

TO: Executive Committee of the Academic Assembly
College of Arts & Sciences, University of San Diego

FROM: Ad Hoc Committee on the Copley Reorganization
Eric Pierson, Chair
Cynthia Caywood
Mary Doak
Kevin Guerrieri
Ann Pirruccello

DATE: February 15, 2012

RE: Final Report on the Copley Reorganization

Contents of the Final Report

In addition to an introduction, the Final Report of the Ad Hoc Committee on the Copley Reorganization contains six parts:

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Jurisdiction and Methodology of the Committee

Jurisdiction, Legitimacy, and Raison d'être of this Committee

The jurisdiction, legitimacy, and *raison d'être* of this committee are firmly established in the Constitution of the Academic Assembly. This can be substantiated briefly here with reference to three areas: 1) the purpose and functions of the Academic Assembly; 2) membership of the Academic Assembly; 3) and the formation of committees. Article I states that the primary purposes of the Academic Assembly are “to help determine and carry out the academic objectives of the College of Arts and Sciences”; “to promote intellectual excellence within the framework of Catholic tradition”; “to promote the interests of the College of Arts and Sciences”; and “to assist in developing the relationship between the College of Arts and Sciences and the rest of the University.” Article II, on Functions, Powers, Duties, and Responsibilities, begins with a passage taken from the 1966 *Statement on Government of Colleges and Universities* jointly formulated by the American Council on Education, the Association of Governing Boards, and the American Association of University Professors: “The faculty has primary responsibility for such fundamental areas as curriculum, subject matter and methods of instruction, research, faculty status, and those aspects of student life which relate to the educational process.” At the very least, the Copley reorganization involved issues directly related to research, faculty status, and other aspects of the educational process. With

regard specifically to faculty status, Article III, on Membership, states the following: “The Dean, all continuing full-time members of the faculty of the College of Arts and Sciences, and those professional librarians whose subject specialties fall within Arts and Sciences are members of the Assembly. [...] Additional members will be the University Librarian and the Vice President of Academics of the Associated Student Body.” Finally, Article VI, B. states the following with regard to the establishment of committees: “The Chair of the Assembly and/or the Assembly shall be empowered to establish ad hoc committees.”

Method of investigation

This committee has met on ten occasions since it was formed last semester: October 17 & 24, November 1, 14, & 28; December 5; January 11 & 30; and February 6 and 13. In addition to a number of informal conversations held with members of the USD community, official interviews have been conducted by members of this committee with Drs. Theresa Byrd, David Blake, and Julie Sullivan. This committee also had a conversation with Dr. Thomas Reifer, Chair of the Library Committee.

The committee examined all available documents published in relation to the library reorganization: documents distributed by the Executive Committee of the Academic Assembly (including all files loaded onto the WebCT site); relevant University Senate committee reports and minutes; press releases from the local media; and articles published in *The Vista*; among others. The committee also received some notes taken by members of the Summer Ad Hoc Committee on Copley Library as well as e-mail exchanges and memos submitted from a number of different sources (students, faculty, librarians, administration, etc.). All Copley librarians were invited to submit a statement under the condition of anonymity, and some statements were received.

The committee has consulted USD’s Policies and Procedures Manual as well as the *Statement on Government of Colleges and Universities, On the Relationship of Faculty Governance to Academic Freedom*, and the *Joint Statement on Faculty Status of College and University Librarians*, in *AAUP Policy Documents & Reports* (10th ed.); *No University is an Island* by Cary Nelson; and documents from the Association of College and Research Libraries and the American Library Association, among others.

We have made a concerted effort to cite our sources throughout this report, while at the same time preserving anonymity in those cases where it was requested by the source or deemed appropriate by the committee.

Charge

The full charge of this committee can be found in the meeting packet of the October 18, 2011 Academic Assembly. The primary elements of the charge are as follows:

The Ad Hoc Committee on the Copley Reorganization (AHCCR) is charged with investigating this affair and its aftermath, establishing a coherent narrative of events

as best fits the available evidence, and reporting its findings to the assembly with recommendations for effective responses to the situation.

Recommendations to the Academic Assembly of the College of Arts & Sciences

This committee makes 9 recommendations, all of which are found in two separate places: first, they are contextualized in each of the three sections on shared governance, Catholic Social Thought, and student issues—II, III, and IV, respectively—and second, they are compiled near the end of the report before the appendices in section V.

This committee makes the following overarching recommendation:

1. Pursuant to the Constitution of the Academic Assembly of the College of Arts and Sciences, Article II, section B., this committee recommends that this report and all recommendations herein be received and accepted in their entirety by the Academic Assembly and forwarded to the University Senate for action. Furthermore, the committee recommends that the report be forwarded directly by the Academic Assembly to the President, the Executive Vice President and Provost, General Counsel, and the Chief Human Resources Officer.

I. Narrative of Library Reorganization

Preliminary note: Some members of the university community, including both faculty members and administrators, have emphasized that there were concerns about the existing organization of the library and a need to improve certain services long before Dr. Theresa Byrd was hired and arrived on campus.

AUGUST, 2010

Dr. Theresa Byrd assumed her duties as University Librarian. As per her responsibilities, she began to assess the status of operations in Copley library; part of her process was to meet with staff, librarians, and other colleagues at USD. Amongst the conclusions she reached were that there was a shortage of library faculty, and access services could be made more efficient (*Pirruccello, Partial Transcript, September 22, 2011*).

FEBRUARY/MARCH, 2011

Discussion about library organization began with Dr. Theresa Byrd, Provost Sullivan, Dr. David Blake of Human Resources, and an unknown library consultant. A reorganization plan was drawn up (*Byrd, Memo, July 1, 2011; Senate Minutes, July 25, 2011*).

JULY 6, 2011

Dr. Byrd began the implementation of the reorganization plan. Eight staff members who worked in Copley Library were called into HR one by one. Seven worked in Access Services, and one worked in Desktop Support. Those staff members included: Doug Gilbert, Desktop Support; Bill Hall, Access Services; Cliff Jones, Night

Supervisor; Jordan Kobayashi, Reserves; Alex Moran, Interlibrary Loan; Christopher Roper, Student Supervisor; Doug Staib, Inventory Control; and Larry Tift, Fines. (*Hall, Memo, August 22, 2011*).

There the staffers were informed that their services were no longer required due to reorganization. Each was given a description of the three new positions for which they were eligible to apply. Salary would be paid through August 1, with health benefits paid through August 31. Those dismissed were also offered a severance package (one week's pay for every year worked at USD). They were given 45 days to consider the offer. At the end of the session, they were told that they should leave campus immediately, not return to work, and return later to collect their personal effects. Or, if they preferred, their belongings would be packed up and delivered to them by courier. Later they were advised that a career counselor would be made available to them (*Pachence, Forum, September 22, 2011*).

The afternoon of the reorganization, Dr. Byrd, along with Dr. David Blake, Chief Human Resources Officer, and Nina Sciuto, Director of Employee Relations and Diversity-Inclusion, met with all of the library faculty and staff to describe the new structure and to discuss the changes. At some point during this process, Dr. Byrd had a personal conversation with Dr. Tom Reifer, who is Chair of the Library Committee, about the reorganization. Members of the Library Committee (Drs. Amor/SBA, Loer/CAS, McDougal/Peace Studies, McGowan/CAS, Reifer/CAS, Sandy/SBA, Spencer/SOLES, Urden/Nursing, and Mr. Wessells/IT) were also made aware of the reorganization as well (*Byrd, Memo, July 12, 2011*).

JULY 12, 2011

Dr. Byrd sent out a memo to the Dean's Council informing them of the reorganization, which she said was necessary to bring the library to 21st century standards.

JULY 14, 2011

Dean Boyd forwarded Dr. Byrd's memo to college faculty.

JULY 15, 2011

Dr. Jerome Hall, Chair of the Academic Assembly, sent out an electronic letter to the College Faculty, informing them that the Executive Committee, along with concerned members of the CAS, were conducting an informal preliminary investigation of the events surrounding the dismissal of eight of the library staff.

JULY 18, 2011

Thirteen student library workers send an electronic letter to Dr. Byrd, expressing their concerns about the library staff layoffs. (*As of February 15, 2012, no evident complete and formal written answer has been given to the student workers.*)

JULY 20, 2011

Assembly Executive Committee members, Drs. Hall, Nelson and Sheehan met with Provost Sullivan to discuss the layoffs and reorganization. Dr. Blake was present. At this meeting, Provost Sullivan advised the E.C. officers to meet with Dr. Byrd. Provost

Sullivan stated that the reorganization was an approximately “six-month process,” in which she, Dr. Byrd, and Dr. Blake were directly involved, “starting in February/March 2011,” and they “met approximately twelve times” (*Daniel Sheehan, interview, November 1, 2011*).

Provost Sullivan stated that the reorganization and layoffs had no financial impact or rationale. Provost Sullivan stated that the professional assessment leading to the reorganization involved a private consultation with a single outside reviewer. According to Dr. Byrd, reorganization planning was in the making for quite some time. Neither information about the process employed by the consultant nor the content of the consultant’s report was made available. The consultant did not visit Copley Library. The members of the Library Committee were not party to the reorganization planning. They were informed of it only after the fact and after the layoffs had been made.

Provost Sullivan stated that she would be willing to participate in a faculty forum on the library reorganization (*Hall, Memo, July 22, 2011*).

JULY 22, 2011

Dr. Jerome Hall sent out a memo to members of the College Faculty that described the meeting of July 20. He established the concerns that the college community had voiced about the reorganization, including a lack of clear rationale for the reorganization; the legality of these layoffs; questions surrounding the timing and execution of the layoffs; and the issues raised with regard to such items as university procedural transparency, due process, shared governance, compliance with university policy and procedures, alignment with the University Mission Statement, and regard for the core of Catholic Social Teachings.

Dr. Hall also announced that a list of 37 questions posed by members of the college was sent to Provost Sullivan, Dr. Byrd, and Dr. Blake. (*As of February 15, 2012, faculty had not received a complete and formal written answer to these questions.*)

JULY 25, 2011

An emergency meeting of the Senate was convened. In attendance were Provost Julie Sullivan, Drs. Theresa Byrd, David Blake, Lance Nelson, Jerome Hall, and 18 Senators. Drs. Sullivan, Byrd and Blake were asked to present the administrative rationale for the reorganization and the manner in which it was conducted (*Senate Minutes, July 25, 2011*).

AUGUST 1, 2011

Dr. Jerome Hall sent out a memo updating the college on actions taken since July 22, 2011. He assembled a consultation group, the Summer Ad Hoc Committee on Copley Library, comprising Executive Committee Members Drs. Lance Nelson and Daniel Sheehan, as well as CAS faculty members Fr. Ron Pachence, (Senate), Dr. Angelo Orona (AAUP), and Prof. Steve Staninger (Copley Library).

AUGUST 4, 2011

Dr. Byrd declined an invitation from Dr. Hall, (offered 29 July) to meet with the E.C. officers, Drs. Hall, Nelson, and Sheehan (*Hall, Memo, August 30, 2011*).

AUGUST 11, 2011

In a memo to the College Faculty, Dr. Hall announced a forum for Thursday, 22 September 2011, from 12:15 to 2:30 p.m. in UC Forum A. Provost Sullivan, Dr. David Blake (HR Director), and Dr. Theresa Byrd were invited to attend.

AUGUST 26, 2011

President Mary Lyons sent a letter to Dr. Hall, with copies to faculty, offering her perspective on the layoffs and reorganization. In general, she stated that a) sufficient background information regarding the reorganization had been offered; b) reorganization is not inconsistent with the university's principles or Catholic social teachings; c) layoffs, in general, are not inconsistent with the university's principles or Catholic social teachings; d) that suspicions about other motives for the dismissal other than reorganization were unfair and misleading; e) that more information about the firings was protected under privacy agreement (*Lyons, Letter, August 26, 2011*).

AUGUST 30, 2011

In a memo to College Faculty, Dr. Hall gave a progress report on the investigations undertaken by the Summer Ad Hoc Assembly committee on the library reorganization. The committee learned that library faculty members were not consulted regarding the layoffs. One part-time worker in the Access Services department was not laid off, the late-night supervisor Dennis-Michael Broussard, and one of the laid-off individuals, Doug Gilbert, was not a member of the Access Services department. Previous to these eight layoffs, the library was understaffed. The action in question further reduced library staff by 40%. Services at Copley Library had, resultantly, been impacted and, at times, interrupted.

Many of those laid off had complained to Dr. Byrd, HR, and/or the Provost about Dr. Byrd's behavior and unilateral policy directives. Alex Moran, who was re-hired, was not among those who had complained about Dr. Byrd's management style, while Jordan Kobayashi, who did complain, was not rehired. (*Mr. Kobayashi was rehired subsequent to this memo.*) Bill Hall, who was among those who complained, was not able to reapply, because his position was redefined as a faculty position requiring an MLS, which he did not possess.

