

ACADEMIC COUNCIL

Minutes of Meeting
Wednesday, March 27, 2013**I. Senate Officers' Announcements**

- 1. Report on Regents meeting.** Chair Powell reported that the Academic Advisory Committee (AAC), which will advise the Regental Special Committee to Consider the Selection of a President, met for the first time to discuss criteria for selection. The AAC will play a key role in vetting prospective candidates and will meet with the Special Committee several times.
- 2. Report on ICAS.** The Intersegmental Committee of the Academic Senates met with Senator Steinberg's staff regarding SB 520, which would require California colleges and universities to award credit for impacted courses offered by third party providers if the course is approved by a 9-member faculty panel. All three segments are united in opposition to the bill. Chair Powell noted that he and Vice Chair Jacob have submitted op-ed pieces on the bill to the San Diego Union-Tribune, the San Jose Mercury News and the Sacramento Bee. Another bill, SB 547 (Block) would require the faculty Senates of all three segments to develop online courses that would satisfy lower division requirements for transfer by Fall 2014. It appears that this bill is intended to direct the expenditure of the \$10M set aside in the governor's budget for online course development.
- 3. Report on meeting with Senator Steinberg.** Chair Powell reported that he and Vice Chair Jacob, President Yudof, and AVP for State Governmental Relations Juarez met with Senator Steinberg and his staff regarding SB 520 and made clear the University's opposition to the bill. A legislative hearing is scheduled for late April; Chair Powell will testify.
- 4. Total remuneration study.** A total remuneration study will be done for both staff and faculty; the faculty component will value all parts of the total compensation package; the staff part will include a Benefits Prevalence Study, which will examine the types of benefits provided by UC's competitors rather than attempt to assess the value of benefits. Faculty members will be part of the steering committee. The study will begin soon and will be finished in mid-2014.
- 5. Composite benefits update.** Vice Chair Jacob reported that the Senate leadership was told that a decision had been made regarding composite benefit rates, but a different plan was presented to the Chancellors. The EVCs rejected the model presented; there could be a more balanced approach, such as including salary banding. Grants would be differentially affected. For instance, those who hire higher paid staff will pay more toward the benefit rate, while those who hire lower paid staff will not contribute enough because there are not enough categories to make it nuanced and equitable. Moreover, some of the data they are relying on is incorrect. The solution would be further study, but they are reluctant to do so.
- 6. SB 259.** SB 259 (Hancock) is a version of a bill that was vetoed by the governor last year. It would reclassify GSRs under the state Higher Education Employer-Employee Relations Act so that they would be eligible to unionize. The University plans to take the same approach as last year. Chair Powell noted that one of the arguments in favor of unionizing

was to gain leverage to establish a child care benefit for graduate student parents. The University will begin providing this benefit, so it may blunt support for the bill.

7. **Committee meetings in Sacramento.** Chair Powell reported that both BOARS and UCORP met in Sacramento and invited representatives from the Department of Finance, the governor's office, and the Legislative Analyst's Office. The meetings were productive and Vice Chair Jacob intends to hold some meetings in Sacramento next year.

II. Approval of the Agenda

ACTION: The agenda was approved as noticed.

III. Consent Calendar

1. **Approve draft February Council minutes**
2. **Approve convening the April Assembly as a teleconference**

ACTION: The consent calendar was approved with minor edits to the minutes.

IV. Online Education

ISSUE: Council received an update on plans for the Online Work Group meetings in April.

DISCUSSION: Chair Powell reported that the provost has received approximately 120 letters of intent to develop online courses. The April 20 meeting on online education will be attended by about 90 people at both the northern and southern locations. The provost plans to issue an interim report on the progress of UC's plans for the \$10M allotted in the governor's budget proposal prior to the May revise. A portion of the funding may be used to establish a communications hub between campus registration systems, which is key to providing cross-campus credit.

