

**BOARD OF HIGHER EDUCATION
REQUEST FOR BOARD ACTION**

NO.: BHE 25-27

BOARD DATE: January 29, 2025

AMENDMENTS TO BOARD OF HIGHER EDUCATION BY-LAWS

MOVED: The Board of Higher Education hereby approves amendments to its By-Laws, as set forth in Attachment A, and subject to the Board of Higher Education committing to conducting at least a mid-year review of the By-Law implementation in year one.

VOTED: Motion adopted by the BHE on 01/29/2025

Authority: Massachusetts General Laws Chapter 15A, Section 4; BHE By-Laws Article IV, Section 1 (Amendment or Revision).

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Background

The Board of Higher Education (BHE or Board) By-Laws is a critical document which establishes the BHE's governance and procedural structure and forms the foundation of how the BHE functions, to the extent that such matters are not otherwise addressed in the Massachusetts General Laws. The current BHE By-Laws are accessible through the following link:

<https://www.mass.edu/bhe/bylaws.asp>. The BHE last amended its By-Laws on June 22, 2021. [*BHE Motion 21-49 \(June 22, 2021\)*](#).

The By Laws currently allow for significant flexibility on how the BHE may choose to establish sub-bodies to consider, advance, and advise on matters that fall within the BHE's statutory jurisdiction. Specifically, the By Laws allow the BHE to use Committees (*Article III, Section 1*), Advisory Councils (*Article III, Section 2*), and/ or Task Forces (*Article III, Section 3*). Any combination of the three, or none at all may be used. The only relevant statutory requirement related to the BHE's sub-body structure is that the BHE "shall have and Executive Committee and such other committees that the Board may from time to time establish." *M.G.L. c. 15A, section 4(b)*.

With regard to Executive Committee membership the BHE By-Laws provide that the "membership of the Executive Committee shall be proposed by the Chairperson, shall be subject to approval of the Board, and shall be reviewed annually by the Board during the Board's annual meeting." *BHE By-Laws, Article III, Section 1(a)(ii)*. The By-Laws further currently provide that:

- the "Executive Committee shall be composed of the Chairperson, the Vice-Chairperson of the Board and at least two other members who also serve as chairs of committees or advisory councils;" and
- the Chairperson of the BHE shall be the chair of the Executive Committee.

BHE By-Laws, Article III, Section 1(a)(i) and (ii).

During the BHE's September 16, 2024 retreat, the BHE reviewed and expressed interest in a proposal that would sunset the existing Advisory Councils, established via BHE Motion 22-03 (September 22, 2021) and adopt an *ad hoc* Task Force approach for the purpose of helping to consider, advise on, and

advance the BHE's work.¹ As noted above, however, Executive Committee membership, is currently inextricably linked in the BHE By-Laws to having either a Committee or Advisory Council procedural structure.

Therefore, to allow for the transition to an *ad hoc* Task Force approach in lieu of an Advisory Council or Committee sub-body structure, an amendment to the BHE By Laws is needed. As noted in **Attachment A**, the following amendment is proposed in Article III, Section 1 of the By-Laws for BHE adoption:

- a. Executive Committee
 - i. Powers and duties. To consider Board of Higher Education governance and organizational issues; to review and advise on Board agendas; to consider and vote on consolidating matters on a consent agenda; to review audit issues as they arise; to consider and act upon matters specifically delegated by the Board to the Commissioner which require the concurrence of the Executive Committee; to consider and advise on policy related to presidential evaluation and compensation and employee relations including collective bargaining; to assign to the Commissioner and staff any matters for which a hearing by the Board is required by policy, rules, regulations, or law; and to consult with the Commissioner at his/her request.
 - ii. Membership. The Executive Committee shall be composed of the Chairperson and the Vice-Chairperson of the Board and at least two other Board members ~~who also serve as chairs of committees or advisory councils~~. Membership of the Executive Committee shall be proposed by the Chair, shall be subject to the approval of the Board, and shall be reviewed annually by the Board during the Board's annual meeting.
 - iii. The Chairperson of the Board shall be the chair of the Executive Committee.

The proposed language decouples Executive Committee membership from any of the three available procedural sub-body structures currently codified in the BHE By-Laws, and will allow the BHE greater flexibility to use any combination (or none) of the procedural sub-body structures going forward, as needed.

BHE By-Laws Amendments: Procedural Vote Requirements

Amendments to BHE By-Laws are subject to stricter voting and notice requirements than other BHE actions. As set forth in Article IV, Section 1 of the By-Laws, the By-Laws may be "amended, revised or repealed by a vote of two-thirds of the entire number of the members at any meeting, but in no event less than seven." In addition, BHE members must receive the proposed By-Law amendments, revisions, or repeal at least fifteen (15) days prior to the date of the meeting at which such action is to take place. *BHE By-Laws Article IV, Section 1.*

¹ A companion motion (BHE Motion 25-26) which speaks to sunseting the Advisory and transitioning to an *ad hoc* Task Force approach is on the agenda for consideration during the BHE's January 29, 2021 retreat.