

**OLD DOMINION UNIVERSITY
BOARD OF VISITORS**

**SPECIAL EMERGENCY BOARD MEETING
Thursday, May 11, 2021, 12:30 PM**

MINUTES

A special emergency meeting of the Board of Visitors of Old Dominion University was held on Tuesday, May 11, 2021, at 12:00 p.m. The meeting was called by the Rector for the purpose of receiving a briefing from university leadership on the opening of campus. The meeting was held electronically via the Zoom application pursuant § 4-0.01(g) of Chapter 1289 of the 2020 Acts of Assembly. Present from the Board:

Kay A. Kemper, Rector
Yvonne T. Allmond
R. Bruce Bradley
Robert A. Broermann
Robert S. Corn
Unwanna B. Dabney
Peter G. Decker, III
Jerri F. Dickseski
Alton J. Harris
Larry R. Hill
Toykea S. Jones
Ross A. Mugler
P. Murry Pitts
Maurice D. Slaughter

Absent from the Board:

Carlton F. Bennett
Lisa B. Smith
Armistead D. Williams, Jr.

Also present were:

John Broderick, President
Austin Agho
Alonzo Brandon
Greg DuBois
Morris Foster
Annie Gibson
Velvet Grant
Scott Harrison

Etta Henry
Donna Meeks
R. Earl Nance
Tom Odom
September Sanderlin
Amanda Skaggs
Don Stansberry
Jay Wright

CALL TO ORDER AND OPENING OF CAMPUS BRIEFING

The Rector called the meeting to order at 12:30 p.m. and called on Greg DuBois, Vice President for Administration & Finance, for a briefing on the opening of campus. Vice President DuBois made the following statement:

“As had been our practice throughout the pandemic and as we plan for the fall 2021 term, I am here today to brief you on a key matter that we, as an administration, had been studying related to our plans for a return to a more normal campus environment and a resumption if most, if not all, campus activities and in-person instruction. As you know, the COVID-19 vaccine is now a key element in reducing the prevalence of the disease and the spread of the coronavirus is our nation is now readily available and accessible within the Commonwealth of Virginia.

“Several weeks ago, I asked our Public Safety Department, along with our health experts and other key stakeholders throughout the last year who have helped shaped our response to the coronavirus pandemic, to review the question of whether or not the University should require students attending in-person classes and participating in on-campus activities to have received one of the approved COVID-19 vaccines prior to the beginning of the fall 2021 term. You have been provided a copy of our decision paper on this question. I will briefly summarize the recommendation that I and the other vice presidents have made to the University’s president, President John R. Broderick, and the reasons behind our recommendation.

“We have recommended to the President that students who access university facilities and programs in person be required to receive or show proof of having received full COVID-19 vaccinations subject to limited medical and religious exemption, beginning prior to the start of the fall 2021 term. Enforcement of this requirement should be delayed until full FDA approval and widespread availability of at least one vaccine. And that’s an important key comment; that we would not enforce this requirement until the vaccines have received full FDA approval. The National Institute of Allergy and Infectious Disease and the CDC have both announced this will occur soon. Pfizer Biotech has recently announced they will file for full approval by the end of May 2021. Moderna has also recently announced they have the six-month data compiled and are readying their application to the FDA for full approval. Students who do not receive the COVID-19 vaccination or provide proof of vaccination may be subject to additional safety measures. The overarching objective of this recommendation is to promote the health, welfare and safety of the University student community while meting the overarching duty of care for residential students. This recommendation also supports the SEES Division desire to accommodate students’ requests to return operations to a sense of normalcy in the fall 2021 semester.

“The background and reasoning for our recommendation is as follows. On 26 April 2021, the Virginia Attorney General, Mark Herring, opined that Virginia state institutions of higher education may condition in-person attendance on receipt of an approved COVID-19 vaccine during this time of pandemic. The *Code of Virginia* 23.1-800 currently requires all students to show proof of vaccination against diphtheria, tetanus, poliomyelitis, measles, German measles, and mumps according to the guidelines of the American College Health Association. ODU has requirements and protocols in place for managing student vaccination records in accordance with public health needs and HIPAA laws. On April 29, 2021 the ACHA issued guidance recommending that all on-campus students in fall of 2021 be required to be vaccinated against COVID-19. Congruent settings in large gatherings of persons in close contact or high risk, and for

the foreseeable future, will need to continue to require mitigation for persons who are not vaccinated. Vaccinated students are highly-likely to engage in these settings and types of activities. ODU is committed to the health and safety of the student body and has an obligation to implement measures to provide for the health and welfare of its student population. Emphasis is placed on ODU's on-campus residential students who make daily use of the University's on-campus facilities. Recent discussions by the Council of Presidents indicate that almost all of the public four-year institutions within Virginia are in the process of making a very similar decision. President Broderick also asked that I inform and consult with President-elect Hemphill regarding this recommendation, which Vice President Don Stansberry and I did on Friday, May 7. Dr. Hemphill supports and concurs with this recommendation. It is also noted that many (319 as of yesterday) public and private universities have already made similar announcements for requiring students to be vaccinated.

“The benefits and considerations were provided in the decision paper that you received. Requiring vaccinations against COVID-19 promotes the health and safety of all Monarchs by preventing the spread of COVID-19 on campus. On-campus college and university students vaccinated against COVID-19 is recommended by the American college Health association. College and universities have a duty of care responsibility to provide a health and safe environment for their on-campus residential student population to include mitigating risk to public health where possible. Those fully vaccinated no longer need to quarantine in response to an exposure to someone with COVID-19. Those fully vaccinated can be exempted from the daily symptoms reporting. Requiring COVID-19 vaccinations for all on-campus students can reduce anxiety, allowing for improved student performance.