V. Proposed Revisions to Bylaw 128.C

ISSUE: Last fall, UCR&J issued a Legislative Ruling at the request of UCOC to clarify the meaning of Bylaw 128.C, which states that "the Chair of each of the above committees shall be an at-large member, who is a former, but not a present member of the corresponding Divisional committee. The Chair shall normally serve a one-year term." At issue was whether a member of one division who serves as a member of a committee of a different division could serve as at-large chair of the corresponding committee of the Assembly. UCR&J ruled that such service is precluded and recommended that the Bylaw 128.C be amended to clarify its intent. Accordingly, UCOC proposed an amendment that would explicitly state that the at-large chair of a standing committee of the Assembly may not be a member of the corresponding committee of any division.

DISCUSSION: Executive Director Winnacker explained that this amendment clarifies the intent of the bylaw. The issue was raised because the chair of a systemwide committee was serving on the corresponding committee at Merced, but is a member of the faculty of another division. This occurred because Merced does not yet have sufficient numbers of Senate of faculty to fill all of their committee positions. A member commented that there should be an effort to inform the divisions about this rule, as UCOC and the campus COCs operate on different schedules.

ACTION: Council unanimously approved a motion to endorse the amendment and forward it to the Assembly for consideration.

VI. Consultation with Senior Managers – Provost and Executive Vice President Dorr

SB 520. Provost Dorr stated that the president is supportive of the faculty's approach to SB 520; he recognizes that course approval is in the purview of the faculty and that appropriate decisions can not be made by a panel of nine faculty members. She noted that Senator Steinberg has been a friend of the University and that UC will work with him to explain that the University can not support this legislation. Moreover, UC in general does not have challenges in the areas that the bill is meant to address. Graduation rates have risen and time to degree has been reduced, although there are differences among campuses. Even if it were a problem, the answer is not to rely on outside groups to provide instruction, but to increase funding.

SB 195. SB 195 (Liu) is an amended version of a bill vetoed by the governor last year. It would establish statewide goals and related metrics for all of higher education. The bill differs from prior versions by vesting authority in the governor's Office of Planning and Research to convene a working group to help develop the metrics. The state is interested in whether universities are preparing students for state workforce needs and are doing it in a cost effective way. The bill includes private and vocational colleges whose students are eligible for Cal Grants. Provost Dorr said she testified at a hearing to discuss these issues that included testimony from CSU, CCC, the president of the Association of Independent California Colleges and Universities, and a representative from the state agency that oversees for-profit vocational and technical education. One issue raised was whether the state needs an agency to do what CPEC used to do. One possibility is to ask ICAS or the Intersegmental Coordinating Committee (ICC) to discuss what such a group would do and what kinds of data would be useful to collect and aggregate. A member commented that any accountability measures should be meaningful. Provost Dorr ensured him that representatives of the three segments emphasized that they should be directly involved in identifying meaningful measures.

Online meetings. Provost Dorr said she is working with the Senate leadership to develop an online initiative, under the assumption that the \$10M designated in the governor's budget will be in the final budget. Her office is hosting two working meetings in April by invitation—on April 13 there will be 180+ participants at UCOP and UCI. Invitations were sent to a large group of UC faculty and staff with expertise in the area. The second meeting will be on April 25 and will mesh the input from the April 13 meetings and create a plan. Her office received 119 letters of interest in developing online courses. An RFP will be sent in early May. Course proposals must have the support of the department and campus, ultimately be approved by campus Committees on Courses, and establish whether there is funding for TA support. Provost Dorr stated that a significant portion of the \$10M will be used to create a communications hub, which is essential not only for online courses, but also for other cross-campus efforts such as UCDC. A member asked if it would be better to invest the funds in the divisions. She replied that the hub will be an important asset and is an appropriate task for UCOP to undertake. However, it may be possible to locate it on one of the campuses. The hub is an effort to overcome the individual approach to cross-campus registration. She noted that UC supports ASSIST, a database of articulation agreements on courses between UC and CCCs with over 120,000 agreements. We should have a similar articulation system for our own sister campuses. The aim is to provide major and GE credit. If the hub is located at UC,

knowledgeable faculty should provide advice. Provost Dorr agreed, noting that a technical group will be established to advise. A member commented that campuses need funds to hire course designers. Provost Dorr said she recognizes this need.

