

**MODERNIZING GOVERNANCE AT THE UNIVERSITY OF CALIFORNIA:
A Proposal that the Regents Create and Delegate Some Responsibilities to Campus Boards**

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ABSTRACT

The University of California (UC) needs to respond to the fundamental and ongoing changes that are occurring around it if it is to remain financially sustainable, accessible, and academically excellent. As the campuses that make up UC have matured in the past 50 years they have, rightly, developed unique strengths and challenges. The uniqueness of individual campuses has been a natural response to the increasing complexity of our world and the highly competitive nature of higher education. These differences have been compounded by the facts that a much lesser fraction of the university budget now comes from the state and that there has been a continual evolution in the missions of the university as a whole. We propose that the Regents create and delegate appropriate responsibilities to campus-based governing boards to enable more effective campus oversight and management, while retaining their university-wide policy and fiduciary responsibilities.

Note: This document is intended to initiate a discussion on a serious issue - the inevitable evolution of the governance of the University of California. While considerable time has been spent in drafting this proposal, we very much welcome suggestions and comments designed to achieve our common overarching goal – that is, to create an environment within which our great public university can be put on a sustainable footing so that it may continue to provide access and excellence to as many people as possible.

A. SYNOPSIS

The University of California (UC) needs to respond to the fundamental and ongoing changes that are occurring around it if it is to remain financially sustainable and academically excellent. As the campuses that make up UC have matured in the past 50 years they have, rightly, developed unique strengths and challenges. The uniqueness of individual campuses has been a natural response to the increasing complexity of our world and the highly competitive nature of higher education. These differences have been compounded by the facts that a much lesser fraction of the university budget now comes from the state and that there has been a continual evolution in the missions of the university as a whole.

The future for UC demands that we create a governance model that a) allows decision makers throughout the UC system to focus on the 90% of [revenues], and growing, that are not provided by the state, b) promotes local decision making so that unique strengths can be capitalized upon and local challenges nimbly and quickly addressed, c) preserves the elements of centralized oversight that will promote efficient and effective management of the system and d) brings the governing body – the Regents – closer to the individual challenges and opportunities that campuses face so that front-line decisions benefit more directly from their informed input. Thus UC, which has a rich history of devolving responsibility from the center should adopt a hybrid governance model that preserves constitutional autonomy and Regental control while empowering local action and innovation. This would strengthen the UC system as a whole and enable it to maintain, and hopefully increase, access and excellence.

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In this paper, we propose that the Regents create and devolve certain responsibilities to governing boards at the campus level to enable more effective campus management, while retaining the UC Board of Regents with most of its existing university-wide policy and fiduciary responsibilities. The Regents would retain the overall governance function specified in the California constitution.

The addition of campus boards will address several needs, namely

- Strengthening and modernizing the governance of UC by making it more robust, responsive and informed,
- Enabling governance to deal effectively with the ever-growing size and complexity of UC,
- Reducing the remoteness of governance and allowing decisions to be made closer to the front line and hence more nimbly and on the basis of greater knowledge and familiarity,
- Developing structures and roles that enable the Regents to function most effectively,
- Bringing into governance highly respected and capable people, who are reflective of the various arenas of society with which the university engages and supports, and upon which it is increasingly dependent for viability,
- Assisting the campuses in raising private funds in support of the public mission, and
- Bringing students more directly into campus governance, in recognition of the recent escalation of fees.

The following outlines in greater detail the need for an improved and evolving governance model of the ten-campus University of California system, the respective responsibilities of the Regents and the proposed campus boards, organizational considerations such as membership and the interrelationship with other important entities such as the Academic Senate, and the benefits we see from this initiative. The appendices offer comparative models of governance within the public-university systems of the US.

B. BACKGROUND AND PLANNING FRAMEWORK

Purpose

- Putting in place on each campus a governance structure that supports a more sustainable and individually tailored, financial strategy will increase the "Power of 10". It will not be possible to maintain access and excellence across the UC system by focusing on solutions that are common across all campuses.
- The fundamental financial dynamics underpinning the UC system have changed dramatically, particularly over the past ten years. While State financing is important, it is very far from being the prime source of revenue. Federal Contracts and Grants, Student Tuition/Fees, and Philanthropy have risen sharply in importance in comparison with state funding. To maximize these (and other) sources of revenue, campuses need to be competitive by being provided the capacity to focus on their unique comparative advantages. This can be done only at the campus level. Each campus will need to develop its own business model that fully reflects its unique characteristics. This necessitates a partial and well designed devolution of governance.

Issues Addressed

- The University of California has grown much larger and continually much more complex over the years. The administrative governance of the university has a rich history of continually evolving and decentralizing to reflect that fact, and the Board-level governance which was instituted in the 1870s in essentially its present form should also evolve accordingly.
- The environment for UC is also changing rapidly through factors such as the continual enhancement of instant broadband communication, globalization, increasing diversity of the population served, and the decline of public funding for higher education. Speed, flexibility, and nimbleness are needed to meet these changing circumstances. The present monolithic structure of governance inadvertently results in lost opportunities for the campuses. The situation calls for many elements of governance to be closer to the local level.
- Financial support from the State of California has substantially diminished, with little prospect of substantial recovery. Other sources of revenue are rivaling or exceeding UC's diminished State of California support, namely
 - Research support from government, foundations, and industry
 - Much higher tuition/fees than even a decade ago
 - Private support from individuals, foundations and corporations
 - Academic revenue-generating enterprises, e. g., University Extension, enrollment of foreign and out-of-state students, executive education, and a wide and rapidly growing array of entrepreneurial efforts by individual academic units

The sources beyond tuition and fees are highly specific to the individual campuses. For the University of California state funding is now only 10% of the total budget².

