



SOUTHERN ASSOCIATION OF COLLEGES AND SCHOOLS
COMMISSION ON COLLEGES

October 9, 2017

Dr. Gregory C. Postel
Interim President
University of Louisville
Grawemeyer Hall, Room 102
Louisville, KY 40292

Dear Dr. Postel:

Thank you again for the hospitality and helpfulness extended to the Special Committee during its recent **September 19-21, 2017**, visit to your institution. Enclosed is the final report prepared by the Committee.

The report represents the professional analysis and judgment of the Committee made in accordance with the *Principles of Accreditation: Foundations for Quality Enhancement* and is subject to review by SACSCOC Board of Trustees and its standing review committees—the Committees on Compliance and Reports. Some parts of the report are directly related to the requirements of the *Principles*, while others may represent advisory comments offered by the Committee in a spirit of helpfulness. A formal recommendation is included when a visiting committee judges that the institution is not in full compliance with a standard of the *Principles*. All recommendations included in the Report represent the collective professional judgment of the Committee.

The Report of the Special Committee will be reviewed by the SACSCOC Board of Trustees at its December 2017 meeting. Final decisions on accreditation are posted on the SACSCOC website with public announcements regarding official actions made at the SACSCOC Annual Meeting in December.

If the institution elects to submit a response, a copy of that response will be forwarded to the SACSCOC Board of Trustees if received by November 6, 2017; if additional time is needed, please let me know right away. Any institutional response will be included with the Report of the Special Committee and the institution's monitoring report. As we discussed while on campus, the final University of Louisville audit for FY 2017 should be included with the Response, assuming it is available; you may include a brief narrative with the audit if you desire. *Guidelines for the response are enclosed and it is critical that they be followed when developing your institutional response.* Please submit **six copies** of your response to the attention of Dr. Patricia Donat at the office of the SACS Commission on Colleges.

The Southern Association of Colleges and Schools Commission on Colleges endeavors to maintain a cooperative and constructive relationship with officials in system and state offices. However, because of the institutional nature of the accreditation process, it is preferable that these committee reports be furnished to the system or state offices by the institution rather than directly by the Commission office. Therefore, you will also find enclosed a second copy of the report.



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An institution may publicly release its Special Committee Report; however, release of this report in its entirety or in part must be accompanied by the following statement: "The findings of the Special Committee represent a preliminary assessment of the institution at this time; final action on the report rests with SACSCOC Board of Trustees." If the institution releases part of its report, that part must contain a note stating: "A copy of the entire report can be obtained from the institution."

Please express my sincere appreciation to all members of your faculty and staff for their cooperation and assistance during the review process. As you develop your responses to the report, please feel free to call upon me if I can be of any assistance.

Sincerely,

A handwritten signature in blue ink, appearing to read "MSJ", is written over a light blue horizontal line.

Michael S. Johnson, Ph.D.
Vice President
SACSCOC

MSJ/PLD:kft

cc: Dr. Patricia L. Donat, SACSCOC Vice President

Enclosures



Southern Association of Colleges and Schools
Commission on Colleges
1866 Southern Lane
Decatur, Georgia 30033-4097

REPORTS SUBMITTED FOR COMMITTEE OR COMMISSION REVIEW

Policy Statement

Institutions accredited by the Commission on Colleges are requested to submit various reports to an evaluation committee or to the Commission's Board of Trustees for review. Those reports include:

Response Report to the Visiting Committee
Monitoring Report or Referral Report

When submitting a report, an institution should follow the directions below, keeping in mind that the report will be reviewed by a number of readers, most of whom will be unfamiliar with the institution.

Information Pertaining to the Preparation of All Reports

Preparation of a Title Page

For any report requested, an institution should prepare a title page that includes the following:

1. Name of the institution
2. Address of the institution
3. Dates of the committee visit (*not applicable for the Referral Report*)
4. The kind of report submitted
5. Name, title, and contact numbers of person(s) preparing the report

Presentation of Reports

For any report requested, an institution should

1. **For print copies**, copy all documents front and back, double-space the copy, and use no less than an 11 point font. If the report requires binding beyond stapling, do not submit the report in a three-ring binder. Ring binders are bulky and must be removed before mailing to the readers.
2. **For electronic copies**, copy the report and all attachments onto an electronic memory device (e.g., external hard-drive, DVD, CD, or flash/thumb drive). Provide the name of the person who can be contacted if the readers have problems accessing the information. Provide **one print copy** of the response without the attachments.

