

The Regents of the University of California

COMMITTEE ON FINANCE

January 20, 2010

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

Members present: Regents Bernal, Island, Kozberg, Lozano, Makarechian, Schilling, Varner, and Wachter; Ex officio members Blum, Gould, and Yudof; Advisory members DeFreece and Simmons; Staff Advisor Martinez

In attendance: Regents De La Peña, Lansing, Marcus, Nunn Gorman, O’Connell, Pattiz, Ruiz, Stovitz, and Zettel, Regents-designate Cheng and Hime, 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 Pitts, Executive Vice President Taylor, Interim Executive Vice President Brostrom, Senior Vice Presidents Dooley and 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 10:10 a.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 November 18, the joint meeting of the Committees on Finance and Compliance and Audit of November 18, and the joint meeting of the Committees on Finance and Oversight of the Department of Energy Laboratories of November 19, 2009 were approved.

2. UPDATE ON 2010-11 GOVERNOR’S PROPOSED BUDGET

Committee Chair Lozano observed that certain elements in the Governor’s budget proposal were heartening for the University, but the fiscal constraints facing the State were still dire. While monies identified in the new budget were significant, they would not cover the funding reductions experienced by the University in recent years. She emphasized the need for the Regents to be vigorous advocates for UC from this moment until the approval of the final State budget later in the year.

Interim Executive Vice President Brostrom noted that the Governor’s 2010-11 budget proposal was released earlier in the month. It foresees a continuing budget shortfall of \$19.9 billion, which reflects continuing revenue decline caused by the recession, growing caseloads, and the erosion of budget solutions presented the previous year, primarily through federal and State court challenges. The Governor proposed three principal

measures to address the shortfall: \$8.5 billion in further budget reductions, mostly in health and human services, corrections, and business, transportation, and housing, as well as further cuts in State employee compensation; \$6.9 billion in reimbursements from the federal government for inequities in federal payments to California; and \$3.9 billion from a variety of alternative funding sources, fund shifts, and other revenues. If the State does not succeed in securing the nearly \$7 billion in federal reimbursements, there would be significant additional cuts, including cuts to the University. Mr. Brostrom stated that, in relative terms, the University fared well in this budget proposal, given the fiscal climate and other funding priorities. The Governor's budget proposal includes four new funding proposals for UC: restoration of the \$305 million one-time reduction taken in the 2009-10 budget; \$51.3 million to fund enrollment growth, which amounts to about 2.5 percent in enrollment growth; \$5 million in supplemental funding for the Merced campus; and \$14 million for annuitant health care. Mr. Brostrom noted that, even with the recently approved UC fee increases and the Governor's proposed funding, the University will still experience a shortfall of \$237 million, relative to its 2007-08 baseline funding amounts. However, the Governor's budget is still a long way from being signed; there will be many pressures on both revenues and expenditures. Therefore, the University must be cautious and avoid premature commitments regarding enrollment growth or restoration of base budgets. Mr. Brostrom pointed out that, for the third year in a row, the Governor has removed funding for capital facilities. This is an area where the University must renew its efforts to develop alternative funding models.

Vice President Lenz began his presentation by comparing State General Fund revenue for 2009-10, \$88.1 billion, with the revenue for 2010-11, \$89.3 billion, noting the slight growth of 1.4 percent or \$1.2 billion. In 2009-10, State General Fund expenditures were \$86.1 billion, while for 2010-11, they are \$82.9 billion, a \$3.2 billion reduction, or 3.7 percent.

The Governor's budget proposal anticipates a State budget gap of almost \$20 billion. About \$6.6 billion of that amount is related to the 2009-10 shortfall, while \$12.3 billion is anticipated for 2010-11. A number of factors have contributed to the State funding gap: a decline in revenue of about \$3.4 billion, \$4.9 billion stemming from federal or State court litigation, \$2.3 billion attributable to the erosion of 2009-10 budget solutions, and \$1.4 billion based on population and caseload growth and the need for public services.

Mr. Lenz then discussed the State budget process. The Governor called a special session of the Legislature and introduced his budget proposal earlier in the month. The Legislature must act within the next 45 days to address approximately \$8.8 billion in proposed budget solutions for the 2009-10 portion of the budget gap. UC was not included in those proposed solutions; however, Mr. Lenz recalled the budget process of the previous year, when University funding was quick to be considered for reduction by the Legislature. The University must be mindful of this, even though the Governor currently was not proposing any special session reductions for UC. Both the State Assembly and Senate budget committees have held overview hearings. They have raised concerns about certain budget assumptions, such as the assumption of \$6.9 billion in federal funds; concern about the potential loss of federal funds, apart from the

\$6.9 billion, as a result of cuts to a number of programs, particularly health and human services programs, which receive federal matching funds; and concern about budget assumptions, dependent on voter approval, to shift some current dedicated funding sources to the General Fund. The University anticipates that the Legislative Analyst's Office will issue its recommendation and analysis in mid-February, and that the Legislature's budget subcommittees will begin holding hearings on the 2010-11 budget in early March.

