



Governance & Policy Committee

December 2016

December 8, 2016

3:30 p.m. - 4:45 p.m.

East Committee Room, McNamara Alumni Center

GOV - DEC 2016

1. Board of Regents Policy: Board Policy Development - Review
 - Docket Item Summary - Page 3
 - Revised Policy - Page 4
2. Board of Regents Policy: Reservation and Delegation of Authority (Board Authority) - Review
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BOARD OF REGENTS DOCKET ITEM SUMMARY

Governance & Policy

December 8, 2016

AGENDA ITEM: Board of Regents Policy: *Board Policy Development*

Review **Review + Action** **Action** **Discussion**

This is a report required by Board policy.

PRESENTERS: Brian Steeves, Executive Director & Corporate Secretary
Jason Langworthy, Board Associate, Policy & Committees

PURPOSE & KEY POINTS

The purpose of this item is to review proposed amendments to Board of Regents Policy: *Board Policy Development*. The proposed amendments respond to the committee discussion from October 2016 and items identified during the comprehensive review process. The major proposed amendments include:

- Clarifying language on how the Board adopts and amends Board policy.
- Aligning the process for Board action on other University policies in unusual circumstances.
- Codifying the comprehensive review process for Board policies, while making it clear that Board policies can be amended outside of the comprehensive review process.
- The creation of an annual alignment review by the President or delegate.

BACKGROUND INFORMATION

Board of Regents Policy: *Board Policy Development* was comprehensively reviewed in 2009. At that time, amendments were made to provide language and formatting consistent with other Board policies.



UNIVERSITY OF MINNESOTA
BOARD OF REGENTS POLICY

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Board Operations

BOARD POLICY DEVELOPMENT

Adopted: March 8, 1991

Amended: May 12, 1995; October 8, 2004;
March 13, 2009

Supersedes: (see end of policy)

Draft for Review

BOARD POLICY DEVELOPMENT

SECTION I. SCOPE.

This policy defines policies of the Board of Regents (Board), distinguishes them from other University of Minnesota (University) policies, and describes the process through which Board policies are developed, ~~and~~ adopted, ~~and maintained~~.

SECTION II. POLICY TYPES.

Subd. 1. Board Policies. Board policies generally deal with the University as a whole, establishing fundamental principles as a basis and guide for later action. Board policies are intended to be enduring rather than responses to a particular issue. Procedures are occasionally part of Board policies when such procedures bring clarity to the nature of the principle. More often, procedures are developed and refined administratively.

~~Board policies are specifically identified as such when considered and adopted by the Board. Substantive amendments to Board policies also must be adopted by the Board. The Board adopts Board policies and all substantive amendments.~~

Subd. 2. Other University Policies. Other University policies are needed to administer the University and its various units in accordance with state and federal legislation, reasonable administrative practice, and Board policy. While these policies may contain basic principles, they generally include procedures for managing the institution. The scope of other University policies varies. Generally, other University policies are developed, approved, implemented, and modified according to administrative policy.

When unusual circumstances suggest the advisability of Board ~~approval-ratification~~ of other University policies, changes to such policies ~~also~~ shall be submitted to the Board for action. University policies that have been reviewed and acted upon by the Board are noted in Board minutes.

SECTION III. CONFLICTS WITH OTHER UNIVERSITY POLICIES.

If other University policies conflict with Board policy, Board policy takes precedence.

SECTION ~~III~~ IV. CORRECTIONS.

~~Occasionally, minor corrections of Board policies are required if, for example, administrative titles or customary language usages change. When the substance of a policy is not altered, the executive director/secretary of the Board is authorized to make appropriate corrections after review by the Board chair. The executive director and corporate secretary, with consent of the Board chair, may make corrections to Board policies that do not alter the substance of the policy.~~



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Board Operations

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Adopted: March 8, 1991

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March 13, 2009

Supersedes: (see end of policy)

Draft for Review

SECTION IV-V. FORMAT.

Policies presented to the Board for consideration and adoption as Board policy shall include the following:

- (1) principles to guide subsequent action at the University;
- (2) text written in declarative statements; and
- (3) a distinctive format and page design (to be determined by the Board Office) that includes a history of the policy and any amendments.

