

The Regents of the University of California

**GOVERNANCE COMMITTEE**

May 12, 2021

The Governance Committee met on the above date by teleconference meeting conducted in accordance with Paragraph 3 of Governor Newsom’s Executive Order N-29-20.

Members present: Regents Anguiano, Elliott, Estolano, Lansing, Leib, Pérez, and Sherman

In attendance: Regents Butler, Cohen, Guber, Kounalakis, Mart, Muwwakkil, Ortiz Oakley, Park, Reilly, and Stegura, Regents-designate Lott and Zaragoza, Faculty Representatives Gauvain and Horwitz, Secretary and Chief of Staff Shaw, General Counsel Robinson, Provost Brown, Executive Vice President and Chief Financial Officer Brostrom, Executive Vice President Byington, Executive Vice President and Chief Operating Officer Nava, Interim Vice President Lloyd, Chancellors Block, Christ, Gillman, Hawgood, Khosla, Larive, Muñoz, Wilcox, and Yang, and Recording Secretary Johns

The meeting convened at 11:35 a.m. with Committee Chair Pérez presiding.

**1. APPROVAL OF MINUTES OF PREVIOUS MEETING**

Upon motion duly made and seconded, the minutes of the meeting of March 17, 2021 were approved, Regents Anguiano, Elliott, Estolano, Lansing, Leib, Pérez, and Sherman voting “aye.”<sup>1</sup>

**2. ACCEPTANCE OF THE REPORT OF THE REGENTS WORKING GROUP ON INNOVATION TRANSFER AND ENTREPRENEURSHIP**

Regents Leib and Park recommended that the Governance Committee recommend that the Regents accept the Report of the Regents Working Group on Innovation Transfer and Entrepreneurship.

[Background material was provided to Regents in advance of the meeting, and a copy is on file in the Office of the Secretary and Chief of Staff.]

Regent Leib recalled that he and Regent Park had requested to form the Regents Working Group on Innovation Transfer and Entrepreneurship in December 2019. The Regent members of the Working Group were Regents Leib, Park, Estolano, and Muwwakkil, and they were joined by Regent Emeritus Um. Chancellors Block and Khosla served in the Working Group, and there were four private sector representatives: Josh Green, former Chairman of the National Venture Capital Association; Michael Kahn, Senior Counsel at

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<sup>1</sup> Roll call vote required by the Bagley-Keene Open Meeting Act [Government Code § 11123(b)(1)(D)] for all meetings held by teleconference.

Crowell and Moring; Sue Siegel, former Chief Innovation Officer, General Electric; and Joseph Walker, former Vice Chairman of Investment Banking at JP Morgan. In addition, the Working Group had 46 advisors.

The Working Group spoke with stakeholder groups—private equity, venture capital, UC faculty, students, and Office of the President (UCOP) representatives—about innovation on campuses and to find out about best practices, and with counterparts at other institutions, such as Stanford University, the Massachusetts Institute of Technology, Carnegie Mellon University, Columbia University, and the University of Texas. UC had more patents than any other university in the U.S. and the multifarious innovation taking place on UC campuses was impressive, but the UC system could do better in technology transfer. According to a 2017 report published by the Milken Institute which evaluated and subsequently ranked the nation's top 225 technology transfer universities, five UC campuses (UCLA, UCSD, UCD, UCB, and UCSF) ranked among the nation's top 55, but only two, UCSD and UCLA, ranked in the top 20. The most frequent complaint heard by the Working Group was that there is too much bureaucracy and delay, and that the UC system is difficult to work with. The University was using an old, cumbersome technology for patent transfer. Regent Leib emphasized the importance of taking real action to remove these impediments. One action, to be taken later in this meeting, was to establish a Special Committee on Innovation Transfer and Entrepreneurship, which would give the Regents two more years of oversight, while UCOP would execute many of the reforms recommended by the Working Group.