Mr. Lenz recalled the 2010-11 UC funding request approved by the Regents at the November meeting. This included \$305 million in restoration of one-time cuts and \$109.8 million for the State's obligation to the UC Retirement Plan (UCRP) and for annuitant health benefits. The request included \$155.8 million for unfunded enrollment, estimated in November to be 14,000 students; based on the most recent data, the unfunded enrollment has grown to 15,000. Another item in the request was \$332.1 million for reinvestment in academic excellence; this amount, together with the \$305 million restoration, was to bring UC's funding level back to the 2007-08 level in State General Funds. Another \$10.4 million was requested for health sciences initiatives.

The Governor proposed a Constitutional amendment in his State of the State Address. Mr. Lenz stated that the University welcomes the Governor's message regarding the importance of investment in higher education and his effort to increase UC's share of the State General Fund, which has diminished considerably over the last ten years. The proposed amendment would increase the share of the State General Fund from seven percent to ten percent for both UC and the California State University (CSU).

In 2009-10, the University received \$2.6 billion in State General Funds; under the Governor's proposal for 2010-11, it will receive \$3 billion, a year-to-year increase of \$370 million. Besides the \$305 million restoration, the Governor's budget proposal includes \$51.3 million for enrollment funding. Mr. Lenz pointed out that this funding for enrollment is based on an assumption that the State will receive a portion or all of the anticipated \$6.9 billion in federal funding. If the State does not receive these federal monies, it is possible that the University will not receive this enrollment funding. This is problematic in the decision-making process. The University is at this time making decisions about enrollment for 2010-11; campuses will be notifying students in the spring. Yet, given the protracted nature of the budget process, there may not even be a budget until later in the fiscal year than desired. A decision by the federal government about the \$6.9 billion will come later in the year as well.

While the proposed budget includes funding for annuitant health benefits, the University was disappointed by the lack of funding for the State's contribution to the UCRP. The previous year, the Legislature adopted language stating that there would be no State General Fund support for the UCRP in the future. The State Department of Finance has agreed to budget trailer bill language which would essentially reverse that decision. The University hopes to work with the State to make it realize what its contribution to the UCRP should be now and in the future.

Mr. Lenz noted the lack of bond funding referred to earlier by Mr. Brostrom. There have been no general obligation bonds for UC in recent years; but two years previously, the State administration and the Legislature did provide funding for lease-revenue bonds, which met a portion of UC's funding request. This year, the University requested \$631 million; there is no funding at this point. There is an indication in the Governor's budget proposal that this matter may be examined at the time of the May Revise, depending on the overall fiscal condition of the State and the State's ability to sell bonds. At that point, the State might pursue a separate option, as it did with lease-revenue bonds. While such an action might not meet all the University's needs, the Office of the President will work with the campuses to identify priorities and develop requests for essential projects.

The State administration provided funding for Cal Grants for the mid-year fee increase and is recommending funding for 2010-11. However, this funding is predicated on the State's receipt of a portion or all of the anticipated \$6.9 billion in federal funding. The previous year, the University, together with CSU and the community colleges, opposed the "decoupling" of Cal Grants, i.e. not providing an increase in Cal Grants commensurate with fee increases. This is a serious concern for the University, but there are many competing issues. There is no new funding for competitive grant awards. This does not have a significant effect on UC students, but it is a concern for community colleges, and thus a concern for the higher education segments in California in their collective budget efforts.

Mr. Lenz then discussed a chart which was presented at the November meeting, representing the University's \$1.2 billion budget gap. This consists of the \$637 million cut the University experienced in 2009-10, the continuing unfunded mandatory costs, and growing mandatory costs, including additional unfunded enrollment. The budget solutions include the second year of debt refinancing, which will save \$75 million, \$210.8 million in approved 2008-09 and May 2009 fee increases, \$330 million associated with the mid-year and 2010-11 fee increases, the \$305 million restoration proposed in the Governor's budget, and \$65 million associated with enrollment growth and retiree health benefits. Even with these solutions, there is still a funding gap of \$237 million. While there has been progress on the UC budget, there is still a shortfall the campuses will have to absorb.

