

UNIVERSITY OF CALIFORNIA

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VIDEOCONFERENCE OF THE ASSEMBLY OF THE ACADEMIC SENATE

Wednesday, June 9, 2021
10:00 am - 1:00 pm

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	▪ Shelley Halpain, Chair, University Committee on Faculty Welfare	

- VIII. SPECIAL ORDERS [NONE]**
- IX. REPORTS ON SPECIAL COMMITTEES [NONE]**
- X. PETITIONS OF STUDENTS [NONE]**
- X. UNFINISHED BUSINESS [NONE]**
- XI. NEW BUSINESS**

I. Roll Call

2020-21 Assembly Roll Call June 9, 2021

President of the University:

Michael Drake

Academic Council Members:

Mary Gauvain, Chair.

Robert Horwitz, Vice Chair.

Ronald Cohen, Chair, UCB

Richard Tucker, Chair, UCD

Jeffrey Barrett, Chair, UCI

Shane White, UCLA Chair

Robin DeLugan, Chair, UCM

Jason Stajich, Chair, UCR

Steven Constable, Chair, UCSD

Sharmila Majumdar, Chair, UCSF

Susannah Scott, Chair, UCSB

David Brundage, Chair, UCSC

Eddie Comeaux, Chair, BOARS

Amr El Abbadi, CCGA Chair

F. Javier Arsuaga, Chair, UCAADE

Susan Tapert, Chair, UCAP

Daniel Potter, Chair, UCEP

Shelley Halpain, Chair, UCFW

Richard Desjardins, Chair, UCORP

Sean Malloy, Chair, UCPB

Berkeley (5)

Suzanne Fleiszig

Colleen Lye

Adair Morse

Nathan Sayre

David Wagner

Davis (6)

Joe Chen

Hans-Georg Mueller

Joel Hass

Robert Powell

TBD (2)

Irvine (4)

Elliott Currie

Andrej Luptak

Nancy McLoughlin

Naomi Morrisette

Los Angeles (7)

Hiram Beltran-Sanchez

Nicholas Brecha

Jessica Cattelino

Mansoureh Eghbali

Ann Karagozian

William Marotti

Peter Tontonoz

Merced (1)

Jessica Trounstone

Riverside (2)

Peter Chung

Isgouhi Kaloshian

San Diego (5)

Mariana Cherner

Seana Coulson

Stephanie Mel

Daniel Widener

Dean Tullsen

San Francisco (5)

Bo Huang

Jae-Woo Lee

Dyche Mullins

Marek Brzezinski

Linda Centore

Santa Barbara (3)

Bassam Bamieh

Isabel Bayrakdarian

Yuedong Wang

Santa Cruz (2)

Patricia Gallagher

Judith Habicht-Mauche

Secretary/Parliamentarian

Andrew Dickson

VIDEOCONFERENCE MEETING OF ASSEMBLY OF THE ACADEMIC SENATE

April 14, 2021

MINUTES OF MEETING

I. ROLL CALL OF MEMBERS

Pursuant to the call, the Assembly of the Academic Senate met on Wednesday, April 14, 2021. Academic Senate Chair Mary Gauvain presided and called the meeting to order at 10:00 am. Senate Director Hilary Baxter called the roll of Assembly members and confirmed a quorum. Attendance is listed in Appendix A of these minutes.

II. MINUTES

ACTION: The Assembly approved the minutes of February 10, 2021.

III. ANNOUNCEMENTS BY SENATE LEADERSHIP

- **Mary Gauvain, Chair**
- **Robert Horwitz, Vice Chair**

March Regents Meeting: The Regents meeting featured a data-driven presentation about the economic impact of the University on the state's economy and workforce, and the broader social impacts and public value of a UC degree.

Instruction Survey: In early May, the systemwide Senate will circulate a survey to all UC faculty and instructors-of-record about their experiences with remote teaching during the past year. The survey will build on a similar survey of UC instructors last year.

Fall re-openings: The Academic Council is identifying issues related to fall 2021 campus re-openings for which systemwide guidance may be useful. Broad areas of concern relate to process, instruction, research, and operations. First, and above all, meaningful faculty, staff, and student involvement is needed at every stage of planning and decision-making. Second, there is a need to clarify and narrow the possible modes of instruction used on campuses, including various "hybrid" forms, given the faculty effort required to adapt to different modes. Third, some campuses are subjecting research spaces to identical opening protocols as classrooms; however, there have been no COVID cases in those spaces, and many researchers want to open them on a faster track. Finally, there should be clear campus and systemwide policies around safety requirements and enforcement to minimize the role of faculty in enforcing masking and social distancing requirements, managing related classroom disruptions, or dispensing discipline.