The Working Group considered seven areas, and the first and most important was governance. Many of the campuses wished to manage their own equity but were not allowed to do so under current rules. Chief Investment Officer Bachher developed a proposal to allow for this, and Regent Leib underscored that this would be helpful. Every license currently had to be approved by UCOP. General Counsel Robinson was developing a proposal to give the campuses this authority, if needed. In this context, UCOP would serve more as a resource, able to address more complex legal needs or assist campuses without the staff to carry out this work. Regent Leib described these developments as tangible victories in changing the governance structure. The work process at the campus level was being examined in order to reduce the amount of bureaucracy

The second area studied by the Working Group was the patent tracking system, which used a 30-year-old technology. The system needed to be replaced with a much less cumbersome central system for reporting and legal purposes.

Funding was the third area of focus. Other universities were doing much more than UC to secure proof of concept funding. One study, which surveyed 84 universities, found that universities with proof of concept funds experienced a 32 percent increase in translating discoveries to licensed products. UC needed to develop this funding to support early-stage innovation. Mr. Bachher had also suggested a participation fund, which would provide money for participation rights in companies.

The fourth area of focus was policy. Most of the relevant policies had not been revised in decades. Policies should be reviewed every five years. Working Group members and campus representatives had developed model language for new policies, and this would be a focus for the Special Committee.

The fifth area examined by the Working Group was culture and reputation. The Working Group recommended that UC revise promotion and tenure guidelines to include consideration of innovation and entrepreneurship, and the Academic Senate would be examining this over the next 12 months. The Working Group was working with UCOP on another recommendation, to revise academic personnel policy regarding leaves of absence to include pursuit of innovation and entrepreneurship activities. These recommendations had to be reviewed by the relevant UC stakeholder groups in the context of shared governance; Regent Leib stressed that they represented best practices at other institutions. Other issues regarding institutional culture would be easy to address, such as establishing a systemwide awards ceremony for campus innovators and mentorship programs for inventors, which could operate at the campus level but also systemwide.

The sixth and seventh areas of focus were enforcement and performance metrics. The University needed to update its performance metrics. Other universities were measuring public impact and short- and long-term returns. UC needed broader focus in this area. The University also lagged behind in protecting intellectual property and enforcing contract rights. At UCSB, Chancellor Yang was using a litigation funding firm to enforce contract rights. There were a number of enforcement mechanisms that the University needed to develop. This area involved legal questions as well as business decisions, and would address the concern expressed by Regents that UC should pursue revenue to which it was rightfully entitled.

Regent Park commented that this matter told a tale of the success of UC—in the numbers of patents, in the many groundbreaking discoveries—but also a tale of deep frustration and bureaucracy, faulty systems, and cumbersome processes. UC entrepreneurship persisted and sometimes thrived in spite of these impediments. The institutional culture of the University should celebrate UC's power of innovation and entrepreneurship. Some progress had been made on the recommendations outlined by Regent Leib, but this was work under way and not yet completed. The actions to be taken at this meeting were the foundations on which future success could be built: the acceptance of the report, the adoption of a policy, the establishment of a Special Committee, and the Bylaw amendment. These actions would allow change to begin. The Special Committee would return with updates and revisions, if necessary. For example, a close examination of enforcement issues was just beginning. The Special Committee would share findings and proposed solutions. In past discussions, Regents had pondered what the most significant barrier was to UC success in this field; it might be the University's size or reluctance to make changes. At this point, Regent Park believed that the greatest barrier to success was distraction and losing focus in the constant barrage of issues that confront the University, in the midst of which innovation and entrepreneurship seemed less important. This led to an underestimation of UC's potential and underperformance relative to what UC could achieve. Through approval of these items, the Regents would give a clear signal that

innovation and entrepreneurship were important and should command attention and resources.

Regent Lansing commented that this work was significant in bringing about cultural change in the University, which hitherto had considered that profiting from its innovation was not part of its institutional culture. The University should control its intellectual property and use the revenues flowing from this property to benefit students and the institution. She suggested that the Special Committee reach out to people with experience in this field who were not Regents. Regent Leib responded that the Special Committee would have outside advisors.

