UNIVERSITY OF CALIFORNIA **ACADEMIC SENATE**

ACADEMIC COUNCIL

Minutes of Meeting
April 25, 2018

I. Consent Calendar

1. Today's agenda items and their priority
2. Draft Council minutes of March 21 and April 11, 2018
3. UCI Master of Software Engineering

ACTION: Council approved the consent calendar.

II. Senate Officer Announcements

- **Shane White, Academic Council Chair**
- **Robert May, Academic Council Vice Chair**

Regents Retreat: Chair White and Vice Chair May attended the annual Board of Regents retreat last week at the UCLA Lake Arrowhead Conference Center. The retreat format enabled participants to engage deeply in some critical topics, including the need to secure meaningful multi-year budgeting agreements and maintain academic quality.

Faculty Salaries: The Academic Senate is awaiting President Napolitano's decision on faculty salaries after submitting a three-year plan for closing the salary gap.

UCEAP Restructuring: President Napolitano announced her decision to implement several options recommended in the Huron Report, including the relocation of the UC Education Abroad Program (UCEAP) and its budget to UCSB effective July 1, 2018. The Provost has invited the Senate to opine on a draft Charter and MOU for UCEAP's operation by UCSB. A faculty subcommittee that includes the UCEP, UCIE, and UCPB chairs is discussing proposed changes to UCEAP's governance structure, including a proposal to replace the existing "Governing Committee" that reports to the UC Provost, with an "Advisory Committee" that advises the Provost and UCSB Chancellor. The subcommittee is concerned that the change would decrease Senate participation in governance.

- Council members agreed that the Senate should emphasize the importance of maintaining UCEAP as a systemwide program as well as the Senate's existing governance roles and responsibilities.

Retiree Health Working Group: The Working Group has not yet made recommendations on actions to ensure the long-term financial viability of the retiree health benefits program. The basic information gathering phase is concluding, and the Working Group will need more time to develop recommendations on actions to ensure the long-term financial viability of the retiree health benefits program beyond next year. An October 2017 Academic Council statement guides the position of Senate representatives on the Working Group. Senate representatives are consulting UCFW and its task forces, and further consultation or discussion of the group's final report with the Senate will be at the President's discretion.

III. Systemwide Review of Revised Presidential Policy on Supplement to Military Pay – Four-Year Renewal

- **Pamela Peterson, Executive Director & Deputy to the Vice Provost, Academic Personnel**

Council reviewed responses from Senate divisions and committees to the systemwide review of revisions to the Presidential Policy on Supplement to Military Pay. The revisions update and clarify existing policy language and definitions, and extend for four years the current policy of supplementing military pay for eligible UC employees on an active overseas military mobilization campaign if their military pay is less than the employee's UC salary. Employees receiving supplements are also eligible to receive University contributions for health and welfare benefits, subject to a two-year lifetime limit. Senate reviewers requested clarifications on why UC provides a supplement for overseas deployments only; whether pay adjustments adhere only to compensation actions approved prior to deployment; why active military service is not included in the policy for "stopping the tenure clock"; and how many UC employees have taken advantage of the policy in the past and are potentially eligible.

Executive Director Peterson noted that the policy was initiated during the "War on Terror" and its language reflects those origins. She said the policy is rarely used; however, circumstances may change. The Office of Academic Personnel will take into consideration all Senate comments and suggestions.

ACTION: Send Vice Provost Carlson the package of Senate reviewer letters and a summary of the comments and questions raised in the letters.

IV. Institutes for Transportation Studies Five-Year Review

- **Jeffrey Richman, Chair, University Committee on Research Policy**

UCORP Chair Richman presented the Joint Senate Review Committee's five-year review of the Institutes for Transportation Studies (ITS), a Multicampus Research Unit (MRU) with a presence on the UCB, UCD, UCI, and UCLA campuses. Following procedures outlined in the Compendium, UCORP led the Review Committee with input from UCPB and CCGA.

The Review Committee evaluated the systemwide value of the ITS, the quality of its work, and its functioning as an MRU. Its report notes that the ITS is a major asset to the University's research, graduate education, and public service missions, as well as to the State, the transportation industry, and the transportation research community. It recommends continuing the MRU for another five years. The Committee also found that the four ITS branches have a strong tradition of individual programs and identities and operate less as an MRU than as four independent institutes. The report suggests ways to strengthen collaboration and coordination across the campus branches of the ITS and between the ITS and non-ITS UC campuses. It notes that UCOP helped the ITS secure an additional $5 million in annual funding last year through Senate Bill 1. The new funding is an opportunity to increase collaborations.