In November, the University estimated its unfunded enrollment at approximately 14,000 students, or a cost of \$155.8 million. More recent estimates show the number to be a little over 15,000. Last February, the Regents were asked to consider a multi-year plan to reduce enrollment by 8,000 to 10,000 students, given the magnitude of the unfunded enrollment. For the 2009-10 budget, the Regents approved a reduction of 2,300 first-time freshmen and an increase of 500 community college transfer students. Mr. Lenz noted that the community college transfer function worked well; not only did the University increase community college transfer students by over 700, but the diversity of the pool was unprecedented. As part of the 2010-11 budget recommendation, the Office of the President had suggested that the University ask the State to fully fund the unfunded enrollment of 14,000 students. If the State did not provide this funding, one

recommendation could be a second reduction of 2,300 first-time freshmen and an increase of 250 community college transfer students. The Governor's proposed budget has provided \$51.3 million, to fund just over 5,000 FTE students. This is growth funding predicated on the receipt of federal funds. For the first time, the Department of Finance considered another factor in allocating UC revenue – it indicated that \$64 million of UC fee revenue, associated with 6,400 FTE students, would be dedicated as funding for unfunded enrollment. This reduces the number of unfunded students by about 11,521. Mr. Lenz reported that he made it clear to the Department of Finance that, in the University's opinion, the \$305 million restoration and the \$51.3 million go together. Thus, if the University were to receive less than the \$305 million, such as a reduction of half or the entire amount, the magnitude of the University's budget gap would not allow the University to assume that it could use \$51.3 million to fund enrollment growth. Mr. Lenz stated that the Department of Finance recognizes this fact.

Mr. Lenz briefly discussed a chart which displayed the State-funded enrollment targets from 2004 to 2011, compared to the State's new enrollment target for UC, with an additional 6,400 FTE students. The chart also displayed actual enrollment and two projections: one trajectory for a reduction of 10,000 students over four or five years, and the current trajectory, which assumes only one year of enrollment reductions.

Mr. Lenz recalled that the University did not receive its General Obligation bond funding request for capital projects. Fifty-one percent of this requested funding was to be used for infrastructure and building renewal, 28 percent for seismic and life safety measures, 17 percent for enrollment growth, and 4 percent for new programs.

Mr. Lenz stated that the University faces an overwhelming challenge, given the many competing interests in the State budget. The Governor's proposed budget includes a number of Draconian proposals in case the State does not achieve a portion or all of the \$6.9 billion in federal funding. The State administration proposes to eliminate the CalWORKs program, reduce Medi-Cal eligibility, cut State employees' salaries, eliminate the In-Home Supportive Services program, shift some costs to the counties, eliminate inmate rehabilitation programs, eliminate the Healthy Families program, eliminate Proposition 99 tobacco tax-funded programs, freeze eligibility for Cal Grants, eliminate foster youth housing, and eliminate enrollment growth funding for UC and CSU. The University will join with the State administration in sending a message to the federal government that federal funding is essential to protect California's programs. At the same time, it is important to recognize that there are competing interests.

Senior Vice President Dooley discussed the University's next steps following the release of the Governor's proposed budget two weeks previously. Chairman Gould and President Yudof have issued statements. A video letter from President Yudof was placed on the University's website and received 17,000 viewings in less than two weeks. Mr. Dooley noted the effectiveness of new media in disseminating information. Through these media, the University is asking its stakeholders to thank the Governor for his proposal to provide stable funding for UC. The University has distributed advocacy requests to over 250,000 individuals to convey messages to their legislators about the importance of

stability in higher education funding. The previous week, President Yudof and Chancellor Desmond-Hellmann visited legislative leaders in Sacramento and emphasized the importance of maintaining the University's position as a leading generator of employment in California.

The University's use of social networking media includes advertising on Facebook and Twitter to target individuals who are self-described students or alumni. These new media are proving to be responsive mechanisms in the effort to reach and engage people.

Mr. Dooley noted a significant change occurring in the University's advocacy strategy, a personal and local focus. He expressed his view, based on many years as an external advocate for UC, that while the University has carried out effective high-level advocacy in the past, it has not systematically engaged in grassroots advocacy. The Office of the President is working with the campuses to establish local "SWAT teams," composed of alumni, friends of the campuses, students, faculty, and others to engage with local legislators. Their activities will include visiting candidate forums and asking public questions about a candidate's commitment to supporting the University. Attendance at local events will provide a local face to UC's advocacy message. Elected officials respond first to their constituents; the University must ensure that they hear from constituents who are supporters of UC. Some campuses have already begun to implement these programs, which are very detailed and directed at maintaining pressure on the Legislature to find a solution to the funding dilemma faced by higher education in general and by UC specifically.

Mr. Dooley reported that, beginning in November, and with the assistance of Regent Blum, the University has been consulting with political and advertising campaign professionals. These consultants are evaluating the University's plan to ensure that it develops a contemporary and effective program within UC's resource limitations. Mr. Dooley and Associate Vice President Juarez have been consulting with the leadership of the UC Student Association (UCSA) and have reached an agreement about supporting the students in their march on Sacramento in March. The administration will continue to work with them to make this event as effective as possible. The Academic Senate is also engaged in advocacy efforts which reflect the University's overall messaging strategy. Mr. Dooley noted that his office would be meeting with the Academic Council the following week to discuss coordination of effort.