Healthcare Affiliations: The Council is discussing UC Health's desire to extend its affiliations with religiously-based external healthcare providers who do not provide comprehensive access to care, withhold certain services from women and LGBTQ patients, and engage in other discriminatory practices.

Academic Integrity: The University continues to discuss faculty concerns about Chegg, Course Hero, and other paid websites sometimes used by students to cheat on on-line exams and distribute

copyrighted course materials. Some faculty are calling for a systemwide legal response as part of a strategy to end the practices of these websites.

Data Breach: The University is offering free credit monitoring for one year to all UC employees following a data breach of the University's file transfer service company. The breach involves the theft of large amounts of personnel data of employees, students, and retirees.

Zoom and Academic Freedom: Recently, Zoom announced a new policy that applies to higher education users and protects academic freedom by leaving content moderation to universities. The policy follows a February 4 letter from UCAF and the Academic Council which noted that Zoom's terms of service may lead to instances of censorship that violate the University's academic freedom principles and responsibilities.

- Assembly members asked if the University planned to issue a vaccine mandate as part of its guidance on campus re-openings, and if it planned to require faculty who teach remotely in the fall to maintain a physical presence in the campus community.
- Members noted that the faculty's transition to remote instruction involved additional costs and effort. This included taking on work normally handled by staff such as transcribing and correcting closed captioning for recorded lectures. The shift of effort to remote instruction also reduced research productivity. There was concern that some campuses have approved work-from-home schedules for research staff in fall 2021, which could further impair research. The University should provide adequate resources to support remote or hybrid teaching, and understand that the physical presence of faculty, staff, and students is vital for building and maintaining the University community. A member suggested a systemwide research replacement program for faculty and graduate students.
- Chair Gauvain noted that the University is unable to mandate vaccines until the FDA removes them from the Emergency Use Authorization list; a step expected before fall for the Pfizer and Moderna vaccines. She said the University is also discussing issues of privacy around vaccination, as well as the concept of faculty residency in the context of remote instruction. Chair Gauvain expressed concern that faculty research is viewed by some as an avocation or hobby rather than a critical contribution to the University and the state, and she noted that Senate leadership has proposed extra sabbatical credit for all faculty to recognize their efforts during the pandemic.

IV. REPORTS OF STANDING COMMITTEES

A. Academic Council

1. Revision to Statewide Eligibility Index

BOARS Chair Comeaux noted that in January 2021, BOARS approved a new model and minimum thresholds for the Statewide Eligibility Index, which currently identifies the top 9% of California high school graduates eligible for UC based on an index involving both high school GPA and standardized test scores. Changes to the index are needed to conform with the UC Regents decision in May of 2020 to phase out standardized testing in admission decisions at UC. BOARS considered several models, and decided on one that uses HSGPA and the number of A-G courses completed in 10th and 11th grades and expected in 12th grade. The model is best aligned with UC values and is expected to identify competitive students. The change to the index does not affect the Eligibility

in the Local Context pathway, which extends eligibility to the top 9% of high school graduates in each high school based on GPA. Assembly action is required per Senate Regulation 466.

- Council members observed that applications to many UC campuses grew substantially this year, which lowered admission rates. They asked whether and to what extent UC's recent elimination of its standardized testing requirement influenced the rise in applications. Chair Comeaux noted that no data exist yet, but BOARS will be studying campus application, admission, and enrollment results in the coming years to understand how changes to standardized testing policy are affecting access and diversity.

ACTION: A motion to approve the new index was made, seconded, and passed unanimously.

2. Nomination and Election of the Vice Chair of the 2021-22 Assembly

Chair Gauvain introduced Susan Cochran, UC Los Angeles Professor of Epidemiology, who is the Academic Council's nominee for 2021-22 Assembly vice chair and 2022-23 chair. At Chair Gauvain's invitation, Professor Cochran made a statement regarding her background, qualifications, and priorities, and then briefly left the videoconference meeting. Chair Gauvain asked for any additional nominations from the floor, and hearing none, asked for any objections to Professor Cochran's nomination. Hearing none, she asked for a motion to approve her election. Hearing the motion and a second, Assembly voted on the motion to elect Susan Cochran as 2021-2022 Assembly vice chair.

ACTION: The Assembly voted unanimously to elect Susan Cochran vice chair of the 2021-22 Assembly.

