

The Regents of the University of California

PUBLIC ENGAGEMENT AND DEVELOPMENT COMMITTEE

March 16, 2022

The Public Engagement and Development Committee met on the above date at UCSF-Mission Bay Conference Center, 1675 Owens Street, San Francisco and by teleconference meeting conducted in accordance with California Government Code §§ 11133.

Members present: Regents Guber, Hernandez, Leib, Lott, Ortiz Oakley, Reilly, Sherman, and Torres; Advisory members Blas Pedral, Cochran, and Timmons; Chancellors Block, Larive, May, Muñoz, and Wilcox; Staff Advisor Tseng

In attendance: Regent Zaragoza, Assistant Secretary Lyall, Managing Counsel Shanle, Senior Vice President Colburn, and Recording Secretary Li

The meeting convened at 10:00 a.m. with Committee Chair Reilly presiding.

Committee Chair Reilly announced that, in April, the Committee would be meeting at the Sacramento City College Davis Center, which was located at UC Davis. Sacramento City College was the only California Community College with a facility located on a University of California campus.

1. APPROVAL OF MINUTES OF PREVIOUS MEETING

Upon motion duly made and seconded, the minutes of the meeting of January 19, 2022 were approved, Regents Guber, Hernandez, Leib, Lott, Ortiz Oakley, Reilly, Sherman, and Torres voting “aye.”¹

2. SENATE CONSTITUTIONAL AMENDMENT 5 (GLAZER)

[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.]

Associate Vice President Kieran Flaherty explained that Senate Constitutional Amendment (SCA) 5 would require the Regents to appoint two University of California students as Regents, with all rights of participation, who would serve no less than one year starting July 1. This meant they would be voting members of the Board. Constitutional amendments qualified for the State ballot through the initiative or signature gathering process, or through legislation. SCA 5, which would qualify legislatively, required a two-thirds vote in both houses of the Legislature but did not require formal approval by the Governor. Mr. Flaherty contrasted SCA 5 with general obligation bonds, which required both a two-thirds vote and the Governor’s approval. The vote threshold of constitutional amendments meant that they did not need to abide by the same deadlines as policy bills. After qualifying

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

on the ballot, the measure would require 50 percent plus one vote margin to be approved. Per the California Elections Code, constitutional amendments appear on the ballot of the first statewide election 131 days after adoption by the Legislature, so SCA 5 would appear as a ballot measure in the November 8 election if approved.

Authored by State Senator Steven Glazer and sponsored by the UC Student Association (UCSA), SCA 5 was approved with zero “no” votes by the Senate Education, Elections and Constitutional Amendments, and Appropriations Committees, as well as the Senate Floor. It was “double-referred” to two Senate policy committees and would likely also be double-referred in the State Assembly. Regents Policy 1202: Policy on Appointment of Student Regent established the Student Regent and Regent-designate structure. According to the analysis provided by the Senate Education Committee, the UC student population has grown and become more diverse since 1974, and a second Student Regent would allow for additional student participation in Committees and an additional, differing perspective. SCA 5 followed Assembly Bill (AB) 514 in 2019, which converted the second California State University (CSU) Student Trustee into a voting member, and AB 337 in 2021, which converted the second student member of the California Community College Board of Governors into a voting member. The CSU system office and Board of Trustees did not support AB 514, and the California Community Colleges Chancellor’s Office did not support AB 337. Mr. Flaherty distinguished “not supporting” a bill from “opposing” it. State Governmental Relations (SGR) learned that there was a concern that supporting the increase of representation might set a precedent affecting these boards’ ability to remain neutral or might compromise subsequent efforts to increase representation of other campus stakeholders. While membership of the CSU Board of Trustees and California Community College Board of Governors was set by statute, the membership of the Board of Regents was set by the State Constitution, and a Senate or Assembly constitutional amendment was required to change the Board’s membership. Student members of the CSU and California Community Colleges boards served staggered, two-year terms. SGR believed that SCA 5 intended a similar approach for Student Regents, and the Student Regent-designate position would no longer be of use.

Prior efforts to alter the composition of the Board of Regents included SCA 1 from 2015–16, which proposed to reduce Regents’ terms and limit their total years of service. UC opposed the measure, and it did not advance out of the Senate. Assembly Constitutional Amendment (ACA) 27 from 2017–18 and ACA 5 from 2019–20, which would require appropriations for the Office of the President (UCOP) and would modify terms and Board composition, were not heard in committee, and UC did not take positions on these bills. The last time a constitutional amendment changed the composition of the Board was 1974, when the number of ex officio Regents was reduced from eight to seven, the number of appointed Regents was increased from 16 to 18, and the terms of service for appointed Regents was decreased from 16 years to 12. Regents appointed prior to 1974 retained their 16-year terms. Public institutions of higher education outside of California generally had fewer members on their boards. Mr. Flaherty provided examples of board compositions in other states.

