

**THE REGENTS OF THE UNIVERSITY OF CALIFORNIA
MEETING AS A COMMITTEE OF THE WHOLE**

March 23, 2016

The Regents of the University of California met on the above date at UCSF–Mission Bay Conference Center, San Francisco.

Members present: Regents Davis, De La Peña, Elliott, Gorman, Gould, Island, Kieffer, Lansing, Lozano, Makarechian, Napolitano, Ortiz Oakley, Oved, Pattiz, Pérez, Reiss, Sherman, Varner, and Zettel

In attendance: Regents-designate Brody, Ramirez, and Schroeder, Faculty Representatives Chalfant and Hare, Secretary and Chief of Staff Shaw, General Counsel Robinson, Chief Investment Officer Bachher, Provost Dorr, Executive Vice President and Chief Financial Officer Brostrom, Executive Vice President and Chief Operating Officer Nava, Executive Vice President Stobo, Senior Vice President Henderson, Vice Presidents Budil and Duckett, Chancellors Block, Blumenthal, Dirks, Gillman, Hawgood, Katehi, Khosla, Leland, Wilcox, and Yang, and Recording Secretary McCarthy

The meeting convened at 8:35 a.m. with Chairman Lozano presiding.

1. PUBLIC COMMENT

Chairman Lozano explained that the Board had been convened as a Committee of the Whole in order to permit members of the public an opportunity to address University-related matters. The following persons addressed the Board concerning the items noted.

- A. Professor Judith Butler, UC Berkeley Professor of Comparative Literature and member of Jewish Voice for Peace, noted that she is from a family of Holocaust survivors. She congratulated the Regents for developing a set of Principles Against Intolerance (Principles) that can guide the University in its opposition to intolerance and bigotry on UC campuses. However, she added that any document seeking to elucidate those principles should be as comprehensive as possible, identifying and opposing all forms of discrimination. By foregrounding anti-Semitism, the proposed Principles Against Intolerance would background other forms of discrimination, including those suffered by racial minorities and Arab and Muslim students. Professor Butler expressed her opposition to all forms of anti-Semitism and all forms of racism and discrimination. She expressed her view that the problem at the center of the proposed Principles is that anti-Zionism is conflated with anti-Semitism. Anti-Zionism is a political viewpoint that individuals have a right to express under the First Amendment and open to debate under principles of academic freedom. In fact, the topic is at the center of many public debates on and off campus. She stated that anti-Semitism is a despicable

form of discrimination that has no place on college campuses and must be clearly opposed.

- B. Ms. Mary Irene Morrison, UC Riverside graduate student and southern vice president of United Auto Workers (UAW) Local 2865, expressed her view that the most recent changes to UC policies regarding sexual harassment were not survivor-centered, but were instead focused on protecting the University, including faculty perpetrators, from legal exposure. She stated that survivors face three major factors that combine to inhibit reporting when bringing forward a complaint of harassment or assault. First, she said the Academic Senate Privilege and Tenure Committee recommends discipline in an unaccountable committee that does not understand the politics of sexual harassment and assault, does not receive adequate training, and could have sexist views. Second, the lack of clear timelines prolongs the complaint process and statutes of limitations have the potential to prevent justice. Third, especially in fields of science, technology, engineering, and mathematics, victims of harassment or assault often do not come forward because they fear retaliation in the form of a negative letter of recommendation or retaliation from other professors or peers allied with the harasser. No clear process is in place to remedy retaliation. Even in rare cases in which professors resign or are fired, sometimes they simply move on to another university. No compensation for time toward degree lost is offered complainants. Ms. Morrison stated that the UC Office of the President had excluded UAW representatives from serving on committees working on this issue.
- C. Mr. David McCleary, UC Berkeley graduate student and northern vice president of UAW Local 2865, stated that he joined the leadership of his union in echoing concerns expressed by Professor Butler about the proposed Principles Against Intolerance's improper conflation of anti-Semitism with anti-Zionism. He cited opposition to the proposed Principles by the Graduate Student Union, the Afrikan Black Coalition, and the Academic Council of the Academic Senate, more than 300 UC faculty, and others.
- D. Mr. Jason Rabinowitz, secretary/treasurer of Teamsters Local 2010, stated that California's commitment to public higher education had lapsed and the effect on UC had been dramatic. The Teamsters would partner with the University to win increased State funding. He urged the Regents to provide fair pay and benefits to UC workers, reign in executive growth, and provide a secure retirement to lifetime employees. The proposed new retirement tier would put the stability of the defined benefit plan at risk.
- E. Mr. Travis Allen, California State Assemblyman from the 72nd Assembly District in Orange County, stated that he supported the findings of the Working Group and expressed his view that anti-Semitism, anti-Zionism and other forms of discrimination have no place at UC. He requested that the Regents adopt and enforce the U.S. State Department definition of anti-Semitism. He stated that he had introduced AB 1552 to fight discrimination and prejudice at the state level by

