

The Regents of the University of California

COMMITTEE ON FINANCE

September 15, 2010

The Committee on Finance met on the above date at UCSF–Mission Bay Community Center, San Francisco.

Members present: Regents Blum, Cheng, DeFreece, Island, Lozano, Makarechian, Schilling, and Varner; Ex officio members Gould and Yudof; Advisory members Mireles and Simmons; Staff Advisors Herbert and Martinez

In attendance: Regents De La Peña, Hime, Johnson, Kieffer, Lansing, Maldonado, Marcus, O’Connell, Pattiz, Reiss, Ruiz, and Zettel, Regents-designate Hallett and Pelliccioni, Faculty Representative Anderson, Secretary and Chief of Staff Griffiths, Associate Secretary Shaw, General Counsel Robinson, Chief Investment Officer Berggren, Provost Pitts, Executive Vice Presidents Brostrom, Darling, and Taylor, Senior Vice President Stobo, Vice Presidents Beckwith, Duckett, Lenz, and Sakaki, Chancellors Birgeneau, Block, Blumenthal, Desmond-Hellmann, Drake, Fox, Kang, Katehi, White, and Yang, and Recording Secretary Johns

The meeting convened at 1:05 p.m. with Committee Chair Lozano presiding.

1. APPROVAL OF MINUTES OF PREVIOUS MEETING

Upon motion duly made and seconded, the minutes of the meeting of July 14, 2010 were approved.

2. UPDATE ON THE 2010-11 BUDGET

[Background material was mailed to the Committee in advance of the meeting, and a copy is on file in the Office of the Secretary and Chief of Staff.]

Committee Chair Lozano addressed members of the public attending the meeting, some of whom had addressed the Regents during the public comment period earlier that day. She emphasized that the Regents concur with the priorities that have been identified for the University – advocacy in Sacramento, support for graduate students, the issue of student fees, institutional aid for undocumented students, diversity and campus climate, targeted funding for diversity, and faculty and staff salaries. As the University develops its budget, it must weigh these various priorities.

Vice President Lenz reported that there had not been much new progress to report in the State budget deliberations in Sacramento. He expressed his view that the University was in a good position regarding the State’s 2010-11 budget. Both the Governor’s administration and the Legislature have expressed support for restoring a one-time

reduction of \$305 million, and for providing \$51.3 million for enrollment growth and \$14.1 million for annuitant health benefits. Mr. Lenz recalled that the University was successful in securing nearly \$355 million in capital facilities project funding; this had not been part of the Governor's January budget proposal.

Mr. Lenz expressed his gratitude to Lieutenant Governor and Regent Maldonado for signing Assembly Bill 185 in the Governor's absence, which provided California with over \$500 million of additional federal American Recovery and Reinvestment Act (ARRA) funding, of which the University would receive \$106 million. Mr. Lenz emphasized that this is one-time funding, as was the ARRA funding the University received previously. The funds would assist the University with the 2010-11 budget, but would not provide an ongoing remedy. The University would continue to seek funding in 2011-12 equal to its 2007-08 level of State support.

Mr. Lenz expressed concern that the Legislature might reduce the amount of the \$305 million restoration in permanent State General Funds in the current version of the Conference Committee budget by \$106 million, and replace this amount with the one-time ARRA funding. He recalled that the Legislature reduced funding for UC the previous year by a total of \$637 million.

President Yudof expressed optimism that the Legislature was approaching an agreement on the State budget. He noted that he has made clear his view that the \$106 million in ARRA funding should be provided in addition to the complete \$305 million restoration. He noted that, due to the delay in the State budget and State payments to the University, the University is being compelled to cover certain costs, including support for Cal Grant awards and normal budgetary expenditures. The University would require more than \$1 billion to achieve the level of State support it had in 2007-08, and probably \$2 billion to achieve its year 2000 level of support.

Executive Vice President Brostrom called attention to a positive element of the budget, which was the fact that the Governor eliminated language prohibiting funding for the UC Retirement Plan (UCRP) from State appropriations. There was language in the Conference Committee budget which would direct the California Department of Finance, the Legislative Analyst's Office, and the University to work together on securing funding for the UCRP. This was a significant development because funding for the UCRP is an important obligation of the State to UC.

