

Minutes of Meeting**February 26, 2020****I. Consent Calendar**

1. Today's agenda items and their priority
2. Academic Council minutes of January 29, 2020

ACTION: Council approved the consent calendar.**II. Senate Officer Announcements**

- **Kum-Kum Bhavnani, Academic Council Chair**
- **Mary Gauvain, Academic Council Vice Chair**

UCSC Strike: Last week, Council issued two [statements](#) to President Napolitano about the UCSC graduate student wildcat strike. The first asked the University to address graduate students' concerns about housing and food security and refrain from punitive action against striking students, some of whom are withholding grades. The second asked the University to roll back and demilitarize the police presence at the strike. In a letter to Chair Bhavnani, the President noted that the statements were not productive in bringing the strike to an end. Chair Bhavnani has told the President she regrets not briefing her more fully in advance about the statement.

- Council members expressed concern that the strike could spread to other campuses, and noted that the faculty have the right and obligation to speak publicly on issues affecting educational delivery and quality, even if their views conflict with those of the administration. Vice Chair Gauvain added that Council's vote on the first statement was not unanimous, and that she and other Council members supported a shorter statement. Vice Chair Gauvain also informed the Council that she had told the President of her view when she and Chair Bhavnani met with the President for their scheduled pre-Council meeting.
- It was noted that faculty supervise graduate students and should submit final grades for undergraduate students; it was also noted that faculty would be violating APM 015 if they submitted grades without complete information about an undergraduate student's true merit for receiving the grade. It was also noted that the issues raised by the striking students connect directly to the state's longstanding underfunding of graduate education. A number of Council commented that graduate students deserve a living wage, and the status quo of low wages for TAs is undesirable.

III. Openness in Research Policy

- **Lourdes DeMattos, Associate Dir., Research Policy Analysis and Coordination**

UCOP is preparing a new policy, "Openness in Research" (presently in draft form) for systemwide review. The proposed policy establishes the UC principle of openness in research as fundamental; describes characteristics of projects and practices consistent with this principle; clarifies existing UC policies on publication and citizenship restrictions in research agreements; and permits campuses a new ability to accept publication and/or citizenship restrictions when

receiving federal research grants, including restrictions imposed by the federal government for national security reasons.

UC's longstanding policy rejects citizenship-based restrictions in extramural agreements or publications. Those policies are rooted in UC's commitment to open dissemination of research results and nondiscrimination, including the selection of research team members on the basis of merit rather than criteria dictated by third parties.

Current policy does allow chancellors some flexibility to accept restrictions in narrowly defined circumstances that do not involve censorship of project results. The imposition of brief publication delays is also allowable, as are citizenship restrictions for "workforce development" of students and early career researchers.

The new policy would clarify these limited allowable exceptions, expand acceptance of funding limitations (i.e., some sponsors restrict the use of their funds to U.S. citizen or permanent residents), provided the terms do not restrict participation in the project using other resources (e.g., University resources or other grants/contracts), and expand the "workforce development" exception to new or experienced researchers when the purpose is to develop expertise in certain fields.

In addition, the new policy would also allow campuses to perform research subject to national security restrictions that is already limited by established regulations of the federal government. The policy also would exclude classified work for the U.S. government and require restricted work, also regulated by the U.S. government, to be performed in secure, separate facilities. Finally, the new policy would require that accepting restricted research would have no adverse effects on students and, also include benefits that outweigh any negative impact on open, public access to academic research contributions.

Some faculty are pushing for the policy change, which could expand research opportunities and access to funding, help UC address important national and global research questions, aid in recruitment, and create training for employment in new fields. However, it was noted that the change represents a potential shift away from an open academic environment, could require increased expectations for compliance, and possibly increase compliance risk.

- Some Council members expressed concern about implementing a fundamental change to UC's open research environment, in relation to xenophobia and in which discrimination against foreign national faculty would now be acceptable. There was also concern that the proposed policy accommodates the current nativist political environment, and could encourage further government efforts to expand publication and citizenship restrictions. There were also concerns that an expensive new compliance infrastructure would be required to implement the policy. Council members requested that UCOP collect examples and background to accompany the policy draft.

IV. Working Group on Comprehensive Access (WGCA) Chair's Report

The WGCA was formed to develop recommendations for upholding UC values when UC health systems affiliate with non-UC health systems. The Working Group was formed by President Napolitano, following a 2019 UCSF decision to halt a planned affiliation with the Catholic hospital entity Dignity Healthcare, over public concerns that Dignity's restrictions on services for women and LGBTQ+ people were inconsistent with UC values.