Regent Leib asked for clarification regarding the number of Student Regents and Student Regents-designate allowed by SCA 5. Mr. Flaherty replied that the Board was currently able to make decisions about voting members and Student Regents. SGR interpreted SCA 5 to require two voting Student Regents. The bill lacked language that would allow for a Student Regent-designate position.

Regent Leib asked if the Board could vote down the requirement after SCA 5 passes the Legislature and is approved by voters. Mr. Flaherty replied in the negative. This would be a constitutional requirement related to the composition of the Board.

Regent Leib asked if the Regents would have discretion to appoint Student Regents-designate. Mr. Flaherty explained that SCA 5 would remove the Regents' discretion regarding Student Regents. SGR interpreted this as a removal of the Regents' authority with regard to Student Regents. In contrast, Mr. Flaherty quoted a portion of SCA 5 and noted the Regents' discretion with regard to members who were faculty.

Senior Vice President Colburn explained that, if the Board wishes to have Student Regents-designate after the measure passes, this would be a topic of future discussion.

Regent Guber asked how Student Regents would be chosen. Mr. Flaherty responded that SCA 5 would not change the selection process, only the number of voting Student Regents.

Regent Ortiz Oakley noted that, for the California Community Colleges Board of Governors, the non-voting student member became a voting member. There were no designates. With regard to AB 337, the Board of Governors felt that it should not intervene on an issue related to its own structure, but this was not meant to show a lack of support. Regent Ortiz Oakley praised student leaders at the California Community Colleges. The Board of Governors had no concerns about this change, and he was confident that there would be no concerns if such a change occurred for the Board of Regents.

Regent Hernandez expressed his wish to hear the student perspective. He remarked that appointed Regents had 12-year terms and that there was a steep learning curve to overcome in order to be effective. Regent Hernandez suggested that the Board retain the Student Regent-designate position so that student members are prepared when they are qualified to vote. In his view, UC should not be afraid to have more students present. Mr. Colburn expressed agreement from an operational standpoint but indicated that, whenever the Legislature changes legislative language to "shall," the University's ability to use its discretion in implementation is limited.

Regent Zaragoza shared that she also interpreted SCA 5 to mean that the Student Regent-designate would become a voting member. She underscored the challenge of being prepared and accomplishing much in a two-year term and added that relaying the campus experience is one of the Student Regents' most effective contributions to the Board. This discussion was being held for the sake of transparency, to help Regents prepare for the potential change, and to encourage Regents consider how to improve the Student Regent position, such as assigning more experienced Regents as mentors to Student Regents.

Regent-designate Blas Pedral stated that two students represented over 285,000 UC students across ten campuses, and one voting student member could not attend two concurrent meetings. The University grew by over 100,000 students and added a new campus since the last referendum. This change would not add cost or change the selection process; Regents could still vet and interview students. Regent-designate Blas Pedral shared that her application was reviewed by student leaders, who selected her for an interview and then recommended her to the Regents. She suggested that Student Regents receive more training and written materials, and she hoped that Student Regents could lean on fellow Regents for support, adding that Regent Pérez offered to be a mentor.

Regent Guber asked about the length of the Student Regent term. Regent Leib responded that student members served two-year terms, the first year as a Regent-designate and the second year as a voting member. If this legislation passes, student members would serve two years as voting members.

Regent Guber asked if Student Regents could be reelected. Regent Leib responded in the negative, adding that he would have suggested extending the voting member's term to two years but acknowledged that the length of such a term might not be an option for students.

Regent-designate Timmons asked how the staggered terms would affect Student Regents' education and if SCA 5 intended to have staggered terms. Mr. Flaherty replied that this was not explicitly stated in SCA 5, but it was SGR's belief that it was what the authors of the bill intended. Regent Zaragoza noted that student members' terms were currently staggered. The only change brought about by SCA 5 would be the ability of student members to vote in the first year of their term.

Mr. Colburn encouraged students to apply to be a Student Regent.

3. **STATE GOVERNMENTAL RELATIONS UPDATE**

[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.]

Senior Vice President Colburn noted the passage of Senate Bill (SB) 118, which allowed the fall 2022 enrollment at UC Berkeley to proceed as planned, and thanked Associate Vice President Kieran Flaherty, State Governmental Relations (SGR), and the Berkeley campus for their efforts.

Mr. Flaherty stated that SB 118 was heard by the budget committees of both houses of the State Legislature, voted on by the State Assembly and State Senate, and signed by Governor Newsom within about seven hours. The bill has provided immediate relief to UC Berkeley, allowing the campus to offer admission to the previously planned number of students while keeping the on-campus population within the scope of UCB's most recently adopted Long Range Development Plan. The bill also affirmed the University's obligations under the California Environmental Quality Act (CEQA), and that enrollment, though a

factor in determining campus population, did not itself constitute a project under CEQA. Mr. Flaherty stressed the importance of clear, transparent, and predictable processes for analyzing and managing environmental impact, and he acknowledged the Legislature and Governor Newsom for their leadership regarding SB 118. He acknowledged staff, attorneys in the Legislature, and the Newsom administration for their hard work and expertise that resulted in the timely passage of the bill with zero “no” votes. Mr. Flaherty also acknowledged the efforts of the SGR team.