Regent Reiss reported that the U.S. Department of Education has notified the State that it could not sell the EdFund agency, an action proposed by the Governor to address the budget shortfall. In addition, the Department of Education informed the Governor that it would terminate the services of the California Student Aid Commission as guarantor of federal student loans and would contract with EdFund, an action the Commission has legally challenged. Regent Reiss advised the Regents that the U.S. Department of Education would now put \$100 million in reserve, pending the outcome of this legal case.

3. **DISCUSSION OF 2011-12 BUDGET DEVELOPMENT**

[Background material was mailed to the Committee in advance of the meeting, and a copy is on file in the Office of the Secretary and Chief of Staff.]

Committee Chair Lozano noted that the background material provided for this item outlined funding priorities communicated by the Regents to UC administrators, including commitments for operational and academic costs. She stressed that this was an item for discussion; the Regents would not be taking action at this time.

Vice President Lenz remarked that, if a State budget were now in place, the University would be receiving approximately \$200 million each month from the State General Fund, even under the worst case scenario. The University has expended about \$189 million for Cal Grant awards normally provided by the State; the delay in the State budget was precluding UC from proceeding with \$355 million in capital facilities projects. Mr. Lenz warned of negative consequences if a State budget were not approved by the middle of October; the University was now borrowing funds and using student fee income to cover its costs.

The State faces a \$19 billion budget deficit. The University's budget recommendations to be presented to the Regents at the November meeting would be predicated on the State's approach to managing this deficit. The California economy was growing at a relatively slow pace, which allowed the State Controller to indicate that the State could defer issuance of pledges in lieu of payments. Mr. Lenz expressed UC's concern about the current \$8.5 billion in temporary tax revenue which will not be available in 2011-12. There will be a new Governor, and almost 30 percent of the Legislature will be new, which will require renewed education and advocacy efforts by the University.

Mr. Lenz recalled the 2010-11 UC budget gap, which included a \$637 million State General Fund reduction as well as \$368 million in mandatory costs and \$218 million in additional mandatory costs. The University managed this shortfall through \$75 million in debt restructuring, \$210 million in earlier student fee increases, \$330 million in November 2009 student fee increases, the expected \$305 million restoration, and \$65 million in additional State funding for enrollment growth and annuitant health benefits. However, even with these sources of funding, there is a remaining budget shortfall of approximately \$237 million.

The 2011-12 UC budget gap would include a \$637 million State General Fund reduction, \$586 million in mandatory costs, and \$240 million in additional costs. Mr. Lenz presented a chart which showed that, besides the continuing budget shortfall of \$237 million, the University would experience an additional shortfall of \$315 million in 2011-12. Debt restructuring was part of a two-year program which ended in 2010-11 and would not be available in 2011-12.

Mr. Lenz requested the Regents' direction on the matter of enrollment levels, recalling that the University must work with K-12 and community college counselors on this issue,

particularly as it pertains to student advising for the 2011-12 year. Mr. Lenz discussed a chart displaying, over several years, the level of actual enrollment at UC, the level of State-supported enrollment, and a level representing the Governor's January budget proposal, which included the redirection of \$65 million in UC fee revenue to enroll additional students. The University's understanding with the Department of Finance has been that the University could carry out the Governor's proposal on the condition that UC receive all its funding as outlined in the Governor's January budget proposal, i.e., the \$305 million restoration, the \$51.3 million in additional funds for over-enrollment and \$14.1 million for increases in annuitant health costs. If funding for the University were less than this amount, it would not be fair for the State to expect UC to apply fee revenue to unfunded enrollment. Mr. Lenz emphasized that applying UC fee revenue to unfunded enrollment would set a significant precedent, one that would require serious discussions with the State.

