

**STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA
AD HOC COMMITTEE
APRIL 6, 2015
MINUTES**

Mr. Haner called the meeting to order at 2:00 p.m. in the SCHEV main conference room, 101 North 14th Street, Richmond Virginia. Ad hoc committee members present: Gilbert Bland, Steve Haner, Henry Light, G. Gilmer Minor, III, William Murray, and Carlyle Ramsey. **Gene Lockhart participated by phone.**

Staff members present: Peter Blake, Joe DeFilippo, Susan Kirsten Nelson, Sylvia Rosa-Casanova, Lee Ann Rung, Carly Shields, and Susan Yale. Mike Melis and Ramona Taylor from the Office of the Attorney General were also present.

Representatives from Security University present: Sondra Schneider, Founder and CEO, Security University, and Stephen C. Shannon, Esq., Odin, Feldman & Pittleman, P.C.

DISCUSSION OF SECURITY UNIVERSITY (SU)

Mr. Haner reminded members of the action taken at the March Council meeting to form the ad hoc committee to act on behalf of the Council after providing an opportunity for SU representatives to address the committee.

Mr. Haner asked if staff had anything to add to the documents that were sent in advance of the meeting. Dr. DeFilippo said he had nothing to add but pointed out that the agenda item was prepared after the March Council meeting in which staff was charged to complete an in-depth investigation. He deferred to Mr. Melis to provide a summary of events and possible actions that the committee may take.

Mr. Melis provided background information about the process, indicating that he assisted SCHEV's Private and Out-of-State Postsecondary Education (POPE) section and represented SCHEV in the hearing process. Once staff makes a recommendation, the matter goes to a fact-finding conference. At that point, the institution has the opportunity to take the matter to a hearing officer. In this case, that occurred on December 10, 2014. The hearing officer has three months to offer a recommendation. The hearing officer issued a recommendation on March 10. Council must now act on the hearing officer's recommendation within 30 days of the date the recommendation was issued. Council must determine whether the hearing officer's recommendation is accepted or proceed with staff's initial recommendation to revoke certification.

Mr. Melis reported that staff's recommendation to Council on March 16 was that Council (i) accept the hearing officer's recommendation and not revoke Security University's (SU) certificate to operate, (ii) audit SU at approximate six-month intervals through March 31, 2017, (iii) that following the first three audits, SCHEV staff provide

informational reports to SU with advice, if necessary, about how to come into compliance with Virginia regulation, and (iv) that following the fourth and final audit, SCHEV staff prepare a Report of Audit that indicates (a) SU's progress toward full compliance during the two-year monitoring period, and (b) SU's final compliance status.

SCHEV staff received the hearing officer's recommendation late on March 10 and staff worked to provide a recommendation for the March 16 agenda without knowing there would be an ad hoc committee appointed to make a decision. Also, staff's March 17 recommendation was to provide Council with the opportunity to end the process without further proceedings in court; at the same time trying to make assurances that SU would come into compliance within two years.

Staff has not made any new recommendations, but they have provided a more complete analysis of the hearing officer's decision, which could not be completed in time for the March 16 Council meeting. As a result, staff disagrees with the hearing officer's recommendations. In answer to Mr. Haner's question, Ms. Taylor informed the members that they must make a determination in this matter. She further noted that they are not bound by the hearing officer's recommendation, nor are they bound to accept staff's recommendation. However, any decision may not be arbitrary or capricious.

Mr. Haner reminded the members that the ad hoc committee has the authority to act on behalf of the Council.

Mr. Shannon provided a presentation on behalf of his client and made the following points:

- He indicated that he was given short notice in order to prepare for this meeting.
- He contended that the language in the agenda item was inconsistent with the transcripts from the hearing. He cited examples and distributed a copy of his brief in support of the hearing officer's decision.
- Mr. Shannon said that demand for cybersecurity training exceeds supply and emphasized that over 300 military veterans would not be served if SU lost its \$2.7M grant from the Department of Labor.
- He noted that SU is taking steps to learn more about SCHEV's expectations by having Ms. Schneider and her attorney attend all future SCHEV workshops.