The WGCA did not reach consensus on values that could be drawn upon when the UC considers affiliating with non-UC health care organizations that limit services such as those related to women’s reproductive healthcare, end-of-life care, and gender affirming surgery. The WGCA Chair’s Report outlines two options: 1) allow affiliations with non-UC entities that prohibit certain services for women and LGBTQ+ people, and 2) prohibit such affiliations. The Report states that Option 1 would require that affiliation agreements accord with principles tied to UC’s commitment to evidence-based care, nondiscrimination, expanding access to and improving the quality of care, academic freedom, and UC’s public mission and values.

The majority of Senate reviewers expressed support for “Option 2,” given its alignment with the principles expressed in the July 2019 [report](#) of the UCFW Non-Discrimination in Healthcare Task Force (NDHCTF), which called on UC to align affiliation decisions with core UC values and avoid affiliations that compromise those values. However, the view was not unanimous. Others expressed concern that an absolute prohibition on affiliations with faith-based providers or other providers with policy-based restrictions on care would adversely affect access to care, particularly in some UC campus communities and rural communities where the only full service hospitals are religiously-affiliated. Council’s discussion included the following points:

- UCSF supports promoting the common good through expanded access to first-rate care, over rigid adherence to ideal UC core values. UCSF believes it is possible to structure affiliations to ensure that protections are in place for the delivery of care and for faculty and trainees.
- There are limited health care options in the UCM and UCSC communities, and ending relationships with Dignity and other providers could create healthcare access and inequity issues for UC personnel who live in those communities.
- Some Council members expressed support for an “Option 3” that supports the safeguards in “Option 2,” and aligns affiliations with the principles in the NDHCTF report. Council recognized that the bar for approving affiliations between UC medical centers and healthcare entities that restrict certain services, should be higher than present arrangements to include Dignity-affiliated hospitals with UCSF and other UC Medical centers. Council noted that Dignity or other Catholic health systems, which restrict certain services, are part of the health insurance network, and are an option available to UC employees.
- Chair Bhavnani explained that the two options outlined in the WGCA Chair’s report had not been discussed, as such, at the WGCA meetings. For that reason, “Option 3” was something that could be entertained by Council.
- Members expressed concern about UC Health’s failure to disclose relevant financial information about the benefits of the UCSF-Dignity affiliation, and noted that documents obtained through a PRA request demonstrated that UC personnel have been bound by the Ethical and Religious Directives (ERDs) in the contracts, in contrast to claims made by UC Health. Going forward, UC Health has started to address this issue by signing new contracts with Dignity and similar health systems and will make such contracts signed with non-UC Health systems available.

V. Consultation with UC Senior Managers

- **Michael Brown, Provost and Executive Vice President, Academic Affairs**

Provost Brown noted that the UCSC graduate student strike requires both a local and a systemwide solution along with coordinated efforts of the entire shared governance apparatus working in common cause and in open, trust-based communication. He encouraged Council members to request an explanation of any administrative position with which they disagree. Provost Brown said he is passionate about increasing graduate student support, but characterized the withholding of grades by graduate students as “unconscionable” and harmful to undergraduates. He noted that the strike is a symptom of the larger underfunding problem and conceded that that UC administration had failed to deliver a state budget that could support graduate students. He asked Council to consider how faculty can deliver a curriculum while also supporting graduate students and not harming undergraduates.

- Council members agreed that that the administration, Regents, and State had failed in their responsibility to secure adequate funding for UC. Members expressed concern that treating the strike in a heavy handed way could worsen the situation, and they encouraged the administration to be flexible in considering alternatives. They noted that undergraduate and graduate students are united in solidarity over housing and food insecurity, and that graduate student welfare fundamentally affects the undergraduate education mission.

VI. Visit with Regent Cecilia Estolano

Cecilia Estolano is the current Vice Chair of the Board of Regents. She was appointed to the Board in August 2018 by Governor Brown for a term ending in 2022. Ms. Estolano is the Co-CEO and Co-Founder of Estolano LeSar, an urban planning and public policy firm.

Regent Estolano noted that her personal and family backgrounds inform her perspectives about UC and higher education. UC transformed the lives of her parents, who both attended UCLA, and Regent Estolano herself, who has a master’s degree in urban planning from UCLA and a law degree from Berkeley. Her parents often reflected on the uniqueness of UC and its importance to California, and lamented that rising tuition costs and demand had increased barriers to working class people.

