



# Jackson College Board of Trustees

## Monitoring Report: EL – 08 Communication & Support to the Board

Report Date: 11.13.23

**Note: Board Policy is indicated in bold typeface throughout the report.**

I present this monitoring report to the Jackson College Board of Trustees which addresses the Board's Executive Limitations Policy: "Communication & Support to the Board". I certify that the information contained herein is true and represents compliance, within a reasonable interpretation of the established policy, **unless specifically stated otherwise below.**

11.13.23

Daniel J. Phelan, Ph.D.  
President and CEO

Date

### **POLICY STATEMENT:**

**The CEO shall not permit the Board to be uninformed or unsupported in its work.**

### INTERPRETATION:

I declare full compliance with this policy statement unless specified within the following report.

**Further, without limiting the scope of the above statement by the following list, the CEO shall not:**

- 1. Withhold, impede, or confound information relevant to the Board's informed accomplishment of its job.**

I have interpreted that compliance with this statement to mean that there shall be no withholding of information, or impeding the flow of information to the Board, nor shall

there be any confounding of information needed by the Board for its optimal functioning.

This interpretation is reasonable because it directly contributes to Board holism, a core principle of Policy Governance.

**1.1 Allow the Board to be without timely decision information to support informed Board choices.**

**INTERPRETATION:**

I have interpreted that compliance with this statement will be demonstrated when:

- a) The annual budget includes allocations for the Boards expenses which are allocated as follows: Audit, Legal, Subscriptions, Professional Development, Telephones and Meeting Expenses.
- b) The Board will be made aware if there are over expenditures in their overall annual governance budget.
- c) The Board is provided with relevant context, as well as full disclosure as to the strengths and weaknesses of the item before the Board for their deliberation (e.g., relevant environmental scanning, risk assessment, etc.) when being asked to make decisions.
- d) The Board is provided with regular communications from the CEO regarding major events; legal; federal, state, and local political considerations; concerns or threats to the College's reputation; fiscal solvency; and general operations.

This interpretation is reasonable because it provides a broad cross section for significant aspects of the College's functioning and the broad operations of the institution that the Board should be aware of for deliberations and general knowledge.

**EVIDENCE:**

- a) On 10.30.23, the Chief of Staff confirmed there are budget allocations in the FY '24 budget for the Board's expenses. Specifically:
  - a. Audit: \$110,000
  - b. Legal: \$225,000
  - c. Subscriptions: \$30,000
  - d. Telephones (i.e., Wi-Fi plans for Board iPads): \$10,000
  - e. Meeting Expenses: \$20,000
- b) There were instances of actual expenditures exceeding initially budgeted amounts. Specifically, the FY'23 budget underestimated actual legal, audit, and professional development expenses. In total, the excess to budget was:

\$201,665.58, however, these expenses were covered through reallocation from other account line items that were overbudgeted. Budget amounts for FY '24 have been adjusted so as to better reflect the actual needs of the Board of Trustees.

- c) At each Board Planning Session, members are provided with an internal and external context for agenda discussion. Additionally, over these past 12 months there has been an agenda item, near the conclusion of each Board meeting, such that the President can understand any feedback regarding provided environmental scanning and risk assessment (i.e., relevant context information) that the Board has, with said feedback recorded in the minutes.
- d) The Board is provided with regular *Trustee Briefings* communications from the CEO, via email regarding covering topics including; federal and state updates, legal and local political considerations; institutional updates and concerns or threats to the College's reputation, fiscal solvency, and general operations.

**1.2 Neglect to submit timely monitoring data including interpretations of Board policies that provide the observable metrics or conditions that would demonstrate compliance, rationale for why the interpretations are reasonable and evidence of compliance.**

INTERPRETATION:

I have interpreted that compliance with this statement will be demonstrated when:

- a) When monitoring reports are submitted to the Board as scheduled.
- b) When the Board, in assessing the monitoring reports, concludes that each has sufficient evidence of reasonable interpretation, as well as documented metrics that allow for a determination of compliance.

This interpretation is reasonable because the monitoring report is the basis for measuring outcomes, assuring the achievement of Board specified ENDS, and Executive Limitations, which concurrently indicate the evaluation of the CEO and institution.

