

## ACADEMIC COUNCIL

## Minutes of Meeting

Wednesday, January 25, 2012

And

Wednesday, February 1, 2012 Teleconference

**I. Senate Officers' Announcements****▪ Robert Anderson, Academic Council Chair**

- 1. Regents Meeting.** There was a presentation on the state budget at the January Regents' meeting. The governor plans to increase the University's budget by \$90M over last year's base budget following the \$750 M cuts. The \$90M can be applied to UCRP. It is just enough to cover the increase in the employer contribution from 7 to 10%, and we hope this will set a precedent for future state contributions to UCRP. The Governor is also proposing a multi-year, 4% per year increase in the base state budget to UC. The University has also proposed a way to augment its budget by \$100M by taking over responsibility for lease-revenue bond payments, refinancing the debt at a lower rate over a longer payback period, and using the money freed up for operational expenses. However, even in the best case scenarios in the governor's budget, the University is treading water.

You may have seen news reports that UCSF's Chancellor told the Regents that she wants to explore establishing a separate governing board for UCSF and reduce the amount of contribution UCSF makes to central operations via the Funding Streams assessment, without becoming entirely independent of UC. She asked the Chair of the Committee on Educational Policy to form a committee to explore it and report back at the July meeting. Chair Anderson reported that he has asked the president to include Senate representation on any such committee. A member commented that this issue should be addressed through the subgroup for the health sciences on the Rebenching Task Force. Another member commented that the university system is so interconnected, it is simplistic to say that the medical schools are subsidizing undergraduate education.

- 2. Rebenching Task Force.** The Rebenching Task Force continues to meet and is moving toward a plan that incorporates many of the principles outlined by the Senate, most importantly, a given type of student would generate the same state funding at each of the ten campuses
- 3. Provost and UCSD Chancellor search committees.** Faculty committees have almost finished reviewing prospects. The administration is contacting prospects to determine if they are interested and narrowing it to a manageable list of candidates to interview. Interviews will be conducted in April for the provost position and in March for the UCSD chancellor position.

**II. Approval of the Agenda****ACTION: The agenda was unanimously approved.**

### **III. Consent Calendar**

- 1. Approve draft December 15 Council minutes**
- 2. Request systemwide Senate review of the *Proposed Retirement Savings Plan for Health Sciences Faculty* and the *Proposed Defined Contribution Plan Contributions on Additional Negotiated Compensation Earned by Faculty*.**

**ACTION:** The consent calendar was unanimously approved, with minor edits to the minutes.

*Note: After the meeting, Senate staff was informed by the administration that consideration of these proposals is postponed indefinitely. Therefore, they were not sent for review.*

### **IV. Systemwide Review of Senate Regulation 610 (residency)**

**ISSUE:** Council discussed the responses received to the systemwide review of proposed revisions to Senate Regulation 610.

**DISCUSSION:** The proposed revision would have clarified the meaning of “in residence” to resolve ambiguity in existing language. UCR&J ruled that “in residence” means that a student is taking a course approved by a campus, not that the student is physically present on the campus. UCEP agreed with that this was the correct policy. A number of responses to the review objected to allowing students to satisfy the “in residence” requirements without being physically present, and suggested that the revisions be redrafted to clarify the intent of the regulation. Some respondents expressed the sense that part of undergraduate education is the experience of classroom exchange. Some comments may have been motivated by concern that the regulation, as written, would unintentionally open the door to excessive or inappropriate use of online instruction. A member remarked that residency and course approval are separate issues; residency is what it takes to get a degree at a specific campus. For example, courses taken through UCDC will count toward a major, but will not fulfill residency requirements. The residency requirements exist to protect an inherent part of the undergraduate experience. A member stated that the regulation should more clearly state that the meaning of the term “residence” in SR 610 has nothing to do with determining in-state or out-of-state tuition. A member noted that SR 694, which was modified by CCGA a few years ago, addresses the issue of graduate students in absentia and allows Graduate Councils flexibility in approving distance education. CCGA’s chair noted that her committee submitted suggestions to distinguish graduate and undergraduate education. UCEP’s Chair offered to confer with his committee to redraft the proposed revisions taking into consideration the comments received and bring it back to Council to request another systemwide review.

