UNIVERSITY OF CALIFORNIA   **ACADEMIC SENATE**

UNIVERSITY COMMITTEE ON AFFIRMATIVE ACTION, DIVERSITY, AND EQUITY

Thursday, April 13, 2017

Members attending or participating remotely	Amani Nuru-Jeter (Chair, UCB), Tanya Golash-Boza (Vice Chair, UCM), Lok Siu (UCB), Bruce Haynes (UCD, via phone), Rufus Edwards (UCI), Catia Sternini (UCLA), Manuela Martins-Green (UCR, via phone), Rommie Amaro (UCSD, via phone), Linda Centore (Sub, UCSF), Elisabeth Gwinn (UCSB), Miriam Greenberg (UCSC), Sophia Armen (graduate student rep, UCSD), Jim Chalfant (Academic Council Chair, UCD), Shane White (Academic Council Vice Chair, UCLA)
Members absent	Clarissa Nobile (UCM)
Consultants, guests, and staff	Christopher Elmendorf (UCAF Vice Chair, UC Davis Law Professor, via phone), Julia Friedlander (Deputy General Counsel, OGC), Jerlena Griffin-Desta (Executive Director, Student Services, UCOP), Yvette Gullatt (Vice Provost for Diversity and Engagement), Liz Halimah (Associate Vice Provost for Diversity and Engagement, UCOP), Amy K. Lee (Diversity, Labor and Employee Relations Director), Lori Lubin (UCFW Chair, Professor, UC Davis, via phone), Ralph Washington, Jr. (President, UC Student Association), Elisabeth Yap (Senior Counsel, OGC), Joanne Miller (Committee Analyst)

Meeting Minutes

1. Chair's announcements, agenda review

Introduction to the meeting: Chair Amani Nuru-Jeter described the purpose of the special meeting, which was designed to delve deeper into two issues from the last UCAADE meeting in February: 1) university and campus policies and principles around free speech, campus speakers, and protesters and 2) realistic, concrete ways to improve faculty diversity that will help inform the committee's meeting with President Napolitano on May 11.

February meeting minutes: With minor changes to be submitted by committee members, the meeting minutes of Feb. 2, 2017 were approved.

2. Free speech vs. unacceptable hate speech

Guests for the first topic included representatives from the Office of General Counsel, Systemwide Student Affairs, the Office of Diversity & Engagement, and Student Government.

Graduate student representative Sophia Armen began the discussion by describing the need for students and others in the university community to understand their legal limits and rights. She said that the university has a duty to inform and protect its most vulnerable constituents.

Executive Director for Student Services Jerlena Griffin-Desta provided opening remarks on behalf of the guests, noting that the university values not only free speech, but discussions about free speech. Free speech is included in considerations of Academic Freedom. Director Griffin-Desta quoted former UC Berkeley Chancellor Clark Kerr, who lifted a ban on campus speakers: "The University is not engaged in making ideas safe for students. It is engaged in making students safe for ideas."

The discussion covered many areas:

Hate Speech/free speech
Hate speech is part of free speech. Incitement to violence, "fighting words" and harassment are prosecutable, but there is a high bar. Committee members learned that, in general, speakers cannot be banned for prior speech. Most verbal harassment of students by outside agitators is protected under the first amendment, and verbal insults usually have to be coupled with conduct to fall outside of the protection. The distinction between speech and certain types of conduct is an issue that law school classes spend weeks debating.

Davis law professor Chris Elmendorf (Vice Chair of UCAF) said that the University Committee on Academic Freedom discussed whether a professor making ongoing offensive jokes in the classroom would be protected under free speech. That is a different situation from an outside speaker making similar comments.

Committee members asked about freedom of speech of protesters. Sometimes protesters are outside agitators, such as in the case of Milo Yiannopoulos at UC Berkeley. The violent response of the outside agitators seemed to reflect poorly on the university, which was trying to support the rights of peaceful protesters. UC might look to other campuses, universities, and institutions for best practices and successful tactics. Several years ago, when a controversial speaker came to Stanford University, the school's newspaper ran a full page protest opposite to the page from the speaker. Other tactics include holding alternative events at the same time. "More speech" is a frequent response to hate speech.

