

ACADEMIC COUNCIL

Minutes of Videoconference Meeting**April 28, 2021****I. Consent Calendar**

1. Today's agenda items and their priority
2. Draft Academic Council Minutes of March 31, 2021
3. UCLA Master of Quantum Science and Technology
4. UCB Master of Analytics

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

- **Mary Gauvain, Academic Council Chair**
- **Robert Horwitz, Academic Council Vice Chair**

ICAS Meeting: The Intersegmental Committee of Academic Senates' (ICAS) April 13 meeting included discussions with the Senior Policy Advisor to the Governor and staff from the Legislative Analyst's Office about proposed legislation affecting the higher education segments. ICAS also discussed how it can better support the segments' ongoing work on transfer admission and be a more significant central voice on transfer issues.

Fall Reopening Planning: The Senate chair and vice chair shared with President Drake a draft memo outlining several topics related to fall campus reopening for which systemwide guidance would be useful. The President supports points raised in the draft, and Senate leadership will finalize to send to Divisions next week.

Remote Instruction Survey: Chair Gauvain thanked Council members for providing input into a draft survey to UC instructors about their experiences with remote instruction. The Senate is now seeking administrative support for the survey from a campus center or individual who is familiar with survey instruments and the need for data integrity and reliability.

Sabbatical Credit: Senate leaders have asked the Vice Provost for Academic Personnel to consider awarding all UC faculty additional sabbatical credit(s) in recognition of their extra teaching and service activities during the pandemic. A possible source of funding for the program may be savings from program reviews if they are delayed because of the year of remote instruction during the pandemic.

Senate Meetings in 2021-22: Executive Director Baxter said the systemwide Senate expects to reinstate a limited number of in-person Senate meetings next year and to convene most meetings via Zoom, given ongoing public health cautions and significant cuts to the Senate's travel budget. Discussions with campus Senate directors revealed strong support for continuing remote attendance at most systemwide committee meetings with noted advantages including greater willingness of divisional representatives to serve, better attendance and participation, less travel time, and lower costs. Given significant faculty Zoom fatigue, Senate Vice Chair Horwitz said he hopes to schedule a number of Council meetings in-person probably starting in January.

- Council members expressed support for a mix of remote and in-person meetings, noting issues of cost, environmental impact, and accessibility to colleagues with family obligations.

It was also noted that in-person communication can be more effective and satisfying, and that the Senate can demonstrate that such interactions are important and safe. A member pointed out that it may be problematic for the Council to delay in-person meetings until January given that the campuses are re-opening in fall for in-person instruction.

III. Academic Freedom Issues

- **Brian Soucek, UCAF Chair**
- **Hoyt Sze, Managing Counsel, OGC**

1) Academic Events and 18 U.S.C. § 2339B

On April 13, Zoom announced a new policy for higher education users that protects academic freedom by giving content moderation rights to universities. A major exception to this policy, however, allows Zoom to refuse to host an event if Zoom determines there is a “legal or regulatory risk” if the company does not act. In fact, Zoom cancelled an April 23 UC Merced webinar featuring a speaker who belongs to a US-designated foreign terrorist organization out of concern that the event could violate federal law by providing “material support” to a terrorist organization in violation of 18 U.S.C. § 2339B. In a letter to Council, UCAF encouraged UC to request clarification from the Department of Justice on the reach of the “material support” statute or to take other similarly urgent legal steps to protect academic freedom.

ACTION: A motion to endorse the UCAF statement was made, seconded, and passed unanimously; it will be forwarded to the President.

2) Letter on Academic Freedom in a Time of Crisis

Council reviewed a UCAF statement, originally written in April 2020, which expresses concerns about some measures taken by administrators related to grading policy and remote instruction to address the pandemic. Specifically, UCAF states that these issues are academic matters and, importantly, decisions made regarding them may impinge on the rights and responsibilities of faculty and academic freedom.

