

VIRGINIA PENINSULA COMMUNITY COLLEGE

COLLEGE BOARD POLICY MANUAL



**Serving the cities of:
Hampton, Newport News, Poquoson, and
Williamsburg**

**And the counties of:
James City and York**

July 1, 2022

VIRGINIA PENINSULA COMMUNITY COLLEGE

Virginia Peninsula Community College

**Hampton Campus
99 Thomas Nelson Drive
Hampton, Virginia 23666**

**Historic Triangle Campus
4601 Opportunity Way
Williamsburg, Virginia 23188**

**Serving the cities of:
Hampton, Newport News, Poquoson, and Williamsburg**

**and the counties of:
James City and York**

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- A. List of Virginia’s Community Colleges
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1.0 The Virginia Community College System

1.1 State Board for Community Colleges

The State Board for Community Colleges is the body responsible for the control, administration, and supervision of all public community colleges in the Commonwealth of Virginia. It is the governing board for the Virginia's Community Colleges (VCCS) and Virginia Peninsula Community College.

The State Board consists of 15 members appointed by the governor subject to confirmation by the General Assembly. The members are charged with the responsibility of serving the best interests of the whole state. A principal objective of this Board is to provide and maintain a system of comprehensive community colleges through which appropriate educational opportunities and programs shall be made available throughout the state. In providing these offerings, the State Board recognizes the need for excellence in all curricula and endeavors to establish and maintain standards appropriate to the various purposes the respective programs are designed to serve.

The State Board has the right to confer diplomas, certificates, and associate degrees. It also establishes the policies providing for the creation of the Virginia Peninsula Community College Board and the procedures and regulations under which the local board operates.

1.2 The Chancellor

The Chancellor is the chief executive officer of the Virginia's Community Colleges and is appointed by the State Board for Community Colleges.

It is the duty of the Chancellor to formulate such rules and regulations and provide such assistance in his office as will be necessary for the proper performance of the system. The State Board prescribes the duties of the Chancellor in addition to those duties otherwise prescribed for him by law; and, in its discretion, approves the appointment by the Chancellor of such agents and employees as may be needed by the Chancellor in the exercise of the functions, duties, and powers conferred and imposed by law in order to effect a proper organization to carry out these duties.

1.3 Colleges of the Virginia's Community Colleges

See Appendix A for a current list of the 23 colleges in the Virginia's Community Colleges.

1.4 Definition of a Community College

A community college is defined as a comprehensive institution of higher education offering programs of instruction generally extending not more than two years beyond the high school level, which shall include, but not be limited to, courses in occupational/technical fields, the liberal arts and sciences, general education, continuing adult education, pre-college and pre-technical preparatory programs, special training programs to meet the economic needs of the region in which the college is located, and other services to meet the cultural and educational needs of the region.

(VCCS Policy Manual, Section 2-A, 2.2)

2.0 Virginia Peninsula Community College

2.1 Charge and Mission Statement

The charge to Virginia Peninsula Community College by the Virginia's Community Colleges to function within the geographic region encompassed by the Cities of Hampton, Newport News, Poquoson, and Williamsburg, and the Counties of James City and York and in those areas assigned to it by law, primarily through the operation of a comprehensive program of instruction extending not beyond the associate degree level.

Virginia Peninsula Community College is dedicated to the belief that individuals should be afforded the continuing opportunity to develop their skills and knowledge to the highest possible level and should be made aware of their roles as contributing members of society. The College serves the educational needs of its geographic region and assumes a responsibility for helping meet the requirements for trained workforce through cooperation with local industry, business, government, and the professions.

To meet its established goals, the College offers various post-secondary school programs to anyone who has a high school diploma or its equivalent or is at least 18 years of age and can benefit from the programs which are offered. For high school students who meet specified admissions standards, the College offers dual enrollment opportunities that allow them to complete courses for both secondary and collegiate credit. In addition, the college maintains an extensive guidance, counseling, and testing program along with other student services designed to help students make sound decisions regarding their educational, occupational, and personal objectives.

Because an increasingly dynamic and complex society presents new and often unforeseen demands on its members, the College provides Workforce Development Training and Continuing Education to train or retrain individuals for employment or advancement and to enrich the lives of those individuals who wish to pursue courses of study to satisfy a need for personal growth.

In carrying out its charge, Virginia Peninsula Community College recognizes its obligation to reflect and influence the social, economic, cultural, and intellectual aspirations of the community it serves.

Virginia Peninsula Community College Mission Statement

We change lives and transform our community through diverse, inclusive, and equitable education and workforce training, excellent support and services, and innovative partnerships.

Virginia Peninsula Community College Vision Statement

To provide broad and equitable access to higher education and workforce training that empowers our community to thrive and grow.

Virginia Peninsula College Board Mission Statement

*The mission of the Virginia Peninsula Community College Board is to serve as a liaison between the College President, Community, and the Virginia State Board for Community Colleges; and to perform the duties and responsibilities assigned by the Virginia State Board for Community Colleges.
(Adopted 4/2010)*

Virginia Peninsula College Board Vision Statement

The Virginia Peninsula Community College Board will be an advocate within the local and state communities to secure support and resources for Virginia Peninsula Community College.

(Adopted 4/2010)

2.2 Types of Programs

Each curriculum in the community college shall conform to the statewide criteria set by the State Board as to content but shall take into consideration the needs and opportunities in the region served by each college. The State Board shall set minimum standards and authorize issuance by institutions of appropriate associate degrees, certificates, and diplomas to individuals who satisfactorily complete the course and program requirements.

To avoid unnecessary duplication in an area where other educational agencies may be offering similar programs, the State Board may enter into a cooperative agreement with an existing agency to provide one or more of the programs listed on the following pages. In determining the curricula to be offered in each institution under the jurisdiction of the State Board, the State Board shall take cognizance of the varying needs of the communities served through the Commonwealth of Virginia and the substantiated requests of interested local governing bodies, employers, and individuals. These programs shall include, but not be limited to, the following:

1. *Occupational/Technical Education*

The occupational/technical education programs shall be designed to meet the increasing demand for technicians, semiprofessional workers, and skilled craftsmen for employment in industry, business, the professions, and government. These programs, which normally require two years or less of training beyond high school, may include preparation for agricultural, business, engineering, health and medical, industrial, service, and other technical and occupational fields. The curricula shall be planned primarily to meet the needs for workers in the region being served by the community college, but the State Board may designate certain community colleges as centers to serve larger areas of the state in offering expensive and highly specialized occupational and technical education programs.

2. *College Transfer Education*

The college transfer programs shall include college freshman and sophomore courses in arts and sciences and pre-professional programs meeting standards acceptable for transfer to baccalaureate degree programs. These programs shall be of equal grade and quality to those provided in the four-year, degree-granting institutions to facilitate the transfer of students from the community college to four-year colleges and universities.