- The governance structure does not reflect well the present situation, where the university involves so many different constituencies, revenue streams and activities.
- Greatly increased complexity and the needs for knowledgeable and flexible actions call for strengthening the governance of UC and making it more robust.
- Campuses differ from one another in nature, emphases and opportunities. The present university-wide governance system does not address or facilitate campus-specific interests and opportunities to the extent that is needed and useful.

Working Hypotheses

- The specific division of responsibility between the current Board of Regents and newly created campus boards with delegated authority from the Regents will provide UC campuses with more effective, informed, and invested oversight and will deal better with the very large and complex organization that is UC.
- Such boards will also serve campuses by affording quicker and more locally attuned decision making and by facilitating their pursuit of initiatives that build upon the particular strengths and opportunities of individual campuses.
- The addition of campus boards should work well for the Regents too, in that it will enable Regents to use their time more effectively and gain more intimate familiarity with individual campuses.
- Campuses will substantially benefit from the support, advice and insight of local board members, including Regents, who will be much better informed about local opportunities and challenges. Campus boards will attract a new group of successful leaders who care deeply about the success of the campus and the system.
- Administrative activities in support of the roles of the Board of Regents would be carried out at the Office of the President (OP). Administrative activities in support of roles delegated by the Board of Regents to campus boards would be carried out by the individual campuses. Shared-governance roles of the Academic Senate would be similarly paired. It is recognized that the situations of the Merced campus and any future new campuses are different, and that specially tailored approaches are needed for them.

Aspects to Preserve Regardless of Changes to Governance Structure

- The public mission and access, including adherence to the access components of the Master Plan
- Commitment to preserving and enhancing the academic excellence of all campuses
- One university and, as such, one state budget for UC, with one rational mechanism for distributing that budget within UC
- Constitutional autonomy
- The academic values and pre-eminent standing of the university as a whole
- Capacity for appropriate system-wide coordination and planning

The Rationale for Campus Boards

- The complexity of the University of California has grown enormously since its founding and since the Master Plan of 1960, including the number of campuses, the variety of sources of income, and the dimensions of university activities, greatly extending Clark Kerr's prescient 1963 concept of the multiversity³.
- In recognition of the growth in complexity and the needs for more localized, rapid, and flexible decision making, administrative delegation and decentralization have been growing steadily over the years, starting with the establishment of campus Chancellors in 1952, and continuing through the substantial decentralization of budgetary control in 1995 and the Funding Streams reform in 2011. However, there has as yet been no decentralization or devolution of the top governance function of the Regents.
- The current structure of a single Board of Regents was designed in an era when nearly all revenue for the university was from the state and when virtually the sole function of the university was the education of California students. Over the years, functions and sources of funds and the mission of the university have greatly diversified and expanded, with many of the funds now coming in at the campus level and being specific to the campus. These new realities must be reflected in governance as well.

² Counting contracts and grants and hospital revenue where there are hospitals, but not counting management of the DOE national laboratories.

³ Clark Kerr, "The Uses of the University", Harvard University Press, 1963 (subsequently extended through a 5th edition, 2001).

- A system of campus boards, with Regents distributed among these boards as members, will serve Regents well, in that it will enable them to focus as a Board on high-level system-wide issues while also gaining individual Regents greater familiarity with individual campuses.
- The structure of campus boards under the main Board of Regents will also serve campuses well (flexibility, better use of resources, more community involvement and support, etc.), while maintaining the signal advantages of one university (one state budget, commitment to all campuses, appropriate oversight, coordination and audit authority at the center, the ability to assure that the Master Plan commitments are met, and preservation of the role of UCOP in representing the university to the state government and the public).
- In accord with the selection criteria stated in the Regents' Bylaws⁴, most Regents have backgrounds and interests that are directed toward state-level and public issues. At the time of appointment, many Regents have not had substantial experience with the UC campuses, the University of California, or in some cases even higher education itself. As busy and multi-faceted people, they may not have the time available to gain that experience rapidly.
- The individual UC campuses have different natures, emphases, strengths and weaknesses, locales, and distributions of financial support. The campuses must have individualized and different strategic plans in order to be viable. These complexities are great enough and constantly changing enough so that a single Board of Regents cannot understand all the individual campuses well.
- A campus board will have deeper knowledge of the particular campus and more involvement with campus life. Governance should seem less remote to those on the campus and to those Regents who are on the campus board.
- Adding boards at the campus level will draw more, and more diverse, constituents of the campus into serious, committed interest.
- Campus boards should be achievable without constitutional change (see "Path to Creation of Campus Boards", below).
- The University of North Carolina, the State University System of Florida, and Utah Higher Education system provide precedents for the use of campus boards under a master board (see Appendix 1).

