

ACADEMIC COUNCIL

**Minutes of Meeting
Wednesday, May 22, 2013****I. Senate Officers' Announcements**

1. **Report on Regents meeting.** Chair Powell reported that Provost Dorr presented a report on academic performance indicators at the May Regents meeting. Contrary to press reports, the governor was happy with the work and asked good follow-up questions.
2. **President and Riverside Chancellor Searches.** The search for UCR' Chancellor is progressing, and the search for the President also is proceeding according to schedule. Chair Powell said he is pleased with the Senate's engagement in the process. The Academic Advisory Council, the group of faculty advising the Regental search committee, is very effective and is playing an influential role.
3. **Online initiative.** The Senate leadership is working closely with Provost Dorr to craft the online course initiative. A document summarizing this effort was sent to the Department of Finance and to others in Sacramento.
4. **Composite Benefits.** Vice Chair Jacob said that discussions have continued about charging composite benefit rates to faculty summer salaries. UCFW has verbally suggested that if UC can not find a way to charge faculty summer salaries and Y salaries at a rate that closely approximates actual costs, rather than 2.5 to 3 times the actual cost, then this amount should be placed in a defined contribution plan for the employee. He noted that Berkeley may be negotiating a separate rate for summer salary with the federal Department of Cost Allocation that oversees this process. He will gather more information about this effort.

II. Approval of the Agenda

ACTION: The agenda was approved.

III. Consent Calendar

1. **Approve draft April Council minutes**
2. **Approve extension of ACSCOLI through 2018**
3. **Approve apportionment of the 2013-14 Assembly**
4. **Approve appointment of the 2013-16 Assembly Parliamentarian**
5. **Approve appointment of 2013-14 vice chair of UCOC**
6. **Approve topics for June Assembly: amend SR 478 (IGETC for STEM) and APM 015, and ratify Council's choice for UCOC vice chair and Assembly parliamentarian.**

ACTION: The consent calendar was approved.

IV. Liquidity Study

DISCUSSION: Chair Powell stated that the Regents committed to meet modified Annual Required Contribution (ARC) for UCRP between 2011 and 2018, and full ARC beyond 2018. ARC includes Normal Cost (the present value of future pension benefits) plus interest on the unfunded liability of \$11B and the annual principal payment on the unfunded liability amortized over thirty years. Modified ARC includes only Normal Cost plus the interest on the unfunded liability. In 2010-11 and 2011-12, UC loaned funds from the Short-Term Investment Pool (STIP) to UCRP to make up the difference between the amount it was allocating toward UCRP and modified ARC. In 2013-14 UC will meet Normal Cost (17.8%), but will not pay the interest on the unfunded liability, and therefore is adding to the unfunded liability. Council will discuss the possibility of using some of UC's liquidity to pay the interest on the unfunded liability. He introduced CFO Peter Taylor.

CFO Taylor said that his office researched how much cash UC needs to meet its daily obligations and looked at the daily inflow / outflow of funds into STIP since 2004. They determined that sufficient cash should be available to meet daily operating needs, rating agency requirements, and to cover any extraordinary longer-term liquidity needs for up to three months. He recommends that funds not needed for short-term liquidity purposes should be moved to longer-term investment vehicles to increase interest income.

UC had a total of \$13.7B in STIP and TRIP (Total Return Investment Pool) funds as of June 30, 2012, the last audited financial statement date. However, only \$10B of that total is campus funds. Of the \$10B, campus TRIP comprises \$3.5B (this does not include bond proceeds); non-liquid STIP is \$2.5B (includes bond proceeds, UCRP, or funds that UC will have to spend in the next few months and are not available for other uses); and liquid STIP is \$4B. CFO Taylor's staff found that since 2004, out of the \$4B in investable STIP, 99% of the time the funds are plus or minus \$400M (6%) or less. Based on this analysis, he concluded that UC could afford to move \$2B from low-yielding STIP securities into other investments. Moving this total would bring the STIP/TRIP ratio at the campuses from approximately 65/35% to 45/55%. TRIP has been the highest yielding portfolio for the past 3 years and has performed very well. TRIP is invested 65% in fixed income and 35% in equities. Based on the historic spread between STIP and TRIP, moving STIP funds to TRIP has the potential to generate approximately an additional \$30M per year in unrestricted interest income. He stated that his staff worked with the leadership of each campus to analyze their fund balances, fund type, and operational usage and discussed how much working capital they could afford to move into higher yielding investments, recommending campus-specific STIP targets.