3. *General Education*

Associate degree programs provide a coherent, shared experience for students to develop the general education core competencies expected of them as college-educated individuals. General education, as an integrated and cohesive whole, provides the educational foundation necessary to promote intellectual and personal development. Upon completion of the associate degree, graduates of Virginia's Community Colleges will demonstrate competency in student learning outcomes (SLOs) determined and assessed by each college in 1) civic engagement, 2) critical thinking,

3) professional readiness, 4) quantitative literacy, 5) scientific literacy, and 6) written communication.

Collectively, these general education core competencies distinguish graduates of Virginia's Community Colleges as individuals with a breadth of knowledge, skills, and abilities needed to pursue further education and their careers, continue to develop as learners, and contribute to the well-being of their communities. The six competencies are defined in policy with aspirational statements of learning goals for graduates. Each community college will determine and assess specific learning outcomes based on the definitions and aspirational statements.

(VCCS Policy Manual, Section 5.0.2.0)

4. *Continuing Adult Education*

Adult education programs shall be offered to enable the adults in the region to continue their learning experiences. This work may include both degree credit and non-degree credit work offered during the day and evening hours.

5. *Developmental Programs*

Developmental or preparatory programs shall be offered to prepare individuals for admission to the college transfer programs and the occupational/technical programs in the community college. These developmental programs shall be designed to develop the basic skills and understandings necessary to succeed in other community college programs.

6. *Specialized Regional and Community Services*

The facilities and personnel of each community college shall be available to provide specialized services to help meet the cultural and educational needs of the region served by the community college. This service includes programs not conducted in classrooms such as cultural events, workshops, meetings, lectures, conferences, seminars, and special community projects which are designed to provide needed cultural and educational opportunities for the citizens of the region. The community college shall work cooperatively with other local and State agencies interested in developing such services. The community college facilities shall also be available insofar as possible to four-year colleges and universities desiring to offer extension programs at the level of the third and fourth year of college and of graduate

education in the region, subject to the prior approval of the State Council of Higher Education for Virginia (SCHEV).

(VCCS Policy Manual, Section 2-A, 2.4)

2.3 Mission Review

Virginia Peninsula Community College is committed to the use of strategic visioning and planning and, on a five-year basis, the Strategic Plan is updated. The mission and vision statements and goals and initiatives of the College are evaluated by various constituencies (faculty, staff, administrators, and students) within the institution. The recommended revised plan is reviewed by the College Council and approved by the President and the Board. College Board members serve on the review team and participate in focus groups.

3.0 The Virginia Peninsula Board

For a list of current Virginia Peninsula College Board members, visit vpcc.edu/board.

3.1 Authority for Establishment

Title 23.1, Chapter 29, § 2904.4 of the Code of Virginia makes the following provisions:

“...the State Board shall establish policies providing for the creation of a local community college board for each comprehensive community college established under this chapter and the procedures and regulations under which such local boards shall operate. These boards shall assist in ascertaining educational needs and enlisting community involvement and support and shall perform such other duties as may be prescribed by the State Board...”

3.2 Community College Board

1. General Statement

The community college board shall act in an advisory capacity to the State Board and shall perform such duties with respect to the operation of a single comprehensive community college as may be delegated to it by the State Board. The community college board shall be known as the Virginia Peninsula Community college board and may be called the college board. In the organization and development of the community college, the community college board shall be appointed as early as possible.

2. Appointment of Local College Boards

- A. A minimum of nine persons shall be appointed to the college board and shall include at least one person from each political subdivision sponsoring the College. Generally, the maximum number of persons on the college board shall not exceed fifteen persons.
- B. Each local political subdivision sponsoring the community college shall appoint its board members as allocated by the ad hoc committee within the guidelines of the State Board.
- C. The members of the college board shall be residents of the region to be served by the community college and shall include persons from various businesses, industries, and professions in the region being served by the community college. No elected members of either the General Assembly or of a local governing body shall be eligible to serve on the college board; however, elected town officials shall not be prohibited from serving on a college board so long as such town is not a participating political subdivision sponsoring the college. Additionally, no current or former employee, including current adjunct faculty members, of the community college shall be eligible to serve on the college board. Local college board members serving as of March 2007 who were former full-time employees of the community college would be eligible to serve out the remainder of their current term and be eligible for one additional consecutive term. All members of the college board shall be deemed members at large charged with the responsibility of serving the best interests of the whole region being served by the community college. All appointments shall be for a period of four years and shall become effective on July 1 of the appropriate year.

Initial terms of the original appointees shall become effective on the date of the college board's first meeting and shall expire on July 1 of the appropriate year (even though the first meeting of the college board is held in a month other than July). No person having served on the community college board for two successive four-year terms shall be eligible for reappointment to the college board for two years. However, a person appointed to fill an unexpired term may be reappointed for two additional four-year terms.

- D. Failure to attend meetings of the college board shall constitute cause for the removal and replacement of a college board member. The community college board shall make this determination, and if it is determined that it is in the best interest of the college to have a replacement, the college board shall

notify the appropriate sponsoring political subdivision of the need for a replacement.

E. Reappointments and Vacancies

- When the term of office of a college board member expires, the appropriate local political subdivision shall either reappoint the member or appoint a new member. If the member whose term of office has expired is eligible for reappointment, that member shall continue in office until reappointed or a successor named. A member who is not eligible for reappointment shall discontinue service on the college board at the expiration of the term.
- Whenever a vacancy occurs on the college board, the appropriate political subdivision shall appoint a person to fill the unexpired term of the member creating the vacancy.

F. Reallocation of College Board Membership

In the event that any local political subdivision wishes to reallocate the positions on a college board because of changing conditions, it shall notify the community college board and the State Board in writing of its desires and reasons for change. The same procedure used to establish the original ad hoc committee shall be instituted to establish an ad hoc committee to determine the number of members on the community college board and the allocation of these members among the local political subdivision(s) sponsoring the college.

G. Distribution of Representation

The college board membership distribution should be representative of the industries, businesses, and professions which are located in the service area of the college. The President and college board chairman should work closely with the local jurisdictions in order to maintain a membership distribution representative of the college service area.

H. Duties and Responsibilities

A college board shall perform such duties with respect to the operation of a community college as may be delegated to it by the State Board. In general, a college board is responsible for assuring that the community college is responsive to the needs existing within its service region within the statewide policies,

procedures, and regulations of the State Board. The specific duties of a college board include the following:

- The college board shall elect a chairman and other such officers from its membership as it deems necessary and shall adopt such rules and regulations as are considered necessary to conduct its business in an orderly manner.
- The college board and the members thereof shall serve as channels of communication between the State Board and the governing bodies of the local political subdivisions.
- The college board shall submit its recommendations to the State Board for a name for the community college and each campus of a multi-campus college. In the name of each community college shall be included the phrase "Community College." The college board shall be authorized to provide names for any facilities on the college campus.

