

June 16, 2006

Leland Y. Yee, Ph.D.
Speaker Pro Tempore
California State Assembly
State Capitol, P.O. Box 942849
Sacramento, CA 94249-0012

Dear Assemblymember Yee;

I write to express my strong support for your bill AB 775, to amend Section 92020 *et seq* of the Education Code, concerning Open Meeting law for the University of California. As I understand, the language you propose will extend the open meeting requirements to cover not only “the Board of Regents of the University of California and its standing and special committees or subcommittees”, but also, “advisory groups that include as members one or more regents and that have continuing subject matter jurisdiction or regularly scheduled meetings.” This is an important and timely step.

To introduce myself: I joined the faculty at UC Berkeley in 1960 and since my retirement have been a sort of independent watchdog and whistleblower, observing the regents and top UC administrators, frequently writing critical papers for my colleagues around the state. Those are posted at <http://socrates.berkeley.edu/~schwartz> ; and I have enclosed a copy of one recent paper relevant to the topic at hand.

Three types of reasons are given below in favor of your new legislation: I) recent secretive practices of the Regents; II) established principles re open meetings law; and III) comparison of UC with other public agencies in California.

I) In recent years there have been several advisory bodies established by the UC President or the Chair of the Board of Regents, with membership including regents and administrators and perhaps other participants, to study and make recommendations on particular controversial subjects. There have been: the Eligibility and Admissions Study Group (with regents Kosberg, Blum, Davies, Johnson, Lozano and Moores); the Advisory Group on University Compensation (with regents Hopkinson, Parsky, Kozberg, Marcus and Dynes); the Task Force UC Compensation, Accountability and Transparency (with regents Kosberg and Lozano); the UC Long Range Guidance Team (with regents Parsky, Kozberg, Hopkinson, Rominger and Rosenthal); the Regents Task Force on Retirement Benefits (with regents Parsky, Dynes, Hopkinson and Juline). In each case, these groups meet in secret to study the assigned issues and prepare recommendations for action by the Board of Regents. Repeatedly (at least from my perspective) their product is unhealthily skewed in favor of some biased policy preferences and this tends to create even more controversy for the University.

II) Among the basic statements of legislative principles and intent regarding California's open meeting laws are the following.

"The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created." -- from the Bagley-Keene Open Meeting Act

"We, the people, have a right to know how the decisions affecting our tax money, and our sons and daughters, are made; who is making them and why. By requiring open meetings we help guarantee that all decisions will be made in an open, logical, and democratic manner with all facts present and all viewpoints noted. We also eliminate the chance for 'backroom politics' to play a role in the decisions." -- from the ballot statement for the 1970 Constitutional Amendment that put UC under legislative mandate for open meeting rules.

"The people have the right of access to information concerning the conduct of the people's business, and, therefore, the meetings of public bodies and the writings of public officials and agencies shall be open to public scrutiny." -- from the California Constitution, Article 1 Section 3

It seems to me that the recent secret committees with regent participation have been precisely designed to circumvent these requirements for open deliberation.

III) Other statewide agencies in California are governed by the complete Bagley-Keene Open Meeting Act. That law applies not only to the governing body of each agency, but also covers any advisory body created by the governing body or a member thereof; and it also covers bodies which exercise authority delegated to them by the governing body. Application of that whole formula to UC would be quite burdensome because of the many (thousands) of faculty committees throughout the University which exercise authorities delegated by the Regents to the Academic Senate. While one might argue that your proposed amendment does not go far enough, I think it draws a very sensible line, moving the topmost of the University's now secretive processes into the sunshine of public scrutiny.

I also support your amendment to Section 92032(b)(7) concerning open session consideration of executive compensation.

Sincerely yours,

Charles Schwartz
Professor Emeritus

Enclosed: "Secrets of the Regents" (7-17-2005)