

ACADEMIC COUNCIL

**Minutes of Videoconference Meeting
April 29, 2020****I. Consent Calendar**

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

ACTION: Council approved the consent calendar.

II. Graduate Education Issues**o Ramesh Balasubramaniam, CCGA Chair**

Chair Balasubramaniam noted that campus regulations limit Academic Student Employees to 18 quarters/12 semesters of funding. Many graduate students are requesting an extension to that rule, to account for delays and disruptions caused by COVID-19. CCGA believes the most appropriate way to handle requests is on a case-by-case basis by student petition. CCGA expects a few hundred graduate students on each campus to submit requests to graduate councils. (Deans have final authority to grant extensions). CCGA plans to send a letter to graduate councils and deans recommending leniency. CCGA understands that funding availability will partly drive decisions, and that deans will need to weigh continuing graduate students' needs against those of incoming students, while not recommending changes to normative time. CCGA will also recommend flexibility regarding the use of GRE scores. UCSC Chair Lau noted that UCSC had just issued a blanket one-year extension of normative time for advancement to candidacy.

III. Undergraduate Education Issues**o John Serences, UCEP Chair**

Extension of P/NP flexibility for the duration of Summer 2020: In March 2020, UCEP provided guidance to divisions around the use of the P/NP grading option during Spring 2020 in response to the rapid pivot to remote learning. A new UCEP letter provides similar guidance about extending divisional flexibility for grading options to all summer sessions in 2020. Chair Serences noted that two main reasons for supporting flexibility in March 2020 are still relevant during Summer 2020: 1) to accommodate turbulence and uncertainty introduced by the quick rollout of emergency remote instruction, and 2) to accommodate students struggling with the simultaneous medical, economic, and social challenges posed by the public health crisis. He emphasized that the guidance should not imply support for any particular option or divisional decision about P/NP.

ACTION: Council will vote by email after Chair Serences make editorial adjustments to the letter and confers with UCEP.

Student Fees Beyond Tuition: Council reviewed a letter from UCEP offering guidance around the use of student fees that fall outside of the usual Course Materials and Services fees required by campuses. The letter recommended that Divisions review local oversight of those fees via their Course Materials and Services Fees Committees, to ensure adequate review and consideration of 1) transparency, 2) financial aid, and 3) potential conflicts of interest. The letter also recommended that campus-based Course Materials and Services Fees Committees be empowered to provide oversight and opine on potential conflicts of interest.

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

IV. Consultation with Senior Managers

o Theresa Maldonado, Vice President for Research and Innovation

Vice President Maldonado noted that UCOP implemented the COVID-19 stay-at-home order in early March, just after her first day at UCOP. Upon her arrival she scheduled daily meetings with campus Vice Chancellors for Research, representatives from the national laboratories, and ANR to discuss the challenge of ramping down UC's \$7 billion research enterprise. Leaders are now discussing a collective framework for ramping up operations, and a plan for leveraging UC research facilities to build testing capacity that helps both the UC community and the wider California community, including vulnerable populations in the Central Valley. She and other campus leaders recently met with staff from the House of Representatives Committee on Science Policy about the impact of COVID-19 on the research enterprise.

- A Council member noted that UC is behind many peer institutions in building a research infrastructure around transformative, critical, community engagement. Instead, these efforts are left to individual campuses or faculty, with uneven outcomes. UC might learn from the example of the University of Texas-Austin Center for Community Engagement. Given the location of many UC campuses in geographies that would benefit from enhanced engagement, including community advocacy, local research and arts projects, and public-facing events, UC should start a consultative discussion on how to fulfill its public mission through its research mission and infrastructure.
- Council members also asked Vice President Maldonado about the status of the proposed Openness in Research Policy, encouraged her to highlight UC's availability as a resource during the crisis, pointed to Council's recent letter to Provost Brown on the importance of securing graduate funding, and encouraged a systemwide effort to coordinate remote graduate internships in partnership with private sector companies.
- Vice President Maldonado noted that she was open to discussing a new systemwide effort on community engagement. She added that a positive example of community engagement was UC's consultation of a Native American Advisory Council during the NAGPRA policy update process. She noted that she wants UC to consider how it can pro-actively serve Native American and other underserved communities during the pandemic. She confirmed that the Openness in Research Policy would be released for systemwide review, and suggested that deans and faculty might encourage College Advisory Board members from industry to develop alternative internship opportunities. Finally, she challenged faculty from all disciplines to consider how they might pivot their research to address questions associated with COVID-19, or to otherwise help the state recover from the present crisis.