SECTION VI. REVIEW.

Subd. 1. Comprehensive Review. Board policies shall be comprehensively reviewed every six years. The objective of the comprehensive review is to determine:

- whether the fundamental principles established in the policy still align with the strategic direction and mission of the University;
- if the policy is still needed; and
- if the policy aligns with current practice.

The comprehensive review process shall be developed and executed by the Board Office in alignment with Board of Regents Policy: Board Operations and Agenda Guidelines. For each Board policy, a senior leader liaison shall be identified. The Board Office shall include the results of the annual comprehensive review as a component of the annual Board of Regents Policy Report.

Subd. 2. Amendments to Board Policy. The Board may amend Board policies outside of the comprehensive review process in accordance with Board of Regents Policy: *Board Operations and Agenda Guidelines*.

Subd. 3. General Counsel Review. The Office of the General Counsel shall review all policies for consistent form and legality prior to adoption or amendment by the Board.

Subd. 4. Alignment Review. The president or delegate shall sample and review other University policies for alignment with Board policy and annually report the results of those reviews to the Board.

Supersedes: Regents' Policies Statement dated February 8, 1974; and Authority to Correct Policies dated July 8, 1983.



BOARD OF REGENTS DOCKET ITEM SUMMARY

Governance & Policy

December 8, 2016

AGENDA ITEM: Board of Regents Policy: *Reservation and Delegation of Authority* (Board Authority)

Review **Review + Action** **Action** **Discussion**

This is a report required by Board policy.

PRESENTERS: Brian Steeves, Executive Director & Corporate Secretary
Jason Langworthy, Board Associate, Policy & Committees

PURPOSE & KEY POINTS

The purpose of this item is to review proposed amendments to Board of Regents Policy: *Reservation and Delegation of Authority*. The proposed amendments would repeal Board of Regents Policy: *Board Authority* by integrating it into *Reservation and Delegation of Authority* in the following manner:

- *Board Authority*, Subd. 1 would be added to *Reservation and Delegation of Authority* Article I, new Subd. 4.
- *Board Authority*, Subd. 2 would be added to *Reservation and Delegation of Authority* Article II, Section VI, new Subd. 1.
- *Board Authority*, Subd. 3 is replicated in other Board policies, most prominently in Board of Regents Policy: *Responsibilities of the Board and Individual Regents*, and so would not be added to *Reservation and Delegation of Authority*.

The proposed amendments are a result of a comprehensive review of *Board Authority* and align with the goal of consolidating and streamlining Board policy when possible.

BACKGROUND INFORMATION

Board of Regents Policy: *Board Authority* was comprehensively reviewed in 2009. At that time, amendments were made to provide language and formatting consistent with other Board policies.



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BOARD OF REGENTS POLICY

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Delegation of Authority

RESERVATION AND DELEGATION
OF AUTHORITY

Adopted: April 5, 2001

Amended: July 9, 2004; December 10, 2004; July 9,
2008; February 12, 2010; February 10, 2012; March
1, 2012

Technical Change: December 11, 2013;
March 31, 2016

Supersedes: (see end of policy)

Draft for Review

RESERVATION AND DELEGATION OF AUTHORITY

ARTICLE I

RESERVATION OF AUTHORITY

SECTION I. GENERAL RESERVATIONS OF AUTHORITY.

Subd. 1. The Board of Regents reserves to itself all authority necessary to carry out its legal and fiduciary responsibilities under the University Charter, the Constitution of the State of Minnesota, and the Board of Regents (Board) Bylaws. This reservation specifically includes all authority to enact laws and policies for the governance of the University of Minnesota (University) and to issue Board directives to executive officers and employees. The Board's reserved authority shall be exercised consistent with the University Charter, the Constitution of the State of Minnesota, Board Bylaws, and relevant Board policies.

Subd. 2. The Board reserves to itself authority to ensure constitutional and institutional autonomy, to approve the University's mission and vision, to set the overall direction of the institution, including the adoption of fundamental plans for the educational, financial, and physical development of the University, and to declare a fiscal emergency.

