

**Office of the Secretary and Chief of Staff**

**TO MEMBERS OF THE COMMITTEE ON GOVERNANCE:**

**DISCUSSION ITEM**

*For Meeting of May 12, 2016*

**BOARD GOVERNANCE RESTRUCTURE AND BYLAWS REVISION**

**EXECUTIVE SUMMARY**

As the University faces increasingly complex issues fundamental to public higher education such as finding sustainable sources of funding and maintaining accessibility, the Board of Regents must focus on how it can best add value to institutional leadership and decision making. Based on discussions with Regents and University administrators, Chairman Lozano and Committee on Governance Chair Gould are proposing to restructure how the Board of Regents operates in order to become a more efficient and strategic body. The proposed changes include the structure of its committees, how meetings are scheduled and conducted, and corresponding amendments to the Regents Bylaws. Guiding principles include having fewer committees with broader authority, conducting concurrent meetings so that committees can engage in in-depth discussions of major issues facing the University and focus on strategic, rather than operational, matters, and ensuring that the Board operates in an accountable and transparent manner. The proposed changes also provide an opportunity to comprehensively review and update all of the University's governing documents (Bylaws, Standing Orders, and Regents Policies) for the first time since 1969 to ensure that they conform to the new structure, are current, and reflect best practices in governance. These changes will enable committees to be more engaged and effective, and allow the Board as a whole to focus on the critical issues facing the University.

**BACKGROUND**

The report of the National Commission on College and University Board Governance, *Consequential Boards: Adding Value Where it Matters*, recommends that Boards focus their time on the issues of greatest consequence to the University and reduce the amount of time reviewing reports and engaging in transactional details. They further recommend that Board committees not replicate the administrative structure, but rather address issues of strategic importance that cut across functions. One way to do so is to consolidate committees for oversight of functional areas.

The report also urges Boards to clarify the roles and responsibilities of Board members vis-à-vis the administration and faculty, thereby strengthening shared governance. Effective bylaws provide a roadmap for effective governance. The Bylaws are the constitution for the Board of Regents. They outline the Board's structure and role, as well as the scope of the roles and responsibilities of Board officers, the administration, and the faculty in governance, and how the

Board operates. They should be drafted for posterity, written clearly without complex details, but with enough flexibility to provide guidance to respond to changing circumstances. Finally, Boards should periodically revisit the Bylaws to ensure they serve the institution well.

In response to discussions among Regents about how to become a more effective and strategic Board, Chairman Lozano and Committee on Governance Chair Gould began to explore ways to accomplish this goal in terms of Board structure and operations. These discussions resulted in the conceptual framework described below.

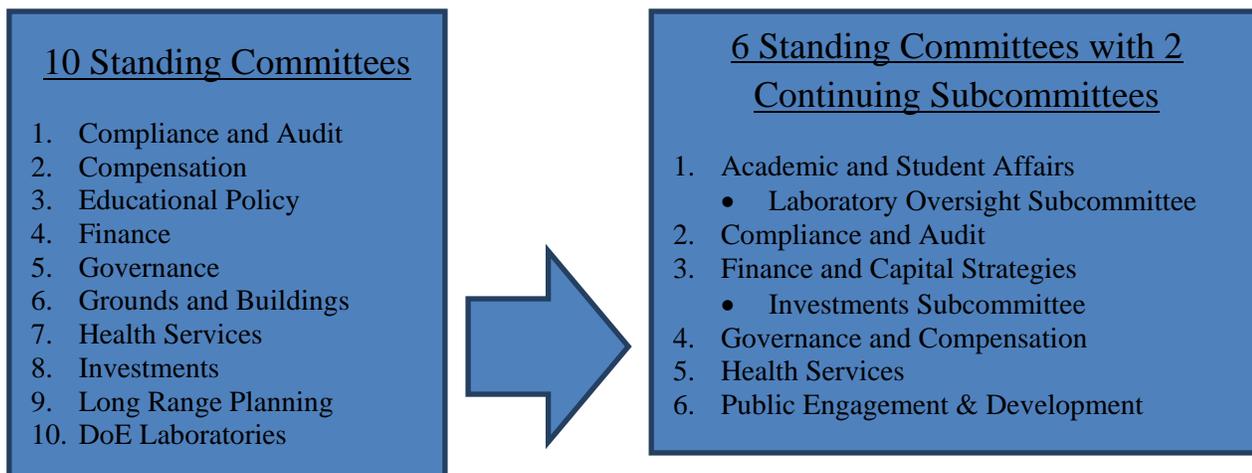
### *Standing Committee Structure and Authority*