EVIDENCE:

- a) As of 11.10.23, the Chief of Staff confirmed that 12 monitoring reports of the 14 were presented to the Board within the calendar year as documented in the CEO Compliance Review table shared monthly with the Board. The 2 outstanding monitoring reports for policies EL-01 and EL-02 have been postponed at the Board's direction. The Board also postponed the review of the respective policies and interpretations for EL-01 and EL-02 indefinitely as of 09.11.23.
- b) As of 11.10.23, the Chief of Staff confirmed that 11 Executive Limitations and

1 ENDS policy interpretations were approved by roll call vote of the Board within the calendar year indicating sufficient evidence of reasonable interpretation. As aforementioned, reviews of interpretations for 2 Executive Limitation policies (EL-01 and EL-02) were postponed indefinitely by the Board as of 09.11.23.

Additionally, including the documented metrics outlined in this EL-08 monitoring report that allow for a determination of compliance, 11 Executive Limitation policies and 1 ENDS policy were presented within the calendar year with metrics that allowed for the determination of compliance. (NOTE: 12 monitoring reports have been approved as fully compliant by roll call vote of the Board; One monitoring report was approved as partially compliant by roll call vote of the Board, and this EL- 08 monitoring report remains to be evaluated at the 11.13.23 Board meeting.) Again, review of documented metrics for 2 Executive Limitation policies (EL-01 and EL-02) were postponed indefinitely by the Board as of 9.11.23.

**1.2. Let the Board be unaware of any actual or anticipated non-compliance with any ENDS or Executive Limitations policy, regardless of the Board's monitoring schedule.**

**INTERPRETATION:**

I have interpreted that compliance with this statement will be demonstrated when: The Chief Executive Officer has informed the Board when there is anticipated, and/or actual non-compliance of any EL or ENDS policy, and that such communication has been documented. Additionally, such non-compliance would also appear on the Board's compliance monitoring schedule which is reviewed by the Board on a monthly basis.

This interpretation is reasonable because each month the Board receives timely, scheduled communication of the status for all monitoring reports.

**EVIDENCE:**

As of 11.10.23, the Chief of Staff confirmed that one monitoring report (EL-12 Land Use) was presented as partially compliant as documented in the minutes of the 04.10.23 Board meeting (due to the master plan needing to begin in FY'23, post-pandemic, following the installation of the Jets Sports Complex, Astronomical Observatory, and Jet's Air Station).

**1.4. Let the Board be unaware of any incidental information it requires, including:**

- **Anticipated media coverage;**
- **Actual or anticipated legal actions;**

- **Material or publicly visible internal changes or events, including changes in executive personnel;**
- **Anticipated noncompliance with federal law, state law or local;**
- **Quarterly financial statement;**
- **Annual year-end financial report; or names and titles of two executive administration members familiar with Board and presidential matters and processes;**
- **At least every quarter a presentation from a designated area;**
- **On a timely basis, an overview of new project or initiatives; and**
- **Relevant trends and significant external changes.**

#### INTERPRETATION:

I have interpreted that compliance of this statement will be demonstrated when:

- a) The Chief Executive Officer regularly provides *Trustee Briefings* to the Board that include the above-mentioned items, including relevant trends and significant external changes, as needed. Further, additional email communications, and/or phone calls are deployed when necessary to inform Trustees of any urgent matters; Further, the College's Marketing Department provides a Media Packet to Trustees outlining media coverage and promotional communications to the media; and lastly that the CEO provides immediate communications to Trustees on urgent matters;
- b) Monthly financial statements, year-end financials, and annual audit reports are available and accessible online;
- c) Quarterly financial statements, including the annual audit report, are presented to the Board, as Monitoring Reports, by the Chief Executive Officer;
- d) The Board agendas, on a quarterly basis, include presentations on featured areas of the College; and
- e) Each month, the Board receives a legal update from the Board's attorney.

This interpretation is reasonable because it provides a continuous and circumstantially immediate flow of information to the Board directly from the CEO, with largely the bulk of the aforementioned items as part of the Board's Agenda and meeting calendar.

#### EVIDENCE:

- a) *Trustee Briefings* are regularly provided to the Board via e-mail, with the latest briefing having been sent on 10.28.23 as confirmed by the Chief of Staff. Informational emails are sent to the Board as needed. Weekly Newsletters created by the Marketing Department, promoting

upcoming events, community outreach, and opportunities at and supported by Jackson College are sent via e-mail to the Board members weekly by the Chief of Staff.

