

## ACADEMIC COUNCIL

## Minutes of Meeting

October 3, 2018

**I. Consent Calendar**

1. Today's agenda items and their priority

**ACTION: Council approved the consent calendar.**

**II. Senate Officer Announcements**

- o **Robert May, Academic Council Chair**
- o **Kum-Kum Bhavnani, Academic Council Vice Chair**

September Regents Meeting: It was the first Regents meeting for four new [Regents](#) appointed by Governor Brown in August. Provost Brown and Vice Provost Carlson led a discussion of the annual [Accountability Sub-Report on Faculty Diversity](#) that addressed diversity outcomes, initiatives, and challenges to diversifying the faculty. The Regents approved amendments to Standing Order 105.1 and Bylaw 40.3 to align with amendments to [APM 285](#) that were reviewed and supported by the Academic Council. They extend Senate membership to all faculty in the LSOE series, at any appointment percentage. Previously, part-time LSOE faculty were not Senate members. Chair May's [remarks to the Regents](#) focused on the Senate's priorities for the upcoming academic year and on its delegated authority to set the conditions for admission, in the context of the transfer guarantee agreement between UC and the California Community Colleges. Chair May also made a [presentation](#) to the Compliance and Audit Committee on the Senate's response to the State Auditor's [report](#) on sexual harassment cases at UC.

Transfer Guarantee: Last year, President Napolitano challenged the Senate to develop a systemwide transfer admission guarantee for California Community College (CCC) students who meet both a minimum GPA in a UC Transfer Pathway and a minimum overall GPA. BOARS and UCEP are discussing the parameters of the guarantee, and a joint Senate-administration work group is developing an implementation plan. The University anticipates having a program in place for students entering the CCC in September 2019. All students who qualify for the guarantee will still need to undergo a comprehensive review on specific campuses prior to admission.

UCOP Restructuring: The two Advisory Committees appointed by President Napolitano to consider the Huron Consulting Group's options for the Division of Agriculture and Natural Resources and the Division of UC Health are preparing their final reports. The Senate has been reviewing other Huron-inspired proposals to restructure or relocate systemwide entities; in June, it [opined](#) on a proposal to move the UC Education Abroad Program and its budget to UCSB, and it later expressed [concerns](#) about the future of the UC Press. The Senate also [asked](#) President Napolitano to more effectively engage shared governance in the process of evaluating the Huron options. The President responded by affirming her commitment to consult the Senate about all elements of restructuring pertaining to the academic enterprise. The Senate is currently reviewing the proposed consolidation of UC's Mexico entities on an expedited timeframe. Chair May noted that he is also advocating for a comprehensive review of UC's health enterprise that assesses the role of the medical centers and their relationship to the general campuses.

Standardized Testing: President Napolitano has asked the Senate to review the role of standardized tests in UC eligibility and admissions, their value in predicting academic success at UC, and their effect on access for different student populations. BOARS, UCOPE, and UCEP will lead the review. The Senate will undertake the review without prejudice or presupposition.

150<sup>th</sup> Anniversary Symposium: The Senate is organizing a [symposium](#) in celebration of the 150<sup>th</sup> anniversary of the UC faculty. The event will be held on October 26 and 27 and will feature four lecture and panel discussion sessions focused on the mission, history, and goals of the University: 1) The Master Plan: Equity, Access, and the Social Contract for Higher Education; 2) The Evolution of Shared Governance; 3) Reflections on Free Speech and Academic Freedom; and 4) Growing UC: Past Successes and Future Challenges.

Benefits Update: At the Senate's request, the University's childbearing leave policy ([APM 760](#)) has been corrected to provide equity between semester and quarter campuses. The policy had previously stated that faculty were eligible for a total period of leave plus active service-modified duties of two quarters (or two semesters). It now reads three quarters (or two semesters). In addition, the University has agreed to implement the recommendations in a [2017 Senate report](#) to UC extending health and welfare benefits, including survivor benefits, to domestic partners of all UC employees regardless of gender or age. The new policy will take effect effective January 1, 2019, and details will be available in fall 2018 open enrollment materials. Finally, employee subscribers to UC Care will see significant premium increases next year; subscribers to other UC sponsored health care plans will see only small increases.