V. UCAP Letter on COVID-19 and Recommendations to Reviewing Committees

o John Gilbert, UCAP Chair

Council reviewed a letter from UCAP proposing guidelines for policy and communications on merit reviews, teaching evaluations, and tenure and promotion processes in light of the COVID-19 crisis. The guidelines emphasize the need for flexibility in applying academic review processes during the crisis and into the future, and clear and open communication with faculty given the disruptions to teaching, research, and service activities.

Chair Gilbert noted that all campuses have communicated some reassurance to faculty, but the content has differed. UCAP recommends that both the administration and the Senate communicate to faculty, directly; that campus administrations approve a one year extension of the tenure clock for pre-tenure faculty upon request, and that the systemwide Provost approve a third year of stop-the-clock for faculty who already have used two years; that reviewing agencies be flexible and generous in interpreting teaching evaluations, while rewarding faculty for going to extraordinary lengths to help their students learn; and that every level of review in future merits' cases include a compassionate consideration of the consequences of the COVID-19 situation that does not penalize faculty for reduced activities and productivity.

- Several Council members expressed a preference for an automatic blanket extension of the tenure clock with an opt-out provision. In other words, for the period of the COVID-19 crisis, the provisions of APM 133 and APM 760 for stopping the tenure or SOE clock for a “significant circumstance or event that disrupts a faculty member’s ability to pursue his or her duties” should be approved de facto without the need for a formal request unless a faculty member opts out of this provision. Council members also observed that the crisis may have a disproportionate impact on the productivity of women faculty and faculty with primary caregiving responsibilities. Chair Gilbert agreed to confer with UCAP as to how best to incorporate these points into the letter.

ACTION: Council will vote by email after Chair Gilbert revises the letter.

VI. Consultation with UC Senior Managers

- **Janet Napolitano, President**
- **Michael Brown, Provost and Executive Vice President, Academic Affairs**
- **Paul Jenny, Interim Chief Financial Officer**

COVID-19: President Napolitano noted that the University had been working through numerous COVID-19 related issues. The crisis brought out many of UC’s strengths, particularly in healthcare and research. She thanked faculty for leading a rapid transition to a remote learning environment. The transition was not easy, but it made a difference for public health and allowed students to continue progress to degrees. As the economic fallout deepens, the University faces difficult decisions. At the top of agenda is whether, when, and how to safely reopen campuses. She said UC is closely monitoring guidance issued by state, federal, and local governments, and health agencies. The President and chancellors meet regularly to discuss scenario planning. The University is developing a set of minimum safety requirements that involve testing protocols for students and single occupancy dorm housing. However, it is unlikely to resume large-scale, in-person activities, including fall sports.

The University is unlikely to know its final state budget until late summer. It expects the Legislature to pass a flat budget by the June 15 deadline, and then a second complete budget in late August that may include cuts to UC. SIRs (Statements of Intent to Register) are due May 1 and are trending as normal, but UC expects significant “summer melt,” particularly from nonresidents. UC is actively seeking state and federal funding. The CARES bill provided \$260 million in total funding, half as direct support for students and half for the campuses. UC also received two infusions of funding for its hospitals. However, UC’s total COVID-related costs and losses in March alone totaled \$558 million, far in excess of this funding.

The University has guaranteed no staff layoffs before July 1, although UCOP and other campuses have instituted hiring freezes. UC is suspending the performance appraisal process for

policy-covered staff and is discussing suspending salary increases for faculty and staff, with the probable exception of the faculty merit review program.

President Napolitano said she is still working through the Senate recommendations on standardized testing, and would bring her recommendation to the May Regents meeting. At that meeting, the Regents will also appoint a new chancellor for UC Merced, and approve a UCOP budget that includes a funding cut. The President said she received Council's letter supporting a zero embargo policy for federally funded research publications, which she will submit to the Office of Science and Technology Policy with an additional supporting letter from Vice President Maldonado.

Interim CFO Jenny added that he is working with a small Senate group to discuss planning for a slow restoration of normal activities at the campuses and medical centers based on three revenue scenarios. Each scenario – short, medium, and long term – project revenue shortfalls of between \$4 and \$8 billion across all revenue categories. He noted that during the Great Recession, UC revenues from auxiliaries and hospitals actually grew modestly even as UC lost state support. However, impacts this time could involve billion dollar losses on top of reduced state support.

- Council members asked the President to consult with the Senate prior to implementing any emergency financial measures, consistent with the process used in the 2009 recession. They also asked her to take all necessary steps to preserve benefits, and to maintain the long term goal of closing the faculty salary gap. They observed that clinical Senate faculty who rely on soft monies face unique challenges in the crisis, and noted that the crisis is an opportunity for UC to demonstrate the benefits of its research mission. They added that planning around student housing should be flexible, that a residential experience sets up students for success, and that the health risks of dorm life may be less than those associated with staying in the community. The President indicated that she was familiar with the 2009 process and understood the importance of consultation. She added that the Chancellors do not favor furloughs, and that UC is doing a good job of aligning its research with the state's needs.

