



# Governance & Policy Committee

December 2019

December 13, 2019

8:00 a.m.

Boardroom, McNamara Alumni Center

## GOV - DEC 2019

### 1. Board of Regents Policy: Code of Conduct for Members of the Board of Regents - Review

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# BOARD OF REGENTS DOCKET ITEM SUMMARY

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**Governance & Policy**

**December 13, 2019**

**AGENDA ITEM:** Board of Regents Policy: *Code of Conduct for Members of the Board of Regents*

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

*This is a report required by Board policy.*

**PRESENTERS:** Brian Steeves, Executive Director & Corporate Secretary

## **PURPOSE & KEY POINTS**

The purpose of this item is to review Board of Regents Policy: *Code of Conduct for Members of the Board of Regents*.

The proposed policy integrates current language from three existing Board policies: [Code of Ethics for Members of the Board of Regents](#), [Responsibilities of the Board and Individual Regents](#), and [Gifts Received and Given by Regents and University Officials](#) (provisions directly related to Regents only). The proposed policy also adds new language based on feedback received from the committee over the course of the four discussions held on this topic since October 2018.

A resolution outlining the specific actions is in the docket. In addition to the actions related to Board policy, the resolution includes a technical correction to the *Bylaws of the Board of Regents* that will update the title of the proposed policy.

## **Outline of Proposed Policy by Section**

### *Section I. Scope*

- Modifies current language from the *Code of Ethics*.

### *Section II. Guiding Principles*

- Restates current principles from the *Code of Ethics* and *Responsibilities of the Board and Individual Regents*.

### *Section III. Fiduciary Duties*

- New section based on committee input. Defines the fiduciary duties of care, loyalty, and obedience.

### *Section IV. Definitions*

- Subd. 1. Business Associated with a Regent: Includes current language from Section V, Subd. 4 of the *Code of Ethics*.
- Subd. 2. Employment-Related Conflict of Interest: Includes current language from Section V, Subd. 6 of the *Code of Ethics* with the addition of "or those of a family member."

- Subd. 3. Family Member: Includes current language from Section V, Subd. 3 of the *Code of Ethics* with the addition of “dependent” and “during their term as a Regent.”
- Subd. 4. Financial Interest: Includes current language from Section V, Subd. 5 of the *Code of Ethics*.
- Subd. 5. Gift: Includes modified current language from Section II, Subd. 1 of *Gifts Received and Given by Regents and University Officials*. New language includes “Regent or a Regent’s family member if there is reason to believe it was given because of their official status as a Regent.”
- Subd. 6. Recusal: Modified language from Section V, Subd. 1 of the *Code of Ethics*. Language reordered for clarity.

#### *Section V. Financial Disclosure Requirements*

- Current language from Section II of the *Code of Ethics* with new requirement that financial disclosure be completed by new Regents within 30 days of their election.

#### *Section VI. Gifts*

- Subd. 1. Government Officials: Includes modified language from Section III, Subd. 1 of *Gifts Received and Given by Regents and University Officials*. Provides additional clarity regarding what may be given to government officials and their staff.
- Subd. 2. Financial or Personal Interests: Includes modified language from Section III, Subd. 2 of *Gifts Received and Given by Regents and University Officials*. Simplifies current language, with additional detail moved to the “Regents may accept” section.
- The “Regents may accept the following” includes modified language from Section II, Subd. 1 of *Gifts Received and Given by Regents and University Officials*. New language establishes \$75 as a reasonable value in letter d; uses “family member” instead of “relative” in letter e; simplifies language to “University events” in letter i; eliminates “local transportation” since it is already covered by letter h; moves “political contributions” to the preceding subdivision; and adds a new letter j.

#### *Section VII. Expenses*

- Includes current language from Section IV of the *Code of Ethics*.

#### *Section VIII. Conflicts of Interest*

- First paragraph of the section includes new language based on committee input and aligned with the new fiduciary language in section III. It also includes current language from Section V, Subd. 2 of the *Code of Ethics* defining financial conflict of interest.
- Subd. 1. Procedure for Addressing Conflicts of Interest:
  - Disclosure of Conflicts: Includes modified language Section VI, Subs. 2 and 3 of the *Code of Ethics*. Adds guidance if the Board chair is the subject of the conflict of interest.
  - Guidance on Recusal and Impact on Deliberations and Voting: Includes modified language from Section VI, Subs. 1, 2, and 5 of the *Code of Ethics*.
  - Resolution of Disputed Conflicts of Interest: Includes modified language from Section VI, Subd. 5 of the *Code of Ethics*. Provides additional guidance on the role of the three-Regent group in determining whether a conflict of interest exists and creating a management plan as needed. Further refines the Board’s role if a Regent

disputes the determination of the group. Adds language on composition of the three-Regent group if the Board chair and vice chair are both subjects of the dispute.

