University of California Academic Senate

THE SENATE SOURCE

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Notes from the Academic Senate Chair

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Dear Colleagues,

The changes to retirement options for employees hired on or after July 1, 2016 approved by the Regents could have more than financial implications for the future of UC; they also could affect the relationships between the faculty and staff and the institution. I would like to elaborate upon how the relationships between employees and the University may change under the new retirement options.

The University of California has been described as an amazing social mobility machine by the *New York Times*. Access and quality play equal roles in earning such distinction, but the Senate faculty commenting on the options presented in the Retirement Options Task Force Report recognized that the options are the latest in a series of compromises to quality, each of which threatens the University's continued excellence. The quality of a UC education is a direct reflection of the quality of the UC faculty who provide that education. The quality of the faculty in turn depends upon the ability of the campuses to compete worldwide for the best faculty, and the ability for campuses to compete successfully at recruitment and retention requires competitive compensation for those faculty members.

The retirement benefit is a form of deferred compensation. UC's current defined benefit plans encourage long service because the value of retirement benefits forfeited makes it economically unattractive for faculty and staff to leave UC in mid-career. It takes quite a salary elsewhere to offset this effect. The current defined benefit plans also encourage timely retirement because of the way that they build retirement income late in one's career. It was both because of the encouragement of long service and timely retirement that only a defined benefit plan was proposed during the Post-Employment Benefits work that was concluded in 2010 and implemented in 2013. Those conclusions were based upon a defined benefit plan capped at a salary level seldom approached by ladder-rank faculty – the Internal Revenue Code limit is currently $265,000. The defined benefit plan actually worked to encourage retention, because the resignation rates of faculty prior to retirement over the past 10 years average only about 1.3% per year, and are surprisingly consistent across campuses.

By contrast, full defined contribution plans encourage neither long service, nor retirement at any particular age. Once paid, the "employer" contribution to a DC plan belongs to the employee and is kept if the employee leaves the University. Also, unlike a DB plan, rational behavior for an employee with a DC plan is to work for salary as long as possible and avoid spending personal retirement accounts for as long as possible.

The Regents approved a Defined Benefit Plan option that is capped far lower than the IRC limit. As a result, mid-career faculty members may find that their smaller Defined Benefit is now

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New Pension Tier Improved after Senate Consultation

Despite concerns from the Academic Senate about implications for the future quality of the University, the UC Regents have approved new pension plan terms for UC employees hired on or after July 1, 2016.

The plan approved by the Regents for the "2016 Tier" was recommended by President Napolitano, following a systemwide review of options proposed to her in a report from the Retirement Options Task Force (ROTF).

The 2016 Tier meets the requirements of an agreement between UC and the state to implement a pension plan for new employees with a cap on pensionable salary aligned with the Public Employee Pension Reform Act (PEPRA), in exchange for $436 million in Proposition 2 funds paid to UCRP over three years. Pensionable pay currently is capped at the Internal Revenue Code (IRC) limit of $265,000; the PEPRA limit currently is $117,000, indexed to inflation. The agreement also permitted UC to offer a supplement to the PEPRA cap to select groups of employees.

Four Senate representatives—Senate Chair Dan Hare, Vice Chair Jim Chalfant, UCFW Vice Chair Lori Lubin, and UCPB Chair Shane White—served on the 13-member ROTF, whose recommendations were released for a 30-day review on January 15. The Senate chair and vice chair also collaborated on a Guide to Reviewing the Report.

On February 10, the Assembly of the Academic Senate passed a resolution opposing the imposition of the PEPRA cap on the University in the absence of compensating increases to total remuneration. The Academic Council followed-up with a letter to the President describing how the proposed options could harm the University: by significantly reducing the value of UC's retirement benefit for future employees, these options would greatly undermine UC's ability to make the competitive offers necessary to recruit and retain outstanding faculty.

