

UNIVERSITY OF CALIFORNIA

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NOTICE OF MEETING REGULAR MEETING OF THE ASSEMBLY OF THE ACADEMIC SENATE

Wednesday, October 11, 2006
10:00 a.m. – 4:00 p.m.

Asian Cultural Center
388 9th Street, 2nd Floor, Suite 290
Rooms 4&5
Oakland, CA 94607

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I. ROLL CALL

2006-07 Assembly Roll Call October 11, 2006

President of the University:

Robert C. Dynes

Academic Council Members:

John Oakley, Chair
Michael T. Brown, Vice Chair
William Drummond, Chair, UCB
Linda F. Bisson, Chair, UCD
Martha L. Mecartney, Chair, UCI
Vivek Shetty, Chair, UCLA
Shawn Kantor, Chair UCM
Thomas Cogswell, Chair, UCR
Henry C. Powell, Chair, UCSD
Deborah Greenspan, Chair, UCSF
Joel Michaelsen, Chair, UCSB
Faye Crosby, Chair, UCSC
Mark Rashid, Chair, BOARS
Reen Wu, Chair, CCGA
Mary Croughan, Chair, UCAP
Richard Weiss, Chair, UCEP
Jim Chalfant, UCFW Vice Chair, alt, for
 Susan French, Chair, UCFW
Wendy Max, Chair, UCORP
Christopher Newfield, Chair, UCPB

Berkeley (6)

Emilie Bergmann
Judith E. Innes
Stephen Mahin
Joseph Napoli
Bernard Sadoulet
Raymond Wolfinger

Davis (6)

Robert Irwin
Mathew K. Farrens
Brian Morrissey
Terence Murphy
Margaret Rucker
W. Jeffrey Weidner

Irvine (3)

Dennis J. Aigner
Jodi Quas
Leslie Thompson

Los Angeles (9)

Dalila Corry
Arvan Fluharty
Robert G. Frank, Jr.
Margaret Haberland
Kathleen Komar
Steven Loza
Vickie Mays
Jane Valentine
Jaime Villablanca

Merced (1)

Arnold D. Kim

Riverside (2)

Joseph W. Childers
Carol J. Lovatt

San Diego (4)

David Luft
Thomas O'Neil
Charles Perrin
Vivian Reznik

San Francisco (4)

Dan Bikle
Barbara Gerbert
Lawrence Pitts
Stan Glantz

Santa Barbara (3)

Richard Church
Mary Hegarty
Ann M. Plane

Santa Cruz (2)

Quentin Williams

Secretary/Parliamentarian

Peter Berck

REGULAR MEETING OF THE ASSEMBLY OF THE ACADEMIC SENATE

DRAFT MINUTES OF MEETING

JUNE 14, 2006 VIA TELECONFERENCE

10:00 A.M. – 2:00 P.M.

I. ROLL CALL OF MEMBERS

Pursuant to call, the Assembly of the Academic Senate met on Wednesday, June 14, 2006, via teleconference. Academic Senate Chair John Oakley presided. Chair Oakley welcomed participants and called the meeting to order at 10:00 a.m. The order of business and procedures for discussion and voting via teleconference were reviewed. Academic Senate Executive Director Mariá Bertero-Barceló called the roll of members of the Assembly. Attendance is listed in Appendix A of these minutes.

II. MINUTES

ACTION: The Assembly approved the minutes of the regular meeting of May 10, 2006, as noticed.

III. ANNOUNCEMENTS BY THE PRESIDENT

- **Robert C. Dynes**

President Dynes' [Report to the Academic Assembly](#) was distributed electronically prior to the meeting. The Assembly wishes to express appreciation for its advance receipt of the President's written remarks, and for the opportunity to directly interact with President Dynes, who reported on the following:

May Meeting of the Board of Regents: The Regents focused heavily on UC compensation issues, and endorsed the recommendations of the Task Force on UC Compensation, Accountability and Transparency. President Dynes reported on his conversations with The Regents regarding his plans to move the University forward and strengthen relationships with The Regents. He intends to aggressively implement the [five-part action plan](#), including a comprehensive human resources information system that will allow recognition of what compensation plans are within University policy. A committee has been charged to implement the Task Force recommendations, and includes faculty representation. Additional items covered at the May Regents' meeting include: an update on the UC Digital Library; no further action by The Regents regarding plans to restart contributions to the University of California Retirement Plan (UCRP) on July 1, 2007; and the UC and state budgets.

Faculty Diversity Summit: President Dynes reported that the summit was a great success, as the campuses have signed onto the report presented by the Faculty Diversity Task Force. Campus chancellors intend to use the report as their campus blueprint, and are expected to report back to President Dynes in one year regarding implementation and progress.

UCOP Appointments: Rory Hume has been appointed permanent Provost and Senior Vice President of Academic and Health Affairs, Jeff Blair as acting General Counsel, and Marie Berggren as new Chief Investment Officer and Vice President for Investments.

Questions, Answers and Comments

Question: Could you provide details on the Faculty Diversity Summit, and were there any specific requests for action?

Answer: The Task Force report is general in scope to allow adaptation to the unique characteristics of each campus. It includes action items for the campuses pertaining to search committees, accountability, performance awards in faculty diversity, and other recommendations. The report calls for campuses to follow-up in three years, but I expect a progress report next year.

Question: What progress has been made to update and reorganize the UC Office of the President (UCOP), including the reassignment of certain duties to campuses?

Answer: We are currently looking at all aspects of UCOP, and have recognized that inefficiencies flow from UCOP to the campuses, and vice versa. UCOP currently employs approximately 1500 people, and a joint administrative-Senate task force has been charged to study growth in administrative spending relative to general spending. Members include three Senate representatives (Stan Glantz, Henning Bohn and John Oakley), Provost Hume, Senior Vice President Darling, and Associate Vice President Boyette, and the group is to begin work after July 1. Concerning the proposed reorganization of UCOP, I am dedicated, as is the Academic Senate, to ensuring the academic character of UCOP remains unchanged.

Question: Concerning nonresident tuition, are you willing to take the position that campuses have the discretion not to collect nonresident tuition, if they so choose?

Answer: First, almost all nonresident tuition collected by the campuses goes back to the campuses as “green money,” to be used in a variety of ways as they may decide. Second, we prefer not to challenge state law that requires UC to charge nonresident tuition, and instead cover the costs and reallocate the money to the campuses.