New Senate Award: An anonymous faculty member has endowed a new systemwide Academic Senate award to honor a mid-career faculty member who has demonstrated excellent service.

### **III. Update on Journal License Renewals**

- **Richard Schneider, UCOLASC Chair**
- **Jeff Mackie-Mason, University Librarian, UC Berkeley**
- **Guenter Waibel, Associate Vice Provost and Executive Director, California Digital Library (CDL) (*phone*)**
- **Ivy Anderson, Director, Collection Development & Management, CDL (*phone*)**

Members of the Publisher Negotiation Task Force briefed Council on UC's negotiation strategy with scholarly journal publishers for subscription contracts that expire December 31. The Task Force is seeking to reduce costs and transition UC from a subscription-based model to a primarily Open Access (OA) model. The University and the Academic Senate have been leaders in the OA movement. In 2013, the Senate passed an [Open Access Policy](#) that applies to Senate faculty, and in 2015 it supported the [Presidential Open Access Policy](#) that applies to all other UC employees.

UC spends 25% of its \$40 million systemwide subscription budget on academic journals published by Elsevier, which enjoys profit margins of close to 40%. The subscription-based model is expensive and unsustainable, extracts money from the University, and provides large profit margins for commercial publishers earned through the free labor of faculty, who serve as authors, editors, and peer reviewers. Elsevier and the other commercial publishers are also promoting "hybrid" journals in which authors pay an article publishing charge (APC) to publish OA articles on top of the subscription fees UC already pays for those journals. This amounts to double dipping.

The Task Force is seeking a three-year “publish and read” pilot agreement that combines subscription charges and APC fees, and eliminates double payments. The plan is to move all UC-authored articles to an open access publication model by default within all existing Elsevier journals, and with publication fees divided between the libraries and the authors. The libraries will use subscription savings to pay for at least part of all author APCs. For authors who do not have grant funding or other resources, the libraries will cover 100% of the APCs; authors can also opt-out entirely and their work can be published for free and remain subscription access only. The Task Force is negotiating for a discount in the APC so that the agreement will represent an overall cost reduction for UC and its authors. UC authors will not be told where to publish and may opt out of OA for any given article. The Task Force developed its goals in consultation with a broad range of constituencies, including UCOLASC and other faculty, and has support from the Council of University Librarians and the administration for its negotiating position. Two faculty members are involved in the negotiations.

Given the nature of these goals, the negotiations may not conclude successfully by December 31, 2018 and the University may lose immediate access to some Elsevier publications. If UC is forced to walk away, it will retain access to 86% of existing and historical Elsevier content up to December 31, but could lose immediate access to some historical content and any new non-OA content. UC is working on a contingency plan for alternative access to Elsevier journal articles through other means such as interlibrary loan, “green” OA copies, reprint requests, or the purchase of articles on demand, as is done with other journals.

UCOLASC Chair Schneider noted that he would be pleased to give Council additional updates on the progress of negotiations, and is also available to meet with Senate committees interested in a deeper dive on Open Access issues.

#### **IV. Consultation with UC Senior Managers**

##### **o Michael T. Brown, Provost and Executive Vice President, Academic Affairs**

Transfer Guarantee: Provost Brown noted that the joint Senate-administration work group led by Council Chair May is considering how to make the systemwide transfer guarantee pool a manageable size and ways to encourage students to apply to multiple campuses – particularly campuses that participate in the Transfer Admission Guarantee (TAG) program.

UCOP Organization: The administration will not proceed with the proposed consolidation of UC’s Mexico entities without first hearing from Council. UCOP is also discussing possible new locations for the Research Grants and Programs Office (RGPO) and the Innovative Learning Technology Initiative (ILTI), and assembling “tiger teams” to discuss the nature of some of the University’s relationships with foreign entities and students. The relocation of UC Press is not currently being discussed.