Subd. 3. No authority that the Board reserves to itself in this policy shall be exercised by any other person or body unless expressly authorized by Board policy or directive.

Subd. 4. The authority of the Board resides only with the Board as a whole and not in its individual members, except as the Board itself may have delegated specific authority to one of its members or one of its committees.

Subd. 4.5. The Board reserves to itself authority to approve the use, and revocation of the use, of its corporate name or any abbreviated name, including *University of Minnesota*, by any non-University person or entity, consistent with Board policies. The Board also reserves authority over the removal of the corporate name or any abbreviated name from the name of any University campus, college, school, division, or unit, consistent with Board policies.

Subd. 5.6. The Board reserves to itself authority to approve any commercial transaction or matter not otherwise subject to Board approval if the transaction or matter:

- a) raises unusual questions of public interest or public policy;
- b) has a significant impact on the University's mission; or
- c) has a value greater than \$2 million.



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Delegation of Authority

**RESERVATION AND DELEGATION
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SECTION II. CONDUCT OF BOARD BUSINESS.

The Board reserves to itself authority to establish procedures for the conduct of its business, create committees, set its agenda, require reports from executive officers and employees, hear appeals, and enforce its code of ethics.

SECTION III. ELECTION OF BOARD OFFICERS.

The Board reserves to itself authority to elect and remove Board officers, including the president, chair, vice chair, secretary, and treasurer.

SECTION IV. APPOINTMENT AUTHORITY.

Subd. 1. The Board reserves to itself authority to appoint all individuals and approve any individually negotiated terms of employment for those who serve in each of the following positions:

- (a) Executive Vice President and Provost
- (b) Chancellor
- (c) Senior Vice President for Finance and Operations
- (d) Vice President
- (e) Provost
- (f) General Counsel
- (g) Librarian
- (h) Director of Audits
- (i) Dean
- (j) Athletic Director, Twin Cities campus
- (k) Such other administrative positions as the Board may specify from time to time.

The president shall recommend individuals for appointment to these positions, consistent with Board policies and directives.

Subd. 2. The Board reserves to itself authority to remove University officers as provided in the University Charter. The president (a) may remove the general counsel with Board approval and (b) may remove any other individual appointed under subd. 1 of this section, except the director of audits.

Subd. 3. The Board reserves to itself authority to appoint members of the boards of University-associated foundations, institutes, committees, and other bodies, consistent with Board policies.

SECTION V. ACADEMIC MATTERS.



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Delegation of Authority

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Supersedes: (see end of policy)

Draft for Review

Subd. 1. The Board reserves to itself authority to grant academic degrees, grant faculty indefinite tenure, grant continuous appointments to academic professionals, and award the title faculty emeritus, consistent with Board policies.

Subd. 2. The Board reserves to itself authority to establish, name, and abolish colleges, academic institutes, programs, and courses of study, consistent with Board policies.

Subd. 3. The Board reserves to itself authority to establish tuition and student fees and approve policies and reciprocity agreements related to such matters, consistent with Board policies.

Subd. 4. The Board reserves to itself authority to: (a) establish and review policies relating to the conduct of research and the receipt and accounting of sponsored research funds; (b) require timely reporting to the Board of sponsored research activity; and (c) approve financial support greater than \$250,000 to non-University entities for the commercialization of technology, consistent with Board policies.

Subd. 5. The Board reserves to itself authority to approve educational policies and procedures, in consultation with the president and the faculty governance process, consistent with Board policies. This policy is not intended to alter the relationship between the Board, the University Senate, and the faculties regarding educational policies.

SECTION VI. AWARDS, HONORS, AND NAMINGS.

Subd. 1. The Board reserves to itself authority to establish and bestow awards, honors, and recognition, consistent with Board policies.

Subd. 2. The Board reserves to itself authority to name and revoke names of University buildings and other assets, consistent with Board policies.

SECTION VII. BUDGETARY, FINANCIAL, AND INVESTMENT MATTERS.