- Council members noted that UCAF’s concerns remain relevant to current discussions about campus reopening. A course’s mode of instruction is not merely an administrative or logistical matter, it is a critical part of pedagogy and academic freedom must be maintained. Members also noted that academic freedom is not an absolute individual right, but occurs relative to professional disciplinary standards and judging those standards is also a Senate matter. Campus Senates should consider faculty requests to teach in a particular mode in this context and other relevant local contexts. It was suggested that UCAF post the letter on its website as a reference. Meanwhile, Council will continue discussing academic freedom issues in the context of campus reopening planning.

IV. Systemwide Review of Universitywide Police Policies & Administrative Procedures

Council reviewed comments from Senate divisions and committees to a set of proposed revisions to the Universitywide Police Policies and Administrative Procedures (the “Gold Book”). Reviewers expressed many concerns in the 140 pages of commentary, and there was general opposition to the policies as inappropriate for a university environment. It was also noted that the proposed revisions are inconsistent with current national conversations about policing and UC’s own internal discussions about the future of the UC police department.

- Council members stated that it was imprudent of the University to authorize the systemwide review given the circumstances.
- Members noted that the proposed policies are inconsistent with Academic Council’s June 2020 recommendations on policing. They also conflict with recommendations of the 2019 Systemwide Public Safety Task Force to align UC policing policies and practices with public safety best practices suitable to a university environment.
- It was noted that the many suggestions should not obscure or negate the Senate’s fundamental view that a more comprehensive rethinking of campus safety and policing is needed. On this same point, many members stressed that the problems with campus policing cannot be fixed simply by revising the chapters of the Gold Book.

ACTION: Council will send a summary of comments to President Drake.

V. Consultation with Senior Managers

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

Data Breach: UC’s file transfer service Accelion was the target of an international cyberattack that exposed employee data of 100 organizations, including UC. University officials are still piecing together what happened, who was involved, and how the breach occurred. In the interim, the University has moved personnel and other data to a new file transfer system with enhanced security controls. It is also addressing individual questions and concerns about the breach on a FAQ website that is regularly updated. President Drake is encouraging the UC community to take advantage of credit monitoring through Experian that will be paid for by the University.

COVID: The University released for systemwide review a proposed COVID-19 Vaccination Program policy. It will begin in fall and require students, faculty, academic appointees, and staff who are accessing campus facilities at any UC location to be immunized against the virus that causes COVID-19. The policy includes medical and religious exemptions.

Fall Planning: The systemwide fall planning work group updated its guidance around student arrival and reentry, contract tracing, asymptomatic testing, and nonpharmaceutical interventions, including masking and social distancing.

Budget: The University sent the Governor a supplemental state funding request that includes a 3% cost-of-living salary adjustment for policy-covered faculty and staff, \$23 million for student academic preparation programs, and \$20 million for undocumented, formally incarcerated, and foster youth students. Additional funding was requested for seismic safety and green projects; support for student mental health; and faculty technology support for remote instruction

Policing: The University gathered input about campus safety, policing, and social justice at two campus safety symposia in preparation for an update at the Regents May meeting, and policy recommendations this summer. The four pillars of this work are 1) realignment and reinvestment in community well-being; 2) data quality and accessibility; 3) oversight and accountability; and 4) community, culture and engagement. President Drake emphasized that the regular three-year review of the Gold Book currently underway was part of an ongoing assessment project and that it will not impede this larger effort.

Affiliations of UC Health with hospitals with ERDs: President Drake said the University is committed to eliminating discrimination in health care, and also to providing the best quality care to as many Californians as possible. He said he expects the Regents to address, and likely vote on, UC affiliations with hospitals with ERDs (Ethical and Religious Directives) in the coming summer. The President said his own decision on affiliations took into account five things: the impact of affiliations on the lives and working conditions of staff; their financial impact on the University; their benefit to medical research; their benefit to UC's overall educational mission; and their impact on the quality and extent of patient care. He stressed that affiliations must address these five areas positively and that UC Health had modified its interim contracts to ensure that UC physicians and students in Dignity hospitals, which have ERDs, can make evidence-based medical decisions and prescribe medically necessary and appropriate interventions. He said severing these affiliations would have a catastrophic impact on UC medical training programs and on thousands of Californians who have access to UC care through these hospital affiliations.

