

The Regents of the University of California

COMMITTEE ON AUDIT

September 22, 2005

The Committee on Audit met on the above date at UCSF-Laurel Heights, San Francisco.

Members present: Regents Gould, Hopkinson, Lozano, Marcus, Parsky, Rominger, Ruiz, Sayles, and Schilling; Advisory member Oakley and Financial Expert Advisor Vining

In attendance: Faculty Representative Brunk, Secretary Trivette, General Counsel Holst, Interim Treasurer Berggren, Provost Greenwood, Senior Vice Presidents Darling and Mullinix, Vice Presidents Broome, Hershman, and Hume, Chancellor Carnesale, and Recording Secretary Nietfeld

The meeting convened at 12:25 p.m. with Committee Chair Marcus presiding.

1. **APPROVAL OF MINUTES OF PREVIOUS MEETING**

Upon motion duly made and seconded, the minutes of the meeting of May 25, 2005 were approved.

2. **INTRODUCTION OF FINANCIAL EXPERT ADVISOR VINING**

Committee Chair Marcus welcomed Financial Expert Advisor Vining to the meeting and asked him to present a brief background on his qualifications. Mr. Vining recalled that he had served as an alumni Regent in 1999-2000, during which time he served as the Chair of the Committee on Audit and participated fully in the selection of The Regents' external auditors. He recently retired as the Chief Financial Officer and Executive Vice President of Pacific Capital Bancorp. Mr. Vining reported that he had met with Mr. Mike Schini, the engagement partner with PricewaterhouseCoopers, The Regents' external auditor, and with Vice President Broome. He has reviewed the timetable for the audit and four new Governmental Accounting Standards Board pronouncements. He stated that he had nothing to report with respect to disagreements with management or with the external auditors.

3. **PRESENTATION ON FACULTY CODE OF CONDUCT**

Provost Greenwood introduced Professor George Blumenthal, who recently served as Faculty Representative to the Board in his role as chair of the Academic Senate, and invited him to present his remarks on the Faculty Code of Conduct. Mr. Blumenthal has also served as chair of the faculty Committee on Privilege and Tenure.

Professor Blumenthal recalled that Standing Order 101.1(b) specifies the following:

Dismissal of an academic appointee who holds tenure or security of employment shall be voted by the Board upon recommendation of the President of the University, following consultation with the appropriate Chancellor. Prior to recommending dismissal, the Chancellor shall consult with the appropriate advisory committee(s) of the Division of the Academic Senate.

Professor Blumenthal explained that discipline occurs when a faculty member's behavior is not justified by the Code of Conduct's ethical principles and when it significantly impairs the University's central functions as defined in the Code of Conduct. Before a faculty member is disciplined, the due process right to a hearing before a committee of the Academic Senate must be met, and there must be clear and convincing evidence that the Code of Conduct has been violated. Other, less serious consequences that a faculty member might face include a loss of privileges and removal from an administrative position.

The need for a separate disciplinary code for faculty arose in part from the Loyalty Oath controversy of the early 1950s, when The Regents fired faculty members who refused to sign the oath. These dismissals were later found to be unconstitutional by the California Supreme Court, and the faculty members were reinstated. In the 1960s, there were concerns about faculty members fulfilling their teaching obligations during campus protests. These circumstances led to the adoption of the Faculty Code of Conduct in 1971. The faculty acknowledged that there were legitimate grounds for dismissal, while the Board recognized that such dismissal should involve due process. Professor Blumenthal observed that the faculty enjoy two unique privileges, tenure and academic freedom, which the Code of Conduct is designed to protect. There are national standards regarding the due process rights of faculty, and the University is in compliance with those standards. He emphasized that the Faculty Code of Conduct had been approved by the Academic Assembly, the President, and The Regents.

Professor Blumenthal explained that the code is divided into three sections, the first of which defines the responsibility of the University to provide an environment which is conducive to the faculty's pursuit of UC's research, teaching, and service missions. Part II contains a set of ethical principles and some examples of inappropriate behavior, while Part III outlines the enforcement process and types of sanctions. Part II contains five portions: teaching and students, scholarship, the University, colleagues, and the community. Professor Blumenthal focused his remarks on the section pertaining to scholarship, noting that types of unacceptable conduct include a violation of the canons of intellectual honesty and/or intentional misappropriation of the writings, research, and finding of others.