Although pre-funding UCRP was an option presented to campuses, campus administrators expressed a preference for near-term operational relief. While acknowledging the serious nature of the unfunded liability, campus leadership generally feels that the need for unrestricted funds to support the campuses' academic mission is even greater. Their preference is to move the funds to higher yielding investments, and to retain the flexibility to decide how to use the interest income. That would allow them to use unrestricted funds to pay down the unfunded liability instead of subsidizing the liabilities incurred via medical center and federal grants and contracts. Based on additional feedback from the EVCs and VCPBs, CFO Taylor is planning to take steps to ensure a steady 4.75% pay-out from TRIP, intended to simplify campus planning and budget processes, and calculating net asset value (NAV) on a 60 month moving average which will be implemented in

stages to further reduce payout volatility. NAV will be calculated on a 60 month moving average, to be implemented in stages to avoid volatility in the payout amount. A 3-year lockout period when funds moved to TRIP will also restart on August 1, 2013. Campus leaders have expressed their understanding of the need for a lockout period.

CFO Taylor noted that the Regents Investment Committee approved a new asset allocation plan for TRIP on May 21. Treasurer and Chief Investment Officer Marie Berggren believes that the current allocation is not suitable in this financial environment. This recommendation is independent of the University financial management strategies that CFO Taylor discussed.

Comment: The proposal is to return 4.75% of interest income to the campuses. We are concerned that UC will be borrowing at a higher rate (7.5%) to fund UCRP. In order to meet modified ARC, additional funds beyond employer and employee contributions will need to be made—\$840M in 2012-13; \$740M in 2013-14, and then \$610M in 2014-15, for a total of \$2.2B.

A: CFO Taylor said he agreed with this analysis, especially since it is a cost that campuses must bear eventually. However, campus administrators have strongly suggested giving them flexibility to decide how to use the interest income, which will allow them to use unrestricted funds to pay down the unfunded liability.

Q: Have you considered a progressive contribution to UCRP over the next few years?

A: CFO Taylor said his staff has not yet modeled it, but it is a good idea.

Comment: Investing only \$1B in UCRP meets modified ARC, but it does not buy down any of the unfunded liability.

Comment: One of the arguments against putting the funds into UCRP is that they are locked in. TRIP was begun in 2008 and immediately lost 40% of its value; campuses are legitimately conservative.

A: CFO Taylor replied that it is true that TRIP is more volatile than STIP, and UCRP is a more long-term investment vehicle than TRIP. He noted that currently, UCRP liability is socialized. One option to explore is whether UC could assign campus-specific shares of that liability and campuses could buy down the liability for their own employees. However, this would likely pose an administrative burden and be complex to implement.

Comment: UCOP should propose a more aggressive ramp-up of the UCRP employer contribution. Then it would be a present-day problem that campuses would have to deal with and they would view pension contributions as an operational expense.

V. Consultation with UCOP Leadership

President Yudof reported that UC's priorities for the state budget have been equity with CSU in terms of the pension fund, a 5% budget increase, ability to restructure debt, which he anticipates could result in \$80M cash flow improvement, and funding for UCR's School of Medicine and UCM's classroom building. The state Assembly Budget Committee approved \$15M for UCR's School of Medicine, \$45M for the Merced classroom building to be funded via lease-revenue bonds, and \$4.8M to fund preliminary plans and drawings for the Merced building. The Senate Budget Committee has not yet met. He stated that he was cautiously optimistic that the legislature will support transferring state lease-revenue bond debt to the University, which could then

restructure it to provide \$80M in unrestricted revenue. The Governor supports this. According to the Legislative Analyst's Office, the state will have \$3.8B more revenue than projected. If there is extra money, UC may get additional funding.

President Yudof reported that the Regents and students met with legislators in Sacramento. The Governor was impressed by the data presented on academic performance indicators. He wants to know how UC can improve graduation rates. The Governor agrees that the metrics suggested by the Department of Finance do not make sense for UC.