- Council members expressed appreciation for the President's commitment to engage the University community on the issue of campus policing, but they noted that the proposed revisions to the Gold Book had disappointed faculty, students, and staff who seek more meaningful change.
- Council members requested data on the financial impact of UC Health affiliations and cautioned against potential conflicts of interest. They urged UC to avoid affiliating with health entities that adhere to discriminatory and non-scientific policy-based medical practices, and emphasized the need for independent review of proposed affiliations. They also emphasized the importance of distinguishing between UC medical centers' formal affiliations with religiously-based healthcare providers, and the University's other relationships with them, including as options in the UC health insurance network.
- Council members encouraged the University to add credit monitoring as a permanent part of the UC benefits package.
- President Drake agreed that the Gold Book is out of date. He said fundamental change is needed and he hopes to capture the information in the review and direct it toward meaningful change. He said that he is committed to maintaining the highest ethical standards and values for patient care with the help of meaningful controls and guardrails. He added that UC's potential profits from affiliations are very modest.

VI. Systemwide Review of Revisions to SVSH Frameworks for Faculty and Staff

Council reviewed comments from Senate divisions and committees to a set of revisions to the sexual violence and sexual harassment (SVSH) frameworks for faculty and staff. The revisions were proposed by the systemwide Title IX office to comply with federal regulatory changes that took effect in August 2020. Additional changes to interim policies issued last summer require the University to include live hearings and appeals for cases with faculty and staff respondents, and permit the University to carve out particular groups from the live hearing process in specific instances, based on their formal relationship with UC.

It was noted that the Senate has been addressing the impact of the federal regulations on its own Privilege and Tenure procedures. That work includes a revision to Senate Bylaw 336.F.8, approved by the Assembly of the Academic Senate in February, that changes the evidentiary

standard used in P&T hearings for alleged violations of the SVSH Policy. The Senate is also reviewing a proposed change to Senate Bylaw 336.F.3 that will preclude unnecessary duplication in hearings at the Title IX and P&T phases.

ACTION: Council endorsed the revisions and will notify the Systemwide Title IX office.

VII. Healthcare Affiliations and Comprehensive Access

UCFW Chair Halpain introduced a letter that re-endorses the Senate's prior position that UC should avoid affiliations with healthcare entities that include discriminatory policy-based restrictions on care. The position was articulated in the UCFW Task Force on Nondiscrimination in Health Care report (2019) and in the Council's response to the Working Group on Comprehensive Access (WGCA) Chair's Letter (2020). The new UCFW letter carves out an exception for affiliations that include "overwhelming evidence" to support the "greater common good" and offers five principles to guide consideration of existing and proposed affiliations by an independent ethics panel free of conflicts of interest. It urges UC to seek alternative affiliations with hospitals that do not have ERDs or other policy-based restrictions.

- Council members noted that the President emphasized the principle of expanding patient care delivery. However, members stressed that nondiscrimination principles should also be a high priority, and UC should actively seek affiliations with institutions that do not discriminate. It was noted that the Council should acknowledge the value and good intentions behind the utilitarian arguments about expanding quality care to the most people possible. However, this position does not outweigh the ethical non-discrimination standard that guides how UC conducts itself.
- Council members noted that SB 642 (Kamlager) addresses the operation of California hospitals in general, and is consistent with the Senate's position that any affiliation must fully align with core UC principles of nondiscrimination. It further stresses that medicine must be rooted in scientifically-based best practices only, and that any affiliation between UC and other medical facilities or hospitals must fully abide by this principle.
- Members noted the need to distinguish between UC's formal affiliations with religiously-based healthcare providers and UC's other relationships with them, including as options in the UC health insurance network. In presentations, UC Health has linked the affiliations issue to the healthcare options of employees at UCM and UCSC, where hospitals with ERDs are the main providers in the community. This linkage incorrectly implies that these employee health care relationships will be at risk if the University bans affiliations.