Regent Leib asked Mr. Flaherty to review the votes. Mr. Flaherty explained that the Assembly Budget Committee heard the full item and had the opportunity to consider and comment on it, and bills were not swapped with the Senate due to the consensus. This was very rare. The votes were unanimous with few abstentions. Sixty-nine Assemblymembers out of 80 voted, and 33 Senators out of 40 voted.

Mr. Colburn thanked Regent Pérez for his counsel and efforts. Committee Chair Reilly asked Mr. Flaherty to relay the Regents’ appreciation to the legislative and SGR staff.

Mr. Flaherty stated that, of the 2,247 bills introduced during this year, SGR has designated 212 bills as having a “significant impact” on UC. Assembly Bill (AB) 1602 would establish the California Student Housing Revolving Loan Fund Act of 2022, which would create a \$5 billion revolving loan fund for zero-interest loans for constructing affordable housing for UC, California State University, and California Community Colleges students, faculty, or staff. Neither the University nor other segments have taken a position on the bill, but SGR was working with the author to address bill language that would further limit UC’s ability to contract for services so that UC could take a “support” position. SB 1364 would subject vendors to penalties if they were determined to be out of compliance with UC’s equal pay and benefits policy, with enforcement through civil litigation. This bill went far beyond existing law and could have a chilling effect on the University’s ability to contract with vendors. UC continued to oppose SB 213, which would establish a rebuttable presumption for hospital employees in UC acute care hospitals. The University was sponsoring four bills this year, more than in prior years. SB 912, which UC was co-sponsoring with the American Cancer Society, would require health plans to reimburse for biomarker testing. SB 960 would eliminate the citizenship requirement for serving as a peace officer in California and was supported by the California Police Chiefs Association. SB 882 would extend the Umbilical Cord Blood Collection Program, and SB 1299 would extend the California State Summer School for Mathematics and Science.

Regent Leib asked if it was the case that UC was already doing what SB 1364 would require. Mr. Flaherty responded in the affirmative, adding that the potential for litigation could create a chilling effect. The reporting requirements in SB 1364 might result in extra costs and burden for vendors, who could then be subject to litigation or other ramifications after reporting even if they are ultimately not at fault.

Regent Leib expressed concern about the potential chilling effect SB 1364 would create for small and minority-owned vendors at a time when the University was trying to increase its business with them. He asked if such vendors had commented on SB 1364. Mr. Flaherty

replied that some minority- and women-owned businesses were concerned any time a law is passed that led to vulnerability. In his view, UC was now better at renegotiating or ending contracts with vendors that were not in compliance with Regents Policy. The University was providing this type of information as required in collective bargaining agreements.

Regent Leib remarked that small and minority-owned businesses already faced many challenges. Additional reporting requirements could affect their desire to apply for jobs. Mr. Flaherty added that the University was striving to be in full compliance with Regents Policy and existing State law. UC understood what legislators were trying to accomplish.

4. **FEDERAL GOVERNMENTAL RELATIONS UPDATE**

[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.]

Associate Vice President Chris Harrington stated that, in the past week, both chambers of the U.S. Congress passed and U.S. President Biden signed legislation that would keep the federal government operational until September 30, the end of the federal fiscal year. Included was a \$400 increase to the maximum Pell Grant award, the largest increase in a decade. In FY 2022, \$1 billion would be used to launch the Advanced Research Projects Agency for Health (ARPA-H), and funding was increasing for Hispanic-Serving Institutions, the National Science Foundation (NSF), the National Institutes of Health, and the Department of Energy (DOE) Office of Science. Federal Governmental Relations was determining which initiatives the UC research enterprise was best positioned to compete for, and was working with systemwide colleagues to develop budget priorities for FY 2023. In his State of the Union address, President Biden called for investment in the Pell Grant and community colleges, and spoke about competitiveness, research innovation, ARPA-H, and combating climate change. So far, UC advocates have attended over 50 congressional and agency meetings in support of 23 appropriations priorities for FY 2023, such as holding congressional meetings, advocating for funding with the Council for Agricultural Research, Extension, and Teaching, participating in the annual Humanities Advocacy Day, and testifying before Congress. These efforts have been documented by the UC Advocacy Network's social media accounts. Several weeks ago, President Drake and Director Michael Witherell hosted a meeting with House Speaker Nancy Pelosi and Representatives Barbara Lee and Doris Matsui at Lawrence Berkeley National Laboratory in support of the America Competes Act, which would provide significant funding to NSF and the DOE Office of Science.

The meeting adjourned at 10:55 a.m.

Attest:

Secretary and Chief of Staff