



Tab 2

CBHE Draft Ethics & Conflict of Interest Policy

Coordinating Board for Higher Education

March 4, 2020

BACKGROUND

The CBHE does not have an Ethics & Conflict of Interest Policy governing its board members. In an effort to synthesize and consolidate all relevant state law governing CBHE board member activities, DHEWD staff prepared a draft Ethics & Conflict of Interest Policy and Amended CBHE Bylaws for CBHE discussion at the December 2019 CBHE meeting. CBHE members provided suggested revisions and instructed DHEWD staff to provide a revised Ethics Policy and Amended CBHE Bylaws for a vote at the March 2020 CBHE meeting.

CURRENT STATUS

DHEWD staff incorporated CBHE member edits and suggestions in the attached draft Ethics & Conflict of Interest Policy and Amended CBHE Bylaws. The revisions to the Amended CBHE Bylaws also include stylistic changes at the direction of the CBHE.

RECOMMENDATION

Staff recommend that the Coordinating Board vote to amend the bylaws as attached and to formally accept the attached Ethics and Conflict of Interest Policy.

ATTACHMENTS

- A. Draft Ethics & Conflict of Interest Policy
- B. Draft Amended CBHE Bylaws

Tab 2 Attachment A DRAFT Ethics & Conflict of Interest Policy

ETHICS & CONFLICT OF INTEREST POLICY

Members of the Coordinating Board for Higher Education (CBHE) are expected to avoid unethical behavior in the course of performing their official duties. The CBHE expects its members to avoid impropriety, but also to avoid the appearance of impropriety whether or not any actually exists.

Governing Law

- Section 173.005.2, RSMo
- Section 105.005 *et seq.*, RSMo
- Section 610.010 *et seq.*, RSMo

Definitions

- **Conflict of interest** is defined as a situation in which an individual's financial or other interests in an outside entity conflict, or appear to conflict, with that individual's ability to carry out their responsibilities to the CBHE and the State of Missouri.
- **Suspected violation** is any violation of this policy that a member of the CBHE reasonably believes likely occurred, but lacks certain proof.

Prohibited Activities

Members of the CBHE agree that they shall not:

1. Take any action, or participate in any discussion, in which they have, or could appear to have, a conflict of interest;
2. Be engaged professionally as an educator or educational administrator with a public or private institution of higher education at the time appointed or during their term;
3. Accept anything of value in relationship to, or as a condition of, the performance of an official act;
4. Use their position and/or information obtained in course of performing their duties as a member of the CBHE for private gain;
5. Give preferential treatment to any person or entity;
6. Take any action that could erode public confidence in the integrity of the CBHE;
7. Perform any service for another entity, whether for compensation or not, in their official capacity as a member of the CBHE; or
8. Meet with a quorum of CBHE members to conduct any public business of the CBHE outside of an appropriately noticed public meeting. However, less than a quorum of CBHE members may meet to discuss public business so long as the intent of the meeting is not to evade the Missouri Sunshine Law.-

Reporting Requirements

Members of the CBHE shall report all known or suspected violations of this policy to the General Counsel of the Missouri Department of Higher Education and Workforce Development within three calendar days of discovery of the known or suspected violation. The General Counsel will investigate the known or suspected violation and issue a recommendation to the CBHE at the next public meeting of the CBHE for resolution of the violation if one is discovered or validated.

Draft Amended Bylaws

Tab 2, Attachment B



Bylaws of the Missouri Coordinating Board for Higher Education

Article I: Enabling Authority

These bylaws govern the conduct of the business and affairs of the Missouri Coordinating Board for Higher Education ("Board") pursuant to the responsibilities vested in it by the Missouri Constitution and Revised Statutes.

Article II: Members

The membership of this Board and the terms of office of each member are prescribed in Section 173.005 of the Missouri Revised Statutes. Any member desiring to resign from the Board shall submit such resignation in writing to the Secretary of the Board, who shall provide it to the Executive Committee for action. The Executive Committee shall immediately notify the Director of Boards and Commissions in the Governor's Office of such member's resignation.

Article III: Officers

Section 1. Officers. The officers of the Board shall be: Chair, Vice Chair and Secretary. They shall be elected by the Board from its own membership. These officers shall perform the duties prescribed by the Missouri Revised Statutes, these bylaws and as may be prescribed by the Board.

