

**ACADEMIC COUNCIL
MINUTES OF MEETING
September 27, 2006**

I. Chair's Announcements

Chair Oakley welcomed Council members to the new business year. He described the Senate Chairs' Retreat held yesterday as an instructive and productive meeting that offered a chance for the Chairs and Vice Chairs of the standing committees of the Assembly to identify topical concerns and areas of mutual interest. Chair Oakley invited Council members to introduce themselves, and then made remarks on Council procedures and the day's agenda.

Nomination and Election of the Senate Vice Chair- Selecting a nominee for Senate Vice Chair is one of Council's most important tasks. Although the process is open to change, the current practice is for Council to solicit nominees at the end of the calendar year, and to select a nominee in January or February who is recommended to the Assembly. The Assembly then elects the Senate Vice Chair, usually following the recommendation of the Council, although the Assembly may also consider additional nominations. To comply with a request that came from the Assembly last year, Council will provide full background information on the Council's nominee.

Senate Structure – The UC Academic Senate has thirteen thousand members, is basically parliamentary in structure, and its executive body is the Academic Council. The Assembly is the legislative body of the Senate, made up of members of the Council plus 40 representatives from the campuses, and the UC President, who is also President of the Assembly.

Meetings of the Council - Council now approves the agenda for each meeting to ensure that members' concerns are duly addressed. Issues are discussed as fully as possible given time constraints. A list of speakers is kept, and each speaker has to be recognized and speak in order. This process is also followed during consultation with UCOP senior management.

Tobacco Industry Research Funding –An outcome of the September Regents' meeting was a request for the Senate to comment on whether, based on the recent court finding that tobacco companies have engaged in racketeering activities, there should be a university-wide ban on accepting funds from tobacco companies or tobacco associated sources. Council will discuss this matter under agenda item VII.

II. Approval of the Agenda

ACTION: At Chair Oakley's request, Council agreed to address agenda item IV before agenda Item III. The agenda was approved with that change.

III. Academic Council Overview

Chair Oakley advised members to notify himself and Senate Director Bertero-Barcelo of any items they may want on the Council agenda at least 12 days in advance of the meeting. In response to a member's question, Oakley explained that he and Vice Chair Brown meet frequently - both formally and informally - with President Dynes and other

members of OP's senior management, and that there is a regular pre-Council meeting each month to go over Council agenda items.

IV. Consent Calendar

1. Approval of July 26, 2006 minutes
2. Amendment of Senate Regulation 694 and Proposed New Senate Regulation 695
3. Approval to send out for Systemwide review proposed amended Senate bylaw 205 University committee on Rules and Jurisdiction

ACTION: Item #2 on the Consent Calendar, the amendment of Senate Regulation 694, was moved to New Business.

ACTION: The Consent Calendar was approved as amended.

V. Consultation with the Office of the President

Robert C. Dynes – President

Rory Hume – Provost and Executive Vice President-Academic and Health Affairs

Bruce Daring – Executive Vice President-University Relations

President Dynes

Planning and overall vision for the University. UC's public status makes it unique among its academic peers and places it under greater public scrutiny than comparable private institutions. By virtue of its international and national standing and because of its size and public mission, UC has great impact as a model of higher education. A planning vision, conceived of as "the Power of 10", will be able to carry UC well into the future by recognizing and defining strengths in the differences among the ten campuses and fostering and supporting vigorous collaborations whose success is built on those differences. Prime examples of such campus collaborations are found in the California Institutes for Science and Innovation. For instance, the partnership of Berkeley, San Francisco and Santa Cruz in the Institute for Quantitative Biomedical Research, or the California Institute for Telecommunications and Information Technology, a collaboration of UC Irvine and UC San Diego that drives innovation through cross-campus multidisciplinary research connecting digital media, nanoscience, and the social sciences. *The Long-Range Guidance Team*, co chaired by Provost Hume and EVP Darling, is looking at planning goals and projections through the year 2020. Its report is expected this fall, which likely will be presented on campuses in a Town Hall format.

UC's International Strategy. An essential part of this planning effort is to develop a coherent international strategy. UC has numerous and widespread body of international alumni, who can play a role. China, for example, see UC and the California Master Plan as models. The "10 plus 10" program to facilitate exchange between UC and 10 of China's universities provides an example of how UC is engaging international interest and will also better be able to work with and attract the best minds from around the world.

Fiscal Issues. Our state funding, which amounts to about \$3B/year, is mostly for teaching, is tied to the state economy, and is relied on for core funding. Other sources of funding are the Federal government and philanthropy. UC needs to have something more

robust than the Compact in place before we face another economic crisis. Some Regents feel we should become semi-privatized, which would allow some campuses to charge market rates for tuition. This, however, would lead to a serious division among the campuses. The alternative is to diversify sources of funding as much as possible to pick up slack. We are also investing more in alumni development efforts.