The Association of Governing Boards of Universities and Colleges (AGB), the leading organization in higher education on university governance, recommends as a best practice that Boards establish a few Standing Committees, focused on broad, strategic areas, and use special committees or subcommittees to address specific issues. According to a survey by AGB, in 2011, public university governing boards reported an average of five standing committees. The UC Board of Regents currently convenes ten standing committees. Over half of the colleges and universities responding to the survey reported significantly restructuring their committees within the three prior years (*2011 Survey of Higher Education Governance*).

In order to provide opportunities to develop members' specialized expertise and enable Committees to address issues substantively and with a strategic orientation, this proposal would reduce the number of Standing Committees from ten to six. The proposed Standing Committees would be: Academic and Student Affairs; Compliance and Audit; Finance and Capital Strategies; Governance and Compensation; Health Services; and Public Engagement and Development. The current Committees on Grounds and Buildings and Finance would be merged, eliminating overlapping committee jurisdictions and taking advantage of the synergy between their subject matters. In addition, Investments and Laboratory Oversight would be established as on-going subcommittees to the Finance and Capital Strategies Committee and the Academic and Student Affairs Committee, respectively. The current Committee on Governance would assume responsibility for setting compensation policy and approving compensation for the highest level executives, and the Committee on Compensation would be dissolved. The existing Committee on Long Range Planning would be eliminated, as every Standing Committee should be engaged in long range planning in its area of responsibility. The Committees on Compliance and Audit and Health Services would retain their current responsibilities. Finally, in response to sustained Regents' interest, a Public Engagement and Development Committee would be established.

Current Committees

Proposed Committees



Following the model of the recent Committee on Health Services bylaw amendment, committees or subcommittees requiring technical expertise could invite expert external advisors, serving as non-voting members, to inform their deliberations. In addition, each committee would have at least one Chancellor as a non-voting member (subcommittees may include Chancellors). This reform is intended to provide the Regents with a valuable campus perspective and to respond to Regents’ requests for greater dialogue with the Chancellors on campus matters.

Finally, committees and subcommittees would be able to exercise final approval authority over certain matters that the Board has delegated to them, in addition to performing their advisory role to the Board. Each committee will have a Committee Charter, in which its areas of jurisdiction and approval authority are described (Attachment 2). Any action taken by a committee or subcommittee would be reported to the Board, and the Board would reserve the right to rescind any of its delegations of authority.

***Selected Highlights of Committee Charters***

<b>Committee Jurisdiction</b>	<b>Delegated Authority</b>
<p><b>Academic and Student Affairs</b></p> <ul style="list-style-type: none"> <li>○ Enrollment and admissions</li> <li>○ Access, affordability, and outreach</li> <li>○ Student life and student conduct</li> <li>○ Academic personnel</li> <li>○ Curricula, degrees, and certificates</li> <li>○ Research (including ANR and National Laboratories)</li> </ul>	<p><b>Academic and Student Affairs</b></p> <ul style="list-style-type: none"> <li>○ Compensation for the Director of Lawrence Berkeley National Laboratory (redelegated)</li> <li>○ Cardinal changes to a prime contract to manage and operate a National Laboratory (redelegated)</li> </ul>

