planning as well as multiple internships and experiential learning opportunities. The Patriot Success survey is administered after the first 6-8 weeks of the semester to identify at-risk students and to provide individualized interventions.

As students continue their studies at Mason, a three-tiered approach to student success works to make sure that students are supported as they advance toward their degree – the Mason Student Services Center, Student Success Coaches, and Academic Advising. Every incoming student is assigned an academic advisor and a student success coach. The Mason Student Services Center is the first stop and the central resource for information and solutions related to registration, enrollment, financial aid, billing, academic records, and other student support services. The three functions work together to provide a robust safety net for student success.

Beyond centralized support services, many colleges provide additional support for their students through advising, mentoring, and experiential learning programs. To help ensure student success, every school and college at Mason provides opportunities for students to engage in learning outside the classroom that will directly enhance their job prospects. Faculty are better able to focus on classroom instruction when central and academic unit support is coordinated like this.

In the last three years, there has been a strong, critical focus on two areas: 1. Overall student well-being, particularly mental health awareness and support services in response to the alarming number of students with mental health issues; and 2. Financial well-being, including increased aid, on-campus job opportunities, a talent development program for students with on-campus internships, and additional related support services. Holistic student support services are offered at scale and customized to meet individual students' needs. Some examples include personal counseling/therapy, disability and accommodations, veteran's affairs, emergency financial aid, an on-campus food pantry, and a temporary housing program. Students also work closely with Career Services and their academic units to find internships and other work experiences to enhance their learning and increase their marketability for jobs post-graduation.

In addition, student involvement in the hundreds of clubs and organizations, including student government, is encouraged. Programming events occur throughout the year to increase student community, connection to Mason, involvement, engagement, and success. Mason hosts the largest career fair in the Northern Virginia area, with over 120 employers participating by providing information and conducting on-the-spot interviews with students.

Finally, in addition to academic support from faculty, all students have access to the Writing Center, Tutoring, and Learning Services.

- The tenure review process and metrics associated with awarding tenure.
 - Follow-up: The provost detailed this process during the introduction session of new board members. The provost additionally detailed the process at the APDUC and full board meetings on September 28, 2023. The provost discussed this process in the APDUC Meeting on February 22, 2024. Meeting [recordings](#) can be referenced on the BOV website under the [Archive](#) header.

- **Research impact of faculty and graduate students.**
 - Follow-up by Andre Marshall, Vice President for Research, Innovation, and Economic Impact: I am pleased to present the research impact of our faculty and graduate students. Our community of scholars not only advances knowledge but also drives innovation, fosters economic growth, and addresses critical societal challenges. These research contributions have been organized according to George Mason strategic priorities.

Pillar 1. Deliver a distinctive and inclusive student experience that fosters lifelong engagement

Mentorship and Teaching

Our faculty are dedicated mentors, guiding graduate students in their research and professional development. Our PhD graduates secure positions in academia, industry, or government. Innovations in teaching, such as incorporating cutting-edge research into the curriculum, ensure that our students receive a world-class education that prepares them for future challenges. Examples of this preparation include the new Jimmy and Rosalynn Carter School for Peace and Conflict Resolution course *Fragile States Policy* where students have the opportunity to work on priority research [with the U.S. Department of State](#); and [the new course *Managing Large Government Crises*](#) in the Schar School of Policy and Government which teaches graduate students how to successfully manage large-scale crises while simultaneously preparing them for even more prominent public-facing roles.

Pillar 2. Expand the impact of Mason's research, scholarship, and creative enterprise

Research Funding

Our researchers secured over \$200M in FY24 funding from prestigious organizations such as the National Institutes of Health (NIH), the National Science Foundation (NSF), and critical executive departments such as the Department of Defense (DoD). This funding not only supports cutting-edge research but also demonstrates the high regard in which our scholars are held by the broader scientific community. These funds enable us to invest in state-of-the-art research facilities, attract top-tier talent, and foster an environment conducive to innovative research. Some examples of funding include: 1) A joint \$5M contract from the 9th Air Force Central Command led by CEC Computer Science Prof. Amarda Shehu and Costello College of Business Assoc. Prof. Brett Josephson. Among other things, the effort will help AFCENT improve how it counters hostile unmanned systems and how it uses digital twins to improve the resilience of critical supply chains; 2) The College of Science will be the home of the \$19.5M [Landolt NASA Space Mission](#) that will put an artificial "star" in orbit around the Earth; and 3) Scientists, nurses, and researchers in the College of Public Health received [\\$1.78M from NIH for work improving the health of mothers and children](#).

Interdisciplinary Research Collaborations

Our researchers collaborate across disciplines to tackle complex societal challenges. For example, the [\\$1M grant](#) from the U.S. Senate establishes the nation's first Center for AI Innovation for Economic Competitiveness. The interdisciplinary center, which is

expected to bolster the economic competitiveness of small and medium enterprises across Virginia, will draw expertise from the Schar School of Policy and Government, the College of Humanities and Social Sciences, and the College of Engineering and Computing. Such collaborations enhance the impact of our research and demonstrate our ability to address multifaceted issues through a holistic approach. Another prime example is Dr. Katherine Scafide's [\\$4.85 million award](#) by the International Association of Forensic Nurses to continue her groundbreaking research on bruise and injury detection for individuals who experience interpersonal violence.

Publications and Citations

Our faculty and graduate students have published groundbreaking research in top-tier journals such as Nature and Science. For instance, Dr. Rainald Lohner's work in the area computational fluid dynamics has been cited over 18,000 times, reflecting its significant influence on a diverse range of challenges such as air and underwater explosions, hemodynamics of vascular diseases, and contaminant and pathogen transport. Lohner's recent efforts applied computational fluid dynamics to the problem of COVID-19 transport receiving national attention from major media outlets. These publications contribute to our university's reputation as a leading research institution and demonstrate our commitment to advancing scientific knowledge.

Patents and Innovations

Our researchers have filed 56 patents in the past year alone, covering diverse areas such as biotechnology, renewable energy, and artificial intelligence. This fall, the National Academy of Inventors ranked George Mason among the top 100 universities granted patents during 2022. Researcher Prof. Yuntao Wu, a professor in Mason's School of Systems Biology and the Center for Infectious Disease Research, was awarded two patents in 2022 for his work on HIV: "Targeting the Cofilin Pathway" and "Method and System for Inactivating Virus Infectivity for Producing Live-Attenuated Vaccines."

Graduate students are actively involved in these innovations, often leading to the creation of startups. One example is the biotech startup "NIRView Biosciences," founded by now postdoctoral fellow Shristi Singh and her bioengineering faculty mentors Profs. Remi Veneziano and Parag Chitnis

Policy Impact

Research conducted at our university has a direct impact on public policy. Dr. Michael Brown's work on public health interventions has been instrumental in shaping state health policies, leading to improved health outcomes and reduced healthcare costs. Similarly, the Greg and Camille Baroni Center for Government Contracting in the Donald G. Costello College of Business is [working with the federal government](#) to reform the military's Cold War-era processes that will speed the development and acquisition of new military capabilities, informing and benefitting policymakers. In addition, numerous faculty and students actively participate in advisory boards and

policy-making committees, ensuring that our research informs and influences critical decisions at local, national, and international levels.

Recognitions

Our faculty and graduate students have received numerous prestigious awards. Last year three CHSS faculty received prestigious National Endowment for the Humanities (NEH) Awards while Dr. J. Luis Rodriguez was honored with the inaugural [Martin J. Sherwin Fellowship](#) by the Woodrow Wilson International Center for Scholars. Furthermore, eight George Mason [faculty from seven colleges](#) will travel the globe this academic year to share their expertise as Fulbright Scholars. Such recognitions not only honor individual achievements but also enhance our university's prestige and attract further opportunities for collaboration and funding.

Pillar 3. Expand partnerships for economic and social impact

Industry Partnerships

Partnerships with industry are a cornerstone of our research ecosystem. Collaborations with companies such as [Google](#) and [Micron](#) not only provide funding and resources but also facilitate the translation of research into real-world applications. An innovative [P3 Faculty Fellows](#) program developed by the Institute for Digital Innovation (IDIA) headquartered in Fuse at Mason Square fosters these important partnerships by connecting faculty with industry partners for collaborative research. These partnerships lead to internships, job opportunities for our students, and tech translation, strengthening the link between academia and industry.

Community Engagement

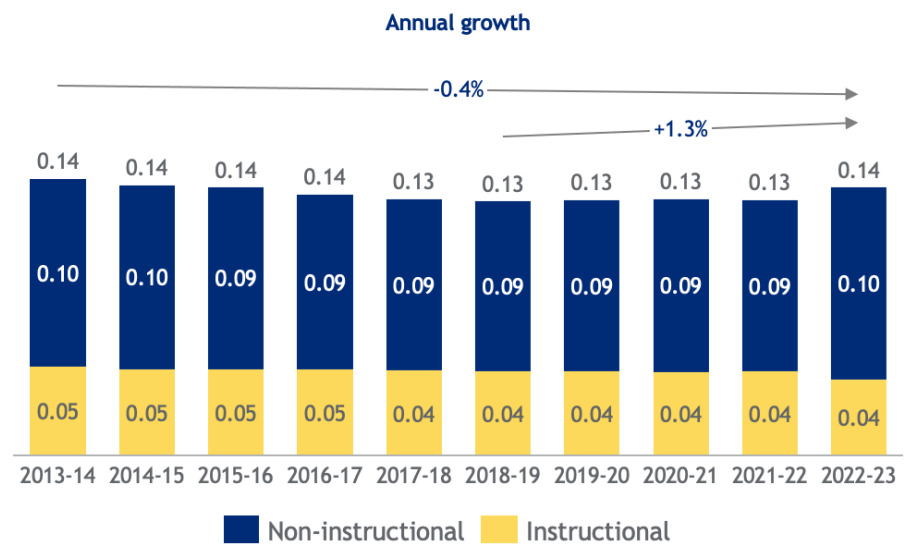
Our faculty and students engage in numerous community projects addressing issues such as education, public health, and environmental sustainability. At the College of Education and Human Development, a [team of researchers](#) is helping transform how Alexandria public schools support immigrant students and their parents using an approach called “community-based participatory action research”. And students in the Center for Adaptive Systems of Brain-Body Interactions NSF Research Traineeship Program are [learning how to apply interdisciplinary](#), community-focused research to find solutions to the world’s grand challenges. Efforts such as these not only fulfill our mission of community service but also provide practical experience for our students, enhancing their education and fostering a sense of civic responsibility.

At a top-tier research university, the impact of our faculty and graduate students is profound and multifaceted. Through their research, they push the boundaries of knowledge and innovation. Through their teaching and mentorship, they prepare the next generation of leaders. Through their engagement with the community and industry, they drive societal progress and economic development. Your continued support is crucial in sustaining and enhancing this impact. Together, we can ensure that our university remains at the forefront of academic excellence and societal contribution.

- Fluctuations in faculty and staff ratios over time.

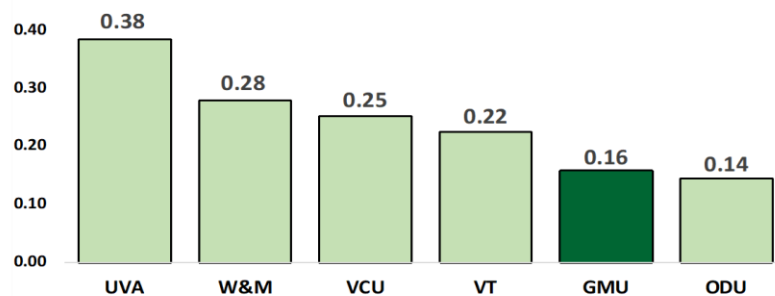
- Follow-up by Mary Lucal, Vice President and Chief Human Resources Officer:
Over the past 10 years, George Mason has increased both Faculty and Staff positions commensurate with continued enrollment growth. In Fall 2023, GMU welcomed the largest student body in Commonwealth history, surpassing 40,000 students. Faculty/Staff ratios relative to Full Time Equivalent (FTE) Students have remained relatively steady over the past 10 years as illustrated in the graph below from the Commonwealth's 6 Year Plan Fact Pack (current refreshed draft through FY23). The graph presents Full Time positions in relation to Student FTE and reveals a slight decline over the 10 years of -0.4%, with a 1.3% annual growth in the most recent 5 years.