- Subd. 2. University Employment: Includes modified language from Section VIII of the *Code of Ethics*. Adds policy reference for student employment.
- Subd. 3. University Enrollment: New language that provides guidance on how University enrollment for a Regent or Regent's family member does not constitute a conflict of interest.
- Subd. 4. Elected or Appointed Public Office: New language that requires candidacy for elected office or the election or appointment to public office to be treated like a conflict of interest.

#### *Section X. Communications Outside of Meetings*

- New language based on Subd. 2, m of *Responsibilities of the Board and Individual Regents* and committee input. Aligns with the fiduciary duties section (section III). Continues to follow the standard that the president is the primary spokesperson for the University. Clarifies that when necessary, the Board chair or delegate will speak for the Board on actions taken by the Board. Provides additional guidance for Regents when sharing their personal views on University matters.

#### *Section XI. Information Requests*

- New language based on Subd. 2, d of *Responsibilities of the Board and Individual Regents*. Codifies current practice and explicitly creates the ability for the president to seek guidance from the Board on the scope and priority of any information request.

#### *Section XII. Violations and Breaches*

- New language based on committee discussions. Outlines a process to consider alleged violations by a Regent of both state and federal law as well as breaches of University policy.

#### *Section XIII. Annual Review*

- Current language from Section IX of the *Code of Ethics* with the addition of the "executive director and corporate secretary" assisting with the annual review.

### **BACKGROUND INFORMATION**

The committee discussed this topic and related matters at the following meetings:

- October 2018, *Ethics and Responsibilities of the Board and Regents*  
December 2018, *Ethics and Responsibilities of the Board and Regents, Part 2*

During these meetings, the committee considered the role of a code of ethics and how it interacts with the role and responsibilities of the Board and individual Regents.

- June 2019, *Update on Potential Changes to Board of Regents Policy: Code of Ethics for Members of the Board of Regents*

At this meeting, the committee – newly constituted with the four Regents elected in May – built on its previous discussions and focused on the additional topics raised in October and December.

At the conclusion of the meeting, it was decided that the Office of the Board of Regents would survey committee members on their preferences regarding each open issue. Those

preferences were to be used to draft redline policy language for review and action in fall 2019. In consultation with committee leadership, it was determined that the committee would instead address the open issues at its October 2019 meeting, with review of policy language in December 2019 and action anticipated for February 2020.

- October 2019, *Discussion of Open Policy Issues Related to Board Conduct*

This meeting focused on reviewing areas of consensus based on the committee's previous discussions. The item engaged the committee in additional conversation covering five open issues: communicating with the media, remedies for breaches, information requests, running for partisan elective office, and conflict of interest related to a Regent's family member.



**REGENTS OF THE UNIVERSITY OF MINNESOTA**

**RESOLUTION RELATED TO**

**Adoption of Board of Regents Policy:  
*Code of Conduct for Members of the Board of Regents***

**BE IT RESOLVED** that the Board of Regents hereby approves the following actions as presented to the Governance & Policy Committee:

- A. Supersede Board of Regents Policy: *Code of Ethics for Members of the Board of Regents* and adopt Board of Regents Policy: *Code of Conduct for Members of the Board of Regents*.
- B. Amend Article VIII, Section A of the *Bylaws of the Board of Regents*.
- C. Amend and retitle Board of Regents Policy: *Gifts Received and Given by Regents and University Officials*.
- D. Repeal Board of Regents Policy: *Responsibilities of the Board and Individual Regents*

**BE IT FURTHER RESOLVED** that the Board of Regents directs the executive director and corporate secretary to make any other necessary corrections to Board policy.



## **BOARD OF REGENTS POLICY:**

### ***Code of Conduct for Members of the Board of Regents***

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#### **SECTION I. SCOPE.**

This policy governs the conduct and activities of members of the Board of Regents (Board) of the University of Minnesota (University). In addition to this policy, the Board further defines its role and authority, the conduct and activities of Regents, and guiding principles for the University through the *Bylaws of the Board of Regents* and other Board policies and actions.

#### **SECTION II. GUIDING PRINCIPLES.**

The Board, created under Minnesota Territorial Laws of 1851 by the passage of the University Charter and perpetuated by the Constitution of the State of Minnesota, is the governing body of the University. Exercising its constitutional autonomy, the Board defines a vision and mission for the University and ensures that the University fulfills its land grant legacy.

Regents shall adhere to the highest ethical standards. Regents bring to their task varied backgrounds and expertise, but are expected to put aside personal interests and keep the welfare of the entire University, not just a particular constituency, at all times paramount.

