May 7, 2012

Professor Robin Fisher, Chair
University Committee on Rules and Jurisdiction

Re: Presentation and Background Comments submitted by the San Francisco Division of the Academic Senate in response to the request for a legislative ruling by the Chair and Vice Chair of the Academic Senate

We are here to discuss a right asserted by our Division to determine criteria for our membership given the language of the Regents Standing Order in Section 105.1 (a). This right has been affirmed by the opinion of our Campus Counsel and by members of the Office of General Counsel in the Office of the President. We believe that the UC Systemwide Academic Senate can elect to endorse or perhaps refine this interpretation. Should the Academic Senate disagree with our understanding, we expect that the matter will be resolved by the Regents. Please note that the San Francisco division is planning to extend Senate membership to our 100% time faculty in the Health Science Clinical and Adjunct professor series who have attained the rank of Associate or Full professor beginning July 1, 2012. As you are aware, a letter was sent to these faculty members on March 19, 2012 to announce this development.

The materials submitted to you by Chair Robert Anderson and Vice Chair Robert Powell of the Academic Senate, challenge our (and the OGC) interpretation of Standing Order of the Regents sections 105.1(a) & (b). We have attached a document that comments on several of their arguments, which you may review for further consideration. In our opening remarks, we stipulate that there are inconsistencies among the various sections of the Standing Orders, Senate Bylaws, and the other documents referenced by Anderson/Powell. Confusion and inconsistency within the rules governing the UC faculty could be resolved by a careful editing process. It is not a basis for rejecting basic principles. Our interest today is that the discussion of our pending action focuses on the problem that we have addressed and the narrow window of opportunity for the Senate to be a positive partner in this effort.

The discrimination against certain faculty titles is not new. UCSF has been trying for years (e.g., former Division Chairs Larry Pitts, Mary Croughan, Elena Fuentes-Afflick) to remedy what our Division and campus leadership consider to be an unacceptable situation. The faculty’s voice in ‘shared governance’ is undermined by discriminatory practices imposed on UCSF by the UC Systemwide Senate. How can our Division claim to speak for the faculty when almost half of our full-time colleagues are barred from full participation?
For the past two decades non-Senate faculty have served on most of our Divisional committees, and they vote on most issues. However we segregate non-Senate votes from those of the Senate members. This tabulation is done to remain in compliance with Systemwide Senate requirements—not because we devalue the non-Senate members or their opinions. Furthermore, non-Senate faculty members may not participate fully in the academic advancement process. Not surprisingly, non-Senate members feel devalued. Their perception is validated when they cannot chair Senate committees or represent the campus on Systemwide committees, and when they have to petition for access to certain privileges that come automatically to Senate members.

In previous attempts for remedies, we have found the Academic Senate to be more interested in maintaining the status quo than helping to solve our problem. Many examples can be cited, but the Anderson/Powell documents are illustrative of the tone and basis for this opposition. There is little acknowledgement by Anderson/Powell that the problems we have presented are important; that the Senate’s interpretations of the Standing Orders have been unnecessarily narrow, if not in error; or that the Senate can solve the problem.

- How can an Instructor, Lecturer, or Acting Professor be eligible for Senate membership, while full time Health Sciences Clinical Professors and Adjunct Professor are deemed ineligible? Is this really the intention of the Regents? Would they sustain such discrimination if the disparities were presented to them?

- There is no recognition that the non-Senate faculty efforts are usually and legitimately influenced by the source of funding for their positions. For those funded from grants, contracts, or clinical service, should we devalue their overall contributions to our institution when they are under funding obligations to meet specific demands for research, teaching or clinical care? Under those circumstances, is it fair for us to expect them to strive for the same balance in research, teaching, and service as that afforded by State-funded Ladder Rank positions?

- In a University system which has many functions in addition to undergraduate education, what logic explains denying participation in governance to the faculty fulfilling these other vital functions? If our Division was limited to State-funded faculty, it would reduce our numbers to approximately 345 positions—a number that has changed little in 40 years, while UCSF’s professional schools, graduate programs, and hospital have emerged to be among the highest ranked in the United States. The 1,600 non-FTE faculty (including Health Sciences Clinical and Adjunct professors) stand alongside FTE faculty making significant contributions to this success.

Did the Regents adopt language in their policy documents, such as the Standing Orders, that is meant to be interpreted in only the most literal terms? This seems to be an assumption underlying Anderson/Powell arguments. Is there any chance that the Regents instead tried to provide principles that would apply even as there was an evolution of UC faculty roles and the functions of the University? If the provisions were meant to only be interpreted literally, why does SOR 105.1(a) not specifically reference that the definition of professional schools applies to only law schools as suggested by the Anderson/Powell documents?

**Divisional Autonomy**

We recognize that our interpretation may need to be resolved by or made more specific by the Regents. If that proves to be necessary, we would expect the Senate to send forward such a request, without the prejudice of opposing a positive resolution to the situation at UCSF, such as offering suggestions for how Health Sciences Clinical and Adjunct professors can become Senate members. Anderson/Powell argue against local autonomy, but they do so while failing to note the many examples where campuses have already exercised local autonomy. One such example is the actions taken by various campuses (including UC Davis) to allow faculty to move from non-Senate series to Clinical X series without necessarily matching each individual faculty’s roles against the APM requirements for the Clinical X series. (Paul Garcia, our CAP chair will explain why this approach has been rejected as inappropriate at UCSF.)

Another example, still using the Clinical X series, occurred during the implementation of this series. Initially, there was a formula-based cap put on the number of Clinical X faculty at each campus, but the Chancellor was given the authority to lift the cap. Presumably, this had the implication that some faculty
were deemed eligible for Clinical X by the campus Senate, while others, equally eligible were denied access until the cap was lifted or ignored. This decision was completely local.

Finally, what do we request from UCR&J and the Academic Senate? Our preference is the UCR&J support our interpretation that UCSF has the authority to determine the membership of its Senate.

Short of that, we would expect UCR&J and the Academic Senate to submit a request to the Regents asking for clarification of the Standing Orders, and with that request either support a recommendation for local autonomy or specific language that extends Senate membership to full time Health Sciences Clinical and Adjunct series professors at the rank of Associate or Above.

Unless the Regents overturn the legal opinion of OGC or amend the Standing Orders in a manner that disallows our action, we expect to proceed with our planned extension of Senate membership on the UCSF campus. We urge UCRJ and the Academic Council to take the opportunity to be on the “right side” in supporting our solution to the problem that has chronically threatened fairness, diversity and quality on the UCSF campus.

Sincerely,

Robert Newcomer, PhD
Chair, San Francisco Division

Farid Chehab, PhD
Vice Chair, San Francisco Division