

## ACADEMIC COUNCIL

April 27, 2005

## Approved Minutes of Meeting

**I. Chair's Announcements**

Chair Blumenthal announced that President Dynes and UCI Division Chair DiMento will not be attending today's meeting, and that Regent Lozano will not be able to come to the June Council meeting. Other Regents will be invited to join the Council at coming meetings. He noted that the UC Merced item will be discussed before the SciGETC item, and briefed members on the following issues:

*AB724.* This bill was moved out of committee with a unanimous vote of support, and it is likely that it will ultimately be passed into law. UCOP prepared a dossier of public statements highlighting the costs associated with the bill, so the bill may now go to the appropriations committee. CSU has circulated a needs assessment regarding applied doctorates, and UC is preparing its own assessment. *Science and Math initiative.* Discussions are being held with the Governor and with private donors. Implementation may present some challenges, and CSU has expressed interest in developing a comparable program.

*EAP in Israel.* The University Committee on International Education supports the administration's policy of keeping the program in suspension while there is still a State Department travel warning in effect. Students who wish to study in Israel through another program can get advising at UC campuses.

*May 11 Assembly meeting.* Neither the President nor the Provost will be able to attend the meeting. Division chairs are encouraged to meet with Assembly representatives before the meeting in order to provide background on the issues, and to ensure that alternates are arranged if necessary.

*SciGETC.* Recent meetings have been held with Vice President Hershman and Vice Provost Zelmanowitz about resources for implementation, and a letter has been received from the Provost that addresses the resource issue, which will be distributed in today's meeting.

**II. Consent Calendar****1. Approval of the March 30-31, 2005 Minutes****2. Re-apportionment of Assembly Representatives****3. 2005-06 Assembly meeting dates****4. UCM-CAP Membership****5. BOARS response to the 2004-04 Eligibility and Admissions Study Group**

**Action:** Items 1-4 on the consent calendar were approved.

**Action:** Item 5 was changed to indicate that the action requested is "approval" rather than "receipt for transmitting, filing and/or web-posting" of the BOARS response.

**Action:** The Academic Council approved BOARS' responses to finding/recommendation #5 and finding/recommendation #9 of the 2003-04 Eligibility and Admissions Study Group.

**III. Mandatory Sexual Harassment Prevention Training**

**Issue:** AB 1825 requires that all supervisors undergo sexual harassment prevention training every two years. The administration has notified the Senate that in order to comply with the law, all UC supervisory employees, including faculty, will be required to take the training. While the training itself may be of benefit, it is troubling that consultation with the Senate about a training program for faculty was not timely. Senate leadership has asked OGC how the law would apply to faculty and how the term "supervisor" is being defined in this context, and is awaiting a reply.

**Discussion:** Members expressed concern about the lack of consultation with the Senate, and about the likelihood that the planned online training program would not be applicable to faculty. Questions were also raised about how the rule would be enforced, the frequency of training, and how the effectiveness of the program would be assessed. There was general consensus that the faculty, not Human Resources, should be the main designers of a faculty training program. It was suggested that the objectives of such a program would need to be laid out, and that it should allow faculty to raise their own issues.

**Action:** Chair Blumenthal will draft a response letter summarizing what the Senate sees as a breakdown in the consultative process and requesting: 1) a clear definition of faculty in the context of this legislation, specifically who would and would not be considered supervisors; 2) that faculty participate directly in the design and implementation of any sexual harassment training program intended for faculty. The draft letter will be circulated to Council members for review.

#### **IV. Faculty Salaries – Starting Date for 05-06 Salary Range**

**Issue:** Vice President Hershman has asked the Senate's advice as to whether a 1.5% COLA adjustment go into effect on July 1, or a 2% raise be implemented on October 1. UCFW and UCPB have discussed these options with VP Hershman.

**Discussion:** It was pointed out that the advantage of deferring the adjustment until October raises the salary base; but on the other hand a July adjustment would apply to summer research pay. The chairs of UCPB and UCFW reported the support of their respective committees for the October date, and UCPB Chair Parrish commented that anything that raises the base salary will help recruitment efforts. It was also noted that the October date would be more fiscally efficient, and UC Merced Proto-divisional Chair Kantor distributed an analysis showing that for new faculty who plan to stay at UC, the October date is more beneficial over the long term.

**Action:** A motion was made, seconded and unanimously passed to recommend to Vice President Hershman that a salary range adjustment, which is anticipated to be 2%, be implemented on October 1.

