



▶ CHRONOLOGY OF THE ACTIONS SURROUNDING THE HIRING OF THE DEAN OF THE SCHOOL OF LAW 2

○ ISSUE 1 | ○ VOLUME 4 | ○ 2007-2008



▶ REMARKS FROM CHANCELLOR DRAKE FROM THE SEPTEMBER 20TH EMERGENCY ASSEMBLY MEETING 4



▶ NEWS FROM THE COUNCILS & COMMITTEES 8

Academic Senate

FALL NEWSLETTER 2007

GREETINGS FROM THE ACADEMIC SENATE:

As Chair-Elect of the Academic Senate, I will bring to you in this Newsletter quarterly information about what is currently being discussed by Senate committees and the Cabinet, as well as on topics of general interest to the Campus and University community.

The Academic Senate has an indispensable role to play in the University of California. Our university is organized based on the principles of shared governance, which means that the faculty, through their organization in School Executive Committees, Senate Councils and Committees and the Cabinet, make decisions about educational policies and programs, and provide advice and guidance to the members of the Administration about all other issues. The Senate is actively involved in optimizing the conditions and policies for research and instruction, shaping the growth of the campus, the hiring and promotion of faculty (including deans), and also consult on budgetary decisions that affect research and education on our campus.

This system of shared governance relies on the active engagement of individual faculty all over campus in the different schools and departments. We faculty play a critical role in shaping the future of our campus. The swift mobilization of faculty at the occasion of the events around the hiring of the Dean for our new law school was an impressive demonstration of the UCI faculty's willingness to become actively involved. We urge all faculty members to take an active role in the work of the Senate: Attend faculty meetings at the departmental and school level. Express your willingness to serve on a council or committee in the survey of the Committee on Committees (<http://www.senate.uci.edu/senateCOC>).

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EVENTS, SENATE ACTIONS AND DISCUSSIONS REGARDING THE HIRING OF THE DEAN OF THE LAW SCHOOL, PROFESSOR ERWIN CHEMERINSKY

Chronology

- August 16* Chancellor Drake sends offer letter for position of Dean of UCI Law School to Professor Chemerinsky
- September 4* Professor Chemerinsky signs contract
- September 11* Chancellor Drake meets with Professor Chemerinsky and rescinds the offer
- September 12* Blogs and media reports about hiring and rescinding start
- September 13* Chair Bradley/Chair-Elect Heckhausen meet with Chancellor Drake
- September 13* Informal Meeting of about 250 faculty in Bren Hall (see Document 1 for summary of discussion)
- September 17* Chancellor Drake rehires Professor Chemerinsky as Dean of the UCI Law School and Erwin Chemerinsky accepts
- September 17* Cabinet meeting approves resolution on academic freedom to be discussed at Emergency Assembly meeting on September 20, 2007
- September 20* Professor Chemerinsky faxes letter to Chair Tim Bradley expressing enthusiasm about leading the UCI Law School
- September 20* Cabinet meets to prepare agenda for Senate Assembly
- September 20* Emergency Meeting of the Senate Assembly (see Document 2 for resolutions and summary of discussion)
- Chair Bradley forms Ad hoc Committee (Members: Judy Stepan-Norris, Diane O'Dowd, Alan Terricciano) to investigate the events and meet with Chancellor Drake regarding reasons and causes for his actions
- October 9* Cabinet approves recommendation to form a Task Force on Shared Governance with University-wide representatives from each school
- October 23* Cabinet modifies the Task Force to become an Ad-hoc Committee on Shared Governance to be appointed by the Senate Chair with nominations by the Cabinet
- October 31* Small Ad hoc Committee (Stepan-Norris, O'Dowd, Terricciano) meets with Chancellor Drake
- November 1* Meeting of the Senate Assembly (see Document 3 for report of Ad-Hoc Committee and summary of discussion)
- Senate Assembly approves resolution to form an Ad Hoc Committee on Shared Governance to be appointed by Chair Bradley

DOCUMENT 1

Ad hoc Meeting of faculty in Bren Hall, September 13, 2007

About 250 faculty followed the announcement for a meeting that had been posted via email late that same morning.