Comment: So far, we have been unsuccessful in identifying the state law you are referring to, and would like to receive a report from your office on UC’s legal obligations regarding nonresident tuition.

Reply: The Senate can expect a report from Vice President Hershman on this issue in the near future.

Question: The faculty’s memorial to The Regents, requesting the elimination of nonresident tuition at the systemwide level, passed by 83 percent – what are your plans for implementing this vote, specifically in regards to your budget presentation to The Regents?

Answer: The campuses bear a large burden in making this happen, in deciding to use the money allotted to each campus in the UC budget process for the purpose of eliminating nonresident tuition.

Comment: The memorial calls for the elimination of nonresident tuition from The Regents’ budget altogether, not the continual recycling of funds from UCOP to the campuses, where money tends to disappear.

Question: Will the increased marginal cost formula, as agreed to by the state and included in next year's budget, be an ongoing commitment from the state?

Answer: Yes.

Follow-up Question: Certain campuses are allowed to overshoot their enrollment targets, which is unfair to the newer campuses. Enrollment figures should be balanced across the system. How do you intend to better manage enrollment growth at the campuses?

Answer: Several campuses have missed their enrollment targets for growth – both above and below. To address this situation, I've made clear that we need to increase our management of the admissions processes at the campuses by improving our information systems, and better tracking student enrollment. Enrollment figures often balance out over a few years, for example, last year UC Davis enrolled 1000 students less than it had projected, but this year UC Davis enrolled an extra 1000 students.

Question: What is your strategy for fulfilling the UCLA chancellor's responsibilities, especially with Chancellor Carnesale's impending departure?

Answer: We are actively working to fill the acting UCLA chancellor position right now.

Question: What plans do you have to increase faculty salaries?

Answer: We first need to gather all the facts concerning faculty salaries, including the information that will be gathered by the joint task force that I referenced earlier. It is important to push as hard as possible to get faculty salaries up to market as soon as possible. The UC budget is fully funded in accordance with the Compact with the Governor this year, including for salaries.

Question: What can we expect regarding a potential UC bid for the Lawrence Livermore National Laboratory (LLNL)?

Answer: Although The Regents have not yet made their decision, my personal view is that UC overseeing both national laboratories is a large benefit to the nation. The Academic Council Special Committee on the National Labs (ACSCONL) is carefully evaluating how Los Alamos is evolving before deciding to endorse a potential LLNL bid.

Question: Assuming the \$200 million education bond measure passes in November, how will the funding be used at UC?

Answer: The funding is not part of this year's UC budget, and if it passes, will be allocated over a two year period. The bond will be used for the expansion of existing medical school facilities, including medical education programs serving underserved locations in the state. The medical schools have been involved in identifying the specific programs that should be expanded.

Question: Regarding UCPB's "[Futures Report](#)," would you agree to making copies available to the Legislature and media outlets, to stimulate broad discussion and begin to build public consensus for the need to rebuild UC?

Answer: Yes. The Futures Report will add to my arguments and testimony over the past two years concerning these issues.

Question: Do you have any plans for renegotiating the Compact with the Governor, given the gubernatorial election this November?

Answer: Yes, and we are working on such negotiations now, before the election, to place UC at the forefront of the candidates' minds. The current governor understands the economic and social value of UC, and knows that the Compact does not represent a funding ceiling. Funding opportunities are unlimited under the current Compact, and now is the time to push the upper boundaries of the Compact and not renegotiate.

IV. ANNOUNCEMENTS BY THE CHAIR

- **John Oakley**

Update on UCOP and The Regents. Chair Oakley reported that the Senate looks forward to a close relationship with Provost Hume now that The Regents have officially appointed him permanent provost. Other senior management-level searches currently ongoing at UCOP include those for general counsel, the LLNL director who will lead a potential bid for the laboratory, vice provost for planning and budget, vice provost for student affairs, chief financial officer, compliance officer, chancellors at UC Merced and UC Los Angeles, and the Agriculture and Natural Resources director. All of these searches will involve faculty representatives, except for the compliance officer who is a direct report to The Regents.

V. SPECIAL ORDERS (none)

VI. REPORTS OF SPECIAL COMMITTEES (none)

VII. REPORTS OF STANDING COMMITTEES

A. Academic Council

- **John Oakley**

1. Proposed Principles on Private Funding for Senior Leadership Salaries at the Level of Dean and Above (action)

REPORT: The University Committee on Planning and Budget (UCPB) agreed to explore the question of private funding for senior managers at the level of dean and above. UCPB was prompted by the Assembly's November 9, 2005, resolution in opposition to RE-61, Recommendation C, a proposal that was at that time under consideration by the Board of Regents to augment funding of certain senior leadership positions with private funds, but then subsequently withdrawn. UCPB developed a set of principles, which underwent systemwide Senate review by all Senate committees and divisions, and were thereafter approved by the Academic Council on May 24, 2006. UCPB Chair Glantz reported that the principles treat private fundraising efforts as a limited resource that should be focused on UC's academic mission, and he looks forward to the Assembly's endorsement today.

DISCUSSION: One Assembly member wished to make clear that policy recommendation 2, concerning fundraising for faculty salaries, is directed towards endowed chairs and not general faculty. Chair Oakley confirmed that was the purpose of policy recommendation 2.

ACTION: The Academic Assembly unanimously endorsed the *Proposed Principles on Private Funding for Senior Leadership Salaries at the Level of Dean and Above*, for transmittal to President Dynes for adoption as University guidelines and policy.

2. Report from the Academic Council Special Committee on the National Labs (ACSCONL) (oral report)

REPORT: On June 1, 2006, UC entered into a new modality of laboratory management by way of the Los Alamos National Security LLC (LANS LLC). During the bidding and transition phases, however, concerns have been raised about a possible mutation of the nature of UC's involvement because the agreement between UC and its industrial partners in LANS LLC was not disclosed to the faculty and others, and there has been no apparent effort to involve the faculty in oversight of the labs. This concern is rooted in the notion that if UC is to oversee quality science at LANS LLC and ensure the UC retains an academic presence at the labs, it would need considerable involvement of members of the Academic Senate. To this end, ACSCONL, at its meeting on June 13, 2006, reached the following agreement: (1) to allow ACSCONL and the UCPB Chair full inspection of the terms of the LANS LLC internal operating agreement; and (2) work to recreate an equivalent form of the former LANL President's Council and oversight panels within the new LANS LLC arrangement, involving Senate faculty. The latter arrangement will be detailed in a forthcoming ACSCONL proposal to the Academic Council, which will outline the Senate's expectation of faculty involvement.