**ACTION:** UCEP will redraft the proposed revisions and resubmit SR 610 for systemwide review.

### **V. Self-identification of LGBT Status on Application for Admission**

**ISSUE:** At Council’s December meeting, BOARS brought as an item of New Business its recommendation that students be invited to self-identify as LGBT on personal data forms filled out on arrival on campus as matriculated students, but this opportunity not be provided on the admission forms. BOARS acknowledged the value of inviting students to provide such information on a voluntary basis but expressed concern that soliciting this information during the application process could create awkward situations for some students completing application

materials under the supervision of adult family members. Council referred the matter to UCAAD for further comment.

**DISCUSSION:** UCAAD's chair reported that her committee recommends that the information be solicited on Student Intent to Register forms and all forms completed by matriculated students, and proposes that the question of whether to collect the data on application forms be revisited in a few years. BOARS's chair agreed that this approach is consistent with BOARS' recommendation.

**ACTION:** Council unanimously endorsed BOARS' recommendation with the concurrence of UCAAD, and with a commitment to revisit the issue of the application form in a few years.

## **VI. Consultation with the Office of the President – Senior Managers**

President Yudof. President Yudof reported that the May Regents meeting will be held in Sacramento and will involve the students in advocating on behalf of the University. He noted that he will be meeting with Chancellor Desmond-Hellman regarding her suggestion for the future of UCSF. He stated that UCSF will remain as part of UC, perhaps with some accommodation in the budget of special issues. He noted that all campuses benefit from the lower interest rates that UC receives on bonds. Individual campuses, if independent, would face the same problems as the University overall is facing.

### Q&A

**Q:** Has the state acknowledged that it is responsible for providing for UC employees' retirement?

**A:** EVP Brostrom responded that the state has acknowledged that it is responsible for employee pensions, but has decided to provide block grants for all state departments, including UC, and allow them to make their own decisions on how to use that block grant. In effect, this approach provides an incentive for state agencies to reduce expenditures to fund pension obligations. Having the flexibility that a block grant provides is in the University's interest. UC can control its debt and make trade-offs between capital and operating expenses. This strategy creates value without the state providing more money.

**Q:** There was no mention in the governor's budget of funding the pension in subsequent years.

**A:** The amount of funding for future years is under discussion.

**Comment:** The governor's budget includes a 4% increase, but that is based on a drastically reduced base budget and, given increased costs, barely treads water.

**A:** EVP Brostrom countered that a 4% increase would provide enough funding, along with other strategies such as using extraordinary payouts on endowments to buy out financial aid, ramping up corporate fundraising, and reducing the cost of health benefits. He noted that the 4% increase would be added to the University base budget. It also fully funds UC's compensation request (3% plus merits), in addition to providing funding for UCRP. President Yudof added that if the legislature rejects the budget deal, then the University will raise tuition, and he has made the state aware of that trade-off. He also noted that this budget is based on the success of the governor's ballot measure to raise additional revenue.

**Q:** Could you provide an update on corporate fundraising?

**A:** President Yudof reported that he has attended a series of events and that UCOP has hired a professional fundraiser. He is focusing on two campaigns: one to raise \$100M in funds to help the

University avoid tuition increases and one to solicit \$50M in scholarships, which will reduce the amount of money the University spends on return to aid and will free up that funding for operating expenses.

**Comment:** I serve on the Senate's Health Care Task Force. The University hopes to save \$100M over 4 years and recently presented the Task Force with two options for reducing the cost of health benefits. One is to provide health care to employees at a lower cost. But this is difficult, because the University has little control over the efficiency of health care providers. A second option is to transfer the increased costs to employees, which will negatively affect total remuneration.

**A:** EVP Brostrom replied that the University hopes to drive the behavior of providers and also make greater use of UC's own facilities through the Blue and Gold health plan. Finally, it may have to resort to changing co-pays. He noted that the benefits UC provides to dependents and spouses are higher than those provided by competitor institutions. One option would be to pay employees a nominal sum if they declined UC benefits, so long as they have coverage through their spouses. The University also is considering adding wellness options to promote health and reduce health care costs by providing employees with greater access to campus recreation facilities.

**Comment:** All of the proposed tax increases are temporary. Therefore, they guarantee a budget crisis a few years into the future.

**A:** In truth, you can not bind a political body; future legislatures could reverse these decisions.

**Q:** How will you use the \$100M from refinancing the bond debt?

**A:** EVP Brostrom stated that most of it would be used to implement rebenching so that no campus would lose funds and all campuses would have equal allocations per student. The remainder would be used for operating expenses. Restructuring the debt will fund approximately a 3% increase per year.

**Comment:** At the recent Regents meeting, several students asked the Regents to advocate on their behalf. Although that is occurring, the students are not aware of it. The Senate also is interested in pushing the Regents to be more proactive about advocacy. How can we make these efforts more public?

