



September 26, 2011

Chair Bob Jacobsen
Academic Senate/Berkeley Division
320 Stephens Hall
Campus

Dear Chair Jacobsen,

The Academic Senate Special Committee on University Governance and Leadership has concluded its deliberations, but failed to reach consensus. As a result, two reports, a majority and a minority report, are attached.

We believe that the decision on any further consideration of the April 22, 2010 resolution is now in the hands of the Berkeley Division. If you feel a meeting would be useful, I (or the committee) would be happy to meet with you. Please let me know if the committee needs to present a report at the November 2, 2011 meeting of the Academic Senate.

With best wishes,

Sincerely,

A handwritten signature in cursive script that reads "A. K. Glazer".

Alex Glazer

Attachments:
CUGL Majority Report
CUGL Minority Report

Report of the Academic Senate Special Committee on University Governance and Leadership

The Academic Senate Special Committee on University Governance and Leadership (CUGL) was appointed pursuant to the following resolution, introduced at the April 22, 2010 meeting of the Berkeley Division, and subsequently passed in an electronic ballot by members of the Division by a vote of 263 to 113:

Resolution on University Governance and Leadership

Whereas, There is widespread concern about the financial future of the University, and

Whereas, The Regents and the President of the University have established a Commission to study alternative future arrangements, and

Whereas, It appears that consideration of Major Reforms in the Top Level Governance and Leadership of the University is unlikely to occur within that Commission, and

Whereas, Numerous members of the Faculty of the University have thoughtful contributions to offer in that regard, and

Whereas, Such Reforms might be a significant factor in efforts to restore public confidence in and public support for the University;

Therefore, Be it Resolved that the Berkeley Division of the Academic Senate asks its Divisional Council to convene a special Committee charged to collect, study and formulate a set of Reform Proposals concerning the Governance and Leadership of the University, which will then be distributed to the membership of the Division for a ballot assessment.

The Resolution notes the widespread concern about the University's financial future. This has intensified as state support continues its downward course. Since 1990, the state's per capita funding has fallen nearly 60%. For 2011-12, the state budget is \$2.37 billion, 21.3% lower than the previous year. The impacts of these declines on the students, staff, and faculty of the University of California have been severe. The end is not in sight. Finally, the Resolution indicates deep dissatisfaction with the governance and leadership by the President and the Regents, and implies that reforms are needed "to restore public confidence in and public support for the University."

The period from 2004 to the present has been one of exceptional turmoil and change for the administration and governance of the University. We trust that this period is an anomaly, not an omen for the future. We note that the concerns expressed in the April 22, 2010 resolution of the Berkeley Division had already been extensively explored in Regents', UCOP, and Academic Council documents, in a number of scholarly studies, and in the public media. Self-assembled grassroots organizations, as well as faculty groups, have formulated diverse proposals, ranging from a blueprint for the reorganization of the Board of Regents¹, to a plan to reallocate, selectively, the University's state funds to Berkeley, UCLA, and UCSD, at the expense of other campuses².

In this report we devote attention to describing the governance problems that these troubled years revealed and reviewing a range of “solutions” proposed. Here is a road map of the territory to be covered:

- (a) We give a selective account of the turbulence of the University’s administration and governance of the years from 2004 to the present.
- (b) We review the additional troubles superimposed on these years by the downward plunge of state budgetary support for the University.
- (c) We remark on the fate of shared governance during this period.
- (d) We comment on the assessment of the University’s financial and related problems by the University of California Commission on the Future.
- (e) We note a radical but failed attempt to alter the constitutional status of the University.
- (f) Keeping this chaotic history in mind, we suggest a major reform in shared governance, an element we trust will increase the level of diagnosis and understanding of the University’s difficult historical situation and improve its efforts to reform.

University Governance and Leadership (2004-2011)

The charge to our Committee is to “collect, study, and formulate a set of Reform Proposals concerning the Governance and Leadership of the University.” We first examined the governance and leadership from 2004 to the present, beginning with the term of Robert Dynes as president of the University, with a focus on aspects pertinent to the Resolution.

In the wake of public controversy regarding executive compensation at the University, in 1992 the Regents adopted the Principles for Review of Executive Compensation to prevent future problems³. Required annual reports were submitted regularly until 2004. In that year, however that practice ceased. Pelfrey⁴ notes “*in response to an increasingly competitive higher-education marketplace, a number of offers made to prospective executives began to include benefits that were not standard practice or addressed in policy at UC—payment for sabbatical credits earned at other universities, for example. The Regents as a body were neither asked to approve these non-standard benefits nor informed about them. For two years in a row, in 2004 and 2005, the administration failed to send the Regents an annual report on executive salaries and benefits mandated by the Principles—a bureaucratic oversight with serious consequences.*”

Beginning in November 2005, numerous articles, mainly in the San Francisco Chronicle, criticized the University for providing undisclosed additional compensation to faculty and administrators while at the same time increasing student fees⁵. These allegations led to expressions of concern from the public, legislators, and the Regents, producing legislative hearings and several audits. In rebuttal on January 12, 2006, the University declared “*In its coverage of compensation issues at the University of California, the San Francisco Chronicle frequently has referred to \$871 million distributed ‘quietly’ by the University in ‘bonuses, moving allowances, administrative stipends and other types of cash compensation in addition to salaries and overtime.’ To reach the \$871 million figure the Chronicle compared ‘base salary’ to ‘total compensation’ excluding overtime for all UC*

*employees in 2004-05.*⁵ The rebuttal included a full accounting showing that virtually all the additional compensation was legitimate. A report by the California State Auditor in May 2006 supported the University's response.⁶

However, the Auditor's report did recommend: *"To increase transparency as it relates to the compensation of highly paid university employees, the regents should require the president's office to disclose all forms of compensation for university officers and for all employees whose compensation exceeds an established threshold. This disclosure should occur when the regents approve the employees' salaries and at least annually in a report to the regents. If the president's office continues to submit its annual report on compensation to the regents, it should ensure that it is accurate and timely."*⁶

