

Brief on Existing and Potential Modes for Interaction Between the Academic Senate and the Regents

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Panel 2 on Shared Governance

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To assist the Panel in its deliberations, the following provides a preliminary list of existing and potential modes of interaction between the Academic Senate and the Board of Regents.

There are two general forms of interaction between the Regents and the faculty, and specifically the Academic Senate: informal and formal.

I. Informal Interaction

Informal interaction with individual faculty has always existed, in one form or another, and has in some measure helped to shape the Board's vision of the purpose and activity of the University with both positive and negative results for the University: positive in that personal interaction has helped Regents understand the complexity of an academic position, and the general values, history, and organizational structure of the University of California; negative in that, on rare occasions, faculty and Regental interaction have acted to circumvent the authority of the President or a Chancellor.

As discussed at a meeting of the Panel in April, the positive aspects of informal action far outweighed these negative aspects, historically proving an extremely important mechanism for informing the Regents on the culture and life of the University, and vice versa the general views of Regents on important issues. The amount of informal interaction between faculty and Regents, however, appears to have waned substantially over the past thirty or so years.

At one time, many Regents had personal ties to specific campuses, and friendships with faculty, academic administrators, and alumni that often preceded their membership on the Board. These relationships provided Regents with access to faculty viewpoints and a more personnel connection with the University. Two factors have contributed to this change:

- The size and complexity of the University has changed dramatically in the post-World War II era, including the establishment of six new general campuses, growth in enrollment from 44,000 in 1950 to 164,000 students in 1996, and the expansion of research activity (e.g., federal contracts have increased from \$41.5 million in 1950 to \$1.8 billion today, not including the DOE labs).

The growth of the University has also made it more difficult to comprehend the breadth of activities of faculty, students and staff -- particularly if such information is largely limited to formal meetings of the Regents. One might conjecture that the need for Regents to be fair and balanced in governing the multi-campus University also has led them to distance themselves from the appearance and reality of favoritism. The Board has a responsibility to develop policy that will serve the best interest of the entire university, and ultimately the people of California. This duty may create a disincentive against seeking ties with individual faculty.

- Fewer Regents today graduated from the University of California (in particular at the undergraduate level), and many have been appointed by Governors as much for their professional acumen and political viewpoints as their knowledge of and experience with research universities.

Informal interaction is, of course, unplanned and serendipitous, and relates to evolving and independent Regental and faculty cultures. One might pursue methods to both change these cultures and create circumstances that would encourage greater informal action that, in essence, would constitute formal interaction. For example:

- The President and the Secretary of the Regents could include faculty in developing and participating in a revised orientation program for new Regents, intended to provide

Regents with a greater understanding of the duties and activities of faculty, and possible contacts for future interaction.

- The President could ask that designated Regents meet with the Senate leadership at specific campuses on an annual basis (similar to the effort Regent Leach initiated when he was chair of the Board).
- Faculty engaged in particular teaching, research and public service activities of interest to specific Regents might be provided with financial support to visit with the appropriate Regent.
- The Regents and the President might ask for a greater role for the existing Advisory Committee to the Governor on the selection of Regents. Currently, the California Constitution requires that the Governor consult this committee which must include "a member of the faculty of the university chosen by the academic senate of the university." (Article IX, Section 9 (e)) Other members include the Speaker of the Assembly, two public members appointed by the Speaker, the President Pro Tempore of the Senate and two public members selected by the Rules Committee of the Senate, the chair of the Regents, an alumnus of the university, and a student of the university chosen by the Council of Student Body Presidents.

The selection of Regents is a highly volatile political issue, and must be approached with caution. The advisory committee is an existing mechanism that might have potential use to provide the Governor with a viable slate of potential Regents. (See also recommendation 1 in the Appendix to this report.)

Encouraging greater interaction may be difficult because faculty and Regents tend to be occupied with their own professional commitments. One might argue that such efforts may also bring marginal results, or even opportunities to pursue personal agendas that are counter-productive for the University. Yet one should look to the long-term benefits of attempting to promote the interaction of Board members, where appropriate, with individual faculty -- that segment of the

University community engaged in the core activities of the institution. As explained in the following section, developing such mechanisms must also take into account how it will influence and serve the presidency of the University.