Mr. Dooley emphasized that, notwithstanding the encouraging news in the State of the State Address and in the Governor's proposed budget, this is only the beginning of a long process. It will require a significant and sustained effort by the University to maintain pressure on legislators. This is a matter of relative priorities; the University must position itself as a high priority as the State budget process proceeds. The University's advocacy efforts cannot be episodic, but must be sustained. Even in good years, UC must be actively engaged in communicating the importance of the University and of State support for access and affordability. The University will receive proposals from its consultants for public advertising. These proposals may exceed current UC resources, but will provide a baseline for raising money in order to communicate the University's message

through public media, which can serve as a backdrop to support specific advocacy programs.

Chairman Gould introduced UCSA president Victor Sanchez.

Mr. Sanchez stated that student engagement has helped to bring the issue of investment in higher education to the forefront of debate at the State level. He called attention to the impact of the November 2009 decision to raise fees and a situation on the campuses characterized by more crowded classes, fewer lecturers, and a decline in the quality of services.

Although the Governor's proposed budget suggests that education will again become a priority, there are still many concerns for students. The problems in past budgets are still present in this budget. Funding for academic preparation programs, very important for diversity, has been eliminated. The competitive Cal Grant has been eliminated.

Mr. Sanchez noted that this budget proposes no new student fees, and that many students wonder why the Board of Regents did not wait until a budget decision was reached in Sacramento before considering a 32 percent fee increase.

UCSA has declared March a statewide month of action. It will continue its efforts to ensure that higher education is a priority. The month's actions will begin with a student lobby day on March 1 in Sacramento. There will be a focus on five platform issues. UCSA supports a \$1 billion increase in funding for higher education in the 2010-11 budget, with a portion of the additional funding to be devoted to returning fees to 2001 levels. UCSA supports Assembly Bill 656, which would generate new revenue to alleviate the threats to higher education. In addition, UCSA is seeking strategic revenue-raising proposals to increase funding for higher education and other core budget areas. UCSA supports maintaining the core promises of the 1960 Master Plan for Higher Education, specifically that public institutions of higher education in California should be tuition-free, that their student bodies should reflect the diversity of the State of California, and that every Californian should have the opportunity to pursue higher education. UCSA supports protection of the current structure and funding of the Cal Grant program. UCSA supports increasing funding for higher education by reducing spending on prisons through comprehensive prison reform. California should not spend more per prisoner than it does per student.

All ten campuses will send record numbers of students to Sacramento. Mr. Sanchez stated that students and the University are advocating in parallel fashion. Collaboration is essential for success. He cited UCSA's communication with the Office of the President about advocacy in Sacramento, and asked the Regents to participate in the March 1 event in some manner. Mr. Sanchez concluded by expressing students' feeling that this effort is a collective responsibility. The power for change rests in the hands of decision-makers in the State Capitol and at UC. Sacramento will be the students' focus in the coming weeks. UCSA will continue to meet with the Office of the President and with Regents and hopes to see progress on this very important issue.

Committee Chair Lozano expressed the view of the Board that this must be a collective effort and stated that the Regents will work and advocate with the students. She noted that, while the Governor's proposed budget restored some funding for UC, it still contains a shortfall of at least \$237 million. This shortfall will unfortunately be returned to the campuses, where difficult decisions will have to be made. The Regents must do everything possible to address this shortfall. Another issue requiring attention is enrollment growth. The fact that the budget has designated \$64 million for this purpose must lead to thorough consideration of what appropriate levels for enrollment growth should be. Committee Chair Lozano recalled the lack of funding for capital projects and for the UCRP, in spite of the promised trailer bill language. She emphasized not only the importance of advocating for the restoration of Cal Grants, but that the University cannot allow this funding to be decoupled from the University's fee policies. The University has made it very clear when it has raised fees that it does so only because it can offer increased financial aid. Cal Grants and financial aid must be linked. She also noted the lack of funding for academic preparation programs and the Regents' wish that this funding be available.

Regent Varner expressed concern about the \$237 million shortfall and, given the current structure of the Legislature, encouraged the University to engage in creative alternative planning regarding funding for the UCRP and capital improvements. In the latter area, he stated that there are significant alternatives in public-private partnerships; this should be a matter for consideration by the UC Commission on the Future. He urged the University to develop alternative plans now, and not to wait for action by the Legislature.

