

## **MINUTES**

### **BOARD OF REGENTS COMMITTEE ON PERSONNEL AFFAIRS AND BOARD GOVERNANCE MEETING**

**DECEMBER 2, 2021**

**Note:** On November 29, 2021, Governor David Y. Ige issued a proclamation related to COVID-19 that temporarily suspended Chapter 92, Hawai'i Revised Statutes, relating to public meetings and records, "only to the extent necessary to minimize the potential spread of COVID-19 and its variants".

#### **I. CALL TO ORDER**

Chair Randy Moore called the meeting to order at 8:33 a.m. on Thursday, December 2, 2021. The meeting was conducted virtually with regents participating from various locations.

Committee members in attendance: Chair Randy Moore; Vice-Chair Robert Westerman; Regent Eugene Bal; Regent William Haning; and Regent Ernest Wilson.

Others in attendance: Regent Simeon Acoba; Regent Kelli Acopan; Regent Wayne Higaki; Regent Benjamin Kudo; Regent Alapaki Nahale-a; and Regent Diane Paloma (ex officio committee members); President David Lassner; Vice President (VP) for Administration Jan Gouveia; VP for Community Colleges Erika Lacro; VP for Legal Affairs/University General Counsel Carrie Okinaga; VP for Information Technology/Chief Information Officer Garret Yoshimi; VP for Budget and Finance/Chief Financial Officer Kalbert Young; UH Mānoa (UHM) Provost Michael Bruno; UH West O'ahu Chancellor Maenette Benham; Executive Administrator and Secretary of the Board of Regents (Board Secretary) Kendra Oishi; and others as noted.

#### **II. APPROVAL OF MINUTES**

Regent Haning moved to approve the minutes of the May 6, 2021, and August 5, 2021, committee meetings, seconded by Regent Wilson, and the motion carried with all members present voting in the affirmative.

#### **III. PUBLIC COMMENT PERIOD**

Board Secretary Oishi announced that the Office of the Board of Regents (Board Office) did not receive any written testimony, and no individuals signed up to provide oral testimony.

#### **IV. AGENDA ITEMS**

Prior to commencing with the agenda, Chair Moore stated that, due to the interrelation between items IV.B and IV.C, discussions on board member education and development and a possible board retreat would occur concurrently.

##### **A. Annual Report on Regents Policies (RPs)**

Chair Moore explained that the annual report from the Office of the Board of Regents (Board Office) on RPs related directly to one of the four enumerated duties of the committee as set forth in the board bylaws, which is to “Ensure board statutes, bylaws, policies, and rules are being reviewed and updated on a routine and regular basis.”

Regent Acopan arrived at 8:36 a.m.

Board Secretary Oishi provided a report on the review and assessment of RPs being conducted by the Board Office stating that there are currently 119 RPs contained within 12 chapters. Although the administration had been charged with performing cyclical reviews of all RPs every three years, board leadership determined that it would be more appropriate for the Board Office to conduct these reviews given that RPs are the policies of the board. While the process of determining alignment between RPs, Board Bylaws, Hawai'i Administrative Rules, and the Hawai'i Revised Statutes began near the end of 2019, delays were experienced because of a shift in priorities with the onset of the COVID-19 pandemic. The Board Office resumed work on its review of the full set of RPs in early 2021, has conducted a high-level review of these policies, is presently in the process of requesting reviews of each RP by the appropriate administrative liaison, and will recommend suggested amendments to the appropriate committee. Board Secretary Oishi offered preliminary comments and findings as a result of the assessment of all RPs conducted to date and reviewed RPs that had been amended since January 2021; RPs that were currently being reviewed by the administration for possible amendments; and policy reviews that were pending, including those being conducted at the request of the Board Office. A report on the status of the policy reviews, including any findings and recommendations, will be provided to the committee no later than November 2022.

Regent Nahale-a arrived at 8:42 a.m.

Regent Wilson stated his belief that the issue of shared governance should be given due consideration in any examination conducted by the board with respect to amending or updating RP 1.210, which addresses faculty involvement in academic decision-making and academic policy development and was a policy identified by the Board Office in need of further assessment.