prohibiting California from doing business with companies that boycott Israel. He urged the Regents to adopt the Principles Against Intolerance.

- F. Mr. Ralph Washington, Jr., Ph.D. student, chair of the UC Davis Graduate Student Association, and co-chair of the UC Council of Student Body Presidents, commented that a hostile cultural environment and the consequent sense of isolation continue to assault the well-being of black UC students, particularly at UC Merced where he said there are very few black graduate students. He asserted that hate crimes on UC campuses demonstrate that anti-black racism is a real and persistent threat.
- G. Mr. Omar Zahzah, UCLA student and representative of Students for Justice in Palestine, asked if the proposed Principles' Contextual Statement's concept of anti-Zionism meant that there was no place at UC for the stories and history of Palestinians.
- H. Ms. Tammi Rossman-Benjamin, of the AMCHA Initiative, expressed appreciation to the Regents for taking the problem of anti-Semitism seriously and to the Working Group for its effort in producing a Statement of Principles Against Intolerance that would make a real difference for UC's Jewish students. She expressed her view that anti-Zionism was the driving force behind the rise in anti-Semitism. She cited support among the Jewish community for the Statement of Principles. She urged the Regents to adopt the full report of the Working Group.
- I. Mr. Ashraf Beshay, UC student and vice chair of the Council on Student Fees, requested that a member of the Council on Student Fees have a permanent seat on the Board of Regents. He urged the Regents to consider providing need-based exemptions from tuition increases for enrolled international students.
- J. Mr. David Kadosh, of the Zionist Organization of America, expressed his view that anti-Zionism has no place on UC campuses. He cited what he characterized as incidents of disparate treatment of Jewish students at UC Berkeley.
- K. Ms. Leila Beckwith, UCLA professor emerita, commended the Regents for identifying anti-Jewish and anti-Zionist bigotries and affirming they should not exist on UC campuses. She expressed her view that free political debate would not be affected. Acts of bigotry were not political debate.
- L. Ms. Liat Menna, second-year UCLA student, expressed appreciation to the Working Group for its energy and initiative in addressing acts of hate on UC campuses. Critical conversation on campus should be encouraged. She expressed her view that anti-Zionism was blatant discrimination and a direct threat to Jewish students.
- M. Rabbi Aron Hier, of the Simon Wiesenthal Center, urged the Regents to oppose hate speech and support the Principles Against Intolerance.

- N. Ms. Nancy Appel, associate director of the Anti-Defamation League (ADL), read statements from the Academic Engagement Network, American Jewish Committee (ADL), Hillel International, Israel Action Network, the Jewish International Relations Council, Jewish Federations of Greater LA, North America, and San Francisco in support of the Statement of Principles and its assertion of the University's role in addressing intolerance. She urged the Regents to adopt the Report of the Working Group.
- O. Rabbi Doug Kahn, executive director of the Jewish Community Relations Council, commended the Report of the Working Group. He urged support for the Principles Against Intolerance, which would both allow intellectual challenge and keep students safe.
- P. Ms. Lauren Jackson, second-year UC Berkeley student, spoke on behalf of the Afrikan Black Coalition against UC's investing in Wells Fargo because of its financial support of private prisons. She expressed her view that private prisons exploit black people.
- Q. UC Berkeley Associate Professor Celeste Langan, speaking on behalf of the Council of UC Faculty Associations, stated that UC faculty systemwide are opposed to the pension proposal introduced by President Napolitano because it would undermine the foundation of UC excellence without substantially reducing the unfunded liability of the UC Retirement Plan (UCRP). The defined benefit plan has been the competitive advantage allowing UC to recruit dedicated faculty and staff. She characterized the proposal as a short-term solution to political pressure and urged the Regents to rise above such pressure and vote against the proposal. She said the proposed pension plan would mitigate the harm to faculty benefits by worsening staff benefits, but the best way to preserve UC excellence is to treat its employees equally.
- R. Mr. Benjamin Elliott, labor representative for the California Nurses Association, said the union is opposed to President Napolitano's proposed 2016 pension tier as an ill-advised, politically driven attack on working people.
- S. Ms. Claudia Preparata, of American Federation of State, County and Municipal Employees (AFSCME) Local 3299, urged the Regents to vote "no" on President Napolitano's proposed cap on pensionable income for UC staff. The proposal would force UC staff to rescue the University after years of financial mismanagement. She cited high fees paid to hedge fund managers for performance she said was 52 percent below that of the S&P 500 Index. She expressed her view that the proposed defined contribution plan would be risky for employees and was not requested by the Governor in the budget deal.
- T. Mr. Joseph Barry Gurdin, UCLA alumnus, expressed support for including anti-Zionism as a form of anti-Semitism in the Report of the Working Group.