May Regents meeting. Provost Dorr reported that the item on faculty workload was removed from the agenda of the March Regents meeting and will instead be addressed in the broader context of maintaining excellence at the May Regents meeting. Her office is continuing to gather data and will emphasize that a faculty member's job includes research and service, as well as instruction. In terms of teaching, student credit hours per faculty member have risen over the past several years and other output measures, such as the number of doctoral degrees per faculty member, time to degree and graduation rates have all improved and are better than our AAU peers. At the same time, we must make a concerted effort to continually improve.

VII. Proposed Revision to APM 210-1(d)

ISSUE: Over the past year, UCAP and UCAAD have discussed a provision in APM 210 regarding contributions to diversity in merit and promotion. They agreed on a proposed revision to clarify the intent of the provision, but disagreed on the inclusion of one sentence.

DISCUSSION: UCAP Chair Harry Green said that campus CAPs have been struggling with how to interpret the provision in APM 210-1.d. It can be read as if research on issues of diversity is more valuable than research on anything else. At the end of last year, UCAP drafted language to try to resolve the issue and former Chair Anderson asked UCAP and UCAAD to collaborate. The language at the beginning of the paragraph makes it clear that there are no preferred research areas at UC. However, UCAP and UCAAD disagree about the last sentence on mentoring. UCAAD reiterates that UC has an interest in promoting mentoring of under-represented students and faculty. A minority of UCAP agrees, but the majority prefers a statement that mentoring of the URM population receives the same credit as any other kind of mentoring. UCAAD Chair Manuela Martins-Green stated that her committee initially preferred the original APM language. The motivation for changing the APM was to ensure that faculty doing research on diversity received credit for this work; the situation needed to be rectified. She stated that mentoring and advising is crucial to the UC system and can represent a greater investment in time when mentoring unrepresented minorities. UCAAD favors the opportunity to describe the expenditure of effort. A member objected to the premise that mentoring URM necessarily requires a greater expenditure of effort. Chair Martins-Green argued that including mention of mentoring would mean that CAPs could not ignore this professional activity. A member suggested compromise language, replacing the word "additional" with the word "due." This places responsibility on CAPs to judge whether the mentoring activity is substantive. Chair Martins-Green stated that the proposed amendment to the language is preferable to returning to the original APM language.

ACTION: Council voted to amend the proposed language and to recommend to Vice Provost Carlson that she consider a revision to APM 210-1(d). (13 in favor, 3 against, 2 abstentions).

VIII. Executive Session: Nomination of 2013-14 Vice Chair

ACTION: Council selected Mary Gilly (UCI) as its candidate for 2013-14 Vice Chair. Her nomination will be forwarded to the Assembly for consideration.

IX. Student Financial Aid Proposal

ISSUE: UCOP has developed three options for revising the method by which UC funds and allocates student financial aid to increase the program's sustainability and maintain UC's financial aid goals.

DISCUSSION: Special Assistant/Coordinator Kate Jeffery said that the review of the University's financial aid strategy was prompted by concern about whether the amount of financial aid is the right amount given budgetary pressures and student need. Instead of providing an arbitrary 33% return-to-aid, the University should fund to its policy goals. She noted that there is likely to be a tuition freeze, but that parts of the strategy can be put in place (e.g., methods for calculating parental wealth and increased corporate fundraising). In the short term, if tuition increases are precluded, under the proposed scenarios, the University will not be able to generate the amount of money it would need. However, it is important to decide on a policy-driven strategy, even if it cannot be fully implemented immediately. BOARS Chair George Johnson said that his committee criticized the underlying assumption that the cost to students will increase annually, and expressed concern that the Blue and Gold plan would provide support for families making well over the median income. Some noted that tuition would have to rise to cover financial aid costs (e.g., if housing costs go up). Coordinator Jeffery replied that the Blue and Gold plan keeps the message simple, and while it generates a cliff effect, the number of affected students is small, and its eligibility requirements build in a sliding scale for most students. A member asked how the needs assessment would change. She replied that currently, UC uses the federal needs analysis methodology, which examines income, some assets, size of family, and the number of students in college. But federal aid programs are geared at low income families who do not have resources such as assets associated with rental income and businesses, home equity, and retirement resources, and does not consider the income of non-custodial parents. She noted that many UC students who receive UC grant funds do not borrow. An alternative would be to use the College Scholarship Service Profile produced by the College Board, which requests a range of information. However, they charge applicants for the service and UC is reluctant for its financial aid recipients to incur fees in order to apply. The UC financial aid directors are considering developing a UC form. UCOP has asked them to estimate the aggregate savings weighed against the cost to implement it. A member asked what will happen if the option chosen, say Option A, fails. Coordinator Jeffery replied that UCOP has been monitoring the mix of students by income and will continue to do so. To date, there has been no decline in the percentage of higher income students applying or enrolling.