She noted that racial and social justice guides her work, and she is a fierce advocate for working people and liberal democracy. She is particularly concerned about the current challenges to democracy, the existential threat of climate change, and the growing income and power disparity in the U.S. After 50 years of increasingly unrestrained capitalism, these disparities have created social unrest and an opening for the demagogue that was feared by the nation’s founders. She noted that the University is an “indicator species” for these concerns, and that there is a growing sense of urgency on campuses about such concerns.

She noted that the University represents the highest values of liberal democracy in its respect for evidence-based inquiry, its belief in the transformative power of education, and its commitment to advancing a more equitable society. She said that these values are embedded in “UC’s DNA.” However, UC is also an elite institution that does not always live its values. Each year, as thousands of deserving students are unable to access a UC education, a growing number of residents see UC as irrelevant to their lives.

Regent Estolano noted that shared governance comes with shared responsibility, and she encouraged faculty to work together with the Regents and Administration to build more support from the legislature and the public by communicating a shared vision about the future of UC. She noted that UC must 1) massively expand state investments and undergraduate enrollment; 2)

increase the diversity of students and faculty to make UC look more like California; and 3) address labor, student, and economic unrest. She mentioned the faculty's role in promoting diversity in faculty hiring, and noted that the 2020 election is a referendum on opportunity denied and growing inequality. She said students will turn to faculty for leadership about changing the system and living UC's values, so that tomorrow's students may enjoy the same opportunities. She said love, connection, and communication will save us.

- Council members noted that it is important for the Regents and UCOP to align budget messages, and to draw attention to the flawed public higher education funding structure. They noted that the graduate education funding structure is built on exploited labor and is no longer tenable.
- UCAADE Chair Lynch noted that UCAADE is pushing forward on a variety of faculty diversity initiatives that emphasize diversity, equity, and inclusion as a core duty of faculty. These include a recommendation for campuses to request Diversity, Equity, and Inclusion statements from faculty candidates for hiring. UCAADE is also considering strategies for addressing faculty retention challenges, and recognizes that minority faculty often have a disproportionate service burden.
- Council members noted that campuses have already absorbed thousands of undergraduates without adequate state funding, housing, or faculty hiring to support their education. As a result, the student-faculty ratio is rising, classrooms are overcrowded, and students cannot access services. The quality of education is decreasing. Students have fewer opportunities for face-to-face interaction with faculty, and the workload burden is overwhelming graduate students. They noted that campuses feel discouraged from reporting bad news to Regents about these issues and the terrible state of campus infrastructure. The Regents have a responsibility to respond to the lack of proper state support with a tuition increase.
- Members noted that the Regents Special Committee for the Presidential Search has broken tradition by not including the Academic Advisory Committee chair in its meetings. The Regents should be in constant communication and consultation with all constituencies about this important search. Members also encouraged Regent Estolano to support the research mission and noted that the solution to the climate crisis is within the UC system. They also stressed that the UC would not exist without its students and faculty.
- Regent Estolano noted that individual Regents can help communicate messages about state funding and graduate student support. She said the Regents want to hear the truth; they are concerned about infrastructure and educational quality; and they seek perspectives about UC's future from a variety of constituencies. She also noted that the Regents are interested in leveraging UC's intellectual capacity, entrepreneurship, and research innovation to help solve big societal challenges like climate change. She said she is reviewing the report of the Standardized Testing Task Force with interest.

VII. Consultation with the Chief Operating Officer

○ Jagdeep Bachher

The Office of the CIO manages a suite of assets, including the UC pension fund, funds in the UC endowment pool, the short term investment pool (STIP), and the total return investment pool (TRIP). He stated that his overall mission and responsibility is to maximize returns and annual payouts for these investments. Several topics were discussed.

Housing: Council members asked CIO Bachher if his Office could do anything to help graduate students with housing costs. CIO Bachher responded that one of his priorities is to identify strategic real estate investment opportunities. The CIO's current portfolio includes student housing, multi-family units, and commercial buildings, including locations near campuses and in downtown Oakland. His real estate team has begun discussions with UCSC about potential assets that could help students, faculty, and staff on that campus. The CIO also has invested in or explored housing opportunities in the UCSF and UCSB communities. CIO Bachher said he also wants to create a real estate management company to address UC's real estate needs, including housing. The CIO emphasized that he assesses everything through a commercial lens.