Section 2. Election - Tenure of Officers. At the regular meeting of the board immediately prior to October 30, a Nominating Committee of three members shall be appointed by the Chair. It shall be the duty of this Committee to nominate candidates for the offices to be filled by election at the regular meeting immediately prior to December 31. Before the election at the regular meeting in December, following the report of the Nominating Committee, additional nominations from the floor shall be permitted. Officers' terms shall begin at the close of the regular December meeting, and officers shall serve for a period of one year and until their successors are elected and qualified.

No member shall hold more than one office at a time. No member shall be eligible to serve more than two consecutive terms in the same office, unless a member makes a motion that another member be permitted to serve more than two consecutive terms in the same office and the motion is approved by at least a two-thirds vote of the members of the Board. No member shall be permitted to serve more than four consecutive terms in the same office under any circumstances.

Section 3. Duties of Officers.

Chair. The Chair of the Board shall preside at all meetings of the Board and shall be the spokesperson for the Board and shall perform such duties as may be prescribed by the Missouri Revised Statutes and by the Board. The Chair shall appoint the members of any committee established pursuant to these bylaws and shall name the Chair of each such committee.

Vice Chair. In the event of the absence of the Chair, the Vice Chair shall serve as Chair of the Board and perform all the duties of the Chair. The Vice Chair shall perform such other duties as prescribed by the Missouri Revised Statutes and by the Board.

Secretary. The Secretary of the Board shall take minutes of any ~~executive-closed~~ session of the ~~board~~ Board and shall perform other duties as prescribed the Missouri Revised Statutes and by the Board.

Article IV: Meetings

Section 1. Meetings of the Board may be held at any place or places within the State of Missouri. The Board shall hold no less than four (4) regular meetings during each calendar year. Special or additional meetings may be called by the Chair or upon call of at least five (5) members of the Board. The purpose of the meeting shall be stated in the call.

Section 2. Meeting Agenda. The agenda and order of items on the agenda for all meetings of the Board shall be established by the ~~commissioner~~ Commissioner of ~~higher~~ Higher ~~education~~ Education as the Board's chief administrative officer with the concurrence of the Board Chair. The committees of the Board, with the assistance and advice of the ~~department~~ Department of Higher Education and Workforce Development (Department) employee supporting the respective committee, may recommend items for the agenda. Any Board member also may recommend items for the agenda. The agenda shall be developed and notice thereof made public in compliance with the applicable laws of the State of Missouri and any current or future policy or procedures adopted by the Board.

Section 3. Notice of Meeting. The notice of meeting and agenda shall be in accordance with the Missouri Revised Statutes.

Section 4. Absence at Meetings. If any member of the Board fails to attend any two consecutive regularly called meetings of the Board, or any three regularly called meetings in any calendar year, of which meetings the member shall have had due notice, unless such absences shall be caused by sickness or some accident preventing the member's presence (as defined in Article IV, Section 4.A) at the meetings, the Chair shall bring the matter to the attention of the Director of Boards and Commissions in the Governor's Office. For purposes of this Section, "regularly called meetings" shall include the ~~February, April, June, October, and December Board meetings, four (4) regular meetings required under Article IV, Section 1 above,~~ as well as the Board's summer retreat.

Section 5. Conduct of Meetings. A majority of the members of the Board shall constitute a quorum. Any act of the majority of the members present at any Board meeting at which a quorum is present shall be the act of the Board. Board members may participate in a meeting by means of conference telephone or similar communication equipment whereby all persons participating in or attending the meeting can communicate with each other, and participation in a meeting in this manner shall constitute presence in person at the meeting for all purposes.

All meetings of the Board and any Committee thereof must comply with the Missouri Revised Statutes on meetings of governmental bodies and maintenance of records by such bodies.

At all Board and Committee meetings, a staff member shall act as Recording Secretary. In the absence of a staff member, the Board or Committee shall designate a member to serve as Recording Secretary. Full and complete minutes shall be kept of each meeting and shall be submitted to Board members for review prior to the succeeding meeting.

Voting on all matters coming before the Board shall be voice vote. Except on those matters for which roll call votes are required by law, in all cases where the vote of the members present is unanimous, it shall be sufficient to indicate unanimity in the minutes of the proceedings. In all cases where the vote of the members present is not unanimous, the "ayes" and "nays" shall be separately entered upon the minutes. In the absence of such

expression of dissent or an expression of abstention, a member of the Board who is present at any meeting in which action is taken on any matter shall be presumed to have assented to such actions unless, before the adjournment of the meeting, the member shall affirmatively request that the member's vote of "nay" be separately entered upon the minutes, or the member be recorded as not having voted.

