



Governance & Policy Committee

February 2024

February 9, 2024

8:00 a.m.

Boardroom, McNamara Alumni Center

GOV - FEB 2024

1. Board of Regents Policy: Reservation and Delegation of Authority - Review

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BOARD OF REGENTS DOCKET ITEM SUMMARY

Governance & Policy

February 9, 2024

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

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

This is a report required by Board policy.

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

PURPOSE & KEY POINTS

The purpose of this item is to review proposed amendments to Board of Regents Policy: *Reservation and Delegation of Authority*. The proposed amendments are the result of a comprehensive review of the policy using the principles to guide review developed by the Office of the Board of Regents (included below) and previous discussions by the committee. The amendments focus primarily on the Board’s approval thresholds and are outlined in the docket. Based on the committee’s feedback, the Office of the Board of Regents worked with the administration to draft the proposed amendments.

BACKGROUND INFORMATION

Board of Regents Policy: *Reservation and Delegation of Authority* is a cornerstone policy within the Board’s policy portfolio. It defines on a fundamental level the authorities that are reserved to the Board and the authorities that are delegated to other individuals (e.g. Board officers, president, general counsel). *Reservation and Delegation of Authority* acts as a catalog—indexing the areas where the Board has reserved authority but not how those authorities are implemented. Other Board policies provide those implementation details in alignment with the reserved authority defined in *Reservation and Delegation of Authority*.

The policy was last comprehensively reviewed in 2018. The committee has discussed the policy at both the October and December 2023 meetings.

Principles to Guide Review

- Strengthen public confidence in University decision-making.
- Ensure the Board’s ability to carry out its fiduciary and oversight duties while focusing on consequential items.
- Continue alignment, clarity, and accountability, while avoiding surprises that have the potential to create public relations risks.
- Use a risk-based approach to consider threshold levels.

SUMMARY OF POTENTIAL CHANGES TO BOARD APPROVAL THRESHOLDS

Threshold	Policy Reference	Current Threshold	Proposed Change	Notes
Fundamental Planning Documents	Art. I, Sec. I, Subd. 2.	The Board reserves to itself authority to ensure constitutional and institutional autonomy, to approve the University's mission and vision, to set the overall direction of the institution, including the adoption of fundamental plans for the educational, financial, and physical development of the University, and to declare a fiscal emergency.	Modify "fundamental plans" to "fundamental planning documents" and add after "of the University" the following: ...for the educational, financial, and physical development of the University <u>as defined by Board of Regents Policy: Board Operations and Agenda Guidelines.</u>	The "fundamental plans" described in this subdivision are also articulated in Board of Regents Policy: <i>Board Operations and Agenda Guidelines</i> . This change aligns the two policies and provides a direct reference to them.
Reports to the State of Minnesota	Art. I, Sec. I, Subd. 7	The Board reserves to itself authority to approve and submit any report to the State of Minnesota that impacts the University's autonomy or addresses the performance of the University and/or its major initiatives. All other reports to the State of Minnesota that fall outside these criteria shall be provided to the Board upon submission to the state.	After "fall outside these criteria" add the following: All other reports to the State of Minnesota that fall outside these criteria <u>and report on the University</u> shall be provided to the Board upon submission to the state.	This change would seek to refine the types of reports that are provided to the Board to only those reports about the University. It would exclude reports where members of the University community are using their expertise to create reports about research topics of public interest to the state.
Appointments	Art. I, Sec. IV, Subd. 1	(a) Chancellor (b) Chief Auditor (c) Dean (d) Division I Director of Intercollegiate Athletics (e) Executive Vice President and Provost (f) General Counsel (g) Senior Vice President for Finance and Operations (h) University Librarian and Dean of Libraries (i) Vice Chancellor for Academic Affairs (j) Vice President (k) Such other administrative positions as the Board may specify from time to time.	Add Division I Head Coach, eliminate (k) and Art. I, Sec. XI, Subd. 4.	Art. I, Sec. XI, Subd. 4. was added during the last comprehensive review of the policy in 2018 to ensure that employment agreements for highly salaried employees were presented for Board review and approval. Since that provision has been implemented, the only positions that have triggered that threshold are either Division I head coaches or the offensive and defense coordinators for the Twin Cities campus Football team. The threshold has also created implementation questions based on the current drafting of the threshold. To simplify this process, the recommendation is to name the positions that the Board wishes to approve, as it does with other senior leaders, instead of creating a threshold based on a dollar amount or buyout amount. In addition, Art. I, Sec. XI, Subd. 5. (see below) would be amended so that any employment agreement of "unusual importance or significance" would require Board approval.

