

**HUMBOLDT STATE UNIVERSITY CENTER**  
**BOARD OF DIRECTORS**

Special Meeting on Thursday, October 15, 2020

Zoom Meeting ID: <https://humboldtstate.zoom.us/j/85133621955>

The Humboldt State University Center Board of Directors met on the above date online via Zoom, consistent with the CA Governor's Executive Order N25-20, suspending certain open meeting law restrictions. Chair, Jeremiah Finley, called the meeting to order at 5:17 p.m.

Directors Present: Jeremiah Finley, Steve Martin, Marissa Miller, Mark Rizzardi, Amber Blakeslee, David Lopez (away 6:25-6:40 p.m.), Eboni Turnbow

Directors Absent: Armeda Reitzel, Jourden Lamar

Also Present: Wendy Sotomayor, Randy Erickson, Rachel Napier, Cindy Sanford, Melanie Bettenhausen, J. Wilson, Caroline Lee, Heidi Chen

**MINUTES**

SUBJECT: Approval of Agenda

MOTION: It was moved (Rizzardi) and seconded (Martin) to adopt the Agenda.

ACTION: The motion was approved unanimously.

SUBJECT: Approval of the Minutes

MOTION: It was moved (Lopez) and seconded (Martin) to table the minutes to the next regular meeting on October 22, 2020.

ACTION: The motion was approved unanimously.

SUBJECT: Public Comment

There was no public comment at this time.

SUBJECT: Special Presentation

Legal Orientation – Randy Erickson of Erickson Law Firm presented a slideshow. A disclaimer was given that this orientation that it is a general guide to the rules and regulations of the UC Board and is not to be consider legal advice regarding specific issues. The purpose of the training are to provide a brief overview of the legal obligations of directors. Discussions topics include:

CSU Auxiliary Organizations are described in the California Higher Education

Code 8991(c). Their purposes are to promote and assist the CSU and its campuses. Auxiliaries are independently governed, non-profit corporations that are legally separate from the CSU. They operate pursuant to a written operating agreement with the CSU Board of Trustees. The Governing Laws that apply are CA Ed Code 89900-89928, Title 5 of CA Code of Regulations Sections 42400-42667. Additionally they must comply with the CA Corporations Code and the policies of the CSU System and campus. It was noted that not all CSU and campus policies apply to the auxiliaries, typically

CSU Auxiliaries have Articles of Incorporation with the Federal Government as a non-profit corporation and either Bylaws or a Constitution. The University Center has Articles of Incorporation are the charter that create the corporation and Bylaws which are the rules and procedures for internal governance of the corporation. Articles of Incorporation are filed with the State while Bylaws are not. Under California law, a corporation has the rights of a person, for instance taking on debt, enter into contracts, etc. It may make profits as long as those profits go to benefit, in this case, the student body. The Bylaws may be adopted, amended or repealed by the approval of the Board. They may include provisions for the managements of the activities and for the conduct of the affairs of the corporation such as: time, place, and manner of calling, conducting and giving notice of meeting, qualifications, duties, and compensation of directors if any, appointment, duties, compensation and tenure of Board officers. The only thing that is required to be included is the number of directors that serve on the Board.

The question was raised, "The Chancellor Office's Executive Order that "auxiliaries are solely for the benefit of the university" that was created sometime after. Does that affect all the charters, bylaws, articles, etc. that were created before that executive order?" It was noted that this is up for interpretation within the CSU as to how to define "benefit."

The University Centers' Articles were originally filed on July 15, 1970 originally named College Union Board of Humboldt State College to formulate and administer policies for the development, financing and operation of the College Union, subject to the final approval of the College President.

The stated overall purpose of the HSU UC Board of Directors is the development of persons as well as intellects. In addition, the purpose is to provide services, convenience and amenities to the daily life of the campus that result in the direct and indirect benefits to the students. And to provide opportunities to experience and grow in areas outside of the academic classroom. Should services come into conflict, students will be prioritized over faculty, staff and community members, in that order.