The Board may meet for appropriate purposes in executive-closed session. Any vote taken in executive-closed session shall be deemed and retained confidential, subject to the closed meeting provisions the Missouri Revised Statutes.

Article V: Committees

Section 1. Executive Committee. An Executive Committee shall be established and composed of four Board members: Chair, Vice Chair, and Secretary of the Board and another member of the Board designated by the Chair. Such Executive Committee members shall hold office until their successors have been duly appointed.

The Executive Committee, when the Board is not in session, shall have the powers of the Board to take such action as the Executive Committee may deem to be in the best interests of the Board and the Department of Higher Education; provided, however, that such action shall be in accord with the provisions of these bylaws, and not in conflict with existing policies of the Board. A complete record of all actions of the Executive Committee shall be kept by the Secretary of the Board, and a copy of such record shall be provided to all members of the Board within seven days of any action by the Executive Committee. Actions of the Executive Committee may be ratified, approved, or modified at the next regular meeting of the Board, but any modification thereof shall be prospective only. If, at its next regular meeting, the Board takes no action on an Executive Committee action, the record of which was provided to the members of the Board prior to that regular meeting, such action shall be deemed ratified by the Board. The vote of any members on any question coming before the Executive Committee may be taken in person, by telephone, facsimile transmission, email or letter. Concurrence of three members shall constitute action of the Executive Committee.

The Board Chair shall serve as the Chair of the Executive Committee. Meetings of the Executive Committee may be called by the Chair of the Executive Committee or upon call of at least three members of the Committee. The Commissioner of Higher Education may also request that the Chair call a meeting of the Executive Committee. The purpose of the meeting shall be stated in the call.

Section 2. Audit Committee. An Audit Committee composed of three Board members shall be established. The Chair of the Board shall appoint the members of the Audit Committee and at the same time shall name the Chair of the Committee promptly after the regular meeting immediately prior to December 31 of each year. Committee members shall serve for a period of one year and until their successors are appointed and qualified.

The Audit Committee shall receive and review all audit reports pertaining to the Board and the Department of Higher Education and such other audit reports as may be referred to the Committee. The Committee shall report to the Board on the contents of the reports and shall follow up with the Commissioner of Higher Education and department staff regarding resolution of any findings in the reports. The Committee shall report to the Board on the status of any such findings. The Committee shall perform such other duties as are specified in these bylaws or as directed by the Board.

Section 3. Budget and Financial Aid Committee. A Student Loan/Financial Aid Committee composed of three Board members shall be established. The Chair of the Board shall appoint the members of the Student Loan/Financial Aid Committee and at the same time shall name the Chair of the Committee promptly after the regular meeting immediately prior to December 31 of each year. Committee members shall serve for a period of one year and until their successors are appointed and qualified.

The Committee shall work with the Commissioner of Higher Education and Department staff on budget and financial aid issues as they arise and shall, as necessary, make reports to the Board on such activities. The Committee shall perform such other duties as are specified in these bylaws or as directed by the Board.

Section 4. Academic Affairs and Workforce Needs Committee. The Committee shall work with the Commissioner of Higher Education and Department staff on issues relating to academic programs and workforce needs and shall, as necessary, make reports to the Board on such activities. This should include collaboration with and support of the goals and objectives of the P-20 Council. The Committee shall perform such other duties as are specified in these bylaws or as directed by the Board.

Section 5. Other Committees. Such other committees, standing or special, shall be appointed by the Chair of the Board or the Executive Committee ~~shall~~ from time to time as deemed necessary to carry on the work of the Board. The Chair shall appoint the membership of such committees, which may, but need not, include members of the Board, and shall designate the matters to be considered by said committees. The Chair shall be an ex officio member of all committees except the Nominating Committee.

Article VI: Advisory Committees

Section 1. Presidential Advisory Committee. Four times each year the Board shall meet with the Presidential Advisory Committee as established by the Missouri Revised Statutes. Such meetings shall enable the Presidential Advisory Committee to advise the Board of the views of the institutions on matters within the purview of the Board.

Section 2. Proprietary School Advisory Committee. The Board delegates responsibility to the Commissioner of Higher Education to meet with and receive reports from the Proprietary School Advisory Committee as established by the Missouri Revised Statutes.