NAGPRA: President Napolitano has appointed a workgroup to conduct a substantive review and revision of UC’s policies and practices related to the Native American Graves Protection and Repatriation Act (NAGPRA), which regulates UC campus stewardship of Native American human remains and cultural artifacts.

Faculty Diversity: UC is strengthening its approach to advancing faculty diversity in multiple ways, including building new pathways to the professoriate; incentivizing the diversification of UC’s graduate student and postdoc population through partnerships with HBCUs and HSIs; strengthening and/or making permanent faculty diversity initiatives; encouraging

experimentation; fostering the retention of diverse faculty; and encouraging timely faculty turnover and renewal.

November Regents Meeting: The Division of Academic Affairs is planning a presentation on academic quality indicators for the November Regents meeting. Some Regents are concerned about reported declines in academic rankings and want to know if economic stresses could be affecting the University's quality and reputation.

- Council members noted that it is important for discussions about quality to highlight the role of competitive faculty salaries and to focus on the importance of maintaining research excellence. In addition, it is critical for the University to be able to detect and halt signs of erosion early.

## **V. Executive Session**

## **VI. Proposed Consolidation of UC's Mexico Entities**

Council reviewed comments from Senate divisions and systemwide committees to the *Current State Assessment Report for Systemwide Mexico Entities*, which outlines UCOP's proposal to consolidate three systemwide programs related to educational and research activities with Mexico: 1) the UC MEXUS Multicampus Research Unit; 2) President Napolitano's UC-Mexico Initiative; and 3) Casa de California. The Senate agreed to review the proposal on an expedited timeline. The proposal is part of the UCOP restructuring effort that follows from the Huron Consulting Group's review of UCOP.

In general, Council members agreed with Senate reviewers that the *Assessment Report* makes a strong case for the consolidation of the Mexico entities, as well as for the branding and location of the merged entity. There was strong support for merging the initiatives into a single, financial sustainable entity that maintains the UC MEXUS name and location at UC Riverside. It was also noted that the Report also includes information about a proposal from UCSD to host the newly merged entity and some members of the UCSD campus community support making a bid for the new entity.

It was noted that the UC-Mexico Initiative was intended to be temporary, and also overlaps significantly with the UC MEXUS mission. Merging the entities provides an opportunity to lower costs, reduce programmatic and administrative redundancies, and focus efforts on the most critical graduate training and research programs.

Members expressed support for applying the UC MEXUS name to the merged entity, given the strong brand reputation of UC MEXUS. In addition, maintaining UC Riverside as its home base seems logical, given its 37-year history there, UCR's existing infrastructure and commitment to the program, and the \$5.5 million cost of relocating the operation to UC San Diego; however, members were also unable to fully evaluate the significance of the relocation cost relative to the potential cost of maintaining the program at UCR.

Council members discussed the proposal to restructure the small grants program to decrease the number of small (\$1,500) grant awards but increase the award amounts. Council members noted that such grants often provide seed funding for pilot projects that later become larger proposals and were concerned that decreasing the number funded would limit collaborative research opportunities.

It was noted that the consolidation is an opportunity to enhance the systemwide character of the newly merged entity, and to expand its scope to incorporate a broader range of disciplines and research interests and themes from the UC-Mexico Initiative. The new entity should also have program integration across all UC campuses – particularly with the UC campuses designated as Hispanic Serving Institutions. The governance of the consolidated entity should also have a systemwide character with representation from the Senate, broad representation from across the UC system and from Mexico.

