

The Regents of the University of California

**COMMITTEE ON FINANCE**

September 18, 2008

The Committee on Finance met on the above date at the Student Center, Irvine Campus.

Members present: Regents Blum, Gould, Hopkinson, Island, Kozberg, Lozano, Scorza, Varner, and Yudof; Advisory members Bernal and Croughan; Staff Advisors Abeyta and Johansen

In attendance: Regents Cole, De La Peña, Johnson, Pattiz, Ruiz, Schilling, and Shewmake, Regent-designate Stovitz, Faculty Representative Powell, Secretary and Chief of Staff Griffiths, Associate Secretary Shaw, General Counsel Robinson, Chief Investment Officer Berggren, Chief Compliance and Audit Officer Vacca, Interim Provost Grey, Executive Vice Presidents Darling and Lapp, Senior Vice President Hoffman, Vice President Sakaki, Chancellors Birgeneau, Bishop, Block, Blumenthal, Drake, Fox, Kang, Vanderhoef, White, and Yang, and Recording Secretary Johns

The meeting convened at 9:20 a.m. with Committee Chair Gould presiding.

1. **CONSENT AGENDA**

***Adoption of Findings and Approval of Binding Agreement to Ground Lease, 55 Laguna Street, San Francisco, Berkeley Campus***

The President recommended that, upon review and consideration of the environmental consequences of the proposed project as evaluated in the Environmental Impact Report (EIR) for the 55 Laguna Residential Project prepared by the City and County of San Francisco:

- A. The Regents adopt Findings pursuant to the California Environmental Quality Act for the Project;
- B. The President, after consultation with the General Counsel, be authorized to approve and to execute a binding agreement to ground lease (Agreement) between The Regents, and A. F. Evans Company Inc. and Mercy Housing California (Evans), or its designees or assignees, in whole or in part, of approximately 5.3 acres of University land and approximately 120,000 square feet of building area located in the City of San Francisco on a site bounded by Laguna, Haight, Buchanan, and Hermann Streets (Property), for the construction of approximately 330 apartment units, approximately 100 senior housing units, publicly-accessible park spaces, incidental community and retail spaces, and parking (Project).

- C. The President be authorized (i) with the concurrence of the General Counsel, to approve and to execute the Ground Lease; and (ii) to negotiate and, with the concurrence of the General Counsel, to approve and execute any amendments or other documents related to the Agreement or the Ground Lease, provided such amendments or other documents do not materially reduce the consideration to or increase the obligations of the Regents.

[Background material was mailed to Regents in advance of the meeting, and copies are on file in the Office of the Secretary and Chief of Staff.]

Upon motion duly made and seconded, the Committee approved the President's recommendation and voted to present it to the Board.

2. **ADOPTION OF REGULATIONS FOR NON-AFFILIATES ON UNIVERSITY PROPERTY**

The President recommended that, pursuant to Section 92440.5 of the California Education Code:

- A. The proposed Regulations Governing the Conduct of Non-Affiliates in the Buildings and on the Grounds of the University of California, shown in Attachment 1, be adopted; and
- B. The President be authorized to transmit the Regulations to the California Secretary of State for publication in the California Code of Regulations for reference by all local law enforcement authorities.

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Executive Vice President Lapp explained that Section 92440.5 of the California Education Code authorizes the Regents to adopt the proposed regulations and make violations of these regulations a misdemeanor. The regulations are intended to fill a gap in legal authority and for the University to address dangerous and disruptive conduct on its campuses.

UCLA Chief of Police Karl Ross recalled that Education Code Section 92440.5 was adopted by the Legislature at the request of UC in 2002. Current UC regulations provide a mechanism for the enforcement of conduct for students and employees but do not cover the conduct of non-affiliates. In the University's experience, local district and city attorneys have been unwilling to prosecute non-affiliates for violations of University regulations. There are gaps in existing State statutes and ordinances. Mr. Ross cited California Penal Code Section 602 regarding trespassing. This section includes provisions which require posting of signs; if the proposed regulations are adopted, these provisions of Section 602 will not apply. There are similar provisions requiring posting of signs regarding campfires on UC property. It is widely understood that this activity is

prohibited on most public land. However, local district attorneys and prosecutors have not proceeded with filing charges against individuals because University property lacks specific regulations. Section 314 of the Code concerns public nudity and prescribes a threshold for prosecution such that conduct must be lewd. Many beaches and parks in California have policies that prohibit nudity. Local prosecutors have prevented the University from prosecuting based on this section.

Mr. Ross recalled that last year on the Irvine campus, 14 non-affiliates were arrested for disturbing the peace while interfering with and disrupting a campus student event. The district attorney refused to prosecute any of these individuals. The proposed regulations include provisions that non-affiliates shall not knowingly and willingly interfere with University activities, and, in the case at Irvine, they would have given the University a more solid legal basis for prosecution. The UCLA police are authorized to enforce City municipal codes, while police on the Berkeley and other campuses are not. Mr. Ross requested the Regents' support for the regulations, communicating the sentiment of University police departments that these additional legal tools are necessary to address disruptive conduct by non-affiliates on UC campuses.

University Counsel Christopher Patti discussed the drafting of the regulations and the accompanying public review process. The regulations were initially drafted with input from campus police departments and are largely based on existing campus regulations and on some municipal ordinances that would otherwise not be enforceable on UC campuses. Draft regulations were reviewed by the Office of General Counsel and submitted for several rounds of revision and comment by police chiefs, campus counsel, and vice chancellors for administration. In late 2007, the regulations were submitted to the Academic Council for review and in turn to campus divisions of the Academic Senate. The Academic Council's recommendations were incorporated. The University published notice of the regulations and of public hearing in newspapers of general circulation in all the localities where there are UC campuses. A website was created for the public to review the regulations. The University invited public comment by mail, email, and telephone. On May 28, 2008 a public hearing was held at UCLA where the University received 25 comments. One major area of comment concerned non-affiliates' ability to conduct free speech activities on campus. The regulations contain a strong statement to the effect that they are not to be used to restrict free speech. The regulations are consistent with court opinions to the effect that public universities can regulate the time, place, and manner of speech activities on campuses. Unions expressed the concern that the regulations would conflict with the access rights of non-employee union representatives. Mr. Patti noted that the University has negotiated rules regarding union access to campus property. The University has agreed that it will bargain those aspects of the regulations before applying them to non-employee union representatives.

Mr. Patti observed that the regulations include prohibitions on nudity, weapons, fires, camping, explosives, and dangerous materials. The regulations require permits for public demonstrations, commercial activities, and construction of structures.

Mr. Patti called attention to one amendment to the regulations proposed by Regent-designate Stovitz. This is a technical amendment regarding the definition of official volunteers who are excluded from the regulations. Current provisions in paragraph II. A. 2. define official volunteers to include officers of alumni organizations and support groups. The concern was expressed that there might be some ambiguity about whether board members of these organizations would be covered by the definition. The proposal is to adopt the regulations with an amendment, adding the language “or a board member” after “officer” in paragraph II. A. 2. (a) and (b), shown in Attachment 1.

Regent Hopkinson praised the regulations as a necessary action. She asked about how the regulations would be applied in UC research parks or on other leased University property, where activities occur in a different context. As an example, there might be hazardous materials in a research park. Mr. Patti responded that there are exemptions in the regulations for hazardous materials that are used for the legitimate business of the University.

Regent Hopkinson expressed concern that the regulations as written might prohibit a holiday party or celebration in a research park or University-owned facility. Mr. Patti responded that almost all provisions can be waived or exemptions made by designated University officials. The waivers or exemptions would not have to occur on a case-by-case basis.