Q: Do you support using the revenue from STIP to strengthen UCRP?

A: President Yudof said that he will focus on investment in the pension fund soon.

Q: In 2010, the Regents adopted a policy to meet UCRP's modified ARC. UC did this in the first two years by borrowing funds from STIP, but modified ARC has not been met for the current year. What are the other options to meet modified ARC?

A: President Yudof responded that Regents did not approve a multi-year plan to meet modified ARC; they simply said it will be met by 2018. The Regents are considering higher contribution rates and not maintaining 100% funded status as a goal.

Q: What effect do you think the change in Regental leadership will have?

A: President Yudof replied that Chair Sherry Lansing has been very effective. She was key to supporting Proposition 30 and buying down tuition. The new Chair, Bruce Varner, is sympathetic to Chair Lansing's policy positions, but he is not as opposed to raising tuition. They have very different styles, but both are effective.

Q: Can you comment on the May revise of the budget?

A: President Yudof noted that the Governor's May budget revision does not change the terms of the initial budget for UC. However, if there is \$3.8B in additional state revenues, UC may benefit.

Q: Is the Governor still focused on graduation rates?

A: President Yudof responded that the Governor remains interested in improvements in graduation rates and wants UC to devise a plan to address this, but that he understands the progress UC has made. President Yudof said campuses should consider degree simplification processes, online degree checks, and more proactive advising; deans and provosts must ensure that courses are available when students need them; and campuses can share best practices. Some of these processes have to originate with the faculty and the leadership of the divisional Senates.

Q: What happened to the idea of increasing the proportion of graduate students across the system?

A: President Yudof said that this has been a goal, but it is a campus issue, and the campuses have not funded it. UCSC and UCM in particular need to increase the ratio.

Q: Does the Governor understand the importance of graduate students?

A: President Yudof replied that the Governor rarely talks about graduate students, but does talk about research. His focus has been on lowering costs of instruction.

VI. Open Access Proposal

ISSUE: Council discussed Provost Dorr's response to its letter of April 11 on the proposed Open Access policy. The provost offered assurances that the administration will be a partner with the Academic Senate in implementing the policy.

DISCUSSION: Chair Powell said that the Provost's letter indicated that UCOP supports the proposal and is prepared to do all that the Council asked. He said he would like to send the proposal with the Provost's letter for expedited review because it would be better for the committees that have been grappling with it this year to come to a decision. It would be challenging to engage a new set of committees next year. A member said that previously it was suggested that the Senate get a legal opinion about whether the license grant to the University should be limited to non-commercial uses. Executive Director Winnacker noted that the Provost specifically states in the letter that UC will not make any commercial use of articles placed in the open access repository without the agreement of individual faculty. The Provost also suggests that the Senate and administration revisit the policy after three years. A member stated that UCSF did its own legal review of this issue for their open access policy and found it not to be problematic. A member commented that agreements at other universities include a non-commercial license clause and asked what there is to lose by including it. A member replied that UCOLASC says that by having the broadest grant possible to the University, the faculty member retains the broadest rights. Restricting the license grant also restricts what the University can grant back to faculty member; the faculty member can restrict commercial use by UC by choosing the appropriate Creative Commons license.

ACTION: Council approved sending the Open Access proposal and letter from the Provost for final systemwide review.

VII. APM 600

ISSUE: Council discussed the responses to the systemwide review of proposed revisions to APM 600 to accommodate the UC Path project.

DISCUSSION: A member opined that all of the reviews identified issues that the Academic Personnel office should address with a written response to Council, annotating exactly what has been changed. The changes were not clear in the documentation sent for review. A member stated that inter-campus transfers should be treated like any other offer with no limit on salary. Council members requested that Chair Powell invite Vice Provost Carlson to attend the June Council meeting to discuss the proposed revisions. The systemwide Senate office will redraft the letter regarding APM 600 to reflect its discussion.

VIII. UCORP review of Cal ISIs (California Institutes for Science and Innovation)

ISSUE: UCORP submitted comments on the external reviews of the California Institute for Telecommunications and Information Technology (CalIT2) and the California NanoSystems Institute (CNSI). In addition, they enclosed their previous comments on the external review of the Center for Information Technology Research in the Interest of Society (CITRIS). UCORP believes the process for reviewing the Cal ISIs needs revision to more clearly define the performance metrics, to encourage suggestions for realistic future trajectories, and to reduce the time needed for the review process.