Full-time employees per student FTE



While the numbers above reflect full-time positions, GMU also relies on Adjunct Faculty and Part-Time Staff to deliver services to students. The chart below reflects Employee FTE, inclusive of Adjuncts and Part-Time employees, in relation to Student FTE for Mason and our Virginia doctoral peers.

Total Employee FTE / Total Student FTE



Mason maintains much leaner operations with significantly fewer FTE employees per student than nearly all Virginia doctoral peers.

- Ongoing dialog with Commonwealth agencies and elected officials.

- Follow-up by Paul Liberty, Vice President of Government and Community Relations:
 - The President and other leaders at George Mason University meet with members of the executive and legislative branches on a regular basis. These appointed and elected officials are key stakeholders when it comes to the successes of the university. The Board of Visitors receive updates at each meeting in the President's Report on this engagement activity.

If the executive committee and rector reaffirm the use of this process/survey, during their first fall meeting of 2024, the next self-evaluation would occur in January of 2025.



COMMONWEALTH of VIRGINIA

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August 2022

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What Every Board Member Absolutely *has* to Know about FOIA

Do not underestimate the importance of Virginia's Freedom of Information Act ("FOIA"). This is very serious business. These are laws -- not just corporate bylaws or operating protocols that can be disregarded. Violations risk invalidation of board decisions and expose the institution and you personally to embarrassment, litigation, and civil penalties of up to \$5,000.¹ The greatest loss, however, is the resulting damage to public confidence in you and the institution. In fact, the Governor could publicly request your resignation.

The idea behind FOIA (which was first enacted in 1968) is that the Government's business is the people's business. FOIA ensures that citizens have the right to inspect and copy public records and to attend public meetings.²

FOIA governs many aspects of the operation of boards, and has wide application to the conduct of members, even when they are not at meetings. All members must be aware of the basic requirements of FOIA.

This Synopsis and FAQs are designed to give the Board of Visitors ("BOV" or "Board") a basic understanding of their personal responsibilities under FOIA and to ensure that you are aware that FOIA compliance is your responsibility. It is not comprehensive. It does not cover all aspects of FOIA. Whenever you have any concerns, questions, or uncertainties about FOIA or its application, you should contact your FOIA Officer or University Counsel.

¹ § 2.2-3714.

² § 2.2-3700.

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VIRGINIA'S FREEDOM OF INFORMATION ACT: SYNOPSIS

Documents and Email

- FOIA broadly guarantees public access to public records, including your notes and correspondence concerning University business. This includes e-mail, text messages, voice mail message, digital documents, and even preliminary drafts of documents.³ There are numerous exemptions, which are all fact-specific.⁴ Always be sensitive to the potential for public disclosure of your written communications. Any request by the press or any person to inspect your public records should be brought immediately to the University's attention to ensure a timely and proper reply. Oral and informal requests to you are considered legitimate FOIA requests. Any request for public records, regardless of the request, is a FOIA request.

Meetings

- Unlike the private sector, the public (including employees of the institution) and press have a right to be present at your board and committee meetings.⁵
- All meetings of the Board, including its committees and subcommittees, in addition to any other group or entity appointed by the Board to advise it or exercise delegated power, must be conducted in an open meeting with at least three working days advance public notice of meeting time and location.⁶ It does not matter that a meeting involves no actual voting or transaction of business, such as, for example, retreats.⁷ A meeting exists in the eyes of the law whenever three or more Board members meet and discuss any University matter.⁸ Voting on any University action must always be conducted in open session.⁹ Voting by secret ballot or proxy is prohibited.¹⁰
- Once properly convened and in open session, discussions regarding certain limited topics can be held in closed session.¹¹ The justification for closed session does not depend on whether a subject may be very sensitive or political, or that a confidential setting might encourage more candid exchanges. Closed sessions must be specifically authorized by FOIA.¹²
- Also, to go into closed session, certain specific procedural steps must be taken, including:¹³
 - Advance public notice for the meeting must have been given.

³ § 2.2-3700.

⁴ See § 2.2-3705.1-3705.8.

⁵ § 2.2-3700.

⁶ § 2.2-3707.

⁷ § 2.2-3701.

⁸ § 2.2-3701.

⁹ § 2.2-3711(B).

¹⁰ § 2.2-3710.

¹¹ § 2.2-3711.

¹² § 2.2-3711.

¹³ For "closed session" procedures, see § 2.2-3712.

- During the meeting in open session, the Board must vote on a motion authorizing a closed session. This public motion must reasonably identify both the purpose for the closed session and the subject for discussion.
 - While in closed session, the discussion must be related only to the topic identified in the public motion. Take care not to digress into any unrelated areas or other subjects, even if those topics would be eligible for closed session with a proper motion. It is your responsibility both as a matter of law and common sense that you stick to the subject matter described in the motion authorizing the closed session.
 - Any action the Board wishes to take as a result of discussions in closed session must be voted on in open session.
 - When discussion in closed session is adjourned, the chair of the meeting should immediately direct the opening of doors and inviting public/staff into the room for open session.
 - Once back in open session, each member of the body will then be required to certify publicly that his or her discussion in closed session was proper and related to the permitted subject set forth in the motion convening the closed session.
 - The law requires you to invite your University Counsel to all BOV and committee meetings, including all closed sessions. This also protects the Board in the event the discussion in closed session is questioned.
- There are two ways the Board can meet by electronic communications means (such as by telephone or video conference):
 - First, if the Governor has declared a state of emergency (or the Board's locality has declared a local state of emergency), and the catastrophic nature of the declared emergency makes it impracticable or unsafe to assemble a quorum in a single location, the Board can meet by electronic communication means as long as the purpose of the meeting is to provide for the continuity of operations of the public body or the discharge of its lawful purposes, duties, and responsibilities. The public must be given notice of such a meeting at the same time as Board members, using the best available method given the nature of the emergency. The Board must also make arrangements for public access to such meeting through electronic communication means used by the public body.¹⁴
 - Second, the Board may hold an "all-virtual" electronic meeting provided that (1) the all-virtual nature of the meeting and the means for public electronic access to the meeting are disclosed in the public notice of the meeting;¹⁵ (2) the electronic communication means used for the meeting must allow the public to hear all members of the Board or committee participating in the meeting and, when audio-visual technology is available, to see the members of the Board or committee as well; (3) the Board staff monitor the electronic communication means during the meeting and ensure that any interruption of audio or video results in a suspension of action at the meeting until repairs are made and public access is restored; and (4) the proposed agenda and all agenda packets (including, unless exempt, all materials furnished to members for the meeting) are made available to the public

¹⁴ § 2.2-3708.2 (effective September 1, 2022).

¹⁵ Once public notice has been given, the electronic communication means for the meeting cannot be changed without issuance of a new meeting notice.

in electronic format at the same time that such materials are provided to Board.¹⁶ There are two important caveats to the all-virtual meeting rule:

- During all-virtual meetings, no more than two members of the Board or committee may be together in one remote location unless that remote location is open to the public to physically access it.
 - The Board or any individual committee may not convene an all-virtual meeting i) more than two times per calendar year or 25% of the meetings held per calendar year rounded up to the next whole number, whichever is greater; or ii) consecutively with an all-virtual meeting.
- An individual Board member may participate in a Board or committee meeting by electronic communication means is if before or on the day of the meeting, a board member notifies the chair that (1) the member (or a family member in the Board member's care) has a temporary or permanent medical condition that prevents the Board members' physical attendance; (2) that the Board member's principal residence is more than 60 miles from the meeting location identified in the public notice for such meeting; (3) that the Board member is unable to attend the meeting due to a personal matter (which must be specifically identified). However, a Board member may not use remote participation due to personal matters more than two meetings per calendar year or 25 percent of the meetings held per calendar year rounded up to the next whole number, whichever is greater.¹⁷ In addition:
 - The Board must have: adopted a written policy allowing for and governing participation of its members by electronic communication means, including an approval process for such participation, which must be applied strictly and uniformly, without exception, to the entire membership and without regard to the identity of the member making the request or the matters to be considered or voted on during the meeting;
 - There must be a quorum of the Board or committee physically assembled at the primary meeting location; and
 - The Board must make arrangements for the voice of the remote participant to be heard by all persons at the primary meeting location.

Whenever a member wants to participate by telephone (or other means of electronic communication), please consult with University Counsel.

¹⁶ § 2.2-3708.3(C) (effective September 1, 2022).

¹⁷ § 2.2-3708.3(B) (effective September 1, 2022).

Frequently Asked Questions

FOIA GENERALLY

What does FOIA do?

In general terms, FOIA defines what a meeting is and requires that all meetings be open to the public.¹⁸ It also prohibits discussion of public business among members outside of meetings.¹⁹ There are, however, exceptions to these general meeting requirements that each member should be familiar with.²⁰

FOIA also requires that all public records (with some limited exceptions) be made available upon request to members of the public for inspection and copying.²¹

All public records and meetings are *presumed* open, and the Board and the institution have the burden always of being prepared to prove that there was a legitimate reason for closing meetings or withholding records.²²

FOIA also requires that its open government provisions be liberally construed, and its exemptions be narrowly construed. This means that you should always err on the side of leaving meetings open rather than closing them, and releasing documents rather than withholding them.²³

Whenever you have specific questions about FOIA or its requirements, please do not hesitate to contact counsel.

FOIA requires that some records be withheld and some meetings be closed, right?

Wrong. The exemptions to disclosure of records and for closed sessions are discretionary, not mandatory. There is no penalty for *releasing* records that *could* be withheld under a FOIA exemption (though other provisions of federal and state law, such as FERPA, may prohibit disclosure). There is also nothing that says a meeting *must* be closed just because it *could* be closed under a meetings exemption under FOIA. Please contact counsel if you have concerns about federal or state law that might prohibit release of information.

Who does FOIA apply to?

FOIA applies to all public bodies. In the context of public institutions of higher education, that means that FOIA applies to the institution and all of its officers (including members of the Board) and employees.²⁴ It also applies to the operations of the Board itself together with all of its

¹⁸ § 2.2-3700.

¹⁹ § 2.2-3707.

²⁰ §§ 2.2-3707.01 and 2.2-3711.

²¹ § 2.2-3704.

²² § 2.2-3700(B).

²³ § 2.2-3700(B).

²⁴ § 2.2-3700.

committees and subcommittees, and any other groups or entities appointed by the Board to advise the Board or exercise delegated functions.

MEETINGS

Meetings Generally

Can we meet without telling anyone? ²⁵

FOIA requires that all meetings of the Board or any committee or subcommittee be advertised to the public for at least three working days. The notice requirements of FOIA are very specific. The secretary to the Board will handle the details of complying with these. Members of the Board, however, should be aware that any meeting called must be far enough in advance that the secretary has time to prepare the notice properly and advertise the meeting for three working days in the various ways required by FOIA. Any materials the institution supplies to Board members before the meeting also must be supplied to the public at the same time, with the exception of documents that are specifically exempt under FOIA from disclosure.²⁶ This includes any materials one Board member sends to all other members.

If your bylaws call for more notice for meetings than FOIA does, you must comply with the stricter provisions of the bylaws.

Can less than a quorum of the Board – say three or four members – get together informally to discuss affairs of the institution?

No. A gathering of three or more members of the Board where business is discussed is illegal, unless the gathering has been properly advertised for at least three working days as a meeting. It does not matter that a quorum was not present.²⁷ If more than two Board members serve on an institution-related foundation's board, FOIA will likely be violated.

