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3-2-2021

### Meeting of the Executive Committee - Open Session Packet 03/ 02/2021

UC Hastings Board of Directors

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# Executive Committee Meeting (OPEN SESSION)

Mar 2, 2021 2:00 PM - 2:00 PM PST

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# Executive Committee Meeting Minutes

University of California Hastings College of the Law  
Feb 2, 2021 at 2:30 PM PST

Due to the COVID-19 pandemic and the Shelter-in-Place order by the City and County of San Francisco, the meeting was held virtually, via the Zoom video conferencing platform. Members of the public were able to join the open session via the web link or dial-in numbers listed in the meeting notice. The notice of meeting is available at [https://repository.uchastings.edu/board\\_materials\\_2020/](https://repository.uchastings.edu/board_materials_2020/). The closed session was held pursuant to Ed. Code 92032(b)(3) & (6).

## OPEN SESSION

### 1. Roll Call

The Chair called the meeting to order at 2:30 p.m., and the Secretary called the roll.

#### Committee Members Present

Director Chip Robertson, Chair  
Director Simona Agnolucci, Vice Chair  
Director Courtney Power

#### Other Board Members Present

Director Claes Lewenhaupt  
Director Mary Noel Pepys

#### Staff Participating

Chancellor & Dean David Faigman  
General Counsel & Secretary John DiPaolo  
Chief Development Officer Eric Dumbleton  
Assistant Dean of Students Grace Hum  
Assistant Chancellor & Dean/Chief of Staff to the Chancellor & Dean Jenny Kwon  
Provost & Academic Dean Morris Ratner

### 2. Public Comment Period

The Chair invited public comment. No member of the public offered comment.

### 3. Action Item: Approval of Minutes from January 5, 2021

**Motion:**

The Chair called for a motion to approve the minutes.

Motion moved and motion seconded. The motion carried.

4. Discussion Item: Plan for time usage and guests at Quarterly Board Meetings

Mr. DiPaolo presented a proposal from College executive leadership to shorten the length of the quarterly Board meetings, prepared at the request of Chair Robertson and Vice Chair Agnolucci. It is proposed that key sections of the quarterly meetings have time limit targets, with a goal of keeping the open sessions to two hours and the closed sessions to one hour. In contrast, the quarterly committee meetings would be used to go into topics in greater depth and might, as always, be attended by interested Board members.

Committee members expressed support for trying this approach with the next set of meetings. They suggested that some sort of timer be displayed to show time available in each part of the meeting.

5. Adjournment to Closed Session

The Chair adjourned the meeting to closed session at 2:40 p.m.

6. The Chair reconvened the meeting in open session at 3:00 p.m., and the Secretary took the roll.

Committee Members Present

Director Chip Robertson, Chair  
Director Simona Agnolucci, Vice Chair  
Director Courtney Power

Other Board Members Present

Director Claes Lewenhaupt  
Director Mary Noel Pepys  
Director Albert Zecher

Staff Participating

Chancellor & Dean David Faigman  
General Counsel & Secretary to the Board John DiPaolo  
Chief Development Officer Eric Dumbleton  
Assistant Chancellor & Dean/Chief of Staff to the Chancellor & Dean Jenny Kwon

Provost & Academic Dean Morris Ratner

7. Action Item: Rescission of Tuition Increase for 2021-22

Chancellor & Dean Faigman explained that the Governor's budget has funds that would cover the dollars equivalent to revenue from the 20 percent tuition increase the Board previously approved. He said that he would propose that the Board rescind the increase, contingent on final passage of the Governor's budget.

8. Submittal of Finance Letter - Campus Safety

Chancellor & Dean Faigman stated that the College had gone to the Department of Finance to support the College's engagement with Urban Alchemy and that a positive response appeared promising.

9. Adjournment

The Chair adjourned the meeting at 3:05 p.m.

Respectfully Submitted,

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John K. DiPaolo, Secretary

# The 2021-22 Budget: Hastings College of the Law

FEBRUARY 2021

## Introduction

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In this post, we analyze the Governor's proposal to provide a base increase to the Hastings College of the Law (Hastings), a public law school affiliated with the University of California (UC). We first provide background on Hastings' budget situation prior to the pandemic and discuss the fiscal impact

of the pandemic on Hastings' budget. Next, we describe the Governor's proposed augmentation and Hastings' corresponding budget plan for 2021-22. We then offer our assessment of the proposal and provide associated recommendations.

