



Governance & Policy Committee

February 2020

February 14, 2020

8:00 a.m.

Boardroom, McNamara Alumni Center

GOV - FEB 2020

1. Board of Regents Policy: Code of Conduct for Members of the Board of Regents – Action

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BOARD OF REGENTS DOCKET ITEM SUMMARY

Governance & Policy

February 13, 2020

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 act on Board of Regents Policy: *Code of Conduct for Members of the Board of Regents*.

Changes to the policy draft since the December meeting are detailed in this docket item summary. 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 specific actions is in the docket. In addition to actions related to Board policy, the resolution includes a technical correction to the *Bylaws of the Board of Regents* that updates the title of the proposed policy.

The docket also includes an optional resolution for a potential *Bylaws* amendment requiring a supermajority vote of the Board to impose sanctions on a Regent. This docket item summary provides more information on this resolution.

Changes to Policy Draft Since December Meeting

In response to the committee’s review of the proposed policy in December, the following changes have been made to the draft included in the docket for action:

- Language has been added to the duty of loyalty (Section III) regarding a Regent serving on the board of an associated organization. The general counsel will be required to inform the associated organization that the Regent’s ultimate duty is to the University, and to work with the organization to codify that understanding in their governing documents.
- A sentence has been added to the duty of obedience (Section III) stating that Regents have a duty to maintain the confidentiality of University matters when required to do so by law and all applicable privileges.
- Section IV, Subd. 1 now clarifies that service on the board of an associated organization is not a business associated with a Regent.

- “Non-trivial” has been removed from Section IV, Subd. 4.
- Language in Section IX has been modified so that only the chair, or the vice chair in the chair’s absence, may speak on the Board’s behalf. The language also adds that the Board chair, when necessary, may speak on behalf of the University, even on items not acted upon by the Board.
- Other technical edits to clarify language and readability.

Potential Supermajority Amendment to the *Bylaws of the Board of Regents*

During the committee’s review in December, interest was expressed around adding a requirement that a supermajority vote of the Board be required to impose sanctions on a Regent. Article VI, Section D of the *Bylaws of the Board of Regents* states that “[t]he decision of the majority voting on the question shall prevail.” The *Bylaws* supersede Board policy, which means that if the committee wishes to add a supermajority requirement, it will also need to amend the *Bylaws*.

An optional resolution is included in the docket materials that would first suspend the 30 calendar days notification requirement for amendments to the *Bylaws* and then amend Article VI, Section D as follows:

Section D. Voting the Question

The decision of the majority voting on the question shall prevail, with the exception of a vote to impose sanctions on a Regent, which shall require a two-thirds vote of the Board of Regents. The Secretary shall record the vote of each Regent. A Regent may abstain from voting. Voting by proxy or by mail shall not be permitted.

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 in 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.

- December 2019, *Board of Regents Policy: Code of Conduct for Members of the Board of Regents – Review*



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

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 (Bylaws)* 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*, 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 voting or non-voting members, 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 and not to the associated organization. The general counsel, on behalf of the Board, shall inform the associated organization of the Regent's ultimate duty of loyalty to the University and work with the associated organization to codify their understanding of this duty in their governing documents and agreements to ensure that when a Regent is acting on behalf of the University, the Regent is not in breach of their duty of loyalty to the associated organization.

- *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. Regents also have a duty to preserve the confidentiality of University matters as required by law and all applicable privileges.

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:

- service 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*, does not constitute a business associated with a Regent; and
- 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 currently residing in the Regent's household.

Subd. 4. Financial Interest.

Financial interest shall mean a foreseeable 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 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 within the federal, state, or local government, other than Regent, 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 within the federal, state, or local government, other than Regent, 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, and the Regent disputes this opinion, 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 IX. COMMUNICATION OUTSIDE OF MEETINGS.