The approved plan differs in some critical ways from the one reviewed by the Senate, particularly in its approach to the supplement available to faculty. "The Senate expressed grave concerns about the options proposed by the Task Force, but the concerns were given due consideration," Senate Chair Dan Hare said. "In particular, the Senate's request to consider a plan with a supplement starting on the first day of hire and on the first dollar earned was adopted by the President. In the end, I believe the approved options are the least harmful to UC of those that were considered. "

Under the plan approved by the Regents in March, new employees will have a choice of two retirement plans: Option 1) a Defined Benefit pension plan with the PEPRA cap and a "410(k)-style" supplemental benefit or Option 2) a stand-alone "401(k)-style" Defined Contribution plan.

Under Option 1, all employees will contribute 7% of pay up to the IRC limit. In addition, for faculty, UC will apply a 5% DC supplement on the first dollar earned up to the IRC limit; for staff and other academic employees, UC will apply a 3% DC supplement to pay above the PEPRA cap up to the IRC limit. Option 2 offers employees a stand-alone 401(k)-style DC plan with an employee contribution of 7% and an employer contribution of 8% up to the IRC limit for all employee groups.

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Employees who choose Option 2 at hire will have the option to switch to Option 1 five years later. Faculty will be permitted a potentially longer timeframe—up to one year after the tenure decision—subject to IRS approval.

Hare says that the approved Option 1 provides faculty with an opportunity for greater income replacement in retirement compared to the original version of Option 1, and that a faculty member starting a UC career at the median salary ($76,200, excluding highly-compensated disciplines like Business, Economics, Engineering, and the Health Sciences) could be no worse off under Option 1 of the 2016 tier than under the 2013 tier.

"By starting the DC supplement on the first day and the first dollar earned, the plan addresses the Senate's concern of a supplement being too small and starting too late to be effective," he said. "Option 1 should give Assistant Professors in most disciplines such as those in the Humanities, Social Sciences, and the non-medical Life Sciences *an opportunity* to receive about the same replacement income as their colleagues hired under the 2013 tier, and allow those departments to be no less competitive than now in recruiting the high-quality faculty members they need."

Hare emphasizes the word "opportunity," because all analyses assume investment returns equal to those of UCRP, or an average of 7.25% annually from hiring to retirement, an assumption that may no longer be reasonable. Moreover, the replacement income in retirement from the DC supplement is not guaranteed. Unlike the 2013 tier, employees in the 2016 tier assume the risk in managing the DC portion of their retirement portfolio.

Hare says the portability of Option 2 could make it the preferred one for employees who do not expect to stay at UC for more than five years. He adds that the Senate does not fully support Option 2 because the 8% employer contribution is less generous than the recommendations of the ROTF and below that of most of UC comparators.

"Although the portability and shorter vesting period for Option 2 will benefit short-term employees, it seems unattractive to a committed UC career employee," he said. "The projected income replacement under Plan B will be insufficient to preserve competitive total remuneration, and will reduce the incentive for employees to decline outside offers in early- or mid-career and retire at a targeted age. The expected retirement benefits will be too low to encourage most faculty to retire at 65, or even 70. The Senate therefore supported the proposal of a second choice for employees who chose the DC plan, so that they can switch plans, if their relationship to the University becomes stronger."

The plan approved by the Regents also responds to Senate concerns that faculty who choose Option 2 should be able to switch to Option 1 at the tenure point.

Chair Hare says the ROTF was given an impossible charge—to develop options that preserve the competitiveness of UC retirement benefits, protect the financial sustainability of UCRP, and produce cost savings.

Unfortunately, he says, the first goal has not been achieved through the options; the second is likely to be achieved largely as a result of past actions such as the adoption of the 2013 tier and subsequent UC funding and borrowing decisions. The approved plan projects cost savings of $99 million per year over 15 years through reduced benefits and the lower employer contribution in Option 2.

While not endorsed by the ROTF, a major departure in the approved plan is the difference in benefits offered to faculty and staff under Option 1. This disparate treatment may in part reflect recognition that UC competes for faculty in a global marketplace.

"Although it is unfortunate that the plan separates the benefits for faculty and staff, it was probably inevitable, once the decision was made to start the supplement to compensate for the PEPRA cap on the first dollar earned. Offering the supplement to all employees would have resulted in retirement benefits for employees whose salary never reached the cap to be greater in the 2016 tier than for employees in the 2013 tier."