V. ANNOUNCEMENTS BY THE PRESIDENT AND PROVOST

- **Michael Drake, President**
- **Michael T. Brown, Provost and Executive Vice President**

Data Breach: President Drake noted that the University is doing everything it can to investigate the recent breach of personal UC employee data, implement additional security measures, and provide members of the UC community with the information they need to protect themselves, including free credit monitoring and identity theft protection through Experian.

COVID: President Drake said he is concerned about increased rates of COVID in other parts of the country and a small uptick in hospitalizations, but he is generally hopeful given the low rates of positivity in California and on UC campuses. UC plans to re-open campuses as much as possible in fall 2021, and has issued guidelines around spring commencement that permit outdoor gatherings with appropriate precautions. COVID is still a dynamic situation that complicates planning, but UCOP is developing draft guidelines that will require COVID and flu vaccines for all faculty, students, and staff, and address COVID testing, masking, and social distancing expectations. It will be easier to dial back from in-person instruction than to ramp-up to it in the fall. Planning will be a continuing conversation with the Senate and others.

Campus Safety: UCOP hosted the second of two symposia on campus safety, policing, and social justice issues on March 24. The goal is to improve safety and the feeling of respect and support felt by all campus community members. The University will use input from the symposia to develop best practices to share more broadly before the summer. President Drake underscored how challenging the issues are to the University, the state, and the nation. Broad topic areas include

realignment and reinvestment of public safety resources; data collection; oversight, accountability, and reconciliation; and culture and community engagement.

Budget: Governor Newsom's May budget revision will fully restore last year's \$300 million cut to the University. UC is also revising its budget request to include funding to support deferred maintenance projects, repatriation of Native American artifacts and remains, tele-mental health, and faculty who want to convert courses to an online format. UC will receive \$684 million from the recent federal COVID relief package, half of which must be used for emergency grants for students and half for institutional purposes.

Standardized Testing: The President has asked the Senate to follow-up on a recommendation from the Feasibility Study Working Group to explore the use of a modified Smarter Balanced assessment as a possible tool for use in UC undergraduate admissions that would replace the SAT by 2025.

- Assembly members noted that it will be difficult to provide instruction to students unable to be physically present on campus in the fall, particularly international students who cannot travel or secure a visa. They also expressed concern about the potential for staff remote work arrangements to impair faculty research; emphasized that implementing new or multiple modes of instruction requires significant faculty time and effort; and asked administrators to clarify campus plans for classroom and laboratory capacity in the context of the state's intention to remove all COVID tiers by fall. In addition, faculty asked if the federal infrastructure bill would address deferred maintenance projects, and how UC's suspension of standardized testing influenced application numbers and admission rates this year. Members also expressed their support for the Hispanic Serving Institutions Doctoral Diversity Initiative, and other systemwide diversity initiatives.
- President Drake said UC will require vaccinations of all students, faculty, and staff in the fall, and will accept vaccines administered in other countries. He said the remote work experience has been successful and allowed UC to identify some archaic practices. He expects the nature of work to change permanently following the pandemic, but acknowledged that some work will require the on-campus presence of staff. UCOP is evaluating the infrastructure bill and its funding use requirements and wants to direct some one-time monies to shovel-ready infrastructure projects that are energy efficient, address seismic and climate change concerns, and have long-term benefits.
- Provost Brown reported that the University is encouraging policy changes to federal immigration law that will ease the visa path for international students. The Provost is also assembling a workgroup to discuss the long-term impacts of COVID on faculty advancement and morale, and is working with campus EVCs to explore the specific needs and concerns of Health Sciences faculty. He said UC is applying for a \$15 million Mellon Foundation grant related to graduate student diversity, and that UC needs to do better at reaching into its own campuses to meet its graduate diversity goals. The Provost said he believes the new standardized testing policy had an inviting effect on students who would not have otherwise applied to the University, but the policy has also introduced more uncertainty around yield (the rates at which accepted applicants enroll). He said that UC campuses must follow both state COVID guidelines and county guidelines, which can be more restrictive than state guidelines.

- VI. UNIVERSITY AND FACULTY WELFARE REPORT [None]**
- VII. NEW BUSINESS [None]**
- VIII. SPECIAL ORDERS [None]**
- IX. REPORTS ON SPECIAL COMMITTEES [None]**
- X. PETITIONS OF STUDENTS [None]**
- XI. UNFINISHED BUSINESS [None]**

The meeting adjourned at 12:30 pm

Minutes Prepared by: Michael LaBriola, Assistant Director, Academic Senate

Attest: Mary Gauvain, Academic Senate Chair

Attachments: Appendix A – Assembly Attendance Record, Meeting of April 14, 2021

Appendix A – 2020-2021 Assembly Attendance Record, Meeting of April 14, 2021

President of the University:

Michael Drake

Academic Council Members:

Mary Gauvain, Chair.