Each electronic memory device smaller than 4" by 4" should be submitted in a paper or plastic envelope not smaller than 4 x 4 inches and the envelope should be labeled with the name of the institution, the title of the report, and the list of document contents. The electronic memory device should be labeled with the name of the institution and the title of the report.

Each electronic memory device larger than 4" by 4" should be in a paper or plastic envelope and clearly labeled with the name of the institution, the title of the report, and the list of document contents. The electronic memory device should be labeled with the name of the institution and the title of the report.

3. Provide a clear, complete, and concise report. If documentation is required, ensure that it is appropriate to demonstrating fulfillment of the requirement. Specify actions that have been taken and, when possible, document their completion.
4. When possible, excerpt passages from text and incorporate the narrative into the report. Provide definitive evidence, not documents that only address the process (e.g., do not include copies of letters or memos with directives).
5. Specify actions that have been taken and provide documentation that such actions have been completed. Avoid vague responses indicating that the institution plans to address a problem in the future. If any actions remain to be accomplished, the institution should present an action plan, a schedule for accomplishing the plan, and evidence of commitment of resources for accomplishing the plan.
6. When possible and appropriate, provide samples of evidence of compliance rather than all documents pertaining to all activities associated with compliance.
7. Reread the report before submission and eliminate all narrative that is not relevant to the focus of the report. If sending electronic copies, ensure that all devices are virus free and have been reviewed for easy access by reviewers external to your institution.

Information Specific for the Response to the Visiting Committee Report

- Definition:** A Response Report addresses the findings of a visiting committee. It provides updated or additional documentation regarding the institution's compliance with the *Principles of Accreditation*.
- Audience:** The Response Report, along with the Committee Report and other documents, is reviewed by the Commission on Colleges' Board of Trustees and is subject to the review procedures of the Commission's standing committees, including the continuation of a monitoring period, the imposition of a sanction, or a change of accreditation status.
- Report Presentation:** Structure the response so that it addresses committee recommendations in the order that they appear in the report. Tabs should separate each response to a recommendation.
- For each recommendation, provide the number of the Core Requirement, Comprehensive Standard, or Federal Requirement and state the recommendation exactly as it appears in the visiting committee report. Describe the committee's concerns that led to the recommendation by either summarizing the concerns or inserting verbatim the complete narrative in the report pertaining to the recommendation. Provide a response with documentation.
- Due Date:** The Response Report is due on the day indicated in the transmittal letter from Commission staff accompanying the visiting committee report.
- Number of Copies:** See the transmittal letter from Commission staff accompanying the visiting committee report.

Information Specific to the Preparation of a Monitoring Report or a Referral Report

Definition: These reports address recommendations and continued concerns of compliance usually identified by the Committee on Compliance and Reports or the Executive Council (or, for a Referral Report, identified by the Committee on Fifth-Year Interim Reports). It usually follows the C & R Committee's review of an institution's response to a visiting committee report.

Audience: The Monitoring Report and the Referral Report are reviewed by the SACSCOC Board of Trustees and are subject to the review procedures of the Commission's standing committees, including the continuation of a monitoring period, the imposition of a sanction, or a change of accreditation status.

Report Presentation: For a Monitoring Report, structure the response so that it addresses committee recommendations in the order that they appeared in the report. Tabs should separate each response to a recommendation.

For each recommendation, (1) restate the number of the Core Requirement, Comprehensive Standard, or Federal Requirement, the number of the recommendation, and the recommendation exactly as it appeared in the visiting committee report; (2) provide a brief history of responses to the recommendation if more than a first response (to include an accurate summary of the original concerns of the visiting committee, a summary of each previous institutional response and an explanation of what had been requested by the Commission); (3) cite verbatim the current request of the Commission that is related to the recommendation (reference notification letter from the President of the Commission); and (4) prepare a response to the recommendation.

For a Referral Report, structure the response so that it addresses the concerns described in the letter from the Commission's President in the order that they appeared. Tabs should separate each response to each standard cited.

For each standard cited, (1) restate the number of the Core Requirement, Comprehensive Standard, or Federal Requirement exactly as it appeared in the letter; (2) cite verbatim the current request of the Commission that is related to the standard cited (reference notification letter from the President of the Commission); and (3) prepare a response to the recommendation.