Regent Kozberg expressed support for the regulations, particularly for removing ambiguity. She asked if the provisions concerning dogs, cats, and other animals would consider service dogs. She noted that this has been a concern in other states. Mr. Ross responded that the University is well aware of service dogs and in-training service dogs on its facilities; they would be exempt from these regulations.

Upon motion duly made and seconded, the Committee approved the President’s recommendation as amended and voted to present it to the Board.

**3. A PROPOSED NEW FUNDING POLICY FOR THE UNIVERSITY OF CALIFORNIA RETIREMENT PLAN**

The President recommended that:

- A. The proposed new funding policy, including a three-year amortization period for any initial surplus, be adopted for the UC Retirement Plan (UCRP). The proposed new funding policy would be effective with the July 1, 2008 actuarial valuation and would determine recommended total contributions based on the Plan’s Normal Cost adjusted for any surplus or underfunding, starting with the Plan Year beginning July 1, 2009.
- B. Authority be delegated to the Associate Vice President, Human Resources and Benefits, to amend the Plan as applicable to facilitate implementation of the new funding policy.

The proposed new UCRP funding policy would have the following structure and parameters:

- (1) The new funding policy would be effective with the July 1, 2008 actuarial valuation and would determine recommended total contributions starting with the Plan Year beginning July 1, 2009.
- (2) Each year the recommended contributions would be effective for the Plan Year starting one year after the date of the actuarial valuation.
- (3) Each year the Regents would determine the actual total contributions and the split between Member Contributions and University Contributions based on the recommended total contributions and various other factors, including the availability of funds, the impact of employee contributions on the competitiveness of UC's total remuneration package, and collective bargaining. In no event would the University Contributions be lower than the Member Contributions.
- (4) The new funding policy would determine recommended total contribution rates based on an actuarial valuation of the non-laboratory segment of UCRP (e.g., campuses, medical centers and Hastings College of the Law). The Lawrence Berkeley National Laboratory would contribute on the same basis as determined for the non-laboratory segment of UCRP, subject to the terms of the University's contract with the Department of Energy. The Lawrence Livermore National Laboratory and Los Alamos National Laboratory Retained Segments in UCRP would be subject to the funding policies outlined in the University's contracts with the Department of Energy. Throughout this document the term "UCRP" shall refer to the non-laboratory segment of UCRP.
- (5) The recommended total contributions to UCRP would consist of the Normal Cost plus an amortization charge for any Unfunded Actuarial Accrued Liability (UAAL) or minus an amortization credit for any surplus.
- (6) Consistent with current practice, the Regents' Consulting Actuary would conduct an annual actuarial valuation of UCRP. The Normal Cost and the Actuarial Accrued Liability (AAL) in each actuarial valuation would be determined under the Entry Age Normal Actuarial Cost Method, using actuarial assumptions adopted by the Regents.
- (7) Consistent with current practice, the asset smoothing method used to determine the Actuarial Value of Assets would be based on the Market Value of Assets adjusted for "unrecognized returns" in each of the then last five years. Unrecognized return is the difference between actual and

expected returns on a market value basis and is recognized over a five-year period.

- (8) As of the effective date of this policy, any initial surplus as of that date would be amortized as a level dollar amount over a period of three to seven years, as specified by the Regents in the adoption of this policy. The proposed period is three years.
  - a. Any changes in surplus after the effective date due to actuarial gains and losses (including contribution gains and losses) would be amortized as a level dollar amount over 15 years.
  - b. Any change in surplus due to a change in actuarial assumptions, cost method or asset smoothing method would be amortized as a level dollar amount over 15 years.
  - c. Any change in surplus due to a Plan amendment would be amortized as a level dollar amount over 15 years.
  - d. In the first year after the effective date when UCRP has a UAAL (as opposed to a continuation of the current surplus condition) all amortization bases would be considered fully amortized and contributions would be determined under the remaining provisions of this policy.
- (9) For any future year when UCRP has a UAAL (as opposed to a continuation of the current surplus condition), the calculation of the UAAL would be maintained by source (as listed below) and each new portion of or change in UAAL would be amortized as a level dollar amount over a fixed amortization period.
  - a. Any initial UAAL (after a period of surplus) or change in UAAL due to actuarial gains and losses (including contribution gains and losses) would be amortized over 15 years.
  - b. Any change in UAAL due to a change in actuarial assumptions, cost method or asset smoothing method would be amortized over 15 years.
  - c. Any change in UAAL due to a Plan amendment would be amortized over 15 years, unless the nature of the Plan amendment would suggest a shorter period.
- (10) For any future year in which UCRP has a surplus (other than a continuation of the current surplus condition), such surplus would be amortized as a level dollar amount over 30 years, and all prior UAAL amortization bases would be considered fully amortized.

- (11) This new funding policy would supersede any previous funding policies.

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Associate Vice President Boyette introduced the item, a proposed funding policy for the UC Retirement Plan (UCRP), which was discussed at the July meeting. She introduced Mr. Paul Angelo, the Regents' consulting actuary from the Segal Company. She recalled that in 1990 the Regents adopted a full funding policy under which contributions to the retirement plan are suspended when the plan surplus is sufficient to cover the normal cost. In the early 1990s all University contributions to UCRP were suspended, and member contributions were redirected to the Defined Contribution Plan. At that time, the Regents did not establish a formula or criteria for the resumption of contributions. Now, 18 years later, the Regents are being asked to adopt a policy for the resumption of these contributions.

The proposed policy provides a structure for recommending the total contribution rate necessary to maintain the 100 percent funding target level for UCRP over the long term. Ms. Boyette recalled that the Regents approved this target level in March 2006. The proposed policy would be effective July 1, 2008 for actuarial valuation. It would determine the recommended total contribution based on the plan's normal cost adjusted for any surplus or underfunding, beginning with the plan year commencing on July 1, 2009. The Academic Council has endorsed this policy, with the stipulation that salary increases must accompany the resumption of member contributions and be large enough so as not to reduce employees' overall remuneration or damage the University's competitive compensation position.

Ms. Boyette anticipated that the next step would be a presentation of the July 1, 2008 actuarial valuation at the November meeting. If the proposed policy is adopted, the valuation to be presented in November would include the effect of this funding policy. At a future meeting, an action item will be needed to propose the actual level of contributions to UCRP and the split between University and member contributions to be effective July 1, 2009. The level of contributions would be based on a consideration of the availability of funds, the effect of the resumption on the University's competitiveness for total remuneration, and collective bargaining for represented employees.

Mr. Angelo began by reviewing major reasons for the resumption of contributions: it will maintain benefits under the plan and will allow the University to allocate the cost of retirement benefits among various funding sources. This is an issue affecting both budget and solvency. The funding status of the plan has changed dramatically in the last two months due to the market return in 2007-08. Mr. Angelo pointed out that the market value of assets in 2006-07 was one of highest ever experienced by the UCRP, a 19 percent return. There was a stunning reversal in 2007-08 with a negative return of 5.7 percent, about 13 percentage points below the target. He recalled that, to remain at an even level, the plan must earn the assumed rate of interest, 7.5 percent. The contribution rates will not be determined by raw market value of assets, but by the actuarial value of

assets, which is smoothed over five years. The 2008 valuation will show a slight gain as the plan recognizes losses from past years, but after that point the severe market loss in 2007-08 will drive the UCRP into an underfunded status.

Mr. Angelo recalled that the plan was substantially overfunded in 2001 due to the strong returns of the 1980s and 1990s. The funded status has decreased since 2001 because of the market declines in the first three years of this century and because there have been no contributions and the annual normal costs of the plan, over \$1 billion, have come out of the surplus. For 2008, the plan is still funded at 103 percent, but this is calculated on the smoothed basis. In actual market value the UCRP is already underfunded as of July 1, 2008 at 99 percent. The remaining cushion is due to the actuarial five-year smoothing. Mr. Angelo emphasized the urgency of the proposed policy in these circumstances.

