BOARD OF TRUSTEES

Compliance, Audit, Risk Management and Legal Affairs Committee

November 12, 2015
AGENDA

NIU Board of Trustees
COMPLIANCE, AUDIT, RISK MANAGEMENT AND LEGAL AFFAIRS COMMITTEE
10:00 a.m. – Thursday – November 12, 2015
Board of Trustees Room
315 Altgeld Hall
NIU – Main Campus
DeKalb. IL 60115

1. Call to Order and Roll Call

2. Verification of Quorum and Appropriate Notification of Public Meeting

3. Meeting Agenda Approval............................................................................................................ Action........i

4. Review and Approval of Minutes from August 27, 2015 .......................................................... Action........1

5. Chair’s Comments/Announcements

6. Public Comment*

7. University Report
   a. Update on Enterprise Risk Management Initiative ............................................................... Information.......3
      Dr. Alan Phillips, Vice President for Administration and Finance (5 Minutes)
   b. Clery Act / Title IX Update ..................................................................................................... Information.......4
      NIU Chief of Police, Tom Phillips, Provost, Dr. Lisa Freeman (15 minutes)
   c. Freedom of Information Act Compliance and Challenges ....................................................... Information.......5
      Greg Brady, Deputy General Counsel (10 Minutes)

8. University Recommendation – Committee Review and Proposed Action
   a. Proposed Amendment to Board Regulations Related to Freedom of Information Act....................... Action........6
      Greg Brady, Deputy General Counsel (15 Minutes)
   b. Roles, Responsibilities and Obligations of the Board, the President and Internal Audit/2015 Audit FY Annual Update ................................................................. Action........12
      Danielle Schultz, Director of Internal Audit (15 Minutes)

9. Other Matters

10. Next Meeting Date

11. Adjournment
*Individuals wishing to make an appearance before the Board should consult the *Bylaws of the Board of Trustees of Northern Illinois University, Article II, Section 4 – Appearances before the Board. Appearance request forms will be available in the Board Room the day of the meeting. For more information contact Kathleen Carey, (kjahns@niu.edu) Recording Secretary to the Board of Trustees, Altgeld Hall 300, DeKalb, IL 60115, 815-756-1273.

Anyone needing special accommodations to participate in the NIU Board of Trustees meetings should contact Ellen Andersen, Director of Special Events, at (815)753-1999, as soon as possible.
Minutes of the
NIU Board of Trustees
Compliance, Audit, Risk Management and Legal Affairs
COMMITTEE MEETING
August 27, 2015

CALL TO ORDER AND ROLL CALL

The meeting was called to order at 12:22 p.m. by Chair Cherilyn Murer in the Board of Trustees Room, 315 Altgeld Hall. Recording Secretary Julie Edwards conducted a roll call. Members present were Trustees Robert Boey, John Butler, Wheeler Coleman, Robert Marshall, Board Chair Marc Strauss, and Committee Chair Cherilyn Murer. Trustee Raquel Chavez was absent. Also present: President Douglas Baker, Committee, Board Liaison Mike Mann, Provost Lisa Freeman, Vice President Alan Phillips, and UAC Representatives: Deb Haliczer, Dr. Greg Long and Holly Nicholson

VERIFICATION OF QUORUM AND APPROPRIATE NOTICE OF PUBLIC MEETING

General Counsel Blakemore indicated the appropriate notification of the meeting has been provided pursuant to the Illinois Open Meetings Act. Mr. Blakemore also advised that a quorum was present.

MEETING AGENDA APPROVAL

Chair Murer asked for a motion to approve the meeting agenda. Trustee Coleman so moved and Trustee Marshall seconded. Trustee Strauss made a motion to amend the agenda to move to close session following the review of the minutes. Trustee Marshall seconded this motion. The motion was approved.

REVIEW AND APPROVAL OF MINUTES

Chair Murer asked for a motion to approve the minutes of May 28, 2015. Trustee Butler so moved and Trustee Strauss seconded. The motion passed.