Each college shall adopt procedures regarding the naming of major facilities on its campus(es). The procedures may provide for naming on the basis of significant service, but should also provide incentives and recognition for private sector giving to support the College. Recognition for private sector giving should typically occur after the gift has been received rather than on a prospective basis.

A current copy of the procedures should be provided to the Office of Facilities Management Services.

Individuals are not eligible for a naming award if they are currently employed at the college or elsewhere within the Virginia's Community Colleges, are serving on the local college board, or serving on the State Board for Community Colleges. In addition, per the Code of Virginia, no college building, park, road, bridge, or other structure shall be named after a sitting member of the General Assembly. A separation from such employment or service of at least one month is a prerequisite for consideration for eligibility of an award.

- The college board shall provide recommendations to the State Board on the development of the site plan and on the design, and construction, of facilities for the community college.

- The college board shall participate with the Chancellor and the State Board in the selection, evaluation and removal of the President of the community college in accordance with procedures adopted by the State Board.
- The college board shall participate, with the college President, the Chancellor and the State Board, in the development and evaluation of a program of community college education of high quality in accordance with procedures adopted by the State Board. In that context, a college statement of purpose shall be developed by the college community. It shall be approved by the college board and reviewed and approved by the Chancellor on behalf of the State Board. This statement of purpose shall tailor the VCCS Mission Statement to the particular needs and circumstances of the college.
- The college board shall be responsible for eliciting community participation in program planning and development, establishing local citizens' advisory committees for specialized programs and curricula, and approving the appointments of all members of these committees.
- The college board shall review all new curricular proposals for the community college and shall recommend those proposals that it supports to the State Board. It shall also review proposals for the discontinuation of programs and shall communicate its recommendations on such proposals to the State Board.
- The college board shall oversee the development and evaluation of the community service program for the community college, and may authorize the President to grant an "award of completion" to a person successfully completing an approved non-credit program.
- The college board shall be kept informed of the fiscal status of the college by the college President and shall receive summaries of the biennial financial plan and the annual spending plans.
- The college board shall review and approve a detailed local funds budget for the community college as prepared by the college President within State Board guidelines, and shall submit this proposed budget to the State Board for review at the time of its submission to the local political

subdivisions. In addition, the college board shall submit a financial statement showing detailed expenditures of such local funds to the local political subdivisions and the State Board at the end of the fiscal year.

- The college board shall be responsible for reviewing and approving local rules on student conduct developed by the college President within the guidelines of the State Board.
- The college board shall be responsible for the review and approval of a budget prepared by the college President for the expenditure of revenues from vending commissions and auxiliary enterprises, including the student activity fund, within the guidelines established by the State Board. The college board shall be responsible for reviewing and approving periodic reports of revenues and expenditures within these funds.
- The college board shall be responsible both for reviewing reports of audit and for reviewing the college President's response to those reports of audit.
- The college board shall be informed of personnel matters by the college President.

I. Contact with the State Board

Any college board or its authorized representative may appear before the State Board simply by notifying the Secretary to the State Board of its request no later than fifteen days prior to the next regularly scheduled meeting of the State Board so that this matter may be put on the agenda.

J. Local Advisory Committees for Specialized Programs

Local advisory committees for specialized programs and occupational/technical curricula shall be utilized in the establishment and evaluation of such programs and curricula.

K. Chief Administrative Officer of a Community College

The chief administrative officer of the community college shall be appointed by the Chancellor. The chief administrative officer shall have the title of President and shall serve as Secretary to the Community College Board.

The President is responsible to the Chancellor for the operation of the community college and is responsible to the college board for those areas in which the college board is empowered to act and which are assigned to the President by the college board.

(VCCS Policy Manual, Section 2-A, 2.9.D)

3.3 Responsibilities of the College President

The President is responsible to the Chancellor of the Virginia's Community Colleges for organizing and operating the community college in accordance with the policies, procedures, and regulations of the State Board for Community Colleges and the Virginia's Community Colleges. Specific responsibilities of the President are:

1. providing principle-centered leadership and supervision for the community college including:
 - occupational/technical education, college transfer education, general education, and developmental education;
 - continuing education, workforce education, and community services;
 - student access and student services, including counseling programs, student admissions and records, financial aid, disability services, and student activities;
 - budget planning and fiscal management;
 - management and development of all campus sites and facilities, and technology
 - recruitment, selection, and professional development of the college's human resources, and
 - serving as secretary to the Local College Board.
2. assuming responsibility for student enrollment growth relative to the growth of the College's service area;
3. developing effective regional and community relations with other organizations and individuals for the benefit of the College and community;

4. providing leadership for institutional resource development including serving as institutional liaison to the foundation and active involvement in fundraising, grants, gifts, and other resources;
5. serving as legislative advocate for the College and the Virginia's Community Colleges;
6. leading an institutional effectiveness program for the purpose of continuous improvement;
7. representing the College at appropriate local, state, and national events;
8. maintaining an active program of professional development; and
9. serving as a member of the VCCS Advisory Council of Presidents to study, analyze, and recommend policies and procedures to the Chancellor in the areas of budget and finance, human resources, technology, and academic and student affairs, public and governmental affairs, workforce development, and supporting the work of the Virginia's Community Colleges by actively participating in events and initiatives as requested by the Chancellor.

(VCCS Policy Manual, Section 2-A, 2.9.D)

3.4 Procedures for Dismissal of a President

Either the Chancellor or the State Board may initiate action for the dismissal of a President. The State Board shall inform the college board prior to the dismissal of the President. (See VCCS Policy Manual, Section 3, 3.15.3)

(VCCS Policy Manual, Section 2-A, 2.9.D)

3.5 Composition of the Board

The Virginia Peninsula Community College Board consists of 14 members: four (4) from the City of Hampton; four (4) from the City of Newport News; one (1) from the City of Poquoson; one (1) from the City of Williamsburg; two (2) from the County of York; and two (2) from James City County.

3.6 Length of Terms of Board Members

1. Members shall be appointed for a term of four (4) years. No person having served on the college board for two successive four-year terms shall be eligible for reappointment to the college board for two years. However, a person appointed to fill an unexpired term may be reappointed for two additional four-year terms.
2. In accordance with policy of the State Board for Community Colleges, the anniversary date for members of the Board is July 1.

(VCCS Policy Manual, Section 2-A, 2.9.D)

3.7 Compensation of Board Members

1. Members of the college board shall not receive remuneration for service.
2. Reimbursement will be made according to state travel guidelines for all official travel on behalf of the College.

3.8 Removal and Replacement of Board Members

1. Failure to attend meetings of the college board shall constitute cause for the removal and replacement of a college board member. The community college board shall make this determination and if it is determined that it is in the best interest of the College to have a replacement, the college board shall notify the appropriate sponsoring political subdivision of the need for a replacement.

