

ACADEMIC COUNCIL

Minutes of Videoconference Meeting

January 27, 2021

I. Consent Calendar

1. Today's agenda items and their priority
2. Draft Academic Council Minutes of December 16, 2020
3. February 10 Assembly Agenda

ACTION: Council approved the consent calendar.

II. Senate Officers Announcements

- **Mary Gauvain, Academic Council Chair**
- **Robert Horwitz, Academic Council Vice Chair**
- **Hilary Baxter, Executive Director**

January Regents Meeting: The meeting included a discussion about the report and recommendations of the Feasibility Study Working Group, which had been charged with determining the viability of a new exam for use in UC undergraduate admissions that would replace the SAT by 2025. The Working Group found that it would not be feasible for UC to develop a new test by 2025, but it recommended exploring the use of the Smarter Balanced assessment as a possible tool, if it was modified appropriately and found to add value.

Chair Gauvain's formal [remarks to the Regents](#) focused in part on the Senate's commitment to improving the transfer path for California Community College students by streamlining and better communicating UC major preparation requirements. The Regents also discussed the status of budget "rebenching"; UC sustainability and cybersecurity efforts; the future of online education in instruction; and the role of academic doctoral students in research and teaching. Also presented was the Special Report of the UC Health Sciences Diversity, Equity, and Inclusion Task Force.

Ethnic Studies Proposal: BOARS' proposal for a new Ethnic Studies requirement for UC admission will be circulated for systemwide Senate review after a UC faculty workgroup develops policy guidance and criteria for academic content that will qualify a high school course for the Ethnic Studies designation. Senate leadership are preparing a request to UCOC to form the workgroup.

Letter on Admissions Audit: The UCLA Senate Committee on Admissions sent Council a letter emphasizing the need to affirm the faculty's role in policy, oversight, and implementation of the California State Auditor's September 2020 report and recommendations for improving the integrity of the UC admissions process.

Vaccine Distribution: Chair Gauvain and Vice Chair Horwitz participate in a weekly meeting organized by UC Health about the University's plan for distributing COVID vaccines to staff, faculty, and students. The biggest current challenge is that demand for the vaccine exceeds supply.

Governor's Budget: Senate and UCOP leaders have been discussing the meaning and intent of several line items in the Governor's January budget related to faculty professional development, online education, and transfer admission, and the extent to which such line items intrude on the faculty's authority and constrain UC's ability to identify its own priorities.

III. UCFW Letter on Impact of Curtailment on Defined Contribution Plan Members

- **Shelley Halpain, UCFW Chair**

Council reviewed a UCFW letter asking the University to address the differential impact of curtailment and salary reductions on Savings Choice (defined contribution) participants in the 2016 pension tier as compared to Pension Choice (defined benefit) participants. The letter notes that a significant number of faculty and staff in Savings Choice stand to lose retirement income relative to those in the Pension Choice because their employer contributions will not be preserved. UCFW estimates that this will affect approximately one-third of faculty and staff in the 2016 tier.

ACTION: Council approved sending the letter to President Drake.

IV. UCPB Resolution on Insurance Providers

- **Sean Malloy, UCPB Chair**

Council reviewed a UCPB resolution asking the University to ensure that future RFPs for insurance service vendors include a criterion for eligible institutions to adhere to Environment, Social and Governance (ESG) principles. The resolution follows a July 2020 letter from UCPB and Council asking UC to issue a new RFP for banking vendors that includes ESG principles.

ACTION: A motion to approve the letter and forward it to CFO Brostrom was made, seconded, and passed unanimously.

V. Systemwide Review of Revisions to Leave-Related Policies of the APM 700 Series

Council reviewed comments from Senate divisions and systemwide committees to a set of proposed revisions to the APM 700 series. The goal of the revisions is to clarify existing policy related to family and medical leave, while substantially strengthening existing leave benefits. The revisions incorporate elements of a new paid family leave program approved by the Regents for implementation in July 2021 that includes an increase in childbearing leave for academic appointees from six to eight weeks; a new Pay for Family Care and Bonding benefit; new language addressing bereavement and jury duty leaves; and the removal of the age limit, currently at five years of age, on active service-modified duties to accommodate when a child older than five years is newly placed in a home for adoption or foster care. The revisions also align with a new state law expanding the California Family Rights Act definition of family members for whom an appointee may take a family and medical leave.