Subd. 1. The Board reserves to itself authority to approve the following: annual operating budgets; the central reserves budget and minimum reserve level; and adjustments and amendments, consistent with Board policies. The Board also reserves to itself authority to approve any modifications to the central reserves budget and any expenditures from the central reserves general contingency account, consistent with Board policies.

Subd. 2. The Board reserves to itself authority to approve all requests for operating and capital budget appropriations from the State of Minnesota and positive or negative adjustments to the budget caused by a 1% or more change in total appropriations within a fiscal year.

Subd. 3. The Board reserves to itself authority to establish investment objectives, approve asset allocation guidelines, and approve the payout rate for endowment distributions.



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Draft for Review

Subd. 4. The Board reserves to itself authority to authorize issuance and retirement of debt and to engage debt advisers and/or underwriters, consistent with Board policies.

Subd. 5. The Board reserves to itself authority to accept gifts for the benefit of the University, consistent with Board policies.

Subd. 6. The Board reserves to itself authority to approve individual purchases of goods and services with a value greater than \$1,000,000, consistent with Board policies.

SECTION VIII. PROPERTY, FACILITIES, AND CAPITAL BUDGETS.

Subd. 1. The Board reserves to itself authority to approve the purchase or sale of real property with a value greater than \$1,250,000 or larger than ten (10) acres, consistent with Board policies.

Subd. 2. The Board reserves to itself authority to approve leases of real property, easements, and other interests in real property if the initial term amount to be paid by or to the University exceeds \$1,250,000, consistent with Board policies.

Subd. 3. The Board reserves to itself authority to exercise the power of eminent domain to acquire land for University purposes.

Subd. 4. The Board reserves to itself authority to (a) exercise property owner rights regarding the designation, decommissioning, or demolition of historic resources; and (b) take final action on all environmental reviews of historic resources initiated by the administration for which the University is the responsible governmental unit, consistent with Board policies and applicable state and federal laws.

Subd. 5. The Board reserves to itself authority to approve campus master plans and amendments thereto.

Subd. 6. The Board reserves to itself authority to approve multi-year capital plans consisting of projects with a value greater than \$1,000,000.

Subd. 7. The Board reserves to itself authority to approve annual capital budgets consisting of projects with a value greater than \$500,000.

Subd. 8. The Board reserves to itself authority to approve capital budget amendments to approved projects and new projects when the amendment has a value greater than \$500,000.

Subd. 9. The Board reserves to itself authority to approve project schematic plans for (a) interior renovations with a value greater than \$5,000,000; (b) projects with a value greater than \$2,000,000 that have an exterior visual impact; (c) projects that vary from adopted campus master plans or that have a significant visual impact; and (d) projects noted during the annual review of the capital budget.



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Subd. 10. The Board reserves to itself authority for a subsequent review of approved capital budget projects with a value greater than \$5,000,000 prior to the award of construction contracts.

SECTION IX. LEGAL MATTERS.

The Board reserves to itself, or to one of its committees, authority to direct the president or the general counsel to settle any legal claim or initiate or appeal a lawsuit or administrative proceeding, consistent with Board policies.

SECTION X. AUDIT FUNCTION.

The Board reserves to itself authority to adopt policies regulating the audit function; approve selection of external auditors and the director of audits; and evaluate the performance of the independent auditor, and, jointly with the president, the performance of the internal audit function.

SECTION XI. EMPLOYMENT AND LABOR RELATIONS.

Subd. 1. The Board reserves to itself authority to approve all contracts and other agreements with the exclusive collective bargaining representatives of its employees.

Subd. 2. The Board reserves to itself authority to approve civil service rules and annual pay and benefit plans for University employees.

Subd. 3. The Board reserves to itself authority to establish or discontinue retirement plans for University faculty and staff. For those plans sponsored by the University and governed by formal plan documents, the Board reserves to itself authority to approve amendments to those plans that significantly affect the cost structure of the plans. An amendment is considered to significantly affect the cost structure of the plan if the change causes a cost impact of more than \$250,000.

Subd. 4. The Board reserves to itself authority to review individually negotiated employee severance agreements of unusual importance or significance.

SECTION XII. ASSOCIATED ORGANIZATIONS.

