

THE REGENTS OF THE UNIVERSITY OF CALIFORNIA

May 16, 2001

The Regents of the University of California met on the above date at UCSF - Laurel Heights, San Francisco.

Present: Regents Atkinson, Bagley, Bustamante, Connerly, Davies, Eastin, Fong, Hertzberg, Hopkinson, O. Johnson, S. Johnson, Kohn, Kozberg, Lansing, Lee, Marcus, Miura, Montoya, Moores, Parsky, Preuss, and Sayles (22)

In attendance: Regents-designate T. Davis, Morrison, and Seymour, Faculty Representatives Cowan and Viswanathan, Secretary Trivette, General Counsel Holst, Provost King, Senior Vice Presidents Darling and Mullinix, Vice Presidents Broome, Drake, Gomes, and Gurtner, Interim Vice President Gómez, Chancellors Berdahl, Bishop, Carnesale, Cicerone, Dynes, Greenwood, Orbach, Tomlinson-Keasey, Vanderhoef, and Yang, and Recording Secretary Bryan

The meeting convened at 10:15 a.m. with Chairman S. Johnson presiding.

1. APPROVAL FOR CONSIDERATION OF ITEM RE-28 BY THE FULL BOARD

Upon motion duly made and seconded, The Regents approved passing consideration of Item RE-28, *Future Admissions, Employment, and Contracting Policies – Resolution Rescinding SP-1 and SP-2* directly to the full Board without its first having been considered by the appropriate Standing Committees.

2. FUTURE ADMISSIONS, EMPLOYMENT, AND CONTRACTING POLICIES – RESOLUTION RESCINDING SP-1 AND SP-2

Regent Hopkinson moved adoption of the following resolution:

WHEREAS, on July 20, 1995, The Regents of the University of California adopted SP-1, a resolution that prohibited the consideration of race, religion, sex, color, ethnicity, or national origin as criteria for admission to the University or to any program of study, and SP-2, a resolution that prohibited the consideration of the same attributes in the University's employment and contracting practices; and

WHEREAS, on November 6, 1996, the voters of California passed Proposition 209 which was incorporated into the California Constitution as Article 1, Section 31; and

WHEREAS, on February 15, 2001, President Atkinson requested that the Academic Senate conduct a comprehensive review of the University's

admissions policies including, among other issues, the use of quantitative formulas, and provide recommendations to The Regents.

It is anticipated that the admissions review initiated by President Atkinson and currently under way by the Academic Senate, will be completed in calendar year 2001; and

WHEREAS, some individuals perceive that the University does not welcome their enrollment at its campuses;

NOW, THEREFORE, BE IT RESOLVED THAT SP-1 AND SP-2 ARE RESCINDED BY THIS RESOLUTION, AND:

- A. That the University has complied with and will be governed by Article 1, Section 31 of the California Constitution by treating all students equally in the admissions process without regard to their race, sex, color, ethnicity or national origin, and by treating employees and contractors similarly.
- B. That the University shall seek out and enroll, on each of its campuses, a student body that demonstrates high academic achievement or exceptional personal talent and that encompasses the broad diversity of backgrounds characteristic of California.
- C. In keeping with longstanding Regents' policy, The Regents reaffirm that the Academic Senate shall determine the conditions for admission to the University, subject to the approval of The Regents, as provided in Standing Order 105.2.
- D. Pending any changes which The Regents might approve, the provisions for admission shall be those outlined in the Guidelines for Implementation of University Policy on Undergraduate Admissions, which were adopted in July 1996 and revised in May 2000.
- E. That the University shall have programs available to assist in the retention of all students so as to assure that they successfully complete their education.
- F. That the University's current commitment to outreach programs for California's public elementary and secondary school students shall be pursued on a long-term basis to improve the early educational preparation of students who will seek a college education in the future.
- G. That the University shall undertake new initiatives to improve the transfer of academically prepared students from California's Community Colleges to the University.

Regent Hopkinson's motion was duly seconded.