## Background

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**Prior to Pandemic, Hastings Had Core Budget Deficits...** As we have described in previous publications, including [The 2020-21 Budget: Hastings College of the Law](#), Hastings' core budget (consisting primarily of state General Fund and student tuition revenue) has had a deficit since 2015-16. The deficit is connected to a decision by the school in 2015-16 to increase its tuition discounts for students. (Tuition discounts are a form of financial aid whereby students have a portion of their tuition charges waived over the duration of their enrollment.) As the school's core funding levels could not support the higher level of discounting, Hastings covered costs by drawing down its core budget reserves. Though Hastings has since returned to its more traditional level of tuition discounting for new student cohorts, its operating deficit has persisted as previous student cohorts receiving the larger discounts are still enrolled.

**...And Auxiliary Budget Surpluses.** In contrast to its core budget, Hastings' auxiliary budget (largely consisting of its student housing, parking, and rental space) had annual surpluses prior to the pandemic. These surpluses led to growth in Hastings' auxiliary reserves. Hastings indicates it plans to use a significant portion of these auxiliary

reserves for a future renovation project of McAllister Tower, the school's historic high-rise building primarily used for student housing.

**Pandemic Has Had Minor Impact on Hastings' Core Budget, Larger Impact on Auxiliary Budget.** Though the school received a reduction in state funding in the 2020-21 budget (\$546,000) and experienced a notable drop in its relatively small masters of law degree program (89 percent), these decreases were partially offset by additional tuition revenue resulting from 3.3 percent enrollment growth in the school's core *juris doctor* program. Taking all these factors into account, Hastings' core funding in 2020-21 is estimated to be \$483,000 (0.8 percent) lower than in 2019-20. Compared to Hastings' core budget, its auxiliary budget has been impacted more adversely by the pandemic. Hastings' staff project auxiliary revenues in 2020-21 to be at least \$2.8 million (about 33 percent) below pre-pandemic projections, largely resulting from operating its housing program at 30 percent capacity. Partially offsetting these impacts, Hastings has received \$859,671 in total federal relief funds (from the two higher education funding rounds to date), of which \$583,053 is for offsetting campus revenue losses and covering

extraordinary campus costs. The remaining \$276,618 is for emergency student financial aid.

**Hastings Has Largely Addressed Budget Shortfalls by Using Reserves.** On its core budget, Hastings anticipates deficit spending of \$2.2 million (3.6 percent of annual spending) in 2020-21, leaving \$10.7 million in its core unrestricted operating reserve (about two months of annual spending). This deficit would be notably smaller than the one Hastings had in 2019-20 (which was \$9.1 million, or 13 percent of annual spending).

In addition to drawing down its core reserves, Hastings reports taking some other actions to mitigate the impacts on its budget. For example, the school reports laying off some core-funded employees. In addition, several Hastings employees voluntarily agreed to one-time salary reductions ranging from 5 percent to 50 percent. For its auxiliary programs, Hastings anticipates ending 2020-21 with a \$849,667 deficit (18 percent of annual auxiliary spending) and \$2.5 million in reserves (more than six months of annual spending).

## Proposals

**Governor Proposes General Fund Base Increase.** The Governor conditions the proposed General Fund augmentation—\$2.1 million (14 percent)—on Hastings not increasing student tuition charges in 2021-22. According to the administration, the proposed augmentation would avoid a 7 percent increase in resident and nonresident tuition charges in 2021-22 initially adopted by Hastings’ governing board in September 2020. Though Hastings would not increase its tuition charges, it anticipates a 9.5 percent increase in enrollment, generating \$4.2 million in additional tuition revenue. When factoring growth in other core funding, Hastings anticipates total unrestricted core funding to increase by \$6.5 million (11 percent) in

2021-22 over its 2020-21 level. As **Figure 1** shows, this amount would more than restore core funding reductions Hastings experienced in 2020-21. (The Governor’s budget also adjusts Hastings’ General Fund support downward by \$356,000 to account for changes in its lease revenue bond debt service.)