The following are the types of disciplinary sanctions which faculty members may face:

- Written censure
- Reduction in salary for a specified period
- Demotion to a lower rank or step
- Suspension for a specified period
- Denial or curtailment of emeritus status
- Dismissal from employment

Professor Blumenthal discussed how a complaint progresses once it has been filed. The executive vice chancellor has been delegated the authority to investigate the complaint. The investigation is intended to determine whether there is probable cause to believe that the alleged behavior violates the Faculty Code of Conduct. The code encourages the administration to use faculty investigative committees, but the procedure differs considerably from campus to campus. If the investigation leads to a finding of probable cause, the executive vice chancellor is charged with proposing a sanction, which is communicated to the accused and to the Committee on Privilege and Tenure, which is obliged to hold a full evidentiary hearing on the charges. If the Committee on Privilege and Tenure finds that there is clear and convincing evidence that the Code of Conduct has been violated, it forwards a recommendation as to the appropriate sanction to the Chancellor. The Chancellor either decides the case or makes a recommendation to the President. Professor Blumenthal emphasized that cases may be resolved through negotiation at any point in this process. Six cases systemwide reached the Committee on Privilege and Tenure in 2002-03 and eleven in 2003-04.

In concluding his remarks, Professor Blumenthal noted that the faculty disciplinary process is fundamentally different from other types of investigations, primarily due to the nature of tenure and academic freedom. The process is designed to afford due-process rights to accused faculty members and to reach a timely conclusion. The number of serious cases is not large, particularly in light of the number of faculty members at the University of California.

In response to comments by Regent Hopkinson, Professor Blumenthal remarked that there are several reasons why an accusation may not reach the levels outlined above, including the resignation of the faculty member or the resolution of the case. In addition, a substantial number result in a finding of no probable cause. With respect to how the investigation is carried out, Mr. Blumenthal explained that on some of the campuses the executive vice chancellor forms a faculty committee to investigate the accusation, often using the services of a trained investigator. He added that there is no requirement that campuses use similar procedures at that point in the investigation.

In response to a question from Regent Rominger regarding the development of the Faculty Code of Conduct, Professor Blumenthal explained that it is a joint effort of the

administration and the Academic Senate. A recent change to the code was initiated from comments made by Regent Hopkinson.

Regent Sayles asked whether the University would be better served by a consistent approach to investigations. General Counsel Holst observed that the University's traditions provide campuses with the ability to choose from several options. While there are a variety of procedures which could be incorporated into a consistent systemwide method, Mr. Holst did not believe that the University had suffered any harm from the present procedures. There have been some modest moves toward uniformity over time. Professor Blumenthal emphasized that the procedures are uniform once a case reaches the Committee on Privilege and Tenure.

Committee Chair Marcus observed that it would be helpful to receive some assurance that these procedures are not putting the University at risk, and General Counsel Holst agreed to investigate whether or not this poses a risk for the University. He stressed that an attorney from the Office of the General Counsel typically represents the executive vice chancellor before the Committee on Privilege and Tenure, and an attorney is assigned to advise the committee on procedural matters, which brings a considerable level of consistency to the deliberations of the committee. If significant issues with respect to the process are identified, these matters are communicated to the faculty and the administration. General Counsel Holst stated that he would be prepared to conduct a comprehensive review of the procedures as outlined by Professor Blumenthal, but he assured the Committee that the Office of the General Counsel is fully involved with the process.

Faculty Representative Oakley reported that, effective January 1, 2006, State law will require all publicly employed supervisors to receive training in the prevention of sexual harassment. Upon the recommendation of the General Counsel, it was determined that all faculty members would be deemed to be supervisors and therefore be required to take the training. The Academic Senate has been working closely with the Office of the General Counsel to develop a faculty module that effectively presents principles of the prevention of sexual harassment.

4. **UC WILLED BODY PROGRAMS: STATUS REPORT ON IMPLEMENTATION OF NEW STANDARDS**

President Dynes introduced Dr. Cathryn Nation, who served as Interim Vice President for Health Affairs, and Executive Vice Provost Wyatt Hume, who was recently appointed as Vice President for Health Affairs, and invited Dr. Nation to present her report.