This prohibition is generally against *three or more* members discussing public business. *Two* members may discuss public business in person, on the phone, or otherwise, with one notable exception. If those two members constitute either the entirety or a quorum of a committee or subcommittee, or other group that has been designated by the Board or Board Chair to advise the Board or has been delegated some responsibility by the Board, then any discussions between them must be properly advertised as a meeting. Otherwise, the gathering is an illegal “meeting” under FOIA.²⁸

Can't I even go to a cocktail party or dinner with two (or more) other Board members?

Yes, of course you can. While there, you may even discuss business with *one* other member at a time.

²⁵ For details see § 2.2-3707.

²⁶ § 2.2-3707(F).

²⁷ § 2.2-3707.

²⁸ § 2.2-3701.

Three members, however, may not discuss public business together, and a third member may not listen to the conversation of the other two.

Please keep in mind that this prohibition applies at *all* times and in *all* places – including, for example, lunches, dinners, and social occasions held in conjunction with Board meetings or at annual professional conferences. For example, if a Board holds a luncheon between the morning and afternoon sessions of a meeting, the Board must advertise the luncheon as a meeting and have the luncheon open to members of the public, or ensure that Board members do not discuss any public business during the luncheon. That’s a difficult task, but a mandatory one.²⁹

The Board wants to take a bus tour of campus and our new facilities during a break at our Board meeting. Any problem with this?

No, provided that arrangements are made also for members of the press and public to be present whenever any institutional business is discussed. That means you might need a big bus if any discussions will take place on the bus. (This was a real-life problem at another institution.)³⁰

Our Board members routinely serve on ad hoc committees or task forces. Must the institution advertise these meetings?

If three or more Board members are on a committee, the meetings must be noticed. You can avoid noticing all of these meetings by having only one or two board members on the committee or task force.

We hold an annual retreat. This is a very informal work/training session. No business is conducted and no action is taken. Do we have to advertise this meeting and allow the press and members of the public to attend?

Absolutely. Any get-together of three or more members at which the business or operations of the institution are discussed is a “meeting” under FOIA. Retreats and work sessions are no exception. They must be properly advertised, and must be open unless an exemption applies to a specific matter under discussion.³¹

Who can come to our meetings?

Anybody who wants to may attend your meetings. All meetings must be open to the public. Any member of the public (including, of course, press, employees, and students) has a right to attend, listen, and make a video or audio recording of any meeting. The Board can put reasonable restrictions on recording to ensure that actions of the press or public do not disrupt the meeting.

You will, at times, have outside consultants present at your meetings. They will not be familiar with FOIA and may expect or request confidentiality that FOIA does not permit. The Board and staff should provide these consultants with information that will reduce the conflict between their expectations and what FOIA permits.

²⁹ § 2.2-3701.

³⁰ § 2.2-3700.

³¹ § 2.2-3701.

Do we have to tape record our meetings?

No. Recording meetings is not required. However, proper minutes must be taken. Draft minutes and final minutes must be posted to the institution's website and the Commonwealth Calendar within seven working days of final approval.³² The secretary to the Board will ordinarily have this responsibility.

Do we have to take minutes?

Yes. FOIA requires that minutes be taken of every meeting, including retreats or work sessions. Minutes must include (a) the date, time, and location of the meeting; (b) the members of the public body recorded as present and absent; and (c) a summary of the discussion on matters proposed, deliberated or decided, and a record of any votes taken.³³ Also, minutes, including draft minutes that fairly reflect actions taken, must be posted on the website and the Commonwealth Calendar within 10 days following the meeting.³⁴

Closed Meetings

What are the exceptions to open meetings? When can we hold a closed session? ³⁵

FOIA has 54 exceptions to the open meetings requirement, not all of which will apply to every public body. The exceptions most likely to be utilized by Boards to justify closed sessions are:

(1) *the personnel exception*: discussion, consideration, or interviewing of prospective candidates for employment; or the discussion of assignment, appointment, promotion, performance, demotion, salaries, discipline, or resignation of *specific* employees. This exception does not apply to discussion of members of the Board themselves. It is also inapplicable to discussions of general policy or operations – for example, reorganization – that would refer to reassignment or laying off of employees – unless the discussion centers upon *specific* employee(s).

(2) *the scholastic record exception*: discussions or consideration of admission or disciplinary matters, or other matters that would involve disclosure of information in scholastic records (as defined in FOIA) of specific student(s). Generally speaking, however, the student or his lawyer is entitled to attend those closed sessions.

(3) *the real property exception*: discussion or consideration of the acquisition or disposition of real property where open discussion would adversely affect the bargaining position or negotiating strategy of the institution. This exception does not apply once the real property has been acquired or disposed of, and does not include potential use of real property.

(4) *the investment exception*: discussion or consideration of the investment of public funds where competition or bargaining is involved, where, if made public initially, the financial interest of the

³² § 2.2-3707.1.

³³ § 2.2-3707.

³⁴ § 2.2-3707.1.

³⁵ For full list of exceptions, see § 2.2-3711(A). The statute does refer to the exemptions for "closed meetings" but as will be discussed, a more accurate description is that they are a "closed session" within a meeting. The term "closed session" will be used in these FAQs.

institution would be adversely affected. This exception might occasionally be invoked during discussion of endowment funds investment.

(5) *the legal advice and work product exceptions*: consultation with legal counsel for legal advice on specific matters requiring legal advice, and consultation with counsel and briefings by staff members or consultants pertaining to actual or probable litigation, where such consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the public body.

(6) *the development exception*: discussion or consideration of matters related to gifts, bequests, and fund-raising activities, and grants and contracts for services or work to be performed by the institution.

(7) *the honorary degree exception*: discussion or consideration of honorary degrees or special awards.

(8) *the terrorism or cybersecurity exception*: discussions related to plans to protect public safety as it relates to terrorist activity and the response to that activity. This exception also includes discussion of specific cybersecurity threats and vulnerabilities.

(9) *the contract exception*: the discussion of the award of a public contract involving the expenditure of public funds, where discussion in open session would adversely affect the bargaining position or negotiating strategy of the institution.

You should always consult with University Counsel well in advance of going into any closed session. The above are brief descriptions of exceptions for going into closed sessions – the “basics”. In each case, there are additional, specific legal criteria or requirements to be considered.

When are we required to go into closed session?

You are never required by law to go into closed session. FOIA gives the Board the option of doing so when the topic of discussion falls within a FOIA open meeting exception.

What must we do to go into closed session?

First, all meetings must have been properly noticed. FOIA does not permit a “closed meeting.” All meetings are open, but for limited purposes, you may go into a “closed session.” This is so even if the only reason the Board is having the meeting is to go into closed session. A closed session may be held as a small part of a larger open meeting, or a meeting may be called and noticed specifically for the purpose of having a closed session. But in any event, all meetings must first be convened as an open meeting, and then proper procedures must be followed to go into closed session. Closed sessions must be followed by an open session certification that the closed session was proper.

A detailed motion must be made to go into closed session. That motion, which must be included in the open meeting's minutes, must identify: (1) the closed session's subject matter; (2) the closed session's purpose, i.e., what you are talking about and why; and (3) the specific exemption under § 2.2-3711(A) that applies. General references to FOIA or to the subject matter of the meeting do not suffice.³⁶

³⁶ § 2.2-3712.

Your counsel can provide a “script” to use in going into closed session.

What if we are in open session with only the BOV and President are present, and we want to discuss something that we would ordinarily discuss in closed session. Can’t we do that without going through the formalities?

You certainly may hold the discussion without going into closed session, but there are some shortcomings to that approach, including that minutes would have to be taken, whereas minutes would not be required in a closed session.³⁷

What can we discuss in closed sessions?

Once the Board properly goes into closed session, you can discuss only those specific matters identified in the motion to go into closed session. For example, if the Board went into closed session to discuss “personnel matters – specifically the salary of the president,” the Board could not discuss any other matter, not even a different personnel matter, even if that other matter might have been the proper subject of a closed session had it been included in the motion.³⁸

It’s easy to stray from the topic identified in the motion for closed session. One responsibility of your counsel is to watch closely and call any deviation to your attention.

Who is permitted to go into a closed session with the Board?

Just because the Board goes into closed session, it does not mean that everyone other than Board members must be excluded. The Board can allow anyone to attend that the Board believes is necessary to the discussion. That said, it is best to allow *only* those persons deemed necessary to the discussion.

Governing boards are required by law to invite and include legal counsel in all meetings, including closed sessions.³⁹ The Board is focused on conducting its business, and not focused on making sure it discusses only matters for which it went into closed session. It is very easy to stray from the central discussion, and the lawyer can focus attention on keeping the Board within legal bounds. This is important in that each individual Board member must certify upon leaving closed session that nothing was discussed other than the matter(s) mentioned in the motion to go into closed session.⁴⁰ Your counsel can also identify that legal advice may be needed when Board members are unaware that legal issues are implicated.

Who decides when closed session is appropriate?

The Board as a whole is responsible for deciding whether to go into closed session and who should be included and excluded. The Board decides to go into closed session through passage of the motion to do so. As a matter of governance, the Board as a whole also should

³⁷ § 2.2-3712(I).

³⁸ § 2.2-3712.

³⁹ § 23.1-1303.

⁴⁰ § 2.2-3712(D).

decide who should stay and not rely solely on the Chair, the secretary to the Board, or the President to make that call.⁴¹

Barring unusual circumstances, for practical reasons, the President should remain in most closed meetings.

Can we vote in closed session?

Well, yes and no. The Board can take non-binding votes – straw-polls, of sorts – to get a sense of how a public vote will go. No “official” vote, however, may be taken. Any action that is required as a result of discussions in closed session must be taken after going back into the open meeting.⁴² Members are not legally bound to vote in the open meeting as they indicated they would in closed session.

What do we do when we have finished our closed session discussions?

The Board must reconvene, by motion, in open session following a closed session, even if they have no more business to conduct. After the room is opened and visitors are informed that the meeting is now open, each member of the body must affirm by roll call or recorded vote that only those matters lawfully exempted and identified in the motion to close the meeting were heard or discussed. Any member who believes matters outside the scope of the motion were discussed must say so prior to the vote. A statement that describes the substance of the departure must be included in the minutes.⁴³

Board members must take the certification process seriously. Failure to certify that the closed session was held properly does not affect the validity or confidentiality of matters discussed in the closed session or action taken on those matters later in the open meeting.⁴⁴ However, a deviation from the proper subject of the closed session and the failure of a unanimous certification vote could subject the Board to public criticism. Furthermore, if a court finds that a public body voted to certify a closed session it should not have certified, a court may impose a penalty on the public body of up to \$1,000.⁴⁵

May Board members talk with other people about matters that were discussed in closed session?

There is no *legal* prohibition against Board members revealing discussions held in closed sessions and the Board itself may not prohibit such. Board members are officers of the Commonwealth, and within legal parameters, each must decide how to best execute their responsibilities to the Commonwealth and the institution. Common sense, professional norms, and individual consciences must dictate Board members’ actions. One notable exception from Federal law: FERPA generally prohibits all school officials, including Board members, from revealing information obtained from student records. Other privacy requirements outside of FOIA may exist under federal and state law. Please consult counsel if you have questions.

⁴¹ § 2.2-3712(F).

⁴² § 2.2-3711(B).

⁴³ § 2.2-3712(D).

⁴⁴ § 2.2-3712(E).

⁴⁵ § 2.2-3714(C).

Should minutes be taken in closed session?

Not necessarily. There is no requirement that minutes be taken in closed session.⁴⁶ Any minutes that are taken need not be disclosed. They *may* be released, however, in the Board's discretion. In general, a Board may prefer not to take minutes because there would not be any documents that could be released inadvertently.

What is an executive session?

The term executive session no longer has any legal significance. Under FOIA, there is a meeting and you are either in open session or closed session. For that reason, we strongly suggest that Boards abandon using the terminology "executive session." Further, it is common for Board members and others to confuse "executive session" and "executive committee."

Meetings Using Electronic Communication Means⁴⁷

May we hold a meeting by telephone or video?