Threshold	Policy Reference	Current Threshold	Proposed Change	Notes
Systemwide Enrollment Plan	New	New	Add the following to Art. I, Sec. V, Subd. 6: The Board reserves to itself, or to one of its committees, authority to approve a systemwide enrollment plan and amendments thereto.	Currently, campus enrollment plans have come to the Board for approval but are not included in <i>Reservation and Delegation of Authority</i> . The proposed change would align with current practice while anticipating the use of a systemwide enrollment plan instead of individual campus plans going forward.
Purchase of goods and services	Art. I, Sec. VII, Subd. 6	\$1 million	Increase the threshold to \$5 million	Would increase the threshold for purchases and place the University roughly in the middle of the Big Ten.
Purchase or sale of real property	Art. I, Sec. VIII, Subd. 1	\$1 million; located on or within 2 miles of a campus; larger than 10 acres	Increase the threshold to \$3 million	Would increase the threshold while maintaining the other provisions currently in policy.
Lease, easements, or other interests in real property	Art. I, Sec. VIII, Subd. 2	\$1 million	(a) \$1 million or more in any year; (b) exceeds ten years; or (c) total value \$10 million or more	Increases the threshold while creating a tiered approach to leases, easements, or other interests in real property.
Campus Master Plans	Art I, Sec. VIII, Subd. 5	The Board reserves to itself, or to one of its committees, authority to approve campus master plans and amendments thereto.	Update title to “campus plans”	This aligns the policy with current practice.
Multi-year capital plans	Art. I, Sec. VIII, Subd. 6	\$1 million	\$5 million	Would increase the threshold for capital projects and place the University roughly in the middle of the Big Ten.
Annual capital budgets	Art. I, Sec. VIII, Subd. 7	\$1 million	\$5 million	Would increase the threshold for capital projects and place the University roughly in the middle of the Big Ten.
Capital budget amendments	Art. I, Sec. VIII, Subd. 8	\$1 million	(a) new projects with a value of \$5,000,000 or more; (b) existing projects that were not previously approved by the Board when the total value increases to \$5,000,000 or more; (c) to Board approved projects when the total cost of the project increases by 30% or more.	Would increase the threshold to align with the other capital plans but also addresses two gaps currently in policy – when existing projects that were not approved by the Board require Board approval and when increases to Board approved projects require additional approval.
Schematic plans	Art. I, Sec. VIII, Subd. 9	\$1 million	Eliminate	The approval of schematic plans by the Board did not align with the principles to guide review of <i>Reservation and Delegation of Authority</i> .
Retirement Plan Amendments	Art. I, Sec. XI, Subd. 3.	The Board reserves to itself, or to one of its committees, authority to establish or discontinue retirement plans for University faculty and staff. For those plans sponsored by the University and governed by formal plan documents, the Board reserves to itself authority to approve amendments to those plans.	Add the following sentence to the end of the subdivision: Amendments required by federal regulations do not require Board approval but shall be reported to the Board upon implementation by the president or delegate.	Creates an exemption for federally mandated changes to the University’s retirement plans but ensures that those changes are reported to the Board.

Threshold	Policy Reference	Current Threshold	Proposed Change	Notes
Individually negotiated employment agreements and significant amendments	Art. I, Sec. XI, Subd. 4.	The Board reserves to itself, or to one of its committees, authority to approve individually negotiated employment agreements, and significant amendments thereto, when such agreements have a total value of more than \$1,000,000. For purposes of this subdivision, total value shall mean the potential amount due to the employee if the University terminated the employment agreement without cause. For faculty positions as defined by Board of Regents Policy: <i>Faculty Tenure</i> , this subdivision only applies when the faculty member's first year compensation is set at more than \$1,000,000, or when individually negotiated terms of employment create a potential amount due to the faculty member of more than \$1,000,000 if the faculty member's appointment were terminated.	Eliminate	See Appointments above.
Employee Agreements and Severance Agreements	Art. I, Sec. XI, Subd. 5.	The Board reserves to itself, or to one of its committees, authority to review individually negotiated employee severance agreements of unusual importance or significance.	After "individually negotiated employee" add the following: The Board reserves to itself, or to one of its committees, authority to review individually negotiated employee <u>agreements or</u> severance agreements of unusual importance or significance.	See Appointments above. Like severance agreements, this change would create a directive that the president seek Board approval for any employment agreements of unusual importance or significance. This requirement would serve a similar purpose as Art. I, Sec. IV, Subd. 1 (k) and the "catch-all" approval language included in Art. I, Sec. I, Subd. 6.
Chief Auditor Adjustment	Art. II, Sec. V.	The chief auditor reports to the Board and may perform audits at the request of the president. By invitation, the chief auditor may serve on the president's cabinet.	Revise to: The chief auditor reports to the Board and may perform audits at the request of the president. By invitation, the chief auditor may <u>serve participate</u> on the president's cabinet.	This aligns with amendments to the Office of Internal Audit Charter that were made in response to feedback from the Audit & Compliance Committee and approved by the Board at the October 2023 meeting.



BOARD OF REGENTS POLICY: *Reservation and Delegation of Authority*

ARTICLE I **RESERVATION OF AUTHORITY**

SECTION I. GENERAL RESERVATIONS OF AUTHORITY.

Subd. 1.

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

Subd. 2.

The Board reserves to itself authority to ensure constitutional and institutional autonomy, to approve the University's mission and vision, to set the overall direction of the institution, including the adoption of fundamental plans-planning documents for the educational, financial, and physical development of the University as defined by Board of Regents Policy: Board Operations and Agenda Guidelines, and to declare a fiscal emergency.

Subd. 3.

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

Subd. 4.

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

Subd. 5.