Chair Murer announced the Board will go into closed session to address personnel matters as generally described under sections 2C 1, 2, 3 and 21 of the Open Meetings Act; collective bargaining matters as generally described under section 2C2 of the Open Meetings Act; litigation and risk management matters as generally described under sections 2C 11 and 12 of the Open Meetings Act. Trustee Strauss so moved and Trustee Boey seconded. A roll call was performed: Trustees Robert Boey: Yes; John Butler: Yes; Wheeler Coleman: Yes; Robert Marshall: Yes; Marc Strauss: Yes; Committee Chair Cherilyn Murer: Yes. The motion was approved.

CHAIR'S COMMENTS/ANNOUNCEMENTS

The meeting was reconvened. Chair Murer proposed to amend the agenda to have Information Items 7.a., 7.b., and 7.c. moved to the next committee meeting. Trustee Strauss so moved and Trustee Marshall seconded. The motion passed.

PUBLIC COMMENT

General Counsel Blakemore indicated that there were no request for public comment.
UNIVERSITY RECOMMENDATIONS/REPORT

Agenda Item 7.a. Update on Insurance, All Major Policies Renewed (Postponed)

Agenda Item 7.b. Roles, Responsibilities and Obligations of the Board, the President and Internal Audit (Postponed)

Agenda Item 7.c. Key Board Compliance Responsibilities – Professional Development Updates, State Ethics Act/Statement of Economic Interest (Postponed)

Agenda Item 8.a. Enterprise Risk Management

Dr. Alan Phillips, Vice President of Administration and Finance, reminded the Board that this was a continuing discussion from the previous meeting regarding Enterprise Risk Management. Options were presented to the committee regarding how to best proceed for future planning.

Enterprise Risk Management is a continuous process across the entire enterprise to identify, control and mitigate risk while pursing the mission of the university. Four options to move forward with the effort of improving risk management were presented to the Board for consideration. Those options included: to continue with the process currently in place; to bring in an outside vendor to develop the future process; to use in-house staff to develop the process; or to use in-house staff in conjunction with limited assistance from an outside consultant to the develop future process. Following further discussion regarding consideration of time, cost, and expertise needed, it was felt that a hybrid model of in-house staff in combination with outside consultants would be the best option. It was estimated that the initial assessment, identifying the risk areas to be addressed, and implementing the program could be completed in four to six months. In addition, a committee of stakeholders would be organized with key representation from all areas (i.e. academic, research, finance, facilities, health and safety, etc.). Chair Murter asked that there be regular updates given at the committee meetings and those reports should be structured in a master plan model. Vice President Phillips advised that he would honor the request for periodic updates and had planned to do so.

Trustee Strauss made a motion to recommend the adoption of the hybrid model of developing a program in-house with limited assistance from outside consultants as needed and recommended that the full board approve this at its next meeting. Trustee Marshall seconded the motion. The motion was approved.

OTHER MATTERS

Chair Murter recognized Trustee Robert Boey as the initial chair of the committee and thanked him for his leadership.

NEXT MEETING DATE

The next meeting of the CARL Committee will be November 12, 2015, at 10:00 a.m.

ADJOURNMENT

Chair Murter asked for a motion to adjourn. Trustee Strauss so moved and Trustee Boey seconded. The motion was approved. Meeting adjourned at 2:12 p.m.

Respectfully submitted,

Julie Edwards
Recording Secretary

In compliance with Illinois Open Meetings Act 5 ILCS 120/1, et seq, a verbatim record of all Northern Illinois University Board of Trustees meetings is maintained by the Board Recording Secretary and is available for review upon request. The minutes contained herein represent a true and accurate summary of the Board proceedings.
Agenda Item 7.a.
November 12, 2015

ENTERPRISE RISK MANAGEMENT INITIATIVE

Dr. Alan Phillips will provide an update on Enterprise Risk Management Initiative.
CLERY ACT / TITLE IX UPDATE

NIU Chief of Police, Tom Phillips and Provost, Dr. Lisa Freeman will provide an update on the Clery Act and Title IX.
FREEDOM OF INFORMATION ACT COMPLIANCE AND CHALLENGES

Deputy General Counsel for Governance and Administration, Gregory A. Brady, will provide the Committee with a presentation on key provisions of the Illinois Freedom of Information Act.
PROPOSED AMENDMENT TO BOARD REGULATIONS RELATED TO FREEDOM OF INFORMATION ACT

**Context:** This item is ministerial in nature and intended to help the University streamline its processes for compliance with the Illinois Freedom of Information Act by providing the President with a delegation of authority to take administrative action. The University believes that such delegation will expedite requests for information that are made pursuant to applicable State law, as amended and allow for further decentralization of the Universities compliance effort. A copy of a draft proposed policy for the President’s use is attached.