The President has also responded to the Senate's concerns by pledging to address the issue of salary competitiveness by increasing funding for regular pay increases for faculty and staff, to provide campuses additional resources to support the recruitment and retention of faculty, and to expand the Mortgage Origination Program to help faculty with housing costs. The Senate anticipates the opportunity to participate in the design of recommendations on salary competitiveness to be brought to the Regents.

Still, core Senate concerns remain unchanged. "Senate reviewers recognized that the quality of a UC education is a direct reflection of the quality of the faculty who provide that education," said Chair Hare. The University is moving forward with a pension system that will offer very different benefits for new and older employees, challenge UC's ability to recruit and retain world class faculty. ■

Regents Adopt Principles Against Intolerance with Council Amendment

At its March 24, 2016 meeting, the UC Regents adopted a policy statement of Principles Against Intolerance, after accepting a last minute amendment to the Statement's pre-amble proposed by the University Committee on Academic Freedom (UCAF) and the Academic Council.

Senate Chair Hare says the Statement has several attributes that strengthen and preserve the mission of the University.

"The Statement recognizes freedom of expression and freedom of inquiry as bedrock values of a public University and pledges that the University will defend them. It strongly affirms First Amendment protections and affirms the right to engage in even impassioned dialogue on issues and debate those issues on the merits of the speakers' views. Importantly, the Statement avoids the mistakes of other Universities that attempted to define "hate speech" or devise speech codes, few if any of which have survived judicial review. The policy clearly states that actions that attempt to deprive others of their freedom of speech or actions that threaten, intimidate, cause injury or damage property are not protected. The clear separation of protected speech from unprotected acts is a fundamental and extremely important distinction that the faculty appreciate."

The Statement has been controversial ever since members of the University community pushed the Regents last year to adopt a set of Principles in response to a series of anti-Semitic incidents on UC campuses. The Regents rejected an earlier version of the Principles in September 2015, over concerns that they did not adequately address anti-Semitism. In response, the Regents formed a Working Group, led by Regent Eddie Island that included five Regents, Academic Senate Chair Hare, a chancellor, and UCOP's Vice Provost and Chief Outreach Officer. The Working Group crafted a set of principles that address anti-Semitism specifically, as well as the need to protect free speech and academic freedom. The amended Statement includes a six-page Contextual Statement that frames the Policy. It condemns acts of intolerance, affirms the need to protect free speech and academic freedom, and distinguishes protected speech from unprotected acts of violence and vandalism. It notes that the role of the public university is to bring together diverse communities of students who do not necessarily share the same views in a space that challenges them intellectually and socially.

The Working Group consulted widely before drafting the Principles. It hosted a day-long public forum, met with scholarly

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UCLA Professor Elected 2016-17 Senate Vice Chair

UC Los Angeles Professor of Dentistry Shane White has been elected 2016-17 Academic Senate vice chair. He will succeed UC Davis Professor James Chalfant as systemwide Senate chair in 2017-18.

Professor White has been one of the Senate's leading voices on faculty welfare and budgetary issues over the last decade. He currently chairs the University Committee on Planning and Budget (UCPB), and served for ten years on the University Committee on Faculty Welfare (UCFW), including a year as chair. He was also a member of UCFW's Health Care Task Force and a member and chair of UCFW's Task Force on Investment and Retirement (TFIR).

White was a Senate representative to the finance workgroup of President Yudof's 2009-2010 Task Force on Post-Employment Benefits, and to President Napolitano's Retirement Options Task Force – the University's two most recent efforts to revise post-employment benefits. He has served the UCRS Advisory Board as chair.

White is a Professor in the Section of Endodontics in the Constitutive & Regenerative Sciences at UCLA's School of Dentistry. He is also a faculty member of UCLA's Center for Esthetic Dentistry and of the Center for Craniofacial and Molecular Biology at the USC School of Dentistry. A native of Ireland, White received his dental training from Trinity College Dublin. He spent several years in private practice and part-time teaching in Dublin before moving to California, where he received a master's degree in Oral Biology and residency training in prosthodontics as well as in endodontics from UCLA, and a PhD in Craniofacial Biology from USC.