Current library work study students sent a letter to the administration denouncing the layoffs (*Pierson, Interview, November 15, 2011*). Multiple students also sent letters to the administration during the past academic year complaining of Dr. Byrd's behavior. The committee also learned that though Copley Library is an academic unit, with tenured and tenure-track faculty who are voting members of the Academic Assembly, librarians at Ohio Wesleyan, Dr. Byrd's previous place of employment prior to arriving at USD do not have faculty status. Rather they have quasi faculty privileges in that they do serve on committees across campus and have professional development opportunities. Finally, Dr. Hall announced that minutes of the July 25 emergency Senate meeting would be released for review once approved by the 2011-2012 Senate at its first meeting on 1 September.

SEPTEMBER 2, 2011

Dr. Hall, in a memo, announced the first assembly meeting of the semester and clarified the Academic Assembly's summer Ad Hoc committee's stance on the library reorganization. He also announced that an Academic Assembly Ad Hoc committee would be formed at the start of the year to do a formal investigation of the reorganization.

SEPTEMBER 15, 2011

The University Senate charged the Senate Ad Hoc Library Committee with examining issues of shared governance as they apply to the Copley reorganization and providing recommendations for Senate action (*Senate Minutes, September 15, 2011*).

SEPTEMBER 22, 2011

A special forum devoted to the library reorganization was held, moderated by Dr. Pat Drinan. Speakers included Fr. Ron Pachence, Dr. Theresa Byrd, Provost Julie Sullivan, and Dr. David Blake. A question and answer session was also held.

Fr. Ron Pachence began the forum with a commentary about the staff layoffs and library reorganization. He provided a narrative of the events and raised questions about issues of shared governance, fidelity to USD policies and Catholic Social Thought, the experiences of the student workers, and the dignity of the laid off staff members.

Dr. Byrd described her credentials, her work assessing the strengths and weaknesses of the library, and distributed an organizational chart of the library both prior to and after the reorganization. Her rationale for the reorganization included the need for the library to have more library faculty to bring it into alignment with sister institutions and the need to enhance the virtual services the library can provide. In response to a query about whether faculty positions could be added and the laid-off staff retained, Dr. Byrd responded that if Copley Library were a larger organization, it might have been possible to move people to other positions but she didn't have that option. Further, "when positions are moved, the reorganization involves expertise, such as in technical services." Dr. Byrd said that she was unaware of any complaints about her management style.

Provost Sullivan affirmed her belief in faculty shared governance, but argued that faculty do not have jurisdiction over staff hiring, firing or layoffs. It was impossible to consult the library faculty because of both the volatility of the layoffs and the privacy of those to be dismissed. Dr. Byrd also did not have an administrative structure similar to the various schools that would have allowed her to consult with other administrators in the library. Provost Sullivan conceded that there probably should have been wider discussion about the strengths and weaknesses of Copley before the reorganization was implemented. She also stated that the library consultant referred to on previous occasions should not be referred to as a "consultant." The proposed reorganization had been discussed by phone with a library director from another institution, and no visit to campus was made by the director.

Dr. Byrd stated that she believed she had followed the reorganization process as it had been given to her. Dr. Byrd asserted that in October, 2010, she had discussed new possible faculty positions with the librarians, but the positions that were to be created through reorganization had to be kept confidential for reasons described above.

Provost Sullivan and Dr. Blake expressed their concern and compassion for those dismissed, but believed that they were offered adequate compensation, and their dismissals were handled in accordance with USD principles and employment practices. Those laid off were not placed elsewhere in the university because of a lack of openings that suited their qualifications. Dr. Blake stated that HR had not informed Dr. Byrd of any complaints about her.

Librarian Diane Maher stated that she believed there was not a history of shared governance in the library.

Dr. Aquino, in a prepared statement, alleged that members of the Academic Assembly Summer Ad Hoc Committee were “many white men making war against this woman [Dr. Byrd].” Several faculty members objected to her remarks, and some called them “offensive” and “a distraction.”

Several students in the audience questioned the ways in which student rehires had been handled. Students were concerned that in the past successful student workers were simply rehired at the beginning of the year, but this year had had to be re-interviewed. Students claimed that of the (approximately 30) library work-study students from last year, only one had been rehired. Dr. Byrd responded that the hiring process was still ongoing, but that students willing to take a job at the hours available were rehired. Another student objected that she personally wanted and needed the job and was not offered one.

One rehired student, Mr. Toan Tran, stated that, in his interview, he had been asked to speak to his support of the library reorganization and whether he had been close to his dismissed supervisor. Librarian Alma Ortega questioned the truthfulness of these statements. Two other students reported that they had been similarly questioned. Provost Sullivan promised that those questions would no longer be asked. Dr. Byrd said she was unaware of this line of questioning.

Dr. Pierson expressed concern about the rehiring process for student workers. He said that the job fair process at USD is set up for first year students, with the expectation that once in positions federal work-study students would retain those positions during their time at USD. He was concerned that students not rehired by the library were then shut out of the process of getting work study jobs. Dr. Byrd explained that her procedure was to give student evaluations during the fall semester to assist in determining whether students would be rehired during the spring semester. They were not given evaluations during the spring semester for the fall semester, but rather had to go through the hiring process again along with other new applicants.

Mr. Tran described significant job interruptions from the dismissals of the eight employees. The job interruptions stemmed from the difficulty of finding employees competent to assist in matters that student workers could not resolve on their own. He also stated that he was being asked to do work that he could not carry out, and that the workload was excessive due to the short staffing (*Pachence, Forum, September 22, 2011; Pirruccello, Partial Transcript of the September 22, 2011 Forum; Doak, Interview, November 15, 2011; Vista article*).

OCTOBER 11, 2011

Librarian Amy Besnoy raised questions about the degree to which the library faculty were involved in the hiring of new library faculty, in particular whether or not

they were to provide only pros/cons, rather than ranking candidates in order of preference, as per past searches. She also sought information about library faculty's role in the CAS faculty shared governance structures (*Besnoy, Email October 11, 2011*).

OCTOBER 14, 2011

Dean Mary Boyd inquired about the faculty status of the librarians within the college and Provost Sullivan replied that library faculty members are not members of the college and should not look to the CAS documents for guidance (*Boyd and Sullivan, Emails, October 14, 2011*).

OCTOBER 17, 2011

The Academic Assembly Ad Hoc Committee on the Copley Reorganization was formed, with members Cynthia Caywood, Mary Doak, Kevin Guerrieri, Ann Pirruccello, and Eric Pierson, and began its investigations. (*This committee has prepared this final report.*)

OCTOBER 27, 2011

The Senate Ad Hoc Library Committee forwarded its report to the Senate executive committee on library faculty shared governance (*Senate Ad Hoc Committee Memo, October 27, 2011*).

NOVEMBER 15, 2011

The Academic Assembly Resolution on Copley Library Reorganization carried on a ballot vote of 47 yes, 34 no, 28 abstentions (*Academic Assembly Minutes, November 15, 2011*).

NOVEMBER 16, 2011

Drs. Kevin Guerrieri and Ann Pirruccello met with Dr. Theresa Byrd to discuss the reorganization of the library.

DECEMBER 8, 2011

Drs. Kevin Guerrieri and Mary Doak met with Dr. David Blake to discuss the reorganization of the library.

DECEMBER 19, 2011

Drs. Kevin Guerrieri and Mary Doak met with Provost Sullivan to discuss the reorganization of the library.

JANUARY 11, 2012

The Academic Assembly Ad Hoc Committee on the Copley Reorganization met with Dr. Tom Reifer, Chair of the Library Committee, to discuss the reorganization of the library.

JANUARY 31, 2012

Dr. Cynthia Caywood, on behalf of the Academic Assembly Ad Hoc Committee on the Copley Reorganization, sent a copy of this narrative to Provost Sullivan and Drs.

Theresa Byrd and David Blake. She invited them to review it and return it with additions or corrections by Tuesday, February 7. Neither Dr. Byrd nor Dr. Blake responded to the message. Provost Sullivan answered the email, saying that although the document contained, in her opinion, inaccuracies, she would not comment because a) she questioned the jurisdiction of the Committee; b) the Committee's investigation was not sanctioned by the university; c) she had reservations about the neutrality and objectivity of the Assembly's inquiry; d) threatened litigation against the university prevented response (*Sullivan, Email, February 7, 2012*).

FEBRUARY 9, 2012

The University Senate approved two reports issued by the Senate Ad Hoc Library Committee. The first report (October 22, 2011) was approved with one amendment: the "Final Recommendations," which include bringing an outside consultant, were taken out of the report in order to be considered separately. The Supplemental Report (November 28, 2011) was approved in its entirety.

Sources Consulted

The following documents are available on the CAS Virtual Assembly Web page, under library reorganization, and on the Senate Webpage.

- Byrd, Theresa. "Reorganization of Copley Library." 12 July, 2011.
- Hall, Jerome Lynn. "To Members of the College of Arts and Sciences (CAS) Academic Assembly." 22 July, 2011.
- _____. "To Members of the College of Arts and Sciences (CAS) Academic Assembly." 1 August, 2011.
- _____. "To Members of the College of Arts and Sciences (CAS) Academic Assembly." 22 August, 2011.
- _____. "To Members of the College of Arts and Sciences (CAS) Academic Assembly." 26 August, 2011.
- _____. "To Members of the College of Arts and Sciences (CAS) Academic Assembly." 30 August, 2011.
- _____. "To Members of the College of Arts and Sciences (CAS) Academic Assembly." 2 September, 2011.
- Pachence, Ron. "Assembly Forum Address." 22 September, 2011.
- Senate Ad Hoc Library Committee. Report. 22 October, 2011.
- Senate Minutes, 25 July, 2011.
- Smith, Bernadette. "Library Firings Have Faculty in Uproar." *The Vista*. 29 September, 2011. <http://www.theusdvista.com/news/layoffs-have-faculty-in-uproar-1.2621227#.TtvIqVYrIoG>
- Sullivan, Julie. "Letter to Tyler Wilson, Associate Editor, *The Vista*." 20 September, 2011.

The following documents were made available to the Ad Hoc Committee and may be examined upon submitting a request to Committee Chair Dr. Eric Pierson.

Besnoy, Amy. "Re: Strengths and Weaknesses Document." Email to Michael Epstein and Theresa Byrd. October 11, 2011.

_____. "RE: Strengths and Weaknesses Document." Email to Amy Besnoy. 14 October, 2011.

Boyd, Mary. "Question Regarding Copley Library Faculty Status and CAS." 14 October, 2011.

Copley Library Organizational Charts. 22 September, 2011.

Pirruccello, Ann. *Partial Transcript of the 22 September Library Forum*.

Senate Ad Hoc Library Committee. Report. 22 October, 2011.

"Standards for Faculty Status for College and Library Librarians." 17 October, 2011. <http://www.ala.org/ala/mgrps/divs/acrl/standards/>.

Starkey, Ed. "Revised ARRT Guidelines for Copley Library Faculty." Email to Frank Lazarus." 7 November, 2003.

Sullivan, Julie. "Copley Library." Email to Mary Boyd. 17 October, 2011.

_____. "Narrative Timeline for Library Reorganization." Email to Cynthia Caywood. 7 February, 2012.

Supplemental Report of the Senate Ad Hoc Library Committee, 28 November 2011.

"The University of San Diego Copley Library Faculty Appointments General Parameters." September, 1994.

Other sources:

Doak, Mary. Personal Interview. 14 November, 2011.

Pierson, Eric. Personal Interview. 14 November, 2011.

Sheehan, Daniel. Notes from meeting. 20 July 2011.

_____. Personal Interview, 1 November, 2011.

Thirteen Students. "Letter to Dr. Teresa Byrd." 18 July, 2011.

II. Shared Governance and the Copley Library Reorganization

"Shared governance" is a term commonly used in higher education to refer to "appropriately shared responsibility and cooperative action among the components of the academic institution" (*Statement on Government of Colleges and Universities, AAUP Policy Documents & Reports, 10th ed.*, p. 135). Put more simply, it is a partnership style of governance that recognizes the interdependence of faculty, administration, the governing board, and other components of the university. The most authoritative statement of the meaning, purpose, and principles of shared governance, *Statement on Government of Colleges and Universities*, was jointly formulated by the American Association of University Professors (AAUP), the American Council on Education (ACE), and the Association of Governing Boards (AGB). The latter two organizations commend the statement to their members, and the University of San Diego is a member of both associations.

As it pertains to faculty, the joint statement describes shared governance as involving two overlapping areas of responsibility: first, matters in which faculty have primary responsibility and wherein the faculty voice is accorded the greatest weight; and second,

those matters for which faculty may not have primary responsibility, but wherein their voice should be accorded “great respect” since decisions in these instances “can have a powerful impact on the institution’s teaching and research” (as interpreted in *On the Relationship of Faculty Governance to Academic Freedom, AAUP Policy Documents & Reports, 10th ed.*, p. 142).

The first area of decision making, wherein faculty have primary responsibility for matters to be decided and in which the faculty voice must be accorded greatest weight, include “such fundamental areas as curriculum, subject matter and methods of instruction, research, faculty status, and those aspects of student life which relate to the educational process” (*Statement on Government of Colleges and Universities, AAUP Policy Documents & Reports, 10th ed.*, p. 142).