First, Chancellor Drake spoke to explain his decision to rescind the offer made to Professor Erwin Chemerinsky to serve as the founding Dean of the UCI Law School. He stated that his decision was made based on developments and actions of Professor Chemerinsky after the offer was made. These developments and actions led him to become concerned that he would not be able to effectively partner with Professor Chemerinsky in the development of the new School of Law. Chancellor Drake stated that there were no outside pressures to rescind the offer to Erwin Chemerinsky, and thus academic freedom was not compromised. Chancellor Drake apologized that the decision to rescind the offer was not made earlier to avoid negative consequences for the university.

In the subsequent discussion the following issues were raised and arguments made:

- The faculty wanted to know which kind of information was discovered in the interim from the time of the offer to its rescinding that led to the turn-around in the Chancellor's approach to Professor Chemerinsky. It seems that there was a great deal of information already known about Erwin Chemerinsky during the selection process, and thus it is surprising that important information apparently was discovered this late.
- The issue of confidentiality was raised and whose interests were best served by maintaining this confidentiality. It was suggested that Professor Chemerinsky be asked to overstep his confidentiality agreement to be more forthcoming with the faculty.
- It would appear to the public following the media coverage of the events that the decision was made in response to the Op-Ed article written by Erwin Chemerinsky in the L.A. Times.
- The Chancellor's decision to rescind the offer to Professor Chemerinsky and the related media discussion about infringements on academic freedom may damage the reputation of the nascent School of Law and the UCI campus as a whole.
- Professor Chemerinsky was a top candidate because he is a leading public intellectual who has taken strong positions on issues.
- Chancellor Drake consulted with many people in the State and nationally, but did not consult with the faculty at UCI.
- There was a recommendation that the Chancellor should rescind the decision to withdraw the appointment of Professor Chemerinsky. The Chancellor deferred to the Senate on this recommendation.
- Chancellor Drake thanked the faculty for their questions, and apologized for disappointing the faculty. He said that he would do whatever he could to rectify the situation and restore trust with the faculty.

DOCUMENT 2

EXCERPTED FROM:

UNIVERSITY OF CALIFORNIA, IRVINE, DIVISIONAL SENATE ASSEMBLY Minutes of the Meeting, Thursday, September 20, 2007

1. MEETING:

A special meeting of the Irvine Divisional Senate Assembly was called to order by Chair Timothy Bradley, at 3:05 p.m., on Thursday, September 20, 2007, at the Physical Sciences Lecture Hall. Members of the administrative staff, campus community, and media were present.

Issue: The Senate Cabinet called for an emergency meeting of the UCI faculty to discuss the issues and concerns raised by recent events related to the appointment of the Dean of the School of Law. The sole agenda point set for the meeting is “the Chancellor's leadership of the campus and our commitment to academic freedom.”

2. RESOLUTION ON ACADEMIC FREEDOM

After some discussion and some minor amendments, the Senate Cabinet approved a resolution to reaffirm the campus' commitment to academic freedom.

The principle of academic freedom is central to the functions of a university. The open expression of ideas, and debate regarding their merits, is vital both to intellectual growth and to progress in our society as a whole. Academic freedom must extend to all members of the faculty, including academics in administrative posts. Acceptance of an administrative position cannot, must not, be associated with withdrawal from the ebb and flow of intellectual discourse, nor an abdication of the right to employ the expertise that has brought one to a position of prominence in one's field. We, the members of the UCI Academic Senate expect demand our administration to defend these principles against all pressures both internal and external to the university.

3. REMARKS FROM CHANCELLOR DRAKE

Chancellor Drake addressed the Assembly and the University community:

Good Afternoon

We are at our core a place where people come to discover, to grow, and to learn. In life, lessons learned most painfully are often those we learn best. I have learned a painful lesson this week. I made a series of difficult decisions without consulting senior faculty early enough or often enough. I am sorry for this; I apologize sincerely for the problems that have followed. Once I did consult with them their insights and experiences were very valuable in the decision process, and helped us get back on the right track. In moving forward I have asked a small group of faculty to sit with me regularly to discuss decisions affecting our future. I will value their counsel.