DISCUSSION: UCPB Chair Glantz noted that this proposal is a step forward, however UCPB still sees a need for much broader public disclosure of the LANS LLC agreement, as well as a complete set of responses to UCPB's prior inquiries about the new arrangement. Chair Oakley agreed, and stated that faculty support of a potential bid for the Lawrence Livermore National Laboratory in the fall is not yet assured, and should be informed by their inspection of the LANS LLC internal operating agreement. UCPB Chair Glantz and a few other Assembly members maintained concerns about UC's involvement in a for-profit business, with unclear conflict of interest and conflict of commitment standards.

3. Report from the Academic Council Work Group on the Science and Mathematics Initiative (SMIG) (oral report)

- Alice Agogino, Chair

REPORT: SMIG Chair Agogino reported that SMIG has prepared a proposal concerning recommendations for the future of SMIG, which will be presented to the Academic Council for approval at its June 21, 2006, meeting.

4. Academic Assembly Meeting Schedule, 2006-07 (information)

REPORT: Chair Oakley referred Assembly members to the list of Assembly meeting dates for 2006-07, as required by Senate Bylaw 110. He also noted his intent to hold two face-to-face meeting next year, one in the fall and one at the end of the academic year.

B. Board of Admissions and Relations with Schools (BOARS) (oral report)

- Michael T. Brown, Chair

REPORT: BOARS Chair Brown reported that BOARS will conclude its study on the honors bump soon, without issuing recommendations to eliminate the honors bump in determining UC

eligibility at this time despite many equity and educational reasons to do so. BOARS is also closely evaluating the difference in admissions rates for different ethnic groups at various campuses. BOARS Chair Brown concluded by directing Assembly members to the *Inclusiveness Indicators*, on page 23 of the Assembly bluebook, which were developed by BOARS to guide admissions policy in the future. BOARS intends to publish the *Indicators* on its website, and hopes that the data will join other admissions-related materials on UCOP's website as well.

DISCUSSION: Assembly members asked questions regarding BOARS' findings on the honors bump, and their decision not to recommend its elimination. BOARS Chair Brown noted several factors that BOARS considered, including possible negative effects on students' decisions to take rigorous honors-level coursework. In the end, BOARS will now focus on more critical issues such as how to determine UC eligibility in the first place. BOARS will prepare a final report on its considerations regarding the honors bump as well.

C. University Committee on Education Policy (UCEP) (oral report)

- **Denise Segura, Chair**

REPORT: UCEP Chair Segura updated the Assembly on UCEP's joint effort with BOARS to implement Senate Regulations 477 and 478, concerning transfer and streamlining transfer curriculum. UCEP is also working with the Coordinating Committee on Graduate Affairs (CCGA) on a report and recommendations on the role of graduate student instruction at UC. Finally, UCEP is developing a discussion document concerning summer session guidelines. The latter two documents will be presented to the Academic Council for further action before the end of the academic year.

DISCUSSION: One Assembly member inquired about UC's coordination with the California State University (CSU) system regarding streamlining the transfer process for students from the California Community Colleges (CCC). UCEP Chair Segura noted that the CCCs are anxious to provide feedback to both UC and CSU, and UC will follow-up with them this summer. The target date for partial rollout of the streamlining initiative is sometime in the fall.

D. University Committee on Academic Personnel (UCAP) (oral report)

- **Anthony Norman, Chair**

REPORT: UCAP Chair Norman reported that the committee has revised its proposal to change APM 220.18(b), concerning the standards necessary to advance from professor VI to above-scale. The proposed changes will go out for Senate review to all systemwide committees and divisions in the fall. Further, UCAP's most recent accomplishment is the completion of a report on faculty off-scale salaries, written at the request of the Academic Council this spring. UCAP collected data from Assistant Vice President Switkes for 2004-05, which showed UC no longer has one salary scale, and by 2005, 63 percent of the professor series will receive off-scale salaries. UCAP Chair Norman noted that the driving force behind these figures is that UC salaries are so far behind the Competition Eight – at present UC is at least 10 percent behind, and UC will be 12 percent behind next fiscal year. The UCAP report concludes that competitive faculty salaries are essential to maintaining a competitive University. The report announces principles, policies and steps for implementation, and upon Academic Council action this month, will most likely go out for systemwide Senate review in the fall.

DISCUSSION: A UC Berkeley Representative pointed out that off-scale salary policies are different across all campuses, and that Berkeley is proud of its review process in promotion and appointments. UCAP Chair Norman concurred, noting that Berkeley is commended in the UCAP report on this point. Other Assembly members asked questions about the report, such as whether cost of living is considered in determining an equitable faculty salary scale, and how faculty should be included in setting salary scales. UCAP Chair Norman replied that the report does not include this level of detail, and that members should submit such comments and suggestions to their divisions and/or appropriate systemwide Senate committees for inclusion in the Senate review process in the fall. The ad hoc committee that will be charged with implementing the UCAP report will explore such comments as well. He also stated that UCAP was well represented by faculty members from the UC medical and professional schools, who addressed salary concerns specific to those disciplines in the writing of the UCAP report. UCAP Chair Norman then noted his apologies for not having the report available to Assembly members today. Lastly, Assembly members complimented UCAP for a job well done.

E. University Committee on Faculty Welfare (UCFW) (oral report)

- **Raymond Russell, Chair**

REPORT: UCFW Chair Russell referred Assembly members to the Academic Senate [memorandum](#) to all Senate faculty regarding the resumption of contributions to UCRP, produced by UCFW at the request of the Assembly in May. Chair Russell also provided an update on UCFW's work this year concerning faculty parking, and the committee's attempt to align the 2002 Senate Parking Principles with the 2002 UCOP Parking Principles. UCFW's main concerns include the use of parking fees by campuses for non-parking related purposes; faculty paying for the construction of surface parking spaces that are later destroyed, and paying again for more expensive parking garage spaces; and the lack of formal consultation with the Senate in campus parking decision-making and budget processes. UCFW is currently negotiating with UCOP administrators, including Associate Vice President Boyette and Vice President Hershman, and expects to continue with this issue next year.

