

## ACADEMIC COUNCIL

**Minutes of Meeting**  
**Wednesday, January 26, 2011****I. Announcements****▪ Daniel Simmons, Academic Council Chair**

- 1. Report on the January Regents' meeting.** Chair Simmons reported that the president's resolution on holistic review was adopted unanimously by the Regents. Chair Simmons made a presentation with Vice Provost - Academic Personnel Susan Carlson on faculty competitiveness. The report is available on the Senate website.
- 2. Report on budget cuts.** The president stressed that the University needs to maintain a quality faculty and staff, and said that he is reluctant to impose furloughs or tuition increases. There are likely to be cuts to enrollment, and possibly increases in non-resident enrollment. Each campus will receive its share of the cuts and will decide how to allocate them. At UCOP, the cuts are likely to target centrally funded academic programs.
- 3. Search for Los Alamos National Laboratory director.** The Senate is looking for a representative familiar with laboratory issues to serve on the search committee for the LANL director.
- 4. Report on transfer.** In response to a request by the Commission on the Future, Chair Simmons will submit a report on Senate efforts to facilitate transfer, including the convening of representatives of five disciplines across the nine undergraduate campuses to discuss commonalities in major prerequisites.

**II. Approval of the Agenda**

**ACTION: The agenda was approved as noticed.**

**III. Consent Calendar**

- 1. Approval of the December draft minutes**
- 2. Cancel February 16 Assembly meeting**

**ACTION: The consent calendar was approved as noticed.**

**IV. Funding Streams Proposal**

**ISSUE:** Debora Obley, Associate Vice President - Budget and Capital Resources, made a presentation and answered questions on the funding streams proposal.

**DISCUSSION:** AVP Obley stated that the purpose of the funding streams project is to achieve a new way to handle funds that traditionally have been allocated from UCOP to the campuses. Under the plan, all revenue generated on a campus will remain on that campus (e.g., tuition, ICR, application fees, etc.). This removes UCOP from determining how individual fund sources should be used. UCOP central operations and systemwide priorities will be funded by a uniform tax on all expenditures (UCOP has made a special arrangement with UCSF regarding how it is funded, but UCSF is treated the same as other campuses). UCOP currently is examining all of the programs it funds to determine what will continue to be funded centrally. In the first year of implementation,

campuses will not see a major shift in income; the project was designed to be as revenue neutral as possible at its inception. However, in the future, campus choices will have an impact on how much funding they receive.

**Q:** What will happen to centrally funded research programs on the campuses?

**A:** If UCOP cuts central funding for a campus-based program, the campus will have to decide whether it wants to support it.

**Q:** What is the plan for buy-in for new strategic initiatives? How will decisions be made and disagreements between the campuses and UCOP brokered? We need to build sense of transparency and trust.

**A:** We view this process as consultative. There will be debate and all parties will be consulted, though this may not result in universal agreement. One of the principle tenets is that we will maintain our identity as a system.

**Comment:** Graduate education is central to a research university. We are concerned that the graduate University Student Aid Program is being eliminated.

**A:** There is a compelling rationale for continuing the education financing model methodology for undergraduates, which provides the same level of need-based aid to undergraduates at all campuses and is funded by redistributing tuition and special state general funds. This is the sole exception to the principle that all revenue generated on a campus will remain on the campus. As a system, UC has an interest in maintaining a common work-loan expectation. On the graduate level, this rationale does not apply. Campuses must do their best for their graduate students. While UCOP will not redistribute funds from one campus to another for graduate student aid, it will maintain a systemwide standard by instructing campuses to set aside 50% of graduate tuition as return-to-aid for graduate students. Smaller campuses will be disadvantaged because they benefited from redistribution of graduate student aid funds in the past. Ensuring adequate funding for graduate students will be part of the rebenching process.

**Q:** How will LBNL be treated?

**A:** The University receives a fee for its role in managing the national laboratories on a contractual basis; we can not make further assessments on the laboratories. Part of the fee is used for administration and part of the fee has been used to support a research grant competition. There is some discussion of using this portion to support the campuses.

**Q:** Is UCOP considering suspending programs that you can not fund in 2011-12 but hope to bring back?

**A:** We have not considered this, but it is a good idea.

## **V. Redirection of Endowments by DANR**

**ISSUE:** CCGA, UCORP and UCPB submitted a joint letter asking that DANR suspend the recent redirection of endowment funds that affect the University's academic mission—graduate education and faculty research—pending a full review and consultation with the three committees.

**DISCUSSION:** A member stated that while the letter requests that two endowments not be redirected, a broader issue is the exercise of shared governance. The letter asks that no action be

taken without consultation. Administrators should not make decisions about graduate programs without discussion with faculty.