In reflecting on this difficult episode in his letter of resignation to the Regents in August 2007⁷, President Dynes noted *"my term has also had substantial political and media challenges that have been well publicized and have placed new and difficult pressures on my office. As you all know, the University's methods and policies by which it determined and disclosed compensation of senior management over a period of years became heavily scrutinized and criticized. I continue to emphasize that these practices were intended for the good of the institution; the intention was to enable the University to remain competitive in the marketplace for intellectual and administrative talent. Only in a few instances were there insignificant incidences of inappropriate action. I also say with confidence that the process corrections that the University has implemented place it in a leadership role in the nation in terms of openness and transparency as a public institution."*

In an extraordinary letter to the Regents, also in August 2007, Board of Regents Chairman Richard Blum presented a comprehensive critique of the governance and leadership of the University⁸:

"Throughout UC, talented administrators and staff members perform their jobs with dedication and passion. Unfortunately, they are operating within an outmoded and dysfunctional set of organizational structures, processes and policies. As a result, too often, their efforts amount to less than is acceptable..... Shared governance is part of the bedrock of this University, but increasingly, shared governance is being interpreted as a synonym for consensus governance, which means that everyone claims a veto but no one takes responsibility for results. This approach has been an impediment to seizing opportunities and implementing The lack of clear "decision rights" is also evident in the siloed nature of the organizational structure, where the right hand is frequently unaware of what the left hand is doing. I have been told that no one has really looked at UC's administrative structure in over forty years. Cumbersome and enormously expensive layers of bureaucracy have been added over the years, many of which may no longer make sense – if indeed they ever did.we need to look not only at UCOP and the campuses but also at the Regents. A first step here should be redesigning Regents meetings so that less time is spent on minutiae and more time on strategic and important financial matters. Between meetings, in our interactions with University officers, we must continue to evolve a more effective balance between diligent oversight and appropriate delegation. I will also encourage the Academic Senate to undertake a parallel examination of its practices to see whether there are possible efficiency gains to be made in fulfilling the governance responsibilities delegated to them by the Regents.

“Given the breadth and the depth of the bureaucratic inefficiencies across the system, we have engaged the Monitor Group to evaluate our administrative operations and help us prioritize and tackle key problem areas.”

The Monitor Group, a global management consulting firm, had already been selected in April 2007 by a committee representing Regents, UC administration, and the Academic Senate, and charged: *“To better define roles among the Regents, the Office of the President, and the campuses. To achieve greater operational efficiencies and better customer service. To achieve cost savings that can be redirected to academic priorities. And to meet our commitments to the Legislature, which called last year for such an organizational review⁹.”*

The Monitor Group delivered its Phase 1 report in September 2007¹⁰. University documents with principles and guidance for implementation of the Monitor Group recommendations appeared early in 2008^{11,12}. Because of its direct relevance to the charge to our committee, a section (p. 6) of the Report of the Working Group on the Roles of the Office of the President (Governance Committee of the Board of Regents)¹¹ is quoted in its entirety:

Institutional Context of the University

The Working Group has based its deliberations on these fundamental characteristics of the university:

- *The University of California is the designated research university within the public higher education system of the state of California.*
- *Teaching, research and public service by the faculty and students constitute the purpose and value of the institution.*
- *The university is an institution in the land grant tradition, with responsibilities to the people of the state of California for advancing their welfare as well as pursuing scholarly and scientific inquiry.*
- *The university can be considered as a single federation of campuses with distinctive strengths and a common aspiration for excellence.*
- *The university operates under shared governance by the Regents, president and Academic Senate, with ongoing consultation concerning its fundamental policies and priorities.*

This statement provided strong assurance that the broad-ranging changes at the Office of the President will not infringe on the broad authorities delegated to the Senate by the Regents.

By June 2008, President Dynes informed the Legislature that the rapid partial implementation of the Monitor Group recommendations¹⁰ led to a decrease in the UCOP 2008-09 appropriation request to ~\$203 million, a 20.2% reduction from the previous year, largely achieved by a 23% reduction in FTE¹³. By March 2011, under President Yudof, the overall reduction in FTE reached 30%¹⁴. There has been little Academic Senate reaction to the consequences of these economies for teaching and research programs involving multiple campuses, such as Education Abroad and multicampus research units.

Confronting a Shrinking Budget

During the past several years, UC has offset declining state budget allocations by

large increases in student tuition, combined with increases in executive salaries. These perceived inequities led to student protests and to a request by State Senator Leland Yee in February 2010 to the Joint Legislative Audit Committee for an audit of the University.

That Committee requested the Bureau of State Audits to audit the University with a focus on public funds, student fees and auxiliary enterprises, to focus on information that is centrally contained at UCOP, to identify the major sources of public funding over the most recent five years, including funding from the federal government, and to review and evaluate the policies and practices that the University uses to track and allocate public funding (ref. 10, p. 9). The California State Auditor published the audit, which analyzed UC finances for 2005-2010, on July 28, 2011^{15,16}.

Inter alia, the report drew particular attention to the large differences in the per-student amounts for the campuses, as shown in Tables 5 and 6 in the report.¹⁶ The Office of the President gave a reasonable justification for the different per-student funding levels, but also noted “*that for strategic reasons it has chosen not to evaluate the base budget allocations for the campuses in more than 20 years. It stated that in 2008, the University began a process of comprehensive review of its budget allocation practices and is implementing changes during the fiscal year 2011-12*” (ref. 17, pp. 34-35). UCOP also stated “*that it does not wish to jeopardize the achievements of the Berkeley and Los Angeles campuses by shifting funds away to other campuses in an effort to provide an equal amount of the general funds and tuition budget per student.*”

In the news release announcing his 2010 request for the audit, Senator Yee said that a comprehensive state audit would help “*uncover the extent of the waste, fraud, and abuse within the UC, and finally hold university executives accountable.*” When the audit was completed, UCOP announced “*The exhaustive audit found no evidence of waste, fraud or abuse*¹⁷” (see also, ref. 16, pp. 79-86). This prompted the State Auditor to respond: “*The University’s statement that we determined no negative findings on the primary concerns that initiated the request for audit ignores the approved audit objectives we were asked to examine by the Joint Legislative Committee. All findings and recommendations in our report are related to these audit objectives*¹⁶.” ... “*In our review of university accounting records, we found that the Office of the President uses a single accounting code, Miscellaneous Services, to account for more than \$6 billion for the five years we reviewed, or about 25 percent, of the annual public noncompensation expenses for the university. This lack of specificity prohibits meaningful analysis of a significant portion of the university’s expenses at a systemwide level, and limits the ability of stakeholders to understand how the university uses these funds*” (page 4). The report calls repeatedly for greater transparency of the University’s financial operations.