In addition to his systemwide service, White has a notable record of Senate and departmental service at UCLA. He served on the local Faculty Welfare Committee (including four terms as chair), the Committee on University Emeriti and Pre-Retirement Relations, the Council of Senate & FEC Chairs, the Legislative General Assembly, the Senate Executive Board, and the Council on Planning and Budget. He has also served as chair of the Section of Endodontics in the UCLA School of Dentistry, and is the Director of Integrative Education in the Division of Constitutive and Regenerative Sciences. His current research interests include dental biological materials, genetic-structural relationships in enamel, and in patient-centered endodontic outcomes.

White says the Senate must work in partnership with the administration to make difficult strategic decisions that maintain access and quality.

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Under Senate Review

Click here for a comprehensive list of current and past review items and check the Tracking Log for the progress of all issues.

► Proposed Revisions to APM - 360, Librarian Series & APM - 210-4, Instructions to Review Committees (Comments due 5-17-16)

► Proposed Revisions to APM Sections 278, 210-6, 279, 112 and New APM - 350 (Comments due 5-18-16)

Academic Senate Responds to Cybersecurity Concerns

The systemwide Academic Senate is taking a key role in following up on concerns first raised by faculty in December 2015 about a new systemwide cybersecurity threat detection program. The program, managed by Fidelis, was implemented in the wake of a security breach at the UCLA medical center last summer and is providing a layer of detection for University computer networks by analyzing network traffic to find evidence of potentially malicious activity.

Faculty were not consulted initially about the development of the program and UCOP officials did not provide details, given that the program was developed alongside preparation for legal proceedings related to the UCLA attack. Faculty at Berkeley and other campuses raised concerns about the lack of consultation, the secrecy surrounding the process, and the nature and extent of the services deployed.

The Senate's Committee on Academic Computing and Communications (UCACC) took the lead on behalf of the Senate. Following an in-depth briefing from Chief Information Officer Tom Andriola and Chief Information Security Officer David Rusting on February 1, UCACC issued a Statement noting that faculty "should have been informed and consulted at the earliest stages of the process and should be involved in future decision making." UCACC also noted that it found "no reason to distrust UC officials or the information they supplied" and endorsed UC's efforts to monitor and prepare for and prevent future cyber-attacks.

Academic Senate Vice Chair Jim Chalfant agreed with UCACC's separation of comments on shared governance from comments about whether threat detection might be appropriate. Chalfant says that UCACC believed the most productive course of action was to acknowledge the serious failure of shared governance in this case and to ensure faculty involvement going forward.

"The faculty concerns and questions about privacy were appropriate ones to raise, and it was unfortunate that no opportunity for faculty input was provided from the start, which just creates suspicion," he said. "However, the administration recognized the need for more faculty involvement and took concrete steps to increase involvement and consultation."

Chalfant adds that the administration is working to satisfy Senate faculty that the intent of enhanced security measures is to look for significant patterns of unusual activity across UC networks and not to access to specific user files, email content, or web-browsing histories.

In response to Senate concerns, the administration added additional faculty membership to the Cyber-Risk Governance Committee (CRGC) and will use the UCACC as the formal governance mechanism for raising faculty issues and concerns around the issue of cyber security and cyber risk. The CRGC was convened after the UCLA attack and oversees systemwide plans related to cybersecurity and plays a coordinating role across locations. Joining UCACC Chair David Kay (UC Irvine) on the CRGC will be UCACC Vice Chair Christine Borgman (UCLA). The committee also includes a Cyber-Risk Responsible Executive (CRE) from each UC location – generally an administrator, but sometimes a faculty member – and other UCOP personnel. A proposal for increased faculty involvement has been developed and was approved by the CRGC in their April meeting. The revised charter calls for three faculty members on the CRGC and three additional faculty members to be appointed to the CRGC Advisory Board. All of these appointments will be handled by UCOC, and based on either expertise in the area or an ability to represent concerns from a faculty-welfare or academic-

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too low to justify rejecting outside offers for even modest salary increases elsewhere. Although we welcome the efforts of the President to make the supplement to the proposed Defined Benefit plan under the PEPRA cap more competitive for faculty than was proposed by the Retirement Options Task Force, please recognize that the supplement is portable after five years and therefore may play only a small part in the retention battles to come.