ACTION: Council authorized Chair Powell to write a summary of Senate views expressing qualified support for Option A and requesting an annual report to BOARS.

X. UCOLASC Open Access Proposal

ISSUE: In response to the systemwide review of the Open Access proposal and to Council's discussion in January, Chair Kelty revised the proposal and provided additional information.

DISCUSSION: Chair Kelty described major changes to the draft policy based on responses to the systemwide review: (1) The goal of the policy and its benefits to the faculty are clarified in the preamble. (2) It has been rephrased so that only those who do not opt out of the license are required to deposit, i.e., if one opts out of the license, then one opts out of depositing. This responds to concerns about copyrighted images. (3) Language has been added to restrict the

University's ability to exercise the grant for commercial uses of the faculty-authored work. The problem with restricting the license grant by granting the University fewer rights is that this limits the range of rights that the University is able to relicense to the faculty member. We will be restricting the rights of individual faculty to decide what to grant. The alternative, which is UCOLASC's preference, is to rely on the power of the Senate to prescribe what we expect from the license grant and to retain the authority to change the policy. Other institutions like Duke have restricted the license grant, but UC has a stronger faculty governance system. The policy also clarifies that this is a "green" OA policy, not a "gold" one. No one is expected to pay page fees. A green OA policy is a hedge against pay-to-publish business models.

Divisions also requested greater clarity about implementation, so UCOLASC has drafted a letter to the provost seeking assurances about how UCOP would interpret the policy and whether it would provide adequate funding. Chair Kelty proposed waiting for a response to make sure that the University administration is committed to implementation before sending it to the Assembly for consideration.

Divisions also requested additional information. The CDL has a list of publishers that already allow green OA, and a list of scholarly societies that support OA. UCOLASC has statements and statistics from institutions that have instituted OA policies from as early as 2008. The only problem they cite is faculty non-compliance. Chair Kelty noted that in addition to the advice already received from OGC, the Senate should seek legal review of the proposal from independent counsel.

Q: The draft letter to the provost says, "Faculty want assurance that UCOP will adopt it as a presidential policy." However, you just emphasized that it should be a Senate policy.

A: We need guidance on this point.

Comment: This addresses many of our concerns. How will publishers who want to maintain their revenue streams react? How will the UC system negotiate with publishers in the future?

A: CDL negotiates with publishers regarding subscription costs for journals in collaboration with UCOLASC. If we pass a strong green OA policy, CDL will have a stronger negotiating position. This is also an argument for making it a presidential policy.

Q: The draft says, "Any changes in licensing must be approved in the Academic Senate." Can we enforce this?

A: Our only power is that we can stop granting our licenses.

Q: The draft says, "Faculty will provide an electronic copy." Does that mean that faculty are expected to do so or that it will be enforced?

A: There is no enforcement mechanism. However, we use the word "will" in order to convey a sense of obligation. We will encourage deposit, but will not enforce it.

Q: The draft also says that no papers will go unpublished due to lack of funds. Are we asking that OP would allocate whatever amount of funding is necessary to accomplish this?

A: UCOP already supports the publishing industry through subscriptions paid by CDL and the libraries. We need a monetary commitment from the administration to move forward.

Comment: Our local library committee voted against the policy because non-commercial use is not made explicit in the license grant and because they do not trust that the Senate is in control. A response from UCOP is necessary before we can proceed.

Comment: UCSF has had OA for a few years and before that, the NIH policy required that NIH funded projects were OA after one year. This policy would amend the standard contract for everyone. On our campus, it's as simple as checking a box. The publisher knows what to do with it. The implementation is less cumbersome than it sounds.