Currently the Regents' actuary does not have guidance pertaining to the calculation of contributions in an underfunded condition. The original purpose of the proposal had been to effect a transition from a surplus to underfunding; now, however, there is only one more year of surplus due to actuarial smoothing. As the UCRP moves into an underfunded condition, the Regents need to set a policy for resumption of contributions, and a policy for the eventual return to a surplus situation.

Under existing policy the surplus effectively serves as a one-year amortization. The entire surplus amount is applied against the normal cost. The surplus is no longer large enough to sustain this practice. Mr. Angelo recalled that, at the July meeting, there was a discussion of how the surplus would be spread over several years. He stressed that the contribution policy is concerned with total contributions and that the source of funding is not important from an actuarial standpoint. It will be the Regents' subsequent task to allocate funding between employer and employee contributions.

The proposed policy will use a 15-year period for amortization of future underfunding. Unfunded liability will be tracked by source, whether from gains and losses, plan amendments, or assumption changes. One new feature in the policy is that, if the UCRP once again experiences a surplus, that surplus will be amortized over 30 years rather than over one year. This is a recommendation of the Governor's Public Employee Post-Employment Benefits Commission and is the policy of the California Public Employees' Retirement System. Mr. Angelo described this as "not trusting" a surplus condition and attempting to extend it as long as possible.

The policy uses level dollar amortization payments, a more prudent and conservative approach than the alternative, level percentage of payroll. In effect, this treats payments on unfunded liability like a home mortgage, as corporate plans do for their pension liabilities. Two essential parts of the existing policy are not being changed: the "entry age normal" method of allocation and 5-year asset smoothing.

The current contribution projections take into consideration the negative 5.7 percent market value return for 2007-08 and then assume that the UCRP will continue to earn 7.5 percent. These projections include only the campuses and medical centers. The



projections also contain a one-year lag. The valuation is carried out on a given year and presented to the Regents in November, leaving some time for the implementation of rates. The rates from the 2008 valuation will go into effect in 2009.

There are various amortization periods that could be used for the surplus. Given the small amount of the remaining surplus, there are no great differences between amortizing it for 3, 4, 5, or 7 years. Mr. Angelo recommended a period of 7 years, which would produce a contribution payable in 2009-10 of approximately 11.5 percent of payroll or \$850 million. This is the recommended contribution; the actual contribution is subject to the Regents' deliberations and other considerations. Due to the loss in 2007-08, to be phased in over five years, the UCRP will be underfunded by the 2008 valuation, which will serve as the basis for the 2010 contribution. In 2010, the University will have to pay the full normal cost of approximately 17.5 percent. After 2010, the contribution amounts based on the various proposed amortization periods all converge. The projected contribution or full normal cost rises slightly for a few years after 2010. This is due to the fact that the rest of the 2007-08 market loss is smoothed over five years. In 2013, contribution or full normal cost stabilizes at approximately 21 percent of payroll.

Chairman Blum expressed support for amortization of the surplus over a long period. He recalled that the UCRP liability grows at a rate of about 7 percent annually. The University cannot rely on adequate market returns. He recalled earlier discussions about a possible resumption of contributions to the UCRP and stressed that this action is now necessary. Chairman Blum noted that a 7 percent contribution, 3.5 percent by UC and 3.5 percent by employees, would address the liability. This percentage cannot be reached in the near term. Chairman Blum suggested that the University and its employees begin with a small contribution amount, 1 percent, and slowly increase this over several years to reach 7 percent.

Committee Chair Gould recalled that the assumed rate of return for the UCRP is 7.5 percent. The ultimate contribution level will be close to 20 percent. He stressed that the University must examine a combination of employer and employee contributions to reach the 20 percent of payroll to cover the normal cost of the retirement system; this is an essential problem that must be faced immediately.

Regent Hopkinson observed that the suspension of contributions is an underlying issue that has created difficulties, including the fact that employees do not remember contributing. Ms. Boyette pointed out that 80 percent of current employees have never contributed to the UCRP.

Regent Hopkinson noted that the proposed policy might result in a future where there would always be some contribution by employees, and wondered whether the policy addresses the issue or sets a goal of returning to a situation where no contributions are required. Mr. Angelo responded that, consistent with the recommendations of the Governor's Public Employee Post-Employment Benefits Commission, the policy provides that, if there is a surplus in the future, the surplus will be amortized over 30 years. If the UCRP is underfunded, a 15-year amortization period is used to calculate

underfunding. He recalled that the normal cost is 17.5 percent; it would require an enormous surplus, when divided by 30, to make a significant difference in this cost.

Regent Hopkinson asked about the influence of market conditions in the past several days on the calculation of actual contribution rates and determination of when contributions will begin. Mr. Angelo clarified that the valuation as of June 30, 2008 is used to determine the 2009 contribution. More recent market conditions will be reflected in the 2009 valuation, which will determine contributions for 2010. He noted that there will be new demographic information in November.

Regent Hopkinson suggested that it would be helpful to have a chart showing the UCRP return for 2008-09 as zero, so that the Regents could understand the implications of a year with results not as projected. Mr. Angelo responded that this would be provided.

Regent Varner emphasized his understanding that the UCRP is now underfunded and that there is an urgent need for a resumption of contributions, an action on which the Regents had agreed.

Committee Chair Gould stated that the current item was consistent with Regent Varner's call to action. He noted that the assumption of a 7.5 percent return for the next year was not conservative, but that this assumption has always been used and is appropriate.

Faculty Representative Croughan noted that there has been significant consultation with faculty and with the Academic Senate on this matter. The faculty have been requesting a resumption of UCRP contributions for five years. She quoted from a July 2008 letter from the Academic Senate to President Yudof which expressed support for the UCRP funding policy, with the caveat that there be no reductions in total compensation. The faculty wish to avoid further erosion in the competitiveness of cash compensation, given that employee salaries must increase by at least the increase in salaries in the appropriate market comparison group. In addition, employee salaries must be increased by at least the amount of the required employee contribution to avoid a reduction in UC's competitive position in total remuneration.

The July 2008 letter from the Academic Senate to President Yudof anticipated significant increases in premiums paid to health insurers in 2009; these increases are now a certainty. The letter went on to state that either the employer share of those premiums needs to be raised to cover those increases, or employee salaries need to be raised to cover any increase in employee premiums, to avoid a reduction in UC's competitive position in total remuneration. The Senate recognized that employer contributions require that the University obtain additional funding. The Senate expressed opposition to resuming employee contributions before employer contributions have begun and stated that employee contributions should never exceed the amount of the employer contribution. Ms. Croughan added that the most significant question is the source of funding for the employer contribution.

Upon motion duly made and seconded, the Committee approved the President's recommendation and voted to present it to the Board.

4. **APPROVAL OF FINAL STATE CAPITAL IMPROVEMENTS BUDGET FOR 2008-09**

The President recommended that, contingent upon the Governor signing the final budget act or approved by the Legislature as a result of a budget veto override, and in concurrence with the recommendation of the Committee on Grounds and Buildings, the State Capital Improvements Budget for 2008-09 be amended as follows:

- A. Delete \$58.032 million for construction for the Berkeley campus, Campbell Hall Seismic Replacement Building project.
- B. Add \$750,000 for infrastructure equipment for the Davis campus, Telemedicine Resource Center and Rural Prime Facility project.
- C. Delete \$687,000 for preliminary plans, working drawings, and construction for the Davis campus, Seismic Corrections Thurman Laboratory project.
- D. Delete \$893,000 for working drawings for the Davis campus, Music Instruction and Recital Building project.
- E. Delete \$1.638 million for preliminary plans and working drawings for the Davis campus, Chilled Water System Improvements Phase 7 project.
- F. Delete \$9.969 million for working drawings and construction for the Los Angeles campus, Electrical Distribution System Expansion Step 6C project.
- G. Delete \$13.408 million for working drawings and construction for the Los Angeles campus, School of Medicine High-Rise Fire Safety Phase 1 project.
- H. Delete \$20.650 million for working drawings and construction for the Los Angeles campus, CHS South Tower Seismic Renovation project.
- I. Delete \$2.01 million for preliminary plans for the Merced campus, Science and Engineering Building 2 project.
- J. Delete \$375,000 for preliminary plans and working drawings for the Merced campus, Site Development and Infrastructure Phase 4 project.
- K. Delete \$716,000 for working drawings for the Riverside campus, Batchelor Hall Building Systems Renewal project.
- L. Delete \$2.208 million for preliminary plans for the Riverside campus, Engineering Building Unit 3 project.