ACTION: A motion was made and seconded to endorse the report and transmit the review to VP Ellis. The motion passed unanimously.

V. Consultation with UC Senior Managers

- **Janet Napolitano, President**
- **Michael T. Brown, Provost & Executive Vice President - Academic Affairs**
- **Nathan Brostrom, Executive Vice President and Chief Financial Officer**

DACA: Yesterday a federal judge in Washington D.C. became the third to rule against the Trump Administration's rescission of the Deferred Action for Childhood Arrivals (DACA) program. The judge also enlarged upon the other rulings by requiring the government to receive new DACA applications, following a 90 day stay.

Regents Retreat: The Regents' retreat at UCLA addressed a wide range of topics, including the value of the research enterprise and sustainability models for budget, enrollment, and tuition. Participants identified UC's greatest assets to be academic quality and great faculty.

Transfer MOU: The *Enhancing Student Transfer* MOU signed by President Napolitano and CCC Chancellor Oakley commits UC to develop a systemwide transfer admission guarantee for all qualifying CCC students who complete a UC Transfer Pathway with the requisite GPA (as determined by the Academic Senate), effective for students entering the CCC in fall 2019. The MOU states that existing Transfer Admission Guarantee agreements will remain in place, and that UC will accept an "SB 1440" Associate Degree for Transfer (ADT) in lieu of a Pathway for the guarantee when the ADT equals or exceeds the Pathway's major requirements. Some news outlets reported that the guarantee will increase transfer enrollment by 10-15%, but UC cannot predict the outcome with certainty. The MOU does note that the President and CCC Chancellor will co-seek additional funding from the State if the guarantee results in increased enrollments.

Budget and Tuition: The University will not seek an in-state tuition increase at the May Regents meeting, and instead will continue to advocate for full state funding of the University through the budget negotiation cycle.

Faculty Salaries: President Napolitano is considering a variety of proposals to close the UC faculty salary gap. She is focusing on a meaningful multi-year plan that prioritizes the salary scales and also makes sense in the current fiscal context.

SVSH: The President has asked the Senate to consider three specific concerns raised by the Department of Education Office of Civil Rights (OCR) about the current systemwide UC Sexual Violence/Sexual Harassment policy. OCR raised the concerns following a Resolution Agreement between Berkeley and the OCR after its four year review of Berkeley's handling of SVSH cases. The President is seeking the Senate's recommendations about 1) what constitutes a "reasonably prompt" timeline for completing a P&T hearing or an early resolution; 2) how to provide parallel rights to complaints and respondents in the P&T hearing process; and 3) whether a different standard of proof for faculty discipline (clear and convincing vs preponderance) is justified.

UCOP Restructuring: The President has charged two small advisory committees with considering the Huron Consulting Group's recommendations concerning UC Health and UC DANR. She also decided to keep the Department of Institutional Research and Academic Planning within the Division of Academic Affairs; to move the Systemwide Title IX Office to the President's Executive Office; to combine all outward-facing UCOP units under a single Division of External Relations and Communications; and to move UCEAP to UCSB as specified in an updated charter and MOU. She expects the roles and responsibilities of the Senate within UCEAP to remain unchanged and be more clearly articulated.

CA Roundtable: President Napolitano is participating in the CA Education Roundtable, an association of education leaders convened by Governor Brown to discuss the future of higher education.

- Chair White thanked the President for her leadership on DACA and faculty salaries and noted that the Senate needs time to weigh in on the UCEAP governance structure. Provost Brown said he intends to consult with UCEP, UCPB, and UCIE on the proposed UCEAP restructuring.
- Council members noted that an increasing number of affluent families are using the transfer path to UC under the assumption that it is easier to gain admission to the more selective campuses as a transfer. The University should monitor this trend and its impact on low-income students.
- Council members reiterated prior concerns about the effect of enrollment and budgetary pressures on quality. Members cited data showing declines in the percentage of UC students who report knowing a professor well enough to ask for a letter of recommendation; who are able to get into their first choice major; and who say they would still enroll at UC. President Napolitano invited the Senate to send her creative ideas for improving the student experience. Provost Brown noted he is developing a document articulating the broader meaning of the student-faculty ratio as a proxy for academic quality in both undergraduate and graduate education.
- Council members observed that while the University should continue to improve policies related to the adjudication and discipline of SVSH cases, it should also focus on prevention and campus climate.