#### **SECTION III. FIDUCIARY DUTIES.**

When articulating and carrying out the University's mission, Regents must act in good faith in accordance with the constitution and laws of the land, the *Bylaws of the Board of Regents*, and the policies, rules, and regulations of the University. Regents are expected to actively participate in the work of the Board, speak forthrightly at Board meetings, and adhere to the following fiduciary duties:

- *Duty of Care*: The duty of care generally requires a Regent to carry out their responsibilities in good faith; with the diligence and skill that the Regent believes to be in the best interests of the University; and with the care an ordinarily prudent person in a like position would reasonably exercise under similar circumstances.
- *Duty of Loyalty*: Regents have an absolute duty of undivided loyalty to the University as a whole and its mission. In keeping the interests of the University paramount, Regents must avoid using their position for monetary or personal gain. When Regents sit on boards of associated organizations, as defined by Board of Regents Policy: *Associated Organizations* and outlined in Board of Regents Policy: *Appointments to Organizations and Boards*, their ultimate duty of loyalty is to the University.

- *Duty of Obedience*: The duty of obedience requires fidelity to law and mission. Regents have a duty to abide by the constitution and laws of the land, and to establish and abide by the bylaws, rules, policies and regulations of the University. The Board has an obligation to ensure compliance with the law and adherence to mission by Regents, the president, those delegated authority by the Board, and the University as a whole.

**SECTION IV. DEFINITIONS.**

**Subd. 1. Business Associated with a Regent.**

*Business associated with a Regent* shall mean an organization, corporation, partnership, proprietorship, or other entity if either the Regent or a member of the Regent's family:

- (a) receives compensation in excess of \$500 in any month or has any contractual right to future income in excess of \$6,000 per year;
- (b) serves as an officer, director, partner, or employee; or
- (c) holds a financial interest valued in excess of \$10,000.

For purposes of this policy, compensation shall not include reimbursement for expenses, any non-employment related funds from a governmental source, investment or savings income, retirement or insurance benefits, or alimony.

**Subd. 2. Employment-Related Conflict of Interest.**

An *employment-related conflict of interest* exists whenever a Regent's employment relationships, or those of a family member, may impair independence of judgment.

**Subd. 3. Family Member.**

*Family member* shall mean a spouse, parent, sibling, child, domestic partner, dependent, or any person residing in the Regent's household during their term as a Regent.

**Subd. 4. Financial Interest.**

*Financial interest* shall mean a foreseeable, non-trivial financial effect that may result from Board action.

**Subd. 5. Gift.**

*Gift* shall mean any gratuity, favor, accommodation, discount, entertainment, hospitality, loan, forbearance, services, training, transportation, lodging, meals, or other item that constitutes a personal benefit to a Regent or a Regent's family member if there is reason to believe it was given because of their official status as a Regent.

**Subd. 6. Recusal.**

*Recusal* shall mean noninvolvement of a Regent in discussion of, or decision regarding, the relevant matter. Recusal is intended to ensure that the Regent's independence of judgment is not compromised, that the public's confidence in the integrity of the Board is preserved, and that the University's public mission is protected.

**SECTION V. FINANCIAL DISCLOSURE REQUIREMENTS.**

Within 30 days of election to office and annually on March 31 thereafter, Regents shall file a financial disclosure statement with the executive director and corporate secretary in a form consistent with the financial disclosure required for senior University officials. The general counsel shall review the disclosure statements for compliance with this policy.

**SECTION VI. GIFTS.**

**Subd. 1. Government Officials.**

No Regent shall give a gift or solicit another to give a gift to any government official or any member of that official's staff. However, neither political contributions to a candidate, political committee, organization, or party as permitted by state and federal law nor tickets to University events given by a Regent to a government official or any member of that official's staff constitute a gift under this policy.

**Subd. 2. Financial or Personal Interests.**

No Regent shall solicit a gift from any person or organization or accept such a gift if there is reason to believe it was given because of the Regent's official status.

Regents may accept the following:

- (a) anything for which the Regent pays the market value;
- (b) anything the Regent receives but returns or gives to the University without substantial personal use or benefit;
- (c) food or refreshments of reasonable value in the normal course of University business;
- (d) plaques, trophies, mementos, hats, or similar items of reasonable value not to exceed \$75;
- (e) any gift from a family member, provided that the Regent has no reason to believe that the gift was provided because of the Regent's official University position;
- (f) informational materials in the form of books, articles, other written materials, audio/video media, and other similar materials;
- (g) anything received because a Regent participated in a group, a majority of whose members are not Regents and who customarily may receive an equivalent item;
- (h) anything paid for or reimbursed by the University pursuant to University policy;
- (i) tickets to University events; and
- (j) anything received in their individual capacity due to employment or activities not connected to their official status as a Regent.

The Office of the Board of Regents (OBR) shall maintain guidelines regarding Regent use of tickets to University events.

**SECTION VII. EXPENSES.**

Regents serve without compensation. They are entitled to reimbursement for expenses incurred while representing the University in an official capacity in accordance with guidelines maintained by OBR.