Robert Horwitz, Vice Chair.

Jennifer Johnson-Hanks, Chair, UCB

Richard Tucker, Chair, UCD

Jeffrey Barrett, Chair, UCI

Shane White, UCLA Chair

Robin DeLugan, Chair, UCM

Jason Stajich, Chair, UCR

Steven Constable, Chair, UCSD

Sharmila Majumdar, Chair, UCSF (absent)

Susannah Scott, Chair, UCSB

David Brundage, Chair, UCSC

Eddie Comeaux, Chair, BOARS

Amr El Abbadi, CCGA Chair

F. Javier Arsuaga, Chair, UCAADE

Susan Tapert, Chair, UCAP

Daniel Potter, Chair, UCEP (absent)

Shelley Halpain, Chair, UCFW

Richard Desjardins, Chair, UCORP

Sean Malloy, Chair, UCPB

Berkeley (5)

Suzanne Fleiszig

Colleen Lye

Ron Cohen (alt for Adair Morse)

Nathan Sayre

David Wagner

Davis (6)

Joe Chen

Hans-Georg Mueller

Joel Hass

Robert Powell

TBD (2) (absent)

Irvine (4)

Elliott Currie

Andrej Luptak

Nancy McLoughlin

Naomi Morrisette

Los Angeles (7)

Hiram Beltran-Sanchez

Nicholas Brecha

Jessica Cattelino

Mansoureh Eghbali

Ann Karagozian (absent)

William Marotti

Peter Tontonoz

Merced (1)

Jessica Trounstine

Riverside (2)

Peter Chung

Isgouhi Kaloshian

San Diego (5)

Mariana Cherner

Seana Coulson

Stephanie Mel

Daniel Widener (absent)

Dean Tullsen

San Francisco (5)

Bo Huang

Jae-Woo Lee

Dyche Mullins

Marek Brzezinski

Linda Centore (absent)

Santa Barbara (3)

Bassam Bamieh

Isabel Bayrakdarian (absent)

Yuedong Wang

Santa Cruz (2)

Patricia Gallagher

Judith Habicht-Mauche

Secretary/Parliamentarian

Andrew Dickson

III. ANNOUNCEMENTS BY THE CHAIR

▪ Mary Gauvain

1. Apportionment of Representatives to the 2021-22 Assembly [INFORMATION]

In accordance with [Senate Bylaw 105.A.4](#), the Academic Council approved at its May 26, 2021 meeting the apportionment of the 40 Divisional Representatives for 2021-22. On the basis of Divisional Academic Senate membership as of April 2021, the Webster Method of Calculation was used to determine the number of Divisional Representatives as follows:

DIVISION	NUMBER OF REPRESENTATIVES
Berkeley	5
Davis	6
Irvine	4
Los Angeles	8
Merced	1
Riverside	2
San Diego	5
San Francisco	4
Santa Barbara	3
Santa Cruz	2

2. Award for Mid-Career Leadership in the Academic Senate [INFORMATION]

In 2019, an endowment was created for an Academic Senate Mid-Career Leadership Award, to honor individuals whose records demonstrate an exceptional ability to work effectively with different University constituents and exceptional promise for further service to the Senate. Nominations for the biennial award are made through Divisional COCs to the UCOC. UCOC, in turn, submits the names of two nominees to the Academic Council. At its May 26, 2021 meeting, the Academic Council decided to honor Professor Tara Javidi of UC San Diego and Professor Steven Cheung of UC San Francisco with the 2021 award.

May 7, 2021

MARY GAUVAIN
ACADEMIC COUNCIL CHAIR

Dear Mary,

The University Committee on Committees (UCOC) is nominating Professor Tara Javidi (UCSD) and Professor Steven Cheung (UCSF) for the 2021 Mid-Career Award in the Academic Senate. The committee selected these two names from nine nominations, all of which reflected extraordinary service on both the systemwide and divisional level, as well as stellar records of academic achievement.