In terms of USD policy, this aspect of shared governance is affirmed unequivocally in Article VIII of the Constitution and By-Laws of the University Senate (*USD Policies and Procedures Manual*, section 1.5), and again in the Academic Freedom Policy (*USD Policies and Procedures Manual*, section 4.1.c):

Article VIII: Powers, Duties, and Responsibilities

Although final authority in determining the nature of the University and its policies rests in the Board of Trustees, “the faculty has primary responsibility for such fundamental areas as curriculum, subject matter and methods of instruction, research, faculty status, and those aspects of student life which relate to the educational process.” (1966 Statement on Government of Colleges and Universities, V. The Academic Institution: The Faculty [AAUP Policy Documents & Reports, 1990, p.123]).

Academic Freedom Policy 4.1.c

Other University policies identify the procedures for academic decision-making in areas defined within Article VIII of the Constitution and By-Laws of the University of San Diego Senate. When exercising its authority under those policies, the University should give primary weight to the judgment of the faculty.

The second area of responsibility, wherein faculty voice must be accorded great respect, includes, “for instance, decisions about the institution’s long-range objectives, its physical and fiscal resources, the distribution of its funds among its various divisions, and the selection of its president” (as interpreted in *On the Relationship of Faculty Governance to Academic Freedom, AAUP Policy Documents & Reports, 10th ed.*, p. 142). At USD, decades of institutional practice affirm the university’s acceptance of this principle of shared governance. Even when its application has been less than satisfactory, such affirmation is implicit in precedents set by the regular inclusion of faculty members on search committees for administrators, the University Budget Committee, long-range planning committees, the Space Committee, Ad Hoc Committee on One Stop Center Review, University Steering Committee, Strategic Directions Initiative Committees, various Board of Trustees committees, and others.

In policy and practice, USD affirms the shared governance rights of all members of the faculty and administration. As the Ad Hoc Library Committee of the University Senate has determined, these rights, which are grounded in correlative responsibilities, may not be waived or forfeited. It cannot be emphasized enough that shared governance practices in one unit of the university profoundly affect the integrity and understanding of shared governance throughout the institution.

While it is important to preserve shared governance, it must not be overlooked that

the practice of shared governance deserves to be supported not as a means of serving the particular interests of faculty, but rather because shared governance ultimately serves the needs of society. Without shared governance, our colleges and universities would be less likely to foster the unimpeded pursuit and dissemination of knowledge that are necessary for the healthy development of society; they would also be less likely to provide students with the broad liberal education they need to become informed citizens who can participate fully in our democracy. (Larry Gerber, quoted in *No University is an Island*, by Cary Nelson, p. 41)

Without granting governing authority to faculty in their proper sphere of expertise, neither the intellectual integrity of the University nor the public trust can be maintained. Thus, the scope and value of shared governance extend beyond the faculty, beyond the administration, and even beyond the university itself to society at large. In arenas both large and small, shared governance plays a role in promoting the social good and the values espoused in USD's Mission Statement.

Finally, shared governance has an inextricable link to academic freedom. The governing authority of the faculty requires the guarantee of academic freedom to protect the integrity of its judgments and keep faculty free from fear of sanction or retaliation (*USD Policies and Procedures Manual*, section 4.1.c), while the protection afforded by academic freedom is itself grounded in the faculty's authority to make judgments about the character and requirements of academic practice. In other words, academic freedom rights are protected by a soundly functioning system of shared governance.

The Reorganization of Copley Library

The reorganization of Copley Library involved a series of decisions that included the breakup and elimination of Access Services, the creation of new departments, the creation of new faculty and staff positions, the establishment of new, designated, tenure-track faculty lines, and the re-designation of at least one existing tenure-track faculty line. In addition, a new "management team" consisting of three faculty members was conceived. Dr. Byrd and Provost Sullivan have presented this array of decisions as part of a unitary reorganizational process in university fora, private meetings with faculty, and memos (Senate minutes of 7/25/11; Dr. Byrd's memo to the Deans Council of 7/12/11, for example). For the sake of clarity, this report will treat these judgments somewhat separately, but this is not to suggest that they comprise thoroughly distinct decisional

processes. As page two of Dr. Byrd's July 12, 2011 memo to the Deans Council makes clear, the establishment of new faculty and staff positions, as well as the creation of new, designated, tenure-track faculty lines, and the creation of a new department (Access and Outreach), were in fact not separate from the dissolution of Access Services. Taken together, such changes constitute the central core of the reorganization of Copley Library.

Shared Governance and the Reorganization of Copley Library: Access Services

According to a joint statement of the Association of College and Research Libraries, the Association of American Colleges (now the Association of American Colleges and Universities), and the American Association of University Professors, "The character and quality of an institution of higher learning are shaped in large measure by the nature of its library holdings and the ease and imagination with which those resources are made accessible to members of the academic community" (*Joint Statement on Faculty Status of College and University Librarians, AAUP Policy Documents & Reports*, 10th ed., p. 155). This statement highlights the close connection between the accessibility of the library's holdings, and the character and quality of an institution like USD. In July of 2011, eight layoffs occurred in Copley Library. Seven of the eight people who were laid off were members of Access Services, a unit of the library which performed a critical role in providing students, faculty and all members of the USD community access to the library's holdings. Some of the functions of the department included responsibility for inter-library loan and Circuit transactions, reserves, periodicals maintenance, stacks management, fines management, and inventory control. In addition, it provided a central point of communication among library personnel. Since the department had only 8 members, the layoff disbanded an important component of the library, and as Provost Sullivan has emphasized, the whole department was laid off, not just specific individuals. A part-time evening supervisor was the only member not to be laid off.

The judgment to dissolve Access Services was one component of the reorganization of Copley Library. The library's processes, structures, resources and personnel play key roles in the conduct of teaching, research and student life at USD. According to the principles of shared governance described above, the expertise of the library faculty should have been accorded greatest weight in the deliberations about the reorganization of the library, including the decision to dissolve Access Services and create a new department, Access and Outreach, which would be headed by a faculty member whose tenure-track line and designation were created by the reorganization. The reason is that the library's academic functions, which the reorganization affected, are the primary responsibility of the faculty librarians. Access Services was an integral link in the library's system of providing means and ease of access to the library's holdings and resources. As Provost Sullivan stated in her letter to Tyler Wilson of 9/20/11, "Access Services is an important point of contact between our faculty and students, on the one hand, and access to information, on the other." The academic function of the library, in which Access Services was involved in an essential way, underlies the necessity of securing the guidance of the library faculty in reorganizational decisions. These faculty members are trained in library science and the complexities of resource access, and they are the proper authority regarding library operations that impact the academic mission of

USD. The decision to change the way key operations occur in the library, including the determination to eliminate Access Services and create new positions and a new department, had a potentially powerful impact on the educational process across the USD campus. The administration has declared repeatedly that deliberations remained confidential, and as far as the Committee could ascertain through invited written statements, no library faculty member was included in the discussions that concluded with the dismissal of the unit on July 6, 2011.

The Provost has stated on several occasions (e.g. the Senate meeting of 7/25/11, meeting with members of the Summer Ad Hoc Library Committee of 7/20/11, letter to Tyler Wilson of 9/20/11) that "...there was concern that public discussion of a potential reorganization and resulting position eliminations would lead to a very uncertain, stressful, and disruptive library environment and impair library services. As with other staff-related decisions, the evaluation process was handled by administrators in a confidential and sensitive manner" (letter to Wilson, 9/20/11). President Lyons also stated that, "such issues need to be handled in a confidential and sensitive manner..." (Letter to J. Hall, 8/26/11). Apparently, the need to handle matters in a "confidential and sensitive manner" issued from the fact that it had already been determined that layoffs in the library would play a part in the reorganizational process. *The process itself could not be discussed because its most controversial elements had been predetermined by members of the administration.*

The principles of shared governance unequivocally necessitate meaningful consultation with the appropriate community of expertise, the library faculty, whose skill in library science is one of the primary reasons for which they were hired. It is irrelevant to claim that California privacy laws would have been violated if the reorganization had been discussed with faculty or other interested persons. That line of reasoning takes the administration's plan for layoffs as inevitable and necessary, rather than recognizing the rights of faculty to contribute their expertise to proposed reorganizational plans at a formative stage. Moreover, if administrators wanted possible layoffs to be part of the conversation about reorganizing Copley Library, there is ample precedent for faculty inclusion in such discussions, and this is a normal part of university governance. Faculty members are regularly charged with dealing with confidential personnel decisions (e.g. ARRT process, Chair duties, Grievance Committee, Academic Integrity Committee), and some involve potential termination of faculty or staff. In cases of possible termination, faculty members regularly play a role in decision making even when they are not in a supervisory position or chain pertaining to the person in question. If layoffs were going to be suggested as part of the Copley reorganization, there are no compelling reasons to think that the faculty should not have been consulted or would have been unable to discuss such matters without creating disarray. Furthermore—and this pertains more directly to the discussion under the next heading—even if we were to accept the administration's claim that it was impossible to discuss the reorganization due to constraints posed by privacy law, after July 6, 2011, the day the layoffs occurred, no legal barriers to discussing proposals to create new departments, structures, positions, or tenure-lines existed. As Professor Linda Peterson has pointed out, if one grants the administration's position that California privacy laws prevented disclosure of particular

details of the reorganization, it is nonetheless clear that in July 2011 administration did disclose details regarding the reorganization in terms, specifically, of its impact on the status of the library faculty (e.g. the creation of new faculty positions in designated areas, etc.), and it did so without violating California privacy laws. At this time, the administration had at least two options: (a) present the reorganization plan for new faculty positions and faculty development as a prospectus to be evaluated and assessed by the faculty in a way that would allow the faculty to have formative input in the faculty status elements of the reorganization process, or (b) present the reorganization plan for new faculty positions and faculty development as a unilaterally administrative decision with no opportunity for faculty evaluation, assessment and formative input. The first option (a) is consistent with principles of shared governance, while the second option (b) is not. Hence, even if one grants the soundness of the administration's argument relating to constraints imposed by California privacy law, it nonetheless remains clear that, in electing option (b) over (a), the administration abridged principles of shared governance and violated USD policies specifying faculty rights to influence and determine faculty status matters.

It is the Committee's finding that USD's policies were violated when library faculty were left out of the discussion about changing critical operations at the library, including the dissolution of Access Services. Matters pertaining to the reorganization of an academic unit which plays a pivotal role in student and faculty life, and which is an important center of research, instruction, and the entire educational process, fall squarely within the "primary responsibility" of the faculty (Constitution, Article VIII, section 1). Library faculty's judgment about the status of the library's operations should have been given "primary weight" (Academic Freedom Policy 4.1.c). The administration, in reaching its decision about this matter, failed to consult the faculty and did not offer faculty any opportunity to express their judgments or to exercise their "primary responsibility." The administration's failure to submit the matter of the library reorganization to the library faculty for assessment constitutes a violation of faculty shared governance rights as articulated in the Senate Constitution, Article VIII, section 1 and in the Academic Freedom Policy 4.1, section 1.c.

The Committee understands by means of their written statements that library faculty members hold disparate perspectives regarding both the history of shared governance in Copley Library, and the role shared governance should have played in the reorganization. Some library faculty were extremely distressed that administrators did not confer with them about the reorganizational process, while others were not concerned about the lack of consultation. In either case, the responsibility of taking part in shared governance may not be waived for oneself or for another, and the right to participate may not be forfeited for oneself or another. The importance of practicing shared governance goes beyond particular faculty members or departments. As mentioned above, shared governance practices in one part of the university inevitably affect practices in other units. The violation of shared governance rights is a matter of concern for all constituents of the university.

Shared Governance and the Reorganization of Copley Library: The Creation of New Faculty Positions, the Re-designation of Existing Faculty Lines, and the Designation of New, Tenure-Track Faculty Lines

As a means of changing key operations at Copley Library, the reorganization created new faculty positions as well as designated tenure-track faculty lines. New non-faculty positions were also created. According to faculty conversations with librarians, with Dr. Byrd, and Dr. Byrd's memo to the Deans Council of July 12, the following hold true:

Head of Access and Outreach Services is a "new position" (memo of July 12) which also involves the creation of a new tenure-track faculty line.

Head of Technical Services is also a "new position" (memo of July 12), but does not involve the creation of a new faculty line; it is the faculty line previously held by retired Professor Margit Smith.

Serials/E-Resources Librarian is a "new position" (memo of July 12) which involves the creation of a new tenure-track faculty line.

Evening Access Services and Reference Librarian is a "new position" (memo of July 12). According to a written statement by a faculty librarian, Dr. Byrd has recently informed library faculty that this position is now a "full-time visiting faculty appointment with a two-year contract."

Head of Reference Services is not mentioned as a new position in Dr. Byrd's memo of July 12. It is a position that forms part of Dr. Byrd's new "management team" (Senate Minutes of 7/25/11) and does not involve a new faculty line.