(VCCS Policy Manual, Section 2-A, 2.9.D)

2. Members are expected to attend all meetings but may be excused by the Board Chair. Generally, if a member has three consecutive unexcused absences or misses 40% or more of the meetings during the fiscal year and is not excused, he/she shall be notified in writing by the Board Chair that the matter will be presented to the Board, in closed meeting, at the next college board meeting.
3. This notice shall inform the member that he/she may present such justification as he/she may desire or the member can offer to resign.
4. The college board will make its determination and, if appropriate, instruct the Chair to notify the jurisdiction concerned for the need for replacement.

3.9 Reappointments and Vacancies

1. When the term of office of a college board member expires, the appropriate local political subdivision shall either reappoint the member or appoint a new member. A member whose term of office has expired and who is eligible for reappointment shall continue in office until the member is reappointed or a successor is named. A member who is not eligible for reappointment shall discontinue service on the college board when the current term expires.
2. Whenever a vacancy occurs on the college board, the appropriate political subdivision shall appoint a person to fill the unexpired term of the member creating the vacancy.

3.10 Distribution of Representation

The college board membership distribution should be representative of the industries, businesses, and professions which are located in the service area of the college. The President and college board Chairperson should work closely with the local jurisdictions in order to maintain a membership distribution representative of the college service area.

(VCCS Policy Manual, Section 2-A, 2.9.D)

3.11 Officers of the College Board

1. The officers of the college board shall be a Chair and a Vice-Chair.
2. The officers of the college board shall be elected annually, by simple majority, at the regular meeting of the Board in May. The term of office shall be for one (1) year, beginning July 1. Incumbent officers shall be eligible for re-election.
3. Officers of the college board may be removed from office by a vote of two-thirds (2/3) of the total membership of the Board.

3.12 Assignments of Board Members

1. Committees

There shall be four (4) standing committees of the Board: Executive, Budget and Finance, Facilities, and Curriculum, Instruction, and Student Services (CISS). Board members may select the committee on which they would like to serve. In case of a major imbalance on committee selections, the Board Chair shall resolve this imbalance by reassigning members, as necessary.

- A. The Executive Committee consists of six members: the Board Chair, the Board Vice-Chair, the Chairpersons of each of the standing committees, and the immediate past Board Chair. This committee (1) receives personnel information brought to it by the President or Board members; (2) handles personnel matters affecting the President including his/her performance evaluation; (3) reviews Virginia Peninsula audit reports; (4) develops, implements and monitors board engagement initiatives and relationships with local boards of supervisors and city councils; and (5) serves as an additional resource to the President. It also has authority to act on emergency matters as the full Board determines.
- B. The Budget and Finance Committee consists of at least three members and is responsible for reviewing all monetary matters relating to budget and finance such as local funds budgets, including the student activity fees budget, and the operating budget. Recommendations are made to the full Board. The Vice President of Finance and Administration will provide staff support for this committee.
- C. The Facilities Committee consists of at least three members and is responsible for all local building and site matters such as review of all building plans, sites, site development, equipment related to buildings, and finances related to these matters. Recommendations are made to the full Board. The Vice President of Finance and Administration will provide staff support for this committee.
- D. The Curriculum, Instruction and Student Services Committee (CISS) is made up of at least three members. The committee reviews proposals for initiating or discontinuing curricula, suggestions for members to serve on program advisory committees, local regulations on student conduct, and initial review and approval of the Student Activities Budget. Recommendations are made to the full Board. The Vice President for Academic Affairs will provide staff support for this committee.
- E. Any member of the college board may attend any meeting of any committee representing the Board, including closed meetings. Only members appointed to committees shall vote on committee actions. All members of the Board shall receive five (5) days' notice of any meeting to be held by members of the Board.

2. Virginia Peninsula Community College Educational Foundation

At least one member, but not more than two members, of the Virginia Peninsula College Board will be appointed to serve as a liaison to and an ex-officio (voting) member of the Board of Directors of the Virginia Peninsula Community College Educational Foundation, Inc.

3.13 Meetings of the Board

1. Regularly scheduled meetings of the Board shall be held in August, October, December, February, April and May.
2. Special meetings of the Board shall be held at the call of the Chair or upon petition of a simple majority of the members of the Board.
3. A simple majority of eight (8) members of the Board shall constitute a quorum for all regular meetings.
4. All Board meetings shall be open to the public, except where a closed meeting is authorized by § 2.2-3711 of the Virginia Freedom of Information Act and the Board convenes and adjourns the closed session in the manner provided by the Act.
5. Electronic or Telephone Meetings
 - A. Some board members may participate in a meeting by phone provided that (1) there is a quorum physically assembled at one primary meeting location; (2) notice of the meeting has been given at least three working days in advance; and (3) members of the public are provided a substantially equivalent way to listen to or observe the meeting. The notice must include the electronic communication means by which members of the public may witness the meeting and which remote locations, if any, are open to the public. Public access to remote locations is encouraged, but not required.
 - B. Individual college board members may participate in meetings by electronic means as permitted by Virginia Code § 2.2-3708.2. This policy shall apply 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.

College board members may participate in meetings from a remote location that is not open to the public only when the member is unable to attend the meeting due to an emergency or personal matter, or due to a temporary or permanent disability or other medical condition. The law requires a quorum of the

college board to be physically assembled at the primary meeting location, and there must be arrangements for the voice of the remote participant to be heard by all persons at the primary meeting location. The reason that the member is unable to attend the meeting and the remote location from which the member participates must be recorded in the meeting minutes.

When such individual participation is due to an emergency or personal matter, such participation is limited by law to two meetings of the public body per member each calendar year.

Individual participation under this policy shall be approved unless such participation would violate this policy or the provisions of the Virginia Freedom of Information Act. If a member's participation from a remote location not open to the public is challenged, then the college board shall vote whether to allow such participation. If the college board votes to disapprove the member's participation because such participation would violate this policy, such disapproval shall be recorded in the minutes with specificity.

6. The President of the College shall serve as Secretary to the Board.
7. Persons may request that an item be placed on the agenda by notifying the Secretary to the Board at least fifteen (15) calendar days prior to the meeting. If the Secretary to the Board believes a requested item may not be appropriate as an agenda topic, a decision regarding the topic will be made by the Executive Committee.
8. The Secretary to the Board, or his/her designee, shall keep such minutes and records as are necessary to set forth clearly all actions and the proceedings of the Board. The typed minutes of each meeting shall be considered, corrected if necessary, and approved at the next regular meeting. The minutes shall be signed by the Secretary of the Board and shall be kept as public record in the custody of the Office of the President.

Following each meeting of the college board, an annotated agenda is prepared that indicates the action taken by the Board on each item. The annotated agenda is posted on the College website until the minutes for the meeting are approved and posted.

9. The proceedings of the Board, except as otherwise provided in the college board Policy Manual and the Policy Manual of the Virginia's Community Colleges, shall be governed by Robert's Rules of Order, Newly Revised.

