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Chair of the Assembly and the Academic Council
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University of California
1111 Franklin Street, 12th Floor
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August 27, 2009

PRESIDENT MARK G. YUDOF
UNIVERSITY OF CALIFORNIA

Re: Documentation of Academic Council Consultation regarding SOR 100.4 and Furloughs

Dear Mark:

At its July 29, 2009 meeting, Academic Council approved the enclosed accounts of the consultation that took place between UCOP, myself, and the Academic Council on the amendments to the Standing Order of The Regents (SOR) 100.4, as well as the furlough and salary reduction options. I am transmitting this documentation as information to you in part because we had difficulty finding any record of consultation for salary reductions that occurred in the 1990's, so I thought it would be beneficial to document the process that took place recently. While Academic Council did not relish or welcome the prospect of furloughs or salary reductions, I know that the Academic Council and Academic Senate members across the University greatly appreciated the opportunity to provide their perspectives and concerns. Thank you for your continued support of shared governance.

Please do not hesitate to contact me if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Mary Croughan".

Mary Croughan
Chair, Academic Council

Copy: Academic Council
Martha Winnacker, Academic Senate Executive Director
Charles Robinson, General Counsel and Vice President for Legal Affairs
Lawrence Pitts, Interim Provost and Executive Vice President for Academic Affairs
Katherine Lapp, Executive Vice President
Jeffrey Blair, Deputy General Counsel
John Sandbrook, Interim Chief of Staff

Encl. 2

Academic Senate Consultation on the Amendment to SOR 100.4 and Associated Implementation Guidelines

Approved by the Academic Council on July 29, 2009

In response to Chancellor requests in the fall of 2008 to consider salary reductions or furloughs in response to budget reductions, President Yudof examined University policy in relation to such requests. Having found no such policy governing all UC employees, Acting Deputy General Counsel Jeffrey Blair was tasked by the President with developing draft language for amendment to the Standing Order of The Regents (SOR) 100.4 and with developing guidelines for implementation. Senate Chair Mary Croughan worked closely with Jeffrey Blair, Interim Provost Lawrence Pitts, Executive Vice President Katie Lapp, and others within UCOP in developing the SOR and implementation guidelines. The preliminary version was discussed with President Yudof at the April 2009 Academic Council meeting; with Jeff Blair, President Yudof, and EVP Lapp at the May 2009 Academic Council meeting; and with President Yudof at the June 2009 Council meeting.

Modifications and clarifications were made to the document following each discussion at the Academic Council meetings, and it was presented to The Regents at their May 2009 meeting. At the same time that the document was distributed to the Regents, the document was sent for systemwide Academic Senate review. The Academic Senate's concerns were communicated to President Yudof in the Academic Council's June 22, 2009 [letter](#). The following comments and concerns were incorporated into the version that was approved by The Regents at their July 2009 meeting:

- *Natural Disasters (section 1 in the original proposal):* Council articulated the concern that the earlier version conflated emergencies from natural disasters with fiscal emergencies. In response, the term “natural disaster” was removed from section 1, which defines an “Extreme Financial Emergency”.
- *Delayed Consultation (section 5 in the original proposal):* The original language allowed the President to engage in consultation after the “initial grant of approval by interim action.” This was completely removed. Subsequently, the first sentence of section 4 reads: “The President shall engage in consultation with campus Chancellors, representatives of the systemwide Academic Senate and the appropriate representatives of systemwide staff and academics concerning the matters to be included in the request for approval of a Declaration of Extreme Financial Emergency **prior** to submitting the request to The Board of Regents.”
- *Maintaining full consultation with the Senate:* This was retained (see sections 3 and 4 of the final document).
- *Sunset Clause:* Council's concern that the original document did not include a sunset clause or a mechanism to declare an end to the emergency was rectified. Specifically, Section 3 states that “such writing [the declaration of an ‘extreme financial

emergency'] must describe ... the expected duration of the Declaration if known (which in no event may extend beyond one year), ...”

- *Divisional Senate Consultation:* Council expressed the need for Divisional Senate consultation if a Chancellor made the initial request for a declaration [of an ‘extreme financial emergency’]. Subsequently, the last sentence of Section 4 in the final amendment reads: “If the request for approval of a Declaration of Extreme Financial Emergency is submitted by a Chancellor to the President, the Chancellor shall engage in consultation with representatives of the divisional Academic Senate and the appropriate representatives of campus staff and academic representatives concerning the matters to be included in the request for approval of a Declaration of Extreme Financial Emergency prior to submitting the request to the President.”
- *Emergency Powers:* The Academic Council’s response voiced the concern that the President had the power to override policies not limited to those governing furloughs and salary cuts. It was noted, however, that the President already had these powers, but the President will now be required to consult fully with the Academic Senate prior to employing those powers.

As noted above, many concerns expressed by the Senate were addressed. The Senate completed its review of the amendment to SOR 100.4 before the furlough/salary plan was distributed for review. On the whole, the Senate wishes that such a policy was not necessary, however, Council does appreciate the restriction in the Presidential and Regental powers that SOR 100.4 represents, as well as the strict requirements for consultation and comment from the Academic Senate and other UC employee groups.