Due Date: The Monitoring Report and the Referral Report are due on the date specified in the notification letter sent by the President of SACSCOC. Requests for extensions to the date must be made to the President of SACSCOC two weeks in advance of the original due date. (See Commission policy "Deadlines for Submitting Reports.")

Number of Copies: See the letter from the President of SACSCOC requesting the Report.

Document History

*Edited and Revised for the Principles of Accreditation: December 2003
Updated: January 2007, January 2010, May 2010, January 2012*



**Southern Association of Colleges and Schools
Commission on Colleges**

REPORT OF THE SPECIAL COMMITTEE

Statement Regarding the Report

The Commission on Colleges will make its determination on the accreditation of an institution based on the findings contained in this committee report, the institution's response to issues contained in the report, other assessments relevant to the review, and application of the Commission's policies and procedures. Final interpretation of the Principles of Accreditation and final action on the accreditation status of the institution rest with the Commission on Colleges.

Name of the Institution:	University of Louisville
Date of the Review:	September 19-21, 2017
COC Staff Member:	Dr. Patricia Donat
Chair of the Special Committee:	Dr. Teresa A. Sullivan President, University of Virginia Charlottesville, VA

Part I. Overview and Introduction to the Institution:

The University of Louisville (U of L) is a public, Level VI institution, of approximately 18,810 full-time students, located in Louisville, KY. Founded in 1798, the institution was municipally-supported for many years before becoming part of the university system in 1970. Its mission is to be "Kentucky's premier, nationally recognized metropolitan research university." The institution is led by Dr. Gregory Postel, interim president.

The Special Committee was authorized by the SACSCOC Board of Trustees to evaluate the University of Louisville's compliance with nine *Principles of Accreditation* as follows:

- Core Requirement 2.2. (Governing Board)
- Comprehensive Standard 3.2.1. (CEO evaluation/selection)
- Comprehensive Standard 3.2.3. (Conflict of interest)
- Comprehensive Standard 3.2.4. (External influence)
- Comprehensive Standard 3.2.5. (Board dismissal)
- Comprehensive Standard 3.2.8. (Qualified administrative/academic officers)
- Comprehensive Standard 3.2.13. (Institution-related entities)
- Comprehensive Standard 3.10.1. (Financial stability)
- Comprehensive Standard 3.10.3 (Control of finances)

In carrying out its charge, committee members evaluate the extent to which the institution has made a case for compliance with the relevant standards. The Special Committee is grateful to the leadership and staff of the University of Louisville for their hospitality during visit.

Part II. Assessment of Compliance

Assessment of Compliance with Section 1: The Principle of Integrity

1.1 The institution operates with integrity in all matters. (Integrity)

Based on the extraordinary cooperation that the institution showed during the committee's visit and the interviews we conducted, the committee found that the U of L currently operates with integrity.

Assessment of Compliance with Section 2: Core Requirements

2.2 The institution has a governing board of at least five members that is the legal body with specific authority over the institution. The board is an active policy-making body for the

institution and is ultimately responsible for ensuring that the financial resources of the institution are adequate to provide a sound educational program. The board is not controlled by a minority of board members or by organizations or interests separate from it. Both the presiding officer of the board and a majority of other voting members of the board are free of any contractual, employment, or personal or familial financial interest in the institution. **(Governing Board)**

The U of L has a governing Board of Trustees of 13 people, including ten individuals appointed by the Governor via a process described below. The board also has specific authority over the U of L.

On January 7, 2017, the Kentucky General Assembly approved Senate Bill (SB) 12, which detailed the process for appointing a new U of L Board of Trustees, compliant with Kentucky Revised Statutes KRS 164.830 (Powers of the Board) and KRS 164.821 (Board of Trustees of University of Louisville-Membership-Terms). SB 12 reduced the number of trustees appointed by the Governor from 17 to 10 and transferred to the new board all authority, duties, functions, responsibilities, records, equipment, staff, and supporting budgets as well as all rights, powers, duties, and obligations that the former U of L Board had. The Governor signed the bill January 9, 2017. The process through which gubernatorial-appointed trustees are selected is as follows:

- 1) the Governor's Postsecondary Education Nominating Committee submits 30 nominees to the Governor;
- 2) the Governor selects 10 nominees for appointment as trustees; and
- 3) the Kentucky State Senate confirms the nominees.