UC Principles of Community, Policies, and Responses
After a couple of controversial protests a few years ago, the university conducted a review of existing policies and procedures regarding the responses to demonstrations and civil disobedience. The review focused on identifying best practices for the University's response to demonstrations and protest management. The resulting "Robinson-Edley Report" (http://campusprotestreport.universityofcalifornia.edu/) included recommendations for how to effectively respond to future protests by addressing roles and responsibilities, policies, organization and structure, and training.

Members of the university who are involved in these issues, including UCPD, OGC, Student Affairs, and the Chief Diversity Officers, have scheduled a retreat to focus on coordinated guidance. At a recent diversity retreat the CDOs discussed the rapidly changing political and cultural environment, including the rise of the "hard-right" and "hard-left," among others, that make for a more challenging atmosphere. The CDOs have been working on responses to the federal administration's immigration ban as well as creating campus guidelines and workflows for responding to various political situations and disturbances.

The UC Principles of Community (http://ucnet.universityofcalifornia.edu/working-at-uc/our-values/principles-of-community.html) were created by campus climate response teams composed of

students, faculty, and staff that were convened a few years ago. The principles are not policy. Speech that conflicts with the principles is not "sanctionable" unless it rises to the level of "severe and pervasive" and violates university policies on discrimination or sexual harassment. It is very rare for a single incident to rise to the level of "severe and pervasive."

Legal Resources for Students
Students have resources for information and assistance on campus, but they might not know what is available. Controversial speakers approach student groups who may not know how to refuse them. Graduate student Armen said that speakers who harass and insult groups of students have demanded to be sponsored, threatening lawsuits. Students need to know how to respond in the moment and feel enabled to make decisions without fear of retaliation. Perhaps the university could invest some resources in providing training to student leaders that includes legal rights and cultural competency. Can UCAADE help empower students to make decisions?

Deputy General Counsel Friedlander noted that although students are not technically the clients of university counsel, they are entitled to the use of UC's legal resources when they are participating in student government and making decisions about the use of student funds.

Executive Director Griffin-Desta noted that the university recognizes the balance of student agency and independence with reliance on university help. There has been a shift in the past few years as students see themselves more as part of the university. But, there are also student groups that want to agitate. The moment when the university's principles are being tested can be used to initiate a conversation with the parties. Student groups may be asked about their goals and rationale for engaging in activities that are antithetical to the university's principles of community. Groups may be asked to consider costs to the university, level of disruption, and potential consequences given past events. Campuses have various ways that that they may or may not interfere with student activities. Director Griffin-Desta referred to the Policy on Compulsory Campus-Based Student Fees (part of the Policies Applying to Campus Activities, Organizations and Students) (http://policy.ucop.edu/doc/2710528/PACAOS-80 - specifically section 86.30).

Some student groups separate themselves from university funding by forming registered non-profits. They are thus able to fundraise in different ways, and to get around university funding restrictions. Friedlander said that the Office of General Counsel is looking at the issue, and that there are analogous questions around Proposition 209 restrictions.

Workplace rules and hostile work environment
Committee members brought up the problem of outside speakers contributing to a hostile work environment. Talking about campus climate might be more effective than invoking "free speech" in dealing with hostility of outside speakers. Many members of the university community would appreciate further guidance from the top levels of campus administration in dealing with these hot-button situations.

Although the response to hate speech may be more speech, some speech and ideas are more powerful than others. Some meeting participants felt that campus leadership subtly indicates its tacit endorsement by allowing hateful messages to be supported by campus resources. University leaders can make a difference by taking a position and showing clear and proactive support for the principles of community. In addition to top-down influence there has to be an accompanying "bottom-up" or grass-roots effort for increasing awareness and sensitivity to cultural diversity issues.

Outcomes and actions
UCSB's Committee on Diversity and Equity has suggested that the conversation be broadened from the focus on controversial speakers and free speech to larger social justice issues. UCSB proposes that UC sponsor universitywide forums on social justice. Faculty, students, and administrators could work together to find the appropriate experts and format (such as webasts, podcasts, panel discussions, etc). Recent university response to the undocumented immigrant situation might provide a good model for coordinated action, with the climate response team on each campus – composed of faculty, staff, and students – as the locus for action.