Regent Island raised the issue of unfunded enrollment and its actual cost to the University. He observed that it may be easy to suggest during the budget process that, if 14,000 unfunded students cost the University \$155 million annually, elimination of 14,000 students would save \$155 million; however, this is not the case. Elimination of students will not produce savings in this manner. Regent Island expressed concern about the Department of Finance's action in moving student fee revenue to cover unfunded enrollment. This does not produce revenue which the University would not otherwise obtain. He suggested that UC examine more closely the issue of unfunded enrollment, which is beginning to harm the University. Mr. Lenz responded, agreeing with Regent Island and observing that the \$155 million amount is associated with a marginal cost rate per student which UC would receive from the State and the fact that UC was serving 14,000 students for whom it did not receive State General Fund support. He concurred that even if the University could reduce the number of students by 14,000, it would not gain \$155 million in savings. He observed that, in his experience, one of the most significant issues in Sacramento is student access. This is especially true at a time when the University is experiencing the greatest number ever of qualified high school graduates and of eligible students from underrepresented groups. This is a high priority in Sacramento and is reflected in the Governor's proposed budget. Mr. Lenz stated that he shared Regent Island's concern about how the Department of Finance treated UC fee revenue, which was unprecedented. This is a complex problem which has come before the Regents on previous occasions, and where an appropriate middle ground must be found. UC has not made a recommendation like that by CSU to reduce its number of

students by 40,000 in one year. UC's recommendation has been to reduce the enrollment target gradually to the State-funded level over four or five years, by 8,000 to 10,000 students, if funding is not received. Mr. Lenz affirmed that the University will continue to pursue enrollment growth funding as a priority.

Mr. Brostrom added that there is confusion about differences between the marginal cost of instruction and the average cost of instruction. In average cost, the University has suffered tremendously during the last few decades. In real dollars, per-student funding for UC has declined by 50 percent in the last 20 years. Student fees have made up about 20 percent to 25 percent of that amount. Funding per student is thus down by 25 to 30 percent.

Regent Island expressed concern about how much money the University is saving by decreasing enrollment and about the cost of educating unfunded students. If the Regents were to approve further enrollment reductions beyond the 2,300 reduction already approved, questions would be raised about the real savings related to these reductions. If the University is not in a position to state a specific amount of savings related to a specific reduction, it should not reduce enrollments and eliminate opportunity for students who are otherwise well qualified. Marginal costing in budget negotiations differs from the actual operations of the UC system.

Regent Zettel expressed appreciation for the comprehensive advocacy plan being developed with consultants and emphasized the importance of federal advocacy at this time. The State is in danger of losing \$7 billion without fair federal reimbursement. She noted that a bipartisan delegation led by the Governor was in Washington, D.C. Regent Zettel requested that the University include information on its website about its advocacy efforts at the federal level, with members of the U.S. Congress. She expressed support for Regents' involvement with the student advocacy planned for March 1 and referred to a study of trends in State reimbursement for tuition paid by UC and CSU students. Forty years previously, for every dollar of tuition paid, the State contributed \$15; currently, the State contributes \$1.40 on average for every dollar of tuition paid.

Regent Kozberg stated that the University was fortunate in having the Governor's attention focused on this issue, and thanked the UC team. She noted that there was no mention of deferred maintenance in the presentation and asked about its status. In considering possible further enrollment reductions, she asked if there would be a conflict with the University's new eligibility guidelines. The University should avoid putting forth a confusing message. Mr. Lenz responded that the State budget for UC has not included funding for deferred maintenance for the previous 10 to 15 years. The University has relied on the campuses to establish efficiencies and address deferred maintenance on their own. Mr. Lenz stated that Interim Provost Pitts could provide an answer to Regent Kozberg's second question.

Regent Blum expressed skepticism about the Governor's proposed budget and any possibility of its realization. He cited the almost \$7 billion in federal funding as an unrealistic expectation. Although California has always provided more tax revenue to the

federal government than it has received back, the relevant U.S. Senate committees are chaired by members from small states who are not sympathetic to California's needs. Regent Blum also expressed skepticism about the approximately \$50 million provided for unfunded enrollment. He recalled the University's Compact with the Governor, according to which the University was to receive \$10,000 for every additional student enrolled. Based on that number, the State owes UC over \$140 million. Regent Blum expressed the hope that, whatever form the final budget would take, the Governor would abide by his commitment to put aside ten percent for UC and CSU. He stated that it was not clear how funding could be transferred from prisons to education during this year. The Regents, the administration, and students need to advocate for the University in Sacramento.

Regent Bernal referred to current challenges on the campuses, including the limited availability of course sections, and suggested that the University should consider slowing down enrollment growth due to limited resources. He asked about the purpose of the \$51 million in funding for enrollment growth, and if the University is expected or mandated to increase enrollment, or if these funds are to cover already unfunded enrollment. Mr. Lenz clarified that these funds are to address current unfunded enrollment. The University is not expected to grow beyond the 14,000 unfunded students.