**ACTION: Council unanimously endorsed the joint letter from CCGA, UCORP and UCPB**

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

- **Lawrence Pitts, Provost and Executive Vice President**
- **Nathan Brostrom, Executive Vice President**

EVP Brostrom. EVP Brostrom reported on budget developments. He stated that the proposed budget is about \$100 M lower than the low point of the budget cuts two years ago. The University will make the argument to the state that it needs flexibility in how to spend the funds it is allocated. Similarly, and in the spirit of the funding streams proposal, UCOP aims to provide the campuses with maximum flexibility in deciding how to allocate funds. UCOP also is examining ways to reduce its own budget in order to reduce the total cuts to the campuses. He also noted that half of Governor Brown's proposed solution to the state budget deficit is dependent on extending temporary tax increases for five years, and half is covered by de facto cuts by moving some functions from the state to localities. If Governor Brown's plan works, then the state will have a more stable tax base and we can pursue a multi-year agreement with the state. That would allow us to plan better, to spread deficits over more than one year, and to provide stability for the students. UC's state funding is now equivalent to what it received in 1998 (not adjusted for inflation), but we have 75,000 more students and one more campus. The year 1998 was also the last time the state had a balanced budget. In planning for next year, the president has asked us to include salary increases. It is more important that UC have fairly compensated staff, even at the expense of layoffs. In five of the past eight years, there has been no salary increase for faculty or non-represented staff. The University requested \$352 M for capital projects, but only \$54 M is provided in the proposed budget. In response, UCOP is coordinating with CSU to promote a lease-revenue bond bill as a job stimulus effort.

Provost Pitts. Provost Pitts stated the UCOP already has downsized staff, perhaps too far. Therefore, opportunities to save permanent money are in cutting centrally funded programs, e.g., academic preparation programs, research, etc. The campuses may choose to continue to fund the programs, but given the severe stresses on core academic mission, some of these programs will be terminated. UCOP will continue to fund some systemwide programs, and is currently evaluating everything that it funds. EVP Brostrom noted that UCOP recognizes that some programs have contractual obligations, and these will be met through funds from UCOP's unrestricted endowment until they can be phased out or moved to a campus.

**Q&A**

**Q:** If we are in a budget crisis why is STIP growing?

**A:** STIP includes funds that are already committed for capital projects, hospital reserves which are required to be maintained at a certain level, money for summer programs which can not be spent but span the fiscal year, and funds committed to research.

**Q:** Some centrally funded programs also receive funds from departments. How will decisions be made about such programs?

**A:** Our goal is that programs will be managed from one source of money. The office managing the UCOP budget is separate from the office that manages funds on behalf of the system. But the distinction falls apart for programs like UCDC, which gets money from both sources.

**Q:** How can we trust that campuses will do what UCOP directs them to do?

**A:** We have to trust the campuses to determine their own needs and we will encourage transparency.

**Comment:** Publicizing the Working Smarter Initiative suggests to the public that we did not “work smarter” before. Internally it’s fine to have this conversation, but the message to the public should be focused on the more positive message of what the University does for the people of California.

**A:** Public perception is that there is a lot of fat at the university. It is valuable to tell them what we are doing to address the budgetary problem. The Working Smarter Initiative is part of our strategy to address a long-term shortfall and to make the case to the state that we need steady and predictable support.

**Comment:** The budgetary cuts will have a differential impact on campuses, so it will affect quality.

**A:** Campuses that are more dependent on general funds have less flexibility in allocating the cuts.

**Comment:** Please make sure that diversity is one value that is maintained. Diversity is vital to the excellence to the University.

**A:** There are a number of ways to protect diversity without incurring great cost, such as ensuring that you recruit from a diverse pool of faculty. Some decisions we have already made support diversity, e.g., protecting the return-to-aid policy. Also, some campuses have instituted best practices to ensure diverse student and faculty bodies.

**Q:** The Commission on the Future report concluded with a list of contingency items that should be discussed if the financial situation of the university declines. Are we there yet?

**A:** Other than the suggestion to increase non-resident enrollment, which is part of our plan, those contingency items will remain on the table as measures that are not currently being pursued.

## **VII. General Discussion.**

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

## **VII. Systemwide Review of APM 010 and 015**

**ISSUE:** The Academic Council received responses from divisions and committees to the draft changes to APM 010 and 015 proposed by UCAF to protect faculty statements on administrative matters as part of shared governance.