What can UCAADE, as an advisory faculty committee, do that would be helpful? Chair Amani Nuru-Jeter proposed developing four or five high-level suggestions that could be brought to campus leadership and Academic Council. With faculty members from every campus, UCAADE is well positioned to advocate for and effect change, and the current national climate may provide the right environment for action.

Action: Develop four or five high-level suggestions based on issues discussed. These include:
- Student and faculty understanding rights around funding for student groups.
- How to be proactive regarding controversial speakers, starting at the point where they approach student groups.
- What does it mean in terms of equity and inclusion that the Principles of Community unenforceable?
- How to get faculty and students involved in creating a more inclusive process.

Increasing coordination and communication with student groups, faculty and administration. How to become more proactive instead of reactive.: Request that OCG create a "Know Your Rights" guide for students on free speech around invitations to outside speakers. The guide could also include information on funding for speakers and student group liability. OGC could look at governing principles for student groups and ask representative graduate students to come up with questions.

3. **Improving faculty diversity and campus climate**
   [Find ways to improve campus faculty diversity and address climate issues. Discuss how to make faculty diversity a UC priority with associated resources committed to it. Prepare concerns into a format to bring to the May 11th meeting with President Napolitano.]

After introductions, committee members and guests discussed the various diversity initiatives that are underway. Campus Diversity Officers on each campus have been identifying practices, collecting data, and attempting to determine which activities are most effective. All campuses have some diversity programs that have led to positive outcomes. Academic Personnel has created a new website to support UCAADE's work that compiles the array of programs, services, and initiatives in the UC system into one location: http://ucop.edu/faculty-diversity/.

Vice Provost Gullatt touched briefly on systemwide efforts such as UC Recruit (collecting data about hiring) and the exit survey pilot. With $2 million in one-time fund from the state legislature this year, there are now three new efforts to increase faculty diversity at the departmental level. The experimental programs are at the Bourns College of Engineering at UC Riverside, Jacobs School of Engineering at UC San Diego, and the College of Agricultural and Environmental Science at Davis. Efforts include focusing on using candidate diversity statements, targeted outreach to minority applicants, inviting candidates for an additional year of post-doc study, and additional incentives. A small amount of funding was provided

to comparator departments as well. The state funding is only for one year, so immediate results are important. Preliminary data has already being collected, and a report will be provided to the legislature in the fall.

The NIH has approached UC about post-doc training to help retain and hire post-docs into faculty positions. The NIH has a new partnership with non-Research 1 universities (called "BUILD") for which UCLA is serving as an evaluator, and is interested in the scalability of the UC-HBCU relationship and President's Postdoctoral Fellowship Program (PPFP).

EVCs and Provosts convened recently to discuss their commitment to helping diversify the university. All are motivated to do more, including leadership development and reviewing the effectiveness of incentives now employed. The discussion will become an annual event, with CDOs and academic personnel staff included as well. Meeting participants noted that the aftermath of this inaugural meeting may be an opportune time to approach campus leadership about expanding diversity efforts.

Committee members discussed the need for more accountability around recruitment and hiring, including data, interim reports, and final reports. Committee members also noted that support has to come from all levels – not just from the administration and deans, but also from faculty making the hiring decisions. UCOP can help by offering real incentives to campuses to provide opportunities that make a difference. Funding can be offered as a reward for those units/campuses that have done well. While resources across the university are scarce, Regent John A. Pérez noted during his recent visit to the Academic Council that he was open to supporting a budget that requested funding for diversity. Several people noted that diversity is not going to be solved with one-for-one replacement of retiring faculty. Other mechanisms must be found.

Committee members had questions around the consequences of Prop. 209, and whether the university is allowed to say that diversity is a criteria in hiring. The group was informed that it is allowable to request a statement on contributions to diversity and include as a factor in hiring. The university is concerned about providing equal opportunity. If UCAADE has a proposal or recommendations, it should be presented in context of equal opportunity.