The composition of the University Center Board of Directors are 14 Directors: 7 students, 4 ex-officio, 3 elects, 3 faculty members appointed by University Senate, HSU President or designee, HSU controller, Community Representative

and Alumni Representative.

The role considers all activities and affairs of the UC are to be conducted, and all corporate powers are to be exercised by or under the direction of the full Board. Directors exercise plenary authority collectively, not individually. Corporation Code section 5213(a) requires, in part, that a non-profit public benefit corporation must have: a Chair of the Board, a secretary, a treasurer or chief financial officer, and any other officers with any titles and duties as stated in the Bylaws or governing laws.

Fiduciary Duties Owed to the UC are held by each director. For the University Center Board of Directors, those are: the duty of care, the duty of inquiry, the duty of loyalty and the duty to follow investment standards as according to Corp Code 5231 and 5240. It was noted that the terms “reasonable and prudent” are posed in these duties which are interpretative terms, often defined by the group itself or can be called into question by an overseeing entity. Directors who follow this fiduciary duty can be protected by the organization in a legal circumstance.

Under the UC bylaws, the Board shall formulate and administer the policies for the development, financing, and operation of the UC subject to final approval of the University President. Section 4 further provides the Board shall further be the purpose of the board that the net earnings will be used for the benefit of the students of HSU and that no part of the net earnings will inure to the benefit of any private individual. Additional responsibilities of the UC fall under the Operating Agreement with the CSU Board of Trustees. For instance, no officer or employee of the CSU shall be appointed or employed by the UC if such appointment would be incompatible or inconsistent with them fulfilling their duties as an officer.

Directors should work hard to bring ideas and energy to the UC, advocate for their vision and values, sharing their perspectives with their fellow board members, and making a positive difference and contribute to the lasting change. Practical responsibilities are to have a relationship with the ED, adopt and oversee the budget, oversee fiscal and personnel matters, as well as the UC’s programs and facilities, and conduct business at open and public meetings.

What is a conflict of interest? “Conflict of interest statutes are.... No member of the governing board of an auxiliary org shall be financially interested in any contract or other transaction entered into by the board of which he is a member and any contract or transaction entered into in violation of this section is void.” (Ed Code 89906)

For example, if a Board member has a financial interest, or stand to make any money, on a transaction before the Board, that have a conflict of interest. These prohibitions generally extend to spouses and closely related relatives such as children and parents. These can be avoided is 1. The transaction is just and reasonable to the UC, 2. The conflicted member notifies the Board, 3. The Board

notes the conflict of interest in the minutes, 4. the board votes without the member.

Non-public information, such as confidential information shared in closed session, it is unlawful for a present or former Board member to use any non-public info learned while serving the Board for personal financial gain.

The UC is not subject to the Bagley-Keene Open Meeting Act or the Gloria Romero Open Meeting Act. It is held to the Seymour Act. (Ed Code 89920-89928) This guarantees the public's right to attend and participate in meetings of local legislative bodies. There must be public notice of all regular and special meetings. Private deliberations re limited. (Also noted in Bylaws Article V). All business is transacted by the governing Board or any committee of the governing board. Only exceptions for one-on-one contacts and other contacts where no business is discussed. Attending a meeting (conducting business) in violation of these requirements is misdemeanor. Business in any form, with quorum can be conducted in-person, telephone, e-mail, text message or an online forum. Note: some business laws have been altered to accommodate for COVID-19. Board members may not use an employee as an intermediary to conduct business with other members. The prohibition limits business outside of the Board meetings. It was noted that the Executive Director is not a voting Board member, so they are able to have individual conversations regarding a topic as long as they are not sharing board members feedback amongst other board members.

Communicating with UC Employees. Generally employees or managers are permitted to engage in separate conversation or communication with board members to answer questions or provide information regarding organization matters. As a general rule, an advisory committee composed solely of less than a quorum of members of a governing body is not held to the requirements of the open and public meeting laws.

Our Bylaws require regular meetings to be posted one week in advance, with only exception to emergency meetings which are limited in allowance. It was asked, can we take action during emergency meetings? Yes, as long as it's on a condition that may be at the detriment of the University Center as an organization. Agendas must be publicly posted for at least a week, and must note an action item.