Provost Hume

Academic Planning. The Academic Planning Council (APC), a joint Senate/administrative committee, is currently engaged in several planning areas:

- Review of the outcomes of the Long-Range Guidance Team's planning efforts
- Systemwide Academic Planning - This fall, the first round of three years of intensive campus discussions will start. The goal is to make clear the academic planning intentions of all campuses. For this to be successful, we need to maintain close contact with Senate Division Chairs to make sure the Senate is directly involved.
- Growth and planning for academic graduate professional education – including issues related to growth (e.g., the UCI law school proposal and UCR medical school and law school proposals); promotion of interdisciplinary doctoral work, enhancement of graduate student support; growth/demand in nursing and public health.
- Information technology and library issues.
- UC education and student life

Regents Study Group on Diversity. Provost Hume and Regent Parsky are co-chairs; the Academic Senate will be key participants. Work groups will be formed to look at all aspects of diversity, and at what has happened since the implementation of Proposition 209.

Student mental health. The report presented to the Regents this month recommends changes in and more funding for campus mental health services by increasing the registration fee.

Science Math Initiative. The Senate has provided vital support in developing the program. It is now in transition regarding campus leadership and things are going well. It is important that this program succeeds; the level of interest among both students and faculty is high

Education Abroad Program review. The ad hoc review committee membership is being augmented as per the Council's recommendations, and the review may be complete by early spring.

Unionization of postdocs. Developments in this matter are being monitored.

Budget strategy. Attention is being paid to indications and analyses in the UCPB:Futures Report". There will be more dialogue with the Senate on budgetary strategies.

Consultation with Senate committees. Consultant positions on UCPB, UCORP, and CCGA are now vacant or in transition. Because of OP recruitment timelines and office changes, full time consultants will not be available for the present, but it is hoped that the positions will be filled within 6 months.

Vice President Darling

State bond issue. –The education bond measure on the November ballot provides funds for capital improvement and program growth. Division Chairs are requested to work

with administration on the campuses to get the word out to all groups and individuals and convey that this funding is critical for the support of UC.

Federal funding issues. As part of the American Competitiveness Initiative, NSF and DOE funding will be doubled over 10 years. The NIH will perhaps see a 5% increase, so it is back on a growth track. UC has strong policy to request “earmarked” funds only with those agencies that do not conduct peer review. Campuses should be aware of the OP Guidelines on Non-Competitive Funding that were issued last year, which outline the university policy and the process for requesting targeted funds. Last year there were 32 such requests from campuses.

Private giving. From \$600M ten years ago, gifts have increased to \$1.3B this past year. Alumni giving is, however, an area that has great room for improvement, and is a major focus for development efforts.

National labs. Proposals in response to the RFP for management of the Lawrence Livermore National lab (LLNL) are due by October 12. The UC proposal would establish a LLNL Board of Governors, to oversee the management partnership (similar to that of the Los Alamos National Security LLC), made up of three UC members - Regent Parsky, UCSD Chancellor Fox, and EVP Darling - and 3 industry members. The biggest concern for UC is to maintain the quality of science at the lab.

The Federal Animal Enterprise Terrorism Bill. UC strongly supports this bill, which would increase related criminal sanctions.

Compensation. The Regents have asked to review compensation practices associated with all UC employees. A joint Senate/administrative group will be established to look at all compensation related activities and a full range of related issues. Work will likely begin in January.

Q and A

Q: Regarding the current re-organization and recruitment of management at the Office of the President, will there be an effort to place academics in executive roles?

A: Hiring the two new senior positions of Executive Vice President for Business Operations and Chief Financial Officer will not change the academic vision of UC. The President and Provost positions are, appropriately, filled by academics. Having an academic background is preferable for many of the positions that are being filled, or are in transition, such as the Vice President for Student Affairs and the Vice Provost for Academic Planning. It is also important to fill these positions with individuals who can handle the clinical management and financial management aspects of the jobs as well as the academic side. Someone with academic experience will be sought for a Vice Provost of Education Relations, and eventually to fill the position of Vice President for Academic Advancement. The new Associate Vice Provost for Scholarly Information, Dan Greenstein, has an academic background.

Q: Is there anything being done to follow up on Faculty Diversity Forum?

A: Yes, the Acting Assistant VP of Academic Advancement, Sheila O'Rourke, is working on specific follow up steps.

Q: How will tuition costs for out of state graduate students be eased, since waiving NRT would require a change in state policy?

A: We do have the flexibility to collect tuition and then give it back, and we are continuing to work on a better solution.