Matters for which the Board of Regents and President would Retain Responsibility

- The initial members of campus boards would be appointed by the Regents, taking into account recommendations from Chancellors and the President. Subsequently, the appointments would be made by the Regents following the recommendations of the campus boards.
- Approval and submission of the UC state budget request, acting upon recommendation by the President as indicated by Standing Order 100.4(f)⁴
- In accord with Standing Order 100.4(j) of the Regents with delegation to the President⁵, university-wide planning matters currently in the purview of the Regents, including assurance that the conditions of the Master Plan are met for undergraduate enrollment, notably the ability of UC to accommodate and provide education of the highest quality to those within the upper 12.5%⁶ of graduates of California public high schools, along with students of comparable distinction from other schools
- In accord with Standing Order 100.4(f) of the Regents⁴, consideration and approval of rolling ten-year capital plans for the individual campuses presented through the President, with primary attention to state-funded portions, and with the implementation of these plans through specific facilities projects being delegated to campus boards
- Selection, appointment, and review of the President
- Approval of appointments and salaries for Chancellors, Vice Presidents (including Executive, Associate and Assistant Vice Presidents), National Laboratory Directors, and Hospital Directors, all upon recommendation of the President.
- Participation by members of the Board of Regents in Chancellor searches. The Regent members of campus Boards would logically be among the Regents involved. The President would continue to chair Search Committees for Chancellor positions, and would then forward his or her recommendation to the Board of Regents for confirmation and approval. In addition to Regents, there would be several Campus Board members on the Search committee, with those members being selected by the Chair or Nominating Committee of the campus board. Other membership and advisory roles would be similar to current practice.
- Oversight of the University of California retirement and benefits systems, with delegations to the President and the Treasurer.

⁴ Bylaw 5.1(d) of the Regents of the University of California says that Regents "shall be able persons broadly reflective of the economic, cultural, and social diversity of the state, including ethnic minorities and women". <http://www.universityofcalifornia.edu/regents/bylaws/bl5.html>

⁵ Standing Order 100.4 of the Regents of the University of California, "Duties of the President of the University". <http://www.universityofcalifornia.edu/regents/bylaws/so1004.html>.

⁶ Whether the 12.5% figure should change is an important issue but is not addressed here. There are good public policy reasons for an increase, and financial limitations can force a decrease.

- Overall responsibility for audit at an appropriate level, with there being some audit functions that are delegated to campuses
- In accord with Standing Order 100.4(d) of the Regents with delegation to the President⁴, approval of contracts with labor unions, following negotiations conducted at the level of the Office of the President and bringing in persons drawn from the UC system
- Overseeing UC's roles in management of national laboratories, approving contracts, modifications of contracts, and the LANL and LLNL National Security LLC Agreements, with delegation of the management of these contracts to the President.
- Oversight of very large, multi-campus research facilities, such as the Keck and Thirty-Meter Telescopes.
- In accord with Standing Order 100.4(g) of the Regents⁴, establishment, upon recommendation of the President, of tuition or allowable ranges (upper and lower limits) of tuition for undergraduates who are CA residents. In the latter case individual campus boards would set tuition for their campus within the limits prescribed by the Regents. Tuition for graduate and professional students and for out-of-state undergraduates, as well as campus-specific fees would be delegated to the campus boards.
- Overall fiduciary responsibility, including ensuring that campuses have balanced budgets, reasonable investment policies (see next section), and reasonable levels of indebtedness

What Should Be Considered for Delegation by the Regents to Campus Boards?

Specific matters that should be considered by the Regents for delegation to Campus Boards are listed below and are explored further in subsequent sections.

- Recommendation to the Regents of replacements for the non-Regent positions on the campus board as terms expire
- Approval of overall campus budgets and recommendation of the state budget component of it through the President to the Regents for adoption and incorporation as part of their single budget request to the state
- Flexibility in setting the amounts of financial aid monies, subject to prescribed minimum allocations of state money to financial aid
- Setting tuition and fees for undergraduates who are residents of CA if the Regents choose to establish ranges within limits
- Setting tuition and fees for graduate/professional and out-of-state students
- Approval roles currently held by the Regents for individual major construction projects, including the CEQA and EIR aspects
- Approval of the amounts of campus enrollment capacity to be used for out-of-state and graduate/professional enrollments (This amounts to setting total campus enrollment capacity, since the in-state undergraduate enrollment will be determined collectively at the system level to meet the obligations of the Master Plan.)
- Approval of Vice Chancellor appointments and salaries
- Approval of cost-of-living adjustments for faculty and unrepresented staff
- Approval of salaries above the limits that currently require approval by the Regents
- Design of endowment and investment vehicles and mechanisms of payout, where it is determined by the President and the Regents that the campus has the proven financial capacity to fulfill this function.

C. ISSUES TO CONSIDER IN MOVING TO CAMPUS BOARDS

Membership by Regents on Campus Boards

- Some Regents should be included on the campus boards, to retain effective liaison with the Board of Regents and to give Regents the benefits and insights resulting from more involvement with specific campuses.
- The number of appointed Regents (18) plus Alumni Regents (2) is 20. As a compromise among pertinent factors (see Workload for Regents, below) include two of these Regents on each campus board, which is equivalent to each of the 20 identified Regents being on one campus board. To ameliorate any perception that these Regents "belong" to campuses, rotate Regents among campus boards at three-year intervals. Thus these Regents would be successively on Boards of four campuses during a twelve-year term.
- The two Alumni Regents should not be members of the boards for the campuses that they represent within the Alumni Association. Their terms on a campus Board would be the full two years during which they are Regents.
- The President of the University, the Governor and the Lieutenant Governor should sit with campus Boards whenever they wish, as non-voting members.