On January 17, 2017, 10 new gubernatorial-appointed trustees joined three continuing members of the Board of Trustees (the chair of the university's faculty senate, the chair of the staff senate, and the student body president) to form a new U of L Board of Trustees.

On March 15, 2017, the Kentucky General Assembly approved SB 107, which addressed legal issues associated with the Governor's 2016 executive orders using KRS 12.028 to dismiss the previous board. It also amended state statutes on the appointment to Boards of Trustees for the University of Kentucky and the University of Louisville; the Board of Regents of other Kentucky post-secondary education institutions; the Kentucky Board of Education; and the Kentucky Council on Postsecondary Education. It also established processes for the appointment and dismissal of individual board members or an entire board. The Governor signed SB 107 into law on March 21, 2017.

The U of L Board of Trustees as presently constituted appears to be an active policy-making body for the U of L and appears to be ultimately responsible for ensuring that the financial resources of U of L are adequate to provide a sound educational program. This conclusion was reached as a result of: 1) KRS 164.830 (Powers of the Board), granting to the U of L Board of Trustees *"the usual corporate powers, and ... all the authorities, immunities, rights, privileges, and franchises usually attaching to the governing bodies of*

*Kentucky public higher educational institutions"; 2) KRS 164.830, also stating that the board is responsible for "Receipt, retention, and administration, on behalf of the university, subject to the conditions attached, [of] all revenues accruing from endowments, appropriations, allotments, grants or bequests, and all types of property"; and 3) the U of L's *The Redbook*, the U of L's basic governance document, Sec. 1.1.2, (Powers of the Board), declaring: "... the Board shall actively engage in policy making, be responsible for aiding the University to perform at a high level of excellence, adopt an annual budget and ensure that the financial resources of the University are sufficient to provide a sound educational program, and periodically evaluate the University's progress in implementing its missions, goals, and objectives."*

The Board of Trustees is apparently following these policies, as shown both by its March 16, 2017 approval of the University Financial Transactions (Spending) Policy and by its approval on June 15, 2017, of the U of L's 2017-18 operating budget, which includes the setting of tuition and fees, campus housing rates, and food/meal plans.

A review of the newly-appointed U of L trustees indicates that the trustees appear to have been appointed in compliance with SB 12 and SB 107, and that the board appears not to be controlled by a minority of board members or by organizations or interests separate from it.

The measures and requirements contained in SB 12 and SB 107 to assure that a minority of board members do not control the board and to mitigate against control of the board by organizations or interests separate from it are:

- 1) that the State Senate confirms board members appointed by the Governor. (See SB 12, Section 1 and SB 107, Section 8(1)). In accordance with this requirement, on March 30, 2017 the Kentucky State Senate confirmed all but one of the current U of L Board members appointed in January 2017. A thirteenth trustee was appointed by the governor to fill a vacancy on July 13, 2017.
- 2) that board members serve staggered terms, thereby over time limiting gubernatorial influence on the board. (See SB 12, Section 1(4) amended KRS 164.821). The 2017 appointments by the Governor to the new U of L board followed this staggered appointment schedule.
- 3) that new appointees have term limits of two consecutive terms, (See SB 12, Section 1(1)(c), which left in place the KRS 164.821(1)(c) requirement that "*New appointees to the board shall not serve more than two (2) consecutive terms.*")
- 4) that gubernatorial appointments reflect the proportional representation of the two leading political parties in the state based on voter registration and Kentucky's minority racial composition. (See SB 12, Section 1(5) and SB 107, Section 8(5), which reinforced KRS 164.821.)

All U of L trustees including the presiding officer of the board have signed conflict of interest statements. A review of those statements shows that the presiding officer of the board and a majority of the voting members of the board are free of any contractual, employment, or personal or familial financial interest in the U of L.

Assessment of Compliance with Section 3: Comprehensive Standards

3.2.1 The governing board of the institution is responsible for the selection and the periodic evaluation of the chief executive officer. (CEO evaluation/selection)

Both the Kentucky Revised Statutes (KRS) and the basic governance document of the U of L, *The Redbook*, make it abundantly clear that the U of L Board of Trustees is responsible for the selection and periodic evaluation of the U of L president.

The newly revised Bylaws of the U of L's Board of Trustees also make it evident that the board is aware of and understands these responsibilities. Indeed, the Board of Trustees has recently initiated the search for the new U of L president, with itself serving as the search committee.

