Members of the Board of Visitors of the University of Virginia met in Retreat and in Open and Executive Session, in the Forum Room of the White Burkett Miller Center of Public Affairs in Charlottesville, Virginia on Sunday and Monday, August 16-17, 2015; William H. Goodwin Jr., Rector, presided.


Present as well were Teresa A. Sullivan, Thomas C. Katsouleas, Patrick D. Hogan, Richard P. Shannon, M.D., Donna P. Henry, Susan G. Harris, David W. Martel, Debra D. Rinker, Nancy A. Rivers, Roscoe C. Roberts, and Farnaz F. Thompson.

Sunday, August 16

The retreat began at 3:00 p.m. following an orientation session for the new members: Mark T. Bowles, Whittington W. Clement, Tammy S. Murphy, James V. Reyes, and Jeffrey C. Walker.

Rector Goodwin introduced the new members and reviewed the agenda. Mr. William J. Antholis, Executive Director of the White Burkett Miller Center of Public Affairs, gave an overview of the Miller Center. Mr. Roscoe C. Roberts provided a briefing on the Virginia Freedom of Information Act (FOIA) which included a short video produced by the State Council on Higher Education in Virginia (SCHEV).

Mr. Hogan provided an overview of the University’s finances and concluded that the University has a sustained record of successfully meeting financial challenges. Mr. Hogan focused on faculty recruitment and said the University will need to accelerate plans in order to attain the Board’s goal of a top 20 AAU ranking in faculty compensation. Mr. Hogan explained that the legislature capped increases at 4.5% last year and the University’s peers are moving ahead at a faster pace. Mr. Goodwin suggested asking the legislature for a one-time “catch-up”. Mr. Hogan also presented data on projected enrollment growth and projected growth of the Medical Center.
Executive Session:

After adopting the following motion, the Board went into closed session at 4:40 p.m.:

That the Board of Visitors go into closed session to review personally identifiable information contained in the scholastic records of students attending the University of Virginia, to consider personnel matters involving University faculty and staff, to discuss specific security matters relating to University systems, and to discuss with legal counsel probable litigation and other legal matters requiring the provision of legal advice, as permitted by Code of Virginia sections 2.2-3711 (A) 1, 2, 4, 7, and 19, as well as the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g, 34 C.F.R. Part 99.

At 6:40 p.m., the Board recessed for the day.

After a reception and dinner in the South Lounge of the Darden School of Business, President Sullivan gave a brief talk on the future of higher education and the University’s role.

Monday, August 17

The session began at 8:30 a.m. in Executive Session.

At 11:35 a.m., the Board concluded the closed session and approved the following motion:

That we vote on and record our certification that, to the best of each Board member’s knowledge, only public business matters lawfully exempted from open meeting requirements and which were identified in the motion authorizing the closed session, were heard, discussed or considered in closed session.

Because of the unusually long executive session, the Rector postponed the business matters portion of the agenda and proceeded with Executive Director of the Alumni Association Thomas Faulders introducing the Gallup-Purdue Index which measured both engagement and well-being of alumni. Mr. Faulders introduced Mr. Dave Goldich of the Gallup organization, who said that the University’s alumni score in the top decile in well-being and feel more engaged at work than the national average. He showed statistics indicating that 31% feel an attachment to the University, which is much higher than the national average at 18%. He said 42% agreed that “U.Va. was the perfect school for people like me” which is the highest among all public universities surveyed.
Mr. Goldich said they surveyed a number of factors that provide a picture of alumni views on support and experiential and deep learning while students. He said the University fared well on most of these measures in comparison to national and AAU averages, except in the area of internship opportunities; however, 41% of graduates said the University prepared them well for life after college as compared to a national average of 29% and an AAU average of 30%. The University’s scores on all of the support and experiential and deep learning measures were all lower than the averages of graduates of liberal arts colleges, but generally compared well with other Virginia universities except in the area of internships.