Selection and Service Terms of non-Regent Members of Campus Boards

- Although particular situations of campuses may lead to additional considerations, it is envisioned that there would be eight general members of campus boards, plus the Chancellor of the campus, two student members, and involvement of faculty and staff representatives in ways analogous to the roles of faculty and staff representatives with the Board of Regents.
- Following the University of Delaware and University of Vermont models (See Appendix 1), the general membership positions on campus boards could be filled by having new members recommended by the current Board members, including the Regent members in the vote. Actual appointments would be made by the Regents, taking these recommendations into account. Terms for the general members would be three years, renewable by re-appointment. The length of these terms is a compromise between getting sustained service, on the one hand, and obtaining the time of people who are very busy, on the other hand. Viewed another way, it is also a matter of obtaining the desired length of commitment from the individual, on the one hand, and preserving an ability to discontinue someone who is not working out well for whatever reason, on the other hand.
- General members could be drawn from any source, but particularly in mind would be
 - Business, community, and philanthropic leaders,
 - An intellectual leader (probably from outside UC),
 - A member with expertise in architectural and design matters
 It is likely that many of the general members will be campus alumni.
- Chancellors would be voting members of campus boards, *ex officio*.
- Appendix 2 contains results of a survey of numbers and types of **students, alumni, and faculty** on public-university boards at comparison institutions, along with the total number of board members and anything else unusual about board membership selection.
- With regard to **student** membership,
 - In most of the cases reported in Appendix 2, there is one student member and that membership is *ex officio*, i. e., the student body president. In one case (Illinois), the student board members are chosen by student referenda on the campuses. For the UC Board of Regents and some other Boards there is a selection process that starts with nominations and applications and proceeds through a separate selection process (i. e., the membership is not *ex officio* or elected). In some cases that separate selection process leads to ultimate selection by the Governor.
 - Given the rising levels of tuition, it seems appropriate to have two student members on campus boards, with one of the two being an undergraduate, and with the other being a graduate or professional student. Both would be voting members.
 - It seems best, as a point of departure at least, for student members of UC campus boards to be selected by a process akin to that used for selection of the Student Regent. This preserves the analogy to how the main Board of Regents is structured and also diminishes campaigning, which can lead to advance commitments and less objectivity.
- **Faculty** representation on or to boards of other leading public universities is inconsistent (Appendix 2) and when it exists is almost always in the form of non-voting memberships. By analogy to the faculty representation to the UC Board of Regents, it would make sense to include the Chair and the Vice Chair of the campus division of the Academic Senate as non-voting members of UC campus boards.
- A **staff** member could also sit with the campus board, paralleling practice for the Board of Regents itself.
- It would make sense to retain the current Foundation Boards at campuses. They could be viewed as “feeder” boards to enable evaluation of potential candidates for the main campus boards.

Path toward Creation of Campus Boards

Legally, both the creation of campus boards and delegation of functions to them can be done directly by the Regents, rather than requiring any change to the State of California Constitution or any other enabling action. Rights of delegation are specifically indicated in Article IX, Section IX of the Constitution of the State of California⁷, including the right to delegate to committees of the Regents and even to “others”, i. e., bodies for which some or all members are people other than Regents. Staying away from any changes to the California Constitution helps with regard to the essential need to preserve UC’s constitutional autonomy.

Beneficial Aspects

- *State Government*
 - The new model increases cost efficiency and accountability, because greater attention is paid to campuses by campus boards.

⁷ http://www.leginfo.ca.gov/const/article_9

- The complexity and changing environment of the university require delegating aspects of governance to a more campus-specific level, so as to enable UC to be flexible and nimble.
- Individual Regents will now be able to bring to the collective Board of Regents more in-depth knowledge of campuses.
- There is a great need to facilitate raising private funds of many different sorts in support of the public mission. Campus boards will help that occur.
- Precedents are afforded by North Carolina and Florida (see Appendix 1), in both of which states there are two levels of boards.
- The ultimate authority and responsibilities of the Regents remain intact, since delegation still retains ultimate responsibility by the Board of Regents.
- *Regents*
 - Delegation will enable the Regents to focus more effectively upon fundamental state-level and system-wide issues of the university.
 - Delegation, with membership by Regents on campus boards, will give the Regents individually and collectively a more thorough understanding of campuses and their issues.
 - The complexity and changing environment of the university require delegating appropriate aspects of governance to a more campus-specific level, so as to enable UC to be flexible and nimble.
 - The more complete and thorough oversight attained through campus boards should keep better control over unpleasant and/or embarrassing surprises (malfeasances, defalcations, etc.) that may arise because of the large size of UC.
 - There is a need to have campus board members who can be effective in facilitating large private funding-raising. (This lessens the pressure on the Regents to become fund-raisers or donors themselves.)
 - There is a need to have campus Board members with deep knowledge in a number of specific areas of critical importance to the various campuses. These members, in turn, can afford specific expertise when sought by Regents.
 - The Regents retain ultimate authority.
- *President and Office of the President*
 - Delegation of some responsibilities of the Regents to campus boards will enable the President and UCOP to focus constrained resources on those services and functions that are best performed on behalf of UC as a whole.
 - UCOP will continue to be responsible for managing the overall goals and strategies of UC, such as compliance with the access provisions of the Master Plan, determining when new campuses or other means of enhancing enrollment capacity are needed, and devising and carrying out processes for site selection and initial start-up of new campuses.
 - The President, supported by UCOP, will continue to manage the very important relationships of UC with the state government and the Regents.
 - The President and his or her staff should retain responsibility for UC's roles in managing national laboratories, large multi-campus research facilities such as the Keck and Thirty-Meter Telescopes, and any other multipurpose or cross-campus facilities that benefit from system-wide management.
 - The board delegations will free up UCOP resources by allowing those issues best handled at the campus level to be dealt with at that level, with the oversight of campus boards. This will enable the President to direct resources towards those issues that are of greatest system-wide importance.
 - The delegations to campus boards are fully in line with the recently adopted Funding Streams Reform, which devolve more control on revenue streams to campuses. The changes outlined in this proposal are a natural extension of this reform into areas of governance and should enhance the benefits of Funding Streams Reform.
 - The delegation of some functions by the Regents to campus boards will help UCOP eliminate duplicative or unnecessary controls or services and maximize the proportion of state dollars that go to the "front line" of teaching and research. It would also support the move towards the fee-for-service model that is evolving for UCOP.
 - The creation of campus boards with delegated responsibilities will strengthen the ability of the president to hold Chancellors accountable for campus performance. To the extent that decisions are remote from a campus, it is more difficult to assess the performances of the Chancellor and the campus.
- *Campuses*
 - Campuses should appreciate the values of a governance level that is closer to the campus.
 - It is recognized that special arrangements need to be made so as best to enhance and preserve the viability of the Merced campus and any future new campuses.