In general, Senate reviewers supported the changes, noting that they represent a step forward in equity and inclusivity, and will better support faculty in their efforts to balance the needs of their career and family. Reviewers also suggested additional improvements to both the clarity and substance of the policies.

- Council members observed that the proposed policy does not address the implications for teaching and research responsibilities for a faculty member taking a leave. Inevitably, these

shifts will carry costs that may be difficult for some campuses to manage without additional resources. Campuses should analyze the potential budget and planning impacts of the expansion in leave prior to implementation, to help units prepare for adjustments.

ACTION: A motion to approve forwarding the comments with a summary cover letter to Vice Provost Carlson was made, seconded, and passed.

VI. Proposed Revisions to Senate Bylaw 336.F.8 - Evidentiary Standards

Council reviewed comments from Senate divisions and committees to a set of proposed revisions to Senate Bylaw 336.F.8, needed to align Senate policy with state and federal law. UC Legal attorney Joshua Meltzer joined the meeting to answer questions.

In August 2020, new federal Title IX regulations took effect detailing how UC must respond to certain complaints of sexual misconduct. The regulations require the use of a single evidentiary standard in all cases, regardless of the respondent's identity (student, staff, or faculty). California state law also requires UC to use the "preponderance of the evidence" standard in SVSH matters involving students. However, SBL 336 currently permits Senate Privilege and Tenure proceedings for cases involving SVSH to use the "clear and convincing" evidentiary standard.

There was general support for the changes, although some divisions raised concerns about their feasibility and legal necessity, and suggested the possibility of using different standards for finding a violation has occurred (preponderance) vs. imposing discipline (clear and convincing), and for using the preponderance standard only for (1) SVSH categories listed in state law with respect to student respondent cases, or (2) conduct defined in Title IX regulations as Department of Education (DOE)-covered conduct. There was also concern that the revisions weaken Senate faculty's right to a disciplinary hearing by peers, and in doing so erodes their overall tenure protections.

- Mr. Meltzer said the suggested alternative approaches raise both legal and practical concerns. Title IX regulations do not provide for the potential use of one standard of evidence for a finding of responsibility and another for imposition of a sanction. They also require using the same standard for all types of DOE-covered conduct, including sexual harassment and sexual assault, and the same standard for student, faculty, and staff respondents. It would be difficult for UC to limit any policy to cases involving student respondents, and to apply different standards to faculty, students, and staff for DOE-covered conduct. In addition, the Office of Civil Rights has criticized the University for maintaining a different standard for faculty.
- Executive Director Baxter noted that UCPT continues to discuss the structure of Senate Privilege and Tenure hearings under the new regulations, and the role of P&T hearings in relation to the Title IX hearing.
- Chair Gauvain encouraged Council members to consider how Senate policies might include barriers to equity and fairness and to view the issue in the context of national conversations about how social structures embed privileges for certain groups.
- Individual Council members noted that the freedom to harass or assault students or colleagues is not an academic freedom, and it does not serve the Senate well to argue in favor of maintaining an indefensible privilege. Other members expressed support for a deeper discussion about protecting faculty tenure privileges.

ACTION: The Academic Council approved the amendments and will forward the revisions to the bylaw to the Assembly for their approval.

VII. Consultation with Senior Managers

- **Michael Drake, President**
- **Michael Brown, Provost and Executive Vice President, Academic Affairs**
- **Nathan Brostrom, Chief Financial Officer**

Comments from President Drake: The President thanked the faculty for their hard work in the transition to remote instruction during the pandemic and acknowledged the ongoing stresses on faculty and their families. He said the fall and winter surge in COVID cases has strained the UC medical centers, but the more recent downward trend has been encouraging. He said the University has announced a return to in-person instruction in fall 2021 based on expectations of a 70-80% vaccination rate, and one of his immediate priorities is to broaden vaccinations in the UC community while also assisting in the broader statewide distribution effort.