Differing interpretations of what counts as a "new" position exist among faculty librarians, perhaps because some positions have evolved in part from old ones. Additionally, there is still some confusion regarding the number of tenure-track faculty lines created in the reorganization. The second chart in the Appendix, which is supposed to illustrate the reorganization, shows 12 tenure-track faculty boxes, while the tally at the bottom left of the chart says there are 11. There were $8\frac{1}{2}$ such positions according to the old chart, included in the Appendix (the old and new charts were also published with the Senate minutes of 7/25/11). The $\frac{1}{2}$ time, phased retirement position of Professor Ed Starkey, became a full line on the new chart, making 9. There are 2 new lines as noted above, which makes 11 tenure-track faculty positions. But the new chart shows 12 shadowed boxes, and Dr. Byrd has indicated in conversation with faculty that the number of boxes on the chart, 12, is correct, and the University Librarian should not be counted as one of the tenure-track faculty positions (meeting with Guerrieri and Pirruccello, 11/16/11). So it appears that there may be yet another faculty line that has been created by the reorganization, yet not recognized in memos or conversations. Confusion over the number of faculty tenure-track lines created by the reorganization remains to be resolved.

As part of the confidential reorganization process, it has been acknowledged by administrators and library faculty that the creation of these designated and re-designated lines and positions was done without consulting faculty librarians. Thus, the Committee agrees with the Ad Hoc Library Committee of the Senate when it says in its October 2011 report that

It is the committee's opinion that USD's policies were contravened in the reorganizational process. The creation of new tenure-track positions in specifically designated areas is a faculty status matter and, as such, falls squarely within the "primary responsibility" of the faculty (Constitution, Article VIII, section 1). Faculty's judgment on this faculty status matter should have been given "primary weight" (Academic Freedom Policy 4.c.1). The administration, in reaching its decision about this faculty status matter, failed to consult the faculty and did not offer faculty any opportunity to express their judgments or to exercise their "primary responsibility." The administration's failure to submit this faculty status matter to the faculty for assessment, in our opinion, constitutes a contravention of faculty shared governance rights as articulated in the Senate Constitution, Article VIII, section 1 and in the Academic Freedom Policy 4.1, section 1.c. (Report of the Ad Hoc Library Committee of the University Senate, October 2011; see Appendix for full report)

Moreover, the present committee adds that the creation of the two-year visiting librarian faculty position should have been discussed with the faculty librarians, and that the creation of all new positions and designated tenure-track lines, as well as re-designated tenure-track lines, ought to have been recognized as faculty status decisions for which the library faculty had primary responsibility.

It must be noted that although one of the new positions attached to a new line also involves administrative obligations (Head of Access and Outreach Services), and one of the new positions that is the re-designation of an existing faculty line involves administrative obligations (Head of Technical Services), there should be no question about their character as *faculty* positions and lines which involve faculty areas of expertise. This is evidenced by the job description for the new head of Access and Outreach Services:

The Head of Access and Outreach Services Department serves as a liaison for one subject area and will be responsible for cultivating a strong relationship with the department through collection development, instruction, and reference work. Teaching responsibilities will include library research methods classes, course-integrated instruction sessions, and workshops. He/she provides outreach services to distance education students. This person performs all aspects of traditional and electronic reference services. He/she possesses expert knowledge of the Innovative Interfaces integrated library automation system and monitors and implements all Innovative modules for circulation functions. He/she communicates with USD Public Safety about safety, security, and difficult patron issues. Duties also include maintaining quiet study atmosphere in the Copley

Library building and enforcing and following library and University polices. This person must be active at the state and national levels in the library profession, especially Access Services. This is a 12-month tenure-track library faculty position. (Job Ad posted in August 2011)

According to the principles of shared governance, the administration may not adopt the prerogative of creating new, designated faculty lines or positions, nor may it re-designate existing lines without meaningful faculty consultation. Furthermore, the administration may not create such lines or positions and then justify the failure to confer with the faculty about them by designating the lines and/or positions as *administrative*. Such a practice usurps the faculty's traditional and rightful responsibility for determining faculty status. In broader terms, it is potentially corrosive to the institutions of tenure, academic freedom and shared governance. Such "administrative" appointees would eventually take part in reviewing their peers, serving on faculty committees, possibly including the ARRT committee, and making decisions about the academic mission of USD. Appointees being described as "administrative" are tenure-line faculty appointees. The creation of new, designated tenure-track lines, the re-designation of positions attached to old lines, and the subsequent hiring of new faculty to those positions—under the guise of "administrative" appointments and without true faculty voice and participation in the process—is a violation of the principles of shared governance and USD policy. If new administrative positions are created with faculty status, the positions must be considered first and foremost faculty positions. This is true given that the administrative status of the position may be removed—or the person occupying it may be removed from the position—but the faculty status of the position does not change, especially if the faculty member in the position has been granted tenure. The Senate Ad Hoc Library Committee, in a supplemental report issued in November, 2011, reached a similar conclusion (See Appendix for the full report).

Shared Governance and the Reorganization of Copley Library: The University Librarian's Shared Governance Rights and Responsibilities

The American Library Association states that, "College and university librarians should adopt an academic form of governance similar in manner and structure to other faculties on the campus" (American Library Association, *Standards for Faculty Status for College and University Librarians*, online). However, in referring to the manner in which the Copley reorganization was conducted, the University Librarian, Dr. Theresa Byrd, explained at the Library Forum on September 22, 2011 that she was new to USD and had "followed the process as it was given" to her, and that she was "under the impression that that was how things were handled" (*Partial Transcript*). At the time of this statement, Dr. Byrd had occupied the position of University Librarian for approximately one year. Because the planning for the reorganization began in February or March of 2011 in consultation with Provost Julie Sullivan, Dr. Byrd would have been a member of the campus community for only 5 or 6 months when it commenced. Explaining further, Dr. Byrd said, "I've taken a lot of criticism because there were some faculty positions created, and I have to say when those positions were created, I did so under the umbrella as I understood it here at USD, that that process was confidential... ." Dr. Byrd later

repeated her assertion that the positions were created under the umbrella of the reorganization, and as she “understood the process, [she] could not share...it was confidential” (*Partial Transcript*). Faculty members have also reported in written statements and meeting notes that Dr. Byrd has acknowledged that she was made to understand by the Provost and Human Resources that the reorganization must remain confidential (Meeting with Guerrieri and Pirruccello, 11/16/11; confidential letters from faculty librarians). These statements indicate that the new University Librarian believed she was not able to share the planning of the reorganization with faculty librarians, and that this confidentiality was a part of established practice at USD “*as it was given*” to her.

If this is the case, it appears that the University Librarian’s right to consult with the appropriate community of expertise—to engage in properly shared governance—was violated because of the confidential manner in which she was directed to conduct the reorganization. The Committee finds it reasonable to conclude that while Dr. Byrd failed to involve the faculty librarians in decisions pertaining to the reorganization, she was also not advised to fulfill her obligation to engage in shared governance. Instead, it appears that upper administrators and Human Resources personnel asserted that the reorganization had to be conceived and carried out without sharing deliberations with faculty or other members of the university community. This kind of exclusion, however, is not in accord with decades of established practice at the university. Dr. Byrd should have been instructed by her supervisor, Provost Julie Sullivan, to consult with interested constituents at the University. As Provost Sullivan has commented, the library serves the entire community. This is all the more reason why Dr. Byrd should have had the opportunity to confer with a wide array of people regarding the set of decisions related to the reorganization. It appears that Dr. Byrd was prohibited from exercising her role in shared governance and enjoying “appropriately shared responsibility and cooperative action among the components of the academic institution.” Her shared governance role, responsibility and rights may not be forfeited or waived by another, as was determined in the October 2011 report of the Ad Hoc Library Committee of the Senate. It is evident that the ill-advisement Dr. Byrd received from the upper administration prevented her not only from exercising her shared governance right to consult with faculty and others, but from fulfilling her *obligation* to consult with the faculty in an area in which they have primary responsibility. This resulted in a violation of Dr. Byrd’s shared governance rights.

Shared Governance and the Reorganization of Copley Library: Rights and Responsibilities of non-Library Faculty, Including Members of the Library Committee

As discussed earlier, faculty shared governance includes responsibility for matters in which faculty voice must be accorded “great respect” because of the powerful impact related decisions might have on the institution’s teaching and research. In cases where certain faculty do not have primary responsibility for a matter because that properly belongs to other faculty members, the administration, or the governing board, these faculty still have the responsibility and corresponding right to make their voice heard.

The reorganization of Copley Library is not an exception to this principle. While primary responsibility for decisions about the reorganization belonged to library faculty, all faculty voices, including members of the Library Committee, should have been afforded the opportunity to express their concerns and judgments about the proposed reorganization. As the joint statement of the Association of College and Research Libraries, the Association of American Colleges (now the Association of American Colleges and Universities), and the American Association of University Professors states, "...all members of the faculty should take an active interest in the operation and development of the library" (*Joint Statement on Faculty Status of College and University Librarians, AAUP Policy Documents & Reports*, 10th ed., p. 155).

The faculty right to comment and be heard regarding the reorganizational process was not allowed to be exercised due to the confidential character of the decision-making procedure. This violates USD's policy, based in decades of practice, which affirms the "great respect" principle of shared governance.

Conclusions and Recommendations

The decision-making process that resulted in the Copley Library reorganization was carried out in violation of the University's own policies, nationally-accepted shared governance guidelines, and precedents established by decades of university practice.

Recommendations (Please note: A running numeration of the report's recommendations is used. All recommendations are compiled in section V.)

2. Current and future matters regarding the reorganization, the creation or elimination of positions, departments, designated faculty lines, etc., be conducted in strict adherence to the principles of shared governance.
3. Clarification should be provided regarding the number of tenure-track faculty positions on the Copley Library organizational chart presented in Appendix 5.
4. Existing and future library governance documents should be made to reflect the proper roles, responsibilities, and rights of faculty with regard to shared governance principles.

III. The Library Reorganization in relation to Catholic Social Thought

Every time that there arises from the depths of a human heart the child-like cry which Christ himself could not restrain, 'Why am I being hurt?', then there is certainly injustice. ...if, as often happens, it is only the result of a misunderstanding, then the injustice consists in the inadequacy of the explanation. Simone Weil

Prologue

The University of San Diego's fidelity to Catholic Social Thought (CST) has become a major issue in discussions surrounding the Copley Library reorganization. In the eyes of many, the manner in which the reorganization was conducted is in direct conflict with the principles of CST that we as a university espouse and that have been woven into the

fabric of our community since its founding. The values of CST have been explicitly reaffirmed as a priority of USD: “the Catholic Social Thought initiative at USD is one of four strategic directions initiatives proposed by President Mary Lyons in 2004” (*USD website*).

Among the key principles of Catholic Social Thought are *the dignity of work and the rights of workers*. As explained on our website, “Work is more than a way to make a living; it is a form of continuing participation in God’s creation. If the dignity of work is to be protected, then the basic rights of workers must be respected—the right to productive work, to decent and fair wages, to organize and join unions, to private property, and to economic initiative. Respecting these rights promotes an economy that protects human life, defends human rights, and advances the well-being of all.”

Moreover, we affirm that *community* is one of the core values of this university: “The University is committed to creating a welcoming, inclusive and collaborative community accentuated by a spirit of freedom and charity, and marked by protection of the rights and dignity of the individual. The University values students, faculty and staff from different backgrounds and faith traditions and is committed to creating an atmosphere of trust, safety and respect in a community characterized by a rich diversity of people and ideas” (*USD website*).

The manner in which the Copley Library Reorganization has been conducted falls short of the university’s aspiration to act in accord with Catholic Social Thought. Neither the dignity of work, the rights of the workers, nor the morale of the university community has been given full and due respect. The ethos of the University of San Diego, including the expectation that good and not harm will be done to those who labor daily in service of the university’s mission, has suffered. Damage to the morale of the community and a breach of trust among its members remain to be addressed, as does a certain deafness to the callous methods of the reorganization, and to the repeated request for a satisfactory justification.

The Manner of Reorganization

The Administration, faculty, and staff involved agree that this significant reorganization was planned and implemented without input from or advance notice to the faculty and staff of Copley Library. Evidence provided to this committee indicates that the reorganization was conceived primarily by Dr. Theresa Byrd, University Librarian, and discussed over several months (beginning in February or March of 2011) by Provost Julie Sullivan, Chief Human Resources Officer David Blake, University Counsel Kelly Douglas, and Dr. Byrd. An unnamed library director from another university was consulted by Dr. Sullivan about the plan, and Nina Sciuto of Human Resources was included in the decisions on the manner of dismissal. According to the committee’s information, no others were made aware of the plans to reorganize the library until on or after July 6, the day the reorganization began to be implemented. Members of the Access Services Department were notified individually in the Human Resources offices that their employment at USD was terminated due to a library reorganization of which they had

been previously unaware. Other library staff and faculty were informed of the reorganization at a meeting later that day, after the staff of Access Services had been dismissed. (*Byrd, Memo, July 12, 2011; Senate Minutes, July 25, 2011; Sullivan, Interview, December 19, 2011*).

Explanations for the reorganization and the resulting layoffs consistently affirm that the purpose of the reorganization was to rectify the perceived imbalance between faculty and staff positions and to enable Copley Library to better serve the needs of USD in a digital age. (*Byrd, Memo, July 12, 2011; Sullivan, "Letter to T. Wilson," Vista, September 20, 2011*). This committee found no evidence that the purpose of this reorganization was to fire problematic employees without following appropriate disciplinary procedures. Had there been inadequacies in the work of specific Copley employees, this would not justify the dismissal of an entire department through reorganization. Any such inadequacies are properly addressed through the appropriate procedures of warning and, if necessary, dismissal for cause, not through a reorganization defended as essential to serve USD in a digital age.

