

ACADEMIC COUNCIL

Minutes of Meeting

Wednesday, September 26, 2007

**I. Announcements**

- **Michael T. Brown, Academic Council Chair**
- **Mary Croughan, Academic Council Vice Chair**

Chair Brown announced the establishment of an Academic Advisory Committee, which will participate in the search for the new president. He urged members to think about candidates for the 2008-09 vice chair; nominations are due in December and a final decision is made in January.

**II. Approval of the Agenda**

**ACTION:** The agenda was approved.

**III. Academic Council Overview**

- **Michael T. Brown, Academic Council Chair**
- **Mary Croughan, Academic Council Vice Chair**
- **María Bertero-Barceló, Executive Director and Chief of Staff**

**1. Procedures and Logistics**

Chair Brown outlined Council procedures. A task force has been convened to re-think the current review process to determine if the process can be expedited through a 'triage' process. An on-line review tracking system will also be set-up. Director Bertero-Barceló will provide Council with monthly updates on correspondence and requests received by Chair's office.

**2. Invited Guests (Regents, UCOP Administrators, Senate Directors, etc.)**

Chair Brown reminded members that Council meetings are generally restricted to Council members; all others invitees must be approved. As is our practice, there is an open invitation to Senate Executive Directors and systemwide Senate staff may attend for certain periods when issues of interest are being discussed. Also, Monitor Group has been invited to come to a future Council meeting. Certain Regents will also be invited to attend and discuss important matters with us.

**3. Ongoing Agenda Item: "Senate Issues/Topics of Concern"**

**ISSUE:** Members are encouraged to bring to Council issues that they feel may be of interest to the Systemwide Senate or to several Divisions.

**DISCUSSION:** Topics of concern generated included the new faculty salary plan, underperforming faculty, and the national laboratories.

**ACTION:** Members were encouraged to consider the "Senate Issues/Topics of Concern" as a mechanism to bring forward issues of concerns to the Academic Council via email beforehand or raised at the meeting as new business.

**IV. Consent Calendar**

- 1. Approval of the July 25, 2007, Minutes**
- 2. Approval of the August 27, 2007, Minutes**
- 3. Approval of the 2006-07 Annual Report**
- 4. Proposed Changes to UC Merced Regulation 50 GRADES**
- 5. University Committee on Academic Freedom (UCAF)-- Reimbursement of Legal Fees**
- 6. UCPB Representative to the [Steering Committee of the Industry University Collaborative Research Program \(IUCRP\)](#)**
- 7. BOARS' Eligibility Reform Proposal: Q&A Document and UCOP Data Information**
- 8. Cancellation of the October 17, 2007, Assembly of the Academic Senate Regular Meeting**

**ACTION:** Council adopted the Consent Calendar, with the exception of items 5, 6, and 7, which were moved to new business.

**V. UCI Law School**

- **Michael T. Brown, Academic Council Chair**
- **Timothy “Tim” Bradley, UCI Divisional Chair**
- **Chris Newfield, UCPB Chair**

**ISSUE:** Council discussed the initial offer of the position of the UCI Law School Dean to Erwin Chemerinsky by Chancellor Michael Drake, as well as its subsequent rescission and re-offer. In response to the withdrawal of the offer to Professor Chemerinsky, the Irvine Division held an emergency meeting with Chancellor Drake, which had significant concerns about academic freedom. The Irvine Senate passed a resolution affirming the importance of academic freedom and its extension to administrators as appropriate. A small divisional committee has been appointed to meet with Chancellor Drake to gather additional information.

**DISCUSSION:** Council expressed their concerns regarding academic freedom and the role of donors. They also discussed the differences between the academic freedom of faculty in general and that of administrators, suggesting that administrators should have the freedom to express opinions and viewpoints specifically within one's area of expertise.

**ACTION:** Director Bertero-Barceló will send out Academic Assembly's revisions to APM 010, along with [Robert Post's letter to then President Atkinson.](#)

**VI. Sexual Harassment Training**

- **Michael T. Brown, Academic Council Chair**
- **Maria Shanle, University Counsel (Guest)**

**ISSUE:** University Counsel Maria Shanle spoke to Council regarding faculty compliance with the legally State mandated sexual harassment training. The 2005 compliance results were mixed with 85-86% faculty compliance and 95% compliance among non-academic employees. Institutionally, she listed a number of possible measures under consideration to increase compliance among faculty, which include a letter from the OGC explaining the seriousness of this requirement; a 'wall' of shame in which those in non-compliance are listed; and other more serious administrative

actions, such as non-approval of PI-status; the removal of supervisory privileges over teaching assistants; or some sort of disciplinary action. However, UC cannot withhold paychecks, deny a legal defense, or impose any action that affects merit reviews.

