

## VII. STANDING COMMITTEES

## A. Academic and Student Affairs Committee

Adoption of Proposed Amendments to Chapter 478-04 WAC, OrganizationRECOMMENDED ACTION:

It is the recommendation of the administration and the Academic and Student Affairs Committee that the Board of Regents adopt the proposed amendments to Chapter 478-04 WAC, Organization.

BACKGROUND:

The Attorney General's Office was asked to review the University's rules concerning meetings of the Board of Regents, and other boards and committees, to make sure the rules are as clear and streamlined as possible. This review led to suggested amendments of two types.

First, amendments were recommended to more logically organize the WAC sections regarding Regent meetings and remove provisions that were redundant with Regent By-Laws or were otherwise unnecessary.

The other recommendation was for a new general rule that explained where interested parties can look to find the schedule for regular meetings of the UW's various boards and committees that are subject to the Open Public Meetings Act.

A public hearing on the proposed amendments was held on the Seattle campus on December 6, 2006. Notices for the public hearing were published in the *Washington State Register*, *The Daily*, *University Week*, and included in the online campus calendar of events.

Two sets of written comments were received. One set of comments questioned the intent of removing various details from the WAC rules. As noted above, this was the intent of rule making; to streamline the WAC rule and remove redundant information that continues to appear in the Regent By-Laws or is unnecessary. The other set of comments came from the state Code Reviser who was opposed to publishing the numerous University meeting notices required by the Open Public Meetings Act and now noted in the University's proposed WAC rules for other governing bodies. A response to the Code Reviser was drafted with the assistance of the Attorney General's office and technical assistance was provided to resolve the problem of multiple meeting notices requiring publication in the *Register*. A copy of the Hearing Officer's Report is attached which notes these comments and the University's responses in greater detail.

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### A. Academic and Student Affairs Committee

#### Adoption of Proposed Amendments to Chapter 478-04 WAC, Organization (continued p. 2)

In addition to the Attorney General's Office review, these proposed amendments were also reviewed by the University's Office of Public Records and Open Public Meetings.

#### ATTACHMENTS:

- 1) Hearing Officer's Report concerning written and oral comments on the proposed amendments to Chapter 478-04 WAC.
- 2) The proposed amendments to Chapter 478-04 WAC, Organization

January 5, 2007

President Mark A. Emmert  
Office of the President  
University of Washington  
Box 351230

Dear President Emmert:

Pursuant to your delegation, I served as the Hearing Officer to receive public comment on the University of Washington's proposed amendments to Chapter 478-04 WAC, "Organization." The hearing commenced at 1:00 p.m. on Wednesday, December 6, 2006, in Room 310 of the Husky Union Building (HUB) at the University of Washington, Seattle campus. I am pleased to provide you a report of that hearing and the written comments received.

As required by the Administrative Procedure Act, the University filed the following notices with the State of Washington Code Reviser: a Preproposal Statement of Inquiry (published as WSR 06-17-061, in the *Washington State Register* on September 6, 2006) and a notice of Proposed Rule Making (published as WSR 06-22-072, in the *Washington State Register* on November 15, 2006). Campus notice that the hearing would be held was published in *University Week* on November 16, 2006, and in *The Daily* on November 29, 2006. Notice of the public hearing was included in the online events calendar for the Seattle campus. The written comment period began August 16, 2006, and ended December 6, 2006.

### **Public Comments**

Although no individuals attended the hearing to provide comment on these proposed amendments, the University received two sets of written comments.

One set of written comments concerning WAC 478-04-030, "Meetings of the Board of Regents," came from a University faculty member, who questioned why the University would remove 1) the requirements for prior publication of meeting agendas, and 2) the provisions for cancellation of meetings, from the University's Washington Administrative Code rules. As was noted in the written response to these comments, the proposed amendments are intended to streamline, as well as update the WAC rules, by removing internal University procedures and practices that are not necessary to provide in rule. Moreover, similar statements of practice will be retained in the By-Laws of the Board of Regents (see Article 2, "Meetings of the Board"), as the By-Laws can more easily be kept current with changing University practices and procedures. In addition, the amendments remove some small details that pertain to compliance with Chapter 42.30 RCW, Open Public Meetings Act. However, this subject is covered more fully in Chapter 42.30 RCW, and these details need not be repeated in the University's WAC rules for them to fully apply.

