

SOUTH CAROLINA COMMISSION ON HIGHER EDUCATION

Special Meeting held at
1122 Lady Street, Suite 300, Columbia, SC 29201
April 25, 2018
3:00 p.m.

Minutes of the Meeting
April 25, 2018

Commissioners Attending

Mr. Tim Hofferth, Chair	Mr. Kenneth Kirkland*	Mr. Kim Phillips*
Ms. Dianne Kuhl*, Vice Chair	Ms. Allison Dean Love	Ms. Terrye Seckinger
Dr. Bettie Rose Horne	Dr. Louis Lynn	
Mr. Richard Jones	Mr. Charles Munns*	

Commission Members Absent

Mr. Paul Batson (excused)

Guests Attending

Ms. Joren Bartlett*, S.C. Technical College System	Dr. Earnest McNealey*, Allen University
Ms. Beth Bell, Clemson University	Dr. Chris Nesmith, University of South Carolina Palmetto College
Dr. Ralph Byington*, Coastal Carolina University	Mr. Paul Patrick*, College of Charleston
Ms. Lynn Cherry*, College of Charleston	Mr. Rick Petillo*, Clemson University
Dr. Tena Crews, University of South Carolina	Dr. Jeff Priest, University of South Carolina Aiken
Mr. Joseph Derrick*, University of South Carolina	Dr. Lisa Saladin, Medical University of South Carolina
Mr. Tim Drueke, Winthrop University	Dr. Darlene Shaw*, Medical University of South Carolina
Dr. Jeremy King, Clemson University	Mr. Bob Thompson*, Clemson University
Mr. Mike LeFever, South Carolina Independent Colleges & Universities	
Dr. Brian McGee*, College of Charleston	

Commission Staff Present

Mr. Jeff Schilz	Ms. Katie Philpott
Ms. Laura Belcher	Mr. Andrew Roof
Ms. Carrie Eberly	Mr. Keeran Sittampalam
Dr. John Lane	Dr. Karen Woodfaulk
Ms. Swati Patel*	

*Indicates attendance by phone.

Chairman Hofferth convened the meeting at 3:03 p.m. and welcomed all in attendance. It was confirmed that the meeting was being held in accordance with the Freedom of Information Act.

1. Welcome & Introductions

Laura Belcher

Ms. Belcher introduced the guests and Commissioners in attendance either by telephone or in-person.

2. Student Bill of Rights

Tim Hofferth

Chair Hofferth referenced the previous Commission meeting held on April 5, wherein the Student Bill of Rights was discussed. He explained that the item was conceptually approved but required revision by a subcommittee, which Chair Hofferth assembled. Chair Hofferth, after reviewing the subcommittee's draft, commended the group for their efforts. Before initiating deliberation of the proposal, Chair Hofferth discussed the intent of the Student Bill of Rights, describing it as a statutorily aligned, mission fulfilling document to initiate discussions of potential solutions to issues within the state's higher education system. He emphasized the document did not constitute new policy and is definitively not a mandate.

Chair Hofferth mentioned a conversation he had the night before with President Harris Pastides of the University of South Carolina, who conveyed to the Chairman the Council of Presidents' desire for the Commission to postpone approving the Student Bill of Rights. Commissioner Lynn requested a letter sent by President Pastides be included in the minutes (Attachment I). Chair Hofferth recounted to the Commission his conversation with President Pastides, who expressed the institutions' willingness to participate in a dialogue with the Commission about mutual goals. Chair Hofferth explained that during the discussion, he offered Dr. Pastides the option of convening an emergency meeting of the Council of Presidents sometime next week. Lastly, Chair Hofferth stated he told President Pastides that anything contained within the Student Bill of Rights which elicited universities' concern or objection, could be shared with him in writing. Commissioner Lynn noted a letter issued one-hour prior by Dr. James Clements, President of Clemson University, which objected to some of the Student Bill of Rights' recommendations. He explained that the letter claims the Student Bill of Rights would jeopardize the will of Thomas Clemson. Chair Hofferth responded that the proposal does not impose any mandates on the state's institutions. Commissioner Lynn requested Dr. Clements' letter also be included in the minutes (Attachment II).