3.14 Conflict of Interest

No member of a local college board shall apply for a full or part-time position in the VCCS while serving as a member of a local college board. Each community college is prohibited from employing for remuneration, in any capacity whatsoever, either on a full-time or part-time basis, a member of the College's Board or the Board member's immediate family.

(VCCS Policy Manual, Section 3, 3.3b.2)

Each Board member is required to submit a Financial Disclosure Form under the provisions of § 2.2-3114 of the Code of Virginia. Each Board member is also required to be certified every two years for ethics training under the provisions of § 2.2-3130 of the Code of Virginia.

3.15 Freedom of Information Act

The Virginia Freedom of Information Act ("FOIA"), Code of Virginia, § 2.2-3700, *et seq.* "ensures the people of the Commonwealth ready access to public records in the custody of a public body or its officers and employees, and free entry to meetings of public bodies wherein the business of the people is being conducted." FOIA governs many aspects of the operation of public boards, and has wide application to conduct of members, even when they are not at meetings. All local college board members must be aware of the basic requirements of FOIA.

Please see Appendix B entitled "What Every Board Member Absolutely *has* to Know about FOIA". These FAQs, prepared by the Commonwealth Attorney General's Office, are designed to give Board members a basic understanding of their personal responsibilities under FOIA.

4.0 The President of Virginia Peninsula Community College

4.1 Duties and Responsibilities

See Section 3.3.

4.2 Evaluation of the President

1. Purpose

The purpose of Presidential evaluation is the improvement of performance, both individual and institutional.

Improvement of performance is a continuing process, a concept consistent with the premise that education, or learning, should be lifelong. It is consistent, too, with the reality that communities and people change over time giving rise to new and different conditions and needs to which the community college should be responsive.

2. Objectives

The objectives of annual Presidential evaluations are:

- A. To provide the individual President with a formal statement on the adequacy of the President's performance based on predetermined measures;
- B. To provide the college board and the Chancellor with an appropriate mechanism for setting and monitoring progress toward attaining specified goals/objectives;
- C. To provide the State Board with an appropriate mechanism for assuring the evaluation of management personnel; and
- D. To identify serious problems that may require special attention.

3. Conditions

The Virginia's Community Colleges are accountable to the State Board for Community Colleges for compliance with System and State policy and for judicious management of resources.

The individual college is responsible to its college board for assuring that its mission, and its programs and activities, are based on and consistent with local needs, interests, and aspirations.

The position of President, as is defined by the State Board, includes reporting relationships to the college board and to the Chancellor.

The role of President is defined, in large measure, by the interaction and interrelationships between the individual President and the communities and constituencies comprising the individual college, and is situationally determined.

The President is singularly qualified and located to judge the performance of the institution and to be judged by the same.

4. Evaluation Plan

The President shall be evaluated annually. The annual evaluation shall be prepared in letter form by the Chancellor. It shall have as its basis, two independent assessments of the President's accomplishments conducted separately by the college board and the Chancellor. As a minimum, the evaluation letter shall list each goal/objective followed by a narrative statement detailing the degree of accomplishment:

A. College Board's Evaluation

The evaluation of the President by the college board shall be conducted by an appropriately designated board committee or individual, working in conjunction with the President. The college board and President, working together, shall define the procedure they shall follow in determining the evaluation. The evaluation letter shall be reviewed with the President and shall be signed by the Board Chairman and by the President and submitted to the Chancellor no later than May 1.

B. Chancellor's Evaluation

The Chancellor shall prepare an evaluation of each President and shall review the evaluation with the President no later than June 15. Following their review of the evaluation, both the President and Chancellor shall sign the evaluation letter.

C. Predetermined Goals/Objectives

The Chancellor and the college board, acting separately, shall establish with the President goals/objectives for the ensuing evaluation period. Once agreed upon, these goals/objectives shall serve as one basis for evaluation of performance. The college board and President shall establish goals/objectives to be used in evaluating the President by the Board. By June 15, the Chancellor shall provide the President with a copy of the Chancellor's goals/objectives for the year and indicate which of these objectives are to be included in the President's goals/objectives. The President's goals/objectives shall be used by the Chancellor to evaluate the President's performance.

5. Evaluation Process

The evaluation process shall be as follows:

- A. By May 1, the college board shall have completed its evaluation of the President and submitted the appropriately signed evaluation letter to the Chancellor.
- B. By June 15, the Chancellor shall provide the President with a copy of the Chancellor's goals/objectives; the Chancellor shall have established with each President and confirmed to each in writing the goals/objectives upon which the President's performance in the ensuing evaluation period shall be evaluated; and the appropriate committee/individual of the college board shall have established with the President and have confirmed in writing the goals/objectives upon which the President's performance shall be judged.
- C. By June 15, the Chancellor shall have completed an evaluation of each President and shall have reviewed it with the college board's evaluation to identify significant disparities, if any. Where significant difference(s) in the Chancellor's evaluation of the President as compared with the evaluation by the college board are deemed to exist, the Chancellor shall seek to reconcile them.
- D. In those instances where the Chancellor's evaluation is irreconcilable with that of the college board, the areas of difference shall be noted in the Chancellor's evaluation letter and the President shall have the opportunity to file a rebuttal.
- E. Copies of the Chancellor's final evaluation of the President and the goals and objectives for the upcoming year shall be directed by the Chancellor to the President, the Chairman of the college board and the President's personnel file. In those instances where the Chancellor's evaluation is irreconcilable with that of the college board, the Chancellor's evaluation with attachments and the President's rebuttal, if any, shall be directed by the Chancellor to the President, the Chairman of the college board, and the President's personnel file. The final evaluation of the President by the college board shall also be directed by the Chancellor to the President's personnel file.

(VCCS Policy Manual, Section 3, 3.15.2.0 – 3.15.2.4)

4.3 Virginia Peninsula Presidential Evaluation

The annual evaluation of the President of Virginia Peninsula shall be conducted by a committee of the Board appointed by the Chairman of

the Virginia Peninsula Board and shared with the entire Board and the President in closed meeting. The basis of the evaluation will be an assessment of the President's management and leadership effectiveness as well as the progress made on the accomplishment of goals which have been approved by the Board. The President will prepare a self-evaluation report which addresses how well the goals have been achieved.

February	Evaluation information will be requested from administrators reporting to the President and from the leadership of the College constituency groups for faculty, staff, mid-level managers, and students. At the February meeting of the college board, the Board Chair appoints the Ad Hoc Presidential Evaluation Committee.
March	Evaluation from administrators and constituency group leaders are sent to the Ad Hoc Presidential Evaluation Committee. The President prepares a self-evaluation report on accomplishment of goals for the Ad Hoc Presidential Evaluation Committee.
April	The Ad Hoc Presidential Evaluation Committee prepares an evaluation of the President's performance, which is shared with the entire Board and the President in a closed meeting to follow the regular meeting of the Board.
May	The Board's evaluation report is sent to the Chancellor by the Board Chair. The President submits a self-evaluation to the Chancellor.
August	The President reports to the college board the goals/objectives for the new academic year.