- *Academic Senate*
 - Shared governance fully retains its essential role.
 - Both the Academic Council and the campus Senate Divisions retain their roles, with a match of Academic Senate consultation to the levels of governance.
 - There will be some devolution of issues from the Academic Council to the Division Senates, corresponding to the delegations from the Board of Regents to the Division Senates. That devolution is small in the overall scheme of things.
 - Campus divisions of the Academic Senate gain the right to have two faculty representatives present at the table with full speaking rights for meetings of campus boards.
 - The plan fully maintains the Senate roles that are formally delegated to the Academic Senate by the Regents.
 - There is a need for facilitating private funding, which brings direct benefits to faculty. Private funds are needed in support of the public mission.
- *Students*
 - Students gain the right for representation on campus boards, thereby participating directly in the governance of their own campus.

Open Meeting Laws and Policies

- Campus boards should operate under open-meeting laws and policies, notably the Bagley-Keene Act and financial-disclosure laws. Not to do so would engender a perception that the campus boards are being created so as to “hide” governance actions that have heretofore been subject to open meetings.
- There is an on-line State of California 40-page synopsis of Bagley-Keene requirements.⁸ In short, the principal requirements of Bagley-Keene are that
 - meetings must be publicly noticed,
 - agendas must be prepared and made publicly available in advance,
 - meetings must be open and accessible to the public,
 - so-called “serial” meetings must not occur,
 - public testimony (“public comment periods”) must be included in the meeting, and
 - there must be public access to records of the body.
- There are specified and few situations which enable use of closed sessions at meetings. These exceptions relate to
 - Personnel
 - Pending litigation
 - Real property
 - Security
 - Deliberations (very narrowly defined)

Frequency of Meetings

- Meetings of the campus boards might be once per two months with it being possible to call special meetings with notice, comporting with Bagley-Keene.
- Meetings of the Board of Regents would be less frequent than they are now, perhaps four times per year.

Workload for Regents

- There is a very significant issue of how much increase, if any, in workload for individual Regents will be required by the new governance structure. For that, we have to look at the sum of duties for Regents on the main board and on the campus boards with which they are affiliated.
- Several other factors interact with the workload matter and require a compromise. One is the issue of avoiding either the perception or the reality that the particular Regents on campus boards “belong” to or act for those campuses with regard to their roles on the Board of Regents itself. Another is minimizing possible effects of having undue control by any one Regent with regard to the interests of a campus before the Board of Regents itself. A third factor is the scheduling complications that would result from having to schedule meetings of the Board of Regents and ten campus boards under circumstances where individual Regents are all members of different combinations of campus boards. Yet another factor is the size of campus boards. Campus boards should be small enough so that they function well and so that the Regents on the campus boards are not severely outnumbered. But campus boards should also be large enough so that there are enough spots to involve the different sorts of people and backgrounds that should be involved for the benefit of the campus.

⁸ California Attorney General's Office, “A Handy Guide to The Bagley-Keene Open Meeting Act 2004”, http://ag.ca.gov/publications/bagleykeene2004_ada.pdf

- A reasonable compromise among these factors is the recommendation, above, that there be two Regents per campus board, with each of the 20 designated Regents thereby being on one campus Board, coupled with requirements that the Regents would then rotate at three-year intervals from one campus board to another, and that the two Alumni Regents not serve on the board for their own campus. By this design, Regents are responsible for four meetings of the main Board and six meetings of a campus board, per year. That is 10 meetings per year, which is essentially what the meeting load was for Regents before 2005.

Campus Budgets

- Since there will be one state budget for UC, the Regents, acting upon the recommendation of the President, will be the body to submit the request for that budget to the state. Substantive UCOP roles are necessary to support that function.
- Regents have responsibility for making sure that total campus budgets are balanced and realistic.
- Campus boards should approve non-state portions of campus budgets and overall campus budgets.
- Campus boards should consider and approve the requested state-funded portion of the campus budget, for submission to the President for Board of Regents approval and inclusion in the Regents' Budget.

Rationales Concerning Delegation of Tuition/Fee Setting

- The greatest concern of state government will likely be with the level of tuition for California-resident undergraduate students. Approval of undergraduate tuition for residents is already at the level of the UC Board of Regents, and it is unlikely that it could be delegated further, except in the form of an allowable range.
 - Another possibility is that tuition for state residents would be proposed by campus boards and then considered and set by the Regents. Such an arrangement would mimic the situation in North Carolina for institutional fees beyond basic tuition (see Appendix 1).
 - Another possibility is for campus boards to be given authority to set specific fees that would be supplemental to a tuition that is uniform across all of UC.
- There should be less concern with tuition for graduate and professional students and for out-of-state students. In Florida, the Board of Governors delegates fee setting for graduate and professional students to the Boards of Trustees for the individual universities (see below). By analogy, it could be appropriate to delegate setting of graduate and professional tuition to the UC campus boards.
- Setting of fees for non-resident students should be delegated to campus boards since there is no direct impact on costs for CA residents. Also, setting of non-resident fees is a matter of the market, i. e., recruiting the right number of excellent students to fill the non-resident spots available. The market situations for different UC campuses differ greatly.
- Differential fees for professional students are currently set to match fees of the competition and/or to match the demonstrated cost of instruction. It would be appropriate to delegate approval authority for them, within limits if necessary.