Commissioner Jones asked if universities' opinions were solicited and considered in the creation of the proposal, which Chair Hofferth responded was unnecessary. Chair Hofferth stated the document was intended to articulate the Commission's positions for the purpose of initiating a community dialogue. Commissioner Seckinger pointed out that the proposal was labelled a draft, therefore indicating its intention to be amendable. To clarify the proposal's statutory justification, Chair Hofferth requested Ms. Swati Patel, legal counsel for the Commission, provide her analysis. She interpreted the Student Bill of Rights to be uncharacteristic of a mandate and in compliance with the Commission's statutory authority. Commissioner Munns, to facilitate discussion of the proposal, noted the importance for Commissioners to clearly understand the motion regarding the proposal. Chair Hofferth thanked Commissioner Munns for his suggestion and proceeded to describe the format of the meeting, which would ensure all Commissioners would be heard. He then ceded the floor to Vice Chair Kuhl.

Vice Chair Kuhl explained the process by which the subcommittee revised the Student Bill of Rights to its contemporary state. She stated the revised proposal incorporated suggestions from various Commissioners, did not constitute a mandate, and was not intended to be a "one-size-fits-all" approach. On behalf of the subcommittee, Vice Chair Kuhl recommended the Commission approve the Student Bill of Rights but stipulated a revision to Section 2, Point 5, which would replace "Tuition" with "Cost of attendance." Chair Hofferth noted that Commissioner Munns communicated via email a suggested motion for the Commission to consider; Vice Chair Kuhl requested this be emailed to all Commissioners on the phone, a request with which staff complied.

Chair Hofferth solicited Commissioner Jones for his opinion. Commissioner Jones expressed the necessity of collaboration between the Commission and institutions. He stated he was pleased with the Commission for developing positions on issues of access, affordability, and excellence, but was perplexed

by and disappointed in the response it had created among the institutions. Chair Hofferth thanked Commissioner Jones for his perspective.

Commissioner Munns first reiterated his conviction that the motion for the proposal be as clearly worded as possible. Secondly, he suggested a clear coordination process for modifying the draft proposal be established. Lastly, he expressed concern for some of the proposal's content, but believed these would be rectified during deliberations with stakeholders. Chair Hofferth responded that the Commission would contact the institutions to arrange a Council of Presidents meeting.

Following Commissioner Munns' comments, Chair Hofferth asked Commissioner Love for comments on the Student Bill of Rights. She expressed concerns similar to those which she made at the April 5th meeting. She stated that the proposal was being rushed through without appropriate notice and consideration for the stakeholders. She asserted that approval of the proposal would most certainly have unintended consequences, and she called into question the compliance with the Freedom of Information Act (FOIA) of prior meetings respecting the proposal. Commissioner Love then posed questions regarding her reservations with approving the proposal.

Chair Hofferth clarified to the Commission that all meetings held in service to the Student Bill of Rights were compliant with FOIA. Regarding an evaluation of the proposal provided to Commissioner Love by the Southern Association of Colleges and Schools Commission on Colleges (SACSCOC), Chair Hofferth challenged its merit on the basis that it may have been determined under the impression that the proposal is intended to be official policy, when in fact it is simply a discussion initiator. When Commissioner Love reengaged the discussion of the subcommittee meeting's compliance with FOIA, Chair Hofferth asked staff if notice of the meeting was posted in a public space at least twenty-four hours before the meeting; it was confirmed this was the case.

Chair Hofferth requested Commissioner Seckinger state her opinion of the Student Bill of Rights. She interpreted the proposal to be a statutorily-aligned dialogue initiator and stated she did not perceive any instance where it imposed on institutions any actionable requirements.

Commissioner Horne favored the Student Bill of Rights' primary tenets—that students have the right to an accessible, affordable, and excellent education. She expressed reluctance to approve the recommendations for each of those categories, though. Despite her reservations, Commissioner Horne informed the Commission of her intention to vote affirmatively for the proposal but added her commitment to thoroughly refine the proposal.