II. Formal Interaction

Formal interaction between the Regents and faculty has been largely confined to mechanisms that involve the Academic Senate -- the formal entity recognized and empowered by the Regents as representing the faculty in governance and management issues. In turn, Senate interaction with the Regents has, historically, been purposely limited lest it undermine the ability of the President to lead the University and to influence the actions of the Board. Hence, the evolution of the Senate's access to and direct influence on the Regents has been shaped by the role of the President in managing and providing leadership for the University.

A Brief Historical Review:

The present-day relationship of the President and the Senate to the Regents has its roots in the 1899 arrival of Benjamin Ide Wheeler as the University's President. Up to that time, the Regents had engaged in micro-management, and had delegated little authority to a revolving door of Presidents -- many of whom suffered under the strain of partisan bickering among the Regents and the direct access of faculty to the Board. In these early years, the Secretary of the Regents, in fact, had more authority than the President, with control over most of the institution's finances.

As a condition of his employment, Wheeler demanded greater authority over management of the University. This included the stipulation that "the President should be in fact, as in theory, the sole organ of communication between the Faculty and the Regents." Wheeler's effort to strengthen the presidency was accompanied by a commitment to protect and enhance the authority of faculty. He carefully avoided restricting the liberty of faculty in teaching and research, argued to the Regents that professors were "not employees of the University, but

members of it," and in 1915 before the National Association of State Universities he suggested that university faculty should devise a system under which the faculty would become the sole judge of the qualifications of its own members.

Wheeler led Berkeley's emergence as a major research campus, but his declining health, mounting public criticism regarding his sympathy for Germany during World War I, and autocratic management style led to an unusual period of University management. In 1919, on Wheeler's retirement and at the request of a contingent of faculty, the Regents placed the powers of the presidency in the hands of an Administrative Board consisting of three faculty members until a new President could be appointed. The Administrative Board, however, proved incapable of dealing with major budget and enrollment issues in the immediate post-war period. Consternation over the inadequacies of the board led, in part, to the request by Academic Senate leaders for more direct authority and responsibilities.

In a 1920 meeting between Senate representatives and a sub-committee of the Board of Regents, the Regents agreed to allow the Senate to advise the President on all "appointments, promotions, demotions, and dismissals" of professors, and on the appointment of deans; to advise the President regarding "changes in the educational policy of the University"; to advise the President "concerning the budget; and most importantly, to give the Senate the power to choose its own committees and to shape its organizational structure.

The agreement approved by the Regents in 1920 also provided for the annual election of department chairs by the faculty and, more relevant for this brief, the establishment of a Faculty-Regents Conference Committee. By 1923, however, both of these stipulations within the Standing Order of the Regents were removed at the insistence of the new President, William Wallace Campbell.

President Campbell argued before the Regents that the Conference Committee, in particular, dangerously undermined the authority of the President. Indeed the lackluster presidency of Campbell's predecessor, David P. Barrows, had been fraught with faculty insurrections during the post-war recession and in an era in which faculty rights and privileges were part of a national debate. The Conference Committee, argued Campbell, could submit recommendations that differed from his own,

and he feared that it would result in the Regents becoming arbitrators between the faculty and the President.

Both Wheeler and Campbell proved effective leaders, helping to shape the University of California's governance system, including the development of a strong Academic Senate. For over fifty years, the President remained the sole channel of communication between the faculty and the Regents. As described in the following section, not until the 1974 adoption of a state constitutional amendment was the governance structure altered to allow for greater faculty interaction with the Regents,.

Existing Forms of Interaction:

Today there are four general forms of formal interaction between the Academic Senate and the Regents.