VII. Systemwide Review of Proposed Presidential Policy on Gender Recognition and Lived Name

Council reviewed comments from Senate divisions and systemwide committees to the proposed Presidential Policy on Gender Recognition and Lived Name. The policy requires the University to provide three equally recognized gender options— female, male, and non-binary—on University-issued documents and information systems; to provide a process for students and employees to retroactively amend their gender designations and lived names on those documents and systems; and to keep the legal name confidential, except when required by law. Reviewers supported UC's commitment to recognizing the right of its community members to use their lived names and gender identities wherever legally possible. Reviewers felt that the policy should address and clarify circumstances that might require rejection of a lived name, such as instances in which an individual uses a hateful or impractical name, as well as the authority or arbiter for those decisions. Reviewers also asked that the policy include a clear statement on privacy and do more to describe measures UC will take steps to ensure confidentiality of legal names and circumstances in which legal names must be employed. UCSF provided recommendations for clarifying the definition of “transgender” and other terms listed in the Definitions section of the proposed policy. There was also a request to reconsider the use of the term “dead name” in the Policy. Council members suggested that UCOP develop a

communication, education and training plan for campuses about the policy that clarifies its meaning, importance, and implications.

ACTION: Council will send a summary of comments to the Vice Provost for Academic Personnel and Programs (APP) and ask APP to consult with CCGA, UCEP, and UCAADE on the revised version of the proposed policy, after which, those committees should advise the Academic Council.

VIII. Executive Session: Nominee for Senate Representative to UCRS Advisory Board

Council discussed in executive session the qualifications for one of two Senate representatives to the UCRS Advisory Board for a four-year term beginning July 1, 2020.

ACTION: Council selected Professor Terrence Hendershott of UC Berkeley.

IX. UCAF Plan for Enhanced Education in, and Support for, Academic Freedom

Council reviewed a letter from UCAF calling for a widespread institutionalization of teaching and training on academic freedom. The letter asked the Senate to work with the administration on an education and communication plan that would include speaking out publicly in support of academic freedom; making academic freedom part of routine annual training for faculty, staff, students, administrators, and librarians; developing academic freedom resources for teachers; and creating divisional and systemwide processes to report academic freedom violations.

- Council members agreed that the issues are important, and noted the educational mission of UC's new National Center for Free Speech and Civil Engagement. Council members felt the issues raised in the document were well comprehended, and decided no further action was necessary.

X. DEI Statements

Last year, Council endorsed six best practice recommendations developed by UCAADE for the use of Diversity, Equity, and Inclusion (DEI) statements in hiring and merit review processes. Some faculty have expressed concern about instances in which local interpretation and implementation of the recommendations includes the use of DEI statements as screening tool, which they believe may be inconsistent with the recommendations and with APM 210-1-d.

UCAADE Chair Lynch noted that DEI statements reinforce UC's commitment to institutional values that promote diversity, equity, and inclusion; ensure that UC is inclusive and equitable in its treatment of underrepresented groups; and assess the basic, core competency of faculty to work in diverse UC campus communities. In recruitments, DEI statements provide an opportunity for candidates to reflect on their knowledge of DEI issues, to record their past activities and accomplishments in promoting DEI in research, teaching, and service; and to outline their plans for contributing to DEI at UC. DEI statements are about a commitment to diversity, not racial/ethnic/ gender identity. UCSC Chair Lau added that APM 210-1-d addresses the final stages of an appointment of an individual selected after a search process, not the structure of a search. This last is addressed in APM 36: "attention shall be given to effective efforts to enhance the pool of applicants for those job groups and units where underutilization has been determined to exist." Moreover, the UCAADE recommendations emphasize that DEI statements should not represent a new criterion for merit/promotion evaluations; they do not recommend against their use as a screening tool in recruitments. Every search employs rubrics

and screens for baseline fit. UCAADE also recommends using rubrics developed in consultation with local experts to ensure consistent and equitable treatment of candidates

Berkeley Chair O'Reilly noted that some Berkeley faculty expressed concern that the DEI statements were used as part of a first cut-off in a recent cluster hire there; however, the ad for the cluster hire included language making explicit that DEI contributions were part of the position requirement. He noted that DEI statements are a way for prospective faculty to show how their teaching, research and service are compatible with UC's public mission. Davis Chair Lagattuta noted that after Davis faculty criticized the lack of shared governance and consultation in the development of institutional practices based on the recommendations, she initiated a consultation process that resulted in sending two resolutions to the Davis Senate faculty for a vote. A resolution that DEI statements should not be mandatory for faculty hiring and advancement, failed with 426 votes in favor and 441 against. A resolution that DEI statements are a valuable part of a holistic review of applicants for hiring, passed with 486 votes in favor and 317 against.