F. University Committee on Planning and Budget (UCPB) (oral report)

- **Stanton Glantz, Chair**

REPORT: UCPB Chair Glantz reported that UCPB has been very active this year. In addition to routine committee business, UCPB has offered four main contributions: joint UCPB-UCFW positions in response to UC compensation issues; development of a review protocol for the California Institutes for Science and Innovation (CalISI), along with the University Committee on Research Policy (UCORP), and accepted by Provost Hume; active questioning of the Los Alamos National Laboratory contract; and completion of the UCPB "Futures Report," included in the Assembly bluebook. Chair Glantz noted that the Futures Report was developed out of concern that the UC budget is created year-to-year, without looking at long term implications. The Report does not make any conclusions or recommendations, but projects the impact of four current and alternative budget scenarios on areas such as student fees and access, faculty and employee salaries, graduate education, and the role of private fundraising. Chair Glantz offered his view that the only viable solution is for UC to regain public support, which will require an

enormous amount of energy. His hope is for broad distribution and discussion of the Futures Report, and requested the Assembly's support in this effort.

VIII. UNIVERSITY AND FACULTY WELFARE REPORT (none)

IX. PETITIONS OF STUDENTS (none)

X. UNFINISHED BUSINESS (none)

XI. NEW BUSINESS

Faculty Parking

ISSUE: UC Davis Assembly Representative Judith Stern requested at the May 10, 2006, Assembly meeting future discussion of a proposal to help fund parking through a tax on new construction or major renovation. The UC Davis Draft Transportation Principles are included in the Assembly bluebook for discussion as well.

REPORT: Representative Stern proposed that UC adopt the Draft Davis Transportation Principles, which are based on a Stanford model. She noted that UC parking policy is ripe for change due to its impact on a faculty member's ability to work.

DISCUSSION: One Assembly member noted that the UCLA campus does not wish to discourage the use of parking fees to subsidize alternative modes of transportation, such as bike paths, busses and shuttles. Representative Stern replied that the Principles do not seek to minimize alternative transportation, but gain greater equity for those who pay to park on campus. UCFW Chair Russell offered to discuss the UC Davis Transportation Principles with UCFW, and possibly include them in UCFW's negotiations with UCOP administrators next year.

ACTION: This item will be placed on the Assembly and UCFW 2006-07 agendas for further discussion and consideration.

Meeting adjourned at 2:00 p.m.

Attest: John Oakley, Academic Senate Chair

Minutes Prepared by: Michelle Ruskofsky, Academic Senate Analyst

Distribution: President Robert C. Dynes [Discussion Topics](#) for the Meeting of the Assembly of the Academic Senate, Wednesday, June 14, 2006.

President of the University:

Robert C. Dynes

Academic Council Members:

John Oakley, Chair
Michael T. Brown, Vice Chair
Alice Agogino, Chair, UCB
Dan Simmons Chair, UCD
Kenneth Janda, Chair, UCI
Andrienne Lavine, Chair, UCLA
Roland Winston, Chair UCM
Manuela Martins-Green, Chair, UCR
Jean-Bernard Minister, Chair, UCSD
Deborah Greenspan, Chair, UCSF
Walter Yuen, Chair, UCSB
Faye Crosby, Chair, UCSC
Michael T. Brown, Chair, BOARS
Duncan Lindsey, Chair, CCGA
Anthony Norman, Chair, UCAP
Denise Segura, Chair, UCEP
Raymond Russell, Chair, UCFW
George Sensabaugh, Chair, UCORP
Stan Glantz, Chair, UCPB

Berkeley (6)

Paula S. Fass
Judith E. Innes (absent)
Kyriakos Komvopoulos
Joseph Napoli (alt.)
Bernard Sadoulet
Herb Strauss
Barrie Thorne (alt.)

Davis (6)

Andrea J. Fascetti (absent)
Robert Irwin
Lovell Tu Jarvis
Brian Morrissey
Terence Murphy
Judith Stern

Irvine (4)

Joda Anton-Culver
James Earthman
Jodi Quas
Leslie Thompson

Los Angeles (9)

Philip Bonacich (absent)
Dalila Corry
Robert G. Frank, Jr.
Neal Garrett (alt.)
Margaret Haberland
Margaret Jacob (absent)
Kathleen Komar
Jody Kreiman (alt.)
Vickie Mays (absent)
Tansneem Naqvi (alt.)
Alex Ortega (alt.)
Jane Valentine
Jaime Villablanca

Merced (1)

Arnold D. Kim (absent)
David Ojcius (alt.)

Riverside (2)

Joseph W. Childers
Emory Elliot

San Diego (4)

Alain J-J Cohen (alt.)
David Luft
Igor Grant (absent)
T. Guy Masters (alt.)
Thomas O'Neil (absent)
Barbara Sawrey (absent)
Andrew Scull (alt.)

San Francisco (4)

Dan Bikle
David Gardner (alt.)
Barbara Gerbert
Lawrence Pitts (absent)

Santa Barbara (3)

Richard Church
Mary Hegarty
Joel Michaelson (alt.)
Ann M. Plane (absent)

Santa Cruz (2)

George Blumenthal
Quentin Williams

Secretary/Parliamentarian

Jean Olson

III. ANNOUNCEMENTS BY THE PRESIDENT

- **Robert C. Dynes**

IV. ANNOUNCEMENTS BY THE CHAIR

- **John Oakley**

V. SPECIAL ORDERS (NONE)

VI. REPORTS OF SPECIAL COMMITTEES (NONE)

VII. REPORTS OF STANDING COMMITTEES

A. Academic Council

- **John Oakley, Chair**

- 1. Report from the Academic Council on Priorities and Issues for 2006-07 (oral report)**
- 2. Report from the President's Council on the National Laboratories and the Academic Council Special Committee on the National Labs (ACSCONL) (oral report)**
- 3. Proposed Statement of the Academic Senate on Interaction Between UC's Faculty and UC-Associated National Laboratories (action)**

Background: On June 21, 2006, the Academic Council adopted a proposal from the Academic Council Special Committee on the National Laboratories (ACSCONL) regarding the Academic Senate's role in the University of California's management of the national laboratories. An earlier draft of the proposal had been introduced to the Academic Council at its April 19, 2006, meeting. This draft was tabled for further discussion in May. At its May 24, 2006, meeting, the Academic Council addressed concerns expressed by the University Committee on Research Policy (UCORP) and the University Committee on Planning and Budget (UCPB), as well as some Council members, and requested revisions of the ACSCONL proposal to be submitted for Council's consideration in June. At its June 21, 2006, meeting, the Academic Council discussed and adopted the revised ACSCONL proposal (reprinted below) as a statement of the Academic Council, and directed that this statement be submitted to the Assembly at its next meeting for possible adoption as a statement of the Academic Senate. By letter from Chair Oakley, the Academic Council's statement was transmitted to President Dynes on July 7, 2006, with the request that it be duly forwarded to The Regents.