Council members noted that one of UCOP’s roles relates to management of systemwide academic programs, but there are also systemwide programs, like UC MEXUS, which are managed effectively by campuses. It was noted that the Senate’s [15-year sunset review of UC MEXUS](#) performed in 2016, found UC MEXUS to be an exemplar of a successful and well-managed UC MRU. However, upgraded facilities and infrastructure will be needed at UCR to help the campus continue to be an effective host. UCOP should ensure that UCR has the resources needed to facilitate the consolidation. UCOP can also play an oversight role that helps ensure the new entity serves the whole system.

**ACTION: A draft summary letter will be circulated for Council feedback and approval.**

## **VII. Librarians and Academic Freedom**

- **Susan Carlson, Vice Provost for Academic Personnel**
- **Pamela Peterson, Executive Director & Deputy to the Vice Provost**
- **Amy K. Lee, Diversity, Labor, & Employee Relations Director**

In collective bargaining negotiations, the represented librarians have requested “academic freedom” protections as part of their terms of employment. The University’s position is that non-Senate academic appointees, including librarians, are not eligible for academic freedom in the same sense that applies to Senate faculty under APM-010 (Academic Freedom) and APM-015 (Faculty Code of Conduct). There is no policy guidance for this academic population, and UCOP believes that policy, rather than contract language, would provide an open and transparent way to address the issue. Administrators are recommending that a working group develop a proposed policy for systemwide review.

- Council members expressed support for issuing a statement in support of forming a working group, with Senate representation, to develop a UC policy that provides non-Senate academic appointees with appropriate protections and responsibilities for scholarship, research, and teaching conducted in the context of their appointments, independent from but akin to those enjoyed by Senate faculty under APM 010 and 015.

**ACTION: A draft statement will be circulated for Council feedback and approval.**

## **VIII. NAGPRA**

- **Ellen Auriti, Senior Counsel, Educational Affairs**

Senior Counsel Auriti updated Council on the University’s efforts to comply with requirements in the Native American Graves Protection and Repatriation Act (NAGPRA) that affect UC’s policy/practice with respect to repatriation of Native American human remains and cultural items. Six UC campuses have NAGRPA-covered holdings. The University has a policy governing its compliance with the federal and state versions of NAGPRA; however, it has been criticized for applying the policy slowly and inconsistently, for failing to respond to repatriation

requests and not appropriately consulting with tribes, and for prioritizing the scientific value of remains over the cultural and religious concerns of tribes. New State legislation (SB 2836) includes several direct mandates to UC concerning its NAGPRA policies, processes, and consultation procedures. The University supports the broad goals of the legislation, to prioritize repatriation and to better incorporate Native American input into UC processes. President Napolitano has asked Provost Brown to convene a workgroup to address the concerns raised in the bill and to review UC policies and committee structures, in consultation with tribes. However, UC objects to some of the bill's provisions that intrude on UC's constitutional autonomy, including a mandate regarding the specific composition of the oversight committees required to review repatriation requests. UC will be working to amend the language of the bill to address these concerns, as it implements its main requirements.

- A Council member suggested that UC consult with the California Center for Native Nations at UC Riverside on NAGPRA issues.

**IX. Proposed Revised Presidential Policy on Sexual Violence and Sexual Harassment**  
○ **Suzanne Taylor, Systemwide Title IX Coordinator**

UCOP has released for systemwide review a [proposed revised Presidential Policy](#) on Sexual Violence and Sexual Harassment (SVSH). The policy was revised in response to two mandates – the first issued by the Department of Education Office of Civil Rights (OCR) in a “Resolution Agreement” following its investigation into UC Berkeley’s handling of SVSH cases, which asked the University to revise systemwide SVSH policy to clarify language around the informal resolution process, acts committed by and against third parties, and prompt resolution timelines. The second set of mandates was issued by the CA State Auditor (CSA) in a June 2018 report on UC’s responses to SVSH complaints. The CSA asked UC to clarify several issues that echoed those identified by OCR, related to the faculty discipline process, informal resolutions, and the timeliness of investigations. Finally, UCOP invited campuses to submit general feedback about the existing policy, and incorporated those inputs into the revision. Significant changes to the policy include new clarifications about prohibited conduct and investigation and adjudication procedures, the addition of a 30- to 60-day timeframe for informal resolutions, the extension of the formal investigation timeframe from 60 days to 90 days, and a provision explicitly permitting Title IX to initiate an investigation despite the absence of an identifiable respondent.

