

The Regents of the University of California

**SPECIAL COMMITTEE ON REGENTS' PROCEDURES**

January 19, 2005

The Special Committee on Regents' Procedures met on the above date at UCSF–Laurel Heights, San Francisco.

Members present: Regents Dynes, Hopkinson, Lansing, Marcus, Parsky, and Preuss

In attendance: Regents Anderson, Connerly, Johnson, Lee, Montoya, and Pattiz, Regent-designate Rominger, Faculty Representatives Blumenthal and Brunk, Secretary Trivette, General Counsel Holst, Chancellor Vanderhoef, and Recording Secretary Bryan

The meeting convened at 5:20 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 November 18, 2004 were approved.

2. **PROPOSAL FOR ENHANCED COMMUNICATION BETWEEN THE REGENTS AND UNIVERSITY OF CALIFORNIA STAFF AND NON-SENATE ACADEMIC EMPLOYEES**

The President recommended that a pilot program be implemented to appoint two individual staff and/or non-Senate academic employees to participate with two Regents' committees to provide the voice and perspective of such employees in deliberations on matters that come before the Committees and the Board.

It was recalled that the proposal represents a two-year pilot program. For the first year, 2005-06, the President proposes that the individuals so appointed be the two most recent past Chairs (2003-04 and 2004-05) of the Council of University of California Staff Assemblies (CUCSA). During the first year, the administration would develop a process to select two employees from among all eligible staff and non-Senate academic employees to be appointed to advise the selected committees for the second year of the pilot, 2006-07. The President has selected the Committee on Educational Policy and the Committee on Grounds and Buildings for this pilot.

At the end of the second year of the pilot program, the Regents would evaluate the effectiveness and value of the program and the process used to select the individual employee advisors. The Regents would then determine whether to continue, modify, or cease the program.

The report **University of California Report on Communications between Staff and the Board of Regents** was presented to the Committee on Finance at its July 2004 meeting. The report, which was prepared by the Office of the President, analyzed the nature and effectiveness of communications between the staff of the University of California and the Regents and included the feasibility of establishing the position of Staff Representative to The Regents. The report suggested that such a position may be more appropriately called Staff Advisor, but it did not make a recommendation on the establishment of the position. The report outlined the opportunities for staff to communicate with the Regents, including the use of the public comment period, direct written communications, and the use of a new feature that allows staff to send email to President Dynes and to The Regents. In addition, the Chair and Chair-elect of the Council of the University of California Staff Assemblies (CUCSA) attend all Regents meetings, and CUCSA's annual report of its activities and issues of interest to staff is presented to the Board each July. The report suggested that the Regents may wish to consider the following options:

- The advisability of establishing a non-voting position of Staff Advisor to The Regents
- Providing staff with enhanced means of communication with the Regents
- Continuing the current process of communications but giving additional attention to providing opportunities for staff input on relevant issues coming before the Regents

The issue of a Staff Representative was first broached by CUCSA in 1997, at which time the Board was asked to consider allowing staff council leadership the same standing and participation at Regents meetings as the faculty leadership. The proposal noted that staff would be represented by the Chair and Chair-elect of CUCSA.

In 1997, the President revived the practice of having representatives of the University of California Student Association address pertinent issues on the Committees' agendas. The suggestion was made that the staff be afforded a similar opportunity, given in particular the legal requirements of complying with the Higher Education Employer Employee Relations Act (HEERA).

The issue of a Staff Advisor was reintroduced to the Special Committee at its January 2003 meeting by Regent Connerly, who requested that the President undertake a study to explore the feasibility of adding a Staff Representative to the Board of Regents. Because the Bylaws of The Regents prohibit a Regent from holding an appointment to any position in connection with the University for which a salary or other compensation is paid, it was assumed that the Staff Advisor would be a non-voting representative. In addition, if the Staff Advisor were a voting member of the Board, the California Constitution would need to be amended. Through discussions with The Regents, it has become clear that they intend that any Staff Advisor position be non-voting.