- Q:** Can the faculty, in particular UCPB, conduct research together with UCOP consultants that will look at outcomes of planning and budgetary strategies and convey those outcomes in concrete terms to the Regents and the public?
- A:** This is a task of creating a public culture of investing for the long term in UC. It's a problem of having to reverse the mentality of wanting to pay only for what I get and no more. OP will be happy to work with UCPB on such budgetary education.
- Q:** What is being done to fix the faculty salary scale?
- A:** We are in dialogue with the Chancellors and the EVCs about the way we allocate equity, merit and COLA pay increases and how to reallocate them in order to raise the salary scale. The actual amount needed to make the change is not much, relatively speaking, which makes raising the pay scales possible. It is very important to maintain a scale, and to ensure that it is meaningful and defensible.
- Q:** With a shift from benefits to cash, there is concern at UCSF about loss in total compensation.
- A:** We need to see the net effect over years of all types of employees, and we are now getting those numbers.
- Q:** UCSC is not integrated into the electronic linkage that connects of all other campuses. Will this deficit be corrected?
- A:** Yes
- Q:** UC Davis faculty are concerned about the implications of a campus policy require that faculty receiving funds from an external grant be paid under separate professional research titles. Is this practice common among the campuses, how does it impact fractional appointments, and how will this be seen by the state legislators?
- A:** This matter will be looked into, with a reply sent to the Davis Divisional Chair and a copy to all Council members.

VI. General Discussion

Council members briefly discussed university investment allocations and limitations on venture capital investments, and the allocation of funds for faculty equity increases. In connection with faculty retention it was noted that the request for a faculty tuition benefit should be reiterated. Also mentioned was the need to put resources into faculty mental health support, in addition to the focus on student mental health.

VII. Restriction on Research Funding

Issue: At their September 20 meeting, the Regents considered the question of a ban on accepting research funding from tobacco companies or other funding sources sponsored by the tobacco industry. The Senate was requested to advise the Regents on the matter in light of the recent court finding that tobacco companies have engaged in racketeering activities. In 2004, the Academic Council approved a Resolution maintaining that the principle of academic freedom provides individual researchers the right to accept or refuse funding from any source, consistent with university policy, and that no unit of the University should obstruct that right. After full Senate deliberation of this position, the Assembly adopted a revised resolution in 2005, which re-stated the position that no unit of the University, whether by faculty vote or administrative decision, has the authority to prevent a faculty member from accepting research funding based solely on the source of

the funds, but that also recognized the Regents as having the plenary authority to institute such a ban university-wide. This policy was implemented by President Dynes.

Discussion: Chair Oakley clarified that Council is being asked to consider whether the recent court decision is sufficient justification for the Regents to institute a specific funding restriction, and whether and in what form the matter should be taken to the Assembly for final action.

Discussion Points.

- Advising the Regents to institute a ban that would deny faculty the right to accept research funds opposes the 2005 Senate position.
 - We should describe circumstances and not target a particular funding source.
 - It can be argued that the tobacco industry is a distinctive case – an organization that has systematically undermined research by promoting false findings and in doing so strikes at the heart of research ethics.
 - Revenue from taxes on cigarettes is also tobacco funding.
 - It will be too difficult to define what acceptable money is, once one ban is instituted.
 - Faculty merit review and the faculty code of conduct are adequate means to safeguard against influenced or corrupted research.
 - The most effective stance is to simply reaffirm the Senate’s previous position.
 - Council needs more evidence than the current agenda materials in order to come to a reasonable, considered decision.
 - The 2005 resolution is an imperfect document that takes the decision out of the hands of faculty and gives it to the Regents.
 - A response to the Regents should emphasize the principle of academic freedom.
 - To allow tobacco as an exception is to make a RICO Act finding the de facto reason for a research funding ban.
 - The Senate needs to respond clearly to the request and include information in that response about mechanisms for addressing unethical research behavior.
 - A valid response is to say we don’t think the court ruling causes us to rethink our position on the supremacy of academic freedom.
 - Council should in the future look into the issue of the authority of the Regents in academic freedom matters.
 - There are deep divisions among the faculty on this issue, which is a good reason not to adopt a position, but to report that there is no faculty consensus.
 - What has occurred since the last Senate debate of this issue is not a moral but a legal change. Nonetheless, the acceptance of tobacco funding affects how people and institutions are judged. We’re losing a sense of the balance between academic freedom and ethics and collective responsibility.
 - Our response should state explicitly that our protection of academic freedom should not be construed as an endorsement of accepting funds from any organization that is legally deemed a racketeering-influenced corrupt organization.
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- The Senate should be consistent with its previous resolution. The Faculty should not be or appear to be fickle. We should say we affirm the previous resolution, but also

offer principles for Regents to consider in making their decision, for example that such bans should be rare.

- The Assembly and Council need to see the evidence. At the same time we should avoid modifying or overturning an Academic Senate action.
- The Senate should just state that nothing has changed with this court decision.