**DISCUSSION:** Members asked about the type of actions that have been taken thus far. Counsel Shanle responded that some emails have been sent to those in non-compliance. Some non-compliant faculty take a principled view that this policy violates their academic freedom, however the OGC disagrees with this legal interpretation. Others simply find it unnecessary. While the University's approach has been to treat all faculty as supervisors, there is some percentage of faculty who are not supervisors at the time the test is given. Members remarked that email is not an effective way to reach the faculty; they agreed that involving the chairs of departments might be more effective, who could call special faculty meetings in order to participate in the training and could be notified as to the recorded compliance of their faculty members. Counsel Shanle also explained that it is a State law and civil statute; while there really is not a large monetary penalty associated with the law, the Department of Fair Employment and Housing can essentially get an injunction against UC. Potential law suits represent the greatest risks for significant monetary damages. Members agreed that it would be useful for a small number of faculty members to flesh out other ideas to encourage compliance among faculty.

**ACTION:** A small group of faculty members will be convened by Chair Brown to meet with the OGC to suggest measures that can be used to encourage compliance among academic personnel.

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

- **Robert C. Dynes, President**
- **Wyatt R. Hume, Provost and Executive Vice President, Academic and Health Affairs**
- **Katherine N. Lapp, Executive Vice President, Business Operations**
- **Bruce Darling, Executive Vice President, University Affairs**

### **President Bob Dynes**

Over the remaining months of his presidency, the President will continue to visit the campuses, building a dialogue on a number of important issues. He listed the following as high priorities: the faculty salary plan; issues concerning the transition to the LLCs at the national labs (particularly at the Lawrence Livermore National Lab); the advocacy of UC's research, development and delivery (RD&D); the UC Alumni Association; international strategic alliances is also critical; and K-12 education and diversity. He coupled these priorities to his 'power of the ten' vision, exemplified by the California Institutes for Science and Innovation (Cal ISIs) and the [California Digital Library](#), where campus synergies—capitalizing on research and teaching strengths—are harnessed for the good of the system and where we are developing common administrative and business systems to support our campus uniqueness.

### **Provost Wyatt 'Rory' Hume**

Provost Hume emphasized five things: academic planning campus visits, restructuring UCOP, enrollment growth planning, three position searches, and reviews. He reiterated the 'power of ten' idea, which The Regents have also adopted as a vision for the future, as it both provides a bulwark against the stratification of the University into tiers of excellence while encouraging differential

campus profiles of strength. He will be visiting all of the campuses before the end of the calendar year to continue academic planning discussions. He highlighted The Regents' adoption of the Statement on Diversity and the importance of addressing the K-12 inequities, which must be a joint effort between the State and the CSU. Securing appropriate funding to increase graduate student ratios is another priority.

He invited members to read his [response](#) to Regent Blum's treatise, "[We Need to Be Strategically Dynamic](#)." He argued that bringing competitive faculty salaries up to market, as outlined in the faculty salary scales plan, will help build and strengthen the academic core. The recent approval of the plan by The Regents is the first of two steps to restore the faculty salary scales, which involves a major reinvestment of funds that must be distributed fairly between the ten campuses and UCOP. Another challenge is a movement away from a reliance on the off-scale mechanism and back towards the peer-review system.

### **EVP Katherine Lapp**

EVP Lapp reported that UC received a 6.4% increase in state funding. UC's principal goal is to retain the 2008-09 compact funding, which is scheduled to increase by an additional 1%. There is a projected \$5.4 billion shortfall between revenues and expenditures in the 2007-08 budget. She mentioned that the UC 2009-10 budget will be the first budget to reflect the academic planning process. EVP Lapp is searching for a Vice President of Budget and will seek Senate representation in the search process. She is also reforming the capital project delivery process (a working group is being established), and developing a systemwide Human Resources Information System.