Specifically, KRS 164.830 defines the powers of the Board of Trustees to include the appointment, evaluation, suspension, or removal of the president. These responsibilities are reiterated in Section 1.1.2 of the U of L's *The Redbook*, which states:

"The Board of Trustees shall have the powers set forth in KRS 164.830, including the authority (i) to select, hire, regularly evaluate, and, when appropriate, suspend or remove the President of the University."

Section 2.1.1 of *The Redbook* also declares, "The President of the University of Louisville reports to the Board of Trustees and serves at its pleasure."

Although the Governor became involved in the removal of the previous president in contravention to the above policies, the board itself eventually accepted the resignation of the previous president. The board also was solely responsible for the appointments of both the previous interim president and the current interim president. To further strengthen the powers of the board to select and periodically evaluate the president, the U of L Board of Trustees underlined these points by adding Section 2.7 to its Bylaws, effective May 18, 2017, which states:

The Board of Trustees is responsible for the selection and appointment of the President in accordance with the Board's obligations under state law and The Redbook. The Board of Trustees is also solely responsible for conducting a formal evaluation of the performance of the President on at least an annual basis. The Board of Trustees is solely responsible for making decisions on the President's responsibilities and authority, total compensation and continuation in office.

3.2.3 The governing board has a policy addressing conflict of interest for its members. (Board conflict of interest)

The governing board has numerous policies in its bylaws and in *The Redbook* addressing conflict of interest for its members. The new U of L Board of Trustees has engaged in a comprehensive review of policies related to conflict of interest, many of which existed prior to compliance being questioned. For example, a Code of Conduct which includes "promoting a culture of compliance" was approved by the board in 2009.

Existing policies have been reviewed and revised and new policies such as a new board statement affirming the board's intention to maintain a robust policy on conflicts of interest was adopted on May 18, 2017, effective June 1, 2017. Each board member is also required to sign and return a statement that either affirms that he or she has no conflict of interest, or identifies potential and actual conflicts of interests. Each board member has complied with this policy. There is also a stringent conflict of interest review during the Senate confirmation hearings.

In addition, *The Redbook* has been revised to include a requirement that each board meeting will begin with a statement reminding members of the board of their responsibility to avoid conflicts of interest and appearance of conflict of interest, and to require all conflicts of interest statements be referred to the board governance committee for review. The Board has followed this policy as evidenced that two trustees have recused themselves from voting during board meetings. Finally, *The Redbook* has been revised to require all conflict of interest statements to be referred to the board's governance committee for review. In addition, each new member of the board is required to participate in a comprehensive orientation and education program that includes ethical considerations arising from board membership.

The board may consider having conflict of interest statements reviewed by an external entity, for example the executive ethics commission that is independent of the university.

3.2.4 The governing board is free from undue influence from political, religious, or other external bodies and protects the institution from such influence. (External influence)

The Governor's executive order to abolish the former board, and subsequently make new appointments, was inconsistent with SACSCOC expectations that institutions be able to operate without undue political influence in institutional governance. Legal changes have now partly insulated the board against this kind of interference in the future, with a process to insure proportional representation of the two largest political parties and of minorities. Moreover, the use of staggered terms insures against future governors achieving the same level of influence.

In the future the Governor may still unilaterally remove the entire board "for cause" by executive order: "if the board is no longer functioning according to its statutory mandate ..., or if the board membership's conduct as a whole constitutes malfeasance, misfeasance, incompetence, or gross neglect of duty, such that the conduct cannot be attributed to any single member or members." It is possible that this might be broadly interpreted in such a manner that might lead to undue influence. However, if the Governor notifies the Council on Postsecondary Education of his intent to remove a board member, that board member may either voluntarily resign or submit evidence to

the CPE. In turn, the CPE is to investigate and make a non-binding (published) recommendation to the Governor. At that point, the Governor may still decide to remove the member by executive order. In all cases, the Governor cannot act without prior review by the CPE and the issuance of a recommendation by the CPE. Additional protection against undue influence is found in the amendment requiring Senate confirmation of board members, (State Senate Confirmation of Governor-Appointed Board Members: SB 12, Section 1 [52], and SB 107, Section 8(1) [53] amended KRS 164.821); this confirmation requirement did not exist previously.