- M. Delete \$6.86 million for preliminary plans and working drawings for the San Diego campus, Biological and Physical Sciences Building project.
- N. Delete \$191,000 for preliminary plans for the San Diego campus, Campus Storm Water Management Phase 2 project.
- O. Delete \$13.129 million for construction for the San Francisco campus, Electrical Distribution Improvements Phase 2 project.
- P. Delete \$5.122 million for construction for the Santa Barbara campus, Infrastructure Renewal Phase 1 project.
- Q. Delete \$320,000 for preliminary plans for the Santa Barbara campus, Infrastructure Renewal Phase 2 project.
- R. Delete \$6.731 million for construction for the Santa Cruz campus, Infrastructure Improvements Phase 2 project.
- S. Delete \$1.199 million for preliminary plans and working drawings for the Santa Cruz campus, Alterations for Physical, Biological, and Social Sciences project.
- T. Delete \$100 million for preliminary plans, working drawings, construction, and equipment for the Universitywide, Health Sciences Expansion project.

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Vice President Lenz began by remarking that it is challenging if not impossible to advise the Committee on the 2008-09 budget at this point. He recalled that there have been several budget proposals since the Governor's May Revise, including significant budget reductions, tax increases, tax reductions, acceleration of tax payments, borrowing, fund transfers, spending limit recommendations, and a proposal to grant the Governor greater midyear budget authority. The Legislature passed a budget with 17 budget trailer bills earlier in the week. The Governor has threatened to veto and has 12 days to do so. If the Governor does veto the budget, the Legislature has 60 days to respond. It appears that there are discussions under way to accommodate issues critical for the Governor and avoid his veto, ensuring that he has authority to make budget reductions when necessary, that there is a prudent reserve, and that some effort is being made to alleviate the structural deficit of the state, now at \$15.2 billion.

In August, the Governor issued an executive order that would cease the hiring or transfer of State employees, prohibit overtime pay, cause immediate termination of temporary employees including UC student assistants, suspend all personal services contracts, and reduce State employees' salaries to the federal minimum wage level. This last proposal is being challenged in the courts. The University of California, the California State

University (CSU) and the California Community Colleges have been asked to implement similar measures to protect the state's cash flow. When the executive order was issued, President Yudof made it clear that UC would not propose to reduce employee salaries. However, the University has been subject to suspensions of multi-year contracts totaling \$191.6 million. This has affected 1,100 UC employees. One hundred eleven employees have been transferred to other positions and 87 have been laid off. The University has made an agreement with the Department of Finance and the Governor's Office to ensure that 46,000 UC students do not lose Cal Grant awards, at a cost to UC of \$114 million.

In the overall State budget, Mr. Lenz found that UC has fared as well as can be expected in the circumstances. The Governor restored a \$98 million cut made in the January budget, and this restoration is being maintained. The University is subject to a \$10 million reduction due to budget bill language which changes the timing of State General Fund allocations to UC. There has been a proposal, also challenged in the courts, to reduce the Medi-Cal rate by 10 percent. This could result in a loss of between \$9 million and \$13 million for the University. During the deliberations with the Legislature, all the University's capital facilities projects were removed from the budget for two reasons. First, there was no effort to pursue a general obligation bond in November, as had been proposed in January; second, given the fiscal crisis, the Legislature was concerned about taking on additional debt. Mr. Lenz noted that UC and CSU prevailed on some critical capital projects which were included in the Governor's August Revise and economic stimulus plan. UC will receive \$204.5 million for six capital facility projects in 2008-09.

Committee Chair Gould asked Vice President Lenz to continue to consider contingency plans should the State budget delay be prolonged. Mr. Lenz responded that he will continue to advise the Regents on the developing budget process. If the budget process is prolonged and the State budget is not resolved, a plan for next steps will be presented to the Regents in November.

Upon motion duly made and seconded, the Committee approved the President's recommendation and voted to present it to the Board.

President Yudof introduced Ms. Lucero Chavez, a second-year student of law at UC Berkeley and president of the UC Student Association (UCSA).

Ms. Chavez began by expressing UCSA's concern about the status of the California Dream Act and noting the presence and contributions of undocumented students at UC, CSU, and the community colleges.

Ms. Chavez stated that UCSA supports the Academic Council's proposed reforms to the freshman eligibility policy. She presented an informal case study, showcasing one student's GPA, SAT scores, and AP examinations. The student was senior class president, played varsity soccer, and was statewide officer in a youth and government program. Her high school was a multi-track, year-round school with over 4,500 students. The high school population was predominantly Latino. The school success rate on the

California high school exit examination was 54 percent, compared to the state average of 80 percent. The estimated median household income in the community around the high school was \$34,000, compared to a state average of \$53,000. Ms. Chavez then revealed that she herself was the student whose information was just presented. She emphasized the importance of considering students holistically, of considering what resources students have access to, and that numbers are not a direct reflection of a student's ability to succeed in higher education.

UCSA has three main budget priorities: diversity, graduate student funding, and student fees. Ms. Chavez emphasized the importance of funding for academic preparation programs to enhance diversity by recruiting and preparing K-12 students for the University. She thanked the Regents for the \$10 million in graduate student support included in this year's budget. UCSA would like to ensure that there is student input into how these funds are allocated. Graduate student funding is crucial to maintaining UC's competitiveness. Ms. Chavez expressed UCSA's ongoing concern about student fees and that student fees cannot be the only solution or a major solution when there is a budget shortfall.

In connection with the proposed changes for freshman eligibility, Regent Schilling asked about the amount of additional cost for processing applications with comprehensive review. She asked if students would be willing to pay a higher application fee to cover these costs and noted that this might be challenging for the smaller campuses.

Faculty Representative Croughan commented that all the undergraduate campuses currently perform comprehensive review on student applications. Every campus receives a \$60 fee per application. The cost of reviewing an application, with comprehensive review, is \$38. There will be no additional cost for application review under the freshman eligibility reform proposal. She anticipated that there may be increased space and personnel needs to carry out application reviews and that some costs may result.

## 5. **2009-10 BUDGET: OPTIONS UNDER DISCUSSION**

Committee Chair Gould observed that the University should begin to outline important features of the 2009-10 budget. He recognized the unusual context of stressful market conditions and the fact that the 2008-09 budget has not yet been adopted.

In the uncertain budget environment, Vice President Lenz identified the State's ability to address the structural deficit as a critical factor. The University's position will depend on this and on the performance of the economy. Growth in the economy will lead to growth in the State General Fund and increased potential revenue for the University.

The University will obtain a perspective on this situation just before the November meeting, when the California Legislative Analyst's Office produces its fiscal outlook for the state, an annual comprehensive report. This report will indicate the effect of the 2008-09 budget on the State General Fund and provide projections for a possible structural

deficit in the coming year, the performance of the economy, and the effect of mandatory costs, such as court orders, on the State budget.