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

or any abbreviated name from the name of any University campus, college, school, division, or unit, consistent with Board policies.

Subd. 6.

The Board reserves to itself authority to approve any matter delegated to the president in Article II, Section I of this policy if it raises unusual questions of public interest or public policy, has significant impact on the University's mission, or poses a significant financial risk to the University.

Subd. 7.

The Board reserves to itself authority to approve and submit any report to the State of Minnesota that impacts the University's autonomy or addresses the performance of the University and/or its major initiatives. All other reports to the State of Minnesota that fall outside these criteria and report on the University shall be provided to the Board upon submission to the state.

SECTION II. CONDUCT OF BOARD BUSINESS.

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

SECTION III. ELECTION OF BOARD OFFICERS.

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

SECTION IV. APPOINTMENT AUTHORITY.

Subd. 1.

The Board reserves to itself, or to one of its committees, authority to appoint all individuals and approve any individually negotiated terms of employment, and significant amendments thereto, for those who serve in each of the following positions:

- (a) Chancellor
- (b) Chief Auditor
- (c) Dean
- ~~(d)~~ Division I Director of Intercollegiate Athletics
- ~~(d)~~~~(e)~~ Division I Head Coaches
- ~~(e)~~~~(f)~~ Executive Vice President and Provost
- ~~(f)~~~~(g)~~ General Counsel
- ~~(g)~~~~(h)~~ Senior Vice President for Finance and Operations
- ~~(h)~~~~(i)~~ University Librarian and Dean of Libraries
- ~~(i)~~~~(j)~~ Vice Chancellor for Academic Affairs
- ~~(j)~~~~(k)~~ Vice President
- ~~(k)~~ Such other administrative positions as the Board may specify from time to time.

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

Subd. 2.

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

Subd. 3.

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

SECTION V. ACADEMIC MATTERS.

Subd. 1.

The Board reserves to itself, or to one of its committees, authority to grant academic degrees, grant faculty indefinite tenure, grant continuous appointments to academic professionals, and award the title faculty emeritus, consistent with Board policies.

Subd. 2.

The Board reserves to itself, or to one of its committees, authority to establish, name, and abolish colleges, academic institutes, programs, and courses of study, consistent with Board policies.

Subd. 3.

The Board reserves to itself, or to one of its committees, authority to establish tuition and student fees and approve policies and reciprocity agreements related to such matters, consistent with Board policies.

Subd. 4.

The Board reserves to itself, or to one of its committees, authority to: (a) establish and review policies relating to the conduct of research and the receipt and accounting of sponsored research funds; (b) require timely reporting to the Board of sponsored research activity; and (c) establish limits for financial support to non-University entities for the commercialization of technology, as defined by Board of Regents Policy: *Commercialization of Intellectual Property Rights*.

Subd. 5.

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

Subd. 6.

The Board reserves to itself, or to one of its committees, authority to approve a systemwide enrollment plan and amendments thereto.

SECTION VI. AWARDS, HONORS, AND NAMINGS.

Subd. 1.

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

Subd. 2.

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

SECTION VII. BUDGETARY, FINANCIAL, AND INVESTMENT MATTERS.

Subd. 1.

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

Subd. 2.

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

Subd. 3.

The Board reserves to itself, or to one of its committees, authority to establish investment objectives, approve asset allocation guidelines, and approve the payout rate for endowment distributions.

Subd. 4.

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

Subd. 5.

The Board reserves to itself, or to one of its committees, authority to accept gifts for the benefit of the University, consistent with Board policies.

Subd. 6.

The Board reserves to itself, or to one of its committees, authority to approve individual purchases of goods and services with a value ~~greater than \$1,000,000, of \$5,000,000 or more,~~ consistent with Board policies.

SECTION VIII. PROPERTY, FACILITIES, AND CAPITAL BUDGETS.

Subd. 1.

The Board reserves to itself, or to one of its committees, authority to approve the purchase or sale of real property (a) with a value ~~greater than \$1,000,000 of \$3,000,000 or more;~~ (b) located on or within 2 miles of a University campus; or (c) larger than 10 acres.

Subd. 2.

The Board reserves to itself, or to one of its committees, authority to approve leases of real property, easements, and other interests in real property if the initial term amount to be paid by or to the University ~~exceeds is~~ (a) \$1,000,000 or more in any year; (b) if the term exceeds 10 years; or (c) if the total value is \$10,000,000 or more.

Subd. 3.

The Board reserves to itself, or to one of its committees, authority to exercise the power of eminent domain to acquire land for University purposes.

Subd. 4.

DRAFT for Review

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

Subd. 5.

The Board reserves to itself, or to one of its committees, authority to approve campus ~~master~~ plans and amendments thereto.

Subd. 6.

The Board reserves to itself, or to one of its committees, authority to approve multi-year capital plans consisting of projects with a value ~~greater than \$1,000,000~~ of \$5,000,000 or more or a value anticipated to be ~~greater than \$1,000,000~~ \$5,000,000 or more if a cost estimate has not yet been established.

Subd. 7.

The Board reserves to itself, or to one of its committees, authority to approve annual capital budgets consisting of projects with a value ~~greater than \$1,000,000~~ of \$5,000,000 or more.