Committee Jurisdiction	Delegated Authority
<p><b>Laboratory Oversight Subcommittee</b></p> <ul style="list-style-type: none"> <li>○ Participation in any solicitation for, contract, or business entity formed to manage and operate a National Laboratory or comparable facility.</li> <li>○ Oversight of relationships between and among the University, the Department of Energy, the National Nuclear Security Administration, other state and federal authorities, and business partners</li> <li>○ Allocation of the fee earned for the management and operation of any National Laboratory</li> <li>○ Agreements to use the staff and facilities of a National Laboratory to perform work beyond that required by the prime contract.</li> </ul>	<p><b>Laboratory Oversight Subcommittee</b></p> <ul style="list-style-type: none"> <li>○ Compensation for the Director of Lawrence Berkeley National Laboratory</li> <li>○ Cardinal changes to a prime contract to manage and operate a National Laboratory</li> </ul>
<p><b>Compliance and Audit</b></p> <ul style="list-style-type: none"> <li>○ Monitoring compliance with laws, regulations, and policies, and implementing a compliance program</li> <li>○ The “whistleblower” program</li> <li>○ Operational and cyber security risk management</li> <li>○ Internal audit program</li> <li>○ Monitoring financial and operational controls, and implementing corrective actions</li> <li>○ Appointment and compensation of the Chief Compliance and Audit Officer</li> </ul>	<p><b>Compliance and Audit</b></p> <ul style="list-style-type: none"> <li>○ Appoint independent financial auditor</li> <li>○ Approve audit scope and plan</li> <li>○ Approve annual internal audit and compliance plans</li> <li>○ Approve settlements within specified limits</li> </ul>
<p><b>Finance and Capital Strategies</b></p> <ul style="list-style-type: none"> <li>○ Appropriation of funds and cash management</li> <li>○ External financing</li> <li>○ Capital Financial Plans and budget requests</li> <li>○ Facility approvals (design, LRDPs) and real estate</li> <li>○ Energy and sustainability</li> <li>○ University/campus budgets; State budget requests</li> <li>○ Significant financial programs (e.g. Fiat Lux, procurement, UC PATH)</li> <li>○ Investments (see Subcommittee duties, below)</li> </ul>	<p><b>Finance and Capital Strategies</b>                      (within specified parameters)</p> <ul style="list-style-type: none"> <li>○ Capital improvement projects</li> <li>○ Capital augmentation requests</li> <li>○ Real estate purchase/sale/lease/gifts</li> <li>○ External financing transactions</li> <li>○ Loans of University funds</li> <li>○ Alliances and affiliations</li> <li>○ LRDP amendments</li> <li>○ Design approval for building projects</li> </ul>
<p><b>Investments Subcommittee</b></p> <ul style="list-style-type: none"> <li>○ Investment policy and strategy</li> <li>○ Real estate investments</li> <li>○ Investment accounts/custodian relationships</li> <li>○ Retirement system investments</li> <li>○ Endowment funds investments</li> <li>○ Short-term and liquidity investments</li> <li>○ Investment operations, results, and reporting</li> </ul>	<p><b>Investments Subcommittee</b></p> <ul style="list-style-type: none"> <li>○ Determination of asset classes</li> <li>○ Asset allocation policy</li> </ul>