Sometimes. Under FOIA, meetings to discuss or transact public business *generally* may not be conducted by telephone, video, or other electronic communication means. Instead, members must be physically assembled in one place. However, a Board may conduct a meeting through such electronic means, provided that it strictly complies with the special FOIA provisions governing such "all-virtual" meetings. Electronic communication meetings, excluding emergency meetings, are referred to as "all-virtual meetings" throughout these FAQs.

Must all-virtual meetings be open to the public?

Yes. The public is entitled to attend open all-virtual meetings, and the electronic communication means used must allow the public to hear all members of the Board or committee participating in the meeting and, when audio-visual technology is available, to see the members of the Board or committee as well. If the all-virtual meeting is a meeting in which public comments are customarily received, the public must be afforded the opportunity to comment through electronic means, including by way of written comments. Members of the public must be provided with the agenda, agenda packets, and all other materials provided to the Board, unless the information is prepared for a closed session, or otherwise exempt.

How much notice must be given of all-virtual meetings?

The notice required for all-virtual meetings is three (3) working days – the same as for other meetings. As with other meetings, the secretary to the Board ordinarily will handle posting the proper notice. Again, if Board bylaws require more than 3 working days' notice, the longer notice period must be met.

There are very specific requirements regarding the notice that require many details about the meeting to be known in advance. For example, the notice must specify the electronic communication means by which members of the public may listen to or observe the meeting. It is a good idea to consult with counsel prior to issuing a notice for an all-virtual meeting.

⁴⁶ § 2.2-3712(I).

⁴⁷ All rules regarding all-virtual meeting can be found in: § 2.2-3708.3.

May members of the board call in from different locations?

Yes, but there are some limitations. No more than two members of the Board or committee may be together in one remote location unless that remote location is open to the public to physically access it.

May a member call in from wherever he or she happens to be at the time of the meeting?

Yes, unless the remote location includes the presence of more than two Board or committee members, in which case it must have been identified in the notice.

If a remote location that is open to the public is noticed, then the member decides to attend at another location, may we then omit the original location?

No. Once a location is noticed as a remote location, public access must be provided at that location unless the entire meeting is cancelled and re-noticed for at least 3 working days later.

If something comes up after the three working days' notice that prevents a board member's physical attendance at a meeting, can a board member still participate?

Yes, but only under certain conditions. A member may participate by electronic communications means (including telephone or videoconference) if on or before the day of the meeting, a member notifies the chair that (1) he or she (or a family member in the member's care) has a temporary or permanent medical condition that prevents the Board member's physical attendance, (2) the Board member's lives more than 60 miles from the meeting location identified in the public notice for such meeting, (3) or that the Board member is unable to attend the meeting due to a personal matter (which must be specifically identified)..⁴⁸ The Board must have a written policy that allows for such participation and the chair must approve the board member's participation. There are several other requirements and limitations, so please consult with counsel if this issue arises.

May we hold all of our meetings as all-virtual meetings?

No. The Board or any individual committee may not convene an all-virtual meeting i) more than two times per calendar year or 25% of the meetings held per calendar year rounded up to the next whole number, whichever is greater; or ii) consecutively with an all-virtual meeting.

Must the all-virtual meeting be recorded or minutes kept?

There is no requirement that the meeting be recorded. However, minutes must be kept just as with physical meetings.

What if a phone or video goes out or there is some other problem with communication during the meeting?

If during the meeting there is any interruption in the audio or video communication, the meeting must be suspended immediately and may not be resumed until repairs are made. The notice of the meeting must include a phone number to notify the Board of any interruption.

⁴⁸ § 2.2-3708.3(B) (effective September 1, 2022).

May a member call in on the telephone and participate in discussion at a meeting so long as the member does not vote?

If the institution cannot satisfy all statutory requirements to conduct an all-virtual meeting, and the member cannot satisfy the statutory requirements for remote participation, a member may call in from a location, provided that the member *only listens*, and does not otherwise participate in any manner. However, the more conservative and safer approach would be to avoid this scenario.

What types of meetings may be held as all-virtual meetings?

Any otherwise-permitted meeting of the Board, including closed sessions and emergency meetings, may be held as an all-virtual meeting. Meetings of committees or subcommittees of the Board also may be held as all-virtual meetings, but must comply with the same requirements as all-virtual meetings of the entire Board.

May we use email to communicate between meetings?

The nature of the email use is an important factor in determining whether its use is proper.

There is nothing improper or illegal about using email in and of itself. Email provides a fast, efficient means of communication for you in your public service life, just as it does for you in your personal and professional life. Nothing prohibits the use of standard email for general communication between or among members. This type of communication is analogous to mailing copies of a letter or mass distribution by fax, and is not specifically governed by the meeting provisions of FOIA.

It is important to note, however, that the *nature of e-mail use* will determine the legality of its use. No *lawful* meeting may be held by email. That is to say, if three or more members of a public body (or a quorum if less than three) communicate by instant e-mail or texts, or if members are present at computers to receive and send e-mail simultaneously, that may well constitute an *illegal* meeting.

When the use of e-mail more resembles communication through ordinary mail, with significant delay between receipt and response, there is no "meeting" under FOIA. In contrast, when the exchange of e-mails resembles an assemblage of members of a public body, in that e-mails are being sent and responded to in quick fashion, such that there is a feature of simultaneity, then such an exchange may be a "meeting" under FOIA, albeit an unlawful meeting.

Board members should exercise extreme caution in the use of email. Use of distribution lists could set the stage for an illegal meeting. Consider, for example, that a Board member sends an email to all members of the Board, and two of those members happen to be sitting at their computers – not an unlikely situation. If those two members respond to the message using function "reply all" within a short timeframe, we have an *illegal meeting*, subjecting the members to public criticism and the monetary penalties of FOIA. Please avoid sending a reply to all Board members at the same time.

Also, keep in mind that emails that discuss the transaction of public business are "public records" under FOIA and must be produced in response to a request. (See below under "Records.") Be careful what you write.

Emergency Meetings

What if the University or Board has an emergency? Can we meet without three days' notice?

Yes, but only if the Governor has declared a state of emergency (or the Board's locality has declared a local state of emergency), and the catastrophic nature of the declared emergency makes it impracticable or unsafe to assemble a quorum in a single location. If that is the case, then the Board can meet by electronic communication means as long as the purpose of the meeting is to provide for the continuity of operations of the public body or the discharge of its lawful purposes, duties, and responsibilities.⁴⁹ The public body must give notice that is "reasonable under the circumstances." In an emergency, notice must be given to the public and to Board members at the same time.⁵⁰ If the emergency meeting is held using electronic communication means, then the Board must also make arrangements for public access to such meeting through those same electronic communication means.

May we hold an emergency meeting without 3 days' notice?

Yes. If an emergency meeting is called, reasonable notice under the circumstances must be provided to the public. Generally, that would mean providing notice to the same persons as in a non-emergency by the most expedient method possible. Notice must be given to the public contemporaneously with that given members of the Board.⁵¹

If an emergency meeting is held, must public access be provided?

Public access to an emergency meeting is required, but may be offered through communication means, including videoconferencing if already used by the Board. The Board must meet all other meeting requirements; for example, minutes must be kept. Furthermore, the minutes of the meeting must state the nature of the emergency.⁵²

RECORDS

What does FOIA require regarding public records?

In general, FOIA requires that unless an exception applies, all records in the possession of a public employee or officer (including Board members) that relate to public business must be made available to Virginia citizens and members of the media upon request. They are entitled to read and inspect the document and to make copies. (Generally, institutions find it easier to provide requestors with copies rather than requiring the requestor to make the copies.) We generally refer to a request for public records as a "FOIA request."⁵³

What is a "public record"?

Public records are basically anything the institution and its officials and employees use to transact public business and record data, whether produced by them or others. Records include

⁴⁹ § 2.2-3708.2 (effective September 1, 2022).

⁵⁰ § 2.2-3707(D).

⁵¹ § 2.2-3708.2(D)(2).

⁵² § 2.2-3708.2(D)(7).

⁵³ § 2.2-3704.

(among other things) paper documents such as copies of letters, contracts, memos, etc. Also included are video tapes and audio tapes; digital documents on computer hard drives and servers; and text messages on cell phones – in short, anything that records or documents public business is a public record.⁵⁴ If it is about public business, it's a public record. This includes anything in a member of the Board's home or work computer or otherwise in his or her possession.

Do FOIA requests have to be in writing?

Absolutely not. Any request made for records is a FOIA request, whether made orally, by letter, or by email. Additionally, the person requesting records need not use any magic words, such as “records,” or “FOIA.”⁵⁵ The requestor is not required to tell you why he or she is asking for the records or what they intend to do with them and you should not ask.

Whenever anyone asks you for anything related in *any way* to the business of your institution, you should report it immediately to the institution's FOIA officer – even if you do not have any records you believe to be responsive to the request. Others within the institution may have responsive records, and the institution is under a very tight time frame within which to produce the records or object to production.⁵⁶

Are there exceptions to the requirement that we produce requested records?

Yes. In fact, there are well over a hundred exceptions. Your responsibility as a Board member is to report any request for records to your institution's FOIA officer or counsel. They will help you and others determine what exemptions might apply and how best to respond to the request.⁵⁷ The role of the FOIA officer is to assist in document collection to be responsive. Legal questions should be directed to legal counsel.

How long do I have to produce records in response to a FOIA request?

The institution has only 5 working days to respond initially, thus the importance of reporting any request immediately to the institution's FOIA officer. The FOIA officer will assist you and others in gathering documents and properly responding to the request. Even if the institution invokes the permitted extension of time, the initial response still must be made within 5 working days, and a final response must be made within 12 working days of the initial request, unless other arrangements are worked out between the FOIA officer and the requestor.

Never attempt to respond to a FOIA request on your own without consulting your FOIA Officer or counsel.

Would a FOIA request require me to give an account of some event I witnessed, for example, write a description of a discussion I had with another Board member?

No. FOIA only requires the production of already-existing public records. It never requires that a record be created. (Please note that pulling data from an existing database or other structured collection of data is not creating a record.) At times, an institution may find it

⁵⁴ § 2.2-3701.

⁵⁵ § 2.2-3704(B).

⁵⁶ § 2.2-3704.

⁵⁷ To view the exclusions, *see* §§ 2.2-3705.1-2.2-3705.8 and § 2.2-3706(B).

preferable for any number of reasons to create a new document rather than producing the existing documents that were requested. That's fine, as long as the requester agrees.

What about my personal documents, including for example, handwritten notes such as those from meetings or discussions with alumni, email at home on my personal computer, etc.?

First, please understand that *any* record (letter, memo, scribbled note, email, audio recording, or any other) that in any way relates to the business of the institution is *not* a personal document or record, it is a *public record*. This is the case no matter where it is located. Therefore, if the institution, officers, or employees receives a FOIA request, records would have to be produced if responsive to the request.⁵⁸

PENALTIES⁵⁹

So what if we violate FOIA? What's the big deal?

First, members of the Board are entrusted with the public confidence, and a FOIA violation is breach of that trust. The General Assembly has determined that, with specific exceptions, the public's right to open government is not to be violated. Extreme embarrassment to the University and you personally can result from FOIA violations.

Beyond that, any citizen can file a complaint in court if he believes that the institution has violated FOIA. It is up to the officer or employee to prove that an exception to FOIA was cited appropriately. Anyone may rely in good faith on Virginia FOIA Council opinions.⁶⁰ However, if not successful, the offending officer or employee can be fined personally up to \$2000 for the first occurrence and up to \$5000 for additional occurrences. In addition to these penalties, any officer or employee that alters or destroys requested records with the intent to avoid complying with a FOIA request can be fined personally up to \$100 per record altered or destroyed.⁶¹

⁵⁸ § 2.2-3701.

⁵⁹ For violations and penalties, *see* § 2.2-3714.

⁶⁰ § 2.2-3715.