- b) On 10.30.23, the Chief of Staff confirmed that the year-end financial report for FY '22 and 2022 Federal Awards Audit are available online, with both for FY '23 able to be posted following the 11.13.23 Board meeting. The monthly reports are all available online as well on the Board's meeting page.
- c) On 10.30.23, Chief of Staff confirmed that quarterly financial reports were presented to the Board in the monitoring period as follows:
  - 1. 05.18.23 – March 2023 Financial Report
  - 2. 08.14.23 – June 2023 Financial Report
  - 3. 11.13.23 – September 2023 Financial Report (to be presented along with this monitoring report)
- d) On 10.30.23, the Chief of Staff confirmed that areas of the College were featured at the 04.07.23 Spring Planning Session, the 06.23.23 Summer Retreat, and will be featured at the 11.17.23 Fall Planning Session.

**1.5. Allow the Board to be unaware that, in the CEO's opinion, the Board is not in compliance with its own policies on Governance Process and Board-Management Delegation, particularly in the case of Board behavior which is detrimental to the work relationship between the Board and the President.**

**INTERPRETATION:**

I have interpreted that compliance of this statement will be demonstrated when:

- a) The Board is notified electronically or verbally at a meeting (and recorded in minutes) that they are out of compliance with established Board policy(ies) in the moment, or via a regular Board meeting agenda item of "Self-Evaluation of Governance Process & Board Performance at this Meeting"
- b) During the Summer Board Retreat, time is provided to discuss Board/Chief Executive Officer's innerworkings, Policy Governance practice, and policy compliance.

This interpretation is reasonable because it provides both instantaneous and regularly scheduled opportunities for monitoring compliance by the Board.

**EVIDENCE:**

- a) For the 12 preceding months, the CEO confirmed one instance that was addressed during a Board meeting that reflected a near-lack of compliance by members with the principles of Policy Governance. This incident occurred during the 10.16.23 Board meeting in which members considered bypassing

the Board's policy of not adding agenda items to the current meeting agenda during the meeting. This was addressed in real time by the members, and the Board ultimately followed its policy by not adding the agenda item to the meeting in progress, but rather calling a Special meeting for that topic.

**Area of Non-Compliance by both the CEO and the Board:**

Outside of the aforementioned event that was handled properly on 10.16.23 by following the Board's Special Rules of Order policy (GP-13) and in the fashion outlined in this approved EL-08 policy and my assessed interpretations therein, I did *not* properly make the Board aware of their non-compliance with the below Board governance policies over the course of the preceding 12 months. I expressed these concerns to the Chairperson appropriately, but I did not address them in the fashion that my interpretation outlines (in real time and/or during the Board's self-assessment within the meeting).

At the Board's request, I offer more fulsomely discussions of these instances of non-compliance at this regular Board meeting, the Fall Planning Session, and/or the Summer Retreat. Going forward, I will be vigilant about identifying instances and addressing the Board's non-compliance in a direct and timely fashion, as this is a shared responsibility of the CEO and CGO per the Board's governance policies.

**Governance policy items with which the Board has been non-compliant over the course of the preceeding 12 months:**

**GP-09 Board Code of Conduct**

- 5.1 When interacting with College employees, Trustees must recognize that individual Trustees have no authority to instruct or evaluate employees, and no authority to insert themselves into employee operations.
- 5.2 The Board Chair or designee is the only person authorized to speak to the public, the media or other entities on behalf of the Board. Trustees shall not presume to speak for the Board when interacting with the press or the public. Media inquiries should be directed to the Board Chair.
6. Trustees shall be familiar with the incorporating documents, relevant legislation and regulations, by-laws, governing policies of the organization, issues pertaining to higher education, as well as the rules of procedure and proper conduct of a meeting so that any decision of the Board may be made in an efficient, knowledgeable and expeditious fashion.

**GP-13 Special Rules of Order**

4. Meeting order and decorum shall be maintained and all members treated with dignity, respect, courtesy, and fairness during discussion and debate and in all other respects.
5. Trustees must keep their comments relevant to the issue under consideration.
15. When further rules of order are to be developed by the Board, the Board will consider

Robert's Rules of Order for Small Boards & Assemblies as a resource guide.

#### **GP-14 Handling Operational Complaints**

To ensure that the Jackson College Board of Trustees fulfills its accountability to the Ownership, but does not interfere in matters it has delegated to the President, the following process shall be followed in the case of a Trustee receiving a complaint regarding an operational matter.