ACTION: Council endorsed the UCFW letter. An accompanying cover letter summarizing the Council's deliberations and addressing additional points will be drafted and circulated to Council for comment and approval.

VIII. BOARS Issues

1) Proposed IGETC Ethnic Studies Policy

BOARS Chair Comeaux introduced a BOARS proposal to incorporate an ethnic studies course requirement for California Community College transfer students who take the Intersegmental General Education Transfer Curriculum. The goal is to align UC's IGETC subject requirement

with CSU's. A BOARS work group is meeting to define the criteria for ethnic studies course articulation. Ultimately, the change will be reflected in Senate Regulation 478.B, which defines the IGETC subject requirements. BOARS asked Council to approve a proposed revision to SR 478.B. in concept for systemwide Senate review.

ACTION: Council approved sending the proposal for systemwide review in the fall.

2) Admission by Examination

BOARS is proposing the suspension of the Admission by Examination eligibility pathway for undergraduate admission described in Senate Regulation 440. Immediate action is needed to conform with the Regents' decision to phase-out the use of the SAT and ACT in admissions decisions. In halting use of these tests, the Regents also removed the examinations that BOARS sanctioned for admission under SR 440. The long-term future of the pathway depends on the outcome of the study underway to determine the feasibility of a role for the Smarter Balanced Assessment in UC admissions. Following this study, it is possible that BOARS may recommend a permanent amendment or repeal of SR 440. However, the Senate review process takes several months, and action is needed now because the Office of Graduate, Undergraduate, and Equity Affairs must announce the suspension of this eligibility pathway to students and counselors preparing for fall 2022 admissions.

ACTION: A motion to approve the recommendation was made, seconded and passed unanimously.

3) Definition of "local context" for Online California High Schools

Chair Comeaux noted that BOARS has approved a proposal to allow online California high schools to participate in the Eligibility in the Local Context program. Currently there are only a few online high schools in California, but numbers are expected to grow. The proposal will help extend equity of opportunity to students attending these schools.

IX. UCFW Letter on Student Loan Guidance and Financial Literacy

UCFW Chair Halpain introduced letters from UCFW and TFIR recommending ways the University can support employees burdened by student loan debt and increase their financial literacy. New UC initiatives will empower employees and support recruitment and retention, particularly in the context of diversity, equity, and inclusion.

ACTION: Council endorsed the letter.

X. DEI Statements

In January 2019, Council endorsed best practice recommendations for the use of Diversity, Equity, and Inclusion (DEI) statements in hiring and promotion. Today, Council reviewed a letter from UCAF about the use of DEI statements and a letter from UCAADE in response. UCAADE Chair Arsuaga, UCAF Chair Soucek, and other Council members exchanged views about the letters.

In its letter, UCAF noted that some faculty have expressed concern that some campuses are applying the guidelines inappropriately, using DEI statements as a screening tool or in other ways that suggest DEI activities are a requirement or a litmus test of belief for faculty. UCAF emphasized that the Council guidelines call for *including* in hiring and review considerations

how faculty and faculty applicants' teaching, research, and service work relate to underrepresented groups, not for *limiting* consideration to that question. The UCAF letter also recommended that questions about DEI contributions should not assume there is a correct point of view or "right answer," and should focus instead on the actions, experiences, or plans of the individual pertaining to DEI issues, and not their beliefs. UCAF emphasized that DEI contributions should be additive to the teaching, research, and service activities considered in hiring or personnel reviews, not a "fourth leg" of activity. In addition, faculty should have the freedom to disagree with the University's emphasis on DEI values and still be able advance in their careers at the University. However, it was stressed that the DEI statement is not the appropriate way to register an objection. Finally, faculty hiring and review committees, not administrators, should create and employ the rubrics to judge DEI statements. Additionally, neither the administration nor Senate should establish fixed DEI rubrics and numerical grading systems for search and review committees.