Northern Illinois University is a public body that is subject to the Illinois Freedom of Information Act (FOIA or Act). FOIA was originally passed into law in the State of Illinois in the early 1980s. In 2009, though, a substantive overhaul of the law was done by the Illinois General Assembly and passed into law by the Governor. At about that same time, the NIU Board of Trustees similarly made substantial substantive changes to the Regulations of the Board of Trustees to accommodate for the new version of FOIA and how the University would operationalize compliance with the “new FOIA.” Since then, there has been a continuing evolution in FOIA law, with the introduction of the Public Access Bureau in the Illinois Attorney General’s Office and some additional substantive changes to FOIA through the legislature.

The current version of the Board Regulations on FOIA do little more than reiterate the provisions of the 2009 version of FOIA as the University understood them at the time. With the ever-evolving legal landscape surrounding FOIA, the University believes that it would be better served if the Board would abolish its Regulations regarding FOIA and, instead, delegate authority to the President to designate one or more FOIA Officers, as provided for in the law, to be responsible for carrying out the terms and conditions of the Illinois Freedom of Information Act, as amended, or further interpreted through the Public Access Bureau of the Office of the Illinois Attorney General or courts of competent jurisdiction.

**Recommendation:** The University recommends that the Compliance, Audit, Risk Management and Legal Affairs (CARL) Committee approve of (1) these proposed amendments to the Board Regulations to remove Section VII, Subsection C. Freedom of Information Act (with appropriate renumbering of the Regulations by the Board’s Recording Secretary after the removal) and (2) a delegation of authority to the President to designate one or more FOIA officers, to be responsible for complying with the mandates of the Illinois Freedom of Information Act, as amended or interpreted. If approved, this item will be forwarded to the full Board for consideration at its next meeting.
PROPOSED POLICY DRAFT: FREEDOM OF INFORMATION ACT

The public policy of the State of Illinois as articulated in the Illinois Freedom of Information Act states "that all persons are entitled to full and complete information regarding the affairs of government and the official acts and policies of those who represent them as public officials and public employees". [Illinois' Freedom of Information Act (hereinafter "Act). 5 ILCS 140/1 et.seq.]

Pursuant to Section 3(h) of the Act (5 ILCS 140/3), Northern Illinois University has promulgated policies governing access to public records of the University in conformity with the Act. The purpose of the policies are to provide timely access to public records in the possession of the University while, at the same time, protecting legitimate privacy interests and maintaining administrative efficiency within the requirements of the State Records Act. 5 ILCS 160/1 et. seq.  

To the extent there is a conflict between the Act and these policies, the Act shall govern.

1. FORM OF REQUESTS

Requests to inspect or copy “public records,” as defined by the Illinois Freedom of Information Act shall be in writing and shall identify the requester by name, address and organization, if any. The request shall identify the records requested as specifically as possible. The request shall specify whether the request is for the inspection and copying of the records or for the copies of the records only. If certified copies are required, the request shall so state.

2. DESIGNATION OF FOIA OFFICE

Pursuant to the Authority of the Board of Trustees, the President hereby designates the Vice President for the Division of Marketing and Communications as the FOIA Officer. The President or his FOIA designate may appoint other FOIA Officers as deemed necessary to other University Departments including, but not limited to the Division of Academic Affairs, the Office of Budget and Planning, the Division of Research and Innovation Partnerships, the Division of Administration and Finance, the Division of Information Technology, Division of University Advancement, Department of Police and Public Safety, Intercollegiate Athletics, Division of Student Affairs & Enrollment Management, and Outreach, Engagement and Regional Development. The FOIA policies may be amended by the President or his designee in order to keep the policy congruent with the Act.