The Committee was informed that each year nearly a thousand Californians make an extraordinary gift to the University's medical school campuses by donating their bodies to support education and scientific research in the health sciences. The University recognizes the value and importance of these gifts and is committed to preserving the dignity of those who donate their bodies and to ensuring that these gifts are stored, used, and disposed of

with care and respect. These anatomical materials (also referred to as willed or donated bodies, cadavers, and/or human or anatomical specimens) are used for a variety of purposes, including gross anatomy instruction, surgical procedural training, anatomical and physiological research, allied health education, forensic research and training, mortuary science education, and the development and testing of new medical devices.

Within the University, these materials are managed by a Willed or Donated Body Program. Each of the University's five medical schools has historically operated a program that provides human anatomical specimens for use in medical education and research. In addition to supplying this material to UC students and researchers, several UC programs serve as the primary supplier of human anatomical materials to other educational institutions throughout California, including the California State University and the California Community Colleges.

When University officials learned in early 2004 that staff at UCLA's Willed Body Program were allegedly providing human anatomic specimens to non-university research programs for personal financial gain, an investigation led to the arrest of the campus program director. Pursuant to court order, the UCLA program is currently prohibited from accepting new donations.

Dr. Nation recalled that in January 2005, former Vice President for Health Affairs Drake had provided an update to the Committee on the status of the University's Willed Body Programs and changes in oversight and management of these programs that were recommended to the Office of the President by Navigant Consulting, Inc. Since that update, the Office of Health Affairs, working with former California Governor George Deukmejian, the medical school campuses, the Office of General Counsel, and the University Auditor, has reviewed these recommendations and developed new systemwide policies and guidelines for UC Willed/Donated Body Programs. These documents set forth standards for governance and oversight of campus programs and address issues ranging from donor registration, to preparation and allocation of materials, identification and tracking of specimens, records management, and standards for security, staffing, and personnel.

The overall findings of this review found considerable variability in the size, scope, management, and day-to-day operations of UC's Willed Body Programs due to the absence of systemwide policies and clear program guidelines. There are many good practices across the system but also many opportunities for improvement. There was a clear need for improvement in technology and infrastructure and with personnel practices.

Dr. Nation outlined the second phase of the process, which involved the identification of goals and new standards. There is a commitment to developing model programs based on best practices within UC and nationally. There has been steady direction and guidance from Governor Deukmejian and the involvement of the medical school deans and chancellors. There was recognition of the need to dedicate new resources. Major areas of focus have been management and oversight and changes needed within the Office of the President and on the campuses. A clear organizational structure was developed which provides a dual

reporting relationship for the campus program directors, who report directly to the responsible executive officer in the medical school dean's office and to the systemwide Willed Body Program director.

A number of improvements have also been made within the Office of the President to improve coordination and support for campus programs. Ms. Brandi Schmitt was hired as the systemwide director of the Willed Body Program in May 2005. New systemwide services include the establishment of an Anatomical Materials Review Committee and a call service that provides a dual notification system to the campus and to the Office of the President for all death calls. New guidelines were developed with input from faculty and program staff which include definitions of human anatomical materials, standards for oversight and management, and priorities for the allocation and use of anatomical materials. Standard language has been developed for systemwide donor consent forms.

Most of the changes on the campuses have been in progress over the past six months. The campus Anatomical Materials Review Committees meet regularly to discuss local issues, and all medical school campuses have elected to form an advisory board that meets at least annually to provide a forum for advice and guidance from the community. Standards for inventory management have been established, and enhanced security measures are in place.

Dr. Nation outlined some short-term goals, including the development and use of a web-enabled registry, which is operational at the Office of the President; local campus adjustments and training are in progress. This registry will ultimately serve as a comprehensive database for all aspects of the program's activities. A new radio frequency identification device will provide advanced technology for inventory management and loss prevention. A pilot phase is in progress on the Irvine campus. For the long-term, the goals will be to provide ongoing management and to maintain programs that reflect best practices. The University's experiences will be shared with medical schools and professional organizations across the country.