Tara Javidi (UC San Diego)

Professor of Electrical and Computer Engineering Tara Javidi has demonstrated true commitment to the UCSD and its Academic Senate, serving in various roles throughout the years. She is currently the Vice Chair of the Academic Senate is actively involved in helping the entire UC San Diego campus navigate the myriad issues regarding "Return to Learn" and UCSD's policies to enable the handling of the COVID-19 pandemic. According to her colleagues at UCSD, Professor Javidi not only shines in her service at the Senate level, but she also has had a huge impact on her campus' and school's efforts in improving diversity overall, and in STEM specifically, with impressive results in terms of URM faculty hired, retained, and an increase in a number of graduate and undergraduate URM students involved in research across STEM. More information about Professor Javidi and her many accomplishments can be found in the attached nomination letter from the UCSD Division.


Steven Cheung (UC San Francisco)

Professor Steven Cheung embodies the values of shared governance, and has served as a true leader within the San Francisco Division. He is currently the Vice Chair of the San Francisco Division of the Senate. Attesting to his broad Senate committee experience and expertise, from research to academic planning and budget to faculty welfare, he has been a guiding force on the UCSF campus. Beyond that, he is an accomplished teacher and researcher, with a proactive eye towards diversity and gender equity throughout his career. More information about Professor Cheung and his many accomplishments can be found in the attached nomination letter from the UCSF Division.

UCOC also wanted to convey a potential concern about this award. According to the description, the mid-career service award is designed to honor a University of California faculty member at mid-career who has made significant contributions at the Divisional and the systemwide Academic Senate level. Eligibility comprises members of the Academic Senate at the rank of **Associate up to Full Professor, Step V** (or equivalent in other Senate titles). UCOC members found that this range made it difficult to compare accomplishments, as it would be nearly impossible for an associate professor to have as much service as a Professor step 5.

Please also find enclosed the nomination materials for these nominees, as submitted by their respective Divisions.

Sincerely,



Cynthia Passmore
Chair, University Committee on Committees

IV. REPORTS OF STANDING COMMITTEES

A. Academic Council

▪ Mary Gauvain, Chair Academic Council

1. Nomination and election of the 2021-22 UCOC Vice Chair [ACTION]

In accordance with [Senate Bylaw 150.A.1. Committees](#), "...the members-at-large are to be named by the Assembly for two-year staggered terms. Each at-large member will serve as Vice Chair in the first year and shall normally succeed as Chair in the second year." At its May 26, 2021 meeting, the Academic Council endorsed the candidacy of Micah Perks, a Professor of Literature and Creative Writing and Director of the Creative Writing Program in the Literature Department at UC Santa Cruz. Professor Perks has an MFA in Fiction from Cornell University. She is the author of two novels, a memoir, a book of short stories, and has published many essays and stories in literary magazines. Her writing and teaching focuses on United States literature, culture, race and gender. She has been a member of UCOC since 2016-17 and her divisional Senate service at UCSC includes chair of the Committee on Committees and member of the Committee on Educational Policy and the Committee on Affirmative Action and Diversity.

ACTION REQUESTED: Elect the 2021-2022 UCOC Vice Chair.

2. Ratification of the appointment of the 2021-24 Secretary/Parliamentarian [ACTION]

In accordance with Senate Bylaw 15, at its meeting on May 26, 2021 the Academic Council approved the appointment of Professor Andrew Dickson (UCSD) to be Secretary/Parliamentarian of the Assembly for a second three-year term commencing September 1, 2021, subject to ratification by the Assembly.

ACTION REQUESTED: Ratify Assembly Secretary/Parliamentarian

CURRICULUM VITAE — Andrew G. Dickson

MAILING ADDRESS

Dr. Andrew G. Dickson
Marine Physical Laboratory
University of California, San Diego
9500 Gilman Drive
La Jolla, CA 92093-0244, USA

Tel: +1 858 822 2990
Fax: +1 858 822 2919
Email: adickson@ucsd.edu

NATIONALITY

Born Nairobi, Kenya (May 14, 1953)
Citizen of the United Kingdom (permanent resident of the U.S.A.)