Committee Jurisdiction	Delegated Authority
<p><b>Governance and Compensation</b></p> <ul style="list-style-type: none"> <li>○ Review/amend Bylaws, Regents Policies, and other governing documents</li> <li>○ Formation of Board’s Standing Committees, other Committees, and development of Committee charters</li> <li>○ Recommend Board leadership and Committee members</li> <li>○ Board training and performance assessment</li> <li>○ Appointment, compensation, and assessment of University senior leadership</li> <li>○ Review of University compensation and benefit plans, programs, and benchmarks</li> <li>○ Oversight of University collective bargaining</li> </ul>	<p><b>Governance and Compensation</b></p> <ul style="list-style-type: none"> <li>○ Approve formation of Subcommittees and their charters and appoint Subcommittee members</li> <li>○ Adopt procedures to consider allegations that Regents have not fulfilled their duties</li> </ul>
<p><b>Health Services</b></p> <ul style="list-style-type: none"> <li>○ Operations of the governing bodies of the academic health centers</li> <li>○ UC Health strategic plan, budget, and initiatives</li> <li>○ Patient care cost, quality and accessibility</li> <li>○ Debt issuance, real estate transactions, or capital improvements affecting UC Health clinical strategy</li> <li>○ Health system appointments and compensation</li> <li>○ Health system incentive compensation programs</li> <li>○ Participation in government healthcare programs and contracts with private health plans</li> <li>○ University health benefits self-insurance programs</li> <li>○ Health information privacy and security</li> </ul>	<p><b>Health Services</b>                      (within specified limits)</p> <ul style="list-style-type: none"> <li>○ Alliances and affiliations</li> <li>○ Acquisitions of physician practices, and other facilities and clinics</li> <li>○ Participation in joint ventures, partnerships, or corporations</li> <li>○ Other business transactions within limits specified in Charter or Policy</li> </ul>
<p><b>Public Engagement and Development</b></p> <ul style="list-style-type: none"> <li>○ Legislative priorities</li> <li>○ University ballot or public policy position endorsements</li> <li>○ Public awareness priorities</li> <li>○ Campus fundraising campaigns and giving programs</li> <li>○ Alumni relations</li> </ul>	<p><b>Public Engagement and Development</b></p> <ul style="list-style-type: none"> <li>○ Approve fundraising campaigns</li> </ul>

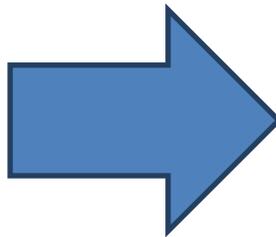
***Board Meeting Procedures***

In order to allow sufficient time for discussion and to make the best use of members’ expertise, Committees would meet concurrently on the first day of the regular two-day meeting cycle. All open session Board, Committee, and Subcommittee meetings will be open to the public, recorded by video, and archived for one year, consistent with current practice. The second day would include a plenary Board session focused on the presentation and discussion of a strategic issue, followed by substantive Committee reports, including any action taken pursuant to delegated authority, a full and robust discussion of those reports among the entire Board, and then Board votes on any action items.

Current Structure

*Two-day meetings*

Committees meet sequentially with all Regents present; short plenary Board meeting at the end of 2 days



Proposed Structure

*Day 1*

Board: public comment and remarks

AM Session:  
Academic and Student Affairs

AM Session:  
Compliance and Audit

PM Session:  
Finance and Capital Strategies

PM Session:  
Public Engagement and Development

Late PM Session:  
Governance and Compensation

*Day 2*

Board Meeting:  
Public comment  
Presentation/discussion of strategic issue  
Substantive Committee reports  
Board votes

*Off-cycle (on-cycle as needed)*

Health Services  
Investments  
Laboratory Oversight

*Governing Document Structure*

Currently, the Board operates using a framework of Bylaws and Standing Orders written in 1969 and amended numerous times on a piecemeal basis. The Standing Orders largely consist of delegations from the Board to Officers of the Corporation, key administrators, and the Academic Senate. They include detailed lists of authority for specific types of transactions. For example, Standing Order 100.4, which describes the duties of the President, has 44 sections with 23 subsections. Additionally, the Board has issued over 120 Regents Policies, many current, but some from the 1960s and 1970s, that were last reviewed in 2005. In order to codify the structural reforms, and modernize and streamline the governing documents, the proposal is to produce a new set of the Bylaws, incorporating relevant portions from the current Bylaws, Standing Orders, and Regents Policies, and to eliminate the Standing Orders as a separate document. Its provisions will either be moved into Bylaws, Regents Policies, Committee Charters, or administrative policy, or be rescinded, as appropriate.