Taking only the self-appraisals and the audits into account, we conclude that the governance and leadership of the University by the Regents and the Office of the President leaves room for improvement. Throughout this entire period the Academic Senate continued its traditional roles in shared governance, but appears to have been largely a passive observer with respect to the governance and administrative issues just reviewed.

The Berkeley Academic Senate Resolution of April 22, 2010 implies that the events of the past 6-8 years have resulted in the lack of faith in the governance and leadership of the University and a loss of public confidence in and support for the University. The reality is more nuanced. Several polls have shown that the public holds

the academic and research performance of the University of California in high regard and aspires to the admission of their sons and daughters to a UC campus, but also believes that the University could save a great deal if it had more moderate salaries and restrained growth in numbers of administrative appointees. In short, the public respects the University, but this attitude appears not to extend to its senior administrators. These results are consistent with similar polls on public universities across the nation.

Shared Governance

The broad authorities delegated to the Senate by the Regents include determining the conditions for admission to the University, authorizing and supervising all courses and curricula, and setting the conditions for degrees (that is, establishing graduation requirements). Subject to the approval of the Board, the Senate has been granted sole authority over these areas, and they remain central to the Senate's responsibilities. The Senate also has extensive machinery at the campus and systemwide levels for consultation, review, and influence on a wide range of programs and policies.

At the same time, however, some initiatives have been taken to extend and improve, and increase the effectiveness of these arrangements. In November 1996, the Academic Council approved the formation of a Task Force on Governance to investigate, among other issues, the nature and health of shared governance, i.e., the ability of the Senate to interact effectively with both the Regents and University Administration. The Panel between the Academic Senate and the Board of Regents recommended the following measures to facilitate constructive interaction between the Academic Senate and the Board of Regents in its report on April 4, 1998¹⁸:

1. *The Chair of the Academic Council should extend an annual invitation to:*
 - (a) *The Chair of the Regents to meet with the Council or the Assembly.*
 - (b) *The Chair of the Regents Committee on Educational Policy to meet with UCEP, CCGA and/or BOARS.*
 - (c) *The Chair of the Regents Committee on Finance to meet with UCPB, UCAP and/or UCFW.*
2. *Joint Regent, Administration, and Senate task forces should be utilized to discuss key, long-term educational policy issues from time to time.*
3. *Annual reports by the chair of BOARS, UCEP, UCAP and CCGA should be made directly to the Regents on policy issues specifically related to the Senate's charges as defined in the Standing Orders of the Regents.*
4. *The President and the Secretary of the Regents should involve selected Senate faculty in the development of and participation in a more meaningful orientation program for new Regents, one intended to provide them with a greater understanding of the duties and activities of faculty, of the meaning and purpose of shared governance, and of the value of enhanced communication with faculty.*
5. *On an annual basis, designated Regents could meet with the Senate leadership at each campus.*
6. *The current process for initiating a memorial to the Regents at the Divisional level is important and should remain intact. However, with a total of approximately 8,000 faculty in the nine-campus University of California system, the process for the Memorial has become cumbersome. Thus, legislation regarding Memorials should be expanded to allow the Academic Assembly to provide a "Universitywide Resolution" not requiring a vote by the faculty of all Divisions of the Senate. This addition would enable the Assembly to communicate with the Regents in a timely fashion. It is important, however, that the Memorial to the Regents remain a selective instrument used to convey the opinion of the faculty in the absence of any other satisfactory mechanism.*
7. *The Academic Senate and the President might consider the development of a seminar series in which faculty, Regents and other members of the academic community would meet occasionally to discuss specific topics of mutual interest related to research and education policy/practice. Subjects as broad as the role of university teaching and research, or narrower topical areas such as biotechnology, the freshman*

experience at UC, etc., are examples of potential discussion areas. The intent would be to create venues outside of Regents meetings in which the activities and future of the University could be discussed.

A number of the channels suggested above for interaction between the Academic Senate, as well as between individual faculty and the Regents, remain underused. Formally, the President is the sole channel of direct communication with the Regents. The more interaction there is between individual faculty and different individual members of the Board of Regents in informal contexts, the more likely it is that the faculty and the Board will espouse and support common goals and that the Regents will have a much richer view of the breadth and value of the University as an academic institution.

As far as goals of the various presidents and the faculty are concerned, two insightful recent studies of the leadership of the University indicate that the recent troubled period was anomalous. Over time there has consistently been consensus between the Academic Senate and the administration on many issues, particularly with regard to the one-University paradigm.^{19,20} As for the present, in August 2011, at the conclusion of his term as Academic Senate Chair, Professor Simmons offered the following cautious appraisal: *“President Yudof is more open to listening to the views of the Senate than any UC president I have worked with. I have witnessed many occasions over the past two years when he has thoughtfully considered and responded to Senate views – on furloughs, budget issues, faculty salaries, post-employment benefits, among others. Nonetheless, the administration is considering ideas that may not be in the best interest of the University, so the Senate must remain active and vigilant.”*²¹

University of California Commission on the Future

After praising President Yudof, Professor Simmons ended on a cautionary note. Reading between the lines, we might infer that he was alluding to recommendations of the UC Commission on the Future, created in July 2009 by Board of Regents Chairman Gould, with President Yudof serving as co-chair. It released its Final Report in November 2010.²² The recommendations of the Commission were “informed “ by the input from five working groups composed of faculty, students, staff, alumni and administrators from all ten UC campuses, as well as regents and individuals from business and labor organizations. However, only two faculty members served on the Commission itself.