EDUCATION

B.Sc. University of Liverpool, England. 1974
Ph.D. University of Liverpool, England. 1978

POSITIONS HELD

2010– *Professor of Marine Chemistry,*
Scripps Institution of Oceanography, University of California, San Diego
2006–2009 *Professor-in-Residence in Marine Chemistry,*
Scripps Institution of Oceanography, University of California, San Diego
1995–2006 *Associate Professor-in-Residence in Marine Chemistry,*
Scripps Institution of Oceanography, University of California, San Diego.
1991–1995 *Associate Research Chemist,*
Scripps Institution of Oceanography, University of California, San Diego.
1988, '89, '90 *Lecturer,* Department of Chemistry,
University of California, San Diego
1987–1995 *Lecturer,* Scripps Institution of Oceanography,
University of California, San Diego
1985 *Adjunct Lecturer,* Scripps Institution of Oceanography,
University of California, San Diego
1983–1991 *Assistant Research Chemist,* Scripps Institution of Oceanography, University of
California, San Diego.
1983 *Visiting Assistant Research Scientist,* Department of Chemistry, University of
Florida.
1982–1983 *Visiting Assistant Research Chemist,* Scripps Institution of Oceanography,
University of California, San Diego.
1980–1982 *Postdoctoral Associate,* Department of Chemistry,
University of Florida.
1978–1980 *Postdoctoral Research Associate,* Marine Biological Association Laboratory,
Plymouth, United Kingdom.

EDITORSHIPS

Editor, Chemical & Biographical Oceanography, JGR Oceans (1999–2002)
Editorial Board, Marine Chemistry (1993–1999)
Associate Editor, Reviews of Geophysics (1988–1994)

NATIONAL/INTERNATIONAL COMMITTEE MEMBERSHIPS

Member of SCOR WG 145 on Modelling Chemical Speciation in Seawater to Meet 21st Century Needs (2015–present)
Member of the Joint (IAPSO/SCOR/IAPWS) Committee on the Properties of Seawater (2012–present)
Member of West Coast Ocean Acidification and Hypoxia Panel (2014–2016)
Member of NAS/OSB Review Committee on US Strategic Plan for Ocean Acidification Research (2012)
Member of OceanSITES Data Management Team (2006–2016)
Member of PICES Section on Carbon & Climate (2005–present)
Member of C-CAN (*California Current Acidification Network*) Steering Committee (2010 – present; Chair 2010–2012)
Chair of the PICES WG-17 *Biogeochemical data integration and synthesis* (2002– 2005)
Chair of the NAS/OSB Committee on Reference Materials for Ocean Science (2001–2002)
Member of the JGOFS-IOC CO₂ Advisory Panel (1991–2002)
Member of PICES WG-13 *CO₂ in the North Pacific* (1998–2001)
Member of the US JGOFS Scientific Steering Committee (1994–1997)
Member of the NAS/OSB Committee on Oceanic Carbon (1993–1995)
Member of the WOCE Hydrographic Program Planning Committee (1990–1994)

PRIMARY RESEARCH INTEREST

Thermodynamics and chemical analysis of carbon dioxide and related acid-base systems in seawater: This research has resulted in my laboratory becoming the world's primary source for calibration standards for seawater CO₂ measurements and for advice in how to make such measurements. We are also involved in two other projects: (1) Analysis of pH and total alkalinity on GOSHIP cruises, and for a variety of other projects; (2) Work to extend our understanding of seawater acid-base chemistry over a range of temperatures and solution compositions.

UC ACADEMIC SENATE ACTIVITIES

UCSD Graduate Council (member & chair) / UC Graduate Council (*ex officio* member)
UCSD Planning & Budget (member & chair) / UC Planning & Budget (*ex officio* member)
UCSD Senate Council (*ex officio* member)
UCSD Rules & Jurisdiction (member & chair)
UC Rules & Jurisdiction (member & chair)
UC Assembly Secretary / Parliamentarian

3. Proposed Revision to Senate Regulation 610 [ACTION]

Background and Justification: At its May 2021 meeting, following a systemwide Senate review, the Academic Council approved revisions to Senate Regulation 610 proposed by the University Committee on Educational Policy. The intent of the revision is to eliminate an ambiguity in the definition of “residency” to clarify that “residency” is not necessarily linked to physical presence on campus.

610. Residence in any regular term is validated for an undergraduate student by enrollment in at least six units of a program of courses that were created through the Divisional course approval process of the student’s home campus. ~~or other exercises approved by the Faculty of a student’s college or school. For undergraduates this shall be at least six units of resident courses of instruction.~~ Residence in any regular term is validated for a Graduate students validate residence with programs of instruction or research approved by the appropriate Graduate Council of the student’s home campus. [See SR 688-690.] (EC 15 Apr 74) (Am 9 Mar 83; Am 6 Mar 85)

ACTION REQUESTED: The Assembly is asked to endorse the Council recommendation.