The president is the primary spokesperson for the University. The Board chair, or Board vice chair in the chair's absence, is the spokesperson for the Board and may represent the position of the Board once it has acted. When necessary, the Board chair, or Board vice chair in the chair's absence, will speak on behalf of the University. While all Regents have the right to share their individual views on University matters, as fiduciaries, Regents should be aware that the timing, 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 X. 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 XI. 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 XII. 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

Adopted: October 10, 1997

Amended: March 11, 2005; October 10, 2014

Technical Correction: March 31, 2016



REGENTS OF THE UNIVERSITY OF MINNESOTA

RESOLUTION RELATED TO

Amendment to the Bylaws of the Board of Regents

WHEREAS, Article IX of the *Bylaws of the Board of Regents (Bylaws)* requires that any proposed amendments be sent to the Board of Regents (Board) 30 calendar days in advance of the date when the amendments will be considered; and

WHEREAS, the Governance & Policy Committee reviewed the proposed adoption of Board of Regents Policy: *Code of Conduct for Members of the Board of Regents* on December 13, 2019, during which interest was expressed in adding a requirement that any vote to impose sanctions on a Regent require a supermajority for approval; and

WHEREAS, Article VI, Section D of the *Bylaws* states that “[t]he decision of the majority voting on the question shall prevail.”

NOW, THEREFORE, BE IT RESOLVED that the Board hereby suspends pursuant to Article X of the *Bylaws* the 30 calendar days notification requirement of Article IX of the *Bylaws*.

BE IT FURTHER RESOLVED that the Board approves the proposed amendment to Article VI, Section D of the *Bylaws* as follows:

Section D. Voting the Question

The decision of the majority voting on the question shall prevail, with the exception of a vote to impose sanctions on a Regent, which shall require a two-thirds vote of the Board of Regents. The Secretary shall record the vote of each Regent. A Regent may abstain from voting. Voting by proxy or by mail shall not be permitted.

BE IT FURTHER RESOLVED that the Board further amends Section XI of Board of Regents Policy: *Code of Conduct for Members of the Board of Regents* as follows:

If necessary, a supermajority of the Board, as required by the Bylaws, may act to impose sanctions on the Regent as it deems appropriate.



BOARD OF REGENTS DOCKET ITEM SUMMARY

Governance & Policy

February 14, 2020

AGENDA ITEM: Board of Regents Policy: *Namings*

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

This is a report required by Board policy.

PRESENTERS: President Joan T.A. Gabel

PURPOSE & KEY POINTS

The purpose of this item is to review proposed amendments to Board of Regents Policy: *Namings*. The proposed amendments will establish a framework and process for the consideration of a renaming or revocation of a naming granted by the University. The proposed amendments:

- Add a new guiding principle to Section II.
- Modify current language related to renamings and revocation in Section VII.
- Define a process for submission and initial review by the president of a request for a renaming or revocation.
- Establish guiding principles and factors to be used by an appointed committee when reviewing a request.

The guiding principles incorporate ideas and language from the University’s Final Report of the President’s and Provost’s Advisory Committee on University History (Coleman Committee). Other portions of the proposed amendments, including the factors and criteria for a well-considered request, are adapted from the “Principles and Procedures for Renaming Buildings and Other Features at Stanford University.”

BACKGROUND INFORMATION

At the December 2019 meeting, the committee discussed 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 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

National Context

Across the country, universities are evaluating and renaming buildings and monuments that honor historical figures with controversial pasts and legacies.

- In 2010, the University of Texas Board of Regents changed the name of Simkins Residence Hall after research concluded that the building was named after an active Ku Klux Klan member. In recent years, other statues and buildings honoring people with Klan or white supremacy ties have been changed including at Duke University (2015), the University of North Carolina at Chapel Hill (2015), Georgetown University (2015), and the University of Oregon (2016).
- In 2016, Princeton University decided to retain the name of its Woodrow Wilson School despite Woodrow Wilson's views on race and his support for racial segregation as Princeton's president and as President of the United States. However, Princeton made commitments to tell Wilson's full history and to diversify the names of campus buildings.
- In 2017, Yale University renamed Calhoun College because of John C. Calhoun's legacy of white supremacy and slavery promotion.
- In 2018, the University of Michigan Board of Regents approved requests to rescind and remove names of two of their former presidents for discriminatory views and actions.
- In 2018, the Stanford University Board of Trustees approved the renaming of two campus buildings named for Junipero Serra, a Catholic missionary, whose mission system inflicted great harm and violence on Native Americans.

PRESIDENT'S RECOMMENDATION

The President recommends adoption of proposed amendments to Board of Regents Policy: *Namings*.



BOARD OF REGENTS POLICY: *Namings*

SECTION I. SCOPE.