Subd. 8.

The Board reserves to itself, or to one of its committees, authority to approve capital budget amendments for (a) new projects with a value of \$5,000,000 or more; (b) existing projects that were not previously approved by the Board when the total value increases to \$5,000,000 or more; (c) to Board approved projects and new projects when the total cost of the project increases by 30% or more ~~amendment has a value greater than \$1,000,000.~~

Subd. 9.

~~The Board reserves to itself, or to one of its committees, authority to approve project schematic plans, or significant amendments thereto, for any project or amendment with a value greater than \$1,000,000.~~

SECTION IX. LEGAL MATTERS.

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

SECTION X. AUDIT FUNCTION.

The Board reserves to itself authority to adopt policies regulating the audit function; approve selection of independent auditors and the chief auditor; and evaluate the performance of the independent auditor and the chief auditor. Performance review process procedures shall be on file in the Office of the Board of Regents.

SECTION XI. EMPLOYMENT AND LABOR RELATIONS.

Subd. 1.

The Board reserves to itself, or to one of its committees, authority to approve all contracts and other agreements with the exclusive collective bargaining representatives of its employees.

Subd. 2.

The Board reserves to itself, or to one of its committees, authority to approve civil service rules and annual pay and benefit plans for University employees.

Subd. 3.

The Board reserves to itself, or to one of its committees, authority to establish or discontinue retirement plans for University faculty and staff. For those plans sponsored by the University and governed by formal plan documents, the Board reserves to itself authority to approve amendments to those plans.

Amendments required by federal regulations do not require Board approval but shall be reported to the Board upon implementation by the president or delegate.

Subd. 4.

~~The Board reserves to itself, or to one of its committees, authority to approve individually negotiated employment agreements, and significant amendments thereto, when such agreements have a total value of more than \$1,000,000. For purposes of this subdivision, total value shall mean the potential amount due to the employee if the University terminated the employment agreement without cause. For faculty positions as defined by Board of Regents Policy: *Faculty Tenure*, this subdivision only applies when the faculty member's first year compensation is set at more than \$1,000,000, or when individually negotiated terms of employment create a potential amount due to the faculty member of more than \$1,000,000 if the faculty member's appointment were terminated.~~

Subd. 54.

The Board reserves to itself, or to one of its committees, authority to review individually negotiated employee agreements or severance agreements of unusual importance or significance.

SECTION XII. ASSOCIATED ORGANIZATIONS.

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

**ARTICLE II
DELEGATION OF AUTHORITY**

SECTION I. DELEGATION OF AUTHORITY TO THE PRESIDENT.

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

SECTION II. LIMITATIONS UPON PRESIDENTIAL AUTHORITY.

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

- (a) the provisions of the University Charter and the Constitution of the State of Minnesota;
- (b) the provisions of *Board Bylaws*;
- (c) the provisions of Board policies and directives, including specifically Article I of this policy; and

- (d) the directive that the president shall notify the Board of any matter not otherwise addressed in this section that significantly involves the authority and role of the Board, including its fiduciary, oversight, and public accountability responsibilities.

SECTION III. DELEGATION OF AUTHORITY BY THE PRESIDENT.

Subd. 1.

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

Subd. 2.

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

Subd. 3.

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

Subd. 4.

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

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

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

SECTION V. DELEGATION OF AUTHORITY TO THE BOARD SECRETARY, TREASURER, GENERAL COUNSEL, AND CHIEF AUDITOR.

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

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

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

The chief auditor reports to the Board and may perform audits at the request of the president. By invitation, the chief auditor may serve-participate on the president's cabinet.

The chief auditor and the general counsel shall notify the Board of any matter that significantly involves the authority and role of the Board, including its fiduciary, oversight, and public accountability responsibilities, or if it raises unusual questions of public interest or public policy, has significant impact on the University's mission, or poses a significant risk to the University.

SECTION VI. CONFORMANCE WITH THIS POLICY.

Subd. 1.

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

Subd. 2.

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

Subd. 3.

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

REVISION HISTORY

Adopted: April 5, 2001

Amended: July 9, 2004; December 10, 2004; July 9, 2008; February 12, 2010; February 10, 2012; May 12, 2017; February 9, 2018; October 8, 2021; September 8, 2023

Technical Correction: March 1, 2012; December 11, 2013; March 31, 2016; February 10, 2017; October 13, 2017; February 14, 2020

Last Comprehensive Review: 2018

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



BOARD OF REGENTS DOCKET ITEM SUMMARY

Governance & Policy

February 9, 2024

AGENDA ITEM: Presidential Conflicts of Interest

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

This is a report required by Board policy.

PRESENTERS: Jason Langworthy, Associate Secretary

PURPOSE & KEY POINTS

The purpose of this item is to review proposed amendments to Board of Regents Policy: *Institutional Conflict of Interest* related to presidential conflicts of interest. The proposed off-cycle amendments are the result of committee feedback from the December 2023 meeting.