Mr. Goldich outlined best practices to improve the undergraduate experience. He said developing mentors through research projects with faculty, and internship opportunities, are two important ways to engage students more fully and contribute to their well-being in future years. He also encouraged using the alumni pool to find mentors; Mr. Faulders said we are doing just that. Mr. Goldich’s final recommendation was to encourage faculty to require semester or longer projects in their courses.

The business session began at 1:00 p.m. Mr. Goodwin asked President Sullivan to introduce the first item. Ms. Sullivan explained that the University seeks to introduce legislation for the 2016 Session of the General Assembly to amend the Code of Virginia to provide institutional review boards greater flexibility in the oversight of non-federally funded, low-risk human subject research. Currently, human subject research funded and/or regulated by a federal agency is governed by federal regulations. Until recently, it had been common practice for institutions, including the University, to voluntarily extend the federal regulations to all research regardless of the funding source. In an effort to provide greater flexibility in the oversight of non-federally-funded research and avoid administrative burdens associated with the federal regulations, institutions in other states no longer extend the regulations to non-federally funded research. Current law in Virginia, however, includes provisions for human subject research for institutions that do not follow federal regulations. Some of these provisions impose greater restrictions than federal regulations. The proposed amendments are underlined in the body of the resolution.

On motion, the Board approved the following resolution:

**LEGISLATIVE PROPOSAL TO AMEND CODE OF VIRGINIA SECTIONS 32.1-162.16 through and 32.1-162.19**

RESOLVED, the Board of Visitors approves and endorses amending the Code of Virginia as it pertains to research with human subjects.
The proposed amendments to §§ 32.1-162.16 through 32.1-162.19 of the Code of Virginia are as follows:

§ 32.1-162.16. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Human research" means any systematic investigation, including research development, testing and evaluation, utilizing human subjects, that is designed to develop or contribute to generalized knowledge. Human research shall not be deemed to include research exempt from federal research regulation pursuant to 45 C.F.R. § 46.101(b).

"Human subject" means a living individual about whom an investigator (whether profession or student) conducting research obtains data through intervention or interaction with the individual, or identifiable private information.

"Informed consent" means the knowing and voluntary agreement, without undue inducement or any element of force, fraud, deceit, duress, or other form of constraint or coercion, of a person who is capable of exercising free power of choice. For the purposes of human research, the basic elements of information necessary to such consent shall include:

1. A reasonable and comprehensible explanation to the person of the proposed procedures or protocols to be followed, their purposes, including descriptions of any attendant discomforts, and risks and benefits reasonably to be expected;

2. A disclosure of any appropriate alternative procedures or therapies that might be advantageous for the person, if applicable;

3. An instruction that the person may withdraw his consent and discontinue participation in the human research at any time without prejudice to him;

4. An explanation of any costs or compensation which may accrue to the person and, if applicable, the availability of third party reimbursement for the proposed procedures or protocols; and

5. An offer to answer and answers to any inquiries by the person concerning the procedures and protocols.

"Institution" or "agency" means any facility, program, or organization owned or operated by the Commonwealth, by any political subdivision, or by any person, firm, corporation, association, or other legal entity.
"Legally authorized representative" means, in the following specified order of priority, (i) the parent or parents having custody of a prospective subject who is a minor, (ii) the agent appointed under an advance directive, as defined in § 54.1-2982, executed by the prospective subject, provided the advance directive authorizes the agent to make decisions regarding the prospective subject's participation in human research, (iii) the legal guardian of a prospective subject, (iv) the spouse of the prospective subject, except where a suit for divorce has been filed and the divorce decree is not yet final, (v) an adult child of the prospective subject, (vi) a parent of the prospective subject when the subject is an adult, (vii) an adult brother or sister of the prospective subject or (viii) any person or judicial or other body authorized by law or regulation to consent on behalf of a prospective subject to such subject's participation in the particular human research. For the purposes of this chapter, any person authorized by law or regulation to consent on behalf of a prospective subject to such subject's participation in the particular human research shall include an attorney in fact appointed under a durable power of attorney, to the extent the power grants the authority to make such a decision. The attorney in fact shall not be employed by the person, institution, or agency conducting the human research. No official or employee of the institution or agency conducting or authorizing No person directly involved in the conduct or approval of the research shall be qualified to act as a legally authorized representative.