⁶¹ As mentioned previously, a public body also may be fined up to \$1,000 if it votes to certify a closed session that was not held in accordance with FOIA.

COIA QUICK GUIDE

The State and Local Government Conflict of Interests Act (“Act”), Virginia Code §2.2-3100, *et seq.*, is applicable to you as a Board member. The Act governs 1) Contracts 2) Transactions and 3) General Prohibitions. You are also required to file an annual Financial Disclosure Statement.

Contracts and Transactions

Prohibited conduct for Contracts and Transactions generally requires that **you** have a **personal interest** in the contract or transaction (transaction is normally a vote you cast on the Board or in a committee). **YOU** means you personally, your spouse, and dependents. **PERSONAL INTEREST** means salary or other compensation (or any legal consideration) exceeding \$5,000 per year, or ownership in a business exceeding 3% of its total equity.

You cannot have any contract with the University in which you have a personal interest unless a statutory exception applies. You cannot participate in any transaction with the University in which you have a personal interest without statutory public disclosures. There are exceptions, but exceptions must be exercised **prior** to entering into a prohibited contract or transaction.

General Prohibitions

These prohibitions do not require a personal interest. You **are prohibited** from accepting or soliciting money or anything of value, regardless of the amount, **for**:

- 1) Performing your official duties (remuneration for actual expenses excepted).
- 2) Obtaining employment, appointment or promotion for any person with the University.
- 3) Obtaining a contract for any person or business.
- 4) Using confidential information.
- 5) Accepting any money, loan, gift favor, service or business or professional opportunity reasonably tending to influence you in the performance of your duties.
- 6) Accepting gifts from any person whose interests may be substantially affected by the Board, or from accepting gifts on such a frequent basis as to create an appearance of private gain.

Financial Disclosure Statement

You will be required to annually file a Financial Disclosure Statement through the COIA Council portal. This is a public document and can be found on the COIA Council web site.

Training

You are required to take an orientation course on COIA within two months of appointment and biannually thereafter. This course is online at <http://ethics.dls.virginia.gov> by scrolling down to “Online Conflict of Interest Training” and clicking the “Click here to access training” link. Your role is “Citizen Members Appointed to a State Board.”

WARNING

The Act has **criminal sanctions**. As Assistant Attorneys General, university lawyers must report suspected violations. Concerns regarding your conduct and the Act should first be directed to the Chief of Staff.



Board Legal Basics

Office of University Counsel



Office of University Counsel

- ❖ **K. Anne Gambrill Gentry**, University Counsel & Senior Assistant Attorney General
- ❖ **David G. Drummey**, Associate University Counsel & Senior Assistant Attorney General
- ❖ **Eli Schlam**, Associate University Counsel & Assistant Attorney General
- ❖ **Cindy Zema**, Special Projects & Contracts Manager
- ❖ **Leslie Loucks**, Legal Assistant
- ❖ **Xin Saunders**, Administrative Assistant
- ❖ **Anne Blackburn**, Law Fellow



Virginia Conflict of Interest Act

- Prevents accrual of personal financial interest of \$5,000 or more
- Avoids appearance of impropriety

Virginia Conflict of Interest Act

➤ Compliance Requirements

- ❖ Training within 2 months of taking office and every 2 years thereafter
- ❖ Filing of disclosure forms upon taking office and by every February 1 thereafter
- ❖ <https://ethics.dls.virginia.gov/>

Virginia Conflict of Interest Act

➤ Questions?

- ❖ Chief of Staff

- ❖ Ethics Opinion from Ethics Advisory Council or Attorney General

The Virginia Freedom of Information Act



Guarantees public access to meetings of the Board



Guarantees public access to records concerning University business



Requires its provisions to be liberally construed in favor of access

Public Records

- Presumption is that every record created in transaction of public business is a Public Record, required to be produced unless a specific FOIA exemption applies
- If an exemption applies, the public body may choose to withhold the Public Record (but is not required to)

Public Records

- The **location** of the record does not matter
 - ❖ your cell phone, your personal email account, your personal computer, your home, your car, your computer's "recycle bin" or your physical trash can
- If it is a public record in your possession, it must be produced.

Public Records

- ***Rapid response is required***
 - ❖ Deadline of 5 business days to respond to a request, with an additional 7 business day extension if requested. If the request is unusually large, records must be produced within a reasonable time



Public Records

All public records should be segregated from non-public records

Email correspondence should be conducted from a dedicated BOV account

Public Records

- If you get a FOIA request?
- Forward to:

Paul Allvin
VP & Chief Brand Officer
pallvin@gmu.edu



Public Meetings

➤ Public Access

- ❖ Members of public and press have right to be present
- ❖ All meetings of board must be conducted in public with at least 3 days' advance notice
- ❖ Voting on any issue can only occur in a valid public meeting in open session
- ❖ Minutes must be taken
- ❖ Public streaming of board meetings

Public Meetings

- Meetings are "public" whenever the lesser of a quorum or three members **meet and discuss** any public business

Closed Sessions



Only certain specific topics can be discussed by the Board in “closed session” of a meeting sensitivity of a particular issue is irrelevant

Closed Sessions

- Common topics allowed to be discussed in closed session:
 - ❖ Personnel: **specific** candidates or performance
 - ❖ Scholastic Records: **specific** student
 - ❖ Legal Advice
 - ❖ Development
 - ❖ Pending Contracts
 - ❖ Honorary Degrees

Closed Sessions

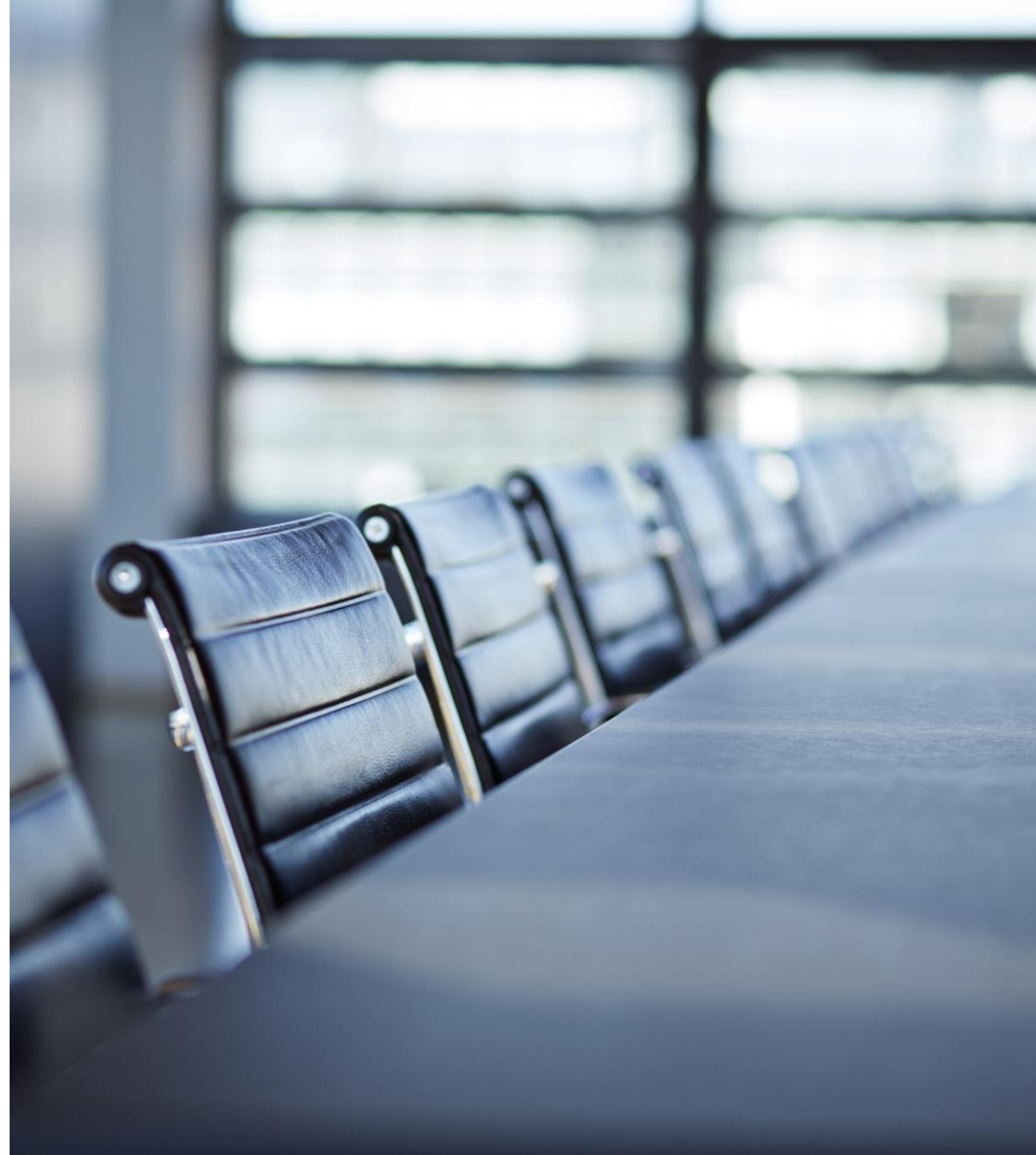
- Closed session discussion must be limited to the topic identified in public motion
- Take care not to digress into unrelated areas or other subjects
- No **actions** can be taken in closed session; they must be in public session

Closed Sessions

- Motion required to go into Closed Session
- When closed session ends, Board chair must invite public back in, and go on record
- Back in session, Board must certify, **by roll call vote**, that discussion was proper and related to the permitted subject set forth in the motion convening closed session.

Public Meetings

Office of the Attorney General representative is required by law to be invited to all public meetings, including closed sessions.



Electronic Participation

Members may attend electronically if:

- Temporary or permanent disability or other medical condition
- Family member's medical condition requires member to provide care
- Caregiver for a family member with a disability
- residence 60 miles away or more
- personal matter
- Board has annually adopted a policy



Electronic Participation

Personal matters

- ❖ Must identify with specificity the nature of the personal matter
- ❖ Limited to greater of two meetings or 25% of meetings per calendar year

Electronic Participation

Members may attend electronically if:

- ❖ Notify Rector ahead of meeting
- ❖ Able to be heard
- ❖ Quorum assembled at central meeting location (*quorum includes caregivers and members with a disability even if remote*)

All Virtual Meetings

Maximum of
greater of
two or 50% of
meetings held
in a calendar
year

Cannot be
consecutive

No more than
2 members at
same location
unless open
to the public

Public must
be able to
hear all
members and
if A/V see all
members



- Questions?
- Unsure?
- Contact Office of University Counsel
(703) 993-2619

**THE RECTOR AND BOARD OF VISITORS
OF GEORGE MASON UNIVERSITY
POLICY GOVERNING ALL VIRTUAL BOARD MEETINGS AND
ELECTRONIC PARTICIPATION IN BOARD MEETINGS**

I. PURPOSE

The purpose of this policy is to establish a written policy, in accordance with §§ 2.2-3708.2 and 3708.3 of the Code of Virginia (Virginia Code) to allow for and govern participation of The Rector and Board of Visitors of George Mason University (Board) meetings by the means of electronic communication, including, all virtual meetings, and to specify the requirements for remote participation by members. This policy shall not prohibit or restrict any individual member who is participating in an all-virtual meeting or who is using remote participation from voting on matters before the Board or its committees.

II. AUTHORITY

The membership of the Board interprets this policy, and this policy applies to the full Board and its committees, subcommittees or other entity of the Board authorized to perform delegated function of the Board or to advise the Board. This policy must 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.

III. POLICY

A. Individual Member Electronic Participation

Pursuant to applicable law and guidance, the Board adopts the following practice and procedures for the participation of individual members of its body who cannot physically attend meetings for which public business will be conducted.

