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*2005-07 Faculty Representative,*  
*Board of Regents of the University of California*  
*2006-07 Systemwide Chair,*  
*Academic Senate of the University of California*  
*2009-11 Vice Chair,*  
*Davis Division of the Academic Senate*  
*2010-11 Chair, University of California Retirement System Advisory Board*

August 4, 2010

Professor Mark G. Yudof  
President, University of California  
1111 Franklin Street, 12<sup>th</sup> Floor  
Oakland, CA 94607-5200

Dear Mark:

In the waning months of my term as Chair of the UC Academic Council, my Council colleagues appointed me to a four-year term as one of the two Academic Senate representatives on the University of California Retirement System Advisory Board (UCRS Board). My term extends one more year, through June 30, 2011.

At its meeting on June 25, the UCRS Board elected me to serve as its Chair in 2010-2011. I am honored by the Board's election, and am delighted that our mutual friend, John Sandbrook (John S.), was elected to join me as Vice Chair. John S. was elected as one of two staff representatives in a systemwide election in 2007 and will be serving his final year of that four-year term. He and I are committed to vigorous performance of the UCRS Board's advisory role as you and The Regents consider possible changes to the retirements benefits offered to UC employees.

Because of the many significant issues facing UCRS during 2010-2011, I am writing to clarify how John S. and I intend the UCRS Board will operate this year, and to invite any responsive comment you may have on the function and procedures of the UCRS Board.

Our regularly-scheduled meetings have been calendared for November 19, 2010; February 25, 2011; and June 24, 2011. As discussed below, however, I anticipate that I will also need to schedule special meetings of the Advisory Board later this summer or in the early fall to consider more urgent matters. Our concerns focus not only on the nature and effects of prospective changes in the retirement benefits available to some cohort of yet-to-be-hired employees, but also on the effects such prospective changes will have on the workplace and living conditions of current employees and annuitants.

As you may know, the UCRS Board served for decades as an actual governing board within in a two-step governance structure that required approval of proposals relative to UCRS to be made, first, by the UCRS Board, and then by the UC Board of Regents. Upon the advice of the Office of General Counsel (OGC) several years ago, based on its interpretation of the state's Higher Education Employee Relations Act (HEERA), the UCRS Board has become advisory only. It does not exercise independent decision-making authority, so that actions pertaining to UCRS that are subject to collective bargaining are undertaken on UC's behalf only by the Plan Administrator (who is now Vice President Dwaine Duckett) or by the Board of Regents. But John S. and I want to make sure that at this critical time the voices of the UCRS Board's members are heard in the general institutional discussion about changes in post-employment benefits for UC employees.

In accord with OGC's interpretation of HEERA, we have been advised by OGC that the UCRS Board may not even take formal action to adopt, as an institutional entity of the University of California, its *advice* to Vice President Duckett, to you, or to The Regents about the structure or operation of the University of California Retirement System. We have decided, however, that it is appropriate — indeed, imperative if the UCRS Board is to perform its advisory function — that I as Chair transmit to you and Vice President Duckett, either orally or in writing as the occasion warrants, the views of the members of the UCRS Board, be they divided or a consensus. We have instituted a practice of meeting in executive session when discussing among ourselves these advisory matters.

I must confess that as a longtime member of the faculty of the School of Law at UC Davis, I have difficulty understanding why a purely advisory recommendation as to retirement-system operations or policy cannot be adopted by the UCRS Board *qua* board, rather than expressed by a congeries of its members through the medium of its Chair. But that is how I am presently charged to act during while chairing the UCRS Board for 2010-2011. If you and General Counsel Charles Robinson would like to discuss further this method of proceeding, I would be most pleased to participate in such a discussion with the two of you. I would also value the opportunity to meet with you personally to discuss not only the manner of articulation of the views of the members of the UCRS Board, but also what we could do, institutionally or individually, to be most helpful to you while remaining faithful to our advisory responsibilities.

The UCRS Board was informed at its meeting of June 25 that the report of the Post-Employment Benefits Task Force, which you appointed in 2009, is due to be submitted to you on or about August 1, 2010. This date was confirmed, and slightly extended, by Vice President Duckett when I met with him and Gary Schlingen on July 28<sup>th</sup>: the report will be issued, if not by the first day of August, then at least during the first week of August. Thus its release is imminent as I write this letter.

It would be helpful to me in my duties as Chair if you could provide reasonably prompt answers to the following related inquiries. These inquiries are derivative of my understanding, based on my July 28<sup>th</sup> meeting with Dwaine and Gary, that all members of the UCRS Board will receive .pdf copies of the Post-Employment Benefits Task Force Report (PEB Report) immediately upon its release.

1. Do you anticipate that you would inform the UCRS Board, for its consideration in executive session, of particular recommendations of the PEB Report (or recommendations related thereto) that you may be considering for possible presentation to the Board of Regents?
2. Do you wish to meet in-person with the UCRS Board to discuss these matters?

3. Do you wish that I, as chair of the UCRS Board, be present at future meetings of the Board of Regents when the PEB Report and any specific recommendations drawn therefrom are submitted by you to the Board of Regents?

I should add that, at the meeting of June 25, the UCRS Board also discussed its expectation that its members would be provided in advance the opportunity to discuss any particular proposals—for 2011-12 and any/all future years — for changes in the employer and employee contribution rate to UCRS. As chair of the Board, it would then fall to me to convey the views of the members of the Board about the proposal for 2011-2012. It was recognized that, for the 2011-2012 rate, this proposal may be included in the PEB Report; the reason for the specific highlighting in this letter of the principle of advance discussion of changes in contribution rates is to guide your office and future UCRS Board Chairs in the handling of future contribution-rate proposals beyond 2011-2012.

Because of the gravity of the issues that are anticipated for inclusion in the PEB Report in the coming weeks, it is my expectation that the UCRS Board's consideration of the issues and the desire to have the views of the members of the Board conveyed to you will require substantial time. Short meetings by teleconference are unlikely to be adequate. Multi-hour, in-person meetings may well be needed. Based on many years of University experience, I am mindful of the difficulty of scheduling meetings during the August and early September periods. Consequently, having an informed understanding of your views about the questions raised above regarding processes and timetables would be most helpful.

In view of the fact that travel from UC Davis to Oakland can require only 75 minutes each way, I will be more than happy to come to your office to discuss these matters further at a time of mutual convenience in the near future. I may also be contacted as follows: (cell: 530-867-0253; email: [jboakley@ucdavis.edu](mailto:jboakley@ucdavis.edu)).

Having attended the recent meeting of the UC Academic Assembly at which you discussed some of these matters in the context of consultation with the Academic Senate, I know that you take very seriously the gravity and significance of the challenges facing UCRS, not only in terms of the fiscal integrity of the retirement system itself, but also the traditional and positive role that the retirement system, particularly its defined-benefit plan, has played in the total remuneration of UC faculty and staff.

I will be separately writing you on one particular matter that arose during the open session portion of the UCRS Board June 25 meeting, about which I wish to convey to you our immediate concern.

I look forward to the opportunity to communicate to you directly the views of the members of the UCRS Board during my forthcoming year as its chair.

Sincerely,



cc: Members of the UCRS Advisory Board, 2010-2011  
Professor Henry Powell  
Professor Dan Simmons

Professor Robert Anderson  
General Counsel Charles Robinson  
University Counsel Barbara Clark  
Director Gary Schlingen