As was summarized in the report on communications between staff and the Board of Regents, there remain a number of concerns and potential obstacles to the establishment of a Staff Advisor to The Regents, as outlined below:

- Regents' interactions with a Staff Advisor must not violate the various prohibitions under HEERA, including the prohibitions against direct dealing between management and employees.
- It would be important to ensure that the role of the Staff Advisor would not interfere with the unions' exclusive right to represent employees in exclusively represented positions. Because of the significant concerns about the risks of dealing directly with exclusively represented employees, the Office of the General Counsel advised against allowing any such appointed person to be represented exclusively in a bargaining unit. If all represented employees are excluded, however, the Staff Advisor would be chosen from a limited number of staff and non-Senate academic employees and may not achieve the desire of many Regents to receive input that broadly reflects the concerns of the staff and non-Senate academic employees.
- The role of the Staff Advisor would be different from that of the Faculty Representatives, as the Academic Senate has a shared governance role which is uniquely protected under HEERA. Because of the special role played by the Academic Senate in the governance of the University, HEERA exempts the Academic Senate from the general prohibitions on direct dealing that otherwise apply when the Regents would interact directly with those employed by the University.
- The selection process for a Staff Advisor would need to be carefully developed in consideration of the concerns and issues under HEERA raised in the report.

In response to these ongoing concerns, the President recommends that the position of Staff Advisor not be established at this time, but rather that staff and non-Senate academic employees be given the opportunity to participate with the Board through its committees. During the first year, the administration would explore ways of selecting two employees to serve in the capacity of Committee advisors for the second year. These two employees would be selected from among the broad community of all staff and non-Senate academic employees. It is further suggested that the Regents review the situation at the end of first year of the two-year pilot, including the process to select the second year's employee participants. The Regents would then more formally evaluate the effectiveness and value of the program and the process used to select the individual employee advisors at the end of the second year, and would determine whether to continue, modify, or cease the program.

The administration strongly supports obtaining the input of staff and non-Senate academic employees. During the first year of the pilot program, the administration would also strengthen notice regarding current opportunities for individuals or representatives

of various groups to provide input to the Board and its Committees on issues of concern that are being addressed by the Regents at particular meetings. There are many employee organizations (unions), staff advisory groups, staff employee, and retiree/emeriti associations and other non-affiliated employees that often have differing views on issues.

In considering the advantages of selecting employees to participate with committees and providing stronger notice to various individual employees and representatives of groups about current opportunities to communicate with the Regents, the following present the approximate number of staff and non-Senate academic employees by personnel category and group to clarify the breadth of representatives that may have a strong interest in addressing the Regents directly through the pilot program or current communications opportunities.

<u>Employees by Personnel Category (not including DOE Labs)</u>	<u>Approximate Headcount</u>
Professional and Support Staff (PSS) (about 50 percent represented and 50 percent nonrepresented)	108,700
Management and Senior Professionals (MSP)	6,400
Senior Management Group (SMG)	320
Senate Faculty	10,800
Non-Senate Academics (including student employees)	46,600

The Faculty Representatives to The Regents represent only those academics who are members of the Academic Senate. As is indicated above, there are approximately 46,600 additional personnel in academic appointments who are not represented by the Faculty Representatives, including approximately 2,100 clinical faculty who are working in the University medical centers and medical schools who are not members of the Academic Senate, approximately 8,000 professional and post-doctorate researchers, and approximately 9,600 graduate student researchers.

Major Systemwide Staff Employee Unions (included within the PSS category noted above)

		<u>Approximate Headcount</u>
CUE	Clerical employees	15,800
CNA	Nurses	8,200
AFSCME	Patient care technical employees	9,700
AFSCME	Service employees	7,100
UPTE	Research support professionals	4,500
UPTE	Technical employees	4,000
UPTE	Residual patient care professionals	2,200

Academic Employee Unions (included within the Non-Senate Academics personnel category noted above)

Approximate

		<u>Headcount</u>
AFT	Lecturers	2,500
UAW	Graduate student employees	10,500

In addition, the Santa Cruz faculty (Academic Senate members) are represented by the Santa Cruz Faculty Association (union).

#### Other Advisory Groups and Staff and Emeriti/Retiree Associations

There are many employee associations and advisory groups and emeriti/retiree associations that regularly interface with the Office of the President on matters of interest to employees and retirees who may be interested in participating in more direct communications with the Regents on certain items. The major groups are as follows:

- CUCSA – Systemwide council of staff employees (generally nonrepresented), along with local staff assemblies at each location
- UCLGBTIA – Systemwide lesbian, gay, bisexual and transgender association (includes faculty, staff and students)
- Various ethnic and special interest-based employee groups, both local and systemwide
- CUCRA – Systemwide Council of UC Retiree Associations, and local retiree groups
- CUCEA – Systemwide Council of UC Emeriti Associations, and local emeriti groups

President Dynes noted that implicit in his recommendation was that the final selection of two employee advisors to two Committees would be made by the President, in consultation with the Chairman of the Board.