There have been many questions about the decision to rescind and then reinstate the offer to Professor Chemerinsky. First the decision was mine alone. There were many opinions on all sides of the issue. In the end the decision rested with me. Initially I made the decision to go forward, albeit with reservations about whether he could make the transition to be a Dean, particularly a founding Dean. His credentials are beyond reproach, but I had not yet arrived at certainty. Over the next two weeks my comfort did not

grow as I had expected it would. There was no single event or reason, but rather several reasons, some subtle, that increased my uncertainty. I was faced with the choice of moving forward nevertheless, or stopping. I chose to stop. I rescinded the offer.

In the days that followed it became increasingly clear that I had made the wrong choice. Rather than defend my mistake, I set about to fix it. Happily he and I had maintained communication. Last weekend I flew to North Carolina and we met, for several hours, face to face. We discussed all of our personal issues and concerns, and we resolved them to our mutual satisfaction. My concerns regarding the transition were addressed, and he was reassured of his unfettered welcome. He agreed to join on the original schedule.

One of the issues that arose last week was a question about freedom of expression. This is something I believe in deeply, and have fought for my entire adult life. Here in Orange County I have defended the right of people with unpopular views to express themselves. I have fought for inclusion of under represented people and voices broadly for my entire career. I am and always will be a staunch defender of the right of faculty to express themselves freely. This right, tempered by responsibility, is the hallmark of leadership. We have this in our current Deans, and we will have it in Dean Chemerinsky.

Throughout this process I have been guided by what I felt was best for our campus. That is what caused me to return to Professor Chemerinsky last week. I am certain now that he has the best chance of anyone I know to build our law school into the outstanding institution we know it can be. I am convinced of this. He will help build a school that will serve the campus, the community and the nation with distinction.

After recent events I have some additional work to do. I have to mend bridges damaged by my actions, and work to build bridges to the future. I am eager to begin, to put this all behind us, and with your help, get back on the road to the brilliant future that awaits us.

4. LETTER FROM PROFESSOR ERWIN CHEMERINSKY

Chair Bradley read a copy of Professor Chemerinsky's letter to the Assembly and the University community (See *Divisional Senate Assembly Minutes, September 20, 2007, include website address*).

5. RESOLUTION ON LEADERSHIP

Chair Elect Heckhausen presented a resolution on Chancellor Drake's leadership which was drafted in consultation with the Senate Cabinet. The resolution expressed a negative evaluation of the events regarding the recruitment of the Dean of the School of Law, and the concern that the events could damage the reputation of the Law School and UCI as a whole. It stated that the Dean search committee and representatives of the Academic Senate should have been involved in the decision to revoke the offer to Professor Chemerinsky. The resolution requested that the principles of shared governance need to guide the actions of the administration and the Academic Senate, and can help to defend joint decisions against political pressure outside the university. The resolution also welcomed the successful renegotiation between Chancellor Drake and Professor Chemerinsky, and asserted that UCI will benefit from Chancellor Drake's continued leadership.

Discussion:

Faculty comments about the resolution greatly varied. Some faculty members stated that a resolution at this point was not useful any more, given the Chancellor's remarks. Others supported the resolution, in particular the reaffirmation of shared governance between the faculty and the Administration. Some faculty

endorsed the resolution stating that the campus needs to recognize that a problem did occur, that a clearer explanation is needed, and that principles of shared governance had been violated.

Attempts were made to reformulate and/or modify the resolution, but that proved impractical at such a large meeting. In the end, the faculty agreed that the resolution should be tabled and the issues addressed with the appropriate care and time investment needed.

The Divisional Senate Assembly approved the following motion:

“The Chair of the Academic Senate will designate a committee to meet with the Chancellor to provide additional information about how this decision was made. The committee will report back to the Senate Assembly no later than December 15” (37 in favor, 5 against).