1. The Trustee shall inquire to the President if the proper internal communication protocol for registering concerns has been followed. If not, the individual shall be directed to the appropriate person, and the Trustee shall take no further action.
2. The Trustee shall not offer any evaluative comments or solutions to the individual bringing the concern.
3. If the internal protocol has been followed and the concern has not been resolved through that action, the Trustee may explain to the individual that the Board has delegated certain responsibilities to the President, and that the Board holds the President accountable. Indicate that the President will be asked to ensure that the matter is looked into and respond directly or through a delegate. The President will follow up with the Trustee regarding the outcome of the matter with the individual.
4. The Trustee may ask the individual to contact him or her again if the matter has not been addressed within a reasonable time period.
5. The Trustee shall inform the President of the complaint, and request that it be addressed.

#### **GP-15 Handling Alleged Policy Violations**

The Board as a whole, has the responsibility to regularly monitor the performance of the President as outlined in the policies on Board-President Delegation. If there is a reasonable appearance of policy violation, even though a particular policy is not scheduled for monitoring, the Board may choose to request a monitoring report at any time. The Board may also use the occasion of a concern to re-evaluate the adequacy of its policy to address the issue raised.

1. Conditions which may trigger a request for monitoring beyond the normal schedule may include:
  - A Trustee has been contacted regarding a complaint by a member of the Ownership. After the Board member has followed the procedure for handling complaints (See GP-14 Policy on Handling Complaints), the individual again contacts the Trustee indicating that the complaint still exists, and in the Trustee's opinion the incident appears to be a potential policy violation.
  - One or more Trustees receive complaints or become aware of a pattern of similar instances that, taken together, raise questions of general policy violation.
  - A single incident of complaint is of a nature that, regardless of how it is resolved, there is a serious question of policy violation.
2. If any of the above conditions exist:
  - The Trustee shall inform the Board Chair of the situation.



- If the alleged situation presents a material level of risk to the organization, the Board Chair shall call a special meeting of the Board as soon as practical and the Board shall determine if (a) it needs to seek legal counsel, and/or (b) engage an external, qualified, independent third party.
  - If the alleged situation does not present a sufficient level of risk for the above process, the Board Chair shall request the President to provide to the Board his or her interpretation of the policy, or the relevant parts of the policy, along with rationale for why the interpretation should be considered reasonable.
  - The Board shall determine whether the President's interpretation falls within any reasonable interpretation of the policy, or whether to request an opinion regarding reasonableness from a qualified, external, disinterested third party.
  - The Board shall determine whether to request evidence of compliance with the interpretation from the President or a qualified, external, disinterested third party.
  - The Board as a whole shall determine whether the President's interpretation falls within any reasonable interpretation of the policy.
- b) Annual Summer Board Retreats are held for the express purpose of discussing the operations of the Board and CEO. The minutes of these retreats are online, including those for the June 23, 2023 Summer Board Retreat, as confirmed on 10.30.23 by the Chief of Staff.

**1.6. Present information in unnecessarily complex or lengthy form, or in a form that does not clearly differentiate among monitoring, decision preparation, and general incidental or other information.**

INTERPRETATION:

I have interpreted that compliance with this statement will be demonstrated when:

- a) Unless otherwise requested, the Board meeting pack content is clear and labeled appropriately so Trustees know what items are for decision making or informational only. Further, each item shall include a coversheet that outlines the issue before the Board and what is being asked of them regarding the item, and at a content length that is reasonably succinct.
- b) Each Board agenda includes an item regarding the quality and relevance of information presented.

This interpretation is reasonable because it presents information in a timely and specific manner as it pertains to the Board's work. Further, the Board has, at its disposal, an evaluation on the agenda, and at the conclusion of each board meeting, where Trustees can give direction to the CEO as to additional modifications they would like to see in the board meeting items on a going-forward basis.

#### EVIDENCE:

- a) Board meeting packs, posted on Diligent Boards, include cover sheets that contain sections illustrating the agenda item's policy relevance, context, and if there is a "Requested Board Action." On 10.31.23, the Chief of Staff reviewed the meeting packets for the monitoring period to confirm this piece of information was being included.
- b) Board meeting agendas include an item at the end so the CEO can hear any feedback the Board has, and this feedback is recorded in the minutes. On 10.31.23, the Chief of Staff reviewed the meeting packets for the monitoring period to confirm this piece of information was being included.

## **2. Allow the Board to be without reasonable administrative support for Board activities.**

#### INTERPRETATION:

I have interpreted that compliance with this statement will be demonstrated when, in addition to evidence to 2.1 and 2.2:

- a) The Chief Executive Officer is designated to provide administrative support to the Board for all reasonably requested items, including but not limited to, Board meeting preparation, taking of meeting minutes, policy storage, and professional development arrangements.