Facilities and Construction Projects

- Historically there has been a role of Regents approving individual projects on their way to state-level architectural review, review in light of state square footage standards for space, and approval by the Public Works Board. In this capacity, the Regents have been supported by the work of the Capital Resources Management Office at OP.
- The Governor's Budget proposed for 2012-13 has placed servicing of debt for capital projects that are funded by General Obligation Bonds in the hands of UC, with the result that state approvals by the Public Works Board and architectural review would no longer be needed. Under these circumstances, there is little or no need for intensive review of individual projects at the Office of the President.
- It thereby makes sense for the Regents to have a role of reviewing and approving ten-year capital plans for the various campuses, while delegating to campus boards the current roles of the Regents dealing with individual capital and facilities projects.
- It would be desirable for the Board of Regents to delegate the Board's CEQA and EIR approval functions for individual projects to campus boards as well. This would be in accord with the permissive language in Article IX, Section IX of the California constitution. A court decision last year confirmed the ability of the Regents to delegate EIR approval to a committee (Grounds and Buildings) of the Regents. This decision should extend to delegation of EIR approval authority to committees or boards that have mixed membership or even no Regent members.
- Roles of the OP offices should correspond to roles of the Board of Regents. Roles delegated to campus boards would no longer have corresponding roles for the OP offices.

Uses of Campus Enrollment Capacity

- The issues here are the total enrollment on each campus and the distribution of that enrollment between undergraduate and graduate/professional levels, and between in-state and out-of-state students within the undergraduate enrollment.
- The principal state-level interest is in assuring that CA-resident undergraduate students are accommodated in accordance with the provisions of the Master Plan, both entering freshmen and transfer students. In-state undergraduate enrollments should be established by campuses by agreement with UCOP and thereby the Regents, who bear responsibility for assuring that the enrollment commitments of the Master Plan are met. Campuses would then have responsibility for determining levels of graduate and professional and out-of-state enrollment, and hence total campus enrollment. For many campuses the establishment of total enrollments will be within enrollment limitations established with the community.

Approval of Salaries

- The current role of the Regents is to approve salaries above a certain dollar limit (presently \$291,000 for nine-month faculty salaries, with other limits for other employee categories), and to approve both appointments and salaries for Officers of the University, which include chancellors and vice chancellors.
- By delegating to Campus Boards the approval of salaries above the dollar limit and for Vice Chancellors, the Regents would enable them to be based on both local situations and local comparisons.

Academic Senate Roles in Governance

- The different Academic Senate bodies are advisory to the corresponding levels of administration. Therefore the role of the system-wide Academic Council is advisory with regard to those issues that are the responsibility of the Office of the President, and the Senate Divisions for the campuses are advisory to the administrations of the corresponding campuses.
- The Chair and Vice Chair of the Academic Council also sit with the Board of Regents as Faculty Representatives, and would continue to do so if there were campus boards. Logically, as noted above, the Chairs and Vice Chairs of the Division Senates would have corresponding roles with campus boards – a new role.

APPENDIX 1

BENCHMARKING: POTENTIALLY USEFUL COMPARISONS

- In making comparisons with other states and universities, it is important to recognize ways in which the University of California is unique.
 - UC is the nation's only university/system of a large number of research universities, all with avenues toward comparable distinction.
 - UC is one university.
 - Only the University of Minnesota and the 15 public, four-year universities in Michigan have constitutional autonomy to a degree comparable to the University of California.

- In a book exploring new financial and governance models for public universities in the United States, James Garland⁹, who was President of Miami University (Ohio) from 1996 to 2006, specifically proposes formation of campus boards under the Board of Regents of the University of California.

- The **University of North Carolina** consists of all 17 public four-year universities within that state and includes a variety of types of institution, including UNC-Chapel Hill, the other six UNC campuses (Charlotte, Asheville, ...), and North Carolina State University, among others. There is a Board of Governors at the all-university level, and there are Boards of Trustees for each of the campuses. There is a formal document stating the delegations to the campus Boards of Trustees¹⁰. Setting of tuition is not delegated. Special and institutional fees, beyond tuition, are proposed by the Boards of Trustees and then must be approved by the Board of Governors. For the University of North Carolina – Chapel Hill and North Carolina State University the Boards of Trustees consist of eight members selected by the Board of Governors, four members appointed by the Governor of the state, and one student who is the president of the student government, *ex officio*. Compositions and appointment practices for other campuses within UNC seem to vary.

- The **University of Delaware** is formally a combination private/public university. Its Board¹¹ is composed of 8 trustees appointed by the governor with the consent of the state Senate, and 20 other members, for a total of 28. The 20 non-government members are appointed by a vote of the majority of the entire Board. The Board sets tuition and fees, and so this is a situation where tuition is set by a board that has a large majority of members who are not appointed by a state-government mechanism. This board is also a possible model for the composition of UC campus boards. State support is currently about 10% of budget of the University of Delaware, similar to the situation of UC.