DOCUMENT 3

Report to the Academic Senate Regarding Chancellor Drake’s Hire of Professor Chemerinsky (Based on Our Meeting with Chancellor Michael Drake, 10-31-07)

Professors Judy Stepan-Norris, Diane O’Dowd, Alan Terricciano

Preamble

The committee met twice in preparation for our meeting and once afterwards. The meeting was scheduled for one hour and ultimately lasted one hour and forty-five minutes. We discussed several issues with the Chancellor relating to this matter. The following points summarize what we believe are the relevant issues of concern and our assessment of these issues based on our conversation with the Chancellor.

Due diligence:

- 1) The Chancellor stated that he made the offer to Prof. Chemerinsky while he still had reservations. He recognizes this was a mistake, and accepts responsibility. He was absent for portions of the negotiation process and allowed it to go forward. He allowed the timeline (planned announcement date, etc.) to put pressure on this process.
- 2) The Chancellor asserted that there was not any single event or revelation that happened during the week of September 4th to the 11th to substantially influence his decision to rescind the offer. Rather, he remained uncomfortable with his ability to effectively partner with Prof. Chemerinsky in building the new law school. The committee was given no additional information about the “series of small events” that occurred during the week, to alleviate our concern that rescinding the offer involved problematic judgment.

Outside Pressure:

- 1) The Chancellor asserted that “outside pressure” had no impact on his decision to rescind the offer, and, contrary to press reports, he characterized outside comments as being evenly distributed throughout the process, they were more positive than negative, and they did not substantially increase during the week of September 4th through 11th. The committee is not in a position to assess the veracity of these statements or the press accounts.

- 2) The Chancellor asserted that the rescinding became framed inappropriately as an issue of academic freedom. The committee agrees with this assessment. Because of the public misperception he entered into the renegotiation process since he felt this was essential to ensure that UCI maintains its status as an institution that values and welcomes academic freedom. After a second meeting with Prof. Chemerinsky, the Chancellor stated that he reached the conclusion that they would be able to establish an effective working relationship and decided that the best course of action for the law school and the university as a whole was to restore the offer. The committee agrees that re-offering the position was in the best interests of the university.

Academic Freedom

- 1) As discussed above, the committee believes that the issue of academic freedom did not influence the decision to rescind the offer.

Contract:

- 1) By choosing to rescind the contract at the point that he did, it is the committee's opinion that the Chancellor undervalued the status of the contract itself.
- 2) It is the committee's assessment, that while it is normal for the provost to negotiate the details of the contract, because of the sensitivity and importance of the hire, the Chancellor should have been more directly involved with the contract negotiations, especially given his reservations.

Management Style:

- 1) The Chancellor acknowledged that he made mistakes in terms of procedure particularly in terms of the order of events. The committee believes that the Chancellor has gained valuable information from this experience, and that he will adjust his approach to decisions of this magnitude in the future.

NEWS FROM THE COUNCILS AND COMMITTEES

Council on Faculty Welfare

The Council on Faculty Welfare (CFW) will be following up on several issues already undertaken last year. We have requested, via Chair Bradley, access to all the data Academic Personnel makes use of in its analysis of equity issues (available on the web at <http://www.ap.uci.edu/Equity/index.html>), and we expect a Cabinet-level discussion of how the Senate should undertake its own analyses. We will follow up on a meeting CFW held this summer with various members of the Irvine Campus Housing Authority (ICHA) and the University Hills Homeowners Representative Board (HRB) to explore, with the central administration, ways to improve the management of the staff of the Sales Office and the responsiveness and transparency of ICHA as well as the logistics whereby would-be residents and actual residents of University Hills can find, move up to, or swap houses in the development. We have begun to survey Deans and Chairs as to their units' policies on resources they make available to Emeriti, and we are thinking about ways in which the campus might more strongly encourage the support especially of its active Emeriti. And we continue to closely monitor discussions among the Regents about the possible stratification of faculty salaries (that is, differing salary ranges for different campuses), a possibility that the Irvine Division has already strenuously opposed.