The reasons given for the perceived need to plan and implement this reorganization in privacy, without the knowledge of, or any input from, the broader library or university community have been: 1) the dismissal of workers is a confidential personnel matter and legal barriers to the disclosure of the plan existed (*Pirruccello, Partial Transcript of the September 22, 2011 Forum*); 2) since the resignation of Prof. Staninger as Associate Librarian, Dr. Byrd lacked a management team of faculty librarians with whom she might have discussed and planned the reorganization (*Sullivan, Interview, December 19, 2011*); and 3) public knowledge that a reorganization was underway would have created anxiety and a disruptive environment that would negatively affect the work environment in and services provided by Copley library. (*Sullivan, "Letter to T. Wilson," Vista, September 20, 2011; Blake, Interview, December 19, 2011; Sullivan, Interview, December 19, 2011*)

The first and second reasons do not require much discussion here. The first reason, the confidentiality of personnel decisions and records, does not preclude public discussion of a reorganization of positions and revision of job descriptions, which can be undertaken without presumption that any particular person will be terminated. Such reorganizations can and have been broadly discussed at this and other institutions without any violation of personnel confidentiality, privacy laws, or discussion of specific personnel decisions. The second reason, the lack of a management team, is also irrelevant to whether the faculty and staff of Copley library ought to have been informed and consulted about the reorganization. Inclusion of a management team of administrative faculty librarians may well be advisable but would only serve to broaden slightly the scope of those included in the confidential planning. Such a management team would not fundamentally change the fact that a significant restructuring of the work environment was undertaken without the awareness or input of the faculty and staff involved.

The third reason given for planning the reorganization privately is that this confidentiality was necessary to safeguard the morale and productivity of the library workers and to ensure the proper operation of library services. This consideration should be weighed against the following: 1) Without knowledge that a reorganization with potential

termination of jobs was being considered, employees, who had no reason to suspect that their jobs were in jeopardy, were deprived of knowledge that might have led them to make different financial and employment decisions over the more than 4 month period in which the reorganization was being planned. 2) Library staff and faculty were not allowed to provide any input into a major aspect of the conditions of their work, thus risking a violation of their dignity as workers as well as alienation and demoralization. 3) Library staff and faculty were not allowed to contribute their knowledge and experience of the needs and work flow at Copley Library as the reorganization was being planned, thus denying the library the benefit of these employees' expertise.

The question before this committee and the university community is whether concern for the well-being, the rights, and the dignity of the worker were appropriately considered and weighed against the desire to avoid an unproductive and potentially problematic public conversation about the reorganization. More specifically, was this confidential reorganization process the best instantiation of Catholic Social Thought possible at USD and should it be a model for future such reorganizations here?

It is the conclusion of this committee that the rights and the dignity of all Copley Library full-time employees, staff as well as faculty, were not fully respected in this library reorganization. While the difficulty of managing a work environment in which employees are anxious about major changes that may include some job terminations is considerable, it is not a sufficient rationale for denying employees their right to participate as persons with creativity, insight, and expertise to share. Catholic Social Thought affirms that the dignity of work is rooted in the fact that work is a manner of the development of the self and the person's contribution to God's ongoing creation. Full-time library workers who have positions of considerable responsibility and years of service have gained significant knowledge about the demands of their jobs. Respect for their dignity as persons and workers requires that this knowledge be valued; employees with this kind of experience should not be treated as mere functionaries who have no insights to contribute to the structuring of their jobs.

This conclusion is strengthened by considering that the sudden implementation of a previously confidential reorganization will likely have negative effects on morale and rapport that offset any gain from avoiding negative morale in advance of the implementation of the reorganization. This committee further notes with concern that the unforeseen dismissal of nearly an entire department is likely to be traumatic for some of the workers who remain on the job without any understanding of why their colleagues are being dismissed or of how many will finally be dismissed. Student workers report having been particularly disturbed by this experience of working through the unexpected and unexplained removal of their supervisors and full-time co-workers, on whom they depended for instruction and support.

This committee further finds that the confidential reorganization was especially inconsistent with respect for the rights and well-being of the Access Services staff who were dismissed. The difficulty of managing an anxious and perhaps suspicious staff who are aware that some positions may be terminated does not justify withholding awareness

of the precariousness of their employment situation from those involved. Full-time employees with long-term employment and no notice of deficiencies in their performance have every reason to make life-decisions about savings, housing, vacations, retirement, and other employment possibilities based on the assumption that their employment at USD is secure. Even without knowing which positions were going to be terminated, the fact that a reorganization was being planned and that it might involve some termination of employees is significant information that might well have caused these employees to make decisions that maximized their financial security (and, conversely, being denied this information may have caused them to make decisions that placed them in an even more insecure position than was necessary). To keep all information about the impending reorganization and potential loss of jobs from Copley employees, especially in a time of high unemployment and in a society with a very weak security net, unnecessarily increased the very real risk of financial vulnerability of the dismissed workers. The laudable provision of severance packages and employment counseling services after the dismissal may not be able to make up for irrevocable employment and financial decisions made by Copley employees without adequate knowledge in this 4-5 month period.

Recommendations (Please note: A running numeration of the report's recommendations is used. All recommendations are compiled in section V.)

5. In order to better embody Catholic Social Thought on the rights and dignity of workers, USD should support and facilitate the creation of a formal organization that represents the interests and concerns of staff and non-faculty employees. This organization should also have an active role in developing policies and structures that ensure workers' participation in decisions about their work.
6. Given the strong affirmation in Catholic Social Thought of the rights of workers to participate in determining the conditions of their work, as well as the serious threats to the well-being of the person that loss of employment poses in our society, serious consideration should be given by the USD community to the question of whether confidential reorganizations are in principle consistent with the ethos of USD and the principles of Catholic Social Thought. The creation of a more specific policy that addresses the appropriateness of confidential reorganizations should be considered.

The Manner of the Dismissals of the Access Services Staff

A second major consideration is whether same-day dismissals of long-time workers without warning, attempt to retrain, or offer of another position is the best possible embodiment of Catholic Social Teaching at USD and is consistent with the ethos we would like this community to have.

Policy 2.6.8 of USD's Policies and Procedures Manual sets forth the manner in which employees will be treated in cases of lay-offs due to elimination of a position. As discussed in more detail below, policy 2.6.8 stipulates advance written notice of employment termination whenever possible, efforts to rehire employees whose positions are terminated through no fault of the employee, and consideration for the longevity and

contribution of the employee to USD. Considered from the perspective of Catholic Social Thought, policy 2.6.8 articulates procedures that recognize the dignity of the employee and indicate appreciation of employees' contributions to USD, a sense of responsibility of USD to its employees, and the seriousness of termination of employment. Since employment termination may affect not only a person's income and sense of self but also access to health care, housing, and other necessities of life for that person and that person's family, employment termination is a matter that must be undertaken with utmost concern for the person whose employment is terminated, as well as for those who depend on that wage-earner's income and benefits.

Lack of Written Warning

Policy 2.6.8, "Layoff and Rehire Policy," is the policy that is most applicable to the dismissal of the Access Services staff since this policy governs dismissals that are due to "circumstances reflecting no discredit on the employee's performance" (see Appendix 1, Policy 2.6.8.) Policy 2.6.8 states in relevant part that "written notice of layoff will be given to employees two weeks in advance whenever possible." The committee has discovered no evidence or heard any claim that it was impossible to give the Access Services staff advance written notice of the termination of their positions. Neither has there been any claim that there was a pressing need to terminate those positions immediately; to the contrary, there is evidence of a continued need for other library staff to cover the work of those laid-off. Some temporary workers were hired to do the work of the terminated staff, and, even still, there have been complaints that Access Services has lacked the necessary staff and expertise in the aftermath of the termination of these employees. (*Pirruccello, Partial Transcript of the September 22, 2011 Forum*)

Dr. Blake and Provost Sullivan have maintained that the lack of written advance notice was not a violation of procedures because the employees were paid for the remainder of the notice period. (*Blake, Interview, December 8, 2011; Sullivan, Interview, December 19, 2011*). This payment in lieu of advance notice is allowed in Policy 2.6.7, which states in relevant part: "at the discretion of the appropriate Vice President, and with the concurrence of the Director of Human Resources, discharged regular employees may receive two weeks pay in lieu of notice." It is further noted here that some consider "day of dismissal" notification with two weeks' pay to be preferable to advance notification because day of dismissal notification avoids the difficulties of maintaining the productivity of workers (and perhaps their colleagues) that may result from low morale in the period between notification and actual dismissal. It has also been suggested that same day dismissal is more compassionate than asking people to continue in an employment position that they know will end soon.

It seems that policy 2.6.8 was violated in this instance as it was indeed possible to provide at least 2 weeks of written advance notice, and this advance notice was not given. It should be acknowledged that there is some ambiguity here in that policy 2.6.7, the "Policy on Separation," allows for two weeks pay in lieu of notice, though this is set forth as a discretionary variance from the general policy of providing 2 weeks advanced written notice. On the other hand, policy 2.6.8 clearly states that 2 weeks advance written notice is to be given *whenever possible*. It is thus debatable whether policy 2.6.8 assumes

the exception of 2 weeks pay allowed in 2.6.7 or intends to set forth a more rigorous standard for layoffs of employees who have not been deficient in job performance. Nevertheless, we note that both policies 2.6.7 and 2.6.8 set forth advance written notice as the *normative* procedure in employment termination. Employees familiar with these policies have every reason to expect advance written notice of layoff unless there is some unusual and compelling reason for day of dismissal notification. No such unusual or compelling reason has been proffered in defense of day of dismissal notification of the termination of the employees of Access Services.

This committee further concludes that Catholic Social Thoughts about the dignity of workers and their rights to participation suggest that staff at USD should have a voice in determining the procedures for dismissal of staff employees. To the extent that we are concerned with determining the most compassionate procedures for dismissal, it is even more important that staff views be consulted. This did not occur during the reorganization of Copley Library. The Chief Human Resources Officer and USD administrators determined these for themselves.

Efforts to Rehire: Policy vs. Current Practices

Policy 2.6.8 also states in relevant part that “the University will endeavor to rehire employees who have been laid off whenever openings exist, either in the employee’s original department or elsewhere in the University.” According to information received from Dr. Blake about USD’s current “open-compete” system and the autonomy of the local hiring manager, the university cannot simply offer open positions to those employees whose jobs have been terminated. All positions at USD are filled through an open competition, so that the most Human Resources can promise is to ask a hiring manager to give the former employee’s application special consideration, all other things being equal. Whether the hiring manager chooses to give the application of a laid-off employee extra consideration is entirely up to that manager’s discretion. (*Blake, Interview, December 8, 2011*)

Provost Sullivan has further clarified that inviting the terminated employees to apply for the new positions “allowed library faculty and staff to serve on the search committees and participate in the evaluation process and hiring recommendations” (*Sullivan, Email, February 17, 2012*).

This committee concludes that policy 2.6.8’s stipulated procedure to rehire is in conflict with other university commitments to open competition and local autonomy in hiring decisions.

Failure to Consider Quality and Length of Service

Policy 2.6.8 further stipulates that “the following criteria will be used in order of priority listed below in determining the order in which regular employees will be laid off: (1) the importance of the employee’s job function to the department, (2) the quality of the employee’s job performance, and (3) the length of the employee’s service to the university.” Nevertheless, in explaining the necessity of laying off the entire Access

Services department, Provost Sullivan maintained that fairness required that the entire department be terminated. Apparently no consideration was given to employees' records or length of service. Each of the terminated employees was then invited to apply for the 3 new positions in Outreach and Access that do not require a library science degree. (*Sullivan, Interview, December 19, 2011*),

The committee finds that the termination of (nearly) the entire Access Services department without concern for function, performance, or length of service, even while three staff positions were open in what would be called Access and Outreach Services, is not consistent with the above stipulations of policy 2.6.8. To fulfill policy 2.6.8, the three employees who most fit the above criteria, among those who had the necessary qualifications for the three newly created staff positions, should have been offered the positions rather than being terminated.

The committee also concludes that false expectations among employees result from the conflict between policy 2.6.8 and current university practice. Insofar as Dr. Blake and Provost Sullivan a) support same-day dismissals rather than advance written notice; b) do not interfere in the autonomy and open competition for positions throughout the university; and c) insist that fairness requires that entire departments be laid off in reorganizations, policy 2.6.8 cannot be followed.

Recommendation

7. The continued appropriateness of policy 2.6.8 needs investigation. Clarification is needed on the presumption in favor of advance written notice of termination of employment as well as with regard to the apparent conflict between, on the one hand, efforts to rehire terminated employees and, on the other hand, the autonomy of the local hiring managers and the open-competition hiring process. This conflict in policy 2.6.8 should be resolved, and current practice based on this policy should be examined and modified in a manner that accords with Catholic Social Thought.

Working Conditions in Copley Library

USD aspires to be a community in which all persons are treated with respect and recognition of their dignity. Concerns about the degree to which this commitment to respect is reflected in the working conditions within the library have been raised.

