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The Council of University of California Faculty Associations strongly opposes the grant of "emergency" powers to UC's President. We believe that no heightened powers should be granted unless there are severe consequences for renewing them, and unless the President is obliged to present a credible long-term plan to put UC on a sound financial footing without departing from its public mission.

1. <u>The concept of a "financial emergency" does not adequately describe UC's present situation, which is more akin to bankruptcy.</u>

A true financial emergency would exist if UC had a viable financial plan for funding its educational mission that was suddenly, and temporarily, interrupted. UC has no such plan, however, and its financial problems are neither sudden nor temporary. In 2007, the Academic Senate reported to the Regents that UC was on a path to financial disaster, and described the end-state scenario of declining state support. This year's events have realized that scenario, but, thus far President Yudof has merely acknowledged UC's deteriorating state as an "emergency" without proposing (or expecting) that lost state funds either be restored or replaced from UC's own resources.

The proper analogy is to enterprise insolvency. Indeed the Regents are a corporation with a special relationship to the State to administer the public trust that is the University of California. A corporation that can't pay its bills can reasonably ask employees (and then other creditors) to accept payment at a discount rather than shutting down. The next step is bankruptcy, which takes place under court—and public—supervision. When this happens, stakeholders are entitled to know what other resources the enterprise has, and to demand that <u>all</u> these resources be made available to resolve the situation. A bankrupt enterprise cannot say, as President Yudof has recently done, that "It's important not to take money from enterprises that are really entrepreneurial." A bankrupt enterprise loses the autonomy to protect its profitable parts.

It thus makes no sense to talk about prolonging a crisis of solvency such as UC faces. To the extent that financial "emergencies" are prolonged, they open the way for huge windfalls (salaries and bonuses) in the still-profitable parts of an enterprise, and create an incentive to drain resources from the money-losing parts, which in UC's case is public higher education. UC has all-but-said that this situation will be its new normality by proposing a <u>renewable</u> financial emergency. This would be like slow-motion bankruptcy – without supervision to protect the rights of stakeholders, and without the need for eventual restructuring and liquidation of activities that remain profitable.

The bottom line, however, is that UC can't treat the state economic crisis as an opportunity to shift priorities from publicly-supported to privately-supported activities. UC was incorporated by the state as a public trust for the purpose of providing Californians with access to affordable, high-quality education, and it can hold assets and engage in other business in order to support that primary purpose. “Emergency powers” belong to the state, and UC cannot claim them without serving the purposes of the state.

2. No heightened powers should be granted to UC’s President unless he is also subject to heightened levels of public accountability, and given strong incentives to end the emergency quickly.

   The declaration of emergency should oblige UC to produce and disseminate a long-term financial plan to return UC to fiscal soundness that clearly shows how its privately-funded activities will support its currently-underfunded educational obligations to the public. Such a declaration should expire before UC's next round of admissions, and any proposed renewal must include targets for enrollment, state funding and tuition that move toward financial sustainability in a clearly specified number of years.

   Such a declaration should further commit UC’s President and Regents to work aggressively to increase state funding to levels consistent with California’s Higher Education Master Plan, and to support reforms in the state budget process that could make this goal achievable.

   Finally, the declaration of emergency should oblige UCOP to take the following steps before renewing the financial emergency

   a) Salary savings in UC's non-state funded activities should be returned to UC to offset losses in its state-funded educational activities**.**

   b) Bonuses should be cut first. Even if these bonuses are part of expected compensation, they are soft compensation that should be contingent on the financial solvency of the UC enterprise as a whole. There is no justification for continuing to dock base salary if bonuses do not take a much larger hit.

   c) Non-state funded activities should return funds to the UC President to subsidize UC's educational mission on the campuses.

   d) If UC does not receive a consistent return from activities that should be self supporting, it should consider selling them to the private sector in order to increase UC’s unrestricted endowment. UC’s primary mission should in all events be preserved. For example, UC hospitals might be sold to for-profit healthcare companies under provisos that guarantee their ability to continue to function as UC-affiliated teaching and research hospitals.

   e) UC long-term reserves should also be on the table. Some of the funds are carried forward to meet UC's legal obligations, and should not be touched. But a substantial portion are carried forward as a financial cushion against future cuts and/or a possible source of funds for plans that UC is not legally obliged to implement, or to pay out of reserves. Before declaring a financial emergency, UC's administration should either spend down these funds, or explain why employee pay cuts should come first.

   f) The interest UC earns on its short term cash holdings should be applied to the emergency.

We disagree with those who think it's a victory that President Yudof has made the financial emergency renewable, rather than permanent. UC's funding crisis is permanent, and an easily renewable emergency is likely to become permanent as well. If UC is allowed to remain in a state of permanent insolvency it will continue to cut back on money-losing higher education, while subsidizing non-state supported activities and leaving the profits where they lie. This is unacceptable as a financial model, and should be categorically rejected by the Regents and the public.

The grant of temporary powers, such as those President Yudof now seeks, must be conditioned on a commitment to return UC to fiscal soundness and to the vision of California's Master Plan for Higher Education. Today, this includes educating the public about the value of UC to the state, and the need to reform the state's fiscal process. But it also requires UC to turn away from a path that favors privately-funded goals at the expense of its state obligations. UC's faculty has overwhelmingly opposed the UC "emergency" as presently conceived. If there has ever been a time for UC's faculty representatives to oppose a Regental action, that time is now.

Sincerely,

Robert Meister – President, Council of UC Faculty Associations
Christine Rosen – Chair, UC Berkeley Faculty Association
Ian Kennedy – Chair, UC Davis Faculty Association
Shelly Errington – Chair, UC Santa Cruz Faculty Association
David Braff – Chair, UC San Diego Faculty Association
Warren Gold – Chair, UC San Francisco Faculty Association

cc: UC President Mark Yudof
Academic Senate Chair Mary Croughan