Vice President Darling explained that the resolution would rescind SP-1, *Policy Ensuring Equal Treatment-Admissions* and SP-2, *Policy Ensuring Equal Treatment-Employment and Contracting*, reaffirm the role of the Academic Senate in determining the conditions for admission to the University, and acknowledge that President Atkinson has asked the Academic Senate to conduct a comprehensive review of the University's admissions policies, including the use of quantitative formulas. It is anticipated that the Academic Senate's review will be completed by the end of 2001. Any resulting changes to the criteria for student selection would be effective for students entering in fall 2002.

Regent Hopkinson stated that she had shared the concern of several Regents that SP-1 and SP-2 may have created the perception that underrepresented students were unwelcome at the University. She wished to dispel that perception by sending the message that the University shares a common commitment to a diverse and representative student body. She emphasized that the new resolution places the issue of review and recommendations on admissions criteria with the Academic Senate and sets a timetable for those recommendations to come to the Regents in time for fall 2002 admissions. She noted that she had reached consensus on the matter with Regents Connerly and Bagley.

Regent Connerly commented that he wished to do what is best for the University. He recalled that a delegation of Regents and Office of the President staff had asked him to work with them to find a compromise to what has become an impasse on the subject of racial preferences in admissions and contracting. He and Regent Hopkinson fashioned the Regents item that became RE-28, which they believed reflected a majority opinion. Subsequently, objections were voiced by some Regents, and the item was reworked. He noted that although he believes devoutly in the principle that race, color, ethnicity, and national origin should have no place in the transactions of government, as embodied in SP-1 and SP-2, he respected the fact that the convictions of others may not comport with his. He observed that the notion of equal opportunity is locked in the California Constitution and that it has been reaffirmed by a vote of the people of California. He accepted that a compromise would prevent the Regents from wasting energy and would allow them to move forward; however, he cautioned against creating the perception that the University is no longer selective and is willing to weaken its standards. In closing, he noted that the Board of Regents is one of only two bodies that the people of California have safeguarded in their constitution. He believed it was inappropriate for legislators to threaten the budget of the University based on their personal opinions.

Regent Bagley acknowledged that some on the Board who voted for SP-1 and SP-2 sincerely believed in early 1995 that the preferences that had been exercised had gone too far, but he suggested that taking that action may have produced unintended consequences in the form of putting the University at the forefront of a national movement against affirmative action. He believed that the adoption of RE-28 would be more than a symbolic action in that it would send a message to the world that the

University is not a sponsor of a national movement and to future Boards of Regents to reject all who would use the University for or against ideological political causes. He emphasized that in adopting RE-28 the University would not be returning to affirmative action but that the main purpose of RE-28 would be to repair the University's reputation.

Regent Eastin spoke to issues related to K-12 education. She observed that, although President Atkinson has worked to strengthen the University's quality and to reach out to its students, the success of his programs has been hampered by the fact that the State's public school system is failing in its duty to educate children and to prepare the most promising for college. Minority children are taught disproportionately by unqualified, uncredentialed teachers. She believed that the Legislature should provide sufficient support for the University to continue expanding its schools of education so that the 300,000 teachers the State needs in the next ten years can be supplied. She urged the Regents to reconsider the weighting of Advanced Placement courses because they are available only to a small fraction of the student population. She recalled that she had voted against SP-1 and SP-2 and reported that she was glad to see the Regents redeem themselves with the action they were about to take.

Regent Bustamante read into the record a letter from the National Association for the Advancement of Colored People to President Atkinson and The Regents indicating the NAACP's support for repealing SP-1 and its opposition to the original alternative, RE-28. Through this reference, the letter is made a part of the official meeting record. Mr. Bustamante recalled that 47 years ago *Brown vs. the Board of Education* was decided by a former Regent, Chief Justice Earl Warren, who determined that segregating schools was wrong. Mr. Bustamante believed that RE-28 would put the University back on track with regard to nondiscrimination. He also read a letter addressed to himself and Speaker Hertzberg from President Atkinson confirming that on February 15, 2001 the President had written to Michael Cowan, Chair of the University of California's Academic Council, requesting that the Academic Senate conduct a thorough review of the University's admissions policies, including, among other issues, the use of quantitative formulas, and amend the admissions policies to require that all campuses employ comprehensive unitary review processes. In the letter, the President also confirmed that any changes that The Regents may adopt to the University of California's undergraduate admissions criteria following timely recommendations by the President and the Academic Senate will be effective for students who matriculate in the fall of 2002, and that the matter would be placed on the Regents' agenda in time to affect students who will be admitted in the fall 2002 admissions process. Mr. Bustamante believed that RE-28 was an acceptable proposal that would give every community in the state a clear message that every child is welcome into the University system.