4.4 Dismissal of the President

Either the Chancellor or the State Board may initiate action for the dismissal of a President. The State Board shall inform the college board prior to the dismissal of the President. (See VCCS Policy Manual, Section 3, 3.15.3.)

(VCCS Policy Manual, Section 2-A, 2.9.D)

5.0 Instruction

5.1 Instructional Programs

All proposals for the establishment of instructional programs shall be reviewed and approved by the college board for recommendation to the State Board for Community Colleges. In addition, all proposals for the discontinuation of programs must be approved by the college board prior to submission to the State Board.

5.2 Occupational Advisory Committees

The college board is responsible for approving the establishment of occupational advisory committees and appointment of members thereto, upon recommendation of the President.

5.3 Community Service Programs

The Board shall evaluate the need for community service programs and shall advise the President concerning such need. (See VCCS Policy Manual, Section 2-A, 2.9D.)

5.4 Operational Policies and Procedures

Policies and procedures governing instruction and faculty-ranked personnel may be found in the Faculty Handbook. Please contact the Office of Academic Affairs regarding the Faculty Handbook.

Policies and procedures governing the operation of the College may be found in the Administrative Procedures Manual. Please contact the Office of Finance and Administration for further information regarding Administrative Procedures Manual.

6.0 Student Services

6.1 Student Regulations

Regulations concerning admissions, records, student behavior, etc., may be found in the College Catalog <https://tncc.edu/academics/catalog> and Student Handbook 2020-2021 Student Handbook .

6.2 Student Grievance Procedure

In order to provide students with a mechanism to resolve grievances, a detailed procedure has been developed and it may be found in the Student Handbook as well as the Faculty Handbook.

6.3 Student Conduct

In accordance with the duties and responsibilities of local boards, the college board shall review and approve local regulations on student conduct.

7.0 Finance

7.1 Fiscal Year

The fiscal year of the College shall be from July 1 to June 30.

7.2 Local Funds Budget

In accordance with the VCCS Policy Manual <https://www.boarddocs.com/va/vccs/Board.nsf/Public> governing the establishment and operation of the comprehensive community colleges of Virginia, the college board shall review and approve a local funds budget for the College as prepared by the college President within State Board guidelines. Accounting procedures have been established for the management of the College's local funds.

7.3 Student Activity Fund

The President is authorized to establish a student activity fund which may receive revenue from students and other individuals, the bookstore, vending machines, and other approved activities for the purpose of funding the activities of the student body.

7.4 Audit of Local Accounts

The audits of local accounts shall be conducted by the VCCS audit division using previously agreed upon local fund accounting procedures. The report of such audits shall be reviewed by the college board, if requested.

7.5 College Operating Budget

In accordance with the duties and responsibilities of local boards, the college board shall review and make recommendations to the State Board concerning the biennial budget program proposal. The college board shall be kept informed of the fiscal status of the College by the President, and shall receive summaries of the biennial financial plan and the annual spending plans, if the biennial budget process is in effect.

7.6 Tuition and Fees

Tuition and fees for all college programs, except community service programs, shall be established by the State Board for Community Colleges. In accordance with established VCCS policy, fees for community education and service programs shall be established so as to provide funds to pay the direct costs plus an additional percentage to defray general overhead costs. (See VCCS Policy Manual, Section 5.12.1.2 Financial Support.)

8.0 Physical Facilities

8.1 Master Site Plan

A Master Site Plan is required for each community college campus. The Master Site Plan and any subsequent revisions must be recommended by the college board. The programmatic and policy issues relating to Master Plan projects must be addressed through established review processes.

8.2 General Policy for Funding Construction, Maintenance of Site Development and Parking, and Other Non-General Fund Projects

Prior to the award of a capital project design contract, the College must demonstrate the availability of the local funds required to complete the Capital Project in the VCCS Local Commitment letter. The College President or designee and the chairman of the college board must certify this requirement to the VCCS Chancellor.

9.0 General Policies

9.1 Changes in the Board Policies and Procedures Manual

A simple majority vote of the full membership of the Board may revise, amend, add, or delete provisions within this Policies and Procedures Manual at any official meeting, provided such proposed changes shall have been presented and discussed at a previous meeting at which a quorum was present.

9.2 Reaffirmation of Previous Decisions

The Board reaffirms all motions and decisions made by all predecessor boards, said motions and decisions to remain in effect until rescinded.

9.3 Affirmative Action

The Virginia Peninsula Community College Board stands committed to the maintenance and promotion of equal employment opportunity and

affirmative action, and will continue to comply with the letter and intent of the College's Affirmative Action Plan.

9.4 Legal Counsel

The Board may retain legal counsel through the Attorney General's office to advise and represent the college board and/or the administration regarding any and all legal matters pertaining to the administration, management, and operation of the College. In addition, the President and/or Board, individually or as a body, may retain independent legal counsel to represent them in any litigation arising from the performance of their official duties on behalf of the College. Reasonable fees for such legal service when rendered, shall be paid from local funds.

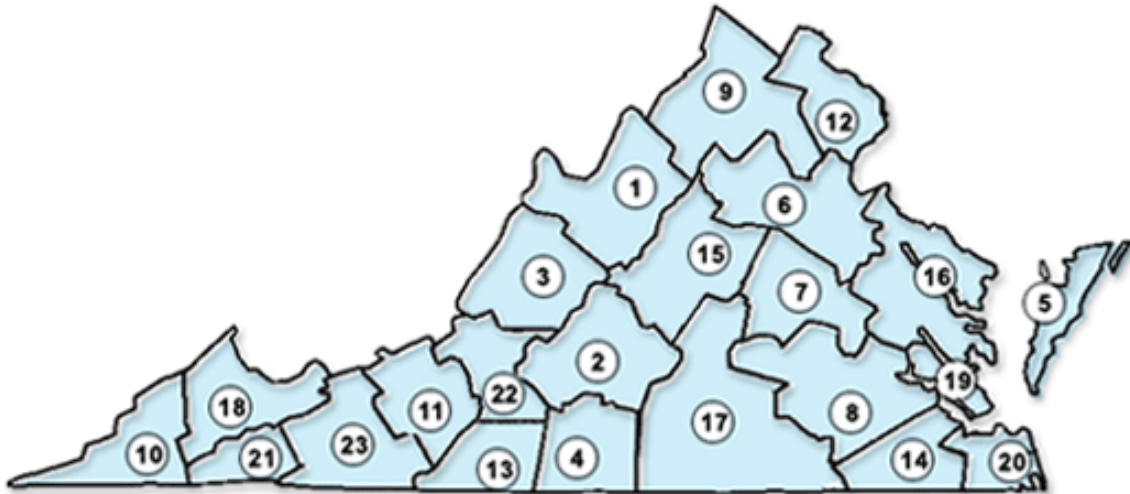
9.5 Non-Discrimination

Virginia Peninsula Community College does not discriminate on the basis of race, color, sex, religion, national origin, marital status, political affiliation, sexual orientation, gender identity or against otherwise qualified persons with disabilities, or other non-merit factors in its programs and activities. Inquiries related to the College's non-discrimination policies should be directed to the Title IX Coordinator.