The Bylaws would be redrafted and would include statements of authority of Committees, the Principal Officers, and the President. While the Bylaws would reserve full powers of organization and governance to the Board, they would vest administrative authority in the President to manage the University's operations in accordance with policies and directives adopted by the Board. The powers that the Board is explicitly reserving to itself would be codified in the Bylaws, including a provision stating that the Board retains ultimate plenary authority and may rescind any delegations. The authority of the President of the University, the Chancellors, and the Academic Senate would be moved from the Standing Orders to the Bylaws. The jurisdiction of Standing Committees would be described in the Bylaws, but details of their authority would be moved into Committee Charters, attached as Appendices to the Bylaws. Committees will review their Charters at their first meetings. Authority over specific matters would be addressed in the Specific Reservations to the Board (Bylaw 22.2), the jurisdictional statements of the Standing Committees (Bylaw 24.3), the Committee Charters (Appendices), and in the Bylaws for the Officers of the Corporation (Bylaw 23), the President (Bylaw 30), Chancellors (Bylaw 31), and the Academic Senate (Bylaw 40). Initial discussion drafts of the proposed Bylaws (Attachment 1) and Committee Charters (Attachment 2) are attached. Significant changes proposed to the Bylaws are outlined below.

*Significant Changes Proposed to the Bylaws*

<b>Proposed</b>	<b>Current</b>
<b>21.10 Breach of Conduct.</b> Specifies Committee responsible for review of misconduct allegations asserted against Regents and advisors, and grants Committee authority to determine proper review procedures.	No such provision is currently in the Bylaws.

Proposed	Current
<p><b>22.1, 22.2. and 30 Authority of the Board and President.</b> Together, these provisions reserve full powers of organization and governance to the Board and specify matters reserved to the Board and its Committees. They also vest administrative authority in the President to manage University operations in accordance with policies and directives adopted by the Board.</p>	<p>Vests broad authority in the Regents and seeks to enumerate each specific power of the President in 44 sections and 23 subsections.</p>
<p><b>23.5 Authority and Duties of Principal Officers.</b> Revised Bylaws for Secretary and Chief of Staff, General Counsel, Chief Compliance Officer, and Chief Investment Officer to streamline and make language generally consistent across all four positions; no major changes in authority.</p>	<p>Provisions are lengthy and outdated.</p>
<p><b>24.1, 24.2 and 25.2 Standing Committees and Subcommittees - Authority and Charters.</b> Authorizes Committees and Subcommittees to exercise selected delegated authority, in addition to their current advisory role, as specified in Committee Charters.</p>	<p>Standing Committees generally are advisory to the Board.</p>
<p><b>24.1 Standing Committees – Purpose/Authority.</b> Chair of the Board, in consultation with the President, may determine that a matter should be brought directly to the Board, including matters that have been delegated to a Committee.</p>	<p>Bringing a matter directly to the Board without prior Committee discussion requires vote of two-thirds of Regents present.</p>
<p><b>24.1 Standing Committees – Purpose/Authority.</b> Clarifies that the Chair of the Board and the President determine to which Standing Committee a matter should be referred if it is unclear.</p>	<p>Current Bylaw is unclear; refers to Committee of primary jurisdiction.</p>
<p><b>24.3 Designation of Standing Committees.</b> Six Standing Committees and two Subcommittees.</p>	<p>Ten Standing Committees.</p>
<p><b>24.4 Committee Membership.</b> At least one Chancellor shall serve in an advisory, non-voting capacity to each Committee. Certain Committees may include other non-voting expert advisory members.</p>	<p>Chancellors are members of only the Committee on Health Services.</p>
<p><b>24.6 Term.</b> Committee Chairs and Vice Chairs may only serve for four consecutive one-year terms.</p>	<p>Only term limit is on Chair of Committee on Governance (two consecutive terms).</p>