Regent Bernal noted that the University is not able to support AB 656 in its current form, one of UCSA's platform issues. He wondered how closely the University and students can collaborate on advocacy. Mr. Sanchez responded that UCSA's platform issues address a broad base of interests. UCSA is willing to prioritize issues to allow collaboration with the Office of the President and the Regents, especially regarding Cal Grants and the Master Plan. It is a matter of negotiation to determine how the Regents might help students in arranging visits with leading legislators or assist with paying for transportation to Sacramento.

President Yudof expressed his support for UCSA's efforts in Sacramento to advocate for a more sensible set of State priorities. Regents and students are in agreement on most important issues, such as Cal Grants, the Master Plan, and accessibility. He referred to the University's advocacy efforts and emphasized that students are the very authentic voice of the University. Ultimately, the University will need to develop a more reliable revenue stream. The State budget situation will likely be bleak for the next three to four years. The University needs a more permanent solution.

Regent Schilling emphasized the need for collaborative advocacy. She asked about the central message of this effort, noting that it needs one or two effective messages. The University also needs a follow-up tactic, after visiting elected representatives. All candidates for public office express support for education, but once elected, their voting is a different matter. The University needs a way to hold these officials to their promises. Regent Schilling stated that, if most of the University's budget is somehow restored, she would like a reversal of the student fee increases.

Mr. Dooley responded, noting that the University has developed discrete messages for its advocates, which he could provide to Regents. They concern access and affordability,

and excellence. The University cannot achieve these goals if it continues to increase class sizes and cut the number of course sections. While the Governor's proposed Constitutional amendment may not have a good chance of success, it has provided a vehicle for discussion of the need for a stable funding stream for higher education. This is different than discussing pieces of a budget proposal. An alternative funding mechanism is important to the long-term stability of the University. This is a discrete message which the University's advocates can understand and endorse. Mr. Dooley stated his view that the failure of many advocacy efforts has rested in the University's reluctance to ask elected officials to make a commitment. The University is now making an effort to secure commitments of support from elected officials.

Regent Schilling asked if information about the University's advocacy efforts was being posted on its website. Mr. Dooley responded in the affirmative and stated that he would provide further information.

Regent-designate Cheng praised the collaboration on advocacy between students and administration and echoed Regent Zettel's observations on the importance of federal funding. He emphasized the importance of this funding for Cal Grant funding. Thousands of students will suffer if this funding is lost, and the University will lose students. Cal Grants are the backbone of UC access and affordability, and this must be communicated to legislators. He asked about the UCSA events planned for March 1. Mr. Sanchez responded that March 1 will be the culmination of UCSA's annual student lobby conference in Sacramento, where students attend workshops on issues and advocacy tools. There will be a press conference and rally, but most important will be advocacy efforts inside the State Capitol building. UCSA will try to bring together a record number of students.

Regent Ruiz emphasized the importance of student advocacy in Sacramento, that elected officials meet UC students. He expressed concern that the University is late in its efforts. It will take years to address the current budget problems, and the situation will likely worsen before it improves. The UC Commission on the Future is examining how to improve the University, including how to raise more revenue. Private support appears to be declining. The University must accelerate its efforts to develop means of raising more revenue. The University must prepare for a worst-case scenario and for a long-term effort; its efforts are moving in the right direction.

Mr. Sanchez stated that students recognize the long-term nature of the challenges facing the University. He noted the increase in student engagement since the previous fall. Not only is the future of the University at stake, but the future of California. He anticipated that a new student movement is now beginning. Students are aware of the need to remind the State of the importance of education as a priority.

Regent Blum recalled that this is an election year. The University must develop concrete and explicit requests and communicate with every legislator, and particularly with those who are up for reelection, in Sacramento and in the U.S. House of Representatives. The University must know who will be an advocate for UC.

Regent-designate Hime noted that the California Department of Finance and the Legislative Analyst's Office have projected an annual State budget shortfall of \$20 billion for the next five years, or a total of \$100 billion. If the \$6.9 billion in federal reimbursements is reduced to \$4 billion, \$2 billion, or nothing, the University's budget problem will be much larger than \$51 million or the extent of unfunded enrollment; the approximately \$350 million which is to be returned to the University will disappear again. Then the University will be forced once again to try to make ends meet, and in a more difficult context. He stressed the need for the Regents to consider the worst-case scenario. Regent-designate Hime cautioned against alienating a segment of voting legislators. He anticipated that the proposed oil severance tax measure would never receive the necessary two-thirds majority. There is a danger of reinforcing negative attitudes about UC held by some individuals. He expressed reluctance to roll back student fee increases, as desirable as this would be, until the budget scenario is clear. He recalled his proposal for a sales tax on internet transactions, which could generate \$4.6 billion in California. He emphasized the importance of political sense in the University's advocacy efforts, which will fail if they are not direct and focused.