#### **V. Proposed Senate Regulation 477**

**Issue:** The proposed regulation, which would enable a policy that streamlines major preparation articulation between UC and the California Community Colleges, was sent out for general Senate review. At its February 2005 meeting, the Council approved the draft policy in principle.

**Discussion:** Alternate language for the term "opt-out" was discussed, but no acceptable substitute was found. It was agreed to change the phrase "not adversely affected" in the last sentence to "minimally affected" to avoid stating an absolute.

**Action:** The Academic Council voted unanimously to forward the proposed Senate Regulation 477, as amended, to the May 11, 2005 Assembly for final approval.

#### **VI. Proposed Amendment to Senate Regulation 600. B.**

**Issue:** This amendment would allow faculty to earn post-baccalaureate degrees from their own divisions, but would maintain the prohibition of faculty members earning a higher degree from their own departments. The proposal has been vetted by committees and divisions.

**Discussion:** Council members expressed opinions both for and against the proposed amendment. Comments in favor focused mainly on the benefit of removing restrictions on faculty who wish to further their education and advance professionally. It was noted that there is strong interest among clinical faculty in the MAS in particular. On the other hand, some members raised objections to the amendment because of the inherent conflict of interest that faculty would face with admissions and evaluating degree candidates from within one's own division. Suggestions were made to limit access to only masters degrees and JDs (i.e., to exclude the PhD). Also discussed was the

ambiguity of the term “higher degree.” “Secondary degree” was not seen as acceptable because of its association with high school. It was generally agreed to use the term “post-baccalaureate” as a substitute.

**Action:** In a vote of 12 to 1, with one abstention, the Academic Council agreed to forward the proposed amendment to 600.B, as revised, to the May 11, 2005 Assembly for final approval.

[Note that Professor Dan Simmons was absent for the vote on this issue.]

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

- M.R.C. Greenwood, Provost and Senior Vice President – Academic Affairs
- Joseph Mullinix, Senior Vice President – Business and Finance
- Bruce Darling – Senior Vice President- University Affairs
- Lawrence Hershman – Vice President - Budget

### Provost Greenwood

*SB 724.* UC has been opposed to this legislation and planning ways that it could be defeated or that a compromise reached. UC has raised fiscal issues, and the bill will be going to the appropriations committee on Monday.

*Stem Cell Initiative.* A letter was drafted to Senator Ortiz from a consortium of research institutes, including UC, outlining concerns about provisions in her proposed legislation that would be contrary to Bayh-Dole and in other ways be problematic to the universities. The report “Ethical Guidelines for Stem Cell Research,” released yesterday by the NAS, may be adopted for use by the ICOC. The report has been well-received at the federal level.

*Science and Math.* There has been enthusiastic support from the Governor and others of the proposal “A Thousand Teachers, A Million Minds,” and the May budget revision may reflect resources for this program. Curriculum proposals will be developed in meetings this summer to ready them for Senate review. UC is also trying to gather industry support – financial and moral – and eight companies are engaged so far. Next Monday is the scheduled roll-out for the program. It is hoped that this may be the beginning of a non-partisan alliance that will help sustain UC efforts over the long term.

### SVP Mullinix

*Legislative issues.* There has been progress on some reform legislation regarding minimum capital improvement (although there is concern about going into more modular construction), and on the public records legislation regarding private equity investments. Regarding public pension legislation, there is some support for UC provisions and there is movement toward an integrated plan.

*Labor issues:* A tentative settlement on a 3-year agreement with ACFSME has been reached, which is still to be ratified. It is hoped that discussions with UPTE and will be similarly productive. The nurses’ contract is still being negotiated.

*AB 992.* The Office of the President asked for the Senate’s advice on this initiative last year. OP is at this point not in a position to alter its proposal.

*Electronic Communications Update.* Consultation with the Senate on this policy was, admittedly, not done more effectively. This is a fast-moving area, and UC is acting quickly to avoid having state and federal requirements imposed.

### VP Hershman

*Legislative hearings.* Operating budget hearings have been held in both houses, and the issues published by the LAO have been raised. Most of the budget has been put on consent, although one issue that will come up in hearing today is the Berkeley LRDP.

*The May Revision.* An increase in revenue could come from tax amnesty money, (which would be one-time funds.) Revenue from personal income is not as high as anticipated, but on balance, there

may be enough to cover the budget. Funding for academic preparation will likely be negotiated between the Speaker and the Governor.

*Professional School Fees.* A trial court judge has ruled against UC in the law suit concerning fees that has been brought by students. UC will be appealing the decision and after the appeals process, the fee schedule will be revisited.