The policy governs the namings of significant University of Minnesota (University) assets, including ~~(1)~~ honorary namings (Section IV); ~~(2)~~ namings associated with gifts or sponsorships (Section V); ~~and (3)~~ other namings (Section VI); and renamings and revocation (Section VII).

SECTION II. GUIDING PRINCIPLES.

- (a) Naming for an individual or organization is an honor that forges a close link between the individual or organization and the University. As such, it is critically important that the integrity, history, behavior, and reputation of the named individual or organization be consistent with the academic mission and values of the University.
- ~~(b)~~ The University shall ensure that namings preserve the long-standing traditions, values, culture, and prestige of the University.
- ~~(b)~~~~(c)~~ Consistent with the University's mission and these guiding principles, the University benefits from examining its own long-established values and traditions and will consider questions raised about namings granted by this policy.
- ~~(e)~~~~(d)~~ Namings as part of sponsorship agreements shall be consistent with the University's reputation and core values and the highest standards for business and financial integrity.
- ~~(d)~~~~(e)~~ The University shall maintain a consistent, coordinated, and transparent approach to naming that reflects the University's consultative and collaborative decision-making process, ensures the proper review and approval of all naming proposals, and preserves confidentiality consistent with applicable law.
- ~~(e)~~~~(f)~~ The University shall ensure coordination between: (1) the institution and recognized University foundations; and (2) fund-raising and academic units in order to maintain alignment of institutional and development priorities and compliance with University policies and procedures.
- ~~(f)~~~~(g)~~ Significant University assets may not be named in honor of current or former members of the Board of Regents (Board) except as provided in Section V of this policy. Such gift related namings may not include the title "Regent" or "Regent Emeritus."

SECTION III. DEFINITIONS.

Subd. 1. Significant University Assets.

Significant University assets shall mean tangible or intangible resources of the University that are of significant prominence or visibility. Assets include but are not limited to the following: colleges and

schools; University-level academic programs, centers, and institutes; and buildings, significant portions of buildings, grounds, physical structures, streets, and areas.

Subd. 2. Donor.

Donor shall mean a person or entity transferring money or other property to the University or one of its recognized foundations in connection with a naming, whether or not the donor is the subject of the naming.

Subd. 3. Gift.

Gift shall mean a transfer of, or promise to transfer, money or other property to the University without reciprocal benefit to the donor.

Subd. 4. Sponsor.

Sponsor shall mean a person or entity entering into a sponsorship.

Subd. 5. Sponsorship.

Sponsorship shall mean a contract involving the provision of funds or other support with the expectation of public acknowledgement or promotional opportunity.

Subd. 6. Street.

Street shall mean any private road or driveway as defined in the *Regents of the University of Minnesota Traffic Regulations Ordinances*.

SECTION IV. HONORARY NAMINGS

Significant University assets may be named in honor of an individual or a non-University entity to recognize service, dedication, or meritorious contributions to the institution when the naming is not associated with a gift or sponsorship.

Subd. 1. Naming of Colleges, Schools, and University-Level Academic Programs.

These assets may be named in honor of an individual or non-University entity.

- (a) **Approval.** The Board of Regents (Board) reserves to itself authority to name, rename, or revoke the honorary naming of these assets.
- (b) **Management.** The Senate All-University Honors Committee (Honors Committee) manages the process and submits recommendations to the president, who recommends namings to the Board.

Subd. 2. Naming of Departmental Chairs.

A departmental chair may be named in honor of an individual.

- (a) **Approval.** The president or delegate approves this naming, with concurrence of departmental chairs.
- (b) **Management.** The relevant unit manages this naming process.

Subd. 3. Naming of Buildings and Other Significant University Assets.

Buildings and other significant University assets may be named in honor of an individual or non-University entity. A building may be named for a person still living who has left the service of the University.

- (a) **Approval.** The Board of Regents (Board) reserves to itself authority to name, rename, or revoke the honorary naming of buildings and other significant University assets.

- (b) **Management.** The Honors Committee manages the process and submits recommendations to the president, who recommends namings to the Board.

Subd. 4. Naming of Buildings for Past Presidents.

The University may name buildings for past presidents. Consideration of a naming shall take place after a president's association with the University has ended, usually between one and five years following service.