3.2.5 The governing board has a policy whereby members can be dismissed only for appropriate reasons and by a fair process. (Board dismissal)

In early 2017 the Kentucky General Assembly enacted SB 12 and SB 107 establishing a process for the Governor to remove at-large individual trustees and to remove the entire at-large board for cause and to remove at large trustees if proportional representation on the board required by law is not in compliance, compliance being relative to minority representation and political affiliation. The legislation also allows a majority of the board of trustees to recommend to the governor the removal of a member for cause. In the instance of the removal of an individual trustee, *cause* is defined in the law as conduct including but not limited to malfeasance, misfeasance, incompetence or gross neglect of duty. In the instance of the removal of the entire board of trustees, cause is defined as in those instances in which the board is no longer functioning according to its statutory mandate or in which the board membership's conduct as a whole constitutes malfeasance, misfeasance, incompetence, or gross neglect of duty, such that the conduct cannot be attributed to any single member or members. If removed by cause, the notice must specify the conduct warranting removal. If removed due to non-compliance of proportional representation, a detailed process is set out in the legislation. In each instance, written notice is provided to the trustee and the trustee has seven days to voluntarily resign or provide evidence why the member should not be removed. In those instances when an individual trustee is to be removed for cause or when the entire board is to be removed for cause, the Council on Postsecondary Education is also notified. Within 30 days of the receipt of the notice from the Governor or the board, the Council reviews the written notice, investigates the member and the conduct alleged to support removal, and makes a public nonbinding recommendation in writing to the Governor as to whether a member should be removed, a copy of which is provided to the Legislative Research Commission. The Governor makes the sole determination of the sufficiency for the cause of removal in writing and notifies the member(s), the applicable board, the Council on Postsecondary Education, and the Legislative Research Commission of his determination. The U of L Board of Trustees' dismissal policy is aligned with the legislation enacted by SB 12 and SB 107 and makes provision for the removal of board members for appropriate cause and by fair process.

3.2.8 The institution has qualified administrative and academic officers with the experience and competence to lead the institution. (Qualified administrative/academic officers)

Although, the Board of Trustees has established term limitations and procedures regarding interim appointments, the proportion of leadership that is interim poses a challenge. Per the U of L's narrative, "nine of the 12 senior-level positions within the Office of President are interim appointments." This may make the kind of planning and decision-making that this difficult time requires particularly challenging. Moody's Credit Opinion (November 2016) also notes under "Credit Challenges" that "Ongoing transitions in Governance and leadership distract from strategic priorities and created reputational risks." It is in the fiscal interest of the university to address the need for permanent leadership quickly. Although the recently constituted Board of Trustees has begun a Presidential Search (Fall 2017), and a search for the CFO is already underway, these two critical positions are interim and it is unclear how other positions will be staffed permanently in a timely way, or whether the fact that so much of the leadership is interim will impact the depth of a search pool for the Presidency. The completion of searches now in place may mitigate these problems. The U of L's narrative re: CS 3.2.8, states that "Persons holding positions on an interim basis must possess the qualifications required for the permanent position, as demonstrated by their professional experience and/or length of service to the university." However, in some cases, two positions, each of which is a robust full-time commitment, are being held by the same person—a key example being the Presidency. Moreover, in some cases, the qualifications of the persons who hold the appointment may not adequately prepare them for the position which they currently hold. It is anticipated that the outcomes of these searches will result in a 1:1 ratio between persons and full-time positions in the future, especially at the top levels of administration. The current reorganization provides an opportunity to review best qualifications for each position, which may have shifted as the university has developed over recent years, and to plan to move toward the most appropriate matches of qualifications to duties in future.

Recommendation 1: The committee recommends that the institution provide evidence that it has qualified administrative and academic officers with the experience and competence to lead the institution.

Special note: Although the Special Committee is making a recommendation related to Comprehensive Standard 3.2.8 (qualified administrative and academic officers), we wish to acknowledge that Interim President Postel has made significant progress since assuming the interim presidency and appears poised to make additional meaningful progress in the near future. We also acknowledge that U of L has several searches underway to fill positions that are currently filled on an interim basis, including the presidency.