The principal budget concerns for the University remain enrollment growth, compensation including salary and health benefits, retirement contributions, purchased utilities, new space, Regental budget priorities, student fees, financial aid, and capital outlay funding.

Mr. Lenz advised that decisions about these important issues will have to be made early. In the area of enrollment growth, the demand for access to the University has been overwhelming over the past year and for the coming 2008-09 year. The University anticipates an enrollment of more than 10,000 students beyond the funding provided by the State for enrollment; the campuses are absorbing a cost of approximately \$100 million to serve these students. There will be serious concerns about the University's ability to accommodate additional students, offer required course sections, ensure timely graduation, and provide campus services.

Some of the significant salary and health benefit concerns confronting the University are the 2008-09 continuation costs, which will depend on finalized collective bargaining agreements, academic merit increases, the faculty salary lag, and the restoration of competitive salaries for staff. There is an anticipated increase in 2009-10 health benefit costs of between 10 percent and 14 percent, a cost of \$30 million to \$37 million. There is no State funding in 2008-09 to address these issues.

On the issue of resumption of contributions to the retirement plan, Mr. Lenz recalled that there have been no contributions for the past 18 years and that 80 percent of UC's current employees have never made contributions. The University's liability for first-year funding may be \$250 million.

Campus cumulative deficits in purchased utilities are between \$35 million and \$40 million. The University anticipates that the costs of natural gas and electricity will rise between 10 percent and 30 percent, a cost of \$25 million to \$40 million.

New space funding is provided in UC's marginal cost funding, but is provided only when there is funding for additional enrollment growth. In 2008-09 there is no funding for additional enrollment growth and therefore no funding for new space.

Regental budget priorities identified in the 2008-09 budget that will presumably continue in 2009-10 include student mental health, the faculty salary plan, academic and staff compensation, graduate student support, and new schools. In particular, Mr. Lenz noted the operating costs for the new medical school at UC Riverside which need to be addressed.

Mr. Lenz observed that student fees have sometimes been used to offset reductions in the State General Fund with limited benefit to student programs. The University now

receives less funding from the State per student and is increasing fee revenue per student. At the same time, financial aid from various sources has increased.

The University also faces critical needs in capital outlay funding for enrollment growth, seismic safety, health sciences, capital renewal, and deferred maintenance. Although the University succeeded in securing funding for some projects, the State is not pursuing a general obligation bond and there is a \$190 million difference between the funding the University would have received from a general obligation bond and what it received from lease-revenue bonds. The same will be true next year if there is no higher level of funding from lease-revenue bonds. Mr. Lenz stressed that the University must seek alternative financing for its critical needs.

The 2009-10 budget consultation process has already begun, with a letter to chancellors from President Yudof, asking them to identify priorities. There have been deliberations with campus leadership, and Mr. Lenz stated that he would meet with the Academic Senate and student leadership. There will also be consultation with the University's external constituency. The staff members of the Assembly and Senate are currently occupied with the 2008-09 budget, but at a future point the University will have an opportunity to explain to them the effects of the 2008-09 budget and the University's needs for 2009-10. Mr. Lenz emphasized the need for State legislators to understand the implications of not funding critical UC needs. The University meets regularly with staff of the Department of Finance, the Legislative Analyst's Office, and the Governor's Office, and will continue to do so.

Mr. Lenz recalled that a revised budget plan will be presented in November. He asked that the Regents keep the administration apprised of priorities to be kept in mind in the development of recommendations.

Faculty Representative Croughan expressed the hope that the University will achieve a balance among various priorities: capital improvement projects, seismic concerns, programmatic needs, and needs of students, faculty, and staff. She stressed that the University is now faced with very difficult decisions.

Regent Varner urged that the University meet directly with State legislators. He observed that, in some cases, there is a lack of understanding about the University's important role in the economic development of the state. This should be a priority and a concerted effort led by the President. The University might be assisted by unions and students in this effort.

In response to a question by Chairman Blum, Mr. Lenz responded that he would provide information from the State budget forecast for the current fiscal year on projected income to the state from capital gains taxes and the exercise of stock options.

Regent Lozano asked that funding recommendations contained in reports from the Study Group on University Diversity be included among the priorities for implementation.



Regent Kozberg observed that the California State University has taken action on overenrollment. Last year the University made what she deemed a very positive decision to enroll as many students as possible. If the University is obliged to take adverse action this year, she opined that this should be done as early as possible. Applicants to the University must be aware of the enrollment situation. This matter will require serious consideration and consultation with many groups including the Legislature.

Committee Chair Gould concurred with Regent Kozberg's remarks and stressed that the University must be prepared for the Governor's funding proposal for the following year, with an early awareness of facts.

Regent Kozberg asked if the University has in the past run a bond, in coalition with others, outside the legislative process. Mr. Lenz recalled that the University ran a bond on its own about twenty years ago; it was not successful. He emphasized that these are costly measures. The University's successful 2006 bond with K-12 cost approximately \$20 million, with the K-12 system contributing approximately \$14 million of the cost of the campaign.

In response to Regent Varner's suggestion, President Yudof reported that the administration is making many visits to Sacramento. Senior Vice President Hofmann is assembling a strategic communications plan. President Yudof noted that it is important not only to present information to the Legislature, but to increase understanding by Californians of the importance of UC. The University will continue its efforts in this.

President Yudof stated that he will make recommendations on challenging issues such as enrollment. He expressed his reluctance to freeze enrollment, citing the loss of opportunity this would represent for young people. There would have to be demonstrable savings to the University from such a measure, and the University does not always accurately calculate marginal revenue and cost. President Yudof stated that the University will act in good faith and attempt to accommodate the priorities of the various UC constituencies, but this will not be possible without significant new funding from the State.

## 6. **REPORT ON NEW LITIGATION**

[Background material was mailed to Regents in advance of the meeting, and copies are on file in the Office of the Secretary and Chief of Staff.]

General Counsel Robinson presented his **Report on New Litigation**, shown in Attachment 2. By this reference the report is made part of the official record of the meeting.

The meeting adjourned at 10:40 a.m.

Attest:

Secretary and Chief of Staff

**Proposed Regulations Governing Conduct of Non-Affiliates in the Buildings  
and on the Grounds of the University of California**

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## **Proposed Regulations (California Education Code § 92440.5)**

### **I. INTRODUCTION.**

The following regulations are promulgated under California Education Code section 92440.5, which authorizes The Regents of the University of California to enact regulations addressing the conduct of persons who are not students, officers, or employees of the University of California when that conduct is a threat to persons or property or constitutes interference with functions or activities of the University. Violation of regulations promulgated under section 92440.5 is punishable as a misdemeanor. Pursuant to section 92440.5, these regulations do not apply to the conduct of students, officers, or employees of the University; their conduct is governed by other University regulations. These regulations may not be utilized to impinge upon the lawful exercise of constitutionally protected rights of freedom of speech or assembly, or the constitutionally protected right of personal privacy.

### **II. DEFINITIONS.**

The following definitions shall apply to terms used in these Regulations:

- A. “Non-affiliate” means any person who is not any of the following: a student, officer, official volunteer, employee, Regent, or emeritus of the University of California or a member of a household authorized to reside in University Property. As used in this definition:
1. “student” means any person who (a) is enrolled in or registered with an academic program of the University; (b) has completed the immediately preceding term, is not presently enrolled, and is eligible for re-enrollment; or (c) is on an approved educational leave or other approved leave status, or is on filing-fee status.
  2. “official volunteer” means any person who is: (a) listed as an officer of the recognized campus alumni association, including its committees or related clubs; (b) listed as an officer of a support group formally recognized by the particular campus; or (c) formally registered through the relevant Campus Human Resources/Staff Personnel office and authorized to provide volunteer services on behalf of the University in campus facilities (e.g., hospitals, museums, etc.).
  3. “employee” means any person who is listed in the campus payroll system, regardless of the percentage of time associated with the person’s employment, including a staff retiree who has been recalled for University employment and other individuals to whom the University is contractually obligated to provide access to University property equivalent to that allowed to University employees.