In a related action, the Academic Council at its July 26, 2006, meeting voted to send a letter to President Dynes requesting him (1) to take all possible steps to secure the appointment of Academic Senate members (nominated and selected by the Academic Council) to each of the six standing committees of the Los Alamos National Security Limited Liability Company (LANS LLC) Board of Governors; and (2) to direct University of California negotiators of the proposed Lawrence Livermore National Laboratory Security Limited Liability Company (LINS LLC) contract specifically to require Academic Senate representation on each of the six standing

committees of the proposed LLNS LLC Board of Governors. This letter was transmitted to [President Dynes on August 9, 2006](#).

Statement of Purpose: As stated below, the Academic Council requests that the Academic Assembly adopt this statement, believing that continued faculty and Senate engagement with the national labs is in the best interest of both UC and the nation. Faculty participation in the operation and management of UC-associated national labs is warranted not only by the spirit and tradition of shared governance within the UC system, but also by the essential reality that UC's expertise in science and technology resides in and flows from its faculty.

**(PROPOSED) STATEMENT OF THE ACADEMIC SENATE ON INTERACTION
BETWEEN UC'S FACULTY AND UC-ASSOCIATED NATIONAL LABORATORIES**

Adopted by the Academic Council June 21, 2006

As Proposed by the Academic Council Special Committee on the National Laboratories

The University of California (UC) has a long history of managing national laboratories for the federal government. This history began in 1943 with the establishment of the Los Alamos National Laboratory (LANL). As of 1 June 2006, management of LANL has been assumed by Los Alamos National Security (LANS), a limited liability company (LLC). The LANS LLC was formed by UC in partnership with the Bechtel Corporation and two other industrial partners in order to qualify as an eligible bidder for the management of LANL under the terms set by the federal Department of Energy (DOE) in seeking competitive bids for the LANL management contract. UC continues to manage directly the Lawrence Berkeley National Laboratory (LBNL) and the Lawrence Livermore National Laboratory (LLNL). UC's contract to manage LBNL was renewed in 2005, and with extensions has a potential term of 20 years. UC's contract to manage LLNL extends through 30 September 2007.

UC and DOE have long emphasized the importance of UC's prominence in science and research to the health of the UC-managed national labs. In discussing with the Board of Regents the rationale for bidding on the contract for LANL, President Dynes on 25 May 2005 noted that it is the "excellence of the science that (UC) can bring to the table." Further, it is clear that the UC faculty is the core component of UC's excellence in science and technology. UC faculty have played active roles in past oversight of UC-managed national laboratories through their positions on the President's Council and its lab panels. However, there have been relatively few direct interactions between the UC faculty and the Technical and Scientific Staff Members (TSMs) of the Los Alamos and Livermore labs, other than a limited number of collaborations on specific projects such as those of UC Davis and UC Merced with the Livermore lab. (The Berkeley lab, which is located next to UC Berkeley and conducts only non-classified research, has had close collaborative relationships with many UC campuses.)

UC's key responsibility within the LANS LLC that now manages the Los Alamos lab is to ensure LANL's excellence in science and technology. We anticipate that a successful bid by UC and its LLC partners for the Livermore lab's management contract would assign to UC a similar responsibility. In order to maintain the scientific and technical excellence of the work performed

at these labs in the absence of direct management responsibility, UC must draw on the resources of its faculty to an even more important degree than in the past.

The Academic Council Special Committee on the National Laboratories (ACSCONL) acts as the Academic Council's advisory body on UC's management of the Berkeley, Livermore, and Los Alamos national labs. After close consultation with UC's Provost and the laboratory-management staff within UC's Office of the President (UCOP), ACSCONL has recommended a series of actions whereby UC's faculty and Academic Senate can facilitate the continued achievement of excellence in science and technology at national laboratories that are managed by LLCs in which UC is a partner. The Academic Senate adopts these recommendations, believing that continued faculty and Senate engagement with the national labs is in the best interest of both UC and the nation. Faculty participation in the operation and management of UC-associated national labs is warranted not only by the spirit and tradition of shared governance within the UC system, but also by the essential reality that UC's expertise in science and technology resides in and flows from its faculty.

The Academic Senate accordingly adopts the following actions and recommendations to assure that faculty expertise informs UC's continued involvement with the Berkeley, Livermore, and Los Alamos national laboratories. Some of these are items we can accomplish as a faculty, acting through the Academic Senate; some require significant cooperation from UCOP. In regard to the latter we have substantial indication, as of ACSCONL's meeting on 13 June 2006, that UCOP will work closely and cooperatively with the faculty with respect to future lab-management issues relating to the scientific and technical performance of UC-associated national laboratories.

1. ACSCONL shall recommend to the Academic Council an appropriate entity and review protocol for regular and broadly based Senate oversight of UC's relationship with the national labs by Senate members who are informed and knowledgeable in regard to the labs.
2. The Academic Senate recommends to UCOP that shared governance with respect to scientific and technical excellence at the national laboratories would be best achieved if the above entity worked in concert with the Office of the Provost and Senior Vice President of Academic Affairs, as well as with UCOP's lab management staff.
3. The Academic Senate shall have a substantial role in advising the President on the dispersal of UC's share of fee monies associated with UC's role in any lab-management contract, either directly or through an LLC. This should include advising on selected research areas and methods of collaboration in research of mutual interest to the labs and UC. These fees should support specific scientific and technical projects at the labs as well as synergistic scientific and technical activities at UC. These projects and activities should include the analysis of societal issues related to work done at the labs (e.g., understanding the effects of nuclear proliferation on the likelihood of international conflict or the interaction between civil liberties and efforts to improve homeland security).
4. To further these ends and to promote greater intellectual exchange and closer connections between the national laboratories and UC faculty, the Academic Senate recommends that a

committee composed of UC faculty, relevant UCOP and lab-management personnel, and laboratory TSMs, be immediately appointed and convened by UCOP for the purpose of promoting faculty-lab collaboration, with a view to establishing a permanent framework for periodic joint meetings of UC faculty and lab personnel focused upon particular programs and/or scientific disciplines.