DISCUSSION: UCORP Chair Mike Kleeman said that the Cal ISIs were not allocated the funding they were promised. However, they are successfully leveraging their resources by a factor of 5:1.

While they were intended to be inter-campus centers for science, they became more campus-focused because the campuses are providing some of the funding. UCORP members think the Cal ISIs need to decide whether they are systemwide or campus-based entities because they do not fit into the existing awards structure for MRUs, funded via a 1.6% assessment on campus funds. Currently, each Cal ISI is receiving \$3.5M in central research funding, and the chancellors have suggested increasing it to \$5M each. This is a significant proportion of the total research dollars available. In addition, there is duplication of effort on the various campuses. The Cal ISIs could benefit from more cross-campus collaboration and the adoption of best practices. UCORP also opined that the review process is broken and takes far too long (up to 3 years). A member from one of the participating campuses said that the divisional Senate did not have the opportunity to review the report or UCORP's comments, and would like to circulate them for review. A member inquired why diversity and public service are not discussed in some of the reviews. Chair Kleeman replied that UCORP's role is to make sure that the external review is comprehensive and that the Center has a realistic plan for continuation. He noted that UCORP did endorse some recommendations made by a campus regarding diversity in one of the reviews. A member noted that although Cal IT2 is a multi-campus entity, it was reviewed as an ORU so that it could receive some campus funds. A member critiqued the reviews as vague and uninformative with little budget information. Chair Kleeman replied that some budgetary information was provided to the external reviewers and that the Portfolio Review Group (PRG), which was established to rationalize the process for allocating central research funding, encouraged the inclusion of quantitative information in proposals. A member opined that UCORP should review and comment on the templates to be sent to the reviewers in order to produce the types of information the Senate wants. Also, the Senate divisions of the campuses involved should be provided with the external reviewers' reports to help inform UCORP's comments. Chair Powell suggested that Council wait for feedback on UCORP's letter from the affected campuses. In addition, he said he would work with Chair Kleeman to draft a letter suggesting revisions to the review process.

IX. UCAF letter on NSF High Quality Research Act

ISSUE: The US House of Representatives may consider the High Quality Research Act, a bill drafted by Lamar Smith (R-TX) that will add a layer of political review to the grant-review process at the National Science Foundation.

DISCUSSION: Chair Powell said he would discuss this with the University's office of Federal Governmental Relations.

X. UCAF letter on political speech on campuses.

ISSUE: UC has been asked by some groups to quell speech critical of Israel and the Israeli government. UCAF submitted a letter requesting that the president affirm that campuses should avoid implementing any policy that restrains protected forms of expression while emphasizing that UC does not condone threats of physical violence.

DISCUSSION: UCAF Chair Gundersen said that UCAF drafted the enclosed letter in response to increasing pressures on the University to restrict freedom of speech. Several division chairs suggested that the letter should address freedom of speech more broadly. Chair Powell asked if UCAF would be interested in redrafting the letter. Chair Gundersen replied that UCAF may revisit the topic in the fall, if the issue remains relevant.

XI. Senate Bylaw 55

ISSUE: The San Diego Division submitted a proposal to amend Senate Bylaw 55 to extend departmental voting rights on academic merit and promotion reviews to salaried non-Senate faculty in the Adjunct Professor or Health Sciences Clinical Professor series. Chair Powell asked UCAP and UCFW to consider the proposal in systemwide context.