- (a) **Approval.** The Board of Regents (Board) reserves to itself authority to name, rename, or revoke the naming of buildings for past presidents.
- (b) **Management.** The chair of the Board convenes a committee with representatives from the Board, the Faculty Consultative Committee, and the Honors Committee to develop a recommendation. This recommendation shall be forwarded to the Honors Committee for information prior to submission to the Board for final action.

Subd. 5. Naming of Separate Building Parts.

Separate building parts that are not significant University assets may be named in honor of an individual or a non-University entity. An independent committee of the relevant academic or administrative leadership and building occupants shall manage and approve the namings.

SECTION V. NAMINGS ASSOCIATED WITH GIFTS OR SPONSORSHIPS.

University assets may be named for individuals or non-University entities to recognize significant gifts or as part of a sponsorship. Colleges, schools, academic programs, centers, or institutes are not usually named for commercial entities; if the name of a commercial entity is to be considered, Board approval is required.

Subd. 1. Naming of Endowed Lectureships, Fellowships, Professorships, and Chairs.

The University seeks and welcomes private financial support for endowed lectureships, fellowships, professorships, and chairs, which provide scholars a continuous and reliable source of support to pursue their research and teaching. Awards established in these categories shall typically carry the name of the donor, of a person or institution designated by the donor, or of a person in whose name the University seeks funds to endow the award.

- (a) **Approval.** The president or delegate approves the naming of a lectureship, fellowship, professorship, or chair.
- (b) **Management.** The relevant department or college establishes and manages the process for lectureships, fellowships, professorships, and chairs. Proposals to establish one of these institutional awards shall specify the conditions of the naming, the activities to be supported by the gift or sponsorship, and the amount of the endowment or the annual level of funding.
- (c) **Candidates.** The University shall have sole authority to appoint the holders of lectureships, fellowships, and chairs.
- (d) **Provisions.**
 - (1) **Restrictions on the Use of Title.** Lectureships, fellowships, professorships, and chairs shall not include such terms as *University*, *distinguished*, or the title *Regents Professor*. These titles are conferred only by the Board.
 - (2) **Level of Endowment.**
 - (i) **Endowment for Chairs.** A permanent chair may be established when \$2,000,000 or more has been placed in an endowment that provides in perpetuity the annual funds needed for support. Alternatively, a chair also may

be established if a minimum of \$200,000 per year of expendable funds is made available for at least ten years.

- (ii) **Endowment for Professorships.** The combination of salary and endowment shall be sufficient to provide salary and fringe benefits for the recipient, staff support, travel, and other expenses. Professorships require a minimum of \$1,000,000 in permanent endowment or a minimum of \$100,000 per year of expendable funds for ten years.
- (iii) **Endowment for Faculty Fellows.** Faculty fellows require a minimum of \$500,000 in permanent endowment or a minimum of \$50,000 per year of expendable funds for ten years.
- (iv) **Other Named Endowments and Awards.** The titles of lectureships, scholarships, or other named awards may be used for gifts of less than \$500,000 in permanent endowment or \$50,000 a year for ten years. A minimum award in this category would provide at least \$1,000 per year for ten years.

Subd. 2. Naming of Colleges, Schools, Buildings, and Other Significant University Assets.

These assets may be named to recognize gifts or as part of a sponsorship. No commitment regarding namings associated with gifts or sponsorships shall be made to the donor or sponsor prior to the applicable University review and approval.

- (a) **Consultation.** Prior to entering into substantive discussions or making an oral or written commitment regarding a naming to a donor or sponsor, any individual acting on behalf of the University or a recognized University foundation shall (1) inform the donor or sponsor of this policy; (2) consult with the president to determine whether the naming opportunity requires the review and approval process outlined below; and (3) consult with the recognized University foundations as appropriate to determine whether the proposed naming meets the guidelines of the recognized University foundations.
- (b) **Review.** A naming committee, with two representatives from the Honors Committee, representatives from the recognized University foundations, and relevant academic and administrative officers, shall review naming proposals and submit recommendations to the president. The president recommends namings to the Board.
- (c) **Approval.** The Board reserves to itself authority to name, rename, or revoke the naming of colleges, schools, buildings, and other significant University assets.
- (d) **Management.** For gifts, the recognized University foundations shall maintain guidelines to implement this policy in order to ensure consistency in the size of gifts relative to the significance of the asset being named. For sponsorships, the president or delegate shall ensure the consistency of the size of the sponsorship agreement relative to the overall significance of the asset to be named.