A February 2 systemwide symposium on campus safety will feature keynote speakers on policing, social justice, and campus safety issues; and a panel discussion with UC students, staff, faculty, police, and others. A March 24 follow-up session will discuss recommendations, best practices, and future plans, in anticipation of a Regents presentation in May, and policy changes in fall 2021.

The President said UCOP is focusing on equity in the context of student basic needs, climate change impact, and affordability, and in discussions about UC's potential affiliation with external health care providers. The President also said he looks forward to continued discussion about the feasibility of using a modified Smarter Balanced assessment as a possible tool in UC admissions.

Budget Update: The Governor's January budget proposes a \$136 million increase to UC's permanent general funds budget, including \$13m for medical education programs and \$15m for student basic needs. It also provides UC with \$225m in one-time funding, including \$175m for deferred maintenance. However, the general fund increase makes up less than half of the \$300m cut from last year, and full restoration of those cuts is UC's biggest priority. UC is also disappointed that the budget limits flexibility by continuing direct appropriations for UCOP and ANR and including line item funding for specific PIs and projects.

UC received \$1.5 billion in CARES Act funding, offsetting a portion of the \$2.7 billion in losses from state cuts and the pandemic. UC also expects to receive \$400m from the Higher Education Relief Fund passed in December; and it is advocating for additional relief from the new administration. UC's recent investment returns are strong. UCOP is preparing a \$2.5 billion bond issue to fund campus construction projects, and other bonds to generate additional capital for campuses. UCOP is also developing a debt-free program proposal for students as it continues to lobby support for a cohort tuition plan.

Discussion

- Council members asked senior managers for an opportunity to opine on any emerging new recommendations for UC's affiliations with health care providers, and to share current data about existing affiliations. It was noted that many faculty oppose affiliating with institutions that discriminate in health care delivery.

- Members asked to what extent UC will rely on local governments to manage faculty, staff, and student vaccinations, particularly on campuses without medical centers.
- Members asked for details about physical distancing requirements in fall 2021 in-person instruction. They noted that Council's recent recommendations for mitigating the pandemic's impact on faculty careers, emphasizes the need to support faculty with dependent care duties.
- A member expressed concern about a recent incident of Zoom censorship at a CSU academic symposium.
- President Drake said the Senate will have an opportunity to opine on affiliations during the next phase of discussions. He noted that UC has vaccinated over 90k health care workers, and thousands of other Phase 1b individuals and patients, and it plans to follow a 2:1 patient:staff split for future vaccine allotments. He said the University will work with state and county governments to vaccinate faculty and staff, and UC plans to send teams to campuses without health centers to help with vaccination efforts if needed. He said he is concerned about lower rates of vaccine acceptance in underserved communities.
- President Drake said UC is modeling a variety of in-person instruction scenarios and that physical distancing expectations will be clearer in the spring after more is known about vaccine delivery and effectiveness. He said he expects technology-enhanced instruction will become a more robust part of instruction after the pandemic is over.
- Provost Brown said he will work with the Senate on next steps in the effort to identify a possible UC admissions assessment tool aligned with the K-12 curricula. He noted that the UCOP budget is severely constrained by the state's decision to fund it through a line item in the UC budget allocation. He thanked Council for its letter of concern about the California Digital Library budget and said he will do what he can to ensure uninterrupted support for the CDL. He stated that he would oppose censorship by Zoom at UC. He agreed that the pandemic's effects on faculty research progress could endure for several years, and said he looks forward to reading the Council recommendations.

VIII. Visit with Board of Regents Chair John A. Pérez

Board of Regents Chair Pérez invited questions from Council members.

The Senate is concerned about recent efforts by the Legislature to regulate academic matters and classroom practices, including a 10% increase in online instruction. In addition, line items in the Governor's budget for specific research activities make it difficult for the Senate and the University to carry out their respective roles in the research enterprise and shared governance. How can the Senate work with the Regents to discourage such practices?