Mr. Lenz then returned to the chart and called attention to a line representing a planned trajectory of UC enrollment levels from the present through 2013-14. This planned trajectory reflects the University's goal of bringing its enrollment target down to the State-funded level. In 2009-10, the University proposed to reduce the number of first-time freshmen by 2,300 and to increase the number of community college transfer students by 500. In fact UC reduced the number of first-time freshmen by about 2,000 and increased the number of community college transfer students by about 800. In 2010-11, the University had proposed to reduce first-time freshmen by 1,500 and increase community college transfer students by 500; in fact, the reduction in first-time freshmen would be closer to 850, and the increase in community college transfer students would be about 1,000. These numbers represented an effort by President Yudof to improve the community college transfer function and his collaboration with Chancellor Jack Scott of the California Community Colleges.

The President's recommendation for the 2011-12 year is to remain on this planned trajectory in order to achieve about 3,800 reductions in first-time freshmen over two years; this would mean reducing enrollment by about 1,000 more students and would move the University toward its target State-funded level of enrollment.

Mr. Lenz next discussed the components of the \$637 million reduction in State General Funds. The University's understanding with the State Department of Finance was that \$305 million of this amount was a one-time reduction, to be restored in the 2010-11 fiscal year. The State had a commitment to restore another \$167.5 million within two years. An additional \$164.6 million would be required in order to restore the State's support for the University to the 2007-08 level.

Mr. Lenz next outlined specific costs for items which make up the \$240 million increase in costs in 2011-12: faculty merit increases, employee health benefits, annuitant health benefits, retirement contributions, collective bargaining agreements, and potential employee salary increases. The campuses would also experience cost increases totaling \$34.5 million in 2011-12 in non-salary price increases, purchased utilities, and maintenance of new space.

Mr. Lenz presented a list of initiatives, totaling \$113 million, which have been priorities for the Regents and remain priorities in the 2011-12 budget. These include the expansion of the University's Programs in Medical Education (PRIME), nursing enrollment growth, the medical school at UC Riverside, graduate student support, the California Institutes for Science and Innovation (Cal ISIs), improving the student-faculty ratio, the faculty salary plan, and core academic support.

Adding together the \$637 million State General Fund reduction, the \$240 million in cost increases, the \$34.5 million in additional non-salary cost increases for the campuses, and the \$113 million for priority initiatives, Mr. Lenz presented the University's total need for State funding as \$1.02 billion.

Current mandatory undergraduate student fees are at \$10,302. Each one-percent increase in systemwide fees generates \$21.8 million; the net revenue after financial aid is \$14.1 million. Mr. Lenz stressed that the University has sought revenue sources other than student fees. There have been concerted efforts to achieve administrative efficiencies, including energy efficiency measures, and to achieve savings through strategic sourcing. Strategic sourcing has saved approximately \$207 million over four years; in 2009-10 it saved almost \$53 million.

Mr. Lenz presented a chart which showed the University's expectation regarding the level of student self-help, a combination of work and student loans, in meeting the cost of UC education. UC financial aid has reduced the loan/work expectation for students. The Regents may have some flexibility to set aside a portion of UC's financial aid to address the needs of middle-income students.

Finally, Mr. Lenz discussed the 2011-12 capital budget. A recent effort to place a General Obligation bond for the K-12 and higher education system on the ballot in the November State general election was not successful. He briefly noted the University's communications with the staffs of State Assemblywoman Brownley and State Senator Ducheny, authors of two relevant bills. Lease revenue bonds remain the University's "backup plan," but they do not provide the same magnitude of funding as a General Obligation bond and there are limitations on the kinds of projects that can be funded with them. Mr. Lenz concluded by presenting a list of 2011-12 capital budget challenges to be addressed by the State and challenges to be addressed by the University.

Committee Chair Lozano stressed that the uncertainties of the current-year budget made the planning for the 2011-12 budget even more complicated and briefly outlined topics of priority for the Regents to consider: student enrollment levels, salary increases, mandatory costs, student fees, financial aid for middle-income students, and possible use of lease revenue bonds.

Chairman Gould emphasized that the State would not have a balanced budget in 2011-12. There would be a massive budget deficit for the incoming Governor and a 30 percent turnover in the Legislature. He urged the Regents to identify and focus on UC's priorities

and cautioned that the University would not receive all its budget requests; the University would have to be diligent in its advocacy efforts in Sacramento.

