

UNIVERSITY OF CALIFORNIA

ACADEMIC SENATE

UNIVERSITY COMMITTEE ON PLANNING AND BUDGET

**Minutes of Meeting**  
**Tuesday February 13, 2007**

**I. Chair's Announcements**

Chair Newfield briefly outlined today's agenda and then made gave an update covering these issues:

*Budget analysis.* UCPB's recommendations that were presented to Council in November and December were re-drafted in the form of a resolution entitled "Safeguarding the University's Future: A Resolution of the Academic Council on Returning UC to a Sound Fiscal Basis" and sent to President Dynes after the UCPB January meeting. The recommendations are to: 1) provide the Regents with detailed projections of the costs of achieving each of the regental priorities; 2) present the Futures Report analysis to the Regents; 3) communicate the urgent need to increase UC revenues by \$1.1 billion and the need for a multi-year financial plan for such augmentation. It is hoped that a presentation of the Futures Report can be made at the March Regents meeting.

*Tobacco funding.* The Regents have returned the question of banning research funding from the tobacco industry to the Senate, asking for an unambiguous statement. The Assembly will discuss this issue at its meeting tomorrow.

*Other research funding.* The Governor's budget will provide new funds to support the BP Biomass initiative, the Helios project, and the Cal ISIs. Thus, all new funds for research will be dedicated to special research initiatives while ongoing research programs will receive no added support. The BP funds will go for new facilities, but that renews concerns of campuses having to subsidize the ongoing operation of large research initiatives and of the potential draining of campus resources. UCPB should include this as a consideration in the expenditures report.

*UCRS.* The State is refusing to provide funding to cover its portion of UCRS contributions this year.

*NRT.* At this time there is no further movement towards eliminating NRT for academic graduate students.

*Senate Vice Chair.* The Academic Council selected Professor Mary Croughan, UCSF, as the successor to the Vice Chair of the Council and the Assembly. The Assembly will act on Council's recommendation tomorrow.

*Student mental health services.* The Regents may be asked to earmark an increase in the registration fee for student mental health services. More particulars surrounding this matter will be gathered.

**Action:** In the event that the Regents consider a Student Mental Health Initiative at their March meeting, UCPB has authorized Chair Newfield to issue a statement expressing the committee's opposition to earmarking, for a special interest, a portion of or an increase in student fees. UCPB will also disapprove of special interest groups being allowed to bring proposals directly to the Regents, bypassing the administration and the Academic Senate.

## **II. Consent Calendar**

1. Minutes of the January 9, 2007 meeting.
2. CCGA proposal for amendment of SR 694 and new SR 695.
3. Draft UCPB response to the request for participation in the Academic Senate Analysis of Inclusiveness at UC.

**Action:** Items 1 and 3 on the consent calendar were approved (with minor changes to the minutes).

**Action:** The CCGA proposal was taken off of the consent calendar for discussion.

### **New Business: CCGA proposal for amendment of SR 694 and new SR 695.**

**Discussion:** Chair Newfield pointed out that the proposal may be premature in assuming a role for distance learning in graduate education before that role has been properly clarified. Members agreed that these proposed regulation changes could open the door to relatively wide-spread use of distance education in graduate instruction, and that before approving them, the Senate should carefully look at the use of distance learning in graduate training.

**Action:** A brief committee response disapproving the CCGA proposal will be drafted and circulated to UCPB before submission to the Council.

## **III. EAP / International Education**

**Issue:** Over the last two years, the systemwide Senate has been addressing the review of EAP and EAP budgetary issues. UCPB has primarily been concerned with two funding issues: the EAP budget deficit crisis and the formula for campus funding.

Issue timeline:

- August 2005 - UCIE called for a review of UOEAP
- December 2005 - Provost Hume forms the ad hoc Committee on the Future of International Education at UC
- Feb. 2006 – UCPB member Pat Conrad brings to UCPB a request from EAP campus Directors for UCPB to help get answers to a set of questions regarding campus EAP funding and the UOEAP budget.
- Feb. - March 2006 - UCPB forwards questions to the Provost; receives response.
- June-July 2006 – UCPB's recommendations to expand the membership and revise the charge of the ad hoc committee on international education are sent to the Provost. Interim report of the ad hoc committee distributed.
- Nov. 2006 – new members added to ad hoc committee.