The broad objective of the Commission’s deliberations was to explore ways to address the consequences the ongoing declines in State funding on the University’s academic program. Of necessity, then, much of the effort of the Commission involved areas where the Senate has been granted sole authority. In fact, the UCOP press release on the Commission’s final report noted *“Most of the recommendations – involving the academic realms of instruction, curriculum, academic personnel and research – cannot become fully effective without the active engagement of the Academic Council, divisional senates and faculty committees.”*²³

One of our members, Professor Smelser, carefully assessed the Commission on the Future report on behalf of our committee. We share here his concluding remarks because they perceptively capture the difference in the thinking of the Regents and the President and that of the faculty:

“Final and most general point: The Commission on the Future, in its deliberations and recommendations, relies overwhelmingly on the language, assumptions, and imagery of the university as an economic institution—with “inputs” of students and “outputs” of graduates, all realized in a process of “throughput”. Most recommendations are concerned with how to make this process more efficient and economical. (Unhappily, most discourse at the present time—not just that of the Commission—is dominated by this imagery; in a larger sense it may reflect a triumph of managerialism.) This emphasis is understandable, given the overwhelming reality and salience of budget shortfalls. In the process, however, a lot has been forgotten about the idea of what a university is and what universities as institutions do. The University is a unique cultural asset. It contributes to personal growth, a sense of civic responsibility, tolerance for ambiguity, and decline of prejudicial attitudes of all descriptions. It contributes massively to social mobility and diversification. Its activities raise the level of civil discourse, and it contributes decisively to the very definition of a civilized culture—one that is self-consciously reflective and critical of itself. These are among the many reasons for Californians and others to be proud of the University, and all of these should remain as essential parts of the discourse.”

It is not surprising that others also voiced such criticisms of some of the central recommendations of the report, for example, in the San Francisco Chronicle, *“These efforts to push people through in three years and moving to online education reflects a privatized model where you bring people in based on how much profit they’ll create,” said Stanton Glantz, vice president of the Council of UC Faculty Associations. “The priorities of the institution will reflect the market interests instead of the public interest.”*²⁴

Following the dissolution of the workgroups upon completion of their work for the Commission on the Future, the Academic Council created a special committee by a resolution adopted in July 2010 to advise the Council on a comprehensive plan for the University of California that would address on-going revenue shortfalls due to reductions in state funding. All of the faculty who participated on the Commission workgroups, including the two faculty members of the Commission, were invited to participate in the work of the special committee. Overall, 24 of the invited faculty joined in the effort. The report of the Academic Council Special Committee on a Plan for the University of California, approved by the Academic Council, was transmitted to President Yudof on July 6, 2011.²⁵ This report differed substantially in tone, conclusions, and recommendations from that of Commission on the Future.

In August 2011, the Academic Council presented President Yudof with the report of its Implementation Task Force.²⁶ The work of the Task Force focused on three critical issues: enrollment, the relation between enrollment and budget, and the size and composition of the faculty. Their recommendations aim to manage the challenges presented by the sharply reduced state support in ways that do the least harm to teaching and research. These responses and recommendations of the Academic Council prompted by the Commission on the Future report were timely and thoughtful. The administrative actions that will follow the exchange of views between the Regents, the President, and the faculty, as represented by the three reports discussed above, will reveal how well shared governance is faring during these difficult times.

Senate Constitutional Amendment SCA 21 – A Threat to the Autonomy of the University: A Revealing Case History

Bills SCA 21 and ACA 24, authored by Senators Yee, Ashburn and Romero in the Senate, and by Assembly members Nestande and Portantino in the House, respectively, were introduced in May 2009. The text of the Legislative Counsel’s digest of SCA 21 reads:

Existing provisions of the California Constitution provide that the University of California constitutes a public trust and requires the university to be administered by the Regents of the University of California, a corporation in the form of a board, with full powers of organization and government, subject to legislative control only for specified purposes. These provisions require that corporation to have all powers necessary or convenient for the effective administration of its trust. This measure would repeal on January 1, 2011, the constitutional provisions relating to the university and the regents and would require the university and the regents to be continued in existence subject to legislative control as may be provided by statute. The measure would require the Legislature to enact legislation to implement these provisions.

If approved by two-thirds of the Legislature, the measure would then be put before the voters for final approval.

Support for the bills came from UPTE²⁷, AFSCME, the California Labor Federation, and, reportedly, thousands of letters and emails (ref. 1, p. 46). The supporters of SCA 21 cited excessive executive pay raises and perks.

Prompt negative reactions to the proposed legislation also came from many quarters (see ref. 28, pp. 120-131): President Yudof, UCOP, a group of UC alumni (now prominent California employers and business leaders), the Council of UC Faculty Associations (CUFTA), and a resolution of the Assembly of the Academic Senate reading

“That the existing provisions of Article IX, Section 9 of the Constitution of the State of California provide for sufficient oversight by the legislature and elected officials of the University; and That preservation of Regental autonomy is essential to ensuring that the University is “independent of all political or sectarian influence,” which is critical to maintenance of the University’s excellence in teaching, research, and service; and That the Assembly of the Academic Senate strongly opposes any legislative action to strip The Regents of their Constitutional autonomy.”

In the end, the opposition prevailed. SCA 21 did not emerge from the Rules Committee. The uproar over SCA 21 reveals that the faculty—as well as many other constituencies—values the autonomy of the University and would be very reluctant to relinquish the protections currently provided in Article IX of the California constitution, whatever the imperfections of the current governance structure.

A Few Observations on Our Charge

The principal charge to the Committee was “to collect, study and formulate a set of Reform Proposals concerning the Governance and Leadership of the University.” We note initially that any substantive reform of the Board of Regents (or of the range of Regents’ powers) would require significant change in the existing provisions of Article IX, Section 9 of the State constitution. The Regents select and appoint the President, who

in turn assembles a management team.²⁹

In searching for substantive existing proposals to reform the governance of the University, we examined a spectrum of relevant materials pertaining to the governance and leadership of the University on the UCOP and Regents' website and other relevant materials on the Internet. We found only one comprehensive proposal, generated by a grassroots organization, to reform the Board of Regents that provides both multiple arguments for change and calls for its reconstitution according to a general principle of proportional representation of constituencies (see ref. 1). We discovered no expressions of interest in that proposal within or outside of the University.

In this report we have reviewed and summarized a wide range of documents and articles dealing with the actions of the Regents and of the Office of the President over the past eight years. The performance of the University-wide administration during much of that period was marred by the administration's failure to conform to certain reporting requirements mandated by the Regents, and by the President's failure to justify to the Regents the existence and purpose of a wide range of programs within the Office of President. The latter problem led Regents Chairman Blum to assail the Office of the President as a "bloated dysfunctional bureaucracy." The criticisms have been addressed by the displacement or elimination of virtually all of the programs in the reorganization of UCOP largely guided by the Monitor Group report, and by President Yudof's emphasis on accountability.