VI. UC Policy on Sexual Violence and Sexual Harassment

- **Allison Woodall, Deputy General Counsel**
- **Kathleen Salvaty, Outgoing Systemwide Title IX Coordinator**
- **Suzanne Taylor, Incoming Systemwide Title IX Coordinator**

UCOP consultants discussed the Resolution Agreement between UC Berkeley and the Office of Civil Rights, the federal agency that enforces compliance with Title IX. They noted that the OCR opened a large number of investigations of educational institutions in 2014, including five UC campuses. It is typical that following an investigation the OCR will invite the institution to negotiate a voluntary compliance resolution agreement. (The lack of an agreement could affect federal funding.) Because UC is a single legal entity and has a systemwide Policy on Sexual Violence and Sexual Harassment (SVSH), Berkeley consulted UCOP on changes to policy and practice in the Agreement that would affect the systemwide policy and the APM, including language about alternative resolutions, third party reports, and prompt resolution timelines.

In a separate "findings" document, the OCR raised three specific concerns about the systemwide SVSH policy that relate to the Academic Senate: 1) how to define a reasonably prompt timeline for the disposition of SVSH cases; 2) how to provide equity of opportunity for complainants and respondents to cross-examine in a hearing; and 3) how to address the discrepancy in the standard of evidence for discipline procedures applied to faculty and to staff and students. President Napolitano has asked the Senate to comment. UCOP is also seeking general feedback on the current systemwide Policy.

- Council members asked if campuses were consulted about the Resolution Agreement and observed that the timeline for comments on the systemwide policy is quite short. Coordinator Salvaty noted that UCOP briefed campus Title IX officers on the Resolution Agreement, but not the findings, which OCR issued following the resolution. Any changes proposed to the UC Policy will undergo a full systemwide review for February 2019 implementation.
- Chair White noted that the Joint Committee considered Title IX and Senate P&T process issues just three years ago, and its Initial Report and Supplemental Report provide guidance about timelines, evidentiary standards, and complainants' ability to cross-examine.
- Council members recommended identifying a norm for investigation lengths that could inform a model "prompt" timeline. It was noted that UCPT will discuss the issues raised in the President's letter at its May 4 meeting.
- UCFW Chair Rehm noted that campuses are seeking clarity about the respective roles of the Senate and Administration in the local implementation of the SVSH policy.

VII. Revised Presidential Policy on Export Control

- **Jeffrey Richman, Chair, University Committee on Research Policy**

UCORP Chair Richman noted the Vice President for Research and Graduate Studies responded to each of the specific concerns the Senate expressed last year about a proposed Presidential Policy on Export Control. The Vice President also circulated a revision to the policy and to the Frequently Asked Questions website. UCORP was asked by Chair White to review the materials and report to Council.

Chair Richman said the policy is intended to ensure UC's compliance with federal laws and regulations and to provide a framework for individual UC locations to develop local compliance programs. He noted that a "deemed export" is the release of technical data or controlled technology to a foreign person within the U.S. Federal policy also includes a Fundamental Research Exclusion exception that allows universities to share with foreign faculty and students technology that arises from basic research and is intended for publication. UCORP is satisfied with UCOP's response, and believes the revised policy appropriately addresses the University's need to demonstrate compliance with government export control laws and to provide a practical framework for compliance. He said the FAQ is a living document that will help faculty members understand the issues and emphasized that each UC location is responsible for managing its own export control compliance program. UCORP will monitor local implementation and outcomes.

ACTION: A motion was made and seconded to endorse and forward UCORP's report to Vice President Ellis. The motion passed unanimously.

VIII. Proposed Revised APM Sections 285 and 210-3 (Lecturer with Security of Employment)

In February, Chair White asked a Council working group to discuss and attempt to reconcile the different perspectives within the Senate comments generated during the second systemwide review of proposed revisions to the Lecturer with Security of Employment (LSOE) APM series.