Chair Pérez said he shares some of the faculty's frustrations and he encouraged faculty to engage in advocacy. He acknowledged that UC is impacted by external priorities, but observed that the one-time carve-outs for research projects like the California Institutes for Science and Innovation do not necessarily divert money from the systemwide budget. He added that he is less offended by the specific academic expectations included in the budget, as he is by efforts to attach new requirements to a budget that only partially restores a past cut.

The 2019 UCFW-Health Care Task Force report on Nondiscrimination in Healthcare recommended that UC avoid affiliations with healthcare organizations that discriminate against certain groups. What is your opinion on these matters and how can the Senate help?

Chair Pérez said he will oppose any vote on the Regents that permits UC to affiliate with organizations that engage in health care discrimination based on gender or sexual orientation. He said science and medical best practices should guide UC Health, and that the refusal of religiously-affiliated healthcare providers to perform certain procedures is inconsistent with UC's values. He said he is not persuaded by arguments that affiliations will help UC expand access to health care, and noted that he is particularly interested in hearing views from health sciences faculty about the issue.

What are your views on cohort-based tuition?

Chair Pérez stated that he is willing to support a cohort-based tuition plan that guarantees entering freshmen a flat rate over the course of their UC career, and then implements modest increases for each new cohort. Such a plan would improve predictability for students and families and has the potential to improve affordability by generating new financial aid resources to support the total cost of attendance. He noted that UC would need to monitor the effect of the plan on access, given that proximity to home and perception of affordability (sticker price) are the two biggest drivers of decisions for first generation students.

How can the Senate help communicate to the Legislature the importance of UC's graduate education and research mission, and the role of graduate education in increasing diversity?

Chair Pérez noted that UC's identity as a public research university distinguishes it. This identity is expressed both in the research itself, and through the education that exists in the research. Graduate students interact with the mission by engaging in research with faculty, and also through undergraduate education. Legislators tend to be more interested in undergraduate education, so UC advocacy should connect graduate education and research to undergraduate education. He said that UC's response to the pandemic shows the benefits of its research to the state, and also challenged faculty to take ownership of the graduate student diversity problem.

UC would not be discussing tuition increases if the state provided appropriate funding. Budget cuts incentivize privatization and divisions. How can we help the Regents communicate to state decision-makers the need to fully fund UC?

Chair Pérez noted that the voters who passed 1978 Proposition 13, Proposition 98, and other laws, changed the state budget structure in ways that reduce flexibility and squeeze out funding for direct services like the University. He also mentioned that in the 2009 recession, it was more rational for lawmakers to cut the UC budget than social services that would have meant life or death for some people. He noted that several key California lawmakers are pressing for restoration of past cuts as the top priority, and suggested that the University advocate for a portion of the "rainy day" budget reserve.

The pandemic is putting great stress on faculty. The Senate is thinking about ways to support faculty and mitigate COVID-19 impacts on research and career advancement, morale, work-life balance, and dependent care responsibilities.

Chair Pérez expressed appreciation for the efforts of faculty to pivot the existing in-person curriculum to a remote format, and acknowledged that the pandemic has forced some faculty to pause their research and disrupted their career progress. He invited a longer conversation about how to support faculty and recognize their efforts in a meaningful way.

The Regents have not responded formally to the Senate’s 2019 Memorial on Divestment from Fossil Fuel Companies. Would you ask the Regents to issue a formal statement on divestment?

Chair Pérez noted that some administrators and Regents are hesitant to use the term “divestment” even if UC has implemented a *de facto* divestment from fossil fuels. He encouraged faculty to approach other Regents to gain their support for a formal statement in support of divestment, but he also cautioned that defining “divestment” is tricky and should be approached thoughtfully.

The Senate is interested in the relationship between the UC health centers and the general campus, particularly the financial aspects of the relationship in the context of the significant growth of the medical enterprise that does not necessarily benefit diverse communities.

Chair Pérez said he believes that money is one of the main motivating factors driving campus proposals to expand affiliations with external health care organizations; however, he also supports growing UC Health if it means reducing the corporate practice of medicine in California.