The Board reserves to itself authority to approve the legal structure and scope of any relationship between the University and any associated organization, non-profit corporation, foundation, institute, or similar entity that substantially relies upon University resources or personnel to carry out its mission.



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Delegation of Authority

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Technical Change: December 11, 2013;
March 31, 2016

Supersedes: (see end of policy)

Draft for Review

ARTICLE II

DELEGATION OF AUTHORITY

SECTION I. DELEGATION OF AUTHORITY TO THE PRESIDENT.

The Board delegates to the president authority to act as chief executive officer of the University, with such general executive management and administrative authority over the University as is reasonable and necessary to carry out the policies and directives of the Board, subject to the limitations noted in Article II, Section II below.

SECTION II. LIMITATIONS UPON PRESIDENTIAL AUTHORITY.

The authority delegated to the president is limited by the following:

- (a) the provisions of the University Charter and the Constitution of the State of Minnesota;
- (b) the provisions of Board Bylaws;
- (c) the provisions of Board policies and directives, including specifically Article I of this policy; and
- (d) the directive that the president shall notify the Board of any matter not otherwise addressed in this section that significantly involves the authority and role of the Board, including its fiduciary, oversight, and public accountability responsibilities.

SECTION III. DELEGATION OF AUTHORITY BY THE PRESIDENT.

Subd. 1. Unless otherwise restricted by specific Board policies or directives, the president shall be responsible for delegating general executive management and administrative authority to other executive officers and employees as necessary and prudent, including authority to execute contracts and other legal documents. The president may condition, limit, or revoke any presidential authority so delegated.

Subd. 2. All delegations and revocations under this section shall be in writing, name the position to whom such authority is delegated, describe the scope and limitations of such authority, and prescribe the extent to which such authority may be further sub-delegated.

Subd. 3. All delegations and revocations under this section shall be reviewed as to form, legality, and consistency by the general counsel.

Subd. 4. Annually, the president shall report to the Board significant changes to the delegations.

SECTION IV. DELEGATION OF AUTHORITY TO THE CHAIR AND VICE CHAIR.



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Supersedes: (see end of policy)

Draft for Review

The chair and vice chair of the Board shall have such authority as is authorized by Board Bylaws and policies and is customarily exercised by such officers of a corporation. The chair shall have authority to execute any and all instruments and documents on behalf of the Board.

**SECTION V. DELEGATION OF AUTHORITY TO THE BOARD SECRETARY,
TREASURER, GENERAL COUNSEL, AND DIRECTOR OF AUDITS.**

The secretary, treasurer, general counsel, and director of audits shall have authority to perform such duties for the Board as provided by Board Bylaws, policies, and directives.

The secretary shall have authority to execute such instruments and documents that would customarily devolve upon a corporate officer and are usual to that office.

The secretary and the general counsel shall have authority to accept legal service on behalf of the University.

SECTION VI. CONFORMANCE WITH THIS POLICY.

Subd. 1. Any request or demand by a Board member for action must be consistent with the written policies, rules, and regulations of the Board and the University.

Subd. 2. No executive officer or employee of the University shall have any authority to take any action or make any representation on behalf of the University beyond the scope of, or materially inconsistent with, the authority delegated to such executive officer or employee as provided in this policy.

Subd. 3. The secretary and the general counsel each shall have the duty to inform the Board of any existing or proposed Board policy or directive that is inconsistent with or alters the delegations of authority as provided in this policy.

SUPERSEDES: General Delegations Adopted October 17, 1980, Last Amended October 10, 1997.



UNIVERSITY OF MINNESOTA
BOARD OF REGENTS POLICY

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Board Operations

BOARD AUTHORITY

Adopted: September 9, 1988

Amended: October 10, 2003; March 13, 2009

BOARD AUTHORITY

Subd. 1. Authority. The authority of the Board of Regents (Board) resides only with the Board as a whole and not in its individual members, except as the Board itself may have delegated specific authority to one of its members or one of its committees.

Subd. 2. Compliance. Any request or demand by a Board member for action must be consistent with the written policies, rules, and regulations of the Board and the University.