Chairman Gould expressed agreement with Regent-designate Hime. Beyond the immediate issue of funding the current budget, there are gaping holes in the State's financial structure. The University must add its voice to the bipartisan call for federal support to California. UC is among State programs at risk. The \$51 million for unfunded enrollment is at risk, absent federal funding. Referring to the \$64 million designated by the State for enrollment growth, Chairman Gould stated that these are not real funds. This is a designation that is not accurate, not straightforward, and not fair. He also expressed concern that, as fiduciaries, the Regents must be committed to funding the UCRP. A promise to pay made by the Legislature and Governor is not satisfying. Real funding for the UCRP must be part of the University's budget; the University will not have a successful year without a funding mechanism. Chairman Gould expressed his view that there are fundamental flaws in AB 656, such as the provision of twice as much funding for CSU as for UC. The bill also lacks a maintenance of effort requirement. It raises resources, but there is no commitment to a base level of funding. He expressed concern about the creation, under the bill, of a commission to identify priorities in higher education, another level of bureaucracy. The University has discussed these issues with the author of the bill, but there has been no movement. Chairman Gould encouraged all advocates for the University, including students, to examine the bill carefully and to understand its details.

Committee Chair Lozano stated that the Regents need appropriate information in order to advocate for UC. She concurred with Chairman Gould that the Governor's proposed budget is flawed, citing the \$64 million designated for enrollment growth and the lack of funding for the UCRP. The University should insist that the State recognize its mandated obligations. She requested a document summarizing the University's funding for student enrollment, clarifying how dollar amounts are calculated, and explaining marginal versus average cost. She stated that the Regents' voice will join the voice of all other UC stakeholders in their advocacy efforts.

3. **REPORT OF 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 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 11:40 a.m.

Attest:

Secretary and Chief of Staff

NEW LITIGATION AND ARBITRATION PROCEEDINGS

Report Period: 10/13/09 – 12/14/09

Regents Meeting

January 2010

| <u>Plaintiff</u> | <u>Location</u> | <u>Nature of Dispute Alleged by Plaintiff</u> | <u>Forum</u> |
|--------------------------------|-----------------|---|-------------------------------------|
| <u>Employment Cases</u> | | | |
| Erlanger, Lois | UCLA | Discrimination (sexual orientation), harassment, and retaliation | Los Angeles County Superior Court |
| Goldberg, Gary | UCLAMC | Discrimination (age), wrongful termination, and retaliation, withholding of wages | Los Angeles County Superior Court |
| Keyzer, Janet V. | UCDMC | Retaliation, violation of due process and negligence | Alameda County Superior Court |
| Khoury, Sarkis Joseph | UCR | Breach of contract | Riverside County Superior Court |
| Mitchell, Rachel | UCLA | Discrimination (sex), harassment, retaliation and constructive termination | Los Angeles County Superior Court |
| Partovi, Susan, M.D. | UCLAMC | Wrongful termination in violation of public policy | Los Angeles County Superior Court |
| Rogers, Kristen | UCDMC | Violations of whistleblower protection act, Labor Code, and due process rights | Alameda County Superior Court |
| Rosenkrantz, Eric | UCSF | Retaliation | San Francisco County Superior Court |
| Serrato, Joe L. | LLNL | Discrimination (age), wrongful termination, retaliation | Alameda County Superior Court |
| Vargha, Piruz | UCSFMC | Wrongful termination, whistleblower, health and safety violation | San Francisco County Superior Court |

Professional Liability Cases

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|---|----------------------------|--|-------------------------------------|
| Armstrong, Joe and Corina Armstrong | UCLAMC- Santa Monica | Medical malpractice, loss of consortium | Los Angeles County Superior Court |
| Benitez, Leroy (Decedent) Michael Benitez | UCLAMC- Harbor | Wrongful death, medical negligence, elder abuse | Los Angeles County Superior Court |
| Chance, Tracey (decedent) Britni Rene Chance | UCIMC | Medical malpractice, wrongful death | Orange County Superior Court |
| Cook, Aareon (plaintiff/patient) | UCDMC | Medical malpractice | Sacramento County Superior Court |
| Berg, Warren Ralph (cross-complainant) | | | |
| Coughlin, Daniel | UCSFMC | Medical negligence | San Francisco County Superior Court |
| Dittmer, Edward | UCLAMC | Medical malpractice | Los Angeles County Superior Court |
| Farrar, Donald | UCSFMC | Medical malpractice, general negligence, intentional tort, and loss of consortium | San Francisco County Superior Court |
| Fellows III, Boyd Williams | UCSFMC | Medical malpractice | San Francisco County Superior Court |
| Fodge, Daniel and Gloria | UCDMC | Medical negligence and loss of consortium | Sacramento County Superior Court |
| Hanlon, Cody and Cindy Hanlon | UCLAMC | Professional and general negligence | Los Angeles County Superior Court |
| Hughes, Glen | UCSF- SGMC | Negligence and battery | San Francisco County Superior Court |