Commissioner Phillips perceived the proposal as a statement of beliefs, not as an enforceable mandate. He stated his intention to approve the proposal, as he was pleased with the Commission's development of positions meant to initiate discussion.

Commissioner Lynn conveyed concerns leaders at the research universities expressed to him regarding the Student Bill of Rights. Commissioner Lynn then requested some of his speaking time be conferred on Dr. Lisa Saladin, Executive Vice President for Academic Affairs at the Medical University of South Carolina (MUSC), for her comment. Dr. Saladin noted innovative efforts taken independently by MUSC to be in alignment with the positions announced by the Commission in its proposal. She continued by stating her concern with the short notice provided and institutions' lack of input in the development process.

Commissioner Edwards recognized and appreciated the Commissioners' separate affiliations and their perspectives, and he asserted that this diversity strengthened the Commission's decisions. He stated the

proposed Student Bill of Rights supported the Commission’s goals by initiating conversations on solutions to the state’s higher education issues.

Commissioner Kirkland expressed his support for the Student Bill of Rights and stated that the document was a summation of the Commission’s beliefs. He asserted that the proposal would effectively continue a discussion of solutions to issues in the state’s higher education system, and to this end, he characterized the proposal as a working document.

After all Commissioner opinions were shared, Chair Hofferth asked Vice Chair Kuhl if she had any final comments. She expressed disappointment with what she perceived to be either a misunderstanding or misrepresentation of some items included in the Student Bill of Rights. She reiterated that the proposal is nothing more than a starting point for discussion; and it definitively neither imposes nor seeks to impose any mandate on any interested party.

Dr. Lynn raised a point of order respecting the compliance with FOIA of the subcommittee meeting which produced the Student Bill of Rights.

After some debate about the wording of the motion, Commissioner Seckinger motioned:

The Commission approves the attached draft bill of rights as a starting point to the purpose of generating discussion and for CHE staff to use in further coordination with stakeholders about access, affordability, and excellence of college education in South Carolina. Also amended is item 2, number 5, wherein “Tuition cost” will be deleted and replaced with “Cost of attendance.”

Commissioner Munns seconded the motion.

Before voting, Commissioner Love inquired if concerns regarding SACSCOC would be attended. Chair Hofferth responded that they would not, as the Commission’s legal counsel determined no risk was posed from approval of the proposal. Commissioner Love called for a roll call vote, which is documented below.

Vote Results			
<i>Commissioner</i>	<i>Aye</i>	<i>Nay</i>	<i>Absent</i>
Mr. Paul Batson			
Mr. Devron Edwards			
Mr. Tim Hofferth			
Dr. Bettie Rose Horne			
Mr. Richard Jones			
Mr. Ken Kirkland			
Ms. Dianne Kuhl			
Ms. Allison Dean Love			
Dr. Louis Lynn			
Vice Admiral Charles Munns			
Mr. Kim Phillips			
Ms. Terrye Seckinger			

The motion passed with a vote of nine to two.

11. End of Business Meeting

A **motion** was made (Seckinger), **seconded**, and **carried** to adjourn the meeting at 4:37 p.m.

April 27, 2018

Tim M. Hofferth, Chairman (via email)
SC Commission on Higher Education
1122 Lady Street, Suite 300
Columbia, SC 29201

Dear Mr. Hofferth:

We write to you today as members of the Council of Presidents to ask you and the CHE Commissioners to please “pause” on the Student Bill of Rights. For a Bill of Rights to be discussed without any input from the institutions who actually have daily dialogue with students is perplexing and unfortunate.

We are not against the Bill of Rights per se, but we would like the opportunity for conversation and suggestions. For instance, how can any Student Bill of Rights not include the need for sustainable State funding?

We are not sure why this issue needs to be rushed. Please reconsider voting on this tomorrow and allow us the opportunity to understand the reasons for its existence and to be a part of anything that moves forward.

We all look forward to working more closely with you as we strive to improve access, affordability and quality in our colleges and universities.