Regent Connerly commented that, although the President's proposal did not encompass all of his own wishes with regard to staff representatives, it was a good beginning. He believed that the Regents could benefit from the talent that resides within the faculty and staff. Universities are unique in the sense that it is not just the trustees who govern, but a collection of people who have special interest in the outcome of decisions that affect the institution. He believed it was time to provide to the 160,000 University employees a meaningful opportunity to participate in the decision-making process. To enhance that opportunity, he suggested including the representatives in Regents' functions such as the dinners associated with their meetings and inviting them to sit with the chancellors and vice presidents at Regents meetings. These forms of symbolism acknowledge their full membership in the group. He suggested that the Committee consider whether the President should make these appointments in consultation with the Chairman of the Board or should make a recommendation to the Board.

In response to a question asked by Regent Hopkinson, President Dynes reported that he had chosen the Committees on Grounds and Buildings and Educational Policy for

participation in the pilot program because he believed the staff advisors would be most beneficial to those particular committees.

Regent Hopkinson supported the suggestion that the President submit his appointees for approval by the Board.

In response to a question asked by Regent Johnson, President Dynes stated that the appointees would sit at the Board table during the meetings of the Committees to which they had been appointed.

It was affirmed for Regent Parsky that approval of the recommendation included approval of the two committees that the President had chosen for participation. President Dynes noted that, as the program was a pilot, it should be sufficiently flexible to permit any necessary adjustments.

Committee Chair Marcus commented that there was nothing prohibiting the Regents from asking any staff member to advise any Committee. He believed that the recommendation added nothing and that it would create expectations for staff, of which there are many categories. It will be hard to make the case for a universal representative of such a diverse group. While he was not against communication with or input from staff, he emphasized that the issue was not simple.

In response to a question asked by Regent Parsky, President Dynes stated that the staff appointees would not be permitted to attend Closed Sessions.

Regent Parsky agreed that if the thrust of the President's recommendation is that he wishes to embark on a pilot program to invite selected staff to be at the table at Committee meetings in order to see how much they can contribute, the action should not be so narrowed as to deny him some flexibility in shaping the program.

Regent Preuss agreed with Committee Chair Marcus that there could be no truly representative staff appointees. He supported trying the program for a limited time, with the understanding that in two years it may be discontinued.

Regent Hopkinson moved that the recommendation be amended to give the President the authority to select the two Committees that would be included in the pilot program. Her motion was duly seconded.

Faculty Representative Blumenthal observed that rarely has a member of staff addressed the Board. The pilot program will provide an opportunity for staff to have meaningful input that might not be obtained otherwise. He was hopeful that during the next year the Regents would develop a mechanism by which appropriate representatives can be selected.

Regent Anderson was supportive of the recommendation. She agreed with Regent Connerly about the importance of having designated seating near the chancellors for the

two staff members who would be working with the Board and to include them in social events.

Upon motion duly made and seconded, the Committee approved the President's recommendation as amended.

3. **DATES OF REGENTS' MEETINGS FOR 2006**

The President recommended that the following dates of Regents' meetings for 2006 be approved:

2006

January 25-26

March 22-23

May 24-25

July 19-20

September 13-14

November 15-16

It was recalled that approval of the dates of Regents' meetings is the annual responsibility of The Regents, while the President and the Chairman of the Board, in consultation with the Secretary, are responsible for approving the locations of Regents' meetings.

Regent Preuss commented about the value of giving Regents the opportunity to see campuses during times other than campus visits. He suggested that the coming year include one meeting at a campus.

Regent Lansing believed that the majority of Regents wished to visit the other campuses. She suggested having Regents arrive a day early or stay a day following the regular meetings in order to see the campuses. She commented that she would prefer this to scheduling separate campus visits. Regent Hopkinson noted that some Regents have Committee meetings to attend the day before the regular meeting.

Regent Hopkinson recalled that including campuses in the meeting cycle had been tried repeatedly over the years and had never been successful. Regents meetings in their present format do not provide sufficient time for interaction with the campus community, but when activities in conjunction with the meetings had been planned by the campus, Regents had not stayed to participate. The campus personnel who had arranged the activities had been disappointed, and the arrangements and dedicated staff time had been expensive. She noted also that the suggested dates fell in different weeks of the month, making the scheduling of other obligations problematic for Regents.

Secretary Trivette explained the disparity among the meeting dates: the January meeting had been adjusted to accommodate the agenda mailing schedule that would be disrupted by the holidays; the May meeting was postponed for a week to give administration time

to analyze the Governor's May budget revision; the March meeting was postponed to balance out the first two. The last three meetings follow the normal schedule, in which meetings generally fall on the third Wednesday and Thursday of the month. Regent Hopkinson advocated adhering to the third Wednesday and Thursday schedule, with exceptions for Thanksgiving and the May revise.