- Council members noted that some campuses continue to struggle with how to interpret certain provisions in the systemwide policy and how to handle disciplinary cases with multiple dimensions that include, but are not limited to, SVSH. It was noted that different interpretations can result in inconsistent implementation of policy and investigation outcomes.

Chair May added that UCPT will be meeting to discuss the CSA’s specific recommendation to the Senate to further define Senate bylaws to specify timeframes for scheduling a disciplinary hearing before the P&T Committee and for issuing a P&T recommendation to the Chancellor, along with other process improvements and added safeguards to ensure compliance.

**X. Faculty Diversity Issues**  
○ **Lok Siu, Chair, University Committee on Affirmative Action, Diversity and Equity (UCAADE)**



UCAADE is developing a set of recommendations for expanding the [President's Postdoctoral Fellowship Program](#). UCAADE is aware that the PFP has been an effective tool in promoting UC faculty diversity through its support of diverse postdoctoral scholars. 165 current UC tenure-track faculty members went through the PFP program, and about 30% of PFP alumni have transitioned into tenure-track positions at UC over the past 10 years, representing about 11.5% of UC's total new URM hiring. Many other PFP alumni have obtained faculty positions at other institutions. Last year, the program received 865 applications for about 20 awards. One of UCAADE's recommendations is to double the number of annual fellowship awards from 20 to 40, which would represent an additional 5% yield on the 2017-2018 applicant pool. UCAADE intends to bring a more formal proposal to the next Council meeting.

- Council members expressed support for expanding the PFP, noting that it is one of UC's most effective tools for diversifying the faculty pipeline. They added that it is important to coordinate the PFP with available FTEs, and noted that as the PFP expands, the University should also expand the infrastructure needed to support faculty who mentor Fellows.

## **XI. Consultation with the UCOP Office of Budget Analysis and Planning**

### **○ David Alcocer, Associate Vice President, Budget Analysis and Planning**

Multi-year budgeting: UCOP is developing a multi-year proposal for full funding of the University that encompasses the first term of the Governor-elect. The University hopes the proposal can serve as the basis for a funding agreement that establishes clear expectations – both for the state's responsibility to fund the University and for steps the University will take to improve undergraduate access and time-to-degree, particularly for CA students. In the proposal, UC will also discuss opportunities for improving degree completion that do not sacrifice quality and that enable UC to accommodate more freshmen and transfers without growing total enrollment. Reducing time to degree would also improve affordability and lessen student debt.

Nonresident Enrollment: The 2018-19 Budget Act includes supplemental reporting language that requires UC to submit a report to the Legislature outlining the financial, demographic, and other implications of reducing nonresident enrollment to no more than 10% at each campus over the next ten years. The exercise will help inform discussions about funding UC would need to “buy out” nonresident enrollment slots for CA residents, and other options for replacing lost revenue that do not include higher tuition. AVP Alcocer invited the Academic Senate to make a statement about nonresident enrollment.

- It was noted that the admission rate for CA residents is approaching single digits at some UC campuses. The contrast with the much higher nonresident rate could expose UC to criticism among individuals who do not understand that nonresidents are much less likely to accept an admission offer and must be admitted at a higher percentage to achieve the desired yield. It was noted that campuses continue to struggle with the effects of over-enrollment, impacted majors, strained infrastructure, wait lists, and a lack of laboratory and classroom space. It was noted that the student-faculty ratio is a well-established measure of quality; the systemwide average has fallen from 17 to 1 and is currently 21 to 1.

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Meeting adjourned at 4:30 pm

Minutes prepared by Michael LaBriola, Principal Committee Analyst

Attest: Robert May, Academic Council Chair