**Discussion:** Professor Conrad, one of the new members of the ad hoc committee, reported that no meeting has as yet been set up for the expanded committee. It was noted that UOEAP process has come under criticism as well, that local EAP offices cannot operate well under the current funding scheme (which is based on FTE, not number of programs), and that there is reportedly duplication of effort between UOEAP and the campuses.

**Action:** UCPB will invite UOEAP's Chief Administrative Officer, Gerald Lowell, to the March 13 meeting for a discussion - together with VP Hershman - of the UOEAP budget and the development of an alternative funding model for EAP.

**Action:** Member Pat Conrad will contact the other new members of the ad hoc committee, and report back to UCPB on any progress made regarding a meeting.

#### **IV. Draft Proposal on the Relationships Between Vendors and Clinicians**

**Issue:** In response to general concerns about practices in the health industry that create conflicts of interest, UC medical centers are reviewing their policies or developing new policies with respect to the relationship between pharmaceutical vendors and clinicians.

The UCOP Office of Clinical Services has drafted "Proposed Guidelines Regarding Vendor Relations," which recommends these regulations:

- A) Gifts from vendors to an individual are prohibited
- B) Unsolicited visits by vendors are prohibited

UCOP is recommending as well these three additional measures:

1. Faculty may not publish articles or editorials that are ghostwritten by vendor Employees.
2. "No strings attached" grants or gifts directed to individuals from vendors shall be prohibited (this excludes competitive grants).
3. All consulting agreement and unconditional grants shall be publicly listed (e.g., on an internet web site).

**Discussion:** One member saw most of the proposals as naïve misdirected, since they may not be enforceable and there is already stricter regulation in place in some schools. Members also questioned why the policy should be limited to medical schools, and noted a double standard that seems to point to medical schools as more prone to be engaged in this type of conflict of interest. Members generally agreed to seek clarification on whether the first policy would apply to groups or not, and on why this concern is being limited to the medical sciences. A further point of consideration is that free samples are often used to treat poor patients, so there may be a need to compensate for losing that resource.

**Action:** UCPB will invite Rory Jaffe, UCOP Executive Director of Medical Services, to the March 13 meeting to discuss the draft proposals on Vendor - Clinician relationships.

**Action:** Members Susan Gillman, Stan Mendoza, and Malcolm Gordon were appointed to a subgroup to review the background materials included in the call for review of the vendor-clinician proposals, and draft a committee response for consideration at the March 13<sup>th</sup> meeting.

#### **V. LANS and the UC Retirement Plan:** Consultation with University Counsel Bill Eklund and Associate Vice President Boyette of HR&B.

**Issue:** UCPB has posed a set of questions regarding LANS/UC relations to University Counsel Bill Eklund and Associate Vice President Boyette of HR&B. In addition, UCPB Chair Newfield has reviewed the results of the 2004 Survey of UC Senate Faculty Regarding the National Laboratories, and would like to discuss ways to bring the current and future lab contracts in line with the sentiments expressed by faculty in that poll.

University Counsel Eklund

**General Points**

- Two important pending questions about the labs are whether there will be a new generation of weapons manufacture; and how the Standing Orders of the Regents need to be re-drafted to allow for UC's direct input on lab governance. Other UC policies will need to be updated, as well, including a procedure for the appointment of lab director and a new policy for the appointment of UC positions on the labs governing board(s).
- There is a clear budgetary impact of UC's relation with LANS/LANL, given the LANS contribution to the UC general fund.
- The operating agreement for LLNL will be cleared for release once the bid for the LLNL contract has been completed in mid March.
- There is precedent for UC participating as a partner with separate legal entities; however, LANS and LLNL are larger than other such UC partnerships.
- If LANL is chosen as the site for new nuclear weapons development, the DOE will likely use second contractor for actual production.