Proposed	Current
<p><b>24.10 Committee Charter Approval.</b> Committee Charters and their amendments are made by a majority vote of the Board at a single meeting. Portions related to Subcommittees are approved by the Governance and Compensation Committee; however, approval authority delegated to Subcommittees is approved by the Board.</p>	<p>Only the Committee on Compliance and Audit has a charter. The Board approves amendments to its charter.</p>
<p><b>24.11 Reporting.</b> Standing Committees (and their Subcommittees) must report to the Board on matters upon which they have exercised delegated authority.</p>	<p>Most Standing Committees do not have delegated authority and the Board approves actions.</p>
<p><b>25 Subcommittees.</b> Governance and Compensation Committee approves the formation of a Subcommittee, its charter provisions, and its members. Subcommittees do not expire.</p>	<p>The Board approves the formation of Subcommittees. Subcommittees expire after one year unless affirmatively renewed.</p>
<p><b>25.6 Voting and Quorum.</b> A quorum of a Subcommittee is three Regents.</p>	<p>Five members constitute a quorum.</p>
<p><b>27.1(b) Meetings – Agenda.</b> Agenda is determined by the Chair of the Board in consultation with the President and Chairs of Standing Committees, as appropriate.</p>	<p>Policy is unclear who has ultimate authority.</p>
<p><b>27.1(b) Meetings – Agenda.</b> Any Regent may request that an item be placed on the agenda. The Chair of the Board, in consultation with the President or the Chair of the Standing Committee, determines whether to place the item on the agenda. In the event that the Chair chooses not to put the item on the agenda, a Regent may exercise the right to place on the agenda a vote to determine whether to consider the item; the matter will be considered if a majority of the Board votes in favor of considering it.</p>	<p>Policy 1102 states that a Regent may place any item on the agenda of the Committee of the Whole and may request that an item be placed on a Committee agenda.</p>
<p><b>27.1(j) Matters Failing Committee Vote.</b> Matters that fail in Committee or matters on which a Committee fails to act within 180 days may be brought directly to the Board by a vote of a majority of the Regents present.</p>	<p>Rule is unclear.</p>
<p><b>27.4(j) Joint Committee Meetings.</b> Committees may meet jointly; the vote of each Committee is recorded separately; items approved by any one Standing Committee may be forwarded to the Board.</p>	<p>Current rule assigns matters to a Committee of primary jurisdiction.</p>

Proposed	Current
<b>27.5 Interim Actions.</b> Any item may be considered by interim action at the discretion of the Chair of the Board and Chair of the appropriate Standing Committee. Requires signatures of both Chairs to approve.	Policy requires the signature of either the Board Chair or the Committee Chair; practice is to obtain both. Scope of authority is unclear, but practice is to limit interim action to time-sensitive matters.
<b>31 Chancellors.</b> General statement of Chancellors' authority added to Bylaws.	Chancellors' authority is described in the Standing Orders.
<b>40 Academic Senate.</b> General statement of Senate's authority added to Bylaws.	Senate's authority is described in the Standing Orders.

### *Proposed Project Schedule*

After discussing the proposal, if the Board affirms the conceptual framework, the Chairman of the Board will request that the Secretary and Chief of Staff and General Counsel consult with the Regents, administration, and Academic Senate, revise the draft Bylaws according to the input gathered, and present the new Bylaws and the Standing Committee Charters to the Board at its July meeting for a vote. As part of the same action, the 1969 Bylaws would be rescinded in their entirety. If approved, the new meeting structure would be implemented in September. Staff will continue to gather opinions from subject-matter experts on provisions in the Standing Orders and Regents Policies that should be revised or rescinded either to conform to the new Bylaws or because they are anachronistic or require updating. The Standing Orders and Regents Policies would continue to be in effect during this period of consultation. If there is a conflict between the new Bylaws and provisions of other governing documents, the Bylaws will take precedence. The Standing Orders will be rescinded at a later date, once their provisions have been incorporated into other governing documents and University policies.

The proposed changes are intended to help the Board more efficiently and effectively address challenges faced by the University.

### **ATTACHMENTS**

[Attachment 1: Draft Bylaws](#)

[Attachment 2: Draft Committee Charters](#)