**Hastings Plans to Increase Spending Assuming Governor’s Proposed Funding Level.** Though the Governor’s proposed base increase would be unrestricted, Hastings shared with our office its corresponding spending plan. As **Figure 2** on the next page shows, the largest increase in spending would be for student financial aid resulting from enrollment growth. (The proportion used for tuition discounting would remain at 30 percent, unchanged from the current

**Figure 1**

### Hastings’ Core Budget Would Increase Under Governor’s Proposal

(Dollars in Millions, Except Per-Student Amounts)

	2019-20 Actual	2020-21 Estimated	2021-22 Proposed	Change From 2020-21		Change From 2019-20	
				Amount	Percent	Amount	Percent
<b>Core Funding</b>							
General Fund <sup>a</sup>	\$15.2	\$14.7	\$16.8	\$2.1	14.3%	\$1.6	10.2%
Student tuition and fees	42.7	43.1	47.3	4.2	9.7	4.6	10.8
Other <sup>b</sup>	1.8	1.5	1.7	0.2	15.3	-0.1	-7.3
<b>Totals</b>	<b>\$59.8</b>	<b>\$59.3</b>	<b>\$65.8</b>	<b>\$6.5</b>	<b>11.0%</b>	<b>\$6.0</b>	<b>10.1%</b>
<b>Full-Time Equivalent Students</b>	944	963	1,054	91	9.5%	110	11.6%
<b>Funding Per Student</b>	\$63,298	\$61,587	\$62,426	\$839	1.4%	-\$872	-1.4%

<sup>a</sup> Excludes ongoing General Fund for lease revenue bond debt service and one-time General Fund.

<sup>b</sup> Consists of numerous fund sources, including state lottery, investment income, and overhead charged to auxiliary programs.

year.) The next largest increase in spending involves faculty and staff salaries. Hastings plans on increasing its employee salary pool of 3 percent, which would cover a mix of merit salary increases for faculty and nonrepresented staff as well as general salary increases for its represented employees. Hastings also intends to restore one-time voluntary salary reductions taken in 2020-21 and will see some savings resulting from faculty separations. Finally, the plan would cover projected cost increases to operating expenses and equipment and employee benefits.

**Plan Would Eliminate Core Budget Deficit.**

As Hastings’ planned spending increases would be less than its projected funding increases, Hastings’ core budget would end the year with a surplus—ending its previous five-year trend of core budget deficits. As **Figure 3** shows, Hastings would end 2021-22 with a \$1.4 million budget surplus and \$12.1 million in core budget reserves. In a preliminary multiyear budget plan submitted to our office, Hastings projects its core budget will maintain budget surpluses over the next several years. The out-year plan assumes Hastings either increases student tuition annually or receives annual augmentations in state General Fund support. (Hastings also projects auxiliary budget surpluses in 2021-22 and 2022-23, then intends to use the built-up auxiliary reserves beginning in 2023-24 as it undertakes renovation of McAllister Tower.)

**Figure 2**

**Hastings Plans to Increase Spending and Build Reserves**

*Hastings’ 2021-22 Budget Plan Assuming Governor’s Proposed Funding Level (In Thousands)*

<b>Proposed Increase in Core Funding</b>	<b>\$6,514</b>
Student tuition and fees	4,187
State General Fund	2,101
Other funds	226
<b>Planned Increase in Core Spending</b>	<b>\$2,887</b>
Student financial aid	1,818
Employee salaries	
Adjusted compensation pool (3 percent) <sup>a</sup>	895
Restoration of one-time salary reductions	181
Faculty separations	-297
Basic cost increases	
Operating expenses and equipment	201
Pension and health care benefits	89
<b>Remaining Amount to Build Core Reserves</b>	<b>\$3,627</b>

<sup>a</sup> Consists of salaries and the impact of salary increases on social security, Medicare, and pension costs prior to applying any applicable employer rate changes.

**Figure 3**

**Hastings Anticipates Having a Budget Surplus in 2021-22**

*Ongoing Core Budget (Dollars in Millions)*

	2019-20 Actual	2020-21 Estimated	2021-22 Proposed	Change From 2020-21	
				Amount	Percent
<b>Funding and Spending</b>					
Funding	\$59.8	\$59.3	\$65.8	\$6.5	11.0%
Spending	68.8	61.5	64.4	2.9	4.7
<b>Deficit/Surplus</b>					
Amount	-\$9.1	-\$2.2	\$1.4	\$3.6	-\$1.7
Percent of annual spending	-13.2%	-3.6%	2.2%	—	—
<b>End-of-Year Reserves</b>					
Amount	\$12.9	\$10.7	\$12.1	\$1.4	\$0.1
Percent of annual spending	18.7%	17.4%	18.9%	—	—

Note: Excludes ongoing General Fund for lease revenue bond debt service, one-time General Fund, and carryover funds for the Diversity Pipeline Initiative (a multiyear financial aid initiative funded by one-time state General Fund provided in the 2018-19 budget).