4. Proposed Revision to Senate Bylaw 336.F.3 and 336.F.6. [ACTION]

Background and Justification: At its May 2021 meeting, following a systemwide Senate review, the Academic Council approved revisions to Senate Bylaw 336.F.3 proposed by the University Committee on Privilege and Tenure in the wake of federal regulatory changes that now require a hearing at the Title IX phase for cases involving SVSH. (Earlier this year the Assembly adopted a change to Bylaw 336.F.8 related to the evidentiary standard used in such cases, to address another provision of the new federal regulations.) The revision responds to federal regulatory changes that require a Title IX hearing for cases involving SVSH. Given concerns about duplication of effort and the burden on parties to go through two full hearings, UCPT adopted a recommendation regarding acceptance of evidence from the Title IX process in SVSH-related discipline cases for subsequent P&T hearings. It notes that evidence, including witness testimony, about a potential violation of SVSH Policy will not be permitted unless the P&T Hearing Committee determines before the hearing that the evidence pertains to newly discovered facts that might affect the determination of a violation of the Faculty Code of Conduct that were not discoverable at the time of the Title IX process. Council also approved an additional change to 336.F.6, to clarify that exhibits submitted to the Hearing Committee qualify as being presented at the hearing.

336. Privilege and Tenure: Divisional Committees -- Disciplinary Cases

<https://senate.universityofcalifornia.edu/bylaws-regulations/bylaws/blpart3.html#bl336>

F. Hearing and Posthearing Procedures

1. The Chair of the Committee on Privilege and Tenure shall appoint a Hearing Committee for each case in which disciplinary charges have been filed. The Hearing Committee must include at least three members. (Am 1 July 2019)
 - a. A majority of the Hearing Committee members shall be current or former members of the Committee on Privilege and Tenure, and the Chair of the Hearing Committee shall be a current member of the Committee on Privilege and Tenure. In exceptional circumstances, the Hearing Committee may include one member from another Divisional Academic Senate.
 - b. The Chair of the Committee on Privilege and Tenure may not appoint a member of the department or equivalent administrative unit of any of the parties to the Hearing Committee.

- c. Hearing Committee members shall disclose to the Hearing Committee any circumstances that may interfere with their objective consideration of the case and recuse themselves as appropriate.
 - d. A quorum for the conduct of the hearing shall consist of a majority of the Hearing Committee, including at least one member of the Committee on Privilege and Tenure.
- 2. Within two business days after the hearing has been scheduled the Chair of the Hearing Committee shall notify the accused, the Chancellor or the Chancellor's designee, and/or their representatives in writing of the Hearing Committee's decisions on the following prehearing matters: (Am 1 July 2019)
 - a. The Hearing Committee's initial determination of the issues to be decided at the hearing. The Chair of the Hearing Committee shall invite the parties to inform the Committee of any other issues they believe to be important. The final determination of the issues to be decided shall be made by the Hearing Committee.
 - b. The deadline for the parties to determine the facts about which there is no dispute. At the hearing, these facts may be established by stipulation.
 - c. The deadline for both sides to exchange a list of witnesses and copies of exhibits to be presented at the hearing. The Hearing Committee has the discretion to limit each party to those witnesses whose names are disclosed to the other party prior to the hearing and to otherwise limit evidence to that which is relevant to the issues before the Hearing Committee.
 - d. Whether prehearing and post-hearing briefs will be submitted by the parties and, if so, the deadline for submitting those briefs.
 - e. Whether any person other than the Chancellor, the Chancellor's designee, the accused, and their representatives, may be present during all or part of the hearing. In order to preserve the confidentiality of the hearing, persons whose presence is not essential to a determination of the facts shall, as a general rule, be excluded from the hearing.

After the prehearing letter has been sent, the Chair of the Hearing Committee may at his or her discretion schedule a conference with the accused, the Chancellor or Chancellor's designee, and/or their representatives, to resolve any questions concerning items (a) through (e) above. Such a conference should take place as soon as possible. The scheduling of such a conference shall not result in an extension of the hearing date.

- 3. The Chancellor or Chancellor's designee, the accused, and/or their representatives shall be entitled to be present at all sessions of the Hearing Committee when evidence is being received. Each party shall have the right to be represented by counsel, to present its case by oral and documentary evidence, to submit rebuttal evidence, and to conduct such cross examination as may be required for a full and true disclosure of the facts.

For cases in which there was a hearing at the Title IX stage regarding violation of the University's policy on Sexual Violence and Sexual Harassment ("SVSH Policy"), the Hearing Committee shall accept into evidence the record and written determination from the Title IX process. Other evidence, including witness testimony, regarding whether there was a violation of the SVSH Policy will not be permitted unless the Hearing Committee determines before the hearing that the evidence pertains to newly discovered facts or circumstances that might significantly affect the determination of whether there was a violation of the Faculty Code of Conduct and that were not reasonably discoverable at the time of the Title IX process. The P&T Hearing Committee may carry out any investigation it deems appropriate for the determination of a potential violation of the Faculty Code of Conduct.