Subd. 3. Other Namings Associated with Gifts or Sponsorships.

University assets not covered by the definition in Section III., Subd. 1., may be named to recognize gifts or as part of a sponsorship.

- (a) **Approval.** The president or delegate shall approve the naming of these assets.
- (b) **Management.** Recognized University foundations shall manage the process for the naming of these assets and maintain guidelines and criteria for these namings.

SECTION VI. OTHER NAMINGS.

This section shall govern the naming of significant University assets when the name is not in honor of an individual or non-University entity and the naming is not associated with a gift or sponsorship.

Subd. 1. Naming of Colleges and Schools.

A college or school may be named to reflect the relevant academic discipline.

- (a) **Approval.** The Board reserves to itself authority to name, rename, or revoke the naming of colleges and schools.
- (b) **Management.** The president or delegate recommends namings of colleges and schools to the Board.

Subd. 2. Naming of Buildings, Significant Portions of Buildings, Grounds, Physical Structures, Areas, or Streets.

These assets may be named to describe the academic or administrative purpose of the asset or to reflect a symbolic meaning appropriate for the asset.

- (a) **Approval.** The Board reserves to itself authority to name, rename, or revoke the naming of buildings, significant portions of buildings, grounds, physical structures, areas, or streets.
- (b) **Management.** The Honors Committee manages the process for the naming of buildings, significant portions or buildings, grounds, physical structures, areas, or streets and submits recommendations to the president. The president recommends namings to the Board.
- (c) **Working Titles.** The president or delegate may provide a working title for buildings, significant portions of buildings, grounds, physical structures, areas, or streets during planning and construction and prior to official naming by the Board.

SECTION VII. RENAMINGS AND REVOCATION.¹

~~Subd. 1. Renamings.~~

~~The University reserves the right to rename any named asset of the University. Renamings shall be consistent with the review and approval process for namings.~~

~~Subd. 2. Revocation.~~

~~The University reserves the right to revoke a naming if for any reason it presents risk or harm to the reputation of the University, or if the intent of a gift or the terms of a sponsorship associated with the naming cannot be fulfilled. For all namings requiring Board approval, the Board reserves the right to revoke them. Other namings may be revoked by the president or delegate.~~

~~Subd. 1. Renaming or Revoking a Naming.~~

~~The University reserves the right to rename or revoke a naming if for any reason it is inconsistent with the University's mission, jeopardizes the integrity of the University, presents risk or harm to the reputation of the University, or if the intent of a gift or the terms of a sponsorship associated with the naming cannot be fulfilled. For all namings requiring Board approval, the Board reserves to itself authority to rename or revoke a naming, except that the Board delegates authority to the president to revoke a naming granted by the Board under Section V, subd. 2 of this policy if the intent of the gift or the terms of the sponsorship associated with a naming cannot be fulfilled by the donor or sponsor.~~

¹ Several portions of this section are adapted or drawn from the "Principles and Procedures for Renaming Buildings and Other Features at Stanford University"

Other namings not reserved to the Board may be renamed or revoked by the president or delegate consistent with the approval process for the specific naming as described in this policy.

Subd. 2. Request for Renaming or Revocation.

The president shall consider a renaming or revocation of a naming at the request of the Board. The president may also consider a renaming or revocation of a naming in response to a well-considered request submitted by an individual(s) or at the president's own initiative. Anonymous proposals shall not be considered. A well-considered request shall include:

- the specific behavior(s) or course(s) of conduct by the individual(s) after whom a feature is named that violates or is inconsistent with the University's mission, jeopardizes the integrity of the University, or presents risk or harm to the reputation of the University;
- the sources and strength of the information of that behavior;
- the nature, depth, and extent of the harm that the continued use of the name may inflict on the University;
- how renaming comports with the principles described in this policy.

Upon receipt of the request, the president may make further inquiries to its submitters before making an initial determination whether the request should proceed. If the request proceeds, the president shall appoint a committee to examine and research it.

Subd. 3. Review of Request.

A review of a request for renaming or revocation of a naming by the appointed committee shall be guided by an informed review of the history of the naming and the major legacy of the individual(s), in alignment with the principles and factors described in subds. 4 and 5 of this section. The University, the committee, and those involved in evaluating the request, shall adhere to the standards of inquiry and discourse appropriate for an institution of higher education.