APPENDIX A

Find a Virginia Community College

With 23 colleges on 40 campuses across the Commonwealth, Virginia's community colleges offer many educational choices.



- | | |
|--|--|
| 1. Blue Ridge Community College | 13. Northern Virginia Community College |
| 2. Brightpoint Community College | 14. Patrick and Henry Community College |
| 3. Camp Community College | 15. Piedmont Virginia Community College |
| 4. Central Virginia Community College | 16. Rappahannock Community College |
| 5. Dabney S. Lancaster Community College | 17. Southside Virginia Community College |
| 6. Danville Community College | 18. Southwest Virginia Community College |
| 7. Eastern Shore Community College | 19. Tidewater Community College |
| 8. Germanna Community College | 20. Virginia Highlands Community College |
| 9. Reynolds Community College | 21. Virginia Peninsula Community College |
| 10. Laurel Ridge Community College | 22. Virginia Western Community College |
| 11. Mountain Empire Community College | 23. Wytheville Community College |
| 12. New River Community College | |



COMMONWEALTH of VIRGINIA

Office of the Attorney General

Education Section

August 2020

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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 the FOIA Officer or legal counsel.

¹ § 2.2-3714

² § 2.2-3700

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, 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 general 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.
- Some Board members may participate in a meeting by phone, provided that (1) there is a quorum physically assembled at one primary meeting location; (2) notice of the meeting has been given at least three working days in advance; and, (3) members of the public are provided a substantially equivalent way to listen to or observe the meeting. The notice must include the electronic communication means by which members of the public may witness the meeting and which remote locations, if any, are open to the public. Public access to remote locations is encouraged, but not required. In the event of an interruption in the public access, the meeting *must* be suspended until public access is restored.
 - Another way Board members may participate by telephone (or other electronic communication means) is if before or on the day of the meeting, a board member notifies the chair that the member has a temporary or permanent medical condition, or has a personal matter that prevents his or her physical attendance. The Board must vote to approve the member's participation under these conditions. In addition, the Board must have: (1) adopted a written policy allowing for and governing participation of its members by electronic communication means, including an approval process for such participation. The policy must be applied strictly and uniformly, without exception; (2) there is a quorum of the Board or committee physically assembled at the primary meeting location; and (3) the Board makes arrangements for the voice of the remote participant to be heard by all persons at the primary meeting location.¹⁴ Whenever a

¹⁴ § 2.2-3708.2

member wants to participate by telephone (or other means of electronic communication), please consult with counsel.

- The Board may meet electronically *without* the requirement for a quorum in person during a state of emergency declared by the Governor, and if it is unsafe or impracticable for a quorum of the Board to meet in person. Depending on the matters to be taken up by the Board, there are slightly different requirements for these meetings:
 - If the Board intends merely to *address the emergency*, only matters relating to the emergency and the ability of the Board to continue to provide essential government services during the emergency may be discussed. Routine business of the university may *not* be discussed. Although the meeting may be purely electronic (such as via Zoom or Webex), the public must be given access to the meeting.
 - If the Board intends to discuss or transact business statutorily required or necessary to continue operations, it must provide the public access, offer a public comment period (if the electronic platform permits it), and post a recording or transcription of open portions of the meeting. *The legislative grant of authority for this form of meeting is temporary; consult your counsel to learn whether the authority has expired or been altered.*

In the event of an interruption of the public access to the meeting, the meeting *must* be suspended until public access is restored.

Frequently Asked Questions

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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.¹⁵ It also prohibits discussion of public business among members outside of meetings.¹⁶ There are, however, exceptions to these general meeting requirements that each member should be familiar with.¹⁷

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.¹⁸

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.¹⁹

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.²⁰

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.²¹ It also applies to the operations of the Board itself together with all of its committees and subcommittees, and any other groups or entities appointed by the Board to advise the Board or exercise delegated functions.

¹⁵ § 2.2-3700

¹⁶ § 2.2-3707

¹⁷ §§ 2.2-3707.01 and 2.2-3711

¹⁸ § 2.2-3704

¹⁹ § 2.2-3700(B)

²⁰ § 2.2-3700(B)

²¹ § 2.2-3700

MEETINGS

Meetings Generally

Can we meet without telling anyone?²²

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. (Emergency meetings do not require three working days' notice, but notice must be reasonable under the circumstances.) 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.²³ 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.²⁴ If three or more Board members serve on the board of an institution-related foundation, 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.²⁵

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.

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

²² For details *see* § 2.2-3707.

²³ § 2.2-3707(F)

²⁴ § 2.2-3707

²⁵ § 2.2-3701

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.²⁶

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.)²⁷

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

If three or more Board members are on a university committee, the meetings must be noticed. You can avoid noticing all of these meetings by having only one or two board members on the university 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.²⁸

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.

²⁶ § 2.2-3701

²⁷ § 2.2-3700

²⁸ § 2.2-3701

Do we have to tape record our meetings?

No. Recording meetings is not required, except for electronic meetings to conduct board business during a state of emergency. However, proper minutes must be taken. Draft minutes and final minutes must be posted to the institution's website and the Commonwealth Calendar.²⁹ The secretary to the Board will ordinarily have this responsibility.

Do we have to take minutes?

Yes. FOIA requires that minutes be taken of the open portions 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.³⁰ 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.³¹

Closed Meetings

What are the exceptions to open meetings? When can we hold a closed session?³²

FOIA has 54 exceptions to the open meetings requirement. 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 institution would be adversely affected. This exception might occasionally be invoked during discussion of endowment funds investment.

²⁹ § 2.2-3707.1

³⁰ § 2.2-3707

³¹ § 2.2-3707.1

³² 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.

(5) *the legal advice exception*: consultation with legal counsel for: (a) legal advice 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; or (b) specific legal matters requiring legal advice.

(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 legal 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.³³

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

³³ § 2.2-3712

What if we are in open session with only the BOV and President 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.³⁴

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.³⁵

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.³⁶ 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.³⁷ 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 decide who should stay and not rely solely on the Chair, the secretary to the Board, or the President to make that call.³⁸

³⁴ § 2.2-3712(I)

³⁵ § 2.2-3712

³⁶ § 23.1-1303

³⁷ § 2.2-3712(D)

³⁸ § 2.2-3712(F)

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.³⁹ 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.⁴⁰

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.⁴¹ 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 \$1,000.⁴²

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.

Should minutes be taken in closed session?

Not necessarily. There is no requirement that minutes be taken in closed session.⁴³ Any minutes that are taken need not be disclosed. They *may* be released, however, in the Board’s

³⁹ § 2.2-3711(B)

⁴⁰ § 2.2-3712(D)

⁴¹ § 2.2-3712(E)

⁴² § 2.2-3714(C)

⁴³ § 2.2-3712(I)

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."

