



University of Colorado

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To: Regents of the University of Colorado
Regents Governance Committee

From: Patrick T. O'Rourke
Interim Executive Vice Chancellor and Chief Operating Officer

Re: Proposed Policies – Regent Committee Agendas and Meetings

Date: March 4, 2020

After the winter retreat, you asked me to work on policy changes that would incorporate the best governance practices that you discussed. Rather than preparing them as resolutions, which I believe should be used to memorialize current actions rather than create policy, I have proposed two policies to accomplish this goal.

I. Committee Agenda Setting

The first policy is simple and requires the chair and vice chair of a committee to work together to set the agenda for the committee meetings. If the chair and the vice chair cannot agree upon the agenda, the chair of the board would have the ability to resolve the dispute.

The Board of Regents previously enacted regent policy 2.C, which addresses the board committees. The policy consists of a section of general principles (Section 2.C.1) and then has several sections that define the purpose and role of the standing regent committees (Sections 2.C.2 through 2.C.5).

I am proposing a new Section 2.C.1(G) which would be in the general committee principles. If approved, it would state:

(G) The chair and vice chair of the committee shall consult with the administration and be responsible for approving the agenda for each committee meeting. In the event that the chair and vice chair of the committee disagree about whether to include any discussion or action item for the meeting agenda, the chair and the vice chair of the committee shall promptly notify the chair of the board of regents of the disagreement, and the chair of the board of regents shall have the ability to resolve the disagreement and set the final meeting agenda.

II. Regent Meetings

The second policy addresses board meetings and provides a framework for conducting meetings and removing uncertainty. Currently, the board uses *Robert's Rules of Order Newly Revised* to conduct meetings, understanding that the board can modify what *Robert's* otherwise requires.

The Laws of the Regents provide some very broad guidance on how the regents should conduct their meetings. They state:

2.B.1 Regular, Special and Committee Meetings

- (A) Regular meetings of the Board of Regents shall be held in accordance with the schedule of meetings approved annually.
- (B) Special meetings may be called by the chair or by the president and shall be called by the chair upon the request of three board members. A special meeting may be convened only to consider the item(s) of business specified in the meeting notice.
- (C) Committee meetings shall be held at dates and times that the committee specifies.
- (D) Notice of regular and special board and committee meetings shall be posted as provided in board policy.

2.B.2 Meetings Open to the Public

- (A) All regular, committee, and special meetings of the Board of Regents at which public business is discussed or formal action may be taken, including the adoption of any proposed policy, resolution, rule or regulation, shall be open to the public in compliance with state open meetings requirements, provided that the Board of Regents and its committees may meet in executive session for purposes authorized by law.

Open meeting requirements include, but are not limited to, posting a full and timely notice prior to the meeting and taking minutes of the meeting and making available for public inspection.

These requirements apply to all meetings to conduct public business, whether in person, by telephone, electronically or by other means of communication.

[See C.R.S. §24-6-402]

- (B) All meetings of two or more regents at which public business is discussed or at which any formal action may be taken is a public meeting. Social gatherings or other chance

meetings at which the discussion of public business is not the central purpose do not constitute public meetings.

2.B.3 Meeting Procedures

(A) The Board of Regents acts only at public meetings called in accordance with the state open meetings requirements and board laws and policies.

(B) *Robert's Rules of Order Newly Revised* will apply to procedure at meetings if the Laws of the Regents do not specify otherwise.

I believe the most significant modifications in this proposed policy are: (1) setting the meeting agenda at the time of the meeting and not allowing the addition or deletion of agenda items without the consent of the chair and vice chair of the board or a majority vote of the regents; (2) distinguishing between resolutions as one time actions and policy development; and (3) the board would consider any regent-initiated resolutions at a regular or special meeting only if the resolution or policy: (i) has previously been vetted through the most appropriate regent committee; or (ii) at least six regents vote to consider the resolution or policy at the regular or special meeting.