**DISCUSSION:** UCAF proposed this addition to the APM because of two recent judicial decisions. In *Garcetti v. Ceballos*, the Supreme Court stated that the Constitution does not protect employees who criticize their employers from disciplinary actions by the employer. Although it did not rule on speech related to scholarship or teaching, *Garcetti* was cited in *Hong v. Regents*, a case involving a UC Irvine faculty member who alleged that the faculty member was denied a merit increase was denied due to criticism of institutional policies. While the case was dismissed

on other grounds, UCAF felt that changes to the APM should be made to explicitly recognize that faculty have the freedom to debate institutional policies without fear of disciplinary action. A Council member questioned whether the right to speak on institutional matters is an academic freedom, suggesting that it should be enumerated in the list of the rights of faculty members in APM 015, rather than be included as an element of academic freedom. A member countered that academic freedom is defined in APM 010 and that because the right to speak on institutional matters, a right of free speech, is not part of the definition, it is subject to abrogation. Moreover, the AAUP issued an opinion that this right is a matter of academic freedom, and the proposed language follows the AAUP's model. A member argued that discussing institutional issues is part of academic freedom because of its relation to shared governance. Some members felt that the proposed revisions are too vague and should be strengthened, but others argued that it is best to follow the AAUP language, which has already been vetted widely. Several addressed the importance of including the proposed language in the APM.

**ACTION: Council unanimously endorsed the proposed revision to the APM.**

### **VIII. Report of the Special Committee on a Plan for UC**

**ISSUE:** Council discussed the final report of the Special Committee on a Plan for UC.

**DISCUSSION:** Chair Simmons stated that he had appointed the committee to develop specific plans for implementation composed of Council members. He suggested focusing today's discussion on issues that Council members may find objectionable so that the implementation committee can focus on those areas. The recommendations of the implementation committee will be reviewed by Council. CCGA's chair praised the report for its stance on graduate programs and he will distribute it to the committee for comment. A member commented that the report was completed before the governor announced his budget and the \$500 M cut to the University and asked if the report is relevant to the reality we are now facing. A member responded that the implementation committee should note that current budget realities will make it difficult to implement many of these ideas, yet it stands as an historical document. A member countered the notion that the report is outdated. Rather, it lays out core principles against which budgetary decisions should be made. He noted that the Special Committee did not have access to data to make informed choices about trade-offs and to think through different scenarios, but that the implementation committee will do so. A member spoke in favor of emphasizing the threat of continuing budget cuts to UC's status as a research university. A member commented that the ideas in the funding models section are good. A member commented that he had hoped the report would be more daring. A member disagreed with the recommendation that UC should raise tuition only as a last resort. Another member argued that the implementation committee should review all of the recommendations considered by the Special Committee, even those that were controversial and did not receive majority support. He stated that the report will be a failure if it is not controversial. The task for the committee is to provide data and present the trade-offs. He recommended that the implementation committee meet at least twice a month and prepare spreadsheets to discuss at the meetings. UCEP's chairs stated that it would be useful to have guidelines on how to decide whether programs are duplicative. A member noted that the report suggests pooling revenues, but under the new funding model currently being reviewed there is no financial incentive to do so. In fact, the University will be less collectively oriented and issues like increasing the enrollment of non-residents will become even more controversial.

**ACTION: Council accepted the report of the Special Committee on a Plan for UC, approved its circulation to the campuses, and referred it to the Task Force on Implementation for the development of concrete proposals and analysis of fiscal impact.**

**IX. Systemwide Review of Proposed Revisions to Policy on Self-Supporting Graduate Programs**

**ISSUE:** The Academic Council received responses to the systemwide review of proposed revisions to the policy on self-supporting programs.

**DISCUSSION:** The responses to the review echoed common themes: the policy needs further development; faculty workload policies should be more explicit; indirect charges to SSPs should be defined and how they are calculated should be specified; SSPs should exist to support the core mission and should have no impact on existing, state-supported programs; the criteria for approval are too broad; SSP quality should be ensured; the policy should reiterate the authority of CCGA as the body that reviews and approves graduate degrees; and any program that wishes to convert to SSP status must be reviewed by Graduate Councils and CCGA. Members advised that the next round of policy revision should be done jointly by Academic Affairs staff and CCGA. In particular, CCGA's chair emphasized that doctoral programs already are at risk and his committee fears that the establishment of SSPs will divert faculty effort and institutional resources from existing programs. Other members noted that there is no contingency plan if a program fails, and arrangements for revenue sharing are not specified. A member stated that a Berkeley task force reviewed its policies on SSPs and made more stringent recommendations. However, Berkeley's divisional chair stated that she would object to any prohibition on the involvement of University Extension in such programs, since that campus has partnered successfully with Extension and wishes to establish more SSPs for working professionals. CCGA's chair responded that the quality of programs offered through Extensions varies widely, and that such decisions should be on a campus by campus basis. He simply wants to ensure that divisional Graduate Councils review proposals for SSPs and certify that they will not have a negative impact on existing graduate programs. CCGA plans to will develop guidelines for Graduate Councils to help them review SSPs..