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| Hutchins, Jay | UCLAMC | Personal injury, medical malpractice | Los Angeles County Superior Court |
| Kitrosser, Brenda F. | UCSDMC | Medical negligence, lack of informed consent | San Diego County Superior Court |
| Lau, George | UCSFMC | Professional and medical negligence | San Francisco County Superior Court |
| Pettingill, Christine | UCIMC | Medical malpractice | Orange County Superior Court |
| Schilling, Patricia L. | UCLAMC | Personal injury, general negligence | Los Angeles County Superior Court |
| Weisman, Steven M. | UCLAMC | Medical malpractice, negligent hiring supervision and retention | Los Angeles County Superior Court |
| Yoneda, Charlotte | UCDMC | Medical malpractice and loss of consortium | Sacramento County Superior Court |

Other Cases

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| Gordon, Patricia | UCLA | Dangerous property liability, negligence | Los Angeles County Superior Court |
| Hong, Juan | UCI | Violation of due process under Fifth and Fourteenth Amendments | U.S. District Court for the Central District of California |
| Powell, Mary, and all others similarly situated | UCSDMC | Class action for alleged disclosure of confidential medical information | San Diego County Superior Court |
| Rager, Gregory James | UCOP | Negligence, violations of statute and right to privacy, battery, emotional distress | Orange County Superior Court |
| Regents | UCR | Breach of agreement, unjust enrichment, and recovery of money paid (lawsuit filed on behalf of the Regents against Angelika Dimoka and Paul Pavlou) | Riverside County Superior Court |
| Song, Ziguang | UCLA | Breach of contract, conversion, money had and received | Los Angeles County Superior Court |

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

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| CUE (Coalition of University Employees) SF-CE-919-H | UCSC | University engaged in bad faith bargaining regarding temporary layoffs. Santa Cruz Office of Labor Relations indicates the issues have been resolved and the temporary layoffs rescinded, and dismissal is pending. | PERB |
| CUE (Coalition of University Employees) SF-CE-918-H | UCSF | University retaliated against a Clerical and Allied Services Bargaining Unit employee for exercising her Weingarten Rights and failed to provide notice of placement of the employee on investigatory leave. | PERB |
| SETC (State Employees Trades Council-United) SF-CE-917-H | UCSD | University enacted unilateral changes to the binding terms of its agreement with the union and engaged in direct dealing with represented employees prior to the adoption of the Regents’ furlough/salary reduction plan. | PERB |
| BCTC (Building and Construction Trades Council) SF-CE-916-H | UCB | University engaged in bad faith bargaining when it fraudulently induced the union to enter into the furlough program agreement. University failed to give union notice prior to laying off represented employee and also failed to discuss layoff alternatives. | PERB |

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| SETC (State Employees Trades Council-United) SF-CE-915-H | UCLA | University engaged in direct dealing with represented employees prior to its adoption of the Regents' furlough/salary reduction plan. Also, the University unilaterally and in bad faith imposed unilateral changes that constituted a retaliatory rolling lockout and failed as required by the terms of its contract with the union, to mitigate or explore alternatives to the Plan prior to implementation. | PERB |
| CUE (Coalition of University Employees) SF-CE-914-H | UCSFMC | University unilaterally changed its contract with the union by assigning unit work performed by an Administrative Analyst III in the clerical services unit to an employee outside the unit. The University also retaliated against the same employee for performing union duties and attempted to interfere with the employee's union rights through coercion of other union members. | PERB |
| UPTE (Union of Professional Technical Employees) SF-CE-913-H | UCSC | University laid off a Computer Resource Specialist I in the technical services unit, in direct retaliation for his participation in protected union activities and altered the status quo of the contract by attempting to reorganize the Information Technology Department without negotiating the changes prior to implementation. | PERB |
| SCFA (Santa Cruz Faculty Association) SF-CE-912-H | UCSC | University failed and refused to bargain specific aspects of the Regents' furlough/salary reduction plan. | PERB |

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| CUE (Coalition of University Employees) SF-CE-911-H | UCSFMC | University violated the status quo by not providing notice or bargaining the involuntary transfer of an administrative assistant to a newly-created position and retaliated against the employee for exercising his union rights. | PERB |
| CUE (Coalition of University Employees) SF-CE-910-H | UCB | Supervisor refused to remove references to a senior museum scientist's use of union representation in a resolved grievance from the employee's performance evaluation. | PERB |