The committee has been informed that complaints about the University Librarian's supervisory style have been made by various Copley full-time employees to Human Resources. (*Hall, Memo, August 30, 2011; Letters from Faculty Librarians*). While this ad hoc committee is not authorized to investigate the complaint process as it was exercised in these cases, this committee notes the beliefs of some library personnel that the complaints were not resolved in a satisfactory manner as well as the impression that complaints led to retribution against those seeking redress of grievances.

In addition, there are unresolved complaints from library work-study students regarding employment issues at the library. Given that federal work-study students are among the most vulnerable of our population, their rights to be treated fairly and with consistent policies are important concerns for any community committed to the principles of Catholic Social Thought. Student workers share in the dignity of all workers such that they must be able to have input and even raise complaints without fear of retribution. This issue will be discussed further below, but we note here that a commitment to Catholic Social Thought requires concern for the dignity and fair treatment of student workers. (See below for further discussion of the issues concerning student workers in Copley Library.)

Recommendations

8. There is evidence that USD's established procedures by which employees can raise a complaint about their work conditions or seek resolutions for grievances are not as effective as they should be and do not entirely protect the complainant from retribution. USD should create an ombudsman position, independent of Human Resources and the traditional supervisory chain of command, whose responsibility would consist of assisting employees when there is a break down in normal procedures.

IV. Student Issues Associated with the Copley Library Reorganization

The Copley Library reorganization appears to have had profound and negative effects on student workers who experienced the layoffs of their supervisors first-hand. These effects included being left to assume duties and carry responsibilities for which they had no training as well as never learning directly from Dr. Byrd the rationale for the layoffs. (See attached letter from student workers to Dr. Byrd in the last appendix.) In the spirit of full disclosure, one of the students, Erika Pierson, is the daughter of Dr. Eric Pierson, a member of this committee.

In the aftermath of the reorganization, there were a number of peculiarities connected with student positions and rehires that raise concerns for this committee. During the month of August 2011, student workers were informed that they must submit to a reapplication process were they to continue their employment at the library. This practice is at odds with the practices of most other departments that employ student workers.

As explained by the Student Employment Center staff to members of this committee, student workers are normally reviewed at the end of each semester by their area supervisor, and there is a standard form that all departments must complete and return. Based on the outcome of this review, the student workers are informed of their status for re-employment for the coming semester. The student workers in the library were informed, however, they would have to reapply for their jobs after they had already completed the review process and were reasonably expecting to be rehired for the coming fall semester. The reapplication process used by the library runs counter to the expectations of the Student Employment Center, which holds that once a student has a

work-study job, the student will be able to continue in that department as long as the work-study award continues (it is noted that many of the library's student workers were off campus for the summer, and it is not clear when they were informed of the reapplication requirement).

The reapplication included an interview that was not conducted until the first week of school. Because many of our student workers depend on work-study to support themselves throughout the school year, the climate of uncertainty weighed heavily on them. For several students, this uncertainty forced them to seek new employment. Students who went through the reapplication process and were granted interviews stated that they were asked questions about their feelings regarding the library reorganization, which some students interpreted as a loyalty test. They felt these questions were not relevant to the jobs they were asked to perform. It is not known how many students planned to return to the library for the fall 2011 semester, but of the fifteen possible students returning, only two were re-hired.

In fall 2011, several students took their concerns regarding working conditions at Copley to their representatives in Associated Students.

Recommendation

9. The process of being rehired pending a good first evaluation should be clarified for library student workers and should be consistent with the general processes throughout the university. These expectations should be clearly communicated to students prior to offering employment.

IV. Recommendations

1. Pursuant to the Constitution of the Academic Assembly of the College of Arts and Sciences, Article II, section B., this committee recommends that this report and all recommendations herein be received and accepted in their entirety by the Academic Assembly and forwarded to the University Senate for action. Furthermore, the committee recommends that the report be forwarded directly by the Academic Assembly to the President, the Executive Vice President and Provost, General Counsel, and the Chief Human Resources Officer.
2. Current and future matters regarding the reorganization, the creation or elimination of positions, departments, designated faculty lines, etc., be conducted in strict adherence to the principles of shared governance.
3. Clarification should be provided regarding the number of tenure-track faculty positions on the Copley Library organizational chart presented in Appendix 5.
4. Existing and future library governance documents should be made to reflect the proper roles, responsibilities, and rights of faculty with regard to shared governance principles.

5. In order to better embody Catholic Social Thought on the rights and dignity of workers, USD should support and facilitate the creation of a formal organization that would represent the interests and concerns of staff and non-faculty employees as well as have an active role in developing policies and structures that ensure workers' participation in decisions about their work.
6. Given the strong affirmation in Catholic Social Thought of the rights of workers to participate in determining the conditions of their work, as well as the serious threats to the well-being of the person that loss of employment poses in our society, serious consideration should be given by the USD community to the question of whether confidential reorganizations are in principle consistent with the ethos of USD and the principles of Catholic Social Thought. The creation of a more specific policy that addresses the appropriateness of confidential reorganizations should be considered.
7. The continued appropriateness of policy 2.6.8 needs investigation. Clarification is needed on the presumption in favor of advance written notice of termination of employment as well as with regard to the apparent conflict between, on the one hand, efforts to rehire terminated employees and, on the other hand, the autonomy of the local hiring managers and the open-competition hiring process. This conflict in policy 2.6.8 should be resolved, and current practice based on this policy should be examined and modified in a manner that accords with Catholic Social Thought.
8. There is evidence that the USD's established procedures by which employees can raise a complaint about their work conditions or seek resolutions for grievances are not as effective as they should be and do not entirely protect the complainant from retribution. USD should create an ombudsman position, independent of Human Resources and the traditional supervisory chain of command, whose responsibility would consist of assisting employees when there is a break down in normal procedures.
9. The process of being rehired pending a good first evaluation should be clarified for library student workers and should be consistent with the general processes throughout the university. These expectations should be clearly communicated to students prior to offering employment.

VI. Appendices

1. Email from Dr. Julie Sullivan, February 7, 2012
2. Report of the University Senate Ad Hoc Library Committee, October 22, 2011
3. Supplemental Report of the University Senate Ad Hoc Library Committee, November 28, 2011
4. Copley Library Organizational Chart – Pre-reorganization
5. Copley Library Organizational Chart – Post-reorganization
6. Policies 2.6.7 and 2.6.8, USD Policies and Procedures Manual
7. Letter from student workers to Dr. Byrd, July 18, 2011

Appendix 1

Sullivan, Julie. "Narrative Timeline for Library Reorganization." Email to Cynthia Caywood. 7 February, 2012.

Exact text:

While the document does contain inaccuracies, I am writing to let you know that we will not be commenting on the report and why we will not be doing so. I do not question the sincerity of the members of the Ad Hoc Committee. However, I do question the jurisdiction and legitimacy of the Assembly's investigation. As I informed Professor Doak, based on my reading of the Academic Assembly's constitution, I do not believe that the Ad Hoc Committee has jurisdiction over this issue. Although the Assembly has opted on its own initiative to continue to pursue this inquiry, the investigation is not one that is sanctioned by the university. Also, in light of the conclusions of wrongdoing already expressed in the Assembly's recent resolution and previously by the Assembly's Executive Committee, I must express my reservations about the neutrality and objectivity of the Assembly's ongoing inquiry. Further, because this issue is the subject of threatened litigation against the university, we are unable to comment.

October 22, 2011

TO: Executive Committee, University Senate
University of San Diego

FROM: Ad Hoc Library Committee
Linda Barkacs, Chair
Nancy Carol Carter
Carlton Floyd
Lea Hubbard
Linda Peterson

RE: Report

This report of the Ad Hoc Library Committee contains proposed recommendations offered for adoption and action by the University Senate.

Charge:

To what extent do principles of shared governance apply to the reorganization of Copley Library personnel, particularly when the reorganization alters the number of faculty positions in the library? The committee is also charged to determine to what extent, if any, the Senate should consider other issues falling within its jurisdiction resulting from the library reorganization and the manner in which it was accomplished. Further, the committee is charged with providing a preliminary report, including a timeline and final reporting date, to the Executive Committee prior to the October 27, 2011, Senate meeting. The final report should include recommendations for Senate action.

Jurisdiction of the University Senate as it pertains to the charge to the Ad Hoc Library Committee is found in governing documents:

USD's Policy Manual, Section 1.5, the *Constitution and By-Laws of the University Senate* ("*Constitution*"), Article II, section 2 states that the purposes of the Senate include, among other things, gathering the viewpoints of representatives of the academic community, being a voice for the academic community, and initiating proposals for constructive change within its jurisdiction.

Article III, section 2, subsections (b) through (e), gives the Senate jurisdiction in matters regarding the "general quality of studies," "general policies pertaining to faculty appointment, reappointment, rank, and tenure," "general policies regarding faculty status, such as morale [and] grievances," and "general student welfare."

According to the *Constitution*, Article V, section 4, the Senate must designate the type of matter being raised. In this case, the matter raised is an *Article III, paragraph 2 issue*, meaning it is an issue of University-wide interest or concern.

Questions Raised / Findings / Recommendations:

1) Do library faculty have shared governance rights?

Yes. Authority for shared governance is found in Article VIII, section 1 of the Constitution and section 4.1.c of the Academic Freedom Policy. It is the committee's opinion that the creation of new tenure-track positions falls squarely within the "primary responsibility" of faculty.

Article VIII: Powers, Duties, and Responsibilities

Although final authority in determining the nature of the University and its policies rests in the Board of Trustees, "the faculty has primary responsibility for such fundamental areas as curriculum, subject matter and methods of instruction, research, faculty status, and those aspects of student life which relate to the educational process." (1966 Statement on Government of Colleges and Universities, V. The Academic Institution: The Faculty [AAUP Policy Documents & Reports, 1990, p.123]). [Emphasis added].

Academic Freedom Policy 4.1.c

"Other University policies identify the procedures for academic decision-making in areas defined within Article VIII of the Constitution and By-Laws of the University of San Diego Senate. When exercising its authority under those policies, the University should give primary weight to the judgment of the faculty."

The committee interprets these policies broadly as applying to the *entire* faculty of the university. Indeed, these policies have been institutionalized as policies governing *all* faculty members by virtue of their inclusion in the *University of San Diego Policy Manual*; in particular, Article VIII of the *Constitution* is included in Volume I: *Policies on Governance and Administration*, and the policy statement concerning the right of faculty to full freedom in academic decision-making is included in Volume IV: *Faculty Policies*. The committee notes that there are no delimiting clauses or provisions in either of the foregoing policies suggestive of restrictions on the application of these policies to certain faculty members and not others. Hence the committee concludes that the foregoing policies grant rights of shared governance to members of the Copley Library faculty in the same manner as for all other USD faculty.

Recommendation Pursuant to Faculty Shared Governance Rights

When a campus academic reorganization involves the creation or dissolution of tenure-track faculty lines, faculty should be given both notice and a voice in how such reorganization unfolds. This conforms to faculty shared governance rights as articulated in Senate Constitution Article VIII and the Academic Freedom policy. It is recommended that Copley Library reorganizations affecting faculty positions also conform to these policies.

2. May library faculty waive the right to shared governance?

No. Faculty has a right and a responsibility to participate in faculty governance as it pertains to fundamental areas such as faculty status (*Constitution*, Article VIII, section 1). In matters related to the hiring of tenure-track library faculty, the library faculty should have direct input, in accord with how this is accomplished at the College of Arts and Sciences, as well as the other schools on campus.

Recommendation Pursuant to Faculty Shared Governance Rights

Some universities have policies articulating the shared governance role of library faculty vis-à-vis library administration. No such policy appears to exist with regard to Copley Library, therefore the Ad Hoc Committee recommends that moving forward such a policy be adopted. (Appendix A is a sample of a library policy regarding such matters). USD's university-wide Library Committee, charged with recommending library policy (see *Arts and Sciences Handbook*), could be tasked with beginning that process. While we are not advocating that the exact policy provided here be adopted, a "best practices" for library governance would be a welcome addition.

We do not know whether the issue of shared governance was ever discussed with Dr. Byrd before or after she was hired as the University Librarian. If Dr. Byrd was not informed by her own experience, she should have been able to rely on the USD administration to inform her about existing university policies pertaining to faculty shared governance rights.

Transparency and the Spirit of Shared Governance

It is the committee's position that, apart from the faculty status issue, the *spirit* of shared governance was contravened in the reorganizational process. Faculty ought to have been advised at least of the general nature of the prospective reorganizational plans and should have been given the opportunity to assess the proposal for reorganization at least in terms of its broader elements; faculty should have been informed of the administration's overarching vision for restructuring the library and the administration's position on how such restructuring would accommodate university needs (e.g. to bring USD into the 21st century). In the committee's opinion, best practice would suggest not only informing Copley Library faculty of reorganizational plans, but would further include informing the university community as a whole. All members of the university community, faculty and students alike, have a vested interest in the structure and organization of Copley library. Hence the Senate, or one of its committees, or the university-wide Library Committee ought to have been advised of the general reorganizational prospectus and ought to have been permitted the opportunity to assess and influence this prospectus prior to its adoption and implementation. The committee notes that the spirit of shared governance flourishes in an atmosphere that encourages transparency of process and facilitates effective communication among all interested parties.