A. *Modification of Article 2.B.3.B. of the Laws of the Regents*

The Laws of the Regents currently require the board to conduct its meetings in accordance with *Robert's Rules of Order Newly Revised* unless the Laws of the Regents otherwise specify. I would recommend that the board modify this provision to state, "*Robert's Rules of Order Newly Revised* will apply to procedure at meetings if the Laws of the Regents or regent policy do not specify otherwise."

As we have discussed before, the Laws of the Regents should be the highest-level governing documents for the university. I would not recommend defining the procedures for regent meetings in the Laws of the Regents but would recommend that the regents define those procedures within its own policies. This leaves the decisions in the board's hands but places it at an appropriate policy within the policy hierarchy.

B. *Modification of Regent Policy 2.F*

Regent Policy 2.F currently addresses the posting of board meetings and requires the board staff to post them at www.cu.edu/regents. I am proposing that the board expand this policy to address board meetings more generally. It would read:

2.F.1 Regular and Special Meetings

As described in Article 2.B.1 of the Laws of the Regents, the Board of Regents may meet either at regularly scheduled meetings or at special meetings noticed in accordance with the requirements of the Colorado Open Meetings Law. The official posting place for notice of all regent meetings is the Board of Regents website at <https://www.cu.edu/regents>.

2.F.2 Executive Session

At any regular or special meeting of the Board of Regents, the regents may meet in executive session for any purpose allowed under the Colorado Open Meetings Law. Any executive sessions will be conducted in accordance with the Colorado Open Meetings Law. The Board of Regents may not take formal action in executive session unless permitted by law. Any regent or administrator who attends executive session is responsible for maintaining the confidentiality of any executive session discussions or materials unless the Board of Regents, with the concurrence of the University Counsel, has authorized a disclosure of executive session discussions or materials.

2.F.3 Purpose

The purpose of regular and special meetings of the Board of Regents is to support the regents in their governance functions, to allow the regents to exercise their fiduciary responsibilities, and to enable the regents to perform the functions vested in them under the *Laws of the Regents* and regent policy. The agendas for regular and special meetings of the Board of Regents should be developed to further this purpose.

2.F.4 Agenda Setting

In advance of any regular or special meetings of the Board of Regents, the Secretary of the Board of Regents shall request potential discussion and action items from the regent committees and the administration. In consultation with the administration and the vice chair of the board, the chair of the board shall determine the agenda for any regular or special meeting and authorize the Secretary of the Board of Regents to post the agenda in accordance with the Colorado Open Meetings Law.

2.F.5 Agenda Approval

At any regular or special meetings of the Board of Regents, the first action item will be the board's approval of the agenda. After the agenda has been approved, action or discussion items may be added to the agenda only upon the consent of the chair and vice chair or a two-thirds vote of the Board of Regents.

2.F.6 Distribution of Materials

Under normal circumstances where time permits, any materials or presentations related to action or discussion items for a regular or special regent meeting should be distributed to the regents and posted with the agenda in advance of the meeting.

2.F.7 Development of Policy

The development of policy, defined as those actions that are intended to influence future actions and decisions within the university, should occur through defined policymaking processes, rather than through direct action by the Board of Regents. Under normal circumstances, the appropriate regent committee should consider any new or amended *Laws of the Regents* or regent policies before the Board of Regents considers and votes upon them. The Board of Regents shall consider new or amended *Laws of the Regents* or regent policies that a regent committee has not considered only upon the affirmative vote of two-thirds of the regents.

2.F.8 Use of Resolutions

A resolution is intended to allow the Board of Regents to take action on a current matter, rather than to establish ongoing policy for the university. The Board of Regents will ordinarily consider a resolution only if: (i) an administrator who has responsibility over the subject of the resolution has brought it for the board's consideration; or (ii) a regent committee has considered the resolution. The Board of Regents may consider a resolution that one or more regents brings without a regent committee's prior consideration only upon the affirmative vote of two-thirds of the regents.