1. Prior to a scheduled meeting, a member must (1) notify the Chair or Board Secretary Pro-Tem that he or she is unable to attend the meeting due to

(a) a temporary or permanent disability or other medical condition that prevents physical attendance,

(b) a family member's medical condition that requires the member to provide care for such family member thereby presenting the member's physical attendance;

(c) being a caregiver as defined in § 2.2-3701 who must provide care for a person with a disability at the time the public meeting is being held thereby prevent the member's physical attendance.;

(d) the member's principal residence is more than 60 miles from the meeting location identified in the required notice for such a meeting; or

(e) a personal matter that prevents physical attendance.

i. in the case of a personal matter, the member must identify with specificity the nature of the personal matter.

ii. Participation by a member pursuant to a personal matter is limited each calendar year to two meetings or 25 percent of the meetings held per calendar year rounded up to the next whole number, whichever is greater.

2. A quorum of the Board members must be physically assembled at the primary or central meeting location for the Board to consider the participation of a remote member. For purposes of determining whether a quorum is physically assembled, a member who is a person with a disability as defined in § 51.5-40.1 or a caregiver for a person with a disability, and uses remote participation counts toward the quorum as if the member were physically present.

3. The Chair shall recommend approval or disapproval of the participation to the Board member. If the Board approves the participation by majority vote, it must record in its meeting minutes;

a. the fact of the remote participation;

b. the location of the remote participation (and the remote location need not be open to the public);

c. whether the remote participation is because of

(a) a temporary or permanent disability or other medical condition, or

(b) a personal matter; and

(c) in the case of a personal matter, the specific nature thereof.

4. This policy must 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.
5. The Board may deny participation for personal matters only if participation would violate this policy. If a member's participation is disapproved, the disapproval and the reason for the disapproval shall be recorded in the minutes with specificity.
6. The Board must plan for the voice of the remote participant to be heard by all persons at the primary or central meeting location.
7. Should the requirements of this policy not be met, the Board member will be allowed to listen into the proceedings through an electronic means, if available.
8. The Board will provide the public access to observe any meeting at which a member is permitted to participate by remote means. The Board will state in the notice for the meeting whether public comment will be taken at the meeting and will provide a means for submitting written comments.

In the event that multiple members opt to participate electronically impacting the ability to obtain a physical quorum, the Board members should consider compliance with the all virtual meeting requirements pursuant to the Board's policy as subscribed in Section III.B.

B. All Virtual Meetings

Pursuant to applicable law and guidance, the Board adopts the following practice and procedures for participation of members of its body when the intent is that all members participate electronically and for such time public business will be conducted.

1. Upon the decision by the Chair or Majority of the Board membership that a Board meeting will be held in an all-virtual format, the public body will issue a required meeting notice and include a statement notifying the public that the all-virtual meeting format will be used.
 - a. This notice should include a statement that should the meeting format change, that subsequent notice will be issued and in accordance with Virginia Code 2.2-3707.
2. The public body will provide for the general public to observe the all virtual meeting via electronic communications which allow the public to hear the Board members' deliberations, other than for any portion of the meeting that is closed pursuant to Virginia Code § 2.2-3711.

- a. If audio-visual technology is used, the electronic communication means should allow the public to also see the public body.
 - b. The Board will provide the public access to observe all-virtual meetings. The Board will state in the notice for the meeting whether public comment will be taken at the meeting or provide a means for submitting written comments.
3. A copy of the proposed agenda and all agenda packets and, unless exempt, all materials furnished to the members of the public body for a meeting shall be made available to the public in electronic format at the same time that the materials are provide to the members of the public body.
4. No more than two members of the public body can be together or present in any one of the remote locations used during the all-virtual meeting unless that remote location is open to the public and physically accessible to the public.
5. The Board is limited in convening meetings in the all-virtual format to two meetings or 50 percent of the meetings held each calendar year rounded up to the next whole number, whichever is greater.
6. The public body is prohibited from holding meetings in the all-virtual format consecutively with another all-virtual public meeting.
7. The public body will provide a phone number or other live contact information so the public can alert the public body of the audio or video transmission issues that interfere with their access, participation or viewing of the public bodies meeting.
 - a. The public body will monitor such designated means of communication during the meeting.
 - b. When audio-visual technology is available, a member of the Board shall, for purposes of a quorum, be considered absent from any portion of the meeting during which visual communication with the member is voluntarily disconnected or otherwise fails or during which audio communication involuntarily fails.
 - c. Should access fail, the public body shall take a recess until public access is restored (subject to reasonable time limitations).
8. In the event the public body convenes a closed session during the all-virtual public meeting, transmission of the meeting to the public must resume before the public body votes to certify the closed meeting as required by subsection D of Virginia Code § [2.2-3712](#).

9. Minutes of all-virtual public meetings held by electronic communication means are taken as required by Virginia Code § [2.2-3707](#) and include the fact that the meeting was held by electronic communication means and the type of electronic communication means by which the meeting was held.

STATE OF EMERGENCY DECLARATIONS

This policy shall be effective during ordinary times during which the Governor has not declared an emergency pursuant to Virginia Code § 44-146.17 or where the locality in which the body is located has declared a local state of emergency pursuant to Virginia Code § 44-146.21.

When an emergency has been declared, other provisions of law or declarations of Governor or the locality may prevail. In such cases, the Board must affirm that (i) the catastrophic nature of the declared emergency makes it impracticable or unsafe to assemble a quorum in a single location and (ii) the purpose of the meeting is to provide for the continuity of operations of the public body or the discharge of its lawful purposes, duties, and responsibilities.

In such cases, a physical quorum is not required for the conduct of public business.

In cases of emergency, the Board will:

- A. Give public notice using the best available method given the nature of the emergency, which notice shall be given contemporaneously with the notice provided to members of the public body conducting the meeting;
- B. Make arrangements for public access to such meeting through electronic communication means, including videoconferencing if already used by the public body;
- C. Provide the public with the opportunity to comment at those meetings of the public body when public comment is customarily received; and
- D. Follow other mandates of this policy and law.

EDUCATION AND COMPLIANCE

Members of the Board shall be made aware of this and any other Board policies as part of the new Board member orientation process. This policy must be adopted at least once annually by the Board by recorded vote. The Rector shall be responsible for ensuring annual compliance with the provisions of this policy.

George Mason University
Board of Visitors
Code of Ethics

It is important that members of the Board of Visitors of George Mason University and all George Mason University employees conduct themselves with the highest degree of honor and integrity and understand that public service is a public trust. Ethical conduct in our relationships with each other, members of the public, our students, other state agencies, and private entities is of critical importance during service to the public through serving George Mason University.

1. The Board will uphold the University's Mission, Vision, and Values and will always act in the best interests of the University.

2. The Board shall adhere to all applicable state and federal laws and regulations and Board Policies and Bylaws.

(a) The Board shall comply with the Commonwealth of Virginia's State and Local Government Conflict of Interests Act, Virginia Code §2.2-3100 *et.seq.*, avoiding conflicts of interest as defined by law, and shall report promptly to the Rector any potential conflicts. This includes the timely filing of the annual financial disclosure statement and any other required documents.

i. Visitors shall not have a personal interest in a contract or transaction with the University which would appear to influence the performance of their official duties. A personal interest includes an interest of an immediate family member. Visitors shall not request special consideration or personal prerogative for admissions, employment, or contracts for business.

ii. Visitors shall not seek or accept gifts or business or professional opportunities which would appear to influence the performance of their official duties.

(b) The Board shall adhere to the requirements of the Virginia Freedom of Information Act.

(c) Visitors have a duty to report their own potential or actual violations of the Code of Ethics or those of other Visitors to the Rector immediately upon realization or discovery. If the Rector is personally faced with such a conflict, he or she shall report it to the Vice Rector, who will act in his or her place.

(d) Visitors shall participate in all training required by law.

3. Visitors shall certify that they have read and understand this Code of Ethics by signing the Code annually. Potential or actual violations of the Board Code of Ethics shall be reviewed in the following manner:

(a) The Rector will consult with the Visitor in question and attempt to resolve the potential or actual noncompliance. If that consultation fails to resolve the matter, then

(b) The Rector shall convene the Executive Committee to meet with the Visitor in question and attempt to resolve the potential or actual noncompliance. If that consultation fails to resolve the matter, then

(c) The Rector shall convene the full Board to determine corrective action, as appropriate. The Executive Committee shall report to the Governor in writing any instances of breach of ethical conduct, and the corrective action the Board has elected to take. Upon sufficient cause, the Board may determine by majority vote of the membership to recommend to the Governor that a member be removed as provided for in § 2.2-108 of the Code of Virginia.

Approved May 7, 2014

I certify that I have read and understand this Code of Ethics.

Signature: _____ Printed Name: _____ Date: _____



MEMORANDUM

Office of the President

4400 University Drive, MS 3A1, Fairfax, Virginia 22030
Phone: 703-993-8704; Fax: 703-993-8880

To: Board of Visitors
From: Gregory Washington, President
Date: July 26, 2024
Subject: Requests for Admissions Assistance

We understand that with your position as a George Mason University Board of Visitor member you will probably be approached by colleagues, friends, etc., seeking assistance. One of the most common requests is for admissions assistance. The following are some guidelines and background to help you manage these requests.

We welcome Board of Visitor members to offer the following assistance to potential applicants:

- Write letters of recommendation to the Dean of Admissions on the behalf of a specific applicant.
- Request a visit/campus tour for family/friends that are interested in Mason.
- Refer a prospective student/applicant to the Office of Admissions for personal follow up with a counselor.

Also, we ask that you refrain from the following:

- Requesting/obtaining specific information on applicants such as admissions decisions.
- Requesting that an admission decision be made on any specific applicant.
- Making any promises to an applicant regarding admissions or special treatment.

Your service to and representation of George Mason University is appreciated, and we look forward to another successful and productive year of collaboration to move the university forward.

Thank you.

ITEM NUMBER VI.D:

Exclusion of the Board of Visitors from the National Industrial Security Program personnel security clearance requirement.

PURPOSE OF ITEM:

This Action Item is required to avoid the requirement for members of the Board of Visitors to obtain personnel security clearances.

BRIEF NARRATIVE:

Under the provision of the National Industrial Security Program the senior management official and the Facility Security Officer must always be cleared to the level of the Facility Clearance Level (FCL). The University has a Top Secret FCL which allows researchers to work on classified contracts up to and including the Top Secret level. Both the senior management official and the Facility Security Officer possess the required Top Secret clearances. Other officials as determined by the "Cognizant Security Agency" (CSA) must be granted personnel security level clearances or be excluded by formal resolution. Our CSA, the Defense Counterintelligence and Security Agency, has determined that the Board of Visitors must be effectively excluded from all classified information disclosed to the organization. This exclusion must be made a matter of record by the University's executive body. This is a recurring exclusion that must be executed whenever a change to membership of the Board of Visitors occurs. The wording of the exclusion is the wording provided by our CSA and we have been instructed not to vary from it.

STAFF RECOMMENDATION:

Staff recommends Board approval

Resolution to Exclude the George Mason University Board of Visitors from Clearance Requirements

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

WHEREAS, said Department of Defense Regulations permit the exclusion from 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 corporate minutes.

NOW THEREFORE BE IT DECLARED that the Senior Management Official and Facility Security Officer at the present time do possess the required eligibility for access to classified information; and

BE IT RESOLVED that in the future, when any individual enters upon any duties as Senior Management Official or Facility Security Officer, such individual shall, if they do not already possess such, immediately make application for the required eligibility for access to classified information; and

BE IT RESOLVED AND DIRECTED that the following members of the Board of Directors 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 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.