**SECTION VIII. CONFLICTS OF INTEREST.**

A conflict of interest exists when a Regent has a material financial or other personal interest inconsistent with their duty of loyalty, or when a Regent, a Regent's family member, or a business associated with a Regent or a Regent's family member has an actual or potential financial or other personal interest in a matter pending before the Board that may impair a Regent's independence of judgment or objectivity in the discharge of their responsibilities on behalf of the University, including in a transaction or other action taken by the University. Regents must be aware of the appearance of a conflict of interest and the potential for such conflicts. Accordingly, the conflict of interest provisions of this policy shall be interpreted and applied to best serve the interests of the University and its mission. For purposes of this policy, "conflict of interest" or "conflict" shall mean an actual or potential conflict of interest.

**Subd. 1. Procedure for Addressing Conflicts of Interest.**

(a) *Disclosure of Conflicts.*

Conflicts of interest shall be reported to the Board chair by the Regent who is the subject of the conflict, and may be reported to the Board chair by any other person. A Regent with a conflict of interest question is encouraged to consult with the general counsel who, if requested, shall provide a written opinion on whether a conflict exists under this policy. A copy of any such opinion shall be provided to the Board chair. The Board chair may also request an opinion from the general counsel on any conflict of interest question. If the Board chair is the subject of the conflict of interest, the Board vice chair shall receive or may request an opinion from the general counsel.

(b) *Guidance on Recusal and Impact on Deliberations and Voting.*

Regents who declare or have been determined to have a conflict of interest by the three-person group set forth in Subd. 1(c) of this section, or who have received an opinion from the general counsel that a conflict exists shall, as a general rule, recuse themselves regarding the matter determined to be the conflict. However, in some cases, full disclosure and consideration of the facts may indicate that a conflict is insubstantial and that the Regent may participate fully or in part in discussions, deliberations, or voting on the matter. If doubt remains regarding the need for recusal after full disclosure and consideration to address a conflict, the Regent must recuse on the matter. Recusal because of a conflict does not reflect adversely on the recusing Regent.

Disclosure of a conflict of interest and recusal shall be noted in Board minutes.

(c) *Resolution of Disputed Conflicts of Interest.*

Any disputed issues relating to the existence of a conflict of interest or the plan to address a conflict shall be referred to a group of three Regents consisting of the Board chair, the Board vice chair, and one other Regent appointed by the Board chair. This group shall determine whether a conflict exists. In addition, if this group determines that a conflict exists, they shall determine whether the conflict requires recusal or determine a plan for the Regent to address the conflict. The group shall report its determinations to the Board. In the event that the Regent disputes the determinations of this group, the Board, in its discretion, may take up the matter and make the final determination.

If the Board chair is the subject of the conflict dispute, the Board vice chair shall appoint another Regent to take the chair's place on the group of three Regents. If the Board vice chair is the subject of the dispute, the Board chair shall appoint another Regent to take the vice chair's place. If both the Board chair and vice chair are the subjects of the dispute, the chair of the Governance & Policy Committee shall appoint other Regents to take their place.

**Subd. 2. University Employment.**

Notwithstanding any other provision of this policy, a Regent shall not serve as a compensated University employee, except that the Regent elected to hold the seat designated for a student may hold student employment at the University as defined by Board of Regents Policy: *Employee Group Definitions*, Section V, Subds. 5 and 6.

**Subd. 3. University Enrollment.**

Enrollment by a Regent or Regent's family member in a course or academic program at the University, whether degree or non-degree seeking, does not constitute a conflict of interest or financial conflict of interest for the Regent.

**Subd. 4. Elected or Appointed Public Office.**

Upon filing to become a candidate for any elected public office other than Regent within the federal, state, or local government, the Regent shall inform the Board and consult with the general counsel to evaluate whether any conflicts of interest may arise from such candidacy. If requested by the Regent or Board chair, the general counsel shall provide a written opinion on whether a conflict exists under this policy. If the opinion of the general counsel is that a conflict exists under this policy, then the procedure set forth in Subd. 1(b) and (c) of this section shall be followed.

If a Regent is elected or appointed to any public office other than Regent within the federal, state, or local government, the Regent shall inform the Board and consult with the general counsel to evaluate whether any conflicts of interest may arise from holding such a position. If requested by the Regent or Board chair, the general counsel shall provide a written opinion on whether a conflict exists under this policy. If the opinion of the general counsel is that a conflict exists, then the procedure set forth in Subd. 1(b) and (c) of this section shall be followed. If a conflict exists, either the Board shall approve a plan for addressing the conflict or the Regent shall resign from the Board.