We believe that the Academic Senate must be vigilant in protecting shared governance, and ensuring that broad authorities delegated to the Senate by the Regents are pursued responsibly. Some fundamental differences persist between administration and faculty. The contrasting emphases and recommendations of the Commission on the Future report and that of Academic Council Special Committee on a Plan for the University of California are striking.

We record, finally, an incisive comment by Clark Kerr, published in 1994, in reflecting on the impacts of budget cuts in 1991-92 and 1992-93. He summarized the challenge as follows:

*"Higher education is not fighting for survival - that is assured. It is fighting for its soul defined as service to equality of opportunity (student access) and to the discovery and dissemination of knowledge (academic quality), with higher education taking the main responsibility for guiding its own future (institutional autonomy)."*³⁰

Recommendation to the Berkeley Division

Our committee debated the issue of recommendations at length. In the end we decided not to advance a series of governance reforms on specific issues such as extent of faculty representation on the Regents or streamlining the Academic Assembly. Given limited resources and the time pressure on us, we could only conclude that such a list of recommendations by yet another faculty committee would only slide without ceremony into the accumulated babble of voices over the past decade and have negligible effect. What we propose instead is a new range of procedures to be forged by the Berkeley Division—procedures that promise at once to yield more informed analyses and reforms and to improve the faculty's role in shared governance.

What we propose is to develop the capacity of the Senate to launch, as needed, expert faculty task forces to study governance and other issues in depth, and issue the most informed, analytic, and objective diagnoses and recommendations for reform. Such specially-constituted bodies are not without precedent in Senate history, especially in times of crisis, but we urge that they become a central, regularly employed, and enduring feature of shared governance.

The model for our proposal that comes readily to mind is the panel system created by the National Research Council (NRC) of the National Academies. This organization, supported by government but independent from it, produces, largely on demand from Congress, executive agencies, and private foundations, hundreds of studies on a multitude of issues and policies. Its panels retain a distance from partisan politics, and those agencies that request studies are expected to maintain a “hands off” posture on selection of panel members and their work. The panels operate under the mandate to bring the best and most relevant scientific knowledge to bear on a problem—for example, global warming, legal issues in computer use—and to submit recommendations based on that knowledge. Once a panel’s report is submitted, subjected to independent expert review, and approved by the NRC, the report leaves its domain and control. The NRC plays no formal role in promoting or lobbying for its recommendations, even though its reputation and the high scientific status of its panels makes it difficult not to take its reports seriously.³¹

The model we propose for the Berkeley Division resembles the NRC model save in one crucial respect: the Division, not external agencies, would choose its own issues and agenda. Like the NRC, however, the Division would constitute its task forces in large part with faculty members who have the greatest expertise on the topic at hand. When circumstances indicate that a joint faculty-administrative task force would be most productive, that route should be followed. However, the Division should operate on the principle that it is free to launch and execute these activities independently.

This recommendation is applicable university-wide and we believe it should be recommended to our sister campuses for their consideration. Both the issues to which the taskforces are addressed and the range of personnel available would be greatly enhanced if this were a university-wide endeavor. We leave it to the Berkeley Division to broadcast and encourage the other campuses to consider the recommendation, if they chose to do so.

At this stage we have in mind illustrative task-force issues that have arisen from the manifold implications of the University’s ongoing financial crises: a three-year undergraduate degree option, enhanced summer instruction, online instruction, changes in proportion of in-state and out-of-state students, and variation in tuition among campuses. Three issues directly relevant to our charge—governance—also come to mind:

- Reform and systematization of recruitment procedures for top-level systemwide and campus administrators.
- Critical evaluation of the mechanism of “sunset” clauses calling for periodic assessment of the value and utility of programmatic and administrative initiatives.
- Critical assessment of the effectiveness of current arrangements for shared governance at campus and systemwide levels.

The main reason we favor the recommendation for expert and focused task forces is that it exploits what a high-quality faculty can do best: to bring the most

reasoned analysis and diagnoses to difficult and charged problems. In addition, and not less important, it promises to improve shared governance in many respects:

- It enhances the faculty's capacity for initiative. Over the decades shared governance has been characterized by (and criticized for) its reactive faculty posture—consultation on issues and proposals initiated mainly by administration. The independently-generated task-force mechanism we propose builds in a more proactive role.
- It is a mechanism for increasing the level of faculty participation in governance. Low participation rates have also been the focus of justified criticism over the years. If Senate leadership actively recruits the best talent into relevant task forces, it will both increase and diversify faculty involvement.
- The mechanism might well spill over into an indirect augmentation of the faculty's sense of university community, which has become tattered by changes in university growth, goals, and activities over time. Participation is a principal building-block of community, and the mechanism we propose would be a step forward.

Should the Berkeley Division approve our recommendation, it would remain to consolidate machinery for identifying issues for task-force consideration, locating and recruiting members, budgeting, staffing, and disseminating results.

REFERENCES

¹The 21st Century Strong Public University. A Proposal for the Reform of the Structure of the Board of Regents of the University of California. Campaign for UC Democracy.
http://ucdemocracy.org/RegentsReformProposal_Main.pdf
http://ucdemocracy.org/RegentsReformProposal_Appendices.pdf

²San Diego Department Chairs' Letter to Chancellor Mary Anne Fox and Academic Council Response to San Diego Department Chairs' Letter, August 6, 2009
http://www.universityofcalifornia.edu/senate/reports/MC2Yudof_Campus%20stratification_FINAL.pdf
 Yudoff transmittal letter to Chancellors of Academic Council Response to San Diego Department Chairs' Letter, August 14, 2009
<http://chancellor.ucsb.edu/memos/Academic.Council.response.letter.8-09.pdf>

³Regents Policy 7201: Principles for Review of Executive Compensation
<http://www.universityofcalifornia.edu/regents/policies/7201.html>