Board Officers: *(Pending elections on July 26, 2024.)*

Rector, TBD

Vice Rector, TBD

Secretary, TBD

Board Members:

Armand Alacbay

Horace L. Blackman

Reginald Brown

Lindsey Burke

Anjan Chimaladinne

Kenneth L. Marcus

Michael J. Meese

Dolly Oberoi

Robert Pence

Jon. M. Peterson

Nancy G. Prowitt

Nina S. Reese

Jeffrey A. Rosen

Marc Short

Charles Stimson

Farnaz F. Thompson

IN WITNESS WHEREOF I have hereunto set my hand and affixed the seal of George Mason University, this day of 26 July 2024

TBD - Secretary

GEORGE MASON UNIVERSITY

BOARD OF VISITORS

DOCUMENT AND RECORDS REQUEST POLICY

In order to facilitate the orderly transaction of business, to promote transparency and to make the most efficient use of administrative staff, it is the policy of this Board that all requests by individual members for University documents and records, subject to review by counsel for disclosability, shall be directed to the Secretary of the Board of Visitors or to the Secretary pro tem in the absence of the Secretary of the Board of Visitors.

Furthermore, these requests, and the University's responses, will be shared by the Secretary (or Secretary pro tem) with all members of the Board of Visitors as soon as practicable, and if possible, within 48 hours of receipt. It is the expectation of the board that responses be handled as expeditiously as possible.

This policy shall remain in effect until or unless amended or repealed by BOV decision.

Adopted by the Board of Visitors on February 22, 2024.



Michael J. Meese
Secretary
Board of Visitors

ACTION ITEMS

Academic Programs, Diversity, and University Community Committee

July 26, 2024

ELECTIONS OF NEW TENURED FACULTY

<u>LAST NAME</u>	<u>FIRST NAME</u>	<u>EFFECTIVE DATE</u>
Antony	James Soto	7/26/2024

Title: Provost and Executive Vice President

Rank: Professor without Term

Classification: Tenured (without term) - Admin/Professional

Local Academic Unit: Office of the Provost and Executive Vice President

Note(s):

Tenure is recommended by the College of Education and Human Development and the Costello College of Business.

Binks	Martin	8/1/2024
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Title: Professor

Rank: Professor without Term

Classification: Tenured (without term) - Instructional

Local Academic Unit: Nutrition and Food Studies (CPH)

Kleinfeld	Joshua	8/25/2024
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Title: Allison and Dorothy Rouse Chair

Rank: Professor without Term

Classification: Tenured (without term) - Instructional

Local Academic Unit: Antonin Scalia Law School

Note(s): Additional Title: Assistant Director, Faculty Research Program with the Gray Center

Monroe-White	Thema A.	8/25/2024
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Title: Associate Professor

Rank: Associate Professor without Term

Classification: Tenured (without term) - Instructional

Local Academic Unit: Schar School of Policy and Government

Note(s):

Tenure is recommended by the Schar School of Policy and Government and the Department of Computer Science within the College of Engineering and Computing.

Perry	Gad	7/29/2024
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Title: Full Professor

Rank: Professor without Term

Classification: Tenured (without term) - Instructional

Local Academic Unit: Environmental Science and Policy (COS)

Note(s): Additional Title: Chair, Department of Environmental Science and Policy



Office of the Provost
4400 University Drive, MSN 3A2
Fairfax, Virginia 22030
Phone: 703.993.8770; Fax: 703.993.8871

Procedural Checklist for New Faculty Being appointed to Tenured (Without Term) Positions

This form must be submitted in Interfolio as part of the Tenured upon Hire case at the Dean's recommendation step.

James Soto Antony - Provost and Executive Vice President/Professor without Term

Faculty Member's Name and Title

College of Education and Human Development/Costello College of Business

Local Academic Unit



Verification of Hiring and Trainings:

I verify that all hiring requirements, including reference checks, for the candidate has been completed and the candidate has been informed of all training that need to be completed within the first few weeks of the start of their appointment (including but not limited to DEI trainings: Title IX Overview and Sexual Harassment Prevention, Equal Opportunity: A Fair Shake and Ethics).

One-half page justification for appointment, to include a description of the benefit of this hire for the department, school, etc., as well as the rationale for selecting this candidate over others.

James Soto Antony is currently Dean of Graduate Education and Postdoctoral Affairs at UC San Diego, where he also serves as Professor of Education Studies with a secondary appointment in the Rady School of Management. At UC San Diego, he has led a transformation of graduate and professional student financial support, created infrastructure to advance student professional development, prioritized student access and opportunity, and launched grant-funded initiatives to improve mentoring.

As Provost and Executive Vice President, Antony will help cultivate a dynamic and forward-thinking academic environment. In collaboration with senior leaders, faculty, staff, and students, he will be instrumental in advancing academic excellence, research, and scholarly pursuits in alignment with Mason's core values and strategic direction. He will oversee all colleges, schools, and academic support units.

James Antony shares our strong commitment to ensuring access to a world-class education, an engaging campus experience, and a culture of belonging. His nearly three decades of leadership experience make him an ideal provost to help Mason navigate the many opportunities and challenges ahead.

Gregory Washington, PhD, President

July 2, 2024

Date

James Antony

July 26, 2024

General

James Antony, Ph.D. is a candidate for Tenure upon Hire to Professor without Term in the College of Education and Human Development (CEHD) and the Costello College of Business (CCB) and will serve as George Mason University's new Provost and Executive Vice President. Dr. Antony received his Ph.D. in 1996 and M.A. in 1993 in Higher Education and Organizational Change from the University of California, Los Angeles. Previously, he had received his B.A in Psychology.

Currently, Dr. Antony serves a Dean for the Division of Graduate Education and Postdoctoral Affairs at the University of California, San Diego. He also serves as a Professor of Education studies and is affiliated with the Rady School of Management. Dr. Antony previously served as Co-Director, Management Development Program and Faculty Director, Higher Education Program at Harvard University and Associate Provost for Faculty Development and Diversity at Yale University. He held faculty and leadership roles at the University of Washington, including Professor in Educational Leadership and Policy and Adjunct Professor in Sociology; Associate Vice Provost and Associate Dean for Academic Affairs in the Graduate School; and Associate Dean for Academic Programs in the College of Education from 1995 to 2012. While at Washington, he also served as Director of the Graduate Program in Higher Education and was founding Executive Director of the Center for Leadership in Athletics, and its associated degree programs.

Dr. Antony's tenure dossier demonstrates that he has established an exceptionally strong record of research/scholarship, teaching, and service. His case strongly is supported by the CEHD/CCB Review Committees, Dean of CEHD and Dean of CCB, each of which has documented the strength of his academic record.

The decision to hire Dr. Antony is well supported. He will be a valued member of our university community and is deserving of appointment to the rank of Professor without Term.

Consistent with the recommendation of the CEHD and CCB review committees and Deans, I also recommend that Dr. Antony be granted appointment without term to the rank of Professor without Term in the College of Education and Human Development and the Costello College of Business, effective July 26, 2024.



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4400 University Drive, MSN 3A2
Fairfax, Virginia 22030
Phone: 703.993.8770; Fax: 703.993.8871

**Procedural Checklist for New Faculty
Being appointed to Tenured (Without Term) Positions**

This form must be submitted in Interfolio as part of the Tenured upon Hire case at the Dean's recommendation step.

Dr. Martin Binks Professor and Incoming Chair

Faculty Member's Name and Title

Department of Nutrition & Food Studies

Local Academic Unit



Verification of Hiring and Trainings:

I verify that all hiring requirements, including reference checks, for the candidate has been completed and the candidate has been informed of all training that need to be completed within the first few weeks of the start of their appointment (including but not limited to DEI trainings: Title IX Overview and Sexual Harassment Prevention, Equal Opportunity: A Fair Shake and Ethics).

One-half page justification for appointment, to include a description of the benefit of this hire for the department, school, etc., as well as the rationale for selecting this candidate over others.

Dr. Binks is a top scholar and mentor and has an international reputation as a true expert and leader in his field. Dr. Binks' strengths as an interdisciplinary and international researcher support both the mission of the Department of Nutrition and Food Studies, the College of Public Health, and George Mason University. I look forward to having Dr. Binks mentor the junior faculty in the department in their attempts to secure extramural funding, publish in high quality journals, and gain an international reputation. In addition, I suspect his strong mentorship of students will continue in the Department and throughout the College. Dr. Binks potential to contribute to the strategic programmatic directions of the Department of Nutrition and Food Studies and the College of Public Health are remarkable and sustainable over time. Dr. Binks was the most qualified and had the most experience compared to the other candidates who applied and were interviewed.

Melissa J. Perry

6/13/2024

Dean

Date

General

Martin Binks, PhD is a candidate for Tenure upon Hire to Professor without Term in the Department of Nutrition and Food Studies within the College of Public Health (CPH). He is also selected to Serve as the Department Chair in Nutrition and Food Studies. Professor Binks received his PhD in 2002 and MA in 1999 in Clinical Psychology from Fairleigh Dickenson University. He also earned is BA in Psychology from Concordia University in 1986.

Currently, Professor Binks holds an academic appointment as Professor of Nutritional Sciences at Texas Tech University and as an Adjunct Professor in the Department of Internal Medicine at TTU Health Science Center. He continuously has been a member of the faculty of Texas Tech University since 2013 where he had previously served as both an Associate Professor and is the Founding Director for the TTU Nutrition and Metabolic Health Initiative. He also has previous administrative appointments as Director of Behavioral Health, Research Director, and Director of New Business and Strategic Alliances. Professor Banks received multiple Honors and Awards and maintains a variety of Professional Association Memberships such as the American Society for Metabolic and Bariatric Surgery, American Society of Nutrition and Obesity Canada.

Professor Binks' tenure dossier demonstrates that he has established an exceptionally strong record of research, teaching, and service. His case is strongly supported by all of the CPH review committees and the Dean of the College. He will be a valued member of our university community and, in my view, is deserving of appointment to the rank of Professor without Term.

Consistent with the unanimous recommendation of the CPH review committees, and the Dean of the College, I recommend that Professor Binks be granted appointment to the rank of Professor without Term in the College of Public Health, effective August 1, 2024.



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**Procedural Checklist for New Faculty
Being appointed to Tenured (Without Term) Positions**

This form must be submitted in Interfolio as part of the Tenured upon Hire case at the Dean's recommendation step.

Joshua Kleinfeld, Professor of Law

Faculty Member's Name and Title

Antonin Scalia Law School

Local Academic Unit



Verification of Hiring and Trainings:

I verify that all hiring requirements, including reference checks, for the candidate has been completed and the candidate has been informed of all training that need to be completed within the first few weeks of the start of their appointment (including but not limited to DEI trainings: Title IX Overview and Sexual Harassment Prevention, Equal Opportunity: A Fair Shake and Ethics).

One-half page justification for appointment, to include a description of the benefit of this hire for the department, school, etc., as well as the rationale for selecting this candidate over others.

Professor Kleinfeld was interviewed as part of an extensive process conducted by the Faculty Selection Committee and the full faculty. The process included a faculty presentation of his scholarship; interviews open to all existing faculty; the reading of all his research; a review of his teaching evaluations and service; and the calling of references. Kleinfeld succeeded in all aspects of that rigorous process, relative to the many other applicants/candidates. Kleinfeld currently has tenure at a Top-10 ranked law school, Northwestern. His appointment would enhance the reputation of the law school and GM. His seniority and record would allow him to help mentor more junior colleagues. He teaches in areas of vital coverage need at the law school, including Constitutional Law, Criminal Procedure, and Legislation. His publications and citation count would impact the standing of the law school.

A handwritten signature in blue ink, appearing to read 'C. R. M.', written over a horizontal line.

Dean

May 7, 2024

Date

Joshua S. Kleinfeld

July 26, 2024

General

Joshua S. Kleinfeld, Ph.D. is a candidate for Tenure upon Hire to Professor without Term in the Antonin Scalia Law School (ASLS). Professor Kleinfeld received his Ph.D. in Philosophy in 2016 at Goethe University Frankfurt. He also received his J.D. at Yale Law School in 2006 and earned his B.A. in Philosophy at Yale College in 2001.