"Minimal risk" means that the risks of harm anticipated in the proposed research are not greater, considering probability and magnitude, than those ordinarily encountered in daily life or during the performance of routine physical or psychological examinations or tests.

"Nontherapeutic research" means human research in which there is no reasonable expectation of direct benefit to the physical or mental condition of the human subject.

§ 32.1-162.17. Exemptions.

The following categories of human research are exempt from the provisions of this chapter:

1. Activities of the Virginia Department of Health conducted pursuant to § 32.1-39;

2. Research or student learning outcomes assessments conducted in educational settings involving regular or special education instructional strategies, the effectiveness of or the comparison among instructional techniques, curricula, or classroom management methods, or the use of educational tests, whether cognitive, diagnostic, aptitude, or achievement, if the data from such tests are recorded in
a manner so that subjects cannot be directly identified, directly or through identifiers linked to the subjects;

3. Research involving survey or interview procedures that involves no procedures which place the subject at risk for physical or psychological harm, and only involves non-invasive activities, survey, interview or focus group procedures, unless responses are recorded in such a manner that the subjects can be identified, directly or through identifiers linked to the subjects, and either (i) the subject's responses, if they became known outside the research, could reasonably place the subject at risk of criminal or civil liability or be damaging to the subject's financial standing or employability or (ii) the research deals with sensitive aspects of the subject's own behavior, such as sexual behavior, drug or alcohol use, or illegal conduct;

4. Research involving survey or interview procedures, when the respondents are elected or appointed public officials or candidates for public office;

5. Research involving solely the observation of public behavior, including observation by participants, unless observations are recorded in such a manner that the subjects can be identified, directly or through identifiers linked to the subjects, and either (i) the observations recorded about the individual, if they became known outside the research, could reasonably place the subject at risk of criminal or civil liability or be damaging to the subject's financial standing or employability or (ii) the research deals with sensitive aspects of the subject's own behavior, such as sexual behavior, drug or alcohol use, or illegal conduct; and

6. Research involving the collection or study of existing data, documents, records, pathological specimens, or diagnostic specimens, (i) if these sources are publicly available or if the information is recorded by the investigator in a manner so that subjects cannot be identified, directly or through identifiers linked to the subjects; or (ii) if the information is recorded in a manner so that the subjects could be identified, the information is protected from disclosure through required compliance with applicable institutional policies, state statutes, and federal regulations that mandate security provisions to protect the confidentiality of the information.

§ 32.1-162.18. Informed consent.

A. In order to conduct human research in this Commonwealth, informed consent must be obtained if the person who is to be the human subject is as follows: (i) capable of making an informed decision, then it shall be subscribed to in writing by the person and witnessed; (ii)
incapable of making an informed decision, as defined in § 54.1-2982, at the time consent is required, then it shall be subscribed to in writing by the person's legally authorized representative and witnessed; or (iii) a minor otherwise capable of rendering, then it shall be subscribed to in writing by the minor's legally authorized representative, unless the minor is permitted to render informed consent because of emancipated status under § 16.1-333 or deemed adult status under § 54.1-2969, then it shall be subscribed to in writing by both the minor and his legally authorized representative. The giving of consent by a legally authorized representative shall be subject to the provisions of subsection B of this section. If two or more persons who qualify as legally authorized representatives and have equal decision-making priority under this chapter inform the principal investigator or attending physician that they disagree as to participation of the prospective subject in human research, the subject shall not be enrolled in the human research that is the subject of the consent. No informed consent form shall include any language through which the person who is to be the human subject waives or appears to waive any of his legal rights, including any release of any individual, institution, or agency or any agents thereof from liability for negligence.