Mr. Shannon asked the committee to allow comments from Danny Vargas, Chairman of the Virginia Workforce Council. In answer to a question raised by Dr. Murray, Mr. Vargas stated that he was not speaking on behalf of the Administration. Mr. Vargas stated that he does not have jurisdiction over the matter, but stated that it is vital to the economy to have trained professionals in the cyber arena. Mr. Vargas answered questions from committee members.

CLOSED SESSION

At 3:30 p.m., Ms. Taylor provided a motion to adjourn into closed session pursuant to Virginia Code § 2.2-3711(7). The motion was read by Mr. Bland and seconded by Mr. Minor.

At 4:30 p.m., the committee resumed in open session. Mr. Bland read the certification of the closed meeting and conducted a roll call vote of all seven members. The certification was signed by all members and Mr. Lockhart's voice vote was noted.

Dr. Murray made the following motion which was seconded by Mr. Light. Mr. Haner asked for discussion of the motion and he stressed the need for SU to follow the rules that are in place and take seriously the violations that were noted by the hearing officer. The following motion was approved unanimously (7-0):

I move that the Ad Hoc Committee Revoke Security University's Certificate to Operate in Virginia, unless on or before April 9 Security University enters into a consent decree with the Director for a compliance plan which shall include but not be limited to a provision for immediate revocation upon further violations. The Director shall provide an update to the Council within 60 days of entering into such consent decree.

With regard to Dr. DeFilippo's request for clarification, it was noted that the consent agreement must be signed by both parties no later than April 9.

The meeting adjourned 4:35 p.m.

Stephen D. Haner
Ad Hoc Committee Chair

Lee Ann Rung
Director, Executive & Board Affairs

State Council for Higher Education of Virginia
Closed Meeting Procedures

Legal Matters

Motion for Closed Meeting:

I move that, pursuant to Virginia Code § 2.2-3711(7), the State Council for Higher Education of Virginia convene in a closed meeting for the purposes of: (mark one)

Consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probably litigation, where such consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the public body, as detailed below.

Consultation with legal counsel regarding specific legal matters requiring the provision of legal advice, as detailed below.

legal options for SCHEV re: Security University's
certification.

AND

Ramona Taylor
that ~~Noëlle Shaw-Bell~~, legal counsel to SCHEV, as well as staff members:

whose presence will aid in the Council's consideration of this matter, participate in the closed meeting.

Movant: GIL BLAND Second: GIL MINOR

Date: 4-6-15

Certification of Closed Meeting

We convened today in a Closed Meeting pursuant to a recorded vote on the motion above and in accordance with the Freedom of Information Act. Section 2.2-3711 of the Code of Virginia requires that SCHEV certify that, to the best of each members knowledge (i) only public business matters lawfully exempt from open meeting requirements under this chapter and (ii) only such public business matters as were identified in the motion by which the closed meeting was convened were heard, discussed or considered.

Any member who believes there was a departure from these requirements shall so state prior to the vote, indicating the substance of the departure that, in his or her judgment, has taken place. The statement of the departure will be recorded in the minutes.

Vote of certification: Ayes: 7 Nays: 0

***Written certification attached.

Freedom of Information Act Certification (Legal Matters)

We, the members of the State Council for Higher Education of Virginia, do hereby certify that, to the best of our knowledge, (i) only public business matters lawfully exempted from open meeting requirements pursuant to the exception in **Virginia Code § 2.2-3711** of the Virginia Freedom of Information Act and (ii) only such public business matters as were identified in the motion by which the closed meeting was convened were heard, discussed or considered in the closed meeting.

Date: 4-6-15

1. Albert Bland

2. Yulene Minor

3. B. Gable

4. Samuel

5. John

6. WMM

7. GENE LOCKHART (VOICE VOTE BY PHONE)

8.

9.

10.

11.

12.

13.