- Academic Council's non-voting representation on the Board of Regents provided by the Chair of the Academic Council, and the Vice-Chair as *ex officio* member and Chair-elect of the Council.
- Memorials (or what may be renamed "Universitywide Resolutions") to the Regents that come in two forms: a) they can be passed by the Academic Assembly, submitted to a vote of all Senate members in the University and then, if passed, transmitted to the Regents via the President; b) instigated by a campus division of the Senate which must then be passed by at least three divisions representing 35 percent of the membership of the Senate, submitted to a vote of all Senate members in the University and then, if passed, transmitted to the Regents via the President.
- The approval of policies and regulations, and formal advice by the Academic Senate (e.g., BOARS changes in the eligibility index) that is then either reported to the Regents, or provided as a recommendation by the President for action by the Board.

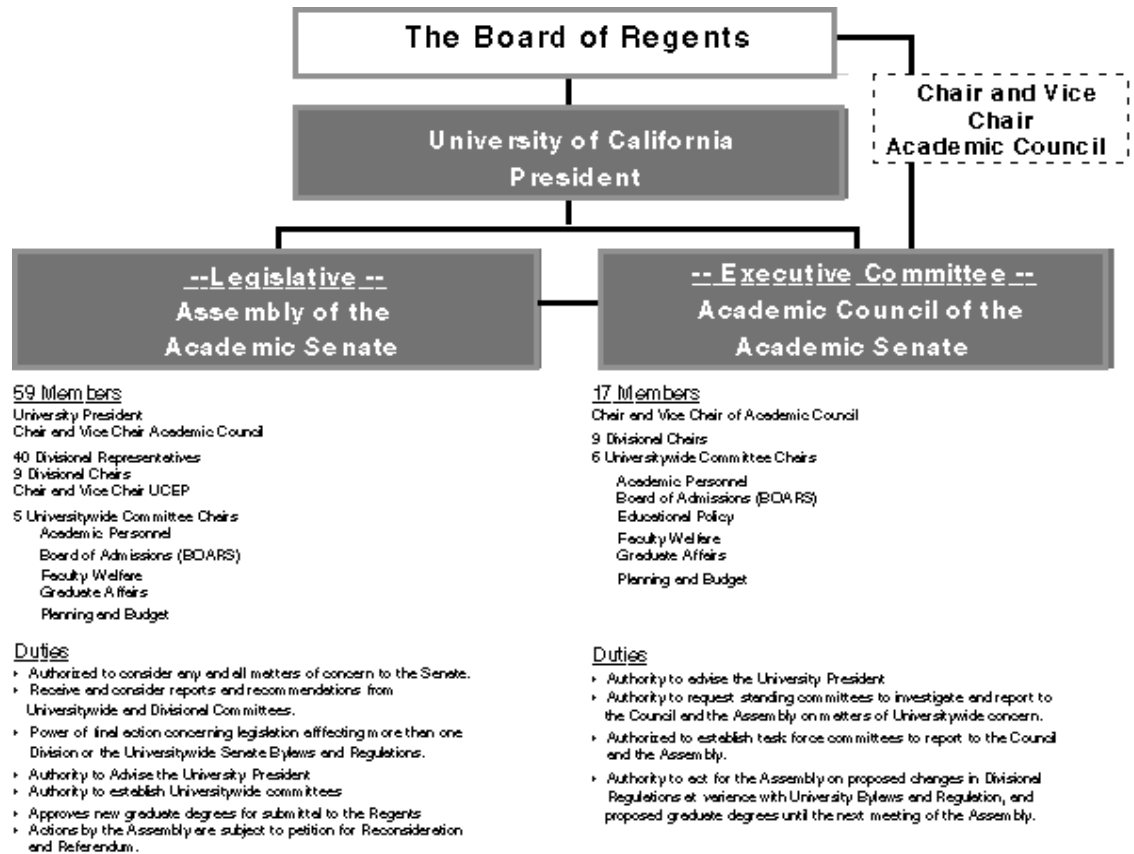
- At the prerogative of the President, resolutions, recommendations, or presentations by Senate committees (e.g., Academic Council) or individual faculty may be presented to the Regents as informational items.