In concluding her presentation, Dr. Nation acknowledged the valuable contributions made by Governor Deukmejian, Navigant Consulting, President Dynes, Chancellor Drake, the senior management team, and the medical school deans and faculty advisors.

5. **PROPOSED IMPLEMENTATION PLAN FOR THE STATEMENT OF ETHICAL VALUES AND STANDARDS OF ETHICAL CONDUCT**

University Counsel Thomas recalled that at its May 2005 meeting, The Regents adopted a new UC Statement of Ethical Values and Standards of Ethical Conduct. Since then, the President and the Senior Vice President—Business and Finance have formed a team to develop a rollout strategy for implementation of this commitment in the University of California community. The proposed rollout strategy is outlined below. Ms. Thomas reported that a conditional award of a contract had been made to an outside vendor to provide online ethics training with University-specific training.

THE UNIVERSITY OF CALIFORNIA ETHICS PROGRAM**Rollout Strategy by the Ethics Rollout Team**

- A. Issue a joint letter from the Chairman of The Regents and the President to the University of California community introducing the UC Statement of Ethical Values and Standards of Ethical Conduct.
- B. Distribute small posters of the UC Statement of Ethical Values at each UC location.
- C. Work with the University of California Office of the President and campus Human Resources (HR) departments to incorporate ethics responsibilities into job descriptions of existing Conflict of Interest Coordinators. Consider changing the working title to Ethics Officers/Advisors.
 - Special delegation of ethics responsibilities from the President to Ethics Officers/Advisors.
 - Develop specialized extended training for advising and responding to questions about online training.
- D. Add an ethics training component to all UC employee training offerings, including new employee orientation.
 - Training the Trainers
 - Issue written statement to all trainers about their role in supporting the University's commitment to the Ethics Statement and Standards.
 - Apprise trainers of the addition of an online Ethics Training program (see H. below) as part of the training repertoire offered to employees.
 - Deliver a special training component at the annual meeting in November of all HR trainers.
 - Work with Student Affairs to weave the Ethics Statement and Standards into existing new student orientation and student government leader orientation programs.
 - Identify and develop materials for non-employee populations, such as campus and hospital volunteers, 4-H and other student-centered programs, foundations and support groups, and related constituencies, about the UC Ethics Statement and Standards Component.

- E. Implement tailored rollout for Senate Faculty
- Request that the Academic Council appoint an ad hoc committee on ethics rollout.
 - Request consideration of Academic Council resolution supporting ethics training.
- F. Develop ethics issues curricula focused on specific UC administrative audiences, including chief human resource officers, labor relations managers, affirmative action officers, Title IX coordinators, or UC ombudspersons, research compliance officers, local conflict of interest coordinators, etc., with a short agenda item, packet, and presentation on the Ethics Program. The existing Whistleblower/Whistleblower Retaliation Program Infrastructure will be incorporated into the Ethics Program.
- Initiate training for all internal auditors, locally designated officials, and investigations work groups.
 - Develop and promulgate additional communications publicizing the ethics hot line in connection with the Ethics Rollout.
- G. Leverage existing media resources for communications with employees and volunteers.
- H. Online Ethics Training (first-year pilot in 2006)
- Statement of Ethical Values and Standards of Ethical Conduct online training to be available initially to all members of the UC community, mandatory for new employees. Consider mandatory training for all employees in subsequent years.
 - Conflict of Interest training available focused on the following audiences:
 - Principal Investigators
 - Designated Officials
 - Regents - online training program available with personalized overview provided during new Regents orientation.

6. **PROGRESS REPORT ON FY 2005 ANNUAL AUDIT**

Vice President Broome introduced Mr. Mike Schini, the engagement partner for PricewaterhouseCoopers, and Ms. Penny Rivas, the partner in charge of the medical center audits. Mr. Schini reported that the auditors were in the midst of completing the 2005 annual audit. There will be no issues with respect to the timing of the completion of the audit. No

material weaknesses have been found in the internal controls structure. A letter to management will provide detailed observations. There have been no areas of significant disagreement with management, although some adjustments have been made over the course of the audit.

The meeting adjourned at 1:15 p.m.

Attest:

Secretary