**SECTION X. COMMUNICATION OUTSIDE OF MEETINGS.**

The president is the primary spokesperson for the University. When necessary, the Board chair or delegate will speak for the Board on actions taken by the Board. While all Regents have the right to share their individual views on University matters, as fiduciaries, Regents should be aware that the tone and substance of their words reflect on the University and could have legal or other consequences. When sharing their individual views on University matters, Regents shall clarify that they are not speaking for the Board.

**SECTION XI. INFORMATION REQUESTS.**

Regents are encouraged to be fully informed about the University. Specific requests for information by a Regent shall be made through OBR. OBR will work with the president or delegate to ensure the timely fulfillment of those requests. The president may seek guidance from the Board on the scope and priority of any request.

**SECTION XII. VIOLATIONS AND BREACHES.**

Review of an alleged violation by a Regent of state or federal law or an alleged breach of this policy or any other University policy shall be initiated when seven Regents sign a written complaint describing the allegations and deliver it to the Board chair or the vice chair if the complaint is about the chair. Upon receipt of the written complaint, the Board chair shall call a special meeting to be held within 30 calendar days for the Board to hear the complaint. At the start of the special meeting, the Board shall adopt a resolution establishing its process to consider the written complaint, which shall include the right of the Regent in question to address the Board. If necessary, the Board may act to impose sanctions on the Regent as it deems appropriate.

**SECTION XIII. ANNUAL REVIEW.**

At its annual meeting, the Board, with assistance of the general counsel and the executive director and corporate secretary, shall publicly review the requirements and procedures of this policy.

# Excerpt from the *Bylaws of the Board of Regents*

## DRAFT for Review

### Section G. Minutes of the Board of Regents Meetings

Approved minutes of the proceedings of the Board of Regents shall be kept by the Secretary, who shall cause them to be preserved and accessible to the members of the Board of Regents, members of the University community, and the public. All lengthy reports shall be included in the docket materials and referred to in the minutes. The minutes shall reflect the votes cast in Board of Regents meetings and in committee meetings on matters recommended to the Board of Regents for action. The Secretary shall ensure that the minutes, docket materials, and all video recordings are preserved by University Archives.

### Section H. Telephone or Video Meetings

The Chair may decide that regular or special meetings of the Board or any of its committees and regular meetings may be held by telephone or video conferencing. For purposes of such a meeting, all Regents who are connected by telephone or video conference shall count toward a quorum and may participate and vote. The Secretary shall give reasonable public notice of such meetings and shall make arrangements for the public to hear the discussion, unless it is a non-public meeting.

## ARTICLE VII. DELEGATION OF AUTHORITY

### Section A. President, Executive Officers, and Administrators

The Board of Regents may authorize appropriate executive officers to act on behalf of the University, consistent with Board of Regents Policy: *Reservation and Delegation of Authority* and other Board policies. As the highest authority that can act on behalf of the University, the Board of Regents shall be the University General Counsel's ultimate client, unless the Board directs otherwise.

### Section B. President, University Senate, and Faculties

All matters relating to the education and administrative affairs of the University, consistent with actions or policies of the Regents of the University of Minnesota heretofore or hereafter taken or established and including those incident to the management of the student body are, for the purpose of effectuating the government of the University under and by the Regents, committed to the President, the University Senate, and the several faculties, as provided in the Senate Constitution and as amended from time to time.

## ARTICLE VIII. MISCELLANEOUS PROVISIONS

### Section A. Code of ~~Ethics-Conduct~~ and Conflict of Interest

The members of the Board of Regents shall be guided by the provisions set forth in Board of Regents Policy: *Code of ~~Ethics-Conduct~~ for Members of the Board of Regents*.

### Section B. Reimbursement for Expenses

Regents may be reimbursed for expenses incurred in the performance of official business in accord with the University's policy and procedures.

### Section C. Board Operations in Emergencies

In the event a quorum of the Board, as defined in Article VI, Section C, is unable to discharge the powers and duties of their office due to death or incapacity and it becomes necessary to convene a meeting of the Board of Regents to ensure the continuity of University Operations, the remaining Regents may convene a meeting and act as follows:

1. Designate an acting chair if the chair and vice chair are unable to serve.
2. Designate an acting president if the president is unable to serve.



## BOARD OF REGENTS POLICY: *Gifts Received and Given by ~~Regents and~~ University Officials*

### **SECTION I. SCOPE.**

This policy regulates gifts received and given by ~~members of the Board of Regents (Board) and~~ University of Minnesota (University) officials. Such regulation is essential in order to ensure that:

- (1) ~~Regents and~~ University officials do not influence inappropriately, or appear to influence inappropriately, decisions by federal, state, and local government officials; and
- (2) ~~Regents and~~ University officials are not influenced inappropriately, or do not appear to be influenced inappropriately, in performing their duties.

This policy is not intended to prohibit ~~Regents or~~ University officials from soliciting gifts on behalf of the University for University purposes.

