

MINUTES OF THE REGULAR MEETING

of the

BOARD OF REGENTS OF THE UNIVERSITY OF WISCONSIN SYSTEM

Held in Ullsvik Hall  
Harry & Laura Nohr Gallery  
UW-Platteville  
Platteville, Wisconsin

Friday, April 8, 2011  
9:00 a.m.

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## **UW-La Crosse College of Business Administration Graduates Excel on Nationwide Test**

The graduating seniors in the UW-La Crosse College of Business Administration scored higher than 90 percent of students nationwide on a test measuring students' subject knowledge in business. Seniors graduating in May 2010 took the Education Testing Service Major Field Test for the Bachelor's Degree in Business last spring. The test compared students from about 600 business schools across the nation. The results were showed that UW-La Crosse students were well prepared and nationally competitive. Students' highest scores were in economics, finance, information systems, international issues, and quantitative business analysis. President Reilly congratulated Chancellor Joe Gow and the UW-La Crosse campus.

## **UW-Oshkosh Integrated Marketing and Communications Team Develops UW-Oshkosh Mobile App**

President Reilly reported that UW-Oshkosh's mobile app, the first in the System to become available for multiple platforms, including the Android market and iPhones, is now available for download. The free app, developed in-house by the university's Integrated Marketing and Communications team, provides news feeds from UW Oshkosh Today, the campus's news source, and the student newspaper, The Advance Titan. It also provides access to UW-Oshkosh's YouTube channel videos and Twitter feed, and makes it easy to find events, people, and other campus information, from building plans to emergency resources.

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## **HISTORY OF ACADEMIC FREEDOM IN THE UW SYSTEM**

President Pruitt introduced the topic of the history of academic freedom in the UW System, saying that the topic had gained attention in recent weeks due to a public-records request for certain emails in the email account of Professor Bill Cronon. President Pruitt called upon Regent Loftus to lead the discussion.

Regent Loftus referred Regents to a document in their packets related to the history of academic freedom in the UW System and, specifically, Board actions related to academic freedom. He thanked Tom Stafford and Erin Kastberg from the Office of General Counsel, Jane Radue and Jessica Lathrop from the Board of Regents Office, and Rebecca Karoff of the Office of Academic Affairs for their research and guidance in preparing the document. He said that this was a significant task to tease the information out of 100 years' worth of minutes.

Regent Loftus thanked Regent Crain, chair of the Education Committee, for allowing the topic of academic freedom to be discussed in the Education Committee the day before, when Professor Bill Cronon happened to be in attendance at the meeting. Regent Loftus asked Regent Crain to summarize the discussion in that committee. She explained that Professor Cronon was present because included among the academic programs on the committee's consent agenda was the undergraduate major in Environmental Studies, a program developed by Professor Cronon. Coincidentally, on the Education Committee's agenda were amendments to UW-Madison's

faculty personnel rules, including a new section on academic freedom. That new section was added a year ago by the Madison Faculty Senate and only by coincidence was it on the April agenda.

Because Professor Cronon was present, the committee asked him to address the committee briefly. He characterized academic freedom as a foundational principle of American Higher Education, with a particularly significant history in Wisconsin through the case of Professor Ely, which set the standard nationally.

He also spoke of his particular case, which exemplified the need to balance two competing public goods, that of open government, as demonstrated by the Freedom of Information Act, and that of academic freedom. He pointed out the tension between these two public goods, each of which held its own special place in the American public sphere. Professor Cronon concluded that upon study of the Freedom of Information Act, there was nothing in the law to safeguard academic freedom. He suggested that the UW System think carefully about this fact, because his situation could produce a chilling effect on him and other academics with respect to their freedom to pursue unfettered scholarly inquiry, in the classroom and beyond. Regent Crain remarked that it was a useful discussion for the Education Committee to have had.

Regent Loftus, thanking Regent Crain, said that not only do the actions of the Board of Regents count, but the words in the Board's minutes count very much. Much of what is thought of as academic freedom is based on words by chancellors or presidents, reflected in the Board's minutes over time. By accepting the prepared document and putting it in the record, the Board is saying that a threat to academic freedom on one campus is a threat on any campus; the document summarizing the history of academic freedom is a document for the University of Wisconsin System. He reflected on the giants in the arena of academic freedom. Statements made in the past have often been during troubling times in American history. The Regents have come to the fore, regardless of which governor appointed them, or in which area of the state they resided. While it is not possible to be more eloquent than those who came before, Regent Loftus said that it is important to reaffirm in the present era that academic freedom is paramount in the University of Wisconsin System. The issue is now arising in the digital age. He asked Regents who would like to make a statement to do so, to contribute to the record.

Regent Loftus highlighted point #5 in a letter from Senior University Legal Counsel John Dowling to the requestor of Professor Cronon's emails, and asked that the Regents recognize that records determined to be "intellectual communication among scholars" were not provided in response to the public-records request. In explaining why such intellectual communication was withheld, Mr. Dowling's letter to the requester stated, "Faculty members like Professor Cronon often use e-mail to develop and share their thoughts with one another. The confidentiality of such discussions is vital to scholarship and to the mission of this university. Faculty members must be afforded privacy in these exchanges in order to pursue knowledge and develop lines of argument without fear of reprisal for controversial findings and without the premature disclosure of those ideas. The consequence for our state of making such communications public will be the loss of the most talented and creative faculty who will choose to leave for universities that can guarantee them the privacy and confidentiality that is necessary in academia. For these reasons, we have concluded that the public interest in intellectual communications among scholars as

reflected in Professor Cronon's e-mails is outweighed by other public interests favoring protection of such communications."