5. The Academic Senate shall take the lead, in partnership with the national laboratories, to determine unmet educational needs that joint collaboration can address. The educational needs of undergraduate, graduate, and post-doctoral students at the national labs and on the campuses should be addressed.
6. The Academic Senate shall assist the national labs in their research and programmatic review procedures by identifying UC faculty with relevant technical expertise who would be willing to volunteer their service for these purposes. UC faculty should be included both on relevant committees of any UC-associated LLC (such as the LANS LLC “Mission” and “Science and Technology” committees) as well as on focused technical-review panels at the national laboratories.
7. The Academic Senate shall share its procedures and faculty expertise in the national labs’ personnel review process, both in the design of such processes and also by serving on search committees and/or periodic career progress reviews.
8. The Academic Senate shall invite TSMs from the national labs to sit in as observers on systemwide Senate committees that address issues that might be of interest to TSMs (e.g., Academic Freedom, Academic Personnel, Faculty Welfare, and Research Policy, among others).

ACTION REQUESTED: **Endorse the *Proposed Statement of the Academic Senate on Interaction Between UC’s Faculty and UC-Associated National Laboratories*, and forward the statement to President Dynes for transmittal to The Regents.**

VII. REPORTS OF STANDING COMMITTEES (Continued)

A. Academic Council (Continued)

- John Oakley, Chair

4. Proposed Academic Senate Statement to the UC Regents on Research Funding Sources (action)

At its September 20, 2006, meeting, at the request of the Lieutenant Governor Cruz Bustamante, and *ex-officio* Regent, the UC Board of Regents discussed whether to prohibit the University or its employees from accepting research funding from the tobacco industry (see below, [Regents Item RE-78](#)). In a 1,682-page opinion issued on August 17, 2006, as amended September 8, 2006, Judge Gladys Kessler of the United States District Court of the District of Columbia ruled after a trial to the court that the major tobacco companies had violated the Racketeer Influenced and Corrupt Organizations Act (RICO)¹ by engaging in a decades-long campaign to hide the dangers of tobacco and smoking.²

The Chairman of the Board of Regents, Gerald Parsky, requested input from the Academic Senate as to whether this legal finding provides an appropriate basis for instituting a university ban on accepting funding from the tobacco industry or agencies acting on behalf of the tobacco industry.

At its September 27, 2006, meeting, the Academic Council considered the Regents' request in light of the *Resolution of the Academic Senate On Research Funding Sources*, adopted by the Academic Assembly on May 11, 2005, which states in part that: "the principles of academic freedom and the policies of the University of California require that individual faculty members be free to accept or refuse research support from any source consistent with their individual judgment and conscience and with University policy. Therefore, a unit of the University may not refuse to process, accept, or administer a research award based on the source of the funds; nor may such a unit encumber a faculty member's ability to solicit or accept awards based on the source of the funds, except as directed by the UC Board of Regents" (see below for full text of the [Resolution](#)).

¹ The Racketeer Influenced and Corrupt Organizations Act (RICO), 18 U.S.C. §§ 1961-1968, prohibits individuals or entities from engaging in racketeering activity associated with an "enterprise," which includes corporations, partnerships and other legal entities and associations. The RICO statute also makes it illegal for individuals or entities to profit from a pattern of racketeering activity, and allows for the confiscation and seizure of such ill-gotten gains.

² *United States v. Philip Morris USA, Inc.*, U.S.D.C.D.C. Civ No. 99-2496, Aug. 17, 2006.
<http://www.dcd.uscourts.gov/opinions/2006/Kessler/1999-CV-2496~16:3:44~9-8-2006-a.pdf>

By a vote of 12 in favor, 5 against, with one abstention, the Academic Council approved the following statement to be brought before the Academic Assembly and, if approved, to be transmitted to the UC Regents:

The Academic Council instructs the Chair of the Council to advise the President that grave issues of academic freedom would be raised if The Regents were to deviate from the principle that no unit of the University, whether by faculty vote or administrative decision, has the authority to prevent a faculty member from accepting external research funding based solely on the source of the funds. Policies such as the faculty code of conduct are already in place on all campuses to uphold the highest standards and integrity of research. The Academic Council believes that Regental intervention on the basis of assumptions about the moral or political standing of the donor is unwarranted.

ACTION REQUESTED: Approval of the Academic Council Statement on Research Funding sources for transmittal to the UC Board of Regents.

Background

At its July 21, 2004, meeting, the Academic Council adopted a Resolution on Restrictions on Research Funding Sources. Then, in October of 2004, the Academic Council, in response to concerns raised by some faculty members regarding both the content of the resolution and the need for broader consultation on the issues it addresses, sent the Resolution out for full Senate review and consideration of whether it should stand as written and adopted, or should be amended or rescinded. Formal responses from all nine Divisions and from six standing committees of the Assembly showed a preponderance of support for the resolution in principle. Based on those formal comments and recommendations, the Academic Council adopted an amended version of the *[Resolution on Restrictions on Research Funding Sources](#)*, which was, on May 11, 2005, adopted by the Academic Assembly as the *[Resolution of the Academic Senate on Research Funding Sources](#)*.

TO THE MEMBERS OF THE COMMITTEE ON EDUCATIONAL POLICY:

DISCUSSION ITEM

For the Meeting of September 20, 2006

RESEARCH FUNDING: ACCEPTANCE OF FUNDING FROM CORPORATE SPONSORS ASSOCIATED WITH THE TOBACCO INDUSTRY

Regent Bustamante has requested a discussion of the University's policy on accepting funding from the tobacco industry to conduct research on second-hand smoke and the health effects of smoking.

Research at the University of California is funded by a variety of sources, including federal, State, foundation, and corporate/industry support. Under University policy, individual researchers are free to accept funding from any source, as long as the funds are otherwise in compliance with applicable University policy (for example, as long as the award does not give the sponsor the ability to control or restrict publication of research results).