President Yudof stated that the University should determine the cost of increasing its percentage of graduate students over time. He expressed his personal opposition to reductions in student enrollment and stated that the University has been attempting to serve as many students as possible. He emphasized the importance of faculty merit increases and salary increases for non-represented staff. The Regents should examine all variables of the University's budget together, in a holistic manner. They would be faced with difficult decisions.

Regent Varner stated his view that the Regents could address enrollment at this point, while other issues still depended on the outcome of the State budget.

Executive Vice President Brostrom noted that the following day, the Regents would consider increasing employee contributions to the UC Retirement Plan over the following two years by 1.5 percent each year. A compensation increase of 1.5 percent would offset the first-year increase and leave employees at the same level of compensation.

Regent Makarechian noted that the University has mandated obligations for seismic retrofitting. He asked if the University could move back deadlines for retrofitting if the State fails to fund its obligations. Mr. Lenz responded that other organizations, such as hospitals, are considering moving back these deadlines. There are other areas of the budget where the University has pursued measures without fiscal impact to the State, but which provide mandate or reporting relief for the University. For example, there are outdated reporting requirements which create additional workload for the campuses.

Regent Makarechian asked if the University initiates these efforts to seek relief. Mr. Lenz responded in the affirmative. This issue is examined annually by a UC working group which seeks to identify issues for which the University could receive some relief.

Regent Blum expressed his opposition to reductions in freshman enrollment. He suggested that the University could achieve significant additional savings through strategic sourcing. He stated that the Office of the President should insist that campuses engage in this effort. Campuses should eliminate committees which have become obsolete or irrelevant. The University should improve its fundraising capability, relying more on its alumni and moving away from dependence on the State. Regent Blum suggested that there should be a senior administrative position focused on fundraising. Finally, he expressed his concern about retention of outstanding younger faculty.

Committee Chair Lozano asked about the dollar amount of cost or of savings that might be achieved if the University returned to previous levels of student enrollment.

Regent Pattiz emphasized that it was essential to communicate the importance of the University's situation to the people of California. He suggested that the University might have to take extreme measures to put pressure on the Legislature. Mr. Lenz responded

that in general, the higher education segments in California have found it difficult to make Draconian decisions and to act on them. A significant change in this situation was represented by the decision of the California State University to reduce its enrollment by 30,000 students. He stressed that the University must be able to make good on its promises.

Regent Pattiz stated that the University faces an unprecedented situation which requires unprecedented responses. It is in competition for fewer resources.

Regent Island requested a basis for evaluating some of the budget options presented. He questioned the economic value of reducing student enrollment. He asked about how financial aid for middle-income students would function. Mr. Lenz responded that, in his view, the Legislature is concerned primarily with two UC issues – student fees and student access. The Legislature would recognize the importance of all the issues that were outlined in the current discussion, but would be most willing to provide funding for these two issues. This became evident in the University's discussions with the State during the budget process, which resulted in \$51.3 million in the Governor's budget proposal for enrollment growth and an effort by the Speaker of the Assembly to include \$200 million in UC's budget to reduce the 2010-11 student fee increase from 15 percent to five percent. While the effort to buy down the fee increase did not succeed, Mr. Lenz cited these two instances as indicative of the Legislature's priorities. The other issues outlined in the discussion were presented for the Regents' consideration. If the Regents wished to change the planned trajectory and in fact increase student enrollment, the University should change its approach in Sacramento. The University is currently managing a situation of 15,400 students for whom it receives no State funding, at a cost of \$168 million. Campus efficiency efforts address this issue. If student enrollment is not one of the issues considered in the University's negotiations with the Legislature, the University would need a different strategy in the future.