Fossil Fuel Divestment: Council members noted that following last year's Senate memorial calling on the Regents to divest the UC endowment of fossil fuel investments, the CIO and Regent Sherman wrote an LA Times [op-ed](#) in which they stated that UC was on a glide path to zero investments in fossil fuels. Council members asked the CIO to describe the progress of that effort for both the endowment and pension fund. CIO Bachher noted that he has never used the word "divestment," and added that the Regents do not have a divestment policy for fossil fuels as they do with tobacco. He said the Office of the CIO has nevertheless been reducing investments in fossil fuel sectors because they are risky or unprofitable, and increasing investments in wind, solar, and other renewable energy sources. This process of de-risking began five years ago when the CIO sold investments in coal and oil sands, and continued more recently by reducing investments in oil and gas exploration. CIO Bachher described these actions as consistent with the Senate memorial, and that although the memorial did not mention the pension, the CIO continues to financially de-risk the entire portfolio of such assets. CIO Bachher maintained that it would not be prudent to provide an exact timetable for such actions. He noted that the op-ed has inspired other institutions to challenge their own investments, and that while he respects the moral arguments around divestment, it cannot be done without Regental instruction because his main responsibility is to grow the endowment portfolio. To this end, he encouraged the Academic Council to consider his overall record.

- Council members encouraged the CIO to accelerate the strategy he has put in place, noting that the memorial's intent is divestment from fossil fuels on moral grounds, and a permanent commitment to avoid fossil fuel investments, even if they prove to be less risky in the future.

Working Capital: The CIO helps UC campuses manage their working capital with STIP, a low-risk investment pool of funds that produces unrestricted revenues for the campuses based on overnight liquidity, and TRIP, a less conservative and somewhat more restricted fund pool. UCOP recently created the Blue and Gold Investment Pool (BGP) to maximize returns on working capital not needed for 3-5 years. BGP has a higher return (and higher risk) than TRIP. Annual earnings for the most recent ten year period were about 1.7% for STIP and 7% for TRIP. They were 10% for the first 9 months of BGP. These vehicles can generate additional income for campuses to help them solve their most pressing needs, including housing.

VIII. Systemwide Review of Proposed Revisions to APM 120 (Emerita/Emeritus Titles)

Council reviewed comments from Senate divisions and systemwide committees on the proposed revisions to APM 120, which are intended to conform with changes to Regents Policy 1203 (Emerita/Emeritus Title Suffix) made during a realignment of Regents Standing Orders in 2018. The revisions provide for a new gender inclusive form of Emerita/Emeritus ("Emer."). They also permit campuses to develop local criteria, policies, and procedures for bestowing the title on

Senate faculty who do not have the tenured titles of Professor or Associate Professor, and on non-Senate academic appointees. Council's discussion touched on several highlights from the reviewer letters:

- Council members agreed that “Emer.” is awkward, and would encourage UCOP to consider the alternative suggestions “Emerit” or “Emeritx”.
- They noted that the Regents Policy revisions limited the automatic conferral of Emerita/Emeritus titles to tenured, ladder-rank Senate faculty with the titles Professor and Associate Professor. In the past, all Senate members automatically received Emerita/Emeritus status, but under the revised Policy, Senate Health Sciences titles such as “in Residence” and “Clinical X” – as well as Lecturers with Security of Employment– are excluded from this automatic recognition.
- Faculty in non-tenured Senate titles make important contributions to research, teaching, and service, and deserve to have access to automatic Emerita/Emeritus status. While campuses can develop local procedures for conferring Emerita/Emeritus status, but the administrative burden of this work-around disproportionately affects divisions with healthcare enterprises.
- Council agreed to recommend that UC rescind Regents Policy 1203, restore the language of the previous Standing Order, and revisit conforming changes to APM 120, to ensure that the criteria for Emerita/Emeritus status apply across-the-board to professorial Senate faculty with tenure, to Senate faculty without tenured titles, and LSOEs.

ACTION: Council will send a summary of comments to Vice Provost Carlson.

IX. Library and Scholarly Communication Issues

Statement on Unspent Subscription Money: UCOLASC asked Council to endorse its request that any budget savings from the lapsed contract between UC and Elsevier be preserved in library budgets to support a future Elsevier contract, and/or reinvested in open access publishing and the free dissemination of UC scholarship. In other words, UC campus budget offices should keep funds allocated to their Libraries regardless of a contract with Elsevier, so that the Libraries may reinvest them in other contracts or activities that support open access if an Elsevier contract does not materialize.