### **EVP Bruce Darling**

EVP Darling briefed the Council on the following issues:

- The Public Utilities Commission (PUC) is considering a climate change initiative proposal from UC, which would allocate \$600 million of research funding over a period of ten years, which will be funded by a rate increase on California utility payers and would be open to both private research universities and the CSU. This is seen as a means of implementing the climate change state legislation that was recently passed.
- There is a special session on health care reform in the State legislature, which includes a health care reform proposal calling for a 4% tax on the net revenue of all medical centers. Such a tax could impact UC's ability to provide care for the under-insured; the centers' viability may also be endangered.
- A February ballot initiative includes a proposal that would 1) freeze California community college student fees; and 2) provide the California Community colleges (CCC) with a greater proportion of the Proposition 98 funding that currently goes to both the K-12 system and the CCCs. If enacted, it would allocate approximately \$700 million annually to the CCCs. A funding source is not identified; which may impact UC's own funding. The Regents will make a decision in November on whether UC should take a position on this ballot initiative.
- UC is supporting the two proposed "DREAM" acts at the state and federal levels. This legislation concerns the implementation of a state bill that allows young illegal immigrants, who have spent at least three years in college, to be admitted to UC, CSU, or community college campuses. One important element missing from the original legislation was eligibility for financial aid, which the current proposed legislation addresses.

- There is a proposal in the House Appropriations Committee to put a 20% cap on indirect costs on Department of Defense basic research grants to universities. UC is opposing this legislation along with the CSU, Cal Tech, USC, and Stanford.
- Senator Grasly has asked the academic community for its policies regarding disclosure of payments from pharmaceutical companies to medical school faculty, especially in to the area of conflict of interest.
- UC has recently received three gifts of over \$100 million each. Even with this level of philanthropic giving however, campus fund-raising programs are under-capitalized when compared to peer institutions.
- UC is restructuring its external relations with a particular emphasis on state governmental relations and public relations.
- The DOE has designated the LANL as a tentative site for ‘pit’ production, which is the plutonium trigger for nuclear weapons.

### **Questions/Answers and Comments**

#### **President Dynes**

**Q:** President Dynes was asked if his recent announcement regarding his resignation will change his on-going dialogue between with the campuses regarding the future of the University?

**A:** He responded that he does not intend to change the nature of his dialogue with the campuses; he noted that these conversations have been very dynamic and useful from an academic planning perspective.

#### **National Laboratories**

**Q:** How can UC take a proactive role in addressing the morale problem at the national labs?

**A:** It is important that UC retains its credibility at the national labs, and maintains its connections with the scientists who do quality work at the labs. Mechanisms must be put into place to ensure that the peer-review of the quality science and technology work at the labs is not harmed. The lab fees should be used to increase cross-collaboration between the campuses and the labs.

#### **Restructuring/Budget**

**Comment:** Council thanked EVP Lapp for her op-ed piece regarding UC’s restructuring efforts (“[\*UC is on the road to reform\*](#),” San Francisco Chronicle, 9-24-07).

**Q:** In view of the Compact and a renewed strategy for rebuilding the public funding of the University, how will UC build broad public support and do this in a multi-year format? Will UC begin to work more with the Legislature to achieve its public funding goals?

**A:** The Compact, which is a six-year agreement, was originally conceived not to refill the gap in funding, but to stop the slide and allow UC to develop a strategy to fill the gap. UC has received approximately \$200 million more than the Compact called for. Building public support will require the following: 1) Communicating UC’s message and its aspirational goals; 2) widening UC’s approach to members of the State Legislature; and 3) changing the current short-term mindset on public investment. Restructuring UCOP and restoring UC’s credibility with both the Legislature the general public is also important. Rethinking UC’s political budgetary strategy is another priority.

#### **Faculty Salaries**

**Q:** What are the consequences of the faculty salary plan on UCRP? To what degree will the costs of the plan be born by the campuses?

**A:** UCOP is currently analyzing both the impact of the faculty salary plan on UCRP and the campuses. As noted earlier, the campuses will share in the expense of this plan.

**Q:** There is a sentiment among some that the faculty salary plan will reward underperforming faculty. Would it be possible to issue a statement on the faculty salary plan?