⁴Executive Compensation at the University of California: An Alternative View. P.A. Pelfrey, May 2008. Research & Occasional Paper Series: CSHE.7.08,
<http://cshe.berkeley.edu/publications/docs/ROPS.Pelfrey.Alternative%20View.5.22.08.pdf>

⁵University of California Compensation. Breakdown of \$871 Million Figure Cited by the San Francisco Chronicle, January 2006
<http://www.universityofcalifornia.edu/news/compensation/chronicle/871million.pdf>

⁶ California State Auditor, University of California: Stricter Oversight and Greater Transparency Are Needed to Improve Its Compensation Practices. May 2006, 2006-13
<http://www.bsa.ca.gov/reports/year/2006#May>

⁷Letter to the Board of Regents. Dynes, August 13, 2007
<http://www.universityofcalifornia.edu/dynes/statement.html>

⁸R.C. Blum “We Need to be Strategically Dynamic.” To the University of California Regents, 08.21.07.
<http://www.universityofcalifornia.edu/future/blumpaper0807.pdf>

⁹Q&A on University of California Restructuring Effort. University of California Office of the President.
<http://www.universityofcalifornia.edu/news/2007/apr24a.html>

¹⁰Monitor Group Report to the Regents: University of California Organizational Restructuring Effort. Phase 1: Organizational Assessment Findings
<http://www.universityofcalifornia.edu/future/monitor0907.pdf>

¹¹Report of the Working Group on the Roles of the Office of the President Governance Committee of the Board of Regents, January 8, 2008
<http://www.universityofcalifornia.edu/future/roleofOPrpt.pdf>

¹²Acceptance of the Report of the Capital Projects Working Group and Approval of Pilot Phase of Process Redesign for Capital Improvement Projects, March 18, 2008.
http://www.universityofcalifornia.edu/future/CapitalProjects_WGreport_031808.pdf

¹³UCOP Organizational Review Legislative Report. 2007-08 Legislative Session. University of California. Office of the President. June 2008
http://budget.ucop.edu/legreports/0708/documents/op_org_rvw.pdf

¹⁴University of California. Systemwide office to cut operating costs. 2011-03-09
<http://www.universityofcalifornia.edu/news/article/25221>

¹⁵California State Auditor Fact Sheet, July 28, 2010. Report 2010-105. University of California.
<https://bsa.ca.gov/pdfs/factsheets/2010-105.pdf>

¹⁶Bureau of State Audits Report University of California, July 2011. Report 2010-105
<http://www.bsa.ca.gov/pdfs/reports/2010-105.pdf>

¹⁷President Yudof response to the BSA report
<http://www.universityofcalifornia.edu/news/article/26025>

¹⁸Findings of the Panel on Shared Governance. Academic Council, University of California, April 4, 1998
<http://www.universityofcalifornia.edu/senate/underreview/SenMembershipTFReport.pdf>

¹⁹One University: The Evolution of an Idea. P.A. Pelfrey, January 2011. Research & Occasional Paper Series: CSHE.1.11
<http://cshe.berkeley.edu/publications/publications.php?id=375>

²⁰Leadership, Diversity and Succession Planning in Academia. C. González, 2011. Berkeley Review of Education, Vol. 2, issue 1
http://escholarship.org/uc/ucbgse_bre?volume=2;issue=1

²¹Notes from the Academic Senate Chair. D. Simmons. The Senate Source, Vol. IX, Issue IV, August, 2011
<http://www.universityofcalifornia.edu/senate/news/source/senatesource.August2011.final.pdf>

²²University of California Commission on the Future. Final Report (November 2010)
http://ucfuture.universityofcalifornia.edu/presentations/cotf_final_report.pdf

²³UC Commission on the Future final report released (2010-12-06)
<http://www.universityofcalifornia.edu/news/article/24629>

²⁴UC Berkeley Faculty Association
<http://ucbfa.org/2010/12/sf-chron-uc-panels-plan-to-raise-money-comes-under-fire/>

²⁵Academic Council Special Committee on a Plan for the University of California
Final Report and Recommendations. January 2011
<http://www.universityofcalifornia.edu/senate/reports/ds.yudofrepowellCommitteReport.pdf>

²⁶Implementation Task Force Report. Recommendations Adopted by the Academic Council and Respective
Votes
http://www.universityofcalifornia.edu/senate/ITFFinal_080211.pdf

²⁷UPTE Support Letter for SCA 21
<http://www.upte.org/lp/ACA24.pdf>

²⁸The 21st Century Strong Public University. A Proposal for the Reform of the Structure of the Board of
Regents of the University of California. Campaign for UC Democracy.
http://ucdemocracy.org/RegentsReformProposal_Appendices.pdf

²⁸UPTE Support Letter for SCA 21
<http://www.upte.org/lp/ACA24.pdf>

²⁹Regents Policy 7101: Policy on Appointment of the President of the University *Approved March 15, 1996*
Amended September 20, 2007
<http://www.universityofcalifornia.edu/regents/policies/7101.html>

³⁰What is to be Done in an Epoch of More Limited Growth of Resources?
October 1994 (Occasional Paper 94-3, ED #399848)
Clark Kerr
<http://www.capolicycenter.org/presrvvm/presrvvm6.html>

³¹National Research Council
<http://www.nationalacademies.org/nrc/policies.html>

Committee Roster

**Special Berkeley Division of the Academic Senate Committee University
Governance and Leadership**

Members:

Alexander Glazer (Molecular & Cell Biology), Chair

Wendy L. Brown (Political Science)

Paula S. Fass (History)

C. Judson King (CSHE; Chemical Engineering)

Kevin Padian (Paleontology)

Genaro Padilla (English)

Neil Smelser (Sociology)

Committee Staff

Sumei Quiggle (Academic Senate, Berkeley Division)

Majority Report submitted by

Alexander Glazer (Molecular & Cell Biology), Chair

Paula S. Fass (History)

C. Judson King (CSHE; Chemical Engineering)

Genaro Padilla (English)

Neil Smelser (Sociology)

Separate Minority Report submitted by

Wendy L. Brown (Political Science)

Kevin Padian (Paleontology)

Minority Report
Special Committee on University Governance and Leadership
October 9, 2011

I. Why a Minority Report?

We believe that the Special Committee on University Governance and Leadership has failed to respond to its charge. Appointed by the UC Berkeley Senate in the context of "widespread concern about the financial future of the University," the fact that "consideration of major reforms in the Top Level Governance and Leadership of the University is unlikely to occur within the [UC Commission on the Future of the University]," the idea that "such reforms could be significant in "efforts to restore public confidence in and public support for the University," and the idea that "many faculty have thoughtful ideas about such reforms," we were charged to "collect, study and formulate a set of Reform Proposals concerning the governance and leadership of the University." [Quotations are from the April 22, 2010 Resolution appended to this Minority Report.]