Inclusion of the Chair of the Academic Council as a formal non-voting member of the Regents occurred in 1974 under a constitutional amendment passed by Californians. The amendment provided the Regents with the ability to appoint both a faculty and student representative, but did not require it:

The members of the board may, in their discretion, following procedures established by them and after consultation with representatives of faculty and students of the University, include appropriate officers of the academic senate and student governments, appoint to the board either or both the following persons as members with all rights of participation: a member of the faculty at a campus of the University or of another institution of higher education; a person enrolled as a student at a campus of the University for each regular academic term during his service as a member of the board. (Article IX, Section 9 (c))

The Regents provided for both a student and faculty representative with full voting rights. Under the constitutional amendment, the Regents could chose a faculty representative from "another institution of higher education," but this was never seriously considered. The Academic Senate was asked to select the appropriate representative. Formal faculty presence at the Board of Regents meetings had, in fact, begun under Clark Kerr's presidency.

Academic Senate Organization and Representation on the Regents



The student representative, chosen by the Regents from a pool selected by the associated student governments, accepted the right to vote. After lengthy discussion, Senate leaders decided to reject voting privileges for two general reasons: one, the Chair of the Council, selected as the logical representative of the faculty, would often be put in a position to vote on issues that the Academic Senate's committees and campus divisions might not have yet formulated a position, or were divided on; and two, the privilege of voting might create situations in which the Senate was in opposition to the President, eroding his/her leadership.

It was assumed that open opposition to the President before the Regents on a major policy issue should be rare, and that such opposition could be voiced through the memorial or by the faculty representatives on the Board. Attaining a vote, it was reasoned, might in fact create a dynamic in which the Senate representative might provide formal endorsement of proposals either opposed or thought flawed by major Senate committees as part of the desire to support and maintain the authority of the President.

Possible Interaction

Additional formal interaction could be adopted by establishing annual meetings with key Regents and annual reports. These meetings could have four major purposes: 1) to discuss relevant issues of concern to the Regents and the faculty; 2) to identify issues in which the Academic Senate might provide additional advice and consultation; 3) to help develop better familiarity with the personalities and operations of both the Regents and the Academic Senate; 4) to allow the presentation of reports of appropriate Academic Senate Committees on an annual basis.

The following provides a list of *possible* ways to facilitate constructive interaction between the Senate and the Regents for the University.

- An annual invitation by the Chair Academic Council to the Chair of the Regents to meet with the Council, or on occasions deemed beneficial by the President and the Council in which a specific issue might be discussed.
- An annual invitation by the Chair of the Academic Council to the Chair of the Regents Committee on Educational Finance to meet with UCEP, or on occasions deemed beneficial by the President and the Council in which a specific issue might be discussed.
- An annual invitation by the Chair of Academic Council to the Chair of the Regents Committee on Finance to meet with UCPB, or on occasions deemed beneficial by the President and the Council in which a specific issue might be discussed.
- An annual invitation by the Chair of Academic Council to the Chair and/or Vice Chair of the Regents to meet with the Academic Assembly, or on occasions deemed beneficial by the President and the Council in which a specific issue might be discussed.

- When agreed to by the President, the creation of joint Regent, administration, and Senate task forces to discuss key and long-term educational policy issues.
- Annual reports by the chair of BOARS, UCEP, UCAP and CCGA to the Regents on policy issues directly related to the charge to the Senate (see also suggestions by Clark Kerr in the appendix to this brief).
- A revision of the requirements for the Memorial to allow the Academic Assembly to provide a "Universitywide Resolution" that does not require a vote by all Divisions of the Senate.
- Other?

Evaluation of these and other alternatives should take into account their long-term potential impact on the management of the University, and the respective roles of the President and the Academic Senate. The tendency to seek structural solutions for the perceived problems of a particularly era should be studiously avoided.

Context of Academic Senate Influence on University Policy-making:

In reviewing possible options for changing the interaction of the Academic Senate with the Board of Regents, one should also be cognizant of the general dynamics of decision-making with the University. The President, with the assistance of the Vice President and Provost of the University, must coordinate the agenda of the Board of Regents, and orchestrate analysis and recommendations that can lead to both Regental decisions and edification on the operations of the University.