- The **University of Vermont** has a similar hybrid structure¹². It has a Board with 25 members, 9 appointed by the Legislature, 9 self-perpetuating, 3 appointed by the Governor, two students, and the Governor and the President of the University, both *ex officio*. About 70% of students are from outside the state, and less than 7% of operating revenue is from the state.

- The state of **Ohio** has 13 public universities, each with separate boards, with all members appointed by the governor (15 board members for Ohio State; 9 board members for each of the others).¹³ In 2007 an overarching University System of Ohio was formed with a Chancellor (a popular, long-serving state politician) and a Board of Regents. Members of the Board of Regents are also all appointed by the Governor of Ohio. Ohio is thereby a state that has a master board and 13 individual campus boards¹⁴. However, these boards were formed in a reverse fashion, with the central board coming later, and thereby the individual campus boards are much stronger than the central board. Furthermore, the central board is only advisory to the Chancellor, who has duties and powers similar to those of the heads of state coordinating bodies¹⁵. (State coordinating structures vary widely among the different states.¹⁶)

⁹ J. C. Garland, "Saving Alma Mater: A Rescue Plan for Public Universities", p. 200, University of Chicago Press, Chicago IL, 2009.

¹⁰ <http://unc.edu/depts/trustees/delegat.html>

¹¹ <http://www.udel.edu/provost/fachb/udcharter/index.html>

¹² http://www.uvm.edu/about_uvm/?Page=governance.html

¹³ Garland, *loc. cit.*, p. 117.

¹⁴ Garland, *loc. cit.*, pp. 194-196.

¹⁵ <http://codes.ohio.gov/orc/3333>

¹⁶ <http://www.sheeo.org/agencies.asp>

- **The State University System of Florida** has a Board of Governors, and there are individual Boards of Trustees for each of the eleven universities within the system. The Board of Governors consists of 14 members appointed by the Governor and confirmed by the state Senate, plus three *ex-officio* members – the Commissioner of Education, the Chair of the Advisory Council of Faculty Senates, and the President of the Florida Student Association. The individual Boards of Trustees are composed of six members appointed by the Governor, five members appointed by the Board of Governors, the Chair of the Faculty Senate, and the president of the student body of that university.¹⁷ Tuition and fees are set at the level of the individual Boards of Trustees in accordance with guidelines established by the Board of Governors. These guidelines currently specify the level of tuition at the undergraduate level for Florida-resident students (i. e., do not delegate that role), but delegate fully to individual Boards of Trustees rights to set tuition for graduate and professional programs and for out-of-state students.¹⁸ Meetings of the various Boards of Trustees are subject the open meetings and public records laws.
- **University of Virginia.** The University of Virginia is unusual in that there is a recent formal delegation of independent authority to the university in recognition of considerably reduced state support -- the Restructured Higher Education Financial and Administrative Operations Act of 2005¹⁹. Although, most of the functions delegated in this Act already lie within the purview of the University of California, the approach is still of considerable interest.
- **Utah Higher Education.** The State System of Higher Education in Utah also has two levels of Boards. A Board of Regents²⁰ is composed of 15 members appointed by the Governor with the consent of the state Senate. There is also a Student Regent. As well, two members of the state Board of Education and one member of the Board of Trustees of the Utah College of Applied Technology serve as non-voting members. All eight public universities and colleges in Utah also have their own Boards of Trustees. For the University of Utah²¹, that board consists of eight persons appointed by the Governor with the consent of the state Senate, plus the President of the Alumni association and the President of the associated Students of the University of Utah. The division of responsibilities between the Board of Regents and the individual Boards of Trustees seems not to be available on the Internet.
- **Statutory Colleges, or Private Land-Grant Universities:** Although **Cornell University** is usually thought of as a typical Ivy League private university, it is in fact a "private land-grant university"²², having been designated in 1865 as the land-grant college of New York. Cornell has four Statutory Colleges and one Statutory School that are operated by the university on behalf of the state and which receive funding through the State University of New York (SUNY) system. The four colleges are Agriculture and Life Sciences, Human Ecology, Industrial and Labor Relations, and Veterinary Medicine. The School is Hotel Management. A similar Statutory College is the New York State College of Ceramics at Alfred University. These situations reflect a more extreme model, where the state contracts with a private university to provide services. The 64(!) members of the Board of Trustees of Cornell include four *ex-officio* members – the President of the university, and the Governor, Speaker of the Assembly, and President of the Senate of the State of New York. The remaining members are appointed by standard private-university processes.
- States differ greatly with regard to **where the ultimate authority lies for setting tuition**. A recent report²³ indicates that for only eight states (Alabama, Arkansas, Delaware, Massachusetts, New Mexico, South Carolina, Vermont, and Wyoming) individual institutions set tuition rates with no external restrictions. Interestingly, California (the response for which was supplied by CPEC) is not included in that group of eight despite the fact that the UC Regents and the CSU Trustees themselves set tuition and fees.

¹⁷ http://flbog.org/documents_regulations/regulations/1_001_PowersandDuties_Final.pdf

¹⁸ http://flbog.org/documents_regulations/regulations/Sept152011_7_001tuitionandassociatedfeesregulationFINAL.pdf

¹⁹ <http://www.virginia.edu/restructuring/>

²⁰ <http://www.higheredutah.org/about/noard-of-regents/>

²¹ http://admin.utah.edu/board_of_trustees/board-trustees-bylaws

²² <http://landgrant.cornell.edu/cu/cms/landgrant/history.cfm>

²³ A. C. Bell, J. Carnahan & H. P. L'Orange, "State Tuition, Fees and Financial Assistance Policies for Public Colleges and Universities, 2010-11", State Higher Education Executive Officers (SHEEO), February 2011. http://www.sheeo.org/finance/tuit/2010-2011Tuition_and_fees.pdf.