3. SUBMISSION OF REQUESTS

Requesters are encouraged to utilize the University's request form available on the University's website, but use of this form is not required. The request may be submitted via personal delivery, mail, fax, or electronic mail. Requests for information concerning records of Northern Illinois University or the Board of Trustees may be submitted to the following address:

Freedom of Information Act Request  
Northern Illinois University  
Division of Marketing and Communications  
Altgeld Hall 312  
DeKalb, IL  60115

Failure to submit the request to the above address or other designated FOIA officers may cause a delay in receipt of the request. All formal requests for inspection and copying of records received by NIU employees shall be immediately forwarded to the Division of Marketing and Communications. The University shall publish contact information of other FOIA officers as these appointments are made.
4. RESPONSE TO REQUESTS

The President shall appoint a FOIA officer(s) who shall have the authority to receive and respond to all FOIA requests for the University. The contact information for each FOIA officer shall be posted on the University website. The FOIA officer(s) is/are responsible for ensuring an appropriate response to requests for access to records under the Act. As outlined in the Act, the FOIA office(r) shall:

a. Implement these rules governing access to public records.
b. Coordinate the efforts of other University employees and campuses under the Freedom of Information Act and this policy.
c. Maintain and make available for public inspection pursuant to Section 4(a) and (b) of the Act, a brief description of the University and a brief description as to how the public may request public records. This information shall also be posted on the University's website.
d. Maintain and make available for public inspection pursuant to Section 5 of the Act a reasonably current list of the types or categories of records under the University's control.
e. Assist the public in identifying requested records.
f. Extend the time for acting on a request, if necessary, for any of the reasons specified in Section 3 of the Act.
g. After records are located and reviewed, make the records available for inspection or deny access to the records in whole or in part.
h. When applicable, explain in writing the reasons for denial of access, the names and titles of persons responsible for denial and inform the requester of his or her right to submit a request for review to the Public Access Counselor of the Illinois Attorney General's Office.
i. Upon request for a copy of a record which is subject to public inspection, make a copy available upon compliance with fee and copyright requirements.
j. Upon request, certify that a copy is a true copy.
k. Upon failure to locate records, declare in writing to the requester that the University is not the custodian for such records or that the records cannot be found after diligent search.
l. Upon request, provide information about what records are electronically available and how to access the records pursuant to Section 5 of the Act.
m. Determine, pursuant to Section 6(b), whether a request for a reduction or waiver of any charge is appropriate because the specific purpose for the request is in the public's interest (i.e., health, safety and welfare) and not primarily for personal or commercial benefit.
n. Maintain an electronic or paper copy of a written request, including all documents submitted with the request until the request has been complied with or denied.
o. Create a file for the retention of the original request, a copy of the response, a record of written communications with the requester, and a copy of other communications.
p. Maintain a public file of denials indexed according to type of record requested and type of exemption asserted by the University as required by Section 9(b) of the Act.
q. Complete an annual training program provided by the Public Access Counselor. In the event a new FOIA officer is designated, the new officer shall complete the electronic training curriculum provided by the Public Access Counselor within 30 days after assuming the position.

So long as it is not a request for a commercial purpose, a voluminous request, or unduly burdensome as provided for in the Act, the requester shall be notified in writing that the request has been approved, denied, approved in part denied in part, the University is not in possession of the requested documents or extended within 5 university business days after its receipt by the FOIA officer, or designee, pursuant to the Freedom of
Information Act. A failure to comply with a written request, deny the request, approve in part deny in part, inform the requester the University is not in possession of the requested documents or extend the time for response within five (5) university business days after its receipt will be considered a denial of the request, so long as the request is not for a commercial purpose, a voluminous request or unduly burdensome.

a. Approval of Request

The approval of a request for inspection shall identify the documents determined to be in response to the request and the approximate number of pages involved. The approval of a request for copies shall identify the documents, the exact number of pages and the fee for copying, postage and certification, if certified copies are requested. When a person requests a copy of a record maintained in an electronic format, NIU will furnish it in the electronic format specified by the requester, if feasible. If not feasible, NIU will furnish the record in the format which it is maintained at NIU, or in paper format, at the option of the requester.

b. Denials of Requests

When NIU denies a request for public records, it will notify the requester in writing of the decision to deny the request, the reasons for the denial, including a reasonably detailed factual basis for the application of any exemption claimed, and the names and titles or positions of each person responsible for the denial. Each notice of denial will also inform such person of the right to request a decision review by the Public Access Counselor and provide the address and phone number for the Public Access Counselor. Each notice of denial shall inform such person of his/her right to seek judicial review under the Freedom of Information Act. Copies of all notices of denial will be retained in a single central office file maintained by the FOI officer that is open to the public and indexed according to the type of exemption asserted and, to the extent feasible, according to the types of records requested.