The second set of comments came from the state Code Reviser, K. Kyle Thiessen, who requested that the University alter its proposed new section WAC 478-04-035, "Meetings of Other University Governing Bodies," to eliminate the statement that these bodies were required (as part of the Open Public Meetings Act) to publish their meeting notices in the *Washington State Register*. The Code Reviser, whose office oversees publication of the *Register*, claimed to have an agreement in place with the University since 1981 that allowed them to publish a listing of those University of Washington governing bodies that had submitted meeting notices, rather than publishing the actual meeting notices. The reason given was that the material was too lengthy and time consuming for the *Register* staff to handle. Furthermore, the Code Reviser offered a specific format for submitting this list.

After consultation with the Attorney General's Office, the University has declined to make any alteration to its proposed new section WAC 478-04-035. The proposed new section simply clarifies the distinction between meetings of the University of Washington Board of Regents and meetings of other University governing bodies, but does not change the requirement in RCW 42.30.075 that states the University must publish these meeting schedules annually in the *Washington State Register*. In addition, although current University staff are unaware of any such previous arrangement made with the office of the Code Reviser, the University proposes working with the *Register* staff to accommodate their word processing needs in preparing the meeting notices for publication.

### **Analysis and Recommendation**

The proposed amendments to Chapter 478-04 WAC, "Organization," were drafted by the Office of the Attorney General at the request of the President of the Board of Regents in order to streamline and update the meeting practices of the Board as required in Washington Administrative Code rule. The amendments primarily eliminate internal University practices and procedures that apply to meetings of the Board of Regents, although these details will continue to be included in the By-Laws of the Board of Regents, and clarify those meeting practices that apply to other governing bodies of the University. Moreover, the amendments to Chapter 478-04 WAC update the type of electronic means by which Regents may attend Board meetings such that they allow for current and future communication technologies.

Notwithstanding the two sets of comments received, I recommend that the Board of Regents adopt the proposed amendments to Chapter 478-04 WAC, "Organization," as these amendments accomplish the intended goals noted above.

An audio tape of the hearing has been deposited with the Secretary of the Board of Regents.

Sincerely yours,

Carol S. Niccolls  
Special Counsel to the President

cc: Ms. Rebecca Goodwin Deardorff  
Mr. Jack G. Johnson  
Ms. Michele M. Sams

AMENDATORY SECTION (Amending WSR 05-21-133, filed 10/19/05, effective 11/19/05)

**WAC 478-04-030 Meetings of the board of regents.** (1) Public meetings. Regular and special meetings of the board of regents and committees thereof as required by applicable law shall be open to the public, except for executive sessions which may be held as permitted by applicable law. Board members may appear at any meeting through any means that permits communications with all other persons at the meeting. Persons wishing to appear before the board to make a presentation shall comply with the procedures as specified in subsection (8) of this section.

(2) Regular meetings. Regular meetings of the board shall be held pursuant to a schedule and at locations established yearly by resolution of the board and published periodically in the Washington State Register. The president of the board, with the concurrence of a majority of the members of the board, may cancel any regular meeting. All such regular meetings will be conducted in conformance with the laws of the state of Washington governing such meetings.

~~((The board shall give no less than twenty-four hours notice of cancellation of a regular meeting.~~

~~(2))~~ (3) Special meeting. The president of the university, the president of the board, or any six members of the board may call a special meeting at any time. Not less than twenty-four hours before any special meeting, the secretary shall have notified each member of the board by written notice of the time, place, and the business to be transacted at the meeting. Such notice shall be distributed ~~((and posted))~~ in accordance with the laws of the state governing such meetings. The presence of a regent at the meeting or the regent's written waiver of notice filed with the secretary shall constitute a waiver of receiving written notice of the meeting. When the meeting is called to deal with an emergency involving injury or damage, or the likelihood of injury or damage, to persons or property, and the time requirements for notice provided for above would be impractical and increase the likelihood of such injury or damage, such required notice may be dispensed with and the secretary shall notify each member of the board by the best means possible under the circumstances.

~~((3) Notice of agenda for regular meeting. Not less than four days before any regular meeting, the secretary shall mail to each member of the board a reminder of the regular meeting and a preliminary agenda setting forth the matters which are to be considered at the meeting.))~~

(4) Addenda to the agenda at regular or special meetings. Addenda to the agenda of either a regular or a special meeting may be permitted at the commencement of or during such meeting, except

that final disposition shall not be taken on addenda to the agenda of a special meeting unless notice as required by applicable law has been given.