Regent Lansing observed that perception can become reality and that therefore the University needed to change the perception that it did not welcome all students. She noted that every member of the Board believed in a diverse student body and had worked together for the betterment of the University.

Regent Hertzberg thanked legislators, President Atkinson, and Senior Vice President Darling for the work that resulted in RE-28, a resolution which will result in sending out a positive message about the University and reaffirm its legitimacy as a democratic institution. He believed that in adopting RE-28 the Regents would effectively extricate the Board from the arena of politics.

Regent Parsky believed that the University should stand for and respect the free and open flow of ideas and points of view. He thanked Regent Bagley for keeping the issue at the forefront, Regent Connerly for his integrity, Regent Hopkinson for her role in fashioning RE-28, and Regent Hertzberg for his input. He echoed the sentiments of Regent Lansing that the Board members share a desire to have a diverse student body consistent with the Constitution.

Regent Davies stated that he had voted for SP-1 and SP-2 and continues to believe that he was correct in doing so. He explained that he had supported SP-1 because it was intended to stop the inappropriate use of race in making admissions decisions. It was not intended to imply that people of all races were not welcome at the University. He recalled that most of the language in SP-1 reaffirmed the Regents' commitment to a diverse student body. He agreed with Regent Eastin that the real problem is the unequal K-12 education that is being offered by the State which 35 years of preferential admissions have done nothing to correct. The only corrections that have taken place have been since SP-1 was adopted, through \$300 million a year spent on educational outreach to K-12. He supported RE-28 in that it affirms that everyone who is qualified will have an equal and fair chance to be admitted to the University system. He took exception to threats by legislators who would penalize the Regents by cutting the University's budget over issues of disagreement. He observed that one way to remove politics from the Board, which is meant to be constitutionally independent, would be not to treat it in a punitive manner.

Regent Lee also had voted for SP-1 and SP-2 because he believed that everyone should be treated equally in admissions. He explained that he supported RE-28 because it reaffirmed the University's position that race and national origin should not be considerations for admission. He hoped that the Regents would continue to protect the University's high standards.

Regent Moores noted that Regent Connerly was owed a debt of gratitude for working to protect the University's reputation for admitting the best and brightest applicants.

Regent Kozberg stated her enthusiastic support for RE-28 and for President Atkinson's decision to turn to the faculty for leadership on admissions issues.

Regent Sayles recalled that he had strongly opposed SP-1 and SP-2. He had felt embarrassed to be a Regent following their passage of the two resolutions. He believed that the passage of RE-28 would enhance the lives of students now and in the future.

Regent O. Johnson also believed that the passage of RE-28 would be good for students and the people of California in general and would redeem the University in the eyes of the public. She hoped that the concerns stated by members of the Legislature would help move the Board in new directions.

Regent Fong thanked the students who had faith that the University's reputation and image eventually would be repaired. He believed that the passage of RE-28 would be a victory for the students, the University, and the state.

Chairman S. Johnson believed that three points could be derived from the foregoing discussion. They were that with the passage of RE-28 the Board would make a sweeping statement in support of diversity; that the members of the Board love the University; and that the Board was reaffirming the institution's established and historic role of the faculty to address admissions issues. She thanked Regent Connerly for enabling a consensus to be formed.

Regent Hopkinson thanked the Regents for being open-minded and fair in considering this issue. She also thanked President Atkinson, Regents Bagley and Connerly, and Senior Vice President Darling for their contributions to the drafting of RE-28.

Adoption of the resolution was then put to a vote and was approved unanimously, Regents Atkinson, Bagley, Bustamante, Connerly, Davies, Eastin, Fong, Hertzberg, Hopkinson, O. Johnson, S. Johnson, Kohn, Kozberg, Lansing, Lee, Marcus, Miura, Montoya, Moores, Parsky, Preuss, and Sayles (22) voting "aye."

(For speakers' comments, refer to the minutes of the May 16, 2001 meeting of the Committee of the Whole.)

The meeting adjourned at 11:15 a.m.

Attest:

Secretary