In the event that a request would be denied as being “unduly burdensome,” NIU will extend to the requester an opportunity to confer with the FOI officer, or designee, in an attempt to clarify or reduce the request to manageable proportions. Repeated requests from the same person for the same records that are unchanged or identical to records previously provided or properly denied shall be deemed unduly burdensome, pursuant to the Act.

c. Approved in Part Denied in Part

The approval in part and denial in part of a request for inspection shall be in part, in writing, and notify the requestor of (i) the specific reason why part of the request has been denied, (ii) the University personnel responsible for the decision, and (iii) the availability of the right to review by the Public Access Counselor consistent with Section 9 of the Act.

d. University not in Possession of Documents

When the University is not in possession of the documents requested, the University shall notify the requester that either the University does not maintain or possess the documents requested or that the requested documents could not be found after a diligent search. The University is not obligated to create or maintain a public record solely to respond to a request.
e. Extension of Time

Response to a request may be extended for not more than 5 university business days from the original due date for any of the reasons outlined within the Act. In the event of an extension, the requester will normally receive written notice within 5 university business days from the date of the request indicating the reason for the extension and the date by which the response to the request will be forthcoming. The person making the request and the FOI officer, or designee, may agree in writing to extend the time for compliance for a period to be determined by the parties.

f. Requests for Commercial Purposes

NIU shall respond to a request for records to be used for a commercial purpose within 21 university working days after receipt. The response will: (1) provide to the requester an estimate of the time required by the public body to provide the records requested and an estimate of the fees to be charged, which NIU may require the requester to pay in full before copying the requested documents; (2) deny the request pursuant to one or more of the exemptions set out in the Act; (3) notify the requester that the request is unduly burdensome and extend an opportunity to the requester to attempt to clarify or reduce the request to manageable portions, or (4) provide the records requested.

Unless the records requested for a commercial purpose are exempt from disclosure, NIU will comply with the request within a reasonable period considering the size and complexity of the request, and giving priority to records requests for non-commercial purposes. It is a violation of the Freedom of Information Act for a person to knowingly obtain a public record for a commercial purpose without disclosing that it is for a commercial purpose, if requested to do so by NIU officials.

g. Voluminous Requests

NIU shall respond to a voluminous request within 5 business days after receipt. The response shall notify the requester: (i) that NIU is treating the request as a voluminous request; (ii) the reasons why the NIU is treating the request as a voluminous request; (iii) that the requester must respond to NIU within 10 business days after the response was sent and specify whether the requester would like to amend the request in such a way that NIU will no longer treat the request as a voluminous request; (iv) that if the requester does not respond within 10 business days or if the request continues to be a voluminous request following the requester's response, NIU will respond to the request and assess any fees allowed by the Act; (v) that NIU has 5 business days after receipt of the requester's response or 5 business days from the last day for the requester to amend his or her request, whichever is sooner, to respond to the request; (vi) that NIU may request an additional 10 business days to comply with the request; (vii) of the requester's right to review of the NIU's determination by the Public Access Counselor and provide the address and phone number for the Public Access Counselor; and (viii) that if the requester fails to accept or collect the responsive records, NIU may still charge the requester as allowed under the Act and the requester's failure to pay will be considered a debt due and owing to NIU and may be collected in accordance with applicable law.

If a request continues to be a voluminous request following the requester's response or the requester fails to respond, NIU will respond within the earlier of 5 business days after it receives the response from the requester or 5 business days after the final day for the requester to respond to NIU's notification. The response shall: (i) provide an estimate of the fees to be charged, which NIU may require the person to pay in full before copying the requested documents; (ii) deny the request pursuant to one or more of the exemptions set out in this Act; (iii) notify the requester that the request is unduly burdensome and extend an opportunity to the requester to attempt to reduce the request to manageable proportions; or (iv) provide the records requested.