As a part of the review, the committee shall invite comments from all interested members of the University community, including those who were impacted by the behavior in question or their heirs and the subject of the naming or their heirs. The committee should take care that the inquiry itself does not exacerbate the harms that are being considered. Where helpful, the committee should take full advantage of the University's vast expertise in examining the request.

Subd. 4. Guiding Principles for Review.

The committee shall adhere to the following guiding principles, equally weighted, during their review:

- **Community and belonging:** As articulated in Board policy, the University is committed to fostering a welcoming community that values accessibility, equity, diversity, and dignity in people and ideas.
- **Preservation:** The University acknowledges the full, living history that formed it. Before a decision is made to rename or revoke a naming, care shall be taken that the process includes broad conversation; does not erase historical moments, persons or places; and makes room for voices held silent in the past.
- **Exceptionality:** The renaming or revocation of a naming to honor contributions to the University is a serious matter and should be undertaken only in exceptional instances, when the values reflected in the current name are in opposition to the values embraced by the University.
- **Deliberation:** Each request for consideration of a renaming or revocation of a naming shall be considered on its own through a careful, informed, inclusive, and deliberative process.

- **Change:** Change across the University occurs continuously and the understanding and interpretation of campus history can also change over time. Carefully considered changes can be made on campus while maintaining the University's history, culture, values, and traditions.

The Board adopts the following factors, equally weighted, for consideration by the committee:

- **The harm caused by retaining the name, and the harmful impact of the individual(s)'s behavior.** The critical question is whether the individual(s)'s behavior compromises the University's mission, including both its commitment to intellectual integrity and its commitment to diversity and inclusion of all members of the University community. The case for renaming is strongest when the repugnant behavior of an individual(s) for whom a feature is named has a significant negative effect on the University's mission. Thus, the case for renaming is stronger to the extent that retaining a name creates an environment that impairs the ability of students, faculty, or staff of a particular gender, sexual orientation, race, religion, national origin, or other characteristic protected by federal law or University policy to participate fully and effectively in the University's mission.
- **The centrality of the person's offensive behavior to their life as a whole.** The individual(s)'s offensive behavior should be considered within the context of their overall life and work.
- **Relation to University history.** The case for renaming is weaker when the individual(s) has had an important role in the University's history, and stronger when the individual(s) lack a significant connection to the university.
- **Strength and clarity of the historical evidence.** The case for renaming is strongest when there is clear and unambiguous evidence of the wrongful behavior by the individual(s) and is weakest when the evidence is scant or ambiguous.
- **The University's prior consideration of the issues.** The case for renaming is stronger when the offensive conduct came to light after the naming, or where the issue was not the subject of prior deliberation, or when new information is presented that was not available during a prior consideration, including from perspectives that were previously unheard. The case for renaming is weaker when the University addressed the behavior at the time of the naming and nonetheless decided to honor the person, or when the University has already considered and rejected a prior request for renaming and the renewed request contains no new information. The original decision deserves some degree of respect if the decision makers considered the competing interests, but not if they made the decision in ignorance of relevant facts, or if they did not address the questionable behavior at the time of the naming.
- **Impact on the University's diversity, equity, and inclusion goals.** In considering whether to retain or eliminate a name, the committee should consider how the advancement of the University's diversity, equity, and inclusion goals are relevant in these matters.
- **Possibilities for mitigation.** In preparing their report, the committee may consider options that include, but are not limited to, the renaming or retaining of a building name or feature as part of its review.

The president may include other factors for the committee to consider based on the specific circumstances of the request. The president shall report those additional factors to the Board.

Subd. 5. Report of the Committee.

The committee shall submit a written report to the president that summarizes the request with attribution, details how the guiding principles and factors were applied to the request, and describes the committee's findings. The president may ask the committee for additional information and analysis if needed.

Subd. 6. Board Action.

The president shall submit the committee's report and the president's recommendation, including plans for contextualization, to the Board for action.

SECTION VIII. IMPLEMENTATION.

Subd. 1. Legal Review.

All gift agreements or contracts involving a naming are subject to this policy and must be reviewed by the Office of the General Counsel prior to approval.

Subd. 2. Administration.

The president or delegate shall establish and maintain administrative policies and procedures to implement this policy.

REVISION HISTORY

Adopted: June 11, 2010

Amended: December 11, 2015