Closed sessions must fall within narrow exceptions to be able to be held. This is intended to ensure the public can observe and participate. Closed sessions are permissible during litigation, collective bargaining, appointment/employment/evaluation/dismissal of an employee, complaints or charges against an employee, unless the employee requests a public hearing, investments where a public discussion could have a negative impact on the UC's financial situation but the final decisions much be made during a public session. Closed session items should appear on the agenda. Meetings are either open or closed, cannot be semi-closed and include *some* members of the public, although

staff and legal counsel are examples of people who can be included. Board members are not employees so any discussion of behavior or performance needs to be open and public.

The Board Chair and Vice Chair are elected by the board during the September meeting. The Board Chair presides at meeting and executes other duties as written. Robert's Rules are the default rules of order and are available online in PDF edition.

Quorum is a simple majority of the total membership. With the full University Center Board of Directors 14 members, at least 8 members must be present to conduct business.

Essentials of the minutes: type pf meeting, name of board of committee, date and location, time of start and adjournment.

Open records, we are subject to the McKee Transparency Act which state records that are prepared, owned, used, or retained by a CSU auxiliary organization are subject to inspection. What is a record: Any handwritten, typewriting, printing, Photostatting, photographing, photocopying, transmitting by electronic mail, every other means of recording upon any tangible thing, any form of communication or representation, including, but not limited to, letters, words, pictures, sounds, or symbols or combinations thereof, and any record thereby created, regardless of the manner in which the record has been stored. (Ed Code 89913.5) Record Requests may be made in writing or a members of the public may request to inspect any identifiable record. UC will have 10 calendar days from the receipt of a records request to determine whether the request seeks disclosable records, and notify the requestor. Some exemptions to this are information about the identities of donors, gift or financial planning information, fundraising plans and research, solicitation strategies, identities of students or alumni, trade secrets (CA Ed code 89916, 89916.5)

After the presentation, questions were taken. It was asked if non-voting members make motions and seconds and the response was no, they cannot. Another question was posed wondering if it is possible to send absent or not yet seated members (once they are seated) this meeting's recording so that they may receive this information, to which staff responded that the meeting recording would be made available. Another follow-up question was asking if a topic that originally was not posted as a closed session could go into temporary closed session if it suddenly becomes apparent that personnel issues will be discussed. It was advised for the Board to anticipate a personnel issue and have it properly posted as a closed session or if becomes apparent during a meeting, to postpone that discussion until the next meeting to correctly post and hold a closed session.

SUBJECT: Unfinished Business

Bylaws – Chair Finley asked the Board for input on updating the Bylaws.

Context was requested for where the drafted updates came from. Chair Finley responded that they were formulated in response to current situations and with consideration of common entities in the CSU. It was asked who drafted these draft amendments to which Finley answered that he as Chair created them. As to the history of where Bylaws are typically reviewed and/or drafted within the University Center Board of Directors, the Executive Committee has done this in the past. It was asked to what extent board members can interact with managers and employees of the University Center. Erickson noted that there is nothing that prohibits directors from individually talking with managers or staff, but they as individuals are not able to give direction without the vote and direction of the full Board. The Board can authorize an individual to interact or give direction to the UC. It is a fiduciary duty of a board member to post inquiry to better inform their decision-making. These requests for information can often be more efficiently done through the Executive Director.

It was recommended that the Bylaws be proposed and reviewed by the full Board of Directors instead of going through a committee. Others spoke in favor of the responsibility being put onto the Executive Committee for a deeper look into the Bylaws. Erickson suggested starting at the Board with a general discussion for direction on the Bylaws review, and then an Executive Committee meeting to further consider those suggestions more deeply to then be brought as recommended amendments to the full Board again. There was appreciation amongst the group to that suggestion.

SUBJECT: Adjournment

MOTION: It was moved (Martin) and seconded (Miller) to adjourn the meeting at 7:08pm.

ACTION: The motion was approved unanimously.

Minutes Submitted By:

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Casey Park

Date

Minutes Agreed and Accepted:

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Jeremiah Finley, Board Chair

Date