4. “emeritus” means any person who holds the title of “emeritus” pursuant to Regents Standing Order 103.5 and section 120 of the University of California Academic Personnel Manual.
- B. “University Property” means buildings and grounds that are operated by, or under the control of, the Regents of the University of California.
- C. “Person” includes natural persons, corporations, firms, partnerships, joint stock companies, associations and other organizations of persons.
- D. “Designated University Official” means the University official delegated authority over the relevant operation from the Chancellor or chief administrative officer of the facility.

### III. **ENFORCEMENT.**

When enforcing these Regulations, an officer or employee authorized to maintain order on the campus or facility should make a reasonable attempt to warn and advise a non-affiliate subject to cease the prohibited conduct or activity before citing and/or arresting the non-affiliate subject for violation of these Regulations, except where the conduct violating these Regulations reasonably appears to create a threat to or endanger health, safety or property.

### IV. **ALCOHOL.**

No non-affiliate shall drink or consume any alcoholic beverage, or possess an alcoholic beverage in an open container, on University property out of doors, except as an invited guest at an event or activity sponsored by the University at which the Designated University Official has approved the consumption of alcoholic beverages.

### V. **APPROVAL FOR ACTIVITY ON UNIVERSITY OF CALIFORNIA PROPERTY.**

- A. Approval for Gatherings or Demonstrations: No non-affiliate shall hold or conduct any demonstration or gathering in or upon any University property without prior approval from the Designated University Official, and subject to such requirements regarding time, place, and manner as the Designated University Official may impose.
- B. Approval for Structures or Equipment: No non-affiliate shall build, construct, set up, place or maintain or attempt such, in or upon any University of California owned or operated property, any tent, platform, booth, bench, table, building, sound system, or other structure, without prior approval from the Designated University Official, and subject to such requirements regarding time, place, and manner as the Designated University Official may impose.
- C. Approval for Amplified Sound: No non-affiliate may use amplified sound on University Property, without prior approval from the Designated University Official, and subject to such requirements regarding time, place, and manner as the Designated University Official may impose.

- D. Criteria for approval of activities in this section shall be content-neutral and specified in advance.

## **VI. CAMPING AND STORAGE OF PERSONAL BELONGINGS.**

No non-affiliate on University property shall, without authorization from a Designated University Official:

- A. Camp, occupy camp facilities, use camp paraphernalia, or store personal property on University property.
- B. Bring any tent or other housing structure on University property, or occupy any such tent or housing structure.
- C. Set up a household or campsite on University property.
- D. Bring, leave, or dump furniture, mattresses, or other large household items on University property, or bring or maintain large personal belongings or large amounts of personal belongings on University property, except as authorized by the Designated University Official. For purposes of this section, "large household items," "large personal belongings," and "large amounts of personal belongings," means anything that cannot be reasonably carried on the person or reasonably used for personal purposes.
- E. Store personal possessions on University property. For purposes of this section, "storage of personal possessions" means leaving items unattended, that is, not in the owner's immediate personal custody and control.
- F. Bring onto University property any unauthorized carts, carriages, trailers, or other vehicles of conveyance designed for, or used to transport property, except for: (1) baby carriages actually used to transport infants, or (2) wheelchairs or other wheeled conveyances necessary for disabled access.

## **VII. COMMERCIAL ACTIVITIES.**

No non-affiliate shall solicit, hawk or otherwise peddle or rent any goods, wares, merchandise, liquids or edibles for human consumption or services on University property, operate any commercial enterprise, or give any lessons, classes or instruction on University property whether for profit or otherwise, except as specifically authorized by the Designated University Official. For purposes of this section, soliciting and selling shall include the leafleting or distribution of advertisements or other promotional devices.

**VIII. CURFEW.**

No non-affiliate shall enter or otherwise remain on University Property between the hours of midnight to 6:00 a.m., or at such other times as published or posted by the campus or University location. This curfew shall not apply to University housing residents or their invited guests, invited guests of University faculty, emeritus or staff, persons possessing valid written authorization from the Designated University Official, or those on legitimate University related business or attending a specific University sponsored event. Those persons possessing a valid written authorization, or attending a specific event, shall be allowed to remain and use the facilities as specified in their authorization or through the duration of the specific event, after which time they shall leave the property without any appreciable delay. This curfew also shall not apply to people proceeding directly across a roadway or path that has been designated by the Designated University Official as open to the public during curfew hours.

**IX. DANGEROUS MATERIALS.**

No non-affiliate shall bring any explosive material (as defined by section 12000 of the California Health and Safety Code) or flammable material (as defined by section 12504 of the California Health and Safety Code) or any hazardous or flammable materials (as defined by the regulations adopted pursuant to section 2402.7 of the California Vehicle Code) onto University property, regardless of whether or not the material is burning, except such materials that are transported in approved containers and necessary for the conduct of the business of the University or are approved by the Designated University Official or are contained in any tank used only to carry fuel necessary for the operation of a vehicle or any equipment of the vehicle.

**X. DOGS, CATS AND OTHER ANIMALS.**

No non-affiliate, having ownership, custody or control of any dog, cat or other animal, except for animals (as described in California Penal Code section 365.5) assisting persons with disabilities, shall cause, suffer or permit such animal on University property without authorization, unless (1) the animal remains on a leash or under the hand control of a responsible person at all times, (2) the animal is not left unattended, and (3) the animal remains at all time in outdoor areas designated by the University. Any non-affiliates having ownership, custody or control of any animal on University property must promptly remove and properly dispose of any droppings left by such animal.

**XI. FIRES.**

Non-affiliates shall not start or maintain campfires, portable stoves, open fires and other fires on University property except as expressly authorized by the Designated University Official, and subject to such requirements regarding location, time, and fire safety precautions as the Designated University Official may impose.



**XII. NUDITY.**

No non-affiliate shall be nude on University property in any place open to the public or any place visible from a place open to the public including offices and classrooms, except for specifically designated "clothing optional areas" of campus gymnasiums and pools, dressing rooms, changing rooms, and restrooms. "Nude" within the meaning of this section means the absence of an opaque covering which covers the genitals, pubic hair, buttocks, perineum, anus or anal region of any person or any portion of the breast at or below the areola thereof of any female person.

This prohibition does not apply to: (1) individuals or groups participating in visual or performing arts productions or academic programs or classes scheduled or sponsored by campus academic units or departments or under the auspices of programs approved by the Designated Campus Official for the sponsorship or presentation of visual or performing arts productions, as determined and formally approved by the departmental chair, unit or program director; or (2) any female exposing her breast to the extent such exposure is necessary to breast-feed a child.

**XIII. PASSAGE ON UNIVERSITY PROPERTY.**

No non-affiliate shall remain on University property if directed to leave that University property by the chief administrative officer of the campus or facility, or an officer or employee designated by the chief administrative officer to maintain order on the campus or facility, upon the reasonable determination of that officer or employee that the non-affiliate is committing an act that is likely to interfere with the peaceful conduct of the activities of the campus or facility or has entered the campus or facility with the purpose of committing any such act.

**XIV. PROHIBITED CONDUCT.**

No non-affiliate on University property shall:

- A. Knowingly and willfully interfere with the peaceful conduct of the activities of the campus or facility by intimidating, harassing or obstructing any University employee, student, or any other person.
- B. Delay or linger without lawful purpose for being on the property and for the purpose of committing a crime or violation of these policies as opportunity may be discovered.
- C. Use University facilities not generally open to the public, including but not limited to, showers, storage lockers, study lounges or recreational facilities, without authorization of a Designated University Official.