- U. Mr. Joseph Meyer, UC Berkeley records assistant and member of Teamsters Local 210, expressed opposition to President Napolitano's proposed 2016 pension tier, with its introduction of a risky, 401(k)-style plan, which he said would damage UCRP and be more expensive for the University.
- V. Ms. Arielle Mokhtarzadeh, second-year UCLA student, expressed concern about anti-Semitism on UC campuses. She urged the Regents to adopt the Statement of Principles Against Intolerance.

2. **REMARKS OF THE CHAIRMAN OF THE BOARD**

Chairman Lozano stated that the Regents would discuss several important issues at this meeting, including changes to the retirement plan proposed by President Napolitano. The President would address options considered before making her proposal, consistent with the budget agreement with the Governor and the Legislature. The Regents would also discuss the final report of the Regents' Working Group on Principles Against Intolerance.

Chairman Lozano commented on the critically important issue of sexual harassment on UC campuses. She applauded the decisive actions of President Napolitano in response to several cases of sexual harassment at UC. The Regents are in full accord with the President's actions and strong statement that UC employees are entitled at minimum to come to work without fear of sexual harassment or sexual violence. When claims are substantiated, the University must hold people accountable and impose sanctions that appropriately reflect the seriousness of these behaviors.

3. **REMARKS OF THE PRESIDENT OF THE UNIVERSITY**

President Napolitano reported that the University was taking action on significant issues, such as enrollment of 5,000 additional California resident undergraduates by the upcoming fall and 5,000 more in the following two years. The President announced that UC would celebrate Innovation Day on May 10 at the State Capitol.

The U.S. government recognized 14 UC researchers with Presidential Early Career Awards for Scientists and Engineers, a prestigious and highly competitive honor. The prior month, President Napolitano visited UC researchers based at the European Organization for Nuclear Research (CERN) in Geneva, Switzerland. More CERN researchers are from the U.S. than from any other country and the majority of the U.S. scientists are from UC. In early February, President Napolitano met with dozens of students at Manual Arts High School in Los Angeles. These students would be California's future innovators. UC's imperatives are to educate the next generation of California students and continue to fulfill its research mission.

In order to fulfill these goals, UC was under pressure to keep costs down and tuition reasonable, while remaining competitive, especially with regard to its faculty and staff. These factors would inform the discussion at this meeting about recommendations for new UC retirement benefits. The President stated that her goal was to make hard

decisions that would allow UC to enhance academic excellence and competitiveness, while ensuring access and affordability for UC students.

Efforts to enroll an additional 5,000 California resident undergraduates were proceeding apace along with the President's Student Housing Initiative. Efforts to reach out to California's K-12 students were also proceeding, to help prepare them for college. These efforts include providing free, online Advanced Placement (AP) classes through UC's Scout program for middle and high school students whose schools do not offer sufficient AP coursework. UCOP funding would be set aside to give 1,000 additional low-income underrepresented minority students the opportunity to visit a UC campus after they have been admitted. Hundreds of UC staff and thousands of current UC students have visited California middle and high schools with large low-income or underrepresented student populations to provide college advising, help students prepare for standardized tests, and work with families about available financial aid. Improving transfer to UC for California Community College (CCC) students is also a priority. UC faculty adopted 11 more transfer pathways for UC's most popular majors, bringing the total number of these pathways to 21. CCC Chancellor Brice Harris announced that the CCC system allocated \$2.6 million to these transfer efforts.