Subd. 3. University Management. Members of the Board should be vigilant to ensure they are fully informed about the effectiveness of management at the University. Specific recommendations about University operations shall be presented in public meetings of the Board or its committees.



BOARD OF REGENTS DOCKET ITEM SUMMARY

Governance & Policy

December 8, 2016

AGENDA ITEM: Orientation of New Regents

Review

Review + Action

Action

Discussion

This is a report required by Board policy.

PRESENTERS: Brian Steeves, Executive Director & Corporate Secretary
Sarah Dirksen, Deputy Director

PURPOSE & KEY POINTS

The purpose of this item is to gather committee input regarding the goals and priorities for orientation of new Regents in preparation for the 2017 elections.

New Regent orientation is coordinated by the Office of the Board of Regents (OBR). Four seats are up for election in 2017.

Typically, the Legislature meets in joint convention to elect Regents in early March. (The last five regular-cycle elections took place on March 4, March 6, February 21, March 9, and March 8.) If that pattern holds, about 2-3 weeks would be available for initial orientation between election and the March 23-24 Board meeting at UMD.

Orientation Goals

Regent orientation has typically focused (to varying degrees) on ensuring that new Regents quickly begin to acquire knowledge and understanding of the Board's governance work; the work of the University and its leaders; and the day-to-day work of being a Regent.

Orientation strives to ensure that new Regents:

1. Work within the unique constraints of a public governing body, including the Open Meeting Law, the Data Practices Act, and conflict of interest policies.
2. Understand the Board's oversight role, including the difference between management and governance.
3. Understand their individual role and responsibilities as a board member.
4. Begin building foundational knowledge of major University units, activities, and significant issues facing the institution.

5. Possess a growing foundation of relationships necessary to govern the University of Minnesota system effectively.
6. Understand the structure, functioning and culture of the Board in support of its ongoing development as a cohesive, high-performing group.
7. Experience how OBR helps support and advance governance.

Perennial Considerations

Given the compressed timeframe between the Regent election and the March Board meeting, as well as individual variation in how new Regents learn best, OBR must balance multiple considerations as it builds an orientation process:

1. Avoid information overload while ...
 - ... supporting the demand for deep, broad knowledge acquired as quickly as possible;
 - ... preparing new Regents to serve in an official capacity within a few days or weeks of election;
 - ... setting up even preliminary or social meetings with a dozen or more senior administrative leaders, the rest of the Board, faculty leaders, and other key people; and
 - ... ensuring each new Regent quickly understands the Open Meeting Law and the Data Practices Act, and can use all required technology to access all necessary documents.
2. Be sensitive to constraints on new Regents' time. New Regents typically have other significant demands already on their calendars beyond the Board meetings and activities.
3. Balance varying backgrounds, experience, and interest levels of new Regents against the need to ensure comparable readiness.
4. Support the desire for a tailored, individual, flexible experience while building a cohort of new colleagues who can support one another and grow together

Discussion Questions

1. How should orientation be prioritized given the almost-certain time crunch between election and the first formal meeting? What should new Regents learn about first?
2. How might the process balance receiving a lot of information in a short period of time to maximize context and keep up with the pace of Board work, against having sessions paced more slowly over time to encourage depth and maximize retention?
3. When more than one new Regent is elected, how should the process weigh a consistent orientation experience and cohort building, versus more nimble, individualized paths of learning?
4. What are possibilities for the role of current Regents in orientation?

BACKGROUND INFORMATION

Orientation of new Regents was last updated in preparation for the March 2015 election of Regents. Regents were asked to provide input into the design of that year's orientation plan.

Discussion Questions

- How should orientation be prioritized given the almost-certain time crunch between election and the March meeting? What should new Regents learn about first?
- How might the process balance receiving lots of information in a short period of time to maximize context and keep up with the pace of Board work, against having sessions paced more slowly over time to encourage depth and maximize retention?
- When more than one new Regent is elected, how should the process weigh a consistent orientation experience and cohort building, versus a more nimble, individualized path of learning?
- What are possibilities for the role of current Regents in orientation?