Staff Advisor Jeffrey asked if the Working Group had considered the overall cost of implementing its recommendations, and if there had been any planning for this. There was recognition of the need for funding for campuses with fewer resources, but funding would also be needed for a new patent tracking system and increased enforcement. She observed that, often, when new ideas and programs are launched at UC, the mechanism for funding them is left to the campuses, and different campuses have different abilities to support initiatives effectively. Regent Leib responded that additional funding would be required to implement some recommendations. An information technology project would be needed to replace the patent tracking system. Implementing the recommendations would require some shifting of costs and consideration of what should be accomplished at the campus level. The Merced, Riverside, and Santa Cruz campuses would likely continue to use UCOP as a resource. The Special Committee would be examining this.

Faculty Representative Horwitz expressed support for the recommendations to remove obstacles to the translation of discoveries into patents and start-up companies, such as giving campuses more authority and creating a fund for proof of concept, but expressed reservations about the Working Group's recommendations for revisions to tenure and promotion, such as giving publication credit to faculty who translate basic discoveries into forms that can be monetized, and making it easier for such faculty to take leaves to facilitate this work. He referred to his experience as Chair of the Committee on Academic Personnel of the UC San Diego division of the Academic Senate. This Committee assesses faculty advancement, merit, tenure, and promotion. There was always debate by the Committee about whether to award additional scholarly activity credit for patents. The Committee discussed but always rejected this type of appeal, because a faculty member receives credit for the research and publications that form the basis for the patent. It is relatively easy to file a patent once the research has been done, and this is arguably less work than serving as the editor of a scholarly essay collection. Filing a patent is not original scholarly work. With regard to faculty leaves, the usual practice at UC was that a faculty member accumulates a requisite number of sabbatical credits and requests leave from the department chair. Leave is generally granted, but there must be negotiation about when the faculty member can take the leave. The dean requires the department chair to ensure that the leave will not affect the stability of the teaching schedule. This was an important point, because all departments had a strong obligation to reduce undergraduate time to degree. If some faculty had easier leave-taking at any time, this could impinge on courses offered and affect time to degree. Easy leaves might entail opportunity costs for departments: with

senior members on leave, departments would have fewer faculty to do the significant work of running a department.

Committee Chair Pérez stated that the Special Committee would examine the issues raised by Mr. Horwitz. Regent Leib added that the Working Group was seeking faculty consultation and an open dialogue on this issue over the next year.

Regent Estolano referred to Recommendation Eight of the report, “Revise promotion and tenure guidelines to include consideration of innovation and entrepreneurship.” This recommendation had been formulated very deliberately with a view to shared governance, and made it clear that this measure would only succeed if there was close collaboration with the Academic Senate.

Upon motion duly made and seconded, the Committee approved the recommendation of Regents Leib and Park and voted to present it to the Board, Regents Anguiano, Elliott, Estolano, Lansing, Leib, Pérez, and Sherman voting “aye.”

3. **ADOPTION OF REGENTS POLICY ON INNOVATION TRANSFER AND ENTREPRENEURSHIP**

Regents Leib and Park recommended that the Governance Committee recommend that the Regents adopt the Policy on Innovation Transfer and Entrepreneurship, as shown in Attachment 1.

[Background material was provided to Regents in advance of the meeting, and a copy is on file in the Office of the Secretary and Chief of Staff.]

Committee Chair Pérez briefly introduced the item.

Upon motion duly made and seconded, the Committee approved the recommendation of Regents Leib and Park and voted to present it to the Board, Regents Anguiano, Elliott, Estolano, Lansing, Leib, Pérez, and Sherman voting “aye.”

4. **ESTABLISHMENT OF REGENTS’ SPECIAL COMMITTEE ON INNOVATION TRANSFER AND ENTREPRENEURSHIP**

Regents Leib and Park recommended that the Governance Committee recommend that the Regents:

- A. Establish the Special Committee on Innovation Transfer and Entrepreneurship for a two-year period, effective upon approval, and review the need for an extension no later than May 2023; and
- B. Adopt the Charter of the Special Committee on Innovation Transfer and Entrepreneurship, as shown in Attachment 2.