Actions

MOVED: To table the issue pending receipt and review of more background materials.
Motion Failed.

MOVED: That the Academic Council instruct the Council Chair to communicate to the Regents that Council urges the Regents to take very seriously the May 11, 2005 Senate Resolution on Research Funding Sources, which 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.”

SUBSTITUTE MOTION: That the Academic Council opposes a proposal to restrict funding to UC faculty from the tobacco industry on the basis that this would violate academic freedom and that sufficient mechanisms are in place to prevent inappropriate use of funds from the tobacco industry.

Friendly Amendment: That the Academic Council instruct the Chair 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: In a vote of 12 in favor, and five against, with one abstention, the Academic council adopted the substitute amended motion as follows: “The Academic Council instructs the Chair 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.” Council’s position and the vote on this action will be forwarded to President Dynes for transmittal to the Regents.

VIII. Proposed Amendment to Senate Bylaw 185

Issue: The proposed amendment to the University Committee on Library (UCOL) bylaw went out for division and committee review last year. UCOL proposes adding oversight of scholarly communication issues to its charge, and, accordingly, changing the name of the committee to University Committee on Library and Scholarly Communication. In response to comments received from the review, UCOL has submitted a revised proposal that would, as well, add up to 3 at-large members of the committee.

Remarks of UCOL Chair, Ben Crow. With the disbanding of the Special Committee on Scholarly Communication, which was formed in order to respond to pressing publication and copyright issues, it is now necessary for a Senate committee to be able to address in an ongoing way, important matters related to changing and emerging means of scholarly communication. UCOL is the appropriate committee to take on and continue that work. Instead of the proposed new language of the committee charge (Senate Bylaw 185 B.1) as it appears in the agenda, revised language would read, “Advise the President concerning the administration of the libraries of the University, *and issues related to innovations in forms of scholarly communication.* (New proposed language in italics.)

Discussion: Members were in general agreement with the new language in the charge. It was suggested using the language of the UCFW bylaw as a model for changes in section A, for clarity. The change was noted as a good indication that libraries are no longer necessarily buildings but are entities of information management. The change was also seen as useful for CAP review of publications.

ACTION: Proposed amended Senate Bylaw 185 was further amended as follows:

- 1) New language in SBL 185 A. to provide for additional at large committee members will conform to similar language in the UCFW bylaw;
- 2) New language in SBL 185 B.1. will read: “Advise the President concerning the administration of the libraries of the University, *and innovations in forms of scholarly communication,* in accordance with the Standing Orders of The Regents”(changes in italics). Chair Oakley will circulate these proposed changes to Council members for concurrence by email, and ask that UCOC review the requested membership change. The proposal will be placed on the consent calendar of the October Council meeting for approval to send the proposal as amended to the Assembly

IX. Joint Senate – EVC Meeting

ACTION: This item will be addressed at the October 25, 2006 Council meeting.

X. Updates from ACSCONL

ACTION: ACSCONL updates will be given at the October 25, 2006 Council meeting.

XI. Assembly of the Academic Senate

Issue:

- 1) Council is to discuss the number of Assembly meetings for 2006-07 and determine the date of the first meeting.

2) Council is to set the Agenda for the First 06-07 Assembly meeting, which is to be held on or after October 11, 2006, and to decide whether the meeting will be held by teleconference or face-to-face. Proposed items are:

1. Proposed Statement of the Academic Council on Interaction Between UC's Faculty and the UC-Associated National Laboratories"
2. Determine based on the outcome of today's discussion on tobacco funding, the next steps for Assembly—a discussion of, or a proposed resolution on, tobacco funding.

Actions

MOVED: To cancel the October 11, 2006 meeting of the Assembly, if research funding from the tobacco industry is the determining issue for holding a meeting.

MOVED: To call the question. Motion passed.

ACTION: The motion to cancel the October 11, 2006 Assembly meeting **failed**.

ACTION: The first meeting of the Assembly will be a face-to-face meeting to be held October 11, 2006. The meeting agenda will include endorsement of: 1) the Proposed Statement of the Academic Senate on Interaction between UC Faculty and UC Associated National Laboratories; and 2) the Council's statement on Research Funding that was approved today (see item VII).

ACTION: Communication to the President of a statement on research funding will be deferred until after the Assembly acts on the matter.

ACTION: Chair Oakley will include in his announcements for the October Assembly an update on the current discussion of the faculty salary scale.

XII. UCIE resolution on Student Enrollment in the UC Education

ACTION: This issue will be addressed at the October 25, 2006 Academic Council meeting.

Meeting adjourned, 4:30 p.m.

Attest: John Oakley, Academic Council Chair

Minutes prepared by: Brenda Foust Senior Policy Analyst

Distributions:

1. Salary Recovery from Extramural Sources: UC Davis
2. Draft Suggested Regental Policy on Research Funding