Notwithstanding consent by a legally authorized representative, no person shall be forced to participate in any human research if the investigator conducting the human research knows that participation in the research is protested by the prospective subject. In the case of persons suffering from organic brain diseases causing progressive deterioration of cognition for which there is no known cure or medically accepted treatment, the implementation of experimental courses of therapeutic treatment to which a legally authorized representative has given informed consent shall not constitute the use of force.

B. A legally authorized representative may not consent to nontherapeutic research unless it is determined by the human research committee that such nontherapeutic research will present no more than a minor increase over minimal risk to the human subject. A legally authorized representative may not consent to participation in human research on behalf of a prospective subject if the legally authorized representative knows, or upon reasonable inquiry ought to know, that any aspect of the human research protocol is contrary to the religious beliefs or basic values of the prospective subject, whether expressed orally or in writing. A legally authorized representative may not consent to participation in human research involving nontherapeutic sterilization, abortion, psychosurgery or admission for research purposes to a facility or hospital as defined in § 37.2-100.

C. Except as provided elsewhere in this chapter, no investigator may involve a human being as a subject in research covered by this chapter unless the investigator has obtained the legally effective informed
consent of the subject or the subject's legally authorized representative. An investigator shall seek such consent only under circumstances that provide the prospective subject or the legally authorized representative sufficient opportunity to consider whether or not to participate and that minimize the possibility of coercion or undue influence.

D. The human research review committee may approve a consent procedure which omits or alters some or all of the basic elements of informed consent, or waives the requirement to obtain informed consent, if the committee finds and documents that (i) the research involves no more than minimal risk to the subjects; (ii) the omission, alteration or waiver will not adversely affect the rights and welfare of the subjects; (iii) the research could not practicably be performed without the omission, alteration or waiver; and (iv) after participation, the subjects are to be provided with additional pertinent information, whenever appropriate.

E. The human research review committee may waive the requirement that the investigator obtain written informed consent for some or all subjects, (i) if the committee finds that the only record linking the subject and the research would be the consent document and the principal risk would be potential harm resulting from a breach of confidentiality or (ii) that the research presents no more than minimal risk of harm to subjects and involves no procedures for which written consent is normally required outside of the research context. The committee may require the investigator to provide the subjects with a written statement explaining the research. Further, each subject shall be asked whether he wants documentation linking him to the research and the subject's wishes shall govern.

§ 32.1-162.19. Human research review committees.

A. Each institution or agency which conducts or which proposes to conduct or authorize a human research project shall establish or designate a human research review committee to review the project. The committee shall be composed of representatives of varied backgrounds to ensure the competent, complete, and professional review of human research activities conducted or proposed to be conducted or authorized by the institution or agency. No member of the committee shall have a conflicting interest, except to provide information requested by the committee.

B. No human research shall be conducted or authorized by such institution or agency unless the established or designated committee has reviewed and approved the proposed human research project giving
consideration to (i) the adequacy of the description of the potential benefits and risks involved and the adequacy of the methodology of the research; (ii) if the research is nontherapeutic, whether it presents more than a minimal risk to the human subjects whether the risks to subjects are reasonable in relation to anticipated benefits, if any, to subjects, and the importance of the knowledge that may reasonably be expected to result; (iii) whether the rights and welfare of the human subjects involved are adequately protected; (iv) whether the risks to the human subjects are outweighed by the potential benefits to them; (v) whether the risks to subjects are minimized by using procedures that are consistent with sound research design and that do not unnecessarily expose subjects to risk and, whenever appropriate, by using procedures already being performed on the subjects for diagnostic or treatment purposes; (vi) when some or all of the subjects are likely to be incapable of making an informed decision regarding consent or are otherwise vulnerable to coercion or undue influence, such as children, prisoners, pregnant women, mentally disabled persons, or economically or educationally disadvantaged persons, whether additional safeguards have been included in the study to protect the rights and welfare of these subjects; (vii) whether the informed consent is to be obtained by methods that are adequate and appropriate and whether the written consent form is adequate and appropriate in both content and language for the particular research; (viii) whether the persons proposing to conduct the particular human research are appropriately competent and qualified; and (ix) whether the criteria for selection of subjects are equitable; and (ix) whether there are adequate provisions to protect the privacy of subjects and to maintain the confidentiality of data. The committee shall require periodic reports from each existing human research project to ensure that the project is being carried out in conformity with the proposal as approved.