- 3.2.13** For any entity organized separately from the institution and formed primarily for the purpose of supporting the institution or its programs, (1) the legal authority and operating control of the institution is clearly defined with respect to that entity; (2) the relationship of that entity to the institution and the extent of any liability arising out of that relationship is clearly described in a formal, written manner; and (3) the institution demonstrates that (a) the chief executive officer controls any fund-raising activities of that entity or (b) the fund-raising activities of that entity are defined in a formal, written manner which assures that those activities further the mission of the institution. **(Institution-related entities)**

During calendar year 2017, the institution initiated changes to demonstrate that the President is in control of fundraising in regards to the University of Louisville Foundation. The committee reviewed the July 1, 2017 Memorandum of Understanding (MOU) with the University of Louisville Foundation, and the March, 2017 revised University of Louisville Foundation by-laws. The changes to the by-laws of the University of Louisville Foundation clarified the relationship between the parties. Clear lines of separation of activity are articulated in both of the documents. Prior concerns with the relationship and influence of the University of Louisville Foundation were addressed in the MOU.

The forensic audit conducted of the University of Louisville Foundation identified significant weakness in operating controls and leadership. The committee confirmed the nature of the findings in interviews with members of the forensic audit team. The Foundation has taken the following steps to address the concerns raised.

- The Board of the Foundation has initiated significant changes in governance.
- The Board of the Foundation has updated its processes for managing, recording, and depositing cash and other receipts.
- The Board of the Foundation has documented a new process for the approval of its budget and its contributions to the institution.
- The Board of the Foundation has taken steps to insure the retention of records.
- The Board of the Foundation has established an endowment spending policy to protect the corpus of endowments. The spending policy includes a ratcheting mechanism to protect underwater endowments.
- The Board of the Foundation no longer provides compensation to the institution's employees (U of L employees).

Since these changes to the University of Louisville Foundation are only months old, it is difficult to identify, with certainty, if they will be effective. However, minutes of recent board meetings and documents shared with the committee suggest these changes are being implemented.

The committee requested a copy of the Memorandum of Understanding or similar document with the University of Louisville Real Estate Foundation, Inc. The University of Louisville Real Estate Foundation Inc., has been separated from the University of Louisville Foundation since the beginning of the reaffirmation process. The institution could not provide an appropriate document. It was not possible to assess the compliance with the criteria for this entity.

Recommendation 2: The committee recommends that the institution demonstrate that it has a signed, clear, formal written agreement with the University of Louisville Real Estate Foundation, Inc., that conforms to all the expectations of the standard.

3.10.1 The institution's recent financial history demonstrates financial stability. (Financial stability)

It appears the institution relied on Other Revenues-Contributions from foundations to support operational outcomes in approximate amounts of \$64.8 million FY 2015 and \$93.5 million FY 2016 for operational purposes. Further, the foundation and affiliates' unrestricted expenses exceeded unrestricted revenues, gains, and other support by \$48.0 million FY 2015 and \$98.3 million FY 2016, resulting in foundation and affiliates' consolidated unrestricted net assets decreasing from \$149.6 million at the beginning of FY 2015 to \$3.3 million at the end of FY 2016, thus bringing into question the sustainability of this practice. (Figures are from the 2016 University of Louisville Foundation consolidated audit, dated October 27, 2016.)

The Committee reviewed the institution's last five audited financial statements, 2016-2017 draft financial statements approved by the institution's Board of Trustees on September 15, 2017, the foundation's draft 2016-2017 financial statements, and the institution's and foundation's 2017-2018 Operating Budget. The committee also held interviews with the institution's personnel, foundation personnel, and both institution and foundation external auditors.

The Moody's November 22, 2016 credit opinion described its decision to downgrade the institution's debt to A1. An A1 credit rating is still considered investment grade. While Moody's enacted a downgrade, it also opined that the financial outlook based on this reduced rating is stable. The downgrade is a result of the weakening liquidity and operating results through Fiscal 2016. Moody's noted strengths from diversified revenues, a growing research profile, and the improving profitability of health care operations.

In FY 2017, the institution and foundation implemented steps to ensure that support provided by the foundation did not exceed foundation funding sources. As a result, and as indicated by the draft financial statements noted above, contributions from the foundation to the institution were reduced by \$39.5 million compared with the prior year and resulting in foundation and affiliates' consolidated unrestricted net assets increasing by \$5.6 million to a total of \$8.9 million. During FY 2017, the net position of the institution and the net assets of the foundation increased by \$28.7 million and \$42.9 million respectively. During an interview with the committee, the institution's auditor (Crowe Horwath) indicated, without solicitation, that it did not expect a material difference between draft version and the final audited versions. The audited financials are expected to be presented to the Institution Board of Trustees October 18, 2017. Contributions from the foundation have been limited to \$30.2 million in the institution's FY 18 budget.