#### SVP Darling

*The national labs.* UC was recently awarded the management contract for LBL. The final RFP for LANL will be out in mid-May at the earliest. For that contract the other competitors include industry and industry-university partnerships. A central question is whether science and technology should drive the labs, since some of the competitors would not have strength in those areas. UC is preparing, as though it will compete, and an agreement with a partner company has been reached who will handle the business side of LANL.

*The Private Equity Bill,* which is critical for both UC pension and endowment returns, passed its first hearing in the Senate.

*AB 724.* As part of the efforts to oppose this bill, UC has been putting together groups of industry leaders/CEOs of California companies to speak in Sacramento on the importance of UC and what it delivers to the state.

*DANR endowments allocation.* Concerns raised by agriculture faculty about the use of endowments by the VP of Agriculture have resurfaced. The Senate will be consulted as to how best to address this issue.

*Tobacco tax.* An initiative is being prepared to be on the 2006 ballot for a tax on cigarettes. It is being proposed that some of the revenue come to higher education. Discussions are going on, but no decisions have been made. Possible uses were informally discussed with UCPB.

### **VIII. Proposed Amendment to Senate Regulation 478 – SciGETC**

**Issue:** At its February 2005 meeting, the Council approved the SciGETC proposal in principle and on the condition that it would receive adequate funds for implementation. The SciGETC will allow transfer students in the sciences to postpone meeting certain general education requirements until after transfer. This proposed amendment to Senate Regulation 478 would enable implementation of SciGETC, and has been reviewed by committees and by the divisions.

**Discussion:** Chair Blumenthal referred to the letter just received from the Provost, which states that the issue of resources for the program will be taken up with the Chancellors at an upcoming COC meeting. In addition, he suggested a further language change for the regulation, substituting “programs in the biological and physical sciences” for “programs in biology, chemistry, geology, or physics.” Several members found the Provost’s letter as falling short of an assurance of funding, which is what the Council had asked for. One member commented that faculty should be aware of the danger of expanding this sort of exemption to other disciplines, which could harm the role of arts and humanities in general education. It was generally agreed that the formal justification for the amendment should emphasize the responsibility on the part of OP to ensure funding.

**Action:** The Proposed Amendment to Senate Regulation 478 was approved with one change in language, and will be forwarded to the May 11, 2005 Assembly for final approval. The language of the justification accompanying the item in the Assembly agenda will describe the obligation of system-wide administration to ensure funding for a system-wide initiative such as this.

**Action:** Chair Blumenthal will contact Provost Greenwood after the COC meeting to confirm that there will be funding for advising and other administrative costs associated with the implementation of SciGETC.

### **IX. Establishment of the UC Merced Division**

**Issue:** The UCM Task Force and the Proto-division of UC Merced are requesting that the Academic Council recommend to the Assembly the establishment of the UC Merced Division. The Merced proto-division has submitted Proposed Bylaws and Minutes of the Proto-divisional Committees as supporting material. The UCM-TF is now relatively inactive, having delegated many authorities to the proto-division. The UCM-CAP, now being run through the Academic Council, is made up of about half Merced faculty and half outside faculty, and since the Merced bylaws allow outside members, it is entirely likely that the Merced division will leave the composition of UCM-CAP unchanged for an undetermined transition period. The proposed legislation for establishing the UCM division will stipulate that the effective starting date will be determined by the Academic Council's certification that the recommended funding plan is in place. As of July 1, 2005 there will be 51 Academic Senate faculty members at UCM, 39 of whom will not be in administrative positions, and 18 of whom will be tenured. It is projected that 13 new faculty members will be hired by the September opening.

Proto-division Chair Kantor reported that the proposed UCM Bylaws are still being reviewed by UCR&J. Regarding resources, there will be an MSP I position for a Senate Director; a half-time AA; allocation of some office space; resources for supplies; and compensation for the Chair of the division as well as allocation of research grant funds and funds for diversity programs. All of the Senate committees have made good progress in establishing themselves and all effort will be made to fill the committees as soon as possible. Participation of UCM faculty in system-wide Senate activity may continue to be thin while the division is still ramping up.

Vice Chair Brunk distributed a personal statement that voiced strong reservations about the small number of tenured faculty at start up, but placed that concern second to the importance of preserving strong morale among UCM faculty.

