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

September 13, 2010

President Mark Yudof
University of California
1111 Franklin Street
Oakland, CA 94607

Dear Mark:

I write to report to you the substance of discussions held at a special meeting of the 2010-2011 UCRS Advisory Board that I convened in open session on Thursday, September 9, in Oakland. I write as Chair of the Board, but in a personal capacity, because as detailed below we are still sorting through the legal posture and capacity of the Board, as a collective entity, in light of California's Higher Education Employer-Employee Relations Act of 1979 (HEERA), as interpreted by the Public Employment Relations Board. I believe it is important that you receive a written report from the Board Chair after each meeting of the Board. My hope is that establishing such a new protocol during this critical year in the history of UCRS will help future Boards and their Chairs discharge more fully and effectively the responsibilities of the Board as presently constituted.

I write this particular report with unusual expedition so that you may be aware of the views of Board members (particularly those who do not report to you directly or indirectly) before the discussion of Item J4 and consideration of Item J5 at the September 16 joint meeting of The Regents' Committees on Finance and Compensation. You and your staff will of course be preoccupied by The Regents meeting. The length of my letter reflects its intended function as a public recording of Board members' views; although I would appreciate a brief acknowledgement of your receipt of this report, I do not expect any sort of detailed response to the various elements it contains. My goal is to inform you of Board members' thinking, for whatever use that may be; I do not seek to solicit a point-by-point reply.

Ten of the eleven members of the Advisory Board, including two new members (Professor Ross Starr of UC San Diego and Vice Chancellor Meredith Michaels of UC Irvine) participated in the September 9 meeting. A third new member, the late Colin Bloor (an *ex officio* member as the new President of CUCEA), was unable to participate, and I regretfully report the sad news that he passed away on the very day of the Board's special meeting.

We were privileged to have in attendance several invited guests from the senior echelons of shared governance at UC's Oakland headquarters: Provost Larry Pitts, Academic Council Chair Dan Simmons, and Academic Council Chair Bob Anderson, and, of course, Gary Schlimgen (always a staple at our meetings), your and Dwaine's Director of Pension and Retirement Programs. We were also joined and benefited by the attendance of Barbara Clark and Allison Woodall from the Office of General Counsel (OGC), and Paul Angelo from the Segal Company, actuaries for UCRS. I believe this extraordinary commitment of time and energy by very busy and influential senior participants in UC's systemwide governance (including Board members Berggren, Bostrom, and Duckett) is a reflection of the importance of the Post-Employment Benefits (PEB) Task Force recommendations that we are now considering, and which will be presented for discussion by The Regents in November with a view to possible regental action in December.

We were also benefited at our special meeting last Thursday by the presence of a number of observers, including several from unions representing various cohorts of University employees. Because your staff has organized a web-based Town Hall meeting on September 24 to discuss the recommendations of the PEB Task Force and to elicit public comment on those recommendations, and because the Board had a very crowded agenda, I announced to our observers that I would not entertain their comments or questions. I am very pleased to report that our observers displayed exemplary cooperation with this ruling of the Chair. Our meeting was not only highly illuminative, but also remarkably orderly given the sensitive issue of the matters discussed.

There were four principal topics on the agenda of this special meeting. The first was what I called the "constitutional architecture" of the Board itself. The second was the general recommendations of the PEB Task Force, which will be summarized for The Regents on a preliminary basis on September 16 as Item J4 on the agenda of the Joint Meeting of the Committees on Compensation and Finance. The third was Item J5 on the agenda of the September 16 joint meeting of the Committees on Compensation and Finance, which will ask The Regents to raise employer and employee contributions to UCRP, and the fourth was the brace of letters I sent to you on August 4th, and your responses.

I found the discussion of the first topic extremely useful. The Board has existed in several incarnations that caused me confusion about its responsibilities and reporting lines of accountability. But in light of the statements of Dwaine Duckett and Gary Schlimgen, as well as of Barbara Clark and Allison Woodall of OGC, it now seems clear to me that the Board in its current form exists by exercise of your authority as The Regents's designated UCRP Plan Administrator, and of Dwaine's authority pursuant to your delegation of the Plan Administrator's functions, and of Gary's authority within Dwaine's shop. Therefore the UCRS Advisory Board Handbook issued in August 2007 by Gary's shop is the authoritative "constitutional" document defining the Board's responsibilities.

This Handbook provides, under the heading of "Responsibilities of the University of California Retirement System Advisory Board," that

"The UCRS Advisory Board may:

"(a) evaluate pertinent regulations and interpretations as are reasonable or necessary for the effective operation of the UCRS plans;

"(b) assess the quality of service provided to members, their beneficiaries, and eligible survivors, and provide feedback to the President of the University and the [delegated] Plan Administrator [to the extent you have delegated the Plan Administrator's functions] regarding such matters;

“(c) discuss the formulation of goals and objectives, long range improvement, the development of policy, and the setting of priorities for the UCRS plans and provide information to the President of the University and the [delegated] Plan Administrator;

“(d) review the benefit structure of the UCRS plans and develop concepts for benefit changes; and

“(e) discuss other matters referred to the UCRS Advisory Board.”