Programs such as the President's Postdoctoral Fellowship Program (PPFP) help to bring a more diverse group of potential high-quality faculty hires to the university. PPFP also provides an incentive for applicants by indicating that they will get fair consideration. Suggestions have been made for the Academic Senate to more closely examine the program to ensure that the goals for diversity are being met in the most effective and efficient way. Requests for statements on contributions to diversity also send a message to applicants. On the other hand, some campuses have expressed concerns that these statements would disadvantage those in particular fields in entry level positions that have not had opportunities to contribute to diversity. UCSC's compromise was to make the statements optional for new hires. At UC Merced, many feel that professors need to have diversity experience order to successfully work with Merced's diverse student population.

The committee discussed whether the Academic Senate could create a mandate to increase faculty diversity, or if it would be more effective if UCAADE makes a proposal. The most effective method might be if UCAADE created recommendations that were actively supported by the highest levels of the administration. Apparently President Napolitano asks each campus about diversity during their annual budget conferences. UCAADE could suggest what she should ask.

Suggestions included rewarding for meeting diversity goals ahead of time. Affirmative action goals differ by discipline and departments are expected to use comparisons to an availability pool. As part of this year's diversity initiatives, the university is collecting data about the effectiveness of requiring a consistent percentage of women or under-represented minorities on search committees. One of the projects requires search committee chairs to fill out a survey before the search is considered complete. Cluster hires can sometimes work well within departments or schools because they create a cohort and can help with climate issues, but the tactic can also backfire when overused. In addition, mandates on hiring may be seen as too much interference in academic planning.

For President Napolitano:
- Affirm that campus community deserves to operate in an environment free from intimidation & harassment.
- Ask for what UCOP is best positioned to do, such as resources for the ideas generated by committee members (on the group's Google doc). Most ideas for improving faculty diversity are dependent on resources: Presidential endowed chairs, incentives for departments such as subsidizing a second hire, more funding for PPFP, rewards for departments who meet diversity goals ahead of time, or additional start-up funds.
- Ask the President to make a statement about the composition of committees or other non-financial practices meant to increase diversity. (May be premature – data is currently being collected.) Ask her to be specific with the Chancellors about the university's goals for diversity.

The President can help with inspiring intrinsic motivation of the faculty to work toward diversity by articulating institutional priorities. A step in the right direction would be consistent messaging from top systemwide administrators, campus leaders and faculty.

When presenting ideas to the President, the committee should keep in mind that almost all of UC's money flows directly to the campuses and is spent at the discretion of the campuses. The President has a small amount of discretionary funds, but the committee should be prepared that she might say that faculty position funding is a campus issue. Committee members felt that the President has influence and can spur private funding or endowment money. In the current budget environment administrators will have to get creative. Campuses have done a lot of fundraising for other things, so why not for a more diverse faculty? Legislators and the Regents have shown their interest and now is the time to take advantage of the momentum. Student governments would be supportive.

Retention of faculty is also a factor in maintaining and increasing diversity. Related to retention of URM faculty, committee members raised the problem of California's high cost of housing. UC has been able to buy land and provide faculty housing on a small scale at some campuses.

4. **Systemwide Review Items**
   a. Proposed Revisions to Senate Bylaw 336, Round 2 (Comments due May 17, 2017)

      The committee agreed with the revisions and had no further comments.

   b. [Proposed Revisions to APM Sections on "Lecturer with Security of Employment" (LSOE) Series](link) (Comments due June 21, 2017)

Committee members wondered whether the purpose behind the change is to expand the (former) LSOE series, and whether the administration intends to hire faculty who teach more and do less research. The revisions to the series now include the possibility of a cap on the number of hires in the new title. The notion of lecturers and LSOEs has become a concern at Merced, which will add a large number of faculty in the coming years. Given that not all faculty will be ladder-rank, the LSOE or proposed "teaching professor" title is perceived as better than lecturer.

At Irvine, LSOEs are supportive of the changes to APM, and feel that the revised description reflects their activities. Their understanding is that existing LSOEs can phase into the new title over time, while all new hires will automatically be included in the new title.

The committee will review the policy again at its May 11th meeting to determine whether it will opine.

Meeting adjourned: 4:05pm
Meeting minutes drafted by: Joanne Miller, Committee Analyst
Attest: Amani Nuru-Jeter