

MINUTES

BOARD OF REGENTS COMMITTEE ON PERSONNEL AFFAIRS AND BOARD GOVERNANCE MEETING

FEBRUARY 19, 2019

I. CALL TO ORDER

Committee Chair Eugene Bal called the meeting to order at 10:26 a.m. on Tuesday, February 19, 2019, at the University of Hawai'i at Mānoa, Campus Center, Executive Dining Room, 2465 Campus Road, Honolulu, Hawai'i 96822.

Committee members in attendance: Committee Chair Eugene Bal; Committee Vice Chair Randy Moore; Regent Ben Kudo; Regent Michael McEnerney; Board Vice Chair Jeffrey Portnoy; Regent Ernest Wilson Jr.

Others in attendance: Board Chair Lee Putnam; Board Vice Chair Wayne Higaki; Regent Kelli Acopan; Regent Michelle Tagorda; Regent Robert Westerman; Regent Stanford Yuen (ex officio committee members); President/UH-Mānoa (UHM) Chancellor David Lassner; Vice President for Administration Jan Gouveia; Vice President for Community Colleges John Morton; Vice President for Legal Affairs/University General Counsel Carrie Okinaga; Vice President for Academic Planning and Policy Donald Straney; Interim UH-Hilo (UHH) Chancellor Marcia Sakai; Executive Administrator and Secretary of the Board of Regents (Board Secretary) Kendra Oishi; and others as noted.

II. APPROVAL OF MINUTES OF THE SEPTEMBER 6, 2018 MEETING

Regent McEnerney moved to approve the minutes of the September 6, 2018, meeting, seconded by Regent Wilson, and the motion carried unanimously.

III. PUBLIC COMMENT PERIOD

Board Secretary Oishi announced that the Board Office received no written testimony and no individuals had signed up to provide oral testimony.

Regent Tagorda arrived at 10:28 a.m.

IV. AGENDA ITEMS

A. For Information and Discussion

1. Recommendations for Improving the Effectiveness of Governing Boards

Committee Vice Chair Moore facilitated a discussion on seven recommendations from the Association of Governing Boards of Universities and Colleges (AGB) for improving the effectiveness of governing boards and how the board has performed in comparison.

In reviewing the AGB recommendations, the committee discussed how the budget should serve as a plan to demonstrate how the university will deploy resources more effectively to get improved results, and that this plan should be shared with others, including the legislature.

There was discussion on Regents Policy (RP) 1.202, Relationship of the Board to Administration and University, and whether changes should be made. Committee Vice Chair Moore recommended that board leadership review the policy and Regent McEnerney noted that the following agenda item indicates that RP 1.202 will be reviewed for possible revision. It was also noted that the current regent selection processes through the candidate advisory council does not allow for regent input into the appointment and selection process.

With regard to the third AGB recommendation relating to delivering high quality education at a lower cost and using data and measures that include more sophisticated understandings of education effectiveness and learning outcomes, it was noted that it is difficult to associate cost data with a specific program. President Lassner added that campuses address this primarily through the accreditation process.

Regent McEnerney expressed that the board should not micromanage faculty development, and should be primarily responsible for evaluating the President's performance and goals. Committee Vice Chair Moore replied that the board's role is not to perform that function, but to ensure it is getting done satisfactorily. President Lassner suggested that it would be reasonable to query administration as to what is being done to develop leadership.

The fifth AGB recommendation describes board function, composition, and removal of members. It was noted that the governor is the authority that may appoint or remove a regent. A question was raised regarding the status of the bill going through the legislative process that would amend the composition of the board. Board Secretary Oishi replied that the bill is still alive in the Senate and would reduce the number of regents and restructures the composition. Board Vice Chair Portnoy expressed concern that the board has not taken action on the bill. Committee Vice Chair Moore suggested that if board leadership shares those concerns that it should be placed on the next board meeting agenda.

With regard to the issue of reducing the time the board spends on reviewing routine reports and redirecting its attention to strategic issues, Board Chair Putnam explained that she previously compiled a list of reports that was shared with the president and officers who agreed that some reports could be conducted semi-annually instead of quarterly. However, committees seem to prefer to keep the quarterly schedule.

The committee encouraged board leadership to review the discussion that occurred on this agenda item.

2. Validation of Administration's Recommendations for Regents Policies Chapters 1-3

Board Secretary Oishi provided an overview of the administration's recommendations from the review of RP chapters 1 through 3 that included the status of any pending recommendations that will be considered by the board in the upcoming months. Board Secretary Oishi explained that there were some policies that are more appropriate for the board to review and propose recommendation rather than administration. The committee requested that the board be allowed adequate time to review proposed policy changes and that proposals are accompanied by a thoughtful analysis.

Board Secretary Oishi responded that she would itemize revisions in any action memos that she prepared. President Lassner added that administration provides an explanation of the proposed changes and that the practice of referring policy changes to subject matter committees first allows for a robust review and discussion and for issues to be addressed before the policy is considered by the full board.

Regent Westerman noted that this agenda item does not require any action. Board Secretary Oishi provided additional context that administration was previously tasked to conduct a review of all polices and has been performing reviews for several chapters each year. The purpose of this agenda item was for the committee to assess if there are any changes in addition to those proposed by administration that should be addressed.

3. Status of Board of Regents Policy Reviews (Chapters 4 to 8)

VP Straney explained that RP chapter 4 is undergoing a thorough review and proposed revisions are being reviewed by officers and others. The intent of these revisions is to reflect comprehensive planning under the concepts of the Integrated Academic and Facilities Plan. Administration anticipates bringing this forward to the board this academic year.