About Open Enrollment: Since there are interesting new options among the medical plans being offered for 2008, faculty are encouraged to visit the "Medical Plan Wizard" available at <https://mars.mcr-inc.com/04056/index.php>

And faculty currently in the Blue Cross PPO and/or those thinking about the new CIGNA plan should definitely visit the informative site put up by a colleague in Family Medicine at UCSD: <http://kronick.ucsd.edu/comparison/>

Council on Educational Policy

CEP is responsible for reviewing non-degree granting entities such as each of the General Education Categories, the Campuswide Honors Program, and upper- and lower-division writing. These reviews were deferred during the change of the Breadth Requirements to General Education Requirements. We are now restarting reviews, with a review of writing which will take place over this year and next.

In connection with the new General Education requirements, we are clarifying and expanding the guidelines for the category in Laboratory or Performance.

CEP intends to examine University Extension and Summer School. One interest is the academic quality of the courses offered for degree credit, in particular whether Summer School relies excessively on graduate students to teach courses.

Graduate Council

Graduate Council believes that it is critical for the Academic Senate to be involved with the review of the courses and programs offered by the Donald Bren School of Law and looks forward to working with the Senate leadership and Administration to initiate a formal policy. Despite the involvement of a national accrediting organization in setting the basic requirements for the law degrees, the Council believes that the interdisciplinary nature of the School and its many anticipated connections with the other schools on Campus mandate the Academic Senate's involvement in the oversight of the academic programs of the Bren School of Law.

Another issue Graduate Council plans to explore this year is the establishment of a Parental Accommodation Leave Policy for Research Doctoral Students. Research doctoral students who are undergoing childbirth or coping with other serious parenting demands must be granted additional time to meet established deadlines for passing preliminary and/or qualifying examinations and for completing their dissertations. The Council also

hopes to establish a policy which allows research doctoral students who are supported by teaching assistantships or graduate student research appointments and are expecting the birth or adoption of a child to be excused from regular duties for a period of six weeks without loss of financial support.

Council on Planning and Budget

The Council on Planning and Budget (CPB) takes an active role in the allocation of FTEs on campus. Members of CPB are also members of the Academic Planning Group (APG). The APG is advisory to the Executive Vice Chancellor and Provost. Last year, the APG reviewed proposals for faculty FTE for programs of excellence, interdisciplinary programs and scholarship in diversity. In addition, the group reviewed strategic plans from academic and administrative units. The APG recommendations were submitted to the Executive Vice Chancellor and Provost, who made the final decisions. The Executive Vice Chancellor and Provost allocated 74 FTEs: 36 based on proposals for programs of excellence, interdisciplinary programs, scholarship in diversity, and new programs, and 38 based on School strategic plans. The selected programs are: Systems Biology, Environment/Energy, Regenerative Medicine, Music: Integrated Composition/Improvisation/Technology, Master of Public Policy Program, History of American Slavery, Materials Chemistry, Science, Mathematics, and Technology Education, and Immigration.

<http://www.evc.uci.edu/FteProgramsForExcellence/EVCLetter.html>

Council on Research, Computing and Libraries

Current CORCL activities:

1. CORCL is charged to advise the Academic Senate on matters related to research policy. We are currently engaged in a review of a draft proposal submitted by the UC Office of the President, "Review of Pharmaceutical Vendors and Clinicians".
2. CORCL is reviewing spending of campus general funds distributed for faculty research and travel in 2006.
3. Ad hoc committees of CORCL members continue to advise the Vice Chancellor for research following their review of proposals for grants and awards by agencies and foundations that limit the number of proposals the campus may submit.
4. At the request of the Vice Chancellor for Research CORCL members provide review of new applications and renewal applications for Campus Centers.
5. Through liaison with the Assistant Vice Chancellor, Network and Academic Computing Services CORCL is made aware of proposed changes in policies and procedures related to these activities.

Council on Student Experience

The Council on Student Experience (CSE) is discussing the possible acceptance of two new proposals this fall quarter. First, CSE will comment and vote on a reform from the Office of Financial Aid and Scholarships which proposes to triple the number of merit scholarships offered in order to increase the yield rate of top tier students. Scholarship dollar amounts would be reduced significantly so that more offers could be made. Second, CSE is reviewing a university-wide proposal which considers the role of graduate students in university instruction. CSE is also planning on making issues of teaching at UC Irvine of greater priority of the council to help educate all current UCI faculty on the importance of teaching.