Electronic Communication Meetings⁴⁴

May we hold a meeting by telephone or video?

Yes. 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 means, provided that it strictly complies with the special FOIA provisions governing electronic communication meetings. Electronic communication meetings are referred to as "electronic meetings" throughout these FAQs.

How much notice must be given of electronic meetings?

The notice required for electronic 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 identify any remote locations that are open to the public and 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 the notice that includes participation by electronic means.

May members of the board call in from different locations?

Yes, with some limitations. First, a quorum of the body must be physically assembled at the primary meeting location, unless the meeting is held during a state of emergency (discussed below). If a quorum is not present in one place, members may not transact business. If a quorum is present in one location, other members may call in from remote locations if other statutory requirements are met.

⁴⁴ All rules regarding Electronic Communication Meetings can be found in: § 2.2-3708.2.

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

Not if the remote location is open to the public. In order to conduct an electronic meeting, each remote location open to the public must have been determined in advance and advertised to the public as a remote location of the meeting. Public access to remote locations is encouraged but not required unless three or more members are at the same remote location. If public access is afforded at a remote location, the location must be equipped with a speakerphone so that the public can hear and participate. Any person attending the meeting at any of the public meeting locations must be given the same opportunity to address the Board as persons attending the primary location where the quorum is located, and 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.⁴⁵

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, can a board member still participate?

Yes, but only under certain conditions. A member may participate electronically if on or before the day of the meeting, the member notifies the chair that he or she has a temporary or permanent medical condition or personal matter that prevents his or her physical attendance at the meeting. The Board must have a written policy that allows for such participation and the Board must approve the board member's participation. There are several other requirements, so please consult with counsel if this issue arises.

May we hold all of our meetings as electronic meetings?

No. You must hold at least one meeting annually where members are physically assembled at one location and where no members participate by electronic communication means.

Are there any special voting requirements for electronic meetings?

Yes. All votes at electronic meetings must be roll-call votes, recorded by name, and included in the minutes. This includes *pro forma* motions, such as motions to adjourn.

Must the electronic meeting be tape recorded or minutes kept?

There is no requirement that the meeting be tape recorded, unless the meeting is held during a state of emergency and intended to address required business. However, minutes must be kept just as with non-electronic meetings.

⁴⁵ § 2.2-3708.2(D)(5)

What if the means of public access 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 primary meeting location of any interruption.

May a member join the meeting by telephone or other means 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 electronic meeting, 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.

May a Board set up remote sites for public participation without 3 days' notice?

Yes, provided that no member of the Board participates from those remote sites. The electronic meeting provisions of FOIA are designed to limit *member* participation by electronic means, not *public* participation. Public bodies may allow members of the public to call in and may otherwise set up remote sites for public participation. Electronic meeting provisions only apply when a member is participating from a remote location.

What about closed sessions or meetings or committees? May they be conducted electronically?

Any otherwise-permitted meeting of the Board, including closed sessions, may be held as a electronic meeting. Meetings of committees or subcommittees of the Board also may be held as electronic meetings but must comply with the same requirements as electronic 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 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. 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.⁴⁶ An “emergency” is an unforeseen circumstance rendering the notice requirement impossible or impracticable and which circumstance requires immediate action.⁴⁷ Delay or procrastination on the part of the Board or institution does not constitute an “emergency” under FOIA.

If we have an emergency, may we have an electronic telephone meeting without 3 days’ notice?

Yes. If an emergency electronic 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.⁴⁸

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

Public access to the primary meeting location (where a quorum of the Board is present) is required. Public access to remote locations is encouraged, but not required. The Board must meet all other electronic meeting requirements; for example, minutes must be kept. Furthermore, the minutes of the meeting must state the nature of the emergency.⁴⁹

⁴⁶ § 2.2-3707(D)

⁴⁷ § 2.2-3701

⁴⁸ § 2.2-3708.2(D)(2)

⁴⁹ § 2.2-3708.2(D)(7)

Meetings During a State of Emergency

What about meetings during the pandemic or other declared state of emergency?

FOIA permits electronic meetings *without* the requirement that a quorum of the Board be physically assembled in one location if: (1) the Governor has declared a state of emergency; *and* (2) the nature of the emergency makes it impracticable or unsafe for a quorum to assemble in one location.

May the Board conduct its regular business during an electronic meeting held during a state of emergency?

Not exactly. The Board may either limit itself to addressing the emergency or broaden the scope to discuss business that is required or necessary to continue university operations. These two types of meetings have slightly different requirements. Your counsel can advise on which path is appropriate and what is required. In most cases, the Board will be meeting to transact required or necessary business.

A meeting to discuss business that is “required or necessary” sounds a lot like a regular meeting. What’s the difference?

It is difficult to think of something the Board would be barred from discussing under this broad standard. It is important to note, though, that there *is* a standard – the law does not state that the Board may meet to discuss business for *any* purpose. As long as the proposed action is: (1) statutorily required; or (2) necessary to continue operations and discharge lawful purposes, duties, and responsibilities, such action is permissible. Your counsel can help sort this out with you.

What about public access to electronic meetings during a state of emergency?

The public is entitled to notice of such meetings, and to be able to observe the meeting electronically; a recording or transcript of the meeting must later be made available. If the connection that allows the public access is lost, the meeting must be suspended until the connection can be restored. If the platform for the meeting (Zoom, Webex, etc.) permits public comment, a public comment period is *required*. The Board may reasonably restrict public comment in accordance with the Board’s general practice, if it has one, or as is reasonable under the circumstance. For example, the Board could limit the amount of time for public comments, or limit their scope to matters before the Board.

Can the Board hold these electronic meetings from now on?

No. This authority for an electronic meeting exists only while there is a state of emergency declared by the Governor. In addition, the permission to hold meetings to discuss or transact required business will expire on June 30, 2022, unless acted on by the General Assembly. Your counsel can advise you of the status of this authority.

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."⁵⁰

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 (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.⁵¹ 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."⁵² 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.⁵³

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.⁵⁴ The role of the FOIA officer is to assist in document collection to be responsive. Legal questions should be directed to legal counsel.

⁵⁰ § 2.2-3704

⁵¹ § 2.2-3701

⁵² § 2.2-3704(B)

⁵³ § 2.2-3704

⁵⁴ To view the exclusions, see §§ 2.2-3705.1-2.2-3705.8 and § 2.2-3706(B).

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 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.⁵⁵

PENALTIES⁵⁶

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.⁵⁷ 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

⁵⁵ § 2.2-3701

⁵⁶ For violations and penalties, *see* § 2.2-3714.

⁵⁷ § 2.2-3715

avoid complying with a FOIA request can be fined personally up to \$100 per record altered or destroyed.⁵⁸

⁵⁸ 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.