This interpretation is reasonable because it facilitates undivided administrative support for Board activities, by providing a clear communication and support linkage to assist with the Board's needs, through the President's Chief of Staff.

#### EVIDENCE:

- a) The CEO has assigned the Chief of Staff to provide all requested and assigned support to all Board members. Email communications between members and the Chief of Staff reflect reasonable levels of support are provided to members.

## **2.1. Allow the Board to be without a workable, user-friendly mechanism for official Board, officer or Board committee communications.**

#### INTERPRETATION:

I have interpreted that compliance with this statement will be demonstrated when:

- a) Board members are provided with a college-owned device for board meetings and communications.

- b) Board members have access to a dedicated system to access their board meeting packs and other resources (Diligent Board Books).

This interpretation is reasonable because it provides state of the market current and efficient technological means by which the Board can accomplish its work remotely or on campus.

**EVIDENCE:**

- a) Board members are provided a college issued iPad that contains the necessary software available to access board meeting materials and email. These iPads are equipped with an Internet/Wi-Fi plan that provide internet connection. The newest iPad version was provided to the Board members in February of 2023.
- b) Board members each have a login to Diligent Board Books, which is a Board Portal Software used for Board meetings materials.

**3. Impede the Board's holism, misrepresent its processes and role, or impede its lawful obligations.**

**INTERPRETATION:**

I have interpreted that compliance with this statement will be demonstrated when:

- a) The Chief Executive Officer does not interfere with the Board's "one voice", its Policy Governance processes, or it's legal, fiduciary, and ownership linkage responsibilities.

This interpretation is reasonable because it specifically prohibits CEO action that would compromise the Board's role and responsibilities. Further, current Board policy provides the means by which to instruct the CEO when the CEO exceeds their authority under Policy Governance principles and policies.

**EVIDENCE:**

- a) The CEO and the Board have undertaken extensive professional development in Policy Governance over the past 3 years utilizing a certified Policy Governance consultant, conferences, and board training. Additionally, both the CEO and Chief of Staff have now become certified in the use of Policy Governance, its construction, and operational practices.
- b) The Board is the direct contractor of the College's auditor and legal counsel, with contracts on file in the Business Office and the Talent/HR office respectively. Both of the contractors annually present the nature of their work directly to the board.

- c) Representative members of the Board are directly engaged in Ownership-Linkage connections and communications, with meeting results on file, and discussions during Board meetings recorded.

**3.1. Deal with the Board in a way that favors or privileges certain Board members over others, except when (a) fulfilling individual requests for information or (b) responding to officers or committees duly charged by the Board.**

INTERPRETATION:

I have interpreted that compliance with this statement will be demonstrated when:

- a) The Chief Executive Officer reports that he/she has not favored any trustee over another.
- b) The Board Chairperson confirms that they have not received any notice from Board members as to their belief that one or more members are favored over others.

This interpretation is reasonable because the Chief Governance Officer and all Trustees are provided with the opportunity to confirm the absence or presence of Board Member favoritism.

EVIDENCE:

- a) On 10.31.23, the Chief Executive Officer confirmed that they have not favored any trustee over another.
- b) On 11.02.23, the Board Chairperson confirmed that they have not received any notice from Board members as to their belief that one or more members are favored over others by the CEO.

**3.2. Neglect to supply for the Required Approvals agenda all items delegated to the CEO, yet required by law, regulation or contract to be Board-approved, along with the applicable monitoring information.**

INTERPRETATION:

I have interpreted that compliance with this statement will be demonstrated when:

- a) Items for required approval from the Board Planning Cycle and Agenda policy appear as a standing meeting agenda item.

This interpretation is reasonable because it consistently offers the Board and CEO the Board agenda-based opportunity to collaborate efficiently regarding required Board approvals.

EVIDENCE:

As required, (for those organizations not acknowledging the structure of Policy Governance) items requiring Board Approval appear on the agenda, under the Required Approvals section, and these are noted in minutes. On 10.31.23, Chief of Staff reviewed the meeting agendas and minutes for the monitoring period to confirm this piece of information was being included.

**The Jackson College Board of Trustees assessed this monitoring report and found that it demonstrated partial compliance with a reasonable interpretation of the policy at the regular Jackson College Board meeting on November 13, 2023.**