IX. UCAF Statement on Zoom

o Brian Soucek, UCAF Chair

Council reviewed a UCAF letter expressing concern that Zoom’s terms of service may lead to instances of censorship that violate UC’s academic freedom principles and responsibilities. The concerns follow several high-profile instances in which Zoom has canceled political events and academic discussions at universities after receiving complaints and finding violations of their terms of service. The letter recommends several steps the UC administration should take to protect academic freedom, including negotiating with Zoom for new contractual terms that protect academic freedom and identifying back-up platforms as well as permanent alternatives.

Chair Soucek noted that since UCAF wrote its letter, Zoom has modified its community standards description and reached out to UC and other higher education institutions to discuss a possible revision to Zoom’s terms of service and a new policy specific to college and university accounts. Zoom has also invited Chair Soucek to participate in a workshop it is hosting on January 28 to discuss this possibility. UCAF is encouraged by the recent modifications to Zoom’s community standards, but they do not go far enough to protect academic freedom.

- Council members expressed support for the letter and agreed that Zoom could meet the goals most simply and effectively by granting UC full content moderation rights within the boundaries of the law.

ACTION: The Academic Council endorsed the letter unanimously

X. UCORP Letter on Support for Animal Research

- o Richard Desjardins, UCORP Chair**
- o Karen Bales, UCORP Vice Chair**

Council reviewed a letter from UCORP expressing concern about the ongoing harassment of UC animal researchers and calling on UC to defend faculty with stronger public support. The letter emphasizes that the harassment affects the mental health of faculty and in some instances their personal safety. It also threatens academic freedom, given its potential to drive researchers from their fields and impair the advancement of knowledge. The harassment includes numerous, often

frivolous, FOIA and CPRA requests about the research, which burdens faculty and staff. UCORP suggests a systemwide effort is needed to educate the public about the benefits of animal research – for COVID and other critical public health research issues—and communicate support to faculty on campuses. There is promising activity at UCOP in that the Office of Research has formed a working group on transparency in animal research. But, this issue, nonetheless, needs to be a greater priority.

- Council members agreed a systemwide response would be useful and noted that there is a distinction between illegal acts of harassment, such as stalking and violence, and the harassing use of the CPRA and FOIA, which is currently legal. Members suggested the letter emphasize that researchers weigh animal welfare highly and take steps to avoid unnecessary animal suffering in pursuit of research for the public good.

ACTION: UCORP will revise its letter and return to Council.

XI. Executive Session

XII. Reports from Division Chairs

Chair Gauvain invited Senate Chairs to describe budget and workforce actions their campuses have taken or plan to take to meet the savings target established by the President.

Senate chairs reported that many campuses are dealing with multi-million-dollar budget shortfalls, while some have deeper structural deficits. Shortfalls tend to be steepest in auxiliaries such as housing, dining, and athletics. Many campuses have implemented temporary layoffs of staff in auxiliaries, and while some campuses have access to reserves to help dampen the near-term impact of losses, most are proposing cuts of between 5% and 15% to core operations, some across the board, and others on a more targeted basis. No campus has implemented faculty/staff furloughs or pay cuts to response to the UCOP-mandated curtailment savings target (UCOP mandated extra LWOP days for staff around the holidays.) Instead, campuses are meeting the target in other ways, including through hiring freezes and position controls, delaying merit increases for staff and COLAs for faculty (though most faculty merit increases are going ahead), postponing construction projects, tapping into TRIP reserves, and borrowing. Individual campuses are considering additional cuts to athletics, the police budget, and other areas, and several are considering enrollment growth as a strategy to address budget shortfall. Several campuses added days to the existing holiday curtailment period, which in some cases required staff to take extra vacation days. Some campuses have redeployed staff to avoid workforce actions and others are considering furloughs as a future option. Faculty are participating to varying degrees in campus discussions about principles to guide cuts.

Meeting adjourned at 3:45 pm
Minutes prepared by Michael LaBriola, Assistant Director
Attest: Mary Gauvain, Academic Council Chair