Sincerely,

Fred Carter
James Clark
James Clements
David Cole
Richard Cosentino
David DeCenzo
Susan Elkins

Sandra Jordan
Brendan Kelly
Daniel Mahoney
Glenn McConnell
Al Panu
Harris Pastides, Chair
John Rosa

c: Commissioners, South Carolina Commission on Higher Education
Interim Executive Director Jeffrey Schilz



April 25, 2018

Tim M. Hofferth, Chairman (via email)
SC Commission on Higher Education
1122 Lady Street, Suite 300
Columbia, SC 29201

RE: Bill of Rights

Dear Mr. Hofferth:

I write you today with significant concerns regarding the expedited process that the CHE is undertaking regarding the proposed Bill of Rights. There are a number of substantive issues to discuss regarding this proposal. Unfortunately, the rushed process that CHE has undertaken has left no opportunity for serious and meaningful discussion between the CHE and South Carolina's institutions of higher education.

**OFFICE OF
THE PRESIDENT**

James P. Clements, Ph.D.
201 Sikes Hall
Clemson, South Carolina
29634-5002

P 864-656-3413
F 864-656-4676

As Clemson University has stated on numerous occasions, we believe that providing quality affordable education to the citizens of our state is a shared goal of our University and CHE. This can be no clearer than in the record of success of Clemson: Excellence as evidenced by our 10-year run of being a Top 25 public university with a median debt at the time of graduation of zero dollars, coupled with a very high average initial salary for our graduates. In short, Clemson is an exceptional value for our students and for the State of South Carolina.

Thus, we continue to be baffled by the push of some members of the CHE to reduce the performance of all of the state's institutions of higher learning to the least common denominator by imposing arbitrary one size fits all mandates on complex topics. This is all the more concerning when it occurs with no opportunity for meaningful dialogue.

Additionally, we are becoming increasingly troubled by CHE's recent pattern of proposing and establishing arbitrary rules, guidelines and initiatives without meaningful analysis or a full understanding of the actual outcomes associated with those decisions.

For example, a "Bill of Rights" that guarantees acceptance to any school for Life and Palmetto recipients may be a public relations victory for CHE in the short term, but its overall effect on student outcomes will be negative, and could be disastrous for some students and institutions.

This provision will lead to immediate enrollment imbalances, creating significant financial stress and other major disruptions to a system which CHE asserts is already fragile. Some institutions will immediately experience enrollment "overloads," while others will not be able to meet planned enrollment requirements. Those unable to meet normal enrollment levels will

Mr. Hofferth
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experience the financial stress and hardship that come with fewer paying customers, while other institutions will face additional costs and facility constraints that come with unplanned enrollment increases.

CHE's attempt to arbitrarily circumvent institutions' carefully crafted acceptance standards also will lead to students attending schools to which they aren't ideally suited, resulting in lower retention and higher dropout rates. The end result of this provision alone, which is just one of a number of questionable strategies contained in the Bill of Rights, will be wasted tuition dollars, wasted state appropriations and reduced educational attainment for many students.

The Bill of Rights proposal also raises serious questions regarding the legislative authority of CHE to pass such an item. Some items of your proposal appear to be an encroachment upon the authority of the General Assembly. In most every item, the CHE appears to exceed its statutory authority and is invading the authority granted by the General Assembly to the governing boards of each institution.

Furthermore, in the case of Clemson University, your proposal would diminish or supersede the authority granted to the Board of Trustees of Clemson University by the Will of Thomas Green Clemson and the Act of the General Assembly accepting the terms of that Will. Such an action in violation of the Will and the Act of Acceptance would place in jeopardy the very foundation of our institution.

I trust you will agree that these issues are significant and warrant a well-intentioned and reasoned discussion with the impacted institutions. Therefore, I urge the Commission to table the vote planned for Wednesday April 25, 2018.

On behalf of Clemson University, I look forward to moving forward with CHE in a manner that achieves our common goals for the benefit of the citizens of our state.

Sincerely,

A handwritten signature in black ink that reads "J. P. Clements". The signature is written in a cursive, flowing style with a large initial "J" and "C".

James P. Clements, Ph.D.
President

cc: Commissioners, South Carolina Commission on Higher Education
Interim Executive Director Jeffrey Schilz
Clemson University Board of Trustees