(5) Quorum. A majority of the entire board shall be necessary to constitute a quorum at all regular meetings and special meetings.

~~(6) ((Order of business. The following shall be the order of business at each regular meeting of the board:~~

~~Report of the president of the board;~~

~~Report of the president of the university;~~

~~Consent agenda (including approval of minutes);~~

~~Reports of standing committees of the board;~~

~~Reports of special committees of the board; and~~

~~Any other business that may properly come before the board.~~

~~The following shall be the order of business at each special meeting of the board:~~

~~Reading of notice of meeting;~~

~~The special business for which the meeting was called; and~~

~~Any other business that may properly come before the board.~~

~~The order of business of the board may be changed or suspended at any meeting by a majority of the regents present. An item shall be removed from the consent agenda by request of any regent.~~

~~(7))~~ Minutes. The minutes of all regular and special meetings of the board shall be kept by the secretary. Such minutes, following approval, shall be open to public inspection in the office of the secretary of the board of regents during regular university business hours.

~~((8) Public meetings. Regular and special meetings of the board of regents and committees thereof as required by applicable law shall be open to the public, except for executive sessions which may be held as permitted by applicable law. Board members may appear at any meeting through a telephone or video conferencing device that permits communications with all other persons at the meeting. Persons wishing to appear before the board to make a presentation shall comply with the procedures as specified in subsection (11) of this section.~~

~~(9))~~ (7) Committee of the whole meetings. Meetings of the board as a committee of the whole may be held before regular or special meetings of the board or at such time and such place as the president of the board may direct from time to time.

~~((10) Executive sessions. During any regular or special meeting of the board or committee, the board or committee may hold an executive session to discuss matters as permitted in applicable laws of the state of Washington.~~

~~(11))~~ (8) Communications to and appearance before the board. Any persons who wish to communicate to the board or appear before the board shall do so as follows:

(a) Communications to the board. Any person who wishes to bring a matter to the attention of the board may do so by submitting such communication in writing to the secretary of the board of regents. The secretary shall bring such written communications to the attention of the president of the board and the president of the university for direction as to response and/or

transmittal to the board.

(b) Appearance before the board. The meetings of the board of regents are intended for presentation of agenda items by the chairs of the respective standing committees and by the president of the university for discussion and action by the members of the board. Public testimony on agenda items, or on other relevant items which any person may wish to call to the attention of the board, may be taken by the appropriate standing committee or by the committee of the whole. The chair of each committee shall have the discretion to limit the time and order of appearances as deemed desirable for a fair presentation of views consistent with the other business before the committee. In an unusual case, this subsection may be waived by the president of the board or by any other six members of the board.

(c) Petition to board for promulgation, amendment, or repeal of rule. Persons having an interest in the promulgation, amendment, or repeal of a "rule" as defined in RCW 34.05.010 may submit a written petition to the university's rules coordination office. Any petition so submitted shall contain the name and address of the petitioner or petitioners, a description of the persons on whose behalf the petition is presented if it is presented in a representative capacity, a statement of the interest of the petitioner and/or the persons on whose behalf it is presented, and a statement of the reasons supporting the petition. If the petition is for the promulgation of a rule, it shall contain the proposed rule. If the petition is for an amendment of an existing rule, it shall contain the rule with the proposed deletions lined out and proposed additions underlined or italicized. If the petition is for the repeal of a rule, it shall contain a copy of the rule proposed to be repealed. The petition shall be considered by the board at the first regular meeting held not less than thirty days after the date the petition was submitted to the rules coordination office, provided that the board may consider the petition at any earlier regular or special meeting of the board.

Within sixty days after submission of a petition to the rules coordination office that is for the promulgation, amendment, or repeal of a "rule," as defined in RCW 34.05.010, the board shall either deny the petition in writing or initiate rule-making procedures in accordance with RCW 34.05.330.

~~((+12+))~~ (9) Rules of procedure. *Robert's Rules of Order*, latest revised edition, shall govern all meetings of the board and its committees except where such rules of order are superseded by the bylaws of the board of regents or standing orders of the board. Any member of the board may make a motion which need not be seconded in order to bring the subject of the motion before the board for action.

NEW SECTION

**WAC 478-04-035 Meetings of other university governing boards.**

Regular meetings of university governing boards shall be held pursuant to schedules and at locations published periodically in the *Washington State Register*. All such regular meetings will be conducted in conformance with the laws of the state of Washington and policies of the board of regents governing such meetings.