The time for response by NIU to a voluminous request may be extended for not more than 10 business days from the final day for the requester to respond to NIU's notification, as allowed pursuant to FOIA. The person making a request and NIU may also agree in writing to extend the time for compliance for a
period to be determined by the parties. If the requester and NIU agree to extend the period for compliance, a failure by the public body to comply with any previous deadlines shall not be treated as a denial of the request for the records.

5. TIME AND PLACE OF ACCESS

The approval of a request for inspection shall inform the requester where the information will be available for inspection. The approval of a request for copies or records stored in an electronic format will inform the requester that upon receipt of the appropriate fee, if applicable, the material will be mailed or available for pick-up at a specific place. Information will be made available for 14 university business days after the mailing of the approval.

6. STATUTORY FEES AND COSTS

No fees will be charged for the first 50 pages of black and white, letter or legal sized copies sought by a requester. After this threshold, the cost for copies of black and white, letter or legal sized records which can be readily made on available equipment shall not exceed 15 cents per page. If NIU provides copies in color or in a size other than letter or legal, NIU will charge the actual cost for reproducing the records; excluding the costs of any search for and review of the records or other personnel costs associated with reproducing the records. Copies which cannot be made on available equipment will be photocopied through a commercial photocopy service at the cost charged by the service. The cost for the mailing of photocopies will be the actual postage. The fee for certification is one dollar per document or set of documents. If NIU furnishes a record in an electronic format, NIU will charge the requester for the actual cost of purchasing the recording medium, whether disc, diskette, tape or other medium upon which the record is delivered. NIU will not charge the requester for the costs of any search for and review of the records or other personnel costs associated with reproducing the electronic records.

Documents shall be furnished without charge or at a reduced charge, as determined by NIU, if the person requesting the documents states the specific purpose for the request and indicates that a waiver or reduction of the fee is in the public interest. Waiver or reduction of the fee is in the public interest if the principal purpose of the request is to access and disseminate information regarding the health, safety, and welfare or the legal rights of the general public and is not for the principal purpose of personal or commercial benefit, as defined by the Act.

In the event that NIU fails to respond to a request within the requisite periods in the Act but thereafter provides the requester with copies of the requested records, NIU is prohibited at that point from imposing any fees for such copies.

Fees associated with a voluminous request, as defined under the Illinois Freedom of Information Act, will be assessed as allowed by that Act.

7. REQUEST FOR REVIEW OF A DENIAL

A person whose request to inspect or copy a public record is denied may file a request for review with the Public Access Counselor established in the Office of the Attorney General not later than 60 days after the date of the final denial. Upon receipt of a request for review, the Public Access Counselor shall determine whether further action is warranted. The Public Access Counselor may determine that any alleged violation of the Act is unfounded, upon which no further action will be taken. In all other cases, the procedures for such review as outlined in the Freedom of Information Act, as amended, will be followed. Pursuant to those procedures, the Attorney General is required to issue to the requester and NIU a binding opinion in response to the request for review as to whether a violation of the Freedom of Information Act has occurred. The Attorney General is also afforded the discretion to choose to resolve the request for review by mediation or by a means other than the issuance of a binding opinion.
Director of Internal Audit Danielle Schultz will provide the committee members with internal audit program information including:

- The organizational placement of the internal audit program
- Guidance for the internal audit function
- An overview of roles, responsibilities, and obligations of Internal Audit, the President, and the CARL Committee with regards to statutes, standards, and guidance for internal audit operations
- Summary on how audits are selected for the audit plan
- Law regarding internal audit work product and communication

In addition, Ms. Schultz will provide the annual report for FY 2015.

**Description:** The University proposes that the internal audit director provide each internal audit report to the CARL Committee members seven days after issuance or upon request. In addition, the university proposes that the internal audit director provide the CARL Committee members a quarterly report of outstanding recommendations not implemented once the planned report, which is under development, is finalized and approved by the President.

**Recommendation:** The University recommends the CARL Committee approve the distribution of internal audit information as described.