Over the years, critics of tobacco and of the tobacco industry have raised concerns about the University's acceptance of funding from sponsors with ties to the tobacco industry. The amount of such funding is an extremely small portion of the University's total research funding. Since 1995, UC researchers have received approximately 100 awards totaling about \$29 million from tobacco-related companies¹ for research, training and public service. By comparison, the University received more than \$4 billion in total contracts and grants in FY2005 alone.

Currently, there are only four active grants at UC from sponsors with known ties to the tobacco industry. These grants were received by the Los Angeles, Berkeley, and Davis campuses, all from a single sponsor - Philip Morris -- and total approximately \$1.9 million. These awards fund projects such as "Salivary Biomarkers for Early Oral Cancer Detection" and "The Role of SNON Oncoprotein in Lung Carcinogenesis."²

Some tobacco industry critics have suggested that because of the deleterious health effects of tobacco, and because of documented concerns about the corporate actions of some tobacco

¹ The University does not have a comprehensive list of all companies with ties to the tobacco industry. We are aware, however, that in addition to companies like Philip Morris, there are other companies, such as Kraft Foods, that are either parent companies or subsidiaries of tobacco companies.

² See Attachment for list of current active awards from Philip Morris.

companies, the University should adopt a policy of declining to accept research funding from sponsors with ties to the tobacco industry. They also have suggested that even if the University as a whole does not adopt such a policy, individual UC campuses, schools, divisions, departments, or organized research units should be permitted to adopt policies restricting their own faculty from accepting funding from tobacco companies.

Proponents of a ban on acceptance of tobacco funding argue that the University (and, in particular, units of the University that focus on health, such as schools of Medicine, Nursing, and Public Health) should dissociate itself from an industry known to make a product harmful to human health and that is alleged to have a history of attempting to influence or misrepresent research results.

Opponents argue that an institutional policy prohibiting researchers from accepting tobacco funding would violate the freedom of inquiry of individual faculty members. They argue that the University should reject the idea that accepting funding from a corporate sponsor connotes an endorsement of the corporate sponsor's products or corporate actions. They note that it is a dangerous precedent to adopt a policy of rejecting funding from certain types of industry sponsors whose products or corporate behaviors are objectionable to some, and caution that there are a number of other industries that some would argue should fall under such a policy. While acknowledging the legitimacy of concerns about tobacco and about the corporate behavior of some companies, opponents of a funding ban point out that as long as a grant has no conditions that would prevent researchers from adhering to their obligation to engage in intellectually honest research and to release the results of such research through the normal processes of scientific review, the sponsor's motivations should not preclude acceptance of funding.

Past Action by the Academic Senate

In 2004 this matter came before the Academic Council of the University's Academic Senate, which expressed serious concerns that a ban on acceptance of funding from a particular industry source could impinge on academic freedom. On May 11, 2005, after further consideration and debate of the issue, the UC Assembly of the Academic Senate adopted the following resolution on research funding sources:

**Resolution of the Academic Senate
On Research Funding Sources
Adopted by the UC Assembly of the Academic Senate
May 11, 2005**

Preamble: This resolution states that no unit of the University, whether by faculty vote or administrative decision, has the authority to prevent a faculty member from accepting external research funding based solely on the source of the research funds. The authority to set such research policy rests with the UC Board of Regents. Nothing in this resolution would prevent individual faculty members from voluntarily eschewing a particular source of research funding.

Agencies of the Academic Senate may, through their divisions, propose that the statewide Academic Senate request, through the President, that the Board of Regents adopt a policy to refuse funding from a particular source.

WHEREAS, Only the UC Board of Regents has the plenary authority to establish policies on the acceptance of research funding; and

WHEREAS, Agencies of the Academic Senate may, through their divisions, propose that the statewide Academic Senate request, through the President, that the Board of Regents adopt a policy to refuse funding from a particular source; and

WHEREAS, No Committee, Faculty, or Division of the Academic Senate of the University of California has the plenary authority either to set aside the principles of academic freedom or to establish policies on the acceptance of research funding; and

WHEREAS, Freedom of inquiry is a fundamental principle of the University of California; and

WHEREAS, The University of California faculty code of conduct requires that “[Professors] respect and defend the free inquiry of associates”; and

WHEREAS, The University of California policy on academic freedom requires that scholarship be judged solely by reference to professional standards, and that researchers “must form their point of view by applying professional standards of inquiry rather than by succumbing to external and illegitimate incentives such as monetary gain or political coercion”; and

WHEREAS, The University of California has existing policies that encourage the highest ethical standards in the conduct of research, require disclosure of conflicts of interest, guarantee the freedom of publication, and prevent misuse of the University’s name; and

WHEREAS, Restrictions on accepting research funding from particular sources on the basis of moral or political judgments about the fund source or the propriety of the research, or because of speculations about how the research results might be used, interfere with an individual faculty member's freedom to define and carry out a research program; now, therefore, be it

Resolved by the University of California Academic Assembly, That the principles of academic freedom and the policies of the University of California require that individual faculty members be free to accept or refuse research support from any source consistent with their individual judgment and conscience and with University policy. Therefore, a unit of the University may not refuse to process, accept, or administer a research award based on the source of the funds; nor may such a unit encumber a faculty member’s ability to solicit or accept awards based on the source of the funds, except as directed by the UC Board of Regents.

Statement by President Dynes

On October 8, 2004, President Dynes wrote the [attached letter](#) to the Regents expressing his endorsement of the Academic Senate’s resolution on this issue, noting that while people may differ in their views about the appropriateness of accepting research funding from the tobacco industry, his belief is that it is the fundamental right of faculty to accept such funding. President Dynes’ letter noted that it is the joint Administration and Senate view that individual campuses,

schools, departments and centers may not prohibit faculty from accepting research funding from a particular source, as long as the funding is otherwise in compliance with University policy.



OFFICE OF THE PRESIDENT

Robert C. Dynes
President

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<http://www.ucop.edu>
October 8, 2004

THE REGENTS OF THE UNIVERSITY OF CALIFORNIA

In August, you received a letter from the State Tobacco Education and Research Oversight Committee commending the UC Berkeley School of Public Health for “banning the use of tobacco industry funding for research,” and urging the Board of Regents to adopt a systemwide policy banning the use of tobacco industry funding for research. While people may differ in their views about the appropriateness of accepting research funding from the tobacco industry, I believe that it is the fundamental right of faculty to accept such funding.