The proposed capped DB plan even with a DC supplement, as well as the proposed full DC plan, both may provide insufficient retirement income to induce late-career faculty to retire at an appropriate time. This sets the stage for the potential changes in the behavior of faculty as a result of changes in the retirement plans offered to them. What might we expect?

One might expect a greater rate of turn-over of assistant professors. For an assistant professor who either may not know if he will be granted tenure, or for another if she is not prepared to commit to spend a full career at UC or to live for decades in California, then a rational choice may be to choose the DC plan at the time of hire, then take advantage of the "Second Choice" to choose Option A after tenure is granted. This will provide new assistant professors a seven-year period to evaluate the potential University campus and community while the University uses that same seven-year period to evaluate the performance of those assistant professors. Of course, if things do not work out on either side, or if an outside offer is attractive, then the assistant professor simply can take their DC contributions and start over elsewhere. We risk spending a lot of money on start-up packages for faculty who do not spend an entire career at UC.

One might expect greater mobility of mid-career faculty. The UC faculty are a highly mobile work force. To be a world-class institution, we recruit from all over the world. The mobility of those who come to California from out-of-state or from other countries to accept our offers is self-evident. Without the "golden handcuffs" of the uncapped DB plan of the 2013 tier, we might expect many of our future colleagues to demonstrate their mobility once again if they receive the right offer.

One might expect a greater emphasis on salary – rather than benefits – in recruiting and retention. There might have been a time about 10 years or so ago when the value of the benefits that UC provided partially offset UC's low salaries for faculty. As the Regents learned last July, from Regent's Item C10, that became no longer true after the adoption of the 2013 retirement tier and changes to UC's health plans. The proposed retirement options are less valuable than the 2013 tier for many faculty members, so there will need to be an even greater emphasis on offering competitive salaries to future faculty members than in the past.

Faculty will work longer before retiring. The average starting age for assistant professors is 36, so they will have only 29 years of service at a targeted retirement age of 65. It will be a challenge for them to retire comfortably before age 70, especially so if they make poor decisions in the management of their DC retirement benefits or suffer through long periods of low returns from equity investments. It is not obvious that an older average age of faculty and a lower rate of renewal of faculty is in the best interest of the institution.

These are all ways in which UC will be different after adopting the new proposed retirement options. In many ways, retirement plans are like the tax code, because both are designed to reward some behaviors and not others. I hope that we all are prepared for those changes.

Fiat Lux, Dan

UC Faculty Approve Eleven More Transfer Pathways

UC faculty have approved transfer preparation course sequences for eleven popular majors in the latest Senate effort to help California Community College (CCC) students prepare successfully for UC transfer.

The "Transfer Pathways" are a set of courses representing UC's best advice to transfer students about the preparation that will ensure they are competitive for admission at all nine undergraduate campuses and prepared to graduate two years after matriculation.

A series of meetings in October 2015 brought together campus faculty and academic administrators responsible for evaluating and/or deciding transfer preparation requirements from English, Film and Media Studies, History, Philosophy, Business Administration, Communication, Political Science, Psychology, Computer Science, Electrical Engineering, and Mechanical Engineering. The agreements reached at the meetings were then vetted and approved by campus faculty.

Following the most recent approvals, UC has 21 Transfer Pathways. A systemwide website provides details and guidance to students.

"There was skepticism initially that the faculty would agree to sets of systemwide recommendations for transfer preparation," said Academic Senate Chair Dan Hare. "But during the course of the meetings to prepare the drafts of the pathways, the faculty delegates recognized the value not only to the potential transferee, but also to UC and their departments, of developing an inclusive set of recommendations that incorporated each division's expectations for pre-transfer preparation."

The effort follows a recommendation in the 2014 Transfer Action Team report to streamline the CCC-to-UC transfer admission process by aligning the preparation requirements for specific majors across UC campuses. That report revealed that CCC students often have difficulty preparing simultaneously for transfer

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Senate Chair Dan Hare speaks at the January 2016 Regents meeting

THE SENATE SOURCE is published periodically during the academic year by the Systemwide Senate to inform UC faculty about the activities of the Senate. Your comments are welcome: senatenews@ucop.edu

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