### **SECTION II. SCOPE POLICY STATEMENT.**

#### **Subd. 1. Constitutional Authority.**

The Board has considered analogous federal and state laws and policies and has concluded that the University should have its own policy governing gifts, consistent with the Board's exclusive constitutional authority to establish rules for the governance and management of the University.

#### **Subd. 2. Application.**

This policy shall be interpreted and applied with sound practical judgment in a manner that best serves the overall interests of the University, not any individual.

### **SECTION II. DEFINITIONS.**

#### **Subd. 1. Gift.**

*Gift* shall mean any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, services, training, transportation, lodging, meals, or other item that constitutes a personal benefit to the recipient. It does not include any gift made to the University or its foundations for University purposes.

*Gift* also shall mean a gift to a family member of a ~~Regent or~~ University official or a gift to any other individual based on that individual's relationship with a ~~Regent or~~ University official (1) if it is given with

the knowledge and acquiescence of the ~~Regent or~~ University official and (2) if the ~~Regent or~~ University official has reason to believe the gift was given because of the recipient's University status.

The term *gift* shall not include the following:

- (a) anything for which the individual recipient pays the market value;
- (b) anything the individual receives but returns or gives to the University without substantial personal use or benefit;
- (c) food or refreshments of reasonable value in the normal course of University business;
- (d) plaques, trophies, mementos, hats, or similar items of reasonable value;
- (e) any gift from a relative, provided that the ~~Regent or~~ University official has no reason to believe that the gift was provided because of the recipient's official University position;
- (f) informational materials in the form of books, articles, other written materials, audio/video media, and other similar materials;
- (g) anything received because a ~~Regent or~~ University official participated in a group, a majority of whose members are not ~~Regents or~~ University officials and who customarily may receive an equivalent item;
- (h) anything paid for or reimbursed by the University pursuant to University policy;
- (i) tickets to University athletic or cultural events;
- (j) local transportation; and
- (k) political contributions to any candidate, political committee, organization, or party as permitted by state and federal law, provided that no such contributions may be made from University funds or resources.

**Subd. 2. Financial Interest.**

*Financial interest* shall mean an actual or foreseeable nontrivial financial benefit resulting from a decision.

**Subd. 3. University Official.**

*University official* shall mean:

- (a) chancellors and vice chancellors;
- (b) deans;
- (c) division I athletic directors;
- (d) general counsel;
- (e) president and president's chief of staff;
- (f) provosts, vice provosts, associate vice provosts, and assistant vice provosts;
- (g) executive vice president and provost;
- (h) senior vice presidents, vice presidents, associate vice presidents, and assistant vice presidents;
- (i) University directors and campus-wide directors; and
- (j) University employees officially engaged in legislative lobbying on behalf of the University.

**~~SECTION III. GIFTS TO AND FROM REGENTS.~~**

**~~Subd. 1. Government Officials.~~**

~~No Regent shall give a gift or solicit another to give a gift to any federal, state, or local government officials or to any member of their staff.~~

**~~Subd. 2. Financial or Personal interests.~~**

~~No Regent shall solicit or accept a gift from any person or organization having a financial or other direct personal interest in a decision before the Board, provided, however, that a Regent may receive food, lodging, or other benefits resulting from the Regent's outside business or employment activities or other outside activities not connected to their duties as a Regent if (a) such food, lodging, or other benefits have not been offered or enhanced because of the Regent's official status and (b) such benefits customarily are provided to others in similar circumstances.~~

**SECTION IV. GIFTS TO AND FROM UNIVERSITY OFFICIALS.**

**Subd. 1. Government Officials.**

No University official shall give a gift or solicit another to give a gift to any federal, state, or local government official or to any member of their staff.

**Subd. 2. Financial or Personal Interests.**

No University official or other University employee authorized to make a decision involving the purchase of goods or services on behalf of the University shall solicit or accept a gift from any person or organization having a financial or other direct personal interest in such decision.

**REVISION HISTORY**

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**Adopted:** October 10, 1997

**Amended:** March 11, 2005; October 10, 2014

**Technical Correction:** March 31, 2016

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# BOARD OF REGENTS DOCKET ITEM SUMMARY

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**Governance & Policy**

**December 13, 2019**

**AGENDA ITEM:** Policy Framework for Renamings

**Review**

**Review + Action**

**Action**

**Discussion**

*This is a report required by Board policy.*

**PRESENTERS:** President Joan T.A. Gabel

## **PURPOSE & KEY POINTS**

This item continues the Board’s renamings discussion, which began at its October meeting. President Gabel is in the process of developing recommended revisions to Board of Regents Policy: *Namings* as directed by the Board at its April 26, 2019 special meeting.

The purpose of this discussion is for committee to consider and provide feedback regarding four renaming frameworks, including three peer examples (Yale University 2016; University of Michigan 2017; and Stanford University 2018) as well as the University of Minnesota’s *Final Report of the President’s and Provost’s Advisory Committee on University History* (2018). The following are overviews of the principles and procedures identified within the four renaming examples.