UCFW Chair Saphores noted that UCFW supports diversity and the use of DEI statements as a part of comprehensive review of applications. UCFW is concerned that the recommendations regarding DEI statements did not go out for formal systemwide review. They were evaluated by Council members over the course of two meetings. UCFW is also concerned that Council's full intent was not conveyed to the provost, or by the provost to the campuses. UCFW has asked Council to issue additional guidance about the use of DEI statements and to initiate a systemwide review assessing their use in the faculty hiring/appointment processes on campuses.

- Some Council members noted that the recommendations were rushed through Council without divisional consultation, and expressed support for starting over with a formal campus review. Others noted it was fully discussed and vetted in council.
- Council members expressed support for the idea that the Chair issue a follow-up letter to divisions clarifying that the recommendations are not intended as policy mandates to campuses, but are intended as guidance that campuses may use to voluntarily develop policy.
- It was noted that the provost's memo to campuses is not well known on some campuses, and may be the source of some confusion.
- A member encouraged Council to consider how the controversy reflects tensions around embedded power relationships and institutional structures that exclude underrepresented groups. Another recommended that Council build on recommendation #5 concerning department-level accountability by looking more closely at effective leadership models used in specific departments. A member suggested an effort be made to analyze the effectiveness of DEI statements in creating a diverse faculty and improving campus climates for students, faculty, and staff.

ACTION: Chair Bhavnani will write to divisional chairs asking them to initiate a discussion about how and whether the recommendations have been implemented and/or if there are plans for further discussion of them.

- XI. Presidential Transition Materials and Academic Senate Priorities**
 - **Mary Gauvain, Academic Council Vice Chair**

UCOP has asked each of its units to assemble an introduction to the unit as part of a packet of briefing materials for the incoming president. The Senate materials include a brief summary of its role and key functions, and an introduction to major initiatives, issues, and priorities that are unique to the Senate. To help inform the submissions, Chair Bhavnani asked Council members to send a list of their three or four top priorities. Vice Chair Gauvain identified common themes flagged in the Council submissions, and organized them into four categories: Advancing the integrity of the 10-campus system and its commitment to the academic mission; Reimagining the University; University funding and long-range sustainability; and Maintaining research excellence. Chair Bhavnani circulated her edited version of the document, which included a clear emphasis on diversity and climate change with examples of Senate initiatives. Council members encouraged Senate leaders to be frank and honest about the challenges facing the university and to emphasize that UC is one university and not a flagship system.

XII. Letter on Immigration Restrictions

Council reviewed a letter from the chairs and vice chairs of CCGA, UCORP, and UCFW opposing new restrictions on immigration to the USA implemented by the Presidential administration during the COVID-19 crisis. The letter asks President Napolitano to work with California’s elected representatives and senators to oppose the restrictions. CCGA Chair Balasubramaniam noted that the committees deplore the attacks on the naturalization process. Immigrants from around the world contribute hugely to life in American society and enrich the University’s academic, creative, and cultural life. The new restrictions affect the entire UC community: there are students, post docs, faculty, and staff at every stage of the naturalization process.

ACTION: Council endorsed the letter unanimously.

XIII. Revised Presidential Policy on Copyright Ownership

Council discussed the status of the proposed policy, which had been revised to address comments from the fall 2019 systemwide review. Chair Bhavnani asked three Council members to review changes incorporated into the policy and opine on whether there should be a second systemwide review as requested by Council in December. The subgroup found that the revised policy incorporated many of Council’s suggestions, significantly reducing the need for a second systemwide review. However, in December the Senate had requested clarity about which funds and what level of funds fall under the “significant university resources” category that may prompt the University to retain copyright ownership. The revised definition is still ambiguously defined, and there is concern that resources that have been extended to some faculty during COVID-19 to enable or improve remote teaching could be retroactively interpreted as constituting “significant university resources.” Council agreed it would be helpful to have a statement from UCOP clarifying “exceptional” and “significant” under the current circumstances, which also affirms that remote teaching does not fall under these rubrics.

ACTION: Chair Bhavnani will send questions to UCOP.

Meeting adjourned at 4:30 pm

Minutes prepared by Michael LaBriola, Principal Committee Analyst

Attest: Kum-Kum Bhavnani, Academic Council Chair