In our interpretation of the charge, the Special Committee was being asked to think, with faculty inside and outside its membership, about UC leadership in the context of historically unprecedented and exceedingly grave threats to the integrity of the University of California. To that end, the two signatories to this report attempted to focus the Committee on what we considered the major shortcomings of UCOP and the Regents in effectively defending the University against these threats. We proposed exploring a range of structural and content-specific reforms in the leadership, but these proposals were repeatedly set aside by other Special Committee members in favor of focusing more narrowly on modifications to Senate structure.

We respect our colleagues but do not think the reform proposed in the majority report fulfills our Special Committee's mandate. We believe that the kinds of proposals sketched below come closer. Some are drawn from faculty discussions in formal and informal fora that have been taking place since the beginning of the most recent crisis facing the University; others have not been subject to wide deliberation, and after such deliberation, might be modified or set aside. But we believe that they represent the *kinds* of ideas that meet the charge of the Special Committee; they are neither exhaustive nor definitive.

II. The Need for Reform Proposals

The UC executive administration is the only major component of the UC system that has failed in its mission over the past several decades. This can be measured in several ways.

- a. Every other component of the University – from the faculty who have made its departments the best in the world, to the undergraduate and graduate students whose

accomplishments are well established, to the tireless staff who work with faculty and students each day – receive consistent high praise from external, objective, quantitative sources. No such praise or external validation has accrued to our administration since the days of Clark Kerr. No one raids UC for its top executives. No one accords them honors other than themselves. And yet our citizens and legislature are told repeatedly that they must pay top dollar to compete for them.

b. The UC executive administration has consistently violated its own compensation policies and damaged its reputation in rewarding its highest-paid members. It has hidden “executive compensation” in perquisites, allowances, furnishings, benefits, and expense accounts that are not available to other UC personnel, and that have been repeatedly exposed and ridiculed by the press. It is difficult to find a segment of the California state administration held in lower esteem than UC executives. These practices have not been rectified since the years of Dynes and Atkinson; in fact, the administration continues to defend them, apparently tone-deaf to a public that has had it with overpaid executives. The most recent example is the September 2011 Regents meeting, where the main agenda items included approval of a number of such outsized compensation packages--including a huge bonus for a UCOP executive based on work done by personnel outside UCOP --coupled with a proposed 81% tuition increase for students. In addition to the damage these practices do to UC’s reputation with lawmakers and the public, top donors are now reported to be refusing to contribute further to UC because they no longer trust UC to use their money well.

c. The UC Administration has lost the confidence of the Legislature (including and sometimes especially Democrats) and Governor. It should have unremitting support from both but has reached this point by making short-sighted political deals, disregarding the norms and accountability expected of a public institution (including compensation issues), and failing to represent UC as the prime mover in California’s twentieth century economic and social success story.

d. The UC Administration has lost the confidence of much of UC’s faculty, staff and students. Undoubtedly, the Administration believes that this is the result of being scapegoated for having to do a tough job in tough times. We think otherwise. We believe that its executives are increasingly unfamiliar with the difference in mission between a corporation and a University, and that they are at too great a distance from the teaching and research mission of the University to pilot it effectively through these difficult times.

III. Reform Proposals

1. *Serious planning for the future of UC should emanate from UC faculty, not UC Executives removed from research and teaching.*

The UC Commission on the Future, hugely vaunted and immensely time-consuming, generated strikingly thin and poor results. Almost no one says otherwise, including

President Yudof himself. But why did this happen? Instead of drawing on the extensive expertise of a broad spectrum of UC faculty for serious planning work in a challenging political and economic climate, UCOF was dominated by UCOP-selected administrators and faculty. It offered no serious vision for the future of the university, and its boldest proposals were for cost-saving measures that promise to degrade the quality of the UC education.

2. Serious planning for the future of UC must consider alternatives to privatization.

Apart from the “UC Commission on the Future” Report, UCOP has mainly responded to the state fiscal crisis with tuition increases. While these have been matched by Pell Grant and Cal Grant funding for the poorest strata of students, access for middle class students recedes further with every tuition increase. Moreover, it is difficult to know where tuition-generated financial aid is expected to come from in the medium-term: why would meritorious well-off students pay private school prices to enroll in a degraded public institution? Why would middle class students go deep into debt for the privilege?

Graduate tuition, too, is unviable for most graduate students not constantly on fellowships, research assistantships and teaching assignments. At the same time, most departmental units can no longer afford to pay the graduate student fees and benefits that decentralization increasingly requires them to shoulder. In short, privatization in the absence of a large, rich, paying clientele appears an unviable strategy but is the road UCOP is barreling down.

3. UCOP should be further downsized and reduced to its primary function

The distinctive task of UCOP is to represent the merits and needs of UC in the Capitol. Almost all other functions should be eliminated, especially in view of the decentralization to the campuses of responsibility for administration and funding that has taken place in the past decade.

a. UCOP should decrease its size by 50% or more. It should be gutted even more vertically than horizontally. Entire reporting lines, from the level of Vice President downward, should be eliminated because they duplicate functions carried out on campuses, because they pretend academic expertise but lack academic oversight, or because they are simply unnecessary. When President Yudof cut UCOP personnel by 25% upon taking office, the effects of these cuts were barely felt on the campuses. We suspect that the same would be true with another 50% cut. One cannot say the same thing about cuts to campus educational and research programs.

b. UCOP should sell or lease its real estate holdings in Oakland and move its trimmed-down staff to the Sacramento area, where it can pursue its primary mission, to represent the interests of the University in the Capitol. At present, only 1% of UCOP’s 1400 employees work in Sacramento; this fact is emblematic of UCOP’s lack of effectiveness in preventing the recent slide in state support. UCOP is likely to be able to interact more effectively with other educational and governmental agencies, including

those representing other institutions involved in the Master Plan, if it is located in the Sacramento area. There is no reason for it to be located in Oakland, as even President Yudof has acknowledged.