Regent Loftus asked that the Board's discussion of academic freedom at its April 2011 meeting become part of the historical record, with the notation that email, a type of communication that earlier did not exist, was now being addressed. Noting that in a July 1962 statement by then-University Vice President Fred Harrington, Mr. Harrington described UW-Madison as the people's university, Regent Loftus completed his remarks, and the floor was opened for Regent discussion.

Regent Bradley remarked that reaffirming academic freedom was one of the most important things that the Board of Regents could do. In the digital age, there is a lot of information available, but almost all of it is somebody's "spin." The result is that universities become the last place where fact-based analysis is available. The right of people to analyze the facts must be respected and not penalized. Regent Bradley applauded Regent Loftus and all others who worked on the academic freedom issue.

Regent Drew thanked Secretary Radue for the quick-turnaround "term paper" on academic freedom and said it was an outstanding document. He praised the response from Legal Counsel Dowling to the public-records request, commenting that the request was "dubious," and saying that the UW-Madison response only enhanced the reputation of the University of Wisconsin System as a bastion of academic freedom.

Senior Vice President Rebecca Martin, on behalf of the faculty of the University of Wisconsin System, thanked Regent Loftus for bringing this important issue to the table and thanked the Regents for the important conversation. It is not possible to overstate the chilling effect felt by faculty on all UW campuses or the importance of academic freedom to the UW System's mission.

Regent Vice President Spector expressed the view that the public-records law is a good thing and should be followed wherever possible. At the same time, the intimidation aspect of the present records request is one that cannot be ignored; Professor Cronon had mentioned his worry about using email at all, and this is not good. Vice President Spector suggested that an opportunity for good legislation has presented itself, and legislators could review the public records law and consider adding another exception, to recognize a situation that could not have been envisioned when the law was passed. For its part, the Board must recognize how important this issue is to faculty and the UW institutions.

Regent Vásquez said that he enjoyed reading Attorney Dowling's response to the records request; the response reflected good, logical thinking. Regent Vásquez suggested that the response letter not simply be filed, but that it be used, and perhaps that it become a guiding document for the Board.

Regent Crain remarked that, while it may be self-evident, it is important to note that the public-records and academic-freedom issue is an issue because the University of Wisconsin is a public institution. A private institution would not have this issue.

President Reilly thanked Regent Loftus for bringing the issue to the table. He said that part of what is at issue is an institution's identity as a public university in the digital age. Budgets for the university demonstrate that the UW is becoming more private. Laws related to making information public relate to the university's efforts to turn information into knowledge that will benefit future generations. He said that a university can indeed be a public university in the 21<sup>st</sup> century, but this is only true if a Board like the current Board of Regents is willing to stand up and affirm the importance of academic freedom.

Chancellor Wells also thanked Regent Loftus. He said that academic freedom, exercised responsibly, is the cornerstone of everything the university does. The single greatest threat to academic freedom is the rise of incivility on and off campus, particularly in the classroom. Recalling the systemwide civility workshop held at UW-Oshkosh, Chancellor Wells said that it is important to continue to discuss civility issues, and possibly to invite author P.M. Forney, the guru of civility in the country, to return to speak further about these issues.

President Pruitt added his thanks to Regent Loftus, saying that he had thought in recent months about how the university stands on the shoulders of its predecessors. In closing the discussion, he quoted from 1994 Board of Regents Resolution 6787, which called upon the academic community "to guard this precious legacy, to consider differing points of view, and always to engage in 'that continual and fearless sifting and winnowing by which alone the truth can be found'."

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## **UW SYSTEM ACCOUNTABILITY REPORT, "INVESTING IN WISCONSIN'S FUTURE"**

President Pruitt introduced the discussion of the latest UW System Accountability Report, "Investing in Wisconsin's Future." The report represents the UW's commitment to providing its stakeholders with a detailed assessment of the university's performance. It is important not only to the UW institutions, but also to the university's many diverse stakeholders, from students and their families, to legislators, to taxpayers who have an investment in the UW System. This report helps to demonstrate that the UW is delivering on their investments and expectations. President Pruitt said that Heather Kim, Associate Vice President in UW System's Office of Policy Analysis & Research, would lead the presentation, following brief remarks by President Reilly.

President Reilly reminded Regents that this year marks the 17th annual publication of the accountability report. UW System's journey in accountability reporting started back in 1993, when the System was the first statewide system of higher education to publish an annual accountability report, focused on consistent measures of access, degree completion, professional preparation, and stewardship of resources. Two years ago, this report underwent a major revision of format. It was revamped to reflect the UW System's Strategic Framework and the goals of the *Growth Agenda for Wisconsin*. The title of the report, "Investing in Wisconsin's Future," captures how the UW's strategic priorities aim to benefit the people of Wisconsin.