As stated in Board of Regents Policy: *Institutional Conflict of Interest*, the Board reserves to itself the authority to “review and approve plans for managing, reducing, or eliminating institutional conflicts of interest” involving the president. Currently, the same process that is used for other University officials is used for the president. The proposed amendments establish an independent process for reviewing institutional conflicts of interest involving the president by creating a Presidential Conflict Review Panel. The panel would be convened by the Board chair as needed and the Board chair would appoint individuals as voting members in the following categories:

- One Regent serving as the chair
- One additional Regent
- The chief auditor
- The chair of the University Senate Consultative Committee
- A community member

The panel would be advised by the Office of the General Counsel, in consultation with outside counsel as deemed appropriate, and the Office of Institutional Compliance. The panel would receive staff support from the University Conflict of Interest Program in coordination with the Office of the Board of Regents.

Additional amendments are also included to align with current practice. They include revising the process for financial disclosure statements for the president, general counsel, executive director and corporate secretary, and the chief auditor. The president’s chief of staff has also been added back to the list of University officials.

The proposed amendments were developed in collaboration with the Office of Institutional Compliance, the Office of Internal Audit, the Office of the General Counsel, and the Office of the Board of Regents.

BACKGROUND INFORMATION

Board of Regents Policy: *Institutional Conflict of Interest* was last comprehensively reviewed and amended in 2017.

As defined by the policy an *institutional conflict of interest* is “a situation in which the University’s research, teaching, or outreach mission activities, or its institutional reputation may be compromised or appear to be compromised because of an external financial or business relationship held at the institutional level that may bring financial gain to the institution, any of its units, or the individuals covered by this policy.”



BOARD OF REGENTS POLICY: *Institutional Conflict of Interest*

SECTION I. SCOPE.

This policy governs institutional conflict of interest at the University of Minnesota (University) and applies to members of the Board of Regents (Board), University officials, department/unit heads, and other individuals as required by administrative policies and procedures.

SECTION II. DEFINITIONS.

Subd. 1. Institutional Conflict of Interest.

Institutional conflict of interest shall mean a situation in which the University's research, teaching, or outreach mission activities, or its institutional reputation may be compromised or appear to be compromised because of an external financial or business relationship held at the institutional level that may bring financial gain to the institution, any of its units, or the individuals covered by this policy.

Subd. 2. University Official.

University official shall mean persons holding the following positions, including those holding these positions in a temporary capacity:

- (a) Associate Vice President
- (b) Chancellor
- (c) Chief Auditor
- (d) Chief Compliance Officer
- (e) Dean
- (f) Director of Intercollegiate Athletics, Twin Cities campus
- (g) Executive Director and Corporate Secretary
- (h) Executive Vice President and Provost
- (i) General Counsel
- (j) President
- ~~(j)~~(k) President's Chief of Staff
- ~~(k)~~(l) Senior Vice President for Finance and Operations
- ~~(l)~~(m) University Librarian and Dean of Libraries
- ~~(m)~~(n) Vice President

SECTION III. GUIDING PRINCIPLES.

The following principles shall guide the University in addressing institutional conflict of interest:

- (a) Because it is critical to the mission and reputation of the University to maintain the public's trust, University research, teaching, outreach, and other activities must not be compromised or perceived as biased by financial and business considerations.
- (b) Because of its numerous and complex relationships with public and private entities, the University must be aware of any relationships involving financial gain that may compromise or appear to compromise its integrity.
- (c) The University shall establish and maintain an oversight process to manage, reduce, or eliminate institutional conflict of interest.

SECTION IV. RESERVATION OF AUTHORITY.

The Board reserves to itself the authority to review and approve plans for managing, reducing, or eliminating institutional conflict of interest involving:

- (a) external relationships with an unusually significant financial impact that present a potential conflict;
- (b) potential conflicts involving the president;
- (c) potential conflicts that raise serious policy issues or have a significant public impact on the mission and reputation of the University; or
- (d) potential conflicts arising in matters that otherwise require Board review and action under Board of Regents Policy: *Reservation and Delegation of Authority*.

~~In these instances of conflict of interest, the president shall consult with the Board.~~

SECTION V. PRESIDENTIAL CONFLICT REVIEW PANEL.

Subd. 1. Role of the Presidential Conflict Review Panel.

~~If there is an institutional conflict of interest involving the president, the Presidential Conflict Review Panel shall review the institutional conflict of interest and develop an appropriate conflict management plan for approval by the Board. The panel shall be appointed by the Board chair and meet as needed.~~

Subd. 2. Membership.

~~When there is need for the Presidential Conflict Review Panel to review an institutional conflict of interest involving the president, the Board chair shall convene the panel and appoint voting members comprised of one Regent serving as the chair, an additional Regent, the chief auditor, the chair of the Senate Consultative Committee, and a community member. The panel shall be advised by the Office of the General Counsel, in consultation with outside counsel as deemed appropriate, and the Office of Institutional Compliance. The panel shall be staffed by the University Conflict of Interest Program in coordination with the Office of the Board of Regents (OBR).~~

Subd. 3. Procedure.

~~When reviewing the institutional conflict of interest, the Presidential Conflict Review Panel shall be guided by Section III of this policy. The Presidential Conflict Review Panel shall consider if the institutional conflict of interest can be managed, and if so, shall recommend a conflict management plan to the Board, taking into account fiduciary duties of loyalty and commitment, actual and perceived conflicts of interest, and other public responsibilities of the Board and president.~~

~~Presidential Conflict Review Panel procedures shall be on file in the OBR.~~

SECTION VI. ASSURANCE, DELEGATION OF AUTHORITY, AND REPORTING.