**A:** UC could craft a message with the appropriate caveats, but it needs to clear that resources are the key to the ultimate success of the plan. While it is true that off-scale salaries for high-performing faculty, the peer-review process needs to be reformed and made more efficient.

### **Academic Planning**

**Q:** Provost Hume was asked about the Senate's role in academic planning?

**A:** Provost Hume responded that the Senate should play a strong role in academic planning. The divisional senates should negotiate with their respective Executive Vice Chancellors (EVC). UCOP supports the Senate's involvement in campus academic planning and has recommended divisional Senate involvement in local campus planning, but will not prescribe it.

### **Miscellaneous**

**Comment:** UC has ten test sites that can be seen as environmental cities. Unfortunately, UC is currently manufacturing buildings that are not optimum in their power usage, etc. It would be ideal if the University could use some of the funds coming from PUC climate change grant for the building of greener campuses.

**Response:** UC has been recognized for its forward thinking in its green buildings; it is working with the public utilities to develop a \$2 million interagency plan to increase energy savings.

## **VIII. General Discussion**

### **Nuclear Laboratories**

**DISCUSSION:** There are two agreements affecting UC's involvement with the nuclear laboratories--one with the DOE and one with the LLCs. UC is basically a part-owner of a defense contractor. The risk of legal action against UC from the LLCs could be of concern if UC should ever decide to remove itself from one or both of the contracts. The nature of the lab contracts is further defined in the Senate's document, "[\*An Introductory Guide to UC's Ties to LANS LLC and LLNS LLC and their Management of the Weapons Labs at Los Alamos and Livermore.\*](#)" Members also briefly discussed the low morale at the laboratories.

### **Faculty Salaries**

**DISCUSSION:** One member asked how under-performing faculty members are defined. Chair Brown responded that the Senate is waiting for the Administration to reply to this question. One operational definition are those faculty members whose last two reviews were not successful in an actual increase or a movement forward. However, intervening variables, such as illness, may impede research and scholarly productivity. Underperformance should be addressed through the peer-review process. Besides determining the actual magnitude of this problem, the Senate needs to investigate why the current mechanisms have not been able to address this problem adequately.

## **IX. Update on On-Going and/or Recent Issues**

## **1. Faculty Salaries**

**DISCUSSION:** One Member asked what happens to off-scale faculty under the new salary plan? Chair Brown clarified that it may depend on the campus of the faculty member with regard to how the COLA is calculated: on the base salary or on the total salary of faculty members. The campus-specific details of the plan have not been totally worked out yet. Overall, 70% of UC faculty are off-scale; in year one those significantly off-scale will only receive the 2.5% COLA. Others will receive the COLA plus a market adjustment. All faculty eligible for merit review have the possibility of another 1.78 percent increase. The salaries for health sciences, law, business, economics, and engineering faculty have not been finalized either.

Members remarked on the speed in which the plan was passed through the system and onto The Regents. Some members were concerned about the ambiguity of the plan. Issues of appropriate Senate oversight were also raised. Chair Brown clarified that the Administration felt that they had access to some one-time monies for faculty salary scale reform. While this issue was supposed to come back to the Council before The Regents meeting, it is actually an administrative issue, which the Council technically does not have veto power over. However, the plan was reflective of the joint Senate-Administration salary work group's charge, and the impetus to increase the salary scales came entirely from the Senate. He added that Council will have the opportunity to opine on the details of the plan as they become available.

There was general agreement that UCOP should issue a clear statement on the four-year faculty salary plan. It was noted that 51% of faculty may only receive a COLA in Year One. It was also mentioned that there is a tendency to equate off-scale with high performing faculty who can easily get offers elsewhere. Securing job offers is commonly known as a way of increasing one's salary through the use off-scale salaries, but in some cases, the competing offers only come from second-rate institutions. Some departments also use off-scale as a way of granting a ½ step. Regardless of the details of the plan, a quality peer-review process, which is tightly coupled to pay, is critical in the long-run. Finally, one member spoke to the general inadequacy of the 2.5% COLA; he reminded members that Council originally recommended a 7% COLA.