DISCUSSION: UCSD divisional Chair Masters said that his division would like to extend the provision in Bylaw 55 allowing emeriti voting rights to non-Senate faculty. It would enable Senate members in a unit to vote on whether non-Senate faculty in that unit could review personnel cases and/or vote on them. This would be decided by each department and would be renewed annually. UCAP Vice Chair Jeffrey Knapp stated that UCAP opposes the proposal because there is a substantive distinction between Senate and non-Senate faculty in the areas of achievement for which faculty are evaluated. UCAP was not persuaded that giving voting rights would solve the problem of demoralization among non-Senate faculty. A member noted that LSOEs have a different portfolio than ladder-rank faculty, but are Senate members and have full voting rights. Another member noted that his department has extended advisory voting rights to agronomists. A member suggested sending the proposal for review and asking respondents to comment specifically on UCFW's recommendations. A member stated that UCSF's proposal to extend Senate membership to some non-Senate faculty was rejected last year. In contrast, this proposal is modest. It gives departments the ability to determine how they want to govern themselves, and is voluntary. Because it must be renewed annually by a vote of the Senate faculty, it could be easily reversed if the Senate faculty in the department wished to do so. UCAP Vice Chair Knapp said that UCAP focused on appointments, not merit reviews. He provided the example that if clinical faculty, who are primarily focused on teaching, vote on appointments, research may be devalued in a search. He also stated that the analogy to emeriti is problematic because emeriti are Senate faculty and are a small minority. Non-Senate faculty can constitute up to 70% of a department, so they would instantly have a supermajority. A member stated that Merced extends voting rights to assistant professors because they have small units, but cautioned that Council should carefully consider which non-Senate titles will be included, noting that the term "adjunct" is used in many different ways. The titles that are eligible and the percent of appointment should be specified in the proposal. A member countered that departments should define the eligible titles. A member commented that votes should be segmented according to Senate versus non-Senate faculty in order to assess the effect of the policy. A member spoke in favor of accommodating the differences among the units and divisions, even though her division would be unlikely to implement the proposal. A member asked to what degree the proposal is a slippery slope to granting non-Senate faculty Senate membership and noted there are other options, such as advisory votes or non-Senate faculty voting only on non-Senate faculty merit reviews, not on Senate faculty or on appointments. A member commented that the proposal addresses a specific case with a systemwide solution.

ACTION: Council voted to send the proposal, along with the comments from UCAP and UCFW for systemwide review in the fall (11 in favor, 5 opposed).

XII. Campus Online Initiatives and the ILTI

ISSUE: Council received an update on the Innovative Learning Technology Initiative (ILTI), which is UCOP's effort to develop a set of online courses supported by the \$10M set aside in the governor's budget proposal.

DISCUSSION: Chair Powell reported that the provost's office is preparing an RFP to be released in June, as long as the \$10M allocated for this effort remains in the state budget. Approximately \$6M will be directed toward the courses. Some of the monies will be set aside to fund a short-term solution to facilitate cross-campus registration. The development of the hub will be a longer-term project. In addition, the provost plans to create a database of online courses available for systemwide credit. Finally, some money will be set aside for evaluation and to cover campus costs, such as hiring additional TAs to offer courses on multiple campuses. A committee is meeting to develop a proposal and budget for the technology infrastructure. A member asked if the critiques of UCOE have been taken into consideration in developing this plan. Chair Powell replied that members of the Senate's Blue Ribbon Panel on online education are involved and he is hoping that they will be part of the group that evaluates the proposals. A member asked who will own the intellectual property in the online courses. Chair Powell said that UCOP will not hold the intellectual property, and that campuses will draft intellectual property agreements.

XIII. New Business

Freedom of Information Act (FOIA) Requests. A division chair stated that she recently received a FOIA request for her personal email related to Senate business. The campus' General Counsel said that when faculty participate in shared governance, they are considered administrators and email is not protected as it normally is for faculty. While Senate deliberations are private, once a final position or letter is released, all drafts and emails relating to a topic can be requested. If the Senate chair had copied the campus General Counsel and asked for advice, the documents would have been viewed as privileged. The division suggests establishing a protocol to ensure that drafts are deleted if the deliberations should be kept private. Senate Executive Director Winnacker said she would seek an opinion on this subject from UC's Office of General Counsel and will make sure this is on the agenda for next fall's systemwide Senate retreats.

Divestment from the fossil fuel industry. UCSB division chair Bhavnani stated that faculty at UCSB asked the Senate to host a forum on divestment of University holdings in the fossil fuel industry. The forum was held, and the faculty group is bringing a resolution to the divisional Legislature asking the Regents to divest. If it passes, there will be a facultywide vote in the fall. It may be helpful to invite the University's Chief Investment Officer to address Council on this topic.

Meeting adjourned at 4:30 pm

Attest: Robert Powell, Academic Council Chair

Minutes prepared by Clare Sheridan, Principal Committee Analyst