[Background material was provided to Regents in advance of the meeting, and a copy is on file in the Office of the Secretary and Chief of Staff.]

Committee Chair Pérez briefly introduced the item.

Upon motion duly made and seconded, the Committee approved the recommendation of Regents Leib and Park and voted to present it to the Board, Regents Anguiano, Elliott, Estolano, Lansing, Leib, Pérez, and Sherman voting “aye.”

5. **AMENDMENT OF BYLAW 23.5: AUTHORITY AND DUTIES OF PRINCIPAL OFFICERS**

Regents Leib and Park and Chief Investment Officer Bachher recommended that the Governance Committee recommend to the Regents that:

- A. Following service of appropriate notice, the Regents amend Bylaw 23.5(d) – Authority and Duties of Principal Officers, as shown in Attachment 3, provided such Bylaw amendment will not become effective if the Board does not accept the Report of the Working Group on Innovation Transfer and Entrepreneurship; and
- B. The President of the University or his designee, in consultation with the General Counsel, will take such actions as are appropriate with respect to conflicting University policy/guidelines to effectuate the amendment of Bylaw 23.5(d) as they relate to an Authorized Campus.

[Background material was provided to Regents in advance of the meeting, and a copy is on file in the Office of the Secretary and Chief of Staff.]

Committee Chair Pérez briefly introduced the item.

Upon motion duly made and seconded, the Committee approved the recommendation of Regents Leib and Park and Chief Investment Officer Bachher and voted to present it to the Board, Regents Anguiano, Elliott, Estolano, Lansing, Leib, Pérez, and Sherman voting “aye.”

Committee Chair Pérez thanked the members of the Working Group. There was value in having members who were not Regents. One reason for the effectiveness of this Working Group was the combination of Regents, chancellors, and other community representatives.

The meeting adjourned at 12:20 p.m.

Attest:

Secretary and Chief of Staff

## Regents Policy XXXX: Policy on Innovation Transfer & Entrepreneurship

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### POLICY SUMMARY/BACKGROUND

This policy is in response to the findings and recommendations formed by the Regents Working Group on Innovation Transfer and Entrepreneurship from December 2019 to April 2021.

The purpose of this policy is to ensure that the University's innovation transfer and entrepreneurship programs – at both the campus and systemwide levels – achieve the following objectives:

- Promote the translation of UC's discoveries into useful products, services, and innovations that not only provide value to individuals and society, but also endeavor to uplift the human condition;
- Inspire the passion of our faculty and student inventors, as well as provide the problem-solving and collaborative support necessary to translate those ideas into real-world solutions having societal benefit; and
- Pursue fair value for our intellectual property so UC can continue to grow its excellence in scholarship, research, and global impact.

### POLICY TEXT

#### A. Governance

The responsibility, authority, and accountability for innovation transfer and entrepreneurship shall reside generally with the campuses. Those campuses with defined strategies, as well as adequate programmatic infrastructure and internal controls, will have the authority and flexibility necessary to execute its charge.

The Office of the President shall continue to play an important role in facilitating the success of UC's innovation transfer enterprise by supporting and facilitating the execution of campus-based strategies and solutions. Its highest and best value comes in leveraging the power and potential of its ten campuses and to perform services no one campus can cost-effectively do on its own, as well as coordinating or addressing multi-campus needs.

#### B. Funding

The University shall endeavor to provide or raise funds to provide seed capital for early stage development and nascent innovations that have market potential to help the University meet its mission, as identified above.

#### C. Policy

The University shall periodically review, update and modernize those policies which are core to governing its innovation transfer and entrepreneurship enterprise, as necessary, but no less than every five years.

#### D. Culture / Reputation

With input from both internal and external stakeholders, the University shall take actions to create an environment encouraging and valuing translational research, innovation, and entrepreneurship on par with other UC enterprises and fields of scholarship and research.