Academic Senate Consultation on Furloughs and Salary Reduction Options

Approved by the Academic Council on July 29, 2009

In response to Chancellor requests in the fall of 2008 to consider salary reductions or furloughs in response to budget reductions, President Yudof discussed the possibility of furloughs and salary reductions at the February 2009 meeting of the Academic Council. Subsequently, the Academic Council discussed these issues during the Senior Management Group consultation period at the March, May, and June 2009 Academic Council meetings. The final three options were simultaneously distributed to the Regents and to the Academic Council for review. Several faculty More importantly, the information provided in the plan was incomplete and did not include justifications for the three options, any legal analysis of the three options, a comparison of the impacts of the three options on education and research, or an analysis of unintended consequences. Many divisions and committees (UCB, UCM, UCR, UCAP, UCPB, UCFW, UCORP, UCPT) specifically stated that they could not meaningfully evaluate the options because of insufficient information. They requested data and comparative analysis of the plan's effects on: 1) the merit and promotion process; 2) retirement; 3) how funds saved by cuts to grants and professional services could be used; 4) alternative ways to cut budgets and increase revenues; and 5) instruction. Many details of implementation were omitted. For example, our Privilege and Tenure committee asked whether tenure, promotion and job performance criteria for faculty will be adjusted to ensure a common, system-wide standard, and by whom. The Council felt strongly that detailed information regarding implementation with regard to potential exemptions, structure, etc., needs to be provided to all employees. While the FAQ website assisted with this knowledge during the review process, it was too limited in scope and detail. Finally, an evaluation of the effectiveness and effects of the final program should be conducted; the Senate is willing to assist in this effort.

Moreover, the Academic Council was extremely disappointed by the limited and simplistic options presented for confronting the budget crisis, feeling strongly that furloughs and salary cuts should not be considered by the Regents in isolation from other budget cutting measures and revenue enhancements. Of particular concern is the fact that the Council and broader Senate will not have an opportunity to comment on the final plan to be presented to and voted upon by the Regents.

In addition to the usual methods for conducting a system-wide Academic Senate review, heroic efforts were made by many Academic Senate Chairs, Chancellors, Executive Vice Chancellors, and the President to provide information and obtain input through a variety of sources, including holding Town Hall meetings on campuses, website FAQs, letters, emails, and video presentations.

On July 8, 2009, the Academic Senate devoted a two-hour teleconference to discussing the results of the system-wide Academic Senate review. The Academic Council expressed its concerns and views on the proposed plans in its July 8, 2009 [letter](#) to President Yudof. Among its primary concerns were the following:

- *Furlough Option:* Council membership clearly expressed a preference for furloughs over straight salary reductions. With respect to the scheduling of furloughs, many committees and divisions emphatically maintained that specified furlough days should not fall on designated holidays or should be on a mix of paid holidays and days that affect the delivery of campus services.
- *Protection of Retirement Benefits:* The Senate urged the President to ensure that service credit for retirement is protected, and to provide a full analysis of the plan's effect on retirement.
- *Cuts to Non-State Supported Salaries:* While the general faculty was divided on whether salary reductions should be applied universally or only to those salaries supported by state funds, a majority of the Senate respondents believed that cuts should not be made to faculty or staff salaries supported by non-state money.
- *Exemptions for Students, Graduate Students, and Post-Doctoral Fellows:* The Academic Council unanimously agreed that the plan should not apply to student employees, graduate students, post-doctoral fellows, or health science trainees due to the educational nature of these appointments and their very low salaries.
- *More Progressivity and Higher Levels for Higher-Paid Employees:* Many respondents called for greater progressivity in any plan. The allocation of furloughs or salary reductions should also be implemented by salary level, with several intermediate levels and greater protection for the lowest paid cohorts of faculty and staff.
- *Campus Flexibility:* Five respondents strongly argued that campuses must be given flexibility in implementing cuts in a manner that best meets the needs of the individual campuses. They noted that it is impossible to apply an across-the-board solution when campuses vary so much in terms of structure, needs, and state support.
- *Proposal Details:* Many felt that the information provided in the plan was incomplete and did not include justifications, legal analysis, a comparison of the impacts, or potential unintended consequences. Moreover, the Academic Council was concerned that there was no opportunity to comment on the final plan to be presented to and voted upon by the Regents.
- *Strategic Plan:* Finally, the Senate review placed considerable emphasis on developing a strategic plan. Council urged President Yudof to develop a long-term strategic plan to ensure the University's viability in an era of shrinking state support.

While the Academic Senate is opposed to furloughs or salary reductions and their untoward effects, the concerns expressed by the Academic Senate were largely addressed in the President's final recommended plan to The Regents.

The original intent of the Standing Order of The Regents 100.4 was to allow for significant consultation and time for consultation in developing plans for furloughs or salary reductions in the case of an extreme financial emergency. However, the amount of time for consultation was shortened considerably because of the increasing reductions in State funding. In the end, the consultation proved extensive on the furlough/salary reduction plan, and for the first time, included all UC employee groups.