Legitimate concerns have been raised about the health effects of tobacco and about the corporate actions of some tobacco companies. Accordingly, many individual faculty members have chosen not to pursue tobacco industry funding. While many researchers may choose to avoid tobacco funding, an institutional policy prohibiting faculty from accepting funding from a particular source based on moral or political judgments about the fund source or based on speculations about how the research results might be used would be a violation of the faculty’s academic freedom. The Academic Senate agrees with this position and, on July 21, 2004, passed a resolution setting out the issue and its position in more detail. I enclose a copy of that resolution for your information.

“Resolution on Research Funding Sources” was passed in response to restrictions that some sought to impose on acceptance of tobacco funding, but was not exclusive to that one source or issue. Indeed, it is worth noting that there are a number of other industries, e.g., manufacturers of alcohol, pharmaceuticals, firearms, whose corporate behavior may be objectionable to some groups. It is important to adopt a consistent policy that can be applied broadly to all types of industry funding.

I endorse the Academic Council’s Resolution, which states in part that:

The principles of academic freedom and the policies of the University of California require that individual faculty members be free to accept or refuse research support from any source, consistent with their individual judgment and conscience and with University policy. Therefore, no unit of the University should be directed (by faculty vote or administrative decision) to refuse to process, accept, or administer a research award based on the source of the funds; and no special encumbrances should be placed on a faculty member’s ability to solicit or accept awards based on the source of the funds.

The Regents of the University of California
October 8, 2004
Page 2

I plan to work with the Academic Senate to apprise the campuses of the joint Administration and Senate view that individual campuses, schools, departments, and centers may not prohibit faculty from accepting research funding from a particular source, as long as the funding is otherwise in compliance with University policy (for example, as long as it does not contain publication restrictions or unacceptable business terms), and that no unit should be directed to refuse to process, accept, or administer a research award based on the source of the funds.

Finally, I would urge caution about adopting a view that the University should accept industry research funding only from those companies whose corporate goals we support. As a practical matter, distinguishing between different degrees of potentially objectionable corporate behavior could be an almost impossible task. But more fundamentally, we should reject the notion that accepting funding from a corporate sponsor implies endorsement of the corporate sponsor's behavior. Regardless of funding source, UC faculty are obligated to adhere to the highest ethical standards of intellectual honesty and integrity in research. While sponsors may have a variety of motivations in funding research, as long as a grant has no conditions that would prevent researchers from adhering to their obligation to engage in intellectually honest research and to release the results of such research, the sponsor's motivations should not preclude acceptance of funding from that sponsor.

Sincerely,

/s/ Robert C. Dynes

Robert C. Dynes

Enclosure

cc: Chancellors
Laboratory Directors
Academic Council Chair Blumenthal

Resolution of the Academic Council Restrictions on Research Funding Sources

**Submitted by the University Committee on Research Policy;
Adopted by the Academic Council July 21, 2004**

Whereas, Freedom of inquiry is a fundamental principle of the University of California; and

Whereas, The University of California faculty code of conduct requires that “[Professors] respect and defend the free inquiry of associates”; and

Whereas, The University of California policy on academic freedom requires that scholarship be judged solely by reference to professional standards, and that researchers “must form their point of view by applying professional standards of inquiry rather than by succumbing to external and illegitimate incentives such as monetary gain or political coercion”; and

Whereas, The University of California has existing policies that encourage the highest ethical standards in the conduct of research, require disclosure of conflicts of interest, guarantee the freedom of publication, and prevent misuse of the University's name; and

Whereas, Restrictions on accepting research funding from particular sources on the basis of moral or political judgments about the fund source or the propriety of the research, or because of speculations about how the research results might be used, interfere with an individual faculty member's freedom to define and carry out a research program; and

Whereas, No Committee, Faculty, or Division of the Academic Senate of the University of California has the plenary authority either to set aside the principles of academic freedom or to establish policies on the acceptance of research funding; now, therefore, be it

Resolved, That the principles of academic freedom and the policies of the University of California require that individual faculty members be free to accept or refuse research support from any source, consistent with their individual judgment and conscience and with University policy. Therefore, no unit of the University should be directed (by faculty vote or administrative decision) to refuse to process, accept, or administer a research award based on the source of the funds; and no special encumbrances should be placed on a faculty member's ability to solicit or accept awards based on the source of the funds.

ATTACHMENT

Current Active Awards to UC campuses from Tobacco-Related Companies

	Sponsor	Award Title	Campus	Award Period	Award Amount
2006	PHILIP MORRIS U.S.A.	SALIVARY BIOMARKERS FOR EARLY ORAL CANCER DETECTION	Los Angeles	March 1, 2006 - February 28, 2007	\$250,000.00
2005	PHILIP MORRIS U.S.A.	ROLE OF SNON ONCOPROTEIN IN LUNG CARCINOGENESIS	Berkeley	January 1, 2005 - December 31, 2007	\$328,732.00
2004	PHILIP MORRIS U.S.A.	TOBACCO OXIDANTS PROLONG EGF RECEPTOR SIGNALING IN THE LUNG	Davis	April 1, 2004 - December 31, 2006	\$455,526.00
2002	PHILIP MORRIS U.S.A.	MEASUREMENT OF VASCULAR PO2 IN PERIPHERAL TISSUE IN VIVO	Davis	October 1, 2002 - October 31, 2006	\$882,856.00
					\$1,917,114.00

*We do not maintain a comprehensive list of "tobacco companies" (some companies, like RJ Reynolds and British American Tobacco, are readily identified as "tobacco companies", others, like Kraft Foods, have a number of divisions which may include tobacco among other products). However, we are aware that there are companies that have in the past been identified with the tobacco industry; this table shows active awards from companies that we know to be, or to have been, tobacco-related.

VIII. UNIVERSITY AND FACULTY WELFARE REPORT (NONE)

IX. PETITIONS OF STUDENTS (NONE)

X. UNFINISHED BUSINESS (NONE)

XI. NEW BUSINESS

If you need additional information regarding this meeting please contact the Academic Senate at: 510-987-9143 (telephone) or 510-763-0309 (fax).

Next scheduled meeting of the Academic Assembly: November 22, 2006