### **Yale University**

In August 2016, a Committee to Establish Principles on Renaming was established to articulate principles to guide how Yale University makes decisions to remove “a historical name from a building or other prominent structure or space on campus.” In December 2016, [The Report of the Committee to Establish Principles on Renaming](#) was approved by Yale’s trustees and president. The report offered a review of the name Calhoun College (named after John C. Calhoun), its namesake’s views on race and slavery, and Calhoun’s connection to the University and beyond. The committee recommended the following presumptions and principles for university decision making when considering a name change for a building, structure, or significant space on campus:

#### *Presumptions*

- There is a strong presumption against renaming a building on the basis of the values associated with its namesake. Such a renaming should be considered only in exceptional circumstances.
- The presumption against renaming is at its strongest when a building has been named for someone who made major contributions to the University.
- When a name is altered, there are obligations on the University to ensure that the removal does not have the effect of erasing history.

## *Principles*

- Is a principal legacy of the namesake fundamentally at odds with the mission of the university?
- Was the relevant principal legacy significantly contested in the time and place in which the namesake lived?
- Did the university, at the time of a naming, honor a namesake for reasons that are fundamentally at odds with the mission of the university?

Does a building whose namesake has a principal legacy fundamentally at odds with the university's mission, or which was named for reasons fundamentally at odds with the university's mission, play a substantial role in forming community at the university?

## **University of Michigan**

In spring 2016, the [President's Advisory Committee on University History](#) was charged with reviewing the criteria upon which and the process for which questions raised about historical names on and in buildings might be considered at the University of Michigan. The committee recommended a set of principles to guide namings:

- **Pedagogy:** As an institution of learning, University of Michigan's naming process and outcome should always be an opportunity for learning – learning about the past, about path-breaking contributions by the faculty, about the distinguished lives of alumni, about extraordinary acts of generosity or important contributions to administrative leadership.
- **Interpretation:** When a name is selected for a building or portion of a building, the obligation to explain and interpret that name does not end at the conclusion of the naming ceremony. Indeed, it is not only good stewardship on behalf of those after whom spaces are named, but also an affirmative obligation of the pedagogical principle to continuously interpret – and if necessary reinterpret – the names and the stories behind the names of university facilities. ... In some cases, changing a name may be less important than providing adequate interpretation of it.
- **Due diligence:** In approaching a naming decision, the university owes it to itself and to succeeding generations to do substantial research into the name, and that this research should be focused on the public record.
- **Commitment:** In general, the university community makes a significant commitment to an individual or a family when it names a space after a person. This applies both to spaces named for donors and for others. In some cases involving donors, this naming is regulated by a binding legal agreement.
- **Revision:** The exciting and important thing about the study of history is that both the materials for and the understanding of the past are constantly changing. At a research university, historical scholars must lead the way in producing these new historical discoveries and interpretations. If these new understandings, from time to time, produce controversy over space names, that is not an unnatural thing.
- **Historical and institutional context:** It is easy to blame those in the past for lacking the knowledge, wisdom and values that we seem to possess. ... An institution of knowledge must leave room for an essential truth: The search for new knowledge through research is messy.
- **Consistency:** There have been more than 16,000 faculty members in the history of the university; many more staff members, 14 presidents. Why some are honored with space names and others are not is a major question about our past. ... Space names also tend to reflect the early composition of the university: an all-male student body until 1870 and an overwhelmingly male faculty until the mid-20th century.

- **Contemporary effect:** Honorifics given at one time can have significantly different effects on community members at another and these, too, are worthy of consideration.

The committee noted the list of principles was not exhaustive; other principles could be proposed or discovered in the future. The process allows any member of the university community to submit a request to the Office of the President to review the name of an officially named space. The president may refer the proposal to the President's Advisory Committee on University History to determine whether a review should proceed and make recommendations for how that review should occur. The president decides whether to proceed and in what manner. Ultimately, building naming decisions, including changes, rest with Michigan's elected Board of Regents.

## Stanford University

In January 2018, an [Advisory Committee on Renaming Principles](#) was appointed to draft recommendations for how Stanford University approaches the process of reconsidering the name of a building or site, including the principles involved, procedure to be followed, and factors to be considered. The recommendations of the committee were accepted in March 2018. The principles included considerations such as:

- The harm caused by retaining the name.
- The harm caused by renaming.
- Behavior especially deserving of honor.
- Centrality of the person's offensive behavior to his or her life as a whole.
- Relation of the historic figure to the university.
- Harmful impact of the honoree's behavior.
- Community identification with the feature.
- Strength and clarity of the historical evidence.
- The university's prior consideration of the issue.
- Possibilities for mitigation.

