

May 13, 2016

To: Academic Senate Members of the Davis Division

Dear Colleagues:

Given the legal technicalities of the issues at hand, since April 30th, at my request I have been given access to legal counsel provided by the Office of the General Counsel, Mr. David Birnbaum. In the matter the President and the Davis Senate are not adverse parties. Our operating principle is there is a mutual interest in the same thing: a thorough and fair investigation. Mr. Birnbaum has advised on many issues over the years, including the conduct of investigations by outside investigators.¹ Mr. Birnbaum's advice has been crucial to the Davis Division to make informed decisions.

The Davis Division seeks assurance of an independent and impartial investigation into the charges levied against Chancellor Katehi that were released in a document to the Sacramento Bee by President Janet Napolitano. Monday morning, I directed the following two questions to Seth Grossman, Chief of Staff of President Janet Napolitano: "Did UCOP release www.sacbee.com/latest-news/article74371162.ece/BINARY/UC%20President%20Janet%20Napolitano%20letter%20to%20UC%20Davis%20Chancellor%20Linda%20Katehi to the Sacramento Bee? If so, did President Napolitano authorize the release?" On Tuesday, I received the following response from Mr. Grossman:

"UCOP did not proactively release the letter. Following the announcement of the decision to put the Chancellor on leave, the letter was requested by certain media outlets. According to guidance provided by OGC, as a general matter, where media outlets request University documents that could implicate the privacy rights of an individual, California law requires UC to balance the public's interest in disclosure of records relating to public business with the individual's interest in non-disclosure. One of the factors that affects this balance is the nature of the individual's position. The higher the level of one's position, the greater the likelihood that the balance tips in favor of the public interest in disclosure. In light of the many weeks of media attention to issues arising from Chancellor Katehi's leadership, UCOP determined that, in this case, the balance favored disclosure."

Since the announcement of the names of the investigator, several have contacted me to voice concern about the independence and integrity of the investigation given that Ms. Melinda Haag has, in her previous capacity as a United States Attorney, represented Janet Napolitano in her capacity as Secretary of Homeland Security. Questions have arisen about possible professional and social interactions between President Napolitano and Ms. Haag, who has been retained to investigate allegations involving Chancellor Katehi. These questions have raised concerns about the objectivity of the investigator, and as a consequence, the investigation itself. The Davis Senate expects Ms. Haag to be thorough, unbiased, fair-minded and persuasive in the way she conducts the investigation, and in her ultimate analysis and conclusions. The Division is proceeding with caution and reserves the option to investigate issues that remain unresolved or that raise concerns.

Respectfully yours,

¹ Such an arrangement is not unusual within the UC system, nor in other organizations where in-house counsel may be called upon to give advice to multiple offices.

A handwritten signature in blue ink, appearing to read 'A. Knoesen', with a long, sweeping underline.

André Knoesen
Chair, Academic Senate
Professor: Electrical and Computer Engineering