Currently, Professor Kleinfeld holds an appointment as Professor of Law and Philosophy at Northwestern University since 2017. Previously he has held an Assistant and Associate Professor rank from 2011-2017. In addition, he has held visiting appointments at Harvard Law School and Stanford Law School. Professor Kleinfeld also has prior selected practice and policy experience. He assisted in appellate litigation with the Northwestern Supreme Court Clinic (2021) and practiced criminal defense with the Northwestern Juvenile Criminal Defense Clinic (2018-2019). He was an Associate at Debevoise and Plimpton in Frankfurt, Germany (2008-2009) and also served as a clerk for the U.S. Court of Appeals, Fourth (2007- 2008) and D.C. (2006-2007) Circuit and the Supreme Court of Israel (2004). From 2002-2003 he worked with the President's Council on Bioethics as a Senior Research Analyst.

Professor Kleinfeld's tenure dossier demonstrates that he has established an exceptionally strong record of research/scholarship, teaching, and service. His case strongly is supported by the ASLS Review Committees and the Dean of the Law School each of which has documented the strength of his academic record.

The decision to hire Professor Kleinfeld is well supported. He will be a valued member of our university community and is deserving of appointment to the rank of Professor without Term.

Consistent with the recommendation of the ASLS review committees, and the Dean of the Law School, I also recommend that Professor Kleinfeld be granted appointment without term to the rank of Professor without Term in the Antonin Scalia Law School, effective August 25, 2024.



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Fairfax, Virginia 22030
Phone: 703.993.8770; Fax: 703.993.8871

**Procedural Checklist for New Faculty
Being appointed to Tenured (Without Term) Positions**

This form must be submitted in Interfolio as part of the Tenured upon Hire case at the Dean's recommendation step.

Thema Monroe-White

Faculty Member's Name and Title

Schar School of Policy and Government (Primary) / College of Engineering and Computing

Local Academic Unit



Verification of Hiring and Trainings:

I verify that all hiring requirements, including reference checks, for the candidate has been completed and the candidate has been informed of all training that need to be completed within the first few weeks of the start of their appointment (including but not limited to DEI trainings: Title IX Overview and Sexual Harassment Prevention, Equal Opportunity: A Fair Shake and Ethics).

One-half page justification for appointment, to include a description of the benefit of this hire for the department, school, etc., as well as the rationale for selecting this candidate over others.

Dr. Monroe-White's research corresponds perfectly with the theme and vision of the cluster hire. Her expertise and dedication to this area make her ideal for teaching various courses across both schools, filling critical gaps in the current curriculum. Additionally, her proven ability to establish a successful data analytics program at Berry College speaks volumes about her skills and passion for program development, which would be invaluable in expanding and enhancing the concentration in applied computer science and technology policy and related initiatives. Dr. Monroe-White's capacity to engage, inspire, and effectively instruct was clearly demonstrated during her job talk and through her interactions with the committee and faculty, indicating that she is indeed an excellent instructor and mentor. Furthermore, Dr. Monroe-White's record in securing grants and contracts indicates her ability to significantly enhance the school's research and funding prospects. Dr. Monroe-White is poised to make substantial contributions to the fields of AI, social justice, and public policy, not only within the school but also in the wider academic community.

Mark J. Rozell

6/5/2024

Dean

Date

Thema Monroe-White

July 26, 2024

General

Thema Monroe-White, PhD is a candidate for Tenure upon Hire to Associate Professor without Term in the Schar School of Policy and Government (SCHAR) and the Department of Computer Science within the College of Engineering and Computing (CEC). Professor Monroe-White received her PhD in Science, Technology, and Innovation Policy from the Georgia Institute of Technology in 2014. She also received a MS in Development Neuropsychology in 2004 and a BS in Psychology In 2001 from Howard University.

Currently, Professor Monroe-White serves as an Associate Professor of Technology, Entrepreneurship and Data Analytics at Berry College and previously held an Assistant Professor academic appointment from 2017 through 2024. She also had administrative appointments as Director of Research and Evaluation with Venture Well and Senior Research and Evaluation Consultant at SageFox Consulting Group.

Professor Monroe-White's tenure dossier demonstrates that she has established an exceptionally strong record of research, teaching, and service. Her case is strongly supported by all of the SCHAR/CEC review committees, Associate Dean, Chair and both Deans. She will be a valued member of our university community and, in my view, is deserving of appointment to the rank of Associate Professor without Term.

Consistent with the unanimous recommendation of the SCHAR/CEC review committees, Associate Dean, Chair, and both Deans, I recommend that Professor Monroe-White be granted appointment to the rank of Associate Professor without Term in the Schar School of Policy and Government and the Department of Computer Science within the College of Engineering and Computing, effective August 25, 2024.



Office of the Provost
4400 University Drive, MSN 3A2
Fairfax, Virginia 22030
Phone: 703.993.8770; Fax: 703.993.8871

Procedural Checklist for New Faculty Being appointed to Tenured (Without Term) Positions

This form must be submitted in Interfolio as part of the Tenured upon Hire case at the Dean's recommendation step.

Dr. Gad Perry, Professor and Dept. Chair

Faculty Member's Name and Title

College of Science

Local Academic Unit



Verification of Hiring and Trainings:

I verify that all hiring requirements, including reference checks, for the candidate has been completed and the candidate has been informed of all training that need to be completed within the first few weeks of the start of their appointment (including but not limited to DEI trainings: Title IX Overview and Sexual Harassment Prevention, Equal Opportunity: A Fair Shake and Ethics).

One-half page justification for appointment, to include a description of the benefit of this hire for the department, school, etc., as well as the rationale for selecting this candidate over others.

Dr. Perry is being hired as Chair of the Dept. of Environmental Science and Policy (ESP), following a national search that included over 40 applicants. The search was conducted following University procedures and was led by a Search Committee appointed per guidelines in the Faculty Handbook.

This academic department plays a critical role not only within the College of Science, but also at the level of the University, by providing interdisciplinary connections in teaching and research on environmental issues (water, air, ecosystems) across other colleges (CHSS, CPH, Costello, CEC, CVPA, Scalia). The Dept. Chair will play a leadership role in fostering and strengthening these collaborations.

Fernando Miralles-Wilhelm

June 12th, 2024

Dean

Date

Gad Perry
July 26, 2024

General

Gad Perry, PhD is a candidate for Tenure upon Hire to Professor without Term in the Department of Environmental Science and Policy within the College of Science (COS). He is also selected to serve as the Department Chair in Environmental Science and Policy. Professor Perry received his PhD in Zoology at the University of Texas at Austin in 1995. He also earned his MS in Zoology in 1990 and BS in Biology in 1987 from Tel Aviv University.

Currently, Professor Perry holds an academic appointment as Professor in the Department of Natural Resource Management at Texas Tech University. He continuously has been a member of the faculty of Texas Tech University since 2002 where he had previously served as Associate Professor and Assistant Professor. He also has previous administrative appointments as Co-Lead for the Center for Urban-Rural Environmental Sustainability, Senior Director for International Research and Development Division and Director of the International Center for Arid and Semiarid Land Studies. Professor Perry held a variety of appointments with Jigjiga University, Mekelle University, University of Wisconsin, Ohio State, University of Texas and Tel Aviv University. He has also held positions with the U.S. Department of State as a Senior Advisor Consultant, Special Government Employee and Jefferson Science Fellow.

Professor Perry's tenure dossier demonstrates that he has established an exceptionally strong record of research, teaching, and service. His case is strongly supported by all of the COS review committees and the Dean of the College. He will be a valued member of our university community and, in my view, is deserving of appointment to the rank of Professor without Term.

Consistent with the unanimous recommendation of the COS review committees, and the Dean of the College, I recommend that Professor Perry be granted appointment to the rank of Professor without Term in the College of Science, effective July 29, 2024.

Elections of New Tenured Faculty



**James
Antony**

*Office of the
Provost*



**Martin
Binks**

*Nutrition and Food
Studies, CPH*



**Joshua
Kleinfeld**

*Antonin Scalia Law
School*



**Thema
Monroe-White**

*Schar School of Policy
and Government*



**Gad
Perry**

*Environmental
Science and Policy,
COS*

ITEM NUMBER VII.B.1.a:

**Annual Notice - Deficit Authorization
Section 4-3.01 Requirements**

PURPOSE OF ITEM:

This item provides a copy of Section 4-3.01 to members of the Board of Visitors.

BRIEF NARRATIVE:

Section 4-3.01 prohibits agencies from obligating or expending general fund amounts in excess of appropriations or obligating or expending at a rate that would result in expenditures in excess of non-general fund revenue collections and appropriations, without prior approval by the Governor.

Consistent with this provision, the agency head is directed to acknowledge the receipt of this notification

The heads of agencies with governing boards must also provide each board member with a copy of this notice - §4-3.01.

STAFF RECOMMENDATION:

For Board information only.

§ 4-3.00 DEFICIT AUTHORIZATION AND TREASURY LOANS

§ 4-3.01 DEFICITS

a. GENERAL:

1. Except as provided in this section no state agency shall incur a deficit. No state agency receiving general fund appropriations under the provisions of this act shall obligate or expend moneys in excess of its general fund appropriations, nor shall it obligate or expend moneys in excess of nongeneral fund revenues that are collected and appropriated.

2. The Governor is authorized to approve deficit funding for a state agency under the following conditions:

- a) an unanticipated federal or judicial mandate has been imposed,
- b) insufficient moneys are available in the first year of the biennium for start-up of General Assembly-approved action, or
- c) delay pending action by the General Assembly at its next legislative Session will result in the curtailment of services required by statute or those required by federal mandate or will produce a threat to life, safety, health or property.
- d) Such approval by the Governor shall be in writing under the conditions described in § 4-3.02 a Authorized Deficit Loans of this act and shall be promptly communicated to the Chairmen of the House Appropriations and Senate Finance Committees within five calendar days of deficit approval.

3. Deficits shall not be authorized for capital projects.

4. The Department of Transportation may obligate funds in excess of the current biennium appropriation for projects of a capital nature not covered by § 4-4.00 Capital Projects, of this act provided such projects 1) are delineated in the Virginia Transportation Six-Year Improvement Program, as approved by the Commonwealth Transportation Board; and 2) have sufficient cash allocated to each such project to cover projected costs in each year of the Program; and provided that 3) sufficient revenues are projected to meet all cash obligations for such projects as well as all other commitments and appropriations approved by the General Assembly in the biennial budget.

b. UNAUTHORIZED DEFICITS: If any agency contravenes any of the prohibitions stated above, thereby incurring an unauthorized deficit, the Governor is hereby directed to withhold approval of such excess obligation or expenditure. Further, there shall be no reimbursement of said excess, nor shall there be any liability or obligation upon the state to make any appropriation hereafter to meet such unauthorized deficit. Further, those members of the governing board of any such agency who shall have voted therefore, or its head if there be no governing board, making any such excess obligation or expenditure shall be personally liable for the full amount of such unauthorized deficit and, at the discretion of the Governor, shall be deemed guilty of neglect of official duty and be subject to removal therefore. Further, the State Comptroller is hereby directed to make public any such unauthorized deficit, and the Director, Department of Planning and Budget, is hereby directed to set out such unauthorized deficits in the next biennium budget. In addition, the Governor is directed to bring this provision of this act to the attention of the members of the governing board of each state agency, or its head if there be no governing board, within two weeks of the date that this act becomes effective. The governing board or the agency head shall execute and return to the Governor a signed acknowledgment of such notification.

c. TOTAL AUTHORIZED DEFICITS: The amount which the Governor may authorize, under the provisions of this section during the current biennium, to be expended from loans repayable out of the general fund of the state treasury, for all state agencies, or other agencies combined, in excess of general fund appropriations for the current biennium, shall not exceed one and one-half percent (1 1/2%) of the revenues collected and paid into the general fund of the state treasury as defined under § 4-2.02 b of this act during the last year of the previous biennium and the first year of the current biennium.

d. The Governor shall report any such authorized and unauthorized deficits to the Chairmen of the House Appropriations and Senate Finance Committees within five calendar days of deficit approval. By August 15 of each year, the Governor shall provide a comprehensive report to the Chairmen of the House Appropriations and Senate Finance Committees detailing all such deficits.