**A:** President Yudof replied that he regularly meets with the student leadership and newspapers to lay out what the University has done to advocate and what it needs to do better. He noted that holding the May Regents meeting in Sacramento is a great opportunity to get publicity. The press and the legislators pay attention to the students. UC is planning to pay for buses to get students to the rally. VP Brostrom added that one piece of evidence that recent advocacy has been effective is the money in the budget for UCRP. He noted that two years ago a line in the budget precluded any future contributions by the state. UC's Governmental Relations office worked with the governor and legislature to remove that language and secure funds.

**Q:** What can UCOP do to help UCSF?

**A:** President Yudof stated that UCSF has a \$4B budget, and their share of the Funding Streams tax rose by \$20M, which is not much compared to the total budget. He noted that UCSF's costs are growing too quickly and that they have significant reserves. However, he stated that the medical centers are in a volatile business and revenues can fluctuate significantly. He stated that it may be possible to provide a more flexible governance structure so that the campus can take make business deals that provide additional revenue.

**Comment:** I have heard that some members of the Rebenching Task Force are developing competing proposals. Now that there is a broad consensus on principles, the Task Force should try to avoid tangents and limit discussion to what remains to be resolved.

**A:** Provost Pitts and EVP Brostrom agreed.

## **VII. Systemwide Review of Police Response to Protests**

**ISSUE:** Vice President-Legal Affairs and General Counsel Charlie Robinson and Deputy General Counsel Karen Petrulakis answered questions about the systemwide reviews of the police response to the student protests with an emphasis on issues to be addressed in policy.

**DISCUSSION:** VP Robinson stated that the review that he is conducting is systemwide and forward looking, and does not focus on the specific incidents that occurred at Davis and Berkeley. It aims to outline appropriate responses to civil disobedience in the context of protest activity, recognizing that civil disobedience is part of the student experience and is part of UC culture and history. The review team consists of lawyers from the Office of General Counsel, Dean Edley and faculty from the Warren Institute, and lawyers from an outside law firm. The goal is to deliver a report to the president by March 1, but that depends on when the Kroll-Reynoso report is received. The review considers a broad range of policies, e.g., the hiring of police officers, training of officers, administrators and students, what weapons and devices should be permissible, pre-event planning, use of force options during the course of an event, chain of command and accountability, mutual aid, recording and documentation during events, post-event review, and consequences and process for protestors (student disciplinary system or the justice system). The review consists of three parts: 1) gathering, reviewing and summarizing existing policies; 2) interviewing experts internally and across the country to identify best practices; and 3) visiting with constituencies across the University. This includes conducting town halls at UCB, UCD, and a southern California campus. Once a set of draft recommendations are developed, there will be a public comment period and a full systemwide review.

A member stated that the review should distinguish between student protestors and outside activists. She noted that at her campus, none of the campers are students. VP Robinson replied that some students are willing to work with the administration to decide how best to manage the protest, such as assigning student representatives to talk to the police and administration, but external protesters do not have the same relationship with campus administrators. He noted that some students reject treating students and non-students differently. A member commented that the review committee's charge is too police-centered and focused on monitoring situations in the moment. VP Robinson responded that the review team is considering protests broadly. A best practice is having a group of police and administrators planning for event management and making the administrators accountable for the outcome. VP Robinson noted citations can be processed through the student disciplinary system rather than the criminal justice system. A member asked if they have considered recruiting non-administrator faculty and Student Affairs Officers who know the students to be present during protests and offering them training in mediation and risk assessment. A member suggested offering training through the Senate. The students trust the faculty and we could play a constructive role if properly trained. He noted that the recent occupation of Kroeber Hall at Berkeley involved no police and had a very different outcome. In that case, people close to the situation, particularly the department chair, got involved and helped the students narrow their demands to issues that could be negotiated. Faculty and staff volunteered

to stay with the students occupying the library 24 hours a day. Any policy you write should specify that there must be a chain of command, but not prescribe what that must be. Instead of discussing what types of force can be used for passive resistance, the focus should be on what the university needs to protect. We made the occupiers responsible for protecting the library. A member asked how prescriptive the policies will be, noting that at UCSC there is a well-developed demonstration advisory group. She added that the geography and layout of the campus matters, as well. VP Robinson stated that his team is tasked with developing a systemwide standard. The current use of force policy is so broad that it leaves the police in the role of determining appropriate action. A member commented that some events may not need to be controlled. For example, UCSD's policy first asks if police presence is necessary. VP Robinson stated that the University must provide guidance about who should be involved in the decisions. He thanked Council for the valuable input.