**ACTION: Council will continue to monitor this issue.**

## **2. The UC Budget**

**ISSUE:** It was noted that the Compact does not keep UC even with general cost increases, as measured by a number of indexes related to higher education. Other states have increased their general funds anywhere from 6-7% to 10-12%; California's 6.4% increase in UC funding is average to below average. The Futures Report also makes clear that UC's funding has been flat since the beginning of the decade, and this gap cannot be made up through private funding or through grants. Fee increases are the only way, which is evidenced by the recent Regents' decision to allow UC professional schools to essentially go to market. Steady fee increases on graduate and undergraduate students on the magnitude of 7-8% are also on the horizon. While UC's quality depends on getting back to its 2001 funding levels, reaching that level with student fee increases would change UC's character. Therefore, preserving UC as a great university requires an increase in investment via public funds. UCPB will be issuing an 'Expenditures Report,' which will cost out some of the Regents' priorities. UCPB is also planning to issue a

‘Vision Report,’ which would make a funding case for UC based on its regular contributions to California in such areas as energy, the environment, and diversity.

**DISCUSSION:** The merit of identifying priorities every budget year was applauded; Council also acknowledged that UC does not market itself well. Members listed a number of strategies that might encourage increased public funding of the University: 1) Comparing UC’s impact on California with the impact that other public universities make in other states; 2) reframing budget requests in light of what the University can no longer do at current funding levels; and 3) emphasizing recent efficiency and cost savings that have been achieved within the University.

**ACTION:** Council will continue to monitor this issue.

**3. UCOP Human Resources and Benefits (HR&B) Consultants Project**

**ISSUE:** UCFW is currently interviewing consultants to HR&B.

**ACTION:** Council will continue to monitor this issue.

**4. The Mercer Total Remuneration Report**

**ISSUE:** UCFW has been working with Mercer on this issue.

**ACTION:** Council will continue to monitor this issue.

**5. Proposed Guidelines on Vendor Relations**

**ISSUE:** At its June meeting, Council sent the ‘Guidelines’ proposal back to UCOP for revisions. Since that time, Rory Jaffe, Executive Director of Medical Services, Clinical Services at UCOP, has submitted a redrafted proposal, addressing many of Council’s criticisms and comments.

**DISCUSSION:** Members agreed that the proposal has been significantly changed, but that it will be necessary for the divisions to review it again.

**ACTION:** Members unanimously approved a motion to send the redrafted proposal back to the divisions for re-review.

**6. Stewardship Review of Senior Management**

**ISSUE/UPDATE:** It was noted that the stewardship reviews of selected campus and systemwide senior managers have always ended at the chancellorial level. Last year Council established a subcommittee to review the stewardship review process. There are two groups involved the stewardship review. The larger group is the joint Academic Senate Administrative Task Force on Senior Management Review; Council has also convened a smaller subgroup that is addressing the processes involved in stewardship reviews. It was also noted that presidential stewardship review is being considered along with chancellorial reviews. The stewardship review process will most likely be completed by next month. The Regents are also considering tying performance reviews to actual salary increases.

**ACTION:** Council will continue to monitor developments.

**X. Carry Forward Business from 2006-07**

**1. Proposed Student Freedom of Scholarly Inquiry Principles**

**ISSUE:** At its July 2006 meeting, Council sent the ‘Principles’ back to UCAF for further revisions. Much of Council’s comments have been incorporated into the redrafted ‘Principles.’

**ACTION:** Members unanimously approved a motion to endorse and send to the President UCAF’s Proposed Student Freedom of Scholarly Inquiry Principles.

**2. Request of UC Committee on Latino Research (UCCLR) to change its status to that of a Multicampus Research Unit (MRU)**

**ISSUE:** At its July 2007 meeting, Council considered the views of CCGA, UCPB, and UCORP with regard to UCCLR’s request. UCCLR is requesting bridge funding support for three years. While there was general support for such a change in status, Council did not define the number of years that UCCLR should receive such bridge funding to support its move to MRU status.

**DISCUSSION:** Members agreed that two years of bridge funding is adequate to develop a competitive proposal for MRU status.

**ACTION:** Members passed a recommendation that UCCLR receive bridge funding for two years to accommodate the development of a competitive proposal for MRU status.

**XI. Joint Senate – Chancellors Meeting**

**ISSUE:** Since 2002-03, the Academic Council has held a joint meeting with campus administration, rotating between the Chancellors and the Executive Vice Chancellors. This year, Council is scheduled to meet with the Chancellors. Members are asked to determine the possible topics for discussion at this meeting.