**Discussion:** Most members acknowledged and supported the desire of the UCM faculty to become a division, although there was a concern that adequate faculty be available to handle for the undergraduate teaching load. It was recommended that the Administrative Assistant support position in the Senate office become full time as soon as possible. Other recommendations were to institute programs for recognition of faculty for research, teaching and service, and to bring junior faculty into Senate activities as much and as soon as possible. UCAP Chair Barbour reported that his committee would support the plan of phasing in full UCM membership on UCM-CAP.

**Action:** The Academic Council voted unanimously to recommend to the May 11 Assembly the establishment of a UC Merced Division, on the condition that UCM satisfies the Senate's recommendations for minimum start-up resources.

## **X. Electronic Communications Policy**

**Issue:** General review of the proposed change to this policy has been completed and comments are reflected in a draft response letter.

**Discussion:** Members suggested including in the letter a clear request for a response to the Senate's specific recommendations. Also suggested was softening the draft letter's statement relating to centralized administration by replacing it with language from the UCFW response.

**Action:** Council's draft response will be revised to incorporate language from the UCFW response regarding the policy's administration, and to include a request for a response. The revised letter will be circulated to Council members for review.

## **XI. Proposed University Statement of Core Values (Code of Ethics)**

**Issue:** A revised iteration of the Statement has been drafted and will go to the Regents for approval at their May meeting. Introductory language will accompany the Statement clarifying that this policy will in no way supersede the Faculty Code of Conduct.

**Discussion:** Members expressed support of this draft and appreciation for the work of UCFW Chair Oakley in negotiating the language and structure. One member questioned whether the substance of the introduction should not be incorporated into the Statement itself; however, it was noted that the introduction will be a formal part of the document and therefore be authoritative.

**Action:** The Academic Council unanimously approved the Proposed Statement of Ethical Values for inclusion in the Regents' May agenda, with the understanding that a formal preamble will attach to the policy clarifying that the Statement of Ethical Values in no way supersedes the Faculty Code of Conduct.

## **XII. Formal Review of APMs 760, 133-17 and 220**

**Action:** This item was deferred to the May Academic Council agenda.

## **XII. Proposal for University Minors**

**Issue:** ITTP has proposed a system-wide minor in Information Technology Fluency and Impact. UCEP, while not at this point formally proposing this particular minor, has endorsed the concept of a university minor.

**Discussion:** Members questioned the value of adding another layer of academic programs, and whether this would create unnecessary minors for some campuses. There was some support to re-name them "inter-campus" or "multi-campus" minors which would be a more accurate characterization and would avoid the misperception of them being degrees given by the university-wide system. Questions were raised about funding for the program, allocation of teaching credit, and whether this represents a potential hardship for smaller campuses because of loss of enrollment. UCDC and other off-campus programs were raised as an already existing model of this type of shared curriculum and it was noted that such a program would be useful at UCR and at UCM.

**Action:** The Proposal for University Minors was approved in concept. UCEP and ITTP will proceed with the ITTP proposal for a University Minor in Information Technology Fluency and Impact, which will come before Council for review.

## **XIV. Advancement to Step VI or Above**

**Action:** This item was deferred to the May Council meeting.

## **XV. Process and Timeline for Nomination of the Vice Chair of the Assembly and Academic Council**

**Issue:** At the January Council meeting, members requested a review of the process and timeline for the selection of the Academic Council Vice Chair.

**Discussion:** Chair Blumenthal outlined the competing factors at play in the process of selecting a Vice Chair: on the one hand, it is best to begin the process as early as possible to accommodate candidates' professional and other commitments; on the other hand, members of Council need enough time to make a strong, informed decision. He then proposed that selection take place in June or July of a Vice Chair who would take office in September of the following year. During the intervening year, the Vice Chair Elect would attend the Academic Council as a guest. This plan would allow for longer deliberation before selection, and provide a longer 'training period' for the vice chair. The disadvantages of the plan would be that the selection may be too far in advance, may burden the elected individual with an additional year's commitment, and would preclude some potential candidates' nominations next year.

**Discussion:** Members expressed reservations with the alternative timeline including: the extent of commitment to Senate work; loss of connection to the home campus; the difficulty of making a decision for that far in the future. Another alternative was suggested of having the previous year's

Council members participate in the election of the Vice Chair. Members felt that no decision could be reached at this time, and that next year's Council should revisit the issue.

**Action: the 2005-06 Academic Council will take up further deliberation and determination of possible action on this issue.**

#### **XVI. Academic Council's Special Committee on the National Labs (ACSCONL)**

**Update from ACSCONL Chair, Cliff Brunk:** President Dynes will be attending the next ASCSONL meeting to discuss the decision to compete for management of LANL. In June the directors of LBL and LLNL will attend to offer their visions for the labs. As mentioned earlier, the LANL RFP will likely be coming out in May. The committee is addressing the question of how the lab management fee will be dispersed, and is looking in particular at the funding situations for both IGPP and IGCC.