3. May some library faculty waive the right of others to participate in shared governance?

No. Some at Copley library maintain that there is no precedent for faculty governance. Whether that is in fact true is irrelevant, as there is USD policy regarding the issue. The **Constitution**, Article VIII - "Powers, Duties, and Responsibilities" – states in pertinent part as follows:

"[T]he faculty has primary responsibility for such fundamental areas as curriculum, subject matter and methods of instruction, research, faculty status, and those aspects of student life which relate to the educational process." [Emphasis added].

The committee believes that this statement is properly interpreted to mean that all faculty, including library faculty, have a responsibility to participate in shared governance as it relates to the issues listed. (Please note that this is in accord with **AAUP Policy**). The fact that some library faculty may choose not to participate is in no way determinative of whether faculty should, and indeed do, have the right and responsibility to so participate.

4. Were the shared governance rights of library faculty respected in the reorganization process?

No. It is the committee's opinion that USD's policies were contravened in the reorganizational process. The creation of new tenure-track positions in specifically designated areas is a faculty status matter and, as such, falls squarely within the "primary responsibility" of the faculty (Constitution, Article VIII, section 1). Faculty's judgment on this faculty status matter should have been given "primary weight" (Academic Freedom Policy 4.c.1). The administration, in reaching its decision about this faculty status matter, failed to consult the faculty and did not offer faculty any opportunity to express their judgments or to exercise their "primary responsibility." The administration's failure to submit this faculty status matter to the faculty for assessment, in our opinion, constitutes a contravention of faculty shared governance rights as articulated in the Senate Constitution, Article VIII, section 1 and in the Academic Freedom Policy 4.1, section 1.c.

The committee also discussed the extent to which faculty shared governance prerogatives intersect with personnel decisions regarding staff. There are no current library policies addressing faculty involvement in decisions specifically related to staff issues. Hence there is no current policy basis for claiming that the termination of eight Copley staff members either undermines or does not undermine faculty shared governance prerogatives. Nonetheless, the committee acknowledges ethical concerns about the treatment of Copley Library staff and shares concerns about how this treatment reflects on our university, particularly in light of USD's emphasis on human dignity and the need to treat everyone in the university community with respect.

The Committee notes with concern the reports of work study students who commented on their interviews with a member of Copley Library staff. In particular, the students voiced concern about questions they were asked relating to the reorganization. The Committee takes these

student complaints very seriously, and we applaud the Provost's commitment, as expressed in the faculty forum, to make sure that students are not exposed to treatment of this sort in the future.

Final Recommendations

The committee recommends that an outside consultant **acceptable to both the library faculty and Library and University administration** be brought in to work with the faculty librarians in developing their own faculty governance policies (i.e., building on those policies of faculty governance already set forth above). Moreover, given what seem to be deep divisions among various faculty, librarians, and staff, a mediator could be helpful in developing a common vision for Copley Library and to assist the faculty, librarians, and staff in working together in the best interest of USD.

Note: Committee Vote re: Submission of this as Final Report was 4-1

Linda Barkacs, Chair - yes

Nancy Carol Carter – yes

Carlton Floyd – no*

Lea Hubbard - yes

Linda Peterson – yes

*I am in full agreement with the "findings" of the ad hoc Library final committee report. My dissent is in reference to our "final recommendations," which are not in my view adequate responses to our findings.

Disclaimer:

The Ad Hoc Library Committee opinion is meant only to address the issue of whether library faculty have a right to participate in shared governance regarding the creation, dissolution, or reorganization of library faculty. This opinion is in no way to be interpreted as our opinion on any legal issue.

Appendix A

SAMPLE LIBRARY GOVERNANCE DOCUMENT

Faculty Governance: xxxx Memorial Library

Guided by [the] Library's *Mission, Vision, Values, and Goals*, librarians at ___ are governed by Faculty Personnel Rules based on the principles of shared governance and academic freedom and responsibility.

Librarians employed in permanent positions at ___ receive an initial appointment with an academic rank, Instructor Librarian to Librarian. The initial rank is established based upon the librarian's professional experience and the requirements of his or her particular position.

The following document outlines significant issues in library faculty governance for those with faculty rank.

... ..

Position Assignments: The dean of the library or the librarian's departmental supervisor is responsible for developing position assignments for individual librarians each semester. The semester position assignment outlines the duties and obligations of the librarian's particular position assignment as well as expectations for research and service performance. The dean or supervisor will also note specific individual assignments or responsibilities to be accomplished. Librarians are offered the opportunity to discuss these assignments with the dean before the beginning of the semester. Performance of such job assignments are the basis for both annual review and promotion.

Faculty Participation in Library Operations and Planning: The library faculty, coordinator of computer operations, and dean meet regularly to discuss library planning, to develop organizational priorities, and to discuss common issues of library operations. [The library's] *Mission, Vision, Values, and Goals* and strategic planning documents were developed by this body.

All library staff are given the opportunity to make comments and suggestions as these documents are developed or revised. Planning documents will be reviewed and revised at least annually.

Library faculty also have the opportunity to participate in budget planning through the annual USFSP budget process. Library technology planning and priorities for technology spending are developed by the *Library Systems Team*, composed of the library coordinator of computer operations and librarians assigned by the dean to this committee through their semester position assignments. Ad hoc committees or task forces may be appointed by the dean to address particular issues of library concern.

Approved . . . November 2003

November 28, 2011

TO: Executive Committee, University Senate
University of San Diego

FROM: Ad Hoc Library Committee
Linda Barkacs, Chair
Nancy Carol Carter
Carlton Floyd
Lea Hubbard
Linda Peterson

RE: Supplemental Report of the Ad Hoc Library Committee

This supplemental report of the Ad Hoc Library Committee contains proposed recommendations offered for adoption and action by the University Senate.

Preliminary Statement

The Ad Hoc Library Committee has carefully considered the new questions presented and its supplemental report follows. In light of the unanimous acceptance of our original report by the Senate we were surprised to receive this secondary charge. We stated our conclusions unambiguously. Procedurally, we expected those reaching a different conclusion to present their arguments to the Senate. Nevertheless, we have accepted the new charge.

On October 28, 2011, all Ad Hoc Library Committee members and Executive Committee members received an email from Mike Kelly identifying a previously anonymous source (Tom Herrinton) who agreed with our report but stated that he believed we were working from a different set of facts than what he believed to be true. The Executive Committee then voted to return this supplemental charge to the Ad Hoc Library Committee. We will individually address each of the questions set forth in Mike Kelly's email.

1. ***Did the committee consider this view of the facts?*** (i.e., that the Copley Library reorganization was fundamentally an administrative reorganization and that deciding that the positions should carry faculty rank involved determining the credentials needed to perform the administrative tasks involved in the position). In short, did the Ad Hoc Library Committee consider the view that the reorganization was solely administrative therefore not requiring any faculty governance?

Yes. Upon reflection and review of our prior report, we confirm that we did address this issue.

2. ***If so, on what basis did the committee reject this view? If not, would you like to address this view of the transaction before the Senate takes further action?***

The Ad Hoc Library Committee did reject, and continues to reject, this view. However, in the event that was not clear, we will both reiterate and elaborate our position on this issue before the Senate takes further action.

TO REITERATE: see the Ad Hoc Library Committee Reported dated October 22, 2011 (“Report”), page 2, last paragraph:

When a campus academic reorganization involves the creation or dissolution of tenure-track faculty lines, faculty should be given both notice and a voice in how such reorganization unfolds. This conforms to faculty shared governance rights as articulated in Senate Constitution Article VIII and the Academic Freedom policy. It is recommended that Copley Library reorganizations affecting faculty positions also conform to these policies [Emphasis added].

See also Report, page 3, first page, last sentence:

In matters related to the hiring of tenure-track library faculty, the library faculty should have direct input, in accord with how this is accomplished at the College of Arts and Sciences, as well as the other schools on campus.

Two new tenure-track faculty lines were created.

As noted in our prior Report (as set forth in *Senate Constitution Article VIII* and *Academic Freedom Policy*), faculty shall have primary responsibility for faculty status and faculty judgment regarding such matters should have primary weight.

TO ELABORATE: The Ad Hoc Library Committee did not object to the creation of new administrative positions. The objection, based on faculty shared governance rights, was to the creation of new faculty lines without faculty consult. The fact that these new faculty lines were created for specific purposes – i.e., the accommodation of certain administrative needs – is irrelevant to the fact that new tenure-track faculty lines were created without faculty consult. Exactly the same objection could be raised relative to any administrative decision to create new faculty lines for administratively pre-established purposes without faculty input. If administrative prerogative can justify creation of new faculty lines for purely administrative purposes, or for academic purposes, or for any other purposes without faculty consultation, then the administration would, in effect, have the power to modify the character and quality of the faculty significantly with no faculty input and oversight whatsoever. This is contrary to the faculty’s right, as specified in the Senate Constitution Article VIII and the Academic Freedom Policy, to have primary responsibility for faculty status. The point at issue here is extremely important to the integrity of shared governance at USD. Can the administration act on its own, ignore the importance of faculty voice and make decisions that shape the quality and character of the university faculty? The answer, from the point of view of shared governance interests and the Ad Hoc Library Committee, is no.

Moreover, no one has provided any documentation or evidence whatsoever to justify treating Copley Library faculty differently from other USD faculty. Differential treatment of Copley Library faculty is not called for in the Senate's Constitution. Differential treatment of Copley Library faculty is not called for in USD's Personnel Policies for Faculty. Nothing has been presented to the committee to document the argument that Copley Library faculty should be treated differently from other USD faculty.

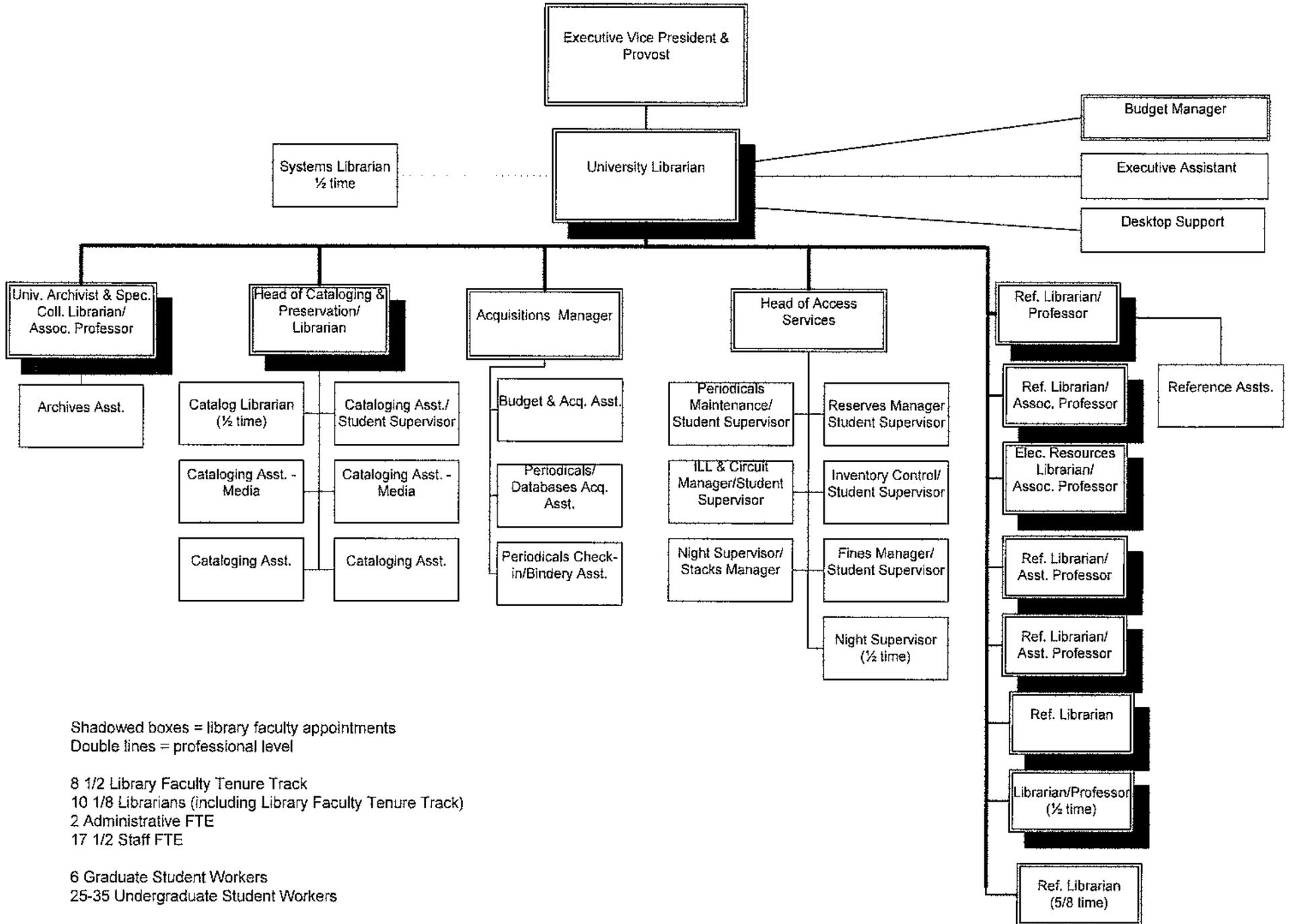
The Association of College and Research Libraries (ACRL) issued a "Joint Statement on Faculty Status of College and University Librarians" (see highlighted attachment). What does the ACRL have to say about best practices in an academic community for librarians?