C. The regulations of an institution or agency may authorize the committee to conduct an expedited review of a human research project which involves no more than minimal risk to the subjects if (i) another institution's or agency's human research review committee has reviewed and approved the project or (ii) the review involves only minor changes in a previously approved research project that do not increase risks to subjects and the changes occur during the approved project period or (ii) the study is minimal risk and the procedures in the study satisfy the criteria for expedited review as published in the Federal Register by the Secretary of HHS.

D. Every person engaged in the conduct of human research or proposing to conduct human research shall affiliate himself with an institution or agency having a research review committee, and the human research which he conducts or proposes to conduct shall be subject to review and approval by such committee in the manner set forth in this section. All human research conducted in the Commonwealth shall be
subject to review and approval by a human research review committee as
specified in this chapter.

E. Each human research review committee of a state institution or
agency shall ensure that an overview of approved human research
projects and the results of such projects are made public on the
institution's or agency's website unless otherwise exempt from
disclosure under the Virginia Freedom of Information Act (§ 2.2-3700
et seq.).

Rector Goodwin presented the second business item regarding the
selection process for the Board’s nonvoting faculty advisory
representative. When the Board approved this position at its March
meeting, the selection details were to be decided at a later date.
Mr. Goodwin proposed that the position be filled by the immediate past
chair of the Faculty Senate since this individual has knowledge of
faculty issues and has Board experience since the Faculty Senate chair
is invited to speak at every Board regular meeting.

On motion, the Board approved the following resolution:

FACULTY REPRESENTATIVE TO THE BOARD

RESOLVED, the immediate past chair of the Faculty Senate shall
serve as the nonvoting faculty advisory representative to the Board
of Visitors for one year terms commencing June 1 of each year.

The third business item dealt with restructuring committees. Mr.
Goodwin explained that he intended to have sequential committee
meetings, and the Board would be more effective in its committee work
if there were fewer committees each with a broader focus.
Concentrations would be areas where one or two members would work with
the staff and become very knowledgeable about the specific area. Mr.
Goodwin said Mr. Conner helped developed the proposal and asked him to
comment. Mr. Conner remarked that chairs need to be actively involved
in planning committee agendas and keeping the meetings moving.

Mr. Goodwin spoke about the need for more time for the Medical
Center Operating Board, which may mean the Board meetings will go
three days with some sessions on Saturday mornings. He also remarked
that he hoped the sessions would include generative discussions rather
than long presentations with large numbers of slides. He suggested
cutting preparatory material in half with more concise write-ups.

Executive Session:

After adopting the following motion, the Board convened in closed
session at 1:35 p.m.
That the Board of Visitors go into closed session to review personally identifiable information contained in the scholastic records of students attending the University of Virginia, to consider personnel matters involving University faculty and staff, to discuss specific security matters relating to University systems, and to discuss with legal counsel probable litigation and other legal matters requiring the provision of legal advice, as permitted by Code of Virginia sections 2.2-3711 (A) 1, 2, 4, 7, and 19, as well as the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g, 34 C.F.R. Part 99.

At 4:10 p.m., the Board concluded the closed session and approved the following motion:

That we vote on and record our certification that, to the best of each Board member's knowledge, only public business matters lawfully exempted from open meeting requirements and which were identified in the motion authorizing the closed session, were heard, discussed or considered in closed session.

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On motion, the meeting was adjourned at 4:10 p.m.

Respectfully Submitted,

[Signature]

Susan G. Harris Secretary

SGH:wtl
These minutes have been posted to the University of Virginia's Board of Visitors website.
http://www.virginia.edu/bov/publicminutes.html