**ACTION:** Council will propose ideas for this meeting’s agenda over email.

**XII. New Business**

**1. Order of Business Regarding the Consent Calendar**

**ACTION:** Members approved a motion to complete the consent calendar before the end of the meeting.

**2. University Committee on Academic Freedom (UCAF)-- Reimbursement of Legal Fees**

**ISSUE:** Council is requested to submit this document to OGC for comment prior to any further Senate review.

**DISCUSSION:** Members agreed to send the document to the OGC for comment, but requested clarity on whether UCAF requests reimbursement of legal fees only in cases of faculty members found innocent of research misconduct, or for legal fees incurred from all work-related legal actions.

**ACTION:** Members agreed to 1) obtain UCAF clarity on the above-mentioned ambiguities; and 2) forward it to the OGC for comment (before bringing it back to Council).

3. **UCPB Representative to the Steering Committee of the Industry University Collaborative Research Program (IUCRP)**

**ACTION:** This item was withdrawn by UCPB Chair Newfield.

4. **BOARS' Eligibility Reform Proposal: Q&A Document and UCOP Data Information**

**ISSUE:** One member objected to the posting of this document on procedural grounds; he noted that it is not appropriate to interject additional materials when the Senate review process is already underway. He also opined that the BOARS Q&A is not purely informational, but advocates a certain position in some places.

**DISCUSSION:** BOARS Chair Rashid remarked that the Q&A was intended as additional information only; he noted that UCOP data and tables are also included. BOARS Chair Rashid acknowledged that while the Q&A did contain a statement that could be considered controversial, he maintained that the piece does not include any inaccurate information. Other members opined that Council should not oppose the posting of view points or recommendations from standing committees.

A motion was made and seconded to *only* post the UCOP quantitative data on eligibility. A substitute motion was made and seconded that BOARS receive criticism on the Q&A, and send out a modified document by email for consideration for posting; Council members would vote on the modified document by email. This motion was seconded, but failed. Members passed the first motion with 11 votes in favor and 8 against. Another motion was made and seconded to send out both parts of the document [the Q&A and the analytical data] with a qualifier stating that this document should be considered as supplementary to the initial proposal. This motion passed with 10 votes in favor and 9 against.

**ACTION:** Members voted to send out both the Q&A and the analytical data with a qualifier stating that this document is for supplementary information only.

Meeting adjourned at 4:30 p.m.

Attest: Michael T. Brown, Academic Council Chair

Minutes prepared by Todd Giedt, Policy Analyst

*Academic Council Minutes – September 26, 2007*

**ACADEMIC  
COUNCIL**

**Attendance 2007-  
2008**

Key: X=In attendance, \=Absent, Alt=Alternate, T=Teleconference

		9/26	10/31	11/28	12/19	1/23	2/27	3/26	4/23	5/28	6/25	7/23
<b><u>Officers</u></b>												
Michael Brown,												
Chair		X										
Mary Croughan,												
Vice Chair		X										
<b><u>Divisional Chairs</u></b>												
William Drummond	UCB	X										
Linda Bisson	UCD	X										
Timothy Bradley	UCI	X										
Elizabeth Bjork	UCLA	X										
Shawn Kantor	UCM	X										
Thomas Cogswell	UCR	X										
James Posakony	UCSD	X										
David Gardner	UCSF	X										
Joel Michaelsen	UCSB	X										
Quentin Williams	UCSC	X										
<b><u>Committee Chairs</u></b>												
Mark Rashid	BOARS	X										
Bruce Schumm	CCGA	X										
Pauline Yahr	UCAAD	X										
James Hunt	UCAP	X										
Keith Williams	UCEP	X										
James Chalfant	UCFW	X										
Jose Wudka	UCORP	X										
Christopher Newfield	UCPB	X										
<b><u>Alternates</u></b>												
<b><u>Guests</u></b>												
	University											
Maria Shanle	Counsel	X										
<b><u>President &amp; Senior Management</u></b>												
Robert Dynes, President		X										
Rory Hume, Provost		X										
Bruce Darling, Exec. VP-UR		X										
Katie Lapp, Exec VP, Bus Ops		X										
<b><u>Council Staff</u></b>												
Maria Bertero-Barcelo, Director		X										
Todd Giedt, Policy Analyst		X										