ACTION: Council approved forwarding the draft letter to the provost and authorized the Senate office, working with Chair Kelty, to send a second letter that seeks to clarify the legal issues raised. The proposal will be sent for consideration by the Assembly, contingent on a positive response from the provost.

XI. UCP&T Proposal to Amend Bylaw 337 and APM 150

ISSUE: Senate Bylaw 337 gives non-Senate faculty the right to request a hearing before the Committee on Privilege & Tenure in cases of proposed early termination. After extended review, the University Committee on Rules & Jurisdiction concluded that the current provisions of APM 150 do not provide adequate notice to ensure that a non-Senate faculty member subject to early termination fully understands the choices he/she must make and that the timelines now incorporated in APM 150 do not allow adequate opportunity for the non-Senate faculty member to exercise his/her rights to a Privilege & Tenure proceeding. Based on this analysis, UCP&T proposed amendments to APM 150, as well as a corresponding amendment to Bylaw 337.

DISCUSSION: Executive Director Winnacker noted that early termination is the one area of the APM that provides non-Senate faculty the right to have a P&T hearing. However, APM 150 is vague and does not allow sufficient time to carry out the intent of the corresponding SB 337, and does not provide adequate notice to ensure that a non-Senate faculty member subject to early termination fully understands the choices he/she must make to exercise his/her rights to a P&T proceeding. The proposed amendment clarifies that the non-Senate faculty member has a right either to a P&T process or to a grievance process outlined in APM 140, notifies them that they must choose between these two processes at the outset, and provides adequate time (30 days instead of 14) for them to make this choice. These procedural amendments will provide clarity and due process for non-Senate faculty members subject to an early termination process. They are modeled on language in APM 75 for early termination of Senate faculty. She noted that the proposed revisions to SB 337 would be sent for review contingent on the amendment of APM 150.

ACTION: Council unanimously endorsed UCP&T's proposal and recommended that the Vice Provost of Academic Personnel consider sending the proposed amendments to APM 150 for systemwide review.

XII. UCOE Copyright Agreement

DISCUSSION: Chair Powell stated that many divisions have reported unease with UCOE's intellectual property agreement. In December, we proposed a revision to the agreement, but need feedback from the divisions as to whether the proposed revisions are adequate. We will discuss this

at the April meeting. A member suggested that one way to solve the problem is to remove the initial course author's name from all of the course materials if it is taught by another person. While UCOE may own the materials, they do not own the use of the faculty member's name. A member stated that it may be possible to use digital watermarks to detect whether there have been changes to materials. UCLA's divisional chair stated that her division has completed a Senate review of a draft campus policy on online instruction ("the Atchison report"), which will be discussed at UCLA's May 2 summit.

XIII. New Business

Senate Bylaw 55. Chair Powell distributed a proposal by UCSD to amend SB 55 to extend departmental voting rights on academic merit and promotion reviews to salaried non-Senate faculty in the Adjunct Professor or Clinical Professor series in the Health Sciences. The proposal provides the option for departments to extend voting rights if two-thirds of the tenured faculty members in the department vote in favor of doing so; it does not require them to do so. A member noted that agronomists are in a similar position. Chair Powell asked UCFW and UCAP to review the proposal, considering it more broadly in the systemwide context, and recommend any revisions to the Academic Council for discussion at its meeting on May 22.

Senate Bylaw 110. Senate Executive Director Winnacker stated that the University Committee on Rules and Jurisdiction (UCR&J) is proposing an amendment to SB 110 to create a provision for a *pro tempore* appointment of a substitute Secretary/Parliamentarian for a single meeting when the Secretary/Parliamentarian of the Assembly of the Academic Senate is unable to attend a scheduled meeting or to fill a vacancy until an election prescribed in Bylaw 15 is held. The immediate reason is that the Secretary/Parliamentarian is unable to attend the June 12, 2013 meeting of the Assembly.

ACTION: Council unanimously approved referring the proposed amendment to the Assembly for consideration at its meeting on April 10.

Meeting adjourned at 4:30 pm

Attest: Robert Powell, Academic Council Chair

Minutes prepared by Clare Sheridan, Principal Committee Analyst