Board Basics

Carrie Nee  
University Counsel

Ramona Taylor  
College Counsel
Attorney-Client Relationship

• Counsel appointed by the Attorney General and coordinated through the Education Section
• Primary role is to advise Board and leaders on legal issues and management of legal risk
Legal Framework for Public Institutions

• Article VIII of the Virginia Constitution

• Enabling legislation (Va. Code §23.1-2800 et seq.)

• Title 23.1 of the Code of Virginia
  – Statutorily assigned powers and duties
  – Coordination by State Council of Higher Education (SCHEV)

• Restructuring Act/Management Agreement
External Regulation

• Federal Government
  • U.S. DOE laws and regulations (Title IX, Clery, FERPA)
  • Financial Aid Participation Agreement
  • Grants Administration (NSF, NEA)

• Accreditation by SACSCOC
Board Classifications

• Advisory Board: liaises with the public
• Policy Board: sets public policy
• Supervisory Board: responsible for operation of public entity

Va. Code §2.2-2100
One Board, Two Institutions

• W&M and RBC are separately established, separately accredited and operate under different tiers of the Restructuring Act

• Shared board created in 1960 and intended to be a temporary governance structure
Board Directives

The Board exercises its authority through collective action:

• Majority vote
• Open Session
• Quorum Present
Board Meetings

- Attendance is an affirmative duty
- FOIA Requirements:
  - 3 members discussing institutional business constitutes a meeting
  - 3 day notice must be provided
  - Minutes must be taken
  - Closed sessions allowed under limited circumstances
Meeting by Electronic Means

• All-virtual meetings will soon be permissible
• Flexibility provided for individual member participation from remote locations not accessible to the public
• Limited to 2 times per calendar year
Board Records

- Default is that all records created by Board members in the transaction of public business are accessible under FOIA.
- Application of exemptions determined at the institutional level.
- Members are not required to create records, but once created, records must be maintained according to the Public Records Act.
Conflict of Interests Act

- Prevents accrual of personal *financial* interests of $5000 or more
  - Members prohibited from contracting with W&M or RBC
  - Members prohibited from benefitting from transactions involving W&M or RBC
- Avoids appearance of impropriety
- Opportunity for opinion from Ethics Advisory Council or Attorney General
Conflict of Interests Act

• Compliance Requirements
  • Training to be completed within 2 months of assuming office and every 2 years thereafter
  • Filing of disclosure forms upon assuming office and every February 1 thereafter
Litigation

• Written reports provided under privilege in conjunction with regular meetings
• By statute, settlement authority is vested with the President, the AG and the Governor
• Division of Risk Management covers institution and officers acting in their official capacities