- Council members observed that there is distinction between the use of temporary budget savings and long-term savings. Some expressed concern about a suggestion that all budget savings be earmarked permanently for a specific purposes. They agreed that libraries and campuses should be accountable for showing how budget savings are being used to support open access and faculty.

ACTION: A motion to endorse the statement was made and seconded. It passed with 14 members voting in favor, 3 opposed and 3 abstaining.

Open Access Embargos: UCOLASC asked Council to send a letter to the Office of Science and Technology Policy (OSTP) in support of a change to White House policy related to the embargo period for making published federally funded research available in open access repositories. The current policy requires such research to be available within one year of publication. The OSTP is contemplating a “zero-day” embargo policy, which would require research to be available immediately upon publication.

ACTION: A motion to endorse the letter was made, seconded and unanimously endorsed.

X. Systemwide Review of proposed Revisions to APM 240 (Deans) & APM 246 (Faculty Administrators)

Council reviewed comments on the revisions from Senate divisions and systemwide committees. The revisions are intended to clarify that both uncompensated and compensated outside professional activities are reported and count toward the time limit for those activities, but that vacation days are deducted only for compensated activities. They also clarify that deans and faculty administrators who hold concurrent Health Sciences Compensation Plan appointments are subject to APM 670 and 671, and that because deans' and faculty administrators' salaries should be greater than the underlying faculty appointment, refer to the salary of the underlying appointment. Additional technical revisions remove gendered language, and correct grammatical errors. Council endorsed reviewer suggestions to further improve clarity.

ACTION: Council will send a summary of comments to Vice Provost Carlson.

XI. Systemwide Review of UC Washington Center State Assessment Report

Council reviewed comments from Senate divisions and systemwide committees on the UCDC assessment report. Council's discussion touched on several highlights from the reviewer letters:

- Council members expressed support for the continued existence of a UC program in Washington with high quality teaching, research, and advocacy programs.
- Members noted that UCDC needs a more sustainable funding model to remain financially viable, but the report fails to include sufficient detail about UCDC's financial challenges or a clear accounting of spending that would support a full assessment of its financial health.
- It is important for UCDC to be more than just an undergraduate program; UCDC should increase its connections to the University's graduate education and research missions. It should also to broaden its curricular offerings beyond political science and related fields.
- UC students from a broad range of backgrounds should have access to UCDC. The absence of demographic information about UCDC students in the report makes it difficult to determine the program's success around diversity, equity, and inclusion. A full DEI analysis of the program is needed.
- UCDC is a systemwide academic program that is not being treated like an academic program in that UCDC courses and instructors are not reviewed by Senate committees. UCEP should have a stronger oversight role.

ACTION: Council will send comments to Provost Brown.

XII. Diversity, Equity, and Inclusion (DEI) Statements

Last year, Council [endorsed](#) best practice recommendations for the use of DEI statements in faculty hiring and merit review processes that would be consistent with APM 210-1-d. Faculty on at least two UC campuses have expressed concerns that local application of the recommendations are potentially inappropriate and inconsistent with APM 210-1-d. UCFW discussed the issue at its meeting of 14th February with UCD Professor Abigail Thompson as an invited guest. The Davis Division has scheduled a vote on the use of DEI statements. Davis Senate Chair Lagattuta noted that two resolutions will soon be sent to the Davis Senate faculty for a vote. The resolutions are that 1) DEI statements should not be mandatory for faculty hiring and advancement; and 2) DEI statements are a valuable part of a holistic review of applicants for hiring.

XIII. UCFW Letter on Climate Change and Divestment

o Jean Daniel Saphores, UCFW Chair

UCFW wrote a letter to Council asking it to recommend to the president that the Regents divest pension funds from fossil fuel investments with all due haste and make the investment portfolio completely transparent.

- Council members noted that today's discussion with CIO Bachher revealed that UC had not yet taken steps to formally divest the endowment from fossil fuels. Some Council members felt it would be important for Council first to follow-up about the response to and implementation of the Senate memorial, to clarify the status of "divestment" vis a vis "de-risking" in the endowment.

Meeting adjourned at 4:30 pm

Minutes prepared by Michael LaBriola, Principal Committee Analyst

Attest: Kum-Kum Bhavnani, Academic Council Chair