### **VIII. Salary Equity Study**

**ISSUE:** The Senate office received responses to the systemwide review of the salary equity study completed under the auspices of UCAAD. Many of the responses raise issues with the methodology.

**DISCUSSION:** UCAAD Chair Conkey requested that Council defer action until UCAAD can formulate a response to these critiques. She noted that the outside experts consulted by the administration did not seem to understand rank and step system. A member commented that adopting one of the external consultants' suggestions would not change the outcome or strengthen the results. A member opined that disputes about methodology should be set aside, as there is no agreed upon methodology. Some have used objections to the methodology as an excuse not to engage with the findings. However, the findings are sufficient to motivate additional inquiries. UCAAD's chair agreed, and stated that UCAAD wants to focus on what to do next. UCB's chair noted that his division submitted specific suggestions for next steps. A member asked why the administration would contract with outside experts in a time of budget stress and suggested that this indicates a problem with shared governance.

### **IX. Executive Session**

*Minutes were not taken for this portion of the meeting.*

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**ACTION:** Council voted to ask UCOC to consider dissolving UCCC on the grounds that its charge is obsolete, and to inform UCCC of this recommendation.

### **XI. External Review of UC Observatories**

**ISSUE:** UCPB and UCORP submitted comments on the external review of the UC Observatories (UCO)

**DISCUSSION:** UCORP Chair Crawford stated that the Office of Research and Graduate Studies (ORGS) distributes approximately \$35M a year in research funding, \$20M of which is spent on astronomy, including UCO and the Lick Observatory. (ORGS also administers a competition with

an additional \$20M in funding from UC's administration of the national laboratories). UCO was not required to compete for funding in the competition for central research funds held a few years ago because of its facilities investment. UCORP evaluated the recent review and found an ongoing tension between ORGS and the management of the observatories, which was also noted in the 2001-02 review. UCO has deficit of \$1.1M due to a dispute regarding how to fund faculty merits. However, the research done at UCO is world-class. The 2011 Nobel Prize in Physics was awarded to two teams, one from LBNL, and both of whom used UCO facilities. UCORP's recommendation urges UCO and ORGS to find a sustainable financial plan while noting that there is no comprehensive strategic plan for astronomy across the system. UCPB Chair Chalfant commented that the review did not provide adequate budget information to evaluate trade-offs. A member suggested requesting that an administrative review be done, with representation from the relevant Senate standing committees. A member commented that the astronomy faculty also express frustration. A member suggested distributing an abbreviated version of the review, along with the evaluations from UCPB and UCORP, to the divisional Councils asking for input from astronomy faculty in each division. A member stated that the astronomers did not agree about the investments needed to enable the next generation of research and that there are different views about priorities for funding the 30-meter telescope (TMT) (a \$1B project to be funded by and shared among a coalition including UC, CalTech, and the governments of China, Canada, India, and possibly other countries) and the Keck telescope (owned by UC and CalTech). When Keck was first established, CalTech committed most of the capital and UC agreed to fund the operating expenses through 2018; after 2018, CalTech will pay half of the operating expenses, freeing up UC funds that could be used for operating expenses for TMT, or be allocated to research outside astronomy. The leadership should be charged with bringing the faculty together.

**ACTION:** Council voted to send a summary of the UCO review, along with UCORP's and UCPB's letter to the divisions to gather comment for March Council.

*Due to time constraints, Council agreed to take up Item XIII, February Assembly Meeting, and approved holding the February 15 meeting via teleconference (see minutes for Item XIII, below). Council postponed the remaining agenda items for discussion during a teleconference on Wednesday, February 1 from 10:00 am to 12:00 pm. The meeting recessed at 4:30 pm.*

### **Minutes of Meeting Wednesday, February 1, 2012 Teleconference**

*The meeting resumed at 10:00 a.m. on February 1.*

## **XII. Recission of APM 133 sections**

**ISSUE:** After hearing from AVP Carlson about proposed revisions to APM 133, which, in part, restricts UC campuses from hiring in certain academic titles a faculty member denied tenure by another UC campus, UCFW and UCAP recommended that the specified subsections of APM 133 be rescinded as unnecessarily restrictive.