## **B. Discussion on Board Member Education and Development**

## **C. Discussion of Possible Board Retreat Meeting Topics**

Chair Moore explained that he would begin the dialogue on these two matters by first discerning whether there was a desire to hold a board retreat, and if so, determining when a retreat should occur. Discussion ensued on the various reasons for holding a board retreat, as well as the value such a retreat would have in ensuring that regents are provided with continuing education and professional development, which was one of the responsibilities of the committee as set forth in the board bylaws. Committee members also noted that a board retreat would allow regents to receive information on

and discuss matters of importance to the governance of the university in a more focused format.

Noting that agreement had been reached on conducting a board retreat, Chair Moore proceeded to ask committee members for their perspectives on when a retreat should take place. He offered up two possible scenarios including holding one as soon as practical or waiting until newly appointed regents are installed in July 2022 noting his thoughts on each of these scenarios. Citing that the terms of several long-serving regents with extensive institutional and historic knowledge will end in July 2022, committee members expressed their belief that a board retreat should take place as soon as practical.

After full and free discussion, Chair Moore announced that consensus was reached on the desire to hold a board retreat as soon as it was feasible. He then explained that ideas for possible topics for discussion at either a board retreat or as part of the overall continuing education of regents were solicited and 30 topics of interest were identified. The topics were sorted into four general categories based upon their content and then further subdivided into those which could be addressed at a board retreat and those which could be addressed at a regularly scheduled committee meeting. He noted that the list of topics had been distributed by the Board Office and asked regents to articulate their thoughts on these topics and whether there was a need to expand or contract the list. Regents expressed their general contentment with the proposed topics with several stating their belief that the list should be prioritized, possibly through a ranking process.

Mentioning that a retreat held by the board would be a public meeting under Hawai'i's open meetings law, Regent Kudo asked whether substantive issues on future matters that may be acted upon by the board could be discussed at a retreat. VP Okinaga replied that a board retreat would be a noticed meeting and therefore, similar to a regular meeting of the board, any topic listed on the agenda could be discussed at length. Chair Moore agreed stating that any matter would be open for discussion provided that it was properly noted on an agenda.

President Lassner explained that there were two formats under which a retreat could occur given current statutory requirements for open meetings. The first being a retreat held with the Governor, which would be considered a private meeting similar to an executive session, and the second being a retreat that was open to the public, comparable to a regular board meeting. However, he stressed that in a retreat held with the Governor, decision-making on issues could not occur as the meeting was being held outside of public purview. VP Okinaga and Chair Moore concurred with President Lassner stating that these scenarios are applicable to every board statewide.

Regent Haning opined that, in his estimation, a retreat held with the Governor would be better suited for free engagement and open discussion of matters as long as no decisions on the matter were rendered by the board.

Chair Moore stated that another mechanism to address the topics on the list was to include each of them on a single agenda and discuss only those of highest importance to the board.

Several regents expressed a preference to hire an experienced facilitator.

Regent Higaki stated that each retreat format mentioned by President Lassner involved different types of discussions. He also held forth that there were no current prohibitions on multiple retreats being held during the course of a year.

Regent Acoba, Regent Nahale-a, and Regent Wilson offered comments and thoughts on specific topics contained on the list including issues regarding committee structure, which Regent Acoba stated the committee had already pledged to address at a board retreat during previous committee meetings; inclusivity of all regents in agenda development; revolving board leadership; intramural and intercollegiate athletics; and the overall structure of the university as one unified system. They also suggested possible amendments to each of these topics.

Regent Acoba remarked that he did not object to the subject of “athletics versus intramural sports” stating that the two are not in conflict with each other. As such, the choice is not between the two issues when discussing athletics but rather they are separate activities that might be governed by different entities as has been done in the past.