**ACTION: Council authorized Chair Simmons to write a letter to the provost articulating its concerns about the proposed revisions to the policy on self-supporting graduate programs.**

**X. Third Party Copyright Infringement**

**ISSUE:** In response to continuing faculty concerns about copyright infringement, the University's Office of General Counsel has provided a sample letter that may be used by faculty interested in sending a cease and desist letter to entities that reproduce their course materials on the web. Under University policy, these materials belong to the individual faculty member, not to the University. As a result, the University may not send a cease and desist letter based on copyright violation on their behalf. Provost Pitts has requested feedback and advice on disseminating this information.

**DISCUSSION:** Executive Director Winnacker noted that faculty members own the copyright on work that they produce. The University has no standing to make a claim when an individual faculty member's copyright is infringed. Unauthorized use of copyrighted material is in contravention of federal copyright law, and in addition, Section 66450 of the California Education Code and the UC Student Code of Conduct forbids copying and posting class materials without permission of the instructor. Sending cease and desist letters is not the only action available to

faculty members. University policy also prohibits unauthorized use of University facilities for commercial purposes. She stated that faculty members can take preventive action by including statements on all course materials (including course websites) that state whether the faculty member grants permission to post class materials on public web sites; they can also announce in class that the Student Code of Conduct prohibits such action. If copyright is infringed, the faculty member can file a complaint against a student for violation of the Student Code of Conduct, request assistance from campus counsel under the provision of the California Education Code, and personally send cease and desist letters to entities that violate copyright, based on the template provided by OGC. A member asked whether a faculty member who did not provide notice about his or her policy on the reproduction of course materials can later send a cease and desist letter if copyright has been violated. Executive Director Winnacker affirmed that faculty can take action even if they have not made statements on copyright. A member suggested disseminating this information through Senate divisions and recommending that faculty address copyright issues at the beginning of the term. Another member suggested drafting a letter to the provost outlining the state and university regulations prohibiting violation of copyright so that the information provided to faculty members is complete and requesting that it be posted on a UCOP website so that faculty members can provide a link to copyright policy on their course websites.

**ACTION: Council endorsed sending a letter to faculty through Senate divisions outlining preventive action and recourse faculty can take to protect their copyright on course materials and prevent unauthorized posting of their course materials on public web sites; and sending a letter to the provost with the same information and a request that it be posted on a central website.**

## **XI. Executive Session**

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

## **XII. Laboratory Fee Research Program Funding**

**ISSUE:** Council received an update from ACSCOLI on laboratory fee research program funding.

**DISCUSSION:** Chair Simmons stated that the University receives \$30 M in fees from its participation in the management of the Los Alamos and Lawrence Livermore National Laboratories, \$10 M of which funds the university's staff who work on lab issues. The net profit is \$20 M. ACSCOLI recommended that the revenue be used to establish a research competition and the Regents adopted this recommendation as policy. The first round of awards was made two years ago and the Office of Research is preparing to send out a request for proposals for the next round. However, the president is considering using the profit to mitigate the University's budget gap. ACSCOLI discussed this, but was deeply divided; a slight majority preferred to fund the research program because research is core to UC, and because the monies fund UC faculty and graduate students. The minority felt that the funds belong to the University and should be used to off-set the budget gap. Some expressed the hope that campuses would use the funds for research. A member suggested that the University should establish principles for budget cutting and consider all centrally funded programs. They are systemwide funds and should be considered within the total context of University priorities. A member argued that peripheral programs should support the core, and that this is a prime example. In contrast, a member advocated sending it to campus Committees on Research in anticipation that research funds will be cut. Another member objected, arguing that if the funds are given to the campuses, restrictions on how to use them should not be

imposed. A member suggested recommending that the research program be suspended for one grant cycle, noting that the Senate supports reverting the funding to a research competition after the budget crisis is resolved. Another member suggested allocating part of it on research, which would preserve the existence of the program but scale it back.

**ACTION: Council approved the following resolution (13 in favor, 2 opposed):**

**RESOLVED. The net fees derived from the University's participation in management of the Los Alamos and Lawrence Livermore National Laboratories limited liability companies should be viewed as University funds that that are equivalent to other central funds available for university priorities including allocation to the campuses for general purposes or for use in a systemwide research program.**

**XIII. New Business**

*Council did not discuss any new business.*

Meeting adjourned at 4:30 p.m.

Attest: Daniel Simmons, Academic Council Chair

Minutes prepared by Clare Sheridan, Senior Policy Analyst