Faculty status entails for librarians the same rights and responsibilities as for other members of the faculty. They should have corresponding entitlement to rank, promotion, tenure, compensation, leaves, and research funds. **They must go through the same process of evaluation and meet the same standards as other faculty members .** . . With respect to library governance, it is to be presumed that the governing board, the administrative officers, the library faculty, and representatives of the general faculty, will share in the determination of library policies that affect the general interests of the institution and its educational program [Emphasis added].

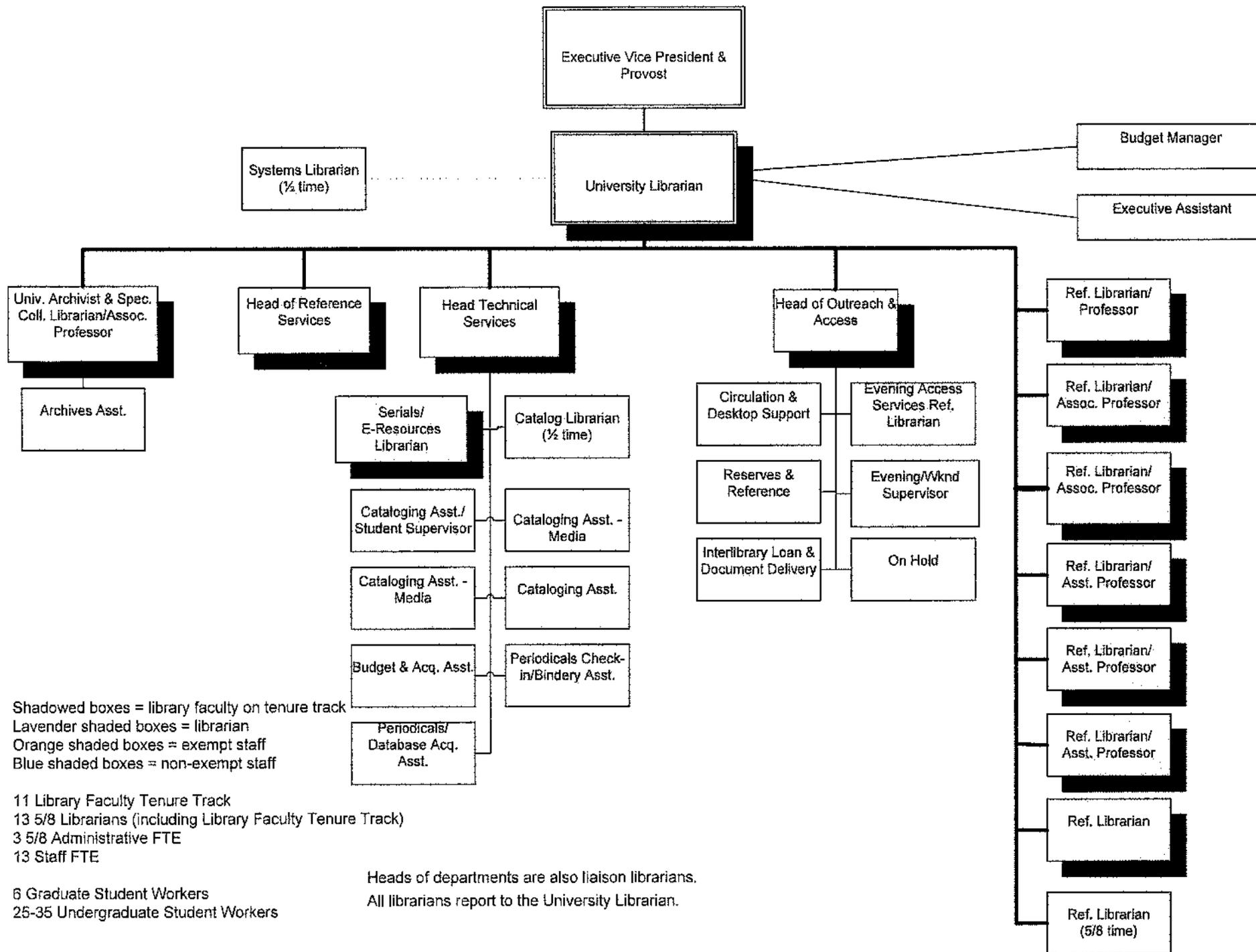
Library faculty are to be treated like "other faculty members." That means that they are entitled to participate in faculty governance.

Recommendations to the Senate: Pursuant to the Senate Constitution, Article VIII, section 2, the Senate may forward a decision or recommendation to the President who shall reply within a period of thirty days. The Ad Hoc Library Committee recommends that the Senate forward the Report and Supplemental Report to the President.

Copley Library Organizational Chart



Copley Library Organizational Chart



Appendix 6

SECTION
HUMAN RESOURCES
CHAPTER
EMPLOYEE RELATIONS
SUBJECT
SEPARATION

NO. 2.6.7
DATE ISSUED 07/03 DATE REVISED P.A.C. 2/99
PAGE 1 OF 3

SCOPE

The following policy applies to administrative and staff employees.

POLICY ON SEPARATION

Separation from employment with the University may occur at the initiative of the University (discharge) or at the initiative of the employee (resignation).

IMPLEMENTATION

1. Supervisors' and Employees' Responsibilities.
 - A. Supervisors must consult Human Resources before making a decision concerning the discharge of any employee, or concerning re-employment of an employee previously discharged by the University. The employee's supervisor must ensure that Human Resources receive adequate notice of the employee's separation, noting the reasons for the separation on the Departmental Action Form. California Law requires an employer to pay an employee all wages due on the date of an involuntary separation therefore Human Resources will need adequate time to prepare the employee's last paycheck. Human Resources will conduct an exit interview with all separating employees.
 - B. Employees separating from the University will return all University property, including keys, clothing and identification cards; and will settle any outstanding University accounts, such as library fines or salary advances.
2. Separation Procedures.
 - A. Resignation. Resignation is voluntary separation by the employee from the University. Employees who are absent for three consecutive working days without notifying their department will be considered to have resigned.

Employees who wish to voluntarily separate from the University should notify their supervisor in writing. The letter of resignation should be signed by the employee and should include the reason for the resignation. Whenever

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possible, the letter of resignation should be submitted to the supervisor at least two weeks in advance of the date employment is to terminate.

- B. Discharge of Temporary Employees. Employment will terminate automatically at the end of the period for which a temporary employee was hired, unless the appointment is formally extended. Temporary employees may be discharged at any time due to lack of funds, lack of work, misconduct, or unsatisfactory performance.
- C. Discharge of Probationary Staff Employees. Probationary staff employees may be discharged at any time during or at the end of probation. The supervisor/manager should counsel employees during this probationary period if their performance does not meet the standards of the position.
- D. Discharge of Regular Staff Employees. Regular staff employees may be discharged due to lack of funds or lack of work, misconduct or poor performance. Normally such discharge for misconduct or poor performance is preceded by corrective action, including at least one written warning, indicating their employment is in jeopardy, unless misconduct or unsatisfactory performance is so serious as to warrant immediate dismissal or the employee is absent from work without approval for three consecutive working days. Written notice will be given to the employee stating the reason for the discharge and its effective date.
- E. Discharge of Administrative Employees. Continued employment of Administrative employees is based on satisfactory performance of job responsibilities. If an Administrative employee's performance is not meeting the performance standards of the position, it is the responsibility of the manager to issue a written warning including corrective actions required in a reasonable time period. If the employee's lack of performance is not corrected, the manager may recommend termination. The University will give notice and explanation at the time employment is terminated.
- F. Medical Separation. The University may medically separate an employee who is unable to perform his or her job duties due to medical reasons. The separation will occur only after the recommendation of an appropriate medical authority. The employee will receive a letter stating the reasons for the medical separation. Employees medically separated are eligible for re-employment with the University.

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3. Notice of Discharge. When temporary employees are discharged, written notice is not required. When non-temporary employees are discharged, the University will give notice in writing. When two weeks written notice is not required, supervisors will make good-faith efforts to give the employee as much advance notice as is feasible.

A. Written Notice. Written notice, when required, must be given two weeks before the effective date of separation, with the following exceptions: (1) Discharge during the probationary period, and (2) Discharge of any employee for reasons which in the judgment of the University is such that the employee should not remain on the premises (see "Corrective Action" above).

B. Pay in Lieu of Notice. At the discretion of the appropriate Vice President, and with the concurrence of the Director of Human Resources, discharged regular employees may receive two weeks pay in lieu of notice. Pay in lieu of notice will not be given in cases of serious misconduct.

4. Final Paychecks. Human Resources will issue a final paycheck, including any accrued vacation pay, according to the following schedule:

For employees who are discharged, on the last day of work;

For employees who are laid off, on the last day of work, or within 24 hours of the last day of work;

For employees who resign, on the last day of work, or within 72 hours of the last day of work.

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SCOPE

The following policy applies to administrative and staff employees.

LAYOFF AND REHIRE POLICY

Lack of funds, lack of work, organizational changes or other circumstances reflecting no discredit on the employee's performance may necessitate reduction of time worked or elimination of a position.

IMPLEMENTATION

The supervisor or department head, after reviewing the proposed action with the Director of Human Resources, will determine when temporary or indefinite layoffs are necessary. Written notice of layoff will be given to employees two weeks in advance whenever possible.

A. Layoff Order. Regular employees will be given preference for continued employment over probationary and temporary employees. The following criteria will be used in order of priority listed below in determining the order in which regular employees will be laid off: (1) importance of the employee's job function to the department, (2) the quality of the employee's job performance, and (3) the length of the employee's service to the University.

B. Rehire. The University will endeavor to rehire employees who have been laid off whenever openings exist, either in the employee's original department or elsewhere in the University. If a staff employee who has been laid off is rehired by the University within one year, sick leave accrued before layoff will be carried forward. Employees should consult Human Resources concerning possible continuation of other benefits. It is the responsibility of the employee to maintain contact with Human Resources concerning possible opportunities for re-employment.

Appendix 7 – Letter from student workers to Dr. Byrd (July 18, 2011)

Dear Dr. Byrd,

We, the student employees of Copley Library, are writing to bring your attention to an issue that occurred earlier this month. On Wednesday, July 6, 2011, eight employees—Bill Hall, Larry Tift, Christopher Roper, Doug Gilbert, Doug Stalb, Jordan Kobayashi, Cliff Jones, and Alex Moran—in the Access Services division of the library were laid off in succession without warning.

We acknowledge that as student employees we do not have all of the information regarding this series of layoffs. In fact, we as employees were never briefed on the situation even after it occurred. We were left in the dark as to what had happened and why, something that even as student employees of the library, we believe is important for us to know. However, we would still like to bring forth our concerns and explain the situation from our point of view.

While we definitely encourage the library to move forward and embrace the changes that are necessary, we fail to see how this incident was helpful or progressive. Instead it was demoralizing and counterproductive. Not only did it leave the library severely handicapped in terms of staff, we believe the issue was handled poorly and disrespectfully, given the staff's outstanding contribution to the university and mentorship to us as individuals. To see people who had served the university, hired us, and been fair and respectful supervisors treated as such was shocking and upsetting. These are people who have contributed invaluable to this institution for many years—one, Bill Hall, for over 35 years—and particularly to us as the students working for them. We cannot express how much we respect these individuals and how upsetting the whole incident was to witness. We believe that regardless of the direction the library will be taken in the coming years, this situation could have been handled far more tactfully, professionally, and productively. We all expected more from our place of employment at this distinguished institution with guiding core values. The way the process was handled was in complete contradiction of the values the university espouses. Additionally, the example of management that is being set for students about to leave the university and work in the real world is poor at best.

Furthermore, in our opinion, the layoffs were not only entirely disrespectful to the employees of Access Services, but also poorly planned and managed. First off, we were left for the day without supervisors. At one point, for several hours, a student was left alone at the front desk, ill-equipped to single-handedly deal with the issues that arrived and the patrons' inquiries which student employees neither have the knowledge nor authorization to handle (i.e. interlibrary loans, fines, access to the video media, IT issues, and the like). These people who were laid off are integral parts of the library's day to day functions and as of now there is no sustainable or satisfactory system in place to deal with their absence. It has been over a week since their dismissal and we still have to explain to patrons that certain issues are out of our hands as the remaining staff of the library scrambles to learn jobs that are not theirs with little guidance. We have even had to turn

away patrons seeking help with reserves or interlibrary loans. A large void has been created, which we have had trouble explaining to patrons seeking the library's services; further, we have been given no direction as to how to handle these unique situations or to whom to direct inquiries regarding the layoffs or the absence of key access services staff.

We are disappointed in the way this was handled and certainly do not see how this is in line with, "preparing leaders dedicated to ethical conduct and compassionate service."

Sincerely,

The student employees of Copley Library

[Thirteen work-study students signed this letter.]