- D. Rummage through or remove any discarded item from any recycling container or any designated University waste or recycling center without authorization of a Designated University Official.
- E. Urinate or defecate in any place other than a designated restroom or other facility designed for the sanitary disposal of human waste.
- F. Wear a mask, personal disguise, or otherwise conceal his/her identity with the intent of intimidating any person or group, or for the purpose of evading or escaping discovery, recognition, or identification in the commission of violations of University policy, University regulations or municipal, state, or federal laws.
- G. Disturb plants and wildlife in any way, including climbing or placing objects in trees or bushes or attaching items to them without authorization of a Designated University Official.
- H. Attempt to engage in any of the above offenses.

**XV. SIGNS, POSTERS, PLACARDS, BANNERS, HANDBILLS, DISPLAYS/ STRUCTURES.**

Non-affiliates' ability to speak and communicate on campus adds to the vibrant exchange of ideas at the University. At the same time, reasonable content-neutral regulations regarding the time, place, and manner of such speech help preserve University property for the functions for which it is dedicated.

- A. No non-affiliate shall carry, transport or use signs, posters, placards or banners exceeding thirty inches (30") by thirty inches (30") in size, in or on any University property unless prior written permission has been obtained from Designated University Official.
  - 1. The size of the handles or supports for such signs, posters, placards, or banners shall be limited to one-fourth inch (1/4") in thickness by three-fourths inch (3/4") in width and shall extend no more than eighteen inches (18") beyond a single exterior edge of such signs, posters, placards or banners.
  - 2. All such handles or supports shall be made of wood without exception.
- B. No non-affiliate shall, on University property, without authorization from the Designated University Official: in any way affix, fasten, or attach to the premises any signs, posters, placards or banners; nor shall they be self-supporting and placed for display; nor leaned against any wall, partition or other portion of University property.
- C. No non-affiliate shall carry signs, posters, placards or banners in a way that obstructs or interferes with the normal movement of any vehicular traffic or pedestrian movement on University property.

- D. No non-affiliate shall post or affix, or cause to be posted or affixed, on any University property any handbill, circular, booklet, card, pamphlet, sheet or written or printed notice except in such locations and in the time and manner explicitly established by the University for such purpose, without prior authorization of the Designated University Official.
- E. No non-affiliate shall distribute any written or printed matter in violation of established campus directives regarding time, place and manner.
- F. No non-affiliate shall erect any structure or display, or bring a structure or display on to University property without prior written authorization from the Designated University Official. For purposes of this paragraph, "structure or display" means any object larger than two feet in any dimension that is intended to be placed or displayed in a public area, or is left unattended in a public area. It does not include objects entirely supported or carried by a single person that do not extend more than one foot from that person (e.g., a signboard supported over someone's shoulders).
- G. Where the Designated University Official is permitted to authorize exceptions to the regulations set forth in this section, the criteria for such authorization shall be content-neutral and specified in advance.

#### **XVI. WEAPONS.**

No non-affiliate shall, on University property, carry upon his/her person or have in his/her possession or under his/her control any Dangerous Weapon. For purposes of this Section, "Dangerous Weapon" means and includes, but is not limited to:

- A. Any firearm in violation of the Gun-Free School Zone Act of 1995, California Penal Code section 626.9.
- B. Any knife having a blade two and one-half inches or more in length.
- C. Any folding knife with a blade that locks into place.
- D. Any ice pick or similar sharp tool that can be used as a stabbing implement capable of inflicting serious bodily injury.
- E. Any razor with an unguarded blade.
- F. Any cutting, stabbing or bludgeoning weapon or device capable of inflicting serious bodily injury.
- G. Any dirk or dagger.
- H. Any taser, stun gun, or other similar electronic device.
- I. Any instrument that expels a metallic projectile such as a BB or a pellet, through the force of air pressure, CO2 pressure, or spring action, or any spot marker gun.

This section shall not apply to a duly appointed peace officer as defined in Chapter 4.5 (commencing with section 830 of the California Penal Code), a full-time paid peace officer of another state or the federal government who is carrying out official duties while in this state, a person summoned by any officer to assist in making arrests or preserving the peace while the person is actually engaged in assisting any officer, a security guard authorized to carry a loaded firearm pursuant to California Penal Code section 12031 or to an honorably retired peace officer authorized to carry a concealed or loaded firearm pursuant to California Penal Code sections 12027(a) or (i), or California Penal Code section 12031(b)(1) or (8), or a member of the military forces of this state or the United States who is engaged in the performance of his or her duties

This section shall not apply if, at the time of the alleged violation, the instrument or device alleged to be a Dangerous Weapon was in good faith carried upon the person or in his/her custody or control for use in his/her lawful occupation or employment.

**XVII. AUTHORITY CITED.**

Authority cited: California Education Code section 92440.5(a)

Notwithstanding any other provision of law, to the extent that the Regents adopt or amend a rule or regulation pertaining to the governance and maintenance of the buildings and grounds of the University of California pursuant to this section, addressing the conduct of persons who are not students, officers, or employees of the University of California when that conduct is a threat to persons or property or constitutes interference with the functions or activities of the University, the violation of that rule or regulation is a misdemeanor.

**NEW LITIGATION AND ARBITRATION PROCEEDINGS**

*Report Period: 6/5/08 – 8/18/08*

*Regents Meeting*

*September 2008*

<u>Plaintiff</u>	<u>Location</u>	<u>Nature of Dispute Alleged by Plaintiff</u>	<u>Forum</u>
		<b><u>Employment Cases</u></b>	
Barajas, Paula (Custodian)	UCSD	Sexual Harassment; Retaliation Intentional Infliction of Emotional Distress; Negligent Infliction of Emotional Distress and Sexual Battery	San Diego County Superior Court
Branner, Richard (Professor)	UCD	Discrimination (Race, Age); Retaliation and Harassment in Violation of FEHA; Breach of Implied Covenant of Good Faith and Fair Dealing; Intentional Infliction of Emotional Distress and Breach of Contract	Yolo County Superior Court
Grace, Iris	UCB	Disability Discrimination: California Fair Employment and Housing Act	Alameda County Superior Court
Hack, Hillary (HazMat Technician)	UCSD	Disability Discrimination/Harassment	San Diego County Superior
Hamutoff, Ronald (Pharmacist)	UCIMC	Discrimination (disability, age); Retaliation, Intentional Infliction of Emotional Distress and Tortious Termination in Violation of Public Policy	Orange County Superior Court
Ostovar, Farshad Sirjani (Resident Physician)	UCSF	Writ of Mandamus (Code of Civil Procedure Section 1094.5); for Violation of Civil Rights (California Civil Code Section 51 et seq.)	Fresno County Superior Court

Pardo, Francisco, M.D. (Radiation Oncologist)	UCSD	Retaliation in Violation of Public Policy; Health and Safety Codes	San Diego County Superior
Sisemore, Jacqueline (Assistant Director of Marketing)	UCI	Sex Discrimination and Retaliation; Wrongful Termination and Violation of Equal Pay	Orange County Superior Court
<b><u>Professional Liability Cases</u></b>			
Cake, Regina	UCSF	Medical Negligence, Breach of Oral Contract, Constructive Battery, Fraud, Corporate Negligence, Lack of Informed Consent and Loss of Consortium	Fresno County Superior Court
Campbell, Charles F.	UCSD	Medical Malpractice	San Diego County Superior Court
Carillo, Jamie Gonzalez	UCSF	Medical Negligence	San Francisco County Superior Court
Chavez, Robert	UCLA	Damages; Willful Misconduct, Negligence, Dependant Adult Abuse	Los Angeles County Superior Court
Christ, Connie	UCLA	Damages; Personal Injury, Medical Malpractice	Los Angeles County Superior Court
Cole, Craig R. (decedent), Cole, Nancy, Christie Marie, Colin Travis, and Courtney Ane	UCI	Medical Malpractice, Survival Action, Wrongful Death	Orange County Superior Court
Cortes, Evelyn	UCSF	Damages; Medical Malpractice	San Francisco County Superior Court
Cuevas, Tammy	UCI	Damages; Professional Negligence; Loss of Consortium	Orange County Superior Court
Durand, Jean-Pierre	UCLA	Damages; Medical Malpractice, Negligent Hiring, Training & Supervision; Lack of Informed Consent, Negligence	Los Angeles County Superior Court