**What is needed to enable UC governance**

- Codified authority of the UC Governors to represent the University -- for example, to change to the operating agreement or make significant changes to the DOE contracts.
- A new policy to provide for the appointment of UC members of the LANS (and LLNS) Board of Governors.
- Established terms of appointment, authorities and limitations of the 3 UC Governors
- Clear reporting relationship of the 3 Governors, either to the Regents, the president, the academic Senate, the DOE lab oversight committee or some combination.
- Clarification of the role of the lab management office at UCOP.
- Updated organizational charts.

**In response to UCPB's questions** [AVP Boyette and University Counsel Eklund.]

*LANS fee distribution.* It is an earned fee, shared among the partners. UC will use it in part to recover overhead costs, etc. The concept of all going to fund research programs is not practical.

*UCRP impact.* The same actuarial assumptions are used for the transfer as are used for UCRP. The retained employee group consists of: former employees who have not joined the LANS defined benefit programs, plus those who worked at LANL but declined to join LANS. The DOE covers costs of all employees, whether they stay in the UC plan or go into new plan. The impact of the transfer of assets to LANS on UCRS will likely be neutral.

*Research and IP.* Patents and other intellectual property belong to the site. Proceeds are retained at the site and used for research and development, technology transfer support, and education. UC principal investigators will not be affected; their rights are still governed by UC intellectual property policies. For new employees, LANS has adopted UC's royalty sharing policy.

*Conflict of Interest.* There is the potential for conflict of interest for some LANS officers. UC officials are obligated to act in compliance with the California Political Practices Act, and in the case of actual or apparent conflict of interest, to recuse themselves. The

development of actual terms of appointment to boards should address these fiduciary obligations

*Liability.* The federal government indemnifies the labs against liability for harm due to nuclear-related events (though this has a limit of about \$10 billion). UC is liable in other areas, such as environmental violations to which fines are attached. Fines would be paid out of the management fee. The way liabilities are shared among the partners is somewhat complicated. In the case of a large loss or a small one, UC covers 50%; a loss in the mid range is split otherwise. The LLNL contract will be set up according to a more traditional partnership arrangement, with partners receiving 33% of net profits and being responsible for the same percentage to cover losses.

*Withdrawal provisions.* The LANS contract has a term of seven years, which can be extended to twenty. The DOE can terminate the contract based on performance. What limits UC's liability is having immunity against 3<sup>rd</sup> party suits.

**Discussion:** Members discussed the need to communicate to senate members the status and history of the labs contracts. In addition, it was agreed that a clear plan of action should be developed to make UC governance structure operable.

**Action:** Chair Newfield will draft a letter to Council Chair Oakley recommending that he send an informational memo to UC faculty highlighting those provisions of the LANL and LLNL contracts that relate to faculty interests/issues. The memo from Chair Oakley should be timed to go out as close as possible to the public release of the labs contracts.

**Action:** Chair Newfield will draft a memo to Council Chair Oakley recommending that a proposal be developed outlining the organizational and legislative changes necessary to make UC lab governance operable.

## **VI. Futures II**

[No action. The subcommittee met separately after the meeting.]

## **VI. Tobacco Funding**

**Issue:** Tomorrow the Assembly will be discussing the proposal before the Regents for a universitywide ban on the acceptance of research funding from the tobacco industry (RE-89). In addition to the Regents requesting the Senate for a clear response to the proposal, Regent Moores has sent a letter to Council Chair Oakley asking for responses to a set of specific questions surrounding policy and academic freedom implications of such a ban.

**Action:** UCPB authorizes Chair Newfield to recommend to the Assembly that the questions listed in the letter of Regent Moores be answered, and that those answers be considered by the Academic Council and the Assembly prior to either of those bodies taking final action on the proposed ban on tobacco industry research funding.

Attest: Chris Newfield, UCPB Chair

Minutes prepared by: Brenda Foust, Policy Analyst