The process for reconsidering names of campus features at Stanford begins with the president, either on the president's own initiative or in response to requests submitted by members of the Stanford community.

## University of Minnesota

In September 2017, the President's and Provost's Advisory Committee on University History was established to help guide the University community's thinking about the ways in which it shapes and is shaped by its institutional history. The [Final Report of the President's and Provost's Advisory Committee on University History](#) was completed in May 2018. The report describes and recommends five guiding principles to guide naming, renaming, and removing names of buildings, spaces, and significant University assets.

- **Change:** Change in our campus community occurs continuously as students, faculty and staff advance in their studies and as physical spaces, including buildings, are erected, remodeled and dismantled. Indeed, our own understanding and interpretation of campus history can also change over time. We should not be incapacitated by the idea and actuality of change including considering renaming long-standing building names. Carefully considered changes can be made on campus and yet the University still maintains its history, culture, values and traditions. Changes are sometimes needed to preserve our core values.

- **Diversity:** Throughout the history of the University of Minnesota, substantial and positive contributions have been made by many unique individuals from a variety of backgrounds. Therefore, as befits a public, land grant university, the diversity of Minnesotans should be a prominent consideration in the process of naming and renaming buildings and significant University assets.
- **Preservation:** It is incumbent upon us today to acknowledge the full, living history that formed this University community. History can be used to both illuminate and obscure our shared experiences. It is our task to make room in our story for those voices held silent in the shadows of the past and to make certain our future conversations include everyone. Thus, before a decision is made to rename or remove a name, care must be taken that the process does not erase critical, even controversial, historical moments, persons or places since erasure is anathema to the principles of a liberal education. Changing the name of a building, space, or university asset does not and should not mean erasure. The process to name or rename or remove a name should be considered part of the pedagogical mission of the University.
- **Exceptionality:** The renaming of a building named to honor an individual's contribution to the University is a serious matter and must be undertaken with great care. Only in exceptional instances, when the values reflected in the current name are in opposition to the values embraced by the University, should renaming or removing a name take place. As stated by our colleagues at the University of Michigan, "It behooves us to understand that it is impossible to hold someone accountable for failing to share our contemporary ideas and values. Instead, the question must be what ideas, values, and actions were possible in a particular historical context." Our colleagues at Yale University note, "Historical names are a source of knowledge. Tradition often carries wisdom that is not immediately apparent to the current generation; no generation stands alone at the end of history with perfect moral hindsight. ... A presumption of continuity in campus names helps ensure that the University does not elide the moral complexity often associated with the lives of those who make outsized impressions on the world." We do anticipate, however, there will be 18 exceptional instances in which renaming is appropriate to reflect a new understanding or awareness regarding a namesake and the principal legacy of the namesake that conflicts fundamentally with the University's core values.
- **Deliberation:** Consideration of naming and renaming is a complicated issue lacking a universal formula or checklist. Each naming or renaming must be considered on its own via a careful, informed, inclusive and deliberative process.

The report also recommended a series of procedural and policy recommendations, including to:

- Establish a permanent Advisory Committee on University History (ACUH) to consider renaming and name removal issues, and the possibilities of future, more diverse naming; and to advance the ongoing public discussion and dissemination of knowledge about University history;
- Provide students and members of the public to nominate individuals for honorary namings and to propose name changes or removal;
- Provide a ready database of names to promote a broad representation of the University's history and values in future naming opportunities, including a new pre-naming proposal process;
- Amend Board of Regents Policy: *Namings* so that the process of naming, renaming or revoking the naming of University buildings after past presidents and chancellors follows the same review path as that of other honorary namings;
- Ensure that all inquiries into building name changes, including name removal or renaming, consist of an informed review of the history of the naming, the major legacy of the individual or individuals and rationales for and against changing the naming; and

- Ensure the naming, name removal, or renaming of any building or significant University asset be accompanied by a public display outlining the history of the naming, including the individual's major achievements and impact on the University, and an open and candid discussion of the rationale for name removal or renaming (a similar process should occur when a decision is made to retain a name).

## **BACKGROUND INFORMATION**

The Board of Regents previously discussed renamings at the following meetings:

- October 2019: *Plan for Advancing Revisions to Naming Policy, Governance & Policy Committee*
- April 2019: *Historical Building Namings - Action, Board of Regents*
- March 2019: *Historical Building Namings: Report of the Task Force and Review of President Kaler's Preliminary Recommendations – Review, Board of Regents*

# Renamings Policy Framework

President Joan T.A. Gabel

December 13, 2019



UNIVERSITY OF MINNESOTA

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# RENAMING EXAMPLES:

- **Yale University**
- **University of Michigan**
- **Stanford University**
- **University of Minnesota**



# FRAMING CONSIDERATIONS:

1) Principles of Inquiry

2) Shared Governance

- Voice

3) Research





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