APPENDIX 2

BOARD MEMBERSHIPS OF STUDENTS, FACULTY & ALUMNI

University of California Regents:

- **Total Number of Voting Members:** 26
- **Student:** One, appointed by process of nominations, interviews and selection by the Board. Successor, once identified, sits with the Board as a non-voting member.
- **Faculty:** Two non-voting participants "at the table", *ex officio* as the Chair & Vice Chair of Academic Council
- **Alumni:** Two, non-voting, *ex officio* as presidents of campus alumni associations, rotated among campuses in a predetermined fashion (Berkeley and UCLA alternate for one spot, and the other spot rotates among the other campuses)

University of North Carolina, Board of Governors:

- **Total Number of Voting Members:** 32
- **Student:** One, President of the UNC Association of Student Governments (non-voting)
- **Faculty:** None
- **Alumni:** None, formally

University of North Carolina, Campus Boards of Trustees (UNC – Chapel Hill, NC State):

- **Total Number of Voting Members:** 13
- **Student:** One, head of student government, *ex officio*
- **Faculty:** None
- **Alumni:** None, formally

State University System of Florida, Board of Governors:

- **Total Number of Voting Members:** 17
- **Student:** One, the President of the Florida Student Association
- **Faculty:** One, the Chair of the Advisory Council of Faculty Senates
- **Alumni:** None, formally

State University System of Florida, Campus Boards of Trustees:

- **Total Number of Voting Members:** 14
- **Student:** One, Student Body President
- **Faculty:** One, the Chair of the Faculty Senate
- **Alumni:** None, formally

University of Michigan:

- **Total number of voting Members:** 8 (all elected by the voters of the state by ballot)
- **Student:** None
- **Faculty:** None
- **Alumni:** None, formally

Ohio State University:

- **Total Number of Voting Members:** 18
- **Student:** Two (one undergraduate, one graduate), selected by a process beginning with application and ultimate appointment by the Governor; not *ex officio*
- **Faculty:** None
- **Alumni:** None, formally

University of Virginia:

- **Total Number of Voting Members:** 16
- **Student:** One, non-voting, appointed by the Board

- **Faculty:** None
- **Alumni:** None, formally

University of Illinois:

- **Total Number of Voting Members:** 11
- **Student:** Three, elected by referenda on each of the three campuses (Urbana-Champaign, Chicago, Springfield). One of these (selected from among the three by the Governor, is a voting member. The other two are non-voting members.
- **Faculty:** None
- **Alumni:** None, formally

State University of New York:

- **Total Number of Voting Members:** 17
- **Student:** One, the President of the Student Assembly
- **Faculty:** One, the President of the University Faculty Senate
- **Alumni:** None, formally

City University of New York:

- **Total Number of Voting Members:** 16
- **Student:** One, Chairperson of the University Student Senate
- **Faculty:** One, non-voting, Chairperson of the University Faculty Senate
- **Alumni:** None, formally

University of Colorado: (all elected – 2 at large and one from each of 7 congressional districts)

- **Total Number of Voting Members:** 9
- **Student:** None
- **Faculty:** None
- **Alumni:** None

Arizona Board of Regents: (University of Arizona + Arizona State University + Northern Arizona University)

- **Total Number of Voting Members:** 11
- **Student:** 2 with two-year terms, the first year non-voting and the second year voting, appointed by the Governor and confirmed by the state Senate
- **Faculty:** Chair of the Arizona Faculties Council, non-voting
- **Alumni:** None, formally

University System of Maryland:

- **Total Number of Voting Members:** 17
- **Student:** One, appointed rather than ex officio (Appointment mechanism starts with nominations by the State Student Council. It is not clear how the actual selection is made.)
- **Faculty:** None
- **Alumni:** None, formally

University of Washington:

- **Total Number of Voting Members:** 10
- **Student:** One, appointed by the Governor
- **Faculty:** None
- **Alumni:** None, formally

University System of Georgia:

- **Total Number of Voting Members:** 18
- **Student:** None
- **Faculty:** None
- **Alumni:** None, formally

University of Minnesota: (All Regents, including the student, are elected by the Legislature)

- **Total Number of Voting Members:** 12
- **Student:** 1, elected by the state legislature
- **Faculty:** None
- **Alumni:** None, formally

University of Wisconsin System

- **Total Number of Voting Members:** 18
- **Student:** 2, with two-year terms, appointed by the Governor
- **Faculty:** None
- **Alumni:** None, formally

University of Delaware: (8 appointed by the Governor, and 20 self-propagated by the Board)

- **Total Number of Voting Members:** 28
- **Student:** None
- **Faculty:** None
- **Alumni:** None, formally

Utah Higher Education

- **Total Number of Voting Members:** 16
- **Student:** One, voting.

University of Utah

- **Total Number of Voting Members:** 10
- **Student:** One, voting.
- **Alumni:** One, ex officio

California State University Board of Trustees:

- **Total Number of Voting Members:** 24
- **Student:** Two with two-year terms, the first year non-voting and the second year voting, appointed by the Governor from among nominations submitted by the California State Student Association.
- **Faculty:** One, appointed by the Governor from nominees proposed by the System-wide Academic Senate
- **Alumni:** One, appointed by the CSU Statewide Alumni Council