Committee Chair Lozano asked about the cost for the University's over-enrollment. Mr. Brostrom responded that the current cost per student was approximately \$10,000. The average cost for 3,000 students would be about \$30 million, although it is less costly to educate freshmen than upperclassmen or graduate students. In response to Regent Island's question about financial aid for middle-income students, Mr. Brostrom returned to the chart displaying the University's loan/work expectation for students. The chart included the University's maximum and minimum loan/work expectation levels over a period of years, and the midpoint, which represented seven to 13 hours of work a week and a loan, to be paid off with a certain percentage of post-college income. UC's loan/work expectation has decreased since 2007-08, when it was close to \$10,000; in the current year students were responsible for about \$1,200 less. Mr. Brostrom attributed this to UC's policy of returning 33 percent of fee increases to financial aid. He suggested that the University could use eight percent of this 33 percent for addressing the needs of middle-income students. This would preserve a reasonable loan/work expectation for lower-income students, but would assist middle-income students who do not qualify for institutional aid, students with family income between \$90,000 and \$110,000.

Regent Island asked if lower-income students would receive less financial aid under these circumstances or the same amount. Mr. Brostrom stated that they would receive the same amount of financial aid, but added that the UC loan/work expectation would rise closer to the federal midpoint.

Regent Ruiz suggested that the University should focus time and energy on fundraising rather than on making cuts to various areas, and that it should try to improve its business practices. Mr. Brostrom responded that the University is attempting to build a sustainable financial model; in particular, it is examining those parts of the enterprise that perform well. He noted that private philanthropy could become less restrictive, that the University should seek more savings from indirect cost recovery, and that the University's asset management and debt management have become more effective.

Regent Marcus expressed agreement with President Yudof that the budget should be examined in a holistic manner. He asked that the Regents' input be considered as the University develops its budget recommendations for the November meeting.

Committee Chair Lozano emphasized the challenging nature of the budget discussion. A great deal of work would be done between now and the November meeting.

4. **REPORT OF NEW LITIGATION**

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

General Counsel Robinson presented his **Report of New Litigation**, shown in Attachment 1. By this reference the report is made part of the official record of the meeting.

The meeting adjourned at 2:10 p.m.

Attest:

Secretary and Chief of Staff

NEW LITIGATION AND ARBITRATION PROCEEDINGS*Report Period: 6/4/10 – 8/16/10**Regents Meeting**September 2010*

<u>Plaintiff</u>	<u>Location</u>	<u>Nature of Dispute Alleged by Plaintiff</u>	<u>Forum</u>
<u>Employment Cases</u>			
Avila, Jessica	UCSF	Disability discrimination, harassment and failure to accommodate, lack of training in hostile work place	U.S. District Court, Northern District of California
Hamilton, Reggie	UCSF	Employment discrimination	U.S. District Court, Northern District of California
Janelle, Richard	UCD	Whistleblower	Sacramento County Superior Court
Marx, Heidi	UCLAMC	Discrimination, failure to accommodate, retaliation	Los Angeles County Superior Court
Medenilla, Juliet	UCLA	Sexual harassment complaint	Los Angeles County Superior Court
Mixon, Cristine	UCSF	Disability discrimination and retaliation	San Francisco County Superior Court
Roake, Michael T.	UCSD	Breach of contract	San Diego County Superior Court
Smith, Barbara J.	UCLA	Disability discrimination	Los Angeles County Superior Court
Turner, Greta	UCLA	Wrongful termination, harassment and retaliation based on national origin, infliction of emotional distress, violation of public policy	Los Angeles County Superior Court