VP Morton provided an overview of RP chapters 5 through 8, including preliminary indications of changes that may be proposed. He suggested the board conduct policy reviews on a five-year cycle instead of the current three-year cycle.

Regent Kudo inquired if policies are also being reviewed for legal implications. VP Morton confirmed that OGC reviews the policies and noted that consultation with collective bargaining units are often required, which slows down the process.

Regent Kudo departed at 11:33 a.m. and quorum was maintained.

Suggestions were made that the lead committee for each policy be identified in the matrix provided by administration and that the assigned committees review the policies where no change is being recommended to see if there is agreement that the policy should remain as is.

4. Recommendations on Bylaws, Policies, and/or Procedures Related to:

a. Conduct of a Regent that Does Not Confirm to Policies

Committee Chair Bal led discussions regarding regent conduct that does not conform to policies that included the process, determination of whether an infraction occurred, disciplinary process, appeals process, and basis of authority. The committee also discussed the whistleblower hotline and fraud allegations being handled by the Independent Audit Committee.

Committee Chair Bal questioned who should determine if an infraction occurs and whether it should be a combination of board leadership, and potentially the General Counsel and subject matter expert from administration. Regent McEnerney expressed concerns that complaints received through the whistleblower system alleging potential fraud should be referred to the Independent Audit Committee, and questioned whether

others should be included in the review. Regent Westerman suggested that complaints should be routed through the board chair, unless it is against the chair.

Committee Chair Bal pondered whether the disciplinary process should involve the Board Chair convening an investigation to determine if the allegation is warranted. Board Vice Chair Portnoy questioned the legal implications of volunteer board members taking such action. VP Okinaga mentioned that the board bylaws include provisions for certain situations regarding conflicts of interest. Committee Chair Bal noted that while the bylaws refer to conflicts of interest and standards of conduct that the provisions are limited. He also referenced the Candidate Advisory Council's description of the duties of the Board of Regents which include, setting an example of integrity, inquiry, and service.

Committee Chair Bal expressed his appreciation for everyone's input and noted something needs to be crafted via a bylaw, policy, or procedure.

b. Nominations of Officers and Conduct of Elections

Committee Chair Bal led discussions regarding nominations of officers and conduct of elections that included whether there should be a nominating committee, the possibility of board staff involvement in the conduct of elections, and the nomination and elections process.

Committee Chair Bal noted that he was on the nominating committee for three of the six years he has been a regent and described his experience that nominations are sought between April and June and are brought to the July board meeting. He elaborated that a two-regent committee assigned by the board chair was responsible for contacting regents to determine whether they were interested in being an officer of the board. In his view this process has worked, but there has been discussion that in order to avoid a conflict of interest that the nomination process be handled by board staff. Although this would be a transparent process with no apparent harm, it differs from the recent practice. An online survey tool was suggested as an option.

Board Vice Chair Higaki expressed his view that the current system is not broken and that there is value to having two-way conversation whether it is with the nominating committee or board staff. He added that a survey tool removes the value of a discussion and that some form of one-on-one communication is important.

Board Vice Chair Portnoy commented that anyone who chooses to be considered for board leadership should have the opportunity, and that anyone who wants to nominate should have the opportunity. He is not opposed to having a nominating committee.

Regent Yuen commented that consideration should be given to having board staff be a part of the process. His understanding is that the nominating committee is composed of members not interested in a leadership position.

Regent Westerman felt the process described is similar to other boards he has served on, which aligns to the process outlined in Robert's Rules of Order, and added that there should be opportunity for further nominations from the floor.

Committee Vice Chair Moore agrees with Board Vice Chair Higaki that the process should not be fixed if it is not broken. He offered another alternative to not have any previous conversations and make nominations from the floor.

Board Vice Chair Portnoy noted that in the past, he was told whether a nominee already had a certain number of votes. No problem accepting group nominations, but did not appreciate being told how many people supported a particular candidate.

Discussions were held on the elections process, which has traditionally been done with a secret ballot. It was noted that eight votes are needed to elect a candidate and that a process needs to be in place to manage elections where fewer than eight votes are tallied for a candidate or if a tie vote occurs.

c. Board Self-Assessment and Regents Policy (RP) 2.204, Policy on Board Self-Evaluation

Committee Chair Bal led discussions on RP 2.204, which included whether the president has a role in board self-assessment and getting input from external constituencies such as faculty, student government, and the public.

Committee Chair Bal questioned the necessity of the President playing a role in board self-assessment. Committee Vice Chair Moore commented that it is useful to have input from the President, but that it is not his responsibility. Board Chair Putnam pondered whether the Personnel Affairs and Board Governance Committee should conduct the board self-evaluation.

Board Vice Chair Portnoy commented that consideration be given to the parties that should be assessing the board, including external input from groups such as faculty, student government, and the public.

Regent Acopan commented that the UH Student Caucus hopes to give a presentation to the Academic and Student Affairs Committee and whether consideration be given to including a form of board evaluation in their presentation.

V. ADJOURNMENT

There being no further business, Regent McEnerney moved to adjourn, and Regent Wilson seconded, and with unanimous approval, the meeting was adjourned at 12:16 p.m.

Respectfully Submitted,

/S/

Kendra Oishi
Executive Administrator and Secretary
of the Board of Regents