President Napolitano stated that UC must continue its work dealing with sexual harassment and sexual violence. The University's General Counsel would brief the Board on ongoing efforts. She expressed her view that the current policy regarding the participation of chancellors and other senior University leaders on outside boards of directors merits Regents' review. The Board must be recognized for its willingness to address difficult issues in drafting its Principles Against Intolerance. The President stressed her commitment to continuing the excellence, access, and affordability of the University.

4. **REMARKS OF THE CHAIR OF THE ACADEMIC SENATE**

Faculty Representative Hare commented on changes that the Regents would consider to the retirement plan options for employees hired on or after July 1, 2016. He described how the proposed changes could have more than financial implications for the future of UC.

Mr. Hare related that the Academic Senate's comments on the proposed retirement plan options recognized that they are the latest in a series of compromises to quality, each of which threatened the University's continued excellence. The quality of a UC education is a direct reflection of the quality of the UC faculty who provide that education. Recruitment and retention of the best faculty requires competitive compensation, of which the retirement benefit is an important component.

UC's current defined benefit retirement plan encourages long service because the value of retirement benefits forfeited makes it economically unattractive for faculty and staff to leave UC mid-career. The current defined benefit plan also encourages timely retirement. Because of these advantages, only a defined benefit plan was recommended by the

2009 Post-Employment Benefits Task Force. Those conclusions were based on a defined benefit plan capped at a salary level seldom approached by ladder-rank faculty, the Internal Revenue Code (IRC) limit of \$265,000. The defined benefit plan actually worked to encourage retention, demonstrated by the fact that resignation rates of faculty prior to retirement average only about 1.3 percent per year over the past ten years and were surprisingly consistent across the campuses.

By contrast, Mr. Hare stated that defined contribution plans neither encourage long service nor retirement at any particular age. Once paid, the employer contribution to a defined contribution plan belongs to the employee even if the employee leaves the University. Also, employees with defined contribution plans are likely to work for salary as long as possible to avoid spending personal retirement accounts.

The option to be considered by the Regents would have a defined benefit plan with pensionable income capped far below the IRC limit. As a result, mid-career faculty might find their smaller defined benefit too low to justify rejecting outside offers of even modest salary increases. Although the Academic Senate welcomes the President's efforts to make the supplement for the proposed defined benefit plan under the Public Employees' Pension Reform Act of 2013 cap more competitive for faculty than was proposed by the Retirement Options Task Force, he noted that the supplement would be portable after five years and therefore might play only a small part in retention battles to come.

The proposed retirement plan could lead to a greater turnover of assistant professors. An assistant professor who may not know if he would be granted tenure might choose the defined contribution plan, then take advantage of the option to choose the defined benefit plan after tenure is granted. This would provide new assistant professors a seven-year period to evaluate the potential of UC employment, while the University could use those seven years to evaluate the performance of the assistant professor. UC would risk spending a lot of money on startup packages for faculty who would not spend their careers at UC.

One might also expect greater mid-career mobility of faculty. The UC faculty are a highly mobile workforce recruited from all over the world. Without the uncapped defined benefit plan of the 2013 tier, many future faculty would be expected to leave UC if they received the right offer. A greater emphasis would be placed on salary rather than benefits in recruiting and retention. Ten years prior, UC's benefits could offset its relatively low salaries, but that was no longer true for many faculty after the 2013 tier was in effect. Faculty would be expected to work longer before retiring. The average starting age for assistant professors is 36, at which point they would have only 29 years of service if they retire at 65. But it would be a challenge for them to retire comfortably before age 70, especially if they made poor decisions in the management of their defined contribution benefits or had suffered losses in periods of low equity returns. An older faculty and a lower rate of renewal of faculty would not be in the best interest of the University. The new proposed retirement tier would change the relationship between the

University and its new employees, and Mr. Hare hoped that the Regents would be prepared for such changes.

The meeting adjourned at 9:30 a.m.

Attest:

Secretary and Chief of Staff