The working group proposed additional revisions to APM sections 285 and 210-3 that are largely consistent with the revisions circulated for second systemwide review in December. They propose replacing the LSOE title series with a "Security of Employment (SOE)" series, including a rank-and-step system parallel to the Professor Series, sabbatical privileges equivalent to the

Professor Series, and increased expectations for teaching excellence and professional and/or scholarly achievement relative to the LSOE series. They also propose additional revisions, which clarify that the *primary* responsibility of LSOE faculty is teaching and their *secondary* responsibility is professional and/or scholarly activities, including creative activities, especially as they relate to pedagogy. The revisions also clarify that individuals in the title should be evaluated for appointment and advancement primarily on teaching excellence, and that teaching will be weighted more than professional and/or scholarly activity and service.

The working group proposed three titles: "Assistant Lecturer with Potential for Security of Employment"; "Associate Lecturer with Security of Employment"; and "Lecturer with Security of Employment." Campuses may also use the working title of "Teaching Professor."

- Several Council members noted that the revisions will help ensure equal and inclusive treatment of LSOEs and enhance their recognition and respect within and out of UC. LSOEs strongly support the proposal.
- Other Council members expressed concern that the new title could establish a two-tier faculty system; dilute the professorial series and endanger the UC research mission; and lure faculty, particularly faculty of color, away from the Professor series to the LSOE series. The new title may also contribute to a perception that an LSOE who had attained the title "Senior Lecturer with SOE" had been demoted, or in the case of "Teaching Professor," that ladder-rank faculty do not teach.
- Council agreed to convene a group to monitor the use of the new series and to examine how well it links to the overall goals of the University, particularly related to equity and diversity. The group should also develop guidance to campuses about how to integrate LSOEs more fully into the fabric of departmental and campus community life.

ACTION: A motion was made and seconded to accept all proposed changes except titles. The motion passed 16 to 1 with one abstention.

ACTION: A motion was made and seconded to maintain the existing four titles in the LSOE APM series, but to allow campuses to use "Teaching Professor" as a working title at their discretion. The motion passed 13 to 2 with 2 abstentions.

IX. Academic Freedom Issues

1. UCAF Concerns over Politicization of Science Research Funding

Council reviewed a letter from UCAF expressing concern about recent changes in federal agency grant award procedures, in which federal appointees are participating in specific decisions about science research funding proposals and denying grant applications for political reasons. UCAF's letter observed that the politicization could affect academic freedom by preventing UC faculty who depend on grant funding from furthering their research and advancing through the tenure and promotion system.

UCAF's letter recommended ways to track and mitigate the impact of the changes, including suggestions that CAPs consider governmental directives when evaluating faculty research output; that UC administrators use targeted bridge funding to offset the effects of political decisions; and that UC Offices of Research refine their data collection and analytics to better track changes in funding levels and administration in specific disciplines.

- Council members agreed that the politicization of science, particularly environmental science, is a grave concern. They noted that CAPs could be forced to withhold tenure and promotion from otherwise great researchers who are denied grants for political reasons, although CAPs should base merit decisions on a broad set of considerations, not grants alone. They agreed that it would be valuable to circulate UCAF's concerns and recommendations to a broad set of campus constituencies.

ACTION: A motion was made and seconded to endorse the letter, send it to the President, and encourage Senate divisional chairs to forward it to Vice Chancellors, CAP chairs, and others on campuses. The motion passed unanimously.

2. UCAF Letter on Free Speech and Hate Speech

Council reviewed a letter from UCAF responding to a UC Student Association letter on "Freedom of Speech and Hate Speech." Council saw an earlier version of the letter in February, and asked UCAF to increase its emphasis on supporting students and the UC principles of community, in addition to constitutionally-protected freedom of speech. Chair White drafted a cover letter to accompany the statement, which further emphasizes the need to condemn hate speech on campuses.

ACTION: A motion was made and seconded to endorse UCAF's letter and send to the President with Chair White's cover letter. The motion passed unanimously.

X. Conflict of Interest Guidance

Following its approval of Bylaw 128.J governing conflicts of interest on Senate committees, Council agreed to produce a supplemental user guide with more in-depth guidance and examples about conflict of interest definitions and procedures that would be provided to Senate committees at the beginning of each academic year.

ACTION: Council will refer the task to UCRJ.

XI. New Business

Council reviewed a letter from BOARS expressing the committee's commitment to proposing a revision to Senate Regulation 476 referencing a systemwide transfer guarantee for California Community College students entering the CCC in fall 2019.

ACTION: A motion was made and seconded to receive the BOARS letter. The motion passed 10-1.

Meeting adjourned at 4:45 pm
Minutes prepared by Michael LaBriola, Principal Committee Analyst
Attest: Shane White, Academic Council Chair