Professional Liability Cases

Bandel, Debra Lynn and Peter Bandel	UCIMC	Medical malpractice	Orange County Superior Court
Baragans, Rebecca and Annette Bumgarner	UCSFMC	Medical malpractice	San Francisco County Superior Court
Barraza, Edward	UCDMC	Medical malpractice	Sacramento County Superior Court
Bayer, Marjorie	UCSDMC	Medical malpractice – elder abuse	U.S. District Court, Southern District of California
Berg, Stephen (Decedent)	UCSF	Medical malpractice – wrongful death	San Francisco County Superior Court
Boyd, Lisa	UCLAMC	Medical malpractice	Los Angeles County Superior Court
Cornelison, Earl (deceased), Renee Cornelison	UCDMC	Medical malpractice – wrongful death	Sacramento County Superior Court
Dugan, Judy, David Craft	UCSDMC	Medical malpractice	U.S. District Court, Southern District of California
Fusco, Judi	UCDMC	Medical malpractice	Sacramento County Superior Court
Gill, Brandon	UCLAMC	Medical malpractice	Los Angeles County Superior Court
Grant, Maxine E.	UCSDMC	Medical malpractice – wrongful death	San Diego County Superior Court
Hatter, George (decedent)	UCSF	Medical malpractice – wrongful death	San Francisco County Superior Court
Hoermann, Iris	UCLA	Medical malpractice – wrongful death	Los Angeles County Superior Court
Husic, Remzija	UCSDMC	Medical negligence	San Diego County Superior Court
Kastan, Barbara and Patrick Uriell	UCSDMC	Medical negligence	San Diego County Superior Court
Kitaynik, Anna	UCSF	Medical malpractice	San Francisco County Superior Court

Landon, Fruma	UCLAMC	Medical malpractice	Los Angeles County Superior Court
Nili, Sherene	UCDMC	Medical malpractice	Sacramento County Superior Court
Park, Ruth M.	UCLAMC	Medical malpractice	Los Angeles County Superior Court
Pelham, Paula	UCSF	Medical malpractice	San Francisco County Superior Court
Remzija, Husic	UCSDMC	Medical malpractice	San Diego County Superior Court
Sterkina, Sofiya	UCSFMC	Medical malpractice	San Francisco County Superior Court
Sturm, Mia	UCLAMC	Medical malpractice	Los Angeles County Superior Court
Wright, Matthew	UCDMC	Medical malpractice	Sacramento County Superior Court

Other Cases

Crawford, Jennifer	UCLA	Personal injury	Los Angeles County Superior Court
CUE	UCOP	Writ of Mandate	Alameda County Superior Court
GBP Building Products, Inc.	UCSC	DOE Amendment to Complaint	Santa Cruz County Superior Court
Hickman Mechanical	UCR	Breach of contract	Riverside County Superior Court
Ishimaru, Mark S.	UCI	Breach of contract	Orange County Superior Court
Massaro, Leslie	UCLA	Personal injury, premises liability	Los Angeles County Superior Court
McClain, Tommy and Gloria	UCSF	Personal injury, asbestos	San Francisco County Superior Court
Phelps, Karim	UCLA	Personal injury	Los Angeles County Superior Court
Rosen, Katherine	UCLA	Negligence, assault and battery, intentional infliction of emotional distress	Los Angeles County Superior Court
USS Cal Builders, Inc.	UCR	Breach of contract	Riverside County Superior Court

Zochlinski, Howard	UCD	Slander and defamation of character, intentional infliction of emotional distress	Yolo County Superior Court
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Public Employment Relations Board (“PERB”)
Unfair Practices Alleged by Charging Party

Sherman, Teri L. LA-CE-1109-H	UCLA	Discrimination/retaliation	PERB
CUE (Coalition of University Employees) SF-CE-947-H	UCI	Bad faith bargaining	PERB
CUE SF-CE-948-H	Systemwide	Unilateral change	PERB
Postdoctoral Researchers Organize Intl. Union, United Automobile, Aerospace & Ag Implement Workers of America SF-CE-949-H	Systemwide	Bad faith bargaining	PERB
CUE SF-CE-950-H	Systemwide	Bad faith bargaining	PERB
UPTE-CWA Local 9119 (University Professional and Technical Employees) SA-CE-278-H	UCDMC	Unilateral change	PERB
CNA (California Nurses Association) SF-CE-952-H	Systemwide	Bad faith bargaining	PERB
UPTE-CWA Local 9119 SF-CE-953-H	Systemwide	Failure to provide information	PERB

CUE SF-CE-954-H	UCSB	Unilateral change	PERB
AFSCME Local 3299 (American Federation of State, County and Municipal Employees) LA-CE-1115-H	UCIMC	Discrimination/retaliation	PERB
UPTE-CWA Local 9119 SF-CE-955-H	LBNL	Discrimination/retaliation	PERB
CUE SF-CE-956-H	UCSB	Discrimination/retaliation	PERB