# Assessment

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**Various Factors to Consider in Assessing Hastings' Spending Plan.** In assessing Hastings' spending priorities, the Legislature likely will want to consider not only Hastings' specific budget and program goals but also the broader context of the state's other spending priorities as well as the state's own projected out-year operating deficits. Some of Hastings' planned spending increases are largely unavoidable. For example, same as other agencies, Hastings will need to cover benefit cost increases, as its employer contribution rates for both pensions and health care are projected to increase in 2021-22. Other planned spending increases—for example, for salary increases—are more discretionary, particularly those increases for nonrepresented faculty and staff. Though Hastings' plan to increase its salary pool by 3 percent would roughly align with projections of inflation, the Legislature may wish to consider these increases in light of the compensation decisions affecting other state and university employee groups. Additionally, as a further way to contain costs, some agencies, including UC, are not budgeting for increases in operating expenses and equipment in 2021-22, whereas Hastings is projecting 1.5 percent cost increases in this area.

**Overall Budget Outlook Is Improved, but Target Reserve Level Could Be Reconsidered.** Hastings' budget is in better shape this year than in any of the past five years, with the school projecting a surplus rather than deficits for the first time over this period. The improvement in its fiscal situation is due to several factors, including several consecutive years of increases in its state General Fund support, increases in its enrollment, and moving back to its more traditional tuition discounting policy. While we think the improvement in Hastings' fiscal outlook is commendable, we think *growing* Hastings' core reserve levels, as the school plans to do, might be a lower priority in 2021-22. The rationale of growing Hastings' reserves might be especially questionable in light of the state budget's projected deficits in future years.

**Competing Factors to Weigh With Potential Tuition Increases.** As we noted in last year's post on the law school's budget, the state faces

a complex set of factors when weighing tuition increases at Hastings. On the one hand, increasing Hastings' tuition levels would treat the school more consistently with UC's four law schools, which all increased student tuition charges in 2019-20 and 2020-21. All of these schools now have higher resident tuition charges than Hastings. Increasing tuition also has the benefit of expanding budget capacity and allowing for more spending priorities to be funded, either for the law school itself or for the state more broadly. On the other hand, tuition increases would raise costs for Hastings' students and very likely result in additional student borrowing. When factoring in both student debt levels and salary levels after graduation, Hastings' graduates face higher debt burdens than their UC peers. According to the website "Law School Transparency," the average Hastings' graduate spends 24 percent of his or her first-year income to repay student debt, whereas the burden for UC law school graduates ranges between 13 percent and 21 percent.

**General Fund Augmentation Comes With No Expectations.** As we noted in our recent publication [The 2021-22 Budget: Analysis of the Major University Proposals](#), the Governor's budget would condition funding increases to the California State University (CSU) and UC on certain performance and program expectations. The Governor does not extend any of these expectations to Hastings, nor does it create expectations specially tailored for Hastings. One of the university expectations—relating to maintaining higher levels of online education moving forward—has applications for Hastings too. Much like at CSU and UC, Hastings' move to large-scale online instruction could provide the Legislature useful data as to which courses were particularly well suited to online formats, what barriers faculty and students faced, and the costs Hastings incurred to transition courses from in-person to online formats. (The Governor also conditions CSU and UC funding increases on closing student equity gaps, particularly at the undergraduate level. Hastings' staff reports that the law school's graduation rates do not vary notably by student race/ethnicity.)

## Recommendations

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***Treat Proposed Augmentation as Maximum Increase.*** We recommend the Legislature treat the Governor's proposed General Fund augmentation for Hastings as a maximum potential increase, even were the state's budget situation to improve in May. We think the January proposal could be considered a maximum given Hastings' strong budget situation relative to previous years and the state's overall fiscal condition. Were the Legislature to consider any part of Hastings' spending plan to be a low priority or were the state's budget situation to worsen in May, the Legislature could modify the proposed augmentation downward.

***Direct Hastings to Report on Online Education.*** In line with our recommendations for the other higher education segments, we recommend the Legislature adopt an expectation that Hastings report on its experience with online education. Such a report should include: (1) data on pre-pandemic enrollment in its online courses, (2) analysis as to which courses are most suitable for online instruction, (3) an estimate of the fiscal impact of expanding online education, (4) a plan for improving student access and outcomes using technology, and (5) an assessment of the need for additional faculty professional development. To ensure this information is available to assist next year's budget deliberations, we recommend requiring Hastings to submit this information by November 2021.

## LAO Publications

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This report was prepared by Jason Constantouros, and reviewed by Jennifer Pacella and Anthony Simbol. The Legislative Analyst's Office (LAO) is a nonpartisan office that provides fiscal and policy information and advice to the Legislature.