The Academic Senate provides one major entity for helping to formulate this agenda and recommendations. Individual Chancellors, supported by their administrative staffs and campus divisions of the Senate, also play a major role -- particularly in light of the fact that many policy changes, such as new degree programs, relate to individual campuses.

The general administration of the Office of the President provides another.

Increasingly, other entities have emerged with influence over the policy-making process, and in setting the agenda for Regental consideration and action. This includes the Council of Chancellors (created in the early 1970s), and more recently the Council of Vice Chancellors. There are also now regular meetings of the Graduate Deans, Undergraduate Vice Chancellors, University Librarians, and Vice Chancellors for Research, among many other groups, that help to coordinate universitywide operations, and provide advice and recommendations to campus and universitywide officials. Associated Students also have become more important in influencing policy-making. The growth in the number of these agencies has evolved with the general process of decentralization of authority to the campuses begun under President Clark Kerr, and bolstered by the dramatic growth in UC's enrollment and academic programs.

This change in the organization and operation of the University has also changed the nature of the Presidency, creating the need for more elaborate forms of consultation, and, in turn, influencing the role of the Academic Senate in providing advice and shaping policy. The President and the Provost are obligated to consult and respond to an increasing number of organized constituents and managers, and at times these constituencies argue over the jurisdiction and appropriate influence of the others.

Increasing the role and visibility of the Academic Senate, including greater interaction with the Regents, may help in improving the management and operations of the University. It may also provide the President and the Provost with a more salient mechanism to balance the influence of a growing administrative structure and the competing interests of the campuses.

Appendix

Suggestions for the Review of Governance of the University of California

from Clark Kerr's Draft Memoirs, dated 2/14/97

1. Selection of regents. That the Board of Regents should take an active interest in the selection of new regents . Specifically I suggest that the board, when an opening occurs or is about to occur, write to the governor that it would welcome consultation by the governor with the chair of the board and/or the president on the selection. The chair of the board and the president will know better than any governor can what home locations, skills, and aspects of personality make best sense to the operations of the board. I note this has sometimes been the informal practice, but not uniformly so.

I totally oppose direct popular election of board members as some are now suggesting. Experience shows that public election of trustees is increasingly likely to become selection by members of highly organized and motivated groups, not by the informed will of the people at large. If the power of selection is to be changed, I favor having more sources of appointment, for example appointments by the superintendent of public instruction or the chief justice of the state supreme court, and/or more appointments by alumni

associations.

2. Consultation with Academic Senate. That the board might set up a direct discussion process with the universitywide Academic Senate, with the president fully involved as chair. For example, the Regents Committee on Educational Policy might meet at intervals with the Academic Senate's Committee on Educational Policy, and with the senate Committee on Academic Personnel (UCAP).

That the board might ask the president, as part of the review process, to prepare a candid appraisal of overall academic personnel actions, campus by campus on an annual basis, to be submitted to the committee on Educational Policy, possibly meeting jointly with the senate Committee on Academic Personnel ((UCAP). The board is now almost completely cut off from participation in or knowledge about the most important series of decisions made within the university.

3. Credit for the university service. In addition, I suggest that the Academic Senate and the chancellors might wish to consider giving more attention to "university service" in the course of appointing and promoting faculty members, including making it part of the record when any faculty member is unwilling to accept appointment on faculty committees or having been appointed does not serve actively. The

senate suffers from some self-inflicted wounds. Increasing numbers of faculty members are unwilling to take the time to serve on senate committees or do not attend meetings or do not actively participate if they do attend. They are too tied to their research, to their consulting work, to contacts outside the University of California, or are too bored by committee work, or wish to avoid the pressure cooker of conflicts over policies and appointments and promotions in the new ambiance of "political correctness," and to avoid the loss of friendships? There are still, however, many devoted senate members. And departmental governance still remains largely effective.

4. Memorials to the regents. There are more ideological splits among faculty than ever before. Consequently, I also suggest that all memorials to the Board of Regents [continue to] be based on mail ballot votes. And that each division of the senate should have the right to submit memorials to the regents on its own but subject to comment by the universitywide Academic Council.

Comments and questions on this brief can be forwarded to author John Douglass at: john.douglass@ucop.edu