**DISCUSSION:** Currently the APM specifies that if a faculty member is denied tenure at one UC campus, they can not be hired in specified titles for five years by any UC campus. The Academic Personnel directors proposed to shorten the time period and remove some titles from the list (e.g., you would be able to hire someone as a lecturer but not as a ladder rank faculty member). UCAP

and UCFW found no rationale for the restriction at all. If someone was denied tenure at Princeton, they could be hired by UC. A health sciences faculty member denied tenure could not be hired in the clinical series. Both committees recommend that this restriction should be abolished. However, they recommend retaining the 8-year limit on pre-tenure service in a tenure track position within UC, so an assistant professor denied tenure on one campus could not be hired on another campus unless tenure were granted on appointment or very shortly thereafter. The committees also recommend that the administration examine related sections of the APM to identify and correct any contradictions or unintended consequences of making these changes to APM 133.

**ACTION: Council unanimously endorsed UCFW's and UCAP's joint request that the administration develop a proposal to rescind the impacted subsections of APM 133, along with making any changes in other APM sections this might require, and circulate the proposal for systemwide review.**

### **XIII. February Assembly meeting**

**ACTION: Council approved holding the February 15 Assembly meeting via teleconference.**

### **XIV. Task Force on Principles, Process and Assessment of UC Systemwide Research Investments**

**ISSUE:** UCORP requested Council's endorsement of a joint Senate-administration task force charged with examining the current principles and processes that guide UC-wide research programs, and with recommending a formal framework that will guide future decision-making and assessment of UC-wide research investment.

**DISCUSSION:** UCORP Chair Crawford stated that the task force will examine how systemwide funding is allocated to research. A few years ago, ORGS instituted competitions for funding, but has not developed a consistent set of principles to guide decision making about making these investments. ORGS proposed establishing a small task force to discuss this, but UCORP asked that all of its membership be part of the task force, since this is one of UCORP's primary mandates. The task force membership was subsequently expanded to include all of the Vice Chancellors for Research, as well as a few UCOP non-ORGS staff. It will be co-chaired by UCORP's Chair and the Deputy to Vice President Beckwith. A member asked if ANR would be included under this rubric. Chair Crawford affirmed that it would be.

**ACTION: Council endorsed the charge of the Task Force on Principles, Process and Assessment of UC Systemwide Research Investments (14 in favor, 1 abstention).**

### **XV. New Business**

**ISSUE:** In December, Council opined unfavorably on a proposal for a new section 668 of the APM that would allow academic departments to use non-state funds to provide additional salary for general campus faculty, similar to the health sciences compensation plan. On January 31, the Senate Office received notice from Provost and EVP Pitts that he intends to proceed with a five-year Negotiated Salary Plan Pilot Project at Davis, Irvine, Los Angeles, and San Diego beginning on July 1, 2012 and concluding June 30, 2017.



**DISCUSSION:** Council members expressed consternation at this proposal, characterizing it as a violation of shared governance. A member asked who “owns” the APM and if it can be changed by the administration unilaterally. A member responded that usually the Senate advises the administration and discusses any changes until both sides are satisfied, or until they reach a point at which they agree to disagree. Several members commented that it would be extremely unusual for the administration to alter the APM without Senate consent. Senate staff later confirmed that University policy states that the Provost has the authority to issue and revise the APM. Members commented that the proposed pilot is a trial balloon that could evolve into policy by default; the online education project was presented as a “pilot” but has been de facto institutionalized. Rather than renegotiating with the Senate, the administration established a pilot program. Members disagreed whether a pilot program could be easily disestablished; one pointed out that it is based on annual negotiations. A member stated that he supported the proposal to add a negotiated salary plan to the APM, but is outraged about the way this proposal was introduced, which circumvents the Senate. A member critiqued elements of the proposal (including the lack of metrics by which to assess the pilot), but another member stated that Council should not engage the substance of the proposal, but rather make a strong statement against the process. A member cautioned Council about overreacting with a reminder that shared governance does give the parties veto over each other, but requires respectful conversations about differences. It would have been preferable if the administration had returned with a revised proposal taking into consideration comments made in the systemwide review. A member noted that Council’s response to proposed APM 668 was meant to be collegial, but perhaps was seen as indecisive. A member asked that the pilot plan and the way it was introduced be placed on the Assembly agenda; faculty salary plans are critical to the unity of the university and should not be implemented at a handful of campuses. Chair Anderson agreed, and also agreed to communicate Council’s grave concerns to the president and provost.

Meeting adjourned at 12:00 pm

Attest: Robert Anderson, Academic Council Chair

Minutes prepared by Clare Sheridan, Senior Policy Analyst