Article VII: Conduct of Business and Affairs

Section 1. Staff. The Board shall employ a Commissioner of Higher Education ("~~Commissioner~~") to serve at the pleasure of the Board. The Commissioner of Higher Education shall employ and determine the compensation of all such professional, clerical, and research personnel, including, where justified, specialists and/or consultants, as may be necessary to assist the Board in performing those duties outlined in the Missouri Revised Statutes. Except as otherwise expressly provided, all ~~department-Department~~ staff shall be subject to the supervision and direction of the Commissioner of Higher Education.

The Commissioner of Higher Education shall have such duties and responsibilities as prescribed by the Board, including:

- Assume general direction of the staff to help meet the objectives set forth by the Board.
- Serve as liaison with the presidents, chancellors, and chief executive officers of institutions in carrying out policy objectives promulgated by the Board.
- Follow and keep the Board advised of all federal and state legislation affecting the Board and its purposes and objectives.
- Issue reports of Board action.
- Prepare, review, analyze, and implement all budgets which are approved by the Board.
- Make recommendations to the Board concerning the purposes, objectives, and responsibilities of the Board.
- Assist the Chair in the release of all information concerning the Board.
- Perform such other duties as prescribed by the Board and/or bylaw.

Section 2. Commissioner of Higher Education Search. The Board shall act as a committee of the whole as a search committee, unless the Chair, as directed by the Board, establishes a special committee for the purpose of searching for and screening candidates. The Board may include outside consultants and other persons in the

search and screening process provided, however, that only Board members shall vote on the selection of a Commissioner of Higher Education.

Section 3. Evaluation of Commissioner. The Board shall annually evaluate the performance of the Commissioner of Higher Education. The purpose of the evaluation shall be to establish a record of performance over a period of time, to identify strengths, and to determine areas where more attention may be needed.

Section 4. Emeritus Designation. The procedure for granting the title of “CBHE Member/Commissioner Emeritus/Emerita” shall originate with nomination by another member of the Coordinating Board for Higher Education or by the ~~commissioner of higher education~~ Commissioner of Higher Education. The title may be granted to any candidate who (1) holds the position of ~~CBHE Board~~ member for at least six years or ~~commissioner~~ Commissioner of ~~higher Higher Ee~~ Higher Education for at least five years; (2) has indicated the willingness or desire to receive emeritus status; and (3) whose contributions to Missouri higher education are recognized as exceptionally meritorious as determined by a majority of the other members of the CBHE Board (candidate abstaining).

Names and terms of Emeritus/Emerita designees may be displayed in public places. Emeritus designees are a valuable resource for the CBHE Board and MDHE Department, and as such may receive nonprivileged reports, studies and communications from the ~~department~~ Department and serve as advisors upon invitation of the CBHE Board or ~~commissioner~~ Commissioner of Higher Education.

Section 5. Ethics and Conflict of Interest. Members of the ~~Coordinating Board for Higher Education~~ Board agree to comply with the ~~CBHE Board~~ CBHE Board-approved Ethics and Conflict of Interest Policy as adopted, including any subsequent amendments made by a lawful vote of the CBHE Board.

Article VIII: Records

Full and complete records of Board actions and activities shall be kept available in accordance with Missouri Revised Statutes on governmental bodies and records.

Article IX: Diversity

The ~~Coordinating Board for Higher Education~~ Board and its staff should use selection processes and criteria designed to ensure diverse representations when making appointments to various committees, councils, or commissions. In as much as reasonably possible, criteria for representation should include the following:

Individuals who have demonstrated appropriate expertise and experience through their vocation, employment, affiliation or interests in connection with the membership being assembled;

Individuals who reflect the various geographic regions of the state as a whole or other appropriate sub-unit directly in connection to the membership being assembled; and

Individuals who reflect the race, ethnicity, age, gender, and disability characteristics of the population of the state as a whole, or other appropriate sub-unit in connection with the membership being assembled.

In as much as reasonably possible, the campus presidents and chancellors, and their respective local boards should use a similar selection process and criteria in making appointments to various committees, councils, or commissions.

Article X: Parliamentary Authority

The rules contained in the current edition of *Robert's Rules of Order Newly Revised* shall govern the Board in all cases to which they are applicable and in which they are not inconsistent with these bylaws and any special rules of order the Board may adopt.

Article XI: Amendment of Bylaws

These bylaws may be amended at any regular meeting of the Board by a two-thirds vote of the members of the Board, provided that the amendment has been submitted in writing at the previous regular meeting.

Adopted by the board October 1987. Revised October 12, 2006; December 6, 2007; December 4, 2008; February 10, 2011; ~~and June 9, 2016;~~ and March 4, 2020.

DRAFT