Furia, David	UCD	Medical Negligence	Sacramento County Superior Court
Garcia, Jose	UCSF	Damages; Personal Injury, Medical Negligence	San Francisco County Superior Court
Garza, Ethan Anita Garza	UCD	Personal Injury, Medical Malpractice, Wrongful Death	Sacramento County Superior Court
Heckard, Vincent	UCLA	Professional Negligence, Failure to Obtain Informed Consent	Los Angeles County Superior Court
Hodges, Mamie	UCD	Damages; Medical Malpractice, Strict Products Liability, Products Liability (Manufacturing Defect), Products Liability (Failure to Warn), Products Liability (Negligence), Negligence Per Se	Sacramento County Superior Court
Jimenez, David J.	UCLA	Damages; Negligence – Healthcare Provider, Negligence – Products Liability, Strict Liability, Breach of Express Warranty, and Breach of Implied Warranty	Los Angeles County Superior Court
Johnson, Sharon Yvette	UCLA-Affiliate (Honda Bayside Medical) UCSF	Damages; Sexual Assault and Battery; Professional Negligence; Intentional Infliction of Emotional Distress; Negligent Hiring, Supervision, etc.; Punitive Damages	Los Angeles County Superior Court
Johnson, Willie Lee (decedent), Barbara and Albert Johnson	UCSF	Medical Malpractice, Wrongful Death	San Francisco County Superior Court
Jones, Heather	UCLA	Damages; Medical Negligence	Los Angeles County Superior Court

Kelly, David (decedent), Jessica and Morgan Kelly and Sheila Greer	UCSD	Damages; Medical Negligence; Dependent Adult Abuse	San Diego County Superior Court
Kerrigan Hayes, Tara Terrence Hayes	UCLA	Damages – Negligence, Loss of Consortium	Los Angeles County Superior Court
Kotak, Mary Ann	UCSF	Medical Malpractice, Professional Negligence, General Negligence	San Francisco County Superior Court
Marcondes, Ana Angelica	UCLA	Damages; Negligence – Medical Malpractice, Negligent Infliction of Emotional Distress- Bystander Theory, Negligent Infliction of Emotional Distress – Direct Victim	Los Angeles County Superior Court
Matz, Lisa Johnson	UCSD	Damages; Personal Injury – Medical Negligence	San Diego County Superior Court
McKenzie, Daryl	UCD	Personal Injuries – Medical Malpractice, Lack of Informed Consent, Loss of Consortium	Sacramento County Superior Court
Purcell, Melissa	UCLA	Medical Malpractice – General Negligence	San Francisco County Superior Court
Reiterman, Jadon, a minor	UCD	Medical Negligence and Loss of Consortium	Sacramento County Superior Court
Renneisen, Arthur J.	UCD	Damages; Elder Abuse, Negligence, Negligent Infliction of Emotional Distress, and Wrongful Death	Sacramento County Superior Court
Romero, John (decedent), Loraine and Cassandra Romero	UCSD	Damages; Medical Malpractice/Negligence, Wrongful Death	San Diego County Superior Court
Tater-Alexander, Michael	UCSF- Fresno	Damages, Medical Malpractice; For Violation of Civil Rights	United States District Court – Eastern District



Tennity, Thomas J. (decedent), Elaine L. and Michael S. Tennity	UCLA	Complaint for Wrongful Death, Negligent Infliction of Emotional Distress, and Survival Action	Los Angeles County Superior Court
Topete, Alfredo	UCI	Damages – Medical Negligence	Orange County Superior Court
Torihara, Genji	UCLA	Negligence	Los Angeles County Superior Court
Trotter, Anderson Demond (decedent) Letrisha Y. Trotter, et al.	UCD	Wrongful Death	Sacramento County Superior Court
<b><u>Other Cases</u></b>			
Baptiste, Karima	UCSF	Personal Injury, General Negligence, Premises Liability	San Francisco County Superior Court
California Sportfishing Protection Alliance	LBNL	Violation of Federal Clean Water Act	U.S. District Court – Northern District
Colen, John	UCR	Breach of Contract, Agreement, Obligation, Petition for Judicial Review	Riverside County Superior Court
Flannery, Colleen	UCB	Personal injury - Slip and Fall	San Francisco Superior Court
Gabriel, Louise	UCLA	Personal injury – Slip and Fall	Los Angeles County Superior Court
Gersten, Ronald	UCB	Personal Injury, Strict Liability, Breach of Warranties, Negligence, Fraud, Aiding and Abetting, Premises Liability, Dangerous Conditions, Loss of Consortium, Asbestos	Alameda County Superior Court
Integrated Genomics, Inc.	LBNL	Violation of Employment Agreement; tortious interference with prospective economic advantage; breach of duty; unfair competition	U.S. District Court – Illinois

Leandro, Alvin	UCB and UCSF	Loss of Consortium; Asbestos	San Francisco County Superior Court
Lee, Maria	UCSF	Personal Injury and Premises Liability – Slip and Fall	San Francisco Superior Court
Lubinsky, Rita	UCLAMC	Personal Injury – Slip and Fall	Los Angeles County Superior Court
Madani-Larijani, Kaveh	UCD	General Negligence, Premises Liability, Dangerous Condition of Property	Yolo County Superior Court
Napolis, Diana	UCI	Negligence, Defamation, Violation of Right to Privacy, False Light, Intentional Infliction of Emotional Distress, Conspiracy	U.S. District Court, Southern District of California
Physicians Committee For Responsible Medicine, an organization	Systemwide	Petition for Writ of Mandamus Under the Public Records Act	Alameda County Superior Court
Save Strawberry Canyon	LBNL / UCB	Challenge to Environmental Impact Report (EIR) for the Construction of the Computational Research and Theory Facility (CRT)	Alameda County Superior Court
Save Strawberry Canyon	LBNL / UCB	Challenge to Environmental Impact Report (EIR) for the Construction of the Helios Energy Research Facility	Alameda County Superior Court
Save Strawberry Canyon	LBNL / UCB	Violation of the National Environmental Policy Act (NEPA) for the Construction of the Computational Research and Theory Facility (CRT)	U.S. District Court – Northern District
Reyes, Moises	UCLA	Personal Injury, Premises Liability and General Negligence	Los Angeles Superior Court

Sananas, Simon	UCLA	Negligence, Negligence Per Se, Assault, Battery, Infliction of Emotional Distress	Los Angeles Superior Court
Sprenger, William	UCD	Motor Vehicle, Property Damage and Personal Injury	Yolo County Superior Court
Stop Animal Exploitation Now aka SAEN	UCLA	Violation of the California Records Act, Violation of Equal Protection Clause of Free Speech	Alameda County Superior Court

**Public Employment Relations Board (“PERB”)  
Unfair Practices Alleged by Charging Party**

Sprague, Richard LA-CE-1042H	UCSDMC	Retaliatory dismissal by supervisor following medical absences and in violation of notice and union representation provisions of collective bargaining agreement.	PERB
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