Regent Kudo asserted that the list of topics provided was a good start to determine the interests and priorities for regents. He opined that a retreat ought to be viewed as a “super planning” effort and thus should be organized in two parts. Part one would look at issues external to the university that impact higher education in general which would provide a foundation for understanding trends and other matters. Experts in matters pertaining to higher education could also be invited to speak on specific topics during this portion of a retreat. Part two would be more analogous to a micro-topic discussion based upon information received during part one.

Chair Moore expressed his belief that a retreat was intended to allow for a deeper dive on particular topics of strategic and long-term importance to the university. While he understood concerns raised about the number of topics submitted for possible discussion and the need to prioritize these topics, he also stated that each item was submitted as a matter of importance to an individual regent and therefore should be taken up at some point in time, either at a retreat or as part of a presentation to a committee or the board.

Regent Haning asked if the administration would be participating in a board retreat. Chair Moore replied in the affirmative stating that it was essential for the administration to participate in a board retreat since they could provide information that would be vital to topic discussions.

Regent Paloma stated that a more macro-level retreat would be helpful in providing regents with information and a better understanding of the overall university system, thereby providing context that can be used to develop a strategic framework by which

all other decisions made at the university would be guided, as well as allow regents to make more informed decisions that are in the best interests of the university.

Based upon these discussions, Chair Moore requested that the Board Office circulate the list of topics to all regents so that each topic on the list could be rated as high, medium, or low priority, and for the Board Office to compile the results into a single document to be reviewed by board leadership and subsequently presented to the full board for consideration. Regents concurred with this plan.

**D. Discussion of Request of All-Campus Council of Faculty Senate Chairs (ACCFSC) for a Faculty Seat on the Board of Regents**

Chair Moore stated that a request was received from the ACCFSC for a faculty seat on the board. While he stressed that the size and composition of the board is statutorily established and its structure can only be changed by the Legislature, the board can decide to take a particular position on this matter should legislation be introduced to make such a change and suggested that the committee discuss this issue in terms of its benefits and drawbacks. The Board Office could then be requested to conduct further research on this topic and provide this information to the committee for further discussion and possible action at its next meeting.

Regent Wilson, the board liaison to the ACCFSC, stated that ACCFSC was fully aware that legislation would be necessary to amend the composition of the board to include a faculty member. Although it was his understanding that the ACCFSC was not necessarily seeking to gain a seat on the board, he noted that it had expressed a desire for a greater voice in board matters related to the direction of the university. He also noted that a group of faculty senate chairs from across the university system are currently conducting research on this issue with respect to what is occurring at peer institutions regarding representation on university boards and stated that it would be beneficial for regents to have this information prior to making any decisions.

Regent Acopan left at 9:29 a.m.

Numerous concerns were raised by regents including how a faculty representative would be chosen; who would determine the individual chosen to serve as a faculty representative, particularly given that the university system encompasses ten campuses; disputes and disagreements that may occur between the various faculty senates throughout the system about the chosen individual; ethics and conflict of interest issues given that faculty are paid employees of the university that belong to a collective bargaining unit; and representation for other constituencies at the university. Regents also noted that avenues were already available for faculty members to express their views, thoughts, comments, and opinions on matters involving the university.

Regent Kudo stated that discussion of this issue appears to be premature since there does not appear to be any pending legislation to amend the composition of the board to include a faculty representative. He noted that the board's obligation is to the university as an institution rather than any particular group and expressed his concern that, as an employee of the university, it may be difficult for a faculty member serving on

the board to separate their fiduciary responsibilities and duty to the university as a regent from their inherent self-interests.

Regent Wilson concurred with Regent Kudo's assessment noting that, while there is a student representative on the board, the student is akin to a customer of the university which is a different relationship with the institution than that of a faculty member who is an employee of the university.

Given the feedback received from regents, Chair Moore stated that this matter would be deferred.

**V. ADJOURNMENT**

There being no further business, Regent Wilson moved to adjourn, seconded by Vice-Chair Westerman, and with all members present voting in the affirmative, the meeting was adjourned at 9:45 a.m.

Respectfully Submitted,

/S/

Kendra Oishi  
Executive Administrator and Secretary  
of the Board of Regents