- 4. The hearing need not be conducted according to the technical legal rules relating to evidence and witnesses. The Hearing Committee may, upon an appropriate showing of need by any party or on

its own initiative, request files and documents under the control of the administration. All confidential information introduced into evidence shall remain so within the Hearing Committee. The Hearing Committee may call witnesses or make evidentiary requests on its own volition. The Hearing Committee also has the discretion to require that all witnesses affirm the veracity of their testimony and to permit witnesses to testify by videoconferencing. (Am 14 Jun 2017)

5. Prior discipline imposed on the same accused faculty member after a hearing or by negotiation may be admitted into evidence if the prior conduct for which the faculty member was disciplined is relevant to the acts alleged in the current disciplinary matter. Under these conditions, prior hearing reports and records of negotiated settlements are always admissible. (Am 14 Jun 2017)
6. No evidence, other than that presented at the hearing (which includes any exhibits submitted to the Hearing Committee by the parties), shall be considered by the Hearing Committee or have weight in the proceedings, except that the Hearing Committee may take notice of any judicially noticeable facts that are commonly known. Parties present at the hearing shall be informed of matters thus noticed, and each party shall be given a reasonable opportunity to object to the Hearing Committee's notice of such matters.
7. The Divisional Committee on Privilege and Tenure may, at its discretion, request the appointment of a qualified person or persons, designated by the Chair of the University Committee on Privilege and Tenure, to provide legal advice and/or to assist in the organization and conduct of the hearing.
8. At the hearing, the Chancellor or Chancellor's designee has the burden of proving the allegations by clear and convincing evidence, except that for allegations of a violation of the University's policy on Sexual Violence and Sexual Harassment, the Chancellor or Chancellor's designee has the burden of proving the allegations by a preponderance of the evidence. (Am 10 Feb 2021)
9. The Hearing Committee shall not have power to recommend the imposition of a sanction more severe than that proposed in the notice of proposed disciplinary action. In determining the appropriate sanction to recommend, the Hearing Committee may choose to consider previous charges against the accused if those charges led to prior sanctions either after a disciplinary hearing or pursuant to a negotiated or mediated resolution.
10. The Hearing Committee shall make its findings of fact, conclusions supported by a statement of reasons based on the evidence, and recommendation. These shall be forwarded to the parties in the case, the Chancellor or Chancellor's designee, the Chair of the Divisional Committee on Privilege and Tenure, and the Chair of the University Committee on Privilege and Tenure, not more than 30 calendar days after the conclusion of the hearing. The conclusion of the hearing shall be the date of the Committee's receipt of (a) the written transcript of the hearing; or (b) if post-hearing briefs are permitted, the post-hearing briefs from the parties in the case, whichever is later. The findings, conclusions, recommendations, and record of the proceedings shall be confidential to the extent allowed by law and UC policy. The Hearing Committee may, however, with the consent of the accused, authorize release of the findings, conclusions, and recommendations to other individuals or entities, to the extent allowed by law. (Am 1 July 2019)
11. The hearing shall be recorded. The Hearing Committee has the discretion to use a certified court reporter for this purpose, and the parties and their representatives shall have the right to a copy of the recording or transcript. The cost of the court reporter as well as other costs associated with the hearing will be borne by the administration. (Am 1 July 2019)
12. The Hearing Committee may reconsider a case if either party presents, within a reasonable time after the decision, newly discovered facts or circumstances that might significantly affect the previous decision and that were not reasonably discoverable at the time of the hearing.

ACTION REQUESTED: The Assembly is asked to endorse the Council recommendation.

- V. ANNOUNCEMENTS BY THE PRESIDENT (11 A.M.)
 - Michael Drake

- VI. ANNOUNCEMENTS BY THE PROVOST
 - Michael T. Brown

- VII. UNIVERSITY AND FACULTY WELFARE REPORT
 - Shelley Halpain, Chair, University Committee on Faculty Welfare

- VIII. SPECIAL ORDERS [NONE]
- IX. REPORTS ON SPECIAL COMMITTEES [NONE]
- X. PETITIONS OF STUDENTS [NONE]
- X. UNFINISHED BUSINESS [NONE]
- XI. NEW BUSINESS