“An ODU vaccination requirement aligns with many other public and private institutions implementing the same requirement nationwide. Existing immunization requirements and protocols are in place for students. A vaccination requirement allows for a more rapid return to more normalcy on campus, including significant loosening of restrictions related to physical distancing and gathers, greater allowable participation in activities and programs, less PPE usage requirements, participation in the University's COVID-19 testing program is not required provided the student is fully vaccinated and not symptomatic, and reduced absence doctor visits that are related to COVID19 illnesses. Additionally, the NCAA announced guidance that fully vaccinated student athletes shall no longer need to undergo COVID-19 testing. In regard to residential students, it would allow students to co-mingle and be social within the residential setting in accordance with CDC and VDH guidelines, less COVID cases in reduced use of isolation and quarantine spaces while freeing up contract tracing resources, allow for in-person programming in the halls.

“For those benefits and considerations, those are the reasons why we have made this recommendation. That concludes my briefing.”

Mr. Broermann asked what requirements are going to be faculty and staff. Vice President DuBois responded that those are still being considered and reviewed by all the Virginia public institutions. The general thought is that there is not the same environment for the workforce that is for the students. Employees generally do not congregate, are not in congruent settings like students, and do not participate in the same type of activities. There is also the question about whether an employer can require the vaccine or whether the State will require vaccines for state agencies. That has not been determined at this point. There is a sense that a large number of faculty and staff are

voluntarily receiving the vaccine that an adequate threshold may be met and would approximate what would be met if required with normal medical and religious exemptions.

Mr. Bradley asked how this will be monitored and Vice President DuBois commented that a reporting system for students is already in place. The vaccine requirement will apply only to students, whether in-person or online, who are wanting to come on campus, but would not apply to students not in this region who are taking courses fully online. In addition, it would not apply to members of the general public who may come to campus for sporting or other events. This requirement is about ensuring the safety of our student community in our current setting and we feel confident that we have the mechanisms in place to assure our student body is vaccinated and we are maintaining a healthy environment. In a follow-up question from Mr. Bradley, Vice President DuBois indicated that the vaccine could be offered to students through the Student Health Center.

In response to a question from Mr. Hill, Vice President DuBois said that many international students may live in countries that are receiving vaccines that are not approved for use in the United States by the FDA. In those cases, the University would be able to provide an approved FDA vaccine for those students.

The Board is being asked to approve a resolution that affirms the President's authority to make this decision, as the Board has already delegated this authority to make these types of public safety and operational decisions for the University. The primary goal today was to brief the Board on the University's COVID-19 response and its plans for the reopening of the fall term. Mr. Hill commented that the Board has been fully briefed on the University's COVID-19 response without taking any action in the past, so why is it now requested. Vice President DuBois responded that this is a significant matter under consideration and the Attorney General's Office issued an opinion citing the authority of the Board to require the vaccine as a condition of attendance or to delegate it to the President (which the Board has done), but it was also highly recommended that the decision be brought to the boards for consideration and discussion as well as some type of affirmation of the action.

President Broderick reiterated that the administration was asked by the Attorney General's Office to bring this issue to the Board because it has fiduciary implications. He has also informed the incoming President for that same reason. The reason a special meeting was called for this purpose rather than waiting for the regular meeting in June is to give students and parents as much lead notice as possible on this decision.

In response to a question from Mr. Corn, Vice President DuBois said that he participated in a Council of Presidents meeting where this topic was discussed, and most have formulated their recommendations for requiring vaccines and are in the process of informing their respective boards. The majority are in agreement that the Presidents have the operational authority to make this decision. Currently, the only four-year institutions that are not considering the requirement are the HBCUs, and at this point the VCCS two-year institutions will likely not require the vaccine because of the transient nature of their student populations. Some institutions have passed formal resolutions recognizing the president's authority to make this decision, while others have merely been briefed without any formal resolution.

Vice President Stansberry said that almost 2000 students responded to a survey asking if they have been or are planning to be vaccinated, and whether a requirement to do so would impact their decision to attend or their mode of attendance. 58% responded that they have been vaccinated, 14% plan to be vaccinated, 14% said that the requirement would change their decision to come to ODU, and 12% said they would attend online so it didn't matter. While the workforce has not been similarly surveyed, many have voluntarily shared that information.

Board members discussed the merits of a formal motion, with some expressing their opinion that the President already has this authority and does not need a vote by the Board, while others taking the position that a motion to reaffirm is appropriate in this circumstance.

Prior to reading the motion, Mr. Bradley thanked President Broderick, Vice President DuBois and Vice President Stansberry for the thought and care that has been put into this decision. He then read the following motion:

“I move that the Board of Visitors acknowledge and reaffirm the authority of the President to decide, in his sole and complete discretion, based upon the health and safety of students, faculty, staff, and the surrounding community, whether or not Old Dominion University will require students to be vaccinated for COVID-19 as a condition of in-person attendance, as well as to take any further actions necessary to implement any such requirement. The Board acknowledges the President has sought the recommendation of Public Safety, Health and Scientific experts and informed the Board of his decision. The President also consulted with President-elect Hemphill who concurs with his decision.”

The motion was seconded by Mr. Slaughter and approved by roll-call vote (*Ayes: Allmond, Bradley, Broermann, Dabney, Decker, Dickeski, Harris, Kemper, Slaughter; Nays: None; Abstained: Corn, Hill, Mugler*). Mr. Mugler stated for the record that he abstained because he feels that the President already has the authority to make this decision and Board approval is not necessary. Mr. Corn and Mr. Hill noted their agreement.

With no further business to be discussed, the meeting adjourned at 1:09 p.m.