**Action:** Council will be further updated on ACSCONL activities at the May meeting.

#### **XVII. Assembly Bill 992**

**Issue:** This California State Assembly bill would add UC and CSU police to the list of law enforcement officers (itemized in Section 633 of the Penal Code) who are exempt from prohibitions on electronic surveillance. Last year, the Academic Council chose not to opine on the proposed legislation, seeing it as an administrative matter. UCEP Chair Kiskis has reopened the issue this year, citing concerns with the language and with powers this bill would accord to UC police officers. At its March 2005 meeting, Council voted to forward a recommendation to alter the language so as to clearly specify to whom this authority would be granted. Council also agreed to continue discussion this month of other concerns related to the bill.

##### **Discussion:**

*Chair Blumenthal* reminded members that there are questions both of substance and procedure to be aware of. Because it was assumed that the decision of last year's Academic Council was binding, no Senate follow up was done this year. The issue was, though, reopened recently and as per the Council's action last month, a letter was sent to SVP Mullinix recommending that, for clarity, the term "officer of the university" be changed to "police officer of the university." Possible Council actions at this point would include: taking a position opposing the bill and communicating directly with the bill's author; or asking for modifications of the bill and working through SVP Mullinix's office. It may, however, be too late for these options, given that the legislative process is well underway. A third possibility is that the Council make recommendations on how the bill should be implemented if it is passed.

*Professor Kiskis* - The question before us is whether the exemption in Section 633 of the Penal Code be extended to UC police, which would allow them to conduct covert electronic surveillance. There are four problems to consider: 1) the law is overly broad and does not require that a crime be involved, nor does it restrict the authority to emergency situations; 2) authority could be delegated to anyone else without review; 3) no court order is required; 4) the term "officer" is not specific to police officers. (Addressing this last problem with a language change, as was done by last month's Council action, may not be effective, since the law still allows delegation of authority.) As a course of action, the second of the options noted above – i.e., seeking to modify or recast the bill – is recommended. Dealing with the law administratively after it is passed is not advisable, since what is instituted administratively can also be removed by the same process. Therefore, the Council should ask that the OP withdraw its support of the current version of AB 992 and reconstitute a new version that includes conventional checks on this kind of authority, and ensures that it is regulated in a way appropriate to the University environment. The proposed new version would probably have to be a stand-alone provision for UC police. By its nature, the University should provide an

environment in which guests, scholars and students feel comfortable expressing a range of opinions without fear of surveillance. The following provisions would be included in a revision version:

- Covert recording would be allowed only in felony cases; only suspects would be the targets.
- Court orders would be required except where there is a time-critical element or in emergencies.
- Delegation of authority would not be allowed.

**Discussion points:**

- There is nothing to be legitimately gained from this legislation and very much to be lost. The argument to be made is that the University is different kind of community and it is inappropriate for the campus police to have these powers.
- The current law already allows UC police to be delegated this authority. The request to delegate authority is itself an important step that can provide some measure of accountability.
- The Council would need to have very compelling reasons to rescind the position of last year. It would be better instead to focus on how this law would be regulated.
- The bill represents a major change in culture, and whether or not the general public or the Legislature is in favor of the change, and the Senate should voice its opinion.

Council members aired two possible actions: 1) oppose AB 992; 2) draft a letter to SVP Mullinix requesting that UC withdraw its support of the bill as written, and to recast it in light of the concerns outlined by Professor Kiskis above. Chair Blumenthal stressed the need to think carefully about how the Council's position will manifest itself, because of the long-term issues that are potentially at stake relating to the Senate's involvement in political affairs.

**Action:** By assent, the members of the Academic Council expressed opposition to the addition of UC Police Officers to Section 633 of the Penal Code, which lists law enforcement officers who are exempt from prohibitions on covert monitoring and recording of private conversations. Professor Kiskis will draft a proposal setting out Council's position and indicating how this position should be put forward. The proposal will be vetted by email.

**Action:** Chair Blumenthal may call a teleconference to further discuss this issue.

**XIX. BOARS Update**

**Action:** The BOARS update was deferred to the May meeting.

**XX. Senate Issues / Topics of Concern**

None.

Meeting Adjourned, 4:30 p.m.

Attest: George Blumenthal, Academic Council Chair

Minutes prepared by

Brenda Foust, Policy Analyst