The institution's financial stability also benefits from diversified revenue streams, with no single source accounting for more than 34 percent of revenues from FY 2012 to FY 2016, and from stable enrollment. Multiple interviews confirmed that new procedures are being implemented; an example is tighter controls on filling faculty positions.

3.10.3 The institution exercises appropriate control over all its financial resources. (Control of finances)

During calendar year 2017, the institution initiated changes to demonstrate that it is in control of its finances. Prior specific concerns with the relationship and influence of the University of Louisville Foundation were addressed in a revised Memorandum of Understanding (MOU) that became effective in July 2017. The committee reviewed minutes and other documents demonstrating that the understandings in the MOU are being carried out. Specifically, the fiscal 2018 budget contains an amount of Foundation support that was agreed upon in meetings between the parties. The institution is receiving a 4.09% spend rate on endowments based on the three-year moving average of the market values of the endowment as of the three previous calendar year-ends, recorded each December 31st. This should allow the Foundation to protect the corpus of its endowments. Combined Foundation support for scholarships and operations in Fiscal 2018 is approximately \$30 million. Significant cost control measures, including a freeze on hiring, have helped to reduce Institution budgeted expenditures. The committee was presented with draft 2017 financial statements for both the Institution and the Foundation. The committee also interviewed the external auditors of both the institution (Crowe Horwath) and the Foundation (Ernst and Young.) The institution's auditor indicated, without solicitation, that they did not expect a material difference between draft version and the final audited versions. The audited financials are expected to be presented to the Institution Board of Trustees October 19, 2017. The preliminary financial statements for the institution show an increase in net position of \$28.7 million.

Internal controls, both general and specific, are in evidence. The committee reviewed minutes of the March 16, 2017 Board Resolution entitled "University Financial Transactions." The item described the process by which the president is to submit the annual operating budget to the Trustees, and for its review and adoption by the board. It also provided, among other reporting requirements, that "The full Board of Trustees and appropriate Board of Trustees committees shall receive a report annually on: (a) the University's audited annual financial reports; (b) a budget-to-actual analysis; (c) the financial support provided by the University of Louisville Foundation, Inc. and its affiliates; (d) the status of the University's long-term debt obligations; (e) any change in the rating or outlook assigned to the University's debt by any rating agency; (f) [and] the receipt of gifts and pledges..." The committee review of the 2018 budget process and subsequent Board minutes seemed to provide evidence of the institution's compliance with Board of Trustees expectations.

There is acceptable separation of duties for financial transactions. Eighty-five percent of all accounts are reconciled monthly. Automated controls over payroll are relied upon by the external auditors for control based testing. Training and written procedures support existing controls. An undermanned internal audit function provides some assurance for financial transactions. There is some concern that the multiple persons operating in interim financial leadership roles are serving in multiple jobs and may struggle to provide the necessary oversight.

APPENDIX A

Roster of the Special Committee

Dr. Teresa A. Sullivan - CHAIR
President
University of Virginia
Charlottesville, VA

Mr. Henry E. (Ed) Blakeslee
Retired Vice President
Mississippi Power Company
Gulfport, MS

Mr. Robert E. Brown Jr. (CPA)
Vice President for Finance and Administration
University of North Texas
Denton, TX

Dr. Pamela K. Gilbert
Albert Brick Professor
Dept. of English
University of Florida
Gainesville, FL

Dr. Daniel S. Papp
President (retired)
Kennesaw State University
Marietta, GA

Mr. Don A. Zant, CPA
Vice President for Budget and Planning
Mississippi State University
Mississippi State, MS

SACSCOC Staff

Dr. Michael S. Johnson (attending)
Vice President
Decatur, GA

Dr. Patricia L. Donat (not attending)
Vice President
Decatur, GA

APPENDIX B

List of Recommendations Cited in the Report of the Special Committee

CS 3.2.8 (Qualified Administrative/Academic Officers)

Recommendation 1: The committee recommends that the institution provide evidence that it has qualified administrative and academic officers with the experience and competence to lead the institution.

CS 3.2.13 (Institution-related entities)

Recommendation 2: The committee recommends that the institution demonstrate that it has a signed, clear, formal written agreement with the University of Louisville Real Estate Foundation, Inc., that conforms to all the expectations of the standard.