#### E. Innovation Management System

The University shall endeavor to operate and maintain a state-of-the-art Innovation Management System to handle the IT infrastructure needs of its innovation transfer enterprise, including, at a minimum:

- Marketing and business development;
- Patent Prosecution;
- Intellectual property tracking and management;
- Accounting, billing, and revenue distribution; and
- Stakeholder and client relationship management

#### F. Performance Metrics

The University shall develop goals and measure innovation transfer and entrepreneurship activities with respect to the following: public impact; short and long-term financial returns; customer satisfaction; impact on students; and the participation of women, person with disabilities, and other historically marginalized groups.

### REPORTING

The Office of the President shall provide an annual written report detailing progress, successes, failures, and barriers to implementation for each of the areas under Policy Text.

### RELATED DOCUMENTS

Report of the Regents Working Group on Innovation Transfer and Entrepreneurship

## **Charter of the Special Committee on Innovation Transfer and Entrepreneurship**

### A. Purpose / Oversight Responsibilities

The charge of the Special Committee on Innovation Transfer and Entrepreneurship is as follows:

1. Oversight of the successful implementation of the proposals detailed in the May 2021 report of the Regents Working Group on Innovation Transfer and Entrepreneurship.
2. The exploration and development of additional solutions serving to further optimize the manner in which the University of California promotes innovation transfer and entrepreneurship, and translates its discoveries into practical products, services, and innovations having societal impact. These include, but are not limited to:
  - i. Improving the manner in which UC protects its intellectual property rights, including contract enforcement.
  - ii. Promoting the more inclusive participation of students in translational research, innovation, and entrepreneurship.

### B. Duration

The Special Committee on Innovation Transfer and Entrepreneurship shall be established for two years, effective upon approval by the Regents.

### C. Membership / Appointment / Term

The Special Committee shall be comprised of no fewer than five Regents and a quorum of the committee shall be a majority of voting members. The Special Committee may include non-voting advisory members, including Chancellors and/or UC-affiliated and external individuals.

Appointments will be made by the Chair of the Board for one-year terms. The initial appointments will be made in consultation with the Chair and Vice Chair of the Regents Working Group on Innovation Transfer and Entrepreneurship established in 2019.

### D. Expert Advisors

As necessary to conduct its business, the Special Committee shall have the authority to retain ad-hoc advisors with expertise relevant to the work of the Committee. Appointments will be made by the Chair of the Special Committee.

Any advisors not otherwise subject to University policy, shall be subject to the laws and policies applicable to Regents governing reimbursement of expenses, and shall be subject to conflict of interest disclosure and recusal obligations as specified in the University's Conflict of Interest Code and other applicable policies.

#### D. Reporting

The Special Committee shall report at least annually to the Board on progress.

**\*Addition shown by underscoring\***

**Bylaw 23. Officers of the Corporation**

**23.5 Authority and Duties of Principal Officers.**

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(d) Chief Investment Officer

The Chief Investment Officer serves as the chief University official having charge of all investment matters pertaining to the Corporation and University. The Chief Investment Officer provides advice and counsel to the Regents, to Board leadership and to University leadership regarding investment policy and performance and has direct access to the Board. The Chief Investment Officer oversees the acquisition, management and disposition of all assets held for investment purposes, as directed by Regents Policy, the Board and/or the President of the University, and acts as the custodian of all investment assets belonging to University; however, the Chief Investment Officer and the President will each have authority over the acquisition, management and disposition of all equity received by University campuses pursuant to licensing, incubator/accelerator activities and other commercial arrangements. Subject to the administrative oversight of the President of the University, the Chief Investment Officer provides investment services to the University and oversees all investment managers retained by the University to deliver such services. The Chief Investment Officer reports to the Board and to the President of the University. The Chief Investment Officer is expected to report to the Board any significant concerns regarding the Office of the President that could result in substantial financial, reputational or other harm to the University. With regard to audits and investigations of the Office of the President, the Chief Investment Officer reports solely and exclusively to the Board.