In its letter, UCAADE agreed that DEI statements should not be used to test beliefs but cautioned that UCAF's interpretation of "limiting" could lead faculty and faculty applicants to make DEI claims unrelated to the original goal and intent of APM 210.1.d. UCAADE also noted that guidance around rubrics and numerical schemes would support academic freedom as long as the guidance was adapted to each faculty search or promotion.

UCAF Chair Soucek added that he does not see academic freedom concerns around the use of DEI statements as an initial screening tool in targeted searches. UCAADE Chair Arsuaga added that UCAADE also expressed concern that many campus Faculty Equity Advisors have been moved from the Senate to the administration.

XI. Executive Session

- **Allison Woodall, Deputy General Counsel**

Notes were not taken for this portion of the meeting.

XII. Campus Climate Crisis Initiatives

Vice Chair Horwitz said he and Chair Gauvain are laying the foundation for enhanced and ongoing Senate involvement on the climate crisis. One model for more active Senate engagement is UCSD's new standing Senate Committee on Campus Climate Change. The chair and vice chair have encouraged other campuses to form similar committees, and are consulting with the Office of Research and Innovation and the Global Climate Leadership Council about additional options for enhanced systemwide Senate involvement. The vice chair said the Senate can add value to existing efforts by offering a broad range of expertise to inform policy-making and perspectives about how to better engage students and other faculty through the research, education, and service missions.

- Council members noted that several campuses lack resources to support an additional standing committee and instead plan to address climate issues through existing committee structures. There are also joint senate-administration groups and administration groups leading climate change initiatives on the campuses that could benefit from additional Senate representation. It was noted that a systemwide Senate committee or body could help coordinate efforts and share information across campuses.

- The UCSC division has endorsed the idea of a working group or task force to address a broad set of campus issues related to decarbonization and climate change. It will be important to identify a chair for the group who can give shape and energy to the effort.
- The UCM Faculty Advisory Committee on Sustainability (FACS) is a faculty-led initiative situated under the EVC/Provost. Its charge is to encourage and support sustainability education and research as well as to develop an integrated sustainability initiative for UCM. It does not have formal Senate representation, and under discussion is whether to appoint a Senate committee member to build a more formal connection with the Senate.
- It was noted that UCD is using Sea Grant funding to integrate climate change topics into the curricula across disciplines.

XIII. Council Priorities

Chair Gauvain observed that the Academic Senate spends much time and energy reacting to policy proposals as opposed to initiating them. She invited Council members' help in identifying the highest Senate priorities and their trade-offs, given their desire to be pro-active and the limited faculty and staff resources available.

The Senate chair and vice chair have identified three important issues for Senate attention in the years ahead: the climate crisis; the relationship between the general campuses and the medical enterprise; and the future of higher education, including the role of online instruction. The chair and vice chair believe the Senate should be a leader on these issues, which cut across multiple committees. In the context of these suggested new priorities, they are assessing the role of existing task forces, work groups, and other special bodies formed by the Council or a parent committee that have attained quasi-permanent status. It is important for Council to periodically assess the value of these groups and their activities, modify their charges as needed, and disband or alter as appropriate, to make room for contemporary priorities.

- Council members agreed that staffing resources are an important consideration in decisions about starting new groups. They noted UCFW's two task forces are longstanding and have slower than typical membership turnover, but the accumulated faculty expertise of those bodies has been critical to their effectiveness. Council members also noted the need to expand and diversify faculty participation in the Senate. They agreed that questions about the future of the University and higher education are central to the faculty and can be informed by their expertise.

 Meeting adjourned at 4:15 pm
 Minutes prepared by Michael LaBriola, Assistant Director
 Attest: Mary Gauvain, Academic Council Chair