Regent Parsky agreed that setting a policy of scheduling the meetings in the same week of the month would be helpful in avoiding conflicts. Committee Chair Marcus agreed also. He informed the Committee that a revised schedule would be submitted to the Committee for approval at the March meeting.

Although he noted that there were many issues to consider, including security and costs, Committee Chair Marcus agreed to direct staff also to formulate some suggestions for alternate meeting locations. President Dynes commented that a firm commitment from Regents to participate in any campus events would be necessary in order to prevent the campuses from going through the expense of planning, only to have Regents cancel at the last minute. Regent Hopkinson confirmed that campus visits have been poorly attended.

Regent Hopkinson emphasized that it is inordinately expensive to have a formal Regents meeting at a campus. She recalled that the Regents used to meet ten times a year. When the schedule was reduced to six meetings a year, it was with the understanding that there would be three campus visits. If the campus visits are abandoned, the Regents will be meeting only six times a year. She noted that it is a challenge to get through the agenda as it is.

Regent Lansing believed that students on all the campuses would like to have the opportunity to attend Regents meetings. She expressed concern about the image of exclusivity that the Regents were projecting to campus communities and the public.

Committee Chair Marcus requested Secretary Trivette and Senior Vice President Mullinix to prepare a report on the logistics and cost of meeting on campuses.

#### 4. **IMPROVING OPPORTUNITIES FOR BROADER POLICY DELIBERATIONS AT REGULAR MEETINGS**

Regent Parsky asked that the Committee members continue the discussion about improving opportunities for broader, high-impact policy deliberations at regular meetings by considering alternative formats for Board and Committee meetings.

Suggestions to date include:

- Concurrent committee meetings.
- Consider restructuring standing committees, for example Committee on Educational Policy restructured as (1) Committee on Admissions and Enrollment and (2) Committee on Educational Policy. Another example would be



restructuring the Committee on Finance as (1) Committee on Budget and (2) Committee on Administration and Fiscal Transactions.

- Additional delegations to the President or increasing limits for existing delegations.

Regent Parsky noted that agendas have become too long and have involved too many people at one time to work effectively. He urged further consideration about how the work of the Regents on issues may be done in smaller groups.

The Committee was informed that Regent Novack had proposed several methods by which the efficiency of meetings could be enhanced. His suggestions, which were distributed to the Committee, included the following:

- Move more detailed items to Committee meetings.
- Promote continuous interactions with management through mail and email.
- Provide summaries of Committee activities at the Board meetings.
- Create governance and compensation committees.
- Provide an opportunity for Committee chairs to review their respective agendas and minutes before they are made final.

Committee Chair Marcus commented that the nominating process would need adjustment in conjunction with concurrent meetings. He believed that Committee chairs should become more involved in their assignments and should be free to exert greater control over their Committees' agendas in order to enable the Regents to spend sufficient time on issues of significant impact.

Regent Hopkinson believed the topic would require intensive analysis and deliberation.

Committee Chair Marcus indicated he would solicit input from all Regents concerning procedural efficiencies so that the Board could arrive at some form of agreement.

5. **PROCESS FOR UPDATING AND PUBLICATION OF REGENTS' POLICY COMPENDIUM**

It was recalled that many of The Regents' delegations of authority are memorialized in the Standing Orders. Others are stand-alone and have not been reviewed since at least the early 1960s. Over the past several months, the Office of the President has completed a full review of the policies and identified those which require changes due to conditions in the external environment, such as new laws and Regental procedures. For example, deletion of the Policy on Underground Parking is proposed because Regents approve any underground parking in the Approval of the Budget item and therefore a separate exception is not needed. In order to publish a complete, current set of Regents' policies, the President will bring forward recommendations in concert with the following process guidelines:

- The goal is to publish a complete set of up-to-date policies as soon as possible.
- An ad hoc working group of three to four Regents will review the collection of Regental policy and do the following:
  - Determine which policies are current and, thus, require no action.
  - Determine which policies have been superceded and may be rescinded without controversy.
  - Propose for action only the changes that are necessary.

Senior Vice President Mullinix observed that there are hundreds of items to be considered in culling the list of policies in order to bring the compendium up to date. Committee Chair Marcus requested Chairman Parsky to appoint Regents to an ad hoc group that could review the compendium, highlight issues, and bring back for consideration by the Committee the whole list of policies as a group.

The meeting adjourned at 6:00 p.m.

Attest:

Secretary