The president or delegate shall:

- (a) implement an oversight process and administrative policies and procedures to address institutional conflict of interest and to identify situations in which institutional conflict of interest may arise;
- (b) recommend and implement plans to manage, reduce, or eliminate institutional conflict of interest;
- (c) develop and present conflict of interest plans to the Board for review and action as required under Section IV, (a), (c), and (d);
- (d) ensure that individuals covered by this policy who act on behalf of the institution adhere to these policies and procedures, follow applicable conflict management plans, and do not engage in activities in which there is an actual conflict of interest; and
- (e) report to the Board annually all institutional conflict of interest matters that do not meet the thresholds identified in Section IV.

SECTION VII. DISCLOSURES.

Subd. 1. Regents.

Regents shall file a financial disclosure statement annually and report conflicts of interest as required by Board of Regents Policy: *Code of Conduct for Members of the Board of Regents*.

Subd. 2. University Officials.

University officials shall, upon appointment and annually, file a financial disclosure statement with the president or delegate, disclosing significant economic interests and how those interests may relate to their institutional responsibilities. Such disclosure shall be made in addition to any reporting requirement for individual conflicts of interest and shall be approved by the president or delegate. The following University officials shall file their financial disclosure statement with the Office of the Board of Regents for approval by the Board chair: president, general counsel, executive director and corporate secretary, and chief auditor.

Subd. 3. Department/Unit Heads.

Annually and under circumstances described in administrative policy, department/unit heads shall disclose relevant financial and business interests by filing a *Report of External Professional Activities*.

Subd. 4. Other Individuals.

The president or delegate may designate other individuals who shall file a financial disclosure statement.

REVISION HISTORY

Adopted: June 10, 2005

Amended: July 11, 2012; October 13, 2017

Technical Correction: March 31, 2016; October 13, 2017; January 28, 2020; February 14, 2020; February 10, 2023

Last Comprehensive Review: 2017

Supersedes: Financial Disclosure for Senior University Officials, Dated November 10, 1995



BOARD OF REGENTS DOCKET ITEM SUMMARY

Governance & Policy

February 9, 2024

AGENDA ITEM: Board Committee Structure: Next Steps

Review Review + Action Action Discussion

This is a report required by Board policy.

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

PURPOSE & KEY POINTS

The purpose of this item is for the committee to discuss next steps for considering the Board’s committee structure. This item will provide a summary of the committee’s discussions up to this point, outline some interim approaches, and provide a tentative timeline to continue the discussion. Based on the committee’s feedback, the Office of the Board of Regents will continue to advance this topic and facilitate future discussions.

BACKGROUND INFORMATION

The committee has engaged on this topic at the September, October, and December 2023 meetings.

Current Standing Committee Portfolios

Below are the portfolios for each standing committee of the Board, as established by Board of Regents Policy: *Board Operations & Agenda Guidelines*.

Subd. 4. Audit & Compliance Committee Charter.

The Audit & Compliance Committee oversees the University’s system of risk assessment and internal controls, audits, financial reporting practices, and the institutional compliance program. The committee is to assist the Board in discharging its oversight responsibilities related to the audit and compliance functions by:

- promoting the development of an effective, efficient, and continuously improving control environment, in concert with the administration, to achieve the institution's objectives through an appropriate system of risk assessment and internal control;
- overseeing the University's integrated framework of internal control, risk management practices, and institutional compliance program to ensure that the administration executes the provisions of Board of Regents Policy: *Internal Control*;

- serving as an informed voice on the Board by relaying the audit and compliance perspective when related issues are brought before the Board and its standing committees; and
- providing a direct channel of communication to the Board for the chief auditor and the independent public auditor.

Consistent with Board of Regents Policy: *Reservation and Delegation of Authority* Article I, Section X, the Board reserves to itself authority to adopt policies regulating the audit function; approve selection of external public accountants and the chief auditor; review audit plans; and evaluate the performance of the independent auditor and, jointly with the president, the performance of the internal audit function.

Specific duties of the Audit & Compliance Committee include the following:

- (a) Oversight of the Independent Auditor. The independent auditor reports directly to the Board through the Audit & Compliance Committee. The committee shall recommend for Board approval the engagement and related fees of the independent auditor to perform the annual financial statement and federal compliance audits. The committee shall approve in advance all audit and non-audit services provided by the independent auditor with a value greater than \$100,000 or that may impair the audit firm's independence regarding the University. Such impairment of independence is currently limited to prohibited non-audit services as defined in the United States General Accounting Office Government Auditing Standards. Engagements not requiring approval by the Board shall be reported to the Audit & Compliance Committee at the next scheduled meeting of the committee. The committee shall annually review and evaluate the independent auditor's performance, independence, and effectiveness of coordination with other assessment activities, including internal audit.
- (b) Oversight of the Internal Audit Function. The Audit & Compliance Committee shall recommend for Board approval changes to the Office of Internal Audit's charter and any material revisions to internal audit plans or budgets. In consultation with management and the chief auditor, the committee shall review the annual internal audit plan and the extent to which it addresses high risk areas.
- (c) Review of the Annual Financial Report. The Audit & Compliance Committee shall review, in advance of final issuance, the proposed formats and wordings of the annual financial report, including the management's discussion and analysis, financial statements, footnotes, statistics, and disclosures.
- (d) Review of Audit Results. The Audit & Compliance Committee shall review the internal and external audit results and discuss significant issues of internal control and compliance with the independent auditor, chief auditor, and management. The committee shall monitor management's progress in addressing audit recommendations.
- (e) Investigation of Reported Concerns Regarding Accounting or Auditing Matters. The Audit & Compliance Committee shall be apprised of investigations conducted under administrative policy.
- (f) Requests for Audits. The Audit & Compliance Committee is authorized to request supplemental reviews or other audit procedures by the chief auditor, the independent auditor, or other advisors.
- (g) Approval of Engagements of Audit Firms Other Than the University's Principal External Auditors. The Audit & Compliance Committee shall approve all

engagements of external audit firms to perform work or provide services with a value greater than \$100,000 or that may impair the audit firm's independence regarding the University. Such impairment of independence is currently limited to prohibited non-audit services as defined in (a) of this section. Engagements not requiring approval by the Board shall be reported to the committee at the next scheduled meeting of the committee.

- (h) This committee provides additional oversight of compliance initiatives and enterprise risk management processes, including risk identification and mitigation.

This committee also reviews:

- The annual financial statements, prior to issuance.
- annual report on institutional risk and financial reports.
- The independent auditor's annual audit and management letter.
- The chief auditor's annual audit plan.
- Responses to questions regarding audit issues, reports on enterprise systems, administrative program reviews, investigations conducted under administrative policy, and other items relevant to the audit function.
- annual institutional compliance report.
- The institutional conflict of interest report.
- External auditor engagements not requiring approval by the Board. Any engagements shall be reported to the Audit & Compliance Committee at the next scheduled meeting of the committee.

Subd. 5. Finance & Operations Committee.

The Finance & Operations Committee oversees and makes recommendations to the Board related to the University's operations, fiscal stability, physical assets (e.g., land, buildings, infrastructure, technology, and equipment), and long-term economic health. The committee also advises the administration on faculty and staff compensation strategy, benefits, recruitment, and engagement.

Specifically, this committee approves on behalf of the Board:

- appointments reserved to the Board as defined by Board of Regents Policy: *Reservation and Delegation of Authority* Article I, Section IV. Subd. 1 and 3.
- budgetary, financial, and investment matters reserved to the Board as defined by Board of Regents Policy: *Reservation and Delegation of Authority* Article I, Section VII.
- property, facilities, and capital budgets reserved to the Board as defined by Board of Regents Policy: *Reservation and Delegation of Authority* Article I, Section VIII.
- employment and labor relations matters reserved to the Board as defined by Board of Regents Policy: *Reservation and Delegation of Authority* Article I, Section XI.

This committee provides oversight of:

- long-range financial planning strategies, including total indebtedness of the University and investment portfolio;

- the financial relationship between the University and its partners, including affiliated foundations, clinical operations, and external entities;
- potential risks within University finance and operations;
- long-range physical asset planning strategies, including technology infrastructure;
- public safety and emergency preparedness;
- operational services such as housing, parking, transportation, and dining;
- faculty and staff employment, compensation and benefits policy, including senior leader compensation, benchmarking, and terms of employment; and
- employee engagement and workforce development.

This committee also reviews:

- the annual central reserves fund report;
- the annual capital financing and debt management report;
- annual strategic facilities and real estate report, which includes updates on the University's facilities condition assessment and space utilization, real estate transactions from the past fiscal year, and capital project management updates for projects in process that have been approved in the annual capital improvement budget and have a value equal to or greater than \$1,000,000;
- exceptions to a competitive bid process for purchases requiring Board approval;
- annual asset management report;
- the annual financial report;
- selected financial metrics that measure the University's fiscal condition;
- periodic updates on future facilities projects;
- design guidelines when a project design represents an exception to adopted campus master plans; and
- other financial reports, employment reports, and facilities management reports and significant issues.

Subd. 6. Governance & Policy Committee.

The Governance & Policy Committee oversees and makes recommendations to the Board related to policy and processes that seek to ensure the integrity and high performance of the Board. The committee supports effective governance by guiding the Board to: articulate a clear vision for the University and its major components; clarify reserved and delegated authorities; establish institutional benchmarks and performance measures; and thoughtfully considers risks that may impact the performance of the institution.

Specifically, this committee recommends to the Board:

- amendments to the *Bylaws* and changes to the structure and function of the Board;
- amendments to Board policies not routed through one of the other standing committees; and
- consideration of other University policy matters referred to the committee by the Board chair.

This committee provides oversight to:

- evaluate the effectiveness of the Board through periodic self-assessment;
- ensure that Regents are fully oriented and receive ongoing education; and
- identify best practices in governance for possible implementation.

Subd. 7. Litigation Review Committee.