Although some of these constitutional issues were discussed in Executive Session at a special meeting of the Board held by teleconference earlier this year, on May 15, pursuant to previous Board policy no minutes were kept of this discussion. Our special meeting last Thursday, on September 9, was held entirely in open session, and I asked that detailed minutes be kept and circulated for preliminary review within 30 days. In addition, I asked our guests from OGC to prepare a memorandum setting forth just what, in their opinion, the Board may and may not do in discharging responsibilities to provide advice to you and your delegates regarding the quality, goals, objectives, policies, and improvement of UCRS plans. I am hopeful that this anticipated memorandum, along with the detailed minutes of our special meeting, will provide a written record that will inform this Board and its successors of the proper procedures for fulfilling our responsibilities.

As to the second principal issue addressed in our special meeting, we were fortunate to receive from Gary Schlingena a summary of the core recommendations of the PEB Task Force, and also to receive a summary from my colleague, Professor James Chalfant of UC Davis, of the “Dissenting Statement” lodged by faculty and staff Work Team members of that Task Force. I decided on the basis of the consensus of opinion of individual Board members to convene another special meeting in October (at an as-yet undetermined date) to discuss more fully the various recommendations and critiques of the PEB Task Force Report. I am mindful that the first of your two regularly-scheduled agenda-preparation meetings for the November 16-18 meeting of the Board of Regents is set for October 26, according to the published-agenda preparation schedule. It is my intention to have the second special meeting of the UCRS Advisory Board scheduled not later than mid-October so that, in turn, I may provide you on a timely basis with a written report of the views of the members of the Advisory Board as to the PEB Task Force recommendations and the Dissenting Statement.

Third principal issue we addressed on September 9 was Item J5, proposed for action at the joint meeting on September 16 of The Regents’s Committees on Finance and Compensation, that would set employee-contributions to UCRP for 2011-12 (FY 2012) and 2012-13 (FY 2013), respectively, at 3.5% and 5%, respectively, and would set UC’s employer-contributions to twice those figures for each of these years.

With respect to Item J5, none of the members of the Advisory Board expressed misgiving or concern about the proposed employee and employer contribution rates for FY 2012 and 2013, although one member did express the view that given the present size of UCRP’s unfunded accrued actuarial liability, UC’s employer-contribution should be ramped up as quickly as possible. However, I would like to reiterate the view expressed in previous correspondence that, going forward, any proposals to set future contribution rates ought to be discussed with the Board prior to the issuance of the actual agenda item to the Board of Regents about such rate increases. The members of the Board are publicly identified as having an advisory role in UC’s pension policy. Especially for those of us elected, appointed, or serving *ex officio* as representatives of particular constituencies within the UC family, to be *advised of* changes in contribution policy or other aspects of UCRS administration without any opportunity to render *advice regarding* such matters supposedly within our advisory purview is a potentially (and in the recent past, actually) serious source of embarrassment.

In my view this process of discussion of and forwarding to you our individual and collective views on the future of UC's post-employment benefits promises and performance ought not to depend on fine issues of timing and absorption as we react to the output of special presidential task forces in relation to the scheduling of Regents' meetings. It is my and, I think, our shared hope that our Board might soon establish within the UCOP community, with cross-links to "The Future of UC Retirement Benefits" website (<http://universityofcalifornia.edu/sites/ucrpfuture/>) a UCRSAB-dedicated site that would include a compendium of UCRS Advisory Board resources (history, agenda, minutes, rosters, reports, notices of future elections, and planning documents, and outlines of future planning goals). Certainly such a site would make available my October report to you any interested reader, on or off the Board of Regents, and in the event a Board-dedicated site is not soon launched by UCOP, I would expect many members of the Board would include that report and similar resources on their personal websites.

Regarding the fourth of our principal items of discussion at our September 9 meeting, I thank you for your response of September 17 to my letter of August 4 which, in perhaps an excess of precaution, sought to make sure that your office was aware of and engaged in the debates within GASB regarding several questions regarding the Advisory Board. The Advisory Board did not receive until the night before our September 9 meeting a copy of your response to my other letter sent to you on August 4, which concerned the general role and conduct of our Board, particularly with respect to the PEB Task Force process. As a result, while I summarized the substance of your just-received letter for the Advisory Board members who were present at the start of the meeting, I deferred discussion of your response until our next meeting. I also deferred until then discussion of our exchange of letters on August 4 and 17 regarding proposed changes of GASB accounting standards that might adversely affect the valuation of the unfunded portion of current UCRP accrued actuarial liability; however, a sidebar conference with Paul Angelo after the meeting left me fully confident that your immediate advisors on this important topic are fully cognizant of and engaged with this issue.

Sincerely yours,



cc: Members of the UCRS Advisory Board
Provost/Executive Vice President Larry Pitts
Professor Dan Simmons
Professor Bob Anderson
Director Gary Schlimgen