c. In order to represent UC in the Capitol better, we propose that UCOP staff members redouble their efforts to bring faculty, staff, and students to the Legislature on a constant (not just regular) basis, to discuss with members of the Legislature the first-hand experiences of people who are working and learning on campus. These campus representatives can explain in detail how every dollar invested in UC research brings California \$3.70 from outside, how its alumni comprise the economic engine of the state, how what sets California apart from other western states is the quality of its educational system, and why that system should be supported. Legislators need stories to bring to their constituents. They need to put faces on this crisis, and they need a perspective and analysis that goes beyond merely asking for more money. The same should happen with major donors to the University, who are always gratified by the greater access to campus that their gifts bring, and appreciate seeing first-hand what faculty and students are doing.

4. The Regents and UCOP should have a greater degree of separation, and the Board of Regents should include members with deep knowledge of higher education, including UC faculty.

With very few exceptions, the Regents mainly rubber-stamp UCOP initiatives and directives, and their information about University issues comes only from UCOP staff. This means that there is no effective oversight of UCOP, no public accountability, and shockingly few knowledgeable researchers and educators in charge of what has been the greatest public university system in the world.

The current lack of expertise of the UC Regents in higher education, and the extent to which they are drawn from the world of finance, corporations, and real estate, compounds the problem of the lack of independence of the Regents from UCOP. Most Regents have little experience germane to evaluating UCOP's plans for the future of UC as an educational institution. They also generally lack familiarity with the dynamics and needs of public as opposed to private enterprises.

a) Four Regents with full voting privileges should come from the UC faculty. This requires a change in statute, but without it, the Regents will continue to be uninformed or misinformed about UC, and the primary mission of research and teaching will not be represented and understood. Faculty Regents should be distributed among campuses and disciplines: they must not come entirely from the flagships and the professional schools, and they should not be people who are already officers of campus or systemwide Senates. At present faculty are even prohibited contact with Regents, and all Regental contact with the University comes through a very restricted number of UCOP executives. This has to change if the Board of Regents is to be truly informed about University affairs.

b) Other Regental appointees should meet a fundamental threshold of knowledge about public higher education. This does not mean that they must work in higher education. But it is absurd for Regental appointments to be gubernatorial rewards to campaign donors and high-profile political supporters.

c) Regents should serve no more than a six-year term.

5. Administrative salaries should never be more than twice that of the average salary paid to letters and science faculty.

Faculty, the lifeblood of the University's quality and stature, generally gravitate to public systems for the greatness of the public educational model, not the money. Administrators should be expected to have the same calling. Administrative salaries should never be more than twice that of the average salary paid to professors. They should not be gauged against salaries paid to Fortune 500 companies, but to those of major non-profit institutions (and not NGOs), which is what UC is.

At the same time, the executive administration must stop misrepresenting UC salary structures to the public. It does this by using misleading indices and statistics, counting athletic coaches as faculty, counting medical school professorial salaries without acknowledging that almost none of these are paid by state funds but by federal grants and clinical work, and failing to distinguish between the salary scales of professional school faculty (business, law, medicine) and letters and science faculty. As a result, the average Californian thinks that the average UC professor is overpaid. UC executives, far from dispelling this view, have actively encouraged it with these kinds of pseudo-statistics, which are meant largely to mask how much more executives are paid than letters and science faculty, who do most of the research and teaching of the University.

IV. Conclusions

The University leadership needs to hear from faculty on a variety of issues, and not only through the "established channels" of the Academic Senate establishment. The faculty voice should be an active, organic presence in university governance, not a marginalized, formalized, powerless shadow of the letter and spirit of dual governance. We have no illusions that members of the faculty have all the answers to running the University or responding to the current crisis. What is certain, however, is that the mission of the University – teaching, research, and public service – is being compromised not only by the decline in state monetary support but by irresponsible, insensitive and disturbing policies emanating from the top. Lack of direct involvement in the campuses, where the UC mission is carried out, prevents administrators from seeing first-hand (and not just from middle managers and campus executives) the effects of their decisions on the day-to-day activity of faculty, staff and students. The result is erosion of a true system of dual governance. It also makes both Regents and top administrators ill-equipped to represent the University to lawmakers, public officials, donors, and the public.

UCOP and the Regents should be heading the charge to uphold UC's public mission of education and research with access to all. These bodies should comprise the main bulwark of resistance to privatization and erosion of state support. Unfortunately, they have not only spearheaded UC's privatization but embody marketization of public goods in their own compensation and management practices, and in their resistance to institutional transparency. We believe that the reforms identified above would begin to correct these trends.

Sincerely,

Wendy Brown and Kevin Padian
Members, Special Committee on University Governance and Leadership

**Academic Senate Special Committee on University Governance and Leadership
2010-11**

**Approved by Divisional Council
November 29, 2010**

The Academic Senate Special Committee on University Governance and Leadership (CUGL) is appointed pursuant to the following resolution, introduced at the April 22, 2010 meeting of the Berkeley Division, and subsequently passed by members of the Division by a vote of 263 to 113 in an electronic ballot:

Resolution on University Governance and Leadership

Whereas, There is widespread concern about the financial future of the University, and

Whereas, The Regents and the President of the University have established a Commission to study alternative future arrangements, and

Whereas, It appears that consideration of Major Reforms in the Top Level Governance and Leadership of the University is unlikely to occur within that Commission, and

Whereas, Numerous members of the Faculty of the University have thoughtful contributions to offer in that regard, and

Whereas, Such Reforms might be a significant factor in efforts to restore public confidence in and public support for the University;

Therefore, Be it Resolved that the Berkeley Division of the Academic Senate asks its Divisional Council to convene a special Committee charged to collect, study and formulate a set of Reform Proposals concerning the Governance and Leadership of the University, which will then be distributed to the membership of the Division for a ballot assessment.

The Divisional Council charges the committee with considering the questions raised in the resolution as the committee finds appropriate and useful. The special committee should provide a preliminary report to Divisional Council by the end of academic year 2010-11.