The Litigation Review Committee reviews litigation matters and obtains legal advice regarding specific University actions and their legal consequences. This committee typically meets in non-public session and consults with the general counsel on cases and claims, consistent with Board of Regents Policy: *Attorneys and Related Services* and Board of Regents Policy: *Legal Claims and Settlements*. The committee determines which matters shall be referred to the Board for review or approval.

Subd. 8. Mission Fulfillment Committee.

The Mission Fulfillment Committee oversees and makes recommendations to the Board related to the University's mission, as articulated in Board of Regents Policy: *Mission Statement* and carried out on five campuses and across the state, the nation, and the world. The committee oversees and advises the administration on academic priorities, activities, programs, and initiatives central to the threefold mission of research and discovery, teaching and learning, and outreach and public service.

Specifically, this committee approves on behalf of the Board:

- academic matters reserved to the Board as defined by Board of Regents Policy: *Reservation and Delegation of Authority* Article I, Section V.

This committee provides oversight of:

- academic program reviews and strategic plans of academic units;
- admissions practices, demographic trends and enrollment planning;
- curricular and co-curricular educational, research and engagement opportunities;
- diversity and campus climate;
- faculty development, recruitment and retention;
- faculty promotion and tenure;
- international partnerships and global research and educational programs;
- health education and academic medicine;
- issues related to the University's academic profile such as accreditation, reputation, and academic ranking;
- online learning;
- public engagement and community partnerships that fulfill the University's land-grant mission;
- scholarship, artistic activity and commercialization of technology and intellectual property;
- sponsored projects and research support infrastructures;
- student affairs, student wellness and the student experience;
- student experience and academic performance of student-athletes;
- undergraduate, graduate, and professional education.

Current Special Committee Charges**Special Committee on Academic Health**

The Special Committee on Academic Health will oversee the University's academic medical enterprise and clinical partnerships. The special committee will build the Board's understanding and capacity in this area and make recommendations to the Board related to the

MPact Health Care Innovation proposal and clinical partnership arrangements. The committee will advise the administration on academic medical strategy and help propel health sciences toward a clinical partnership plan that will champion medical education, improve clinical care, and more fully serve the people of Minnesota.

Special Committee on University Relations

The Special Committee on University Relations will advance the critical work of building strong relationships within communities vital to the University's success. The special committee has oversight of the University's government relations function at the local, state, and federal levels, as well as efforts to build stronger neighborhood relations in communities where the University is located. The special committee will provide the administration with input on the University's public relations efforts including areas like marketing and brand development.

Board Committee Structure: Next Steps

Brian Steeves
Executive Director & Corporate Secretary

Jason Langworthy
Associate Secretary

February 9, 2024



Board Committee Structure

- Part 1: Context and Principles to Guide Discussion
- Part 2: Committee Portfolios
- Part 3: Role of Standing Committees and Special Committees
- **Part 4: Next Steps**



Current Committees & Special Committees

Standing Committees

- Audit & Compliance
- Finance & Operations
- Governance & Policy
- Litigation Review
- Mission Fulfillment
- Nominating
- Presidential Performance Review

Special Committees

- Academic Health
- University Relations



Themes from Previous Discussions

- Too soon to evaluate the new interim committee structure.
- The Board should consider making one or both of the special committees permanent.
- Human resources and student affairs topics can get lost in Finance & Operations and Mission Fulfillment agendas
- Explore options to provide the Board with time and space to have deeper conversations about complex issues.
- Strong desire for greater engagement with people and places across the University.



Next Steps

- **Pause Conversation**

- Allows more time for the Board to evaluate the use of special committees and if they should become standing committees.
- Provides an opportunity for the new president to have input into the committee structure.
- Changes that are made could align with the next transition of committee leadership.

- **Pilot Adjustments**

- Consider adding in Board work sessions which would be deep dives on topics that the Board is interested in or feels have been overlooked in the current structure (e.g., student affairs, talent and workforce, medical enterprise).
- Continue to expand engagement opportunities.



Updated Timeline

July 2024

- Evaluate current special committees and if they should continue during the 2024-25 academic year.
- Provide an opportunity for the new president to provide input on the Board's committee structure.
- Determine timeline for implementation.

September 2024

- Based on July discussion, outline changes to the committee structure and timeline for implementation.

October or December 2024

- Review proposed amendments to codify new committee structure.

December 2024 or February 2025

- Act on proposed amendments to codify new committee structure.





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BOARD OF REGENTS DOCKET ITEM SUMMARY

Governance & Policy

February 9, 2024

AGENDA ITEM: Information Items

Review

Review + Action

Action

Discussion

This is a report required by Board policy.

PRESENTERS: Brian Steeves, Executive Director & Corporate Secretary

PURPOSE & KEY POINTS

Referral of Motion

The following motion was referred to the Governance & Policy Committee by the Board at the December 2023 meeting:

To direct the Office of the Board of Regents, in consultation with members of the Board and other relevant stakeholders, to develop a framework and implementation plan for in-person public comment to be scheduled in alignment with the regularly scheduled board meeting weeks, beginning February 2024.

As part of the referral, the Board directed that the committee consider the motion after the Board's Virtual Forum Pilot Program is completed.